

New AB 2449 (2022) Teleconferencing Procedures under the Brown Act

On September 13, 2022, the Governor signed AB 2449 and went into effect on January 1, 2023. This bill amends the Brown Act to provide additional opportunities for legislative body members to teleconference at public meetings from a remote location without following the standard Brown Act teleconferencing rules. These procedures are in addition to those in AB 361 (2021) that provide for teleconferencing during a declared emergency and with state or local guidance recommending social distancing. AB 2449 expires on December 31, 2025, at which time AB 2449 will be automatically repealed.

Procedures for Public Participation under AB 2449

- Public must be able to hear, visually observe, and address the legislative body either remotely or in person in real time
- Public must be able to participate via: 1) two-way audio or 2) a telephonic service with a webcasting service (the agenda must include instructions for public participation)
- Public cannot be required to submit comments prior to the meeting

Procedures for Member to Teleconference from a Remote Location under AB 2449

NOTE: *A quorum of the members of the legislative body must participate in person at the noticed location that is open to the public. Thus, BHAB members are expected to attend BHAB meetings in-person. Without an in-person quorum, a meeting cannot be held.*

General Procedures

There are two conditions under which members may teleconference. These are as follows:

- **Just Cause** -A member may participate remotely if the member has just cause and the member provides advance notice at the earliest opportunity with a general description of the need to appear remotely.

Just cause is defined as any of the following:

- Childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner
- Contagious illness that prevents member from attending in person
- A need related to a physical or mental disability that is not otherwise accommodated
- Travel on official business of the legislative body or another state or local agency

It is recommended when the meeting starts, the chair of the legislative body disclose that one of the members is participating remotely due to just cause with a brief description of the reason. This will inform the public and facilitate tracking the number of times just cause is invoked so that the limits are not exceeded in a calendar year.

- **Emergency Circumstances**
 - In the alternative, a member may participate remotely due to emergency circumstances. The member must notify as soon as possible with a general description of the need to appear remotely.
 - Emergency circumstances are defined as a physical or family medical emergency that prevents a member from participating in person
 - The BHAB must approve a request based on emergency circumstances by a majority vote at the beginning of the impacted meeting.

Additionally, a quorum cannot all utilize these rules at same meeting.

- Members are limited in the number of times they can teleconference and should be tracked each time a member uses these rules.
- Just cause cannot be invoked more than twice per calendar year.
- Teleconferencing option by members cannot be invoked for more than three consecutive months or 20% of regular meetings per year if BHAB meets 10 or more times per year.

TELECONFERENCING RULES UNDER THE BROWN ACT

	Default Rule	Declared Emergency (AB 361)	Just Cause (AB 2449)	Emergency Circumstances (AB 2449)
In person participation of quorum	Required	Not Required	Required	Required
Member participation via teleconferencing	Audio or Audio-visual	Audio or Audio-visual	Audio-Visual	Audio-Visual
Required (minimum) opportunities for public participation	In-person	Call-in or internet-based	Call-in or internet-based <u>and</u> in person	Call-in or internet-based <u>and</u> in person
Disruption of broadcast or public's ability to comment	Meeting can proceed	No further action taken	No further action taken	No further action taken
Reason must be approved by legislative body	No	Yes (initial findings and renewed findings every 30 days)	No, but general description to be provided to legislative body	Yes and general description to be provided to legislative body
Votes must be taken by roll call	Yes	Yes	Yes	Yes
Member's remote location included on agenda	Yes	No	No	No
Declared emergency and health official's recommendation for social distancing	No	Yes	No	No
Annual limits	None	None	Twice per calendar year (limits for emergency circumstances also apply for collective number of times AB 2449 can be used per year)	3 consecutive months/ 20% of regular meetings per calendar year; or 2 meetings per calendar year if body meets less than 10 times per year (collectively with just cause)
Effective Dates	Ongoing	Expires 12/31/2023	Expires 12/31/2025	Expires 12/31/2025