

Date of Hearing: May 3, 2023

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

AB 1275 (Arambula) – As Amended April 25, 2023

SUBJECT: Community colleges: student-run community college organizations: open meetings: teleconferences.

SUMMARY: Allows, until January 1, 2026, the legislative body of a student-run community college organization to use teleconferencing without complying with the requirements of the Ralph M. Brown Act (Brown Act) to post agendas at all teleconference locations, identify each teleconference location in the notice and agenda, and make each teleconference location accessible to the public, as long as a quorum of the legislative body participates from a singular physical location that is open to the public and situated within the jurisdiction of the student organization. Specifically, **this bill:**

- 1) Allows the legislative body of a student organization to use teleconferencing without complying with the requirements to post agendas at all teleconference locations, identify each teleconference location in the notice and agenda, and make each teleconference location accessible to the public, as long as a singular physical location, from which at least a quorum of members of the legislative body participates, is clearly identifiable on the agenda, an agenda is posted at the identified location, and the location is open to the public and situated within the boundaries of the territory over which the student organization exercises jurisdiction.
- 2) Requires the legislative body of the student organization to comply with all other requirements of Government Code § 54953, including the other requirements of paragraph (1) of subdivision (e).
- 3) Defines “student organization” to mean the statewide community college student organization recognized pursuant to Section 76060.5 of the Education Code (EDC), or any other student-run community college organization that is required to comply with the meeting requirements of the Brown Act.
- 4) Makes technical and clarifying changes.
- 5) Contains a sunset date of January 1, 2026.
- 6) Finds and declares that 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. 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 student participation in teleconference meetings of student-run community college organizations.

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. (Cal. Const., Art. I, § 3)
- 2) Provides, pursuant to the Brown Act, requirements for local agency meetings. [Government Code (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, 2024, pursuant to provisions of law enacted via AB 361 (Robert Rivas), Chapter 165, Statutes of 2021, a local agency to use teleconferencing without complying with the requirements of 3), above, during a proclaimed state of emergency, as specified. [GOV § 54953(e)]
- 6) Authorizes, until January 1, 2026, pursuant to provisions of law enacted via AB 2449 (Blanca Rubio), Chapter 285, Statutes of 2022, a legislative body of a local agency to use teleconferencing without complying with the requirements of 3), above, subject to multiple conditions and requirements and limited to “just cause” or for emergency circumstances, as specified. [GOV § 54953(f)]
- 7) Establishes the California Community Colleges (CCC) under the administration of the Board of Governors of the CCC, as one of the segments of public postsecondary education in this state. The CCC shall be comprised of community college districts. (EDC § 70900)

- 8) Establishes that CCC districts are under the control of a board of trustees, known as the governing board, who has the authority to establish, maintain, operate, and govern one or more community colleges within its district, as specified. (EDC § 70902)
- 9) Permits a governing board of a CCC district to authorize the creation of a student body association, whose purpose is to encourage students to participate in the governance of the college and may conduct activities including fundraising activities if approved by the college officials. (EDC § 76060)
- 10) Authorizes campus officials of a CCC with a student organization to collect a student representation fee of two dollars from students for the purpose of supporting governmental affairs representatives of local or statewide student body organizations who may state their positions and viewpoints before city, county and district governments or agencies of state governments. Authorizes one dollar of every two dollars collected as part of the student representation fee to be provided to support the operations of a statewide community college student organization recognized by the Board of Governors. (EDC § 76060.5).
- 11) Requires meetings conducted by the statewide community college organization to comply with the Brown Act. (EDC § 76060.5)

FISCAL EFFECT: None

COMMENTS:

- 1) **Author's Statement.** According to the author, "While the Brown Act guarantees the public's right to attend and participate in governing bodies, aspects of current law can threaten safety and accessibility for vulnerable students. In an age where teleconferencing has become increasingly common, many aspects of these laws need updating to adjust to challenges that our students face. Provisions of the Brown Act require individuals who teleconference from home in these meetings to publically release their private addresses. We must protect the safety of students who are disabled, parents, undocumented students, survivors of domestic violence, or a member of any other underserved community, who are particularly vulnerable to having their home locations publically disclosed.

"The Brown Act has been a landmark policy that ensured open access to government participation, but it is time to update law to reflect modern times and new challenges faced by our vulnerable students. AB 1275 will restore student safety, privacy, and accessibility for students participating in student run community college organizations."

- 2) **Student Government on CCC Campuses.** Since 1987, the governing board of each CCC district has been endowed with the authority to organize student body associations on campuses within its district boundaries. The duties of a campus-based student organization are to engage in the governance of the campus including providing student membership for the governing board of the CCC district.

Established in 2006, the Student Senate for the California Community Colleges (SSCCC) operates in conjunction with local student body associations to provide an avenue by which students can participate in the formation of state policies, including governance and legislative advocacy. In 2013, the Legislature codified and recognized the need for a

statewide student organization to represent the then 2.4 million voices of students at the CCC. AB 1358 (P. Fong), Chapter 714, Statutes of 2013, established in code the statewide student organization for the CCC (which is the SSCCC) and provided a funding mechanism to support the student organization. The governing board of the SSCCC is the Board of Directors whose membership includes executive officers, ten regional affairs directors, and ten regional legislative affairs directors, all of whom are CCC students.

- 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 “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.

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.”

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.

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.

- 4) **Agendas.** The Brown Act requires local agencies to post an agenda containing a brief general description of each item of business to be transacted or discussed at a meeting, including items to be discussed in closed session. The agenda must be posted at least 72 hours before a regular meeting. 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.

- 5) **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.

- 6) **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.

- 7) **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.

- 8) **Executive Order N-29-20.** In March of 2020, 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.”

- 9) **AB 361 of 2021.** Despite the Governor’s executive order, both local and state governing bodies were concerned about their ongoing ability to teleconference without having to disclose the locations of teleconferencing members or make those locations accessible to the public. In response, the Legislature passed and the Governor signed AB 361 (Robert Rivas) Chapter 165, Statutes of 2021. In addition to provisions affecting state governing bodies, AB 361 allowed exemptions to the Brown Act’s teleconferencing requirements during a proclaimed state of emergency.

Specifically, AB 361 authorized a local agency’s legislative body to use teleconferencing for a public meeting without having to post agendas at each teleconference location, identify each teleconference location in the notice and agenda, make each teleconference location accessible to the public, and require at least a quorum of the legislative body to participate from within the local agency’s jurisdiction [the requirements of GOV § 54953(b)(3)]. This flexibility was limited to the following circumstances:

- a) A 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) A legislative body holds a meeting during a proclaimed state of emergency for purposes of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health and safety of attendees.
- c) A legislative body holds a meeting during a proclaimed state of emergency and has determined by majority vote pursuant to b), above, that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

AB 361 required a legislative body that chooses to use its provisions to meet the following requirements:

- a) **Notice and Agenda.** A legislative body must give notice of the meeting and post agendas as otherwise required by the Brown Act.

- b) **Public Access.** A legislative body must allow members of the public to access the meeting, and the agenda must provide an opportunity for members of the public to address the legislative body directly. The legislative body 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 call-in option or an internet-based service option. The legislative body need not provide a physical location from which the public may attend or comment.
- c) **Meeting Disruptions.** In the event of a disruption that prevents the agency from broadcasting the meeting to the public using the call-in or internet-based service options, or in the event of a disruption within the local agency's control that prevents the public from offering public comments using the call-in or internet-based service options, the legislative body must take no further action until public access is restored. Actions taken on agenda items during a disruption may be challenged as provided in the Brown Act.
- d) **Public Comment.** The legislative body may not require public comments to be submitted in advance, and it must provide an opportunity for the public to address the legislative body and offer comment in real time. The legislative body may use an online third-party system for individuals to provide public comment that requires registration with the system before providing comment. If a legislative body provides a timed public comment period, it may not close the comment period or the time to register until the timed period has elapsed. If the legislative body does not provide a time-limited comment period, it must allow a reasonable time for the public to comment on each agenda item and to register as necessary.

If a state of emergency remains active, or state or local officials have imposed measures to promote social distancing, the legislative body must make specified findings every 30 days in order to continue using the exemptions provided by AB 361. As an urgency measure, AB 361 went into effect on September 16, 2021. It remains in effect until January 1, 2024.

10) **AB 2449 of 2022.** Responding to calls from local governments to provide even further flexibility to use teleconferencing, AB 2449 (Blanca Rubio), Chapter 285, Statutes of 2022, again relieved a legislative body of a local agency from the requirements of GOV § 54953(b)(3) while teleconferencing, but this time outside of a declared state of emergency. However, in order to enjoy this flexibility, AB 2449 requires at least a quorum of the legislative body to participate in person from a singular physical location. This location must be:

- a) Clearly identified on the agenda.
- b) Open to the public.
- c) Situated within the boundaries of the local agency's jurisdiction.

The legislative body must provide one of the following so that the public can hear and visually observe the meeting, and remotely address the legislative body:

- a) A two-way audiovisual platform.

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

The legislative body must give notice of the means by which members of the public may access the meeting and offer public comment, and the agenda must allow all persons to attend and address the legislative body directly via a call-in option, an internet-based service option, and at the in-person location of the meeting. AB 2449 contained identical provisions as AB 361 concerning meeting disruptions and public comment.

AB 2449 allows members of a legislative body to use these alternative teleconferencing rules in two distinct situations: for “just cause” and for emergency circumstances.

- a) **Just Cause.** Under the “just cause” circumstance, a member must notify the legislative body as early as possible of their need to participate remotely for just cause. A just cause circumstance cannot be used by any member of the legislative body for more than two meetings per calendar year. “Just cause” means any of the following:
 - i) Childcare or a caregiving need that requires them to participate remotely.
 - ii) A contagious illness that prevents a member from attending in person.
 - iii) A need related to a physical or mental disability not otherwise accommodated.
 - iv) Travel while on official business of the legislative body or another state or local agency.
- b) **Emergency Circumstances.** Under emergency circumstances, a member requests the legislative body to allow them to participate in the meeting remotely due to emergency circumstances and the legislative body takes action to approve the request. “Emergency circumstances” means a physical or family medical emergency that prevents a member from attending in person. The legislative body must request a general description of the emergency circumstances, which shall not require the member to disclose any medical diagnosis or disability or any personal medical information. For the purposes of emergency circumstances, the following requirements apply:
 - i) A member shall make a request to participate remotely as soon as possible, and shall make a separate request for each meeting in which they seek to participate remotely.
 - ii) The legislative body may take action on a request to participate remotely at the earliest opportunity. If the request does not allow sufficient time to place proposed action on such a request on the agenda for the meeting for which the request is made, the legislative body may take action at the beginning of the meeting, in accordance with specified provisions of the Brown Act.
 - iii) The member who is participating remotely must publicly disclose at the meeting before any action is taken whether any other individuals 18 years of age or older are present in the room at the remote location with the member, and the general nature of the member’s relationship with any such individuals.

iv) The member must participate through both audio and visual technology.

AB 2449 specified that its provisions 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 more than three consecutive months or 20% of the regular meetings for the local agency within a calendar year, or more than two meetings if the legislative body regularly meets fewer than 10 times per calendar year.

AB 2449 remains in effect until January 1, 2026.

11) **Bill Summary.** This bill allows the legislative body of a CCC student organization to use teleconferencing without complying with the requirements to post agendas at all teleconference locations, identify each teleconference location in the notice and agenda, and make each teleconference location accessible to the public, as long as a quorum of the legislative body participates from a singular physical location that is open to the public and situated within the jurisdiction of the student organization. The singular physical location must be clearly identifiable on the agenda, and an agenda must be posted at the identified location.

The bill defines “student organization” to mean the statewide community college student organization recognized pursuant to Section 76060.5 of the EDC (which is the SSCCC), or any other student-run community college organization that is required to comply with the Brown Act.

This bill requires the legislative body of the student organization to comply with all other requirements of GOV § 54953, including the other requirements of paragraph (1) of subdivision (e).

This bill contains a sunset date of January 1, 2026.

This bill is sponsored by the Student Senate for California Community Colleges.

12) **Policy Consideration.** This bill requires the legislative body of a student organization “to comply with all *other* requirements of GOV § 54953, including the *other* requirements of paragraph (1) of subdivision (e).” The requirements of GOV § 54953 include all of the teleconferencing requirements of the Brown Act. The requirements of paragraph (1) of subdivision (e) contain the requirements of AB 2449 that provide important details regarding the means by which the public may participate remotely, and provisions that address disruptions and public comment. Maintaining these requirements is, arguably, a beneficial protection for the public and for the legislative bodies of student organizations. However, it is not entirely clear what “other” requirements would have to be met under this provision – the entire section, or only paragraph (1) of subdivision (e)? Further, it is not clear if this language would render moot the flexibility provided by the remaining language of the bill. The author may wish to clarify this moving forward, while retaining the requirements of AB 2449 regarding the means by which the public may participate remotely, and provisions that address disruptions and public comment.

- 13) **Related Legislation.** AB 557 (Hart) 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 557 is pending on the Assembly Floor.

AB 817 (Pacheco) allows 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 this Committee.

AB 1379 (Papan) eliminates 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, allows legislative bodies to participate remotely from any location for all but two meetings per year, and makes several changes to the provisions of AB 2449. AB 1379 is pending in this Committee.

SB 411 (Portantino) allows appointed 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. SB 411 is pending in the Senate Judiciary Committee.

SB 537 (Becker) allows appointed bodies of a multijurisdictional 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. SB 537 is pending in the Senate Judiciary Committee.

- 14) **Previous Legislation.** AB 1944 (Lee) 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, allows, 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.

SB 1100 (Cortese), Chapter 171, Statutes of 2022, allows the presiding member of a local legislative body to remove an individual for disrupting a local agency's meeting, defines "disrupting" for this purpose, and outlines the procedure that must be followed before an individual may be removed.

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, 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 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.

- 15) **Arguments in Support.** The Student Senate for California Community Colleges, sponsor of this bill, writes, “Governor Newsom declared a state of emergency at the beginning of the COVID-19 pandemic. This proclamation included allowing teleconferencing under the Brown Act through an Executive Order and lasted through February 28th, 2023. As California continues to move towards a post-pandemic reality, the teleconferencing requirements within the Brown Act have been restored. These requirements include only allowing teleconferencing if a quorum of members is in the same location in-person. This same provision additionally limits teleconference participation to approximately 20% of meetings.

“This poses a major accessibility concern for students who are disabled, have dependents they need to care for, or are otherwise unable to participate in the meetings in person due to unreliable access to transportation or limited resources, qualifications which many California community college students, who serve as student leaders on their local student body associations (SBAs) and thus must abide by the Brown Act...Calbright College, for instance, is a fully online statewide college attended by students from every corner of California. Students attend precisely because it is fully online and they can attend from anywhere.

Asking members of their newly formed SBA to meet in one location is logistically and financially challenging, for the college, and for the students themselves.

“Additionally, the teleconference location of legislative body members must be identified in the notice and agenda of the meeting and be accessible to the public. Members are also required to publicly disclose all individuals over the age of 18 years old at their remote location, and the nature of the member’s relationship with such individuals. Such teleconferencing requirements result in inequitable access to student-run legislative bodies, and threaten the safety and privacy of students with extenuating circumstances. Vulnerable students, including minors who are dual-enrolled in both high school and community college, undocumented students, students with disabilities, student survivors of domestic violence, and others, may be disincentivized from participating in student-run legislative bodies due to these requirements.

“Equitability in accessibility for SBAs is something that the Assembly Higher Education Committee is no stranger to supporting. Just last year, the Assembly Higher Education Committee passed AB 1736 (Choi, 2021), which was signed into law, and expanded student eligibility for SBA positions to disabled and non-credit students. AB 1275 aims to further address the inequalities that the current Brown Act rules impose on student-run legislative bodies: our student leaders are oftentimes not paid, and even less have staff to assist in following the same law that public officials on non-student legislative bodies have to.”

16) **Arguments in Opposition.** The California News Publishers Association, the California Broadcasters Association, the Journalism Association of Community Colleges, the Howard Jarvis Taxpayers Association, the First Amendment Coalition, and Californians Aware write, “While this bill may expand access for some students or members of the public who wish to participate as a member of a student government body, the cost to democratic principles and public protection is too great.

“We can agree with the author that members of student government bodies should not have to disclose their home address or open up their homes to the public. But the problem is not the disclosure requirements – it is the faulty presumption that private homes or offices are appropriate places from which to join a public meeting. When the state labored under stay-at-home orders during the pandemic, participation from home was essential. There was no other option. That is no longer the case, and it has not been for quite some time now. The public’s right of meaningful access, consistent with the California Constitution, should not be compromised based on the faulty premise that any member of government, student or otherwise, should be attending public meetings regularly from their homes. Appropriate exceptions can be made as needed for people who have a disability or are immunocompromised or have children who are. We would not object to such a narrowly tailored exemption; however, this bill is not drafted in such a way.

“The proponents of this legislation claim to increase transparency through remote participation. It is true that remote participation for members of the public does so. And there is nothing preventing any agency covered by the Brown Act from providing such remote access to in-person meetings, increasing options for the press and public to observe and engage. However, allowing public bodies to themselves meet only remotely, while depriving the public of any in-person forum, is a decisive move against transparency. Moreover, this bill starts from the premise that the public must pay a price for remote access — it cannot

know where its representatives are during the meeting. Rewriting the Brown Act in this manner would allow members to take meetings outside the jurisdiction and to never have to disclose that fact. Some proponents of this bill claimed last year that providing remote access for the public would be overly burdensome, costly, and untenable. Now they are willing to provide remote access for the public, but only if members of local government bodies can join public meetings from whatever location may be convenient for them.

“This bill would do considerable damage to some of the Brown Act’s fundamental rights. It is not necessary to achieve its supporters’ stated purpose. And it puts the rights of the people behind the wishes of the government that serves them – exactly the opposite of the animating principle behind the Brown Act, as stated in its opening section: “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.”

17) **Double-Referral.** This bill was double-referred to the Higher Education Committee, where it passed on a 9-0 vote on April 18, 2023.

REGISTERED SUPPORT / OPPOSITION:

Support

Student Senate for California Community Colleges [SPONSOR]
Calbright College
Public Advocates INC.

Opposition

Cal Aware
California News Publishers Association
First Amendment Coalition
Howard Jarvis Taxpayers Association
Journalism Association of Community Colleges

Analysis Prepared by: Angela Mapp / L. GOV. / (916) 319-3958