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SB-411 Open meetings: teleconferences: neighborhood councils. (2023-2024)

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Senate Bill No. 411

CHAPTER 605

An act to add and repeal Section 54953.8 of the Government Code, relating to local government, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 08, 2023. Filed with Secretary of State October 08, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

SB 411, Portantino. Open meetings: teleconferences: neighborhood councils.

Existing law, the Ralph M. Brown Act, requires, with specified exceptions, that all meetings of a legislative body, as defined, of a local agency be open and public and that all persons be permitted to attend and participate. 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. The act provides an exemption to the jurisdictional requirement for health authorities, as defined.

Existing law, until January 1, 2024, authorizes the legislative body of a local agency to use alternate teleconferencing provisions during a proclaimed state of emergency or in other situations related to public health that exempt a legislative body from the general requirements (emergency provisions) and impose different requirements for notice, agenda, and public participation, as prescribed. The emergency provisions specify that they do not require a legislative body to provide a physical location from which the public may attend or comment.

Existing law, until January 1, 2026, authorizes the legislative body of a local agency to use alternative teleconferencing 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, including restrictions on remote participation by a member of the legislative body.

This bill, until January 1, 2026, would authorize an eligible legislative body to use alternate teleconferencing provisions related to notice, agenda, and public participation, as prescribed, if the city council has adopted an authorizing resolution and $\frac{2}{3}$ of an eligible legislative body votes to use the alternate teleconferencing provisions. The bill would define "eligible legislative body" for this purpose to mean a neighborhood council that is an advisory body with the purpose to promote more citizen participation in government and make government more responsive to local needs that is established pursuant to the charter of a city with a population of more than 3,000,000 people that is subject to the act. The bill would require an eligible legislative body authorized under the bill to provide publicly accessible physical locations for public participation, as prescribed. The bill would also require that at least a quorum of the members of the neighborhood council participate from locations within the boundaries of the city in which the neighborhood council is established. The bill would require that, at least once per year, at least a quorum of the

members of the eligible legislative body participate in person from a singular physical location that is open to the public and within the boundaries of the eligible legislative body.

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.

This bill would make legislative findings and declarations as to the necessity of a special statute for the neighborhood councils of the City of Los Angeles.

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

Vote: 2/3 Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares that neighborhood councils in the City of Los Angeles provide important community input to the city council. Unlike other legislative bodies that have access to regular meeting locations, these volunteer, uncompensated, elected members have had trouble finding public locations to hold their meetings. While the Legislature recently granted additional teleconferencing flexibility for legislative bodies to use teleconferencing more flexibly, the additional teleconferencing flexibility of this act is necessary to account for the specific needs of neighborhood councils in the City of Los Angeles.

SEC. 2. Section 54953.8 is added to the Government Code, to read:

54953.8. (a) (1) An eligible legislative body may use teleconferencing without complying with paragraph (3) of subdivision (b) of Section 54953 if the eligible legislative body complies with paragraphs (2) to (4), inclusive.

(2) An eligible legislative body may only use teleconferencing as described in this section after all the following have occurred:

(A) The city council for a city described in subdivision (c) considers whether to adopt a resolution to authorize eligible legislative bodies to use teleconferencing as described in paragraph (1) at an open and regular meeting.

(B) If the city council adopts a resolution described in subparagraph (A), 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 city council if it elects to use teleconferencing pursuant to this section and its justification for doing so.

(C) Upon receiving notification from a legislative body as described in subparagraph (B), the city council may adopt a resolution to prohibit the eligible legislative body from using teleconferencing pursuant to this section.

(3) After completing the requirements in paragraph (2), an eligible legislative body that holds a meeting pursuant to this subdivision shall do all of the following:

(A) 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.

(B) 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 Section 54960.1.

(C) 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.

(D) Notwithstanding Section 54953.3, 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.

(E) (i) 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, pursuant to subparagraph (D), to provide public comment until that timed public comment period has elapsed.

(ii) 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 pursuant to subparagraph (D), or otherwise be recognized for the purpose of providing public comment.

(iii) 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, pursuant to subparagraph (D), until the timed general public comment period has elapsed.

(F) At least a quorum of the members of the eligible legislative body shall participate from locations within the boundaries of the city in which the eligible legislative body is established.

(G) 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 within the boundaries of the eligible legislative body.

(4) An eligible legislative body that holds a meeting pursuant to this subdivision shall do the following, as applicable:

(A) If the meeting is during regular business hours of the offices of the city council member that represents the area that includes the eligible legislative body, 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 city council member who represents the area where the eligible legislative body is located, unless the eligible legislative body identifies an alternative location.

(B) 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 subparagraph, "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.

(b) The legislative body shall comply with all other requirements of Section 54953.

(c) As used in this section, "eligible legislative body" means a neighborhood council that is an advisory body with the purpose to promote more citizen participation in government and make government more responsive to local needs that is established pursuant to the charter of a city with a population of more than 3,000,000 people that is subject to this chapter.

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

SEC. 3. The Legislature finds and declares that Section 2 of this act, which adds Section 54953.8 to the Government Code, 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 neighborhood councils will continue these benefits.

SEC. 4. The Legislature finds and declares that Section 2 of this act, which adds Section 54953.8 to the Government Code, 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 neighborhood councils will continue these benefits.

SEC. 5. The Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the specific needs of neighborhood councils in the City of Los Angeles.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

Virtual meetings have allowed much easier access to neighborhood councils with far more members of the public participating in each meeting. This has created greater equity in the process and fostered the health of our democracy. In-person meetings may jeopardize the health and safety of vulnerable citizens due to ongoing risks of COVID-19 and other illnesses.