



California Special Districts Association

Districts Stronger Together

advertising the means of public observation and comment using "the most rapid means of communication available at the time" within the meaning of California Government Code, section 54954(e); this includes, but is not limited to, posting the manner in which the public could participate on the agency's website.

The orders also provided flexibility for a legislative body to receive a "serial" or simultaneous communication outside of an open meeting, allowing all members of the legislative body to receive updates (including, but not limited to, simultaneous updates) relevant to the emergency (including, but not limited to, updates concerning the impacts of COVID-19, the government response to COVID-19, and other aspects relevant to the declared emergency) from federal, state, and local officials, and would be allowed to ask questions of those federal, state, and local officials, in order for members of the legislative body to stay apprised of emergency operations and the impact of the emergency on their constituents. Members of a local legislative body were explicitly not permitted to take action on, or to discuss amongst themselves, any item of business that was within the subject matter jurisdiction of the legislative body without complying with requirements of the Brown Act.⁴

The Brown Act Executive Orders Sunset – September 30, 2021

On June 11, 2021, the Governor issued Executive Order N-08-21 which rescinds the aforementioned modifications made to the Brown Act, effective September 30, 2021.⁵ After that date, local agencies are required to observe all the usual Brown Act requirements *status quo ante* (as they existed prior to the issuance of the orders). Local agencies must once again ensure that the public is provided with access to a physical location from which they may observe a public meeting and offer public comment. Local agencies must also resume publication of the location of teleconferencing board members, post meeting notices and agendas in those locations, and make those locations available to the public in order to observe a meeting and provide public comment.

Following the Governor's September 16 signing of AB 361, the Governor's office contemplated immediately rescinding the remote public meeting authority provided under prior Executive Orders. Such action would have instantly impacted thousands of local agencies – potentially requiring them to cancel meetings or conduct in-person meetings or meetings pursuant to standard Brown Act teleconferencing requirements, notwithstanding the ongoing health directives related to the pandemic. After fruitful discussions between CSDA, the Governor's office, and other stakeholders on how to best assist local agencies to conduct meetings in an open and public manner, the Governor's office modified its approach and issued a revised Order on September 20, suspending the provisions of AB 361 and providing for a clear transition.⁶

Until September 30, local agencies should look to the revised Executive Order, [N-15-21](#), to determine how to conduct a particular meeting. The revised Order makes clear that, **until September 30**, local agencies may conduct open and public remote meetings relying on the

⁴ **Executive Order N-35-20**, <https://www.gov.ca.gov/wp-content/uploads/2020/03/3.21.20-EO-N-35-20.pdf>

⁵ **Executive Order N-08-21**, <https://www.gov.ca.gov/wp-content/uploads/2021/06/6.11.21-EO-N-08-21-signed.pdf>

⁶ **Executive Order N-15-21**, [gov.ca.gov/wp-content/uploads/2021/09/9.20.21-executive-order.pdf](https://www.gov.ca.gov/wp-content/uploads/2021/09/9.20.21-executive-order.pdf)

