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Senate Committee
on
Local Government

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INFORMATIONAL HEARING

MEETING THE MOMENT: STRENGTHENING COMMUNITY VOICES IN LOCAL GOVERNMENT MEETINGS

1021 O Street, Room 2200
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Committee Background

This background paper prepares the members of the Senate Local Government Committee for the March 19, 2025, informational hearing titled "**Meeting the Moment: Strengthening Community Voices in Local Government Meetings.**" Through this hearing, the Committee will explore the Ralph M. Brown Act (Brown Act), which governs local agency meetings, consider recent legislation amending the Brown Act, learn from the experience of local agency officials and the community, and identify strategies to improve community input in public meetings.

At the hearing, the Committee will first receive an overview of the Brown Act, recent legislation amending the Brown Act, and learn from experts on what makes effective public meetings. Second, the Committee will hear from public officials and community members from Los Angeles that experienced the January 2025 wildfires and how local agencies communicated with the public throughout the emergency. The third panel will highlight the efforts of various local agencies ability to hold effective public meet ings and the challenges they face. Finally, the Committee will hear from various community members on what is, and is not, working about the current Brown Act, to help identify strategies to improve public meetings for local agencies and the public.

This background paper:

- Considers why local agencies hold public meetings;
- Deliberates strategies to make meetings more effective when it comes to encouraging public participation and engagement;
- Examines how local agency meetings have evolved before and after the Brown Act's enactment;
- Outlines recently enacted Brown Act legislation; and
- Discusses significant issues affecting the implementation of the Brown Act.

Getting in the same room

Local agencies hold countless meetings throughout the year. These meetings serve as a vital connection between the public and the local officials appointed or elected to represent them. Whether it is a city council, board of supervisors, school district, planning commission, or mosquito abatement district, local agencies make important decisions about how our communities look, act, and feel.

Why do we have public meetings? One perspective shared in the journal *Public Administration Review* offers insight:

> "… meetings, by helping citizens to be more effective, can enhance the responsiveness and accountability of government. Citizen deliberation and discussion on tough policy choices may lead to the formulation of better policy but, by itself, does not make government any more responsive to citizens. If citizen recommendations go unheeded, then the whole process is for naught. This is where public meetings fit in: they provide a venue for citizens to carry out a political struggle to have their voices heard and recommendations heeded. After citizens deliberate on an issue, weigh policy choices, and make recommendations, they can go to a public meeting to make their case."[1]

The article goes on to describe the several functions that public meetings can have for the public:[2]

- Providing information;
- Demonstrating a show of support or opposition;
- Shaming, or criticizing a decision the public disagrees with;
- Agenda setting, or bringing up issues the legislative body does not place on the agenda;
- Delaying a decision;
- Networking, or allowing likeminded individuals to connect with each other; and
- Influencing votes.

[1] Adams, Brian. 2004. "Public Meetings and the Democratic Process." Public Administration Review 64(1): 43–54. https://doi.org/10.1111/j.1540-6210.2004.00345.x.
[2] Ibid.

While meetings can have different purposes, what should we look for to determine whether the public meeting is effectively performing those functions? A survey of city managers in 2005 revealed key steps for effective public meetings:[3]

- Carefully prepare for the hearing. Clarify goals, hold the hearing or alternative public participation events early in the decision process, select an appropriate site, and select an effective facilitator;
- Effectively publicize the hearing using multiple media. Create public interest and educate citizens about what is involved and how they will be affected. Use multiple communication channels to notify, educate, and build interest;
- Launch the meeting well. Clearly frame the key issues and use multiple media to help achieve understanding. Clarify the procedures to be used during the meeting;
- Ensure the facilitator guides and moves the discussion along, clarifying and summarizing main points, assuring citizens of the value of their input, and managing their emotions;
- Make sure that attending government officials carefully listen to and value citizens' comments, remembering that they are stewards rather than owners. Help officials to be honest and forthright yet respectful and sensitive in their responses;
- Follow up effectively after the meeting, carefully considering and using applicable input and reporting back to the citizenry; and
- Consider public hearings only one part of an overall public communication strategy.

Local agencies can only fulfill these goals if they hear from the communities they represent. Getting local officials and the public in the same room is the best way to make this happen.

However, as technology has advanced, what constitutes that "room" has changed. More meetings than ever have moved online. According to an article in *Public Administration Review*, entitled *Mind the gap: Strategies from California on navigating access to public hearings*:

> "In recent years, local governments have faced increasing pressure to keep pace with evolving technologies while balancing competing budget priorities and assuming a growing role in addressing policy issues that were previously the focus of state and national governments. The COVID-19 pandemic context has presented further complexity. Left unaddressed, these challenges contribute to a widening gap between what is administratively sustainable versus politically acceptable."[4]

If public meetings are not effective avenues for public input, then:

> "A process that lacks opportunities for constructive citizen deliberation will lead to disillusionment among citizens and reinforce the disconnect between citizens and their government. On the other hand, a process that allows citizens

[3] Baker, William H., H. Lon Addams, and Brian Davis. 2005. "Critical Factors for Enhancing Municipal Public Hearings." Public Administration Review 65(4): 490–9.

[4] Bukalova, Dominika, and Elizabeth Maland. 2023. "Mind the Gap: Strategies from California on Navigating Access to Public Hearings." Public Administration Review 83(2): 435–441. https://doi.org/10.1111/puar.13581.

> constructive input but limits their capacity to fight political battles, influence legislative votes, or criticize officials will reduce governmental responsiveness. Without the political power to back up citizen input, much of it will be duly filed, never to see the light of day again."[5]

While these critical factors of effective public meetings, and the consequences if local agencies do not follow them, appear straightforward enough, it was not until the 1950s that state law required local agencies adopt a minimum standard for conducting public meetings.

The Ralph M. Brown Act: an origin story

California's first constitution in 1849 established the right for the public to freely assemble to consult for the public good, instruct their representatives, and petition the Legislature for redress of their grievances. This right has been a part of every version of the California Constitution since. However, providing a right and ensuring that governments do everything in their power to ensure it is carried out are not the same.

In 1952, the San Francisco Chronicle published a series of stories titled *Your Secret Government: It Comes in Many Guises*, which outlined not just the legal requirements for local agencies to hold open meetings, but also the many ways that local agencies sought to circumvent these requirements.[6] A survey the author of those articles, Michael Harris, conducted found that various Bay Area boards and councils performed almost all their business behind closed doors, leaving only final passage of their ordinances or resolutions for the public meeting.

When the San Mateo County Board of Supervisors faced criticism they conducted business in smoke-filled rooms, they passed a resolution stating:

> "Whereas, the San Mateo County Board of Supervisors has been accused in the public press and elsewhere of conducting county business in smoke-filled caucus rooms;
>
> "And whereas, it is intent of this board to see that all county business be conducted in a clean and healthful manner;
>
> "Now, therefore, be it resolved that henceforth there shall be no smoking at any caucus session of this Board of Supervisors…"[7]

Although in jest, the resolution highlighted local officials' interest in conducting some business behind closed doors, and only made business public when they had to.

In 1953, Assemblymember Ralph M. Brown, an attorney from Modesto, authored Assembly Bill 339, to set a minimum standard for local agencies to conduct their meeting, which became

[5] Ibid.
[6] https://www.scribd.com/document/242463384/Your-Secret-Government
[7] Ibid.

known as the Ralph M. Brown Act. While many of its provisions have changed in subsequent years, its preamble has not:

> In enacting this chapter, the Legislature finds and declares that the public commissions, boards and councils and the 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.

While the Brown Act provides statutory assurance to the public they would have access to local meetings and records, it was not until 2004 that voters approved Proposition 59 to add 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." Article I Section Three of the California Constitution, as amended by Proposition 59, ensures the right to openly scrutinize public agencies is maintained and requires local agencies to comply with certain state laws that outline the basic requirements for public access to meetings and public records. If a subsequent bill modifies these laws, the bill must include findings demonstrating how it furthers the public's access to local agencies and their officials.

Overview of today's Brown Act

The Brown Act generally requires local agencies to notice meetings in advance, including the posting of an agenda, and requires these meetings to be open and accessible to the public. The Brown Act defines a "meeting" as "any congregation of a majority of the member 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." The Brown Act applies not just to governing bodies of local agency like a city council or county board of supervisors. It also applies to these other legislative bodies of a local agency:

- Bodies of a local agency, whether permanent or temporary, decisionmaking or advisory, created by charter, ordinance, resolution, or formal action of a legislative body;
- Standing committees of a legislative body, regardless of their composition, that have a continuing subject matter jurisdiction, or a meeting schedule fixed by charter, ordinance, resolution, or formal action of a legislative body; and
- Boards, commissions, committees, or other multimember bodies that govern a private corporation, limited liability company, or other entity that either is created by an elected

legislative body to exercise authority delegated to it, or receives funds from a local agency and the membership includes a full voting member from that legislative body.

Advisory committees composed of less than a quorum of the legislative body are not subject to the Brown Act unless they meet one of the above categories. The Brown Act only allows legislative bodies to take actions, meaning a majority vote of the legislative body unless otherwise specified, on items that appear on a posted agenda.

The Brown Act lays out certain requirements for public participation. The legislative body cannot require members of the public to register or provide information as a condition of participation. The Brown Act also generally requires every agenda for meetings to provide an opportunity for the public to directly address the legislative body on any item of public interest, before or during its consideration of the item, within its jurisdiction. While the Brown Act requires local agencies to provide opportunities for public comment, it also allows local agencies to adopt reasonable regulations to carry out public participation requirements, such as limiting the amount of time for public testimony on each item and for each speaker. These restrictions must be content-neutral. For example, the local agency cannot restrict public criticism of its actions.

If a member of the public, including the respective district attorney, believes a local agency violated the Brown Act, it must first send an order to the local agency to correct the violation. If the local agency disagrees with the complaint and does not correct it, the submitter can pursue the complaint through the courts. If the court agrees with the complaint, outcomes range from invalidating certain actions of the local agency to a misdemeanor criminal conviction.

Types of meetings. For a regularly scheduled meeting, the legislative body must post an agenda containing a brief general description of each item, including items to be discussed in closed session, at least 72 hours before the meeting. The agenda must specify the time and location of the regular meeting, and be posted in a location that is freely accessible to members of the public and on the local agency's internet website, if the local agency has one.

When a legislative body cannot provide 72-hour notice due to the need to discuss a specific item outside of the regular meeting schedule, it can call for a special meeting by providing notice to each member of the legislative body, each local newspaper of general circulation, radio, and television station that requests notice, and by posting it in a public place, at least 24 hours prior to the meeting. Special meetings cannot be called regarding salary or compensation of local agency executives.

In emergency circumstances, a legislative body can hold an emergency meeting where action is necessary due to the disruption or threatened disruption of public facilities without complying with the 24-hour notice and posting requirements.

Meetings can include both open session, where the public is able to listen and participate, and closed session, which is a private conversation between members of the legislative body.

Generally, the Brown Act prohibits private discussions among a majority of a legislative body unless that discussion meets one of a series of exceptions. Examples include discussing the purchase, sale, or lease of real property, and conferring with legal counsel regarding pending litigation.

Turning point: How COVID-19 tested the Brown Act

The Brown Act first allowed teleconference meetings in 1988. At the time, San Diego County was considering the use of video teleconferencing for meetings and hearings of the board of supervisors due to concerns about the long distances some of their constituents travelled to participate, and were concerned these distances prohibited some people from attending at all. AB 3191 (Frazee, 1988) responded to these concerns by authorizing the legislative body of a local agency to use teleconferencing, meaning both members of the legislative body and the public have the opportunity to participate remotely. Since that time, a number of bills have made modifications to this original authorization.

The Brown Act allows the legislative body of a local agency to use teleconferencing for the benefit of the public and the legislative body in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding must comply with all requirements of the Brown Act and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding. Teleconferencing may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting must be taken by roll call. The agenda must provide an opportunity for members of the public at each teleconference location to address the legislative body directly pursuant to the Brown Act's provisions governing public comment.

In addition to the above, if a legislative body of a local agency elects to use teleconferencing, it must follow four requirements:

- Each teleconference location must be accessible to the public;
- Each teleconference location must be identified in the notice and agenda of the meeting or proceeding;
- The legislative body must post agendas at all teleconference locations; and
- During the teleconference, at least a quorum of the members of the legislative body must participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, with specified exceptions.

When AB 3191 authorized this authority, technology did not provide members of a legislative body with many options to participate from home. More likely than not, it gave an option for members to participate from an office, the address of which the member would have to notice in the agenda and make publicly available. As broadband internet access increased in availability and speed, video streaming services became accessible almost anywhere, including homes and businesses. If a member participated from one of these locations, the Brown Act would require them to notice the location and make it publicly accessible. Despite the potential complications

from having to make a home publicly accessible, the issue would not rise to the Legislature's attention until 2020.

Public meetings during the COVID-19 pandemic. In response to the impacts of the COVID-19 pandemic, including mandatory "stay-at-home" orders, public agencies had to find new ways of conducting business because of the public safety risk associated with meeting in person. In March 2020, the Governor issued Executive Order N-29-20, which provided local agencies with more flexibility to use teleconferencing without making those teleconference locations accessible to the public. In June 2020, the Governor issued Executive Order N-08-21 notifying local agencies and the public that previous executive orders concerning the conduct of public meetings would apply through September 30, 2021.

Despite the executive order, both local and state governing bodies wanted to ensure they would have the ongoing ability to teleconference without having to disclose the location of teleconferencing members or make that location accessible to the public. The Legislature enacted AB 361 (Robert Rivas, 2021) which allowed, until January 1, 2024, local agencies to use teleconferencing without complying with specified Brown Act restrictions in certain state-declared emergencies. If a state of emergency remains active, the legislative body must make findings to continue using the exemptions AB 361 provides every 45 days. AB 557 (Hart, 2023) eliminated the sunset, among other changes.

AB 2449 (Blanca Rubio, 2022). While AB 361 allowed local agencies flexibility to teleconference meetings without noticing teleconferencing locations or making them publicly accessible during state-declared emergencies, once local agencies became accustomed to this flexibility, they pushed for similar flexibility during non-emergency circumstances. AB 2449 gave members of legislative bodies more teleconferencing flexibility in non-emergency circumstances. It allowed members of legislative bodies to participate remotely for "just cause" and "emergency circumstances" without noticing their teleconference location or making that location public. Under the measure, just cause includes:

- Childcare or caregiving need that requires a member to participate remotely;
- A contagious illness that prevents a member from attending in person;
- A need related to a physical or mental disability not otherwise accommodated; and
- Travel while on official business of the legislative body or another state or local agency.

Emergency circumstances are a physical or family medical emergency that prevents a member from attending in person.

To use this flexibility, at least a quorum of the legislative body must participate in person at one physical location, which must be identified on the agenda, open to the public, and within the boundaries of the local agency's jurisdiction. The bill also placed additional requirements on local agencies using provisions modeled after AB 361.

When a member uses this flexibility, they must participate through both audio and visual technology, and publicly disclose whether any other individuals 18 years of age or older are

present in the same room at the teleconference location and the member's relationship with any such individuals. Additionally, members are limited from using this flexibility for roughly 20 percent of a legislative body's meetings depending on how frequent that legislative body meets.

AB 2449 sunsets on January 1, 2026.

These previous measures tailor their flexibility to specific events, or provide flexibility to members for a limited set of accommodations. This ensures the public can directly address members of a legislative body in person, except when a member needs a particular accommodation, or to ensure public health and safety. These limits also ensure that a member of a legislative body does not routinely participate remotely to avoid public scrutiny.

Other teleconferencing flexibility. Despite these efforts to provide teleconferencing flexibility for members of legislative bodies, legislators sought additional flexibility for specific groups, as described in the table below.

SB 411 (Portantino, 2023) allows City of Los Angeles neighborhood councils to teleconference meetings without having to notice and make publicly accessible each teleconference location, subject to certain requirements and restrictions, including city council approval. These councils hold monthly meetings to advocate on issues of neighborhood concern, and communicate with the city council to provide local expertise on community needs. Similarly, AB 1855 (Arambula, 2024) allows community college student body associations to teleconference meetings without having to notice and make publicly accessible each teleconference location. Both measures sunset on January 1, 2026.

Not all efforts have been successful. For example, SB 537 (Becker, 2023) would have provided teleconferencing flexibility for multijurisdictional legislative bodies. The author subsequently amended the measure to cover a different subject. Similarly, AB 817 (Pacheco, 2024) would have provided teleconferencing flexibility for subsidiary bodies, or bodies that make recommendations to a legislative body, but do not have decisionmaking power themselves. The measure died in the Senate Local Government Committee.

Pros and cons of teleconferencing. Supporters of measures like AB 817 argue subsidiary bodies warrant more flexibility than other local agencies because they can include individuals with physical or economic limitations, including seniors, individuals with disabilities, those with caretaking responsibilities, economically marginalized groups, and those who live in rural areas that face prohibitive driving distances. They say increasing teleconferencing opportunities could make it easier for these individuals to serve on these subsidiary bodies. They also argue that when these individuals participate remotely, they often participate from home, and under current law, these individuals would have to publish their home address and make it publicly accessible in most cases, which creates security concerns. However, opponents of this flexibility, like news organizations and public transparency groups, contend that exempting subsidiary bodies from the Brown Act, or providing them with additional flexibility, limits public access to organizations that serve an important role advising local agencies.

While teleconferencing does make it easier for the legislative body to participate, it does have its drawbacks in terms of public access. If the teleconferencing flexibility does not require an in-person meeting location or quorum, the public's only opportunity to participate is over the internet. This limits the public's ability to participate in local meetings for a few reasons. First, in-person testimony can be more effective because it is more difficult to ignore the intensity of the public's feedback when members are face-to-face with the public. Second, it is difficult to determine whether outside forces are influencing a member's decisions when the public cannot see who else is in the room with the member, or how members communicate with each other. Third, moving meetings online could create participation challenges to residents without broadband internet access.

Other recent Brown Act issues

Serial meetings. The Brown Act prohibits a majority of members from using a series of communications of any kind, or acting through an intermediary, to discuss, deliberate, or take action on any issue in its jurisdiction outside of a meeting. This does not prevent employees or members from engaging in conversations outside of meetings to answer questions or provide information, provided that the other person does not share that communication with other members of the legislative body. The Brown Act provides several exceptions to this serial communication prohibition, including individual contacts or conversations between a member of a legislative body and any other person that does not otherwise violate the Brown Act. Additionally, it does not apply to the following types of meetings attended by a majority of members, provided that members do not discuss among themselves specific issues under their jurisdiction:

- Conferences or similar gatherings open to the public that discusses general issues;
- Open and publicized meetings outside organizations put on to address a topic of local community concern;
- Open and publicized meetings of other local agencies;
- Social or ceremonial occasions; and
- Open and noticed meetings of standing committees of their local agency, provided that members of the legislative body are not members of the standing committee.

With the advent of new technology, like social media, the possibility of accidentally violating the Brown's Act serial meeting prohibition increased. For example if a majority of members of a city council responded to a social media post regarding a specific issue under their jurisdiction without knowing the other members were going to reply, they could have inadvertently violated the Brown Act. AB 992 (Mullin, 2020) created an exemption to the serial meeting prohibition when members use social media in specified ways. Specifically, it allows a majority of a local legislative body's members when they are using a generally open and available internet-based social media platform, provided that a majority of members do not discuss among themselves specific items of business within the legislative body's jurisdiction.

This exception sunsets on January 1, 2026. The reason the Legislature added a sunset provision to AB 992 was because of concerns that further exceptions could be used to circumvent requirements to make decisions out in the open. The existing serial communications prohibition envisioned situations where one member of the legislative body goes from one member to another in person or over the phone to ensure collective approval or rejection of an item before the public meeting takes place. The way this could play out in the constantly evolving social media landscape presents new opportunities for local officials to make decisions collectively without the public's knowledge, such as through private messaging or using digital icons. The sunset provides an opportunity to test how this recently added exception works and whether additional adjustments need to be made.

Local officials have also raised concerns over other how they should interpret other exceptions to the serial meeting prohibition. For example, there has been confusion over whether a mayor's state of the city speech qualifies under one of the existing exceptions, such as a conference, community event, or ceremonial occasion. The state of a city, or similar events for other local agencies, provide an opportunity for the mayor to describe the various challenges the city faces and how they plan to address them. While there are ceremonial elements to such an event, it is still a discussion of issues within the subject matter jurisdiction of the city council. If a majority of city council members attend, it would be a meeting under the Brown Act, and the city council would have to follow the rules of the Brown Act during the address, like providing the public an opportunity to directly address the legislative body. However, if less than a majority attend, or it meets the definition of a conference, community event, or ceremonial occasion, it would not be a meeting under the Brown Act, and the city council would not have to follow Brown Act procedures, like offering public comment. In response to a request from the Ventura County District Attorney, the Attorney General authored an opinion that, despite the pomp and circumstance, if a majority of the city council attended, they would be discussing a matter under their subject matter jurisdiction, and none of the existing exceptions applied.[8] Guaranteeing that conversations on issues in the city council's jurisdiction follow the Brown Act ensures that whenever enough members are present to make a decision, or come to agreement on a future decision, the public has an opportunity to attend, listen, and comment.

Meeting disruptions. As described above, the Brown Act protects public access to meetings in various ways that can restrict the ability of legislative bodies to constrain public participation. In the event that groups willfully interrupt a meeting in a manner that makes the orderly conduct of the meeting unfeasible, and the legislative body cannot restore order by removing individuals causing the interruption, it can order the meeting room cleared and continue the meeting. However, it must allow members of the media to participate unless they participated in the disturbance. The Brown Act also allows the legislative body to readmit individuals who were not responsible for the disturbance.

The pandemic helped expand opportunities for the public to participate in public meetings. New forms of remote participation encouraged individuals who could not previously attend meetings

[8] https://oag.ca.gov/system/files/opinions/pdfs/23-102.pdf

in-person to comment on actions the local agency was taking. When in-person meetings resumed, individuals who did not previously participate attended meetings to comment on pandemic-related restrictions. However, this discourse also included behavior that disrupted local agencies' ability to conduct their business in an orderly fashion. In late 2021, the Los Gatos Town Council decided to clear the meeting room or move meetings online on multiple occasions in response to disruptive behavior and attacks on the mayor and her family. In November 2021, the San Diego County Board of Supervisors updated their rules for public comment after racial slurs directed at a county official disrupted their meeting. These rules include allowing the Chair of the board to issue a warning and remove individuals who do not follow the board's rules, including conduct that disrupts the orderly conduct of a meeting.

To further clarify the Brown Act's provisions regarding the removal of individuals who disrupt public meetings, SB 1100 (Cortese, 2022) authorized the presiding member of the legislative body conducting a meeting, or their designee, to remove, or cause the removal of, an individual for disrupting the meeting. Prior to removing an individual, the presiding member, or their designee, must warn the individual that their behavior is disrupting the meeting, and that their failure to cease the behavior may result in their removal. After the warning, the presiding officer, or their designee, can remove the individual who received the warning if they do not promptly cease their disruptive behavior.

Despite this clarification, local agencies continue to report meeting disruptions, especially during public comment portions of teleconferenced meetings. This makes it difficult to have an effective meeting where the legislative body can assure citizens of the value of their input, and the members of the legislative body cannot carefully listen and remain respectful in their responses. In these cases, the noise can drown out the good ideas. It can also be difficult for a legislative body to judge what is proper and what is not, and follow constitutional protections for freedom of speech.

Looking ahead: making the Brown Act work better for the public

The Brown Act provides the minimum standard for local government meetings, but room remains to improve access for the public.

Language access and cultural competency. There are plenty of opportunities for local governments to identify strategies to expand their outreach to communities that do not speak English, have high proportions of immigrants, or include significant proportions of underrepresented communities. There is no requirement for local agencies to translate agendas, minutes, or other meeting materials into other languages. There is only one provision of the Brown Act that mentions translation, which says that when a legislative body limits time for public comment, it has to provide at least twice the allotted time to someone who utilizes a translator to ensure that non-English speakers have the same opportunity to directly address the legislative body.[9] Unless the local agency takes it upon itself to go beyond the minimum standards the Brown Act provides, someone who does not understand English will have

[9] Cal Gov Code § 54954.3, added by AB 1787 (Gomez, 2016).

difficulty reading the agenda to know what the meeting is about, or understanding the meeting when it is in progress. However, making local government meetings accessible goes beyond language access. Meetings should also be culturally competent and address the multitude of needs and interests of different cultures, including different races, cultures, ethnicities, and disabilities. If local agencies do not carefully plan meetings to account for language access and cultural competency, it is difficult to ensure the meeting follows best practices for effective meetings. For example, how can a local agency effectively publicize the meeting and educate citizens how they will be affected if the local agency does not communicate in their own language? Following the Brown Act's minimum standard is insufficient to achieve effective participation for all communities that need representation in California.

Ensuring public transparency. The Brown Act not only ensures the public can expect a minimum standard of public access across all local government meetings, it also serves an important role in providing the public, journalists, nonprofit organizations, and public transparency advocates with tools necessary to ensure the public is aware of the decisions the local government is making, and how they arrived at that decision. While the public may show up themselves for meetings on highly controversial issues, journalists, nonprofit organizations, and public transparency advocates rely on the public access the Brown Act provides to investigate other decisions the local government makes.

In 2023, a series of articles from the nonprofit news organization *Fresnoland* revealed the City of Fresno would create a subcommittee of the City Council to annually develop the budget and negotiate with the mayor. The agreed upon budget would then go on the next regular meeting agenda. According to the one of the articles, "During the final scramble to adopt the budget before the end of the fiscal year, [Mayor] Dyer's team met with the budget subcommittee several times over eight days behind closed doors. More than 75 changes and amendments to the proposed budget emerged from those meetings totaling almost $30 million."[10] The City Attorney claimed the subcommittee was not subject to the Brown Act because, "[i]t complies with the Brown Act's narrow exception for ad hoc committees which are not required to follow the noticing and meeting rules...That exception applies only to committees 1) comprised exclusively of less than a quorum of the Council, 2) for a discrete task, 3) whose meetings are not set by formal action, 4) which dissolves upon completion of its task."[11] However, the article revealed that the City Council had created a budget subcommittee every year since 2019. Public transparency organizations, including American Civil Liberties Union of Northern California and the First Amendment Coalition, filed a lawsuit against the City, which remains ongoing in Fresno County Superior Court.

Efforts to circumvent a more public process runs counter to principles for effective meetings. If the public cannot trust the legislative body has not already made a decision before the meeting takes place, then how can the public feel the legislative values their comments? Local officials continued attempts to escape public scrutiny brings back memories of the smoke-filled rooms of

[10] https://fresnoland.org/2023/08/16/fresno-budget-subcommittee/
[11] Ibid.

the 1950s that inspired the initial enactment of the Brown Act. Retaining faith in the state's local institutions will require constant efforts for state law to anticipate and respond to attempts to circumvent public scrutiny.

Conclusion

According to San Diego State University Professor Dominika Bukalova and former San Diego City Clerk Elizabeth Maland, "The challenges inherent in navigating the evolving nature of public access in California demonstrate there is a gap between what is administratively sustainable and politically acceptable. Many challenges have been exacerbated by the COVID-19 pandemic, especially in cities where there is no city manager actively working to bridge this gap."[12] The same can be said of counties, school districts, special districts, and other Brown Act bodies. Even local agencies that want to go beyond the Brown Act's minimal standard have to consider whether they can afford it.

As technology evolves, the Brown Act will have to evolve with it. Once meetings during COVID-19 pandemic showed that remote meetings were more technologically feasible than ever, local agencies immediately sought ways to expand teleconferencing flexibility. However, they have not had the same enthusiasm for using this technology for the public's benefit as much as the benefit of their own members and the advisory bodies that advise them. Moving meetings online when the digital divide continues to leave many Californians without broadband internet access shows that technology is a tool, but often requires particular diligence to ensure its benefits are shared by all, and not a select few.

The Brown Act has served as one of California's hallmark public transparency initiatives for over seven decades. When the Brown Act turns 100 years old in the next couple decades, will it continue to ensure that, regardless of what technological advances come our way or emergencies that interfere with local governments' business, it continues to give the people of California control over their government?

[12] Bukalova, Dominika, and Elizabeth Maland. 2023. "Mind the Gap: Strategies from California on Navigating Access to Public Hearings." Public Administration Review 83(2): 435–441. https://doi.org/10.1111/puar.13581.

Questions

As members hear from experts on the subject of local government meetings, the Committees may wish to consider the following questions:

- How should local agencies implement evolving technologies into their local meetings? Do these technologies provide accommodation for members of the legislative body or does it increase public access? If the answer is both, then are local governments prioritizing public access of accommodating their board members?
- Which types of legislative bodies should be able to use teleconferencing without noticing their locations or making them publicly accessible? What rules should they have to follow when teleconferencing a meeting? How should local agencies ensure that everyone has the opportunity to participate despite work schedules, access to a computer and broadband internet, etc.?
- How can local agencies address issues of language access and cultural competency within their existing resources? Are there ways to modernize the Brown Act to ensure all communities not only have access to public meetings, but also a meaningful opportunity to participate?
- If legislation imposes new requirements on local agencies, and they face resource constraints, does it become easier for local agencies to simply shut down advisory bodies rather than bring them into compliance?
- How can the Legislature safeguard against local agencies using flexibility in the Brown Act to circumvent public transparency?