

THE BROWN ACT: CHANGES IN THE LAW SINCE JULY 2023

SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT
HEARING BOARD

JULY 10, 2025

DALE LARSON



ASSEMBLY BILL 2302 (2024) – HOW MANY TIMES CAN A BOARD MEMBER USE ALTERNATIVE TELECONFERENCING (JUST CAUSE/EMERGENCY CIRCUMSTANCES)

- Amends Government Code section 54953
- **Removed:** “(A) The provisions of this subdivision shall not serve as a means for 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.”
- **Added:** “(A) The provisions of this subdivision shall not serve as a means for any member of a legislative body to participate in meetings of the legislative body solely by teleconference from a remote location for more than the following number of meetings, as applicable:
 - (i) Two meetings per year, if the legislative body regularly meets once per month or less.
 - (ii) Five meetings per year, if the legislative body regularly meets twice per month.
 - (iii) Seven meetings per year, if the legislative body regularly meets three or more times per month.

**WHAT HAPPENS
AFTER JANUARY 1,
2026? ALTERNATIVES
SUNSET, LEAVING
ONLY:**

**THE “TRADITIONAL”
BROWN ACT
TELECONFERENCE
EXCEPTION**

Gov. Code, § 54953, subd. (b)(3)

- Remote participation by members is permitted if:
 - Meeting agendas are posted at all teleconference locations 72 hours in advance of regular meetings
 - All teleconference locations are identified in the posted agendas
 - All teleconference locations are open to the public and ADA accessible
 - The agenda must provide the public with the opportunity to address the Board directly at each teleconference location (i.e., through the teleconference technology at each location).
 - All votes must be by roll call.
 - At least a quorum of the members of the Hearing Board participate from locations within the boundaries of the South Coast Air Quality Management District.

THE BROWN ACT AND THE AMERICANS WITH DISABILITIES ACT



- In 2024, AG Bonta issued an opinion that remote meeting participation in a non-public location serves as a reasonable accommodation under the ADA for a member of a Brown Act body with a qualifying disability.
 - Requires use of videoconferencing and disclosure of adults who are present at the remote location
 - Doesn't list any other conditions, but states that remote appearance as a reasonable accommodation "must be done in a manner that simulates in-person attendance"
 - Disability under ADA = someone who has a "physical or mental impairment that substantially limits one or more major life activities"
- Prior to the issuance of this opinion, the AG's office's guidance was to the contrary.
- AG opinions are not binding law but can and should be relied upon when making policies.

AB 557: STATE OF EMERGENCY

Gov. Code, § 54953, subd. (e)(1)

- Public agencies can conduct virtual meetings as a whole so long as:
 - The governor has proclaimed a state of emergency and
 - the legislative body at issue has found and made a majority vote that meeting in person poses “imminent risk to health and safety.”
- Continues measures adopted in 2021, with two minor amendments:
 - ***Social distancing restrictions are no longer a justification to hold teleconferences.***
 - Previous law required renewed finding of “imminent risk” every 30 days; ***new law only requires renewed findings every 45 days.***
 - Legislative body must reconsider circumstances of state of emergency;
 - Emergency must continue to impact the ability of members to meet in person.

ASSEMBLY BILL 2715 (2024) – NEW OPTION FOR CLOSED SESSION TO DISCUSS NON-PHYSICAL THREATS TO CRITICAL INFRASTRUCTURE (CYBER ATTACKS)

- Added non-physical threats to “critical infrastructure” (i.e., cyber attacks) as a reason to hold closed session with law enforcement personnel. Previously was only physical attacks.
 - Gov. Code section 54957. (a) (1) This chapter does not prevent the legislative body of a local agency from holding closed sessions with the Governor, Attorney General, district attorney, agency counsel, sheriff, or chief of police, or other law enforcement or security personnel, or a security consultant or a security operations manager, on matters posing a threat to the security of public buildings, a threat to the security of essential public services, including water, drinking water, wastewater treatment, natural gas service, and electric service, a threat to the public’s right of access to public services or public facilities, or a threat to critical infrastructure controls or critical infrastructure information relating to cybersecurity.

QUESTIONS?