

**Introduced by Senator Portantino**  
**(Coauthor: Senator Menjivar)**  
(Coauthor: Assembly Member Luz Rivas)

February 9, 2023

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An act to add Section 54953.4 to the Government Code, relating to local government, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 411, as introduced, Portantino. Open meetings: teleconferences: bodies with appointed membership.

Existing law, the Ralph M. Brown Act, requires, with specified exceptions, that all meetings of a legislative body, as defined, of a local agency be open and public and that all persons be permitted to attend and participate. The act generally requires for teleconferencing that the legislative body of a local agency that elects to use teleconferencing post agendas at all teleconference locations, identify each teleconference location in the notice and agenda of the meeting or proceeding, and have each teleconference location be accessible to the public. Existing law also requires that, during the teleconference, at least a quorum of the members of the legislative body participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction. The act provides an exemption to the jurisdictional requirement for health authorities, as defined.

Existing law, until January 1, 2024, authorizes the legislative body of a local agency to use alternate teleconferencing provisions during a proclaimed state of emergency or in other situations related to public health that exempt a legislative body from the general requirements (emergency provisions) and impose different requirements for notice,

agenda, and public participation, as prescribed. The emergency provisions specify that they do not require a legislative body to provide a physical location from which the public may attend or comment.

Existing law, until January 1, 2026, authorizes the legislative body of a local agency to use alternative teleconferencing in certain circumstances related to the particular member if at least a quorum of its members participate from a singular physical location that is open to the public and situated within the agency’s jurisdiction and other requirements are met, including restrictions on remote participation by a member of the legislative body.

This bill would authorize a legislative body to use alternate teleconferencing provisions similar to the emergency provisions indefinitely and without regard to a state of emergency. The bill would alternatively define “legislative body” for this purpose to mean a board, commission, or advisory body of a local agency, the membership of which board, commission, or advisory body is appointed and which board, commission, or advisory body is otherwise subject to the act.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

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.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . 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 54953.4 is added to the Government  
2 Code, to read:

1 54953.4. (a) (1) A legislative body included in subdivision  
2 (c) may use teleconferencing without complying with paragraph  
3 (3) of subdivision (b) of Section 54953 if the legislative body  
4 complies with paragraph (2) of this section.

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

7 (A) In each instance in which notice of the time of the  
8 teleconferenced meeting is otherwise given or the agenda for the  
9 meeting is otherwise posted, the legislative body shall also give  
10 notice of the means by which members of the public may access  
11 the meeting and offer public comment. The agenda shall identify  
12 and include an opportunity for all persons to attend via a call-in  
13 option or an internet-based service option.

14 (B) In the event of a disruption that prevents the legislative body  
15 from broadcasting the meeting to members of the public using the  
16 call-in option or internet-based service option, or in the event of  
17 a disruption within the local agency's control that prevents  
18 members of the public from offering public comments using the  
19 call-in option or internet-based service option, the legislative body  
20 shall take no further action on items appearing on the meeting  
21 agenda until public access to the meeting via the call-in option or  
22 internet-based service option is restored. Actions taken on agenda  
23 items during a disruption that prevents the legislative body of a  
24 neighborhood council from broadcasting the meeting may be  
25 challenged pursuant to Section 54960.1.

26 (C) The legislative body shall not require public comments to  
27 be submitted in advance of the meeting and must provide an  
28 opportunity for the public to address the legislative body and offer  
29 comment in real time.

30 (D) Notwithstanding Section 54953.3, an individual desiring to  
31 provide public comment through the use of an internet website, or  
32 other online platform, not under the control of the legislative body,  
33 that requires registration to log in to a teleconference may be  
34 required to register as required by the third-party internet website  
35 or online platform to participate.

36 (E) (i) A legislative body that provides a timed public comment  
37 period for each agenda item shall not close the public comment  
38 period for the agenda item, or the opportunity to register, pursuant  
39 to subparagraph (D), to provide public comment until that timed  
40 public comment period has elapsed.

1 (ii) A legislative body that does not provide a timed public  
2 comment period, but takes public comment separately on each  
3 agenda item, shall allow a reasonable amount of time per agenda  
4 item to allow public members the opportunity to provide public  
5 comment, including time for members of the public to register  
6 pursuant to subparagraph (D), or otherwise be recognized for the  
7 purpose of providing public comment.

8 (iii) A legislative body that provides a timed general public  
9 comment period that does not correspond to a specific agenda item  
10 shall not close the public comment period or the opportunity to  
11 register, pursuant to subparagraph (D), until the timed general  
12 public comment period has elapsed.

13 (3) This subdivision shall not be construed to require the  
14 legislative body to provide a physical location from which the  
15 public may attend or comment.

16 (b) The legislative body shall comply with all other requirements  
17 of Section 54953.

18 (c) As used in this section, “legislative body” means a board,  
19 commission, or advisory body of a local agency, the membership  
20 of which board, commission, or advisory body is appointed and  
21 which board, commission, or advisory body is otherwise subject  
22 to this chapter. As used in this subdivision, “advisory body”  
23 includes, but is not limited to, a neighborhood council that is an  
24 advisory body with the purpose to promote more citizen  
25 participation in government and make government more responsive  
26 to local needs that is established pursuant to the charter of a city  
27 with a population of more than 3,000,000 people that is subject to  
28 this chapter.

29 SEC. 2. The Legislature finds and declares that Section 1 of  
30 this act, which adds Section 54953.4 to the Government Code,  
31 imposes a limitation on the public’s right of access to the meetings  
32 of public bodies or the writings of public officials and agencies  
33 within the meaning of Section 3 of Article I of the California  
34 Constitution. Pursuant to that constitutional provision, the  
35 Legislature makes the following findings to demonstrate the interest  
36 protected by this limitation and the need for protecting that interest:

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

1 the public regardless of their location and ability to travel to  
2 physical meeting locations, increased the pool of people who are  
3 able to serve on these bodies, and protected the health and safety  
4 of civil servants and the public. Extending the operation of  
5 teleconference as conducted during the COVID-19 public health  
6 emergency for bodies of local agencies with appointed membership  
7 will continue these benefits.

8 SEC. 3. The Legislature finds and declares that Section 1 of  
9 this act, which adds Section 54953.4 to the Government Code,  
10 furthers, within the meaning of paragraph (7) of subdivision (b)  
11 of Section 3 of Article I of the California Constitution, the purposes  
12 of that constitutional section as it relates to the right of public  
13 access to the meetings of local public bodies or the writings of  
14 local public officials and local agencies. Pursuant to paragraph (7)  
15 of subdivision (b) of Section 3 of Article I of the California  
16 Constitution, the Legislature makes the following findings:

17 During the COVID-19 public health emergency, audio and video  
18 teleconference were widely used to conduct public meetings in  
19 lieu of physical location meetings, and those public meetings have  
20 been productive, increased public participation by all members of  
21 the public regardless of their location and ability to travel to  
22 physical meeting locations, increased the pool of people who are  
23 able to serve on these bodies, and protected the health and safety  
24 of civil servants and the public. Extending the operation of  
25 teleconference as conducted during the COVID-19 public health  
26 emergency for bodies of local agencies with appointed membership  
27 will continue these benefits.

28 SEC. 4. This act is an urgency statute necessary for the  
29 immediate preservation of the public peace, health, or safety within  
30 the meaning of Article IV of the California Constitution and shall  
31 go into immediate effect. The facts constituting the necessity are:

32 Virtual meetings have allowed much easier access to appointed  
33 bodies of local agencies with far more members of the public  
34 participating in each meeting. This has created greater equity in  
35 the process and fostered the health of our democracy. In-person  
36 meetings may jeopardize the health and safety of vulnerable  
37 citizens due to ongoing risks of COVID-19 and other illnesses.