



BOARD MEMORANDUM

DATE: January 17, 2023
TO: Board of Directors
FROM: Thomas Bunn and Joseph Byrne
General Counsel
SUBJECT: Summary of AB 2449 – New Brown Act Law Regarding Board Member Remote Meeting Attendance

OVERVIEW

On January 1, 2023, Assembly Bill 2449 went into effect, amending certain portions of Government Code Section 54953 of the Brown Act relating to teleconference participation by members of legislative bodies for and during public meetings. The provisions of AB 2449 will remain in effect until January 1, 2026.

AB 2449 authorizes a local agency to use teleconferencing for Board members without (1) having to post agendas at remote locations and (2) without having to make remote locations open to the public under certain conditions, and only if at least a quorum of the members of the Board participate from a single physical location (posted on the agenda) within the agency boundary that is open to the public. The criteria that must be met are as follows:

- The agency must provide two-way remote access.
- The agency must allow for remote and in-person public comment and the agenda must provide information on how to do so.
- If the remote technology does not work, the Board may not take action (this is similar to the provisions of AB 361).

Board members may only participate remotely under two specific circumstances: **(1) just cause** or **(2) due to emergency circumstances**

1. Just cause is defined as any one of the following circumstances:

- childcare or caregiving of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires them to participate remotely;
- a contagious illness that prevents a member from attending in person;
- a need related to a physical or mental disability; or
- travel while on business of the legislative body or another state or local agency.
- **This provision may only be used by a member up to 2 times per calendar year.** This option is available to Board members and does not require Board approval.

2. Emergency Circumstances: means a physical or family medical emergency that prevents a member from attending in person.

- Board member must request to participate remotely pursuant to this justification and it must be approved at a Board meeting by the Board.

- The legislative body shall request a general description of the circumstances relating to the member's need to appear remotely at the given meeting and one must be provided, generally not to exceed 20 words and no medical information must be disclosed. The Board has the discretion whether to approve or not.

There is no specific limit on the number of times the "emergency circumstances" may be used, but overall combined, the two provisions ("just cause" and "emergency circumstances") may not be used by a Director for more than three consecutive months or 20 percent of the regular meetings for the local agency within a calendar year. If the Board meets less than 10 times a year, a board member may not participate remotely in more than two meetings.

Additional Provisions

- The legislative body must implement a procedure for receiving and resolving requests for reasonable accommodations for individuals with disabilities (we do this already).
- Members participating through remote teleconferencing must participate through both audio and visual technology and members must 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 the individual.

FINANCIAL CONSIDERATIONS

None.

RECOMMENDATION

None.