
New Options for Local Legislative Bodies to Access Public Meetings Remotely

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State lawmakers have given members of local legislative bodies a new option for remote participation in public agency meetings.

Assembly Bill (AB) 361 previously provided for remote attendance during declared emergencies through January 1, 2024. Now, effective January 1, 2023, AB 2449 retains existing Brown Act teleconferencing requirements for non-emergency situations, but also provides an additional opportunity for remote attendance even when there is no state of emergency. This new law includes provisions permitting individual board members to attend public meetings remotely if they are dealing with a personal emergency, or for other “just cause.” These new remote attendance options, which sunset on January 1, 2026, include conditions and requirements that must be followed in order for individual board members to utilize the additional flexibility provided under AB 2449.

Background: Traditional Teleconferencing Requirements and AB 361 Flexibility

Under the Brown Act, legislative bodies seeking to use teleconferencing technology (which includes both telephone and online access) for public meetings are required to give notice, including the address of any locations where members are attending via teleconference, and to post agendas at those locations. These locations are also required to be open and accessible to the public during the meeting. If these requirements are met, members can attend meetings via teleconference, so long as a quorum of the legislative body physically attends the meeting at the same location within the boundaries of the public agency.

In March 2020, Governor Newsom issued an executive order that waived these requirements during much of the pandemic. Later, AB 361, effective September 2021, provided a statutory process for governing bodies to meet remotely through the end of 2023. Under AB 361, local legislative bodies are permitted to meet remotely during a proclaimed state of emergency if state or local officials imposed or recommended social distancing or, if it is determined that meeting in person would present imminent risks to the health or safety of attendees. Additionally, the local legislative body must make findings every 30 days in order to continue meeting remotely. To read more about AB 361, see our [2021 Client News Brief Number 26](#).

AB 2449's New Teleconferencing Option: More Flexibility, More Requirements

Starting January 1, 2023, in addition to the traditional teleconferencing rules for non-emergency situations and the relief provided by AB 361, AB 2449 permits individual members of legislative bodies to utilize additional exemptions in case of a personal physical or family medical emergency or for "just cause," defined as a caregiving need, contagious illness, physical or mental disability, or travel while on official business of the legislative body or another local or state agency.

Members seeking to participate remotely for "just cause" must notify the legislative body as soon as possible, including at the beginning of a meeting, of their need to participate remotely. This notification must include a general description of the circumstances relating to their need to participate remotely. Members may only use this provision for up to two meetings per year.

Members seeking to participate remotely due to emergency circumstances must make a request as soon as possible, providing a separate request for each meeting they wish to attend remotely. The legislative body must also take action to approve the request. If the request is not made in time to place it on the agenda, such action may be taken at the beginning of the meeting and must include a general description of the circumstances related to the member's need to participate remotely.

Members participating remotely due to an emergency must participate both on camera and via audio. Additionally, before any action is taken, the member must disclose if anyone 18 or older is in the room at the remote location with them, and the general nature of the relationship with the person or persons. Members may not participate in meetings remotely (whether due to an emergency, or in combination with "just cause") for more than three consecutive months or 20 percent of the legislative body's meetings in one calendar year. If the body meets less than 10 times a year, members may not participate remotely for more than two meetings.

Under AB 2449, the legislative body must still adhere to the quorum, notice, and agenda requirements applicable under the Brown Act. Unlike the traditional teleconferencing option, individual members who are teleconferencing into the meeting under this new option are not required to make their remote location open and accessible to the public and their location does not have to appear in the agenda. The legislative body **must also ensure means for the public to access and participate in the meeting remotely**, either via a two-way audio-visual platform or two-way telephonic service plus live webcast, as a means by which the public may remotely hear and visually observe the meeting and remotely address the legislative body.

Takeaways

Once again, the Legislature has extended flexibility under the Brown Act to allow legislative bodies and their members to conduct agency business remotely. However, with this flexibility comes additional limitations and requirements intended to maintain public accessibility and agency accountability. Implementing these changes will require public agencies to remain cognizant of the Brown Act requirements applicable to each type of circumstance justifying remote attendance.

A number of questions and practical concerns remain regarding implementation of this bill, and we encourage you to work with legal counsel as those questions arise. If you have any questions regarding AB 2449 and options for remote attendance, please contact the authors of this Client News Brief or an attorney

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