

# AB 2449 – NEW PROVISIONS FOR REMOTE PARTICIPATION IN PUBLIC MEETINGS

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ALLOWED FOR “JUST CAUSE” OR “EMERGENCY CIRCUMSTANCES.”

REPORT ON JANUARY 12, 2023

LAFCO



# BACKGROUND: CURRENT REMOTE PARTICIPATION IN BROWN ACT MEETINGS

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Remote participation provisions are in Gov. Code §54953. Prior to AB 2449, these were:

- **“Traditional”** provisions used for years. Allowed if 1) agenda lists locations for remote participation; 2) agenda is posted at remote location, 3) remote location is publicly accessible; 3) (G.C. § 54953 (b) thro (d).) **No sunset date.**
- **AB 361** used during “declared emergencies,” such as COVID 19. (G.C. § 54953(e).) **Sunset on Jan. 1, 2024.** Also, Governor’s **declared emergency expires March 1, 2023**; after which AB 361 use not allowed unless another declared emergency.

# AB 2449: “JUST CAUSE” AND “EMERGENCY CIRCUMSTANCES”

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Allowed for “**Just cause**” and “**emergency circumstances**”

**Quorum** of the body must meet in person “**at a singular physical location**” clearly identified on the agenda.” (§ 54953(f)(1).)

**Requests:** Made by individual commissioner, typically in 20 words or less.

- Made as **soon as possible**; separate request must be made for each meeting.
- **AGENDA.** If made after posting, legislative body **may consider “emergency” requests** per § 54953.2(b)(4); but **NOT** true for “good cause” requests.
- If **majority approval**, remote participation allowed.

# REQUEST NOT ON POSTED AGENDA

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- Per GC §54954.2(b) legislative body may take action on items not on posted agenda under 4 listed conditions:
  - (b)(4) “To consider action on a request from a member to participate in a meeting remotely *due to emergency circumstances pursuant to Section 54953*, if the request does not allow sufficient time to place the proposed action on the posted agenda for the meeting for which the request is made. The legislative body may approve such a request by a majority vote of the legislative body.”
- Note: No mention of “just cause.”

# DEFINITIONS

## “EMERGENCY CIRCUMSTANCES”

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Defined in Gov. Code § 54953(j):

- (1) “Emergency circumstances” means a **physical or family medical emergency** that prevents a member from attending in person.
- Some ambiguity in this definition.

# “JUST CAUSE”

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(2) “Just cause” means any of the following:

- (A) 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.
- (B) A contagious illness that prevents a member from attending in person.
- (C) A need related to a physical or mental disability as defined in Sections 12926 and 12926.1 not otherwise accommodated by subdivision (g).
- (D) Travel while on official business of the legislative body or another state or local agency.

# LIMITS ON USE OF AB 2449; SUNSET JAN I, 2026

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Pursuant to . (§ 54953(e)(3).) a member may not remotely participate pursuant to AB 2449

- for a period of more than three consecutive months or
- 20 percent of the regular meetings of the local agency within a calendar year or
- more than 2 meetings if the local agency meets fewer than 10 times per calendar year

Therefore, commissioners & LAFCO need to track use of AB 2449.

Sunsets January 1, 2026.



# QUESTIONS OR COMMENTS

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