

ASSEMBLY BILL

No. 361

Introduced by Assembly Member Robert Rivas

February 1, 2021

An act to amend Section 54953 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 361, as introduced, Robert Rivas. Open meetings: local agencies: teleconferences.

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. The act contains specified provisions regarding the timelines for posting an agenda and providing for the ability of the public to directly address the legislative body on any item of interest to the public. The act generally requires all regular and special meetings of the legislative body be held within the boundaries of the territory over which the local agency exercises jurisdiction, subject to certain exceptions. The act allows for meetings to occur via teleconferencing subject to certain requirements, particularly that the legislative body notice each teleconference location of each member that will be participating in the public meeting, that each teleconference location be accessible to the public, that members of the public be allowed to address the legislative body at each teleconference location, that the legislative body post an agenda at each teleconference location, and that at least a quorum of the legislative body participate from locations within the boundaries of the local agency's jurisdiction. The

act provides an exemption to the jurisdictional requirement for health authorities, as defined.

Existing law, the California Emergency Services Act, authorizes the Governor, or the Director of Emergency Services when the governor is inaccessible, to proclaim a state of emergency under specified circumstances, and authorizes a specified legislative body or an official designated to proclaim a local emergency. Existing law allows a local health officer to declare a local public health emergency, which, after 7 days, must be ratified by the county board of supervisors, or city council, as applicable, in order to remain in place.

Executive Order No. N-29-20 suspends the Ralph M. Brown Act's requirements for teleconferencing during the COVID-19 pandemic provided that notice and accessibility requirements are met, the public members are allowed to observe and address the legislative body at the meeting, and that a legislative body of a local agency has a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, as specified.

This bill would authorize a local agency to use teleconferencing without complying with the teleconferencing requirements imposed by the Ralph M. Brown Act when a legislative body of a local agency holds a meeting for the purpose of declaring or ratifying a local emergency, during a declared state or local emergency, as those terms are defined, when state or local health officials have imposed or recommended measures to promote social distancing, and during a declared local emergency provided the legislative body makes certain determinations by majority vote. The bill would require legislative bodies that hold teleconferenced meetings under these abbreviated teleconferencing procedures to give notice of the meeting and post agendas, as described, to allow members of the public to access the meeting and address the legislative body, to give notice of the means by which members of the public may access the meeting and offer public comment, as provided, to conduct the meeting in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body.

This bill would declare the Legislature's intent, consistent with the Governor's Executive Order No. N-29-20, to improve and enhance public access to local agency meetings during the COVID-19 pandemic and future emergencies by allowing broader access through teleconferencing options.

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.

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

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,
6 except as otherwise provided in this chapter.

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

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

19 (3) If the legislative body of a local agency elects to use
20 teleconferencing, it shall post agendas at all teleconference
21 locations and conduct teleconference meetings in a manner that
22 protects the statutory and constitutional rights of the parties or the
23 public appearing before the legislative body of a local agency.
24 Each teleconference location shall be identified in the notice and
25 agenda of the meeting or proceeding, and each teleconference
26 location shall be accessible to the public. During the teleconference,
27 at least a quorum of the members of the legislative body shall
28 participate from locations within the boundaries of the territory

1 over which the local agency exercises jurisdiction, except as
2 provided in ~~subdivision (d)~~. *subdivisions (d) and (e)*. The agenda
3 shall provide an opportunity for members of the public to address
4 the legislative body directly pursuant to Section 54954.3 at each
5 teleconference location.

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

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

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

16 (3) Prior to taking final action, the legislative body shall orally
17 report a summary of a recommendation for a final action on the
18 salaries, salary schedules, or compensation paid in the form of
19 fringe benefits of a local agency executive, as defined in
20 subdivision (d) of Section 3511.1, during the open meeting in
21 which the final action is to be taken. This paragraph shall not affect
22 the public’s right under the California Public Records Act (Chapter
23 3.5 (commencing with Section 6250) of Division 7 of Title 1) to
24 inspect or copy records created or received in the process of
25 developing the recommendation.

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

38 (2) Nothing in this subdivision shall be construed as
39 discouraging health authority members from regularly meeting at
40 a common physical site within the jurisdiction of the authority or

1 from using teleconference locations within or near the jurisdiction
2 of the authority. A teleconference meeting for which a quorum is
3 established pursuant to this subdivision shall be subject to all other
4 requirements of this section.

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

16 (e) (1) *A local agency may use teleconferencing without*
17 *complying with the requirements of paragraph (3) of subdivision*
18 *(b) if the legislative body complies with the requirements of*
19 *paragraph (2) of this subdivision in any of the following*
20 *circumstances:*

21 (A) *The legislative body holds a meeting for the purpose of*
22 *proclaiming or ratifying a local emergency.*

23 (B) *The legislative body holds a meeting during a proclaimed*
24 *state of emergency or declared local emergency, and state or local*
25 *officials have imposed or recommended measures to promote*
26 *social distancing.*

27 (C) *The legislative body holds a meeting during a declared local*
28 *emergency and the legislative body determines by majority vote*
29 *that, as a result of the emergency, the attendance of one or more*
30 *members of the legislative body in person is hindered, or meeting*
31 *in person would present risks to the health or safety of attendees.*

32 (2) *A legislative body that holds a meeting pursuant to this*
33 *subdivision shall do all of the following:*

34 (A) *The legislative body shall give notice of the meeting and*
35 *post agendas as otherwise required by this chapter.*

36 (B) *The legislative body shall allow members of the public to*
37 *access the meeting and the agenda shall provide an opportunity*
38 *for members of the public to address the legislative body directly*
39 *pursuant to Section 54954.3. In each instance in which notice of*
40 *the time of the teleconferenced meeting is otherwise given or the*

1 agenda for the meeting is otherwise posted, the legislative body
2 shall also give notice of the means by which members of the public
3 may access the meeting and offer public comment. This
4 subparagraph shall not be construed to require the legislative
5 body to provide a physical location from which the public may
6 attend or comment.

7 (C) The legislative body shall conduct teleconference meetings
8 in a manner that protects the statutory and constitutional rights
9 of the parties and the public appearing before the legislative body
10 of a local agency.

11 (3) For the purposes of this subdivision, the following definitions
12 shall apply:

13 (A) “State of emergency” means a state of emergency
14 proclaimed pursuant to Section 8625 of the California Emergency
15 Services Act (Article 14 (commencing with Section 8550) of
16 Chapter 7 of Division of Title 2.

17 (B) “Local emergency” means an emergency proclaimed
18 pursuant to Section 8630 of the California Emergency Services
19 Act (Article 14 (commencing with Section 8550) of Chapter 7 of
20 Division 1 of Title 2 as a result of conditions existing in all or a
21 portion of the jurisdiction of the local agency. Local emergency
22 refers only to local emergencies in the jurisdiction in which the
23 legislative body is located.

24 SEC. 2. It is the intent of the Legislature in enacting this act
25 to improve and enhance public access to local agency meetings
26 during the COVID-19 pandemic and future applicable emergencies,
27 by allowing broader access through teleconferencing options
28 consistent with the Governor’s Executive Order No. N-29-20 dated
29 March 17, 2020, permitting expanded use of teleconferencing
30 during the COVID-19 pandemic.

31 SEC. 3. The Legislature finds and declares that Section 1 of
32 this act, which amends Section 54953 of the Government Code,
33 furthers, within the meaning of paragraph (7) of subdivision (b)
34 of Section 3 of Article I of the California Constitution, the purposes
35 of that constitutional section as it relates to the right of public
36 access to the meetings of local public bodies or the writings of
37 local public officials and local agencies. Pursuant to paragraph (7)
38 of subdivision (b) of Section 3 of Article I of the California
39 Constitution, the Legislature makes the following findings:

1 This act is necessary to ensure minimum standards for public
2 participation and notice requirements allowing for greater public
3 participation in teleconference meetings during applicable
4 emergencies.

O