

June 8, 2022

8a | Commission
Discussion

TO: Local Agency Formation Commission
of Orange County

FROM: Executive Officer
Policy Analyst

SUBJECT: Legislative Quarterly Report (Fourth Quarter)

BACKGROUND

Senate and Assembly bills involving several important topics of interest to LAFCOs and other local agencies continue to make their way through the legislative committees. The following are key upcoming events for the State Legislature:

2022 Legislative Session – Key Dates	
June 15, 2022	Budget bill must be passed by midnight.
July 1, 2022	Last day for policy committees to meet and report bills.
July 1 -- July 31	Summer Recess.
August 25, 2022	Last day to amend bills.
August 31, 2022	Last day for each house to pass bills.
September 30, 2022	Last day for the Governor to sign or veto bills.

Through the participation as a member of the California Association of LAFCOs (CALAFCO) Legislative Committee, staff continues to actively monitor legislation previously reviewed by the Commission and additional bills that are of LAFCO interest. This report provides a brief status update on bills considered by the Commission during this session, a discussion of other legislation expected to impact OC LAFCO if enacted and recommended positions by staff for Commission consideration.

REGULAR MEMBERS

CHAIR
Douglass Davert
Special District Member

VICE CHAIR
Donald P. Wagner
County Member

IMMEDIATE PAST CHAIR
Derek J. McGregor
Public Member

Lisa Bartlett
County Member

Wendy Bucknum
City Member

James Fisler
Special District Member

Mike Posey
City Member

ALTERNATES

Andrew Do
County Member

Kathryn Freshley
Special District Member

Peggy Huang
City Member

Lou Penrose
Public Member

STAFF

Carolyn Emery
Executive Officer

Scott Smith
General Counsel

LEGISLATION PREVIOUSLY REVIEWED

The table below provides the status of each bill reviewed by the Commission over the current legislative session.

2022 Proposed Legislation			
Bill	Description	Commission's Adopted Position	Status
AB 2081	Proposes to extend the sunset date to allow some Indian tribes contiguous to a special district to request water services. The district is mandated to provide the services without the local LAFCO conducting a thorough review of the extension of service.	Oppose	Recent amendments change the sunset date of the current law from January 1, 2023 to January 1, 2027. The bill's current location is with the Senate Governance and Finance Committee, and the next hearing date is <i>June 1, 2022</i> .
AB 2957	Makes minor and/or non-substantive changes to the Cortese-Knox-Hertzberg Government Reorganization Act of 2000 and provides consistency in how the CKH Act is applied throughout the State.	Support	No amendments to the bill. AB 2957 is currently with the Senate Governance and Finance Committee, and the next hearing date is <i>June 1, 2022</i> .
SB 938	Proposes to amend the protest provisions included in the Cortese-Knox-Hertzberg Government Reorganization Act of 2000 by consolidating and reorganizing the provisions and modifying the protest threshold for LAFCO-initiated dissolutions of special districts.	Support	No additional amendments to the bill. SB 938 is currently with the Assembly Committee on Local Government, and the next hearing date is <i>June 8, 2022</i> .
SB 1490 SB 1491 SB 1492	Yearly Validating Acts are meant to retroactively fix typographical, grammatical, and procedural errors that might invalidate boundary changes or bond issues.	Support	No amendments to the bills, and the bills are currently with the Assembly Committee on Local Government. The next hearing date is <i>June 8, 2022</i> .

OTHER LEGISLATION OF LAFCO INTEREST

Throughout the current legislative session, staff has also actively monitored other legislation of LAFCO interest or potential impact to the Commission. Of particular interest are several bills involving public meeting proceedings and funding for annexations of inhabited unincorporated islands. Additional details on these efforts are provided in the following section along with recommended positions for Commission consideration.

Open and Public Meetings

The Ralph M. Brown Act (Brown Act) allows a local legislative body to conduct public meetings by teleconference subject to certain requirements that include identifying the meeting location and teleconference details and allowing public access to the teleconference. Existing law under Executive Orders signed by the Governor authorizes a local agency to use teleconference without complying with the Brown Act's requirements until January 1, 2024. The following bills propose amendments to the current provisions involving public meetings conducted by teleconference.

AB 1944 (Lee and Garcia) Local Government: Open and Public Meetings

This bill would allow a legislative body to decide by a majority vote if the body's public meetings will provide the opportunity for its members to attend by teleconference and not require its members to identify the address of any private location from which the member elects to participate. If the legislative body allows for its members to attend a meeting by teleconference, the following must be met:

- At least a quorum of members of the legislative body shall participate in-person from a singular location that is identified in the agenda, open to the public, and the location is within the boundaries of the territory over which the local agency has jurisdiction.
- Meeting agenda must delineate which members of the legislative body will be teleconferencing to the meeting and be posted 72 hours prior to the meeting.
- Accessibility by the public to address the legislative body remotely by audio, video and call-in option.

Several months ago, staff began exploring the administrative and fiscal impacts to the agency that may occur as a result of additional state requirements involving public meetings. It is expected that staff will have more certainty involving this information after the future location of the Commission's regular meetings is confirmed in mid-June. Since that is unknown at this time and additional amendments to AB 1944 are anticipated, staff recommends the Commission adopt a **Watch** position on AB 1944. The recommended position aligns with the Commission's legislative policy to watch legislation that may have an impact on the agency and is expected to be amended. Staff will continue to monitor additional amendments to AB 1944 and bring the bill language back to the Commission, along with potential impacts to the agency, for discussion at a future meeting.

RECOMMENDED ACTION: Adopt **WATCH** position on AB 1944.

Support: Association of Bay Area Government, Association of California Healthcare Districts, Association of School Administrators, Bay Area Air Quality Management District, California Association of Councils of Governments, California Association of Joint Powers Authorities, California Association of Public Authorities for HIS, California School Board Association, California State Association of Counties, Cities Association of Santa Clara County, City of Berkeley, City of Cupertino, City of Lafayette, City of Mountain View, City of Rancho Palos Verdes, City of Redwood City, City of San Jose, City of Santa Clara, Council Member Zach Hilton, City of Gilroy, County of Mendocino, County of Monterey, County of Santa Cruz, County of Solano, County of Tulare, Disability Rights California, Encina Wastewater Authority, First 5 Solano Children and Families Commission, Housing Contractors of California, Indivisible CA-37, Indivisible Sacramento, Indivisible of San Francisco, Indivisible of San Jose, League of California Cities, Los Angeles Unified School District, Metropolitan Transportation Commission, Peninsula Clean energy, Public Risk Innovation, Solution, and Management, Rural County Representatives of California, Sacramento Area Council of Governments, San Francisco Bay Area Rapid Transit District, San Gabriel Valley Council of Government, San Mateo County Transit District, San Mateo County Transportation Authority, Santa Clara Valley Open Space Authority, Silicon Valley Clean Energy, Silicon Valley Community Foundation, Sonoma Clean Power, Stanislaus Council of Governments, State Association of County Retirements System, Town Hillsborough, town of Los Gatos, Transportation Agency for Monterey County, Transportation Authority of Marin, Upper San Gabriel Valley Municipal Water District, Urban Counties of California.

Oppose: ACLU California Action, California News Publishers Association, California Aware, First Amendment Coalition, Howard Jarvis Taxpayers Association, Leadership Counsel for Justice & Accountability, Orange County Press Club, Public Advocated, Society of Professional Journalists (Greater Los Angeles Chapter).

BILL LOCATION/STATUS: Senate Rules Committee. No hearing date scheduled at the time of agenda distribution.

AB 2449 (Rubio): Open Meetings: Local Agencies: Teleconferencing

This bill would allow a member of a legislative body to use teleconferencing without identifying the teleconference location in the notice and agenda of the meeting if at least a quorum of the members of the legislative body participates in person from a singular location clearly identified on the agenda and is open to the public. If a member of the legislative body teleconferences to a meeting the following key requirements must be met:

- Legislative body shall provide notice of the meeting and post the agendas.
- Members of the legislative body that teleconference to the meeting shall participate through audio and visual technology.

- Public shall have access to the meeting by a call-in or internet-based service option and have the ability to address the legislative body in-person or in real-time by call-in or internet-based service option. The legislative body shall not require the submittal of public comments before the meeting.
- In the event of a disruption that prevents the public agency from broadcasting the meeting to the public using call-in or internet-based service options or prevents public comments, the legislative body shall not take any further action on items appearing on the agenda until access is restored.

If enacted, AB 2449 will impact all state and local agencies, including LAFCOs. For similar reasons stated for AB 1944, staff recommends the Commission adopt a **Watch** position on AB 2449 at this time. The recommended position aligns with the Commission's legislative policy to watch legislation that may have an impact on the agency and is expected to be amended. Staff will continue to monitor additional amendments to AB 2449 and bring the bill language back to the Commission, along with potential impacts to the agency, for discussion at a future meeting.

RECOMMENDED ACTION: Adopt **WATCH** position on AB 2449.

Support: Three Valleys Municipal Water District, Association of California Health Districts, Association of California Water Agencies, California Municipal Utilities Association, California State Association of Counties, Colleguas Municipal Water District, Central Basin Municipal Water District, Central Contra Costa Sanitary District, City of Cupertino, City of Rancho Palos Verdes, County of Monterey, Cucamonga Valley Water District, Eastern Municipal Water District, Foothill Municipal Water District, Foothill Municipal Water District, Inland Empire Utilities Agency, League of California Cities, Local Agency Formation Commission for the County of Los Angeles, Los Angeles Unified School District, Mesa Water District, Metropolitan Water District of Southern California, Municipal Water District of Orange County, Public Risk Innovation Solutions and Management, Regional Chamber of Commerce (San Gabriel Valley), Rowland Water District, Rural County Representatives of California, 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 Government, San Gabriel Valley Municipal Water District, San Gabriel Valley Water Association, Santa Margarita Water District, Solano County Board of Supervisors, Southern California Water Coalition, Suburban Water System, Upper San Gabriel Valley Municipal Water District, Urban Counties of California, Walnut Valley Water District, Western Municipal Water District.

Oppose: ACLU California Action, California News Publishers Association, California Aware, First Amendment Coalition, Howard Jarvis Taxpayers Association, Leadership Counsel for Justice & Accountability, Society of Professional Journalists (Greater Los Angeles Chamber).

BILL LOCATION/STATUS: Assembly Local Government Committee. No hearing date scheduled at the time of agenda distribution.

AB 2647 (Levine) Local Government: Open Meetings

This bill would require a local agency that receives written communication for members of its legislative body less than 72 hours before an open meeting to promptly make the communication available to the public to satisfy the Ralph M. Brown Act requirements. The written communication must be made available to the public by posting at a public office or location designated by the local agency. An agency may be exempt from this requirement if:

- The local agency posts the written communication on its website in a manner that is clear the writing is related to an agenda item.
- The local agency lists the agency's website address on the agendas for all meetings.
- The local agency makes the written communication available at a designated location for public inspection.

Noted within all OC LAFCO meeting agendas is the procedure for the receiving of supplemental communication (i.e., written communication received after distribution of the agenda) and the distribution of communication to a majority of the Commission. Supplemental communication received no less than 24 hours prior to the meeting is distributed to the Commission during the meeting, copies made available to the public attending the meeting in-person, and posted on the agency's website. Additionally, physical copies of supplemental communication are available at the OC LAFCO office for public inspection. Should AB 2647 be signed into law, it is expected that OC LAFCO will be exempt from the bill's requirements based on the current local procedures of the Commission, and no administrative or fiscal impacts to the agency are anticipated. Therefore, staff recommends the Commission adopt a **Support** position on the bill as it aligns with the Commission's legislative policy to support bills that promote good governance principles as public policy and the agency's current procedure relative to this matter.

RECOMMENDED ACTION: Adopt **SUPPORT** position on AB 2647.

Support: League of California Cities, Association of California Health Districts, Association of California Water Agencies, California Association of Joint Powers Authorities for IHSS, California Charter Schools Association, California School Boards Association, California Special Districts Association, California State Association of Counties, Desert Water Agency, El Dorado Irrigation District, Los Angeles Unified School District, Marin County Council of Mayors and Council Members, North Orange County Community College District, Palmdale Water District, Rowland Water District, Rural County Representatives of California, San Gabriel Valley Council of Governments, Santa Clara Valley Open Space Authority, Solano County Water Agency, Urban Counties of California, Valley County Water District, Walnut Valley Water District, Water Replenishment District of Southern California.

Oppose: None on record.

BILL LOCATION/STATUS: Senate Rules Committee. No hearing date scheduled at the time of agenda distribution.

Grant Funding for Annexations

SB 1449 (Caballero) Office of Planning and Research: Grant Program: Annexation

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 provides the provisions for annexing unincorporated islands to a city, preparing municipal service reviews for cities every five years and establishing spheres of influence for each city. The sphere of influence determines which city can most efficiently provide municipal services to an unincorporated island. For over 20 years, OC LAFCO has worked collaboratively with multiple cities and the County of Orange to transition islands to cities. In part to this effort, for the past several years the Commission has implemented a fee-waiver program for small island annexations as an incentive for cities to annex these small pockets located throughout the County.

Encouragement to annex islands originated in the State Legislature, and SB 1499 is a recent effort that proposes a grant program to further assist with the annexation of unincorporated islands. The Unincorporated Area Annexation Incentive Program would be funded by the State and administered by the Governor's Office of Planning and Research (OPR) to do the following:

- Provide grants to cities to fund projects related to the proposed or completed annexation of an unincorporated area that is substantially surrounded by a city.
- Give priority for grant funding to unincorporated areas that are completely surrounded by a city, projects that provide for improvements to public health and safety infrastructure within the unincorporated area and involves the annexation of a disadvantaged unincorporated community.

Additionally, SB 1449 requires OPR to develop guidelines for implementation of the program by September 1, 2023, with input from LAFCOs, cities, counties and residents. Staff recommends that the Commission adopt a **Support** position on SB 1449. The current intent of the bill aligns with the Commission's policy to support proposed legislation that encourages the transition of unincorporated areas located within a city's sphere of influence and reflects efficient governance.

RECOMMENDED ACTION: Adopt **SUPPORT** position on SB 1449.

Support: California State Association of Counties.

Oppose: None on record.

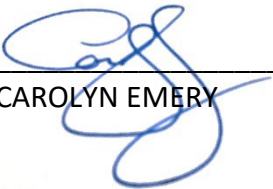
BILL LOCATION/STATUS: Senate Appropriations Committee. No hearing date scheduled.

RECOMMENDED ACTIONS

Staff recommends that the Commission:

1. Adopt positions on the following bills:
 - AB 1944 (**WATCH**)
 - AB 2449 (**WATCH**)
 - AB 2647 (**SUPPORT**)
 - SB 1449 (**SUPPORT**)
2. Direct staff to send position letters to the respective bill authors for AB 2647 and SB 1449.

Respectfully Submitted,



CAROLYN EMERY



LUIS TAPIA

Attachments:

1. Assembly Bill 1944 (Lee and Garcia)
2. Assembly Bill 2449 (Rubio)
3. Assembly Bill 2647 (Levine)
4. Senate Bill (Caballero)

Exhibits:

- A. Letter of Support - AB 2647
- B. Letter of Support – SB 1449


[Home](#)
[Bill Information](#)
[California Law](#)
[Publications](#)
[Other Resources](#)
[My Subscriptions](#)
[My Favorites](#)

AB-1944 Local government: open and public meetings. (2021-2022)

SHARE THIS:



Date Published: 05/25/2022 11:51 AM

AMENDED IN ASSEMBLY MAY 25, 2022

AMENDED IN ASSEMBLY APRIL 18, 2022

CALIFORNIA LEGISLATURE— 2021–2022 REGULAR SESSION

ASSEMBLY BILL

NO. 1944

Introduced by Assembly Members Lee and Cristina Garcia
(Coauthors: Senators Becker, Cortese, and Stern)

February 10, 2022

An act to amend, repeal, and add Section 54953 of the Government Code, relating to public meetings.

LEGISLATIVE COUNSEL'S DIGEST

AB 1944, as amended, Lee. Local government: open and public meetings.

Existing law, the Ralph M. Brown Act, requires, with specified exceptions, that all meetings of a legislative body of a local agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate. The act contains specified provisions regarding the timelines for posting an agenda and providing for the ability of the public to observe and provide comment. The act allows for meetings to occur via teleconferencing subject to certain requirements, particularly that the legislative body notice each teleconference location of each member that will be participating in the public meeting, that each teleconference location be accessible to the public, that members of the public be allowed to address the legislative body at each teleconference location, that the legislative body post an agenda at each teleconference location, and that at least a quorum of the legislative body participate from locations within the boundaries of the local agency's jurisdiction. The act provides an exemption to the jurisdictional requirement for health authorities, as defined.

Existing law, until January 1, 2024, authorizes a local agency to use teleconferencing without complying with those specified teleconferencing requirements in specified circumstances when a declared state of emergency is in effect, or in other situations related to public health.

This bill would require the agenda to identify any member of the legislative body that will participate in the meeting remotely. The bill would also require an updated agenda reflecting all of the members participating in the meeting remotely to be posted, if a member of the legislative body elects to participate in the meeting remotely after the agenda is posted.

This bill would ~~authorize, under specified circumstances and~~ *authorize*, upon a determination by a majority vote of the legislative body, a member to be exempt from identifying the address of the member's teleconference location in the notice and agenda or having the location be accessible to the public, if the member elects to teleconference from a location that is not a public ~~place~~ *place, including, beginning January 1, 2024, that at least a quorum of members of the legislative body participates from a single physical location that is clearly identified on the agenda, open to the public, and situated within the boundaries of the territory over which the local agency has jurisdiction.*

This bill would require all open and public meetings of a legislative body that elects to use teleconferencing to provide a video stream accessible to members of the public and an option for members of the public to address the body remotely during the public comment period through an audio-visual or call-in option.

This bill would repeal these provisions on January 1, 2030.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 54953 of the Government Code, as amended by Section 3 of Chapter 165 of the Statutes of 2021, is amended to read:

54953. (a) All meetings of the legislative body of a local agency shall 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 this chapter.

(b) (1) Notwithstanding any other law, the legislative body of a local agency may 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. The teleconferenced meeting or proceeding shall comply with all otherwise applicable requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, 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.

(3) (A) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency.

(B) Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public, except as provided in subparagraph (E).

(C) The agenda shall identify any member of the legislative body that will participate in the meeting remotely. If a member of the legislative body elects to participate in the meeting remotely after the agenda is posted, an updated agenda shall be posted. In the time between the start of the meeting and 72 hours before a regular meeting, in accordance with Section 54954.2, and 24 hours before a special meeting, in accordance with Section 54956, a legislative body shall only update the agenda to reflect the members participating in the meeting remotely.

(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 exercises jurisdiction, except as provided in subdivisions (d) and (e). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location, except as provided in subparagraph (E).

(E) If a member of a legislative body elects to teleconference from a location that is not a public place, the legislative body shall be exempt from identifying the address of the location in the notice and agenda and from having the location be accessible to the public in both of the following circumstances:

(i) The legislative body holds its first teleconferenced meeting after passage of the act that added this subparagraph, for the purpose of determining, by a majority vote, whether members will not be required to identify the address of any private location from which the member elects to teleconference. This determination remains applicable to the legislative body until such time as the legislative body votes otherwise.

(ii) The legislative body holds a meeting and has previously determined, by majority vote, that members will not be required to identify the address of any private location from which the member elects to teleconference.

(F) If a legislative body elects to use teleconferencing as authorized by this section, it shall provide both of the following:

(i) A video stream accessible to members of the public.

(ii) An option for members of the public to address the body remotely during the public comment period through an audio-visual or call-in option.

(4) For the purposes of this section, "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. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(5) For the purposes of this section, "video stream" means a medium in which the data from a live filming or a video file is continuously delivered via the internet to a remote user, allowing a video to be viewed online by the public without being downloaded on a host computer or device.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), 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.

(2) Nothing in this subdivision shall 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. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory

committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) (1) A local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of paragraph (2) of this subdivision 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 the purpose of determining, by majority vote, whether, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(C) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(2) A legislative body that holds a meeting pursuant to this subdivision shall do all of the following:

(A) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(B) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3. In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(C) The legislative body shall conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body of a local agency.

(D) In the event of a disruption which prevents the public agency from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments using the call-in option or internet-based service option, the body shall 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. Actions taken on agenda items during a disruption which prevents the public agency from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(E) The legislative body shall not 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. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(G) (i) A legislative body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to subparagraph (F), to provide public comment until that timed public comment period has elapsed.

(ii) A legislative body that does not provide a timed public comment period, but takes public comment separately on each agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to subparagraph (F), or otherwise be recognized for the purpose of providing public comment.

(iii) A legislative body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, pursuant to subparagraph (F), until the timed general public comment period has elapsed.

(3) If a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 30 days after teleconferencing for the first time pursuant to subparagraph (A), (B), or (C) of paragraph (1), 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.

(B) Any of the following circumstances exist:

(i) The state of emergency continues to directly impact the ability of the members to meet safely in person.

(ii) State or local officials continue to impose or recommend measures to promote social distancing.

(4) For the purposes of this subdivision, "state of emergency" means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).

(f) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 2. Section 54953 of the Government Code, as added by Section 4 of Chapter 165 of the Statutes of 2021, is amended to read:

54953. (a) All meetings of the legislative body of a local agency shall 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 this chapter.

(b) (1) Notwithstanding any other law, the legislative body of a local agency may 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. The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, 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.

(3) (A) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency.

(B) Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public, except as provided in subparagraph (E).

(C) The agenda shall identify any member of the legislative body that will participate in the meeting remotely. If a member of the legislative body elects to participate in the meeting remotely after the agenda is posted, an updated agenda shall be posted. In the time between the start of the meeting and 72 hours before a regular meeting, in accordance with Section 54954.2, and 24 hours before a special meeting, in accordance with Section 54956, a legislative body shall only update the agenda to reflect the members participating in the meeting remotely.

(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 exercises jurisdiction, except as provided in subdivision (d). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location, except as provided in subparagraph (E).

(E) If a member of a legislative body elects to teleconference from a location that is not a public place, the legislative body shall be exempt from identifying the address of the location in the notice and agenda and from having the location be accessible to the public ~~in both of the following circumstances:~~ *if both of the following circumstances are present:*

~~(i) The legislative body holds its first teleconferenced meeting after passage of the act that added this subparagraph, for the purpose of determining, by a majority vote, whether members will not be required to~~

~~identify the address of any private location from which the member elects to teleconference. This determination remains applicable to the legislative body until such time as the legislative body votes otherwise.~~

(#)

(i) The legislative body holds a meeting and has ~~previously~~ determined, by majority vote, that members will not be required to identify the address of any private location from which the member elects to teleconference. A determination described by this clause shall remain applicable to the legislative body until the legislative body votes otherwise.

(ii) At least a quorum of members of the legislative body participates from a single physical location that is clearly identified on the agenda, open to the public, and situated within the boundaries of the territory over which the local agency has jurisdiction.

(F) If a legislative body elects to use teleconferencing as authorized by this section, it shall provide both of the following:

(i) A video stream accessible to members of the public.

(ii) An option for members of the public to address the body remotely during the public comment period through an audio-visual or call-in option.

(4) For the purposes of this section, "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. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(5) For the purposes of this section, "video stream" means a medium in which the data from a live filming or a video file is continuously delivered via the internet to a remote user, allowing a video to be viewed online by the public without being downloaded on a host computer or device.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), 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.

(2) Nothing in this subdivision shall 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. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) This section shall become operative January 1, 2024.

(f) This section shall remain in effect only until January 1, 2030, and as of that date is repealed.

SEC. 3. Section 54953 is added to the Government Code, to read:

54953. (a) All meetings of the legislative body of a local agency shall 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 this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may 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. The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, 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.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. 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 exercises jurisdiction, except as provided in subdivision (d). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, "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. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference ~~locations~~ [locations](#).

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), 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.

(2) Nothing in this subdivision shall 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. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory

committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) This section shall become operative January 1, 2030.

SEC. 4. The Legislature finds and declares that Sections 1, 2, and 3 of this act, which amend, repeal, and add Section 54953 of the Government Code, further, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

This act is necessary to ensure minimum standards for public participation allowing for greater public participation in teleconference meetings.

SEC. 5. (a) The Legislature finds and declares that during the COVID-19 public health emergency, certain requirements of the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code) and the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code) were suspended by Executive Order No. N-29-20. Audio and video teleconference were widely used to conduct public meetings in lieu of physical location meetings, and public meetings conducted by teleconference during the COVID-19 public health emergency have been productive, have increased public participation by all members of the public regardless of their location in the state and ability to travel to physical meeting locations, have protected the health and safety of civil servants and the public, and have reduced travel costs incurred by members of state bodies and reduced work hours spent traveling to and from meetings.

(b) The Legislature finds and declares that Sections 1, 2, and 3 of this act, which amend, repeal, and add Section 54953 of the Government Code, impose a potential limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this potential limitation and the need for protecting that interest:

By removing the requirement for each teleconference location to be identified in the notice and agenda, including the member's private home address, and by providing exceptions to the requirements that each teleconference location must be accessible to the public and that members of the public be given the opportunity to address the legislative body directly at each teleconference location, this act protects the personal, private information and location of public officials and their families while preserving the public's right to access information concerning the conduct of the people's business.


[Home](#)
[Bill Information](#)
[California Law](#)
[Publications](#)
[Other Resources](#)
[My Subscriptions](#)
[My Favorites](#)

AB-2449 Open meetings: local agencies: teleconferences. (2021-2022)

SHARE THIS:



Date Published: 05/23/2022 02:00 PM

AMENDED IN ASSEMBLY MAY 23, 2022

CALIFORNIA LEGISLATURE— 2021–2022 REGULAR SESSION

ASSEMBLY BILL

NO. 2449

Introduced by Assembly Member Blanca Rubio

February 17, 2022

An act to ~~amend~~ *amend, repeal, and add* Section 54953 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 2449, as amended, Blanca Rubio. Open meetings: local agencies: teleconferences.

Existing law, the Ralph M. Brown Act, requires, with specified exceptions, that all meetings of a legislative body of a local agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate. The act contains specified provisions regarding the timelines for posting an agenda and providing for the ability of the public to observe and provide comment. The act allows for meetings to occur via teleconferencing subject to certain requirements, particularly that the legislative body notice each teleconference location of each member that will be participating in the public meeting, that each teleconference location be accessible to the public, that members of the public be allowed to address the legislative body at each teleconference location, that the legislative body post an agenda at each teleconference location, and that at least a quorum of the legislative body participate from locations within the boundaries of the local agency's jurisdiction. The act provides an exemption to the jurisdictional requirement for health authorities, as defined.

Existing law, until January 1, 2024, authorizes a local agency to use teleconferencing without complying with those specified teleconferencing requirements in specified circumstances when a declared state of emergency is in effect, or in other situations related to public health.

This bill would *revise and recast those teleconferencing provisions and, until January 1, 2028, would* authorize a local agency to use teleconferencing without complying with ~~those specified the~~ *teleconferencing requirements that each teleconference location be identified in the notice and agenda and that each teleconference location be accessible to the public* 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~~ *Under this exception, the bill would authorize a member to participate remotely only under specified circumstances and for a period of three consecutive months.*

This bill would impose prescribed requirements for this exception relating to notice, agendas, the means and manner of access, and procedures for disruptions. The bill would require the legislative body to implement a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, consistent with federal law.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 54953 of the Government Code, as amended by Section 3 of Chapter 165 of the Statutes of 2021, is amended to read:

54953. (a) All meetings of the legislative body of a local agency shall 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 this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may 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. The teleconferenced meeting or proceeding shall comply with all otherwise applicable requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. ~~At~~ *If the legislative body of a local agency elects to use teleconferencing, the legislative body of a local agency shall comply with all of the following:*

(A) All votes taken during a teleconferenced meeting shall be by rollcall.

(B) The teleconferenced meetings shall be conducted in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency.

(C) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(D) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference ~~locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency.~~ ~~locations.~~ Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. 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 exercises jurisdiction, except as provided in subdivisions (d) and (e). ~~The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.~~

~~(4) For the purposes of this section, "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. Nothing~~

~~in this section shall prohibit a local agency from providing the public with additional teleconference locations:~~

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Division 10 (commencing with Section 7920.000) ~~if of~~ Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), 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.

(2) Nothing in this subdivision shall 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. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) (1) ~~A~~ *The legislative body of a* local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of paragraph (2) of this subdivision 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 the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(C) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(2) A legislative body that holds a meeting pursuant to this subdivision shall do all of the following:

~~(A) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter:~~

~~(B) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3. In~~

(A) In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option. ~~This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.~~

~~(C) The legislative body shall conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body of a local agency.~~

~~(D)~~

(B) In the event of a disruption that prevents the ~~public agency~~ *legislative body* from broadcasting the meeting to members of the public using the call-in option or internet-based service option, 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 option or internet-based service option, the *legislative* body shall 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. Actions taken on agenda items during a disruption that prevents the ~~public agency~~ *legislative body* from broadcasting the meeting may be challenged pursuant to Section 54960.1.

~~(E)~~

(C) The legislative body shall not 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. ~~This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.~~

~~(F)~~

(D) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

~~(G)~~

(E) (i) A legislative body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to subparagraph (F), to provide public comment until that timed public comment period has elapsed.

(ii) A legislative body that does not provide a timed public comment period, but takes public comment separately on each agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to subparagraph (F), or otherwise be recognized for the purpose of providing public comment.

(iii) A legislative body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, pursuant to subparagraph (F), until the timed general public comment period has elapsed.

(3) If a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 30 days after teleconferencing for the first time pursuant to subparagraph (A), (B), or (C) of paragraph (1), 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.

(B) Any of the following circumstances exist:

(i) The state of emergency continues to directly impact the ability of the members to meet safely in person.

(ii) State or local officials continue to impose or recommend measures to promote social distancing.

~~(4) For the purposes of this subdivision, "state of emergency" means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).~~

(4) This subdivision shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(f) ~~A~~ *(1) The legislative body of a* local agency may use teleconferencing without complying with paragraph (3) of subdivision (b) if, during the teleconference meeting, at least a quorum of the members of the legislative body

participates in person from a singular *physical* location clearly identified on the agenda, which location shall be open to the public and situated within the boundaries of the territory over which the local agency exercises jurisdiction and the legislative body complies with all of the following:

~~(1)The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.~~

~~(2)All members of the legislative body attending the meeting by teleconference shall participate only through both audio and visual technology.~~

(A) The legislative body shall provide at least one of the following as a means by which the public may remotely hear and visually observe the meeting, and remotely address the legislative body:

(i) A two-way audio-visual platform.

(ii) A two-way telephonic service and a live webcasting of the meeting.

(B) In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment.

~~(3)The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3. 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 means by which members of the public may access the meeting and offer public comment. The~~

*(C) The agenda shall identify and include an opportunity for all persons to attend **and address the legislative body directly pursuant to Section 54954.3** via a call-in ~~option or~~ *option*, via an internet-based service option, ~~and an opportunity for members of the public to attend and address the legislative body at the in-person location of the meeting.~~*

~~(4)The legislative body shall conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body of a local agency, **and at the in-person location of the meeting.**~~

~~(5)~~

*(D) In the event of a disruption that prevents the ~~public agency~~ **legislative body** from broadcasting the meeting to members of the public using the call-in option or internet-based service option, 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 option or internet-based service option, the **legislative** body shall 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. Actions taken on agenda items during a disruption that prevents the ~~public agency~~ **legislative body** from broadcasting the meeting may be challenged pursuant to Section 54960.1.*

~~(6)~~

(E) The legislative body shall not 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.

~~(7)~~

(F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(2) A member of the legislative body shall only participate in the meeting remotely pursuant to this subdivision, if all of the following requirements are met:

(A) One of the following circumstances applies:

(i) 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.

(ii) The circumstances relating to the member's need to participate remotely arose after the agenda for the meeting was posted and those circumstances are publicly disclosed at the meeting before any action is taken.

(B) The member shall 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.

(C) The member shall participate through both audio and visual technology.

(3) The provisions of this subdivision shall not 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 three consecutive months.

~~(8)~~

(g) The legislative body shall 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), 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.

(h) The legislative body shall conduct meetings subject to this chapter consistent with applicable state and federal civil rights laws, including, but not limited to, the language access and other nondiscrimination obligations of Section 11135 and Subchapter V (commencing with Section 2000d) of Chapter 21 of Title 42 of the United States Code.

(i) (1) Nothing in this section shall prohibit a legislative body from providing the public with additional teleconference locations.

(2) Nothing in this section shall prohibit a legislative body from providing members of the public with additional physical locations in which the public may observe and address the legislative body by electronic means.

(j) For the purposes of this section, the following definitions shall apply:

(1) "Remote location" means a location from which a member of a legislative body participates in a meeting pursuant to subdivision (f), other than any physical meeting location designated in the notice of the meeting. Remote locations need not be accessible to the public.

(2) "Remote participation" means participation in a meeting by teleconference at a location other than any physical meeting location designated in the notice of the meeting. Watching or listening to a meeting via webcasting or another similar electronic medium that does not permit members to interactively hear, discuss, or deliberate on matters, does not constitute remote participation.

(3) "State of emergency" means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).

(4) "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.

(5) "Two-way audio-visual platform" means an online platform that provides participants with the ability to participate in a meeting via both an interactive video conference and a two-way telephonic function.

(6) "Two-way telephonic service" means a telephone service that does not require internet access, is not provided as part of a two-way audio-visual platform, and allows participants to dial a telephone number to listen and verbally participate.

(7) "Webcasting" means a streaming video broadcast online or on television, using streaming media technology to distribute a single content source to many simultaneous listeners and viewers.

~~(9)~~

(k) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 2. Section 54953 of the Government Code, as added by Section 4 of Chapter 165 of the Statutes of 2021, is amended to read:

54953. (a) All meetings of the legislative body of a local agency shall 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 this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may 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. The teleconferenced meeting or proceeding shall comply with all *otherwise applicable* requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. ~~All~~ *If the legislative body of a local agency elects to use teleconferencing, the legislative body of a local agency shall comply with all of the following:*

(A) All votes taken during a teleconferenced meeting shall be by rollcall.

(B) The teleconferenced meetings shall be conducted in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency.

(C) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(D) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference ~~locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency.~~ *locations.* Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. 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 exercises jurisdiction, except as provided in subdivision (d). ~~The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.~~

~~(4) For the purposes of this section, "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. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations~~

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), 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.

(2) Nothing in this subdivision shall 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. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) ~~A~~ *(1) The legislative body of a* local agency may use teleconferencing without complying with ~~the requirements of~~ paragraph (3) of subdivision (b) if, during the teleconference meeting, at least a quorum of the members of the legislative body participates in person from a singular *physical* location clearly identified on the agenda, which location shall be open to the public and situated within the boundaries of the territory over which the local agency exercises jurisdiction and the legislative body complies with all of the following:

~~(1) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.~~

~~(2) All members of the legislative body attending the meeting by teleconference shall participate only through both audio and visual technology.~~

(A) The legislative body shall provide at least one of the following as a means by which the public may remotely hear and visually observe the meeting, and remotely address the legislative body:

(i) A two-way audio-visual platform.

(ii) A two-way telephonic service and a live webcasting of the meeting.

(B) In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment.

~~(3) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3. 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 means by which members of the public may access the meeting and offer public comment. The~~

*(C) The agenda shall identify and include an opportunity for all persons to attend *and address the legislative body directly pursuant to Section 54954.3* via a call-in ~~option or~~ *option*, via an internet-based service option, and ~~an opportunity for members of the public to attend and address the legislative body~~ at the in-person location of the meeting.*

~~(4) The legislative body shall conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body of a local agency.~~

~~(5)~~

*(D) In the event of a disruption that prevents the ~~public agency~~ *legislative body* from broadcasting the meeting to members of the public using the call-in option or internet-based service option, 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 option or internet-based service option, the *legislative* body shall 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. Actions taken on agenda items during a disruption that prevents the ~~public agency~~ *legislative body* from broadcasting the meeting may be challenged pursuant to Section 54960.1.*

~~(6)~~

(E) The legislative body shall not 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.

~~(7)~~

(F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(2) A member of the legislative body shall only participate in the meeting remotely pursuant to this subdivision, if all of the following requirements are met:

(A) One of the following circumstances applies:

(i) 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 need not exceed 20 words.

(ii) The circumstances relating to the member's need to participate remotely arose after the agenda for the meeting was posted and those circumstances are publicly disclosed at the meeting before any action is taken.

(B) The member shall 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.

(C) The member shall participate through both audio and visual technology.

(3) The provisions of this subdivision shall not 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 three consecutive months.

~~(6)~~

(f) The legislative body shall 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), 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.

(g) The legislative body shall conduct meetings subject to this chapter consistent with applicable state and federal civil rights laws, including, but not limited to, the language access and other nondiscrimination obligations of Section 11135 and Subchapter V (commencing with Section 2000d) of Chapter 21 of Title 42 of the United States Code.

(h) (1) Nothing in this section shall prohibit a legislative body from providing the public with additional teleconference locations.

(2) Nothing in this section shall prohibit a legislative body from providing members of the public with additional physical locations in which the public may observe and address the legislative body by electronic means.

(i) For the purposes of this section, the following definitions shall apply:

(1) "Remote location" means a location from which a member of a legislative body participates in a meeting pursuant to subdivision (e), other than any physical meeting location designated in the notice of the meeting. Remote locations need not be accessible to the public.

(2) "Remote participation" means participation in a meeting by teleconference at a location other than any physical meeting location designated in the notice of the meeting. Watching or listening to a meeting via webcasting or another similar electronic medium that does not permit members to interactively hear, discuss, or deliberate on matters, does not constitute remote participation.

(3) "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.

(4) "Two-way audio-visual platform" means an online platform that provides participants with the ability to participate in a meeting via both an interactive video conference and a two-way telephonic function.

(5) "Two-way telephonic service" means a telephone service that does not require internet access, is not provided as part of a two-way audio-visual platform, and allows participants to dial a telephone number to listen and verbally participate.

(6) "Webcasting" means a streaming video broadcast online or on television, using streaming media technology to distribute a single content source to many simultaneous listeners and viewers.

(f)

(j) This section shall become operative January 1, ~~2024~~, 2024, shall remain in effect only until January 1, 2028, and as of that date is repealed.

SEC. 3. Section 54953 is added to the Government Code, to read:

54953. (a) All meetings of the legislative body of a local agency shall 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 this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may 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. The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, 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.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. 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 exercises jurisdiction, except as provided in subdivision (d). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, "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. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), 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.

(2) Nothing in this subdivision shall 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. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the

purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) This section shall become operative January 1, 2028.

SEC. 3. SEC. 4. The Legislature finds and declares that Sections 1 and 2 of this act, which amend Section 54953 of the Government Code, impose a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

By removing the requirement for agendas to be placed at the location of each public official participating in a public meeting remotely, including from the member's private home or hospital room, this act protects the personal, private information of public officials and their families while preserving the public's right to access information concerning the conduct of the people's business.

SEC. 4. SEC. 5. The Legislature finds and declares that Sections 1 and 2 of this act, which amend Section 54953 of the Government Code, further, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

This act is necessary to ensure minimum standards for public participation and notice requirements allowing for greater public participation in teleconference meetings.


[Home](#)
[Bill Information](#)
[California Law](#)
[Publications](#)
[Other Resources](#)
[My Subscriptions](#)
[My Favorites](#)

AB-2647 Local government: open meetings. (2021-2022)

SHARE THIS:



Date Published: 04/19/2022 09:00 PM

AMENDED IN ASSEMBLY APRIL 19, 2022

CALIFORNIA LEGISLATURE— 2021–2022 REGULAR SESSION

ASSEMBLY BILL

NO. 2647

Introduced by Assembly Member Levine

February 18, 2022

An act to amend Section 54957.5 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 2647, as amended, Levine. Local government: open meetings.

Existing law, the California Public Records Act, requires state agencies and local agencies to make public records available for inspection, subject to specified criteria, and with specified exceptions. Existing law, the Ralph M. Brown Act, requires the meetings of the legislative body of a local agency to be conducted openly and publicly, with specified exceptions. Existing law makes agendas of public meetings and other writings distributed to the members of the governing board disclosable public records, with certain exceptions.

Existing law requires a local agency to make those writings distributed to the members of the governing board *less than 72 hours before a meeting* available for public ~~inspection~~ *inspection, as specified*, at a public office or location that the agency designates. Existing law also requires the local agency to list the address of the office or location on the agenda for all meetings of the legislative body of the agency. Existing law authorizes a local agency to post the writings on the local agency's internet website in a position and manner that makes it clear that the writing relates to an agenda item for an upcoming meeting.

This bill would instead require a local agency to make those writings distributed to the members of the governing board available for public inspection at a public office or location that the agency designates ~~or post and list the address of the office or location on the agenda for all meetings of the legislative body of the agency unless the local agency meets certain requirements, including the local agency immediately posts~~ the writings on the local agency's internet website in a position and manner that makes it clear that the writing relates to an agenda item for an upcoming meeting.

The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends

or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 54957.5 of the Government Code, as amended by Section 208 of Chapter 615 of the Statutes of 2021, is amended to read:

54957.5. (a) ~~Notwithstanding Section 7922.000 or any other law, agendas~~ *Agendas* of public meetings ~~and any other writings, when distributed to all, or a majority of all, of the members of a legislative body of a local agency by any person in connection with a matter subject to discussion or consideration at an open meeting of the body,~~ are disclosable public records under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1), and shall be made available ~~upon request without delay.~~ *pursuant to subdivision (b).* However, this section shall not ~~include any writing exempt from public disclosure under Section 7924.100, 7924.105, 7924.110, 7924.510, 7924.700, 7926.205, 7927.410, 7927.605, 7928.300, or 7928.710, or any provision listed in Section 7920.505.~~ *apply to a writing, or portion thereof, that is exempt from public disclosure.*

(b) (1) If a writing ~~that~~ is a public record ~~under subdivision (a), and that relates~~ *related* to an agenda item for an open session of a regular meeting of the legislative body of a local ~~agency,~~ *agency and* is distributed ~~to all, or a majority of all, of the members of a legislative body of a local agency by a person in connection with a matter subject to discussion or consideration at an open meeting of the body~~ less than 72 hours ~~prior to before~~ that meeting, the writing shall be made available for public inspection pursuant to paragraph (2) at the time the writing is distributed to all, or a majority of all, of the members of the body.

(2) (A) Except as provided in subparagraph (B), a local agency shall comply with both of the following requirements:

(i) A local agency shall make any writing described in paragraph (1) available for public inspection at a public office or location that the agency shall designate for this purpose.

(ii) ~~Each~~ *A* local agency shall list the address of ~~this~~ *the* office or location *designated pursuant to clause (i)* on the agendas for all meetings of the legislative body of that agency.

(B) A local agency shall not be required to comply with *the* requirements of subparagraph (A) if ~~both~~ *all* of the following requirements are met:

(i) The local agency ~~shall post~~ *immediately posts* any writing described in paragraph (1) on the local agency's internet website in a position and manner that makes it clear that the writing relates to an agenda item for an upcoming meeting.

(ii) The local agency ~~shall list~~ *lists* the web address of the local agency's internet website on the agendas for all meetings of the legislative body of that agency.

(iii) The local agency makes physical copies available for public inspection, beginning the next regular business hours for the local agency, at a public office or location that the agency shall designate for this purpose.

(c) Writings that are public records ~~under subdivision (a)~~ *described in subdivision (b)* and ~~that are~~ distributed during a public meeting shall be made available for public inspection at the meeting if prepared by the local agency or a member of its legislative body, or after the meeting if prepared by some other person. These writings shall be made available in appropriate alternative formats upon request by a person with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof.

(d) This chapter shall not be construed to prevent the legislative body of a local agency from charging a fee or deposit for a copy of a public record pursuant to Section 7922.530, except that a surcharge shall not be imposed on persons with disabilities in violation of Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof.

(e) This section shall not be construed to limit or delay the public's right to inspect or obtain a copy of any record required to be disclosed under the requirements of the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title ~~1~~¹~~.This 1~~), *including, but not limited to, the ability of the public to inspect public records pursuant to Section 7922.525 and obtain copies of public records pursuant to either subdivision (b) of Section 7922.530 or Section 7922.535.* This chapter shall not be construed to require a legislative body of a local agency to place any paid advertisement or any other paid notice in any publication.

SEC. 2. The Legislature finds and declares that Section 1 of this act, which amends Section 54957.5 of the Government Code, furthers, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

Because this act would authorize local agencies to make public documents available by posting the public documents on the local agency's internet website, thus making the public documents available by local agencies more quickly and cost effectively, this act furthers the purpose of Section 3 of Article I of the California Constitution.



SB-1449 Office of Planning and Research: grant program: annexation of unincorporated areas. (2021-2022)

SHARE THIS:  

Date Published: 04/19/2022 09:00 PM

AMENDED IN SENATE APRIL 19, 2022

AMENDED IN SENATE MARCH 16, 2022

CALIFORNIA LEGISLATURE— 2021–2022 REGULAR SESSION

SENATE BILL

NO. 1449

Introduced by Senator Caballero

February 18, 2022

An act to add Section 65040.16 to the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

SB 1449, as amended, Caballero. Office of Planning and Research: grant program: annexation of unincorporated areas.

Existing law establishes, within the Governor's office, the Office of Planning and Research to constitute the comprehensive state planning agency, under the control of the Director of State Planning. Existing law requires the office to, among other things, accept and allocate or expend grants and gifts from any source, public or private, for the purpose of state planning and undertake other planning and coordinating activities, as specified, and encourage the formation and proper functioning of, and provide planning assistance to, city, county, district, and regional planning agencies.

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 provides the authority and procedure for the initiation, conduct, and completion of changes of organization, reorganization, and sphere of influence changes for cities and districts, as specified. Existing law requires that an applicant seeking a change of organization or reorganization submit a plan for providing services within the affected territory that includes, among other requirements, an enumeration and description of the services to be extended to the affected territory and an indication of when those services can feasibly be extended.

This bill would require the office to, upon appropriation by the Legislature, establish the Unincorporated Area Annexation Incentive Program, authorizing the office to issue a grant to a city for the purpose of funding infrastructure projects related to the proposed or completed annexation of a substantially surrounded unincorporated area, as defined, subject to approval by the director after the city submits an application containing specified information. The bill would require the office to match, on a dollar-for-dollar basis, any dollar contribution a city makes toward a project funded by the program, subject to a maximum funding threshold as determined by the director. *The bill would, by September 1, 2023, require the office to develop guidelines, and consult with various local representatives to prepare those guidelines, for purposes of implementing the program, and would provide that the guidelines are not subject to the rulemaking requirements of the Administrative Procedure Act.*

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 65040.16 is added to the Government Code, to read:

65040.16. (a) For purposes of this section, the following definitions apply:

(1) "City" means any incorporated chartered or general law city, including any city the name of which includes the word "town."

(2) "Director" refers to the Director of State Planning and Research.

(3) "Fully surrounded" means the entire perimeter of the unincorporated area adjoins, or is separated only by an improved public right-of-way from, parcels that are developed with qualified urban uses.

(4) "Program" refers to the Unincorporated Area Annexation Incentive Program.

(5) "Qualified urban use" means any residential, commercial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses.

(6) "Substantially surrounded" means at least 75 percent of the perimeter of the unincorporated area adjoins, or is separated only by an improved public right-of-way from, parcels that are developed with qualified urban uses.

(7) "Unincorporated area" means inhabited territory, as defined by Section 56046, that is not part of a city or that a city has annexed according to the process described in the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Division 3 (commencing with Section 56000) of Title 5).

(b) The Office of Planning and Research shall establish, upon appropriation by the Legislature, the Unincorporated Area Annexation Incentive Program.

(c) Pursuant to the program, the office may issue, subject to approval by the director, a grant to a city for the purpose of funding projects related to the proposed or completed annexation of an unincorporated area into the city.

(1) The director shall not issue a grant to a project unless that project is related to the annexation of a substantially surrounded unincorporated area.

~~(2) The director shall prioritize the issuance of grants to projects related to the annexation of fully surrounded unincorporated areas.~~

~~(3) The director shall prioritize the issuance of grants that fund projects related to public health and safety infrastructure.~~

~~(4)~~

(2) The director may issue grants that fund projects related to municipal infrastructure including, but not limited to, roads, street lighting, sidewalks, curbs, gutters, ~~storm water~~ *stormwater* management infrastructure, parks, and greenways.

(3) The director shall prioritize the issuance of grants to applications to fund projects related to any of the following:

(A) Annexation of fully surrounded unincorporated areas.

(B) Annexations that would result in the improvement of public health and safety infrastructure.

(C) Annexation of disadvantaged unincorporated communities, as defined in Section 56033.5.

(d) The director shall require a city to submit an application to the office in order to participate in the program. The application shall include, but not be limited to, all of the following:

(1) A description of the unincorporated area and the population that resides in the unincorporated area.

(2) A statement on the infrastructure that the project proposes to construct or improve, including the estimated capital cost of the infrastructure and the timeline for the development of the infrastructure.

(3) A funding plan, including estimated funds from the program, for the costs and ongoing maintenance of the infrastructure.

(e) A project funded by the program shall not receive funding pursuant to this section that exceeds a maximum threshold determined by the director.

(f) Any dollar contribution a city makes toward a project funded by the program shall be matched by the office on a dollar-for-dollar basis. Matching funds from the office shall be subject to the maximum threshold determined pursuant to subdivision (e).

(g) (1) The office shall develop guidelines for purposes of implementing the program no later than September 1, 2023. In preparing the guidelines, the office shall consult with representatives of all of the following:

(A) Local agency formation commissions.

(B) Counties.

(C) Cities.

(D) Residents of disadvantaged unincorporated communities, as defined in Section 56033.5.

(2) The guidelines developed pursuant to paragraph (1) shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.

REGULAR MEMBERS

CHAIR

Douglass Davert
Special District Member

VICE CHAIR

Donald P. Wagner
County Member

IMMEDIATE PAST CHAIR

Derek J. McGregor
Public Member

Lisa Bartlett
County Member

Wendy Bucknum
City Member

James Fisler
Special District Member

Mike Posey
City Member

ALTERNATES

Andrew Do
County Member

Kathryn Freshley
Special District Member

Peggy Huang
City Member

Lou Penrose
Public Member

STAFF

Carolyn Emery
Executive Officer

Scott Smith
General Counsel

June 8, 2022

Assemblymember Marc Levine
California State Assembly
1021 O Street, Suite 5240
Sacramento, CA 95814

RE: **Support** – AB 2647 (Levine): Local Government: Opening Meetings

Dear Assemblymember Levine:

The Orange County Local Agency Formation Commission (OC LAFCO) is pleased to support Assembly Bill 2647. If enacted, this bill allows writings that have been distributed to members of a legislative body of a local agency less than 72 hours before an opening meeting to be posted online to satisfy specified requirements of the Ralph M. Brown Act (Brown Act).

Specifically, AB 2647 would require local agencies to make any writings distributed to the members of a legislative body to also make those writings available for public inspection at the time the writing is distributed to the members at a location designated by the local agency. The bill also calls for the local agency to list the address of the designated location in the agendas for all meetings of the legislative body of that agency.

In an effort to create more public transparency, OC LAFCO, through its current procedures, makes available for public inspection any writings that is a public record related to a Commission's agenda item for regular session through the distribution of copies of the writings during the regular session, posting of the writings on the agency's website, and the availability of physical copies of the writings at the OC LAFCO offices. AB 2647 aligns with OC LAFCO's current practice for this subject area and would also clarify that physical copies shall be made available for public inspection beginning the next regular business hours for the local agency at the location designated by the agency.

OC LAFCO appreciates your initiative to further encourage the transparency and efficiency of local agencies and authoring of this key legislation.

Respectfully,

Douglass Davert
Chair

cc: Rene LaRoche, Executive Director, CALAFCO

REGULAR MEMBERS

CHAIR

Douglass Davert
Special District Member

VICE CHAIR

Donald P. Wagner
County Member

IMMEDIATE PAST CHAIR

Derek J. McGregor
Public Member

Lisa Bartlett
County Member

Wendy Bucknum
City Member

James Fisler
Special District Member

Mike Posey
City Member

ALTERNATES

Andrew Do
County Member

Kathryn Freshley
Special District Member

Peggy Huang
City Member

Lou Penrose
Public Member

STAFF

Carolyn Emery
Executive Officer

Scott Smith
General Counsel

June 8, 2022

Senator Anna Caballero
California State Senate
1021 O Street, Suite 7620
Sacramento, CA 95814

RE: **Support** – SB 1449 (Caballero): Grant program: Annexation of Unincorporated Areas

Dear Senator Caballero:

The Orange County Local Agency Formation Commission (OC LAFCO) is pleased to support Senate Bill 1449. This bill would create a grant program under the Governor’s Office of Planning and Research for the purpose of improving the infrastructure in existing unincorporated communities that are substantially surrounded by a city or those that have been recently annexed into a city.

Counties and special districts are responsible for municipal services and the infrastructure in unincorporated communities. Significant infrastructure disparities can exist in some communities depending on how the area was originally developed, competing needs for limited general fund dollars, and a lack of financing tools to support the infrastructure other than what can be funded through fees and assessments. In many cases, annexation into a nearby city may be the best option for providing a higher level of services and infrastructure, but needed improvements can be costly. The grant program proposed by SB 1449 would assist with these costs.

For over 20 years, OC LAFCO has worked collaboratively with multiple cities and the County of Orange in an effort to enhance the delivery of municipal services within unincorporated communities. This joint effort has resulted in the successful annexation of over 50 unincorporated areas to adjacent cities and more efficient service delivery to residents. However, many of the unincorporated areas within Orange County include built out residential communities and annexation costs may be challenging for cities due to needed infrastructure improvements and limited revenue opportunities within the areas to offset the costs. The grant program proposed through SB 1449 provides an additional tool for the annexation process and important opportunities, such as infrastructure improvements, within our unincorporated areas.

Because of these key reasons, OC LAFCO supports SB 1449 and appreciates your authorship of this important legislation.

Respectfully,

Douglass Davert
Chair

cc: Rene LaRoche, Executive Director, CALAFCO