



## Agenda Item: 7.B.

**MEETING:** February 22, 2023  
**TO:** Trinity LAFCo Commissioners  
**FROM:** Colette Santsche, Executive Officer & Kathy Bull, Administrator/Clerk  
**SUBJECT:** AB 2449 for Remote Meeting Access

### **BACKGROUND:**

Since April 2020, Trinity LAFCo has conducted its public meetings via a combination of Zoom/teleconference and in-person options, consistent with the Governor's Executive Orders and AB 361, which modified meeting rules allowing remote meeting access during a Governor issued state of emergency. The Commission has adopted a resolution at each LAFCo meeting authorizing LAFCo to conduct teleconference meetings in accordance with AB 361. On October 17, 2022, the Governor announced that the COVID-19 State of Emergency will end on February 28, 2023. After this date, the Commission will need to adhere to the new laws regarding remote participation for meetings.

AB 2449 was recently signed into law and went into effect on January 1, 2023. This law makes changes to the Brown Act regarding remote participation of members of a governing body. Under the new law, less than a majority of members of the governing body may attend the meeting remotely for "just cause" or "emergency circumstances". This new law applies only to legislative bodies (not staff), and members of the public would be allowed to attend meetings in-person or via Zoom/teleconference and provide comment in either format.

### **DISCUSSION:**

AB 2449 Regulations – Under AB 2449, legislative bodies would be authorized to participate in remote public meetings without disclosing or providing access to their non-public teleconference location(s) *if at least a quorum meets in person from a single location identified on the agenda*. The location must be open to the public and situated within the local agency's jurisdiction. All other members would be able to participate remotely, but only if the agenda provides a brief description (under 20 words) regarding their need to appear remotely at a given meeting or, if the need to participate remotely arose after the agenda was posted, the reason must be disclosed at the start of the meeting. The need must be for just cause or an emergency circumstance.

- *Just Cause* – This option can only be used by each member twice per calendar year. The member must notify the governing body at the at the start of the public meeting of the need to appear remotely (and should notify key staff in advance of the meeting). The notification must include a general description of the circumstances relating to the need to appear remotely at the given meeting. "Just cause" can mean any of the following:
    - A childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires them to participate remotely. "Child," "parent," "grandparent," "grandchild," and "sibling" have the same meaning as those terms do in Section 12945.2.
    - A contagious illness that prevents a member from attending in person.
    - A need related to a physical or mental disability as defined in Sections 12926 and 12926.1 not otherwise accommodated by subdivision (g).
    - Travel while on official business of the legislative body or another state or local agency.
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- *Emergency Circumstances* – This pertains to a physical or family medical emergency that prevents a member from attending in person. To the extent feasible, the member seeking to appear remotely shall provide notification to key staff of the potential need to appear remotely. At the start of the meeting, if the request has not been placed on the agenda, the member must request approval of the governing body to appear remotely due to emergency circumstances and must provide a general description of the emergency. The governing body must take action on the request at the beginning of the meeting by motion with the member seeking to appear remotely abstaining from the vote.

For either option, “just cause” or “emergency circumstance”, members participating remotely will be required to (i) use **both** audio and visual technology during the meeting, and (ii) disclose whether any person 18 years or older is present in the room with that member and the general nature of the member’s relationship with that person.

Additionally, when a meeting is held with remote participation by members of the legislative body, there must also be live video and/or audio stream that also allows members of the public to participate remotely through the audio/visual platform or telephonic service. In the event of a broadcasting disruption (i.e., disconnection of call-in or internet-based service option) or other event that prevents members of the public from offering public comments, the legislative body must pause the meeting and take no further action until remote public access to the meeting is restored.

**RECOMMENDATION:**

The Commission is invited to discuss and provide direction to staff as necessary.

Attachment A – AB 2449 Summary

## **What is different about remote meetings under AB 2449?**

Under the provisions of the recently signed AB 2449 (Rubio), agencies will not be obligated to post agendas at all teleconference locations, will not be obligated to identify all teleconference locations in the meeting agendas, and will not be obligated to make each teleconference location open to the public.

However, for an agency to proceed under the procedures established by AB 2449, it must observe the requirement that *at least* a quorum of the members of the legislative body participates in-person from a singular, physical location clearly identified on the agenda, open to the public, and situated within the boundaries of the territory over which the local agency exercises jurisdiction. Under AB 2449, it *would not be permissible* to have the *entirety* of the board participate remotely, pursuant to the bill's provisions. Remote participation under AB 2449 must be done for specified reasons — either because of a “just cause” or as a result of “emergency circumstances.” The two cases have different requirements that must be observed and have their own unique restrictions. See table on next page for more details.

The agency must also be prepared to host a robust remote meeting — under the terms of AB 2449, an agency must provide *at least* one of the following so that the public may remotely observe the meeting and provide comments:

- A two-way audiovisual platform (defined to mean an online platform that provides participants with the ability to participate in a meeting via both an interactive video conference and a two-way telephonic function); and/or
- A two-way telephonic service *and* a live webcasting of the meeting (defined to mean a telephone service that does not require internet access, is not provided as part of a two-way audiovisual platform, and allows participants to dial a telephone number to listen and verbally participate)

## **Under what conditions may board members use AB 2449?**

Board agency members are *individually* tasked with observing certain requirements before they can make use of AB 2449's terms. It is incumbent upon the individual board members themselves to follow certain requirements laid out in the bill; save for some overlapping obligations, the requirements differ based on whether the member's remote participation is arising out of a “just cause” or “emergency circumstances,” as shown in the table below:

“Just Cause”	“Emergency Circumstances”
<p>✓ The member notifies the legislative body at the earliest opportunity possible (including at the start of a regular meeting) of their need to participate remotely for “<b>just cause</b>,” including a general description (typically not exceeding 20 words) of the circumstances relating to their need to appear remotely at the given meeting.</p> <p>Remote participation for “just cause” reasons shall not be utilized by any member of the legislative body for more than two meetings per calendar year.</p> <p>“<b>Just cause</b>” means any of the following:</p> <p>A childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires them to participate remotely</p> <ul style="list-style-type: none"> <li>• A contagious illness that prevents a member from attending in person</li> <li>• A need related to a physical or mental disability not otherwise accommodated</li> <li>• Travel while on official business of the legislative body or another state or local agency</li> </ul>	<p>✓ The member requests the legislative body to allow them to participate in the meeting remotely due to “<b>emergency circumstances</b>” and the legislative body takes action to approve the request. The member shall make this request to participate remotely at a meeting as soon as possible. The legislative body shall request a general description (typically not exceeding 20 words) of the circumstances relating to their need to appear remotely at the given meeting.</p> <p>✓ The member shall make a separate request for each meeting in which they seek to participate remotely.</p> <p>The general description of the circumstances does not require the member to disclose any medical diagnosis or disability, or any personal medical information that is already exempt under existing law, such as the Confidentiality of Medical Information Act.</p> <p>The legislative body may take action on a request to participate remotely at the earliest opportunity. If the request does not allow sufficient time to place proposed action on such a request on the posted agenda for the meeting for which the request is made, the legislative body may take action at the beginning of the meeting in accordance with <a href="#">existing law</a>.</p> <p>“<b>Emergency circumstances</b>” means a physical or family medical emergency that prevents a member from attending in person.</p>

✓ The member shall publicly disclose at the meeting, before any action is taken, whether any other individuals 18 years of age or older are present in the room at the remote location with the member, and the general nature of the member's relationship with any such individual(s).

✓ The member shall participate through *both* audio and visual technology.

Under neither case ("just cause"/"emergency circumstances") do AB 2449's provisions permit any member of a legislative body to participate in meetings of the legislative body solely by teleconference from a remote location for a period of:

- more than three consecutive months or 20 percent of the regular meetings for the local agency within a calendar year, *or*
- more than two meetings *if the legislative body regularly meets fewer than 10 times per calendar year*

The provisions in AB 2449 are optional. There is nothing in the law that precludes an agency from observing existing Brown Act law in the conduct of their meetings.