

Date of Hearing: April 9, 2024

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Mike Fong, Chair

AB 1855 (Arambula) – As Amended April 1, 2024

SUBJECT: Open meetings: teleconferences: community college student body associations

SUMMARY: Allows a community college student body association, as defined, to teleconference without meeting all of the teleconferencing requirements of the Ralph M. Brown Act (Brown Act). Specifically, **this bill:**

- 1) Defines, “eligible legislative body” to mean a student body association organized as specified.
- 2) Allows an eligible legislative body to use teleconferencing without posting agendas at each teleconference location, identifying each teleconference location in the notice and agenda, making each teleconference location accessible to the public, and requiring at least a quorum of the eligible legislative body to participate from within the local agency’s jurisdiction if the eligible legislative body complies with all of the following:
 - a) An eligible legislative body may only use teleconferencing as described in this bill after all the following have occurred:
 - i) The board of trustees for a community college district considers whether to adopt a resolution to authorize eligible legislative bodies to use teleconferencing as described in 2), above, at an open and regular meeting;
 - ii) If the board of trustees for a community college district adopts a resolution described above, an eligible legislative body may elect to use teleconferencing pursuant to this section if two-thirds of the eligible legislative body votes to do so. The eligible legislative body shall notify the board of trustees if it elects to use teleconferencing pursuant to this bill and its justification for doing so; and,
 - iii) Upon receiving notification from a legislative body as described above, the board of trustees may adopt a resolution to prohibit the eligible legislative body from using teleconferencing pursuant to this bill.
 - b) After completing the requirements in a) above, an eligible legislative body that holds a meeting pursuant to this bill shall do all of the following:
 - i) 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 eligible 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 shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option;

- ii) In the event of a disruption that prevents the eligible legislative body from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the eligible legislative body's control that prevents members of the public from offering public comments using the call-in option or internet-based service option, the eligible legislative body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption that prevents the eligible legislative body from broadcasting the meeting may be challenged pursuant to provisions of the Brown Act governing judicial remedies for violations;
 - iii) The eligible legislative body shall not require public comments to be submitted in advance of the meeting and shall provide an opportunity for the public to address the legislative body and offer comment in real time;
 - iv) Notwithstanding provisions of the Brown Act prohibiting a person from being required to register at a meeting, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the eligible legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate;
 - v) An eligible legislative body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, as specified, to provide public comment until that timed public comment period has elapsed. An eligible legislative body that does not provide a timed public comment period, but takes public comment separately on each agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register, as specified, or otherwise be recognized for the purpose of providing public comment. An eligible legislative body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, as specified, until the timed general public comment period has elapsed;
 - vi) At least a quorum of the members of the eligible legislative body shall participate from a singular physical location that is accessible to the public and is within the community college district in which the eligible legislative body is established; and,
 - vii) At least once per year, at least a quorum of the members of the eligible legislative body shall participate in person from a singular physical location that is open to the public and on the campus of a community college within the community college district.
- c) Notwithstanding the requirements of vi) above, a person may count toward the establishment of a quorum pursuant to vi) regardless of whether the person is participating at the in-person location of the meeting or remotely if the person meets any the following criteria:

- i) The person has a disability that requires accommodation pursuant to the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132;
 - ii) The person is under 18 years of age;
 - iii) The person is incarcerated;
 - iv) The person is unable to disclose the location that they are participating from because of either of the following circumstances:
 - (1) The person has been issued a protective court order, including, but not limited to, a domestic violence restraining order.
 - (2) The person is participating in a program that has to remain confidential, including, but not limited to, an independent living program.
 - v) The person provides childcare or caregiving to a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner, as specified that requires them to participate remotely.
- d) An eligible legislative body that holds a meeting pursuant to this subdivision shall do the following, as applicable:
- i) If the meeting is during regular business hours of the offices of the board of trustees of the community college district, the eligible legislative body shall provide a publicly accessible physical location from which the public may attend or comment, which shall be the offices of the board of trustees of the community college district, unless the eligible legislative body identifies an alternative location; and,
 - ii) If the meeting is outside regular business hours, the eligible legislative body shall make reasonable efforts to accommodate any member of the public that requests an accommodation to participate in the meeting. For the purposes of this requirement, “accommodation” means providing a publicly accessible physical location for the member of the public to participate from, providing access to technology necessary to participate in the meeting, or identifying locations or resources available that could provide the member of the public with an opportunity to participate in the meeting.
- e) The legislative body shall comply with all other requirements of the Brown Act regarding open and public meetings, including teleconferencing requirements.
- 3) Finds and declares that this bill imposes a limitation on the public’s right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

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

public regardless of their location and ability to travel to physical meeting locations, increased the pool of people who are able to serve on these bodies, and protected the health and safety of civil servants and the public. Extending the operation of teleconference as conducted during the COVID-19 public health emergency for California Community College student body associations will continue these benefits.”

- 4) Finds and declares that this bill furthers, 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:

“During the COVID-19 public health emergency, audio and video teleconference were widely used to conduct public meetings in lieu of physical location meetings, and those public meetings have been productive, increased public participation by all members of the public regardless of their location and ability to travel to physical meeting locations, increased the pool of people who are able to serve on these bodies, and protected the health and safety of civil servants and the public. Extending the operation of teleconference as conducted during the COVID-19 public health emergency for California Community College student body associations will continue these benefits.”

- 5) Finds and declares that local student body associations in the California Community Colleges provide important input to community college districts’ board of trustees and that, unlike other legislative bodies that have access to regular meeting locations, these volunteer, uncompensated, elected members have had trouble accessing public meeting locations, as specified.

EXISTING LAW:

- 1) Provides, pursuant to Article I, Section 3 of the California Constitution, the following:
 - a) The people have the right to instruct their representatives, petition government for redress of grievances, and assemble freely to consult for the common good;
 - b) The people have the right of access to information concerning the conduct of the people’s business, and, therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny;
 - c) In order to ensure public access to the meetings of public bodies and the writings of public officials and agencies, as specified in b), above, each local agency is required to comply with the California Public Records Act, the Brown Act, and with any subsequent statutory enactment amending either act, enacting a successor act, or amending any successor act that contains findings demonstrating that the statutory enactment furthers the purposes of these constitutional provisions.
- 2) Provides, pursuant to the Brown Act, requirements for local agency meetings. (Government Code (GOV) Sections 54950 – 54963)

- 3) Authorizes the legislative body of a local agency to use teleconferencing, subject to a number of requirements that include posting agendas at all teleconference locations, identifying each teleconference location in the notice and agenda for the meeting or proceeding, making each teleconference location accessible to the public, and requiring at least a quorum of the members of the legislative body to participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, as specified. (GOV Section 54953(b)(3)]
- 4) Defines “teleconference” to mean 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. (GOV Section 54953(j)(6))
- 5) Authorizes, until January 1, 2024, a local agency to use teleconferencing without complying with the requirements of 3), above, during a proclaimed state of emergency, as specified. (GOV Section 54953(e))
- 6) Authorizes, until January 1, 2026, pursuant to provisions of law enacted via AB 2449 (Blanca Rubio), Chapter 285, Statutes of 2022, a legislative body of a local agency to use teleconferencing without complying with the requirements of 3), above, subject to multiple conditions and requirements and limited to “just cause” or for emergency circumstances, as specified. (GOV Section 54953(f))
- 7) Establishes the California Community Colleges (CCC) under the administration of the Board of Governors of the CCC, as one of the segments of public postsecondary education in this state. The CCC shall be comprised of community college districts. (Education Code (EDC) Section 70900)
- 8) Establishes that CCC districts are under the control of a board of trustees, known as the governing board, who has the authority to establish, maintain, operate, and govern one or more community colleges within its district, as specified. (EDC Section 70902)
- 9) Permits a governing board of a CCC district to authorize the creation of a student body association, whose purpose is to encourage students to participate in the governance of the college and may conduct activities including fundraising activities if approved by the college officials. (EDC Section 76060)
- 10) Authorizes campus officials of a CCC with a student organization to collect a student representation fee of two dollars from students for the purpose of supporting governmental affairs representatives of local or statewide student body organizations who may state their positions and viewpoints before city, county and district governments or agencies of state governments. Authorizes one dollar of every two dollars collected as part of the student representation fee to be provided to support the operations of a statewide community college student organization recognized by the Board of Governors. (EDC §Section76060.5).
- 11) Requires meetings conducted by the statewide community college organization to comply with the Brown Act. (EDC Section 76060.5)

FISCAL EFFECT: Unknown.

COMMENTS: *Double-referred.* AB 1855 (Arambula) was heard in the Assembly Committee on Local Government on March 20, 2024, where it passed with an 8-0 vote. Issues pertaining to issues that that Committee’s jurisdiction can be found in their Committee analysis.

Purpose. According to the author, “The Brown Act has been a landmark policy that ensured open access to government participation. During the COVID-19 public health emergency, audio and video teleconferencing was successfully used to increase participation and protect the health and safety of civil servants and the public. It is time to update the Act to reflect modern times and new challenges faced by our students. Current provisions of the Brown Act require members of a legislative body to participate in meetings of the legislative body by teleconference for no more than 20% of the regular meetings. However, this may serve as a barrier to access for students who are disabled, have limited access to transportation, or are otherwise unable to participate in the meetings in person.”

“AB 1855 protects public access and allows an eligible legislative body of a student organization to use alternate teleconferencing provisions if approved by the Board of Trustees and adopted by the eligible body. Students should be able to participate in their student body associations without threat to safety, privacy, or accessibility.”

The Brown Act. The Brown Act was enacted in 1953 and has been amended numerous times since its enactment. The legislative intent of the Brown Act was expressly declared in its original statute, which remains unchanged:

“The Legislature finds and declares that the public commissions, boards and councils and other public agencies in this State exist to aid in the conduct of the people’s business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly. The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.”

The Brown Act generally requires meetings to be noticed in advance, including the posting of an agenda, and generally requires meetings to be open and accessible to the public. The Brown Act also generally requires members of the public to have an opportunity to comment on agenda items, and generally prohibits deliberation or action on items not listed on the agenda.

Executive Order N-29-20. In March of 2020, the Governor issued Executive Order N-29-20, which stated that, “Notwithstanding any other provision of state or local law (including, but not limited to, the Bagley-Keene Act or the Brown Act), and subject to the notice and accessibility requirements set forth below, a local legislative body or state body is authorized to hold public meetings via teleconferencing and to make public meetings accessible telephonically or otherwise electronically to all members of the public seeking to observe and to address the local legislative body or state body. All requirements in both the Bagley-Keene Act and the Brown Act expressly or impliedly requiring the physical presence of members, the clerk or other personnel of the body, or of the public as a condition of participation in or quorum for a public meeting are hereby waived. All of the foregoing provisions concerning the conduct of public meetings shall apply only during the period in which state or local public health officials have imposed or recommended social distancing measures.”

Arguments in support. According to Disability Rights California (DRC), “The issue of remote participation in Brown Act meetings is important because it directly affects the ability of the people we serve—Californians with disabilities—to exercise their right to participate in local government. DRC is a non-profit agency established under federal law to protect, advocate, and advance the human, legal, and service rights of Californians with disabilities. We work in partnership with people with disabilities, striving towards a society that values all people and supports their rights to dignity, freedom, choice, and quality of life. Remote participation in Brown Act meetings furthers these rights by making public meetings accessible to people who may not be able to attend meetings in person due to their disabilities.”

According to the Faculty Association of the California Community Colleges (FACCC), “FACCC strongly supports AB 1855, which would provide continued remote access to student government meetings. As professors who advise campus student leaders, we have witnessed firsthand how virtual options have increased participation over the last four years. Students juggling jobs, children, disabilities, and hectic schedules now have a more accessible way to make their voices heard. Expanding the pool of student advocates strengthens governance and better represents the diverse populations that community colleges serve.”

“While some districts had resources to enable remote meetings pre-pandemic, many did not, creating equity issues around student representation. Students from lower-income backgrounds often lack transportation and flexibility during traditional working hours. Expecting uncompensated student volunteers to always be able to drive long distances and rearrange work schedules to attend early meetings is unrealistic and suppresses engagement. AB 1855 rights this imbalance by letting student bodies choose formats enhancing inclusion.”

Prior legislation. AB 557 (Hart), Chapter 534, Statutes 2023, eliminates the January 1, 2024, sunset date on AB 361 and changes the requirement for a legislative body, in order to continue using the bill’s teleconferencing provisions, to make specified findings every 30 days to every 45 days.

AB 1275 (Arambula) of 2023 would have expanded Brown Act teleconferencing flexibility for community college student organizations. AB 1275 was amended into a different subject matter.

AB 1379 (Papan) of 2023 would have eliminated the Brown Act’s teleconferencing requirements to post agendas at all teleconferencing locations, identify each teleconference location in the notice and agenda, make each teleconference location accessible to the public, and require a quorum of the legislative body to participate from locations within the local agency’s jurisdiction, allows legislative bodies to participate remotely from any location for all but two meetings per year, and makes several changes to the provisions of AB 2449. AB 1379 was held in this Committee.

SB 411 (Portantino), Chapter 605, Statutes 2023, allows appointed bodies of a local agency to teleconference meetings without having to notice and make publicly accessible each teleconference location, or have at least a quorum participate from locations within the boundaries of the agency.

SB 537 (Becker) of 2023 would have allowed appointed bodies of a multijurisdictional local agency to teleconference meetings without having to notice and make publicly accessible each

teleconference location, or have at least a quorum participate from locations within the boundaries of the agency. SB 537 is currently on the Assembly inactive file.

AB 1944 (Lee) of 2022 would have allowed, until January 1, 2030, members of a legislative body of a local agency to use teleconferencing without identifying each teleconference location in the notice and agenda of the meeting, and without making each teleconference location accessible to the public, under specified conditions. AB 1944 was held in the Senate Governance and Finance Committee.

AB 2449 (Blanca Rubio), Chapter 285, Statutes of 2022, allows, until January 1, 2026, members of a legislative body of a local agency to use teleconferencing without identifying each teleconference location in the notice and agenda of the meeting, and without making each teleconference location accessible to the public, under specified conditions.

SB 1100 (Cortese), Chapter 171, Statutes of 2022, allows the presiding member of a local legislative body to remove an individual for disrupting a local agency's meeting, defines "disrupting" for this purpose, and outlines the procedure that must be followed before an individual may be removed.

AB 339 (Lee) of 2021 would have required, until December 31, 2023, city councils and boards of supervisors in jurisdictions over 250,000 residents provide both in-person and teleconference options for the public to attend their meetings. This bill was vetoed

AB 703 (Rubio) of 2021 would have allowed teleconferencing with only a quorum of the members of a local legislative body participating from a singular location that is clearly identified on an agenda, open to the public, and situated within the boundaries of the local agency. AB 703 was held in this Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

California Federation of Teachers Afl-cio
Disability Rights California
Faculty Association of California Community Colleges
Student Senate for California Community Colleges

Opposition

None on file.

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