

AMENDED IN SENATE JULY 5, 2021
AMENDED IN SENATE JUNE 25, 2021
AMENDED IN ASSEMBLY MAY 4, 2021
AMENDED IN ASSEMBLY APRIL 15, 2021

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 339

Introduced by Assembly Members Lee and Cristina Garcia
(Coauthors: Assembly Members Arambula, Cooley, Kiley, and
Robert Rivas)
(Coauthor: Senator Stern)

January 28, 2021

An act to amend Section 54953 of, and to add and repeal Section 54953.9 of, the Government Code, relating to public meetings.

LEGISLATIVE COUNSEL'S DIGEST

AB 339, as amended, Lee. Local government: open and public meetings.

Existing law, the Ralph M. Brown Act, requires, with specified exceptions, that all meetings of a legislative body of a local agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate. Under existing law, a member of the legislative body who attends a meeting where action is taken in violation of this provision, with the intent to deprive the public of information that the member knows the public is entitled to, is guilty of a crime.

This bill would require local agencies to conduct meetings subject to the act consistent with applicable state and federal civil rights laws, as specified.

This bill would, until December 31, 2023, require all open and public meetings of a city council or a county board of supervisors that governs a jurisdiction containing least 250,000 people to include an opportunity for members of the public to attend via a two-way telephonic option or a two-way internet-based service option, as specified, and would require a city council or county board of supervisors that has, as of June 15, 2021, provided video streaming, as defined, of *at least one of* its meetings to continue to provide that video streaming. The bill would require all open and public meetings to include an in-person public comment opportunity, except in specified circumstances during a declared state or local emergency. The bill would require all meetings to provide the public with an opportunity to comment on proposed legislation in person and remotely via a telephonic or an internet-based service option, as provided.

By imposing new duties on local governments and expanding the application of a crime with respect to meetings, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for specified reasons.

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

This bill would make legislative findings to that effect.

The bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities and counties, including charter cities and counties.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 54953 of the Government Code is
2 amended to read:

3 54953. (a) All meetings of the legislative body of a local
4 agency shall be open and public, and all persons shall be permitted
5 to attend any meeting of the legislative body of a local agency in
6 person, except as otherwise provided in this chapter. Local agencies
7 shall conduct meetings subject to this chapter consistent with
8 applicable state and federal civil rights laws, including, but not
9 limited to, the language access and other nondiscrimination
10 obligations of Section 11135 and Subchapter V (commencing with
11 Section 2000d) of Chapter 21 of Title 42 of the United States Code.

12 (b) (1) Notwithstanding any other provision of law, the
13 legislative body of a local agency may use teleconferencing for
14 the benefit of the public and the legislative body of a local agency
15 in connection with any meeting or proceeding authorized by law.
16 The teleconferenced meeting or proceeding shall comply with all
17 requirements of this chapter and all otherwise applicable provisions
18 of law relating to a specific type of meeting or proceeding.

19 (2) Teleconferencing, as authorized by this section, may be used
20 for all purposes in connection with any meeting within the subject
21 matter jurisdiction of the legislative body. All votes taken during
22 a teleconferenced meeting shall be by rollcall.

23 (3) If the legislative body of a local agency elects to use
24 teleconferencing, it shall post agendas at all teleconference
25 locations and conduct teleconference meetings in a manner that
26 protects the statutory and constitutional rights of the parties or the
27 public appearing before the legislative body of a local agency.
28 Each teleconference location shall be identified in the notice and
29 agenda of the meeting or proceeding, and each teleconference
30 location shall be accessible to the public. During the teleconference,
31 at least a quorum of the members of the legislative body shall
32 participate from locations within the boundaries of the territory
33 over which the local agency exercises jurisdiction, except as
34 provided in subdivision (d). The agenda shall provide an
35 opportunity for members of the public to address the legislative
36 body directly pursuant to Section 54954.3 at each teleconference
37 location.

1 (4) For the purposes of this section, “teleconference” means a
2 meeting of a legislative body, the members of which are in different
3 locations, connected by electronic means, through either audio or
4 video, or both. Nothing in this section shall prohibit a local agency
5 from providing the public with additional teleconference locations.

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

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

11 (3) Prior to taking final action, the legislative body shall orally
12 report a summary of a recommendation for a final action on the
13 salaries, salary schedules, or compensation paid in the form of
14 fringe benefits of a local agency executive, as defined in
15 subdivision (d) of Section 3511.1, during the open meeting in
16 which the final action is to be taken. This paragraph shall not affect
17 the public’s right under the California Public Records Act (Chapter
18 3.5 (commencing with Section 6250) of Division 7 of Title 1) to
19 inspect or copy records created or received in the process of
20 developing the recommendation.

21 (d) (1) Notwithstanding the provisions relating to a quorum in
22 paragraph (3) of subdivision (b), if a health authority conducts a
23 teleconference meeting, members who are outside the jurisdiction
24 of the authority may be counted toward the establishment of a
25 quorum when participating in the teleconference if at least 50
26 percent of the number of members that would establish a quorum
27 are present within the boundaries of the territory over which the
28 authority exercises jurisdiction, and the health authority provides
29 a teleconference number, and associated access codes, if any, that
30 allows any person to call in to participate in the meeting and the
31 number and access codes are identified in the notice and agenda
32 of the meeting.

33 (2) Nothing in this subdivision shall be construed as
34 discouraging health authority members from regularly meeting at
35 a common physical site within the jurisdiction of the authority or
36 from using teleconference locations within or near the jurisdiction
37 of the authority. A teleconference meeting for which a quorum is
38 established pursuant to this subdivision shall be subject to all other
39 requirements of this section.

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

12 SEC. 2. Section 54953.9 is added to the Government Code, to
13 read:

14 54953.9. (a) A city council or a county board of supervisors
15 that governs a jurisdiction containing at least 250,000 people shall
16 comply with the following requirements:

17 (1) (A) All open and public meetings shall include an
18 opportunity for members of the public to attend via a two-way
19 telephonic option or a two-way internet-based service option.

20 (B) If a city council or a county board of supervisors elects to
21 provide a two-way internet-based service option, the local agency
22 shall publicly post and provide a call-in option, and activate any
23 automatic captioning function during the meeting if an automatic
24 captioning function is included with the system.

25 (2) (A) If a city council or county board of supervisors has, as
26 of June 15, 2021, provided video streaming of ~~all~~ *at least one* open
27 and public ~~meetings, meeting~~, the city council or county board of
28 supervisors shall continue to provide that video streaming.

29 (B) “Video streaming” means media in which the data from a
30 live filming or a video file is continuously delivered via the internet
31 to a remote user, allowing a video to be viewed online by the public
32 without being downloaded on a host computer or device.

33 (3) (A) Unless there are any laws that prohibit in-person
34 government meetings in the case of a declared state of emergency,
35 including a public health emergency, all open and public meetings
36 shall include an in-person public comment opportunity, wherein
37 members of the public can report to a designated site to give public
38 comment in person. The location of the designated site and any
39 relevant instructions on in-person commenting shall be included
40 with the public posting of the agenda.

1 (B) All open and public meetings shall provide the public with
2 an opportunity to comment on proposed legislation via a two-way
3 telephonic or internet-based service option, and ensure the
4 opportunity for the members of the public participating via a
5 two-way telephonic or internet-based option to comment on agenda
6 items with the same time allotment as a person attending a meeting
7 in person.

8 (b) This section shall remain in effect only until December 31,
9 2023, and as of that date is repealed.

10 SEC. 3. No reimbursement is required by this act pursuant to
11 Section 6 of Article XIII B of the California Constitution because
12 the only costs that may be incurred by a local agency or school
13 district under this act would result either from a legislative mandate
14 that is within the scope of paragraph (7) of subdivision (b) of
15 Section 3 of Article I of the California Constitution, or because
16 this act creates a new crime or infraction, eliminates a crime or
17 infraction, or changes the penalty for a crime or infraction, within
18 the meaning of Section 17556 of the Government Code, or changes
19 the definition of a crime within the meaning of Section 6 of Article
20 XIII B of the California Constitution.

21 SEC. 4. The Legislature finds and declares that Sections 1 and
22 2 of this act, which amends Section 54953 of, and adds Section
23 54953.9 to, the Government Code, furthers, within the meaning
24 of paragraph (7) of subdivision (b) of Section 3 of Article I of the
25 California Constitution, the purposes of that constitutional section
26 as it relates to the right of public access to the meetings of local
27 public bodies or the writings of local public officials and local
28 agencies. Pursuant to paragraph (7) of subdivision (b) of Section
29 3 of Article I of the California Constitution, the Legislature makes
30 the following findings:

31 The provisions of the act allow for greater public access through
32 requiring specified entities to provide a telephonic or internet-based
33 service option and instructions on how to access these options to
34 the public for specified meetings.

35 SEC. 5. The Legislature finds and declares that improving
36 accessibility to open and public meetings of local legislative bodies
37 is a matter of statewide concern and is not a municipal affair as
38 that term is used in Section 5 of Article XI of the California
39 Constitution. Therefore, Section 2 of this act adding Section

- 1 54953.9 to the Government Code applies to all cities and counties,
- 2 including charter cities and counties.

O