
CONSENT

Bill No: SB 274
Author: Wieckowski (D)
Amended: 4/5/21
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 3/25/21
AYES: McGuire, Nielsen, Durazo, Hertzberg, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SUBJECT: Local government meetings: agenda and documents

SOURCE: Author

DIGEST: This bill creates a process for the public to receive local agency meeting materials by email, if technologically feasible.

ANALYSIS:

Existing law:

- 1) Guarantees, pursuant to Article I, Section 3 of the California Constitution, that “the people have the right to instruct their representatives, petition government for redress of grievances, and assemble freely to consult for the common good.” This includes a right to access information concerning the meetings and writings of public officials.
- 2) Requires, pursuant to the Constitution, 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) Provides, under the Ralph M. Brown Act, guidelines for how local agencies must hold public meetings:

- a) Defines a “meeting” as “any congregation of a majority of the members 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.”
- b) 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.
- c) 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.
- d) If a member of the public, including the respective district attorney, believes a local agency violated the Brown Act, it must first send an order to the local agency to correct the violation. If the local agency disagrees with the complaint and does not correct it, the submitter can pursue the complaint through the courts. If the court agrees with the complaint, outcomes range from invalidating certain actions of the local agency to a misdemeanor criminal conviction.
- e) Any member of the public can request that a local agency mail them a copy of the meeting materials. Upon receiving this request, the local agency must mail the meeting materials when it publicly posts a meeting agenda or distributes the meeting materials to a majority of its legislative body, whichever occurs first. Members of the public must renew their request for meeting materials each year. The local agency can charge a fee for this service, which must not exceed the cost of providing the service. Unlike other violations of the Brown Act, not receiving meeting materials is not grounds for invalidating a local agency’s actions.

This bill:

- 1) Requires local agencies that have websites to email a copy of, or provide a link to, the agenda packet, if an individual requests the local agency to deliver these items by email.
- 2) Provides that, if the local agency determines that it is not technologically feasible to send a copy of, or provide a link to, the agenda packet, the local agency must mail a copy of the agenda, or send a link to the agenda, and mail all other documents.

- 3) Makes findings and declarations to support its intent to promote greater public access to local agency meeting materials.

Comments

- 1) *Purpose of the bill.* According to the author, “SB 274 will make it easier for constituents to become informed about the actions under consideration by their local governments and to voice their concerns in a timely manner. The current law requires legislative bodies to send out agenda packets only by mail when people request them. The issue with this method is that sometimes mailed agenda packets arrive to the recipient after the meeting is over. My bill would allow people to receive those documents by email instead of mail, a faster, easier and more efficient way for both the governing bodies and constituents.”
- 2) *Balancing act.* SB 274 attempts to balance increasing public access by requiring local agencies to email meeting materials if a member of the public requests them in that manner, with a recognition that this requirement may be easier for some local agencies than others due to their limited internet access and lack of a website. For example, SB 929 (McGuire, Chapter 408, Statutes of 2018) required all special districts to have a website unless the district adopts a resolution that a hardship exists that prevents the district from establishing or maintaining an Internet website. This bill exempts these special districts without websites from SB 274’s requirements, but other smaller local agencies with websites could experience a heavier burden in accommodating email requests than other larger agencies. In the case of a body with little technological capacity, or with a small staff, the local agency can determine if it is technologically infeasible for them to email meeting information, and instead send an electronic copy of the agenda, or send a link to the agenda, and mail all other documents. The Legislature may wish to consider whether SB 274 achieves the appropriate balance between public access and ensuring all local agencies can comply with its requirements without significant operational challenges.

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

SUPPORT: (Verified 4/20/21)

American Federation of State, County, and Municipal Employees, AFL-CIO
Association of California Water Agencies
California Association of Local Agency Formation Commissions
California Association of Realtors
California League of Women Voters

California Municipal Utilities Association
California News Publishers Association Services, Inc.
California State PTA
California Taxpayers Association
Howard Jarvis Taxpayers Association
Oakland Privacy
Santa Clara Valley Water District
UNRIG L.A.

OPPOSITION: (Verified 4/20/21)

Orange County Local Agency Formation Commission

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