

# Proposed Policy Regarding New Brown Act Remote Meetings Exceptions

Caltrain Bicycle & Active  
Transportation Committee

January 19, 2023



# 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
- Board and Committees have been holding public meetings remotely pursuant to AB 361 since September 2021
- Governor announced his intent to withdraw the COVID-19 state of emergency on February 28, 2023

# Background

Beginning on March 1, 2023, members of local agency boards will have to:

- Participate in person; or
- Participate remotely pursuant to existing Brown Act requirements (i.e., from location identified on agenda and accessible to the public); or
- Participate remotely pursuant to narrow exceptions in 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 (a) has just cause to participate remotely or (b) requests and receives Board/Committee approval to participate remotely based on emergency circumstances

# Just Cause

- “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
- Must provide a general description of the just cause when notifying legislative body of need to participate remotely

# Emergency Circumstances

- "Emergency circumstances" is defined as a physical or family medical emergency that prevents a member from attending in person
- Members must provide a general description of the emergency circumstances when requesting to participate due to emergency circumstances
- Board/Committee will generally vote on request as the first item at the beginning of meeting

# Participation Pursuant to AB 2449

- 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 (i.e., the camera must be on) 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 for just cause or emergency circumstances (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
- 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 request to participate remotely due to emergency circumstances or cancel the meeting if there will be no quorum



# Proposed Policy

- Upon receipt of notification of remote appearance due to just cause or request for remote participation due to emergency circumstances, the Board Secretary will 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
- For January and February 2023, 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 required AB 361 findings

FOR MORE INFORMATION

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