

**SENATE JUDICIARY COMMITTEE**  
**Senator Thomas Umberg, Chair**  
**2023-2024 Regular Session**

SB 411 (Portantino)  
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Hearing Date: May 2, 2023  
Fiscal: No  
Urgency: Yes  
AM

**SUBJECT**

Open meetings: teleconferences: neighborhood councils

**DIGEST**

This bill authorizes a neighborhood council, as specified, to use alternate teleconferencing provisions related to notice, agenda, and public participation, subject to certain requirements and restrictions, if the city council has adopted an authorizing resolution and two-thirds of an eligible legislative body votes to use the alternate teleconferencing provisions.

**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. A local agency is authorized, until January 1, 2026, 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 that is open to the public and situated within the local agency's jurisdiction under certain conditions and limitations. This bill seeks to provide a neighborhood council the ability 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.

The bill is author sponsored. The bill is supported by numerous public agencies, neighborhood councils, and other organizations. The bill is opposed by various organizations, including organizations that advocate for open and accessible government and news organizations. The bill passed the Senate Governance and Finance Committee on a vote of 6 to 2. The bill contains an urgency clause.

**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) 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 a 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.
  - g) 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 under f) 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 under f).

- 8) Defines “state of emergency” as a state of emergency proclaimed pursuant to Government Code section 8625.
- 9) 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.
  - g) 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 under f) 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 under f).

- 10) 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:
  - a) the legislative body has reconsidered the circumstances of the state of emergency; and
  - b) 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.
  
- 11) Provides that the provisions relating to the Brown Act in 6) through 9) above will remain in effect only until January 1, 2024, and as of that date be repealed.
  
- 12) Authorizes, 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.
  - a) The location of the in-person meeting must be clearly identified on the agenda, must be open to the public, and must be within the boundaries of the local agency's jurisdiction.
  
- 13) Requires the legislative body, in order to use teleconferencing under 12) above, to meet the following requirements:
  - a) 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;
  - b) 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;
  - 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.
  
- 14) Prohibits a local agency from requiring public comments to be submitted in advance of the meeting.

- 15) 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.
  
- 16) 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 a) 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.
  
- 17) The provisions of 16) 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.
  
- 18) Defines "just cause" as any of the following:

- a) childcare or caregiving a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner 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 20) below; and
  - d) travel while on official business of the legislative body or another state or local agency.
- 19) Defines “emergency circumstances” as a physical or family medical emergency that prevents a member from attending in person.
- 20) 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.
- 21) 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.
- 22) Repeals the provisions in 16) through 21) on January 1, 2026.

This bill:

- 1) Authorizes an eligible legislative body to use teleconferencing without complying with existing requirements of the Brown Act that require notice of the locations members are teleconferencing from or making those locations accessible to the public.
  - a) An “eligible legislative body” is defined as a neighborhood council that is an advisory body with the purpose to promote more citizen participation in government and make government more responsive to local needs that is established pursuant to the charter of a city with a population of more than 3,000,000 people that is subject to the Brown Act.
- 2) Provides that before an eligible legislative body can exercise the authority granted in 1), if all of the following must be complied with:
  - a) The city council must consider whether to adopt a resolution to authorize neighborhood city councils to use teleconferencing.
  - b) If the city council adopts such a resolution, a neighborhood city council may elect to use teleconferencing pursuant to these provisions if two-thirds of the



- neighborhood city council votes to do so, and it notifies the city council that it elects to do so and its justification for doing so.
- c) The bill authorizes a city council to adopt a resolution prohibiting the neighborhood city council from using teleconferencing pursuant to these provisions.
- 3) Authorizes an eligible legislative body to meet using the teleconference provisions in 1) if the following requirements are met:
- a) Provide notice of the means by which members of the public may access the meeting and offer public comment in every instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted.
  - b) The agenda must identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option.
  - c) In the event of a disruption that prevents the neighborhood council from broadcasting the meeting to members of the public, or in the event of a disruption within the neighborhood council's control that prevents members of the public from offering public comments using the call-in option or internet-based service option, the neighborhood council must take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Any actions taken on agenda items during a disruption may be challenged, as provided.
  - d) The neighborhood council cannot require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time.
  - e) The neighborhood council 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.
  - f) If a neighborhood council provides a timed public comment period for each agenda item, it is prohibited from closing the public comment period for the agenda item or the opportunity to register with the third-party system, to provide public comment until that timed public comment period has elapsed. A neighborhood council that does not provide a timed public comment period, but takes public comment separately on each agenda item, must allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment. If a neighborhood council provides a timed general public comment period that does not correspond to a specific agenda item, it cannot close the public comment period or the opportunity to register with the third-party system, to comment until the timed general public comment period has elapsed.
  - g) At least a quorum of the members of the neighborhood council must participate from locations within the boundaries of the city in which the neighborhood council is established.

- 4) Repeals these provisions on January 1, 2028.
- 5) Makes findings and declarations of the Legislature regarding the need for a special statute, the interest being protected by the limitation on the access to meetings of public bodies, and the need for the bill to go into immediate effect.

### COMMENTS

#### 1. Stated need for the bill

The author writes:

Due to the COVID-19 public health emergency, audio and video teleconferencing were widely used to conduct public meetings in lieu of in-person meetings for local governments and their boards. Virtual meetings have allowed much easier access to appointed or elected bodies of local agencies with far more members of the public participating in each meeting. This has created greater equity in the process and fostered the health of our democracy. Unfortunately, because the Governor's Emergency Orders are coming to an end, local governments will only be able to use virtual meetings temporarily during emergencies. This will have the effect of reducing public participation and reducing the pool of applicants who have the desire and ability to serve. The effect of this transition back to in-person meetings will be especially hard on the City of Los Angeles due to its size. The City has 99 Neighborhood Councils plus numerous boards and commissions.

#### 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.

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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.

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>

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.

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<sup>3</sup> *Id.*, § 54950.

<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).

- 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).)

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

- 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.
- 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).)

c. *AB 2449 (Blanca Rubio, Ch. 285, Stats. 2022)*

AB 2449 authorized members of legislative bodies more teleconferencing flexibility in non-emergency circumstances. It allowed members of legislative bodies to participate remotely for “just cause” and “emergency circumstances” without noticing their teleconference location or making that location public. Under the measure, just cause includes:

- 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 not otherwise accommodated;
- Travel while on official business of the legislative body or another state or local agency; and
- When a physical or family medical emergency circumstance exists that prevents a member from attending in person.

To use the teleconference flexibility authorized under AB 2449, at least a quorum of the legislative body must participate in person at one physical location, which must be identified on the agenda, open to the public, and within the boundaries of the local agency’s jurisdiction. AB 2449 included additional requirements on local agencies using its provisions that were modeled after many of the provisions included in AB 361.

In order for a member of a legislative body to participate in a meeting remotely using the AB 2449 authority they must do either of the following:

- Notify 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. These provisions cannot be used by any member of the legislative body for more than two meetings per calendar year; or
- 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.

When a member participates remotely under these provisions, they are required to participate through both audio and visual technology, and publicly disclose whether any other individuals 18 years of age or older are present at the teleconference location and the member's relationship with any such individuals. Additionally, a member cannot 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.

AB 2449 sunsets on January 1, 2026.

3. This bill authorizes the neighborhood city councils of the City of Los Angeles to meet via teleconference without having to notify the location from which members are meeting from or making those locations accessible to the public.

The City of Los Angeles amended its city charter in 1999 to establish neighborhood councils to ensure that city government is responsive to each individual community's needs. These councils hold monthly meetings to advocate on issues of neighborhood concern, and communicate with the city council to provide local expertise on community needs. There are 99 neighborhood councils where elected volunteers serve as board members of the council for no compensation. The number of members on each council ranges in size from 7 to 35 members, with terms of two or four years. The councils are advisory in nature, but because the city created these councils through a formal action, in this case the city charter, they are subject to the Brown Act's public meeting requirements.

Since neighborhood councils have returned to in-person meetings, they are reporting issues finding locations to hold their meetings. In light of this, the author seeks to allow neighborhood councils to hold their meetings remotely without having to notice those locations or make them public.

The bill provides that an eligible legislative body may use teleconferencing without complying with existing requirements of the Brown Act that require notice of the locations members are teleconferencing from or making those locations accessible to the public. The bill defines an eligible legislative body as a neighborhood council that is an advisory body with the purpose to promote more citizen participation in government and make government more responsive to local needs that is established pursuant to the charter of a city with a population of more than 3,000,000 people that is subject to the Brown Act, which are neighborhood city councils of the City of Los Angeles.

Before a neighborhood city council can exercise the authority granted by this bill, the city council must consider whether to adopt a resolution to authorize neighborhood city councils to use teleconferencing. If the city council adopts such a resolution, a neighborhood city council may elect to use teleconferencing pursuant to the bill's

provisions if two-thirds of the neighborhood city council votes to do so, and notify the city council if it elects to do so and its justification for doing so. The bill authorizes a city council to adopt a resolution to prohibiting the neighborhood city council from using teleconferencing pursuant to the provisions of the bill.

Once the requirements in the prior paragraph are completed, a neighborhood city council can meet via teleconference subject to all of the following:

- Provide notice of the means by which members of the public may access the meeting and offer public comment in every instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted.
- The agenda must identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option.
- In the event of a disruption that prevents the neighborhood council from broadcasting the meeting to members of the public, or in the event of a disruption within the neighborhood council's control that prevents members of the public from offering public comments using the call-in option or internet-based service option, the neighborhood council must take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Any actions taken on agenda items during a disruption may be challenged, as provided.
- The neighborhood council cannot require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time.
- The neighborhood council 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 neighborhood council provides a timed public comment period for each agenda item, it is prohibited from closing the public comment period for the agenda item or the opportunity to register with the third-party system, to provide public comment until that timed public comment period has elapsed. A neighborhood council that does not provide a timed public comment period, but takes public comment separately on each agenda item, must allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment. If a neighborhood council provides a timed general public comment period that does not correspond to a specific agenda item, it cannot close the public comment period or the opportunity to register with the third-party system, until the timed general public comment period has elapsed.
- At least a quorum of the members of the neighborhood council must participate from locations within the boundaries of the city in which the neighborhood council is established.

The bill also provides that a neighborhood council holding a meeting via teleconference pursuant to these provisions must, if the meeting is held during regular business hours of the offices of the city council member that represents the area that includes the neighborhood council, provide a publicly accessible physical location from which the public may attend or comment. This public location is required to be the offices of the city councilmember who represents the area where the neighborhood city council is located, unless it identifies an alternative location. If the meeting is outside regular business hours, the neighborhood council is required to make reasonable efforts to accommodate any member of the public that requests an accommodation to participate in the meeting, as provided.

These provisions sunset on January 1, 2028. The bill also makes findings regarding the need for a special statute, the interest being protected by the limitation on the access to meetings of public bodies, and the need for the statute to go into immediate effect.

#### 4. Statements in support

The City of Los Angeles writes in support stating:

Due to the COVID-19 public health emergency, audio and video teleconferencing were widely used to conduct public meetings in lieu of in-person meetings for local governments and their boards. Virtual public meetings, initially allowed by the Governor's Executive Order N-29-20 and subsequently by AB 361 (R.Rivas, 2021), ultimately permitted local governments to remain operational during the pandemic via enhanced teleconferencing flexibility. This flexibility allowed the government to remain productive and responsive to constituent needs, increased the pool of people who are able to serve on these bodies, and protected the health and safety of civil servants and the public.

Virtual meetings have made it easier for members of the public to participate in Neighborhood Council meetings, especially people with family care obligations, less flexible work schedules, physical limitations and/or who do not have access to a car.

Teleconferencing has enabled members of the public to participate in multiple Neighborhood Council meetings in the same evening and has enabled greater collaboration between Neighborhood Councils, creating greater equity in the process and fostering the health of our local democracy.

#### 5. Statements in opposition

The opposition is coalition of organizations that advocate for open and accessible government and represent news organizations. Many of their concerns were the sweeping nature of the bill; however, recent amendments have narrowed it to only



apply to city councils in Los Angeles and include a sunset date. It is unclear to what extent these amendments alleviate the concerns of the opposition. They write:

Unless [SB 411] is amended, as it would make drastic and permanent changes to the Ralph M. Brown Act, significantly reducing the transparency, accountability, and democratic nature of local bodies. As currently drafted, SB 411 would permit government officials who serve on a range of local legislative bodies to conduct public business entirely virtually, without ever again being present at a physical location where the public and press can directly engage them. We greatly appreciate the author's willingness to work with this coalition and understand that the author intends the bill to only apply to Los Angeles neighborhood councils and is considering several amendments, which may alleviate some of our concerns. Nonetheless, the approach of carving out certain government bodies from the Brown Act's protections remains concerning. [...]

AB 2449 by Assemblymember Blanca Rubio was the result of careful negotiations by members of the undersigned coalition less than one year ago. After thoughtful conversations, the resulting legislation, in effect now for mere months, rigorously balanced open-government protections with the desire for members of local bodies to have increased flexibility for remote participation following the COVID-19 era of increased virtual meetings. The hard work that was done last year must be given an opportunity to play out before making additional, and in some cases, drastic changes to the Brown Act. [...]

SB 411's proposed rewriting of the Brown Act would fundamentally undermine one of the law's key protections for public access and participation — the guarantee that the press and public can be physically present in the same room as those sitting on the dais and making decisions. Such physical presence has been a constant hallmark of democratic institutions. Officials who are in the same room as their constituents can't just turn off their cameras or turn down the volume on criticism. While we appreciate that amendments are being crafted, as written, SB 411 jeopardizes this public access by permitting public officials to "phone it in" and meet entirely telephonically. [...]

While we understand that, at times, virtual meetings and temporary measures amid emergencies may be necessary to protect health and safety, meeting remotely is not a permanent replacement to in-person meetings.

### **SUPPORT**

Association of California Cities - Orange County  
Bel Air-Beverly Crest Neighborhood Council  
Boyle Heights Neighborhood Council  
California Association of Councils of Governments

California Bicycle Coalition  
California Partnership to End Domestic Violence  
City of San Jose  
CivicWell  
Climate Resolve  
Democracy Winters  
Happy City Coalition  
Jenesse Center, INC.  
Jewish Family Service of Los Angeles  
Lafayette; City of  
Lake Balboa Neighborhood Council  
League of California Cities  
Let's Make It Happen  
Los Angeles Center for Law and Justice  
Los Angeles; City of  
Mosquito and Vector Control Association of California  
Move Santa Barbara County  
Neighborhood Council Valley Village  
North Westwood Neighborhood Council  
Northridge South Neighborhood Council  
Olivenhain Municipal Water District  
Orange County Council of Governments  
Project: Peacemakers, Incorporated  
San Diego Community Power  
San Fernando Valley Audubon Society  
Sonoma Clean Power  
Stop4aidan  
Streets are For Everyone  
Streets for All  
Telegraph for People  
The River Project  
Valley Alliance of Neighborhood Councils  
Westwood South of Santa Monica Blvd. Homeowners Association  
Yolo County In-home Supportive Services Advisory Committee  
Over 75 individuals who sit on Los Angeles neighborhood councils or committees  
16 individuals

**OPPOSITION**

ACLU California Action  
Cal Aware  
California Broadcasters Association  
California News Publishers Association  
First Amendment Coalition

Howard Jarvis Taxpayers Association (HJTA)  
Leadership Council for Justice and Accountability

### RELATED LEGISLATION

#### Pending Legislation:

SB 537 (Becker, 2023) authorizes an eligible legislative body, which is a board, commission, or advisory body of a multijurisdictional, cross county, local agency with appointed members that is subject to the Brown Act, to teleconference their meetings without having to make publicly accessible each teleconference location under certain conditions and limitations. SB 537 is scheduled to be heard in this Committee on the same day as this bill.

AB 557 (Hart, 2023) removes the sunset under AB 361 (Robert Rivas, Ch. 165, Stats. 2021), and extends the 30-day reauthorization requirement to 45 days. The bill is currently pending on the Assembly Floor.

AB 817 (Pacheco, 2023) allows appointed bodies of subsidiary bodies to teleconference meetings without having to notice and make publicly accessible each teleconference location, or have at least a quorum participate from locations within the boundaries of the agency. The bill is currently pending in the Assembly Local Government Committee.

AB 1275 (Arambula, 2023) allows the recognized statewide community college student organization and other student-run community college organizations to use teleconferencing without having to notice and make publicly accessible each teleconference location, or have at least a quorum participate from locations within the boundaries of the agency. The bill is currently pending in the Assembly Higher Education Committee.

AB 1379 (Papan, 2023) makes numerous changes to the Brown Act's teleconferencing provisions. The bill is currently pending in the Assembly Local Government Committee.

#### Prior Legislation:

AB 1944 (Lee, 2022) would have authorized, 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. This bill was never set for a hearing in the Senate Governance and Finance Committee.

AB 2449 (Blanca Rubio, Ch. 285, Stats. 2022) *see* Comment (2) above.

SB 411 (Portantino)

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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:**

Senate Governance and Finance Committee (6 Ayes, 2 Noes)

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