

# AB 2449 – AB 361 – TRADITIONAL TELECONFERENCE

**AB 2449**

- **NEW LAW — Effective January 1, 2023**
- **Allows less than the majority to meet via remote means**

**AB 361**

- State of Emergency as declared by the Governor

**Traditional  
Teleconference  
Rules**

- Review of the Traditional Teleconference Rules

# AB 2449 – Requires Conditions

- Requires that a majority (quorum) of the members of the legislative body participate:
  - (1) In person;
  - (2) From a singular, physical location clearly identified on the agenda;
  - (3) That is open to the public; and
  - (4) Situated within the boundaries of the territory over which the local agency exercises jurisdiction.

If YES to all 4 points, then AB 2449 may be used for the minority members (up to 2 members of a 5-member Board OR up to 3 members of a 7-member Board) to meet remotely under the following conditions:

# AB 2449 – Required Conditions

- Conditions required to meet remotely:
  - The local agency has to provide either of the two options below for the public to remotely observe the meeting and provide comments:
    - (1) A two-way audiovisual platform (e.g., Zoom, Microsoft Teams, Google Meet); OR
    - (2) A two-way telephonic service AND a live webcasting of the meeting (e.g., live-streaming on YouTube while making a landline available for the public to dial-in to provide comments).
  - The minority member(s) must be attending remotely due to **“just cause”** or **“emergency circumstances.”**

# AB 2449 – “Just Cause” and “Emergency Cir.”

- Just Cause defined as:
  - Childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner;
  - A contagious illness that prevents the member from attending in person;
  - A need related to physical or mental disability; OR
  - Travel while on official business of the legislative body or another state or local agency.
- Emergency Circumstances defined as:
  - A physical or family medical emergency that prevents a member from attending in person.

# AB 2449 – Limitations on Remote Appearance

- A member of the legislative body cannot participate remotely due to “just cause” or “emergency circumstances” for more than 3 consecutive months or 20% of the regular meetings within a calendar year.
- A member of the legislative body may still participate remotely, so long as the legislative body complies with the “traditional” teleconference rules.
- The “just cause” exception cannot be used by any member of the legislative body for more than two meetings per calendar year.

# AB 2449 – Additional Considerations

- The member must request approval as soon as possible, the legislative body must take action to approve the request and a general description of the reasons needs to be provided on the agenda (not to exceed 20 words).
- A member participating remotely must indicate whether any other individuals 18 years of age or older are present in the room of the member's remote location and state the general nature of the relationship; and
- A member participating remotely must participate through both audio and visual technology.

# AB 361 – Must Have State of Emergency

During a state of emergency proclaimed by the Governor, permits (but does not require) local agencies to continue to meet “virtually” (i.e. no physical location) in the following circumstances:

- State or local officials have imposed or recommended social distancing measures; -OR-
- The legislative body is meeting in order to determine by majority vote whether, as result of the emergency, meeting in person would present imminent risks to the health or safety of attendees; -OR-
- The legislative body has determined by majority vote that, as result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

# AB 361 – Required Findings Every 30 Days

In order to continue meeting virtually during a proclaimed state of emergency, a legislative body must periodically reconsider the state of emergency, and must make certain findings every 30 days:

- “The state of emergency continues to directly impact the ability of the members to meet safely in person” -OR-
- “State or local officials continue to impose or recommend measures to promote social distancing.”



# AB 361 – Required Conditions

If a legislative body continues to meet virtually during a proclaimed state of emergency, all of the following are required:

- Give notice of meeting and post agendas per usual Brown Act requirements; -AND-
- Allow members of the public to address the legislative body “**directly**” for public comment “via a call-in option or an internet based service option,” and include in meeting notice information re: the means by which members of the public may access the meeting and offer public comment; -AND-
- Allow public comment “in real time” – i.e., “shall not require public comments to be submitted in advance of the meeting”; -AND-
- If there is a time limit for public comments, public must be allowed to register for comments up until the end of the timed comment period; -AND-

# AB 361 – Required Conditions

- Conduct meetings in a manner that protects statutory and constitutional rights; -AND-
- If there is a disruption to public's call-in/internet access to the meeting (observation or offering comment), take no further action on any agenda items until access is restored.

# Traditional Teleconference Rules

The Brown Act traditionally allowed a local agency to use teleconferencing, subject to specific agenda posting, physical access and quorum requirements, including:

- Post agendas at each teleconference location;
- Identify each teleconference location in the notice and agenda of the meeting or proceeding;
- Make each teleconference location accessible to the public;
- Have at least a quorum of the members of the legislative body participate from locations within the boundaries of the applicable local agency's territory; and
- Provide means for the public to address the legislative body at each teleconference location.