State will extend Brown Act flexibility … for now

The Office of Gov. Gavin Newsom issued a letter on June 2 announcing that Executive Order N-29-20, which provided flexibility for school boards and state and local agencies to conduct their business through virtual public meetings during the COVID-19 pandemic, “will not terminate on June 15 when the Blueprint [for a Safer Economy] is scheduled to terminate.”

The letter indicates that the Governor is eager to terminate COVID-19 executive orders as soon as it is safe to do so, but it also provides assurance the Governor’s office will provide notice to affected stakeholders in advance of rescission of the executive order to provide state and local agencies and boards the time necessary to meet statutory and logistical requirements.

In a recent newsletter article and blog post, CSBA’s legal team ponders what governing board meetings could look like in the future, citing the experience of many board that have seen increased attendance and participation at their meetings as families and community members who otherwise may not have made it to an in-person board meeting have taken advantage of the opportunity to participate remotely. To what extent the Brown Act, under its full operation, will allow boards to try to meet this continued desire for virtual meetings remains to be seen.

When Executive Order N-29-20 is no longer in effect, although the use of teleconferencing will still be allowed, board members will find that the Brown Act is not designed to accommodate this new normal. Once the suspension of some of the more restrictive requirements is lifted, agendas must be posted at each teleconference site, each teleconference location must be identified and be accessible to the public, and at least a quorum of the board must participate from within the district boundaries. (Government Code 54953.) These Brown Act requirements, which are largely meant to address situations where board members cannot attend a meeting in person, will need to be amended to allow members of the public to participate virtually at in-person board meetings.

Assembly Bill 703 (Rubio, D-Baldwin Park), if passed and signed into law, would continue some of the flexibility provided by Executive Order N-29-20 that governing board’s need to better provide access to their virtual meetings.