



association of california school administrators

March 25, 2021

The Honorable Alex Lee
California State Assembly
State Capitol Building, Room 2170
Sacramento, CA 95814

**RE: AB 339 State and Local Government: Open Meetings
Notice of **OPPOSITION** (As Introduced)**

Dear Assembly Member Lee:

The League of California Cities (Cal Cities), California Special Districts Association (CSDA), California State Association of Counties (CSAC), Urban Counties of California (UCC), Rural County Representatives of California (RCRC), Association of California Healthcare Districts (ACHD), Association of California School Administrators (ACSA), Community College League of California (CCLC), California Downtown Association (CDA), and Public Risk Innovation, Solutions, and Management (PRISM), must respectfully oppose AB 339, which will purposefully add significant unfunded mandates on local public agencies by requiring public agencies to provide both call-in and internet-based options, in addition to in-person options, for members of the public to attend and comment during any public meeting. The measure further requires extensive translation services in real-time during public meetings and of extensive and often technical meeting materials, additionally burdening local agencies with significant costs. Imposing these mandated costs on local agencies under particularly challenging fiscal circumstances coupled with the overwhelming practical challenges associated with implementing such a measure makes us deeply concerned about local agencies' ability to effectively conduct the people's business.

Our diverse memberships of public agencies take very seriously their obligations under the Brown Act to operate transparently and provide opportunities for members of the public to participate in the most local and foundational levels of democracy. This commitment is why Cal Cities drafted the Brown Act and stewarded its passage in 1953. Much has changed since then and technology has evolved to allow for even more civic engagement. While these triumphs are to be celebrated, the mandates in this bill would create more burdens on our already struggling agencies and could actually do more to hinder local government deliberations than increase participation.

First, regarding the mandate to provide both call-in and internet-based options for attendance and public comment; public agencies have strived to maintain a continuity of government during the pandemic while also continuing to provide essential services. However, once the state of emergency is lifted and elected officials return to their meeting rooms, there will be an immediate technological and staffing challenge of providing a live mic for public comment and connecting that system to both a teleconferencing and internet-based service. That challenge is only compounded by the resource limitations affecting agencies up and down the state, as compliance with these provisions will require significant one-time equipment expenses in addition to ongoing costs to staff and maintain these services.

Second, AB 339 fails to provide flexibility to local governments to manage their own affairs. For example, what happens if either the teleconferencing service or the internet-based option aren't available or have their servers go down during a meeting? It is our understanding if this bill became law that we would not be able to conduct Brown Act compliant meetings without utilizing the services advertised on our meeting announcements. This means that conditions necessary to operate our members' meetings but are outside of their control wholly determine whether the meetings can take place or not. We strongly believe that conditioning the operations of local government on the operability of Zoom servers dangerously destabilizes our ability to meet our fiscal, legal, and practical obligations to constituents. While much of our analysis of this measure has focused on the impacts to our primary legislative bodies covered under the Brown Act (city councils, boards of supervisors, special district boards, etc.), we also believe it is important to recognize the downstream impacts of this legislation on advisory bodies, such as the boards and commissions that advise and make recommendations to primary legislative bodies. By raising the bar to effectively and efficiently operate local boards and commissions, which for some agencies can number in the dozens, it becomes more difficult for our agencies to carry out their essential functions. For example, a planning commission would only be able to hold their meetings in the council chamber that was retrofitted to provide these new multimedia capabilities and couldn't hold its meetings out in the community without a transportable audio/visual studio and staff.

Third, the requirement to employ translators and provide live translation services presents another deep cost requirement and operational burden that could end up paralyzing the work of local agencies. AB 339 places new translation requirements in the Brown Act rather than the Dymally-Alatorre Bilingual Services Act, which governs local government translation services requirements, with sole intention of avoiding state constitutional reimbursement requirements that do not apply to the Brown Act.

Under current law, local government translation service requirements are governed by Government Code § 7290-7299.8, more commonly known as the Dymally-Alatorre Bilingual Services Act. The Act requires local public agencies to provide certain materials in multiple languages and requires agencies serving a substantial number of non-English-speaking people to employ a sufficient number of qualified bilingual persons in public contact positions or as interpreters to assist those in such positions, to ensure provision of information and services in the language of the non-English speaking person. However, unlike the one size fits all approach to translation requirements in AB 339, the Dymally-Alatorre Bilingual Services Act properly recognizes the diversity of local agencies in size, scope, location, services offered, and financial resources available. Under this bill, local public agencies, regardless of size, financial resources, or the public's desire for services, would be required to employ a translator for any language that is spoken by five percent or more of the agency's jurisdiction for live translation

services during a meeting. This again raises the question of what happens if enough translators are not available for every council, planning commissioner, or board meeting. There are thousands of public agencies in the state governed by the Brown Act and forcing them to schedule their meetings and their work around a workforce, the capacity of which is unknown, raises serious concerns about how are local elected officials are to continue the work that is expected of them. Additional requirements to mandate translation of written materials poses another significant challenge, in that agenda materials can be extensive and technically complex, requiring specialized translation skills and significant amounts of time to complete appropriately.

Finally, we are aware of draft amendments to the measure that would exempt the state government and its agencies from these onerous requirements. We find it deeply disturbing that there is a prospect of the state saying, once again, "one rule for thee, another rule for me". If the merits of this bill are so beneficial that they require the most expansive mandates since the Brown Act's inception on the operation of public meetings, it is utterly ridiculous for the state to not have to comply given that the impact of its decisions are far more wide-reaching than the impact of the decision of any one agency on its jurisdiction.

Collectively, we share your commitment to access and transparency and recognize how key those values are to local democracy. However, AB 339 will have the consequences of burdening local governments financially and practically at a time when they are already struggling and creating situations where duly elected local government officials are stymied in their ability to efficiently execute the people's business.

For these reasons, Cal Cities, CSDA, CSAC, UCC, RCRC, ACHD, ACSA, CCLC, CDA, and PRISM must respectfully oppose AB 339. If you have any questions, please feel free to contact our coalition at (916) 882-9886.

Sincerely,



Bijan Mehryar
Legislative Representative
League of California Cities



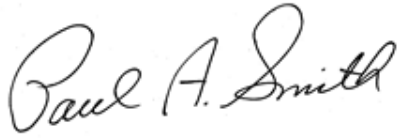
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