

Date of Hearing: April 17, 2024

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Juan Carrillo, Chair

AB 2350 (Hoover) – As Introduced February 12, 2024

SUBJECT: Open meetings: school boards: emergencies: notifications by email.

SUMMARY: Allows notifications for emergency meetings required by the Ralph M. Brown Act (Brown Act) to be sent via email, instead of given by telephone, for an emergency meeting held by a school board. Specifically, **this bill:**

- 1) Allows, for an emergency meeting held by a school board pursuant to the Brown Act, the presiding officer of the school board, or designee thereof, to send notifications by email instead of by telephone to each local newspaper of general circulation and radio or television station that has requested notice of special meetings and that is also required to be notified one hour prior to an emergency meeting, or, in the case of a dire emergency, at or near the time that the presiding officer or designee notifies the members of the legislative body of the emergency meeting.
- 2) Provides, in the event that internet services and telephone services are not functioning, the notice requirements of this bill shall be deemed waived, and the school board, or designee of the school board, shall notify those newspapers, radio stations, or television stations of the fact of the holding of the emergency meeting, the purpose of the meeting, and any action taken at the meeting as soon after the meeting as possible.
- 3) Provides that no reimbursement is required by this bill because the only costs that may be incurred by a local agency or school district under this bill would result from a legislative mandate that is within the scope of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution.
- 4) Finds and declares that Section 1 of this bill 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, and declares, pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, that the Legislature makes the following findings:
 - a) Communication is vital during an emergency, but it can also be challenging to maintain. Phone lines may be busy, overloaded, damaged, or not readily available depending on the circumstances of the emergency.
 - b) In consideration of the potential nature of time-sensitive situations, electronic communication is often employed for rapid outreach.
 - c) Notices sent via email to the media provide the following advantages that ensure the efficient dissemination of information effectively furthering the public's awareness and thus access to such meetings:

- i) Cost-effectiveness. Email may reduce operational expenses by minimizing the need for physical resources.
- ii) Efficient record-keeping. Email offers a reliable way to keep track of written messages, enhancing transparency and accountability.
- iii) Efficient dissemination of information. Email allows for the sending of relevant information to multiple recipients, ensuring all recipients receive the same information.

EXISTING LAW:

- 1) Provides, pursuant to Article I, Section 3 of the California Constitution, the following:
 - a) The people have the right to instruct their representatives, petition government for redress of grievances, and assemble freely to consult for the common good.
 - b) The people have the right of access to information concerning the conduct of the people's business, and, therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny.
 - c) In order to ensure public access to the meetings of public bodies and the writings of public officials and agencies, as specified in b), above, each local agency is required to comply with the California Public Records Act, the Brown Act, and with any subsequent statutory enactment amending either act, enacting a successor act, or amending any successor act that contains findings demonstrating that the statutory enactment furthers the purposes of these constitutional provisions.
- 2) Provides, pursuant to the Brown Act, requirements for local agency meetings. [Government Code (GOV) §§ 54950 – 54963]
- 3) Provides for special meetings under the Brown Act, as follows:
 - a) A special meeting may be called at any time by the presiding officer of the legislative body of a local agency, or by a majority of the members of the legislative body, by delivering written notice to each member of the legislative body and to each local newspaper of general circulation and radio or television station requesting notice in writing and posting a notice on the local agency's Internet Web site, if the local agency has one.
 - b) The notice shall be delivered personally or by any other means and shall be received at least 24 hours before the time of the meeting as specified in the notice.
 - c) The call and notice shall specify the time and place of the special meeting and the business to be transacted or discussed. No other business shall be considered at these meetings by the legislative body.
 - d) The written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the clerk or secretary of the legislative body a written

waiver of notice. The waiver may be given by telegram. The written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes.

- e) The call and notice shall be posted at least 24 hours prior to the special meeting in a location that is freely accessible to members of the public. (GOV § 54956)
- 4) Provides for meetings in the case of an “emergency situation” under the Brown Act, as follows:
- a) Defines an “emergency situation” to mean both of the following:
 - i) An emergency, which shall be defined as a work stoppage, crippling activity, or other activity that severely impairs public health, safety, or both, as determined by a majority of the members of the legislative body.
 - ii) A dire emergency, which shall be defined as a crippling disaster, mass destruction, terrorist act, or threatened terrorist activity that poses peril so immediate and significant that requiring a legislative body to provide one-hour notice before holding an emergency meeting under this section may endanger the public health, safety, or both, as determined by a majority of the members of the legislative body.
 - b) Allows, in the case of an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of public facilities, a legislative body to hold an emergency meeting without complying with the 24-hour notice or posting requirements for special meetings, subject to the following requirements:
 - i) Each local newspaper of general circulation and radio or television station that has requested notice of special meetings shall be notified by the presiding officer of the legislative body, or designee thereof, one hour prior to the emergency meeting, or, in the case of a dire emergency, at or near the time that the presiding officer or designee notifies the members of the legislative body of the emergency meeting.
 - ii) This notice shall be given by telephone and all telephone numbers provided in the most recent request of a newspaper or station for notification of special meetings shall be exhausted.
 - iii) In the event that telephone services are not functioning, the notice requirements of this section shall be deemed waived, and the legislative body, or designee of the legislative body, shall notify those newspapers, radio stations, or television stations of the fact of the holding of the emergency meeting, the purpose of the meeting, and any action taken at the meeting as soon after the meeting as possible.
 - c) All special meeting requirements are applicable to a meeting called due to an emergency situation, with the exception of the 24-hour notice requirement.
 - d) The minutes of a meeting called due to an emergency situation, a list of persons who the presiding officer of the legislative body, or designee of the legislative body, notified or

attempted to notify, a copy of the rollcall vote, and any actions taken at the meeting shall be posted for a minimum of 10 days in a public place as soon after the meeting as possible. (GOV § 54956.5)

FISCAL EFFECT: This bill is keyed fiscal and contains a state-mandated local program.

COMMENTS:

- 1) **Bill Summary.** This bill allows notifications for emergency meetings required by the Brown Act to be sent via email, instead of given by telephone, for an emergency meeting held by a school board. These notices must be sent to each local newspaper of general circulation and radio or television station that has requested notice of special meetings and is also required to be notified of emergency meetings.

If internet services and telephone services are not functioning, the notice requirements of this bill shall be deemed waived, and the school board, or designee of the school board, shall notify those newspapers, radio stations, or television stations of the fact of the holding of the emergency meeting, the purpose of the meeting, and any action taken at the meeting as soon after the meeting as possible.

This bill is sponsored by the author.

- 2) **Author's Statement.** According to the author, "In an era of seemingly increased emergencies, including pandemic and gun violence, school board staff need the flexibility to contact the media with alacrity. Additionally, in the event an overwhelmed board were to miss making such phone calls and does not properly make notice of a meeting in the middle of a crisis, it could be grounds to overturn the actions of the emergency meeting."
- 3) **Brown Act.** The Brown Act was enacted in 1953 and has been amended numerous times since then. The legislative intent of the Brown Act was expressly declared in its original statute, which remains unchanged:

"The Legislature finds and declares that the public commissions, boards and councils and other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly. The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created."

The Brown Act generally requires meetings to be noticed in advance, including the posting of an agenda, and generally requires meetings to be open and accessible to the public. The Brown Act also generally requires members of the public to have an opportunity to comment on agenda items, and generally prohibits deliberation or action on items not listed on the agenda.

The Brown Act defines a “meeting” as “any congregation of a majority of the member of a legislative body at the same time and location, including teleconference locations, to hear, discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the legislative body.”

- 4) **Special Meetings and Emergency Meetings under the Brown Act.** The Brown Act outlines requirements for special meetings and emergency meetings. Special meetings generally require 24-hours notice and posting of an agenda. The 24-hour notice must be delivered in writing to each member of the legislative body and to each local newspaper of general circulation and radio or television station requesting notice. It must also be posted on the local agency’s Internet Web site, if the local agency has one.

Most special meeting requirements apply to emergency meetings. However, if an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of public facilities, a legislative body may hold an emergency meeting without complying with the 24-hour notice and posting requirements. Instead, the notice must be provided via telephone one hour before the emergency meeting, or at or near the time the members of the legislative body are notified. If the telephone services are not functioning, the Brown Act waives this notification requirement and requires the legislative body to notify those media entities of certain details of the emergency meeting as soon after the meeting as possible.

- 5) **Related Legislation.** AB 817 (Pacheco) allows, until January 1, 2026, a subsidiary body of a local agency to use teleconferencing for its meetings without posting agendas at each teleconference location, identifying each teleconference location in the notice and agenda, making each teleconference location accessible to the public, and requiring at least a quorum of the subsidiary body to participate from within the local agency’s jurisdiction, subject to certain conditions. AB 817 is pending in the Senate.

AB 1855 (Arambula) allows, until January 1, 2026, a community college student body association to teleconference without meeting all of the teleconferencing requirements of the Brown Act. AB 1855 is pending on the Assembly Floor.

AB 2302 (Addis) revises the limits on the number of teleconference meetings specified in AB 2449 that any member of a legislative body can participate within a given period of time. AB 2302 is pending on the Assembly Floor.

AB 2715 (Boerner) authorizes a closed session to consider or evaluate matters related to cybersecurity, including vulnerabilities of, or potential ongoing threats to, an agency’s cybersecurity provided that any action taken on those matters is done in open session. AB 2715 is pending in this committee.

- 6) **Previous Legislation.** AB 557 (Hart), Chapter 534, Statutes 2023, eliminates the January 1, 2024, sunset date on AB 361 and changes the requirement for a legislative body, in order to continue using the bill’s teleconferencing provisions, to make specified findings every 30 days to every 45 days.

AB 361 (Robert Rivas) Chapter 165, Statutes of 2021, allows, until January 1, 2024, local agencies to use teleconferencing without complying with specified Ralph. M Brown Act restrictions in certain state emergencies, and provides similar authorizations, until January 31, 2022, for state agencies subject to the Bagley-Keene Open Meetings Act and legislative bodies subject to the Gloria Romero Open Meetings Act of 2000.

AB 1643 (Johnson), Chapter 175, Statutes of 2002, made a number of changes to the Brown Act's provisions governing emergency situations.

7) **Arguments in Support.** None on file.

8) **Arguments in Opposition.** None on file

REGISTERED SUPPORT / OPPOSITION:

Support

None on file

Opposition

None on file

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