

Date of Hearing: July 12, 2023

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Juan Carrillo, Chair

SB 411 (Portantino) – As Amended April 24, 2023

SENATE VOTE: 30-5

SUBJECT: Open meetings: teleconferences: neighborhood councils.

SUMMARY: Allows a neighborhood council, as defined, to teleconference without meeting all of the teleconferencing requirements of the Ralph M. Brown Act (Brown Act). Specifically, **this bill:**

- 1) Defines, “eligible legislative body” to mean a neighborhood council that is an advisory body with the purpose to promote more citizen participation in government and make government more responsive to local needs that is established pursuant to the charter of a city with a population of more than 3,000,000 people that is subject to the Brown Act.
- 2) Allows an eligible legislative body to use teleconferencing 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 eligible legislative body to participate from within the local agency’s jurisdiction if the eligible legislative body complies with all of the following:
 - a) An eligible legislative body may only use teleconferencing as described in this section after all the following have occurred:
 - i) The city council for a city described in subdivision (c) considers whether to adopt a resolution to authorize eligible legislative bodies to use teleconferencing as described in paragraph (1) at an open and regular meeting.
 - ii) If the city council adopts a resolution described in subparagraph (A), an eligible legislative body may elect to use teleconferencing pursuant to this section if two-thirds of the eligible legislative body votes to do so. The eligible legislative body shall notify the city council if it elects to use teleconferencing pursuant to this section and its justification for doing so.
 - iii) Upon receiving notification from a legislative body as described in subparagraph (B), the city council may adopt a resolution to prohibit the eligible legislative body from using teleconferencing pursuant to this section.
 - b) After completing the requirements in paragraph (2), an eligible legislative body that holds a meeting pursuant to this subdivision shall do all of the following:
 - i) 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 eligible 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.
- ii) In the event of a disruption that prevents the eligible 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 eligible legislative body's control that prevents members of the public from offering public comments using the call-in option or internet-based service option, the eligible 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 eligible legislative body from broadcasting the meeting may be challenged pursuant to Section 54960.1.
 - iii) The eligible legislative body shall not require public comments to be submitted in advance of the meeting and shall provide an opportunity for the public to address the legislative body and offer comment in real time.
 - iv) 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 eligible 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.
 - v) An eligible 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 (D), to provide public comment until that timed public comment period has elapsed. An eligible 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 (D), or otherwise be recognized for the purpose of providing public comment. An eligible 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 (D), until the timed general public comment period has elapsed.
 - vi) At least a quorum of the members of the eligible legislative body shall participate from locations within the boundaries of the city in which the eligible legislative body is established.
- c) An eligible legislative body that holds a meeting pursuant to this subdivision shall do the following, as applicable:
- i) If the meeting is during regular business hours of the offices of the city council member that represents the area that includes the eligible legislative body, 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 city councilmember

- who represents the area where the eligible legislative body is located, unless the eligible legislative body identifies an alternative location.
- ii) If the 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. For the purposes of this subparagraph, “accommodation” means providing a publicly accessible physical location for the member of the public to participate from, providing access to technology necessary to participate in the meeting, or identifying locations or resources available that could provide the member of the public with an opportunity to participate in the meeting.
 - d) Requires the legislative body to comply with all other requirements of the Brown Act regarding open and public meetings, including teleconferencing requirements.
- 3) Provides a sunset date of January 1, 2028, for the provisions outlined above.
 - 4) Finds and declares that neighborhood councils in the City of Los Angeles provide important community input to the city council. Unlike other legislative bodies that have access to a regular meeting locations, these volunteer, uncompensated, elected members have had trouble finding public locations to hold their meetings. While the Legislature recently granted additional teleconferencing flexibility for legislative bodies to use teleconferencing more flexibly, the additional teleconferencing flexibility of this bill is necessary to account for the specific needs of neighborhood councils in the City of Los Angeles.
 - 5) Finds and declares that this bill imposes 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:

During the COVID-19 public health emergency, audio and video teleconference were widely used to conduct public meetings in lieu of physical location meetings, and those public meetings have been productive, increased public participation by all members of the public regardless of their location and ability to travel to physical meeting locations, increased the pool of people who are able to serve on these bodies, and protected the health and safety of civil servants and the public. Extending the operation of teleconference as conducted during the COVID-19 public health emergency for neighborhood councils will continue these benefits.
 - 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:

During the COVID-19 public health emergency, audio and video teleconference were widely used to conduct public meetings in lieu of physical location meetings, and those public meetings have been productive, increased public participation by all members of the public

regardless of their location and ability to travel to physical meeting locations, increased the pool of people who are able to serve on these bodies, and protected the health and safety of civil servants and the public. Extending the operation of teleconference as conducted during the COVID-19 public health emergency for neighborhood councils will continue these benefits.

- 7) Finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the specific needs of neighborhood councils in the City of Los Angeles.
- 8) Provides that this bill is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

Virtual meetings have allowed much easier access to neighborhood councils with far more members of the public participating in each meeting. This has created greater equity in the process and fostered the health of our democracy. In-person meetings may jeopardize the health and safety of vulnerable citizens due to ongoing risks of COVID-19 and other illnesses.

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, 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)]

FISCAL EFFECT: None

COMMENTS:

- 1) **Author’s Statement.** According to the author, “Due to the COVID-19 public health emergency, audio and video teleconferencing were widely and successfully used to conduct public meetings in lieu of in-person meetings for local governments and their boards. This allowed the government to remain productive and responsive to constituent needs, increased public participation, increased the pool of people who were able to serve on these bodies, and protected the health and safety of civil servants and the public. Unfortunately, because the Governor’s Emergency Orders related to the COVID-19 pandemic have ended, local governments are only able to use virtual meetings temporarily during emergencies.

“The effect of this transition back to in-person meetings is especially hard on the 99 Neighborhood Councils in the City of Los Angeles due to the city’s large size and diverse communities. Los Angeles’s Neighborhood Councils are uniquely grassroots groups established by an amendment to the City Charter in 1999 to connect Los Angeles’s diverse communities to their city government. Neighborhood Council board members are volunteers who are elected to office by the roughly 40,000 members of their local community. They are advisory bodies receiving no pay for their participation who are charged with advocating for their communities.

“SB 411 ensures that the City of Los Angeles’s Neighborhood Councils will continue serving their constituents uninterrupted by extending appropriate COVID-19 pandemic teleconferencing provisions. These last few months, as Neighborhood Councils have been forced to transition back to in-person meetings, numerous councils have canceled their regularly scheduled meetings due to their inability to establish quorums, with many members worried about their safety due to illness, and some have even been unable to secure a location for their meetings altogether. As things stand now, this is simply not tenable and has already had the effect of reducing constituent participation in their local government.”

- 2) **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.

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.

- 3) **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.

- 4) **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.
- 5) **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.

- 6) **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.
- 7) **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.”

- 8) **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.

- 9) **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.

10) **Los Angeles Neighborhood Councils.** In 1999, the City of Los Angeles amended its city charter to establish neighborhood councils to ensure that city government is responsive to each individual community's needs. These councils hold monthly meetings to advocate on issues of neighborhood concern, and communicate with the city council to provide local expertise on community needs.

Each of the 99 neighborhood councils elects volunteers to serve as the council's board members, who do not receive compensation for their service. Each council has its own unique board structure, with sizes ranging from 7 to 35 members, and terms of two or four years. While advisory, because the city created them through a formal action (in this case, the city charter) these neighborhood councils are subject to the Brown Act's public meeting requirements, including teleconferencing.

Now that neighborhood councils have returned to in-person meetings, they report having problems finding locations to hold their meetings.

11) **Bill Summary.** This bill allows neighborhood councils in the City of Los Angeles to use teleconferencing without complying with the four rules of GOV § 54953(b)(3), which include the following:

- a) Posting agendas at each teleconference location.
- b) Identifying each teleconference location in the notice and agenda for the meeting or proceeding.
- c) Making each teleconference location accessible to the public.
- d) Requiring at least a quorum of the members of the subsidiary body to participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction.

In order for a neighborhood council in the City of Los Angeles to use teleconferencing pursuant to this bill, a number of requirements must be met. These include:

- a) **City Council Oversight.** The Los Angeles city council must consider whether to adopt a resolution authorizing a neighborhood council to use teleconferencing as described in the bill at an open and regular meeting. If the city council adopts such a resolution, the neighborhood council may use teleconferencing pursuant to the bill if two-thirds of the neighborhood council votes to do so. The neighborhood council must then notify the city council of its decision and its justification for doing so. The city council may override this decision of the neighborhood council by adopting a resolution prohibiting the neighborhood council from teleconferencing pursuant to the bill.
- b) **Notice and Agendas.** When the notices and agendas for meetings are given or posted, the neighborhood council 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.

- c) **Quorum Requirement.** At least a quorum of the neighborhood council must participate from locations within the boundaries of the City of Los Angeles.
- d) **Physical Location for the Public.** If a meeting is during regular business hours of the offices of the city council member that represents the area that includes the neighborhood council, the neighborhood council must provide a publicly accessible physical location from which the public may attend or comment, which shall be the offices of the city councilmember who represents the area where the neighborhood council is located, unless the neighborhood council identifies an alternative location.

If a meeting is outside regular business hours, the neighborhood council must make reasonable efforts to accommodate any member of the public that requests an accommodation to participate in the meeting. “Accommodation” means providing a publicly accessible physical location for the member of the public to participate from, providing access to technology necessary to participate in the meeting, or identifying locations or resources available that could provide the member of the public with an opportunity to participate in the meeting.

This bill contains identical provisions as AB 361 and AB 2449 concerning meeting disruptions and public comment requirements, and requires neighborhood councils to comply with all other requirements of the Brown Act regarding open and public meetings, including teleconferencing requirements. This bill contains a sunset date of January 1, 2028.

This bill is sponsored by Streets for All.

- 2) **Policy Considerations.** The Committee may wish to consider the following:
 - a) **Sunset Provision.** When the Legislature approved AB 361 and AB 2449, both measures contained sunset provisions. AB 361 contained a sunset date of January 1, 2024. AB 2449 contained a sunset date of January 1, 2026. Earlier this year, this Committee approved AB 1275 to expand teleconferencing flexibilities for community college organizations. AB 1275 contains a sunset date of January 1, 2026. This bill’s sunset date is January 1, 2028. The Committee may wish to consider if this year’s bills that provide additional teleconferencing flexibilities should have consistent sunsets dates.
 - b) **Protecting Public Access and Participation.** AB 2449 provided local governing board members with enhanced flexibility for teleconferencing while maintaining some of the protections for public access and participation, by requiring the following:
 - i) At least a quorum of the legislative body must participate in person.
 - ii) In-person participation must be from a singular physical location.
 - iii) The singular physical location must be:
 - (1) Clearly identified on the agenda.
 - (2) Open to the public.

(3) Situated within the boundaries of the local agency's jurisdiction.

The Committee may wish to consider if any of these protections for the public should be added to this bill.

- 3) **Committee Amendments.** To address the policy considerations above, the Committee may wish to amend this bill as follows:
 - a) Change the sunset date to January 1, 2026.
 - b) Require a quorum of members of a neighborhood council to participate from a single, physical location within the jurisdiction of the neighborhood council that is accessible to the public at least once per year.
- 4) **Related Legislation.** AB 557 (Hart) eliminates the January 1, 2024, sunset date on AB 361; 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; and, deletes a provision allowing local agencies to continue to hold meetings if a state of emergency ends, but state or local officials continue to impose or recommend measures to promote social distancing. AB 557 bill is pending on the Senate 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 1275 (Arambula) expands Brown Act teleconferencing flexibility for community college student organizations. AB 1275 is pending in Senate Governance and Finance 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 537 (Becker) allows multi-jurisdictional, cross-county local agencies with appointed members to teleconference without meeting all of the teleconferencing requirements of the Brown Act. SB 537 is pending in this Committee.

- 5) **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.

- 6) **Arguments in Support.** A coalition of supporters, including sponsor Streets For All, Happy City Coalition, Stop4Aidan, Norwalk Unides, California Bicycle Coalition, MOVE Santa Barbara County, Climate Resolve, Streets Are for Everyone, and Telegraph for People, write, "Due to the COVID-19 public health emergency, audio and video teleconferencing were widely used to conduct public meetings in lieu of in-person meetings for local governments and their boards. Virtual public meetings, allowed by the Executive Order of the Governor, ultimately permitted local governments to remain operational during the pandemic via virtual

teleconference. This in turn, allowed the government to remain productive and responsive to constituent needs, increased public participation, increased the pool of people who are able to serve on these bodies, and protected the health and safety of civil servants and the public

“Los Angeles serves over three million people, requiring almost 100 neighborhood councils and various boards. Due to the sheer size of the city, returning to in person meetings would negatively affect the community’s ability to participate in their local government. Virtual meetings have allowed much easier access to appointed or elected bodies of local agencies with far more members of the public participating in each meeting. This has created greater equity in the process and fostered the health of our democracy.”

- 7) **Arguments in Opposition.** A coalition of opponents, including the First Amendment Coalition, ACLU California Action, Californians Aware, the California Broadcasters Association, California Common Cause, CCNMA Latino Journalists of California, the Greater Los Angeles Pro Chapter of the Society of Professional Journalists, Howard Jarvis Taxpayers Association, National Press Photographers Association, NLGJA: the Association of LGBTQ+ Journalists, Los Angeles Chapter, Orange County Press Club, Pacific Media Workers Guild, News Guild – Communications Workers of America Local 39521, Radio Television Digital News Association, San Franciscans for Sunshine, the San Diego Pro Chapter of the Society of Professional Journalists, and the Society of Professional Journalists, Northern California Chapter, write, “Last year, lawmakers passed AB 2449, amending the Brown Act to give further flexibility to individual members of local legislative bodies to participate in public meetings remotely when certain requirements are met... Importantly, the bill required the body to maintain a quorum of members in one physical location accessible to the public inside the jurisdiction. Whenever some members might elect to use teleconferencing to participate remotely, the legislation specifies that the public must also have the ability to access and participate through remote technology as well. The bill also contained many other guardrails that were important to this coalition, the sponsors of the bills and the numerous policy committees that invested time considering the bill.

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

“...SB 411’s rewriting of the Brown Act, while tailored to Los Angeles neighborhood councils, would set a dangerous precedent of carving out a category of bodies from the law’s key protections for public access and participation — the guarantee that the press and public can be physically present in the same room as those sitting on the dais and making decisions. Such physical presence has been a constant hallmark of democratic institutions. Officials who are in the same room as their constituents can’t just turn off their cameras or turn down the volume on criticism...

“For advocates and other concerned Californians who do community organizing for social change, SB 411 and other bills like it would make this work more challenging. A primary organizing tool of impacted communities is to show up to public meetings in person, face the

public officials who are making decisions that affect us all, and at times raise awareness about important public policy among members of the observing press.

“The undersigned organizations advocate for or increase awareness about ways to achieve the goal of greater diversity and equity within government bodies and among the members of the public who attend public meetings. Allowing members to participate remotely and never have to face the public in person is not an effective way to diversify bodies governed by our state’s open-meeting laws. Diversifying our state and local legislative bodies instead requires public officials to commit to robust outreach to potential members, provide stipends for unpaid positions, implement an open and transparent selection and appointment process, and exercise the political will to appoint members from diverse backgrounds and identities to public bodies, among other things.”

REGISTERED SUPPORT / OPPOSITION:

Support

Streets For All [SPONSOR]
Access Services
California Bicycle Coalition
Climate Resolve
Culver City Democratic Club
Happy City Coalition
Historic Highland Park Neighborhood Council
Move Santa Barbara County
Northridge West Neighborhood Council
Norwalk Unides
Olivenhain Municipal Water District
Streets are For Everyone (SAFE)
Telegraph for People
32 individuals

Opposition

ACLU California Action
California Association of Councils of Governments
California Broadcasters Association
California Common Cause
Californians Aware
CCNMA Latino Journalists of California
Coachella Valley Association of Governments (CVAG)
First Amendment Coalition
Greater Los Angeles Pro Chapter of the Society of Professional Journalists
Howard Jarvis Taxpayers Association
National Press Photographers Association
NLGJA: the Association of LGBTQ+ Journalists, Los Angeles Chapter
Orange County Press Club
Pacific Media Workers Guild, News Guild – Communications Workers of America Local 39521
Radio Television Digital News Association
San Diego Pro Chapter of the Society of Professional Journalists

San Franciscans for Sunshine
Society of Professional Journalists, Northern California Chapter

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