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June 30, 2023

- Honorable Cecilia Aguilar-Curry (Chair)
- Honorable Diane Dixon (Vice Chair)
- Honorable Tasha Boerner
- Honorable Blanca Pacheco
- Honorable James Ramos
- Honorable Robert Rivas
- Honorable Marie Waldron
- Honorable Lori Wilson

Assembly Committee on Local Government
Legislative Office Building
1020 N Street, Room 157
Sacramento, CA 95814

Re: Oppose, Unless Amended SB 411 (Portantino)

Dear Chair Aguilar-Curry and Members of the Committee:

We, the undersigned organizations, respectfully oppose SB 411 (Portantino), unless it is amended, as it would make significant changes to the Ralph M. Brown Act, reducing the transparency, accountability, and democratic nature of local bodies. SB 411 would permit neighborhood councils in Los Angeles to meet entirely virtually, depriving the press and public of a physical meeting space to directly engage the body. While we greatly appreciate the author’s willingness to introduce amendments intended to narrow the bill in response to our opposition, the approach of carving out certain government bodies from the Brown Act’s protections, in this and several other bills this session, remains concerning.

While we understand that, at times, virtual meetings and temporary measures amid emergencies may be necessary to protect health and safety, meeting remotely is not a permanent replacement to in-person meetings.

Existing Law Allows for Remote Participation of Members and Includes Guardrails that Have Protected the Public’s Right of Access for Decades

Two laws, the Ralph M. Brown Act and the Bagley-Keene Act, have been protecting Californians’ access to government meetings for decades – since 1953 and 1967, respectively. These laws give the people a seat at the table. They matter to us all. The California Constitution reinforces the Legislature’s long-held commitment to transparency. Specifically, in 2004, voters overwhelmingly voted in favor of Proposition 59, which amended the Constitution to recognize the public’s fundamental right to access public information. Article 1, section 3 explicitly mandates: “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.”

That’s why lawmakers should look skeptically on SB 411 and other bills introduced this legislative session that would weaken these fundamental protections in favor of giving public officials the ability to participate remotely.

AB 2449 (Rubio) Was a Reasonable Balance Between Flexibility and Transparency and Must be Given the Opportunity to Be Implemented for More than a Few Months

Last year, lawmakers passed AB 2449, amending the Brown Act to give further flexibility to individual members of local legislative bodies to participate in public meetings remotely when certain requirements are met. 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 as well. The bill also contained many other guardrails that were important to this coalition, the sponsors of the bills and the numerous policy committees that invested time considering the bill.

AB 2449 by Assemblymember Blanca Rubio was the result of months of careful negotiations by members of the undersigned coalition. 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 their own remote participation following the COVID-19 era of virtual meetings. The hard work that was done last year must be given an opportunity to play out before making additional, and in this case significant, changes to the Brown Act.

Virtual Access Increases Civic Engagement, But it Cannot Be the Only Method of Access

The undersigned organizations, diverse in our missions but united in the need for government transparency and increased civic engagement, welcome additional options for virtual attendance and participation by the public. We applaud the many government bodies all over the state that have successfully implemented hybrid public-meetings models, giving the public and press the option to attend and participate in person or by phone or video.

However, SB 411’s rewriting of the Brown Act, while tailored to Los Angeles neighborhood councils, would set a dangerous precedent of carving out a category of bodies from the law’s

key protections for public access and participation — the guarantee that the press and public can be physically present in the same room as those sitting on the dais and making decisions. Such physical presence has been a constant hallmark of democratic institutions. Officials who are in the same room as their constituents can't just turn off their cameras or turn down the volume on criticism.

For journalists who do the important work of informing their communities, SB 411 and similar bills would make newsgathering even more challenging. A primary newsgathering tool is being able to approach officials, see how decision-makers engage with the public, and observe how officials interact with one another on the dais. By allowing bodies to meet entirely remotely, SB 411 would significantly hamper the ability of reporters and photographers to provide valuable information to their readers, leaving Californians less informed.

For advocates and other concerned Californians who do community organizing for social change, SB 411 and other bills like it would make this work more challenging. A primary organizing tool of impacted communities is to show up to public meetings in person, face the public officials who are making decisions that affect us all, and at times raise awareness about important public policy among members of the observing press.

Fully Remote Meetings Are No Guarantee to Diversifying Legislative Bodies

The undersigned organizations advocate for or increase awareness about ways to achieve the goal of greater diversity and equity within government bodies and among the members of the public who attend public meetings. Allowing members to participate remotely and never have to face the public in person is not an effective way to diversify bodies governed by our state's open-meeting laws. Diversifying our state and local bodies instead requires public officials to commit to robust outreach to potential members, provide stipends for unpaid positions, implement an open and transparent selection and appointment process, and exercise the political will to appoint members from diverse backgrounds and identities to public bodies, among other things.

Local Problems Should be Addressed with Local Solutions

Proponents of SB 411 describe the need to allow neighborhood councils, specifically in the city of Los Angeles, to meet entirely remotely if they choose. These bodies, some 99 of which are under the Los Angeles City Charter, are made up of elected officials and are given budgets – taxpayer money – to consider a range of issues of great importance to a community. More importantly, they are hyper-local government bodies meant to serve their communities. We have heard there are local difficulties these groups face, such as finding a location to meet, members of the bodies having long commutes, and other concerns. However, this is a local problem that needs a local solution. If the system of 99 councils is facing difficulties functioning, then the city charter that created them is the best means to address these difficulties.

SB 411 and similar legislation asks the public to give up core open-meetings protections so all members of certain public bodies can participate remotely, without regard to an emergency. While this bill has been tailored to apply to only Los Angeles neighborhood councils, it still lacks guardrails that put the public interest in participation before officials' desire for flexibility, and it creates tiers of public access. To address these issues, we urge the committee to amend SB 411 to require a physical quorum of members in one location that is open to the public and include other guardrails that were refined last year in AB 2449.

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For all of these reasons, we oppose SB 411, unless it is amended, because it fundamentally undercuts the longstanding public protections of the Brown Act and the California Constitution that have ensured meaningful access to important local bodies.

We respectfully urge you to vote "No" to ensure the public keeps its seat at the table.

Very truly yours,

~~FIRST AMENDMENT COALITION~~



Ginny LaRoe
Advocacy Director

Joined by:

ACLU California Action
Californians Aware
California Broadcasters Association
California Common Cause
CCNMA Latino Journalists of California
Greater Los Angeles Pro Chapter of the Society of Professional Journalists
Howard Jarvis Taxpayers Association
National Press Photographers Association
NLGJA: The Association of LGBTQ+ Journalists, Los Angeles Chapter
Orange County Press Club
Pacific Media Workers Guild, News Guild-Communications Workers of America Local
39521
Radio Television Digital News Association
San Franciscans for Sunshine
San Diego Pro Chapter of the Society of Professional Journalists
Society of Professional Journalists, Northern California Chapter