

## September 2022 Brown Act Updates

Effective 1/1/2023-1/1/2026

[AB-2449 Open meetings: local agencies: teleconferences.](#)

[https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=202120220AB2449](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB2449)

### Key Changes

- The effective date of the legislation is 1/1/2023-1/1/2026,
- Section 1 has the most changes and affects current business the most
  - (f)(1) You may ignore section (b)(3) (the requirement that each teleconference location be noticed and physically accessible to the public unless a state of emergency exists) as long as the following conditions are met:
    - At least a quorum of the body's members participate from a single physical location clearly identified on the agenda,
    - The location is open to the public and located within the body's local jurisdiction,
    - A two-way A/V platform is provided, or two-way voice calling (with telephone access) and a live webcast,
    - Options are provided for public comment to occur via phone, internet service, or in-person,
    - If there is a disruption to the meeting broadcast, no action may be taken for the duration of the disruption,
    - Public comments may not be required to be submitted in advance,
  - (f)(2) Requirements are placed on members to participate remotely:
    - Members can request to participate remotely by providing "just cause", but are limited to doing so only twice in a calendar year,
      - "Just cause" is defined as:
        - Needing to provide caregiving services for another person,
        - Having a contagious illness,
        - Physical or mental disability not otherwise accommodated,

- Being physically unavailable due to official travel related to the legislative body’s business, or that of another state or local agency.
  - Otherwise, members must present “emergency circumstances” to the legislative body and request official permission to participate remotely. Medical circumstances do not need to be specifically disclosed. Requests must be made separately for each meeting that will be attended remotely. The request can be voted on at the meeting the request is for.
    - “Emergency circumstances” are defined as physical or family emergencies that prevents in-person attendance.
  - Each member must disclose if any other individuals over the age of 18 are present in the same room as them at the remote location, and their relationship.
  - Members participating remotely must use their voice AND camera.
  - These provisions cannot be used to participate remotely for more than 3 consecutive months or 20% of the legislative body’s scheduled meetings for the calendar year, or more than 2 meetings if there are less than 10 meetings in a calendar year.
- These requirements exist from their enactment (1/1/2023) until 1/1/2024.
- Section 2 is very similar to Section 1, but is enacted from 1/1/2024 until 1/1/2026.
- Section 3 essentially re-establishes the prior version of the Brown Act we all know and dislike (needing to notice every teleconference location, make all locations physically accessible to the public) and comes into effect on 1/1/2026.
- Section 4 has minimal changes and will be automatically repealed on 1/1/2026.
- Section 5 provides significant updates regarding agenda posting requirements and takes effect on 1/1/2026:
  - (a)(1) requires that an agenda be posted 72 hours in advance and include a brief description of all business items, including closed session items (in my experience, many district boards do not properly describe their closed session items).

- (a)(2) specifies that agenda must be available on the legislative body's website, must be prominent and easily locatable, and easily downloadable and machine readable.
- (b) specifies the methods for discussing non-agenda items:
  - Majority vote that there is a defined emergency (i.e. fire or other disaster),
  - Two-thirds vote (or unanimous if less than 2/3 of members are present) that item requires immediate action, only allowed if it came to attention after the agenda was posted (72hrs prior),
  - If an item was posted properly at a previous meeting occurring no more than 5 calendar days prior, and a motion was passed to postpone that item until the current meeting