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AMENDED IN SENATE AUGUST 30, 2021

AMENDED IN SENATE JULY 6, 2021

AMENDED IN ASSEMBLY MAY 10, 2021

AMENDED IN ASSEMBLY APRIL 6, 2021

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 361

Introduced by Assembly Member Robert Rivas

February 1, 2021

An act to *add and repeal Section 89305.6 of the Education Code, and to amend, repeal, and add Section 54953* ~~of of, and to add and repeal Section 11133 of~~, the Government Code, relating to ~~local government, open meetings~~, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 361, as amended, Robert Rivas. Open meetings: *state and* local agencies: teleconferences.

~~Existing~~

(1) *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. The act authorizes the district attorney or any interested person, subject to certain provisions, to commence an action by mandamus or injunction for the purpose of obtaining a judicial determination that specified actions taken by a legislative body are null and void.

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.

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, until January 1, 2024, 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 during a declared state of emergency, as that term is defined, when state or local health officials have imposed or recommended measures to promote social distancing, during a proclaimed state of emergency held for the purpose of determining, by majority vote, whether meeting in person would present imminent risks to the health or safety of attendees, and during a proclaimed state of emergency when the legislative body has determined that meeting in person would present imminent risks to the health or safety of attendees, as provided.

This 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, including an opportunity for all persons to attend via a call-in option or an internet-based service option, and 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. The bill would require the legislative body to take no further action on agenda items when there is a disruption which prevents the public agency from broadcasting the meeting, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments, until public access is restored. The bill would specify that actions taken during the disruption are subject to challenge proceedings, as specified.

This bill would prohibit the legislative body from requiring public comments to be submitted in advance of the meeting and would specify that the legislative body must provide an opportunity for the public to address the legislative body and offer comment in real time. The bill would prohibit the legislative body from closing the public comment period and the opportunity to register to provide public comment, until the public comment period has elapsed or until a reasonable amount of time has elapsed, as specified. When there is a continuing state of emergency, or when state or local officials have imposed or recommended measures to promote social distancing, the bill would require a legislative body to make specified findings not later than 30 days after the first teleconferenced meeting pursuant to these provisions, and to make those findings every 30 days thereafter, in order to continue to meet under these abbreviated teleconferencing procedures.

Existing law prohibits a ~~state~~ *legislative* body from requiring, as a condition to attend a meeting, a person to register the person's name, or to provide other information, or to fulfill any condition precedent to the person's attendance.

This bill would exclude from that prohibition, a registration requirement imposed by a third-party internet website or other online platform not under the control of the legislative body.

(2) Existing law, the Bagley-Keene Open Meeting Act, requires, with specified exceptions, that all meetings of a state body be open and public and all persons be permitted to attend any meeting of a state body. The

act requires at least one member of the state body to be physically present at the location specified in the notice of the meeting.

The Governor's Executive Order No. N-29-20 suspends the requirements of the Bagley-Keene Open Meeting Act 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 state body at the meeting, and that a state body has a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, as specified.

This bill, until January 31, 2022, would authorize, subject to specified notice and accessibility requirements, a state body to hold public meetings through teleconferencing and to make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the state body. With respect to a state body holding a public meeting pursuant to these provisions, the bill would suspend certain requirements of existing law, including the requirements that each teleconference location be accessible to the public and that members of the public be able to address the state body at each teleconference location. Under the bill, a state body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically would satisfy any requirement that the state body allow members of the public to attend the meeting and offer public comment. The bill would require that each state body that holds a meeting through teleconferencing provide notice of the meeting, and post the agenda, as provided. The bill would urge state bodies utilizing these teleconferencing procedures in the bill to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to existing law, as provided.

(3) Existing law establishes the various campuses of the California State University under the administration of the Trustees of the California State University, and authorizes the establishment of student body organizations in connection with the operations of California State University campuses.

The Gloria Romero Open Meetings Act of 2000 generally requires a legislative body, as defined, of a student body organization to conduct its business in a meeting that is open and public. The act authorizes the legislative body to use teleconferencing, as defined, for the benefit of the public and the legislative body in connection with any meeting or proceeding authorized by law.

This bill, until January 31, 2022, would authorize, subject to specified notice and accessibility requirements, a legislative body, as defined for purposes of the act, to hold public meetings through teleconferencing and to make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the legislative body. With respect to a legislative body holding a public meeting pursuant to these provisions, the bill would suspend certain requirements of existing law, including the requirements that each teleconference location be accessible to the public and that members of the public be able to address the legislative body at each teleconference location. Under the bill, a legislative body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically would satisfy any requirement that the legislative body allow members of the public to attend the meeting and offer public comment. The bill would require that each legislative body that holds a meeting through teleconferencing provide notice of the meeting, and post the agenda, as provided. The bill would urge legislative bodies utilizing these teleconferencing procedures in the bill to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to existing law, as provided.

This

(4) *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 state and local agency meetings during the COVID-19 pandemic and future emergencies by allowing broader access through teleconferencing options.*

This

(5) *This bill would incorporate additional changes to Section 54953 of the Government Code proposed by AB 339 to be operative only if this bill and AB 339 are enacted and this bill is enacted last.*

The

(6) *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.

(7) 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.

~~This~~

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

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: ~~no~~-yes.

State-mandated local program: no.

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

1 SECTION 1. Section 89305.6 is added to the Education Code,
2 to read:

3 89305.6. (a) Notwithstanding any other provision of this
4 article, and subject to the notice and accessibility requirements in
5 subdivisions (d) and (e), a legislative body may hold public
6 meetings through teleconferencing and make public meetings
7 accessible telephonically, or otherwise electronically, to all
8 members of the public seeking to observe and to address the
9 legislative body.

10 (b) (1) For a legislative body holding a public meeting through
11 teleconferencing pursuant to this section, all requirements in this
12 article requiring the physical presence of members, the clerk or
13 other personnel of the legislative body, or the public, as a condition
14 of participation in or quorum for a public meeting, are hereby
15 suspended.

16 (2) For a legislative body holding a public meeting through
17 teleconferencing pursuant to this section, all of the following
18 requirements in this article are suspended:

19 (A) Each teleconference location from which a member will be
20 participating in a public meeting or proceeding be identified in
21 the notice and agenda of the public meeting or proceeding.

22 (B) Each teleconference location be accessible to the public.

23 (C) Members of the public may address the legislative body at
24 each teleconference conference location.

25 (D) Post agendas at all teleconference locations.

1 (E) At least one member of the legislative body be physically
2 present at the location specified in the notice of the meeting.

3 (c) A legislative body that holds a meeting through
4 teleconferencing and allows members of the public to observe and
5 address the meeting telephonically or otherwise electronically,
6 consistent with the notice and accessibility requirements in
7 subdivisions (d) and (e), shall have satisfied any requirement that
8 the legislative body allow members of the public to attend the
9 meeting and offer public comment. A legislative body need not
10 make available any physical location from which members of the
11 public may observe the meeting and offer public comment.

12 (d) If a legislative body holds a meeting through
13 teleconferencing pursuant to this section and allows members of
14 the public to observe and address the meeting telephonically or
15 otherwise electronically, the legislative body shall also do both of
16 the following:

17 (1) Implement a procedure for receiving and swiftly resolving
18 requests for reasonable modification or accommodation from
19 individuals with disabilities, consistent with the federal Americans
20 with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), and
21 resolving any doubt whatsoever in favor of accessibility.

22 (2) Advertise that procedure each time notice is given of the
23 means by which members of the public may observe the meeting
24 and offer public comment, pursuant to paragraph (2) of subdivision
25 (e).

26 (e) Except to the extent this section provides otherwise, each
27 legislative body that holds a meeting through teleconferencing
28 pursuant to this section shall do both of the following:

29 (1) Give advance notice of the time of, and post the agenda for,
30 each public meeting according to the timeframes otherwise
31 prescribed by this article, and using the means otherwise
32 prescribed by this article, as applicable.

33 (2) In each instance in which notice of the time of the meeting
34 is otherwise given or the agenda for the meeting is otherwise
35 posted, also give notice of the means by which members of the
36 public may observe the meeting and offer public comment. As to
37 any instance in which there is a change in the means of public
38 observation and comment, or any instance prior to the effective
39 date of this section in which the time of the meeting has been
40 noticed or the agenda for the meeting has been posted without

1 also including notice of the means of public observation and
2 comment, a legislative body may satisfy this requirement by
3 advertising the means of public observation and comment using
4 the most rapid means of communication available at the time.
5 Advertising the means of public observation and comment using
6 the most rapid means of communication available at the time shall
7 include, but need not be limited to, posting such means on the
8 legislative body's internet website.

9 (f) All legislative bodies utilizing the teleconferencing
10 procedures in this section are urged to use sound discretion and
11 to make reasonable efforts to adhere as closely as reasonably
12 possible to the otherwise applicable provisions of this article, in
13 order to maximize transparency and provide the public access to
14 legislative body meetings.

15 (g) This section shall remain in effect only until January 31,
16 2022, and as of that date is repealed.

17 SEC. 2. Section 11133 is added to the Government Code, to
18 read:

19 11133. (a) Notwithstanding any other provision of this article,
20 and subject to the notice and accessibility requirements in
21 subdivisions (d) and (e), a state body may hold public meetings
22 through teleconferencing and make public meetings accessible
23 telephonically, or otherwise electronically, to all members of the
24 public seeking to observe and to address the state body.

25 (b) (1) For a state body holding a public meeting through
26 teleconferencing pursuant to this section, all requirements in this
27 article requiring the physical presence of members, the clerk or
28 other personnel of the state body, or the public, as a condition of
29 participation in or quorum for a public meeting, are hereby
30 suspended.

31 (2) For a state body holding a public meeting through
32 teleconferencing pursuant to this section, all of the following
33 requirements in this article are suspended:

34 (A) Each teleconference location from which a member will be
35 participating in a public meeting or proceeding be identified in
36 the notice and agenda of the public meeting or proceeding.

37 (B) Each teleconference location be accessible to the public.

38 (C) Members of the public may address the state body at each
39 teleconference conference location.

40 (D) Post agendas at all teleconference locations.

1 (E) *At least one member of the state body be physically present*
2 *at the location specified in the notice of the meeting.*

3 (c) *A state body that holds a meeting through teleconferencing*
4 *and allows members of the public to observe and address the*
5 *meeting telephonically or otherwise electronically, consistent with*
6 *the notice and accessibility requirements in subdivisions (d) and*
7 *(e), shall have satisfied any requirement that the state body allow*
8 *members of the public to attend the meeting and offer public*
9 *comment. A state body need not make available any physical*
10 *location from which members of the public may observe the*
11 *meeting and offer public comment.*

12 (d) *If a state body holds a meeting through teleconferencing*
13 *pursuant to this section and allows members of the public to*
14 *observe and address the meeting telephonically or otherwise*
15 *electronically, the state body shall also do both of the following:*

16 (1) *Implement a procedure for receiving and swiftly resolving*
17 *requests for reasonable modification or accommodation from*
18 *individuals with disabilities, consistent with the federal Americans*
19 *with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), and*
20 *resolving any doubt whatsoever in favor of accessibility.*

21 (2) *Advertise that procedure each time notice is given of the*
22 *means by which members of the public may observe the meeting*
23 *and offer public comment, pursuant to paragraph (2) of subdivision*
24 *(e).*

25 (e) *Except to the extent this section provides otherwise, each*
26 *state body that holds a meeting through teleconferencing pursuant*
27 *to this section shall do both of the following:*

28 (1) *Give advance notice of the time of, and post the agenda for,*
29 *each public meeting according to the timeframes otherwise*
30 *prescribed by this article, and using the means otherwise*
31 *prescribed by this article, as applicable.*

32 (2) *In each instance in which notice of the time of the meeting*
33 *is otherwise given or the agenda for the meeting is otherwise*
34 *posted, also give notice of the means by which members of the*
35 *public may observe the meeting and offer public comment. As to*
36 *any instance in which there is a change in the means of public*
37 *observation and comment, or any instance prior to the effective*
38 *date of this section in which the time of the meeting has been*
39 *noticed or the agenda for the meeting has been posted without*
40 *also including notice of the means of public observation and*

comment, a state body may satisfy this requirement by advertising the means of public observation and comment using the most rapid means of communication available at the time. Advertising the means of public observation and comment using the most rapid means of communication available at the time shall include, but need not be limited to, posting such means on the state body's internet website.

(f) All state bodies utilizing the teleconferencing procedures in this section are urged to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to the otherwise applicable provisions of this article, in order to maximize transparency and provide the public access to state body meetings.

(g) This section shall remain in effect only until January 31, 2022, and as of that date is repealed.

SECTION 4.

SEC. 3. Section 54953 of the Government Code is amended to read:

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

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

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

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and 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. Each teleconference location shall be identified in the notice and

1 agenda of the meeting or proceeding, and each teleconference
2 location shall be accessible to the public. During the teleconference,
3 at least a quorum of the members of the legislative body shall
4 participate from locations within the boundaries of the territory
5 over which the local agency exercises jurisdiction, except as
6 provided in subdivisions (d) and (e). The agenda shall provide an
7 opportunity for members of the public to address the legislative
8 body directly pursuant to Section 54954.3 at each teleconference
9 location.

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

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

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

20 (3) Prior to taking final action, the legislative body shall orally
21 report a summary of a recommendation for a final action on the
22 salaries, salary schedules, or compensation paid in the form of
23 fringe benefits of a local agency executive, as defined in
24 subdivision (d) of Section 3511.1, during the open meeting in
25 which the final action is to be taken. This paragraph shall not affect
26 the public’s right under the California Public Records Act (Chapter
27 3.5 (commencing with Section 6250) of Division 7 of Title 1) to
28 inspect or copy records created or received in the process of
29 developing the recommendation.

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

1 number and access codes are identified in the notice and agenda
2 of the meeting.

3 (2) Nothing in this subdivision shall be construed as
4 discouraging health authority members from regularly meeting at
5 a common physical site within the jurisdiction of the authority or
6 from using teleconference locations within or near the jurisdiction
7 of the authority. A teleconference meeting for which a quorum is
8 established pursuant to this subdivision shall be subject to all other
9 requirements of this section.

10 (3) For purposes of this subdivision, a health authority means
11 any entity created pursuant to Sections 14018.7, 14087.31,
12 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare
13 and Institutions Code, any joint powers authority created pursuant
14 to Article 1 (commencing with Section 6500) of Chapter 5 of
15 Division 7 for the purpose of contracting pursuant to Section
16 14087.3 of the Welfare and Institutions Code, and any advisory
17 committee to a county-sponsored health plan licensed pursuant to
18 Chapter 2.2 (commencing with Section 1340) of Division 2 of the
19 Health and Safety Code if the advisory committee has 12 or more
20 members.

21 (e) (1) A local agency may use teleconferencing without
22 complying with the requirements of paragraph (3) of subdivision
23 (b) if the legislative body complies with the requirements of
24 paragraph (2) of this subdivision in any of the following
25 circumstances:

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

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

33 (C) The legislative body holds a meeting during a proclaimed
34 state of emergency and has determined, by majority vote, pursuant
35 to subparagraph ~~(B)~~ (B), that, as a result of the emergency, meeting
36 in person would present imminent risks to the health or safety of
37 attendees.

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

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

3 (B) The legislative body shall allow members of the public to
4 access the meeting and the agenda shall provide an opportunity
5 for members of the public to address the legislative body directly
6 pursuant to Section 54954.3. In each instance in which notice of
7 the time of the teleconferenced meeting is otherwise given or the
8 agenda for the meeting is otherwise posted, the legislative body
9 shall also give notice of the means by which members of the public
10 may access the meeting and offer public comment. The agenda
11 shall identify and include an opportunity for all persons to attend
12 via a call-in option or an internet-based service option. This
13 subparagraph shall not be construed to require the legislative body
14 to provide a physical location from which the public may attend
15 or comment.

16 (C) The legislative body shall conduct teleconference meetings
17 in a manner that protects the statutory and constitutional rights of
18 the parties and the public appearing before the legislative body of
19 a local agency.

20 (D) In the event of a disruption which prevents the public agency
21 from broadcasting the meeting to members of the public using the
22 call-in option or internet-based service option, or in the event of
23 a disruption within the local agency's control which prevents
24 members of the public from offering public comments using the
25 call-in option or internet-based service option, the body shall take
26 no further action on items appearing on the meeting agenda until
27 public access to the meeting via the call-in option or internet-based
28 service option is restored. Actions taken on agenda items during
29 a disruption which prevents the public agency from broadcasting
30 the meeting may be challenged pursuant to Section 54960.1.

31 (E) The legislative body shall not require public comments to
32 be submitted in advance of the meeting and must provide an
33 opportunity for the public to address the legislative body and offer
34 comment in real time. This subparagraph shall not be construed
35 to require the legislative body to provide a physical location from
36 which the public may attend or comment.

37 (F) Notwithstanding Section 54953.3, an individual desiring to
38 provide public comment through the use of an internet website, or
39 other online platform, not under the control of the local legislative
40 body, that requires registration to log in to a teleconference may

1 be required to register as required by the third-party internet
2 website or online platform to participate.

3 (G) (i) A legislative body that provides a timed public comment
4 period for each agenda item shall not close the public comment
5 period for the agenda item, or the opportunity to register, pursuant
6 to subparagraph (F), to provide public comment until that timed
7 public comment period has elapsed.

8 (ii) A legislative body that does not provide a timed public
9 comment period, but takes public comment separately on each
10 agenda item, shall allow a reasonable amount of time per agenda
11 item to allow public members the opportunity to provide public
12 comment, including time for members of the public to register
13 pursuant to subparagraph (F), or otherwise be recognized for the
14 purpose of providing public comment.

15 (iii) A legislative body that provides a timed general public
16 comment period that does not correspond to a specific agenda item
17 shall not close the public comment period or the opportunity to
18 register, pursuant to subparagraph (F), until the timed general
19 public comment period has elapsed.

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

28 (A) The legislative body has reconsidered the circumstances of
29 the state of emergency.

30 (B) Any of the following circumstances exist:

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

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

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

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

~~SEC. 1.1.~~

SEC. 3.1. Section 54953 of the Government Code is amended to read:

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

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

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

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and 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. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. 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, except as provided in subdivisions (d) and (e). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, “teleconference” means 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. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

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

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

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

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

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

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

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

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

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

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

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

(B) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3. 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 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

1 shall identify and include an opportunity for all persons to attend
2 via a call-in option or an internet-based service option. This
3 subparagraph shall not be construed to require the legislative body
4 to provide a physical location from which the public may attend
5 or comment.

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

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

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

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

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

38 (ii) A legislative body that does not provide a timed public
39 comment period, but takes public comment separately on each
40 agenda item, shall allow a reasonable amount of time per agenda

1 item to allow public members the opportunity to provide public
2 comment, including time for members of the public to register
3 pursuant to subparagraph (F), or otherwise be recognized for the
4 purpose of providing public comment.

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

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

18 (A) The legislative body has reconsidered the circumstances of
19 the state of emergency.

20 (B) Any of the following circumstances exist:

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

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

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

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

31 ~~SEC. 2.~~

32 *SEC. 4.* Section 54953 is added to the Government Code, to
33 read:

34 54953. (a) All meetings of the legislative body of a local
35 agency shall be open and public, and all persons shall be permitted
36 to attend any meeting of the legislative body of a local agency,
37 except as otherwise provided in this chapter.

38 (b) (1) Notwithstanding any other provision of law, the
39 legislative body of a local agency may use teleconferencing for
40 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 requirements of this chapter and all otherwise applicable provisions
4 of law relating to a specific type of meeting or proceeding.

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

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

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

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

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

34 (3) Prior to taking final action, the legislative body shall orally
35 report a summary of a recommendation for a final action on the
36 salaries, salary schedules, or compensation paid in the form of
37 fringe benefits of a local agency executive, as defined in
38 subdivision (d) of Section 3511.1, during the open meeting in
39 which the final action is to be taken. This paragraph shall not affect
40 the public’s right under the California Public Records Act (Chapter

1 3.5 (commencing with Section 6250) of Division 7 of Title 1) to
2 inspect or copy records created or received in the process of
3 developing the recommendation.

4 (d) (1) Notwithstanding the provisions relating to a quorum in
5 paragraph (3) of subdivision (b), if a health authority conducts a
6 teleconference meeting, members who are outside the jurisdiction
7 of the authority may be counted toward the establishment of a
8 quorum when participating in the teleconference if at least 50
9 percent of the number of members that would establish a quorum
10 are present within the boundaries of the territory over which the
11 authority exercises jurisdiction, and the health authority provides
12 a teleconference number, and associated access codes, if any, that
13 allows any person to call in to participate in the meeting and the
14 number and access codes are identified in the notice and agenda
15 of the meeting.

16 (2) Nothing in this subdivision shall be construed as
17 discouraging health authority members from regularly meeting at
18 a common physical site within the jurisdiction of the authority or
19 from using teleconference locations within or near the jurisdiction
20 of the authority. A teleconference meeting for which a quorum is
21 established pursuant to this subdivision shall be subject to all other
22 requirements of this section.

23 (3) For purposes of this subdivision, a health authority means
24 any entity created pursuant to Sections 14018.7, 14087.31,
25 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare
26 and Institutions Code, any joint powers authority created pursuant
27 to Article 1 (commencing with Section 6500) of Chapter 5 of
28 Division 7 for the purpose of contracting pursuant to Section
29 14087.3 of the Welfare and Institutions Code, and any advisory
30 committee to a county-sponsored health plan licensed pursuant to
31 Chapter 2.2 (commencing with Section 1340) of Division 2 of the
32 Health and Safety Code if the advisory committee has 12 or more
33 members.

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

35 ~~SEC. 2.1.~~

36 *SEC. 4.1.* Section 54953 is added to the Government Code, to
37 read:

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

1 person except as otherwise provided in this chapter. Local agencies
2 shall conduct meetings subject to this chapter consistent with
3 applicable state and federal civil rights laws, including, but not
4 limited to, ~~the any applicable~~ language access and other
5 nondiscrimination obligations of Section 11135 and Subchapter
6 V (commencing with Section 2000d) of Chapter 21 of Title 42 of
7 the United States Code. *obligations.*

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
11 in connection with any meeting or proceeding authorized by law.
12 The teleconferenced meeting or proceeding shall comply with all
13 requirements of this chapter and all otherwise applicable provisions
14 of law relating to a specific type of meeting 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
29 over which the local agency exercises jurisdiction, except as
30 provided in subdivision (d). The agenda shall provide an
31 opportunity for members of the public to address the legislative
32 body directly pursuant to Section 54954.3 at each teleconference
33 location.

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

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

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

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

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

26 (2) Nothing in this subdivision shall be construed as
27 discouraging health authority members from regularly meeting at
28 a common physical site within the jurisdiction of the authority or
29 from using teleconference locations within or near the jurisdiction
30 of the authority. A teleconference meeting for which a quorum is
31 established pursuant to this subdivision shall be subject to all other
32 requirements of this section.

33 (3) For purposes of this subdivision, a health authority means
34 any entity created pursuant to Sections 14018.7, 14087.31,
35 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare
36 and Institutions Code, any joint powers authority created pursuant
37 to Article 1 (commencing with Section 6500) of Chapter 5 of
38 Division 7 for the purpose of contracting pursuant to Section
39 14087.3 of the Welfare and Institutions Code, and any advisory
40 committee to a county-sponsored health plan licensed pursuant to

Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

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

~~SEC. 3.~~

~~SEC. 5.~~ Sections ~~1.1~~ 3.1 and ~~2.1~~ 4.1 of this bill incorporate amendments to Section 54953 of the Government Code proposed by both this bill and Assembly Bill 339. Those sections of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2022, but this bill becomes operative first, (2) each bill amends Section 54953 of the Government Code, and (3) this bill is enacted after Assembly Bill 339, in which case Section 54953 of the Government Code, as amended by Sections ~~1~~ 3 and ~~2~~ 4 of this bill, shall remain operative only until the operative date of Assembly Bill 339, at which time Sections ~~1.1~~ 3.1 and ~~2.1~~ 4.1 of this bill shall become operative.

~~SEC. 4.~~

~~SEC. 6.~~ It is the intent of the Legislature in enacting this act to improve and enhance public access to *state and* local agency meetings during the COVID-19 pandemic and future applicable emergencies, by allowing broader access through teleconferencing options consistent with the Governor's Executive Order No. N-29-20 dated March 17, 2020, permitting expanded use of teleconferencing during the COVID-19 pandemic.

~~SEC. 5.~~

~~SEC. 7.~~ The Legislature finds and declares that Sections ~~1~~ 3 and ~~2~~ 4 of this act, which amend, repeal, and add Section 54953 of the Government Code, further, 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:

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

1 SEC. 8. (a) *The Legislature finds and declares that during the*
2 *COVID-19 public health emergency, certain requirements of the*
3 *Bagley-Keene Open Meeting Act (Article 9 (commencing with*
4 *Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of*
5 *the Government Code) were suspended by Executive Order*
6 *N-29-20. Audio and video teleconference were widely used to*
7 *conduct public meetings in lieu of physical location meetings, and*
8 *public meetings conducted by teleconference during the COVID-19*
9 *public health emergency have been productive, have increased*
10 *public participation by all members of the public regardless of*
11 *their location in the state and ability to travel to physical meeting*
12 *locations, have protected the health and safety of civil servants*
13 *and the public, and have reduced travel costs incurred by members*
14 *of state bodies and reduced work hours spent traveling to and from*
15 *meetings.*

16 (b) *The Legislature finds and declares that Section 1 of this act,*
17 *which adds and repeals Section 89305.6 of the Education Code,*
18 *Section 2 of this act, which adds and repeals Section 11133 of the*
19 *Government Code, and Sections 3 and 4 of this act, which amend,*
20 *repeal, and add Section 54953 of the Government Code, all*
21 *increase and potentially limit the public's right of access to the*
22 *meetings of public bodies or the writings of public officials and*
23 *agencies within the meaning of Section 3 of Article I of the*
24 *California Constitution. Pursuant to that constitutional provision,*
25 *the Legislature makes the following findings to demonstrate the*
26 *interest protected by this limitation and the need for protecting*
27 *that interest:*

28 (1) *By removing the requirement that public meetings be*
29 *conducted at a primary physical location with a quorum of*
30 *members present, this act protects the health and safety of civil*
31 *servants and the public and does not preference the experience of*
32 *members of the public who might be able to attend a meeting in a*
33 *physical location over members of the public who cannot travel*
34 *or attend that meeting in a physical location.*

35 (2) *By removing the requirement for agendas to be placed at*
36 *the location of each public official participating in a public meeting*
37 *remotely, including from the member's private home or hotel room,*
38 *this act protects the personal, private information of public officials*
39 *and their families while preserving the public's right to access*
40 *information concerning the conduct of the people's business.*

1 ~~SEC. 6.~~

2 ~~SEC. 9.~~ This act is an urgency statute necessary for the
3 immediate preservation of the public peace, health, or safety within
4 the meaning of Article IV of the California Constitution and shall
5 go into immediate effect. The facts constituting the necessity are:
6 In order to ensure that *state and* local agencies can continue
7 holding public meetings while providing essential services like
8 water, power, and fire protection to their constituents during public
9 health, wildfire, or other states of emergencies, it is necessary that
10 this act take effect immediately.

O