

Date of Hearing: April 24, 2024

ASSEMBLY COMMITTEE ON EDUCATION
Al Muratsuchi, Chair
AB 2350 (Hoover) – As Introduced February 12, 2024

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

SUBJECT: Open meetings: school boards: emergencies: notifications by email

SUMMARY: Allows notifications for emergency meetings required by the Ralph M. Brown Act (Brown Act) to be sent via email, instead of given by telephone, for an emergency meeting held by the governing board of a school district. Specifically, **this bill:**

- 1) Requires each local newspaper of general circulation and radio or television station that has requested notice of special meetings to be notified by the presiding officer of the legislative body, or designee thereof, one hour prior to the emergency meeting, or, in the case of a dire emergency, at or near the time that the presiding officer or designee notifies the members of the legislative body of the emergency meeting.
- 2) Authorizes, for an emergency meeting held by a school board pursuant to this section, the presiding officer of the school board, or designee thereof, to send the notifications required by this paragraph by email instead of by telephone, as provided. Requires, in the event that internet services and telephone services are not functioning, specified notice requirements to be deemed waived, and the school board, or designee of the school board, to notify those newspapers, radio stations, or television stations of the fact of the holding of the emergency meeting, the purpose of the meeting, and any action taken at the meeting as soon after the meeting as possible.
- 3) States that no reimbursement is required because the only costs that may be incurred by a local agency or school district under this bill would result from a legislative mandate that is within the scope of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution.

EXISTING LAW:

Regular meetings

- 1) Requires, under the Ralph M. Brown Act, that all meetings of the legislative body of a local agency to be open and public, and requires that all persons be permitted to attend any meeting of the legislative body of a local agency. (Government Code (GOV) 54953)
- 2) Defines “local agency” as 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 other local public agency. (GOV 54951)

Special meetings

- 3) Authorizes a special meeting of the governing board of a school district to be called at any time by the presiding officer of the board, or by a majority of the members thereof, by

delivering personally or by mail written notice to each member of the board and to each local newspaper of general circulation, radio, or television station requesting notice in writing. Requires the notice to be delivered personally or by mail at least 24 hours before the time of the meeting as specified in the notice. Requires the call and notice to specify the time and place of the special meeting and the business to be transacted. Requires no other business to be considered at those meetings by the governing board. (Education Code (EC) 35144)

- 4) Authorizes a special meeting to be called at any time by the presiding officer of the legislative body of a local agency, or by a majority of the members of the legislative body, by delivering written notice to each member of the legislative body and each local newspaper of general circulation and radio or television station requesting notice in writing and posting a notice on the local agency's website, if the local agency has one. Requires the notice to be delivered personally or by any other means and shall be received at least 24 hours before the time of the meeting as specified in the notice. Requires the call and notice to specify the time and place of the special meeting and the business to be transacted or discussed. Requires no other business to be considered at these meetings by the legislative body. Requires the call and notice to be posted at least 24 hours prior to the special meeting in a location that is freely accessible to members of the public. (GOV 54956)
- 5) Prohibits a legislative body from calling a special meeting regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits, of a local agency executive, as defined. This provision does not apply to a local agency calling a special meeting to discuss the local agency's budget. (GOV 54956)

Emergency meetings

- 6) Provides for meetings in the case of an "emergency situation" under the Brown Act, as follows:
 - a) Defines an "emergency situation" to mean both of the following:
 - i) An emergency, which is defined as a work stoppage, crippling activity, or other activity that severely impairs public health, safety, or both, as determined by a majority of the members of the legislative body.
 - ii) A dire emergency, which is defined as a crippling disaster, mass destruction, terrorist act, or threatened terrorist activity that poses peril so immediate and significant that requiring a legislative body to provide one-hour notice before holding an emergency meeting under this section may endanger the public health, safety, or both, as determined by a majority of the members of the legislative body.
 - b) Allows, in the case of an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of public facilities, a legislative body to hold an emergency meeting without complying with the 24-hour notice or posting requirements for special meetings, subject to the following requirements:
 - i) Each local newspaper of general circulation and radio or television station that has requested notice of special meetings shall be notified by the presiding officer of the

- legislative body, or designee thereof, one hour prior to the emergency meeting, or, in the case of a dire emergency, at or near the time that the presiding officer or designee notifies the members of the legislative body of the emergency meeting.
- ii) This notice shall be given by telephone and all telephone numbers provided in the most recent request of a newspaper or station for notification of special meetings shall be exhausted.
 - iii) In the event that telephone services are not functioning, the notice requirements of this section shall be deemed waived, and the legislative body, or designee of the legislative body, shall notify those newspapers, radio stations, or television stations of the fact of the holding of the emergency meeting, the purpose of the meeting, and any action taken at the meeting as soon after the meeting as possible.
- c) All special meeting requirements are applicable to a meeting called due to an emergency situation, with the exception of the 24-hour notice requirement.
- 7) The minutes of a meeting called due to an emergency situation, a list of persons whom the presiding officer of the legislative body, or designee of the legislative body, notified or attempted to notify, a copy of the rollcall vote, and any actions taken at the meeting shall be posted for a minimum of 10 days in a public place as soon after the meeting as possible.
(GOV 54956.5)

FISCAL EFFECT: This bill has been keyed as a possible state-mandated local program by the Office of Legislative Counsel.

COMMENTS:

Key provisions of the bill. This bill, sponsored by the author, allows notifications for emergency meetings required by the Brown Act to be sent via email, instead of given by telephone, for an emergency meeting held by a school board. The bill requires these notices to be sent to each local newspaper of general circulation and radio or television station that has requested notice of special meetings and is also required to be notified of emergency meetings.

If internet services and telephone services are not functioning, the notice requirements of this bill are required to be deemed waived, and the school board, or designee of the school board, would be required to notify those newspapers, radio stations, or television stations of the fact of the holding of the emergency meeting, the purpose of the meeting, and any action taken at the meeting as soon after the meeting as possible.

Need for the bill. According to the author, “In an era of seemingly increased emergencies, including pandemic and gun violence, school board staff need the flexibility to contact the media with alacrity. Additionally, in the event an overwhelmed board were to miss making such phone calls and does not properly make notice of a meeting in the middle of a crisis, it could be grounds to overturn the actions of the emergency meeting.”

The Brown Act. The Brown Act was enacted in 1953 and has been amended numerous times since then. 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 defines a "meeting" as "any congregation of a majority of the members of a legislative body at the same time and location, including teleconference locations, to hear, discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the legislative body."

Types of school board meetings and required public notice. Under the Brown Act, school district governing boards have the authority to convene regular meetings with 72 hour public notice, special meetings with 24 hour public notice, and emergency meetings with less than 24 hour public notice.

The 24-hour notice for a special meeting is required to be delivered in writing to each member of the legislative body and each local newspaper of general circulation and radio or television station requesting notice. The notice must also be posted on the local agency's website, if the local agency has one.

Most special meeting requirements apply to emergency meetings. However, if an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of public facilities, a school district may hold an emergency meeting without complying with the 24-hour notice and posting requirements. Instead, the notice must be provided via telephone one hour before the emergency meeting, or at or near the time the members of the school district governing board are notified. If the telephone services are not functioning, the Brown Act waives this notification requirement and requires the legislative body to notify those media entities of certain details of the emergency meeting as soon after the meeting as possible.

Related legislation. AB 817 (Pacheco) of the 2023-24 Session would allow, until January 1, 2026, a subsidiary body of a local agency to use teleconferencing for its meetings 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 subsidiary body to participate from within the local agency's jurisdiction, subject to certain conditions.

AB 1855 (Arambula) of the 2023-24 Session would allow, until January 1, 2026, a community college student body association to teleconference without meeting all of the teleconferencing requirements of the Brown Act.

AB 2302 (Addis) of the 2023-24 Session would revise the limits on the number of teleconference meetings in which any member of a legislative body can participate within a given period of time.

AB 2715 (Boerner) of the 2023-24 Session would authorize a closed session to consider or evaluate matters related to cybersecurity, including vulnerabilities to, or potential ongoing threats to an agency's cybersecurity, provided that any action taken on those matters is done in an open session.

AB 557 (Hart), Chapter 534, Statutes 2023, eliminates the January 1, 2024, sunset date on AB 361 (Robert Rivas) Chapter 165, Statutes of 2021, 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 361 (Robert Rivas) Chapter 165, Statutes of 2021, allows, until January 1, 2024, local agencies to use teleconferencing without complying with specified Ralph M. Brown Act restrictions in certain state emergencies and provides similar authorizations, until January 31, 2022, for state agencies subject to the Bagley-Keene Open Meetings Act and legislative bodies subject to the Gloria Romero Open Meetings Act of 2000.

AB 1643 (Johnson), Chapter 175, Statutes of 2002, made a number of changes to the Brown Act's provisions governing emergency situations.

AB 339 (Brown), Chapter 1588, Statutes of 1953, established the Ralph M. Brown Act which governs public meetings and other functions conducted by legislative bodies of public agencies.

REGISTERED SUPPORT / OPPOSITION:**Support**

None on file

Opposition

None on file

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