



MEMORANDUM

TO: Water Resources Committee and Alternates, Board of Directors and Alternates

FROM: Scott Petersen, Water Policy Director

DATE: July 7, 2025

RE: Water Resources Committee to Consider Recommendations on Legislation /
Board of Directors to Consider Same

Recommendation

Recommend to the Board of Directors to adopt the following positions on legislation:

Support

Federal Legislation

- Ratify the Executive Director adopted position of "Support" for H.R. 3845 (Gray), Valley Water Protection Act

Watch

Federal Legislation

- Adopt a position of Watch for H.R. 1897 (Westerman), ESA Amendments Act of 2025

Oppose Unless Amended

State Legislation

- Adopt a position of Oppose Unless Amended for S.B. 707 (Durazo): Open meetings: meeting and teleconference requirements



Federal Legislation

H.R. 3845 (Gray), Valley Water Protection Act

RECOMMENDATION: SUPPORT

OBJECTIVE: Core Objective

Overview

Summary

This legislation would add an additional exemption from the consultation requirements of the Endangered Species Act (ESA) where ESA compliance would result in a threat to national security or significant adverse national or regional economic impacts.

Under this legislation, an agency action that jeopardizes an endangered or threatened species or a critical habitat of such a species could be exempted if the necessary or reasonable alternatives to the agency action would impair national security or result in significant adverse national or regional economic impacts. The exemption applicant must comply with certain consultation requirements to determine whether national security or regional economics are impaired, and make reasonable efforts to develop and consider modifications or alternatives to the proposed action.

Status

H.R. 3845 was introduced on June 9, 2025, and has been referred to the House Committee on Natural Resources.

On June 9, the Executive Director adopted a support position pursuant to delegated authority at the legislation's introduction and consistent with policy, is bringing that position for ratification by the Board.

Current Cosponsors

Jim Costa (D-CA-21)

Importance to the Authority

Conservation efforts under the ESA often restrict or impose additional requirements on the operations of the Central Valley Project facilities, including Jones Pumping Plant, with limited certainty associated with the beneficial impacts to species at a population level. This bill provides an additional pathway for review and potential exemption of agency actions, if the Secretary reviews an application for an exemption and finds that the agency action under Section 7 consultation will impair national security or will have significant national or regional economic impacts. This would provide an additional layer of potential review of agency actions that impair CVP operations, after the preparation of an application and report. This could have the effect of reducing operational restrictions on CVP operations by expanding the review opportunities of the Secretary and the Endangered Species Committee, after coordination and review by the National Security Council and the Director of the National Economic Council.



H.R. 1897 (Westerman), ESA Amendments Act of 2025

RECOMMENDATION: WATCH

OBJECTIVE: Core Objective

Overview

This legislation amends the ESA to create a prioritization framework, incentivize conservation on private lands, increase incentives to recover listed species, increase transparency in recovering listed species, and streamline the permitting process.

Summary

Title I

The Secretary of the Interior would be required to submit a National Listing Work Plan along with each year's budget request. Among other things, the work plan must assign a classification to each covered species. The scale for the classifications is "Priority 1" through "Priority 5."

- Priority 1 - species of the highest priority, to be designated as critically imperiled and in need of immediate action.
- Priority 2 - species with respect to which the best scientific and commercial data available support a clear decision regarding the status of the species.
- Priority 3 - species for which studies regarding the status of the species are being carried out.
- Priority 4 - species for which proactive conservation efforts are being developed and carried out.
- Priority 5 - either (1) a species for which there exists little information regarding status, or (2) a species that, if listed, would receive little conservation benefit in the foreseeable future.

Title II

Uses Candidate Conservation Agreements with Assurances to incentivize proactive conservation on private lands. Private landowners submit an agreement setting forth proposed conservation efforts, their net conservation benefit, and the current population or quality of the species or habitat. In exchange, the landowners receive an assurance that, if the species later becomes a listed species, no additional conservation measures will be imposed on the landowner.

Title III

The Secretary would be required to establish objective and incremental recovery goals for each species that is the subject of regulation. As the recovery goals are met, the stringency of the regulation should decrease. Once all recovery goals are met, the Secretary shall conduct a review to determine whether the species should be removed from the list of threatened or endangered species.

States would be permitted to develop their own recovery strategies and petition the Secretary to use such strategies as the basis for any regulation pertaining to the given species in that state.

The Secretary would be prohibited from designating as a critical habitat any privately owned or controlled land or other geographical area that is subject to a land management plan which is similar to an integrated natural resources management plan.



Title IV

The Secretary would have to publish online the basis for listings and critical habitat designations. The Secretary would also be required to prepare an analysis regarding the impacts of a listing on the economy, national security, human health and safety, and any other relevant effects.

Title V

This portion of the bill would amend certain consultation provisions. At any consultation that occurs ten years after a federal agency adopts a reasonable and prudent alternative, the Secretary must evaluate the effectiveness of the alternative. If continuing the alternative will not materially improve outcomes, it should be discontinued. Consultations should consider the reasonably certain effects of the action without a presumption in favor of the species.

Title VI

Title VI pertains to reducing permitting requirements for the import/export of listed species.

Status

H.R. 1897 was introduced on March 6, 2025, and has been referred to the House Committee on Natural Resources. The Subcommittee on Water, Wildlife and Fisheries held a hearing on March 25, 2025.

Current Cosponsors

Ken Calvert (R-CA-41), Doug LaMalfa (R-CA-1) +23 others

Importance to the Authority

H.R. 1897 makes a number of changes to the Endangered Species Act, including some that could be of benefit to Section 7 consultations required of the Bureau of Reclamation to operate the Central Valley Project.

Of particular importance, provisions in the underlying bill could (1) improve public transparency associated with the costs of ESA related litigation, (2) require determinations associated with listing decisions and critical habitat designations that have a national security, public health and safety, or other significant regional economic effect, (3) clarify the requirements under the ESA to “minimize” the effect of the proposed action, rather than “mitigate” the effects, (4) perform an analysis of Reasonable and Prudent Measures to ensure that they have a direct impact on species recovery prior to requiring their compliance, and (5) clarifications to the jeopardy standard could improve the Section 7 consultation process and improve the link between requirements pursuant to the ESA and species recovery efforts.

There are provisions within the legislation that may have impacts on listed species in other regions of the United States and overseas that are opposed by a coalition of environmentalists and other wildlife enthusiasts that may have impacts on species of concern.

As such, staff is recommending a watch position, supporting the advancement of those provisions of benefit to the Authority’s interest in effective ESA implementation, while watching those provisions that have no impact on CVP operations.



State Legislation

S.B. 707 (Durazo), Open Meetings: meetings and teleconference requirements

RECOMMENDATION: OPPOSE UNLESS AMENDED

OBJECTIVE: Core Objective

Overview

Summary

(1) 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.

This bill would, until January 1, 2030, require an eligible legislative body, as defined, to comply with additional meeting requirements, including that, except as specified, all open and public meetings include an opportunity for members of the public to attend via a 2-way telephonic service or a 2-way audiovisual platform, as defined, eligible legislative body take specified actions to encourage residents to participate in public meetings, as specified.

(2) Existing law defines "legislative body" for purposes of the act to mean, among other things, a commission, committee, board, or other body of a local agency, whether permanent or temporary, decisionmaking or advisory, created by charter, ordinance, resolution, or formal action of a legislative body. Existing law specifies that "legislative body" does not include advisory committees, composed solely of the members of the legislative body that are less than a quorum of the legislative body, except for specified standing committees of a legislative body.

This bill would revise and recast the above-described definition of a legislative body and would specify that advisory committees with a continuing subject matter jurisdiction or a fixed meeting schedule, as specified, are legislative bodies.

Existing law prohibits a majority of the members of a legislative body, outside a meeting authorized by the act, from using a series of communications of any kind to discuss, deliberate, or take action on any item of business that is within the subject matter jurisdiction of the legislative body. Existing law defines "meetings" for these purposes to mean any congregation of a majority of the members of a legislative body at the same time and location, as specified, to hear, discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the legislative body. Until January 1, 2026, existing law excepts from the prohibition a member engaging in separate conversations or communications outside of a meeting with any other person using an internet-based social media platform for specified purposes, provided, among other things, that a majority of the members do not use the internet-based social media platform to discuss among themselves business of a specific nature that is within the subject matter jurisdiction of the legislative body.

This bill would make the above-described exception related to communications on an internet-based social media platform applicable indefinitely.



(3) Existing law requires a legislative body, prior to taking final action, to orally report a summary of a recommendation for a final action on specified forms of compensation for a local agency executive, as defined, during the open meeting in which the final action is to be taken.

This bill would also require the legislative body to make that oral report, as provided above, prior to taking final action on those specified forms of compensation for an unrepresented employee of the local agency.

(4) Existing law requires a legislative body of a local agency or its designee, at least 72 hours before a regular meeting, to post an agenda that meets specified requirements, including that the agenda contain a brief general description of each item of business to be transacted or discussed at the meeting, as specified.

This bill would require the agenda for each meeting of an eligible legislative body, as defined, to be translated into all applicable languages. The bill would define “applicable languages” to mean languages spoken jointly by 20% or more of the population in the city or county in which the eligible legislative body is located that, among other things, speaks English less than “very well,” as specified, and except as provided.

Existing law requires every agenda for regular meetings to provide an opportunity for members of the public to directly address the legislative body on any item of interest of the public, as specified. Existing law specifies that the agenda is not required to provide an opportunity for members of the public to address the legislative body on any item that has already been considered by a committee, as specified.

This bill would remove the provision related to an item that has already been considered by a committee.

(5) Existing law authorizes a legislative body of a local agency to require a copy of the act to be given to each member of the legislative body and specified persons elected to serve as a member of the legislative body, and authorizes an elected legislative body member to require a copy to be given to each member of each legislative body all or a majority of whose members are appointed by or under the authority of the elected legislative body.

This bill would instead require a local agency to provide a copy of the act to any person elected or appointed to serve as a member of a legislative body of the local agency.

Existing law authorizes legislative bodies of local agencies to impose requirements upon themselves which allow greater access to their meetings than prescribed by the minimal standards set forth in the act, and authorizes an elected legislative body of a local agency to also impose those requirements on those appointed legislative bodies of the local agency of which all or a majority of the members are appointed by or under the authority of the elected legislative body.

This bill would remove the above-described requirement that members of an appointed legislative body of a local agency must be appointed by or under the authority of the elected legislative body of a local agency in order for the elected legislative body to impose the above-described requirements on the appointed legislative body.

(6) Existing law authorizes a district attorney or any interested person to file an action to determine the applicability of the act to past actions of the legislative body pursuant to specified provisions relating to violations of the act if specified conditions are met, including that the district attorney or interested person



first submits a cease and desist letter to the clerk or secretary of the legislative body being accused of the violation, as specified, within 9 months of the alleged violation.

This bill would instead require that a cease and desist letter described above be submitted within 12 months of the alleged violation.

(7) Existing law provides any person attending an open and public meeting of a legislative body of a local agency with the right to record the proceedings with an audio or visual recorder or a still or motion picture camera, as specified.

This bill would remove the reference to an audio or visual recorder or a still or motion picture camera for purposes of recording the proceedings, as described above.

(8) Existing law authorizes a legislative body of a local agency to use teleconferencing, as specified, and requires a legislative body of a local agency that elects to use teleconferencing to comply with specified general requirements, including that the local agency 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, except as specified.

Existing law authorizes members who are outside the jurisdiction of a health authority, as defined, that conducts a teleconferencing meeting to, notwithstanding the above-described general teleconference provisions, count towards the establishment of a quorum when participating in the teleconference if, among other things, at least 50% of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction.

Existing law authorizes, in certain circumstances, the legislative body of a local agency to use specified alternative teleconferencing which include provisions related to, among others, notice of the means by which members of the public may access the meeting and offer public comment and identifying and including an opportunity for all persons to attend via a call-in option or an internet-based service option. Those circumstances in which the legislative body of a local agency is authorized to use the alternative teleconferencing provisions include specified circumstances relating to a state of emergency, as defined, and, until January 1, 2026, subject to specified limitations, a member's need to participate remotely due to just cause, defined to include, among other things, a physical or mental disability, or emergency circumstances, as defined.

Existing law also authorizes certain eligible legislative bodies, including neighborhood councils and student body associations and student-run community college organizations to, until January 1, 2026, use alternate teleconferencing if, among other requirements, the city council or board of trustees, as applicable, has adopted an authorizing resolution and $\frac{2}{3}$ of the neighborhood city council or specified student organization, as applicable, votes to use alternate teleconference provisions, as specified.

This bill would revise and recast the above-specified alternative teleconferencing provisions to uniformly apply certain noticing, accessibility, and public commenting provisions. The bill would require a legislative body of a local agency that elects to use teleconferencing pursuant to these alternative teleconferencing provisions to comply with specified requirements, including that the legislative body provides at least



either 2-way audiovisual platform or 2-way telephonic service and a live webcasting of the meeting as a means by which the public may, among other things, remotely hear and visually observe the meeting, and that a member of the legislative body who participates in a teleconference meeting from a remote location ~~is~~ *and the specific provision of law that the member relied upon to permit their participation by teleconferencing are listed in the minutes of the meeting.* The bill would require the local agency to identify and make available to legislative bodies a list of *one or more* meeting locations that *may be available for use by the legislative bodies to conduct their meetings.*

The bill would instead authorize a health authority, as defined, to conduct a teleconference meeting pursuant to the above-described alternative teleconferencing provisions.

The bill would revise and recast the alternative teleconferencing provisions applicable in a state of emergency, as defined. The bill would also include a local emergency, as defined, as a circumstance in which a legislative body of a local agency is authorized to use the alternative teleconferencing provisions.

The bill would revise and recast the alternative teleconferencing provisions applicable in cases of a member's need to participate remotely due to just cause or emergency circumstances, as defined, to remove the provision applicable to emergency *circumstances*, to broaden the definition of just cause to include a physical or family medical emergency that prevents a member from attending in *person*, *and to require the agenda for a meeting to identify the specific type of just cause that each member relied upon to participate remotely, as specified.* The bill would extend the authorization to use the alternative teleconferencing provision until January 1, 2030. *The bill would make the authorization for a member to participate remotely in the case of a physical or mental disability effective indefinitely, as specified.*

The bill would revise and recast the alternative teleconferencing provisions applicable to neighborhood councils and student body associations and student-run community college organizations and would extend the authorization to use the alternative teleconferencing provision until January 1, 2030.

The bill would, until January 1, 2030, also authorize *a specified subsidiary body* of local agencies to conduct a teleconference meeting pursuant to the above-described alternative teleconferencing provisions, provided that it complies with the requirements for alternative teleconferencing described above and additional requirements, including that the subsidiary body designates *at least one* physical meeting location *within the boundaries of the legislative body that created the subsidiary body* where members of the public may physically attend, observe, hear, and participate in the meeting, as specified.

The bill would, until January 1, 2030, also authorize specified multijurisdictional bodies of local agencies to conduct a teleconference meeting pursuant to the above-described alternative teleconferencing provisions, provided that it complies with the requirements for alternative teleconferencing described above and additional requirements, including that the eligible multijurisdictional body has adopted a resolution that authorizes the multijurisdictional body to use teleconferencing at a regular meeting in open session.

(9) Existing law authorizes a special meeting to be called any time by, among other persons, the presiding officer of the legislative body of a local agency, by delivering specified written notices and posting a notice on the local agency's internet website, if the local agency has one. Existing law requires specified legislative bodies to comply with the internet website posting requirement.



The bill would remove the requirement that only specified legislative bodies comply with the internet website posting requirement, thereby imposing that requirement on all legislative bodies.

(10) Existing law authorizes a legislative body of a local agency to hold an emergency meeting without complying with specified notice and posting requirements in the case of specified emergency circumstances, as specified, and imposes various requirements under these provisions applicable to either legislative bodies generally or legislative bodies which are a school board.

This bill would remove the school board distinction from the above-described provisions, thereby imposing the same requirements to hold an emergency meeting on all legislative bodies of local agencies. By imposing additional duties on legislative bodies of local agencies, the bill would impose a state-mandated local program.

(11) Existing law authorizes, in addition to other related specified authorizations, 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.

This bill would specify that a meeting for purposes of that provision includes any teleconferenced meeting.

(12) The bill would make other updates to references in the act.

(13) 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.

(14) 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.

(15) The bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

(16) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Status

S.B. 707 was introduced on February 21, 2025, passed the Senate on June 3, and was referred to the Assembly Committee on Local Government.

Coauthors

Sen. Arreguin



Importance to the Authority

SB 707 is a bill that would result in a number of changes to the Brown Act. Most of these changes are not significant, but there are several that would increase the burden of Brown Act compliance for the Authority and our members. I've summarized below what I see as the new provisions that would increase the compliance burden:

- 54952.7: would require local agencies to provide a copy of the Brown Act to any person elected or appointed to serve as a member of a legislative body of the local agency (all Brown Act Boards and committees)
- 54953(c)(3): would require the Board to orally report a summary of a recommendation for final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of local agency executives (existing law) and unrepresented employees of the agency. This latter class could effectively require us to orally report recommended salary information for all Authority employees.
- 54953.8: would allow us, as a multijurisdictional agency, to adopt a resolution allowing a specific type of teleconference meeting where participants are at multiple noticed locations, so long as we comply with certain procedures, including that the meetings have a two-way audiovisual platform or a two-way telephonic service and a live webcasting of the meeting (i.e., telephone only wouldn't be enough).
- 54953.8.3: appears to require a teleconference meeting agenda to identify the specific type of just cause each member relied upon to participate remotely. This creates a conflict with 54953.8.3(a)(1), which indicates that a member can notify the board at the start of a meeting of their need to participate remotely for just cause.
- 54953.9: would require all Brown Act meetings of "eligible legislative bodies" (which at first glance would include us, plus Valley Water, not sure about other members) to include an opportunity for members of the public to attend via a two-way telephonic service or a two-way audiovisual platform, unless telephonic or internet service is not available at the meeting location. The requirement wouldn't require this service for special meetings/tours where we are inspecting real property. If we were to use Zoom, we would have to activate any automatic captioning function during the meeting if automatic captioning is included in the platform. Would also require legislative bodies to "reasonably assist" members of the public who wish to translate a public meeting into any language, under certain circumstances, with certain limitations. Would require legislative bodies to take certain actions to encourage residence to participate in public meetings, e.g. creating a web page for dedicated public meetings with specified information.
- 54953.10: would require the agenda for each meeting of an "eligible legislative body" to be translated into all applicable languages (languages spoken jointly by 20% or more of the population in the city or county in which the eligible legislative body is located)
- 54960.2: would extend the timeframe for submitting a cease-and-desist letter for a violation of the Brown Act to 12 months (from 9 months) of the alleged violation (necessary before filing a lawsuit)

Staff is recommending an oppose unless amended position associated with the more burdensome requirements, like the oral reporting of all salaries, the translation requirements, the A/V platform requirements, and the timeframe for cease-and-desist letters, to be removed as a condition of moving off of an oppose position.



Guidelines for Taking Positions on Legislation

A number of controversial bills are introduced each year in the Congress and in the California Legislature. It is important to understand how the Authority takes positions on legislation.

Policy

By Agenda Item 7, dated December 12, 2024, the Board adopted the Fiscal Year 2026 Objectives.

Water Authority's Positions on Legislation

The Water Authority takes positions on legislation that, if enacted, would impact Water Authority members, consistent with Water Authority Board adopted Goals and Objectives. The Water Authority may take the following positions on legislation: Oppose, Support, Oppose Unless Amended, Support if Amended, Not Favor, Favor, Not Favor Unless Amended, Favor if Amended, and Watch (neutral). The Water Authority's staff and consultants testify and advocate with legislators and staff through meetings and member agency contacts on all positions except Watch, Favor and Not Favor. For Favor and Not Favor positions, written communication of the Water Authority's position is provided to the legislator. Nothing in this section should be read to preclude the Executive Director or his or her delegee from taking an informal support or informal oppose position on behalf of the Water Authority that is consistent with adopted legislative or policy objectives, or to preclude the Executive Director from communicating a position on emergency legislation after obtaining the concurrence of the Chair, or the Chair's designee, provided that the Executive Director informs the Board regarding such positions on emergency legislation no later than the next regularly scheduled Board meeting.

Amendment Development Process

If the Water Authority takes an Oppose Unless Amended or Support if Amended position, the Water Authority will typically discuss the concepts for the amendments at the meeting. Then Water Authority staff, in consultation with Committee and/or Board Members as needed, will develop the amendments after the meeting.

Information Sharing

To provide adequate information to the entire Water Authority membership, the Water Authority provides legislative updates, posts positions and other information on our website, and sends out advisories and alerts on key legislation.

The Water Authority's legislative department is available to provide specific information on bills on request and Board Members are encouraged to communicate Water Authority positions on priority legislation in meetings with legislative staff, consistent with Water Authority policy. The Water Authority's Water Policy Director appreciates being informed by Water Authority members of positions taken by Water Authority members on legislation.

BILL TEXT

119TH CONGRESS
1ST SESSION

H. R. 3845

To amend the Endangered Species Act of 1973 to expand the exemption process under section 7 of that Act with respect to national security and significant adverse national or regional economic impacts.

IN THE HOUSE OF REPRESENTATIVES

JUNE 9, 2025

Mr. GRAY (for himself and Mr. COSTA) introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To amend the Endangered Species Act of 1973 to expand the exemption process under section 7 of that Act with respect to national security and significant adverse national or regional economic impacts.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. EXPANSION OF EXEMPTION PROCESS UNDER**

4 **SECTION 7 OF ENDANGERED SPECIES ACT OF**

5 **1973.**

6 Section 7 of the Endangered Species Act of 1973 (16
7 U.S.C. 1536) is amended—

8 (1) in subsection (g)—

1 (A) in paragraph (1), to read as follows:

2 “(1)(A) A Federal agency, the Governor of the
3 State in which an agency action will occur, if any,
4 or a permit or license applicant may apply to the
5 Secretary for an exemption for an agency action of
6 such agency if, after consultation under subsection
7 (a)(2), the Secretary’s opinion under subsection (b)
8 indicates that—

9 “(i) the agency action would violate sub-
10 section (a)(2); or

11 “(ii) a modification or reasonable and pru-
12 dent alternative necessary for the agency action
13 to comply with subsection (a)(2) may—

14 “(I) impair national security; or

15 “(II) result in significant adverse na-
16 tional or regional economic impacts.

17 “(B) An application for an exemption shall be
18 considered initially by the Secretary in the manner
19 provided for in this subsection, and shall be consid-
20 ered by the Committee for a final determination
21 under subsection (h) after a report is made pursuant
22 to paragraph (5).

23 “(C) The applicant for an exemption shall be
24 referred to as the ‘exemption applicant’ in this sec-
25 tion.”;

1 (B) in paragraph (3)—

2 (i) in subparagraph (A), to read as
3 follows:

4 “(A) determine—

5 “(i) that the Federal agency concerned and
6 the exemption applicant have—

7 “(I) carried out the consultation re-
8 sponsibilities described in subsection (a) in
9 good faith and made a reasonable and re-
10 sponsible effort to develop and fairly con-
11 sider modifications or reasonable and pru-
12 dent alternatives to the proposed agency
13 action which would not violate subsection
14 (a)(2);

15 “(II) conducted any biological assess-
16 ment required by subsection (c); and

17 “(III) to the extent determinable with-
18 in the time provided herein, refrained from
19 making any irreversible or irretrievable
20 commitment of resources prohibited by
21 subsection (d); and

22 “(ii) if the exemption applicant submitted
23 to the Secretary the application for exemption
24 pursuant to paragraph (1)(A)(ii), whether a
25 modification or reasonable and prudent alter-

1 native necessary for the proposed agency action
2 to comply with subsection (a)(2) may—

3 “(I) impair national security; or

4 “(II) result in significant adverse na-
5 tional or regional economic impacts; or”;
6 and

7 (ii) in subparagraph (B), by striking
8 “(i), (ii), and (iii)”;

9 (C) in paragraph (4), by striking “(i), (ii)
10 and (iii)”;

11 (D) in paragraph (5)—

12 (i) by redesignating subparagraphs
13 (B) through (D) as subparagraphs (C)
14 through (E), respectively; and

15 (ii) by inserting after subparagraph
16 (A) the following:

17 “(B) if the exemption applicant submitted to
18 the Secretary the application for exemption pursuant
19 to paragraph (1)(A)(ii), after consultation with the
20 National Security Council regarding potential im-
21 pacts to national security and the Director of the
22 National Economic Council regarding potential sig-
23 nificant adverse national and regional economic im-
24 pacts, any impairment to national security or signifi-
25 cant adverse national or regional economic impacts

1 that would result from a modification or reasonable
2 and prudent alternative necessary for the agency ac-
3 tion to comply with subsection (a)(2), including a
4 description of the analysis and conclusions produced
5 by the National Security Council and the Director of
6 the National Economic Council as a result of each
7 such consultation;” and

8 (2) in subsection (h)(1)(A)(i), to read as fol-
9 lows:

10 “(i)(I) there are no reasonable and prudent
11 alternatives to the agency action; or

12 “(II) with respect to an agency action the
13 application for exemption of which was sub-
14 mitted to the Secretary pursuant to subsection
15 (g)(1)(A)(ii), a modification or reasonable and
16 prudent alternative necessary for the agency ac-
17 tion to comply with subsection (a)(2) may—

18 “(aa) impair national security; or

19 “(bb) result in significant adverse na-
20 tional or regional economic impacts;”.

○

119TH CONGRESS
1ST SESSION

H. R. 1897

To amend the Endangered Species Act of 1973 to optimize conservation through resource prioritization, incentivize wildlife conservation on private lands, provide for greater incentives to recover listed species, create greater transparency and accountability in recovering listed species, streamline the permitting process, eliminate barriers to conservation, and restore congressional intent.

IN THE HOUSE OF REPRESENTATIVES

MARCH 6, 2025

Mr. WESTERMAN (for himself, Ms. HAGEMAN, Mr. STAUBER, Mr. TIFFANY, Mr. GOSAR, Mr. HURD of Colorado, Mr. NEWHOUSE, Mr. BENTZ, Mr. FULCHER, Mr. BEGICH, Mr. EZELL, Mr. AMODEI of Nevada, Mr. HUNT, Ms. MALOY, Mr. BIGGS of Arizona, and Mr. LAMALFA) introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To amend the Endangered Species Act of 1973 to optimize conservation through resource prioritization, incentivize wildlife conservation on private lands, provide for greater incentives to recover listed species, create greater transparency and accountability in recovering listed species, streamline the permitting process, eliminate barriers to conservation, and restore congressional intent.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) **SHORT TITLE.**—This Act may be cited as the
 3 “ESA Amendments Act of 2025”.

4 (b) **TABLE OF CONTENTS.**—The table of contents for
 5 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Endangered Species Act of 1973 definitions.
- Sec. 3. Authorization of appropriations.
- Sec. 4. Rule of construction.

**TITLE I—OPTIMIZING CONSERVATION THROUGH RESOURCE
 PRIORITIZATION**

- Sec. 101. Prioritization of listing petitions, reviews, and determinations.

**TITLE II—INCENTIVIZING WILDLIFE CONSERVATION ON PRIVATE
 LANDS**

- Sec. 201. Candidate conservation agreements with assurances.
- Sec. 202. Conservation plans.
- Sec. 203. NEPA exemption for incidental take permits.

**TITLE III—PROVIDING FOR GREATER INCENTIVES TO RECOVER
 LISTED SPECIES**

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- Sec. 401. Requirement to publish basis for listings and critical habitat designations on Internet.
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- Sec. 403. Disclosure of expenditures under Endangered Species Act of 1973.
- Sec. 404. Award of litigation costs to prevailing parties in accordance with existing law.
- Sec. 405. Analysis of impacts and benefits of determination of endangered or threatened status.

TITLE V—STREAMLINING PERMITTING PROCESS

- Sec. 501. Limitation on reasonable and prudent measures.
- Sec. 502. Successive consultations.
- Sec. 503. Requirement to consider reasonably certain effects.
- Sec. 504. Clarifying jeopardy.

TITLE VI — ELIMINATING BARRIERS TO CONSERVATION

Sec. 601. Permits for CITES-listed species.

Sec. 602. Utilize Convention standard for permits applicable to non-native species.

TITLE VII—RESTORING CONGRESSIONAL INTENT

Sec. 701. Limiting agency regulations.

1 **SEC. 2. ENDANGERED SPECIES ACT OF 1973 DEFINITIONS.**

2 (a) FORESEEABLE FUTURE.—The final rule titled
3 “Endangered and Threatened Wildlife and Plants; Regu-
4 lations for Listing Species and Designating Critical Habi-
5 tat” (84 Fed. Reg. 45020; published August 27, 2019)
6 shall have the force and effect of law with respect to the
7 use of the term “foreseeable future”.

8 (b) COMMERCIAL ACTIVITY.—Section 3(2) Endan-
9 gered Species Act of 1973 (16 U.S.C. 1532(2)) is amend-
10 ed by inserting “or public display or education aimed at
11 the preservation or conservation of a species” after “orga-
12 nizations”.

13 (c) CONSERVE; CONSERVING; CONSERVATION.—Sec-
14 tion 3(3) of the Endangered Species Act of 1973 (16
15 U.S.C. 1532(3)) is amended by striking “and transplan-
16 tation, and, in the extraordinary case where population
17 pressures within a given ecosystem cannot be otherwise
18 relieved, may include” and inserting “transplantation,
19 and, at the discretion of the Secretary,”.

20 (d) HABITAT.—Section 3(5) of the Endangered Spe-
21 cies Act of 1973 (16 U.S.C. 1532(5)) is amended by add-
22 ing at the end the following:

1 “(D)(i) For the purpose of designating critical
2 habitat for a threatened species or an endangered
3 species under this Act, the term ‘habitat’—

4 “(I) means the abiotic and biotic setting
5 that currently or periodically contains the re-
6 sources and conditions necessary to support 1
7 or more life processes of the threatened species
8 or endangered species; and

9 “(II) does not include an area visited by
10 only vagrant individual members of the threat-
11 ened species or endangered species.

12 “(ii) If the setting described in clause (i)(I)
13 does not support all of the life processes of the rel-
14 evant threatened species or endangered species, the
15 threatened species or endangered species must be
16 able to access, from the setting, other areas nec-
17 essary to support its remaining life processes.”.

18 (e) BEST SCIENTIFIC AND COMMERCIAL DATA
19 AVAILABLE.—

20 (1) IN GENERAL.—Section 3 of the Endangered
21 Species Act of 1973 (16 U.S.C. 1532) is amended—

22 (A) by redesignating paragraphs (2)
23 through (10) as paragraphs (3) through (11),
24 respectively; and

1 (B) by inserting after paragraph (1) the
2 following:

3 (2) CONFORMING AMENDMENT.—Section 7(n)
4 of the Endangered Species Act of 1973 (16 U.S.C.
5 1536(n)) is amended by striking “section 3(13)”
6 and inserting “section 3(14)”.

7 “(2) The term ‘best scientific and commercial data
8 available’ includes data submitted to the Secretary by a
9 State, Tribal, or local government.”.

10 (f) ENVIRONMENTAL BASELINE.—Section 7 of the
11 Endangered Species Act of 1973 (16 U.S.C. 1536) is
12 amended by adding at the end the following:

13 “(q) ENVIRONMENTAL BASELINE.—For the purpose
14 of carrying out a consultation under this section with re-
15 spect to a threatened species or an endangered species,
16 the term ‘environmental baseline’—

17 “(1) means the condition of the species or the
18 critical habitat of the species in the action area,
19 without the consequences to the species or the crit-
20 ical habitat of the species caused by the proposed ac-
21 tion; and

22 “(2) includes—

23 “(A) the past and present effects of all
24 Federal, State, and private actions and other
25 human activities in the action area;

1 “(B) the anticipated effects of each pro-
 2 posed Federal project within the action area for
 3 which a consultation under this section has
 4 been completed;

5 “(C) the effects of State and private ac-
 6 tions that are contemporaneous with the con-
 7 sultation in process; and

8 “(D) existing structures and facilities and
 9 the past, present, and future effects on the spe-
 10 cies or the critical habitat of the species from
 11 the physical existence of such structures and fa-
 12 cilities.”.

13 **SEC. 3. AUTHORIZATION OF APPROPRIATIONS.**

14 (a) IN GENERAL.—Section 15 of the Endangered
 15 Species Act of 1973 (16 U.S.C. 1542) is amended—

16 (1) in subsection (a)—

17 (A) by striking “subsection (b), (c), and
 18 (d)” and inserting “subsections (b) and (c)”;

19 (B) in paragraph (1)—

20 (i) by striking “and” after “fiscal year
 21 1991,”; and

22 (ii) by inserting “, and \$302,025,000
 23 for each of fiscal years 2026 through
 24 2031” after “fiscal year 1992”;

25 (C) in paragraph (2)—

1 (i) by striking “and” after “fiscal
2 years 1989 and 1990,”; and

3 (ii) by inserting “, and \$116,630,000
4 for each of fiscal years 2026 through
5 2031” after “fiscal years 1991 and 1992”;
6 and

7 (D) in paragraph (3)—

8 (i) by striking “and” after “fiscal
9 years 1989 and 1990,”; and

10 (ii) by inserting “and \$2,600,000 for
11 each of fiscal years 2026 through 2031”
12 after “fiscal years 1991 and 1992,”;

13 (2) in subsection (b), by inserting “and
14 \$600,000 for each of fiscal years 2026 through
15 2031” after “1992”; and

16 (3) in subsection (c)—

17 (A) by striking “and” after “fiscal years
18 1988, 1989, and 1990,”; and

19 (B) by inserting “and \$9,900,000 for each
20 of fiscal years 2026 through 2031,” after “fis-
21 cal years 1991 and 1992,”.

22 (b) TECHNICAL AMENDMENT.—Section 15(b) of the
23 Endangered Species Act of 1973 (16 U.S.C. 1542(b)) is
24 amended by striking “sections 7 (e), (g), and (h)” and
25 inserting “subsections (e), (g), and (h) of section 7”.

1 **SEC. 4. RULE OF CONSTRUCTION.**

2 Nothing in this Act or the amendments made by this
3 Act may be construed to enlarge or diminish the authority,
4 jurisdiction, or responsibility of a State (as that term is
5 defined in section 3 of the Endangered Species Act of
6 1973 (16 U.S.C. 1532)) to manage, control, or regulate
7 fish and wildlife on lands and waters, including Federal
8 lands and waters, within the State.

9 **TITLE I—OPTIMIZING CON-**
10 **SERVATION THROUGH RE-**
11 **SOURCE PRIORITIZATION**

12 **SEC. 101. PRIORITIZATION OF LISTING PETITIONS, RE-**
13 **VIEWS, AND DETERMINATIONS.**

14 (a) IN GENERAL.—Section 4 of the Endangered Spe-
15 cies Act of 1973 (16 U.S.C. 1533) is amended by adding
16 at the end the following:

17 “(j) NATIONAL LISTING WORK PLAN.—

18 “(1) IN GENERAL.—Not later than the date de-
19 scribed in paragraph (2), the Secretary shall submit
20 to Congress a national listing work plan that estab-
21 lishes, for each covered species, a schedule for the
22 completion during the 5-fiscal year period beginning
23 on October 1 of the first fiscal year after the date
24 of the submission of the work plan of—

25 “(A) findings as described in subsection

26 (b)(3)(B) for each such covered species;

1 “(B) proposed and final determinations re-
2 garding listing each such covered species under
3 this section; and

4 “(C) proposed and final critical habitat
5 designations under subsection (a)(3) relating to
6 each such covered species.

7 “(2) SUBMISSION TO CONGRESS.—

8 “(A) IN GENERAL.—The Secretary shall
9 submit to Congress—

10 “(i) together with the budget request
11 of the Secretary for the first fiscal year
12 that begins not less than 365 days after
13 the date of the enactment of this sub-
14 section, the initial work plan required
15 under paragraph (1); and

16 “(ii) together with the budget request
17 of the Secretary for each fiscal year there-
18 after, an updated work plan under para-
19 graph (1).

20 “(B) ADDITIONAL INCLUSIONS.—The Sec-
21 retary shall include with each budget request
22 referred to in subparagraph (A) a description of
23 the amounts to be requested to carry out the
24 work plan for the fiscal year covered by the
25 budget request, including any amounts re-

1 requested to address emergency listings if the
2 Secretary identifies any emergency posing a sig-
3 nificant risk to the well-being of any species of
4 fish or wildlife or plant.

5 “(3) PRIORITY.—

6 “(A) IN GENERAL.—In developing a work
7 plan under this subsection, the Secretary shall
8 assign to each species included in the work plan
9 a priority classification of Priority 1 through
10 Priority 5, such that, as determined by the Sec-
11 retary, the following apply:

12 “(i) Priority 1 represents species of
13 the highest priority, to be designated as
14 critically imperiled and in need of imme-
15 diate action.

16 “(ii) Priority 2 represents species with
17 respect to which the best scientific and
18 commercial data available support a clear
19 decision regarding the status of the spe-
20 cies.

21 “(iii) Priority 3 represents species
22 with respect to which studies regarding the
23 status of the species are being carried
24 out—

1 “(I) to answer key questions that
2 may influence the findings of a peti-
3 tion to list the species submitted
4 under subsection (b)(3); and

5 “(II) to resolve any uncertainty
6 regarding the status of the species
7 within a reasonable timeframe.

8 “(iv) Priority 4 represents species for
9 which proactive conservation efforts likely
10 to reduce threats to the species are being
11 developed or carried out, within a reason-
12 able timeframe and in an organized man-
13 ner, by Federal agencies, States, land-
14 owners, or other stakeholders.

15 “(v) Priority 5 represents species—

16 “(I) for which there exists little
17 information regarding—

18 “(aa) threats to the species;

19 or

20 “(bb) the status of the spe-
21 cies; or

22 “(II) that would receive limited
23 conservation benefit in the foreseeable
24 future by listing the species as a

1 threatened species or endangered spe-
2 cies under this section.

3 “(B) USE OF METHODOLOGY.—The Sec-
4 retary shall establish and assign priority classi-
5 fications under subparagraph (A) in accordance
6 with the notice of the Director of the United
7 States Fish and Wildlife Service titled ‘Method-
8 ology for Prioritizing Status Reviews and Ac-
9 companying 12-Month Findings on Petitions
10 for Listing Under the Endangered Species Act’
11 (81 Fed. Reg. 49248; published July 27, 2016).

12 “(C) EXTENSIONS FOR CERTAIN PRIORITY
13 CLASSIFICATIONS.—

14 “(i) PRIORITY 3.—With respect to a
15 species classified as Priority 3 under sub-
16 paragraph (A)(iii), if the Secretary deter-
17 mines that additional time would allow for
18 more complete data collection or the com-
19 pletion of studies relating to the species,
20 the Secretary may retain the species under
21 the work plan for a period of not more
22 than 5 years after the deadline under para-
23 graph (4).

24 “(ii) PRIORITY 4.—With respect to a
25 species classified as Priority 4 under sub-

1 paragraph (A)(iv), if the Secretary deter-
2 mines that existing conservation efforts
3 continue to meet the conservation needs of
4 the species, the Secretary may retain the
5 species under the work plan for a period of
6 not more than 5 years after the deadline
7 under paragraph (4).

8 “(iii) PRIORITY 5.—With respect to a
9 species classified as Priority 5 under sub-
10 paragraph (A)(v), the Secretary may retain
11 the species under the work plan for a pe-
12 riod of not more than 5 years after the
13 deadline under paragraph (4).

14 “(D) REVISION OF PRIORITY CLASSIFICA-
15 TION.—The Secretary may revise, in accordance
16 with subparagraph (A), the assignment to a pri-
17 ority classification of a species included in a
18 work plan at any time during the fiscal years
19 to which the work plan applies.

20 “(E) EFFECT OF PRIORITY CLASSIFICA-
21 TION.—The assignment of a priority classifica-
22 tion to a species included in a work plan is not
23 a final agency action.

24 “(4) DEADLINE.—The Secretary shall act on
25 any petition to add a species to a list published

1 under subsection (c) submitted under subsection
2 (b)(3) not later than the last day of the fiscal year
3 specified for that petition in the most recent work
4 plan.

5 “(5) REGULATIONS.—The Secretary may issue
6 such regulations as the Secretary determines appro-
7 priate to carry out this subsection.

8 “(6) EFFECT OF SUBSECTION.—Nothing in this
9 subsection may be construed to preclude or other-
10 wise affect the emergency listing authority of the
11 Secretary under subsection (b)(7).

12 “(7) DEFINITIONS.—In this subsection:

13 “(A) COVERED SPECIES.—The term ‘cov-
14 ered species’ means a species that is not in-
15 cluded on a list published under subsection
16 (c)—

17 “(i) for which a petition to add the
18 species to such a list has been submitted
19 under subsection (b)(3); or

20 “(ii) that is otherwise under consider-
21 ation by the Secretary for addition to such
22 a list.

23 “(B) WORK PLAN.—The term ‘work plan’
24 means the national listing work plan submitted
25 by the Secretary under paragraph (1).”.

1 (b) CONFORMING AMENDMENTS.—Section 4(b)(3) of
 2 the Endangered Species Act of 1973 (16 U.S.C.
 3 1533(b)(3)) is amended—

4 (1) in subparagraph (B), by striking “Within
 5 12 months” and inserting “In accordance with the
 6 national listing work plan submitted under sub-
 7 section (j),”; and

8 (2) in subparagraph (C), to read as follows:

9 “(C) Any negative finding described in subpara-
 10 graph (A) and any finding described in subpara-
 11 graph (B)(i)(I) shall be subject to judicial review.”.

12 **TITLE II—INCENTIVIZING WILD-** 13 **LIFE CONSERVATION ON PRI-** 14 **VATE LANDS**

15 **SEC. 201. CANDIDATE CONSERVATION AGREEMENTS WITH** 16 **ASSURANCES.**

17 (a) LISTING DETERMINATIONS.—Section 4(b)(1) of
 18 the Endangered Species Act of 1973 (16 U.S.C.
 19 1533(b)(1)) is amended by adding at the end the fol-
 20 lowing:

21 “(C) In making a determination under sub-
 22 section (a)(1) with respect to a species, the Sec-
 23 retary shall take into account and document the ef-
 24 fect of any net conservation benefit (as that term is
 25 defined in subsection (k) of section 10) of any Can-

1 didate Conservation Agreement with Assurances or
2 any programmatic Candidate Conservation Agree-
3 ment with Assurances (as those terms are defined in
4 that subsection) relating to such species.”.

5 (b) CANDIDATE CONSERVATION AGREEMENTS WITH
6 ASSURANCES.—Section 10 of the Endangered Species Act
7 of 1973 (16 U.S.C. 1539) is amended by adding at the
8 end the following:

9 “(k) CANDIDATE CONSERVATION AGREEMENTS
10 WITH ASSURANCES.—

11 “(1) PROPOSED AGREEMENT.—A covered party
12 may submit a proposed Agreement to the Secretary.

13 “(2) APPROVAL.—Not later than 120 days
14 after the date of the receipt of a proposed Agree-
15 ment under paragraph (1), the Secretary shall ap-
16 prove the proposed Agreement if the Secretary de-
17 termines that the proposed Agreement—

18 “(A) sets forth specific management activi-
19 ties that the covered party will undertake to
20 conserve the covered species;

21 “(B) provides a positive estimate of the net
22 conservation benefit of such management activi-
23 ties to the covered species;

24 “(C) describes, to the maximum extent
25 practicable, the existing population levels of the

1 covered species or the existing quality of habi-
2 tat;

3 “(D) includes a monitoring plan to be car-
4 ried out by the parties to the Agreement; and

5 “(E) provides assurances to the covered
6 party that no additional conservation measures
7 will be required and additional land, water, or
8 resource use restrictions will not be imposed on
9 the covered party if the covered species becomes
10 listed after the effective date of such Agree-
11 ment.

12 “(3) DENIAL.—Not later than 120 days after
13 the date of the receipt of a proposed Agreement
14 under paragraph (1), the Secretary shall—

15 “(A) deny the proposed Agreement if the
16 Secretary determines that the proposed Agree-
17 ment does not meet the requirements described
18 in paragraph (2); and

19 “(B) provide the submitting covered party
20 a written explanation for such determination
21 and the adjustments required for the Secretary
22 to approve such proposed Agreement.

23 “(4) PROGRAMMATIC CANDIDATE CONSERVA-
24 TION AGREEMENT WITH ASSURANCES.—

1 “(A) IN GENERAL.—The Secretary may
2 enter into a Candidate Conservation Agreement
3 with Assurances with a covered party that au-
4 thorizes such covered party—

5 “(i) to administer such Candidate
6 Conservation Agreement with Assurances;

7 “(ii) to hold any permit issued under
8 this section with regard to such Candidate
9 Conservation Agreement with Assurances;

10 “(iii) to enroll other covered parties
11 within the area covered by such Candidate
12 Conservation Agreement with Assurances
13 in such Candidate Conservation Agreement
14 with Assurances; and

15 “(iv) to convey any permit authoriza-
16 tion held by such covered party under
17 clause (ii) to each covered party enrolled
18 under clause (iii).

19 “(B) PUBLICATION.—Upon receipt of a
20 proposed programmatic Candidate Conservation
21 Agreement with Assurances under paragraph
22 (1) and before approving or denying such a pro-
23 posed programmatic Candidate Conservation
24 Agreement with Assurances under paragraph
25 (2) or (3), respectively, the Secretary shall—

1 “(i) not later than 30 days after the
2 date of such receipt, publish the proposed
3 programmatic Candidate Conservation
4 Agreement with Assurances in the Federal
5 Register for public comment for a period
6 of not less than 60 days;

7 “(ii) review any comments received
8 under clause (i); and

9 “(iii) after the close of the public com-
10 ment period for the proposed pro-
11 grammatic Candidate Conservation Agree-
12 ment with Assurances, publish in the Fed-
13 eral Register—

14 “(I) any comments received
15 under clause (i); and

16 “(II) the approval or denial of
17 the proposed programmatic Candidate
18 Conservation Agreement with Assur-
19 ances under paragraph (2) or (3), re-
20 spectively.

21 “(5) INCIDENTAL TAKE AUTHORIZATION.—If a
22 covered species is listed under section 4, the Sec-
23 retary shall issue a permit to the relevant covered
24 party under this section allowing incidental take of

1 and modification to the habitat of such covered spe-
2 cies consistent with the Agreement.

3 “(6) TECHNICAL ASSISTANCE.—The Secretary
4 shall, upon request, provide a covered party with
5 technical assistance in developing a proposed Agree-
6 ment.

7 “(7) APPLICABILITY TO FEDERAL LAND.—An
8 Agreement may apply to a covered party that con-
9 ducts activities on land administered by any Federal
10 agency pursuant to a permit or lease issued to the
11 covered party by that Federal agency.

12 “(8) EXEMPTION FROM CONSULTATION RE-
13 QUIREMENT.—An Agreement approved under this
14 subsection shall be deemed to have been granted an
15 exemption under section 7(h) for the purposes of
16 that section.

17 “(9) EXEMPTION FROM DISCLOSURE.—Infor-
18 mation submitted by a private party to the Secretary
19 under this subsection shall be exempt from disclo-
20 sure under section 552(b)(3)(B) of title 5, United
21 States Code.

22 “(10) DEFINITIONS.—In this subsection:

23 “(A) AGREEMENT.—The term ‘Agreement’
24 means—

1 “(i) a Candidate Conservation Agree-
2 ment with Assurances; or

3 “(ii) a programmatic Candidate Con-
4 servation Agreement with Assurances.

5 “(B) CANDIDATE CONSERVATION AGREE-
6 MENT WITH ASSURANCES.—The term ‘Can-
7 didate Conservation Agreement with Assur-
8 ances’ means any voluntary agreement, includ-
9 ing a conservation benefit agreement, between
10 the Secretary and a covered party in which—

11 “(i) the covered party commits to im-
12 plementing mutually agreed upon conserva-
13 tion measures for a candidate species; and

14 “(ii) the Secretary provides assur-
15 ances that, if such candidate species is list-
16 ed pursuant to section 4—

17 “(I) the covered party shall incur
18 no additional obligations beyond ac-
19 tions agreed to in the agreement with
20 respect to conservation activities re-
21 quired under this Act; and

22 “(II) no additional land, water,
23 or resource use restrictions shall be
24 imposed on the covered party beyond
25 those included in the agreement.

1 “(C) CANDIDATE SPECIES.—The term
2 ‘candidate species’ means a species—

3 “(i) designated by the Secretary as a
4 candidate species under this Act; or

5 “(ii) proposed to be listed pursuant to
6 section 4.

7 “(D) COVERED PARTY.—The term ‘covered
8 party’ means a—

9 “(i) party that conducts activities on
10 land administered by a Federal agency
11 pursuant to a permit or lease issued to the
12 party;

13 “(ii) private property owner;

14 “(iii) county;

15 “(iv) State or State agency; or

16 “(v) Tribal government.

17 “(E) COVERED SPECIES.—The term ‘cov-
18 ered species’ means, with respect to an Agree-
19 ment, the species that is the subject of such
20 Agreement.

21 “(F) NET CONSERVATION BENEFIT.—The
22 term ‘net conservation benefit’ means the net
23 effect of an Agreement, determined by com-
24 paring the existing situation of the candidate
25 species without the Agreement in effect and a

1 situation in which the Agreement is in effect,
 2 on a candidate species, including—

3 “(i) the net effect on threats to such
 4 species;

5 “(ii) the net effect on the number of
 6 individuals of such species; or

7 “(iii) the net effect on the habitat of
 8 such species.

9 “(G) PROGRAMMATIC CANDIDATE CON-
 10 SERVATION AGREEMENT WITH ASSURANCES.—
 11 The term ‘programmatic Candidate Conserva-
 12 tion Agreement with Assurances’ means a Can-
 13 didate Conservation Agreement with Assurances
 14 described in paragraph (4)(A).”.

15 **SEC. 202. CONSERVATION PLANS.**

16 (a) IN GENERAL.—Section 10(a)(2) of the Endan-
 17 gered Species Act of 1973 (16 U.S.C. 1539(a)(2)) is
 18 amended—

19 (1) in subparagraph (B), by inserting “, and
 20 shall include the terms and conditions of the related
 21 conservation plan, which shall be legally binding on
 22 all parties thereto” after “being complied with”; and

23 (2) by adding at the end the following:

24 “(D) Each Federal agency shall, as appli-
 25 cable and to the maximum extent practicable,

1 adopt the mitigation measures contained in a
 2 permit issued under subparagraph (B) in any
 3 authorization issued by such Federal agency
 4 with respect to the action that is the subject of
 5 such permit.

6 “(E) With respect to an action that is the
 7 subject of a permit issued under subparagraph
 8 (B), the Secretary shall not seek any additional
 9 mitigation measures through any other Federal
 10 or State or local process.”.

11 (b) EXEMPTION FROM CONSULTATION REQUIRE-
 12 MENT.—Section 10(a) of the Endangered Species Act of
 13 1973 (16 U.S.C. 1539(a)) is amended by adding at the
 14 end the following:

15 “(3) A permit issued by the Secretary under this sub-
 16 section shall be deemed to have been granted an exemption
 17 under section 7(h) for the purposes of that section.”.

18 **SEC. 203. NEPA EXEMPTION FOR INCIDENTAL TAKE PER-**
 19 **MITTS.**

20 Section 10(a) of the Endangered Species Act of 1973
 21 (16 U.S.C. 1539(a)) is amended by adding at the end the
 22 following:

23 “(4) The issuance of a permit under paragraph (2)
 24 shall not be considered a major Federal action under sec-

tion 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).”.

**TITLE III—PROVIDING FOR
GREATER INCENTIVES TO RE-
COVER LISTED SPECIES**

**SEC. 301. PROTECTIVE REGULATIONS UNDER ENDAN-
GERED SPECIES ACT OF 1973.**

Section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533) is amended—

(1) in subsection (d), to read as follows:

“(d) PROTECTIVE REGULATIONS.—

“(1) IN GENERAL.—Whenever any species is listed as a threatened species pursuant to subsection (c), the Secretary shall issue such regulations as are necessary and advisable to provide for the conservation of that species.

“(2) RECOVERY GOALS.—

“(A) IN GENERAL.—If the Secretary issues a regulation under paragraph (1) that prohibits an act described in section 9(a), the Secretary shall, with respect to the species that is the subject of such regulation—

“(i) establish objective, incremental recovery goals;

1 “(ii) provide for the stringency of
2 such regulation to decrease as such recov-
3 ery goals are met; and

4 “(iii) provide for State management
5 within such State, if such State is willing
6 to take on such management, beginning on
7 the date on which the Secretary determines
8 that each such recovery goal is met and, if
9 each such recovery goal remains met, con-
10 tinuing until such species is removed from
11 the list of threatened species published
12 pursuant to subsection (c).

13 “(B) STATUS REVIEW.—On the date on
14 which the Secretary determines that each recov-
15 ery goal established under subparagraph (A)(i)
16 for a species is met, the Secretary shall begin
17 a review of the species and subsequently deter-
18 mine, on the basis of such review, whether the
19 species should be removed from the lists pub-
20 lished pursuant to subsection (c)(1).

21 “(3) COOPERATIVE AGREEMENT.—A regulation
22 issued under paragraph (1) that prohibits an act de-
23 scribed in section 9(a) with respect to a resident
24 species shall apply with respect to a State that has
25 entered into a cooperative agreement with the Sec-

1 retary pursuant to section 6(c) only to the extent
2 that such regulation is adopted by such State.

3 “(4) STATE RECOVERY STRATEGY.—

4 “(A) IN GENERAL.—A State may develop
5 a recovery strategy for a threatened species or
6 a candidate species and submit to the Secretary
7 a petition for the Secretary to use such recovery
8 strategy as the basis for any regulation issued
9 under paragraph (1) with respect to such spe-
10 cies within such State.

11 “(B) APPROVAL OR DENIAL OF PETI-
12 TION.—Not later than 120 days after the date
13 on which the Secretary receives a petition sub-
14 mitted under subparagraph (A), the Secretary
15 shall—

16 “(i) approve such petition if the Sec-
17 retary determines the recovery strategy is
18 reasonably certain to be implemented by
19 the petitioning State and to be effective in
20 conserving the species that is the subject
21 of such recovery strategy; or

22 “(ii) deny such petition if the require-
23 ments described in clause (i) are not met.

24 “(C) PUBLICATION.—Not later than 30
25 days after the date on which the Secretary ap-

1 proves or denies a petition under subparagraph
2 (B), the Secretary shall publish such approval
3 or denial in the Federal Register.

4 “(D) DENIAL OF PETITION.—

5 “(i) WRITTEN EXPLANATION.—If the
6 Secretary denies a petition under subpara-
7 graph (B), the Secretary shall include in
8 such denial a written explanation for such
9 denial, including a description of the
10 changes to such petition that are necessary
11 for the Secretary to approve such petition.

12 “(ii) RESUBMISSION OF DENIED PETI-
13 TION.—A State may resubmit a petition
14 that is denied under subparagraph (B).

15 “(E) USE IN PROTECTIVE REGULA-
16 TIONS.—If the Secretary approves a petition
17 under subparagraph (B), the Secretary shall—

18 “(i) issue a regulation under para-
19 graph (1) that adopts the recovery strategy
20 as such regulation with respect to the spe-
21 cies that is the subject of such recovery
22 strategy within the petitioning State; and

23 “(ii) establish objective criteria to
24 evaluate the effectiveness of such recovery

1 strategy in conserving such species within
2 such State.

3 “(F) REVISION.—If a recovery strategy
4 that is adopted as a regulation issued under
5 paragraph (1) is determined by the Secretary to
6 be ineffective in conserving the species that is
7 the subject of such recovery strategy in accord-
8 ance with the objective criteria established
9 under subparagraph (E)(ii) for such recovery
10 strategy, the Secretary shall revise such regula-
11 tion and reissue such regulation in accordance
12 with paragraph (1).”; and
13 (2) in subsection (f)(1)(B)—

14 (A) in clause (ii), by striking “and” at the
15 end;

16 (B) in clause (iii), by striking the period at
17 the end and inserting “; and”; and

18 (C) by adding at the end the following:

19 “(iv) with respect to an endangered spe-
20 cies, objective, incremental recovery goals in ac-
21 cordance with subsection (d)(2)(A) for use
22 under that subsection if such endangered spe-
23 cies is changed in status from an endangered
24 species to a threatened species under subsection
25 (c)(2)(B)(ii).”.

1 **SEC. 302. 5-YEAR REVIEW DETERMINATIONS.**

2 Section 4(c) of the Endangered Species Act of 1973
3 (16 U.S.C. 1533(c)) is amended by adding at the end the
4 following:

5 “(3) Not later than 30 days after the date on which
6 the Secretary makes a determination under paragraph
7 (2)(B), the Secretary shall initiate a rulemaking to carry
8 out such determination.”.

9 **SEC. 303. JUDICIAL REVIEW DURING MONITORING PERIOD.**

10 Section 4(g) of the Endangered Species Act of 1973
11 (16 U.S.C. 1533(g)) is amended by adding at the end the
12 following:

13 “(3) The removal of a species from a list published
14 under subsection (c)(1) is not subject to judicial review
15 during the period established under paragraph (1) with
16 respect to the species.”.

17 **SEC. 304. CODIFICATION OF REGULATION.**

18 The final rule titled “Endangered and Threatened
19 Wildlife and Plants; Regulations for Prohibitions to
20 Threatened Wildlife and Plants” (84 Fed. Reg. 44753;
21 published August 27, 2019) shall have the force and effect
22 of law.

23 **SEC. 305. DESIGNATION OF CRITICAL HABITAT.**

24 (a) PRIVATELY OWNED OR CONTROLLED LAND.—
25 Section 4(a)(3) of the Endangered Species Act of 1973

1 (16 U.S.C. 1533(a)(3)) is amended by adding at the end
2 the following:

3 “(C) The Secretary may not designate as critical
4 habitat under subparagraph (A) any privately owned or
5 controlled land or other geographical area that is subject
6 to a land management plan that—

7 “(i) the Secretary determines is similar in na-
8 ture to an integrated natural resources management
9 plan described in section 101 of the Sikes Act (16
10 U.S.C. 670a);

11 “(ii)(I) is prepared in cooperation with the Sec-
12 retary and the head of each applicable State fish
13 and wildlife agency of each State in which such land
14 or other geographical area is located; or

15 “(II) is submitted to the Secretary in a manner
16 that is similar to the manner in which an applicant
17 submits a conservation plan to the Secretary under
18 section 10(a)(2)(A);

19 “(iii) includes an activity or a limitation on an
20 activity that the Secretary determines will likely con-
21 serve the species concerned;

22 “(iv) the Secretary determines will result in—

23 “(I) an increase in the population of the
24 species concerned above the population of such
25 species on the date that such species is listed as

1 a threatened species or an endangered species;

2 or

3 “(II) maintaining the same population of
4 such species on the land or other geographical
5 area as the population that would likely occur
6 if such land or other geographical area is des-
7 ignated as critical habitat; and

8 “(v) to the maximum extent practicable, will
9 minimize and mitigate the impacts of any activity
10 that will likely result in an incidental taking of the
11 species concerned.”.

12 (b) DESIGNATION CONSIDERATIONS.—Section
13 4(b)(2) of the Endangered Species Act of 1973 (16 U.S.C.
14 1533(b)(2)) is amended in the first sentence by inserting
15 “the impact on existing efforts of private landowners to
16 conserve the species,” after “impact on national secu-
17 rity,”.

1 **TITLE IV—CREATING GREATER**
2 **TRANSPARENCY AND AC-**
3 **COUNTABILITY IN RECOV-**
4 **ERING LISTED SPECIES**

5 **SEC. 401. REQUIREMENT TO PUBLISH BASIS FOR LISTINGS**
6 **AND CRITICAL HABITAT DESIGNATIONS ON**
7 **INTERNET.**

8 Section 4(b) of the Endangered Species Act of 1973
9 (16 U.S.C. 1533(b)) is amended by adding at the end the
10 following:

11 “(9) The Secretary shall make publicly available on
12 the Internet the best scientific and commercial data avail-
13 able that are used as the basis for each regulation, includ-
14 ing each proposed regulation, promulgated under para-
15 graphs (1) and (3) of subsection (a), except that—

16 “(A) at the request of a Governor, State agen-
17 cy, or legislature of a State, the Secretary may not
18 make such data available under this paragraph if
19 such entity determines that public disclosure of such
20 data is prohibited by a law or regulation of such
21 State, including any law or regulation requiring the
22 protection of personal information; and

23 “(B) not later than 30 days after the date of
24 the enactment of this paragraph, the Secretary shall
25 execute an agreement with the Secretary of Defense

1 that prevents the disclosure under this paragraph of
 2 classified information pertaining to Department of
 3 Defense personnel, facilities, lands, or waters.”.

4 **SEC. 402. DECISIONAL TRANSPARENCY AND USE OF STATE,**
 5 **TRIBAL, AND LOCAL INFORMATION.**

6 Section 6(a) of the Endangered Species Act of 1973
 7 (16 U.S.C. 1535(a)) is amended—

8 (1) by inserting “(1)” before the first sentence;
 9 and

10 (2) by striking “Such cooperation shall include”
 11 and inserting the following:

12 “(2) Such cooperation shall include—

13 “(A) before making a determination under
 14 section 4(a), providing to States affected by
 15 such determination all data that is the basis of
 16 the determination; and

17 “(B)”.

18 **SEC. 403. DISCLOSURE OF EXPENDITURES UNDER ENDAN-**
 19 **GERED SPECIES ACT OF 1973.**

20 (a) **REQUIREMENT TO DISCLOSE.**—Section 13 of the
 21 Endangered Species Act of 1973 (87 Stat. 902) is amend-
 22 ed to read as follows:

23 **“SEC. 13. DISCLOSURE OF EXPENDITURES.**

24 “(a) **REQUIREMENT.**—The Secretary of the Interior,
 25 in consultation with the Secretary of Commerce, shall—

1 “(1) not later than 90 days after the end of
2 each fiscal year, submit to the Committee on Nat-
3 ural Resources of the House of Representatives and
4 the Committee on Environment and Public Works of
5 the Senate an annual report detailing Federal Gov-
6 ernment expenditures for covered suits during the
7 preceding fiscal year (including the information de-
8 scribed in subsection (b)); and

9 “(2) make publicly available through the Inter-
10 net a searchable database, updated monthly, of the
11 information described in subsection (b).

12 “(b) INCLUDED INFORMATION.—The report shall in-
13 clude—

14 “(1) the case name and number of each covered
15 suit, and, with respect to each such covered suit, a
16 hyperlink to each settlement decision, final decision,
17 consent decree, stipulation of dismissal, release, in-
18 terim decision, motion to dismiss, partial motion for
19 summary judgement, or related final document;

20 “(2) a description of each claim or cause of ac-
21 tion in each covered suit;

22 “(3) the name of each covered agency the ac-
23 tions of which give rise to any claim in a covered
24 suit and each plaintiff in such suit;

1 “(4) funds expended by each covered agency
2 (disaggregated by agency account) to receive and re-
3 spond to notices referred to in section 11(g)(2) or to
4 prepare for litigation of, litigate, negotiate a settle-
5 ment agreement or consent decree in, or provide ma-
6 terial, technical, or other assistance in relation to, a
7 covered suit;

8 “(5) the number of full-time equivalent employ-
9 ees that participated in the activities described in
10 paragraph (4);

11 “(6) any information required to be published
12 under section 1304 of title 31, United States Code,
13 with respect to a covered suit; and

14 “(7) attorneys fees and other expenses
15 (disaggregated by agency account) awarded in cov-
16 ered suits, including any consent decrees or settle-
17 ment agreements (regardless of whether a decree or
18 settlement agreement is sealed or otherwise subject
19 to nondisclosure provisions), including the basis for
20 such awards.

21 “(c) REQUIREMENT TO PROVIDE INFORMATION.—
22 The head of each covered agency shall provide to the Sec-
23 retary in a timely manner all information requested by the
24 Secretary to comply with the requirements of this section.

1 “(d) LIMITATION ON DISCLOSURE.—Notwith-
 2 standing any other provision of this section, this section
 3 shall not affect any restriction in a consent decree or set-
 4 tlement agreement on the disclosure of information that
 5 is not described in subsection (b).

6 “(e) DEFINITIONS.—In this section:

7 “(1) COVERED AGENCY.—The term ‘covered
 8 agency’ means any agency of the—

9 “(A) Department of the Interior;

10 “(B) Forest Service;

11 “(C) Environmental Protection Agency;

12 “(D) National Marine Fisheries Service;

13 “(E) Bonneville Power Administration;

14 “(F) Western Area Power Administration;

15 “(G) Southwestern Power Administration;

16 or

17 “(H) Southeastern Power Administration.

18 “(2) COVERED SUIT.—The term ‘covered suit’
 19 means—

20 “(A) any civil action containing any claim
 21 arising under this Act against the Federal Gov-
 22 ernment and based on the action of a covered
 23 agency; and

24 “(B) any administrative proceeding under
 25 which the United States awards fees and other

1 expenses to a third party under section 504 of
 2 title 5, United States Code.”.

3 (b) CLERICAL AMENDMENT.—The table of contents
 4 in the first section of the Endangered Species Act of 1973
 5 (16 U.S.C. 1531 note) is amended by striking the item
 6 relating to section 13 and inserting the following:

“Sec. 13. Disclosure of expenditures.”.

7 **SEC. 404. AWARD OF LITIGATION COSTS TO PREVAILING**
 8 **PARTIES IN ACCORDANCE WITH EXISTING**
 9 **LAW.**

10 Section 11(g)(4) of the Endangered Species Act of
 11 1973 (16 U.S.C. 1540(g)(4)) is amended by striking “to
 12 any party, whenever the court determines such award is
 13 appropriate” and inserting “in accordance with section
 14 2412 of title 28, United States Code and section 504 of
 15 title 5, United States Code”.

16 **SEC. 405. ANALYSIS OF IMPACTS AND BENEFITS OF DETER-**
 17 **MINATION OF ENDANGERED OR THREAT-**
 18 **ENED STATUS.**

19 Section 4(a) of the Endangered Species Act of 1973
 20 (16 U.S.C. 1533(a)) is amended by adding at the end the
 21 following:

22 “(4)(A) The Secretary shall, concurrently with deter-
 23 mining under paragraph (1) whether a species is a threat-
 24 ened species or an endangered species, prepare an analysis
 25 with respect to such determination of—

1 “(i) the economic effect;
 2 “(ii) the effects on national security;
 3 “(iii) the effects on human health and safety;
 4 and
 5 “(iv) any other relevant effect.
 6 “(B) Nothing in this paragraph shall delay a deter-
 7 mination made by the Secretary under paragraph (1) or
 8 change the criteria used by the Secretary to make such
 9 a determination.”.

10 **TITLE V—STREAMLINING** 11 **PERMITTING PROCESS**

12 **SEC. 501. LIMITATION ON REASONABLE AND PRUDENT** 13 **MEASURES.**

14 Section 7(b)(4) of the Endangered Species Act of
 15 1973 (16 U.S.C. 1536(b)(4)) is amended—

16 (1) by inserting “and that do not propose, rec-
 17 ommend, or require the Federal agency or the appli-
 18 cant concerned, if any, to mitigate or offset such im-
 19 pact” after “minimize such impact”; and

20 (2) by inserting “which measures may be issued
 21 after the written statement,” after “such taking,”.

22 **SEC. 502. SUCCESSIVE CONSULTATIONS.**

23 Section 7(b) of the Endangered Species Act of 1973
 24 (16 U.S.C. 1536(b)) is amended by adding at the end the
 25 following:

1 “(5)(A) With respect to an ongoing Federal agency
2 action for which the applicable Federal agency has adopt-
3 ed a reasonable and prudent alternative or a reasonable
4 and prudent measure to comply with subsection (a)(2), in
5 any subsequent consultation for the Federal agency action
6 that occurs 10 years or more after the date on which the
7 initial consultation for the Federal agency action was com-
8 pleted, the Secretary shall—

9 “(i) project the likelihood of and timeline for
10 the recovery of the threatened species and endan-
11 gered species affected by the Federal agency action;
12 and

13 “(ii) determine whether continuing to imple-
14 ment the reasonable and prudent alternative or a
15 reasonable and prudent measure will materially in-
16 crease the likelihood of and reduce the time for re-
17 covery of the threatened species and endangered spe-
18 cies.

19 “(B) If the Secretary finds under subparagraph
20 (A)(ii) that continued implementation of the modification
21 will not materially improve the likelihood of and shorten
22 the time to the recovery of the species, the Federal agency
23 shall discontinue implementation of the modification not-
24 withstanding subsection (a)(2).”.

1 **SEC. 503. REQUIREMENT TO CONSIDER REASONABLY CER-**
2 **TAIN EFFECTS.**

3 Section 7(a)(2) of the Endangered Species Act of
4 1973 (16 U.S.C. 1536(a)) is amended by inserting “A
5 consultation carried out pursuant to this paragraph shall
6 consider the effects that are reasonably certain to be
7 caused by the action without a substantive presumption
8 in favor of the species” after “commercial data available.”.

9 **SEC. 504. CLARIFYING JEOPARDY.**

10 Section 7(a) of the Endangered Species Act of 1973
11 (16 U.S.C. 1536(a)) is amended by adding at the end the
12 following:

13 “(5) For the purposes of a consultation carried out
14 pursuant to paragraph (2) or a conference carried out
15 under paragraph (4), the Secretary may only determine
16 that the action that is the subject of such consultation
17 or conference is likely to jeopardize the continued exist-
18 ence of an applicable species or result in the destruction
19 or adverse modification of habitat of such a species which
20 is determined by the Secretary, after consultation as ap-
21 propriate with affected States, to be critical if the Sec-
22 retary determines, based on the best scientific and com-
23 mercial data available, that the effects that are reasonably
24 certain to be caused by the action are likely to result in
25 the action itself causing such jeopardy.”.

1 **TITLE VI—ELIMINATING**
2 **BARRIERS TO CONSERVATION**

3 **SEC. 601. PERMITS FOR CITES-LISTED SPECIES.**

4 Section 9(c)(2) of Endangered Species Act of 1973
5 (16 U.S.C. 1538(c)(2)) is amended to read as follows:

6 “(2) An export from or import into the United
7 States of fish or wildlife listed as a threatened spe-
8 cies or an endangered species pursuant to section 4
9 is lawful under this Act and not subject to permit
10 requirements or other regulations issued by the Sec-
11 retary with respect to exportation and importation
12 pursuant to this Act if—

13 “(A) such fish or wildlife is a species that
14 is not native to the United States; and

15 “(B) with respect to the export or import,
16 each applicable requirement—

17 “(i) of the Convention is satisfied; and

18 “(ii) of subsections (d), (e), and (f) is
19 satisfied.”.

20 **SEC. 602. UTILIZE CONVENTION STANDARD FOR PERMITS**
21 **APPLICABLE TO NON-NATIVE SPECIES.**

22 Section 10(a)(1)(A) of the Endangered Species Act
23 of 1973 (16 U.S.C. 1539(a)(1)(A)) is amended to read
24 as follows:

1 “(A)(i) with respect to a species that is native
2 to the United States, any act otherwise prohibited by
3 section 9 for scientific purposes or to enhance the
4 propagation or survival of the affected species, in-
5 cluding acts necessary for the establishment and
6 maintenance of experimental populations pursuant
7 to subsection (j); and

8 “(ii) with respect to a species that is not native
9 to the United States, any act otherwise prohibited by
10 section 9 that the Secretary determines is not detri-
11 mental to the survival of the affected species, includ-
12 ing—

13 “(I) to export or re-import, deliver, receive,
14 carry, transport, or ship in interstate or foreign
15 commerce in the course of a commercial activ-
16 ity;

17 “(II) to buy or sell or offer for sale in
18 interstate or foreign commerce; and

19 “(III) acts necessary for the establishment
20 and maintenance of experimental populations
21 pursuant to subsection (j); or”.

**TITLE VII—RESTORING
CONGRESSIONAL INTENT**

SEC. 701. LIMITING AGENCY REGULATIONS.

Section 11(f) of the Endangered Species Act of 1973
(16 U.S.C. 1540(f)) is amended—

(1) by striking “The Secretary,” and inserting
the following:

“(1) IN GENERAL.—The Secretary,”;

(2) in paragraph (1), as so designated, by striking
“to enforce this Act” and inserting “to enforce
this section and section 8A”; and

(3) by adding at the end the following:

“(2) RULE OF CONSTRUCTION.—This sub-
section may not be construed to be an independent
source of authority to promulgate regulations to en-
force the provisions of this Act other than those in-
cluded in this section and section 8A.”.

○

AMENDED IN SENATE MAY 29, 2025

AMENDED IN SENATE APRIL 7, 2025

SENATE BILL

No. 707

Introduced by Senator Durazo
(Principal coauthor: Senator Arreguín)

February 21, 2025

An act to amend Sections 54952, 54952.7, 54953, 54953.5, 54953.7, 54954.2, 54954.3, 54956, 54956.5, ~~54957.1~~, 54957.6, ~~54960~~, ~~54957.95~~, and 54960.2 of, to amend and repeal Section 54952.2 of, to add Sections 54953.8, 54953.8.1, ~~and 54953.8.2~~ *54953.8.2, and 54953.10* to, and to add and repeal Sections 54953.8.3, 54953.8.4, 54953.8.5, 54953.8.6, 54953.8.7, and 54953.9 of, the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

SB 707, as amended, Durazo. Open meetings: meeting and teleconference requirements.

(1) 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.

This bill would, until January 1, 2030, require ~~a city council or a county board of supervisors~~ *an eligible legislative body, as defined*, to comply with additional meeting requirements, including ~~that that, except as specified~~, all open and public meetings include an opportunity for members of the public to attend via a 2-way telephonic service or a 2-way audiovisual platform, as defined, ~~that a system is in place for requesting and receiving interpretation services for public meetings, as specified~~, and that the ~~city council or county board of supervisors~~

eligible legislative body take specified actions to encourage residents to participate in public meetings, as specified.

(2) Existing law defines “legislative body” for these purposes of the act to mean, among other things, a commission, committee, board, or other body of a local agency, whether permanent or temporary, decisionmaking or advisory, created by charter, ordinance, resolution, or formal action of a legislative body. Existing law specifies that “legislative body” does not include advisory committees, composed solely of the members of the legislative body that are less than a quorum of the legislative body, except for specified standing committees of a legislative body. ~~bodies. body.~~

This bill would revise and recast the above-described definition of a legislative body and would specify that ~~bodies with certain subject matter jurisdiction, including elections, and~~ advisory committees with a continuing subject matter jurisdiction or a fixed meeting schedule, as specified, are legislative bodies.

Existing law prohibits a majority of the members of a legislative body, outside a meeting authorized by the act, from using a series of communications of any kind to discuss, deliberate, or take action on any item of business that is within the subject matter jurisdiction of the legislative body. Existing law defines “meetings” for these purposes to mean any congregation of a majority of the members of a legislative body at the same time and location, as specified, to hear, discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the legislative body. Until January 1, 2026, existing law excepts from the prohibition a member engaging in separate conversations or communications outside of a meeting with any other person using an internet-based social media platform for specified purposes, provided, among other things, that a majority of the members do not use the internet-based social media platform to discuss among themselves business of a specific nature that is within the subject matter jurisdiction of the legislative body.

~~This bill would also include as a “meeting” any conversation between members of a legislative body regarding, among other things, boundary lines of the districts of the legislative body. The bill would make the above-described exception related to communications on an internet-based social media platform applicable indefinitely.~~

(3) Existing law requires a legislative body, prior to taking final action, to orally report a summary of a recommendation for a final action on specified forms of compensation for a local agency executive,

as defined, during the open meeting in which the final action is to be taken.

This bill would also require the legislative body to make that oral report, as provided above, prior to taking final action on those specified forms of compensation for an unrepresented employee of the local agency.

~~(3)–~~

(4) Existing law requires a legislative body of a local agency or its designee, at least 72 hours before a regular meeting, to post an agenda that meets specified requirements, including that the agenda contain a brief general description of each item of business to be transacted or discussed at the meeting, as specified.

~~This bill would also require the agenda to be provided in English and in all other~~ *for each meeting of an eligible legislative body, as defined, to be translated into all applicable languages. The bill would define “applicable languages” to mean languages spoken jointly by 20% or more of the population in the city or county in which the local agency eligible legislative body is located that, among other things, speaks English less than “very well,” as specified, and except as provided.*

Existing law requires every agenda for regular meetings to provide an opportunity for members of the public to directly address the legislative body on any item of interest of the public, as specified. Existing law specifies that the agenda is not required to provide an opportunity for members of the public to address the legislative body on any item that has already been considered by a committee, as specified.

This bill would remove the provision related to an item that has already been considered by a committee.

~~(4)–~~

(5) Existing law authorizes a legislative body of a local agency to require a copy of the act to be given to each member of the legislative body and specified persons elected to serve as a member of the legislative body, and authorizes an elected legislative body member to require a copy to be given to each member of each legislative body all or a majority of whose members are appointed by or under the authority of the elected legislative body.

~~This bill would instead require a legislative body of a local agency to provide a copy of the act to each member of the legislative body and specified persons~~ *any person* elected or appointed to serve as a member

~~of the legislative body, as described above: a legislative body of the local agency.~~

Existing law authorizes legislative bodies of local agencies to impose requirements upon themselves which allow greater access to their meetings than prescribed by the minimal standards set forth in the act, and authorizes an elected legislative body of a local agency to also impose those requirements on those appointed legislative bodies of the local agency of which all or a majority of the members are appointed by or under the authority of the elected legislative body.

This bill would remove the above-described requirement that members of an appointed legislative body of a local agency must be appointed by or under the authority of the elected legislative body of a local agency in order for the elected legislative body to impose the above-described requirements on the appointed legislative body.

~~(5) Existing law requires the legislative body of any local agency to publicly report any action taken in closed session and the vote or abstention on that action of every member present pursuant to specified requirements, including that action taken to appoint, employ, dismiss, accept the resignation of, or otherwise affect the employment status of a public employee in closed session held under specified provisions is reported at the public meeting during that closed session and that the report identifies the title of the position.~~

~~This bill would require any report subject to the above-described requirement to also include an estimate of the fiscal impact of the action taken.~~

~~Existing law authorizes a court in its discretion to order a legislative body, upon a judgment of a violation of specified closed session provisions, to audio record closed sessions and preserve the audio recordings for the period and under specified terms the court deems appropriate. Existing~~

~~(6) Existing law authorizes a district attorney or any interested person to file an action to determine the applicability of the act to past actions of the legislative body pursuant to specified provisions relating to violations of the act if specified conditions are met, including that the district attorney or interested person first submits a cease and desist letter to the clerk or secretary of the legislative body being accused of the violation, as specified, within 9 months of the alleged violation.~~

~~This bill would expand the violations for specified closed sessions described above to instead include a violation of any provision under the act authorizing a closed session. The bill would instead require that~~

a cease and desist letter described above be submitted within 12 months of the alleged violation.

~~(6)~~

(7) Existing law provides any person attending an open and public meeting of a legislative body of a local agency with the right to record the proceedings with an audio or visual recorder or a still or motion picture camera, as specified.

This bill would remove the reference to an audio or visual recorder or a still or motion picture camera for purposes of recording the proceedings, as described above.

~~(7)~~

(8) Existing law authorizes a legislative body of a local agency to use teleconferencing, as specified, and requires a legislative body of a local agency that elects to use teleconferencing to comply with specified general requirements, including that the local agency 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, except as specified.

Existing law authorizes members who are outside the jurisdiction of a health authority, as defined, that conducts a teleconferencing meeting to, notwithstanding the above-described general teleconference provisions, count towards the establishment of a quorum when participating in the teleconference if, among other things, at least 50% of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction.

Existing law authorizes, in certain circumstances, the legislative body of a local agency to use specified alternative teleconferencing which include provisions related to, among others, notice of the means by which members of the public may access the meeting and offer public comment and identifying and including an opportunity for all persons to attend via a call-in option or an internet-based service option. Those circumstances in which the legislative body of a local agency is authorized to use the alternative teleconferencing provisions include specified circumstances relating to a state of emergency, as defined, and, until January 1, 2026, subject to specified limitations, a member's

need to participate remotely due to just ~~cause~~ *cause, defined to include, among other things, a physical or mental disability, or emergency circumstances, as defined.*

Existing law also authorizes certain eligible legislative bodies, including neighborhood councils and student body associations and student-run community college organizations to, until January 1, 2026, use alternate teleconferencing if, among other requirements, the city council or board of trustees, as applicable, has adopted an authorizing resolution and $\frac{2}{3}$ of the neighborhood city council or specified student organization, as applicable, votes to use alternate teleconference provisions, as specified.

This bill would revise and recast the above-specified alternative teleconferencing provisions to uniformly apply certain noticing, accessibility, and public commenting provisions. The bill would require a legislative body of a local agency that elects to use teleconferencing pursuant to these alternative teleconferencing provisions to comply with specified requirements, including that the legislative body provides at least either 2-way audiovisual platform or 2-way telephonic service and a live webcasting of the meeting as a means by which the public may, among other things, remotely hear and visually observe the meeting, and that a member of the legislative body who participates in a teleconference meeting from a remote location ~~is and the specific provision of law that the member relied upon to permit their participation by teleconferencing are~~ listed in the minutes of the meeting. The bill would require the local agency to identify and make available to legislative bodies a list of *one or more* meeting locations that *may be available for use by* the legislative bodies ~~may use~~ to conduct their meetings.

The bill would instead authorize a health authority, as defined, to conduct a teleconference meeting pursuant to the above-described alternative teleconferencing provisions.

The bill would revise and recast the alternative teleconferencing provisions applicable in a state of emergency, as defined. The bill would also include a local emergency, as defined, as a circumstance in which a legislative body of a local agency is authorized to use the alternative teleconferencing provisions.

The bill would revise and recast the alternative teleconferencing provisions applicable in cases of a member's need to participate remotely due to just cause or emergency circumstances, as defined, to remove the provision applicable to emergency ~~circumstances and~~ *circumstances*,

to broaden the definition of just cause to include a physical or family medical emergency that prevents a member from attending in ~~person~~. ~~person, and to require the agenda for a meeting to identify the specific type of just cause that each member relied upon to participate remotely, as specified.~~ The bill would extend the authorization to use the alternative teleconferencing provision until January 1, 2030. ~~The bill would make the authorization for a member to participate remotely in the case of a physical or mental disability effective indefinitely, as specified.~~

The bill would revise and recast the alternative teleconferencing provisions applicable to neighborhood councils and student body associations and student-run community college organizations and would extend the authorization to use the alternative teleconferencing provision until January 1, 2030.

The bill would, until January 1, 2030, also authorize *a* specified subsidiary ~~bodies~~ *body* of local agencies to conduct a teleconference meeting pursuant to the above-described alternative teleconferencing provisions, provided that it complies with the requirements for alternative teleconferencing described above and additional requirements, including that the subsidiary body designates ~~a primary~~ *at least one* physical meeting location *within the boundaries of the legislative body that created the subsidiary body* where members of the public may physically attend, observe, hear, and participate in the meeting, as specified.

The bill would, until January 1, 2030, also authorize specified multijurisdictional bodies of local agencies to conduct a teleconference meeting pursuant to the above-described alternative teleconferencing provisions, provided that it complies with the requirements for alternative teleconferencing described above and additional requirements, including that the eligible multijurisdictional body has adopted a resolution that authorizes the multijurisdictional body to use teleconferencing at a regular meeting in open session.

~~(8)–~~

(9) Existing law authorizes a special meeting to be called any time by, among other persons, the presiding officer of the legislative body of a local agency, by delivering specified written notices and posting a notice on the local agency’s internet website, if the local agency has one. Existing law requires specified legislative bodies to comply with the internet website posting requirement. ~~Existing law prohibits a legislative body of a local agency 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.~~

The bill would remove the requirement that only specified legislative bodies comply with the internet website posting requirement, thereby imposing that requirement on all legislative bodies.

~~The bill would also prohibit a legislative body of a local agency from calling a special meeting regarding the evaluation of performance, discipline, or dismissal of a local agency executive, or a member of the legislative body. The bill would prohibit a legislative body from, among other things, considering the appointment, employment, evaluation of performance, discipline, or dismissal of a public employee, at a special meeting, unless the item is properly before the legislative body, as specified, and certain criteria are met, including that at least 4/5 of the legislative body vote at the start of the meeting to proceed with the meeting.~~

~~(9)~~

(10) Existing law authorizes a legislative body of a local agency to hold an emergency meeting without complying with specified notice and posting requirements in the case of specified emergency circumstances, as specified, and imposes various requirements under these provisions applicable to either legislative bodies generally or legislative bodies which are a school board.

This bill would remove the school board distinction from the above-described provisions, thereby imposing the same requirements to hold an emergency meeting on all legislative bodies of local agencies.

By imposing additional duties on legislative bodies of local agencies, the bill would impose a state-mandated local program.

(11) *Existing law authorizes, in addition to other related specified authorizations, 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.*

This bill would specify that a meeting for purposes of that provision includes any teleconferenced meeting.

(12) *The bill would make other updates to references in the act.*

~~(10)~~

(13) 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.

(11)

(14) 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.

(12)

(15) The bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

(13)

(16) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 54952 of the Government Code is
2 amended to read:

3 54952. As used in this chapter, “legislative body” means:

4 (a) The governing body of a local agency or any other local
5 body created by state or federal statute.

6 (b) A commission, committee, board, or other body of a local
7 agency, whether permanent or temporary, decisionmaking or
8 advisory, created by charter, ordinance, resolution, or formal action
9 of a legislative body.

10 (c) (1) A board, commission, committee, or other multimember
11 body that governs a private corporation, limited liability company,
12 or other entity that either:

13 (A) Is created by the elected legislative body in order to exercise
14 authority that may lawfully be delegated by the elected governing
15 body to a private corporation, limited liability company, or other
16 entity.

(B) Receives funds from a local agency and the membership of whose governing body includes a member of the legislative body of the local agency appointed to that governing body as a full voting member by the legislative body of the local agency.

(2) Notwithstanding subparagraph (B) of paragraph (1), no board, commission, committee, or other multimember body that governs a private corporation, limited liability company, or other entity that receives funds from a local agency and, as of February 9, 1996, has a member of the legislative body of the local agency as a full voting member of the governing body of that private corporation, limited liability company, or other entity shall be relieved from the public meeting requirements of this chapter by virtue of a change in status of the full voting member to a nonvoting member.

(d) The lessee of any hospital the whole or part of which is first leased pursuant to subdivision (p) of Section 32121 of the Health and Safety Code after January 1, 1994, where the lessee exercises any material authority of a legislative body of a local agency delegated to it by that legislative body whether the lessee is organized and operated by the local agency or by a delegated authority.

(e) (1) An advisory or standing committee of a legislative body, irrespective of its composition, which has a continuing subject matter jurisdiction, or a meeting schedule fixed by charter, ordinance, resolution, or formal action of a legislative body.

(2) However, advisory committees, composed solely of the members of the legislative body that are less than a quorum of the legislative body are not legislative bodies.

~~(3) Notwithstanding paragraph (2), any commission, committee, board, or other body of a local agency, decisionmaking or advisory, with subject matter jurisdiction over elections, budgets, police oversight, or removing materials from, or restricting access to, facilities of the legislative body that created it is a legislative body.~~

SEC. 2. Section 54952.2 of the Government Code, as amended by Section 1 of Chapter 89 of the Statutes of 2020, is amended to read:

54952.2. (a) As used in this chapter, “meeting” means either of the following:

~~(1) Any~~ any congregation of a majority of the members of a legislative body at the same time and location, including

1 teleconference location as permitted by Section 54953, to hear,
2 discuss, deliberate, or take action on any item that is within the
3 subject matter jurisdiction of the legislative body.

4 ~~(2) Any conversation between members of the legislative body~~
5 ~~regarding any of the following:~~

6 ~~(A) Boundary lines of the districts of the legislative body.~~

7 ~~(B) Compensation of members of the legislative body or a local~~
8 ~~agency executive, as defined in subdivision (d) of Section 3511.1.~~

9 ~~(C) The appointment, employment, evaluation of performance,~~
10 ~~discipline, or dismissal of a public employee.~~

11 (b) (1) A majority of the members of a legislative body shall
12 not, outside a meeting authorized by this chapter, use a series of
13 communications of any kind, directly or through intermediaries,
14 to discuss, deliberate, or take action on any item of business that
15 is within the subject matter jurisdiction of the legislative body.

16 (2) Paragraph (1) shall not be construed as preventing an
17 employee or official of a local agency, from engaging in separate
18 conversations or communications outside of a meeting authorized
19 by this chapter with members of a legislative body in order to
20 answer questions or provide information regarding a matter that
21 is within the subject matter jurisdiction of the local agency, if that
22 person does not communicate to members of the legislative body
23 the comments or position of any other member or members of the
24 legislative body.

25 (3) (A) Paragraph (1) shall not be construed as preventing a
26 member of the legislative body from engaging in separate
27 conversations or communications on an internet-based social media
28 platform to answer questions, provide information to the public,
29 or to solicit information from the public regarding a matter that is
30 within the subject matter jurisdiction of the legislative body
31 provided that a majority of the members of the legislative body
32 do not use the internet-based social media platform to discuss
33 among themselves business of a specific nature that is within the
34 subject matter jurisdiction of the legislative body. A member of
35 the legislative body shall not respond directly to any
36 communication on an internet-based social media platform
37 regarding a matter that is within the subject matter jurisdiction of
38 the legislative body that is made, posted, or shared by any other
39 member of the legislative body.

1 (B) For purposes of this paragraph, all of the following
2 definitions shall apply:

3 (i) “Discuss among themselves” means communications made,
4 posted, or shared on an internet-based social media platform
5 between members of a legislative body, including comments or
6 use of digital icons that express reactions to communications made
7 by other members of the legislative body.

8 (ii) “Internet-based social media platform” means an online
9 service that is open and accessible to the public.

10 (iii) “Open and accessible to the public” means that members
11 of the general public have the ability to access and participate, free
12 of charge, in the social media platform without the approval by
13 the social media platform or a person or entity other than the social
14 media platform, including any forum and chatroom, and cannot
15 be blocked from doing so, except when the internet-based social
16 media platform determines that an individual violated its protocols
17 or rules.

18 (c) Nothing in this section shall impose the requirements of this
19 chapter upon any of the following:

20 (1) Individual contacts or conversations between a member of
21 a legislative body and any other person that do not violate
22 subdivision (b).

23 (2) The attendance of a majority of the members of a legislative
24 body at a conference or similar gathering open to the public that
25 involves a discussion of issues of general interest to the public or
26 to public agencies of the type represented by the legislative body,
27 provided that a majority of the members do not discuss among
28 themselves, other than as part of the scheduled program, business
29 of a specified nature that is within the subject matter jurisdiction
30 of the local agency. Nothing in this paragraph is intended to allow
31 members of the public free admission to a conference or similar
32 gathering at which the organizers have required other participants
33 or registrants to pay fees or charges as a condition of attendance.

34 (3) The attendance of a majority of the members of a legislative
35 body at an open and publicized meeting organized to address a
36 topic of local community concern by a person or organization other
37 than the local agency, provided that a majority of the members do
38 not discuss among themselves, other than as part of the scheduled
39 program, business of a specific nature that is within the subject
40 matter jurisdiction of the legislative body of the local agency.

(4) The attendance of a majority of the members of a legislative body at an open and noticed meeting of another body of the local agency, or at an open and noticed meeting of a legislative body of another local agency, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled meeting, business of a specific nature that is within the subject matter jurisdiction of the legislative body of the local agency.

(5) The attendance of a majority of the members of a legislative body at a purely social or ceremonial occasion, provided that a majority of the members do not discuss among themselves business of a specific nature that is within the subject matter jurisdiction of the legislative body of the local agency.

(6) The attendance of a majority of the members of a legislative body at an open and noticed meeting of a standing committee of that body, provided that the members of the legislative body who are not members of the standing committee attend only as observers.

SEC. 3. Section 54952.2 of the Government Code, as added by Section 2 of Chapter 89 of the Statutes of 2020, is repealed.

SEC. 4. Section 54952.7 of the Government Code is amended to read:

54952.7. ~~A legislative body of a local agency shall provide a copy of this chapter to each member of the legislative body and any person elected or appointed to serve as a member of the a legislative body who has not assumed the duties of office. of the local agency.~~

SEC. 5. Section 54953 of the Government Code, as amended by Section 2 of Chapter 534 of the Statutes of 2023, is amended to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all otherwise applicable requirements of this chapter and all otherwise

1 applicable provisions of law relating to a specific type of meeting
2 or proceeding.

3 (2) Teleconferencing, as authorized by this section, may be used
4 for all purposes in connection with any meeting within the subject
5 matter jurisdiction of the legislative body. If the legislative body
6 of a local agency elects to use teleconferencing, the legislative
7 body of a local agency shall comply with all of the following:

8 (A) All votes taken during a teleconferenced meeting shall be
9 by rollcall.

10 (B) The teleconferenced meetings shall be conducted in a
11 manner that protects the statutory and constitutional rights of the
12 parties or the public appearing before the legislative body of a
13 local agency.

14 (C) The legislative body shall give notice of the meeting and
15 post agendas as otherwise required by this chapter.

16 (D) The legislative body shall allow members of the public to
17 access the meeting and the agenda shall provide an opportunity
18 for members of the public to address the legislative body directly
19 pursuant to Section 54954.3.

20 (3) If the legislative body of a local agency elects to use
21 teleconferencing, it shall post agendas at all teleconference
22 locations. Each teleconference location shall be identified in the
23 notice and agenda of the meeting or proceeding, and each
24 teleconference location shall be accessible to the public. During
25 the teleconference, at least a quorum of the members of the
26 legislative body shall participate from locations within the
27 boundaries of the territory over which the local agency exercises
28 jurisdiction, except as provided in subdivisions (d) and (e).

29 (c) (1) No legislative body shall take action by secret ballot,
30 whether preliminary or final.

31 (2) The legislative body of a local agency shall publicly report
32 any action taken and the vote or abstention on that action of each
33 member present for the action.

34 (3) (A) Prior to taking final action, the legislative body shall
35 orally report a summary of a recommendation for a final action
36 on the salaries, salary schedules, or compensation paid in the form
37 of fringe benefits of a local agency executive, as defined in
38 subdivision (d) of Section 3511.1, either of the following during
39 the open meeting in which the final action is to be taken. This
40 taken:

1 (i) *A local agency executive, as defined in subdivision (d) of*
2 *Section 3511.1.*

3 (ii) *An unrepresented employee of the local agency.*

4 (B) *This paragraph shall not affect the public's right under the*
5 *California Public Records Act (Division 10 (commencing with*
6 *Section 7920.000) of Title 1) to inspect or copy records created*
7 *or received in the process of developing the recommendation.*

8 (d) *"Teleconference" means a meeting of a legislative body,*
9 *the members of which are in different locations, connected by*
10 *electronic means, through either audio or video, or both.*

11 SEC. 6. Section 54953.5 of the Government Code is amended
12 to read:

13 54953.5. (a) Any person attending an open and public meeting
14 of a legislative body of a local agency shall have the right to record
15 the proceedings in the absence of a reasonable finding by the
16 legislative body of the local agency that the recording cannot
17 continue without noise, illumination, or obstruction of view that
18 constitutes, or would constitute, a persistent disruption of the
19 proceedings.

20 (b) Any recording of an open and public meeting made for
21 whatever purpose by or at the direction of the local agency shall
22 be subject to inspection pursuant to the California Public Records
23 Act (Division 10 (commencing with Section 7920.000) of Title
24 1), but, notwithstanding Section 34090, may be erased or destroyed
25 30 days after the recording. Any inspection of an audio or video
26 recording shall be provided without charge on equipment made
27 available by the local agency.

28 SEC. 7. Section 54953.7 of the Government Code is amended
29 to read:

30 54953.7. Notwithstanding any other provision of law,
31 legislative bodies of local agencies may impose requirements upon
32 themselves which allow greater access to their meetings than
33 prescribed by the minimal standards set forth in this chapter. In
34 addition thereto, an elected legislative body of a local agency may
35 impose those requirements on appointed legislative bodies of the
36 local agency.

37 SEC. 8. Section 54953.8 is added to the Government Code, to
38 read:

39 54953.8. (a) The legislative body of a local agency may use
40 teleconferencing as authorized by subdivision (b) of Section 54953

1 without complying with the requirements of paragraph (3) of
2 subdivision (b) of Section 54953 in any of the circumstances
3 described in Sections 54953.8.1 to 54953.8.7, inclusive.

4 (b) A legislative body that holds a meeting pursuant to this
5 section shall comply with all of the following:

6 (1) The legislative body shall provide at least one of the
7 following as a means by which the public may remotely hear and
8 visually observe the meeting, and remotely address the legislative
9 body:

10 (A) A two-way audiovisual platform.

11 (B) A two-way telephonic service and a live webcasting of the
12 meeting.

13 (2) In each instance in which notice of the time of the
14 teleconferenced meeting is otherwise given or the agenda for the
15 meeting is otherwise posted, the legislative body shall also give
16 notice of the means by which members of the public may access
17 the meeting and offer public comment. The agenda shall identify
18 and include an opportunity for all persons to attend via a call-in
19 option or an internet-based service option.

20 (3) In the event of a disruption that prevents the legislative body
21 from broadcasting the meeting to members of the public using the
22 call-in option or internet-based service option, or in the event of
23 a disruption within the local agency's control that prevents
24 members of the public from offering public comments using the
25 call-in option or internet-based service option, the legislative body
26 shall take no further action on items appearing on the meeting
27 agenda until public access to the meeting via the call-in option or
28 internet-based service option is restored. Actions taken on agenda
29 items during a disruption that prevents the legislative body from
30 broadcasting the meeting may be challenged pursuant to Section
31 54960.1.

32 (4) The legislative body shall not require public comments to
33 be submitted in advance of the meeting and must provide an
34 opportunity for the public to address the legislative body and offer
35 comment in real time.

36 (5) Notwithstanding Section 54953.3, an individual desiring to
37 provide public comment through the use of an internet website, or
38 other online platform, not under the control of the local legislative
39 body, that requires registration to log in to a teleconference may

1 be required to register as required by the third-party internet
2 website or online platform to participate.

3 (6) (A) A legislative body that provides a timed public comment
4 period for each agenda item shall not close the public comment
5 period for the agenda item, or the opportunity to register, pursuant
6 to paragraph (5), to provide public comment until that timed public
7 comment period has elapsed.

8 (B) A legislative body that does not provide a timed public
9 comment period, but takes public comment separately on each
10 agenda item, shall allow a reasonable amount of time per agenda
11 item to allow public members the opportunity to provide public
12 comment, including time for members of the public to register
13 pursuant to paragraph (5), or otherwise be recognized for the
14 purpose of providing public comment.

15 (C) A legislative body that provides a timed general public
16 comment period that does not correspond to a specific agenda item
17 shall not close the public comment period or the opportunity to
18 register, pursuant to paragraph (5), until the timed general public
19 comment period has elapsed.

20 (7) Any member of the legislative body who participates in a
21 teleconference meeting from a remote location *and the specific*
22 *provision of law that the member relied upon to permit their*
23 *participation by teleconferencing* shall be listed in the minutes of
24 the meeting.

25 (8) The legislative body shall have and implement a procedure
26 for receiving and swiftly resolving requests for reasonable
27 accommodation for individuals with disabilities, consistent with
28 the federal Americans with Disabilities Act of 1990 (42 U.S.C.
29 Sec. 12132), and resolving any doubt in favor of accessibility. In
30 each instance in which notice of the time of the meeting is
31 otherwise given or the agenda for the meeting is otherwise posted,
32 the legislative body shall also give notice of the procedure for
33 receiving and resolving requests for accommodation.

34 (9) The legislative body shall conduct meetings subject to this
35 chapter consistent with applicable civil rights and
36 nondiscrimination laws.

37 ~~(10) Instructions on joining the meeting by the telephonic or~~
38 ~~internet-based service option, including any requirements for~~
39 ~~registration for public comment, shall be made available in English~~
40 ~~and in all other languages spoken jointly by 20 percent or more of~~

1 the population in the county in which the local agency is located
2 that speaks English less than “very well” and jointly speaks a
3 language other than English according to data from the most recent
4 American Community Survey or data from an equally reliable
5 source.

6 (c) A local agency shall identify and make available to
7 legislative bodies a list of *one or more* meeting locations that *may*
8 *be available for use by* the legislative bodies ~~may use~~ to conduct
9 their meetings.

10 (d) (1) Nothing in this section shall prohibit a legislative body
11 from providing the public with additional teleconference locations.

12 (2) Nothing in this section shall prohibit a legislative body from
13 providing the public with additional physical locations in which
14 the public may observe and address the legislative body by
15 electronic ~~means~~ means.

16 (e) *A member of a legislative body using teleconferencing*
17 *pursuant to this section may notify the legislative body that they*
18 *must attend and participate in a given meeting of the legislative*
19 *body solely by teleconference from a remote location due to a need*
20 *related to a physical or mental disability, as those terms are defined*
21 *in Sections 12926 and 12926.1, that is not otherwise reasonably*
22 *accommodated pursuant to the federal Americans with Disability*
23 *Act of 1990 (42 U.S.C. Sec. 12101 et seq.). A member attending*
24 *and participating in a meeting of a legislative body solely by*
25 *teleconference from a remote location pursuant to this subdivision*
26 *may count toward any in-person quorum requirement to use*
27 *teleconferencing.*

28 (f) *A member of a legislative body using teleconferencing*
29 *pursuant to this section shall publicly disclose at the meeting before*
30 *any action is taken whether any other individuals 18 years of age*
31 *or older are present in the room at the remote location with the*
32 *member, and the general nature of the member’s relationship with*
33 *any such individuals.*

34 (e)

35 (g) For purposes of this section, the following definitions apply:

36 (1) “Remote location” means a location from which a member
37 of a legislative body participates in a meeting pursuant to paragraph
38 (7) of subdivision (b), other than any physical meeting location
39 designated in the notice of the meeting. Remote locations need not
40 be accessible to the public.

~~(2) “Remote participation” means participation in a meeting by teleconference at a location other than any physical meeting location designated in the notice of the meeting. Watching or listening to a meeting via webcasting or another similar electronic medium that does not permit members to interactively hear, discuss, or deliberate on matters, does not constitute remote participation.~~

~~(3)~~

(2) “Teleconference” means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both.

~~(4)~~

(3) “Two-way audiovisual platform” means an online platform that provides participants with the ability to participate in a meeting via both an interactive video conference and a two-way telephonic service.

~~(5)~~

(4) “Two-way telephonic service” means a telephone service that does not require internet access and allows participants to dial a telephone number to listen and verbally participate.

~~(6)~~

(5) “Webcasting” means a streaming video broadcast online or on television, using streaming media technology to distribute a single content source to many simultaneous listeners and viewers.

SEC. 9. Section 54953.8.1 is added to the Government Code, to read:

54953.8.1. (a) A health authority may conduct a teleconference meeting pursuant to Section 54953.8, provided that it complies with the requirements of that section.

(b) Nothing in this section or Section 54953.8 shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority.

(c) For purposes of this section, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of

1 the Welfare and Institutions Code, and any advisory committee to
2 a county-sponsored health plan licensed pursuant to Chapter 2.2
3 (commencing with Section 1340) of Division 2 of the Health and
4 Safety Code if the advisory committee has 12 or more members.

5 SEC. 10. Section 54953.8.2 is added to the Government Code,
6 to read:

7 54953.8.2. (a) A legislative body of a local agency may
8 conduct a teleconference meeting pursuant to Section 54953.8
9 during a proclaimed state of emergency or local emergency,
10 provided that it complies with the requirements of that section and
11 the teleconferencing is used in either of the following
12 circumstances:

13 (1) For the purpose of determining, by majority vote, whether
14 as a result of the emergency, meeting in person would present
15 imminent risks to the health or safety of attendees.

16 (2) After a determination described in paragraph (1) is made
17 that, as a result of the emergency, meeting in person would present
18 imminent risks to the health or safety of attendees.

19 (b) If the state of emergency or local emergency remains active,
20 in order to continue to teleconference pursuant to this section, the
21 legislative body shall, no later than 45 days after teleconferencing
22 for the first time pursuant to this section, and every 45 days
23 thereafter, make the following findings by majority vote:

24 (1) The legislative body has reconsidered the circumstances of
25 the state of emergency or local emergency.

26 (2) The state of emergency or local emergency continues to
27 directly impact the ability of the members to meet safely in person.

28 (c) This section shall not be construed to require the legislative
29 body to provide a physical location from which the public may
30 attend or comment.

31 (d) Notwithstanding paragraph (1) of subdivision (b) of Section
32 54953.8, a legislative body conducting a teleconference meeting
33 pursuant to this section may elect to use a two-way telephonic
34 service without a live webcasting of the meeting.

35 (e) For purposes of this section, the following definitions apply:

36 (1) "Local emergency" means a condition of extreme peril to
37 persons or property proclaimed by the governing body of the local
38 agency affected, in accordance with Section 8630 of the California
39 Emergency Services Act (Chapter 7 (commencing with Section
40 8550) of Division 1 of Title 2), as defined in Section 8680.9, or a

1 local health emergency declared pursuant to Section 101080 of
2 the Health and Safety Code. Local emergency, as used in this
3 section, refers only to local emergencies in the jurisdiction in which
4 the legislative body is located. *boundaries of the territory over*
5 *which the local agency exercises jurisdiction.*

6 (2) “State of emergency” means state of emergency proclaimed
7 pursuant to Section 8625 of the California Emergency Services
8 Act (Chapter 7 (commencing with Section 8550) of Division 1 of
9 Title 2).

10 SEC. 11. Section 54953.8.3 is added to the Government Code,
11 to read:

12 54953.8.3. (a) ~~(1)~~—A legislative body of a local agency may
13 conduct a teleconference meeting pursuant to Section 54953.8 if,
14 during the teleconference meeting, at least a quorum of the
15 members of the legislative body participates in person from a
16 singular physical location clearly identified on the agenda, which
17 location shall be open to the public and situated within the
18 boundaries of the territory over which the local agency exercises
19 jurisdiction, provided that the legislative body complies with the
20 requirements of Section 54953.8 and all of the following additional
21 requirements:

22 ~~(2)~~

23 (1) A member of the legislative body notifies the legislative
24 body at the earliest opportunity possible, including at the start of
25 a regular meeting, of their need to participate remotely for just
26 cause, including a general description of the circumstances relating
27 to their need to appear remotely at the given meeting.

28 ~~(3)~~

29 (2) The member shall publicly disclose at the meeting before
30 any action is ~~taken~~, *taken* whether any other individuals 18 years
31 of age or older are present in the room at the remote location with
32 the member, and the general nature of the member’s relationship
33 with those individuals.

34 ~~(4)~~

35 (3) The member shall participate through both audio and visual
36 technology.

37 ~~(5)~~

38 (4) (A) The provisions of this subdivision shall not serve as a
39 means for any member of a legislative body to participate in
40 meetings of the legislative body solely by teleconference from a

1 remote location *for just cause* for more than the following number
2 of meetings, as applicable:

3 (i) Two meetings per year, if the legislative body regularly meets
4 once per month or less.

5 (ii) Five meetings per year, if the legislative body regularly
6 meets twice per month.

7 (iii) Seven meetings per year, if the legislative body regularly
8 meets three or more times per month.

9 (B) For the purpose of counting meetings attended by
10 teleconference under this paragraph, a “meeting” shall be defined
11 as any number of meetings of the legislative body of a local agency
12 that begin on the same calendar day.

13 *(b) The agenda for the meeting shall identify the specific type*
14 *of just cause described in subdivision (c) that each member relied*
15 *upon to participate remotely. This subdivision shall not be*
16 *construed to require the member to disclose any medical diagnosis*
17 *or disability, or any personal medical information that is otherwise*
18 *exempt under existing law, including, but not limited to, the*
19 *Confidentiality of Medical Information Act (Chapter 1*
20 *(commencing with Section 56) of Part 2.6 of Division 1 of the Civil*
21 *Code).*

22 ~~(b)~~

23 (c) For purposes of this section, “just cause” means any of the
24 following:

25 (1) Childcare or caregiving need of a child, parent, grandparent,
26 grandchild, sibling, spouse, or domestic partner that requires them
27 to participate remotely. “Child,” “parent,” “grandparent,”
28 “grandchild,” and “sibling” have the same meaning as those terms
29 do in Section 12945.2.

30 (2) A contagious illness that prevents a member from attending
31 in person.

32 (3) A need related to a physical or mental disability, as defined
33 in Sections 12926 and 12926.1, not otherwise accommodated by
34 any reasonable accommodations provided.

35 (4) Travel while on official business of the legislative body or
36 another state or local agency.

37 (5) An immunocompromised child, parent, grandparent,
38 grandchild, sibling, spouse, or domestic partner of the member
39 that requires the member to participate remotely.

1 (6) A physical or family medical emergency that prevents a
2 member from attending in person.

3 ~~(e)~~

4 (d) This section shall not be construed to limit the ability of a
5 legislative body to use alternative teleconferencing provisions.

6 ~~(d)~~

7 (e) This section shall remain in effect only until January 1, 2030,
8 and as of that date is repealed.

9 SEC. 12. Section 54953.8.4 is added to the Government Code,
10 to read:

11 54953.8.4. (a) An eligible neighborhood council may conduct
12 a teleconference meeting pursuant to Section 54953.8, provided
13 that it complies with the requirements of that section and all of the
14 following have occurred:

15 (1) (A) The city council for a city described in paragraph (2)
16 of subdivision (b) considers whether to adopt a resolution to
17 authorize eligible neighborhood councils to use teleconferencing
18 as described in this section at an open and regular meeting.

19 (B) If the city council adopts a resolution described in
20 subparagraph (A), an eligible neighborhood council may elect to
21 use teleconferencing pursuant to this section if a majority of the
22 eligible neighborhood council votes to do so. The eligible
23 neighborhood council shall notify the city council if it elects to
24 use teleconferencing pursuant to this section and its justification
25 for doing so.

26 (C) Upon receiving notification from an eligible neighborhood
27 council described in subparagraph (B), the city council may adopt
28 a resolution to prohibit the eligible neighborhood council from
29 using teleconferencing pursuant to this section.

30 (2) After completing the requirements of subparagraph (A) of
31 paragraph (1), an eligible neighborhood council that holds a
32 meeting pursuant to this subdivision shall do all of the following:

33 (A) At least a quorum of the members of the eligible
34 neighborhood council shall participate from locations within the
35 boundaries of the city in which the eligible neighborhood council
36 is established.

37 (B) At least once per year, at least a quorum of the members of
38 the eligible neighborhood council shall participate in person from
39 a singular physical location that is open to the public and within
40 the boundaries of the eligible neighborhood council.

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

(4) If the meeting is outside regular business hours, the eligible neighborhood council shall make reasonable efforts to accommodate any member of the public that requests an accommodation to participate in the meeting.

(b) For purposes of this section, the following definitions apply:

(1) “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.

(2) “Eligible neighborhood council” 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.

(c) This section shall remain in effect only until January 1, 2030, and as of that date is repealed.

SEC. 13. Section 54953.8.5 is added to the Government Code, to read:

54953.8.5. (a) An eligible community college student organization may conduct a teleconference meeting pursuant to the Section 54953.8, provided that it complies with the requirements of that section and all of the following additional requirements:

(1) An eligible community college student organization may only use teleconferencing as described in Section 54953.8 after all the following have occurred:

(A) The board of trustees for a community college district considers whether to adopt a resolution to authorize eligible

1 community college student organizations to use teleconferencing
2 as described in this section at an open and regular meeting.

3 (B) If the board of trustees for a community college district
4 adopts a resolution described in subparagraph (A), an eligible
5 community college student organization may elect to use
6 teleconferencing pursuant to this section if a majority of the eligible
7 community college student organization votes to do so. The eligible
8 community college student organization shall notify the board of
9 trustees if it elects to use teleconferencing pursuant to this section
10 and its justification for doing so.

11 (C) Upon receiving notification from an eligible community
12 college student organization as described in subparagraph (B), the
13 board of trustees may adopt a resolution to prohibit the eligible
14 community college student organization from using
15 teleconferencing pursuant to this section.

16 (D) (i) At least a quorum of the members of the eligible
17 community college student organization shall participate from a
18 singular physical location that is accessible to the public and is
19 within the community college district in which the eligible
20 community college student organization is established.

21 (ii) Notwithstanding the requirements of clause (i), a person
22 may count toward the establishment of a quorum pursuant to clause
23 (i) regardless of whether the person is participating at the in-person
24 location of the meeting or remotely if the person meets any of the
25 following criteria:

26 (I) The person has a disability that requires accommodation
27 pursuant to the Americans with Disabilities Act of 1990 (42 U.S.C.
28 Sec. 12132).

29 (II) The person is under 18 years of age.

30 (III) The person is incarcerated.

31 (IV) The person is unable to disclose the location that they are
32 participating from because of either of the following circumstances:

33 (ia) The person has been issued a protective court order,
34 including, but not limited to, a domestic violence restraining order.

35 (ib) The person is participating in a program that has to remain
36 confidential, including, but not limited to, an independent living
37 program.

38 (V) The person provides childcare or caregiving to a child,
39 parent, grandparent, grandchild, sibling, spouse, or domestic partner
40 that requires them to participate remotely. For purposes of this

1 subclause, “child,” “parent,” “grandparent,” “grandchild,” and
2 “sibling” have the same meaning as those terms are defined in
3 Section 12945.2.

4 (2) An eligible community college student organization that
5 holds a meeting by teleconference as described in Section 54953.8
6 shall do the following, as applicable:

7 (A) If the meeting is during regular business hours of the offices
8 of the board of trustees of the community college district, the
9 eligible community college student organization shall provide a
10 publicly accessible physical location from which the public may
11 attend or comment, which shall be the offices of the board of
12 trustees of the community college district, unless the eligible
13 community college student organization identifies an alternative
14 location.

15 (B) If the meeting is outside regular business hours, the eligible
16 community college student organization shall make reasonable
17 efforts to accommodate any member of the public that requests an
18 accommodation to participate in the meeting. For the purposes of
19 this subparagraph, “accommodation” means providing a publicly
20 accessible physical location for the member of the public to
21 participate from, providing access to technology necessary to
22 participate in the meeting, or identifying locations or resources
23 available that could provide the member of the public with an
24 opportunity to participate in the meeting.

25 (b) For purposes of this section, “eligible community college
26 student organization” means a student body association organized
27 pursuant to Section 76060 of the Education Code, or any other
28 student-run community college organization that is required to
29 comply with the meeting requirements of this chapter.

30 (c) This section shall remain in effect only until January 1, 2030,
31 and as of that date is repealed.

32 SEC. 14. Section 54953.8.6 is added to the Government Code,
33 to read:

34 54953.8.6. (a) An eligible subsidiary body may conduct a
35 teleconference meeting pursuant to Section 54953.8, provided that
36 it complies with the requirements of that section and all of the
37 following additional requirements:

38 (1) The eligible subsidiary body shall designate ~~a primary~~
39 ~~physical meeting location~~ *at least one physical meeting location*
40 *within the boundaries of the legislative body that created the*

1 *eligible subsidiary body* where members of the public may
2 physically attend, observe, hear, and participate in the meeting.
3 ~~At least one staff member of the local agency of the subsidiary~~
4 ~~body~~ *eligible subsidiary body or the legislative body that created*
5 *the eligible subsidiary body* shall be present at ~~the primary~~ *each*
6 physical meeting location during the meeting. ~~The local agency~~
7 ~~of the subsidiary body~~ *eligible subsidiary body* shall post the
8 agenda at ~~the primary~~ *each* physical meeting location, but need
9 not post the agenda at a remote location.

10 (2) (A) The members of the eligible subsidiary body shall
11 visibly appear on camera during the open portion of a meeting that
12 is publicly accessible via the internet or other online platform.

13 (B) The visual appearance of a member of the eligible subsidiary
14 body on camera may cease only when the appearance would be
15 technologically impracticable, including, but not limited to, when
16 the member experiences a lack of reliable broadband or internet
17 connectivity that would be remedied by joining without video, or
18 when the visual display of meeting materials, information, or
19 speakers on the internet or other online platform requires the visual
20 appearance of a member of a subsidiary body on camera to cease.

21 (C) If a member of the eligible subsidiary body does not appear
22 on camera due to challenges with internet connectivity, the member
23 shall announce the reason for their nonappearance when they turn
24 off their camera.

25 ~~(3) Any member who receives compensation for their service~~
26 ~~on the subsidiary body shall not receive compensation if they~~
27 ~~participate in a teleconference meeting from a remote location~~
28 ~~pursuant to this section. For purposes of this paragraph,~~
29 ~~“compensation” does not include reimbursement for actual and~~
30 ~~necessary expenses.~~

31 ~~(4) A quorum of the eligible subsidiary body cannot be~~
32 ~~established solely by members of the legislative body that created~~
33 ~~it or its staff.~~

34 ~~(5) (A) At least a quorum of the members of the eligible~~
35 ~~subsidiary body shall participate from a singular physical location~~
36 ~~that is accessible to the public and is within the jurisdiction in~~
37 ~~which the eligible subsidiary body is established.~~

38 ~~(B) Notwithstanding the requirements of subparagraph (A), a~~
39 ~~person may count toward the establishment of a quorum pursuant~~
40 ~~to subparagraph (A) regardless of whether the person is~~

1 participating at the in-person location of the meeting or remotely
2 if either of the following criteria is met:

3 (i) The person meets any of the following criteria:

4 (I) The person has a disability that requires accommodation
5 pursuant to the Americans with Disabilities Act of 1990 (42 U.S.C.
6 Sec. 12132).

7 (II) The person is under 18 years of age.

8 (III) The person is incarcerated.

9 (IV) The person is unable to disclose the location that they are
10 participating from because of either of the following circumstances:

11 (ia) The person has been issued a protective court order,
12 including, but not limited to, a domestic violence restraining order.

13 (ib) The person is participating in a program that has to remain
14 confidential, including, but not limited to, an independent living
15 program.

16 (V) The person provides childcare or caregiving to a child,
17 parent, grandparent, grandchild, sibling, spouse, or domestic partner
18 that requires them to participate remotely. For purposes of this
19 clause, “child,” “parent,” “grandparent,” “grandchild,” and
20 “sibling” have the same meaning as those terms are defined in
21 Section 12945.2.

22 (ii) The local agency that created the subsidiary body has
23 determined by a majority vote of the legislative body to include
24 one or more of the following criteria for persons to count toward
25 the establishment of a quorum as described in this subparagraph,
26 and the person meets any of the applicable criteria:

27 (I) The person has an immunocompromised child, parent,
28 grandparent, grandchild, sibling, spouse, or domestic partner with
29 whom the person has regular contact with that requires the person
30 to participate remotely.

31 (II) The person provides a doctor’s note before the
32 commencement of the meeting documenting that the person has
33 a contagious illness and that the person is recommended to avoid
34 in-person contact with other individuals.

35 (III) The person is coming to the meeting from an area where
36 the local agency that created the subsidiary body has notified the
37 subsidiary body before the commencement of the meeting that
38 inclement weather events have compelled the local agency to issue
39 a local advisory, including, but not limited to, tire chain control,
40 flood danger, or risk of landslide, and that the local agency does

1 ~~not recommend travel to an in-person meeting unless any members~~
2 ~~of the legislative body can identify an alternative route that allows~~
3 ~~them to attend the meeting in person.~~

4 ~~(IV) The person plans to commute to the meeting via public~~
5 ~~transportation and the local agency has notified the subsidiary~~
6 ~~body of an unforeseen closure or failure of public transportation~~
7 ~~that may prevent members of the subsidiary body from attending~~
8 ~~the meeting in person.~~

9 *(3) An elected official shall not participate in a meeting by*
10 *teleconferencing pursuant to this section unless the use of*
11 *teleconferencing complies with the requirements of paragraph (3)*
12 *of subdivision (b) of Section 54953.*

13 ~~(6)~~

14 (4) The eligible subsidiary body shall submit its
15 ~~recommendations~~ recommendations, if any, in writing to the
16 legislative body that created it.

17 (A) The eligible subsidiary body shall present its
18 ~~recommendations~~ recommendations, if any, to the legislative body
19 that created it at a regular meeting in open session of that legislative
20 body.

21 (B) The legislative body shall hold ~~the discussion of the~~
22 ~~recommendations at its next regular meeting, unless it determines~~
23 ~~it is infeasible, and then shall hold it at the following regular~~
24 ~~meeting; a discussion of any recommendations presented by the~~
25 ~~subsidiary body at the meeting during which the recommendations~~
26 ~~are presented or at another regular meeting held within 60 days~~
27 ~~after receiving the recommendations unless the legislative body~~
28 ~~does not have another regular meeting scheduled within 60 days~~
29 ~~after the recommendations are received, in which case the~~
30 ~~discussion may be held at the next regular meeting after the~~
31 ~~recommendations are presented.~~

32 (C) The legislative body shall not place discussions of the
33 recommendations on a consent calendar.

34 ~~(7)~~

35 (5) (A) In order to use teleconferencing pursuant to this section,
36 the legislative body that established the eligible subsidiary body
37 by charter, ordinance, resolution, or other formal action shall make
38 the following findings by majority vote before the eligible
39 subsidiary body uses teleconferencing pursuant to this section for
40 the first time, and every 12 months thereafter:

1 (i) The legislative body has considered the circumstances of the
2 eligible subsidiary body.

3 (ii) Teleconference meetings of the eligible subsidiary body
4 would enhance public access to meetings of the eligible subsidiary
5 body.

6 (iii) Teleconference meetings of the eligible subsidiary body
7 would promote the attraction, retention, and diversity of eligible
8 subsidiary body members.

9 (B) After the legislative body makes the findings described in
10 subparagraph (A), the eligible subsidiary body shall approve the
11 use of teleconferencing by majority vote before using
12 teleconference pursuant to this section.

13 (C) The legislative body that created the eligible subsidiary
14 body may elect to prohibit the eligible subsidiary body from using
15 teleconferencing pursuant to this section at any time.

16 (b) For purposes of this section, “eligible subsidiary body”
17 means a legislative body that meets all of the following:

18 (1) Is described in subdivision (b) of Section 54952.

19 (2) Serves exclusively in an advisory capacity.

20 (3) Is not authorized to take final action on legislation,
21 regulations, contracts, licenses, permits, or any other entitlements,
22 grants, or allocations of funds.

23 ~~(4) One-half of the members or more of the eligible subsidiary~~
24 ~~body are not members of the legislative body that created it or its~~
25 ~~staff.~~

26 (5)

27 (4) Does not have subject matter jurisdiction over elections,
28 budgets, police oversight, or removing materials from, or restricting
29 access to, ~~facilities of the legislative body that created it.~~ *materials*
30 *available in public libraries.*

31 (c) This section shall remain in effect only until January 1, 2030,
32 and as of that date is repealed.

33 SEC. 15. Section 54953.8.7 is added to the Government Code,
34 to read:

35 54953.8.7. (a) An eligible multijurisdictional body may
36 conduct a teleconference meeting pursuant to Section 54953.8,
37 provided that it complies with the requirements of that section and
38 all of the following additional requirements:

39 (1) The eligible multijurisdictional body has adopted a resolution
40 that authorizes the eligible multijurisdictional body to use

1 teleconferencing pursuant to this section at a regular meeting in
2 open session.

3 (2) At least a quorum of the members of the eligible
4 multijurisdictional body shall participate from one or more physical
5 locations that are open to the public and within the boundaries of
6 the territory over which the local agency exercises jurisdiction.

7 (3) A member of the eligible multijurisdictional body who
8 receives compensation for their service on the eligible
9 multijurisdictional body shall participate from a physical location
10 that is open to the public. For purposes of this paragraph,
11 “compensation” does not include reimbursement for actual and
12 necessary expenses.

13 (4) The eligible multijurisdictional body shall identify each
14 member of the eligible multijurisdictional body who plans to
15 participate remotely in the agenda.

16 (5) A member of the eligible multijurisdictional body shall not
17 participate in a meeting remotely pursuant to this section, unless
18 the location from which the member participates is more than 20
19 miles round trip from ~~the in-person location of the meeting.~~ *any*
20 *physical location of the meeting described in paragraph (2).*

21 (b) For the purposes of this section, both of the following
22 definitions apply:

23 (1) “Eligible multijurisdictional body” means a
24 *multijurisdictional* board, commission, or advisory body of a
25 multijurisdictional, cross-county agency, the membership of which
26 board, commission, or advisory body is appointed, and the board,
27 commission, or advisory body is otherwise subject to this chapter.

28 (2) “Multijurisdictional” means ~~a~~ *either of the following:*

29 (A) A legislative body that includes representatives from more
30 than one county, city, city and county, ~~or special district, or district.~~

31 (B) A legislative body of a joint powers entity formed pursuant
32 to an agreement entered into in accordance with Article 1
33 (commencing with Section 6500) of Chapter 5 of Division 7 of
34 Title 1.

35 (c) This section shall remain in effect only until January 1, 2030,
36 and as of that date is repealed.

37 ~~SEC. 16. Section 54953.9 is added to the Government Code,~~
38 ~~to read:~~

1 ~~54953.9. (a) In addition to any other applicable requirements~~
2 ~~of this chapter, a city council or a county board of supervisors shall~~
3 ~~comply with the following requirements:~~

4 ~~(1) (A) All open and public meetings shall include an~~
5 ~~opportunity for members of the public to attend via a two-way~~
6 ~~telephonic service or a two-way audiovisual platform.~~

7 ~~(B) If a city council or a county board of supervisors elects to~~
8 ~~provide a two-way audiovisual platform, the city council or a~~
9 ~~county board of supervisors shall publicly post and provide a call-in~~
10 ~~option, and activate any automatic captioning function during the~~
11 ~~meeting if an automatic captioning function is included with the~~
12 ~~system.~~

13 ~~(2) All open and public meetings shall provide the public with~~
14 ~~an opportunity to comment on agenda items via a two-way~~
15 ~~telephonic or two-way audiovisual platform, and ensure the~~
16 ~~opportunity for the members of the public participating via a~~
17 ~~two-way telephonic or two-way audiovisual platform to comment~~
18 ~~on agenda items with the same time allotment as a person attending~~
19 ~~a meeting in person.~~

20 ~~(b) A city council or a county board of supervisors shall have~~
21 ~~in place a system for requesting and receiving interpretation~~
22 ~~services for public meetings, including the public comment period.~~
23 ~~The city council or a county board of supervisors shall publicize~~
24 ~~the online system described in this paragraph and any instructions~~
25 ~~on how to request interpretation services for public meetings online.~~

26 ~~(c) A city council or a county board of supervisors shall~~
27 ~~encourage residents, including those in underrepresented~~
28 ~~communities and non-English-speaking communities, to participate~~
29 ~~in public meetings by, at a minimum, doing all of the following:~~

30 ~~(1) Providing public meeting information to all of the following:~~

31 ~~(A) Media organizations that provide news coverage in the~~
32 ~~jurisdiction of the city council or a county board of supervisors;~~
33 ~~including media organizations that serve non-English-speaking~~
34 ~~communities.~~

35 ~~(B) Good government, civil rights, civic engagement,~~
36 ~~neighborhood, and community group organizations, or other~~
37 ~~organizations that are active in the jurisdiction of the city council~~
38 ~~or a county board of supervisors, including organizations active~~
39 ~~in non-English-speaking communities.~~

1 ~~(C) Any person that has requested to be notified concerning the~~
2 ~~city council's or a county board of supervisors' public meetings.~~
3 ~~The city council or a county board of supervisors shall maintain~~
4 ~~a contact list for all people requesting notification and provide~~
5 ~~them with regular updates regarding public meetings, including,~~
6 ~~at minimum, notices of upcoming public meetings.~~

7 ~~(2) Creating and maintaining an accessible internet webpage~~
8 ~~dedicated to public meetings, in which a prominent link on the~~
9 ~~webpage is included on the homepage of the city council's or a~~
10 ~~county board of supervisors' internet website, and that includes,~~
11 ~~or provides a link to, all of the following information:~~

12 ~~(A) A general explanation of the public meeting process for the~~
13 ~~city council or a county board of supervisors that is provided in~~
14 ~~English and any other applicable languages.~~

15 ~~(B) An explanation of the procedures for a member of the public~~
16 ~~to provide in-person or remote oral public comment during a public~~
17 ~~meeting or to submit written public comment that is provided in~~
18 ~~English and any other applicable languages.~~

19 ~~(C) A calendar of all public meeting dates with calendar listings~~
20 ~~that include the date, time, and location of each public meeting.~~

21 ~~(D) A notice of the applicable languages in which the city~~
22 ~~council or a county board of supervisors will provide live~~
23 ~~translation of a public meeting upon request and instructions for~~
24 ~~making the request that is provided in English and any other~~
25 ~~applicable languages.~~

26 ~~(E) Instructions and a method for a person to sign up to receive~~
27 ~~regular notices regarding public meetings, including notices of~~
28 ~~public meetings that are provided in English and any other~~
29 ~~applicable languages.~~

30 ~~(F) A notice and agenda for each public meeting.~~

31 ~~(G) Any available recordings of each public meeting, to the~~
32 ~~extent applicable.~~

33 ~~(d) For purposes of this section, the following definitions apply:~~

34 ~~(1) "Applicable language" means languages spoken jointly by~~
35 ~~20 percent or more of the population in the county in which the~~
36 ~~city council or a county board of supervisors is located that speaks~~
37 ~~English less than "very well" and jointly speaks a language other~~
38 ~~than English according to data from the most recent American~~
39 ~~Community Survey or data from an equally reliable source.~~

1 ~~(2) “Two-way audiovisual platform” means an online platform~~
2 ~~that provides participants with the ability to participate in a meeting~~
3 ~~via both an interactive video conference and a two-way telephonic~~
4 ~~service.~~

5 ~~(3) “Two-way telephonic service” means a telephone service~~
6 ~~that does not require internet access and allows participants to dial~~
7 ~~a telephone number to listen and verbally participate.~~

8 ~~(4) “Video streaming” means media in which the data from a~~
9 ~~live filming or a video file is continuously delivered via the internet~~
10 ~~to a remote user, allowing a video to be viewed online by the public~~
11 ~~without being downloaded on a host computer or device.~~

12 ~~(c) This section shall remain in effect only until January 1, 2030,~~
13 ~~and as of that date is repealed.~~

14 SEC. 16. *Section 54953.9 is added to the Government Code,*
15 *to read:*

16 54953.9. (a) *In addition to any other applicable requirements*
17 *of this chapter, an eligible legislative body shall comply with both*
18 *of the following requirements:*

19 (1) (A) (i) *All open and public meetings shall include an*
20 *opportunity for members of the public to attend via a two-way*
21 *telephonic service or a two-way audiovisual platform, unless*
22 *telephonic or internet service is not available at the meeting*
23 *location.*

24 (ii) *Clause (i) does not apply to a meeting that is held to do any*
25 *of the following:*

26 (I) *Attend a judicial or administrative proceeding to which the*
27 *local agency is a party.*

28 (II) *Inspect real or personal property provided that the topic of*
29 *the meeting is limited to items directly related to the real or*
30 *personal property.*

31 (III) *Meet with elected or appointed officials of the United States*
32 *or the State of California, solely to discuss a legislative or*
33 *regulatory issue affecting the local agency and over which the*
34 *federal or state officials have jurisdiction.*

35 (IV) *Meet in or nearby a facility owned by the agency, provided*
36 *that the topic of the meeting is limited to items directly related to*
37 *the facility.*

38 (V) *Meet in an emergency situation pursuant to Section 54956.5.*

39 (B) *If an eligible legislative body elects to provide a two-way*
40 *audiovisual platform, the eligible legislative body shall publicly*

1 *post and provide a call-in option, and activate any automatic*
2 *captioning function during the meeting if an automatic captioning*
3 *function is included with the two-way audiovisual platform.*

4 *(2) All open and public meetings for which attendance via a*
5 *two-way telephonic service or a two-way audiovisual platform is*
6 *provided in accordance with paragraph (1) shall provide the public*
7 *with an opportunity to provide public comment in accordance with*
8 *Section 54954.3 via the two-way telephonic or two-way audiovisual*
9 *platform, and ensure the opportunity for the members of the public*
10 *participating via a two-way telephonic or two-way audiovisual*
11 *platform to provide public comment with the same time allotment*
12 *as a person attending a meeting in person.*

13 *(b) (1) An eligible legislative body shall reasonably assist*
14 *members of the public who wish to translate a public meeting into*
15 *any language or wish to receive interpretation provided by another*
16 *member of the public, so long as the interpretation is not disrupting*
17 *to the meeting, as defined in Section 54957.95. The eligible*
18 *legislative body shall publicize instructions on how to request*
19 *assistance under this subdivision. Assistance may include any of*
20 *the following, as determined by the eligible legislative body:*

21 *(A) Arranging space for one or more interpreters at the meeting*
22 *location.*

23 *(B) Allowing extra time during the meeting for interpretation*
24 *to occur.*

25 *(C) Making available equipment or facilities for participants*
26 *to access commercially available interpretation services.*

27 *(2) This section does not require an eligible legislative body to*
28 *provide interpretation of any public meeting, however, an eligible*
29 *legislative body may elect to provide interpretation of any public*
30 *meeting.*

31 *(3) An action shall not be commenced or maintained against*
32 *the eligible legislative body arising from the content or accuracy*
33 *of any interpretation facilitated or provided under this subdivision.*

34 *(c) An eligible legislative body shall take the following actions*
35 *to encourage residents, including those in underrepresented*
36 *communities and non-English-speaking communities, to participate*
37 *in public meetings:*

38 *(1) Have in place a system for electronically accepting and*
39 *fulfilling requests for meeting agendas and documents pursuant*
40 *to Section 54954.1 through email or through an integrated agenda*

1 management platform. Information about how to make a request
2 using this system shall be accessible through a prominent direct
3 link posted on the primary internet website home page of the
4 eligible legislative body.

5 (2) (A) Create and maintain an accessible internet web page
6 dedicated to public meetings that includes, or provides a link to,
7 all of the following information:

8 (i) A general explanation of the public meeting process for the
9 city council or a county board of supervisors.

10 (ii) An explanation of the procedures for a member of the public
11 to provide in-person or remote oral public comment during a
12 public meeting or to submit written public comment.

13 (iii) A calendar of all public meeting dates with calendar listings
14 that include the date, time, and location of each public meeting.

15 (iv) The agenda posted online pursuant to paragraph (2) of
16 subdivision (a) of Section 54954.2.

17 (B) The eligible legislative body shall include a link to the web
18 page required by subparagraph (A) on the home page of the
19 eligible legislative body's internet website.

20 (3) (A) Make efforts to provide public meeting information to
21 groups that do not traditionally participate in public meetings,
22 including, but not limited to, the following:

23 (i) Media organizations that provide news coverage in the
24 jurisdiction of the eligible legislative body, including media
25 organizations that serve non-English-speaking communities.

26 (ii) Good government, civil rights, civic engagement,
27 neighborhood, and community group organizations, or other
28 organizations that are active in the jurisdiction of the eligible
29 legislative body, including organizations active in
30 non-English-speaking communities.

31 (B) No action shall be commenced or maintained against an
32 eligible legislative body arising from failing to provide public
33 meeting information to any specific organization pursuant to this
34 section.

35 (d) For purposes of this section, the following definitions apply:

36 (1) "Eligible legislative body" includes all of the following:

37 (A) A city council of a city with a population of 30,000 or more.

38 (B) A county board of supervisors of a county, or city and
39 county, with a population of 30,000 or more.

1 (C) A city council of a city located in a county with a population
2 of 200,000 or more.

3 (D) The board of directors of a special district that serves over
4 200,000 people or more and has an internet website.

5 (2) "Two-way audiovisual platform" means an online platform
6 that provides participants with the ability to participate in a
7 meeting via both an interactive video conference and a two-way
8 telephonic service.

9 (3) "Two-way telephonic service" means a telephone service
10 that does not require internet access and allows participants to
11 dial a telephone number to listen and verbally participate.

12 (4) "Video streaming" means media in which the data from a
13 live filming or a video file is continuously delivered via the internet
14 to a remote user, allowing a video to be viewed online by the public
15 without being downloaded on a host computer or device.

16 (e) This section shall remain in effect only until January 1, 2030,
17 and as of that date is repealed.

18 SEC. 17. Section 54953.10 is added to the Government Code,
19 to read:

20 54953.10. (a) (1) The agenda for each meeting of an eligible
21 legislative body shall be translated into all applicable languages,
22 and each translation shall be posted in accordance with Section
23 54954.2. Each translation shall include instructions in the
24 applicable language describing how to join the meeting by the
25 telephonic or internet-based service option, including any
26 requirements for registration for public comment.

27 (2) The accessible internet web page provided under paragraph
28 (2) of subdivision (c) of Section 54953.9 shall be translated into
29 all applicable languages, and each translation shall be accessible
30 through a prominent direct link posted on the primary internet
31 website home page of the eligible legislative body.

32 (b) A translation made using a digital translation service shall
33 satisfy the requirements of subdivision (a).

34 (c) The eligible legislative body shall make available a physical
35 location that is freely accessible to the public in reasonable
36 proximity to the physical location in which the agenda and
37 translations are posted as described in subdivision (a), and shall
38 allow members of the public to post additional translations of the
39 agenda in that location.

(d) *The eligible legislative body is not responsible for the content or accuracy of any translation provided pursuant to this section. No action shall be commenced or maintained against an eligible legislative body from the content or accuracy of any translation provided under this section.*

(e) *For the purposes of this section, the agenda does not include the entire agenda packet.*

(f) *For purposes of this section, both of the following definitions apply:*

(1) (A) *“Applicable languages” means languages spoken jointly by 20 percent or more of the population in the city or county in which the eligible legislative body is located that speaks English less than “very well” and jointly speaks a language other than English according to data from the most recent American Community Survey.*

(B) *If more than three languages meet the criteria set forth in paragraph (1), “applicable languages” shall mean the three languages described in paragraph (1) that are spoken by the largest percentage of the population.*

(C) *An eligible legislative body may elect to determine the applicable languages based upon a source other than the most recent American Community Survey if it makes a finding, based upon substantial evidence, that the other source provides equally or more reliable data for the eligible legislative body.*

(2) *“Eligible legislative body” includes all of the following:*

(A) *A city council of a city with a population of 30,000 or more.*

(B) *A county board of supervisors of a county, or city and county, with a population of 30,000 or more.*

(C) *A city council of a city located in a county with a population of 200,000 or more.*

(D) *The board of directors of a special district that serves over 200,000 people or more and has an internet website.*

~~SEC. 17.~~

SEC. 18. *Section 54954.2 of the Government Code, as amended by Section 92 of Chapter 131 of the Statutes of 2023, is amended to read:*

54954.2. (a) (1) *At least 72 hours before a regular meeting, the legislative body of the local agency, or its designee, shall post an agenda that meets all of the following requirements:*

1 (A) The agenda shall contain a brief general description of each
2 item of business to be transacted or discussed at the meeting,
3 including items to be discussed in closed session. A brief general
4 description of an item generally need not exceed 20 words.

5 (B) The agenda shall specify the time and location of the regular
6 meeting and shall be posted in a location that is freely accessible
7 to members of the public and on the local agency's internet website,
8 if the local agency has one.

9 (C) (i) If requested, the agenda shall be made available in
10 appropriate alternative formats to persons with a disability, as
11 required by Section 202 of the Americans with Disabilities Act of
12 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations
13 adopted in implementation thereof.

14 (ii) The agenda shall include information regarding how, to
15 whom, and when a request for disability-related modification or
16 accommodation, including auxiliary aids or services, may be made
17 by a person with a disability who requires a modification or
18 accommodation in order to participate in the public meeting.

19 ~~(D) (i) The agenda shall be provided in English and in all other~~
20 ~~languages spoken jointly by 20 percent or more of the population~~
21 ~~in the county in which the local agency is located that speaks~~
22 ~~English less than "very well" and jointly speaks a language other~~
23 ~~than English according to data from the most recent American~~
24 ~~Community Survey or data from an equally reliable source.~~

25 ~~(ii) A legislative body may use a digital translation service to~~
26 ~~translate its agenda for purposes of clause (i).~~

27 ~~(ii) (I) A legislative body shall be exempt from the requirements~~
28 ~~described in clause (i) if the legislative body, pursuant to a majority~~
29 ~~vote of its legislative body at a regular meeting, adopts a resolution~~
30 ~~declaring its determination that a hardship exists that prevents the~~
31 ~~legislative body from translating the agenda into any languages~~
32 ~~other than English.~~

33 ~~(H) A resolution adopted pursuant to this clause shall include~~
34 ~~detailed findings, based upon evidence set forth in the minutes of~~
35 ~~the meeting, supporting the legislative body's determination that~~
36 ~~a hardship prevents it from translating the agenda into any~~
37 ~~languages other than English. The findings may include, but shall~~
38 ~~not be limited to, significantly limited financial resources or~~
39 ~~insufficient staff resources.~~

1 ~~(III) A resolution adopted pursuant to this clause shall be valid~~
2 ~~for one year. A legislative body shall, in order to continue to be~~
3 ~~exempt from the requirements described in clause (i), annually~~
4 ~~adopt a resolution that meets the requirements of this clause so~~
5 ~~long as the hardship exists.~~

6 (2) For a meeting occurring on and after January 1, 2019, of a
7 legislative body of a city, county, city and county, special district,
8 school district, or political subdivision established by the state that
9 has an internet website, the following provisions shall apply:

10 (A) An online posting of an agenda shall be posted on the
11 primary internet website home page of a city, county, city and
12 county, special district, school district, or political subdivision
13 established by the state that is accessible through a prominent,
14 direct link to the current agenda. The direct link to the agenda shall
15 not be in a contextual menu; however, a link in addition to the
16 direct link to the agenda may be accessible through a contextual
17 menu.

18 (B) An online posting of an agenda, including, but not limited
19 to, an agenda posted in an integrated agenda management platform,
20 shall be posted in an open format that meets all of the following
21 requirements:

22 (i) Retrievable, downloadable, indexable, and electronically
23 searchable by commonly used internet search applications.

24 (ii) Platform independent and machine readable.

25 (iii) Available to the public free of charge and without any
26 restriction that would impede the reuse or redistribution of the
27 agenda.

28 (C) A legislative body of a city, county, city and county, special
29 district, school district, or political subdivision established by the
30 state that has an internet website and an integrated agenda
31 management platform shall not be required to comply with
32 subparagraph (A) if all of the following are met:

33 (i) A direct link to the integrated agenda management platform
34 shall be posted on the primary internet website home page of a
35 city, county, city and county, special district, school district, or
36 political subdivision established by the state. The direct link to the
37 integrated agenda management platform shall not be in a contextual
38 menu. When a person clicks on the direct link to the integrated
39 agenda management platform, the direct link shall take the person
40 directly to an internet website with the agendas of the legislative

1 body of a city, county, city and county, special district, school
2 district, or political subdivision established by the state.

3 (ii) The integrated agenda management platform may contain
4 the prior agendas of a legislative body of a city, county, city and
5 county, special district, school district, or political subdivision
6 established by the state for all meetings occurring on or after
7 January 1, 2019.

8 (iii) The current agenda of the legislative body of a city, county,
9 city and county, special district, school district, or political
10 subdivision established by the state shall be the first agenda
11 available at the top of the integrated agenda management platform.

12 (iv) All agendas posted in the integrated agenda management
13 platform shall comply with the requirements in clauses (i), (ii),
14 and (iii) of subparagraph (B).

15 ~~(D) For the purposes of this paragraph, both of the following~~
16 ~~definitions shall apply:~~

17 ~~(i) “Integrated~~

18 ~~(D) For purposes of this paragraph, “integrated agenda~~
19 ~~management platform” means an internet website of a city, county,~~
20 ~~city and county, special district, school district, or political~~
21 ~~subdivision established by the state dedicated to providing the~~
22 ~~entirety of the agenda information for the legislative body of the~~
23 ~~city, county, city and county, special district, school district, or~~
24 ~~political subdivision established by the state to the public.~~

25 ~~(ii) “Legislative body” has the same meaning as that term is~~
26 ~~used in subdivision (a) of Section 54952.~~

27 (E) The provisions of this paragraph shall not apply to a political
28 subdivision of a local agency that was established by the legislative
29 body of the city, county, city and county, special district, school
30 district, or political subdivision established by the state.

31 (3) No action or discussion shall be undertaken on any item not
32 appearing on the posted agenda, except that members of a
33 legislative body or its staff may briefly respond to statements made
34 or questions posed by persons exercising their public testimony
35 rights under Section 54954.3. In addition, on their own initiative
36 or in response to questions posed by the public, a member of a
37 legislative body or its staff may ask a question for clarification,
38 make a brief announcement, or make a brief report on their own
39 activities. Furthermore, a member of a legislative body, or the
40 body itself, subject to rules or procedures of the legislative body,

1 may provide a reference to staff or other resources for factual
2 information, request staff to report back to the body at a subsequent
3 meeting concerning any matter, or take action to direct staff to
4 place a matter of business on a future agenda.

5 (b) Notwithstanding subdivision (a), the legislative body may
6 take action on items of business not appearing on the posted agenda
7 under any of the conditions stated below. Prior to discussing any
8 item pursuant to this subdivision, the legislative body shall publicly
9 identify the item.

10 (1) Upon a determination by a majority vote of the legislative
11 body that an emergency situation exists, as defined in Section
12 54956.5.

13 (2) Upon a determination by a two-thirds vote of the members
14 of the legislative body present at the meeting, or, if less than
15 two-thirds of the members are present, a unanimous vote of those
16 members present, that there is a need to take immediate action and
17 that the need for action came to the attention of the local agency
18 subsequent to the agenda being posted as specified in subdivision
19 (a).

20 (3) The item was posted pursuant to subdivision (a) for a prior
21 meeting of the legislative body occurring not more than five
22 calendar days prior to the date action is taken on the item, and at
23 the prior meeting the item was continued to the meeting at which
24 action is being taken.

25 (c) This section is necessary to implement and reasonably within
26 the scope of paragraph (1) of subdivision (b) of Section 3 of Article
27 I of the California Constitution.

28 (d) For purposes of subdivision (a), the requirement that the
29 agenda be posted on the local agency's internet website, if the
30 local agency has one, shall only apply to a legislative body that
31 meets either of the following standards:

32 (1) A legislative body as that term is defined by subdivision (a)
33 of Section 54952.

34 (2) A legislative body as that term is defined by subdivision (b)
35 of Section 54952, if the members of the legislative body are
36 compensated for their appearance, and if one or more of the
37 members of the legislative body are also members of a legislative
38 body as that term is defined by subdivision (a) of Section 54952.

~~SEC. 18.~~

SEC. 19. Section 54954.3 of the Government Code is amended to read:

54954.3. (a) (1) Every agenda for regular meetings shall provide an opportunity for members of the public to directly address the legislative body on any item of interest to the public, before or during the legislative body's consideration of the item, that is within the subject matter jurisdiction of the legislative body, provided that no action shall be taken on any item not appearing on the agenda unless the action is otherwise authorized by subdivision (b) of Section ~~54954.2~~ 54954.2.

(2) Every notice for a special meeting shall provide an opportunity for members of the public to directly address the legislative body concerning any item that has been described in the notice for the meeting before or during consideration of that item.

(b) (1) The legislative body of a local agency may adopt reasonable regulations to ensure that the intent of subdivision (a) is carried out, including, but not limited to, regulations limiting the total amount of time allocated for public testimony on particular issues and for each individual speaker.

(2) Notwithstanding paragraph (1), when the legislative body of a local agency limits time for public comment, the legislative body of a local agency shall provide at least twice the allotted time to a member of the public who utilizes a translator to ensure that non-English speakers receive the same opportunity to directly address the legislative body of a local agency.

(3) Paragraph (2) shall not apply if the legislative body of a local agency utilizes simultaneous translation equipment in a manner that allows the legislative body of a local agency to hear the translated public testimony simultaneously.

(c) The legislative body of a local agency shall not prohibit public criticism of the policies, procedures, programs, or services of the agency, or of the acts or omissions of the legislative body. Nothing in this subdivision shall confer any privilege or protection for expression beyond that otherwise provided by law.

~~SEC. 19.~~

SEC. 20. Section 54956 of the Government Code is amended to read:

1 54956. (a) (1) A special meeting may be called at any time
2 by the presiding officer of the legislative body of a local agency,
3 or by a majority of the members of the legislative body, by
4 delivering written notice to each member of the legislative body
5 and to each local newspaper of general circulation and radio or
6 television station requesting notice in writing and posting a notice
7 on the local agency's internet website, if the local agency has one.
8 The notice shall be delivered personally or by any other means
9 and shall be received at least 24 hours before the time of the
10 meeting as specified in the notice. The call and notice shall specify
11 the time and place of the special meeting and the business to be
12 transacted or discussed. No other business shall be considered at
13 these meetings by the legislative body. The written notice may be
14 dispensed with as to any member who at or prior to the time the
15 meeting convenes files with the clerk or secretary of the legislative
16 body a written waiver of notice. The waiver may be given by
17 ~~telegram~~, telephone or electronic mail. The written notice may
18 also be dispensed with as to any member who is actually present
19 at the meeting at the time it convenes.

20 The
21 (2) The call and notice shall be posted at least 24 hours prior to
22 the special meeting in a location that is freely accessible to
23 members of the public.

24 (b) Notwithstanding any other law, a legislative body shall not
25 call a special meeting regarding the salaries, salary schedules, or
26 compensation paid in the form of fringe benefits, ~~evaluation of~~
27 ~~performance, discipline, or dismissal of the members~~ of the
28 legislative body or of a local agency executive, as defined in
29 subdivision (d) of Section 3511.1. However, this subdivision does
30 not apply to a local agency calling a special meeting to discuss the
31 local agency's budget.

32 ~~(c) A legislative body shall not consider the appointment,~~
33 ~~employment, evaluation of performance, discipline, or dismissal~~
34 ~~of a public employee or hear complaints or charges brought against~~
35 ~~the employee by another person or employee at a special meeting,~~
36 ~~unless the item is properly before the legislative body, as specified~~
37 ~~in Section 54954.2, and both of the following are met:~~

38 ~~(1) At the start of the meeting, at least four-fifths of the~~
39 ~~legislative body votes to proceed with the meeting.~~

1 ~~(2) Any discussion related to the topics described in this~~
2 ~~subdivision is held during open session.~~

3 ~~SEC. 20.~~

4 *SEC. 21.* Section 54956.5 of the Government Code is amended
5 to read:

6 54956.5. (a) For purposes of this section, “emergency
7 situation” means both of the following:

8 (1) An emergency, which shall be defined as a work stoppage,
9 crippling activity, or other activity that severely impairs public
10 health, safety, or both, as determined by a majority of the members
11 of the legislative body.

12 (2) A dire emergency, which shall be defined as a crippling
13 disaster, mass destruction, terrorist act, or threatened terrorist
14 activity that poses peril so immediate and significant that requiring
15 a legislative body to provide one-hour notice before holding an
16 emergency meeting under this section may endanger the public
17 health, safety, or both, as determined by a majority of the members
18 of the legislative body.

19 (b) (1) Subject to paragraph (2), in the case of an emergency
20 situation involving matters upon which prompt action is necessary
21 due to the disruption or threatened disruption of public facilities,
22 a legislative body may hold an emergency meeting without
23 complying with either the 24-hour notice requirement or the
24 24-hour posting requirement of Section 54956 or both of the notice
25 and posting requirements.

26 (2) Each local newspaper of general circulation and radio or
27 television station that has requested notice of special meetings
28 pursuant to Section 54956 shall be notified by the presiding officer
29 of the legislative body, or designee thereof, one hour prior to the
30 emergency meeting, or, in the case of a dire emergency, at or near
31 the time that the presiding officer or designee notifies the members
32 of the legislative body of the emergency meeting.

33 (A) Except as provided in subparagraph (B), the notice required
34 by this paragraph shall be given by telephone and all telephone
35 numbers provided in the most recent request of a newspaper or
36 station for notification of special meetings shall be exhausted. In
37 the event that telephone services are not functioning, the notice
38 requirements of this paragraph shall be deemed waived, and the
39 legislative body, or designee of the legislative body, shall notify
40 those newspapers, radio stations, or television stations of the fact

1 of the holding of the emergency meeting, the purpose of the
2 meeting, and any action taken at the meeting as soon after the
3 meeting as possible.

4 (B) For an emergency meeting held pursuant to this section, the
5 presiding officer of the legislative body, or designee thereof, may
6 send the notifications required by this paragraph by email instead
7 of by telephone, as provided in subparagraph (A), to all local
8 newspapers of general circulation, and radio or television stations,
9 that have requested those notifications by email, and all email
10 addresses provided by representatives of those newspapers or
11 stations shall be exhausted. In the event that internet services and
12 telephone services are not functioning, the notice requirements of
13 this paragraph shall be deemed waived, and the legislative body,
14 or designee of the legislative body, shall notify those newspapers,
15 radio stations, or television stations of the fact of the holding of
16 the emergency meeting, the purpose of the meeting, and any action
17 taken at the meeting as soon after the meeting as possible.

18 (c) During a meeting held pursuant to this section, the legislative
19 body may meet in closed session pursuant to Section 54957 if
20 agreed to by a two-thirds vote of the members of the legislative
21 body present, or, if less than two-thirds of the members are present,
22 by a unanimous vote of the members present.

23 (d) All special meeting requirements, as prescribed in Section
24 54956 shall be applicable to a meeting called pursuant to this
25 section, with the exception of the 24-hour notice requirement.

26 (e) The minutes of a meeting called pursuant to this section, a
27 list of persons who the presiding officer of the legislative body,
28 or designee of the legislative body, notified or attempted to notify,
29 a copy of the rollcall vote, and any actions taken at the meeting
30 shall be posted for a minimum of 10 days in a public place as soon
31 after the meeting as possible.

32 ~~SEC. 21. Section 54957.1 of the Government Code is amended~~
33 ~~to read:~~

34 ~~54957.1. (a) The legislative body of any local agency shall~~
35 ~~publicly report any action taken in closed session and the vote or~~
36 ~~abstention on that action of every member present, as follows:~~

37 ~~(1) Approval of an agreement concluding real estate negotiations~~
38 ~~pursuant to Section 54956.8 shall be reported after the agreement~~
39 ~~is final, as follows:~~

1 (A) If its own approval renders the agreement final, the body
2 shall report that approval and the substance of the agreement in
3 open session at the public meeting during which the closed session
4 is held.

5 (B) If final approval rests with the other party to the negotiations,
6 the local agency shall disclose the fact of that approval and the
7 substance of the agreement upon inquiry by any person, as soon
8 as the other party or its agent has informed the local agency of its
9 approval.

10 (2) Approval given to its legal counsel to defend, or seek or
11 refrain from seeking appellate review or relief, or to enter as an
12 amicus curiae in any form of litigation as the result of a
13 consultation under Section 54956.9 shall be reported in open
14 session at the public meeting during which the closed session is
15 held. The report shall identify, if known, the adverse party or
16 parties and the substance of the litigation. In the case of approval
17 given to initiate or intervene in an action, the announcement need
18 not identify the action, the defendants, or other particulars, but
19 shall specify that the direction to initiate or intervene in an action
20 has been given and that the action, the defendants, and the other
21 particulars shall, once formally commenced, be disclosed to any
22 person upon inquiry, unless to do so would jeopardize the agency's
23 ability to effectuate service of process on one or more unserved
24 parties, or that to do so would jeopardize its ability to conclude
25 existing settlement negotiations to its advantage.

26 (3) Approval given to its legal counsel of a settlement of pending
27 litigation, as defined in Section 54956.9, at any stage prior to or
28 during a judicial or quasi-judicial proceeding shall be reported
29 after the settlement is final, as follows:

30 (A) If the legislative body accepts a settlement offer signed by
31 the opposing party, the body shall report its acceptance and identify
32 the substance of the agreement in open session at the public
33 meeting during which the closed session is held.

34 (B) If final approval rests with some other party to the litigation
35 or with the court, then as soon as the settlement becomes final,
36 and upon inquiry by any person, the local agency shall disclose
37 the fact of that approval, and identify the substance of the
38 agreement.

39 (4) Disposition reached as to claims discussed in closed session
40 pursuant to Section 54956.95 shall be reported as soon as reached

1 in a manner that identifies the name of the claimant, the name of
2 the local agency claimed against, the substance of the claim, and
3 any monetary amount approved for payment and agreed upon by
4 the claimant.

5 ~~(5) Action taken to appoint, employ, dismiss, accept the~~
6 ~~resignation of, or otherwise affect the employment status of a~~
7 ~~public employee in closed session pursuant to Section 54957 shall~~
8 ~~be reported at the public meeting during which the closed session~~
9 ~~is held. Any report required by this paragraph shall identify the~~
10 ~~title of the position and an estimate of the fiscal impact of the~~
11 ~~action taken. The general requirement of this paragraph~~
12 ~~notwithstanding, the report of a dismissal or of the nonrenewal of~~
13 ~~an employment contract shall be deferred until the first public~~
14 ~~meeting following the exhaustion of administrative remedies, if~~
15 ~~any.~~

16 ~~(6) Approval of an agreement concluding labor negotiations~~
17 ~~with represented employees pursuant to Section 54957.6 shall be~~
18 ~~reported after the agreement is final and has been accepted or~~
19 ~~ratified by the other party. The report shall identify the item~~
20 ~~approved and the other party or parties to the negotiation.~~

21 ~~(7) Pension fund investment transaction decisions made pursuant~~
22 ~~to Section 54956.81 shall be disclosed at the first open meeting of~~
23 ~~the legislative body held after the earlier of the close of the~~
24 ~~investment transaction or the transfer of pension fund assets for~~
25 ~~the investment transaction.~~

26 ~~(b) Reports that are required to be made pursuant to this section~~
27 ~~may be made orally or in writing. The legislative body shall provide~~
28 ~~to any person who has submitted a written request to the legislative~~
29 ~~body within 24 hours of the posting of the agenda, or to any person~~
30 ~~who has made a standing request for all documentation as part of~~
31 ~~a request for notice of meetings pursuant to Section 54954.1 or~~
32 ~~54956, if the requester is present at the time the closed session~~
33 ~~ends, copies of any contracts, settlement agreements, or other~~
34 ~~documents that were finally approved or adopted in the closed~~
35 ~~session. If the action taken results in one or more substantive~~
36 ~~amendments to the related documents requiring retyping, the~~
37 ~~documents need not be released until the retyping is completed~~
38 ~~during normal business hours, provided that the presiding officer~~
39 ~~of the legislative body or their designee orally summarizes the~~
40 ~~substance of the amendments for the benefit of the document~~

1 ~~requester or any other person present and requesting the~~
2 ~~information.~~

3 ~~(c) The documentation referred to in subdivision (b) shall be~~
4 ~~available to any person on the next business day following the~~
5 ~~meeting in which the action referred to is taken or, in the case of~~
6 ~~substantial amendments, when any necessary retyping is complete.~~

7 ~~(d) Nothing in this section shall be construed to require that the~~
8 ~~legislative body approve actions not otherwise subject to legislative~~
9 ~~body approval.~~

10 ~~(e) No action for injury to a reputational, liberty, or other~~
11 ~~personal interest may be commenced by or on behalf of any~~
12 ~~employee or former employee with respect to whom a disclosure~~
13 ~~is made by a legislative body in an effort to comply with this~~
14 ~~section.~~

15 ~~(f) This section is necessary to implement, and reasonably within~~
16 ~~the scope of, paragraph (1) of subdivision (b) of Section 3 of~~
17 ~~Article I of the California Constitution.~~

18 SEC. 22. Section 54957.6 of the Government Code is amended
19 to read:

20 54957.6. (a) Notwithstanding any other provision of law, a
21 legislative body of a local agency may hold closed sessions with
22 the local agency's designated representatives regarding the salaries,
23 salary schedules, or compensation paid in the form of fringe
24 benefits of its represented and unrepresented employees, and, for
25 represented employees, any other matter within the statutorily
26 provided scope of representation, subject to all of the following
27 conditions:

28 (1) Prior to the closed session, the legislative body of the local
29 agency shall hold an open and public session in which it identifies
30 its designated representatives.

31 (2) The closed session shall be for the purpose of reviewing its
32 position and instructing the local agency's designated
33 representatives.

34 (3) The closed session may take place prior to and during
35 consultations and discussions with representatives of employee
36 organizations and unrepresented employees.

37 (4) Any closed session with the local agency's designated
38 representative regarding the salaries, salary schedules, or
39 compensation paid in the form of fringe benefits may include
40 discussion of an agency's available funds and funding priorities,

1 but only insofar as these discussions relate to providing instructions
2 to the local agency's designated representative.

3 (5) The closed session shall not include final action on the
4 proposed compensation of one or more unrepresented employees.

5 (6) For the purposes enumerated in this section, a legislative
6 body of a local agency may also meet with a state conciliator who
7 has intervened in the proceedings.

8 (b) For the purposes of this section, the term "employee" shall
9 include an officer or an independent contractor who functions as
10 an officer or an employee, but shall not include any elected official,
11 member of a legislative body, or other independent contractors.

12 SEC. 23. ~~Section 54960 of the Government Code is amended~~
13 ~~to read:~~

14 ~~54960. (a) The district attorney or any interested person may~~
15 ~~commence an action by mandamus, injunction, or declaratory relief~~
16 ~~for the purpose of stopping or preventing violations or threatened~~
17 ~~violations of this chapter by members of the legislative body of a~~
18 ~~local agency or to determine the applicability of this chapter to~~
19 ~~ongoing actions or threatened future actions of the legislative body,~~
20 ~~or to determine the applicability of this chapter to past actions of~~
21 ~~the legislative body, subject to Section 54960.2, or to determine~~
22 ~~whether any rule or action by the legislative body to penalize or~~
23 ~~otherwise discourage the expression of one or more of its members~~
24 ~~is valid or invalid under the laws of this state or of the United~~
25 ~~States, or to compel the legislative body to audio record its closed~~
26 ~~sessions as hereinafter provided.~~

27 ~~(b) The court in its discretion may, upon a judgment of a~~
28 ~~violation any provision of this chapter authorizing a closed session,~~
29 ~~order the legislative body to audio record its closed sessions and~~
30 ~~preserve the audio recordings for the period and under the terms~~
31 ~~of security and confidentiality the court deems appropriate.~~

32 ~~(c) (1) Each recording so kept shall be immediately labeled~~
33 ~~with the date of the closed session recorded and the title of the~~
34 ~~clerk or other officer who shall be custodian of the recording.~~

35 ~~(2) The audio recordings shall be subject to the following~~
36 ~~discovery procedures:~~

37 ~~(A) In any case in which discovery or disclosure of the audio~~
38 ~~recording is sought by either the district attorney or the plaintiff~~
39 ~~in a civil action pursuant to Section 54959, 54960, or 54960.1~~
40 ~~alleging that a violation of this chapter has occurred in a closed~~

1 session that has been recorded pursuant to this section, the party
2 seeking discovery or disclosure shall file a written notice of motion
3 with the appropriate court with notice to the governmental agency
4 that has custody and control of the audio recording. The notice
5 shall be given pursuant to subdivision (b) of Section 1005 of the
6 Code of Civil Procedure.

7 (B) The notice shall include, in addition to the items required
8 by Section 1010 of the Code of Civil Procedure, all of the
9 following:

10 (i) Identification of the proceeding in which discovery or
11 disclosure is sought, the party seeking discovery or disclosure, the
12 date and time of the meeting recorded, and the governmental
13 agency that has custody and control of the recording.

14 (ii) An affidavit that contains specific facts indicating that a
15 violation of the act occurred in the closed session.

16 (3) If the court, following a review of the motion, finds that
17 there is good cause to believe that a violation has occurred, the
18 court may review, in camera, the recording of that portion of the
19 closed session alleged to have violated the act.

20 (4) If, following the in camera review, the court concludes that
21 disclosure of a portion of the recording would be likely to
22 materially assist in the resolution of the litigation alleging violation
23 of this chapter, the court shall, in its discretion, make a certified
24 transcript of the portion of the recording a public exhibit in the
25 proceeding.

26 (5) This section shall not permit discovery of communications
27 that are protected by the attorney-client privilege.

28 SEC. 23. Section 54957.95 of the Government Code is amended
29 to read:

30 54957.95. (a) (1) In addition to authority exercised pursuant
31 to Sections 54954.3 and 54957.9, the presiding member of the
32 legislative body conducting a meeting or their designee may
33 remove, or cause the removal of, an individual for disrupting the
34 meeting, meeting, including any teleconferenced meeting.

35 (2) Prior to removing an individual, the presiding member or
36 their designee shall warn the individual that their behavior is
37 disrupting the meeting and that their failure to cease their behavior
38 may result in their removal. The presiding member or their
39 designee may then remove the individual if they do not promptly
40 cease their disruptive behavior. This paragraph does not apply to

1 any behavior described in subparagraph (B) of paragraph (1) of
2 subdivision (b).

3 (b) As used in this section:

4 (1) “Disrupting” means engaging in behavior during a meeting
5 of a legislative body that actually disrupts, disturbs, impedes, or
6 renders infeasible the orderly conduct of the meeting and includes,
7 but is not limited to, one of the following:

8 (A) A failure to comply with reasonable and lawful regulations
9 adopted by a legislative body pursuant to Section 54954.3 or any
10 other law.

11 (B) Engaging in behavior that constitutes use of force or a true
12 threat of force.

13 (2) “True threat of force” means a threat that has sufficient
14 indicia of intent and seriousness, that a reasonable observer would
15 perceive it to be an actual threat to use force by the person making
16 the threat.

17 SEC. 24. Section 54960.2 of the Government Code is amended
18 to read:

19 54960.2. (a) The district attorney or any interested person may
20 file an action to determine the applicability of this chapter to past
21 actions of the legislative body pursuant to subdivision (a) of Section
22 54960 only if all of the following conditions are met:

23 (1) The district attorney or interested person alleging a violation
24 of this chapter first submits a cease and desist letter by postal mail
25 or facsimile transmission to the clerk or secretary of the legislative
26 body being accused of the violation, as designated in the statement
27 pertaining to that public agency on file pursuant to Section 53051,
28 or if the agency does not have a statement on file designating a
29 clerk or a secretary, to the chief executive officer of that agency,
30 clearly describing the past action of the legislative body and nature
31 of the alleged violation.

32 (2) The cease and desist letter required under paragraph (1) is
33 submitted to the legislative body within 12 months of the alleged
34 violation.

35 (3) The time during which the legislative body may respond to
36 the cease and desist letter pursuant to subdivision (b) has expired
37 and the legislative body has not provided an unconditional
38 commitment pursuant to subdivision (c).

39 (4) Within 60 days of receipt of the legislative body’s response
40 to the cease and desist letter, other than an unconditional

1 commitment pursuant to subdivision (c), or within 60 days of the
2 expiration of the time during which the legislative body may
3 respond to the cease and desist letter pursuant to subdivision (b),
4 whichever is earlier, the party submitting the cease and desist letter
5 shall commence the action pursuant to subdivision (a) of Section
6 54960 or thereafter be barred from commencing the action.

7 (b) The legislative body may respond to a cease and desist letter
8 submitted pursuant to subdivision (a) within 30 days of receiving
9 the letter. This subdivision shall not be construed to prevent the
10 legislative body from providing an unconditional commitment
11 pursuant to subdivision (c) at any time after the 30-day period has
12 expired, except that in that event the court shall award court costs
13 and reasonable ~~attorney~~ attorney's fees to the plaintiff in an action
14 brought pursuant to this section, in accordance with Section
15 54960.5.

16 (c) (1) If the legislative body elects to respond to the cease and
17 desist letter with an unconditional commitment to cease, desist
18 from, and not repeat the past action that is alleged to violate this
19 chapter, that response shall be in substantially the following form:
20

21 To _____:

22
23 The [name of legislative body] has received your cease and desist
24 letter dated [date] alleging that the following described past action
25 of the legislative body violates the Ralph M. Brown Act:
26

27 [Describe alleged past action, as set forth in the cease and desist
28 letter submitted pursuant to subdivision (a)]
29

30 In order to avoid unnecessary litigation and without admitting
31 any violation of the Ralph M. Brown Act, the [name of legislative
32 body] hereby unconditionally commits that it will cease, desist
33 from, and not repeat the challenged past action as described above.
34

35 The [name of legislative body] may rescind this commitment
36 only by a majority vote of its membership taken in open session
37 at a regular meeting and noticed on its posted agenda as
38 "Rescission of Brown Act Commitment." You will be provided
39 with written notice, sent by any means or media you provide in
40 response to this message, to whatever address or addresses you

1 specify, of any intention to consider rescinding this commitment
2 at least 30 days before any such regular meeting. In the event that
3 this commitment is rescinded, you will have the right to commence
4 legal action pursuant to subdivision (a) of Section 54960 of the
5 Government Code. That notice will be delivered to you by the
6 same means as this commitment, or may be mailed to an address
7 that you have designated in writing.

8
9 Very truly yours,

10
11 [Chairperson or acting chairperson of the legislative body]
12

13 (2) An unconditional commitment pursuant to this subdivision
14 shall be approved by the legislative body in open session at a
15 regular or special meeting as a separate item of business, and not
16 on its consent agenda.

17 (3) An action shall not be commenced to determine the
18 applicability of this chapter to any past action of the legislative
19 body for which the legislative body has provided an unconditional
20 commitment pursuant to this subdivision. During any action
21 seeking a judicial determination regarding the applicability of this
22 chapter to any past action of the legislative body pursuant to
23 subdivision (a), if the court determines that the legislative body
24 has provided an unconditional commitment pursuant to this
25 subdivision, the action shall be dismissed with prejudice. Nothing
26 in this subdivision shall be construed to modify or limit the existing
27 ability of the district attorney or any interested person to commence
28 an action to determine the applicability of this chapter to ongoing
29 actions or threatened future actions of the legislative body.

30 (4) Except as provided in subdivision (d), the fact that a
31 legislative body provides an unconditional commitment shall not
32 be construed or admissible as evidence of a violation of this
33 chapter.

34 (d) If the legislative body provides an unconditional commitment
35 as set forth in subdivision (c), the legislative body shall not
36 thereafter take or engage in the challenged action described in the
37 cease and desist letter, except as provided in subdivision (e).
38 Violation of this subdivision shall constitute an independent
39 violation of this chapter, without regard to whether the challenged
40 action would otherwise violate this chapter. An action alleging

1 past violation or threatened future violation of this subdivision
2 may be brought pursuant to subdivision (a) of Section 54960,
3 without regard to the procedural requirements of this section.

4 (e) The legislative body may resolve to rescind an unconditional
5 commitment made pursuant to subdivision (c) by a majority vote
6 of its membership taken in open session at a regular meeting as a
7 separate item of business not on its consent agenda, and noticed
8 on its posted agenda as “Rescission of Brown Act Commitment,”
9 provided that not less than 30 days prior to such regular meeting,
10 the legislative body provides written notice of its intent to consider
11 the rescission to each person to whom the unconditional
12 commitment was made, and to the district attorney. Upon
13 rescission, the district attorney or any interested person may
14 commence an action pursuant to subdivision (a) of Section 54960.
15 An action under this subdivision may be brought pursuant to
16 subdivision (a) of Section 54960, without regard to the procedural
17 requirements of this section.

18 SEC. 25. The Legislature finds and declares that Section 5 of
19 this act, which amends Section 54953 of, Sections 8 to 15,
20 inclusive, of this act, which add Sections 54953.8 to 54953.8.7,
21 respectively, to, ~~and Section 16 of this act, which adds Section~~
22 ~~54953.9 to, Section 20~~ 21 of this act, which amends Section
23 54956.5 of, ~~and Section 23 of this act, which amends Section~~
24 ~~54957.95 of,~~ the Government Code, impose a limitation on the
25 public’s right of access to the meetings of public bodies or the
26 writings of public officials and agencies within the meaning of
27 Section 3 of Article I of the California Constitution. Pursuant to
28 that constitutional provision, the Legislature makes the following
29 findings to demonstrate the interest protected by this limitation
30 and the need for protecting that interest:

31 (a) This act is necessary to provide opportunities for public
32 participation in meetings of specified public agencies and to
33 promote the recruitment and retention of members of those
34 agencies.

35 (b) This act is necessary to ensure minimum standards for public
36 participation and notice requirements allowing for greater public
37 participation in meetings.

38 (c) This act is necessary to modernize the Ralph M. Brown Act
39 to reflect recent technological changes that can promote greater
40 public access to local officials.

SEC. 26. The Legislature finds and declares that Section 1 of this act, which amends Section 54952 of, Sections 2 and 3 of this act, which amend and repeal Section 54952.2, respectively, of, Section 4 of this act, which amends Section 54952.7 of, Section 5 of this act, which amends Section 54953 of, Section 6 of this act, which amends Section 54953.5 of, Section 7 of this act, which amends Section 54953.7 of, Sections 8 to 15, inclusive, of this act, which add Sections 54953.8 to 54953.8.7, respectively, to, Section 16 of this act, which adds Section 54953.9 to, *Section 17 of this act, which adds Section 54953.10 to*, Sections ~~17 to 18, inclusive, 18 and 19~~ of this act, which amend Sections 54954.2 and 54954.3, respectively, of, Section ~~19~~ 20 of this act, which amends Section 54956 of, Section ~~20~~ 21 of this act, which amends Section 54956.5 of, ~~Section 21 of this act, which amends Section 54957.1 of,~~ Section 22 of this act, which amends Section 54957.6 of, ~~Section 23 of this act, which amends Section 54960 of,~~ *Section 23 of this act, which amends Section 54957.95 of*, and Section 24 of this act, which amends Section 54960.2 of, the Government Code, further, 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:

(a) This act is necessary to provide opportunities for public participation in meetings of specified public agencies and to promote the recruitment and retention of members of those agencies.

(b) This act is necessary to ensure minimum standards for public participation and notice requirements allowing for greater public participation in meetings.

(c) This act is necessary to modernize the Ralph M. Brown Act to reflect recent technological changes that can promote greater public access to local officials.

SEC. 27. The Legislature finds and declares that adequate public access to meetings is a matter of statewide concern and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this bill would apply to all cities, including charter cities.

1 SEC. 28. No reimbursement is required by this act pursuant to
2 Section 6 of Article XIII B of the California Constitution because
3 the only costs that may be incurred by a local agency or school
4 district under this act would result from a legislative mandate that
5 is within the scope of paragraph (7) of subdivision (b) of Section
6 3 of Article I of the California Constitution.

O