
UNFINISHED BUSINESS

Bill No: SB 1100
Author: Cortese (D), et al.
Amended: 6/6/22
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 4-1, 3/17/22
AYES: Caballero, Durazo, Hertzberg, Wiener
NOES: Nielsen

SENATE JUDICIARY COMMITTEE: 9-2, 4/19/22
AYES: Umberg, Caballero, Durazo, Gonzalez, Hertzberg, Laird, Stern,
Wieckowski, Wiener
NOES: Borgeas, Jones

SENATE FLOOR: 29-7, 5/2/22
AYES: Allen, Archuleta, Atkins, Becker, Bradford, Caballero, Cortese, Dodd,
Durazo, Eggman, Glazer, Gonzalez, Hertzberg, Hueso, Hurtado, Laird, Leyva,
Limón, McGuire, Min, Newman, Portantino, Roth, Rubio, Skinner, Stern,
Umberg, Wieckowski, Wiener
NOES: Bates, Borgeas, Grove, Jones, Melendez, Nielsen, Ochoa Bogh
NO VOTE RECORDED: Dahle, Kamlager, Pan, Wilk

ASSEMBLY FLOOR: 57-18, 8/1/22 - See last page for vote

SUBJECT: Open meetings: orderly conduct

SOURCE: California State Association of Counties
Urban Counties of California

DIGEST: This bill authorizes the presiding member of a legislative body conducting a meeting, or their designee, to remove an individual for disrupting the meeting, and defines “disrupting” for these purposes.

Assembly Amendments clarify the process for warning and removing disruptive individuals, and add a definition for “true threat of force.”

Existing law:

- 1) Guarantees in Article I, Section 3 of the California Constitution that the people have the right to instruct their representatives, petition government for redress of grievances, assemble freely to consult for the common good, which includes a right to access information concerning the meetings and writings of public officials.
- 2) Requires local agencies to comply with certain state laws that outline the basic requirements for public access to meetings and public records. If a subsequent bill modifies these laws, it must include findings demonstrating how it furthers the public's access to local agencies and their officials.
- 3) Enacts the Ralph M. Brown Act, which outlines how local agencies must hold public meetings.
- 4) Requires local agencies to notice meetings in advance, including the posting of an agenda, and requires these meetings to be open and accessible to the public.
- 5) Requires members of the public to have an opportunity to comment on agenda items, and generally prohibits deliberation or action on items not listed on the agenda.
- 6) Defines a "meeting" as any congregation of a majority of the member of a legislative body at the same time and location, including teleconference locations, to hear, discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the legislative body.
- 7) Requires that all meetings of the legislative body of a local agency be open and public, and all persons be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in the Brown Act.
- 8) Provides that a legislative body of a local agency cannot prohibit public criticism of the policies, procedures, programs, or services of the agency, or of the acts or omissions of the legislative body.
- 9) Authorizes the legislative body of a local agency to adopt reasonable regulations related to opportunity for the public to address the legislative body, including, but not limited to, regulations limiting the total amount of time allocated for public testimony on particular issues and for each individual speaker.

- 10) Provides that the members of the legislative body conducting the meeting may order the meeting room cleared and continue in session in the event that any meeting is willfully interrupted by a group or group of persons so as to render the orderly conduct of such meeting unfeasible, and order cannot be restored by the removal of individuals who are willfully interrupting the meeting. If the legislative body clears the meeting room, it must meet the following requirements:
 - a) Only matters that appear on the agenda may be considered in the continued session after clearing the room.
 - b) Representatives of the press or other news media are allowed to attend the continued session after clearing the room, except if they were participating in the disturbance.
 - c) Specifies that these provisions do not prohibit the legislative body from establishing a procedure for readmitting an individual or individuals not responsible for willfully disturbing the orderly conduct of the meeting.

This bill:

- 1) Authorizes the presiding member of the legislative body conducting a meeting, or their designee, to remove, or cause the removal of, an individual for disrupting the meeting.
- 2) Provides that prior to removing an individual, the presiding member, or their designee, must warn the individual that their behavior is disrupting the meeting, and that their failure to cease the behavior may result in their removal.
- 3) Allows the presiding officer, or their designee, to remove the individual who received the warning if they do not promptly cease their disruptive behavior.
- 4) Provides that warning is not required if the individual is engaging in behavior that includes use of force or a true threat of force.
- 5) Defines “disrupting” as engaging in behavior that actually disrupts, disturbs, impedes, or renders infeasible the orderly conduct of the meeting and includes, but is not limited to:
 - a) A failure to comply with reasonable and lawful regulations adopted by a legislative body pursuant to existing law.

- b) Engaging in behavior that includes the use of force or true threats of force.
- 6) Defines “true threat of force” as a threat that has sufficient indicia of intent and seriousness, that a reasonable observer would perceive it to be an actual threat to use force by the person making the threat.
- 7) States various findings and declarations of the Legislature, including:
- a) It is the intent of the Legislature to prescribe requirements for governing public meetings to protect civil liberties in accordance with the United States Constitution, the California Constitution, and relevant law.
 - b) It is the intent of the Legislature to codify the authority and standards for governing public meetings in accordance with *Acosta v. City of Costa Mesa*, 718 F.3d 800, 811 (9th Cir. 2013), in which the court explained that an ordinance governing the decorum of a city council meeting is not facially overbroad if it only permits a presiding officer to eject an attendee for actually disturbing or impeding a meeting.
 - c) Finds and declares that this bill imposes a limitation on the public’s right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the measure makes findings to demonstrate the interest protected by this limitation, and the need for protecting that interest is furthered by giving legislative bodies clear authorization to restore order to meetings in the event of actual disruptions that are disturbing, disrupting, impeding, or rendering infeasible the orderly conduct of the meeting and, thereby, preserve the rights of other members of the public at the meeting and allow the legislative body to continue its work on behalf of the public.

Background

In many ways, the COVID-19 pandemic helped expand opportunities for the public to participate in public meetings. New forms of remote participation encouraged individuals who could not previously attend meetings in-person to comment on actions the local agency was taking. When in-person meetings resumed, individuals who did not previously participate attended meetings to comment on pandemic-related restrictions. However, this discourse also included behavior that disrupted local agencies’ ability to conduct their business in an orderly fashion. In late 2021, the Los Gatos Town Council decided to clear the meeting room or move meetings online on multiple occasions in response to

disruptive behavior and attacks on the mayor and her family. In November 2021, the San Diego County Board of Supervisors updated their rules for public comment after racial slurs directed at a county official disrupted their meeting. These rules include allowing the Chair of the board to issue a warning and remove individuals who do not follow the board's rules, including conduct that disrupts the orderly conduct of a meeting.

Comments

- 1) *Purpose of this bill.* According to the author, "It has become increasingly clear that the mechanisms provided by the Brown Act to deal with disruptions during public meetings are insufficient. Across California, public officials and public attendees continue to deal with disorderly conduct during meetings at such a high magnitude that critical business and the legislative process as a whole has become impaired. As we have undoubtedly seen, many troubling incidents across the state, including those involving harassment and threats of violence, have demonstrated the need to protect public safety and public meeting access by modernizing the Brown Act so that it provides clearer standards around when removal of a meeting participant is warranted and what authority members of a legislative body can exercise."
- 2) *Necessary?* Cities and counties can "make and enforce within its limits, all local, police, sanitary and other ordinances and regulations not in conflict with general laws," also known as the police power. They can already use this police power to remove individuals who disrupt their meetings. Additionally, the Brown Act allows local agencies to adopt reasonable regulations to carry out public comment provided they do not prohibit public criticism. Also, the Brown Act allows local agencies to order the meeting room cleared and continue the meeting when attendees willfully interrupt a meeting in a manner that makes the orderly conduct of the meeting unfeasible and the legislative body cannot restore order by removing individuals causing the interruption. If local agencies can already regulate public conduct at their meetings, provided these regulations do not violate the public's constitutional rights or other state laws, why is SB 1100 necessary? Proponents of this bill report a lack of clarity surrounding a local agency's ability to restrict public comment or remove the public from meetings. For example, currently the Brown Act sets up a process for clearing the meeting room when groups disrupt meetings, but does not explicitly state what should happen when an individual is disruptive. On the one hand, providing more structure to the process for removing disruptive individuals may help local agencies, particularly those without significant legal resources, avoid potential legal challenges. On the other hand, imposing these

policies in state law may require some local agencies to review their existing policies to ensure they do not conflict with these new statewide standards. The Legislature may wish to consider whether SB 1100 provides enough useful new authority to warrant the costs for local agencies to revise their existing procedures.

Related/Prior Legislation

AB 1944 (Lee, 2022) allows, until January 1, 2030, members of a legislative body of a local agency to use teleconferencing without identifying each teleconference location and making it publicly accessible provided at least a quorum of the members of the body participates in person at a singular physical location and meet additional requirements. The bill is currently pending in the Senate Governance and Finance Committee.

AB 2449 (Blanca Rubio, 2022) allows, until January 1, 2026, members of a legislative body of a local agency to use teleconferencing without identifying each teleconference location and making it publicly accessible provided at least a quorum of the members of the body participates in person at a singular physical location and meet additional requirements. The bill is currently pending on the Senate Floor.

AB 2647 (Levine, 2022) exempts local agencies from making materials available for public inspection at the time they distribute them to members of the legislative body less than 72 hours before the meeting, if the agency meets certain requirements. The bill is currently pending on the Senate Floor.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 8/3/22)

California State Association of Counties (co-source)
Urban Counties of California (co-source)
All Rise Alameda
Association of California Water Agencies
Building the Base Face to Face
California Association of Local Agency Formation Commissions
California Contract Cities Association
California Municipal Utilities Association
California Special Districts Association
Change Begins With ME

City Clerks Association of California
City of San José
Cloverdale Indivisible
Contra Costa MoveOn
County of Monterey
County of Santa Clara
Defending Our Future: Indivisible in CA 52nd District
East Valley Indivisibles
El Cerrito Progressives
Feminists in Action Los Angeles (Indivisible CA-34 Women's)
Grassland Water District
Hillcrest Indivisible
Indi Squared
Indivisible 30/Keep Sherman Accountable
Indivisible 36
Indivisible 41
Indivisible Auburn CA
Indivisible Beach Cities
Indivisible CA-3
Indivisible CA-7
Indivisible CA-25 Simi Valley-Porter Ranch
Indivisible CA-29
Indivisible CA-33
Indivisible CA-37
Indivisible CA-39
Indivisible CA-43
Indivisible Claremont/Inland Valley
Indivisible Colusa County
Indivisible East Bay
Indivisible El Dorado Hills
Indivisible Elmwood
Indivisible Euclid
Indivisible Lorin
Indivisible Los Angeles
Indivisible Manteca
Indivisible Marin
Indivisible Media City Burbank
Indivisible Mendocino
Indivisible Normal Heights
Indivisible North Oakland Resistance

Indivisible North San Diego County
Indivisible OC 46
Indivisible OC 48
Indivisible Petaluma
Indivisible Sacramento
Indivisible San Bernardino
Indivisible San Jose
Indivisible San Pedro
Indivisible Santa Barbara
Indivisible Santa Cruz County
Indivisible Sausalito
Indivisible Sebastopol
Indivisible SF
Indivisible SF Peninsula and CA-14
Indivisible Sonoma County
Indivisible South Bay LA
Indivisible Stanislaus
Indivisible Suffragists
Indivisible Ventura
Indivisible Windsor
Indivisible Yolo
Indivisible: San Diego Central
Indivisibles of Sherman Oaks
Livermore Indivisible
Los Angeles County Office of Education
Mill Valley Community Action Network
Mountain Progressives
North Orange County Community College District
Nothing Rhymes with Orange
Orchard City Indivisible
Orinda Progressive Action Alliance
Our Revolution Long Beach
RiseUp
Rooted in Resistance
San Diego Indivisible Downtown
Santa Cruz County Board of Supervisors
SFV Indivisible
Silicon Valley Clean Energy
Tehama Indivisible
The Resistance Northridge Together We Will

Together We Will/Indivisible - Los Gatos
Town of Los Gatos
Upper San Gabriel Valley Municipal Water District
Vallejo-Benicia Indivisible
Venice Resistance
Women's Alliance Los Angeles
Yalla Indivisible

OPPOSITION: (Verified 8/3/22)

Californians for Good Governance
Stand Up Sacramento County
154 individuals

ASSEMBLY FLOOR: 57-18, 8/1/22

AYES: Aguiar-Curry, Alvarez, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Carrillo, Cervantes, Cooley, Cooper, Daly, Mike Fong, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NOES: Bigelow, Chen, Choi, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel

NO VOTE RECORDED: Arambula, Calderon, Friedman, Mayes, Waldron

Prepared by: Jonathan Peterson / GOV. & F. / (916) 651-4119
8/3/22 14:51:56

**** **END** ****