

**SENATE JUDICIARY COMMITTEE**  
**Senator Thomas Umberg, Chair**  
**2021-2022 Regular Session**

AB 2449 (Blanca Rubio)  
Version: June 23, 2022  
Hearing Date: June 28, 2022  
Fiscal: Yes  
Urgency: No  
AM

**SUBJECT**

Open meetings: local agencies: teleconferences

**DIGEST**

This bill authorizes, until January 1, 2026, members of a legislative body of a local agency to meet via teleconferencing without noticing their teleconference locations and making them publicly accessible under certain conditions.

**EXECUTIVE SUMMARY**

The Ralph M. Brown Act (the Brown Act) protects public access to meetings of the legislative bodies of local agencies and prescribes specific requirements local agencies must follow if they want to hold a meeting via teleconferencing. Under existing law, a local agency is authorized, until January 1, 2024, to use teleconferencing without complying with those specific teleconferencing requirements when a declared state of emergency is in effect or in other situations related to public health, if certain conditions are met. This bill revises existing law to instead allows, until January 1, 2026, a local agency to use teleconferencing without complying with the requirement that each teleconference location be identified in the notice and agenda and that each teleconference location be accessible to the public under specified circumstances and only if at least a quorum of the members of the legislative body participates in person from a singular physical location clearly identified on the agenda that is open to the public and situated within the local agency's jurisdiction. The bill limits the length of time a member can participate remotely, and prescribes requirements for this exception regarding notice, agendas, access for the public, and procedures for disruptions. The bill also requires a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, consistent with the Americans with Disabilities Act of 1990, to be implemented.

The sponsor of the bill is Three Valleys Municipal Water District. The bill is supported by numerous public agencies and business organizations. The bill is opposed by various organizations, including organizations that advocate for open and accessible

government and associations representing local governments. The bill passed the Senate Governance and Finance Committee on a vote of 5 to 0.

### **PROPOSED CHANGES TO THE LAW**

Existing law:

- 1) Affirms that the people have the right of access to information concerning the conduct of the people's business, and, therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny. (Cal. Const., art. I, § 3(b)(1).)
  - a) Requires a statute that limits the public's right of access to be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest. (Cal. const. art. I, § 3(b)(1).)
- 2) Establishes the Brown Act, which secures public access to the meetings of public commissions, boards, councils, and agencies in the state. (Gov. Code, tit. 5, div. 2, pt. 1, ch. 9, §§ 54950 et seq.) The Brown Act defines the following relevant terms:
  - a) A "local agency" is a county, city, whether general law or chartered, city and county, town, school district, municipal corporation, district, political subdivision, or any board, commission, or agency thereof, or any other local public agency. (Gov. Code, § 54951.)
  - b) A "legislative body" is the governing board of a local agency or any other local body created by state or federal statute; a commission, committee, board, or other body of a local agency, as specified; a board, commission, or other multimember body that governs a private corporation, limited liability company, or other entity that is either created by an elected legislative body to exercise delegated authority or receives funds from a local agency and includes a member of the legislative body of the local agency; or the lessee of any hospital leased pursuant to Health and Safety Code section 21131, where the lessee exercises any material authority delegated by the legislative body. (Gov. Code, § 54952.)
- 3) Requires all meetings of the legislative body of a local agency to be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in the Brown Act. (Gov. Code, § 54953.)
- 4) Authorizes the legislative body of a local agency to use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law, provided that the teleconferenced meeting complies with all of the following conditions and all otherwise applicable laws:
  - a) Teleconferencing, as authorized, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative

- body. All votes taken during a teleconferenced meeting shall be by rollcall. (Gov. Code, § 54953(b)(2).)
- b) If the legislative body elects to use teleconferencing, it must post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or in the public appearing before the legislative body of the local agency. (Gov. Code, § 54953(b)(3).)
  - c) Each teleconferencing location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. (Gov. Code, § 54953(b)(3).)
  - d) During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercised jurisdiction, except as provided in 6). (Gov. Code, § 54953(b)(3).)
  - e) The agenda shall provide an opportunity for members of the public to address the legislative body directly, as the Brown Act requires for in-person meetings, at each teleconference location. (Gov. Code, § 54953(b)(3).)
  - f) For purposes of these requirements, “teleconference” means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. (Gov. Code, § 54953(b)(4).)
- 5) Provides an exception to the teleconferencing quorum requirements in 4) as follows:
- a) If a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.
  - b) This exception may not be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. (Gov. Code, § 54953(d).)
- 6) Authorizes a local agency to use teleconferencing for a public meeting without complying with the Brown Act’s teleconferencing quorum, meeting notice, and agenda requirements described in 4), in any of the following circumstances:
- a) the legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing;

- b) the legislative body holds a meeting during a proclaimed state of emergency for purposes of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health and safety of attendees; and
  - c) the legislative body holds a meeting during a proclaimed state of emergency and has determined by majority vote pursuant to b) above that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.
- 7) Defines “state of emergency” as a state of emergency proclaimed pursuant to Government Code section 8625.
- 8) Provides that a legislative body holding a teleconferenced meeting pursuant to the Brown Act exception provided in 6) is subject to the requirements in a) through g).
- a) The legislative body must give notice of the meeting and post agendas as otherwise required by the Brown Act.
  - b) The legislative body must allow members of the public to access the meeting, and the agenda must provide an opportunity for members of the public to address the legislative body directly pursuant to Brown Act requirements. In each instance where notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body must also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda must identify and include an opportunity for all persons to attend via call-in option or an internet-based service option. The legislative body need not provide a physical location from which the public may attend or comment.
  - c) The legislative body must conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body.
  - d) In the event of a disruption that prevents the public agency from broadcasting the meeting to members of the public using the call-in or internet-based service options, or in the event of a disruption within the local agency’s control that prevents members of the public from offering public comments using the call-in or internet-based service options, the legislative body must take no further action on items appearing on the meeting agenda until public access to the meeting is restored. Actions taken on agenda items during a disruption preventing the broadcast of the meeting may be challenged as provided in the Brown Act.
  - e) The legislative body may not require public comments to be submitted in advance of the meeting, and it must provide an opportunity for the public to address the legislative body and offer comment in real time.
  - f) The legislative body may use an online third-party system for individuals to provide public comment that requires an individual to register with the system prior to providing comment.



- c) identify and include an opportunity for all persons to attend and address the legislative body directly via a call-in or internet-based service option, and at the in-person location of the meeting; and
  - d) provide an opportunity for the public to address the legislative body and offer comment in real time. A third-party internet website or online platform not under the control of the legislative body may require members of public to login or register to provide public comment.
- 3) Prohibits a local agency from requiring public comments to be submitted in advance of the meeting.
- 4) Prohibits a local agency from taking further action in the event of a disruption that prevents the legislative body from broadcasting the meeting to the public, or in the event of a disruption within the local agency's control that prevents the public from offering public comments remotely, until it can restore public access to the meeting.
- a) The public can challenge actions taken on agenda items during such disruptions pursuant to Section 54960.1 of the Government Code.
- 5) Authorizes a member of a legislative body to participate in a meeting remotely only if one of the following circumstances applies:
- a) the member notifies the legislative body at the earliest opportunity possible, including at the start of a regular meeting, of their need to participate remotely for just cause, including a general description of the circumstances relating to their need to appear remotely at the given meeting; or
    - i. The provisions of i) cannot be used by any member of the legislative body for more than two meetings per calendar year.
  - b) the member requests the legislative body to allow them to participate in the meeting remotely due to emergency circumstances and the legislative body takes action to approve the request.
    - i. The legislative body is required to request a general description of the circumstances relating to their need to appear remotely at the given meeting. A general description of an item generally need not exceed 20 words and does not require the member to disclose any medical diagnosis or disability, or any personal medical information that is already exempt under existing law, such as the Confidentiality of Medical Information Act.
    - ii. The legislative body may take action on the member's request to participate remotely under b) at the earliest opportunity, including the beginning of the meeting at which the member has requested the ability to participate remotely.
    - iii. The member is required to make such a request at each meeting they desire to participate remotely pursuant to b).
    - iv. The member is required to participate through both audio and visual technology.

- 6) The provisions of 5) above cannot serve as a means for any member of a legislative body to participate in meetings of the legislative body solely by teleconference from a remote location for a period of more than three consecutive months or 20 percent of the regular meetings for the local agency within a calendar year, or more than two meetings if the legislative body regularly meets fewer than 10 times per calendar year.
- 7) Defines “just cause” as any of the following:
  - a) childcare or caregiving need that requires them to participate remotely;
  - b) a contagious illness that prevents a member from attending in person;
  - c) a need related to a physical or mental disability as defined in Sections 12926 and 12926.1 not otherwise accommodated by 9) below; and
  - d) travel while on official business of the legislative body or another state or local agency.
- 8) Defines “emergency circumstances” as a physical or family medical emergency that prevents a member from attending in person.
- 9) Requires the legislative body to have and implement a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132) (*hereafter* ADA), and resolving any doubt in favor of accessibility. In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the procedure for receiving and resolving requests for accommodation.
- 10) Requires the legislative body to conduct meetings subject to the Brown Act consistent with applicable state and federal civil rights, language access, and other nondiscrimination laws.
- 11) Defines various terms for these purposes.
- 12) State that these provisions are necessary to ensure minimum standards for public participation and notice requirements allowing for greater public participation in teleconference meetings.
- 13) Repeals these provisions on January 1, 2026.

## COMMENTS

### 1. Stated need for the bill

The author writes:

While remote participation in meetings was necessitated by the pandemic, we have simultaneously demonstrated the value of remote participation options when individuals are unable to attend a physical gathering. The Brown Act ensures that officials and their constituents can have open and transparent meetings, which we now know can occur using modern technology. Considering the experiences of the past two years, AB 2449 would provide an avenue for constituents to interact with their representatives in situations where they might have not previously been able to.

### 2. Background

#### *a. Right to access public meetings and COVID-19 pandemic*

The California Constitution enshrines the rights of the people to instruct their representatives and to access information concerning the conduct of government, and requires the meetings of public bodies to be accessible for public scrutiny.<sup>1</sup> The Brown Act provides guidelines and requirements for how state and local bodies must guarantee open and public access to their meetings.<sup>2</sup> The legislative intent of the Brown Act was expressly declared in its original statute, and has remained unchanged despite numerous amendments:

The Legislature finds and declares that the public commissions, boards and councils and other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.

The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.<sup>3</sup>

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<sup>1</sup> Cal. Const., art. I, § 3(a) & (b)(1).

<sup>2</sup> Ed. Code, tit. 3, div. 8, pt. 55, ch. 3, art. 1.5, §§ 89305 et seq.; Gov Code, tit. 2, div. 3, art. 9, §§ 11120 et seq., & tit. 5, div. 2, pt. 1, ch. 9, §§ 54950 et seq.

<sup>3</sup> *Id.*, § 54950.



The Brown Act generally requires that meetings of the legislative body of a local agency be open and accessible to the public, and requires local agencies to provide notice of the meeting, its agenda, and its location in advance of a meeting to ensure that the people have adequate notice and opportunity to attend.

In March 2020, due to the COVID-19 pandemic, the Governor issued executive orders suspending portions of the Brown Act requiring in-person meetings, thereby allowing members of a local legislative body to attend meetings remotely without having to publicly post their location information or allow members of the public to attend meetings from those locations.<sup>4</sup> Throughout the pandemic, many state and local bodies relied on teleconference or internet streaming services to conduct meetings on a regular basis, avoiding the COVID-19 transmission risks posed by large public gatherings. This Committee noted in its analysis of AB 361 as amended September 3, 2021 (Robert Rivas, Ch. 165, Stats. 2021) that:

Based on information received by committee staff, the move to entirely teleconferenced meetings has both expanded and contracted public access to meetings: the increased availability of teleconferencing allows participation by persons who cannot travel to a physical location or cannot attend a meeting for other reasons (e.g., persons who are immunocompromised); but can decrease participation by persons who are less tech-savvy, lack access to technology, or are otherwise unable to utilize the remote access options. There are also concerns that the value of public meetings is lessened when government officials do not have to interact with the public on a face-to-face basis.

*b. AB 361 (Robert Rivas, Ch. 165, Stats. 2021)*

AB 361 authorized a local agency to use teleconferencing for a public meeting without complying with the Brown Act's teleconferencing quorum, meeting notice, and agenda requirements in any of the following circumstances until January 1, 2024:

- The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.
- The legislative body holds a meeting during a proclaimed state of emergency for purposes of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health and safety of attendees.
- The legislative body holds a meeting during a proclaimed state of emergency and has determined by majority vote as described above that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees. (Gov. Code § 54953 (e)(1).)

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<sup>4</sup> Governor's Exec. Order No. N-25-20 (Mar. 12, 2020); Governor's Exec. Order No. N-29-20 (Mar. 17, 2020).

AB 361 provided that a legislative body holding a teleconferenced meeting pursuant to this exception is subject to the following requirements:

- The legislative body must give notice of the meeting and post agendas as otherwise required by the Brown Act.
- The legislative body must allow members of the public to access the meeting, and the agenda must provide an opportunity for members of the public to address the legislative body directly pursuant to Brown Act requirements. In each instance where notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body must also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda must identify and include an opportunity for all persons to attend via call-in option or an internet-based service option. The legislative body need not provide a physical location from which the public may attend or comment.
- The legislative body must conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body.
- In the event of a disruption that prevents the public agency from broadcasting the meeting to members of the public using the call-in or internet-based service options, or in the event of a disruption within the local agency's control that prevents members of the public from offering public comments using the call-in or internet-based service options, the legislative body must take no further action on items appearing on the meeting agenda until public access to the meeting is restored. Actions taken on agenda items during a disruption preventing the broadcast of the meeting may be challenged as provided in the Brown Act.
- The legislative body may not require public comments to be submitted in advance of the meeting, and it must provide an opportunity for the public to address the legislative body and offer comment in real time.
- The legislative body may use an online third-party system for individuals to provide public comment that requires an individual to register with the system prior to providing comment.
- If a legislative body provides a timed public comment period, it may not close the comment period or the time to register to provide comment until the timed period has elapsed. If the legislative body does not provide a time-limited comment period, it must allow a reasonable time for the public to comment on each agenda item and to register as necessary. (Gov. Code § 54953 (e)(2).)

AB 361 also provided that if the state of emergency remains active, or state or local officials have imposed measures to promote social distancing, the legislative body must, in order to continue meeting subject to this exemption to the Brown Act, no later than 30 days after it commences using the exemption, and every 30 days thereafter, make the following findings by majority vote:

- the legislative body has reconsidered the circumstances of the state of emergency; and
  - either (1) the state of emergency continues to directly impact the ability of the members to meet safely in person; or (2) state or local officials continue to impose or recommend measures to promote social distancing. (Gov. Code § 54953 (e)(3).)
3. This bill revises existing law to authorize members of a legislative body of a local agency to meet via teleconferencing without noticing their teleconference locations and making them publicly accessible under certain conditions until January 1, 2026.

This bill allows, until January 1, 2026, members of a legislative body of a local agency to use teleconferencing without noticing each teleconference location or making it publicly accessible, provided at least a quorum of the members of the body participates in person at a singular physical location. The agency must clearly identify the location of the in-person meeting on the agenda, which must be open to the public and within the boundaries of the local agency's jurisdiction.

In order to meet via teleconference under these provisions, the legislative body must meet the following requirements. These requirements are guardrails to ensure that public participation and access are still afforded to the public. The requirements are:

- Provide a two-way audio-visual platform or a two-way telephonic service and a live webcasting of the meeting by which the public may remotely hear and visually observe the meeting and also remotely address the legislative body.
- Give notice of the means for the public to access the meeting and offer public comment in each instance the legislative body notices the meeting or posts the agenda.
- Identify and include an opportunity for all persons to attend and address the legislative body directly via a call-in or internet-based service option, and at the in-person location of the meeting.
- Not require public comments to be submitted in advance of the meeting.
- Provide an opportunity for the public to address the legislative body and offer comment in real time; however, a third-party internet website or online platform not under the control of the legislative body may require members of public to login or register to provide public comment.
- Not take further action in the event of a disruption that prevents the legislative body from broadcasting the meeting to the public, or in the event of a disruption within the local agency's control that prevents the public from offering public comments remotely, until it can restore public access to the meeting.
- The public can challenge actions taken on agenda items during such disruptions pursuant to existing provisions of law that authorizes a person to commence an action by mandamus or injunction for the purpose of obtaining a judicial determination that an action taken by a legislative body of a local agency in violation of specified provisions of law is null and void.

Amendments taken in the Senate Governance and Finance Committee limited the circumstances under the bill for which a member of the legislative body may participate remotely. These reasons are for a “just cause” or due to an “emergency circumstance.” Just cause is defined as any of the following:

- childcare or caregiving need that requires them to participate remotely;
- a contagious illness that prevents a member from attending in person;
- a need related to a physical or mental disability as defined in Sections 12926 and 12926.1 of the Government Code not otherwise accommodated under the ADA; or
- travel while on official business of the legislative body or another state or local agency.

An emergency circumstance is a physical or family medical emergency that prevents a member from attending in person. In order to ensure that a member is participating remotely for a needed or justified reason as opposed to convenience, the Senate Governance and Finance Committee amendments limit the use of “just cause” to only twice in a calendar year. Additionally, a member cannot participate in meetings solely by teleconference from a remote location for a period of more than three consecutive months or 20 percent of the regular meetings for the local agency within a calendar year, or more than two meetings if the legislative body regularly meets fewer than 10 times per calendar year.

The bill requires that the agenda identifies that the member of the legislative body will participate in the meeting remotely and provides a brief general description of the circumstances relating to their need to appear remotely at the given meeting. A brief general description of an item generally needs not to exceed 20 words. In the alternative, if the circumstances relating to the member’s need to participate remotely arose after the agency posted the agenda for the meeting, those circumstances must be publicly disclosed at the meeting before any action is taken. These requirements, however, do not require a member to disclose any medical diagnosis or disability, or any personal medical information that is already exempt under existing law.

The member participating remotely must publicly disclose at the meeting before any action is taken whether any other individuals 18 years of age or older are present in the room at the remote location with the member, and the general nature of the member’s relationship with any such individuals. The member must participate through both audio and visual technology. AB 2449 also requires legislative bodies to adopt and implement a procedure for receiving and swiftly resolving requests for reasonable accommodations for individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and resolving any doubt in favor of accessibility. In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the procedure for receiving and resolving requests for accommodation. Lastly, the bill requires a legislative body to conduct meetings subject to the Brown Act

consistent with applicable state and federal civil rights, language access, and other nondiscrimination laws.

#### 4. Opposition

There are several groups opposed to the bill unless amended to address their concerns. These groups generally have two very different issues with the bill.

- a. Concerns with subdivision (h) – requirement that a legislative body conduct meetings subject to the Brown Act consistent with applicable state and federal civil rights, language access, and other nondiscrimination laws*

The League of California Cities, Urban Counties of California, Association of California School Administrators, Association of California Healthcare Districts, Rural County Representatives of California, and City Clerks Association of California write in opposition to the language in the bill in subdivision (h) that requires a legislative body to conduct meetings subject to the Brown Act consistent with applicable state and federal civil rights, language access, and other nondiscrimination laws. Specifically, they state that “there is no generally applicable ‘language access’ laws for Brown Act meetings, and this reference is likely to generate confusion and potential litigations.” They further state that they “appreciate the author’s efforts to assist local agencies continue to participate in public meetings remotely, we are concerned that the provisions of subdivision (h) along with other requirements of the bill undermine the overall utility of the measure. [They] suggest that perhaps a more comprehensive conversation about the future of remote participation in local public meetings is necessary before moving forward with this measure.” Santa Barbara County Board of Supervisors echoes these concerns.

Under the Brown Act there are specific requirements related to translation for non-English speakers. Under Section 54954.3 of the Government Code it says “when the legislative body of a local agency limits time for public comment, the legislative body of a local agency shall provide at least twice the allotted time to a member of the public who utilizes a translator to ensure that non-English speakers receive the same opportunity to directly address the legislative body of a local agency.” (*Id.* (b)(2)). It further says that the prior requirement does not apply “if the legislative body of a local agency utilizes simultaneous translation equipment in a manner that allows the legislative body of a local agency to hear the translated public testimony simultaneously.” (*Id.* (b)(3).) Furthermore, the Dymally-Alatorre Bilingual Services Act (Act) places requirements on local public agencies that serve a substantial number of non-English-speaking people to employ a sufficient number of qualified bilingual persons in public contact positions or as interpreters to assist those in such positions, to ensure provision of information and services in the language of the non-English-speaking person, as provided. (Gov. Code § 7290 et. seq., § 7293.) This Act specifically cross-references the definition of public agency in the Brown Act. (Gov. Code § 7293,

cross-referencing Gov. Code § 54951.) This Act states that its provisions do not apply to school districts, county boards of education, or the office of a county superintendent of schools. (Gov. Code § 7298.)

According to the author, the language in subdivision (h) is meant to be a restatement of existing law not to place new requirements on local agencies conducting meetings under the Brown Act. The way the language is currently drafted it could be susceptible to being interpreted as placing new requirements on local agencies. It also specifically states it applies to any meeting conducted under the Brown Act, not just meetings conducted pursuant to the teleconference provisions in the bill. The author may wish to clarify this language to ensure that it is clear it is not placing any new requirements on local agencies that they currently do not have to comply with when conducting meetings under the Brown Act.

- b. Concerns that the bill fundamentally alters the Brown Act for the benefit of members of legislative bodies as opposed to ensuring greater access for the public*

The ACLU, Californians Aware, First Amendment Coalition, and Leadership Council write stating that this bill would “fundamentally alter the Brown Act by providing express authorization to members of legislative bodies to teleconference into public meetings from private locations not identified or accessible to the public at any time, without a compelling reason.” They further write that:

We are also very glad to see that a quorum must be in the same physical location with the public in this bill, but it is essential to narrow the circumstances in which members outside of the quorum can participate remotely, so that the same members cannot avoid physically appearing without circumstances that justifies limiting the public’s access to the member who is supposed to be serving their interests. [...] When the state had to conduct business under stay-at-home orders during the pandemic, participation from home was essential as there was no other option. That is no longer the case, and has not been for quite some time. The public’s right to meaningful access should not be curtailed to accommodate public officials who can physically attend a meeting but simply choose not to.

Appropriate exceptions can be made as needed for members who have a disability, are immunocompromised, or have children or other household members requiring certain consideration. We do not object to teleconferencing allowances for such individuals.

In conversations with the Committee, some of these groups indicated they would like to see the reasons a member could participate remotely tightened up and be less broad. In light of this, the author may wish to amend the bill to clarify that a childcare or caregiving need is limited to a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner, as these terms are defined under the California Family Rights Act. (Gov. Code § 12945.2.) The specific amendment is in 5) below.

5. Proposed amendments<sup>5</sup>

The proposed amendments are:

Amendment 1

On page 10, in line 25 after “need” insert:

*of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner*

Amendment 2

On page 10, in line 26 after “remotely.” Insert:

*“Child,” “parent,” “grandparent,” “grandchild,” and “sibling” have the same meaning as those terms do in Section 12945.2.*

Amendment 3

On page 17, in line 7 after “need” insert:

*of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner*

Amendment 4

On page 17, in line 8 after “remotely.” Insert:

*“Child,” “parent,” “grandparent,” “grandchild,” and “sibling” have the same meaning as those terms do in Section 12945.2.*

6. Statements in support

A coalition of public agencies and business organizations, including the sponsor of the bill Three Valleys Municipal Water District, write in support:

The expiration of the Executive Orders immediately gave way to AB 361, essentially allowing for the teleconference provisions detailed in the Executive Orders to continue during a period of emergency declaration. However, once an emergency declaration has ended, local agencies will again be required to comply with antiquated provisions of existing law, making it potentially more difficult to hold meetings of the legislative body by teleconference. While current

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<sup>5</sup> The amendments may also include technical, nonsubstantive changes recommended by the Office of Legislative Counsel.

law does allow for “teleconference locations” under normal circumstances, it requires various actions to be taken at the teleconference locations and fails to recognize in the digital age that a teleconference location is wherever there is a person with a computer, a tablet, or even a mobile phone.

AB 2449 will modernize the previously existing concept of teleconference locations and will revise notice requirements to allow for greater public participation in teleconference meetings of local agencies. The bill does not require teleconferencing. Rather, it modernizes existing law to ensure greater public participation in meetings of the legislative bodies of local agencies who choose to utilize teleconferencing. Similarly, in acknowledgement of the critical importance of maintaining transparency and accountability, the bill requires that a quorum of the governing body be physically present at a clearly identified meeting location for all public meetings.

### **SUPPORT**

Three Valleys Municipal Water District (sponsor)  
Association of California Water Agencies  
Calleguas Municipal Water District  
California Municipal Utilities Association  
California Central Valley Flood Control Association  
California Builders Alliance  
Central Basin Municipal Water District  
Central Contra Costa Sanitary District  
City of Carlsbad  
City of Cupertino  
City of Rancho Palos Verdes  
Cucamonga Valley Water District  
Desert Water Agency  
Eastern Municipal Water District  
El Dorado Irrigation District  
Elsinore Valley Municipal Water District  
Foothill Municipal Water District  
Inland Empire Utilities Agency  
Los Angeles County LAFCO  
Los Angeles Unified School District  
Mesa Water District  
Metropolitan Water District of Southern California  
Municipal Water District Orange County  
Palmdale Water District  
Public Risk Innovation, Solutions and Management (PRISM)  
Regional Chamber of Commerce, San Gabriel Valley  
Regional Council of Southern California Association of Governments



Regional Water Authority  
Rowland Water District  
San Bernardino Municipal Water Department  
San Bernardino Valley Municipal Water District  
San Diego County Water Authority  
San Gabriel Basin Water Quality Authority  
San Gabriel Valley Council of Governments  
San Gabriel Valley Economic Partnership  
San Gabriel Valley Municipal Water District  
San Gabriel Valley Water Association  
Santa Clarita Valley Water Agency  
Santa Margarita Water District  
Sacramento Regional Builders Exchange  
Solano County Board of Supervisors  
Solano County Water Agency  
Southern California Water Coalition (SCWC)  
Suburban Water Systems  
Upper San Gabriel Valley Municipal Water District  
Valley County Water District  
Walnut Valley Water District  
Water Replenishment District of Southern California  
Western Municipal Water District

### **OPPOSITION**

ACLU California Action  
Association of California School Administrators (ACSA)  
Association of California Healthcare Districts (ACHD)  
Californians Aware: the Center for Public Forum Rights  
City Clerks Association of California (CCAC)  
County of Santa Barbara  
First Amendment Coalition  
Leadership Counsel for Justice and Accountability  
League of California Cities  
Rural County Representatives of California  
Urban Counties of California

### **RELATED LEGISLATION**

#### **Pending Legislation:**

SB 1100 (Cortese, 2022) authorizes the presiding member of a legislative body conducting a meeting to remove an individual for disrupting the meeting, as provided. SB 1100 is currently pending on the Assembly Floor.

AB 1944 (Lee, 2022) authorizes, until January 1, 2030, members of a legislative body of a local agency to use teleconferencing without noticing their teleconference locations and making them publicly accessible under certain conditions. AB 1944 remains in the Senate Governance and Finance Committee.

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. AB 2647 is currently pending in the Senate Governance and Finance Committee.

Prior Legislation

AB 361 (Robert Rivas, Ch. 165; Stats. 2021) *see* comment 2) above.

AB 339 (Lee, 2021) would have required, until December 31, 2023, certain city council or county board of supervisors meetings to allow the public to attend and comment via telephone or internet. AB 339 was vetoed by Governor Newsom.

**PRIOR VOTES:**

Governance and Finance Committee (Ayes 5, Noes 0)

Assembly Floor (Ayes 65, Noes 4)

Assembly Local Government Committee (Ayes 7, Noes 1)

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