

Proposed Policy Regarding New Brown Act Remote Meetings Exceptions

Board of Directors
November 3, 2022



Background

- Meetings of the JPB and its Committees are subject to the Brown Act, which requires that meetings of local legislative bodies be open to the public
- Assembly Bill 361 (AB 361), enacted in 2021, amended the Brown Act to permit local agencies to meet remotely during a proclaimed state of emergency without having to notice the remote locations from which members participate or make those locations accessible to the public, provided the legislative body makes certain findings regarding health and safety
- Governor announced his intent to withdraw the COVID-19 state of emergency on February 28, 2023

Board Meetings Pursuant to AB 361

- Board and Committees may continue to meet remotely without noticing members' locations through the end of February if the Board makes the requisite findings pursuant to AB 361
- Findings must be based on local or state health guidance and must be renewed or re-made every 30 days
- Members will not be able to participate remotely without noticing location after February 2023 unless they satisfy an exception under AB 2449

AB 2449

Starting January 1, 2023, a member of a local legislative body may participate in a meeting remotely without having to identify the member's location in the agenda or make the location accessible to the public if:

- (1) a quorum of members participate in person from a singular physical location;
- (2) the singular location is clearly identified on the agenda, open to the public, and situated within the local agency's jurisdiction; and
- (3) the member has made a request to participate remotely based on emergency circumstances or just cause, which must be approved by the legislative body

Just Cause and Emergency Circumstances

- “Just cause” is defined as one or more of the following:
 - (i) a childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires a member to participate remotely;
 - (ii) a contagious illness that prevents a member from attending in person;
 - (iii) a need related to a physical or mental disability as defined by statute; or
 - (iv) travel while on official business of the legislative body or another state or local agency
- “Emergency circumstances” is defined as a physical or family medical emergency that prevents a member from attending in person

Participation Pursuant to AB 2449

- Allows members to participate in meetings remotely, e.g., when sick or potentially contagious, or other emergency circumstances prevent in-person attendance
- Members may not participate remotely for a period of more than three consecutive months or 20% of the regular meetings of the Board or Committee within a calendar year
- Members may rely upon the just cause exception no more than two times per calendar year
- Members must use both audio and visual technology and must publicly disclose whether any individual over the age of 18 is present at the remote location

Proposed Policy

- Members may participate in Board or Committee meetings: (1) in person; (2) remotely provided location is identified on agenda and is accessible to the public; or (3) remotely under AB 2449 exception if approved by Board or Committee.
- Members of the public will have the opportunity to participate in Board and Committee meetings in person or via Zoom
- Board/Committee members must submit a written request to participate in a meeting remotely under AB 2449 to the Board Chair or Committee Chair, and Board Secretary and provide a general description of the just cause/emergency circumstances
- The Board Secretary will alert the Board or Committee Chair and members if it appears that a quorum of members will not be physically present at the meeting; the Board or Committee may deny the AB 2449 request or cancel the meeting if there will be no quorum

Proposed Policy

- Upon receipt or approval of an AB 2449 request for remote participation due to just cause or emergency circumstances, the Board Secretary shall post a revised agenda if there is sufficient time to do so given the nature and timing of the emergency or just cause request
- Policy will take effect on February 28, 2023; until then, Board will continue to conduct hybrid meetings and Committees will continue to meet remotely, provided health authorities continue to recommend social distancing and Board adopts AB 361 findings

FOR MORE INFORMATION

WWW.CALTRAIN.COM

