

Brown Act: The legislative body of a local agency may use teleconferencing in connection with any meeting or proceeding authorized by law. Cal. Gov't Code § 54953(b)(1). A "teleconference" is "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." Cal. Gov't Code § 54953(b)(4). A local agency may provide the public with additional teleconference locations. Cal. Gov't Code § 54953(b)(4).

The teleconferenced meeting must meet the following requirements:

- (1) it must comply with all of the Act's requirements applicable to other meetings;
- (2) all votes must be taken by roll call;
- (3) agendas must be posted at all teleconference locations and the meeting must be conducted in a manner that protects the statutory and constitutional rights of the parties or public appearing before the body;
- (4) each teleconference location must be identified in the notice and agenda and each location must be accessible to the public;
- (5) during the teleconferenced meeting, at least a quorum of the members of the legislative body must participate from locations within the boundaries of the body's jurisdiction; and
- (6) the agenda must provide the public with an opportunity to address the legislative body at each teleconference location. Cal. Gov't Code § 54953(b).

While the Act allows public meets to be held by teleconference, it does not allow a majority of a legislative body, either directly or through intermediaries, to use telephones or any other form of communication "to hear, discuss, deliberate, or take action on any item of business that is within the subject matter jurisdiction of the legislative body." Cal. Gov't Code 54952.2 (b)(1). This language, adopted in 2008, expressly overrules the holding in *Wolfe v. City of Fremont*, 144 Cal. App. 4th 533, 545, 50 Cal. Rptr. 3d 524 (2006), to the extent it construed the prohibition against serial meetings as requiring a series of individual meetings result in collective concurrence to violate the Act rather than also including the process of developing a collective concurrence.

The California Supreme Court has emphasized that "the intent of the Brown Act cannot be avoided by subterfuge; a concerted plan to engage in collective deliberation on public business through a series of letters or telephone calls passing from one member of the governing body to the next would violate the open meeting requirement." *Roberts v. City of Palmdale*, 5 Cal. 4th 363, 376, 20 Cal. Rptr. 2d 330, 853 P.2d 641 (1993).

In *Stockton Newspapers Inc. v. Redevelopment Agency of the City of Stockton*, 171 Cal. App. 3d 95, 99, 214 Cal. Rptr. 561 (1985), the court examined whether members of a city board held a "meeting" under the Brown Act by taking part in a secret telephone poll conducted by a staff attorney about transferring city real estate. *Id.* at 103. Although the board members never met in the same room, the court concluded that they participated in "a series of one-to-one nonpublic and unnoticed telephone conversations with the agency's attorney for the commonly agreed purpose of collectively deciding to approve" an item of business, which "constitute[d] a 'meeting' at which 'action' was taken in violation of the Brown Act." *Id.* at 105.

- See more at: <http://www.rcfp.org/california-open-government-guide/i-statute-basic-application/d-what-constitutes-meeting-subject-la-6#sthash.ywzBeLbs.dpuf>