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Assembly Bill No. 2449

CHAPTER 285

An act to amend, repeal, and add Sections 54953 and 54954.2 of the Government Code, relating to local government.

[Approved by Governor September 13, 2022. Filed with Secretary of State September 13, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2449, Blanca Rubio. Open meetings: local agencies: teleconferences.

Existing law, the Ralph M. Brown Act, requires, with specified exceptions, that all meetings of a legislative body of a local agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate. The act generally requires posting an agenda at least 72 hours before a regular meeting that contains a brief general description of each item of business to be transacted or discussed at the meeting, and prohibits any action or discussion from being undertaken on any item not appearing on the posted agenda. The act authorizes a legislative body to take action on items of business not appearing on the posted agenda under specified conditions. The act contains specified provisions regarding providing for the ability of the public to observe and provide comment. The act allows for meetings to occur via teleconferencing subject to certain requirements, particularly that the legislative body notice each teleconference location of each member that will be participating in the public meeting, that each teleconference location be accessible to the public, that members of the public be allowed to address the legislative body at each teleconference location, that the legislative body post an agenda at each teleconference location, and that at least a quorum of the legislative body participate from locations within the boundaries of the local agency's jurisdiction. The act provides an exemption to the jurisdictional requirement for health authorities, as defined.

Existing law, until January 1, 2024, authorizes a local agency to use teleconferencing without complying with those specified teleconferencing requirements in specified circumstances when a declared state of emergency is in effect, or in other situations related to public health.

This bill would revise and recast those teleconferencing provisions and, until January 1, 2026, would authorize a local agency to use teleconferencing without complying with the teleconferencing requirements that each teleconference location be identified in the notice and agenda and that each teleconference location be accessible to the public if at least a quorum of the members of the legislative body participates in person from a singular physical location clearly identified on the agenda that is open to the public and situated within the local agency's jurisdiction. Under this exception, the bill would authorize a member to participate remotely under specified circumstances, including participating remotely for just cause or due to emergency circumstances. The emergency circumstances basis for remote participation would be contingent on a request to, and action by, the legislative body, as prescribed. The bill, until January 1, 2026, would authorize a legislative body to consider and

take action on a request from a member to participate in a meeting remotely due to emergency circumstances if the request does not allow sufficient time to place the proposed action on the posted agenda for the meeting for which the request is made. The bill would define terms for purposes of these teleconferencing provisions.

This bill would impose prescribed requirements for this exception relating to notice, agendas, the means and manner of access, and procedures for disruptions. The bill would require the legislative body to implement a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, consistent with federal law.

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.

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.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 54953 of the Government Code, as amended by Section 3 of Chapter 165 of the Statutes of 2021, 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 applicable provisions of law relating to a specific type of meeting or proceeding.

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

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

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

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

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

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

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

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

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision 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. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

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

(e) (1) The legislative body of a local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of paragraph (2) of this subdivision in any of the following circumstances:

(A) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.

(B) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(C) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(2) A legislative body that holds a meeting pursuant to this subdivision shall do all of the following:

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

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

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

(D) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(E) (i) A legislative body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to subparagraph (F), to provide public comment until that timed public comment period has elapsed.

(ii) A legislative body that does not provide a timed public comment period, but takes public comment separately on each agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to subparagraph (F), or otherwise be recognized for the purpose of providing public comment.

(iii) A legislative body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, pursuant to subparagraph (F), until the timed general public comment period has elapsed.

(3) If a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 30 days after teleconferencing for the first time pursuant to subparagraph (A), (B), or (C) of paragraph (1), and every 30 days thereafter, make the following findings by majority vote:

(A) The legislative body has reconsidered the circumstances of the state of emergency.

(B) Any of the following circumstances exist:

(i) The state of emergency continues to directly impact the ability of the members to meet safely in person.

(ii) State or local officials continue to impose or recommend measures to promote social distancing.

(4) This subdivision shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(f) (1) The legislative body of a local agency may use teleconferencing without complying with paragraph (3) of subdivision (b) if, during the teleconference meeting, at least a quorum of the members of the legislative body participates in person from a singular physical location clearly identified on the agenda, which location shall be open to the public and situated within the boundaries of the territory over which the local agency exercises jurisdiction and the legislative body complies with all of the following:

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

(i) A two-way audiovisual platform.

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

(B) In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment.

(C) The agenda shall identify and include an opportunity for all persons to attend and address the legislative body directly pursuant to Section 54954.3 via a call-in option, via an internet-based service option, and at the in-person location of the meeting.

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

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

(F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(2) A member of the legislative body shall only participate in the meeting remotely pursuant to this subdivision, if all of the following requirements are met:

(A) One of the following circumstances applies:

(i) The member notifies the legislative body at the earliest opportunity possible, including at the start of a regular meeting, of their need to participate remotely for just cause, including a general description of the circumstances relating to their need to appear remotely at the given meeting. The provisions of this clause shall not be used by any member of the legislative body for more than two meetings per calendar year.

(ii) The member requests the legislative body to allow them to participate in the meeting remotely due to emergency circumstances and the legislative body takes action to approve the request. The legislative body shall request a general description of the circumstances relating to their need to appear remotely at the given meeting. A general description of an item generally need not exceed 20 words and shall not require the member to disclose any medical diagnosis or disability, or any personal medical information that is already exempt under existing law, such as the Confidentiality of Medical Information Act (Chapter 1 (commencing with Section 56) of Part 2.6 of Division 1 of the Civil Code). For the purposes of this clause, the following requirements apply:

(I) A member shall make a request to participate remotely at a meeting pursuant to this clause as soon as possible. The member shall make a separate request for each meeting in which they seek to participate remotely.

(II) The legislative body may take action on a request to participate remotely at the earliest opportunity. If the request does not allow sufficient time to place proposed action on such a request on the posted agenda for the meeting for which the request is made, the legislative body may take action at the beginning of the meeting in accordance with paragraph (4) of subdivision (b) of Section 54954.2.

(B) The member shall publicly disclose at the meeting before any action is taken, whether any other individuals 18 years of age or older are present in the room at the remote location with the member, and the general nature of the member's relationship with any such individuals.

(C) The member shall participate through both audio and visual technology.

(3) The provisions of this subdivision shall not serve as a means for any member of a legislative body to participate in meetings of the legislative body solely by teleconference from a remote location for a period of more than three consecutive months or 20 percent of the regular meetings for the local agency within a calendar year, or more than two meetings if the legislative body regularly meets fewer than 10 times per calendar year.

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

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

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

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

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

(1) "Emergency circumstances" means a physical or family medical emergency that prevents a member from attending in person.

(2) "Just cause" means any of the following:

(A) A childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires them to participate remotely. "Child," "parent," "grandparent," "grandchild," and "sibling" have the same meaning as those terms do in Section 12945.2.

(B) A contagious illness that prevents a member from attending in person.

(C) A need related to a physical or mental disability as defined in Sections 12926 and 12926.1 not otherwise accommodated by subdivision (g).

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

(3) "Remote location" means a location from which a member of a legislative body participates in a meeting pursuant to subdivision (f), other than any physical meeting location designated in the notice of the meeting. Remote locations need not be accessible to the public.

(4) "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.

(5) "State of emergency" means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).

(6) "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.

(7) "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 function.

(8) "Two-way telephonic service" means a telephone service that does not require internet access, is not provided as part of a two-way audiovisual platform, and allows participants to dial a telephone number to listen and verbally participate.

(9) "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.

(k) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 2. Section 54953 of the Government Code, as added by Section 4 of Chapter 165 of the Statutes of 2021, 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 applicable provisions of law relating to a specific type of meeting or proceeding.

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

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

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

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

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

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

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

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

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision 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. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

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

(e) (1) The legislative body of a local agency may use teleconferencing without complying with paragraph (3) of subdivision (b) if, during the teleconference meeting, at least a quorum of the members of the legislative body participates in person from a singular physical location clearly identified on the agenda, which location shall be open to the public and situated within the boundaries of the territory over which the local agency exercises jurisdiction and the legislative body complies with all of the following:

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

(i) A two-way audiovisual platform.

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

(B) In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment.

(C) The agenda shall identify and include an opportunity for all persons to attend and address the legislative body directly pursuant to Section 54954.3 via a call-in option, via an internet-based service option, and at the in-person location of the meeting.

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

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

(F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(2) A member of the legislative body shall only participate in the meeting remotely pursuant to this subdivision, if all of the following requirements are met:

(A) One of the following circumstances applies:

(i) The member notifies the legislative body at the earliest opportunity possible, including at the start of a regular meeting, of their need to participate remotely for just cause, including a general description of the circumstances relating to their need to appear remotely at the given meeting. The provisions of this clause shall not be used by any member of the legislative body for more than two meetings per calendar year.

(ii) The member requests the legislative body to allow them to participate in the meeting remotely due to emergency circumstances and the legislative body takes action to approve the request. The legislative body shall request a general description of the circumstances relating to their need to appear remotely at the given meeting. A general description of an item generally need not exceed 20 words and shall not require the member to disclose any medical diagnosis or disability, or any personal medical information that is already exempt under existing law, such as the Confidentiality of Medical Information Act (Chapter 1 (commencing with Section 56) of Part 2.6 of Division 1 of the Civil Code). For the purposes of this clause, the following requirements apply:

(I) A member shall make a request to participate remotely at a meeting pursuant to this clause as soon as possible. The member shall make a separate request for each meeting in which they seek to participate remotely.

(II) The legislative body may take action on a request to participate remotely at the earliest opportunity. If the request does not allow sufficient time to place proposed action on such a request on the posted agenda for the meeting for which the request is made, the legislative body may take action at the beginning of the meeting in accordance with paragraph (4) of subdivision (b) of Section 54954.2.

(B) The member shall publicly disclose at the meeting before any action is taken whether any other individuals 18 years of age or older are present in the room at the remote location with the member, and the general nature of the member's relationship with any such individuals.

(C) The member shall participate through both audio and visual technology.

(3) The provisions of this subdivision shall not serve as a means for any member of a legislative body to participate in meetings of the legislative body solely by teleconference from a remote location for a period of more than three consecutive months or 20 percent of the regular meetings for the local agency within a calendar year, or more than two meetings if the legislative body regularly meets fewer than 10 times per calendar year.

(f) The legislative body shall have and implement a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, consistent with the federal Americans with Disabilities

Act of 1990 (42 U.S.C. Sec. 12132), and resolving any doubt in favor of accessibility. In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the procedure for receiving and resolving requests for accommodation.

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

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

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

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

(1) "Emergency circumstances" means a physical or family medical emergency that prevents a member from attending in person.

(2) "Just cause" means any of the following:

(A) A childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires them to participate remotely. "Child," "parent," "grandparent," "grandchild," and "sibling" have the same meaning as those terms do in Section 12945.2.

(B) A contagious illness that prevents a member from attending in person.

(C) A need related to a physical or mental disability as defined in Sections 12926 and 12926.1 not otherwise accommodated by subdivision (f).

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

(3) "Remote location" means a location from which a member of a legislative body participates in a meeting pursuant to subdivision (e), other than any physical meeting location designated in the notice of the meeting. Remote locations need not be accessible to the public.

(4) "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.

(5) "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.

(6) "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 function.

(7) "Two-way telephonic service" means a telephone service that does not require internet access, is not provided as part of a two-way audiovisual platform, and allows participants to dial a telephone number to listen and verbally participate.

(8) "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.

(j) This section shall become operative January 1, 2024, shall remain in effect only until January 1, 2026, and as of that date is repealed.

SEC. 3. Section 54953 is added to the Government Code, 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

requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivision (d). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, "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. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

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

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

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision 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. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

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

(e) This section shall become operative January 1, 2026.

SEC. 4. Section 54954.2 of the Government Code 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 containing a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session. A brief general description of an item generally need not exceed 20 words. The agenda shall specify the time and location of the regular meeting and shall be posted in a location that is freely accessible to members of the public and on the local agency's Internet Web site, if the local agency has one. If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42

U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. The agenda shall include information regarding how, to whom, and when a request for disability-related modification or accommodation, including auxiliary aids or services, may be made by a person with a disability who requires a modification or accommodation in order to participate in the public meeting.

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

(A) An online posting of an agenda shall be posted on the primary Internet Web site homepage of a city, county, city and county, special district, school district, or political subdivision established by the state that is accessible through a prominent, direct link to the current agenda. The direct link to the agenda shall not be in a contextual menu; however, a link in addition to the direct link to the agenda may be accessible through a contextual menu.

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

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

(ii) Platform independent and machine readable.

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

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

(i) A direct link to the integrated agenda management platform shall be posted on the primary Internet Web site homepage of a city, county, city and county, special district, school district, or political subdivision established by the state. The direct link to the integrated agenda management platform shall not be in a contextual menu. When a person clicks on the direct link to the integrated agenda management platform, the direct link shall take the person directly to an Internet Web site with the agendas of the legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state.

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

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

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

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

(i) "Integrated agenda management platform" means an Internet Web site of a city, county, city and county, special district, school district, or political subdivision established by the state dedicated to providing the entirety of the agenda information for the legislative body of the city, county, city and county, special district, school district, or political subdivision established by the state to the public.

(ii) "Legislative body" has the same meaning as that term is used in subdivision (a) of Section 54952.

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

(3) No action or discussion shall be undertaken on any item not appearing on the posted agenda, except that members of a legislative body or its staff may briefly respond to statements made or questions posed by persons exercising their public testimony rights under Section 54954.3. In addition, on their own initiative or in

response to questions posed by the public, a member of a legislative body or its staff may ask a question for clarification, make a brief announcement, or make a brief report on his or her own activities. Furthermore, a member of a legislative body, or the body itself, subject to rules or procedures of the legislative body, may provide a reference to staff or other resources for factual information, request staff to report back to the body at a subsequent meeting concerning any matter, or take action to direct staff to place a matter of business on a future agenda.

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

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

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

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

(4) To consider action on a request from a member to participate in a meeting remotely due to emergency circumstances, pursuant to Section 54953, if the request does not allow sufficient time to place the proposed action on the posted agenda for the meeting for which the request is made. The legislative body may approve such a request by a majority vote of the legislative body.

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

(d) For purposes of subdivision (a), the requirement that the agenda be posted on the local agency's Internet Web site, if the local agency has one, shall only apply to a legislative body that meets either of the following standards:

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

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

(e) This section shall remain in effect only until January 1, 2026, and as of that date is repealed.

SEC. 5. Section 54954.2 is added to the Government Code, 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 containing a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session. A brief general description of an item generally need not exceed 20 words. The agenda shall specify the time and location of the regular meeting and shall be posted in a location that is freely accessible to members of the public and on the local agency's Internet Web site, if the local agency has one. If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. The agenda shall include information regarding how, to whom, and when a request for disability-related modification or accommodation, including auxiliary aids or services, may be made by a person with a disability who requires a modification or accommodation in order to participate in the public meeting.

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

(A) An online posting of an agenda shall be posted on the primary Internet Web site homepage of a city, county, city and county, special district, school district, or political subdivision established by the state that is accessible through a prominent, direct link to the current agenda. The direct link to the agenda shall not

be in a contextual menu; however, a link in addition to the direct link to the agenda may be accessible through a contextual menu.

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

- (i) Retrievable, downloadable, indexable, and electronically searchable by commonly used Internet search applications.
- (ii) Platform independent and machine readable.
- (iii) Available to the public free of charge and without any restriction that would impede the reuse or redistribution of the agenda.

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

- (i) A direct link to the integrated agenda management platform shall be posted on the primary Internet Web site homepage of a city, county, city and county, special district, school district, or political subdivision established by the state. The direct link to the integrated agenda management platform shall not be in a contextual menu. When a person clicks on the direct link to the integrated agenda management platform, the direct link shall take the person directly to an Internet Web site with the agendas of the legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state.
- (ii) The integrated agenda management platform may contain the prior agendas of a legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state for all meetings occurring on or after January 1, 2019.
- (iii) The current agenda of the legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state shall be the first agenda available at the top of the integrated agenda management platform.
- (iv) All agendas posted in the integrated agenda management platform shall comply with the requirements in clauses (i), (ii), and (iii) of subparagraph (B).

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

- (i) "Integrated agenda management platform" means an Internet Web site of a city, county, city and county, special district, school district, or political subdivision established by the state dedicated to providing the entirety of the agenda information for the legislative body of the city, county, city and county, special district, school district, or political subdivision established by the state to the public.
- (ii) "Legislative body" has the same meaning as that term is used in subdivision (a) of Section 54952.

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

(3) No action or discussion shall be undertaken on any item not appearing on the posted agenda, except that members of a legislative body or its staff may briefly respond to statements made or questions posed by persons exercising their public testimony rights under Section 54954.3. In addition, on their own initiative or in response to questions posed by the public, a member of a legislative body or its staff may ask a question for clarification, make a brief announcement, or make a brief report on his or her own activities. Furthermore, a member of a legislative body, or the body itself, subject to rules or procedures of the legislative body, may provide a reference to staff or other resources for factual information, request staff to report back to the body at a subsequent meeting concerning any matter, or take action to direct staff to place a matter of business on a future agenda.

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

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

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

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

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

(d) For purposes of subdivision (a), the requirement that the agenda be posted on the local agency's Internet Web site, if the local agency has one, shall only apply to a legislative body that meets either of the following standards:

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

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

(e) This section shall become operative January 1, 2026.

SEC. 6. The Legislature finds and declares that Sections 1 and 2 of this act, which amend Section 54953 of the Government Code, impose a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

By removing the requirement for agendas to be placed at the location of each public official participating in a public meeting remotely, including from the member's private home or hospital room, this act protects the personal, private information of public officials and their families while preserving the public's right to access information concerning the conduct of the people's business.

SEC. 7. The Legislature finds and declares that Sections 1 and 2 of this act, which amend Section 54953 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:

This act is necessary to ensure minimum standards for public participation and notice requirements allowing for greater public participation in teleconference meetings.

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**Assembly Bill No. 3035****CHAPTER 300**

An act to amend Sections 11125, 11125.1, 11135, 54954.1, 54954.2, and 54957.5 of, and to add Sections 11123.1 and 54953.2 to, the Government Code, relating to access to government programs.

[Filed with Secretary of State August 28, 2002. Approved by Governor August 28, 2002.]

LEGISLATIVE COUNSEL'S DIGEST

AB 3035, Committee on Judiciary. Access to government programs.

(1) The Bagley-Keene Open Meeting Act generally requires that all meetings of a state body be open and public. Writings that are public records and are distributed to members of the state body prior to or during a public meeting, pertaining to any item to be considered during the public meeting, are required to be made available for public inspection, and any person may attend any public meeting of a state body. The act also requires that notice of public meetings and those held in closed session of a state body be given to any person who requests that notice in writing and that the agenda for those meetings be made available upon request without delay.

This bill would require that the notices and agendas of these public meetings and closed sessions and the public records distributed at these public meetings and closed sessions be made available in appropriate alternative formats upon request by any person with a disability consistent with the federal Americans with Disabilities Act of 1990. The bill would also require that the notice include information on the availability of disability-related aids or services to enable the person to participate in a public meeting consistent with the federal Americans with Disabilities Act of 1990.

(2) Existing law provides that no person in this state shall, on the basis of ethnic group identification, religion, age, sex, color, or disability, be unlawfully denied full and equal access to the benefits of, or be unlawfully subjected to discrimination under, any program or activity that is conducted, operated, or administered by the state or by any state agency, is funded directly by the state, or receives any financial assistance from the state.

This bill would extend the prohibited basis of discrimination under this provision to include race and national origin consistent with the federal Americans with Disabilities Act of 1990.

(3) The Ralph M. Brown Act requires that all meetings of a legislative body of a local agency be open and public. All persons may attend these meetings except as otherwise provided by the act. The act also requires that the agenda be posted and include a general description of items to be discussed in closed session. All the documents constituting the agenda packet of a public meeting, including any other writings distributed to all or a majority of all of the members of a legislative body of a local agency by any person in connection with a matter to be discussed at the public meeting, are required to be made available to any person upon request.

This bill would require that these agendas, agenda packets, and other writings distributed to members of a legislative body be made available in appropriate alternative formats to persons with a disability and that the agendas include information on the availability of disability-related aids or services to enable the person to participate in the public meeting consistent with the federal Americans with Disabilities Act of 1990.

(4) This bill would incorporate changes in Section 11125.1 of the Government Code proposed by AB 1752 that would become operative if both bills are enacted and this bill is enacted last.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 11123.1 is added to the Government Code, to read:

11123.1. All meetings of a state body that are open and public shall meet the protections and prohibitions contained in Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof.

SEC. 2. Section 11125 of the Government Code is amended to read:

11125. (a) The state body shall provide notice of its meeting to any person who requests that notice in writing. Notice shall be given and also made available on the Internet at least 10 days in advance of the meeting, and shall include the name, address, and telephone number of any person who can provide further information prior to the meeting, but need not include a list of witnesses expected to appear at the meeting. The written notice shall additionally include the address of the Internet site where notices required by this article are made available.

(b) The notice of a meeting of a body that is a state body shall include a specific agenda for the meeting, containing a brief description of the items of business to be transacted or discussed in either open or closed session. A brief general description of an item generally need not exceed 20 words. A description of an item to be transacted or discussed in closed session shall include a citation of the specific statutory authority under which a closed session is being held. No item shall be added to the agenda subsequent to the provision of this notice, unless otherwise permitted by this article.

(c) Notice of a meeting of a state body that complies with this section shall also constitute notice of a meeting of an advisory body of that state body, provided that the business to be discussed by the advisory body is covered by the notice of the meeting of the state body, provided that the specific time and place of the advisory body's meeting is announced during the open and public state body's meeting, and provided that the advisory body's meeting is conducted within a reasonable time of, and nearby, the meeting of the state body.

(d) A person may request, and shall be provided, notice pursuant to subdivision (a) for all meetings of a state body or for a specific meeting or meetings. In addition, at the state body's discretion, a person may request, and may be provided, notice of only those meetings of a state body at which a particular subject or subjects specified in the request will be discussed.

(e) A request for notice of more than one meeting of a state body shall be subject to the provisions of Section 14911.

(f) The notice shall be made available in appropriate alternative formats, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof, upon request by any person with a disability. The notice shall include information regarding how, to whom, and by when a request for any disability-related modification or accommodation, including auxiliary aids or services may be made by a person with a disability who requires these aids or services in order to participate in the public meeting.

SEC. 3. Section 11125.1 of the Government Code is amended to read:

11125.1. (a) Notwithstanding Section 6255 or any other provisions of law, agendas of public meetings and other writings, when distributed to all, or a majority of all, of the members of a state body by any person in connection with a matter subject to discussion or consideration at a public meeting of the body, are disclosable public records under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall be made available upon request without delay. However, this section shall not include any

writing exempt from public disclosure under Section 6253.5, 6254, or 6254.7 of this code, or Section 489.1 or 583 of the Public Utilities Code.

(b) Writings that are public records under subdivision (a) and that are distributed to members of the state body prior to or during a meeting, pertaining to any item to be considered during the meeting, shall be made available for public inspection at the meeting if prepared by the state body or a member of the state body, or after the meeting if prepared by some other person. These writings shall be made available in appropriate alternative formats, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof, upon request by a person with a disability.

(c) In the case of the Franchise Tax Board, prior to that state body taking final action on any item, writings pertaining to that item that are public records under subdivision (a) that are distributed to members of the state body by board staff or individual members prior to or during a meeting shall be: (1) made available for public inspection at that meeting, (2) distributed to all persons who request notice in writing pursuant to subdivision (a) of Section 11125, and (3) made available on the Internet.

(d) Nothing in this section shall be construed to prevent a state body from charging a fee or deposit for a copy of a public record pursuant to Section 6253, except that no surcharge shall be imposed on persons with disabilities in violation of Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. The writings described in subdivision (b) are subject to the requirements of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall not be construed to limit or delay the public's right to inspect any record required to be disclosed by that act, or to limit the public's right to inspect any record covered by that act. This section shall not be construed to be applicable to any writings solely because they are properly discussed in a closed session of a state body. Nothing in this article shall be construed to require a state body to place any paid advertisement or any other paid notice in any publication.

(e) "Writing" for purposes of this section means "writing" as defined under Section 6252.

SEC. 3.5. Section 11125.1 of the Government Code is amended to read:

11125.1. (a) Notwithstanding Section 6255 or any other provisions of law, agendas of public meetings and other writings, when distributed to all, or a majority of all, of the members of a state body by any person in connection with a matter subject to discussion or consideration at a public meeting of the body, are disclosable public records under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall be made available upon request without delay. However, this section shall not include any writing exempt from public disclosure under Section 6253.5, 6254, or 6254.7 of this code, or Section 489.1 or 583 of the Public Utilities Code.

(b) Writings that are public records under subdivision (a) and that are distributed to members of the state body prior to or during a meeting, pertaining to any item to be considered during the meeting, shall be made available for public inspection at the meeting if prepared by the state body or a member of the state body, or after the meeting if prepared by some other person. These writings shall be made available in appropriate alternative formats, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof, upon request by a person with a disability.

(c) In the case of the Franchise Tax Board, prior to that state body taking final action on any item, writings pertaining to that item that are public records under subdivision (a) that are distributed to members of the state body by board staff or individual members prior to or during a meeting shall be:

(1) Made available for public inspection at that meeting.

(2) Distributed to all persons who request notice in writing pursuant to subdivision (a) of Section 11125.

(3) Made available on the Internet.

(d) Prior to the State Board of Equalization taking final action on any item that does not involve a named tax or fee payer, writings pertaining to that item that are public records under subdivision (a) that are prepared and distributed by board staff or individual members to members of the state body prior to or during a meeting shall be:

(1) Made available for public inspection at that meeting.

(2) Distributed to all persons who request or have requested copies of these writings.

(3) Made available on the Internet.

(e) Nothing in this section shall be construed to prevent a state body from charging a fee or deposit for a copy of a public record pursuant to Section 6253, except that no surcharge shall be imposed on persons with disabilities in violation of Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. The writings described in subdivision (b) are subject to the requirements of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall not be construed to limit or delay the public's right to inspect any record required to be disclosed by that act, or to limit the public's right to inspect any record covered by that act. This section shall not be construed to be applicable to any writings solely because they are properly discussed in a closed session of a state body. Nothing in this article shall be construed to require a state body to place any paid advertisement or any other paid notice in any publication.

(f) "Writing" for purposes of this section means "writing" as defined under Section 6252.

SEC. 4. Section 11135 of the Government Code is amended to read:

11135. (a) No person in the State of California shall, on the basis of race, national origin, ethnic group identification, religion, age, sex, color, or disability, be unlawfully denied full and equal access to the benefits of, or be unlawfully subjected to discrimination under, any program or activity that is conducted, operated, or administered by the state or by any state agency, is funded directly by the state, or receives any financial assistance from the state.

(b) With respect to discrimination on the basis of disability, programs and activities subject to subdivision (a) shall meet the protections and prohibitions contained in Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof, except that if the laws of this state prescribe stronger protections and prohibitions, the programs and activities subject to subdivision (a) shall be subject to the stronger protections and prohibitions.

(c) As used in this section, "disability" means any mental or physical disability as defined in Section 12926.

SEC. 5. Section 54953.2 is added to the Government Code, to read:

54953.2. All meetings of a legislative body of a local agency that are open and public shall meet the protections and prohibitions contained in Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof.

SEC. 6. Section 54954.1 of the Government Code is amended to read:

54954.1. Any person may request that a copy of the agenda, or a copy of all the documents constituting the agenda packet, of any meeting of a legislative body be mailed to that person. If requested, the agenda and documents in the agenda packet shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. Upon receipt of the written request, the legislative body or its designee shall cause the requested materials to be mailed at the time the agenda is posted pursuant to Section 54954.2 and 54956 or upon distribution to all, or a majority of all, of the members of a legislative body, whichever occurs first. Any request for mailed copies of agendas or agenda packets shall be valid for the calendar year in which it is filed, and must be renewed following January 1 of each year. The legislative body may establish a fee for mailing the agenda or agenda packet, which fee shall not exceed the cost of providing the service. Failure of the requesting person to receive the agenda or agenda packet pursuant to this section shall not constitute grounds for invalidation of the actions of the legislative body taken at the meeting for which the agenda or agenda packet was not received.

SEC. 7. Section 54954.2 of the Government Code is amended to read:

54954.2. (a) At least 72 hours before a regular meeting, the legislative body of the local agency, or its designee, shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session. A brief general description of an item generally need not exceed 20 words. The agenda shall specify the time and location of the regular meeting and shall be posted in a location that is freely accessible to members of the public. If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in

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

No action or discussion shall be undertaken on any item not appearing on the posted agenda, except that members of a legislative body or its staff may briefly respond to statements made or questions posed by persons exercising their public testimony rights under Section 54954.3. In addition, on their own initiative or in response to questions posed by the public, a member of a legislative body or its staff may ask a question for clarification, make a brief announcement, or make a brief report on his or her own activities. Furthermore, a member of a legislative body, or the body itself, subject to rules or procedures of the legislative body, may provide a reference to staff or other resources for factual information, request staff to report back to the body at a subsequent meeting concerning any matter, or take action to direct staff to place a matter of business on a future agenda.

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

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

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

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

SEC. 8. Section 54957.5 of the Government Code is amended to read:

54957.5. (a) Notwithstanding Section 6255 or any other provisions of law, agendas of public meetings and any other writings, when distributed to all, or a majority of all, of the members of a legislative body of a local agency by any person in connection with a matter subject to discussion or consideration at a public meeting of the body, are disclosable public records under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall be made available upon request without delay. However, this section shall not include any writing exempt from public disclosure under Section 6253.5, 6254, 6254.7, or 6254.22.

(b) Writings that are public records under subdivision (a) and that are distributed during a public meeting shall be made available for public inspection at the meeting if prepared by the local agency or a member of its legislative body, or after the meeting if prepared by some other person. These writings shall be made available in appropriate alternative formats upon request by a person with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof.

(c) Nothing in this chapter shall be construed to prevent the legislative body of a local agency from charging a fee or deposit for a copy of a public record pursuant to Section 6253, except that no surcharge shall be imposed on persons with disabilities in violation of Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof.

(d) This section shall not be construed to limit or delay the public's right to inspect or obtain a copy of any record required to be disclosed under the requirements of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1). Nothing in this chapter shall be construed to require a legislative body of a local agency to place any paid advertisement or any other paid notice in any publication.

SEC. 9. Section 3.5 of this bill incorporates amendments to Section 11125.1 of the Government Code proposed by both this bill and AB 1752. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2003, (2) each bill amends Section 11125.1 of the Government Code, and (3) this bill is enacted after AB 1752, in which case Section 3 of this bill shall not become operative.

**ADA.gov**U.S. Department of Justice
Civil Rights Division

Americans with Disabilities Act of 1990, As Amended

Editor's Note:

Here is the text of the Americans with Disabilities Act of 1990 (ADA), including changes made by the ADA Amendments Act of 2008. Congress passed the ADA as a “Public Law,” and it originally was in a different format than presented here. To make the law more widely available, the ADA was later reformatted and published in volume 42 (called “title 42”) of the United States Code. One small part of the ADA is found in title 47 of the United States Code. The text below mirrors the law as it is found in the U.S. Code. Because the numbering system is different in the U.S. Code, the headings provide in brackets the title numbers of the ADA as originally enacted.

Laws, Regulations, & Standards

Read this document to understand your legal rights or responsibilities under the ADA.

For a beginner-level introduction to a topic, view [Topics](#)

For more detailed information on a topic, view [Guidance & Resource materials](#)

Title 42 - The Public Health and Welfare

Chapter 126 - Equal Opportunity for Individuals with Disabilities

Sec. 12101. Findings and purpose

(a) Findings

The Congress finds that —

(1) physical or mental disabilities in no way diminish a person's right to fully participate in all aspects of society, yet many people with physical or mental disabilities have been precluded from doing so because of discrimination; others who have a record of a disability or are regarded as having a disability also have been subjected to discrimination;

(2) historically, society has tended to isolate and segregate individuals with disabilities, and, despite some improvements, such forms of discrimination against individuals with disabilities continue to be a serious and pervasive social problem;

(3) discrimination against individuals with disabilities persists in such critical areas as employment, housing, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and access to public services;

(4) unlike individuals who have experienced discrimination on the basis of race, color, sex, national origin, religion, or age, individuals who have experienced discrimination on the basis of disability have often had no legal recourse to redress such discrimination;

(5) individuals with disabilities continually encounter various forms of discrimination, including outright intentional exclusion, the discriminatory effects of architectural, transportation, and communication barriers, overprotective rules and policies, failure to make modifications to existing facilities and practices, exclusionary qualification standards and criteria, segregation, and relegation to lesser services, programs, activities, benefits, jobs, or other opportunities;

(6) census data, national polls, and other studies have documented that people with disabilities, as a group, occupy an inferior status in our society, and are severely disadvantaged socially, vocationally, economically, and educationally;

(7) the Nation's proper goals regarding individuals with disabilities are to assure equality of opportunity, full participation, independent living, and economic self-sufficiency for such individuals; and

(8) the continuing existence of unfair and unnecessary discrimination and prejudice denies people with disabilities the opportunity to compete on an equal basis and to pursue those opportunities for which our free society is justifiably famous, and costs the United States billions of dollars in unnecessary expenses resulting from dependency and nonproductivity.

(b) Purpose

It is the purpose of this chapter —

- (1) to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities;
- (2) to provide clear, strong, consistent, enforceable standards addressing discrimination against individuals with disabilities;
- (3) to ensure that the Federal Government plays a central role in enforcing the standards established in this chapter on behalf of individuals with disabilities; and
- (4) to invoke the sweep of congressional authority, including the power to enforce the fourteenth amendment and to regulate commerce, in order to address the major areas of discrimination faced day-to-day by people with disabilities.

Sec. 12101 note: Findings and Purposes of ADA Amendments Act of 2008, Pub. L. 110-325, §2, Sept. 25, 2008, 122 Stat. 3553, provided that:

(a) Findings

Congress finds that —

- (1) in enacting the Americans with Disabilities Act of 1990 (ADA), Congress intended that the Act “provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities” and provide broad coverage;
- (2) in enacting the ADA, Congress recognized that physical and mental disabilities in no way diminish a person’s right to fully participate in all aspects of society, but that people with physical or mental disabilities are frequently precluded from doing so because of prejudice, antiquated attitudes, or the failure to remove societal and institutional barriers;
- (3) while Congress expected that the definition of disability under the ADA would be interpreted consistently with how courts had applied the

definition of a handicapped individual under the Rehabilitation Act of 1973, that expectation has not been fulfilled;

(4) the holdings of the Supreme Court in *Sutton v. United Air Lines, Inc.*, 527 U.S. 471 (1999) and its companion cases have narrowed the broad scope of protection intended to be afforded by the ADA, thus eliminating protection for many individuals whom Congress intended to protect;

(5) the holding of the Supreme Court in *Toyota Motor Manufacturing, Kentucky, Inc. v. Williams*, 534 U.S. 184 (2002) further narrowed the broad scope of protection intended to be afforded by the ADA;

(6) as a result of these Supreme Court cases, lower courts have incorrectly found in individual cases that people with a range of substantially limiting impairments are not people with disabilities;

(7) in particular, the Supreme Court, in the case of *Toyota Motor Manufacturing, Kentucky, Inc. v. Williams*, 534 U.S. 184 (2002), interpreted the term “substantially limits” to require a greater degree of limitation than was intended by Congress; and

(8) Congress finds that the current Equal Employment Opportunity Commission ADA regulations defining the term “substantially limits” as “significantly restricted” are inconsistent with congressional intent, by expressing too high a standard.

(b) Purposes

The purposes of this Act are —

(1) to carry out the ADA’s objectives of providing “a clear and comprehensive national mandate for the elimination of discrimination” and “clear, strong, consistent, enforceable standards addressing discrimination” by reinstating a broad scope of protection to be available under the ADA;

(2) to reject the requirement enunciated by the Supreme Court in *Sutton v. United Air Lines, Inc.*, 527 U.S. 471 (1999) and its companion cases that

whether an impairment substantially limits a major life activity is to be determined with reference to the ameliorative effects of mitigating measures;

(3) to reject the Supreme Court’s reasoning in *Sutton v. United Air Lines, Inc.*, 527 U.S. 471 (1999) with regard to coverage under the third prong of the definition of disability and to reinstate the reasoning of the Supreme Court in *School Board of Nassau County v. Arline*, 480 U.S. 273 (1987) which set forth a broad view of the third prong of the definition of handicap under the Rehabilitation Act of 1973;

(4) to reject the standards enunciated by the Supreme Court in *Toyota Motor Manufacturing, Kentucky, Inc. v. Williams*, 534 U.S. 184 (2002), that the terms “substantially” and “major” in the definition of disability under the ADA “need to be interpreted strictly to create a demanding standard for qualifying as disabled,” and that to be substantially limited in performing a major life activity under the ADA “an individual must have an impairment that prevents or severely restricts the individual from doing activities that are of central importance to most people’s daily lives”;

(5) to convey congressional intent that the standard created by the Supreme Court in the case of *Toyota Motor Manufacturing, Kentucky, Inc. v. Williams*, 534 U.S. 184 (2002) for “substantially limits”, and applied by lower courts in numerous decisions, has created an inappropriately high level of limitation necessary to obtain coverage under the ADA, to convey that it is the intent of Congress that the primary object of attention in cases brought under the ADA should be whether entities covered under the ADA have complied with their obligations, and to convey that the question of whether an individual’s impairment is a disability under the ADA should not demand extensive analysis; and

(6) to express Congress’ expectation that the Equal Employment Opportunity Commission will revise that portion of its current regulations that defines the term “substantially limits” as “significantly

restricted” to be consistent with this Act, including the amendments made by this Act.

Sec. 12102. Definition of disability

As used in this chapter:

(1) Disability

The term “disability” means, with respect to an individual —

- (A) a physical or mental impairment that substantially limits one or more major life activities of such individual;
- (B) a record of such an impairment; or
- (C) being regarded as having such an impairment (as described in paragraph (3)).

(2) Major Life Activities

(A) In general

For purposes of paragraph (1), major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.

(B) Major bodily functions

For purposes of paragraph (1), a major life activity also includes the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

(3) Regarded as having such an impairment

For purposes of paragraph (1)(C):

(A) An individual meets the requirement of “being regarded as having such an impairment” if the individual establishes that he or she has been subjected to an action prohibited under this chapter because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity.

(B) Paragraph (1)(C) shall not apply to impairments that are transitory and minor. A transitory impairment is an impairment with an actual or expected duration of 6 months or less.

(4) Rules of construction regarding the definition of disability

The definition of “disability” in paragraph (1) shall be construed in accordance with the following:

(A) The definition of disability in this chapter shall be construed in favor of broad coverage of individuals under this chapter, to the maximum extent permitted by the terms of this chapter.

(B) The term “substantially limits” shall be interpreted consistently with the findings and purposes of the ADA Amendments Act of 2008.

(C) An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability.

(D) An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

(E)

(i) The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as —

(I) medication, medical supplies, equipment, or appliances, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies;

(II) use of assistive technology;

(III) reasonable accommodations or auxiliary aids or services; or

(IV) learned behavioral or adaptive neurological modifications.

(ii) The ameliorative effects of the mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity.

(iii) As used in this subparagraph —

(I) the term “ordinary eyeglasses or contact lenses” means lenses that are intended to fully correct visual acuity or eliminate refractive error; and

(II) the term “low-vision devices” means devices that magnify, enhance, or otherwise augment a visual image.

Sec. 12103. Additional definitions

As used in this chapter:

(1) Auxiliary aids and services

The term “auxiliary aids and services” includes —

(A) qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments;

(B) qualified readers, taped texts, or other effective methods of making visually delivered materials available to individuals with visual impairments;

(C) acquisition or modification of equipment or devices; and

(D) other similar services and actions.

(2) State

The term “State” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands of the United States, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

Subchapter I – Employment [Title I]

Sec. 12111. Definitions

As used in this subchapter:

(1) Commission

The term “Commission” means the Equal Employment Opportunity Commission established by section 2000e-4 of this title.

(2) Covered entity

The term “covered entity” means an employer, employment agency, labor organization, or joint labor-management committee.

(3) Direct threat

The term “direct threat” means a significant risk to the health or safety of others that cannot be eliminated by reasonable accommodation.

(4) Employee

The term “employee” means an individual employed by an employer. With respect to employment in a foreign country, such term includes an individual who is a citizen of the United States.

(5) Employer

(A) In general

The term “employer” means a person engaged in an industry affecting commerce who has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and any agent of such person, except that, for two years following the effective date of this subchapter, an employer means a person engaged in an industry affecting commerce who has 25 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding year, and any agent of such person.

(B) Exceptions

The term “employer” does not include —

- (i) the United States, a corporation wholly owned by the government of the United States, or an Indian tribe; or
- (ii) a bona fide private membership club (other than a labor organization) that is exempt from taxation under section 501(c) of title 26.

(6) Illegal use of drugs

(A) In general

The term “illegal use of drugs” means the use of drugs, the possession or distribution of which is unlawful under the Controlled Substances Act [21 U.S.C. 801 et seq.]. Such term does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.

(B) Drugs

The term “drug” means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act [21 U.S.C. 812].

(7) Person, etc.

The terms “person”, “labor organization”, “employment agency”, “commerce”, and “industry affecting commerce”, shall have the same meaning given such terms in section 2000e of this title.

(8) Qualified individual

The term “qualified individual “ means an individual who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires. For the purposes of this subchapter, consideration shall be given to the employer’s judgment as to what functions of a job are essential, and if an employer has prepared a written description before advertising or interviewing applicants for the job, this description shall be considered evidence of the essential functions of the job.

(9) Reasonable accommodation

The term “reasonable accommodation” may include

(A) making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and

(B) job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

(10) Undue hardship

(A) In general

The term “undue hardship” means an action requiring significant difficulty or expense, when considered in light of the factors set forth in subparagraph (B).

(B) Factors to be considered

In determining whether an accommodation would impose an undue hardship on a covered entity, factors to be considered include —

(i) the nature and cost of the accommodation needed under this chapter;

(ii) the overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such accommodation upon the operation of the facility;

(iii) the overall financial resources of the covered entity; the overall size of the business of a covered entity with respect to the number of its employees; the number, type, and location of its facilities; and

(iv) the type of operation or operations of the covered entity, including the composition, structure, and functions of the workforce of such entity; the geographic separateness,

administrative, or fiscal relationship of the facility or facilities in question to the covered entity.

Sec. 12112. Discrimination

(a) General rule

No covered entity shall discriminate against a qualified individual on the basis of disability in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment.

(b) Construction

As used in subsection (a) of this section, the term “discriminate against a qualified individual on the basis of disability” includes —

(1) limiting, segregating, or classifying a job applicant or employee in a way that adversely affects the opportunities or status of such applicant or employee because of the disability of such applicant or employee;

(2) participating in a contractual or other arrangement or relationship that has the effect of subjecting a covered entity’s qualified applicant or employee with a disability to the discrimination prohibited by this subchapter (such relationship includes a relationship with an employment or referral agency, labor union, an organization providing fringe benefits to an employee of the covered entity, or an organization providing training and apprenticeship programs);

(3) utilizing standards, criteria, or methods of administration —

(A) that have the effect of discrimination on the basis of disability; or

(B) that perpetuate the discrimination of others who are subject to common administrative control;

(4) excluding or otherwise denying equal jobs or benefits to a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a relationship or association;

(5)

(A) not making reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless such covered entity can demonstrate that the accommodation would impose an undue hardship on the operation of the business of such covered entity; or

(B) denying employment opportunities to a job applicant or employee who is an otherwise qualified individual with a disability, if such denial is based on the need of such covered entity to make reasonable accommodation to the physical or mental impairments of the employee or applicant;

(6) using qualification standards, employment tests or other selection criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities unless the standard, test or other selection criteria, as used by the covered entity, is shown to be job-related for the position in question and is consistent with business necessity; and

(7) failing to select and administer tests concerning employment in the most effective manner to ensure that, when such test is administered to a job applicant or employee who has a disability that impairs sensory, manual, or speaking skills, such test results accurately reflect the skills, aptitude, or whatever other factor of such applicant or employee that such test purports to measure, rather than reflecting the impaired sensory, manual, or speaking skills of such employee or applicant (except where such skills are the factors that the test purports to measure).

(c) Covered entities in foreign countries

(1) In general

It shall not be unlawful under this section for a covered entity to take any action that constitutes discrimination under this section with respect to an employee in a workplace in a foreign country if compliance with this section would cause such covered entity to violate the law of the foreign country in which such workplace is located.

(2) Control of corporation

(A) Presumption

If an employer controls a corporation whose place of incorporation is a foreign country, any practice that constitutes discrimination under this section and is engaged in by such corporation shall be presumed to be engaged in by such employer.

(B) Exception

This section shall not apply with respect to the foreign operations of an employer that is a foreign person not controlled by an American employer.

(C) Determination

For purposes of this paragraph, the determination of whether an employer controls a corporation shall be based on —

- (i) the interrelation of operations;
- (ii) the common management;
- (iii) the centralized control of labor relations; and
- (iv) the common ownership or financial control, of the employer and the corporation.

(d) Medical examinations and inquiries

(1) In general

The prohibition against discrimination as referred to in subsection (a) of this section shall include medical examinations and inquiries.

(2) Preemployment

(A) Prohibited examination or inquiry

Except as provided in paragraph (3), a covered entity shall not conduct a medical examination or make inquiries of a job applicant as to whether such applicant is an individual with a disability or as to the nature or severity of such disability.

(B) Acceptable inquiry

A covered entity may make preemployment inquiries into the ability of an applicant to perform job-related functions.

(3) Employment entrance examination

A covered entity may require a medical examination after an offer of employment has been made to a job applicant and prior to the commencement of the employment duties of such applicant, and may condition an offer of employment on the results of such examination, if —

(A) all entering employees are subjected to such an examination regardless of disability;

(B) information obtained regarding the medical condition or history of the applicant is collected and maintained on separate forms and in separate medical files and is treated as a confidential medical record, except that —

(i) supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations;

(ii) first aid and safety personnel may be informed, when appropriate, if the disability might require emergency

treatment; and

(iii) government officials investigating compliance with this chapter shall be provided relevant information on request; and

(C) the results of such examination are used only in accordance with this subchapter.

(4) Examination and inquiry

(A) Prohibited examinations and inquiries

A covered entity shall not require a medical examination and shall not make inquiries of an employee as to whether such employee is an individual with a disability or as to the nature or severity of the disability, unless such examination or inquiry is shown to be job-related and consistent with business necessity.

(B) Acceptable examinations and inquiries

A covered entity may conduct voluntary medical examinations, including voluntary medical histories, which are part of an employee health program available to employees at that work site. A covered entity may make inquiries into the ability of an employee to perform job-related functions.

(C) Requirement

Information obtained under subparagraph (B) regarding the medical condition or history of any employee are subject to the requirements of subparagraphs (B) and (C) of paragraph (3).

Sec. 12113. Defenses

(a) In general

It may be a defense to a charge of discrimination under this chapter that an alleged application of qualification standards, tests, or selection criteria that

screen out or tend to screen out or otherwise deny a job or benefit to an individual with a disability has been shown to be job-related and consistent with business necessity, and such performance cannot be accomplished by reasonable accommodation, as required under this subchapter.

(b) Qualification standards

The term “qualification standards” may include a requirement that an individual shall not pose a direct threat to the health or safety of other individuals in the workplace.

(c) Qualification standards and tests related to uncorrected vision

Notwithstanding section 12102(4)(E)(ii), a covered entity shall not use qualification standards, employment tests, or other selection criteria based on an individual’s uncorrected vision unless the standard, test, or other selection criteria, as used by the covered entity, is shown to be job-related for the position in question and consistent with business necessity.

(d) Religious entities

(1) In general

This subchapter shall not prohibit a religious corporation, association, educational institution, or society from giving preference in employment to individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution, or society of its activities.

(2) Religious tenets requirement

Under this subchapter, a religious organization may require that all applicants and employees conform to the religious tenets of such organization.

(e) List of infectious and communicable diseases

(1) In general

The Secretary of Health and Human Services, not later than 6 months after July 26, 1990, shall —

- (A) review all infectious and communicable diseases which may be transmitted through handling the food supply;
- (B) publish a list of infectious and communicable diseases which are transmitted through handling the food supply;
- (C) publish the methods by which such diseases are transmitted; and
- (D) widely disseminate such information regarding the list of diseases and their modes of transmissibility to the general public.

Such list shall be updated annually.

(2) Applications

In any case in which an individual has an infectious or communicable disease that is transmitted to others through the handling of food, that is included on the list developed by the Secretary of Health and Human Services under paragraph (1), and which cannot be eliminated by reasonable accommodation, a covered entity may refuse to assign or continue to assign such individual to a job involving food handling.

(3) Construction

Nothing in this chapter shall be construed to preempt, modify, or amend any State, county, or local law, ordinance, or regulation applicable to food handling which is designed to protect the public health from individuals who pose a significant risk to the health or safety of others, which cannot be eliminated by reasonable accommodation, pursuant to the list of infectious or communicable diseases and the modes of transmissibility published by the Secretary of Health and Human Services.

Sec. 12114. Illegal use of drugs and alcohol

(a) Qualified individual with a disability

For purposes of this subchapter, a qualified individual with a disability shall not include any employee or applicant who is currently engaging in the illegal use of drugs, when the covered entity acts on the basis of such use.

(b) Rules of construction

Nothing in subsection (a) of this section shall be construed to exclude as a qualified individual with a disability an individual who —

(1) has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer engaging in such use;

(2) is participating in a supervised rehabilitation program and is no longer engaging in such use; or

(3) is erroneously regarded as engaging in such use, but is not engaging in such use;

except that it shall not be a violation of this chapter for a covered entity to adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual described in paragraph (1) or (2) is no longer engaging in the illegal use of drugs.

(c) Authority of covered entity

A covered entity —

(1) may prohibit the illegal use of drugs and the use of alcohol at the workplace by all employees;

(2) may require that employees shall not be under the influence of alcohol or be engaging in the illegal use of drugs at the workplace;

(3) may require that employees behave in conformance with the requirements established under the Drug-Free Workplace Act of 1988

(41 U.S.C. 701 et seq.);

(4) may hold an employee who engages in the illegal use of drugs or who is an alcoholic to the same qualification standards for employment or job performance and behavior that such entity holds other employees, even if any unsatisfactory performance or behavior is related to the drug use or alcoholism of such employee; and

(5) may, with respect to Federal regulations regarding alcohol and the illegal use of drugs, require that —

(A) employees comply with the standards established in such regulations of the Department of Defense, if the employees of the covered entity are employed in an industry subject to such regulations, including complying with regulations (if any) that apply to employment in sensitive positions in such an industry, in the case of employees of the covered entity who are employed in such positions (as defined in the regulations of the Department of Defense);

(B) employees comply with the standards established in such regulations of the Nuclear Regulatory Commission, if the employees of the covered entity are employed in an industry subject to such regulations, including complying with regulations (if any) that apply to employment in sensitive positions in such an industry, in the case of employees of the covered entity who are employed in such positions (as defined in the regulations of the Nuclear Regulatory Commission); and

(C) employees comply with the standards established in such regulations of the Department of Transportation, if the employees of the covered entity are employed in a transportation industry subject to such regulations, including complying with such regulations (if any) that apply to employment in sensitive positions in such an industry, in the case of employees of the covered entity who are

employed in such positions (as defined in the regulations of the Department of Transportation).

(d) Drug testing

(1) In general

For purposes of this subchapter, a test to determine the illegal use of drugs shall not be considered a medical examination.

(2) Construction

Nothing in this subchapter shall be construed to encourage, prohibit, or authorize the conducting of drug testing for the illegal use of drugs by job applicants or employees or making employment decisions based on such test results.

(e) Transportation employees

Nothing in this subchapter shall be construed to encourage, prohibit, restrict, or authorize the otherwise lawful exercise by entities subject to the jurisdiction of the Department of Transportation of authority to —

(1) test employees of such entities in, and applicants for, positions involving safety-sensitive duties for the illegal use of drugs and for on-duty impairment by alcohol; and

(2) remove such persons who test positive for illegal use of drugs and on-duty impairment by alcohol pursuant to paragraph (1) from safety-sensitive duties in implementing subsection (c).

Sec. 12115. Posting notices

Every employer, employment agency, labor organization, or joint labor-management committee covered under this subchapter shall post notices in an accessible format to applicants, employees, and members describing the

applicable provisions of this chapter, in the manner prescribed by section 2000e-10 of this title.

Sec. 12116. Regulations

Not later than 1 year after July 26, 1990, the Commission shall issue regulations in an accessible format to carry out this subchapter in accordance with subchapter II of chapter 5 of title 5.

Sec. 12117. Enforcement

(a) Powers, remedies, and procedures

The powers, remedies, and procedures set forth in sections 2000e-4, 2000e-5, 2000e-6, 2000e-8, and 2000e-9 of this title shall be the powers, remedies, and procedures this subchapter provides to the Commission, to the Attorney General, or to any person alleging discrimination on the basis of disability in violation of any provision of this chapter, or regulations promulgated under section 12116 of this title, concerning employment.

(b) Coordination

The agencies with enforcement authority for actions which allege employment discrimination under this subchapter and under the Rehabilitation Act of 1973 [29 U.S.C. 701 et seq.] shall develop procedures to ensure that administrative complaints filed under this subchapter and under the Rehabilitation Act of 1973 are dealt with in a manner that avoids duplication of effort and prevents imposition of inconsistent or conflicting standards for the same requirements under this subchapter and the Rehabilitation Act of 1973. The Commission, the Attorney General, and the Office of Federal Contract Compliance Programs shall establish such coordinating mechanisms (similar to provisions contained in the joint regulations promulgated by the Commission and the Attorney General at part 42 of title 28 and part 1691 of title 29, Code of Federal Regulations, and the Memorandum of Understanding between the Commission and the Office

of Federal Contract Compliance Programs dated January 16, 1981 (46 Fed. Reg. 7435, January 23, 1981)) in regulations implementing this subchapter and Rehabilitation Act of 1973 not later than 18 months after July 26, 1990.

Subchapter II – Public Services [Title II]

Part A – Prohibition Against Discrimination and Other Generally Applicable Provisions

Sec. 12131. Definitions

As used in this subchapter:

(1) Public entity

The term “public entity” means

(A) any State or local government;

(B) any department, agency, special purpose district, or other instrumentality of a State or States or local government; and

(C) the National Railroad Passenger Corporation, and any commuter authority (as defined in section 24102(4) of title 49).

(2) Qualified individual with a disability

The term “qualified individual with a disability” means an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.

Sec. 12132. Discrimination

Subject to the provisions of this subchapter, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.

Sec. 12133. Enforcement

The remedies, procedures, and rights set forth in section 794a of title 29 shall be the remedies, procedures, and rights this subchapter provides to any person alleging discrimination on the basis of disability in violation of section 12132 of this title.

Sec. 12134. Regulations

(a) In general

Not later than 1 year after July 26, 1990, the Attorney General shall promulgate regulations in an accessible format that implement this part. Such regulations shall not include any matter within the scope of the authority of the Secretary of Transportation under section 12143, 12149, or 12164 of this title.

(b) Relationship to other regulations

Except for “program accessibility, existing facilities”, and “communications”, regulations under subsection (a) of this section shall be consistent with this chapter and with the coordination regulations under part 41 of title 28, Code of Federal Regulations (as promulgated by the Department of Health, Education, and Welfare on January 13, 1978), applicable to recipients of Federal financial assistance under section 794 of title 29. With respect to “program accessibility, existing facilities”, and “communications”, such regulations shall be consistent with regulations and analysis as in part 39 of title 28 of the Code of

Federal Regulations, applicable to federally conducted activities under section 794 of title 29.

(c) Standards

Regulations under subsection (a) of this section shall include standards applicable to facilities and vehicles covered by this part, other than facilities, stations, rail passenger cars, and vehicles covered by part B of this subchapter. Such standards shall be consistent with the minimum guidelines and requirements issued by the Architectural and Transportation Barriers Compliance Board in accordance with section 12204(a) of this title.

Part B – Actions Applicable to Public Transportation Provided by Public Entities Considered Discriminatory

Subpart I – Public Transportation Other than by Aircraft or Certain Rail Operations

Sec. 12141. Definitions

As used in this subpart:

(1) Demand responsive system

The term “demand responsive system” means any system of providing designated public transportation which is not a fixed route system.

(2) Designated public transportation

The term “designated public transportation” means transportation (other than public school transportation) by bus, rail, or any other conveyance (other than transportation by aircraft or intercity or commuter rail transportation (as defined in section 12161 of this title)) that provides the

general public with general or special service (including charter service) on a regular and continuing basis.

(3) Fixed route system

The term “fixed route system” means a system of providing designated public transportation on which a vehicle is operated along a prescribed route according to a fixed schedule.

(4) Operates

The term “operates”, as used with respect to a fixed route system or demand responsive system, includes operation of such system by a person under a contractual or other arrangement or relationship with a public entity.

(5) Public school transportation

The term “public school transportation” means transportation by school bus vehicles of schoolchildren, personnel, and equipment to and from a public elementary or secondary school and school-related activities.

(6) Secretary

The term “Secretary” means the Secretary of Transportation.

Sec. 12142. Public entities operating fixed route systems

(a) Purchase and lease of new vehicles

It shall be considered discrimination for purposes of section 12132 of this title and section 794 of title 29 for a public entity which operates a fixed route system to purchase or lease a new bus, a new rapid rail vehicle, a new light rail vehicle, or any other new vehicle to be used on such system, if the solicitation for such purchase or lease is made after the 30th day following July 26, 1990, and if such bus, rail vehicle, or other vehicle is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(b) Purchase and lease of used vehicles

Subject to subsection (c)(1) of this section, it shall be considered discrimination for purposes of section 12132 of this title and section 794 of title 29 for a public entity which operates a fixed route system to purchase or lease, after the 30th day following July 26, 1990, a used vehicle for use on such system unless such entity makes demonstrated good faith efforts to purchase or lease a used vehicle for use on such system that is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(c) Remanufactured vehicles

(1) General rule

Except as provided in paragraph (2), it shall be considered discrimination for purposes of section 12132 of this title and section 794 of title 29 for a public entity which operates a fixed route system —

(A) to remanufacture a vehicle for use on such system so as to extend its usable life for 5 years or more, which remanufacture begins (or for which the solicitation is made) after the 30th day following July 26, 1990; or

(B) to purchase or lease for use on such system a remanufactured vehicle which has been remanufactured so as to extend its usable life for 5 years or more, which purchase or lease occurs after such 30th day and during the period in which the usable life is extended; unless, after remanufacture, the vehicle is, to the maximum extent feasible, readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(2) Exception for historic vehicles

(A) General rule

If a public entity operates a fixed route system any segment of which is included on the National Register of Historic Places and if

making a vehicle of historic character to be used solely on such segment readily accessible to and usable by individuals with disabilities would significantly alter the historic character of such vehicle, the public entity only has to make (or to purchase or lease a remanufactured vehicle with) those modifications which are necessary to meet the requirements of paragraph (1) and which do not significantly alter the historic character of such vehicle.

(B) Vehicles of historic character defined by regulations

For purposes of this paragraph and section 12148(a) of this title, a vehicle of historic character shall be defined by the regulations issued by the Secretary to carry out this subsection.

Sec. 12143. Paratransit as a complement to fixed route service

(a) General rule

It shall be considered discrimination for purposes of section 12132 of this title and section 794 of title 29 for a public entity which operates a fixed route system (other than a system which provides solely commuter bus service) to fail to provide with respect to the operations of its fixed route system, in accordance with this section, paratransit and other special transportation services to individuals with disabilities, including individuals who use wheelchairs that are sufficient to provide to such individuals a level of service

(1) which is comparable to the level of designated public transportation services provided to individuals without disabilities using such system; or

(2) in the case of response time, which is comparable, to the extent practicable, to the level of designated public transportation services provided to individuals without disabilities using such system.

(b) Issuance of regulations

Not later than 1 year after July 26, 1990, the Secretary shall issue final regulations to carry out this section.

(c) Required contents of regulations

(1) Eligible recipients of service

The regulations issued under this section shall require each public entity which operates a fixed route system to provide the paratransit and other special transportation services required under this section

(A)

(i) to any individual with a disability who is unable, as a result of a physical or mental impairment (including a vision impairment) and without the assistance of another individual (except an operator of a wheelchair lift or other boarding assistance device), to board, ride, or disembark from any vehicle on the system which is readily accessible to and usable by individuals with disabilities;

(ii) to any individual with a disability who needs the assistance of a wheelchair lift or other boarding assistance device (and is able with such assistance) to board, ride, and disembark from any vehicle which is readily accessible to and usable by individuals with disabilities if the individual wants to travel on a route on the system during the hours of operation of the system at a time (or within a reasonable period of such time) when such a vehicle is not being used to provide designated public transportation on the route; and

(iii) to any individual with a disability who has a specific impairment-related condition which prevents such individual from traveling to a boarding location or from a disembarking location on such system;

(B) to one other individual accompanying the individual with the disability; and

(C) to other individuals, in addition to the one individual described in subparagraph (B), accompanying the individual with a disability provided that space for these additional individuals are available on the paratransit vehicle carrying the individual with a disability and that the transportation of such additional individuals will not result in a denial of service to individuals with disabilities.

For purposes of clauses (i) and (ii) of subparagraph (A), boarding or disembarking from a vehicle does not include travel to the boarding location or from the disembarking location.

(2) Service area

The regulations issued under this section shall require the provision of paratransit and special transportation services required under this section in the service area of each public entity which operates a fixed route system, other than any portion of the service area in which the public entity solely provides commuter bus service.

(3) Service criteria

Subject to paragraphs (1) and (2), the regulations issued under this section shall establish minimum service criteria for determining the level of services to be required under this section.

(4) Undue financial burden limitation

The regulations issued under this section shall provide that, if the public entity is able to demonstrate to the satisfaction of the Secretary that the provision of paratransit and other special transportation services otherwise required under this section would impose an undue financial burden on the public entity, the public entity, notwithstanding any other provision of this section (other than paragraph (5)), shall only be required

to provide such services to the extent that providing such services would not impose such a burden.

(5) Additional services

The regulations issued under this section shall establish circumstances under which the Secretary may require a public entity to provide, notwithstanding paragraph (4), paratransit and other special transportation services under this section beyond the level of paratransit and other special transportation services which would otherwise be required under paragraph (4).

(6) Public participation

The regulations issued under this section shall require that each public entity which operates a fixed route system hold a public hearing, provide an opportunity for public comment, and consult with individuals with disabilities in preparing its plan under paragraph (7).

(7) Plans

The regulations issued under this section shall require that each public entity which operates a fixed route system —

(A) within 18 months after July 26, 1990, submit to the Secretary, and commence implementation of, a plan for providing paratransit and other special transportation services which meets the requirements of this section; and

(B) on an annual basis thereafter, submit to the Secretary, and commence implementation of, a plan for providing such services.

(8) Provision of services by others

The regulations issued under this section shall

(A) require that a public entity submitting a plan to the Secretary under this section identify in the plan any person or other public entity which is providing a paratransit or other special

transportation service for individuals with disabilities in the service area to which the plan applies; and

(B) provide that the public entity submitting the plan does not have to provide under the plan such service for individuals with disabilities.

(9) Other provisions

The regulations issued under this section shall include such other provisions and requirements as the Secretary determines are necessary to carry out the objectives of this section.

(d) Review of plan

(1) General rule

The Secretary shall review a plan submitted under this section for the purpose of determining whether or not such plan meets the requirements of this section, including the regulations issued under this section.

(2) Disapproval

If the Secretary determines that a plan reviewed under this subsection fails to meet the requirements of this section, the Secretary shall disapprove the plan and notify the public entity which submitted the plan of such disapproval and the reasons therefor.

(3) Modification of disapproved plan

Not later than 90 days after the date of disapproval of a plan under this subsection, the public entity which submitted the plan shall modify the plan to meet the requirements of this section and shall submit to the Secretary, and commence implementation of, such modified plan.

(e) “Discrimination” defined

As used in subsection (a) of this section, the term “discrimination” includes

(1) a failure of a public entity to which the regulations issued under this section apply to submit, or commence implementation of, a plan in accordance with subsections (c)(6) and (c)(7);

(2) a failure of such entity to submit, or commence implementation of, a modified plan in accordance with subsection (d)(3);

(3) submission to the Secretary of a modified plan under subsection (d)(3) of this section which does not meet the requirements of this section; or

(4) a failure of such entity to provide paratransit or other special transportation services in accordance with the plan or modified plan the public entity submitted to the Secretary under this section.

(f) Statutory construction

Nothing in this section shall be construed as preventing a public entity —

(1) from providing paratransit or other special transportation services at a level which is greater than the level of such services which are required by this section,

(2) from providing paratransit or other special transportation services in addition to those paratransit and special transportation services required by this section, or

(3) from providing such services to individuals in addition to those individuals to whom such services are required to be provided by this section.

Sec. 12144. Public entity operating a demand responsive system

If a public entity operates a demand responsive system, it shall be considered discrimination, for purposes of section 12132 of this title and section 794 of title 29, for such entity to purchase or lease a new vehicle for use on such system, for which a solicitation is made after the 30th day following July 26, 1990, that is not readily accessible to and usable by individuals with disabilities, including

individuals who use wheelchairs, unless such system, when viewed in its entirety, provides a level of service to such individuals equivalent to the level of service such system provides to individuals without disabilities.

Sec. 12145. Temporary relief where lifts are unavailable

(a) Granting

With respect to the purchase of new buses, a public entity may apply for, and the Secretary may temporarily relieve such public entity from the obligation under section 12142(a) or 12144 of this title to purchase new buses that are readily accessible to and usable by individuals with disabilities if such public entity demonstrates to the satisfaction of the Secretary

- (1) that the initial solicitation for new buses made by the public entity specified that all new buses were to be lift-equipped and were to be otherwise accessible to and usable by individuals with disabilities;
- (2) the unavailability from any qualified manufacturer of hydraulic, electromechanical, or other lifts for such new buses;
- (3) that the public entity seeking temporary relief has made good faith efforts to locate a qualified manufacturer to supply the lifts to the manufacturer of such buses in sufficient time to comply with such solicitation; and
- (4) that any further delay in purchasing new buses necessary to obtain such lifts would significantly impair transportation services in the community served by the public entity.

(b) Duration and notice to Congress

Any relief granted under subsection (a) of this section shall be limited in duration by a specified date, and the appropriate committees of Congress shall be notified of any such relief granted.

(c) Fraudulent application

If, at any time, the Secretary has reasonable cause to believe that any relief granted under subsection (a) of this section was fraudulently applied for, the Secretary shall —

- (1) cancel such relief if such relief is still in effect; and
- (2) take such other action as the Secretary considers appropriate.

Sec. 12146. New facilities

For purposes of section 12132 of this title and section 794 of title 29, it shall be considered discrimination for a public entity to construct a new facility to be used in the provision of designated public transportation services unless such facility is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

Sec. 12147. Alterations of existing facilities

(a) General rule

With respect to alterations of an existing facility or part thereof used in the provision of designated public transportation services that affect or could affect the usability of the facility or part thereof, it shall be considered discrimination, for purposes of section 12132 of this title and section 794 of title 29, for a public entity to fail to make such alterations (or to ensure that the alterations are made) in such a manner that, to the maximum extent feasible, the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon the completion of such alterations. Where the public entity is undertaking an alteration that affects or could affect usability of or access to an area of the facility containing a primary function, the entity shall also make the alterations in such a manner that, to the maximum extent feasible, the path of travel to the altered area and the bathrooms, telephones, and drinking fountains serving the altered area, are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon completion of such alterations, where such alterations to the path of travel or the bathrooms, telephones, and drinking fountains

serving the altered area are not disproportionate to the overall alterations in terms of cost and scope (as determined under criteria established by the Attorney General).

(b) Special rule for stations

(1) General rule

For purposes of section 12132 of this title and section 794 of title 29, it shall be considered discrimination for a public entity that provides designated public transportation to fail, in accordance with the provisions of this subsection, to make key stations (as determined under criteria established by the Secretary by regulation) in rapid rail and light rail systems readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(2) Rapid rail and light rail key stations

(A) Accessibility

Except as otherwise provided in this paragraph, all key stations (as determined under criteria established by the Secretary by regulation) in rapid rail and light rail systems shall be made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as soon as practicable but in no event later than the last day of the 3-year period beginning on July 26, 1990.

(B) Extension for extraordinarily expensive structural changes

The Secretary may extend the 3-year period under subparagraph (A) up to a 30-year period for key stations in a rapid rail or light rail system which stations need extraordinarily expensive structural changes to, or replacement of, existing facilities; except that by the last day of the 20th year following July 26, 1990, at least 2/3 of such key stations must be readily accessible to and usable by individuals with disabilities.

(3) Plans and milestones

The Secretary shall require the appropriate public entity to develop and submit to the Secretary a plan for compliance with this subsection

(A) that reflects consultation with individuals with disabilities affected by such plan and the results of a public hearing and public comments on such plan, and

(B) that establishes milestones for achievement of the requirements of this subsection.

Sec. 12148. Public transportation programs and activities in existing facilities and one car per train rule

(a) Public transportation programs and activities in existing facilities

(1) In general

With respect to existing facilities used in the provision of designated public transportation services, it shall be considered discrimination, for purposes of section 12132 of this title and section 794 of title 29, for a public entity to fail to operate a designated public transportation program or activity conducted in such facilities so that, when viewed in the entirety, the program or activity is readily accessible to and usable by individuals with disabilities.

(2) Exception

Paragraph (1) shall not require a public entity to make structural changes to existing facilities in order to make such facilities accessible to individuals who use wheelchairs, unless and to the extent required by section 12147(a) of this title (relating to alterations) or section 12147(b) of this title (relating to key stations).

(3) Utilization

Paragraph (1) shall not require a public entity to which paragraph (2) applies, to provide to individuals who use wheelchairs services made

available to the general public at such facilities when such individuals could not utilize or benefit from such services provided at such facilities.

(b) One car per train rule

(1) General rule

Subject to paragraph (2), with respect to 2 or more vehicles operated as a train by a light or rapid rail system, for purposes of section 12132 of this title and section 794 of title 29, it shall be considered discrimination for a public entity to fail to have at least 1 vehicle per train that is accessible to individuals with disabilities, including individuals who use wheelchairs, as soon as practicable but in no event later than the last day of the 5-year period beginning on the effective date of this section.

(2) Historic trains

In order to comply with paragraph (1) with respect to the remanufacture of a vehicle of historic character which is to be used on a segment of a light or rapid rail system which is included on the National Register of Historic Places, if making such vehicle readily accessible to and usable by individuals with disabilities would significantly alter the historic character of such vehicle, the public entity which operates such system only has to make (or to purchase or lease a remanufactured vehicle with) those modifications which are necessary to meet the requirements of section 12142(c)(1) of this title and which do not significantly alter the historic character of such vehicle.

Sec. 12149. Regulations

(a) In general

Not later than 1 year after July 26, 1990, the Secretary of Transportation shall issue regulations, in an accessible format, necessary for carrying out this subpart (other than section 12143 of this title).

(b) Standards

The regulations issued under this section and section 12143 of this title shall include standards applicable to facilities and vehicles covered by this part. The standards shall be consistent with the minimum guidelines and requirements issued by the Architectural and Transportation Barriers Compliance Board in accordance with section 12204 of this title.

Sec. 12150. Interim accessibility requirements

If final regulations have not been issued pursuant to section 12149 of this title, for new construction or alterations for which a valid and appropriate State or local building permit is obtained prior to the issuance of final regulations under such section, and for which the construction or alteration authorized by such permit begins within one year of the receipt of such permit and is completed under the terms of such permit, compliance with the Uniform Federal Accessibility Standards in effect at the time the building permit is issued shall suffice to satisfy the requirement that facilities be readily accessible to and usable by persons with disabilities as required under sections 12146 and 12147 of this title, except that, if such final regulations have not been issued one year after the Architectural and Transportation Barriers Compliance Board has issued the supplemental minimum guidelines required under section 12204(a) of this title, compliance with such supplemental minimum guidelines shall be necessary to satisfy the requirement that facilities be readily accessible to and usable by persons with disabilities prior to issuance of the final regulations.

Subpart II - Public Transportation by Intercity and Commuter Rail

Sec. 12161. Definitions

As used in this subpart:

(1) Commuter authority

The term “commuter authority” has the meaning given such term in section 24102(4) of title 49.

(2) Commuter rail transportation

The term “commuter rail transportation” has the meaning given the term “commuter rail passenger transportation” in section 24102(5) of title 49.

(3) Intercity rail transportation

The term “intercity rail transportation” means transportation provided by the National Railroad Passenger Corporation.

(4) Rail passenger car

The term “rail passenger car” means, with respect to intercity rail transportation, single-level and bi-level coach cars, single-level and bi-level dining cars, single-level and bi-level sleeping cars, single-level and bi-level lounge cars, and food service cars.

(5) Responsible person

The term “responsible person” means

(A) in the case of a station more than 50 percent of which is owned by a public entity, such public entity;

(B) in the case of a station more than 50 percent of which is owned by a private party, the persons providing intercity or commuter rail transportation to such station, as allocated on an equitable basis by regulation by the Secretary of Transportation; and

(C) in a case where no party owns more than 50 percent of a station, the persons providing intercity or commuter rail transportation to such station and the owners of the station, other than private party owners, as allocated on an equitable basis by regulation by the Secretary of Transportation.

(6) Station

The term “station” means the portion of a property located appurtenant to a right-of-way on which intercity or commuter rail transportation is

operated, where such portion is used by the general public and is related to the provision of such transportation, including passenger platforms, designated waiting areas, ticketing areas, restrooms, and, where a public entity providing rail transportation owns the property, concession areas, to the extent that such public entity exercises control over the selection, design, construction, or alteration of the property, but such term does not include flag stops.

Sec. 12162. Intercity and commuter rail actions considered discriminatory

(a) Intercity rail transportation

(1) One car per train rule

It shall be considered discrimination for purposes of section 12132 of this title and section 794 of title 29 for a person who provides intercity rail transportation to fail to have at least one passenger car per train that is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, in accordance with regulations issued under section 12164 of this title, as soon as practicable, but in no event later than 5 years after July 26, 1990.

(2) New intercity cars

(A) General rule

Except as otherwise provided in this subsection with respect to individuals who use wheelchairs, it shall be considered discrimination for purposes of section 12132 of this title and section 794 of title 29 for a person to purchase or lease any new rail passenger cars for use in intercity rail transportation, and for which a solicitation is made later than 30 days after July 26, 1990, unless all such rail cars are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 12164 of this title.

(B) Special rule for single-level passenger coaches for individuals who use wheelchairs

Single-level passenger coaches shall be required to

- (i) be able to be entered by an individual who uses a wheelchair;
- (ii) have space to park and secure a wheelchair;
- (iii) have a seat to which a passenger in a wheelchair can transfer, and a space to fold and store such passenger's wheelchair; and
- (iv) have a restroom usable by an individual who uses a wheelchair, only to the extent provided in paragraph (3).

(C) Special rule for single-level dining cars for individuals who use wheelchairs

Single-level dining cars shall not be required to

- (i) be able to be entered from the station platform by an individual who uses a wheelchair; or
- (ii) have a restroom usable by an individual who uses a wheelchair if no restroom is provided in such car for any passenger.

(D) Special rule for bi-level dining cars for individuals who use wheelchairs

Bi-level dining cars shall not be required to

- (i) be able to be entered by an individual who uses a wheelchair;
- (ii) have space to park and secure a wheelchair;
- (iii) have a seat to which a passenger in a wheelchair can transfer, or a space to fold and store such passenger's wheelchair; or

(iv) have a restroom usable by an individual who uses a wheelchair.

(3) Accessibility of single-level coaches

(A) General rule

It shall be considered discrimination for purposes of section 12132 of this title and section 794 of title 29 for a person who provides intercity rail transportation to fail to have on each train which includes one or more single-level rail passenger coaches —

(i) a number of spaces —

(I) to park and secure wheelchairs (to accommodate individuals who wish to remain in their wheelchairs) equal to not less than one-half of the number of single-level rail passenger coaches in such train; and

(II) to fold and store wheelchairs (to accommodate individuals who wish to transfer to coach seats) equal to not less than one-half of the number of single-level rail passenger coaches in such train, as soon as practicable, but in no event later than 5 years after July 26, 1990; and

(B) Location

Spaces required by subparagraph (A) shall be located in single-level rail passenger coaches or food service cars.

(C) Limitation

Of the number of spaces required on a train by subparagraph (A), not more than two spaces to park and secure wheelchairs nor more than two spaces to fold and store wheelchairs shall be located in any one coach or food service car.

(D) Other accessibility features

Single-level rail passenger coaches and food service cars on which the spaces required by subparagraph (a) are located shall have a restroom usable by an individual who uses a wheelchair and shall be able to be entered from the station platform by an individual who uses a wheelchair.

(4) Food service

(A) Single-level dining cars

On any train in which a single-level dining car is used to provide food service

(i) if such single-level dining car was purchased after July 26, 1990, table service in such car shall be provided to a passenger who uses a wheelchair if

(I) the car adjacent to the end of the dining car through which a wheelchair may enter is itself accessible to a wheelchair;

(II) such passenger can exit to the platform from the car such passenger occupies, move down the platform, and enter the adjacent accessible car described in subclause (I) without the necessity of the train being moved within the station; and

(III) space to park and secure a wheelchair is available in the dining car at the time such passenger wishes to eat (if such passenger wishes to remain in a wheelchair), or space to store and fold a wheelchair is available in the dining car at the time such passenger wishes to eat (if such passenger wishes to transfer to a dining car seat); and

(ii) appropriate auxiliary aids and services, including a hard surface on which to eat, shall be provided to ensure that other equivalent food service is available to individuals with

disabilities, including individuals who use wheelchairs, and to passengers traveling with such individuals.

Unless not practicable, a person providing intercity rail transportation shall place an accessible car adjacent to the end of a dining car described in clause (I) through which an individual who uses a wheelchair may enter.

(B) Bi-level dining cars

On any train in which a bi-level dining car is used to provide food service —

(i) if such train includes a bi-level lounge car purchased after July 26, 1990, table service in such lounge car shall be provided to individuals who use wheelchairs and to other passengers; and

(ii) appropriate auxiliary aids and services, including a hard surface on which to eat, shall be provided to ensure that other equivalent food service is available to individuals with disabilities, including individuals who use wheelchairs, and to passengers traveling with such individuals.

(b) Commuter rail transportation

(1) One car per train rule

It shall be considered discrimination for purposes of section 12132 of this title and section 794 of title 29 for a person who provides commuter rail transportation to fail to have at least one passenger car per train that is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, in accordance with regulations issued under section 12164 of this title, as soon as practicable, but in no event later than 5 years after July 26, 1990.

(2) New commuter rail cars

(A) General rule

It shall be considered discrimination for purposes of section 12132 of this title and section 794 of title 29 for a person to purchase or lease any new rail passenger cars for use in commuter rail transportation, and for which a solicitation is made later than 30 days after July 26, 1990, unless all such rail cars are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 12164 of this title.

(B) Accessibility

For purposes of section 12132 of this title and section 794 of title 29, a requirement that a rail passenger car used in commuter rail transportation be accessible to or readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, shall not be construed to require —

- (i) a restroom usable by an individual who uses a wheelchair if no restroom is provided in such car for any passenger;
- (ii) space to fold and store a wheelchair; or
- (iii) a seat to which a passenger who uses a wheelchair can transfer.

(c) Used rail cars

It shall be considered discrimination for purposes of section 12132 of this title and section 794 of title 29 for a person to purchase or lease a used rail passenger car for use in intercity or commuter rail transportation, unless such person makes demonstrated good faith efforts to purchase or lease a used rail car that is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 12164 of this title.

(d) Remanufactured rail cars

(1) Remanufacturing

It shall be considered discrimination for purposes of section 12132 of this title and section 794 of title 29 for a person to remanufacture a rail passenger car for use in intercity or commuter rail transportation so as to extend its usable life for 10 years or more, unless the rail car, to the maximum extent feasible, is made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 12164 of this title.

(2) Purchase or lease

It shall be considered discrimination for purposes of section 12132 of this title and section 794 of title 29 for a person to purchase or lease a remanufactured rail passenger car for use in intercity or commuter rail transportation unless such car was remanufactured in accordance with paragraph (1).

(e) Stations

(1) New stations

It shall be considered discrimination for purposes of section 12132 of this title and section 794 of title 29 for a person to build a new station for use in intercity or commuter rail transportation that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 12164 of this title.

(2) Existing stations

(A) Failure to make readily accessible

(i) General rule

It shall be considered discrimination for purposes of section 12132 of this title and section 794 of title 29 for a responsible person to fail to make existing stations in the intercity rail transportation system, and existing key stations in commuter rail transportation systems, readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 12164 of this title.

(ii) Period for compliance

(I) Intercity rail

All stations in the intercity rail transportation system shall be made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as soon as practicable, but in no event later than 20 years after July 26, 1990.

(II) Commuter rail

Key stations in commuter rail transportation systems shall be made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as soon as practicable but in no event later than 3 years after July 26, 1990, except that the time limit may be extended by the Secretary of Transportation up to 20 years after July 26, 1990, in a case where the raising of the entire passenger platform is the only means available of attaining accessibility or where other extraordinarily expensive structural changes are necessary to attain accessibility.

(iii) Designation of key stations

Each commuter authority shall designate the key stations in its commuter rail transportation system, in consultation with individuals with disabilities and organizations representing such

individuals, taking into consideration such factors as high ridership and whether such station serves as a transfer or feeder station. Before the final designation of key stations under this clause, a commuter authority shall hold a public hearing.

(iv) Plans and milestones

The Secretary of Transportation shall require the appropriate person to develop a plan for carrying out this subparagraph that reflects consultation with individuals with disabilities affected by such plan and that establishes milestones for achievement of the requirements of this subparagraph.

(B) Requirement when making alterations

(i) General rule

It shall be considered discrimination, for purposes of section 12132 of this title and section 794 of title 29, with respect to alterations of an existing station or part thereof in the intercity or commuter rail transportation systems that affect or could affect the usability of the station or part thereof, for the responsible person, owner, or person in control of the station to fail to make the alterations in such a manner that, to the maximum extent feasible, the altered portions of the station are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon completion of such alterations.

(ii) Alterations to a primary function area

It shall be considered discrimination, for purposes of section 12132 of this title and section 794 of title 29, with respect to alterations that affect or could affect the usability of or access to an area of the station containing a primary function, for the responsible person, owner, or person in control of the station to

fail to make the alterations in such a manner that, to the maximum extent feasible, the path of travel to the altered area, and the bathrooms, telephones, and drinking fountains serving the altered area, are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon completion of such alterations, where such alterations to the path of travel or the bathrooms, telephones, and drinking fountains serving the altered area are not disproportionate to the overall alterations in terms of cost and scope (as determined under criteria established by the Attorney General).

(C) Required cooperation

It shall be considered discrimination for purposes of section 12132 of this title and section 794 of title 29 for an owner, or person in control, of a station governed by subparagraph (a) or (b) to fail to provide reasonable cooperation to a responsible person with respect to such station in that responsible person's efforts to comply with such subparagraph. An owner, or person in control, of a station shall be liable to a responsible person for any failure to provide reasonable cooperation as required by this subparagraph. Failure to receive reasonable cooperation required by this subparagraph shall not be a defense to a claim of discrimination under this chapter.

Sec. 12163. Conformance of accessibility standards

Accessibility standards included in regulations issued under this subpart shall be consistent with the minimum guidelines issued by the Architectural and Transportation Barriers Compliance Board under section 12204 of this title.

Sec. 12164. Regulations

Not later than 1 year after July 26, 1990, the Secretary of Transportation shall issue regulations, in an accessible format, necessary for carrying out this subpart.

Sec. 12165. Interim accessibility requirements

(a) Stations

If final regulations have not been issued pursuant to section 12164 of this title, for new construction or alterations for which a valid and appropriate State or local building permit is obtained prior to the issuance of final regulations under such section, and for which the construction or alteration authorized by such permit begins within one year of the receipt of such permit and is completed under the terms of such permit, compliance with the Uniform Federal Accessibility Standards in effect at the time the building permit is issued shall suffice to satisfy the requirement that stations be readily accessible to and usable by persons with disabilities as required under section 12162(e) of this title, except that, if such final regulations have not been issued one year after the Architectural and Transportation Barriers Compliance Board has issued the supplemental minimum guidelines required under section 12204(a) of this title, compliance with such supplemental minimum guidelines shall be necessary to satisfy the requirement that stations be readily accessible to and usable by persons with disabilities prior to issuance of the final regulations.

(b) Rail passenger cars

If final regulations have not been issued pursuant to section 12164 of this title, a person shall be considered to have complied with the requirements of section 12162(a) through (d) of this title that a rail passenger car be readily accessible to and usable by individuals with disabilities, if the design for such car complies with the laws and regulations (including the Minimum Guidelines and Requirements for Accessible Design and such supplemental minimum guidelines as are issued under section 12204(a) of this title) governing accessibility of such cars, to the extent that such laws and regulations are not inconsistent with this subpart and are in effect at the time such design is substantially completed.

Subchapter III – Public Accommodations and Services by Private Entities [Title III]

Sec. 12181. Definitions

As used in this subchapter:

(1) Commerce

The term “commerce” means travel, trade, traffic, commerce, transportation, or communication —

(A) among the several States;

(B) between any foreign country or any territory or possession and any State; or

(C) between points in the same State but through another State or foreign country.

(2) Commercial facilities

The term “commercial facilities” means facilities —

(A) that are intended for nonresidential use; and

(B) whose operations will affect commerce.

Such term shall not include railroad locomotives, railroad freight cars, railroad cabooses, railroad cars described in section 12162 of this title or covered under this subchapter, railroad rights-of-way, or facilities that are covered or expressly exempted from coverage under the Fair Housing Act of 1968 (42 U.S.C. 3601 et seq.).

(3) Demand responsive system

The term “demand responsive system” means any system of providing transportation of individuals by a vehicle, other than a system which is a fixed route system.

(4) Fixed route system

The term “fixed route system” means a system of providing transportation of individuals (other than by aircraft) on which a vehicle is operated along a prescribed route according to a fixed schedule.

(5) Over-the-road bus

The term “over-the-road bus” means a bus characterized by an elevated passenger deck located over a baggage compartment.

(6) Private entity

The term “private entity” means any entity other than a public entity (as defined in section 12131(1) of this title).

(7) Public accommodation

The following private entities are considered public accommodations for purposes of this subchapter, if the operations of such entities affect commerce

(A) an inn, hotel, motel, or other place of lodging, except for an establishment located within a building that contains not more than five rooms for rent or hire and that is actually occupied by the proprietor of such establishment as the residence of such proprietor;

(B) a restaurant, bar, or other establishment serving food or drink;

(C) a motion picture house, theater, concert hall, stadium, or other place of exhibition entertainment;

(D) an auditorium, convention center, lecture hall, or other place of public gathering;

(E) a bakery, grocery store, clothing store, hardware store, shopping center, or other sales or rental establishment;

(F) a laundromat, dry-cleaner, bank, barber shop, beauty shop, travel service, shoe repair service, funeral parlor, gas station, office of an accountant or lawyer, pharmacy, insurance office, professional office of a health care provider, hospital, or other service establishment;

(G) a terminal, depot, or other station used for specified public transportation;

(H) a museum, library, gallery, or other place of public display or collection;

(I) a park, zoo, amusement park, or other place of recreation;

(J) a nursery, elementary, secondary, undergraduate, or postgraduate private school, or other place of education;

(K) a day care center, senior citizen center, homeless shelter, food bank, adoption agency, or other social service center establishment; and

(L) a gymnasium, health spa, bowling alley, golf course, or other place of exercise or recreation.

(8) Rail and railroad

The terms “rail” and “railroad” have the meaning given the term “railroad” in section 20102[1] of title 49.

(9) Readily achievable

The term “readily achievable” means easily accomplishable and able to be carried out without much difficulty or expense. In determining whether an action is readily achievable, factors to be considered include

(A) the nature and cost of the action needed under this chapter;

(B) the overall financial resources of the facility or facilities involved in the action; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such action upon the operation of the facility;

(C) the overall financial resources of the covered entity; the overall size of the business of a covered entity with respect to the number of its employees; the number, type, and location of its facilities; and

(D) the type of operation or operations of the covered entity, including the composition, structure, and functions of the workforce of such entity; the geographic separateness, administrative or fiscal relationship of the facility or facilities in question to the covered entity.

(10) Specified public transportation

The term “specified public transportation” means transportation by bus, rail, or any other conveyance (other than by aircraft) that provides the general public with general or special service (including charter service) on a regular and continuing basis.

(11) Vehicle

The term “vehicle” does not include a rail passenger car, railroad locomotive, railroad freight car, railroad caboose, or a railroad car described in section 12162 of this title or covered under this subchapter.

Sec. 12182. Prohibition of discrimination by public accommodations

(a) General rule

No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by

any person who owns, leases (or leases to), or operates a place of public accommodation.

(b) Construction

(1) General prohibition

(A) Activities

(i) Denial of participation

It shall be discriminatory to subject an individual or class of individuals on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements, to a denial of the opportunity of the individual or class to participate in or benefit from the goods, services, facilities, privileges, advantages, or accommodations of an entity.

(ii) Participation in unequal benefit

It shall be discriminatory to afford an individual or class of individuals, on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements with the opportunity to participate in or benefit from a good, service, facility, privilege, advantage, or accommodation that is not equal to that afforded to other individuals.

(iii) Separate benefit

It shall be discriminatory to provide an individual or class of individuals, on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements with a good, service, facility, privilege, advantage, or accommodation that is different or separate from that provided to other individuals, unless such action is necessary to provide the individual or class of individuals with a

good, service, facility, privilege, advantage, or accommodation, or other opportunity that is as effective as that provided to others.

(iv) Individual or class of individuals

For purposes of clauses (i) through (iii) of this subparagraph, the term “individual or class of individuals” refers to the clients or customers of the covered public accommodation that enters into the contractual, licensing or other arrangement.

(B) Integrated settings

Goods, services, facilities, privileges, advantages, and accommodations shall be afforded to an individual with a disability in the most integrated setting appropriate to the needs of the individual.

(C) Opportunity to participate

Notwithstanding the existence of separate or different programs or activities provided in accordance with this section, an individual with a disability shall not be denied the opportunity to participate in such programs or activities that are not separate or different.

(D) Administrative methods

An individual or entity shall not, directly or through contractual or other arrangements, utilize standards or criteria or methods of administration

(i) that have the effect of discriminating on the basis of disability; or

(ii) that perpetuate the discrimination of others who are subject to common administrative control.

(E) Association

It shall be discriminatory to exclude or otherwise deny equal goods, services, facilities, privileges, advantages, accommodations, or other opportunities to an individual or entity because of the known disability of an individual with whom the individual or entity is known to have a relationship or association.

(2) Specific prohibitions

(A) Discrimination

For purposes of subsection (a) of this section, discrimination includes

- (i) the imposition or application of eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any goods, services, facilities, privileges, advantages, or accommodations, unless such criteria can be shown to be necessary for the provision of the goods, services, facilities, privileges, advantages, or accommodations being offered;
- (ii) a failure to make reasonable modifications in policies, practices, or procedures, when such modifications are necessary to afford such goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the entity can demonstrate that making such modifications would fundamentally alter the nature of such goods, services, facilities, privileges, advantages, or accommodations;
- (iii) a failure to take such steps as may be necessary to ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently than other individuals because of the absence of auxiliary aids and services, unless the entity can demonstrate that taking such steps would fundamentally alter the nature of the good, service,

facility, privilege, advantage, or accommodation being offered or would result in an undue burden;

(iv) a failure to remove architectural barriers, and communication barriers that are structural in nature, in existing facilities, and transportation barriers in existing vehicles and rail passenger cars used by an establishment for transporting individuals (not including barriers that can only be removed through the retrofitting of vehicles or rail passenger cars by the installation of a hydraulic or other lift), where such removal is readily achievable; and

(v) where an entity can demonstrate that the removal of a barrier under clause (iv) is not readily achievable, a failure to make such goods, services, facilities, privileges, advantages, or accommodations available through alternative methods if such methods are readily achievable.

(B) Fixed route system

(i) Accessibility

It shall be considered discrimination for a private entity which operates a fixed route system and which is not subject to section 12184 of this title to purchase or lease a vehicle with a seating capacity in excess of 16 passengers (including the driver) for use on such system, for which a solicitation is made after the 30th day following the effective date of this subparagraph, that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(ii) Equivalent service

If a private entity which operates a fixed route system and which is not subject to section 12184 of this title purchases or leases a vehicle with a seating capacity of 16 passengers or less

(including the driver) for use on such system after the effective date of this subparagraph that is not readily accessible to or usable by individuals with disabilities, it shall be considered discrimination for such entity to fail to operate such system so that, when viewed in its entirety, such system ensures a level of service to individuals with disabilities, including individuals who use wheelchairs, equivalent to the level of service provided to individuals without disabilities.

(C) Demand responsive system

For purposes of subsection (a) of this section, discrimination includes

(i) a failure of a private entity which operates a demand responsive system and which is not subject to section 12184 of this title to operate such system so that, when viewed in its entirety, such system ensures a level of service to individuals with disabilities, including individuals who use wheelchairs, equivalent to the level of service provided to individuals without disabilities; and

(ii) the purchase or lease by such entity for use on such system of a vehicle with a seating capacity in excess of 16 passengers (including the driver), for which solicitations are made after the 30th day following the effective date of this subparagraph, that is not readily accessible to and usable by individuals with disabilities (including individuals who use wheelchairs) unless such entity can demonstrate that such system, when viewed in its entirety, provides a level of service to individuals with disabilities equivalent to that provided to individuals without disabilities.

(D) Over-the-road buses

(i) Limitation on applicability

Subparagraphs (B) and (C) do not apply to over-the-road buses.

(ii) Accessibility requirements

For purposes of subsection (a) of this section, discrimination includes

(I) the purchase or lease of an over-the-road bus which does not comply with the regulations issued under section 12186(a)(2) of this title by a private entity which provides transportation of individuals and which is not primarily engaged in the business of transporting people, and

(II) any other failure of such entity to comply with such regulations.

(3) Specific construction

Nothing in this subchapter shall require an entity to permit an individual to participate in or benefit from the goods, services, facilities, privileges, advantages and accommodations of such entity where such individual poses a direct threat to the health or safety of others. The term “direct threat” means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures or by the provision of auxiliary aids or services.

Sec. 12183. New construction and alterations in public accommodations and commercial facilities

(a) Application of term

Except as provided in subsection (b) of this section, as applied to public accommodations and commercial facilities, discrimination for purposes of section 12182(a) of this title includes

(1) a failure to design and construct facilities for first occupancy later than 30 months after July 26, 1990, that are readily accessible to and

usable by individuals with disabilities, except where an entity can demonstrate that it is structurally impracticable to meet the requirements of such subsection in accordance with standards set forth or incorporated by reference in regulations issued under this subchapter; and

(2) with respect to a facility or part thereof that is altered by, on behalf of, or for the use of an establishment in a manner that affects or could affect the usability of the facility or part thereof, a failure to make alterations in such a manner that, to the maximum extent feasible, the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. Where the entity is undertaking an alteration that affects or could affect usability of or access to an area of the facility containing a primary function, the entity shall also make the alterations in such a manner that, to the maximum extent feasible, the path of travel to the altered area and the bathrooms, telephones, and drinking fountains serving the altered area, are readily accessible to and usable by individuals with disabilities where such alterations to the path of travel or the bathrooms, telephones, and drinking fountains serving the altered area are not disproportionate to the overall alterations in terms of cost and scope (as determined under criteria established by the Attorney General).

(b) Elevator

Subsection (a) shall not be construed to require the installation of an elevator for facilities that are less than three stories or have less than 3,000 square feet per story unless the building is a shopping center, a shopping mall, or the professional office of a health care provider or unless the Attorney General determines that a particular category of such facilities requires the installation of elevators based on the usage of such facilities.

Sec. 12184. Prohibition of discrimination in specified public transportation services provided by private

entities

(a) General rule

No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of specified public transportation services provided by a private entity that is primarily engaged in the business of transporting people and whose operations affect commerce.

(b) Construction

For purposes of subsection (a) of this section, discrimination includes

(1) the imposition or application by an entity described in subsection (a) of eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully enjoying the specified public transportation services provided by the entity, unless such criteria can be shown to be necessary for the provision of the services being offered;

(2) the failure of such entity to

(A) make reasonable modifications consistent with those required under section 12182(b)(2)(A)(ii) of this title;

(B) provide auxiliary aids and services consistent with the requirements of section 12182(b)(2)(A)(iii) of this title; and

(C) remove barriers consistent with the requirements of section 12182(b)(2)(A) of this title and with the requirements of section 12183(a)(2) of this title;

(3) the purchase or lease by such entity of a new vehicle (other than an automobile, a van with a seating capacity of less than 8 passengers, including the driver, or an over-the-road bus) which is to be used to provide specified public transportation and for which a solicitation is made after the 30th day following the effective date of this section, that is not readily accessible to and usable by individuals with disabilities,

including individuals who use wheelchairs; except that the new vehicle need not be readily accessible to and usable by such individuals if the new vehicle is to be used solely in a demand responsive system and if the entity can demonstrate that such system, when viewed in its entirety, provides a level of service to such individuals equivalent to the level of service provided to the general public;

(4)

(A) the purchase or lease by such entity of an over-the-road bus which does not comply with the regulations issued under section 12186(a)(2) of this title; and

(B) any other failure of such entity to comply with such regulations; and

(5) the purchase or lease by such entity of a new van with a seating capacity of less than 8 passengers, including the driver, which is to be used to provide specified public transportation and for which a solicitation is made after the 30th day following the effective date of this section that is not readily accessible to or usable by individuals with disabilities, including individuals who use wheelchairs; except that the new van need not be readily accessible to and usable by such individuals if the entity can demonstrate that the system for which the van is being purchased or leased, when viewed in its entirety, provides a level of service to such individuals equivalent to the level of service provided to the general public;

(6) the purchase or lease by such entity of a new rail passenger car that is to be used to provide specified public transportation, and for which a solicitation is made later than 30 days after the effective date of this paragraph, that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs; and

(7) the remanufacture by such entity of a rail passenger car that is to be used to provide specified public transportation so as to extend its usable life for 10 years or more, or the purchase or lease by such entity of such

a rail car, unless the rail car, to the maximum extent feasible, is made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(c) Historical or antiquated cars

(1) Exception

To the extent that compliance with subsection (a)(2)(C) or (b)(7) of this section would significantly alter the historic or antiquated character of a historical or antiquated rail passenger car, or a rail station served exclusively by such cars, or would result in violation of any rule, regulation, standard, or order issued by the Secretary of Transportation under the Federal Railroad Safety Act of 1970, such compliance shall not be required.

(2) Definition

As used in this subsection, the term “historical or antiquated rail passenger car” means a rail passenger car —

(A) which is not less than 30 years old at the time of its use for transporting individuals;

(B) the manufacturer of which is no longer in the business of manufacturing rail passenger cars; and

(C) which —

(i) has a consequential association with events or persons significant to the past; or

(ii) embodies, or is being restored to embody, the distinctive characteristics of a type of rail passenger car used in the past, or to represent a time period which has passed.

Sec. 12185. Study

(a) Purposes

The Office of Technology Assessment shall undertake a study to determine

- (1) the access needs of individuals with disabilities to over-the-road buses and over-the-road bus service; and
- (2) the most cost-effective methods for providing access to over-the-road buses and over-the-road bus service to individuals with disabilities, particularly individuals who use wheelchairs, through all forms of boarding options.

(b) Contents

The study shall include, at a minimum, an analysis of the following:

- (1) The anticipated demand by individuals with disabilities for accessible over-the-road buses and over-the-road bus service.
- (2) The degree to which such buses and service, including any service required under sections 12184(a)(4) and 12186(a)(2) of this title, are readily accessible to and usable by individuals with disabilities.
- (3) The effectiveness of various methods of providing accessibility to such buses and service to individuals with disabilities.
- (4) The cost of providing accessible over-the-road buses and bus service to individuals with disabilities, including consideration of recent technological and cost saving developments in equipment and devices.
- (5) Possible design changes in over-the-road buses that could enhance accessibility, including the installation of accessible restrooms which do not result in a loss of seating capacity.
- (6) The impact of accessibility requirements on the continuation of over-the-road bus service, with particular consideration of the impact of such requirements on such service to rural communities.

(c) Advisory committee

In conducting the study required by subsection (a) of this section, the Office of Technology Assessment shall establish an advisory committee, which shall consist of

- (1) members selected from among private operators and manufacturers of over-the-road buses;
- (2) members selected from among individuals with disabilities, particularly individuals who use wheelchairs, who are potential riders of such buses; and
- (3) members selected for their technical expertise on issues included in the study, including manufacturers of boarding assistance equipment and devices.

The number of members selected under each of paragraphs (1) and (2) shall be equal, and the total number of members selected under paragraphs (1) and (2) shall exceed the number of members selected under paragraph (3).

(d) Deadline

The study required by subsection (a) of this section, along with recommendations by the Office of Technology Assessment, including any policy options for legislative action, shall be submitted to the President and Congress within 36 months after July 26, 1990. If the President determines that compliance with the regulations issued pursuant to section 12186(a)(2)(B) of this title on or before the applicable deadlines specified in section 12186(a)(2)(B) of this title will result in a significant reduction in intercity over-the-road bus service, the President shall extend each such deadline by 1 year.

(e) Review

In developing the study required by subsection (a) of this section, the Office of Technology Assessment shall provide a preliminary draft of such study to the Architectural and Transportation Barriers Compliance Board established

under section 792 of title 29. The Board shall have an opportunity to comment on such draft study, and any such comments by the Board made in writing within 120 days after the Board's receipt of the draft study shall be incorporated as part of the final study required to be submitted under subsection (d).

Sec. 12186. Regulations

(a) Transportation provisions

(1) General rule

Not later than 1 year after July 26, 1990, the Secretary of Transportation shall issue regulations in an accessible format to carry out section 12182(b)(2)(B) and (C) of this title and to carry out section 12184 of this title (other than subsection (a)(4)).

(2) Special rules for providing access to over-the-road buses

(A) Interim requirements

(i) Issuance

Not later than 1 year after July 26, 1990, the Secretary of Transportation shall issue regulations in an accessible format to carry out sections 12184(b)(4) and 12182(b)(2)(D)(ii) of this title that require each private entity which uses an over-the-road bus to provide transportation of individuals to provide accessibility to such bus; except that such regulations shall not require any structural changes in over-the-road buses in order to provide access to individuals who use wheelchairs during the effective period of such regulations and shall not require the purchase of boarding assistance devices to provide access to such individuals.

(ii) Effective period

The regulations issued pursuant to this subparagraph shall be effective until the effective date of the regulations issued under subparagraph (a).

(B) Final requirement

(i) Review of study and interim requirements

The Secretary shall review the study submitted under section 12185 of this title and the regulations issued pursuant to subparagraph (A).

(ii) Issuance

Not later than 1 year after the date of the submission of the study under section 12185 of this title, the Secretary shall issue in an accessible format new regulations to carry out sections 12184(b)(4) and 12182(b)(2)(D)(ii) of this title that require, taking into account the purposes of the study under section 12185 of this title and any recommendations resulting from such study, each private entity which uses an over-the-road bus to provide transportation to individuals to provide accessibility to such bus to individuals with disabilities, including individuals who use wheelchairs.

(iii) Effective period

Subject to section 12185(d) of this title, the regulations issued pursuant to this subparagraph shall take effect

(I) with respect to small providers of transportation (as defined by the Secretary), 3 years after the date of issuance of final regulations under clause (ii); and

(II) with respect to other providers of transportation, 2 years after the date of issuance of such final regulations.

(C) Limitation on requiring installation of accessible restrooms

The regulations issued pursuant to this paragraph shall not require the installation of accessible restrooms in over-the-road buses if such installation would result in a loss of seating capacity.

(3) Standards

The regulations issued pursuant to this subsection shall include standards applicable to facilities and vehicles covered by sections 12182(b) (2) and 12184 of this title.

(b) Other provisions

Not later than 1 year after July 26, 1990, the Attorney General shall issue regulations in an accessible format to carry out the provisions of this subchapter not referred to in subsection (a) of this section that include standards applicable to facilities and vehicles covered under section 12182 of this title.

(c) Consistency with ATBCB guidelines

Standards included in regulations issued under subsections (a) and (b) of this section shall be consistent with the minimum guidelines and requirements issued by the Architectural and Transportation Barriers Compliance Board in accordance with section 12204 of this title.

(d) Interim accessibility standards

(1) Facilities

If final regulations have not been issued pursuant to this section, for new construction or alterations for which a valid and appropriate State or local building permit is obtained prior to the issuance of final regulations under this section, and for which the construction or alteration authorized by such permit begins within one year of the receipt of such permit and is completed under the terms of such permit, compliance with the Uniform Federal Accessibility Standards in effect at the time the building permit is issued shall suffice to satisfy the requirement that facilities be readily accessible to and usable by persons with disabilities

as required under section 12183 of this title, except that, if such final regulations have not been issued one year after the Architectural and Transportation Barriers Compliance Board has issued the supplemental minimum guidelines required under section 12204(a) of this title, compliance with such supplemental minimum guidelines shall be necessary to satisfy the requirement that facilities be readily accessible to and usable by persons with disabilities prior to issuance of the final regulations.

(2) Vehicles and rail passenger cars

If final regulations have not been issued pursuant to this section, a private entity shall be considered to have complied with the requirements of this subchapter, if any, that a vehicle or rail passenger car be readily accessible to and usable by individuals with disabilities, if the design for such vehicle or car complies with the laws and regulations (including the Minimum Guidelines and Requirements for Accessible Design and such supplemental minimum guidelines as are issued under section 12204(a) of this title) governing accessibility of such vehicles or cars, to the extent that such laws and regulations are not inconsistent with this subchapter and are in effect at the time such design is substantially completed.

Sec. 12187. Exemptions for private clubs and religious organizations

The provisions of this subchapter shall not apply to private clubs or establishments exempted from coverage under title II of the Civil Rights Act of 1964 (42 U.S.C. 2000-a(e)) or to religious organizations or entities controlled by religious organizations, including places of worship.

Sec. 12188. Enforcement

(a) In general

(1) Availability of remedies and procedures

The remedies and procedures set forth in section 2000a-3(a) of this title are the remedies and procedures this subchapter provides to any person who is being subjected to discrimination on the basis of disability in violation of this subchapter or who has reasonable grounds for believing that such person is about to be subjected to discrimination in violation of section 12183 of this title. Nothing in this section shall require a person with a disability to engage in a futile gesture if such person has actual notice that a person or organization covered by this subchapter does not intend to comply with its provisions.

(2) Injunctive relief

In the case of violations of sections 12182(b)(2)(A)(iv) and Section 12183(a) of this title, injunctive relief shall include an order to alter facilities to make such facilities readily accessible to and usable by individuals with disabilities to the extent required by this subchapter. Where appropriate, injunctive relief shall also include requiring the provision of an auxiliary aid or service, modification of a policy, or provision of alternative methods, to the extent required by this subchapter.

(b) Enforcement by Attorney General

(1) Denial of rights

(A) Duty to investigate

(i) In general

The Attorney General shall investigate alleged violations of this subchapter, and shall undertake periodic reviews of compliance of covered entities under this subchapter.

(ii) Attorney General certification

On the application of a State or local government, the Attorney General may, in consultation with the Architectural and Transportation Barriers Compliance Board, and after prior notice and a public hearing at which persons, including individuals with disabilities, are provided an opportunity to testify against such certification, certify that a State law or local building code or similar ordinance that establishes accessibility requirements meets or exceeds the minimum requirements of this chapter for the accessibility and usability of covered facilities under this subchapter. At any enforcement proceeding under this section, such certification by the Attorney General shall be rebuttable evidence that such State law or local ordinance does meet or exceed the minimum requirements of this chapter.

(B) Potential violation

If the Attorney General has reasonable cause to believe that

- (i) any person or group of persons is engaged in a pattern or practice of discrimination under this subchapter; or
- (ii) any person or group of persons has been discriminated against under this subchapter and such discrimination raises an issue of general public importance, the Attorney General may commence a civil action in any appropriate United States district court.

(2) Authority of court

In a civil action under paragraph (1) (B), the court —

- (A) may grant any equitable relief that such court considers to be appropriate, including, to the extent required by this subchapter —
 - (i) granting temporary, preliminary, or permanent relief;

(ii) providing an auxiliary aid or service, modification of policy, practice, or procedure, or alternative method; and

(iii) making facilities readily accessible to and usable by individuals with disabilities;

(B) may award such other relief as the court considers to be appropriate, including monetary damages to persons aggrieved when requested by the Attorney General; and

(C) may, to vindicate the public interest, assess a civil penalty against the entity in an amount [*]

(i) not exceeding \$50,000 for a first violation; and

(ii) not exceeding \$100,000 for any subsequent violation.

[*Agency Note: Please see the Department's title III regulation at 28 CFR 36.504(a)(3) for the most recent civil monetary penalty amounts, which are periodically adjusted in accordance with the Federal Civil Penalties Inflation Adjustment Act of 1990, Public Law 101-410, 28 USC 2461 note, as amended.]

(3) Single violation

For purposes of paragraph (2) (C), in determining whether a first or subsequent violation has occurred, a determination in a single action, by judgment or settlement, that the covered entity has engaged in more than one discriminatory act shall be counted as a single violation.

(4) Punitive damages

For purposes of subsection (b) (2) (B) of this section, the term "monetary damages" and "such other relief" does not include punitive damages.

(5) Judicial consideration

In a civil action under paragraph (1)(B), the court, when considering what amount of civil penalty, if any, is appropriate, shall give consideration to

any good faith effort or attempt to comply with this chapter by the entity. In evaluating good faith, the court shall consider, among other factors it deems relevant, whether the entity could have reasonably anticipated the need for an appropriate type of auxiliary aid needed to accommodate the unique needs of a particular individual with a disability.

Sec. 12189. Examinations and courses

Any person that offers examinations or courses related to applications, licensing, certification, or credentialing for secondary or postsecondary education, professional, or trade purposes shall offer such examinations or courses in a place and manner accessible to persons with disabilities or offer alternative accessible arrangements for such individuals.

Subchapter IV – Miscellaneous Provisions [Title V]

Sec. 12201. Construction

(a) In general

Except as otherwise provided in this chapter, nothing in this chapter shall be construed to apply a lesser standard than the standards applied under title V of the Rehabilitation Act of 1973 (29 U.S.C. 790 et seq.) or the regulations issued by Federal agencies pursuant to such title.

(b) Relationship to other laws

Nothing in this chapter shall be construed to invalidate or limit the remedies, rights, and procedures of any Federal law or law of any State or political subdivision of any State or jurisdiction that provides greater or equal

protection for the rights of individuals with disabilities than are afforded by this chapter. Nothing in this chapter shall be construed to preclude the prohibition of, or the imposition of restrictions on, smoking in places of employment covered by subchapter I of this chapter, in transportation covered by subchapter II or III of this chapter, or in places of public accommodation covered by subchapter III.

(c) Insurance

Subchapters I through III of this chapter and title IV of this Act shall not be construed to prohibit or restrict —

(1) an insurer, hospital or medical service company, health maintenance organization, or any agent, or entity that administers benefit plans, or similar organizations from underwriting risks, classifying risks, or administering such risks that are based on or not inconsistent with State law; or

(2) a person or organization covered by this chapter from establishing, sponsoring, observing or administering the terms of a bona fide benefit plan that are based on underwriting risks, classifying risks, or administering such risks that are based on or not inconsistent with State law; or

(3) a person or organization covered by this chapter from establishing, sponsoring, observing or administering the terms of a bona fide benefit plan that is not subject to State laws that regulate insurance.

Paragraphs (1), (2), and (3) shall not be used as a subterfuge to evade the purposes of subchapter I and III.

(d) Accommodations and services

Nothing in this chapter shall be construed to require an individual with a disability to accept an accommodation, aid, service, opportunity, or benefit which such individual chooses not to accept.

(e) Benefits under State worker's compensation laws

Nothing in this chapter alters the standards for determining eligibility for benefits under State worker's compensation laws or under State and Federal disability benefit programs.

(f) Fundamental alteration

Nothing in this chapter alters the provision of section 12182(b)(2)(A)(ii), specifying that reasonable modifications in policies, practices, or procedures shall be required, unless an entity can demonstrate that making such modifications in policies, practices, or procedures, including academic requirements in postsecondary education, would fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations involved.

(g) Claims of no disability

Nothing in this chapter shall provide the basis for a claim by an individual without a disability that the individual was subject to discrimination because of the individual's lack of disability.

(h) Reasonable accommodations and modifications

A covered entity under subchapter I, a public entity under subchapter II, and any person who owns, leases (or leases to), or operates a place of public accommodation under subchapter III, need not provide a reasonable accommodation or a reasonable modification to policies, practices, or procedures to an individual who meets the definition of disability in section 12102(1) solely under subparagraph (C) of such section.

Sec. 12202. State immunity

A State shall not be immune under the eleventh amendment to the Constitution of the United States from an action in Federal or State court of competent jurisdiction for a violation of this chapter. In any action against a State for a violation of the requirements of this chapter, remedies (including remedies both at law and in equity) are available for such a violation to the same extent as such

remedies are available for such a violation in an action against any public or private entity other than a State.

Sec. 12203. Prohibition against retaliation and coercion

(a) Retaliation

No person shall discriminate against any individual because such individual has opposed any act or practice made unlawful by this chapter or because such individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this chapter.

(b) Interference, coercion, or intimidation

It shall be unlawful to coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other individual in the exercise or enjoyment of, any right granted or protected by this chapter.

(c) Remedies and procedures

The remedies and procedures available under sections 12117, 12133, and 12188 of this title shall be available to aggrieved persons for violations of subsections (a) and (b), with respect to subchapter I, subchapter II and subchapter III of this chapter, respectively.

Sec. 12204. Regulations by Architectural and Transportation Barriers Compliance Board

(a) Issuance of guidelines

Not later than 9 months after July 26, 1990, the Architectural and Transportation Barriers Compliance Board shall issue minimum guidelines

that shall supplement the existing Minimum Guidelines and Requirements for Accessible Design for purposes of subchapters II and III of this chapter.

(b) Contents of guidelines

The supplemental guidelines issued under subsection (a) of this section shall establish additional requirements, consistent with this chapter, to ensure that buildings, facilities, rail passenger cars, and vehicles are accessible, in terms of architecture and design, transportation, and communication, to individuals with disabilities.

(c) Qualified historic properties

(1) In general

The supplemental guidelines issued under subsection (a) of this section shall include procedures and requirements for alterations that will threaten or destroy the historic significance of qualified historic buildings and facilities as defined in 4.1.7(1)(a) of the Uniform Federal Accessibility Standards.

(2) Sites eligible for listing in National Register

With respect to alterations of buildings or facilities that are eligible for listing in the National Register of Historic Places under the National Historic Preservation Act (16 U.S.C. 470 et seq.), the guidelines described in paragraph (1) shall, at a minimum, maintain the procedures and requirements established in 4.1.7(1) and (2) of the Uniform Federal Accessibility Standards.

(3) Other sites

With respect to alterations of buildings or facilities designated as historic under State or local law, the guidelines described in paragraph (1) shall establish procedures equivalent to those established by 4.1.7(1) (b) and (c) of the Uniform Federal Accessibility Standards, and shall require, at a minimum, compliance with the requirements established in 4.1.7(2) of such standards.

Sec. 12205. Attorney's fees

In any action or administrative proceeding commenced pursuant to this chapter, the court or agency, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee, including litigation expenses, and costs, and the United States shall be liable for the foregoing the same as a private individual.

Sec. 12205a. Rule of Construction Regarding Regulatory Authority

The authority to issue regulations granted to the Equal Employment Opportunity Commission, the Attorney General, and the Secretary of Transportation under this chapter includes the authority to issue regulations implementing the definitions of disability in section 12102 of this title (including rules of construction) and the definitions in section 12103 of this title, consistent with the ADA Amendments Act of 2008.

Sec. 12206. Technical assistance

(a) Plan for assistance

(1) In general

Not later than 180 days after July 26, 1990, the Attorney General, in consultation with the Chair of the Equal Employment Opportunity Commission, the Secretary of Transportation, the Chair of the Architectural and Transportation Barriers Compliance Board, and the Chairman of the Federal Communications Commission, shall develop a plan to assist entities covered under this chapter, and other Federal agencies, in understanding the responsibility of such entities and agencies under this chapter.

(2) Publication of plan

The Attorney General shall publish the plan referred to in paragraph (1) for public comment in accordance with subchapter II of chapter 5 of title 5 (commonly known as the Administrative Procedure Act).

(b) Agency and public assistance

The Attorney General may obtain the assistance of other Federal agencies in carrying out subsection (a), including the National Council on Disability, the President's Committee on Employment of People with Disabilities, the Small Business Administration, and the Department of Commerce.

(c) Implementation

(1) Rendering assistance

Each Federal agency that has responsibility under paragraph (2) for implementing this chapter may render technical assistance to individuals and institutions that have rights or duties under the respective subchapter or subchapters of this chapter for which such agency has responsibility.

(2) Implementation of subchapters

(A) Subchapter I

The Equal Employment Opportunity Commission and the Attorney General shall implement the plan for assistance developed under subsection (a) of this section, for subchapter I.

(B) Subchapter II

(i) Part A

The Attorney General shall implement such plan for assistance for part A of subchapter II.

(ii) Part B

The Secretary of Transportation shall implement such plan for assistance for part B of subchapter II.

(C) Subchapter III

The Attorney General, in coordination with the Secretary of Transportation and the Chair of the Architectural Transportation Barriers Compliance Board, shall implement such plan for assistance for subchapter III of this chapter, except for section 12184 of this title, the plan for assistance for which shall be implemented by the Secretary of Transportation.

(D) Title IV

The Chairman of the Federal Communications Commission, in coordination with the Attorney General, shall implement such plan for assistance for title IV.

(3) Technical assistance manuals

Each Federal agency that has responsibility under paragraph (2) for implementing this chapter shall, as part of its implementation responsibilities, ensure the availability and provision of appropriate technical assistance manuals to individuals or entities with rights or duties under this chapter no later than six months after applicable final regulations are published under subchapters I, II, and III and title IV.

(d) Grants and contracts

(1) In general

Each Federal agency that has responsibility under subsection (c) (2) of this section for implementing this chapter may make grants or award contracts to effectuate the purposes of this section, subject to the availability of appropriations. Such grants and contracts may be awarded to individuals, institutions not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual (including educational institutions), and

associations representing individuals who have rights or duties under this chapter. Contracts may be awarded to entities organized for profit, but such entities may not be the recipients or grants described in this paragraph.

(2) Dissemination of information

Such grants and contracts, among other uses, may be designed to ensure wide dissemination of information about the rights and duties established by this chapter and to provide information and technical assistance about techniques for effective compliance with this chapter.

(e) Failure to receive assistance

An employer, public accommodation, or other entity covered under this chapter shall not be excused from compliance with the requirements of this chapter because of any failure to receive technical assistance under this section, including any failure in the development or dissemination of any technical assistance manual authorized by this section.

Sec. 12207. Federal wilderness areas

(a) Study

The National Council on Disability shall conduct a study and report on the effect that wilderness designations and wilderness land management practices have on the ability of individuals with disabilities to use and enjoy the National Wilderness Preservation System as established under the Wilderness Act (16 U.S.C. 1131 et seq.).

(b) Submission of report

Not later than 1 year after July 26, 1990, the National Council on Disability shall submit the report required under subsection (a) of this section to Congress.

(c) Specific wilderness access

(1) In general

Congress reaffirms that nothing in the Wilderness Act (16 U.S.C. 1131 et seq.) is to be construed as prohibiting the use of a wheelchair in a wilderness area by an individual whose disability requires use of a wheelchair, and consistent with the Wilderness Act no agency is required to provide any form of special treatment or accommodation, or to construct any facilities or modify any conditions of lands within a wilderness area in order to facilitate such use.

(2) “Wheelchair” defined

For purposes of paragraph (1), the term “wheelchair” means a device designed solely for use by a mobility-impaired person for locomotion, that is suitable for use in an indoor pedestrian area.

Sec. 12208. Transvestites

For the purposes of this chapter, the term “disabled” or “disability” shall not apply to an individual solely because that individual is a transvestite.

Sec. 12209. Instrumentalities of Congress

The Government Accountability Office, the Government Publishing Office, and the Library of Congress shall be covered as follows:

(1) In general

The rights and protections under this chapter shall, subject to paragraph (2), apply with respect to the conduct of each instrumentality of the Congress.

(2) Establishment of remedies and procedures by instrumentalities

The chief official of each instrumentality of the Congress shall establish remedies and procedures to be utilized with respect to the rights and

protections provided pursuant to paragraph (1).

(3) Report to Congress

The chief official of each instrumentality of the Congress shall, after establishing remedies and procedures for purposes of paragraph (2), submit to the Congress a report describing the remedies and procedures.

(4) Definition of instrumentalities

For purposes of this section, the term “instrumentality of the Congress” means the following: the General Accounting Office, the Government Printing Office, and the Library of Congress.

(5) Enforcement of employment rights

The remedies and procedures set forth in section 2000e-16 of this title shall be available to any employee of an instrumentality of the Congress who alleges a violation of the rights and protections under sections 12112 through 12114 of this title that are made applicable by this section, except that the authorities of the Equal Employment Opportunity Commission shall be exercised by the chief official of the instrumentality of the Congress.

(6) Enforcement of rights to public services and accommodations

The remedies and procedures set forth in section 2000e-16 of this title shall be available to any qualified person with a disability who is a visitor, guest, or patron of an instrumentality of Congress and who alleges a violation of the rights and protections under sections 12131 through 12150 of this title or section 12182 or 12183 of this title that are made applicable by this section, except that the authorities of the Equal Employment Opportunity Commission shall be exercised by the chief official of the instrumentality of the Congress.

(7) Construction

Nothing in this section shall alter the enforcement procedures for individuals with disabilities provided in the General Accounting Office Personnel Act of 1980 and regulations promulgated pursuant to that Act.

Sec. 12210. Illegal use of drugs

(a) In general

For purposes of this chapter, the term “individual with a disability” does not include an individual who is currently engaging in the illegal use of drugs, when the covered entity acts on the basis of such use.

(b) Rules of construction

Nothing in subsection (a) of this section shall be construed to exclude as an individual with a disability an individual who

(1) has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer engaging in such use;

(2) is participating in a supervised rehabilitation program and is no longer engaging in such use; or

(3) is erroneously regarded as engaging in such use, but is not engaging in such use;

except that it shall not be a violation of this chapter for a covered entity to adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual described in paragraph (1) or (2) is no longer engaging in the illegal use of drugs; however, nothing in this section shall be construed to encourage, prohibit, restrict, or authorize the conducting of testing for the illegal use of drugs.

(c) Health and other services

Notwithstanding subsection (a) of this section and section 12211(b)(3) of this subchapter, an individual shall not be denied health services, or services provided in connection with drug rehabilitation, on the basis of the current illegal use of drugs if the individual is otherwise entitled to such services.

(d) “Illegal use of drugs” defined

(1) In general

The term “illegal use of drugs” means the use of drugs, the possession or distribution of which is unlawful under the Controlled Substances Act (21 U.S.C. 801 et seq.). Such term does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.

(2) Drugs

The term “drug” means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812).

Sec. 12211. Definitions

(a) Homosexuality and bisexuality

For purposes of the definition of “disability” in section 12102(2) of this title, homosexuality and bisexuality are not impairments and as such are not disabilities under this chapter.

(b) Certain conditions

Under this chapter, the term “disability” shall not include

(1) transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;

(2) compulsive gambling, kleptomania, or pyromania; or

(3) psychoactive substance use disorders resulting from current illegal use of drugs.

Sec. 12212. Alternative means of dispute resolution

Where appropriate and to the extent authorized by law, the use of alternative means of dispute resolution, including settlement negotiations, conciliation, facilitation, mediation, fact-finding, minitrials, and arbitration, is encouraged to resolve disputes arising under this chapter.

Sec. 12213. Severability

Should any provision in this chapter be found to be unconstitutional by a court of law, such provision shall be severed from the remainder of the chapter, and such action shall not affect the enforceability of the remaining provisions of the chapter.

Title 47 – Telegraphs, Telephones, and Radiotelegraphs [Title IV]

Chapter 5 – Wire or Radio Communication

Subchapter II – Common Carriers

Part I – Common Carrier Regulation

Sec. 225. Telecommunications services for hearing-impaired and speech-impaired individuals

(a) Definitions

As used in this section —

(1) Common carrier or carrier

The term “common carrier” or “carrier” includes any common carrier engaged in interstate communication by wire or radio as defined in section 153 of this title and any common carrier engaged in intrastate communication by wire or radio, notwithstanding sections 152(b) and 221(b) of this title.

(2) TDD

The term “TDD” means a Telecommunications Device for the Deaf which is a machine that employs graphic communication in the transmission of coded signals through a wire or radio communication system.

(3) Telecommunications relay services

The term “telecommunications relay services” means telephone transmission services that provide the ability for an individual who is deaf, hard of hearing, deaf-blind, or who has a speech disability to engage in communication by wire or radio with one or more individuals in a manner that is functionally equivalent to the ability of a hearing individual who does not have a speech disability to communicate using voice communication services by wire or radio.

(b) Availability of telecommunications relay service

(1) In general

In order to carry out the purposes established under section 151 of this title, to make available to all individuals in the United States a rapid, efficient nationwide communication service, and to increase the utility of the telephone system of the Nation, the Commission shall ensure that interstate and intrastate telecommunications relay services are available, to the extent possible and in the most efficient manner, to hearing-impaired and speech-impaired individuals in the United States.

(2) Use of general authority and remedies

For the purposes of administering and enforcing the provisions of this section and the regulations prescribed thereunder, the Commission shall have the same authority, power, and functions with respect to common carriers engaged in intrastate communication as the Commission has in administering and enforcing the provisions of this subchapter with respect to any common carrier engaged in interstate communication. Any violation of this section by any common carrier engaged in intrastate communication shall be subject to the same remedies, penalties, and procedures as are applicable to a violation of this chapter by a common carrier engaged in interstate communication.

(c) Provision of services

Each common carrier providing telephone voice transmission services shall, not later than 3 years after July 26, 1990, provide in compliance with the regulations prescribed under this section, throughout the area in which it offers service, telecommunications relay services, individually, through designees, through a competitively selected vendor, or in concert with other carriers. A common carrier shall be considered to be in compliance with such regulations —

(1) with respect to intrastate telecommunications relay services in any State that does not have a certified program under subsection (f) of this section and with respect to interstate telecommunications relay services, if such common carrier (or other entity through which the carrier is providing such relay services) is in compliance with the Commission's regulations under subsection (d) of this section; or

(2) with respect to intrastate telecommunications relay services in any State that has a certified program under subsection (f) of this section for such State, if such common carrier (or other entity through which the carrier is providing such relay services) is in compliance with the program certified under subsection (f) of this section for such State.

(d) Regulations

(1) In general

The Commission shall, not later than 1 year after July 26, 1990, prescribe regulations to implement this section, including regulations that —

- (A) establish functional requirements, guidelines, and operations procedures for telecommunications relay services;
- (B) establish minimum standards that shall be met in carrying out subsection (c) of this section;
- (C) require that telecommunications relay services operate every day for 24 hours per day;
- (D) require that users of telecommunications relay services pay rates no greater than the rates paid for functionally equivalent voice communication services with respect to such factors as the duration of the call, the time of day, and the distance from point of origination to point of termination;
- (E) prohibit relay operators from failing to fulfill the obligations of common carriers by refusing calls or limiting the length of calls that use telecommunications relay services;
- (F) prohibit relay operators from disclosing the content of any relayed conversation and from keeping records of the content of any such conversation beyond the duration of the call; and
- (G) prohibit relay operators from intentionally altering a relayed conversation.

(2) Technology

The Commission shall ensure that regulations prescribed to implement this section encourage, consistent with section 157(a) of this title, the use of existing technology and do not discourage or impair the development of improved technology.

(3) Jurisdictional separation of costs

(A) In general

Consistent with the provisions of section 410 of this title, the Commission shall prescribe regulations governing the jurisdictional separation of costs for the services provided pursuant to this section.

(B) Recovering costs

Such regulations shall generally provide that costs caused by interstate telecommunications relay services shall be recovered from all subscribers for every interstate service and costs caused by intrastate telecommunications relay services shall be recovered from the intrastate jurisdiction. In a State that has a certified program under subsection (f), a State commission shall permit a common carrier to recover the costs incurred in providing intrastate telecommunications relay services by a method consistent with the requirements of this section.

(e) Enforcement

(1) In general

Subject to subsections (f) and (g), the Commission shall enforce this section.

(2) Complaint

The Commission shall resolve, by final order, a complaint alleging a violation of this section within 180 days after the date such complaint is filed.

(f) Certification

(1) State documentation

Any State desiring to establish a State program under this section shall submit documentation to the Commission that describes the program of such State for implementing intrastate telecommunications relay services and the procedures and remedies available for enforcing any requirements imposed by the State program.

(2) Requirements for certification

After review of such documentation, the Commission shall certify the State program if the Commission determines that —

- (A) the program makes available to hearing-impaired and speech-impaired individuals, either directly, through designees, through a competitively selected vendor, or through regulation of intrastate common carriers, intrastate telecommunications relay services in such State in a manner that meets or exceeds the requirements of regulations prescribed by the Commission under subsection (d); and
- (B) the program makes available adequate procedures and remedies for enforcing the requirements of the State program.

(3) Method of funding

Except as provided in subsection (d), the Commission shall not refuse to certify a State program based solely on the method such State will implement for funding intrastate telecommunication relay services.

(4) Suspension or revocation of certification

The Commission may suspend or revoke such certification if, after notice and opportunity for hearing, the Commission determines that such certification is no longer warranted. In a State whose program has been suspended or revoked, the Commission shall take such steps as may be necessary, consistent with this section, to ensure continuity of telecommunications relay services.

(g) Complaint

(1) Referral of complaint

If a complaint to the Commission alleges a violation of this section with respect to intrastate telecommunications relay services within a State and certification of the program of such State under subsection (f) is in effect, the Commission shall refer such complaint to such State.

(2) Jurisdiction of Commission

After referring a complaint to a State under paragraph (1), the Commission shall exercise jurisdiction over such complaint only if

(A) final action under such State program has not been taken on such complaint by such State —

(i) within 180 days after the complaint is filed with such State; or

(ii) within a shorter period as prescribed by the regulations of such State; or

(B) the Commission determines that such State program is no longer qualified for certification under subsection (f).

Subchapter VI – Miscellaneous Provisions

Sec. 611. Closed-captioning of public service announcements

Any television public service announcement that is produced or funded in whole or in part by any agency or instrumentality of Federal Government shall include closed captioning of the verbal content of such announcement. A television broadcast station licensee —

(1) shall not be required to supply closed captioning for any such announcement that fails to include it; and

(2) shall not be liable for broadcasting any such announcement without transmitting a closed caption unless the licensee intentionally fails to transmit the closed caption that was included with the announcement.

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GOVERNMENT CODE - GOV**TITLE 5. LOCAL AGENCIES [50001 - 57607]** (Title 5 added by Stats. 1949, Ch. 81.)**DIVISION 2. CITIES, COUNTIES, AND OTHER AGENCIES [53000 - 55821]** (Division 2 added by Stats. 1949, Ch. 81.)**PART 1. POWERS AND DUTIES COMMON TO CITIES, COUNTIES, AND OTHER AGENCIES [53000 - 54999.7]** (Part 1 added by Stats. 1949, Ch. 81.)**CHAPTER 9. Meetings [54950 - 54963]** (Chapter 9 added by Stats. 1953, Ch. 1588.)

54950. In enacting this chapter, the Legislature finds and declares that the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.

The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

(Added by Stats. 1953, Ch. 1588.)

54950.5. This chapter shall be known as the Ralph M. Brown Act.

(Added by Stats. 1961, Ch. 115.)

54951. As used in this chapter, "local agency" means a county, city, whether general law or chartered, city and county, town, school district, municipal corporation, district, political subdivision, or any board, commission or agency thereof, or other local public agency.

(Amended by Stats. 1959, Ch. 1417.)

54952. As used in this chapter, "legislative body" means:

- (a) The governing body of a local agency or any other local body created by state or federal statute.
- (b) 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. 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, except that standing committees of a legislative body, irrespective of their composition, which have a continuing subject matter jurisdiction, or a meeting schedule fixed by charter, ordinance, resolution, or formal action of a legislative body are legislative bodies for purposes of this chapter.
- (c) (1) A board, commission, committee, or other multimember body that governs a private corporation, limited liability company, or other entity that either:
 - (A) Is created by the elected legislative body in order to exercise authority that may lawfully be delegated by the elected governing body to a private corporation, limited liability company, or other 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.

(Amended by Stats. 2002, Ch. 1073, Sec. 2. Effective January 1, 2003.)

54952.1. Any person elected to serve as a member of a legislative body who has not yet assumed the duties of office shall conform his or her conduct to the requirements of this chapter and shall be treated for purposes of enforcement of this chapter as if he or she has already assumed office.

(Amended by Stats. 1994, Ch. 32, Sec. 2. Effective March 30, 1994. Operative April 1, 1994, by Sec. 23 of Ch. 32.)

54952.2. (a) As used in this chapter, "meeting" means any congregation of a majority of the members of a legislative body at the same time and location, including teleconference location as permitted by Section 54953, to hear, discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the legislative body.

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

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

(3) (A) Paragraph (1) shall not be construed as preventing a member of the legislative body from engaging in separate conversations or communications on an internet-based social media platform to answer questions, provide information to the public, or to solicit information from the public regarding a matter that is within the subject matter jurisdiction of the legislative body provided that a majority of the members of the legislative body 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. A member of the legislative body shall not respond directly to any communication on an internet-based social media platform regarding a matter that is within the subject matter jurisdiction of the legislative body that is made, posted, or shared by any other member of the legislative body.

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

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

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

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

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

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

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

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

(d) This section shall remain in effect only until January 1, 2026, and as of that date is repealed.

(Amended by Stats. 2020, Ch. 89, Sec. 1. (AB 992) Effective January 1, 2021. Repealed as of January 1, 2026, by its own provisions. See later operative version added by Sec. 2 of Stats. 2020, Ch. 89.)

54952.2. (a) As used in this chapter, "meeting" means any congregation of a majority of the members of a legislative body at the same time and location, including teleconference location as permitted by Section 54953, to hear, discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the legislative body.

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

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

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

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

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

(3) The attendance of a majority of the members of a legislative body at an open and publicized meeting organized to address a topic of local community concern by a person or organization other than the local agency, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled

program, business of a specific nature that is within the subject 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.

(d) This section shall become operative on January 1, 2026.

(Repealed (in Sec. 1) and added by Stats. 2020, Ch. 89, Sec. 2. (AB 992) Effective January 1, 2021. Section operative January 1, 2026, by its own provisions.)

54952.3. (a) A legislative body that has convened a meeting and whose membership constitutes a quorum of any other legislative body may convene a meeting of that other legislative body, simultaneously or in serial order, only if a clerk or a member of the convened legislative body verbally announces, prior to convening any simultaneous or serial order meeting of that subsequent legislative body, the amount of compensation or stipend, if any, that each member will be entitled to receive as a result of convening the simultaneous or serial meeting of the subsequent legislative body and identifies that the compensation or stipend shall be provided as a result of convening a meeting for which each member is entitled to collect compensation or a stipend. However, the clerk or member of the legislative body shall not be required to announce the amount of compensation if the amount of compensation is prescribed in statute and no additional compensation has been authorized by a local agency.

(b) For purposes of this section, compensation and stipend shall not include amounts reimbursed for actual and necessary expenses incurred by a member in the performance of the member's official duties, including, but not limited to, reimbursement of expenses relating to travel, meals, and lodging.

(Added by Stats. 2011, Ch. 91, Sec. 1. (AB 23) Effective January 1, 2012.)

54952.6. As used in this chapter, "action taken" means a collective decision made by a majority of the members of a legislative body, a collective commitment or promise by a majority of the members of a legislative body to make a positive or a negative decision, or an actual vote by a majority of the members of a legislative body when sitting as a body or entity, upon a motion, proposal, resolution, order or ordinance.

(Added by Stats. 1961, Ch. 1671.)

54952.7. A legislative body of a local agency may require that a copy of this chapter be given to each member of the legislative body and any person elected to serve as a member of the legislative body who has not assumed the duties of office. An elected legislative body of a local agency may require that a copy of this chapter 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.

(Amended by Stats. 1993, Ch. 1138, Sec. 7. Effective January 1, 1994. Operative April 1, 1994, by Sec. 12 of Ch. 1138.)

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

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. If the legislative body of a local agency elects to use

teleconferencing, the legislative body of a local agency shall comply with all of the following:

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

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

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

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

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

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

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

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision 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. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

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

(e) (1) The legislative body of a local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of paragraph (2) of this subdivision in any of the following circumstances:

(A) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.

(B) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(C) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(2) A legislative body that holds a meeting pursuant to this subdivision shall do all of the following:

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

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

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

(D) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(E) (i) A legislative body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to subparagraph (F), to provide public comment until that timed public comment period has elapsed.

(ii) A legislative body that does not provide a timed public comment period, but takes public comment separately on each agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to subparagraph (F), or otherwise be recognized for the purpose of providing public comment.

(iii) A legislative body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, pursuant to subparagraph (F), until the timed general public comment period has elapsed.

(3) If a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 30 days after teleconferencing for the first time pursuant to subparagraph (A), (B), or (C) of paragraph (1), and every 30 days thereafter, make the following findings by majority vote:

(A) The legislative body has reconsidered the circumstances of the state of emergency.

(B) Any of the following circumstances exist:

(i) The state of emergency continues to directly impact the ability of the members to meet safely in person.

(ii) State or local officials continue to impose or recommend measures to promote social distancing.

(4) This subdivision shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(f) (1) The legislative body of a local agency may use teleconferencing without complying with paragraph (3) of subdivision (b) if, during the teleconference meeting, at least a quorum of the members of the legislative body participates in person from a singular physical location clearly identified on the agenda, which location shall be open to the public and situated within the boundaries of the territory over which the local agency exercises jurisdiction and the legislative body complies with all of the following:

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

(i) A two-way audiovisual platform.

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

(B) In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment.

(C) The agenda shall identify and include an opportunity for all persons to attend and address the legislative body directly pursuant to Section 54954.3 via a call-in option, via an internet-based service option, and at the in-person location of the meeting.

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

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

(F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(2) A member of the legislative body shall only participate in the meeting remotely pursuant to this subdivision, if all of the following requirements are met:

(A) One of the following circumstances applies:

(i) The member notifies the legislative body at the earliest opportunity possible, including at the start of a regular meeting, of their need to participate remotely for just cause, including a general description of the circumstances relating to their need to appear remotely at the given meeting. The provisions of this clause shall not be used by any member of the legislative body for more than two meetings per calendar year.

(ii) The member requests the legislative body to allow them to participate in the meeting remotely due to emergency circumstances and the legislative body takes action to approve the request. The legislative body shall request a general description of the circumstances relating to their need to appear remotely at the given meeting. A general description of an item generally need not exceed 20 words and shall not require the member to disclose any medical diagnosis or disability, or any personal medical information that is already exempt under existing law, such as the Confidentiality of Medical Information Act (Chapter 1 (commencing with Section 56) of Part 2.6 of Division 1 of the Civil Code). For the purposes of this clause, the following requirements apply:

(I) A member shall make a request to participate remotely at a meeting pursuant to this clause as soon as possible. The member shall make a separate request for each meeting in which they seek to participate remotely.

(II) The legislative body may take action on a request to participate remotely at the earliest opportunity. If the request does not allow sufficient time to place proposed action on such a request on the posted agenda for the meeting for which the request is made, the legislative body may take action at the beginning of the meeting in accordance with paragraph (4) of subdivision (b) of Section 54954.2.

(B) The member shall publicly disclose at the meeting before any action is taken, whether any other individuals 18 years of age or older are present in the room at the remote location with the member, and the general nature of the member's relationship with any such individuals.

(C) The member shall participate through both audio and visual technology.

(3) The provisions of this subdivision shall not serve as a means for any member of a legislative body to participate in meetings of the legislative body solely by teleconference from a remote location for a period of more than three consecutive months or 20 percent of the regular meetings for the local agency within a calendar year, or more than two meetings if the legislative body regularly meets fewer than 10 times per calendar year.

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

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

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

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

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

(1) "Emergency circumstances" means a physical or family medical emergency that prevents a member from attending in person.

(2) "Just cause" means any of the following:

(A) A childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires them to participate remotely. "Child," "parent," "grandparent," "grandchild," and "sibling" have the same meaning as those terms do in Section 12945.2.

(B) A contagious illness that prevents a member from attending in person.

(C) A need related to a physical or mental disability as defined in Sections 12926 and 12926.1 not otherwise accommodated by subdivision (g).

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

(3) "Remote location" means a location from which a member of a legislative body participates in a meeting pursuant to subdivision (f), other than any physical meeting location designated in the notice of the meeting. Remote locations need not be accessible to the public.

(4) "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.

(5) "State of emergency" means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).

(6) "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.

(7) "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 function.

(8) "Two-way telephonic service" means a telephone service that does not require internet access, is not provided as part of a two-way audiovisual platform, and allows participants to dial a telephone number to listen and verbally participate.

(9) "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.

(k) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

(Amended (as amended by Stats. 2021, Ch. 165, Sec. 3) by Stats. 2022, Ch. 285, Sec. 1. (AB 2449) Effective January 1, 2023. Repealed as of January 1, 2024, by its own provisions. See later operative version amended by Sec. 2 of Stats. 2022, Ch. 285.)

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

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

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

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

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

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

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

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

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

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision 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. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

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

(e) (1) The legislative body of a local agency may use teleconferencing without complying with paragraph (3) of subdivision (b) if, during the teleconference meeting, at least a quorum of the members of the legislative body participates in person from a singular physical location clearly identified on the agenda, which location shall be open to the public and situated within the boundaries of the territory over which the local agency exercises jurisdiction and the legislative body complies with all of the following:

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

(i) A two-way audiovisual platform.

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

(B) In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment.

(C) The agenda shall identify and include an opportunity for all persons to attend and address the legislative body directly pursuant to Section 54954.3 via a call-in option, via an internet-based service option, and at the in-person location of the meeting.

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

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

(F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(2) A member of the legislative body shall only participate in the meeting remotely pursuant to this subdivision, if all of the following requirements are met:

(A) One of the following circumstances applies:

(i) The member notifies the legislative body at the earliest opportunity possible, including at the start of a regular meeting, of their need to participate remotely for just cause, including a general description of the circumstances relating to their need to appear remotely at the given meeting. The provisions of this clause shall not be used by any member of the legislative body for more than two meetings per calendar year.

(ii) The member requests the legislative body to allow them to participate in the meeting remotely due to emergency circumstances and the legislative body takes action to approve the request. The legislative body shall request a general description of the circumstances relating to their need to appear remotely at the given meeting. A general description of an item generally need not exceed 20 words and shall not require the member to disclose any medical diagnosis or disability, or any personal medical information that is already exempt under existing law, such as the Confidentiality of Medical Information Act (Chapter 1 (commencing with Section 56) of Part 2.6 of Division 1 of the Civil Code). For the purposes of this clause, the following requirements apply:

(I) A member shall make a request to participate remotely at a meeting pursuant to this clause as soon as possible. The member shall make a separate request for each meeting in which they seek to participate remotely.

(II) The legislative body may take action on a request to participate remotely at the earliest opportunity. If the request does not allow sufficient time to place proposed action on such a request on the posted agenda for the meeting for which the request is made, the legislative body may take action at the beginning of the meeting in accordance with paragraph (4) of subdivision (b) of Section 54954.2.

(B) The member shall publicly disclose at the meeting before any action is taken whether any other individuals 18 years of age or older are present in the room at the remote location with the member, and the general nature of the member's relationship with any such individuals.

(C) The member shall participate through both audio and visual technology.

(3) The provisions of this subdivision shall not serve as a means for any member of a legislative body to participate in meetings of the legislative body solely by teleconference from a remote location for a period of more than three consecutive months or 20 percent of the regular meetings for the local agency within a calendar year, or more than two meetings if the legislative body regularly meets fewer than 10 times per calendar year.

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

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

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

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

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

(1) "Emergency circumstances" means a physical or family medical emergency that prevents a member from attending in person.

(2) "Just cause" means any of the following:

(A) A childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires them to participate remotely. "Child," "parent," "grandparent," "grandchild," and "sibling" have the same meaning as those terms do in Section 12945.2.

(B) A contagious illness that prevents a member from attending in person.

(C) A need related to a physical or mental disability as defined in Sections 12926 and 12926.1 not otherwise accommodated by subdivision (f).

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

(3) "Remote location" means a location from which a member of a legislative body participates in a meeting pursuant to subdivision (e), other than any physical meeting location designated in the notice of the meeting. Remote locations need not be accessible to the public.

(4) "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.

(5) "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.

(6) "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 function.

(7) "Two-way telephonic service" means a telephone service that does not require internet access, is not provided as part of a two-way audiovisual platform, and allows participants to dial a telephone number to listen and verbally participate.

(8) "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.

(j) This section shall become operative January 1, 2024, shall remain in effect only until January 1, 2026, and as of that date is repealed.

(Amended (as added by Stats. 2021, Ch. 165, Sec. 4) by Stats. 2022, Ch. 285, Sec. 2. (AB 2449) Effective January 1, 2023. Operative January 1, 2024, by its own provisions. Repealed as of January 1, 2026, by its own provisions. See later operative version added by Sec. 3 of Stats. 2022, Ch. 285.)

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 requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivision (d). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, "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. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

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

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

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision 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. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

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

(e) This section shall become operative January 1, 2026.

(Repealed (in Sec. 2) and added by Stats. 2022, Ch. 285, Sec. 3. (AB 2449) Effective January 1, 2023. Operative January 1, 2026, by its own provisions.)

54953.1. The provisions of this chapter shall not be construed to prohibit the members of the legislative body of a local agency from giving testimony in private before a grand jury, either as individuals or as a body.

(Added by Stats. 1979, Ch. 950.)

54953.2. All meetings of a legislative body of a local agency that are open and public shall meet the protections and prohibitions contained in Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof.

(Added by Stats. 2002, Ch. 300, Sec. 5. Effective January 1, 2003.)

54953.3. A member of the public shall not be required, as a condition to attendance at a meeting of a legislative body of a local agency, to register his or her name, to provide other information, to complete a questionnaire, or otherwise to fulfill any condition precedent to his or her attendance.

If an attendance list, register, questionnaire, or other similar document is posted at or near the entrance to the room where the meeting is to be held, or is circulated to the persons present during the meeting, it shall state clearly that the signing, registering, or completion of the document is voluntary, and that all persons may attend the meeting regardless of whether a person signs, registers, or completes the document.

(Amended by Stats. 1981, Ch. 968, Sec. 28.)

54953.5. (a) Any person attending an open and public meeting of a legislative body of a local agency shall have the right to record the proceedings with an audio or video recorder or a still or motion picture camera in the absence of a reasonable finding by the legislative body of the local agency that the recording cannot continue without noise, illumination, or obstruction of view that constitutes, or would constitute, a persistent disruption of the proceedings.

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

(Amended by Stats. 2021, Ch. 615, Sec. 205. (AB 474) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 463 of Stats. 2021, Ch. 615.)

54953.6. No legislative body of a local agency shall prohibit or otherwise restrict the broadcast of its open and public meetings in the absence of a reasonable finding that the broadcast cannot be accomplished without noise, illumination, or obstruction of view that would constitute a persistent disruption of the proceedings.

(Amended by Stats. 1994, Ch. 32, Sec. 6. Effective March 30, 1994. Operative April 1, 1994, by Sec. 23 of Ch. 32.)

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

(Added by Stats. 1981, Ch. 968, Sec. 29.)

54954. (a) Each legislative body of a local agency, except for advisory committees or standing committees, shall provide, by ordinance, resolution, bylaws, or by whatever other rule is required for the conduct of business by that body, the time and place for holding regular meetings. Meetings of advisory committees or standing committees, for which an agenda is posted at least 72 hours in advance of the meeting pursuant to subdivision (a) of Section 54954.2, shall be considered for purposes of this chapter as regular meetings of the legislative body.

(b) Regular and special meetings of the legislative body shall be held within the boundaries of the territory over which the local agency exercises jurisdiction, except to do any of the following:

(1) Comply with state or federal law or court order, or attend a judicial or administrative proceeding to which the local agency is a party.

(2) Inspect real or personal property which cannot be conveniently brought within the boundaries of the territory over which the local agency exercises jurisdiction provided that the topic of the meeting is limited to items

directly related to the real or personal property.

(3) Participate in meetings or discussions of multiagency significance that are outside the boundaries of a local agency's jurisdiction. However, any meeting or discussion held pursuant to this subdivision shall take place within the jurisdiction of one of the participating local agencies and be noticed by all participating agencies as provided for in this chapter.

(4) Meet in the closest meeting facility if the local agency has no meeting facility within the boundaries of the territory over which the local agency exercises jurisdiction, or at the principal office of the local agency if that office is located outside the territory over which the agency exercises jurisdiction.

(5) Meet outside their immediate jurisdiction with elected or appointed officials of the United States or the State of California when a local meeting would be impractical, solely to discuss a legislative or regulatory issue affecting the local agency and over which the federal or state officials have jurisdiction.

(6) Meet outside their immediate jurisdiction if the meeting takes place in or nearby a facility owned by the agency, provided that the topic of the meeting is limited to items directly related to the facility.

(7) Visit the office of the local agency's legal counsel for a closed session on pending litigation held pursuant to Section 54956.9, when to do so would reduce legal fees or costs.

(c) Meetings of the governing board of a school district shall be held within the district, except under the circumstances enumerated in subdivision (b), or to do any of the following:

(1) Attend a conference on nonadversarial collective bargaining techniques.

(2) Interview members of the public residing in another district with reference to the trustees' potential employment of an applicant for the position of the superintendent of the district.

(3) Interview a potential employee from another district.

(d) Meetings of a joint powers authority shall occur within the territory of at least one of its member agencies, or as provided in subdivision (b). However, a joint powers authority which has members throughout the state may meet at any facility in the state which complies with the requirements of Section 54961.

(e) If, by reason of fire, flood, earthquake, or other emergency, it shall be unsafe to meet in the place designated, the meetings shall be held for the duration of the emergency at the place designated by the presiding officer of the legislative body or his or her designee in a notice to the local media that have requested notice pursuant to Section 54956, by the most rapid means of communication available at the time.

(Amended by Stats. 2004, Ch. 257, Sec. 1. Effective January 1, 2005.)

54954.1. Any person may request that a copy of the agenda, or a copy of all the documents constituting the agenda packet, of any meeting of a legislative body be mailed to that person. If a local agency has an internet website, the legislative body or its designee shall email a copy of, or website link to, the agenda or a copy of all the documents constituting the agenda packet if the person requests that the item or items be delivered by email. If the local agency determines it is technologically infeasible to send a copy of all documents constituting the agenda packet or a link to a website that contains the documents by email or by other electronic means, the legislative body or its designee shall send by mail a copy of the agenda or a website link to the agenda and mail a copy of all other documents constituting the agenda packet in accordance with the mailing requirements established pursuant to this section. If requested, the agenda and documents in the agenda packet shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. Upon receipt of the written request, the legislative body or its designee shall cause the requested materials to be mailed at the time the agenda is posted pursuant to Section 54954.2 and 54956 or upon distribution to all, or a majority of all, of the members of a legislative body, whichever occurs first. Any request for mailed copies of agendas or agenda packets shall be valid for the calendar year in which it is filed, and must be renewed following January 1 of each year. The legislative body may establish a fee for mailing the agenda or agenda packet, which fee shall not exceed the cost of providing the service. Failure of the requesting person to receive the agenda or agenda packet pursuant to this section shall not constitute grounds for invalidation of the actions of the legislative body taken at the meeting for which the agenda or agenda packet was not received.

(Amended by Stats. 2021, Ch. 763, Sec. 1. (SB 274) Effective January 1, 2022.)

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 containing a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session. A brief general description of an item generally need not exceed 20 words. The agenda shall specify the time and location of the regular meeting and shall be posted in a location that is freely accessible to members of the public and on the local agency's Internet Web site, if the local agency has one. If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. The agenda shall include information regarding how, to whom, and when a request for disability-related modification or accommodation, including auxiliary aids or services, may be made by a person with a disability who requires a modification or accommodation in order to participate in the public meeting.

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

(A) An online posting of an agenda shall be posted on the primary Internet Web site homepage of a city, county, city and county, special district, school district, or political subdivision established by the state that is accessible through a prominent, direct link to the current agenda. The direct link to the agenda shall not be in a contextual menu; however, a link in addition to the direct link to the agenda may be accessible through a contextual menu.

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

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

(ii) Platform independent and machine readable.

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

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

(i) A direct link to the integrated agenda management platform shall be posted on the primary Internet Web site homepage of a city, county, city and county, special district, school district, or political subdivision established by the state. The direct link to the integrated agenda management platform shall not be in a contextual menu. When a person clicks on the direct link to the integrated agenda management platform, the direct link shall take the person directly to an Internet Web site with the agendas of the legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state.

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

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

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

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

(i) "Integrated agenda management platform" means an Internet Web site of a city, county, city and county, special district, school district, or political subdivision established by the state dedicated to

providing the entirety of the agenda information for the legislative body of the city, county, city and county, special district, school district, or political subdivision established by the state to the public.

(ii) "Legislative body" has the same meaning as that term is used in subdivision (a) of Section 54952.

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

(3) No action or discussion shall be undertaken on any item not appearing on the posted agenda, except that members of a legislative body or its staff may briefly respond to statements made or questions posed by persons exercising their public testimony rights under Section 54954.3. In addition, on their own initiative or in response to questions posed by the public, a member of a legislative body or its staff may ask a question for clarification, make a brief announcement, or make a brief report on his or her own activities. Furthermore, a member of a legislative body, or the body itself, subject to rules or procedures of the legislative body, may provide a reference to staff or other resources for factual information, request staff to report back to the body at a subsequent meeting concerning any matter, or take action to direct staff to place a matter of business on a future agenda.

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

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

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

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

(4) To consider action on a request from a member to participate in a meeting remotely due to emergency circumstances, pursuant to Section 54953, if the request does not allow sufficient time to place the proposed action on the posted agenda for the meeting for which the request is made. The legislative body may approve such a request by a majority vote of the legislative body.

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

(d) For purposes of subdivision (a), the requirement that the agenda be posted on the local agency's Internet Web site, if the local agency has one, shall only apply to a legislative body that meets either of the following standards:

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

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

(e) This section shall remain in effect only until January 1, 2026, and as of that date is repealed.

(Amended by Stats. 2022, Ch. 285, Sec. 4. (AB 2449) Effective January 1, 2023. Repealed as of January 1, 2026, by its own provisions. See later operative version added by Sec. 5 of Stats. 2022, Ch. 285.)

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 containing a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session. A brief general description of an item generally need not exceed 20 words. The agenda shall specify the time and location of the regular meeting and shall be posted in a location that is freely accessible to members of the public and on the local agency's Internet Web site, if the local agency has one. If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. The agenda shall include information regarding how, to whom, and when a request for disability-related modification or accommodation, including

auxiliary aids or services, may be made by a person with a disability who requires a modification or accommodation in order to participate in the public meeting.

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

(A) An online posting of an agenda shall be posted on the primary Internet Web site homepage of a city, county, city and county, special district, school district, or political subdivision established by the state that is accessible through a prominent, direct link to the current agenda. The direct link to the agenda shall not be in a contextual menu; however, a link in addition to the direct link to the agenda may be accessible through a contextual menu.

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

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

(ii) Platform independent and machine readable.

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

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

(i) A direct link to the integrated agenda management platform shall be posted on the primary Internet Web site homepage of a city, county, city and county, special district, school district, or political subdivision established by the state. The direct link to the integrated agenda management platform shall not be in a contextual menu. When a person clicks on the direct link to the integrated agenda management platform, the direct link shall take the person directly to an Internet Web site with the agendas of the legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state.

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

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

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

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

(i) "Integrated agenda management platform" means an Internet Web site of a city, county, city and county, special district, school district, or political subdivision established by the state dedicated to providing the entirety of the agenda information for the legislative body of the city, county, city and county, special district, school district, or political subdivision established by the state to the public.

(ii) "Legislative body" has the same meaning as that term is used in subdivision (a) of Section 54952.

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

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

legislative body, or the body itself, subject to rules or procedures of the legislative body, may provide a reference to staff or other resources for factual information, request staff to report back to the body at a subsequent meeting concerning any matter, or take action to direct staff to place a matter of business on a future agenda.

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

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

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

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

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

(d) For purposes of subdivision (a), the requirement that the agenda be posted on the local agency's Internet Web site, if the local agency has one, shall only apply to a legislative body that meets either of the following standards:

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

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

(e) This section shall become operative January 1, 2026.

(Repealed (in Sec. 4) and added by Stats. 2022, Ch. 285, Sec. 5. (AB 2449) Effective January 1, 2023. Operative January 1, 2026, by its own provisions.)

54954.3. (a) 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. However, the agenda need not provide an opportunity for members of the public to address the legislative body on any item that has already been considered by a committee, composed exclusively of members of the legislative body, at a public meeting wherein all interested members of the public were afforded the opportunity to address the committee on the item, before or during the committee's consideration of the item, unless the item has been substantially changed since the committee heard the item, as determined by the legislative body. 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.

(Amended by Stats. 2016, Ch. 507, Sec. 1. (AB 1787) Effective January 1, 2017.)

54954.4. (a) The Legislature hereby finds and declares that Section 12 of Chapter 641 of the Statutes of 1986, authorizing reimbursement to local agencies and school districts for costs mandated by the state pursuant to that act, shall be interpreted strictly. The intent of the Legislature is to provide reimbursement for only those costs which are clearly and unequivocally incurred as the direct and necessary result of compliance with Chapter 641 of the Statutes of 1986.

(b) In this regard, the Legislature directs all state employees and officials involved in reviewing or authorizing claims for reimbursement, or otherwise participating in the reimbursement process, to rigorously review each claim and authorize only those claims, or parts thereof, which represent costs which are clearly and unequivocally incurred as the direct and necessary result of compliance with Chapter 641 of the Statutes of 1986 and for which complete documentation exists. For purposes of Section 54954.2, costs eligible for reimbursement shall only include the actual cost to post a single agenda for any one meeting.

(c) The Legislature hereby finds and declares that complete, faithful, and uninterrupted compliance with the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code) is a matter of overriding public importance. Unless specifically stated, no future Budget Act, or related budget enactments, shall, in any manner, be interpreted to suspend, eliminate, or otherwise modify the legal obligation and duty of local agencies to fully comply with Chapter 641 of the Statutes of 1986 in a complete, faithful, and uninterrupted manner.

(Added by Stats. 1991, Ch. 238, Sec. 1.)

54954.5. For purposes of describing closed session items pursuant to Section 54954.2, the agenda may describe closed sessions as provided below. No legislative body or elected official shall be in violation of Section 54954.2 or 54956 if the closed session items were described in substantial compliance with this section. Substantial compliance is satisfied by including the information provided below, irrespective of its format.

(a) With respect to a closed session held pursuant to Section 54956.7:

LICENSE/PERMIT DETERMINATION

Applicant(s): (Specify number of applicants)

(b) With respect to every item of business to be discussed in closed session pursuant to Section 54956.8:

CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Property: (Specify street address, or if no street address, the parcel number or other unique reference, of the real property under negotiation)

Agency negotiator: (Specify names of negotiators attending the closed session) (If circumstances necessitate the absence of a specified negotiator, an agent or designee may participate in place of the absent negotiator so long as the name of the agent or designee is announced at an open session held prior to the closed session.)

Negotiating parties: (Specify name of party (not agent))

Under negotiation: (Specify whether instruction to negotiator will concern price, terms of payment, or both)

(c) With respect to every item of business to be discussed in closed session pursuant to Section 54956.9:

CONFERENCE WITH LEGAL COUNSEL—EXISTING LITIGATION

(Paragraph (1) of subdivision (d) of Section 54956.9)

Name of case: (Specify by reference to claimant's name, names of parties, case or claim numbers)

or

Case name unspecified: (Specify whether disclosure would jeopardize service of process or existing settlement negotiations)

CONFERENCE WITH LEGAL COUNSEL—ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to paragraph (2) or (3) of subdivision (d) of Section 54956.9: (Specify number of potential cases)

(In addition to the information noticed above, the agency may be required to provide additional information on the agenda or in an oral statement prior to the closed session pursuant to paragraphs (2) to (5), inclusive, of subdivision (e) of Section 54956.9.)

Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Section 54956.9: (Specify number of potential cases)

(d) With respect to every item of business to be discussed in closed session pursuant to Section 54956.95:

LIABILITY CLAIMS

Claimant: (Specify name unless unspecified pursuant to Section 54961)

Agency claimed against: (Specify name)

(e) With respect to every item of business to be discussed in closed session pursuant to Section 54957:

THREAT TO PUBLIC SERVICES OR FACILITIES

Consultation with: (Specify name of law enforcement agency and title of officer, or name of applicable agency representative and title)

PUBLIC EMPLOYEE APPOINTMENT

Title: (Specify description of position to be filled)

PUBLIC EMPLOYMENT

Title: (Specify description of position to be filled)

PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Title: (Specify position title of employee being reviewed)

PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE

(No additional information is required in connection with a closed session to consider discipline, dismissal, or release of a public employee. Discipline includes potential reduction of compensation.)

(f) With respect to every item of business to be discussed in closed session pursuant to Section 54957.6:

CONFERENCE WITH LABOR NEGOTIATORS

Agency designated representatives: (Specify names of designated representatives attending the closed session) (If circumstances necessitate the absence of a specified designated representative, an agent or designee may participate in place of the absent representative so long as the name of the agent or designee is announced at an open session held prior to the closed session.)

Employee organization: (Specify name of organization representing employee or employees in question)

or

Unrepresented employee: (Specify position title of unrepresented employee who is the subject of the negotiations)

(g) With respect to closed sessions called pursuant to Section 54957.8:

CASE REVIEW/PLANNING

(No additional information is required in connection with a closed session to consider case review or planning.)

(h) With respect to every item of business to be discussed in closed session pursuant to Sections 1461, 32106, and 32155 of the Health and Safety Code or Sections 37606 and 37624.3 of the Government Code:

REPORT INVOLVING TRADE SECRET

Discussion will concern: (Specify whether discussion will concern proposed new service, program, or facility)

Estimated date of public disclosure: (Specify month and year)

HEARINGS

Subject matter: (Specify whether testimony/deliberation will concern staff privileges, report of medical audit committee, or report of quality assurance committee)

(i) With respect to every item of business to be discussed in closed session pursuant to Section 54956.86:

CHARGE OR COMPLAINT INVOLVING INFORMATION PROTECTED BY FEDERAL LAW

(No additional information is required in connection with a closed session to discuss a charge or complaint pursuant to Section 54956.86.)

(j) With respect to every item of business to be discussed in closed session pursuant to Section 54956.96:

CONFERENCE INVOLVING A JOINT POWERS AGENCY (Specify by name)

Discussion will concern: (Specify closed session description used by the joint powers agency)

Name of local agency representative on joint powers agency board: (Specify name)

(Additional information listing the names of agencies or titles of representatives attending the closed session as consultants or other representatives.)

(k) With respect to every item of business to be discussed in closed session pursuant to Section 54956.75:

AUDIT BY CALIFORNIA STATE AUDITOR'S OFFICE

(Amended by Stats. 2012, Ch. 759, Sec. 6.1. (AB 2690) Effective January 1, 2013.)

54954.6. (a) (1) Before adopting any new or increased general tax or any new or increased assessment, the legislative body of a local agency shall conduct at least one public meeting at which local officials shall allow public testimony regarding the proposed new or increased general tax or new or increased assessment in addition to the noticed public hearing at which the legislative body proposes to enact or increase the general tax or assessment.

For purposes of this section, the term "new or increased assessment" does not include any of the following:

(A) A fee that does not exceed the reasonable cost of providing the services, facilities, or regulatory activity for which the fee is charged.

(B) A service charge, rate, or charge, unless a special district's principal act requires the service charge, rate, or charge to conform to the requirements of this section.

(C) An ongoing annual assessment if it is imposed at the same or lower amount as any previous year.

(D) An assessment that does not exceed an assessment formula or range of assessments previously specified in the notice given to the public pursuant to subparagraph (G) of paragraph (2) of subdivision (c) and that was previously adopted by the agency or approved by the voters in the area where the assessment is imposed.

(E) Standby or immediate availability charges.

(2) The legislative body shall provide at least 45 days' public notice of the public hearing at which the legislative body proposes to enact or increase the general tax or assessment. The legislative body shall provide notice for the public meeting at the same time and in the same document as the notice for the public hearing, but the meeting shall occur prior to the hearing.

(b) (1) The joint notice of both the public meeting and the public hearing required by subdivision (a) with respect to a proposal for a new or increased general tax shall be accomplished by placing a display advertisement of at least one-eighth page in a newspaper of general circulation for three weeks pursuant to Section 6063 and by a first-class mailing to those interested parties who have filed a written request with the local agency for mailed notice of public meetings or hearings on new or increased general taxes. The public meeting pursuant to subdivision (a) shall take place no earlier than 10 days after the first publication of the joint notice pursuant to this subdivision. The public hearing shall take place no earlier than seven days after the public meeting pursuant to this subdivision. Notwithstanding paragraph (2) of subdivision (a), the joint notice need not include notice of the public meeting after the meeting has taken place. The public hearing pursuant to subdivision (a) shall take place no earlier than 45 days after the first publication of the joint notice pursuant to this subdivision. Any written request for mailed notices shall be effective for one year from the date on which it is filed unless a renewal request is filed. Renewal requests for mailed notices shall be filed on or before April 1 of each year. The legislative body may establish a reasonable annual charge for sending notices based on the estimated cost of providing the service.

(2) The notice required by paragraph (1) of this subdivision shall include, but not be limited to, the following:

(A) The amount or rate of the tax. If the tax is proposed to be increased from any previous year, the joint notice shall separately state both the existing tax rate and the proposed tax rate increase.

(B) The activity to be taxed.

(C) The estimated amount of revenue to be raised by the tax annually.

(D) The method and frequency for collecting the tax.

(E) The dates, times, and locations of the public meeting and hearing described in subdivision (a).

(F) The telephone number and address of an individual, office, or organization that interested persons may contact to receive additional information about the tax.

(c) (1) The joint notice of both the public meeting and the public hearing required by subdivision (a) with respect to a proposal for a new or increased assessment on real property or businesses shall be accomplished through a mailing, postage prepaid, in the United States mail and shall be deemed given when so deposited. The public meeting pursuant to subdivision (a) shall take place no earlier than 10 days after the joint mailing pursuant to this subdivision. The public hearing shall take place no earlier than seven days after the public meeting pursuant to this subdivision. The envelope or the cover of the mailing shall include the name of the local agency and the return address of the sender. This mailed notice shall be in at least 10-point type and shall be given to all property owners or business owners proposed to be subject to the new or increased assessment by a mailing by name to those persons whose names and addresses appear on the last equalized county assessment roll, the State Board of Equalization assessment roll, or the local agency's records pertaining to business ownership, as the case may be.

(2) The joint notice required by paragraph (1) of this subdivision shall include, but not be limited to, the following:

(A) In the case of an assessment proposed to be levied on property, the estimated amount of the assessment per parcel. In the case of an assessment proposed to be levied on businesses, the proposed method and basis of levying the assessment in sufficient detail to allow each business owner to calculate the amount of assessment to be levied against each business. If the assessment is proposed to be increased from any previous year, the joint notice shall separately state both the amount of the existing assessment and the proposed assessment increase.

(B) A general description of the purpose or improvements that the assessment will fund.

(C) The address to which property owners may mail a protest against the assessment.

(D) The telephone number and address of an individual, office, or organization that interested persons may contact to receive additional information about the assessment.

(E) A statement that a majority protest will cause the assessment to be abandoned if the assessment act used to levy the assessment so provides. Notice shall also state the percentage of protests required to trigger an election, if applicable.

(F) The dates, times, and locations of the public meeting and hearing described in subdivision (a).

(G) A proposed assessment formula or range as described in subparagraph (D) of paragraph (1) of subdivision (a) if applicable and that is noticed pursuant to this section.

(3) Notwithstanding paragraph (1), in the case of an assessment that is proposed exclusively for operation and maintenance expenses imposed throughout the entire local agency, or exclusively for operation and maintenance assessments proposed to be levied on 50,000 parcels or more, notice may be provided pursuant to this subdivision or pursuant to paragraph (1) of subdivision (b) and shall include the estimated amount of the assessment of various types, amounts, or uses of property and the information required by subparagraphs (B) to (G), inclusive, of paragraph (2) of subdivision (c).

(4) Notwithstanding paragraph (1), in the case of an assessment proposed to be levied pursuant to Part 2 (commencing with Section 22500) of Division 2 of the Streets and Highways Code by a regional park district, regional park and open-space district, or regional open-space district formed pursuant to Article 3 (commencing with Section 5500) of Chapter 3 of Division 5 of, or pursuant to Division 26 (commencing with Section 35100) of, the Public Resources Code, notice may be provided pursuant to paragraph (1) of subdivision (b).

(d) The notice requirements imposed by this section shall be construed as additional to, and not to supersede, existing provisions of law, and shall be applied concurrently with the existing provisions so as to not delay or prolong the governmental decisionmaking process.

(e) This section shall not apply to any new or increased general tax or any new or increased assessment that requires an election of either of the following:

(1) The property owners subject to the assessment.

(2) The voters within the local agency imposing the tax or assessment.

(f) Nothing in this section shall prohibit a local agency from holding a consolidated meeting or hearing at which the legislative body discusses multiple tax or assessment proposals.

(g) The local agency may recover the reasonable costs of public meetings, public hearings, and notice required by this section from the proceeds of the tax or assessment. The costs recovered for these purposes, whether recovered pursuant to this subdivision or any other provision of law, shall not exceed the reasonable costs of the public meetings, public hearings, and notice.

(h) Any new or increased assessment that is subject to the notice and hearing provisions of Article XIII C or XIII D of the California Constitution is not subject to the notice and hearing requirements of this section.

(Amended by Stats. 2011, Ch. 382, Sec. 3.5. (SB 194) Effective January 1, 2012.)

54955. The legislative body of a local agency may adjourn any regular, adjourned regular, special or adjourned special meeting to a time and place specified in the order of adjournment. Less than a quorum may so adjourn from time to time. If all members are absent from any regular or adjourned regular meeting the clerk or secretary of the legislative body may declare the meeting adjourned to a stated time and place and he shall cause a written notice of the adjournment to be given in the same manner as provided in Section 54956 for special meetings, unless such notice is waived as provided for special meetings. A copy of the order or notice of adjournment shall be conspicuously posted on or near the door of the place where the regular, adjourned regular, special or adjourned special meeting was held within 24 hours after the time of the adjournment. When a regular or adjourned regular meeting is adjourned as provided in this section, the resulting adjourned regular meeting is a regular meeting for all purposes. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings by ordinance, resolution, bylaw, or other rule.

(Amended by Stats. 1959, Ch. 647.)

54955.1. Any hearing being held, or noticed or ordered to be held, by a legislative body of a local agency at any meeting may by order or notice of continuance be continued or recontinued to any subsequent meeting of the legislative body in the same manner and to the same extent set forth in Section 54955 for the adjournment of meetings; provided, that if the hearing is continued to a time less than 24 hours after the time specified in the order or notice of hearing, a copy of the order or notice of continuance of hearing shall be posted immediately following the meeting at which the order or declaration of continuance was adopted or made.

(Added by Stats. 1965, Ch. 469.)

54956. (a) A special meeting may be called at any time by the presiding officer of the legislative body of a local agency, or by a majority of the members of the legislative body, by delivering written notice to each member of the legislative body and to each local newspaper of general circulation and radio or television station requesting notice in writing and posting a notice on the local agency's Internet Web site, if the local agency has one. The notice shall be delivered personally or by any other means and shall be received at least 24 hours before the time of the meeting as specified in the notice. The call and notice shall specify the time and place of the special meeting and the business to be transacted or discussed. No other business shall be considered at these meetings by the legislative body. The written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the clerk or secretary of the legislative body a written waiver of notice. The waiver may be given by telegram. The written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes.

The call and notice shall be posted at least 24 hours prior to the special meeting in a location that is freely accessible to members of the public.

(b) Notwithstanding any other law, a legislative body shall not call a special meeting regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits, of a local agency executive, as defined in subdivision (d) of Section 3511.1. However, this subdivision does not apply to a local agency calling a special meeting to discuss the local agency's budget.

(c) For purposes of subdivision (a), the requirement that the agenda be posted on the local agency's Internet Web site, if the local agency has one, shall only apply to a legislative body that meets either of the following standards:

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

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

(Amended by Stats. 2011, Ch. 692, Sec. 9. (AB 1344) Effective January 1, 2012.)

54956.5. (a) For purposes of this section, "emergency situation" means both of the following:

(1) An emergency, which shall be defined as a work stoppage, crippling activity, or other activity that severely impairs public health, safety, or both, as determined by a majority of the members of the legislative body.

(2) A dire emergency, which shall be defined as a crippling disaster, mass destruction, terrorist act, or threatened terrorist activity that poses peril so immediate and significant that requiring a legislative body to provide one-hour notice before holding an emergency meeting under this section may endanger the public health, safety, or both, as determined by a majority of the members of the legislative body.

(b) (1) Subject to paragraph (2), in the case of an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of public facilities, a legislative body may hold an emergency meeting without complying with either the 24-hour notice requirement or the 24-hour posting requirement of Section 54956 or both of the notice and posting requirements.

(2) Each local newspaper of general circulation and radio or television station that has requested notice of special meetings pursuant to Section 54956 shall be notified by the presiding officer of the legislative body, or designee thereof, one hour prior to the emergency meeting, or, in the case of a dire emergency, at or near the time that the presiding officer or designee notifies the members of the legislative body of the emergency meeting. This notice shall be given by telephone and all telephone numbers provided in the most recent request of a newspaper or station for notification of special meetings shall be exhausted. In the event that telephone services are not functioning, the notice requirements of this section shall be deemed waived, and the legislative body, or designee of the legislative body, shall notify those newspapers, radio stations, or television stations of the fact of the holding of the emergency meeting, the purpose of the meeting, and any action taken at the meeting as soon after the meeting as possible.

(c) During a meeting held pursuant to this section, the legislative body may meet in closed session pursuant to Section 54957 if agreed to by a two-thirds vote of the members of the legislative body present, or, if less than two-thirds of the members are present, by a unanimous vote of the members present.

(d) All special meeting requirements, as prescribed in Section 54956 shall be applicable to a meeting called pursuant to this section, with the exception of the 24-hour notice requirement.

(e) The minutes of a meeting called pursuant to this section, a list of persons who the presiding officer of the legislative body, or designee of the legislative body, notified or attempted to notify, a copy of the rollcall vote, and any actions taken at the meeting shall be posted for a minimum of 10 days in a public place as soon after the meeting as possible.

(Amended by Stats. 2002, Ch. 175, Sec. 2. Effective January 1, 2003.)

54956.6. No fees may be charged by the legislative body of a local agency for carrying out any provision of this chapter, except as specifically authorized by this chapter.

(Added by Stats. 1980, Ch. 1284.)

54956.7. Whenever a legislative body of a local agency determines that it is necessary to discuss and determine whether an applicant for a license or license renewal, who has a criminal record, is sufficiently rehabilitated to obtain the license, the legislative body may hold a closed session with the applicant and the applicant's attorney, if any, for the purpose of holding the discussion and making the determination. If the legislative body determines, as a result of the closed session, that the issuance or renewal of the license should be denied, the applicant shall be offered the opportunity to withdraw the application. If the applicant withdraws the application, no record shall be kept of the discussions or decisions made at the closed session and all matters relating to the closed session shall be confidential. If the applicant does not withdraw the application, the legislative body shall take action at the public meeting during which the closed session is held or at its next public meeting denying the application for the license but all matters relating to the closed session are confidential and shall not be disclosed without the consent of the applicant, except in an action by an applicant who has been denied a license challenging the denial of the license.

(Added by Stats. 1982, Ch. 298, Sec. 1.)

54956.75. (a) Nothing contained in this chapter shall be construed to prevent the legislative body of a local agency that has received a confidential final draft audit report from the Bureau of State Audits from holding closed sessions to discuss its response to that report.

(b) After the public release of an audit report by the Bureau of State Audits, if a legislative body of a local agency meets to discuss the audit report, it shall do so in an open session unless exempted from that requirement by some other provision of law.

(Added by Stats. 2004, Ch. 576, Sec. 4. Effective January 1, 2005.)

54956.8. Notwithstanding any other provision of this chapter, a legislative body of a local agency may hold a closed session with its negotiator prior to the purchase, sale, exchange, or lease of real property by or for the local agency to grant authority to its negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease.

However, prior to the closed session, the legislative body of the local agency shall hold an open and public session in which it identifies its negotiators, the real property or real properties which the negotiations may concern, and the person or persons with whom its negotiators may negotiate.

For purposes of this section, negotiators may be members of the legislative body of the local agency.

For purposes of this section, "lease" includes renewal or renegotiation of a lease.

Nothing in this section shall preclude a local agency from holding a closed session for discussions regarding eminent domain proceedings pursuant to Section 54956.9.

(Amended by Stats. 1998, Ch. 260, Sec. 3. Effective January 1, 1999.)

54956.81. Notwithstanding any other provision of this chapter, a legislative body of a local agency that invests pension funds may hold a closed session to consider the purchase or sale of particular, specific pension fund investments. All investment transaction decisions made during the closed session shall be made by rollcall vote entered into the minutes of the closed session as provided in subdivision (a) of Section 54957.2.

(Added by Stats. 2004, Ch. 533, Sec. 20. Effective January 1, 2005.)

54956.86. Notwithstanding any other provision of this chapter, a legislative body of a local agency which provides services pursuant to Section 14087.3 of the Welfare and Institutions Code may hold a closed session to hear a charge or complaint from a member enrolled in its health plan if the member does not wish to have his or her name, medical status, or other information that is protected by federal law publicly disclosed. Prior to holding a closed session pursuant to this section, the legislative body shall inform the member, in writing, of his or her right to have the charge or complaint heard in an open session rather than a closed session.

(Added by Stats. 1996, Ch. 182, Sec. 2. Effective January 1, 1997.)

54956.87. (a) Notwithstanding any other provision of this chapter, the records of a health plan that is licensed pursuant to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code) and that is governed by a county board of supervisors, whether paper records, records maintained in the management information system, or records in any other form, that relate to provider rate or payment determinations, allocation or distribution methodologies for provider payments, formulas or calculations for these payments, and contract negotiations with providers of health care for alternative rates are exempt from disclosure for a period of three years after the contract is fully executed. The transmission of the records, or the information contained therein in an alternative form, to the board of supervisors shall not constitute a waiver of exemption from disclosure, and the records and information once transmitted to the board of supervisors shall be subject to this same exemption.

(b) Notwithstanding any other provision of law, the governing board of a health plan that is licensed pursuant to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code) and that is governed by a county board of supervisors may order that a meeting held solely for the purpose of discussion or taking action on health plan trade secrets, as defined in subdivision (f), shall be held in closed session. The requirements of making a public report of action taken in closed session, and the vote or abstention of every member present, may be limited to a brief general description without the information constituting the trade secret.

(c) Notwithstanding any other provision of law, the governing board of a health plan may meet in closed session to consider and take action on matters pertaining to contracts and contract negotiations by the health plan with providers of health care services concerning all matters related to rates of payment. The governing board may delete the portion or portions containing trade secrets from any documents that were finally approved in the closed session held pursuant to subdivision (b) that are provided to persons who have made the timely or standing request.

(d) Nothing in this section shall be construed as preventing the governing board from meeting in closed session as otherwise provided by law.

(e) The provisions of this section shall not prevent access to any records by the Joint Legislative Audit Committee in the exercise of its powers pursuant to Article 1 (commencing with Section 10500) of Chapter 4 of Part 2 of Division 2 of Title 2. The provisions of this section also shall not prevent access to any records by the Department of Managed Health Care in the exercise of its powers pursuant to Article 1 (commencing with Section 1340) of Chapter 2.2 of Division 2 of the Health and Safety Code.

(f) For purposes of this section, "health plan trade secret" means a trade secret, as defined in subdivision (d) of Section 3426.1 of the Civil Code, that also meets both of the following criteria:

- (1) The secrecy of the information is necessary for the health plan to initiate a new service, program, marketing strategy, business plan, or technology, or to add a benefit or product.
- (2) Premature disclosure of the trade secret would create a substantial probability of depriving the health plan of a substantial economic benefit or opportunity.

(Amended by Stats. 2015, Ch. 190, Sec. 65. (AB 1517) Effective January 1, 2016.)

54956.9. (a) Nothing in this chapter shall be construed to prevent a legislative body of a local agency, based on advice of its legal counsel, from holding a closed session to confer with, or receive advice from, its legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the local agency in the litigation.

(b) For purposes of this chapter, all expressions of the lawyer-client privilege other than those provided in this section are hereby abrogated. This section is the exclusive expression of the lawyer-client privilege for purposes of conducting closed-session meetings pursuant to this chapter.

(c) For purposes of this section, "litigation" includes any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator.

(d) For purposes of this section, litigation shall be considered pending when any of the following circumstances exist:

- (1) Litigation, to which the local agency is a party, has been initiated formally.
- (2) A point has been reached where, in the opinion of the legislative body of the local agency on the advice of its legal counsel, based on existing facts and circumstances, there is a significant exposure to litigation against the local agency.
- (3) Based on existing facts and circumstances, the legislative body of the local agency is meeting only to decide whether a closed session is authorized pursuant to paragraph (2).
- (4) Based on existing facts and circumstances, the legislative body of the local agency has decided to initiate or is deciding whether to initiate litigation.

(e) For purposes of paragraphs (2) and (3) of subdivision (d), "existing facts and circumstances" shall consist only of one of the following:

- (1) Facts and circumstances that might result in litigation against the local agency but which the local agency believes are not yet known to a potential plaintiff or plaintiffs, which facts and circumstances need not be disclosed.
- (2) Facts and circumstances, including, but not limited to, an accident, disaster, incident, or transactional occurrence that might result in litigation against the agency and that are known to a potential plaintiff or plaintiffs, which facts or circumstances shall be publicly stated on the agenda or announced.
- (3) The receipt of a claim pursuant to the Government Claims Act (Division 3.6 (commencing with Section 810) of Title 1 of the Government Code) or some other written communication from a potential plaintiff threatening litigation, which claim or communication shall be available for public inspection pursuant to Section 54957.5.
- (4) A statement made by a person in an open and public meeting threatening litigation on a specific matter within the responsibility of the legislative body.

(5) A statement threatening litigation made by a person outside an open and public meeting on a specific matter within the responsibility of the legislative body so long as the official or employee of the local agency receiving knowledge of the threat makes a contemporaneous or other record of the statement prior to the meeting, which record shall be available for public inspection pursuant to Section 54957.5. The records so created need not identify the alleged victim of unlawful or tortious sexual conduct or anyone making the threat on their behalf, or identify a public employee who is the alleged perpetrator of any unlawful or tortious conduct upon which a threat of litigation is based, unless the identity of the person has been publicly disclosed.

(f) Nothing in this section shall require disclosure of written communications that are privileged and not subject to disclosure pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1).

(g) Prior to holding a closed session pursuant to this section, the legislative body of the local agency shall state on the agenda or publicly announce the paragraph of subdivision (d) that authorizes the closed session. If the session is closed pursuant to paragraph (1) of subdivision (d), the body shall state the title of or otherwise specifically identify the litigation to be discussed, unless the body states that to do so would jeopardize the agency's ability to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

(h) A local agency shall be considered to be a "party" or to have a "significant exposure to litigation" if an officer or employee of the local agency is a party or has significant exposure to litigation concerning prior or prospective activities or alleged activities during the course and scope of that office or employment, including litigation in which it is an issue whether an activity is outside the course and scope of the office or employment.

(Amended by Stats. 2021, Ch. 615, Sec. 206. (AB 474) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 463 of Stats. 2021, Ch. 615.)

54956.95. (a) Nothing in this chapter shall be construed to prevent a joint powers agency formed pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1, for purposes of insurance pooling, or a local agency member of the joint powers agency, from holding a closed session to discuss a claim for the payment of tort liability losses, public liability losses, or workers' compensation liability incurred by the joint powers agency or a local agency member of the joint powers agency.

(b) Nothing in this chapter shall be construed to prevent the Local Agency Self-Insurance Authority formed pursuant to Chapter 5.5 (commencing with Section 6599.01) of Division 7 of Title 1, or a local agency member of the authority, from holding a closed session to discuss a claim for the payment of tort liability losses, public liability losses, or workers' compensation liability incurred by the authority or a local agency member of the authority.

(c) Nothing in this section shall be construed to affect Section 54956.9 with respect to any other local agency.

(Added by Stats. 1989, Ch. 882, Sec. 3.)

54956.96. (a) Nothing in this chapter shall be construed to prevent the legislative body of a joint powers agency formed pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1, from adopting a policy or a bylaw or including in its joint powers agreement provisions that authorize either or both of the following:

(1) All information received by the legislative body of the local agency member in a closed session related to the information presented to the joint powers agency in closed session shall be confidential. However, a member of the legislative body of a local agency member may disclose information obtained in a closed session that has direct financial or liability implications for that local agency to the following individuals:

(A) Legal counsel of that local agency member for purposes of obtaining advice on whether the matter has direct financial or liability implications for that local agency member.

(B) Other members of the legislative body of the local agency present in a closed session of that local agency member.

(2) Any designated alternate member of the legislative body of the joint powers agency who is also a member of the legislative body of a local agency member and who is attending a properly noticed meeting of the joint powers agency in lieu of a local agency member's regularly appointed member to attend closed sessions of the joint powers agency.

(b) (1) In addition to the authority described in subdivision (a), the Clean Power Alliance of Southern California, or its successor entity, may adopt a policy or a bylaw or include in its joint powers agreement a provision that

authorizes both of the following:

(A) A designated alternate member of the legislative body of the Clean Power Alliance of Southern California, or its successor entity, who is not a member of the legislative body of a local agency member and who is attending a properly noticed meeting of the Clean Power Alliance of Southern California, or its successor entity, in lieu of a local agency member's regularly appointed member, to attend closed sessions of the Clean Power Alliance of Southern California, or its successor entity.

(B) All information that is received by a designated alternate member of the legislative body of the Clean Power Alliance of Southern California, or its successor entity, who is not a member of the legislative body of a local agency member, and that is presented to the Clean Power Alliance of Southern California, or its successor entity, in closed session, shall be confidential. However, the designated alternate member may disclose information obtained in a closed session that has direct financial or liability implications for the local agency member for which the designated alternate member attended the closed session, to the following individuals:

(i) Legal counsel of that local agency member for purposes of obtaining advice on whether the matter has direct financial or liability implications for that local agency member.

(ii) Members of the legislative body of the local agency present in a closed session of that local agency member.

(2) If the Clean Power Alliance of Southern California, or its successor entity, adopts a policy or bylaw or includes in its joint powers agreement a provision authorized pursuant to paragraph (1), the Clean Power Alliance of Southern California, or its successor entity, shall establish policies to prevent conflicts of interest and to address breaches of confidentiality that apply to a designated alternate member who is not a member of the legislative body of a local agency member who attends a closed session of the Clean Power Alliance of Southern California, or its successor entity.

(c) If the legislative body of a joint powers agency adopts a policy or a bylaw or includes provisions in its joint powers agreement pursuant to subdivision (a) or (b), then the legislative body of the local agency member, upon the advice of its legal counsel, may conduct a closed session in order to receive, discuss, and take action concerning information obtained in a closed session of the joint powers agency pursuant to paragraph (1) of subdivision (a) or paragraph (1) of subdivision (b).

(d) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

(Amended by Stats. 2019, Ch. 248, Sec. 1. (SB 355) Effective January 1, 2020. Repealed as of January 1, 2025, by its own provisions. See later operative version added by Sec. 2 of Stats. 2019, Ch. 248.)

54956.96. (a) Nothing in this chapter shall be construed to prevent the legislative body of a joint powers agency formed pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1, from adopting a policy or a bylaw or including in its joint powers agreement provisions that authorize either or both of the following:

(1) All information received by the legislative body of the local agency member in a closed session related to the information presented to the joint powers agency in closed session shall be confidential. However, a member of the legislative body of a local agency member may disclose information obtained in a closed session that has direct financial or liability implications for that local agency to the following individuals:

(A) Legal counsel of that local agency member for purposes of obtaining advice on whether the matter has direct financial or liability implications for that local agency member.

(B) Other members of the legislative body of the local agency present in a closed session of that local agency member.

(2) A designated alternate member of the legislative body of the joint powers agency who is also a member of the legislative body of a local agency member and who is attending a properly noticed meeting of the joint powers agency in lieu of a local agency member's regularly appointed member to attend closed sessions of the joint powers agency.

(b) If the legislative body of a joint powers agency adopts a policy or a bylaw or includes provisions in its joint powers agreement pursuant to subdivision (a), then the legislative body of the local agency member, upon the advice of its legal counsel, may conduct a closed session in order to receive, discuss, and take action concerning information obtained in a closed session of the joint powers agency pursuant to paragraph (1) of subdivision (a).

(c) This section shall become operative on January 1, 2025.

(Repealed (in Sec. 1) and added by Stats. 2019, Ch. 248, Sec. 2. (SB 355) Effective January 1, 2020. Section operative January 1, 2025, by its own provisions.)

54956.97. Notwithstanding any provision of law, the governing board, or a committee of the governing board, of a public bank, as defined in Section 57600 of the Government Code, may meet in closed session to consider and take action on matters pertaining to all of the following:

(a) A loan or investment decision.

(b) A decision of the internal audit committee, the compliance committee, or the governance committee.

(c) A meeting with a state or federal regulator.

(Added by Stats. 2019, Ch. 442, Sec. 14. (AB 857) Effective January 1, 2020.)

54956.98. (a) For purposes of this section, the following definitions shall apply:

(1) "Shareholder, member, or owner local agency" or "shareholder, member, or owner" means a local agency that is a shareholder of a public bank.

(2) "Public bank" has the same meaning as defined in Section 57600.

(b) The governing board of a public bank may adopt a policy or a bylaw or include in its governing documents provisions that authorize any of the following:

(1) All information received by a shareholder, member, or owner of the public bank in a closed session related to the information presented to the governing board of a public bank in closed session shall be confidential. However, a member of the governing board of a shareholder, member, or owner local agency may disclose information obtained in a closed session that has direct financial or liability implications for that local agency to the following individuals:

(A) Legal counsel of that shareholder, member, or owner local agency for purposes of obtaining advice on whether the matter has direct financial or liability implications for that shareholder local agency.

(B) Other members of the governing board of the local agency present in a closed session of that shareholder, member, or owner local agency.

(2) A designated alternate member of the governing board of the public bank who is also a member of the governing board of a shareholder, member, or owner local agency and who is attending a properly noticed meeting of the public bank governing board in lieu of a shareholder, member, or owner local agency's regularly appointed member may attend a closed session of the public bank governing board.

(c) If the governing board of a public bank adopts a policy or a bylaw or includes provisions in its governing documents pursuant to subdivision (b), then the governing board of the shareholder, member, or owner local agency, upon the advice of its legal counsel, may conduct a closed session in order to receive, discuss, and take action concerning information obtained in a closed session of the public bank governing board pursuant to paragraph (1) of subdivision (b).

(Added by Stats. 2019, Ch. 442, Sec. 15. (AB 857) Effective January 1, 2020.)

54957. (a) This chapter shall not be construed to prevent the legislative body of a local agency from holding closed sessions with the Governor, Attorney General, district attorney, agency counsel, sheriff, or chief of police, or their respective deputies, or a security consultant or a security operations manager, on matters posing a threat to the security of public buildings, a threat to the security of essential public services, including water, drinking water, wastewater treatment, natural gas service, and electric service, or a threat to the public's right of access to public services or public facilities.

(b) (1) Subject to paragraph (2), this chapter shall not be construed to prevent the legislative body of a local agency from holding closed sessions during a regular or special meeting to consider the appointment, employment, evaluation of performance, discipline, or dismissal of a public employee or to hear complaints or charges brought against the employee by another person or employee unless the employee requests a public session.

(2) As a condition to holding a closed session on specific complaints or charges brought against an employee by another person or employee, the employee shall be given written notice of his or her right to have the complaints

or charges heard in an open session rather than a closed session, which notice shall be delivered to the employee personally or by mail at least 24 hours before the time for holding the session. If notice is not given, any disciplinary or other action taken by the legislative body against the employee based on the specific complaints or charges in the closed session shall be null and void.

(3) The legislative body also may exclude from the public or closed meeting, during the examination of a witness, any or all other witnesses in the matter being investigated by the legislative body.

(4) For the purposes of this subdivision, the term "employee" shall include an officer or an independent contractor who functions as an officer or an employee but shall not include any elected official, member of a legislative body or other independent contractors. This subdivision shall not limit local officials' ability to hold closed session meetings pursuant to Sections 1461, 32106, and 32155 of the Health and Safety Code or Sections 37606 and 37624.3 of the Government Code. Closed sessions held pursuant to this subdivision shall not include discussion or action on proposed compensation except for a reduction of compensation that results from the imposition of discipline.

(Amended by Stats. 2013, Ch. 11, Sec. 1. (AB 246) Effective January 1, 2014.)

54957.1. (a) The legislative body of any local agency shall publicly report any action taken in closed session and the vote or abstention on that action of every member present, as follows:

(1) Approval of an agreement concluding real estate negotiations pursuant to Section 54956.8 shall be reported after the agreement is final, as follows:

(A) If its own approval renders the agreement final, the body shall report that approval and the substance of the agreement in open session at the public meeting during which the closed session is held.

(B) If final approval rests with the other party to the negotiations, the local agency shall disclose the fact of that approval and the substance of the agreement upon inquiry by any person, as soon as the other party or its agent has informed the local agency of its approval.

(2) Approval given to its legal counsel to defend, or seek or refrain from seeking appellate review or relief, or to enter as an amicus curiae in any form of litigation as the result of a consultation under Section 54956.9 shall be reported in open session at the public meeting during which the closed session is held. The report shall identify, if known, the adverse party or parties and the substance of the litigation. In the case of approval given to initiate or intervene in an action, the announcement need not identify the action, the defendants, or other particulars, but shall specify that the direction to initiate or intervene in an action has been given and that the action, the defendants, and the other particulars shall, once formally commenced, be disclosed to any person upon inquiry, unless to do so would jeopardize the agency's ability to effectuate service of process on one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

(3) Approval given to its legal counsel of a settlement of pending litigation, as defined in Section 54956.9, at any stage prior to or during a judicial or quasi-judicial proceeding shall be reported after the settlement is final, as follows:

(A) If the legislative body accepts a settlement offer signed by the opposing party, the body shall report its acceptance and identify the substance of the agreement in open session at the public meeting during which the closed session is held.

(B) If final approval rests with some other party to the litigation or with the court, then as soon as the settlement becomes final, and upon inquiry by any person, the local agency shall disclose the fact of that approval, and identify the substance of the agreement.

(4) Disposition reached as to claims discussed in closed session pursuant to Section 54956.95 shall be reported as soon as reached in a manner that identifies the name of the claimant, the name of the local agency claimed against, the substance of the claim, and any monetary amount approved for payment and agreed upon by the claimant.

(5) Action taken to appoint, employ, dismiss, accept the resignation of, or otherwise affect the employment status of a public employee in closed session pursuant to Section 54957 shall be reported at the public meeting during which the closed session is held. Any report required by this paragraph shall identify the title of the position. The

general requirement of this paragraph notwithstanding, the report of a dismissal or of the nonrenewal of an employment contract shall be deferred until the first public meeting following the exhaustion of administrative remedies, if any.

(6) Approval of an agreement concluding labor negotiations with represented employees pursuant to Section 54957.6 shall be reported after the agreement is final and has been accepted or ratified by the other party. The report shall identify the item approved and the other party or parties to the negotiation.

(7) Pension fund investment transaction decisions made pursuant to Section 54956.81 shall be disclosed at the first open meeting of the legislative body held after the earlier of the close of the investment transaction or the transfer of pension fund assets for the investment transaction.

(b) Reports that are required to be made pursuant to this section may be made orally or in writing. The legislative body shall provide to any person who has submitted a written request to the legislative body within 24 hours of the posting of the agenda, or to any person who has made a standing request for all documentation as part of a request for notice of meetings pursuant to Section 54954.1 or 54956, if the requester is present at the time the closed session ends, copies of any contracts, settlement agreements, or other documents that were finally approved or adopted in the closed session. If the action taken results in one or more substantive amendments to the related documents requiring retyping, the documents need not be released until the retyping is completed during normal business hours, provided that the presiding officer of the legislative body or his or her designee orally summarizes the substance of the amendments for the benefit of the document requester or any other person present and requesting the information.

(c) The documentation referred to in subdivision (b) shall be available to any person on the next business day following the meeting in which the action referred to is taken or, in the case of substantial amendments, when any necessary retyping is complete.

(d) Nothing in this section shall be construed to require that the legislative body approve actions not otherwise subject to legislative body approval.

(e) No action for injury to a reputational, liberty, or other personal interest may be commenced by or on behalf of any employee or former employee with respect to whom a disclosure is made by a legislative body in an effort to comply with this section.

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

(Amended by Stats. 2006, Ch. 538, Sec. 311. Effective January 1, 2007.)

54957.2. (a) The legislative body of a local agency may, by ordinance or resolution, designate a clerk or other officer or employee of the local agency who shall then attend each closed session of the legislative body and keep and enter in a minute book a record of topics discussed and decisions made at the meeting. The minute book made pursuant to this section is not a public record subject to inspection pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1), and shall be kept confidential. The minute book shall be available only to members of the legislative body or, if a violation of this chapter is alleged to have occurred at a closed session, to a court of general jurisdiction wherein the local agency lies. The minute book may, but need not, consist of a recording of the closed session.

(b) An elected legislative body of a local agency may require that each legislative body all or a majority of whose members are appointed by or under the authority of the elected legislative body keep a minute book as prescribed under subdivision (a).

(Amended by Stats. 2021, Ch. 615, Sec. 207. (AB 474) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 463 of Stats. 2021, Ch. 615.)

54957.5. (a) Agendas of public meetings are disclosable public records under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1), and shall be made available upon request without delay and in compliance with Section 54954.2 or Section 54956, as applicable. However, this section shall not apply to a writing, or portion thereof, that is exempt from public disclosure.

(b) (1) If a writing is a public record related to an agenda item for an open session of a regular meeting of the legislative body of a local agency and is distributed to all, or a majority of all, of the members of a legislative body of a local agency by a person in connection with a matter subject to discussion or consideration at an open meeting of the body less than 72 hours before that meeting, the writing shall be made available for public inspection pursuant to paragraph (2) at the time the writing is distributed to all, or a majority of all, of the members of the body.

(2) (A) Except as provided in subparagraph (B), a local agency shall comply with both of the following requirements:

- (i) A local agency shall make any writing described in paragraph (1) available for public inspection at a public office or location that the agency shall designate for this purpose.
- (ii) A local agency shall list the address of the office or location designated pursuant to clause (i) on the agendas for all meetings of the legislative body of that agency.

(B) A local agency shall not be required to comply with the requirements of subparagraph (A) if all of the following requirements are met:

- (i) An initial staff report or similar document containing an executive summary and the staff recommendation, if any, relating to that agenda item is made available for public inspection at the office or location designated pursuant to clause (i) of subparagraph (A) at least 72 hours before the meeting.
 - (ii) The local agency immediately posts any writing described in paragraph (1) on the local agency's internet website in a position and manner that makes it clear that the writing relates to an agenda item for an upcoming meeting.
 - (iii) The local agency lists the web address of the local agency's internet website on the agendas for all meetings of the legislative body of that agency.
 - (iv) (I) Subject to subclause (II), the local agency makes physical copies available for public inspection, beginning the next regular business hours for the local agency, at the office or location designated pursuant to clause (i) of subparagraph (A).
- (II) This clause is satisfied only if the next regular business hours of the local agency commence at least 24 hours before that meeting.

(c) Writings that are public records described in subdivision (b) and distributed during a public meeting shall be made available for public inspection at the meeting if prepared by the local agency or a member of its legislative body, or after the meeting if prepared by some other person. These writings shall be made available in appropriate alternative formats upon request by a person with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof.

(d) This chapter shall not be construed to prevent the legislative body of a local agency from charging a fee or deposit for a copy of a public record pursuant to Section 7922.530, except that a surcharge shall not be imposed on persons with disabilities in violation of Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof.

(e) This section shall not be construed to limit or delay the public's right to inspect or obtain a copy of any record required to be disclosed under the requirements of the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1), including, but not limited to, the ability of the public to inspect public records pursuant to Section 7922.525 and obtain copies of public records pursuant to either subdivision (b) of Section 7922.530 or Section 7922.535. This chapter shall not be construed to require a legislative body of a local agency to place any paid advertisement or any other paid notice in any publication.

(Amended (as amended by Stats. 2021, Ch. 615, Sec. 208) by Stats. 2022, Ch. 971, Sec. 1. (AB 2647) Effective January 1, 2023.)

54957.6. (a) Notwithstanding any other provision of law, a legislative body of a local agency may hold closed sessions with the local agency's designated representatives regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits of its represented and unrepresented employees, and, for represented employees, any other matter within the statutorily provided scope of representation.

However, prior to the closed session, the legislative body of the local agency shall hold an open and public session in which it identifies its designated representatives.

Closed sessions of a legislative body of a local agency, as permitted in this section, shall be for the purpose of reviewing its position and instructing the local agency's designated representatives.

Closed sessions, as permitted in this section, may take place prior to and during consultations and discussions with representatives of employee organizations and unrepresented employees.

Closed sessions with the local agency's designated representative regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits may include discussion of an agency's available funds and funding priorities, but only insofar as these discussions relate to providing instructions to the local agency's designated representative.

Closed sessions held pursuant to this section shall not include final action on the proposed compensation of one or more unrepresented employees.

For the purposes enumerated in this section, a legislative body of a local agency may also meet with a state conciliator who has intervened in the proceedings.

(b) For the purposes of this section, the term "employee" shall include an officer or an independent contractor who functions as an officer or an employee, but shall not include any elected official, member of a legislative body, or other independent contractors.

(Amended by Stats. 1998, Ch. 260, Sec. 5. Effective January 1, 1999.)

54957.7. (a) Prior to holding any closed session, the legislative body of the local agency shall disclose, in an open meeting, the item or items to be discussed in the closed session. The disclosure may take the form of a reference to the item or items as they are listed by number or letter on the agenda. In the closed session, the legislative body may consider only those matters covered in its statement. Nothing in this section shall require or authorize a disclosure of information prohibited by state or federal law.

(b) After any closed session, the legislative body shall reconvene into open session prior to adjournment and shall make any disclosures required by Section 54957.1 of action taken in the closed session.

(c) The announcements required to be made in open session pursuant to this section may be made at the location announced in the agenda for the closed session, as long as the public is allowed to be present at that location for the purpose of hearing the announcements.

(Amended by Stats. 1993, Ch. 1137, Sec. 15. Effective January 1, 1994. Operative April 1, 1994, by Sec. 23 of Ch. 1137.)

54957.8. (a) For purposes of this section, "multijurisdictional law enforcement agency" means a joint powers entity formed pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 that provides law enforcement services for the parties to the joint powers agreement for the purpose of investigating criminal activity involving drugs; gangs; sex crimes; firearms trafficking or felony possession of a firearm; high technology, computer, or identity theft; human trafficking; or vehicle theft.

(b) Nothing contained in this chapter shall be construed to prevent the legislative body of a multijurisdictional law enforcement agency, or an advisory body of a multijurisdictional law enforcement agency, from holding closed sessions to discuss the case records of any ongoing criminal investigation of the multijurisdictional law enforcement agency or of any party to the joint powers agreement, to hear testimony from persons involved in the investigation, and to discuss courses of action in particular cases.

(Amended by Stats. 2006, Ch. 427, Sec. 1. Effective September 22, 2006.)

54957.9. In the event that any meeting is willfully interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of individuals who are willfully interrupting the meeting, the members of the legislative body conducting the meeting may order the meeting room cleared and continue in session. Only matters appearing on the agenda may be considered in such a session. Representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held pursuant to this section. Nothing in this section shall prohibit the legislative body from establishing a procedure for readmitting an individual or individuals not responsible for willfully disturbing the orderly conduct of the meeting.

(Amended by Stats. 1981, Ch. 968, Sec. 34.)

54957.95. (a) (1) In addition to authority exercised pursuant to Sections 54954.3 and 54957.9, the presiding member of the legislative body conducting a meeting or their designee may remove, or cause the removal of, an individual for disrupting the meeting.

(2) Prior to removing an individual, the presiding member or their designee shall warn the individual that their behavior is disrupting the meeting and that their failure to cease their behavior may result in their removal. The presiding member or their designee may then remove the individual if they do not promptly cease their disruptive behavior. This paragraph does not apply to any behavior described in subparagraph (B) of paragraph (1) of subdivision (b).

(b) As used in this section:

(1) "Disrupting" means engaging in behavior during a meeting of a legislative body that actually disrupts, disturbs, impedes, or renders infeasible the orderly conduct of the meeting and includes, but is not limited to, one of the following:

(A) A failure to comply with reasonable and lawful regulations adopted by a legislative body pursuant to Section 54954.3 or any other law.

(B) Engaging in behavior that constitutes use of force or a true threat of force.

(2) "True threat of force" means a threat that has sufficient indicia of intent and seriousness, that a reasonable observer would perceive it to be an actual threat to use force by the person making the threat.

(Added by Stats. 2022, Ch. 171, Sec. 2. (SB 1100) Effective January 1, 2023.)

54957.10. Notwithstanding any other provision of law, a legislative body of a local agency may hold closed sessions to discuss a local agency employee's application for early withdrawal of funds in a deferred compensation plan when the application is based on financial hardship arising from an unforeseeable emergency due to illness, accident, casualty, or other extraordinary event, as specified in the deferred compensation plan.

(Added by Stats. 2001, Ch. 45, Sec. 1. Effective January 1, 2002.)

54958. The provisions of this chapter shall apply to the legislative body of every local agency notwithstanding the conflicting provisions of any other state law.

(Added by Stats. 1953, Ch. 1588.)

54959. Each member of a legislative body who attends a meeting of that legislative body where action is taken in violation of any provision of this chapter, and where the member intends to deprive the public of information to which the member knows or has reason to know the public is entitled under this chapter, is guilty of a misdemeanor.

(Amended by Stats. 1994, Ch. 32, Sec. 18. Effective March 30, 1994. Operative April 1, 1994, by Sec. 23 of Ch. 32.)

54960. (a) The district attorney or any interested person may commence an action by mandamus, injunction, or declaratory relief for the purpose of stopping or preventing violations or threatened violations of this chapter by members of the legislative body of a local agency or to determine the applicability of this chapter to ongoing actions or threatened future actions of the legislative body, or to determine the applicability of this chapter to past actions of the legislative body, subject to Section 54960.2, or to determine whether any rule or action by the legislative body to penalize or otherwise discourage the expression of one or more of its members is valid or invalid under the laws of this state or of the United States, or to compel the legislative body to audio record its closed sessions as hereinafter provided.

(b) The court in its discretion may, upon a judgment of a violation of Section 54956.7, 54956.8, 54956.9, 54956.95, 54957, or 54957.6, order the legislative body to audio record its closed sessions and preserve the audio recordings for the period and under the terms of security and confidentiality the court deems appropriate.

(c) (1) Each recording so kept shall be immediately labeled with the date of the closed session recorded and the title of the clerk or other officer who shall be custodian of the recording.

(2) The audio recordings shall be subject to the following discovery procedures:

(A) In any case in which discovery or disclosure of the audio recording is sought by either the district attorney or the plaintiff in a civil action pursuant to Section 54959, 54960, or 54960.1 alleging that a violation of this chapter has occurred in a closed session that has been recorded pursuant to this section, the party seeking discovery or disclosure shall file a written notice of motion with the appropriate court with notice to the governmental agency that has custody and control of the audio recording. The notice shall be given pursuant to subdivision (b) of Section 1005 of the Code of Civil Procedure.

(B) The notice shall include, in addition to the items required by Section 1010 of the Code of Civil Procedure, all of the following:

(i) Identification of the proceeding in which discovery or disclosure is sought, the party seeking discovery or disclosure, the date and time of the meeting recorded, and the governmental agency that has custody and

control of the recording.

(ii) An affidavit that contains specific facts indicating that a violation of the act occurred in the closed session.

(3) If the court, following a review of the motion, finds that there is good cause to believe that a violation has occurred, the court may review, in camera, the recording of that portion of the closed session alleged to have violated the act.

(4) If, following the in camera review, the court concludes that disclosure of a portion of the recording would be likely to materially assist in the resolution of the litigation alleging violation of this chapter, the court shall, in its discretion, make a certified transcript of the portion of the recording a public exhibit in the proceeding.

(5) This section shall not permit discovery of communications that are protected by the attorney-client privilege.

(Amended by Stats. 2012, Ch. 732, Sec. 1. (SB 1003) Effective January 1, 2013.)

54960.1. (a) The district attorney or any interested person may commence an action by mandamus or injunction for the purpose of obtaining a judicial determination that an action taken by a legislative body of a local agency in violation of Section 54953, 54954.2, 54954.5, 54954.6, 54956, or 54956.5 is null and void under this section. Nothing in this chapter shall be construed to prevent a legislative body from curing or correcting an action challenged pursuant to this section.

(b) Prior to any action being commenced pursuant to subdivision (a), the district attorney or interested person shall make a demand of the legislative body to cure or correct the action alleged to have been taken in violation of Section 54953, 54954.2, 54954.5, 54954.6, 54956, or 54956.5. The demand shall be in writing and clearly describe the challenged action of the legislative body and nature of the alleged violation.

(c) (1) The written demand shall be made within 90 days from the date the action was taken unless the action was taken in an open session but in violation of Section 54954.2, in which case the written demand shall be made within 30 days from the date the action was taken.

(2) Within 30 days of receipt of the demand, the legislative body shall cure or correct the challenged action and inform the demanding party in writing of its actions to cure or correct or inform the demanding party in writing of its decision not to cure or correct the challenged action.

(3) If the legislative body takes no action within the 30-day period, the inaction shall be deemed a decision not to cure or correct the challenged action, and the 15-day period to commence the action described in subdivision (a) shall commence to run the day after the 30-day period to cure or correct expires.

(4) Within 15 days of receipt of the written notice of the legislative body's decision to cure or correct, or not to cure or correct, or within 15 days of the expiration of the 30-day period to cure or correct, whichever is earlier, the demanding party shall be required to commence the action pursuant to subdivision (a) or thereafter be barred from commencing the action.

(d) An action taken that is alleged to have been taken in violation of Section 54953, 54954.2, 54954.5, 54954.6, 54956, or 54956.5 shall not be determined to be null and void if any of the following conditions exist:

(1) The action taken was in substantial compliance with Sections 54953, 54954.2, 54954.5, 54954.6, 54956, and 54956.5.

(2) The action taken was in connection with the sale or issuance of notes, bonds, or other evidences of indebtedness or any contract, instrument, or agreement thereto.

(3) The action taken gave rise to a contractual obligation, including a contract let by competitive bid other than compensation for services in the form of salary or fees for professional services, upon which a party has, in good faith and without notice of a challenge to the validity of the action, detrimentally relied.

(4) The action taken was in connection with the collection of any tax.

(5) Any person, city, city and county, county, district, or any agency or subdivision of the state alleging noncompliance with subdivision (a) of Section 54954.2, Section 54956, or Section 54956.5, because of any defect, error, irregularity, or omission in the notice given pursuant to those provisions, had actual notice of the item of business at least 72 hours prior to the meeting at which the action was taken, if the meeting was noticed

pursuant to Section 54954.2, or 24 hours prior to the meeting at which the action was taken if the meeting was noticed pursuant to Section 54956, or prior to the meeting at which the action was taken if the meeting is held pursuant to Section 54956.5.

(e) During any action seeking a judicial determination pursuant to subdivision (a) if the court determines, pursuant to a showing by the legislative body that an action alleged to have been taken in violation of Section 54953, 54954.2, 54954.5, 54954.6, 54956, or 54956.5 has been cured or corrected by a subsequent action of the legislative body, the action filed pursuant to subdivision (a) shall be dismissed with prejudice.

(f) The fact that a legislative body takes a subsequent action to cure or correct an action taken pursuant to this section shall not be construed or admissible as evidence of a violation of this chapter.

(Amended by Stats. 2002, Ch. 454, Sec. 23. Effective January 1, 2003.)

54960.2. (a) The district attorney or any interested person may file an action to determine the applicability of this chapter to past actions of the legislative body pursuant to subdivision (a) of Section 54960 only if all of the following conditions are met:

(1) The district attorney or interested person alleging a violation of this chapter first submits a cease and desist letter by postal mail or facsimile transmission to the clerk or secretary of the legislative body being accused of the violation, as designated in the statement pertaining to that public agency on file pursuant to Section 53051, or if the agency does not have a statement on file designating a clerk or a secretary, to the chief executive officer of that agency, clearly describing the past action of the legislative body and nature of the alleged violation.

(2) The cease and desist letter required under paragraph (1) is submitted to the legislative body within nine months of the alleged violation.

(3) The time during which the legislative body may respond to the cease and desist letter pursuant to subdivision (b) has expired and the legislative body has not provided an unconditional commitment pursuant to subdivision (c).

(4) Within 60 days of receipt of the legislative body's response to the cease and desist letter, other than an unconditional commitment pursuant to subdivision (c), or within 60 days of the expiration of the time during which the legislative body may respond to the cease and desist letter pursuant to subdivision (b), whichever is earlier, the party submitting the cease and desist letter shall commence the action pursuant to subdivision (a) of Section 54960 or thereafter be barred from commencing the action.

(b) The legislative body may respond to a cease and desist letter submitted pursuant to subdivision (a) within 30 days of receiving the letter. This subdivision shall not be construed to prevent the legislative body from providing an unconditional commitment pursuant to subdivision (c) at any time after the 30-day period has expired, except that in that event the court shall award court costs and reasonable attorney fees to the plaintiff in an action brought pursuant to this section, in accordance with Section 54960.5.

(c) (1) If the legislative body elects to respond to the cease and desist letter with an unconditional commitment to cease, desist from, and not repeat the past action that is alleged to violate this chapter, that response shall be in substantially the following form:

To _____:

The [name of legislative body] has received your cease and desist letter dated [date] alleging that the following described past action of the legislative body violates the Ralph M. Brown Act:

[Describe alleged past action, as set forth in the cease and desist letter submitted pursuant to subdivision (a)]

In order to avoid unnecessary litigation and without admitting any violation of the Ralph M. Brown Act, the [name of legislative body] hereby unconditionally commits that it will cease, desist from, and not repeat the challenged past action as described above.

The [name of legislative body] may rescind this commitment only by a majority vote of its membership taken in open session at a regular meeting and noticed on its posted agenda as "Rescission of Brown Act Commitment." You will be provided with written notice, sent by any means or media you provide in response to this message, to

whatever address or addresses you specify, of any intention to consider rescinding this commitment at least 30 days before any such regular meeting. In the event that this commitment is rescinded, you will have the right to commence legal action pursuant to subdivision (a) of Section 54960 of the Government Code. That notice will be delivered to you by the same means as this commitment, or may be mailed to an address that you have designated in writing.

Very truly yours,

[Chairperson or acting chairperson of the legislative body]

(2) An unconditional commitment pursuant to this subdivision shall be approved by the legislative body in open session at a regular or special meeting as a separate item of business, and not on its consent agenda.

(3) An action shall not be commenced to determine the applicability of this chapter to any past action of the legislative body for which the legislative body has provided an unconditional commitment pursuant to this subdivision. During any action seeking a judicial determination regarding the applicability of this chapter to any past action of the legislative body pursuant to subdivision (a), if the court determines that the legislative body has provided an unconditional commitment pursuant to this subdivision, the action shall be dismissed with prejudice. Nothing in this subdivision shall be construed to modify or limit the existing ability of the district attorney or any interested person to commence an action to determine the applicability of this chapter to ongoing actions or threatened future actions of the legislative body.

(4) Except as provided in subdivision (d), the fact that a legislative body provides an unconditional commitment shall not be construed or admissible as evidence of a violation of this chapter.

(d) If the legislative body provides an unconditional commitment as set forth in subdivision (c), the legislative body shall not thereafter take or engage in the challenged action described in the cease and desist letter, except as provided in subdivision (e). Violation of this subdivision shall constitute an independent violation of this chapter, without regard to whether the challenged action would otherwise violate this chapter. An action alleging past violation or threatened future violation of this subdivision may be brought pursuant to subdivision (a) of Section 54960, without regard to the procedural requirements of this section.

(e) The legislative body may resolve to rescind an unconditional commitment made pursuant to subdivision (c) by a majority vote of its membership taken in open session at a regular meeting as a separate item of business not on its consent agenda, and noticed on its posted agenda as "Rescission of Brown Act Commitment," provided that not less than 30 days prior to such regular meeting, the legislative body provides written notice of its intent to consider the rescission to each person to whom the unconditional commitment was made, and to the district attorney. Upon rescission, the district attorney or any interested person may commence an action pursuant to subdivision (a) of Section 54960. An action under this subdivision may be brought pursuant to subdivision (a) of Section 54960, without regard to the procedural requirements of this section.

(Added by Stats. 2012, Ch. 732, Sec. 2. (SB 1003) Effective January 1, 2013.)

54960.5. A court may award court costs and reasonable attorney fees to the plaintiff in an action brought pursuant to Section 54960, 54960.1, or 54960.2 where it is found that a legislative body of the local agency has violated this chapter. Additionally, when an action brought pursuant to Section 54960.2 is dismissed with prejudice because a legislative body has provided an unconditional commitment pursuant to paragraph (1) of subdivision (c) of that section at any time after the 30-day period for making such a commitment has expired, the court shall award court costs and reasonable attorney fees to the plaintiff if the filing of that action caused the legislative body to issue the unconditional commitment. The costs and fees shall be paid by the local agency and shall not become a personal liability of any public officer or employee of the local agency.

A court may award court costs and reasonable attorney fees to a defendant in any action brought pursuant to Section 54960 or 54960.1 where the defendant has prevailed in a final determination of such action and the court finds that the action was clearly frivolous and totally lacking in merit.

(Amended by Stats. 2012, Ch. 732, Sec. 3. (SB 1003) Effective January 1, 2013.)

54961. (a) No legislative body of a local agency shall conduct any meeting in any facility that prohibits the admittance of any person, or persons, on the basis of ancestry or any characteristic listed or defined in Section 11135, or which is inaccessible to disabled persons, or where members of the public may not be present without making a payment or purchase. This section shall apply to every local agency as defined in Section 54951.

(b) No notice, agenda, announcement, or report required under this chapter need identify any victim or alleged victim of tortious sexual conduct or child abuse unless the identity of the person has been publicly disclosed.

(Amended by Stats. 2007, Ch. 568, Sec. 35. Effective January 1, 2008.)

54962. Except as expressly authorized by this chapter, or by Sections 1461, 1462, 32106, and 32155 of the Health and Safety Code, or by Sections 37606, 37606.1, and 37624.3 of the Government Code as they apply to hospitals, or by any provision of the Education Code pertaining to school districts and community college districts, no closed session may be held by any legislative body of any local agency.

(Amended by Stats. 2006, Ch. 157, Sec. 2. Effective January 1, 2007.)

54963. (a) A person may not disclose confidential information that has been acquired by being present in a closed session authorized by Section 54956.7, 54956.8, 54956.86, 54956.87, 54956.9, 54957, 54957.6, 54957.8, or 54957.10 to a person not entitled to receive it, unless the legislative body authorizes disclosure of that confidential information.

(b) For purposes of this section, "confidential information" means a communication made in a closed session that is specifically related to the basis for the legislative body of a local agency to meet lawfully in closed session under this chapter.

(c) Violation of this section may be addressed by the use of such remedies as are currently available by law, including, but not limited to:

(1) Injunctive relief to prevent the disclosure of confidential information prohibited by this section.

(2) Disciplinary action against an employee who has willfully disclosed confidential information in violation of this section.

(3) Referral of a member of a legislative body who has willfully disclosed confidential information in violation of this section to the grand jury.

(d) Disciplinary action pursuant to paragraph (2) of subdivision (c) shall require that the employee in question has either received training as to the requirements of this section or otherwise has been given notice of the requirements of this section.

(e) A local agency may not take any action authorized by subdivision (c) against a person, nor shall it be deemed a violation of this section, for doing any of the following:

(1) Making a confidential inquiry or complaint to a district attorney or grand jury concerning a perceived violation of law, including disclosing facts to a district attorney or grand jury that are necessary to establish the illegality of an action taken by a legislative body of a local agency or the potential illegality of an action that has been the subject of deliberation at a closed session if that action were to be taken by a legislative body of a local agency.

(2) Expressing an opinion concerning the propriety or legality of actions taken by a legislative body of a local agency in closed session, including disclosure of the nature and extent of the illegal or potentially illegal action.

(3) Disclosing information acquired by being present in a closed session under this chapter that is not confidential information.

(f) Nothing in this section shall be construed to prohibit disclosures under the whistleblower statutes contained in Section 1102.5 of the Labor Code or Article 4.5 (commencing with Section 53296) of Chapter 2 of this code.

(Added by Stats. 2002, Ch. 1119, Sec. 1. Effective January 1, 2003.)



GOVERNMENT CODE - GOV

TITLE 2. GOVERNMENT OF THE STATE OF CALIFORNIA [8000 - 22980] (*Title 2 enacted by Stats. 1943, Ch. 134.)*

DIVISION 3. EXECUTIVE DEPARTMENT [11000 - 15986] (*Division 3 added by Stats. 1945, Ch. 111.)*

PART 1. STATE DEPARTMENTS AND AGENCIES [11000 - 11898] (*Part 1 added by Stats. 1945, Ch. 111.)*

CHAPTER 1. State Agencies [11000 - 11148.5] (*Chapter 1 added by Stats. 1945, Ch. 111.)*

ARTICLE 9.5. Discrimination [11135 - 11139.8] (*Article 9.5 added by Stats. 1977, Ch. 972.)*

11135. (a) No person in the State of California shall, on the basis of sex, race, color, religion, ancestry, national origin, ethnic group identification, age, mental disability, physical disability, medical condition, genetic information, marital status, or sexual orientation, be unlawfully denied full and equal access to the benefits of, or be unlawfully subjected to discrimination under, any program or activity that is conducted, operated, or administered by the state or by any state agency, is funded directly by the state, or receives any financial assistance from the state. Notwithstanding Section 11000, this section applies to the California State University.

(b) With respect to discrimination on the basis of disability, programs and activities subject to subdivision (a) shall meet the protections and prohibitions contained in Section 202 of the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof, except that if the laws of this state prescribe stronger protections and prohibitions, the programs and activities subject to subdivision (a) shall be subject to the stronger protections and prohibitions.

(c) The protected bases referenced in this section have the same meanings as those terms are defined in Section 12926.

(d) The protected bases used in this section include a perception that a person has any of those characteristics or that the person is associated with a person who has, or is perceived to have, any of those characteristics.

(*Amended by Stats. 2016, Ch. 870, Sec. 4. (SB 1442) Effective January 1, 2017.*)

Sequoias Community College District Academic Senate Remote Meeting Attendance Policy

Background:

For the last two and a half years, the COVID-19 global pandemic has impacted social life in immeasurable ways. As such, a new normal necessitated new approaches to carrying out daily life and business.

For public meetings held by legislative bodies, such as the Academic Senate, changes/modifications to the [Ralph M. Brown Act](#) were ushered in by [AB 361 \(Rivas\)](#). Rivas allowed for the suspension of certain Brown Act requirements for teleconferencing into public meetings as long as a declared state of emergency existed and legislative bodies voted every 30 days to acknowledge and affirm the on-going state of emergency. The Rivas modifications were set to sunset on January 1st, 2024. However, in November 2022, Governor Newsom announced the decision to rescind the declaration of a state of emergency due to the COVID – 19 global pandemic, effective February 28th, 2023. In response to the approaching sunset of Rivas and anticipated end of the declaration of a state of emergency, the California State Legislature passed new modifications to the Brown Act: [AB 2449 \(Rubio\)](#).

Rubio permits members of legislative bodies, like the Academic Senate, to participate in meetings remotely¹ under certain “specified circumstances, including participating remotely for just cause or due to emergency circumstances” provided that other required elements of the law are met.

Definitions

Emergency Circumstances

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

Just Cause

“Just cause” means any of the following:

- A childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires the member to participate remotely.
- A contagious illness that prevents a member from attending in person.
- A need related to a physical or mental disability.
- Travel while on official business of the Sequoias CCD.

¹ Any member may participate in meetings remotely provided that their location is publicly listed in the agenda and members of the public can access it to attend the meeting. This policy addresses requests to attend remotely without meeting these requirements.

Procedure(s) to Request Remote Attendance

Request(s) with prior knowledge of Just Cause

If a Senator seeks to attend a meeting remotely under Just Cause, a request must be made, via email, to the Academic Senate Executive Board, **at least 4 business days before** the scheduled Academic Senate meeting. The Senator must provide a brief rationale, of no more than 20 words, for the request according to the above definitions. This general description should not disclose protected medical or disability information. Provided the request meets these requirements, the request will be added to the meeting agenda as the first action item and listed as “Remote Attendance Request – Just Cause.” A simple majority is needed to approve of the request.

Request(s) made without prior knowledge of Just Cause

If a Senator seeks to attend a meeting remotely under Just Cause, according to the above definitions, **with less than four days before** the scheduled Academic Senate meeting, the Senator, at the scheduled Academic Senate meeting, will utilize the Public Comments for Items Not on the Agenda period, to inform the Academic Senate of their need to participate remotely for just cause. In their comments, the Senator shall provide a general description of the circumstances, no more than 20 words, relating to their need to appear remotely at the given meeting—this general description should not disclose protected medical or disability information—and the Senator shall request that a Remote Attendance Request – Just Cause item be added to the meeting’s agenda as an Action item. A vote will take place to amend the agenda to add a Remote Attendance Request – Just Cause Action item to the agenda. A simple majority is needed to approve the request to amend the agenda.

If the majority of the Academic Senate votes to amend the agenda to add a Remote Attendance Request – Just Cause as an Action item, the request will be added to the agenda as the first Action item. A second vote will take place on this item during the Action portion of the agenda. A simple majority is needed to approve the Remote Attendance Request – Just Cause action item.

***Note: per Rubio, the use of Remote Attendance Request – Just Cause is limited to two meetings for each Senator during the calendar year.**

Request under Emergency Circumstances

If a Senator seeks to attend a meeting remotely under Emergency Circumstances, according to the above definitions, the Senator, at the scheduled Academic Senate meeting, will utilize the Public Comments for Items Not on the Agenda period, to inform the Academic Senate of their need to participate remotely for emergency circumstances. In their comments, the Senator shall provide a general description of the circumstances, no more than 20 words, relating to their need to appear remotely at the given meeting—this general description should not disclose protected medical or disability information—and the Senator shall request that a Remote Attendance Request – Emergency Circumstances item be added to the meeting’s agenda as an Action item. A vote will take place to amend the agenda to add a Remote

Attendance Request – Emergency Circumstances Action item to the agenda. A simple majority is needed to approve the request to amend the agenda.

If the majority of the Academic Senate votes to amend the agenda to add a Remote Attendance Request – Emergency Circumstances as an Action item, the request will be added to the agenda as the first Action item. A second vote will take place on this item during the Action portion of the agenda. A simple majority is needed to approve the Remote Attendance Request – Emergency Circumstances action item.

***Note: per Rubio, the use of Remote Attendance Request – Emergency Circumstances is limited to no more than three consecutive months or 20 percent of the regular meetings for the Academic Senate within a calendar year—the actual number of meetings will be determined based on the number of scheduled Academic Senate meetings for the calendar year.**

Further Legal Requirements under Rubio

- A quorum of the Academic Senate, as defined by the Constitution and By-laws of the Academic Senate, must be participating in-person at the single location reflected in the posted meeting agenda.
- If a Remote Attendance Request is approved, the Senator, who is participating remotely, must participate through both audio and video technology; and
- The Senator, who is participating remotely, must disclose at the meeting before any action is taken, whether any other individuals 18 years of age or older are present in the room at the remote location with the Senator, and the general nature of the Senator's relationship with any such individuals.

Other Considerations

AB 2449 (Rubio) provisions remain in effect until January 1, 2026 unless repealed sooner or new legislation revises and recasts its provisions.