

Date of Hearing: April 9, 2025

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Juan Carrillo, Chair

AB 409 (Arambula) – As Introduced February 4, 2025

SUBJECT: Open meetings: teleconferences: community college student body associations and student-run organizations.

SUMMARY: Eliminates the sunset date of January 1, 2026, on provisions of law enacted by AB 1855 (Arambula), Chapter 232, Statutes of 2024, which allowed a community college student body association or any other student-run community college organization to teleconference without meeting all of the teleconferencing requirements of the Ralph M. Brown Act (Brown Act), thereby extending them indefinitely.

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. (GOV §§ 54950 – 54963)
- 3) Authorizes the legislative body of a local agency to use teleconferencing, subject to a number of requirements that include posting agendas at all teleconference locations, identifying each teleconference location in the notice and agenda for the meeting or proceeding, making each teleconference location accessible to the public, and requiring at least a quorum of the members of the legislative body to participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, as specified. [GOV § 54953(b)(3)]
- 4) Defines “teleconference” to mean a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. [GOV § 54953(j)(6)]

- 5) Authorizes, until January 1, 2026, pursuant to provisions of law enacted AB 1855, a community college student body association or any other student-run community college organization to teleconference without meeting all of the teleconferencing requirements of Brown Act (GOV 54953.9)

FISCAL EFFECT: None

COMMENTS:

- 1) **Background.** 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.

- 2) **Agencies and Legislative Bodies.** The Brown Act defines “local agency” to mean a county, city, whether general law or chartered, city and county, town, school district, municipal corporation, district, political subdivision, or any board, commission or agency thereof, or other local public agency.

The Brown Act defines “legislative body” to mean:

- a) The governing body of a local agency or any other local body created by state or federal statute.
- b) A commission, committee, board, or other body of a local agency, whether permanent or temporary, decision-making or advisory, created by charter, ordinance, resolution, or formal action of a legislative body. Advisory committees composed solely of the members of the legislative body that are less than a quorum of the legislative body are not legislative bodies. Standing committees of a legislative body, irrespective of their composition, that have a continuing subject matter jurisdiction or a meeting schedule fixed by charter, ordinance, resolution, or formal action of a legislative body are legislative bodies.
- c) A board, commission, committee, or other multimember body that governs a private corporation, limited liability company, or other entity that either:

- i) Is created by the elected legislative body in order to exercise authority that may lawfully be delegated by the elected governing body to a private corporation, limited liability company, or other entity.
 - ii) Receives funds from a local agency and the membership of whose governing body includes a member of the legislative body of the local agency appointed to that governing body as a full voting member by the legislative body of the local agency.
- 3) **Meetings.** 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) **Registering.** The Brown Act specifies that a member of the public shall not be required, as a condition of attending a meeting, to register a name, provide other information, complete a questionnaire, or otherwise fulfill any condition precedent to attendance. If an attendance list, register, questionnaire, or other similar document is posted at or near the entrance to the room where the meeting is to be held, or is circulated during the meeting, it must state clearly that signing, registering, or completing the document is voluntary, and that all persons may attend the meeting regardless of whether a person signs, registers, or completes the document.
- 5) **Remedies for Violations.** The Brown Act allows a district attorney or any interested person to seek a judicial determination that an action taken by a local agency’s legislative body violates specified provisions of the Brown Act – including the provisions governing open meeting requirements, teleconferencing, and agendas – and is therefore null and void.
- 6) **Agendas.** The Brown Act requires local agencies to post, at least 72 hours before a regular meeting, an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session. The agenda must specify the time and location of the regular meeting and must be posted in a location that is freely accessible to members of the public and on the local agency website, if the local agency has one. No action or discussion may be undertaken on any item not appearing on the posted agenda, with specified exceptions.

If requested, the agenda must be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (ADA), and the federal rules and regulations adopted to implement the ADA. The agenda must include information regarding how, to whom, and when a request for disability-related modification or accommodation, including auxiliary aids or services, may be made by a person with a disability who requires a modification or accommodation in order to participate in the public meeting.

- 7) **Comment Periods.** The Brown Act generally requires every agenda for regular meetings to provide an opportunity for members of the public to directly address the legislative body on any item of interest to the public, before or during the legislative body’s consideration of the item, that is within the subject matter jurisdiction of the legislative body. The legislative body of a local agency may adopt reasonable regulations to ensure that this intent is carried out,

including, but not limited to, regulations limiting the total amount of time allocated for public testimony on particular issues and for each individual speaker.

- 8) **Teleconferencing and the Brown Act.** The Brown Act first allowed meetings to be conducted via video teleconference in 1988. At the time, San Diego County was considering the use of video teleconferencing for meetings and hearings of the board of supervisors due to concerns about the long distances that some of their constituents were having to travel to participate in board meetings. They were especially concerned that these distances were so great that they prohibited some people from attending meetings at all. AB 3191 (Frazee), Chapter 399, Statutes of 1988, responded to these concerns by authorizing the legislative body of a local agency to use video teleconferencing. Since that time, a number of bills have made modifications to this original authorization.

The Brown Act generally allows the legislative body of a local agency to use teleconferencing for the benefit of the public and the legislative body in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding must comply with all requirements of the Brown Act and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding. Teleconferencing may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body.

If the legislative body of a local agency elects to use teleconferencing, the legislative body must comply with a number of requirements. It must 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. The legislative body must give notice of the meeting and post agendas as otherwise required by the Brown Act, and must allow members of the public to access the meeting. The agenda for the meeting must provide an opportunity for members of the public to address the legislative body directly pursuant to the Brown Act's provisions governing public comment. All votes taken during a teleconferenced meeting must be taken by roll call.

"Teleconference" is defined as 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. Teleconferencing has never been required. It has always been permissive.

- 9) **The Four Teleconferencing Rules of GOV § 54953(b)(3).** The Brown Act contains four additional specific requirements for teleconferenced meetings in GOV § 54953(b)(3). Specifically, this paragraph requires all of the following:
- a) The legislative body shall post agendas at all teleconference locations.
 - b) Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding.
 - c) Each teleconference location shall be accessible to the public.
 - 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, with specified exceptions.

- 10) **Executive Order N-29-20.** In March of 2020, responding to the global COVID-19 pandemic, the Governor issued Executive Order N-29-20, which stated that, “Notwithstanding any other provision of state or local law (including, but not limited to, the Bagley-Keene Act or the Brown Act), and subject to the notice and accessibility requirements set forth below, a local legislative body or state body is authorized to hold public meetings via teleconferencing and to make public meetings accessible telephonically or otherwise electronically to all members of the public seeking to observe and to address the local legislative body or state body. All requirements in both the Bagley-Keene Act and the Brown Act expressly or impliedly requiring the physical presence of members, the clerk or other personnel of the body, or of the public as a condition of participation in or quorum for a public meeting are hereby waived.”

“All of the foregoing provisions concerning the conduct of public meetings shall apply only during the period in which state or local public health officials have imposed or recommended social distancing measures.”

- 11) **AB 1855 of 2024.** AB 1855 (Arambula), Chapter 232, Statutes of 2024, allowed a community college student body association or any other student-run community college organization to use teleconferencing without complying with the four rules of Government Code Section 54953(b)(3).

In order for a student body association to use teleconferencing pursuant to AB 1855, a number of requirements must be met. These include:

- a) **Quorum Requirement.** At least a quorum of the members of the student body association must participate from a singular location that is accessible to the public and is within the community college district in which the student body association is established, with specified exceptions.
- b) **Board of Trustees Oversight.** The board of trustees for a community college district must consider whether to adopt a resolution authorizing student body associations to use teleconferencing as described in the bill at an open and regular meeting. If the board of trustees adopts such a resolution, student body associations may use teleconferencing pursuant to the bill if two-thirds of the student body association votes to do so. The student body association must then notify the board of trustees of its decision and its justification for doing so. The board of trustees may override this decision by adopting a resolution prohibiting the student body association from teleconferencing pursuant to the bill.
- c) **Notice and Agendas.** When the notices and agendas for meetings are given or posted, the student body associations must give notice of the means by which members of the public may access the meeting and offer public comment. The agenda must identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option.
- d) **Physical Location for the Public.** If a meeting is during regular business hours of the offices of the board of trustees of the community college district, the eligible legislative body shall provide a publicly accessible physical location from which the public may

attend or comment, which shall be the offices of the board of trustees of the community college district, unless the eligible legislative body identifies an alternative location.

If a meeting is outside regular business hours, the eligible legislative body shall make reasonable efforts to accommodate any member of the public that requests an accommodation to participate in the meeting, as specified. AB 1855 contained a sunset date of January 1, 2026.

- 12) **Bill Summary and Author's Statement.** This bill removes the sunset date on AB 1855. This bill is sponsored by the Student Senate for California Community Colleges.

According to the author, "The Brown Act has been a landmark policy that ensured open access to government participation. During the COVID-19 public health emergency, audio and video teleconferencing was successfully used to increase participation and protect the health and safety of civil servants and the public. It is time to update the Act to reflect modern times and new challenges faced by our students. Current provisions of the Brown Act require members of a legislative body to participate in meetings of the legislative body by teleconference for no more than 20% of the regular meetings. However, this may serve as a barrier to access for students who are disabled, have limited access to transportation, or are otherwise unable to participate in the meetings in person.

"AB 409 protects public access and allows an eligible legislative body of a student organization to use alternate teleconferencing provisions if approved by the Board of Trustees and adopted by the eligible body. Students should be able to participate in their student body associations without threat to safety, privacy, or accessibility."

- 13) **Policy Consideration and Committee Amendment.** There are several bills this year seeking to extend or eliminate sunset dates on alternative teleconferencing for various bodies. These existing sunset dates were relatively short when they were enacted. In the case of AB 1855, the bill was chaptered just last year. Rather than eliminating these dates, the Committee may wish to consider extending them with a uniform sunset date of January 1, 2030, to maintain consistency and provide more time to evaluate their effects before authorizing them indefinitely.

- 14) **Chaptering Conflict.** Provisions of this bill conflict with provisions in SB 707 (Durazo), which makes a number of changes to Brown Act teleconferencing requirements. The author may wish to amend the bill later in the legislative process to avoid any chaptering out issues that could occur because of this conflict.

- 15) **Related Legislation.** AB 259 (Rubio) eliminates the sunset date of January 1, 2026, on provisions of law enacted by AB 2449 (Blanca Rubio), Chapter 285, Statutes of 2022, which allowed members of a legislative body of a local agency to use teleconferencing without identifying each teleconference location in the notice and agenda of the meeting, and without making each teleconference location accessible to the public, under specified conditions. AB 259 is pending in this committee.

AB 467 (Fong) extends, until January 1, 2031, the sunset date of January 1, 2026, on provisions of law enacted by SB 411 (Portantino), Chapter 605, Statutes of 2023, which allowed a neighborhood council in the City of Los Angeles to teleconference without

meeting all of the teleconferencing requirements of the Brown Act. AB 467 is pending in this committee.

SB 239 (Arreguín) allows subsidiary bodies of a local agency to teleconference meetings without having to notice and make publicly accessible each teleconference location. SB 239 is pending in the Senate Judiciary Committee.

SB 707 (Durazo) makes various changes to the rules for local agencies to hold public meetings pursuant to the Brown Act. SB 707 is pending in the Senate Judiciary Committee.

- 16) **Previous Legislation.** AB 817 (Pacheco) of 2024 would have allowed subsidiary bodies of a local agency to teleconference meetings without having to notice and make publicly accessible each teleconference location, or have at least a quorum participate from locations within the boundaries of the agency. AB 817 failed passage in the Senate Local Government Committee.

AB 1855 (Arambula), Chapter 232, Statutes of 2024, allowed a community college student body association or any other student-run community college organization to teleconference without meeting all of the teleconferencing requirements of the Brown Act

AB 557 (Hart), Chapter 534, Statutes of 2023, eliminated the January 1, 2024, sunset date on AB 361; changed the requirement for a legislative body, in order to continue using AB 361 teleconferencing provisions, to make specified findings every 45 days instead of every 30 days; and, eliminated the ability of local agencies to continue to hold meetings pursuant to AB 361 if a state of emergency ends, but state or local officials continue to impose or recommend measures to promote social distancing.

AB 1275 (Arambula) of 2023 would have expanded teleconferencing flexibility under the Brown Act for community college student organizations. AB 1275 was subsequently amended to address a different subject matter.

AB 1379 (Papan) of 2023 would have eliminated the Brown Act's teleconferencing requirements to post agendas at all teleconferencing locations, identify each teleconference location in the notice and agenda, make each teleconference location accessible to the public, and require a quorum of the legislative body to participate from locations within the local agency's jurisdiction, and allowed legislative bodies to participate remotely from any location for all but two meetings per year. AB 1379 is pending in this Committee.

SB 411 (Portantino), Chapter 605, Statutes of 2023, allowed a neighborhood council in the City of Los Angeles to teleconference without meeting all of the teleconferencing requirements of the Brown Act.

SB 537 (Becker) of 2023 would have allowed multi-jurisdictional, cross-county local agencies with appointed members to teleconference without meeting all of the teleconferencing requirements of the Brown Act. SB 537 was subsequently amended to address a different subject matter.

AB 1944 (Lee) of 2022 would have allowed, until January 1, 2030, members of a legislative body of a local agency to use teleconferencing without identifying each teleconference

location in the notice and agenda of the meeting, and without making each teleconference location accessible to the public, under specified conditions. AB 1944 was held in the Senate Governance and Finance Committee.

AB 2449 (Blanca Rubio), Chapter 285, Statutes of 2022, allowed, until January 1, 2026, members of a legislative body of a local agency to use teleconferencing without identifying each teleconference location in the notice and agenda of the meeting, and without making each teleconference location accessible to the public, under specified conditions.

AB 339 (Lee) of 2021 would have required, until December 31, 2023, city councils and boards of supervisors in jurisdictions over 250,000 residents provide both in-person and teleconference options for the public to attend their meetings. This bill was vetoed with the following message:

“While I appreciate the author's intent to increase transparency and public participation in certain local government meetings, this bill would set a precedent of tying public access requirements to the population of jurisdictions. This patchwork approach may lead to public confusion. Further, AB 339 limits flexibility and increases costs for the affected local jurisdictions trying to manage their meetings.

“Additionally, this bill requires in-person participation during a declared state of emergency unless there is a law prohibiting in-person meetings in those situations. This could put the health and safety of the public and employees at risk depending on the nature of the declared emergency.

“I recently signed urgency legislation that provides the authority and procedures for local entities to meet remotely during a declared state of emergency. I remain open to revisions to the Brown Act to modernize and increase public access, while protecting public health and safety. Unfortunately, the approach in this bill may have unintended consequences.”

AB 361 (Robert Rivas) Chapter 165, Statutes of 2021, allowed local agencies to use teleconferencing without complying with specified Brown Act restrictions in certain state emergencies, and provided similar authorizations 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 703 (Rubio) of 2021 would have allowed teleconferencing with only a quorum of the members of a local legislative body participating from a singular location that is clearly identified on an agenda, open to the public, and situated within the boundaries of the local agency. AB 703 was held in this Committee.

- 17) **Arguments in Support.** The Student Senate for California Community Colleges, sponsor of this bill, writes, “During the COVID-19 pandemic, Governor Newsom enabled teleconferencing under the Brown Act through an Executive Order. The order stated that if a quorum of members is in the same location in-person then some may participate via teleconference. Although this exception was initially created to adapt to life during the pandemic, the new teleconferencing requirements within the Brown Act have been maintained. Unfortunately, these requirements limited teleconference participation to approximately 20% of meetings. This posed a major accessibility concern as California

Community College students face many accessibility challenges such as affordability, physical limitations, privacy, and safety.

“AB 1855 (Arambula, 2024) modernized the Brown Act to enable students to participate remotely. Unfortunately, these provisions sunset at the end of this year. A return to the previous teleconferencing rules will mean a return to the inequitable access to student-run legislative bodies that threaten the safety and privacy of students with extenuating circumstances. Vulnerable students, including minors who are dually enrolled in high school and community college, undocumented students, students with disabilities, student survivors of domestic violence, and others may once again be disincentivized from participating in student-run legislative bodies due to these requirements. Remote access to classes, campus resources, and student-run organizations can make or break staying in school for many students. For these reasons, SSSCC is proud to sponsor AB 409.”

- 18) **Arguments in Opposition.** The California News Publishers’ Association writes, “On behalf of the California News Publishers’ Association must respectfully OPPOSE AB 409 (Arambula) striking the sunset on the Brown Act flexibility beyond those in AB 2449 (2021). Additionally, SB 707 (Durazo) presents a comprehensive approach that includes the provisions addressing the unique needs of community college student governments. We respectfully feel gathering all stakeholders to one bill presents the best opportunity for comprehensive modernization

“We want to acknowledge that CNPA worked with the author on the previous version of this bill and moved to a neutral position. We greatly appreciate the author retaining that agreed to language. The only concern we have is that these carve outs for Brown Act bodies creating confusion and splitting up stakeholders instead of having one conversation about modernization. Over the past several years we have continued to see attempts to exempt various bodies with different standards and removing the traditional teleconferencing provisions allotted under the Brown Act. Additionally, AB 2449 (Rubio) from 2021 took a comprehensive approach and this bill does attempt to work through a similar structure, which we greatly appreciate.

“However, we must respectfully oppose this bill because of the carve out approach. More importantly there is a vehicle in SB 707 (Durazo) containing the provisions in this bill and stakeholders from all perspectives are engaging to truly modernize the Brown Act. We look forward to working with the author and sponsors to address their needs.”

REGISTERED SUPPORT / OPPOSITION:

Support

Student Senate for California Community Colleges [SPONSOR]

Opposition

California News Publishers’ Association

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