



CALIFORNIA NEWS PUBLISHERS ASSOCIATION  
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June 21, 2023

- Honorable Cecilia Aguilar-Curry (Chair)
- Honorable Diane Dixon (Vice Chair)
- Honorable Tasha Boerner Horvath
- 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 537 (Becker)**

Dear Chair Aguilar-Curry and Members of the Committee:

We, the undersigned organizations, respectfully oppose SB 537 (Becker), unless it is amended, as it would weaken the Ralph M. Brown Act by reducing the transparency, accountability, and democratic nature of public bodies. SB 537 would permit government officials who serve on certain legislative bodies to conduct public business entirely virtually, without being present in a quorum at a physical location where the public and press can directly engage them. We appreciate the author's willingness to work with this coalition and recognize the author has taken several amendments. Nonetheless, the approach of carving out certain government bodies from the Brown Act's protections 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. The ballot initiative added language to make explicit that: "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 537 and other bills introduced this legislative session that would weaken these fundamental protections in favor of giving public officials increased flexibility to govern remotely. Legislation that permanently allows our government officials to meet entirely remotely asks the public to give up their seat at the table in exchange for a teleconferencing line.

## **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**

The Brown Act already allows for members of bodies to participate remotely "for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law," with some relatively modest requirements. And nothing in the law prevents bodies from truly expanding access by offering remote access and virtual methods of participation for the public. Indeed, many bodies around the state are conducting their meetings in a physical location accessible to the public while offering additional access and participation options through teleconferencing technology.

Lawmakers last year 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.

AB 2449 by Assemblymember Blanca Rubio was the result of careful negotiations by members of the undersigned coalition less than one year ago. 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 remote participation following the COVID-19 era of increased virtual meetings. The hard work that was done last year must be given an opportunity to play out before making additional, and in some cases, drastic changes to the Brown Act.

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

The undersigned organization, diverse in their missions but united in the need for government transparency and increased civic engagement, welcome additional options for virtual attendance and participation for 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.

SB 537's rewriting of the Brown Act would fundamentally undermine one of 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. While we appreciate the amendments aimed at putting in some guardrails, there is no substitute for face-to-face accountability.

For journalists who do the important work of informing their communities, SB 537 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 remotely SB 537 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 537 makes 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 more diverse members to public bodies, among other things.

**SB 537 Bargains Away Democratic Protections and We Respectfully Oppose**

SB 537 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. SB 537 seeks to give this carve-out to any legislative body of a “multijurisdictional, cross-county agency.” In creating new teleconferencing provisions for this subset of public bodies, the bill would create tiers of public access to public meetings, which our state’s government transparency laws never envisioned.

To address these issues, we seek amendments to SB 537 requiring a physical quorum of members in one location open to the public, with more robust limits on the circumstances and frequency any individual member can participate remotely, along with a requirement that any body with members electing to use teleconferencing provide the public with both telephonic and video access, among other improvements to protect the public’s interests.

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For all of these reasons, we oppose SB 537, 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 look forward to working with the author’s office to address our concerns and craft appropriate amendments.

We respectfully urge you to vote “No” unless SB 537 is amended to ensure the public keeps its seat at the table.

Sincerely,



Brittney Barsotti  
General Counsel, California News Publishers Association

Joined by:

- ACLU California Action
- Californians Aware
- California Broadcasters Association
- California Common Cause
- CCNMA Latino Journalists of California
- First Amendment Coalition
- 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, Freedom of Information  
Committee