



## Legislation Text

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**File #: 23-84, Version: 1**

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Motion to authorize the Mayor to sign a letter urging State Legislators to amend the Brown Act to provide increased local control over options for teleconference meetings. (*Sharon Ranals, Interim City Manager, and Sky Woodruff, City Attorney*)

### **RECOMMENDATION**

It is recommended that the City Council by motion authorize the Mayor to sign a letter urging State Legislators to amend the Brown Act to provide increased local control over options for teleconference meetings.

### **BACKGROUND/DISCUSSION**

The Ralph M. Brown Act ("Brown Act") is a California law that guarantees the public's right to attend and participate in meetings of local legislative bodies. Located at California Government Code 54950 et seq., it is an act of the California State Legislature, authored by Assemblymember Ralph M. Brown and passed in 1953.

The Brown Act allows a city council to use any type of teleconferencing in connection with any meeting. "Teleconference" is defined as "a meeting of individuals in different locations, connected by electronic means, through either audio or video, or both." While it allows for teleconferencing, the Brown Act imposes certain restrictions and requirements around what constitutes a quorum, posting agendas, noticing of teleconference locations, and public access.

In March 2020, Governor Newsom proclaimed a state of emergency in response to the outbreak of the novel coronavirus (COVID-19) and issued Executive Order N-29-20 easing certain Brown Act restrictions. In September 2021, Governor Newsom approved AB 361 to "improve and enhance public access to local agency meetings during the COVID19 pandemic and future applicable emergencies, by allowing broader access through teleconferencing options."

On October 17, 2022, Governor Newsom announced that the COVID-19 State of Emergency will end on February 28, 2023, effectively ending AB 361 's term. However, AB 2449 that was signed into law on September 13, 2022, took effect on January 1, 2023. Attachment 1 provides a general summary of the new requirements associated with AB 2449. Traditional Brown Act teleconferencing rules will still remain in effect but they contain burdensome and potentially unsafe requirements, including that members of the public must be allowed to attend the meeting from a councilmember's remote location, the remote location must be listed on the agenda, and the agenda must be posted at the remote location.

Relaxing the Brown Act's teleconferencing requirements during the COVID-19 pandemic yielded numerous benefits. Local governments and regional decision making boards were able to continue operating, unfettered, while protecting the health and safety of civil servants and the public. Many noted that public participation in meetings seemed to increase, as individuals were able to attend remotely from the safety and comfort their homes or work. In the past, vacations, sick time, or travel related to personal occupations may have prohibited participation in public meetings. During the pandemic, however, individuals could participate in public meetings regardless. Councilmembers who participate in dozens of regional decision making bodies were able to call into meetings, effectively reducing single occupancy vehicle trips and reducing greenhouse gas

emissions.

The new teleconferencing requirements imposed by AB 2449 would negate some of these benefits and pose new issues. AB 2449's quorum requirement, "just cause" and "emergency circumstances" requirements, and limitation on the number of remote meetings members may attend are unnecessarily restrictive. For example, AB 2449 requires a quorum of the legislative body from a single physical location open to the public, before invoking the "just cause" and "emergency circumstances" requirements. A quorum at a single physical location for regional boards and committees seems arbitrary and particularly burdensome when members of these bodies are comprised of a geographically diverse membership of dozens of various cities and counties.

Local city councils and their standing committees are often comprised of individuals with full time occupations. AB 2449's "just cause" requirement unfairly prioritizes travel while on business of the legislative body or another state or local agency, but not travel related to an individual's occupation. This raises an equity concern that participation in local and regional government would be limited to officials at a certain socioeconomic level. "Just cause" is not a requirement under traditional Brown Act rules.

Furthermore, AB 2449 limits the number of meetings that may be attended remotely. This too, seems arbitrary. Local jurisdictions and their constituents are best suited to decide whether to host in-person or virtual meetings and to decide the limitations of those meetings. In addition, there are privacy concerns related to the requirement to disclose the identity of any individual over the age of 18 and the webcasting technology requirement is not feasible for regional boards who meet in various meeting rooms not equipped with this technology.

The new restrictions on remote meetings posed by AB 2449 are unnecessarily arbitrary and burdensome. These concerns are summarized in the letter to State legislators in Attachment 2.

#### FISCAL IMPACT

There is no fiscal impact for this item.

#### RELATIONSHIP TO STRATEGIC PLAN

More options for the use of teleconference meetings will promote community participation, contributing to the City's Strategic Plan Priority No. 6 - Community Connections.

#### CONCLUSION

It is recommended that the City Council authorize by motion the Mayor to sign a letter urging State Legislators to amend the Brown Act to provide increased local control over options for teleconference meetings.