

Date of Hearing: April 18, 2023

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Mike Fong, Chair

AB 1275 (Arambula) – As Introduced February 16, 2023

[Note: This bill is doubled referred to the Assembly Committee on Local Government and will be heard by that Committee as it relates to issues under its jurisdiction.]

SUBJECT: Community colleges: student-run community college organizations: open meetings: teleconferences

SUMMARY: Authorizes the recognized statewide community college student organization and other student-run community college organizations to use teleconferencing for their meetings without having 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 that a quorum of the student organization's members participate from a singular physical location. Specifically, **this bill:**

- 1) Specifies that the legislative body of a student organization may use teleconferencing without complying with the requirements to:
 - a) Post agendas at all teleconference locations,
 - b) Identify each teleconference location in the notice and agenda,
 - c) Make each teleconference location accessible to the public, and,
 - d) Have a quorum of members at a single location.
- 2) Establishes that, for purposes of these provisions, a student organization means the statewide community college student organization recognized in the Education Code, as specified, or any other student-run community college organization that is required to comply with the meeting requirements as specified.
- 3) Makes findings and declarations pursuant to Constitutional requirements, including that:
 - a) This legislation is necessary to ensure minimum standards for public participation and notice requirements allowing for greater student participation in teleconference meetings of student-run community college organizations.
 - b) By removing the requirements related to public disclosure of, and public access to, the location of each student member of a student-run community college organization participating in a public meeting remotely, including from the student member's private home, this act protects the personal and private information of students and their families while preserving the public's right to access information concerning the conduct of the people's business.
 - c) These provisions also protect the health and safety of student members, who may be minors, and does not preference the experience of members of a student-run community college organization who might be able to attend a meeting in a physical location over

members of the organization who cannot travel or attend that meeting in a physical location.

- 4) Makes various technical changes.

EXISTING LAW:

- 1) Affirms that 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. (California Constitution, Article. I, Section 3(b)(1).)
 - a) Requires a statute that limits the public's right of access to be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest. (California Constitution, Article. I, Section 3(b)(1).)
- 2) Establishes the Brown Act, which secures public access to the meetings of public commissions, boards, councils, and agencies in the state. (Government Code Section 54950 et seq.)
- 3) The Brown Act defines the following relevant terms:
 - a) A "local agency" is a county, city, whether general law or chartered, city and county, town, school district, municipal corporation, district, political subdivision, or any board, commission, or agency thereof, or any other local public agency. (Government Code Section 54951.)
 - b) A "legislative body" is the governing board of a local agency or any other local body created by state or federal statute; a commission, committee, board, or other body of a local agency, as specified; a board, commission, or other multimember body that governs a private corporation, limited liability company, or other entity that is either created by an elected legislative body to exercise delegated authority or receives funds from a local agency and includes a member of the legislative body of the local agency; or the lessee of any hospital leased pursuant to Health and Safety Code section 21131, where the lessee exercises any material authority delegated by the legislative body. (Government Code Section 54952.)
- 4) Requires all meetings of the legislative body of a local agency to 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 the Brown Act. (Government Code Section 54953.)
- 5) Requires meetings of the recognized statewide community college student organization to be open to the public and to comply with the requirements of the California Public Records Act and the Ralph M. Brown Act, as specified. (Education Code Section 76060.5)

FISCAL EFFECT: This bill is keyed non-fiscal.

COMMENTS: *Purpose.* According to the author, "while the Brown Act guarantees the public's right to attend and participate in governing bodies, aspects of current law can threaten safety and accessibility for vulnerable students. In an age where the use of teleconferencing has become

increasingly common, many aspects of these laws need updating to adjust to challenges that our students face. Provisions of the Brown Act require individuals who teleconference from home in these meetings to publically release their private addresses. We must protect the safety of students who are disabled, parents, undocumented students, survivors of domestic violence, or a member of any other underserved community, who are particularly vulnerable to having their home locations publically disclosed.”

“The Brown Act has been a landmark policy that ensured open access to government participation, but it is time to update law to reflect modern times and new challenges faced by our vulnerable students. AB 1275 will restore student safety, privacy, and accessibility for students participating in student run community college organizations.”

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. The Student Senate of the California Community Colleges (SSCCC), the sponsor of AB 1275 (Arambula), writes that “Governor Newsom declared a state of emergency at the beginning of the COVID-19 pandemic. This proclamation included allowing teleconferencing under the Brown Act through an Executive Order and lasted through February 28th, 2023. As California continues to move towards a post-pandemic reality, the teleconferencing requirements within the Brown Act have been restored. These requirements

include only allowing teleconferencing if a quorum of members is in the same location in-person. This same provision additionally limits teleconference participation to approximately 20% of meetings. This poses a major accessibility concern for students who are disabled, have dependents they need to care for, or are otherwise unable to participate in the meetings in person due to unreliable access to transportation or limited resources, qualifications which many California community college students, who serve as student leaders on their local student body associations (SBAs) and thus must abide by the Brown Act, meet.”

“Calbright College, for instance, is a fully online statewide college attended by students from every corner of California. Students attend precisely because it is fully online and they can attend from anywhere. Asking members of their newly formed SBA to meet in one location is logistically and financially challenging, for the college, and for the students themselves. Equitability in accessibility for SBAs is something that the Assembly Higher Education Committee is no stranger to supporting. Just last year, the Assembly Higher Education Committee passed AB 1736 (Choi, 2021), which was signed into law, and expanded student eligibility for SBA positions to disabled and non-credit students.”

Arguments in opposition. A coalition of organizations, including the Cal Aware, the California Broadcasters Association, the California News Publishers Association, the First Amendment Coalition, the Howard Jarvis Taxpayers Association, and the Journalism Association of Community Colleges “Lawmakers in 2022 passed AB 2449 (Blanca Rubio), amending the Brown Act to give further flexibility to local legislative bodies to allow individual members to participate remotely. Those provisions, which only took effect January 1, 2023, provide members the flexibility to participate remotely for a limited number of meetings so long as “just cause” exists. The legislation recognizes that just cause may exist where a member has caregiving responsibilities, health concerns, or a need to travel out of the jurisdiction on official business of the body. Importantly, the bill required the body to maintain a quorum of members in one physical location accessible to the public inside the jurisdiction. Whenever some members might elect to use teleconferencing to participate remotely, the legislation specifies that the public must also have the ability to access and participate through remote technology.”

“AB 2449 by Assemblymember Blanca Rubio was the result of careful negotiations by members of the undersigned coalition less than one year ago. After thoughtful conversations, the resulting legislation, in effect now for mere months, rigorously balanced open-government protections with the desire for members of local bodies to have increased flexibility for remote participation following the COVID-19 era of increased virtual meetings. The hard work that was done last year must be given an opportunity to play out before making additional, and in some cases, drastic changes to the Brown Act.”

Committee comments. The author has proposed amendments to AB 1275 that seek to address concerns raised by the opposition. These amendments would significantly recast the bill, allowing teleconferencing without complying with the requirements to post agendas at all teleconference locations, identify each teleconference location in the notice and agenda, and make each teleconference location accessible to the public as long as:

- 1) A singular physical location, from which at least a quorum of members of the legislative body participates, is clearly identifiable on the agenda.
- 2) An agenda is posted at the identified location.

- 3) The location is open to the public and situated within the boundaries of the territory over which the local agency exercises jurisdiction.

Due to hearing timing constraints, these amendments will be processed in the Assembly Committee on Local Government.

Prior legislation. 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, authorized the presiding member of a legislative body conducting a meeting to remove an individual for disrupting the meeting, and defines “disrupting” for these purposes. The bill is currently awaiting the Governor’s signature.

AB 1944 (Lee, 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 and making it publicly accessible provided at least a quorum of the members of the body participates in person at a singular physical location and meet additional requirements. The bill was held in the Senate Governance and Finance Committee at the request of the author.

AB 2647 (Levine) Chapter 971, Statutes of 2022, allows writings that have been distributed to members of a legislative body of a local agency less than 72 hours before an open, regular meeting to be exempt from specified requirements of the Brown Act if the agency meets certain requirements.

AB 339 (Lee, 2021) would have required, until December 31, 2023, certain city council or county board of supervisors meetings to allow the public to attend and comment via telephone or internet. The Governor vetoed AB 339.

REGISTERED SUPPORT / OPPOSITION:

Support

Student Senate for California Community Colleges

Opposition

Cal Aware
California Broadcasters Association
California News Publishers Association
First Amendment Coalition
Howard Jarvis Taxpayers Association (HJTA)
Journalism Association of Community Colleges

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