

AMENDED IN SENATE MAY 29, 2024

AMENDED IN ASSEMBLY JANUARY 17, 2024

AMENDED IN ASSEMBLY MARCH 16, 2023

CALIFORNIA LEGISLATURE—2023–24 REGULAR SESSION

ASSEMBLY BILL

No. 817

**Introduced by Assembly Member Pacheco
(Coauthor: Assembly Member Wilson)**

February 13, 2023

An act to add and repeal Section 54953.05 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL’S DIGEST

AB 817, as amended, Pacheco. Open meetings: teleconferencing: subsidiary body.

Existing law, the Ralph M. Brown Act, requires, with specified exceptions, each legislative body of a local agency to provide notice of the time and place for its regular meetings and an agenda containing a brief general description of each item of business to be transacted. The act also requires that all meetings of a legislative body be open and public, and that all persons be permitted to attend unless a closed session is authorized. The act generally requires for teleconferencing that the legislative body of a local agency that elects to use teleconferencing post agendas at all teleconference locations, identify each teleconference location in the notice and agenda of the meeting or proceeding, and have each teleconference location be accessible to the public. Existing law also requires that, during the teleconference, at least a quorum of the members of the legislative body participate from locations within

the boundaries of the territory over which the local agency exercises jurisdiction.

Existing law authorizes the legislative body of a local agency to use alternate teleconferencing provisions during a proclaimed state of emergency (emergency provisions) and, until January 1, 2026, in certain circumstances related to the particular member if at least a quorum of its members participate from a singular physical location that is open to the public and situated within the agency's jurisdiction and other requirements are met (nonemergency provisions). Existing law imposes different requirements for notice, agenda, and public participation, as prescribed, when a legislative body is using alternate teleconferencing provisions. The nonemergency provisions impose restrictions on remote participation by a member of the legislative body and require the legislative body to *provide* specific means by which the public may remotely hear and visually observe the meeting.

This bill, until January 1, 2026, would authorize a subsidiary body, as defined, to use similar alternative teleconferencing provisions and would impose requirements for notice, agenda, and public participation, as prescribed. *The bill would require at least one staff member of the local agency to be present at a designated primary physical meeting location during the meeting. The bill would require the local agency to post the agenda at the primary physical meeting location. The bill would require the members of the subsidiary body to visibly appear on camera during the open portion of a meeting that is publicly accessible via the internet or other online platform, as specified. The bill would also require the subsidiary body to list a member of the subsidiary body who participates in a teleconference meeting from a remote location in the minutes of the meeting.* In order to use teleconferencing pursuant to this act, the bill would require the legislative body that established the subsidiary body by charter, ordinance, resolution, or other formal action to make specified findings by majority vote, before the subsidiary body uses teleconferencing for the first time and every 12 months thereafter.

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

This bill would make legislative findings to that effect.

The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the

writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

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

1 SECTION 1. Section 54953.05 is added to the Government
2 Code, to read:
3 54953.05. (a) (1) The definitions in Section 54953, as that
4 section may be amended from time to time, apply for purposes of
5 this section.
6 (2) For purposes of this section, “subsidiary body” means a
7 legislative body that meets all of the following:
8 (A) Is described in subdivision (b) of Section 54952.
9 (B) Serves exclusively in an advisory capacity.
10 (C) Is not authorized to take final action on legislation,
11 regulations, contracts, licenses, permits, or any other entitlements.
12 (b) A subsidiary body may use teleconferencing without
13 complying with paragraph (3) of subdivision (b) of Section 54953,
14 if the subsidiary body complies with all of the following:
15 (1) The teleconferenced meetings shall be conducted in a manner
16 that protects the statutory and constitutional rights of the parties
17 or the public appearing before the subsidiary body.
18 (2) Each member of the subsidiary body shall participate through
19 both audio and visual technology.
20 (3) The subsidiary body shall provide at least one of the
21 following as a means by which the public may remotely hear and
22 visually observe the meeting, and remotely address the subsidiary
23 body:
24 (A) A two-way audiovisual platform.
25 (B) A two-way telephonic service and a live webcasting of the
26 meeting.
27 (4) The subsidiary body shall give notice of the meeting and
28 post agendas as otherwise required by this chapter.
29 (5) *The subsidiary body shall designate a primary physical*
30 *meeting location where members of the public may physically*

1 *attend, observe, hear, and participate in the meeting. At least one*
2 *staff member of the local agency shall be present at the primary*
3 *physical meeting location during the meeting. The local agency*
4 *shall post the agenda at the primary physical meeting location,*
5 *but need not post the agenda at a remote location.*

6 ~~(5)~~

7 (6) In each instance in which notice of the time of the
8 teleconferenced meeting is otherwise given or the agenda for the
9 meeting is otherwise posted, the subsidiary body shall also give
10 notice of the means by which members of the public may access
11 the meeting and offer public comment.

12 ~~(6)~~

13 (7) The agenda shall identify and include an opportunity for all
14 persons to attend and address the subsidiary body directly pursuant
15 to Section 54954.3 via a call-in option or via an internet-based
16 service option.

17 ~~(7)~~

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

30 ~~(8)~~

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

37 (10) *The members of the subsidiary body shall visibly appear*
38 *on camera during the open portion of a meeting that is publicly*
39 *accessible via the internet or other online platform.*

1 (A) *The visual appearance of a member of the subsidiary body*
2 *on camera may cease only when the appearance would be*
3 *technologically impracticable, including, but not limited to, when*
4 *the member experiences a lack of reliable broadband or internet*
5 *connectivity that would be remedied by joining without video, or*
6 *when the visual display of meeting materials, information, or*
7 *speakers on the internet or other online platform requires the*
8 *visual appearance of a member of a subsidiary body on camera*
9 *to cease.*

10 (B) *If a member of the advisory body does not appear on camera*
11 *due to challenges with internet connectivity, the member shall*
12 *announce the reason for their nonappearance when they turn off*
13 *their camera.*

14 ~~(9)~~

15 (11) The subsidiary body shall not require public comments to
16 be submitted in advance of the meeting and must provide an
17 opportunity for the public to address the subsidiary body and offer
18 comment in real time.

19 (A) A subsidiary body that provides a timed public comment
20 period for each agenda item shall not close the public comment
21 period for the agenda item, or the opportunity to register, pursuant
22 to paragraph~~(8)~~, (9), to provide public comment until that timed
23 public comment period has elapsed.

24 (B) A subsidiary body that does not provide a timed public
25 comment period, but takes public comment separately on each
26 agenda item, shall allow a reasonable amount of time per agenda
27 item to allow public members the opportunity to provide public
28 comment, including time for members of the public to register
29 pursuant to paragraph~~(8)~~, (9), or otherwise be recognized for the
30 purpose of providing public comment.

31 (C) A subsidiary body that provides a timed general public
32 comment period that does not correspond to a specific agenda item
33 shall not close the public comment period or the opportunity to
34 register, pursuant to paragraph~~(8)~~, (9), until the timed general
35 public comment period has elapsed.

36 (12) *A member of the subsidiary body who participates in a*
37 *teleconference meeting from a remote location shall be listed in*
38 *the minutes of the meeting.*

39 (c) In order to use teleconferencing pursuant to this section, the
40 legislative body that established the subsidiary body by charter,

1 ordinance, resolution, or other formal action shall make the
2 following findings by majority vote before the subsidiary body
3 uses teleconferencing pursuant to this section for the first time,
4 and every 12 months thereafter:

5 (1) The legislative body has considered the circumstances of
6 the subsidiary body.

7 (2) Teleconference meetings of the subsidiary body would
8 enhance public access to meetings of the subsidiary body.

9 (3) Teleconference meetings of the subsidiary body would
10 promote the attraction, retention, and diversity of subsidiary body
11 members.

12 (d) This section shall remain in effect only until January 1, 2026,
13 and as of that date is repealed.

14 SEC. 2. The Legislature finds and declares that Section 1 of
15 this act, which adds and repeals Section 54953.05 of the
16 Government Code, imposes a limitation on the public's right of
17 access to the meetings of public bodies or the writings of public
18 officials and agencies within the meaning of Section 3 of Article
19 I of the California Constitution. Pursuant to that constitutional
20 provision, the Legislature makes the following findings to
21 demonstrate the interest protected by this limitation and the need
22 for protecting that interest:

23 By removing the requirement for agendas to be placed at the
24 location of each public official participating in a public meeting
25 remotely, this act protects the personal, private information of
26 public officials and their families while preserving the public's
27 right to access information concerning the conduct of the people's
28 business.

29 SEC. 3. The Legislature finds and declares that Section 1 of
30 this act, which adds Section 54953.05 to the Government Code,
31 furthers, within the meaning of paragraph (7) of subdivision (b)
32 of Section 3 of Article I of the California Constitution, the purposes
33 of that constitutional section as it relates to the right of public
34 access to the meetings of local public bodies or the writings of
35 local public officials and local agencies. Pursuant to paragraph (7)
36 of subdivision (b) of Section 3 of Article I of the California
37 Constitution, the Legislature makes the following findings:

1 This act is necessary to provide opportunities for public
2 participation in meetings of specified public agencies and to
3 promote the attraction and retention of members of those agencies.

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