

**ASSEMBLY BILL**

**No. 1944**

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**Introduced by Assembly Members Lee and Cristina Garcia**

February 10, 2022

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An act to amend Section 54953 of the Government Code, relating to public meetings.

LEGISLATIVE COUNSEL'S DIGEST

AB 1944, as introduced, 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. The act contains specified provisions regarding the timelines for posting an agenda and providing for the ability of the public to observe and provide comment. 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, until January 1, 2024, authorizes a local agency to use teleconferencing without complying with those specified teleconferencing requirements in specified circumstances when a

declared state of emergency is in effect, or in other situations related to public health.

This bill would specify that if a member of a legislative body elects to teleconference from a location that is not public, the address does not need to be identified in the notice and agenda or be accessible to the public when the legislative body has elected to allow members to participate via teleconferencing.

This bill would require all open and public meetings of a legislative body that elects to use teleconferencing to provide a video stream accessible to members of the public and an option for members of the public to address the body remotely during the public comment period through an audio-visual or call-in option.

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.

Vote: majority. Appropriation: no. Fiscal committee: yes. 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, as
- 2 amended by Section 3 of Chapter 165 of the Statutes of 2021, is
- 3 amended to read:
- 4 54953. (a) All meetings of the legislative body of a local
- 5 agency shall be open and public, and all persons shall be permitted
- 6 to attend any meeting of the legislative body of a local agency,
- 7 except as otherwise provided in this chapter.
- 8 (b) (1) Notwithstanding any other provision of law, the
- 9 legislative body of a local agency may use teleconferencing for
- 10 the benefit of the public and the legislative body of a local agency

1 in connection with any meeting or proceeding authorized by law.  
2 The teleconferenced meeting or proceeding shall comply with all  
3 otherwise applicable requirements of this chapter and all otherwise  
4 applicable provisions of law relating to a specific type of meeting  
5 or proceeding.

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

10 (3) If the legislative body of a local agency elects to use  
11 teleconferencing, it shall post agendas at all teleconference  
12 locations and conduct teleconference meetings in a manner that  
13 protects the statutory and constitutional rights of the parties or the  
14 public appearing before the legislative body of a local agency.  
15 Each teleconference location shall be identified in the notice and  
16 agenda of the meeting or proceeding, and each teleconference  
17 location shall be accessible to the ~~public~~. *public, except as provided*  
18 *in subparagraph (A)*. During the teleconference, at least a quorum  
19 of the members of the legislative body shall participate from  
20 locations within the boundaries of the territory over which the  
21 local agency exercises jurisdiction, except as provided in  
22 subdivisions (d) and (e). The agenda shall provide an opportunity  
23 for members of the public to address the legislative body directly  
24 pursuant to Section 54954.3 at each teleconference ~~location~~.  
25 *location, except as provided in subparagraph (A)*.

26 (A) *If a member of a legislative body elects to teleconference*  
27 *from a location that is not public, the address does not need to be*  
28 *identified in the notice and agenda or be accessible to the public*  
29 *when the legislative body has elected to allow members to*  
30 *participate via teleconferencing.*

31 (B) *If a legislative body elects to use teleconferencing, they shall*  
32 *provide both of the following:*

33 (i) *A video stream accessible to members of the public.*

34 (ii) *An option for members of the public to address the body*  
35 *remotely during the public comment period through an audio-visual*  
36 *or call-in option.*

37 (4) For the purposes of this section, “teleconference” means a  
38 meeting of a legislative body, the members of which are in different  
39 locations, connected by electronic means, through either audio or

1 video, or both. Nothing in this section shall prohibit a local agency  
2 from providing the public with additional teleconference locations.

3 (5) *For the purposes of this section, “video streaming” means*  
4 *media in which the data from a live filming or a video file is*  
5 *continuously delivered via the internet to a remote user, allowing*  
6 *a video to be viewed online by the public without being downloaded*  
7 *on a host computer or device.*

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

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

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

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

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

1 established pursuant to this subdivision shall be subject to all other  
2 requirements of this section.

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

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

19 (A) The legislative body holds a meeting during a proclaimed  
20 state of emergency, and state or local officials have imposed or  
21 recommended measures to promote social distancing.

22 (B) The legislative body holds a meeting during a proclaimed  
23 state of emergency for the purpose of determining, by majority  
24 vote, whether as a result of the emergency, meeting in person  
25 would present imminent risks to the health or safety of attendees.

26 (C) The legislative body holds a meeting during a proclaimed  
27 state of emergency and has determined, by majority vote, pursuant  
28 to subparagraph (B), that, as a result of the emergency, meeting  
29 in person would present imminent risks to the health or safety of  
30 attendees.

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

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

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

1 shall also give notice of the means by which members of the public  
2 may access the meeting and offer public comment. The agenda  
3 shall identify and include an opportunity for all persons to attend  
4 via a call-in option or an internet-based service option. This  
5 subparagraph shall not be construed to require the legislative body  
6 to provide a physical location from which the public may attend  
7 or comment.

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

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

23 (E) The legislative body shall not require public comments to  
24 be submitted in advance of the meeting and must provide an  
25 opportunity for the public to address the legislative body and offer  
26 comment in real time. This subparagraph shall not be construed  
27 to require the legislative body to provide a physical location from  
28 which the public may attend or comment.

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

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

13 (3) If a state of emergency remains active, or state or local  
14 officials have imposed or recommended measures to promote  
15 social distancing, in order to continue to teleconference without  
16 compliance with paragraph (3) of subdivision (b), the legislative  
17 body shall, not later than 30 days after teleconferencing for the  
18 first time pursuant to subparagraph (A), (B), or (C) of paragraph  
19 (1), and every 30 days thereafter, make the following findings by  
20 majority vote:

21 (A) The legislative body has reconsidered the circumstances of  
22 the state of emergency.

23 (B) Any of the following circumstances exist:

24 (i) The state of emergency continues to directly impact the  
25 ability of the members to meet safely in person.

26 (ii) State or local officials continue to impose or recommend  
27 measures to promote social distancing.

28 (4) For the purposes of this subdivision, “state of emergency”  
29 means a state of emergency proclaimed pursuant to Section 8625  
30 of the California Emergency Services Act (Article 1 (commencing  
31 with Section 8550) of Chapter 7 of Division 1 of Title 2).

32 (f) This section shall remain in effect only until January 1, 2024,  
33 and as of that date is repealed.

34 SEC. 2. Section 54953 of the Government Code, as added by  
35 Section 4 of Chapter 165 of the Statutes of 2021, is amended to  
36 read:

37 54953. (a) All meetings of the legislative body of a local  
38 agency shall be open and public, and all persons shall be permitted  
39 to attend any meeting of the legislative body of a local agency,  
40 except as otherwise provided in this chapter.

1 (b) (1) Notwithstanding any other provision of law, the  
 2 legislative body of a local agency may use teleconferencing for  
 3 the benefit of the public and the legislative body of a local agency  
 4 in connection with any meeting or proceeding authorized by law.  
 5 The teleconferenced meeting or proceeding shall comply with all  
 6 requirements of this chapter and all otherwise applicable provisions  
 7 of law relating to a specific type of meeting or proceeding.

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

12 (3) If the legislative body of a local agency elects to use  
 13 teleconferencing, it shall post agendas at all teleconference  
 14 locations and conduct teleconference meetings in a manner that  
 15 protects the statutory and constitutional rights of the parties or the  
 16 public appearing before the legislative body of a local agency.  
 17 Each teleconference location shall be identified in the notice and  
 18 agenda of the meeting or proceeding, and each teleconference  
 19 location shall be accessible to the ~~public~~ *public, except as provided*  
 20 *in subparagraph (A)*. During the teleconference, at least a quorum  
 21 of the members of the legislative body shall participate from  
 22 locations within the boundaries of the territory over which the  
 23 local agency exercises jurisdiction, except as provided in  
 24 subdivision (d). The agenda shall provide an opportunity for  
 25 members of the public to address the legislative body directly  
 26 pursuant to Section 54954.3 at each teleconference ~~location~~  
 27 *location, except as provided in subparagraph (A)*.

28 (A) *If a member of a legislative body elects to teleconference*  
 29 *from a location that is not public, the address does not need to be*  
 30 *identified in the notice and agenda, or be accessible to the public*  
 31 *when the legislative body has elected to allow members to*  
 32 *participate via teleconferencing.*

33 (B) *If a legislative body elects to use teleconferencing, they shall*  
 34 *provide both of the following:*

- 35 (i) *A video stream accessible to members of the public.*
- 36 (ii) *An option for members of the public to address the body*  
 37 *remotely during the public comment period through an audio-visual*  
 38 *or call-in option.*

39 (4) For the purposes of this section, “teleconference” means a  
 40 meeting of a legislative body, the members of which are in different

1 locations, connected by electronic means, through either audio or  
2 video, or both. Nothing in this section shall prohibit a local agency  
3 from providing the public with additional teleconference locations

4 (5) *For the purposes of this section, “video streaming” means*  
5 *media in which the data from a live filming or a video file is*  
6 *continuously delivered via the internet to a remote user, allowing*  
7 *a video to be viewed online by the public without being downloaded*  
8 *on a host computer or device.*

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

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

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

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

36 (2) Nothing in this subdivision shall be construed as  
37 discouraging health authority members from regularly meeting at  
38 a common physical site within the jurisdiction of the authority or  
39 from using teleconference locations within or near the jurisdiction  
40 of the authority. A teleconference meeting for which a quorum is

1 established pursuant to this subdivision shall be subject to all other  
2 requirements of this section.

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

14 (e) This section shall become operative January 1, 2024.

15 SEC. 3. The Legislature finds and declares that Sections 1 and  
16 2 of this act, which amends Section 54953 of the Government  
17 Code, further, within the meaning of paragraph (7) of subdivision  
18 (b) of Section 3 of Article I of the California Constitution, the  
19 purposes of that constitutional section as it relates to the right of  
20 public access to the meetings of local public bodies or the writings  
21 of local public officials and local agencies. Pursuant to paragraph  
22 (7) of subdivision (b) of Section 3 of Article I of the California  
23 Constitution, the Legislature makes the following findings:

24 This act is necessary to ensure minimum standards for public  
25 participation allowing for greater public participation in  
26 teleconference meetings.

27 SEC. 4. (a) The Legislature finds and declares that during the  
28 COVID-19 public health emergency, certain requirements of the  
29 Ralph M. Brown Act (Chapter 9 (commencing with Section 54950)  
30 of Part 1 of Division 2 of Title 5 of the Government Code) and the  
31 Bagley-Keene Open Meeting Act (Article 9 (commencing with  
32 Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of  
33 the Government Code) were suspended by Executive Order No.  
34 N-29-20. Audio and video teleconference were widely used to  
35 conduct public meetings in lieu of physical location meetings, and  
36 public meetings conducted by teleconference during the COVID-19  
37 public health emergency have been productive, have increased  
38 public participation by all members of the public regardless of  
39 their location in the state and ability to travel to physical meeting  
40 locations, have protected the health and safety of civil servants

1 and the public, and have reduced travel costs incurred by members  
2 of state bodies and reduced work hours spent traveling to and from  
3 meetings.

4 (b) The Legislature finds and declares that Sections 1 and 2 of  
5 this act, which amend Section 54953 of the Government Code,  
6 imposes a potential limitation on the public's right of access to the  
7 meetings of public bodies or the writings of public officials and  
8 agencies within the meaning of Section 3 of Article I of the  
9 California Constitution. Pursuant to that constitutional provision,  
10 the Legislature makes the following findings to demonstrate the  
11 interest protected by this potential limitation and the need for  
12 protecting that interest:

13 By removing the requirement for each teleconference location  
14 to be identified in the notice and agenda, including the member's  
15 private home address, this act protects the personal, private  
16 information of public officials and their families while preserving  
17 the public's right to access information concerning the conduct of  
18 the people's business.

O