

THE FUTURE OF TELECONFERENCING AND REMOTE MEETINGS

COUNTY OF MONTEREY BOARD OF SUPERVISORS

JANUARY 17, 2023

PRE-PANDEMIC

- PRIOR TO GOVERNOR NEWSOM'S PROCLAMATION OF A STATE OF EMERGENCY DUE TO COVID-19, AND THE ISSUANCE OF HIS EXECUTIVE ORDER N-25-20 (AS MODIFIED BY EXECUTIVE ORDER N-29-20) IN MARCH OF 2020, THE BROWN ACT ALLOWED THE USE OF TELECONFERENCING BY LEGISLATIVE BODY MEMBERS.

PRE-PANDEMIC (cont.)

- STRICT REQUIREMENTS:

- ✓ ALL VOTES TAKEN BY ROLL CALL;

- ✓ EACH TELECONFERENCE LOCATION MUST:

- BE LISTED ON THE NOTICE AND AGENDA;

- HAVE AN AGENDA POSTED;

- BE ACCESSIBLE TO THE PUBLIC (INCLUDING THOSE WITH DISABILITIES); AND

- OFFER AN OPPORTUNITY FOR PUBLIC COMMENT.

- ✓ A QUORUM OF MEMBERS MUST PARTICIPATE FROM LOCATIONS WITHIN THE PUBLIC ENTITY'S BOUNDARIES.

DURING PANDEMIC

- MARCH OF 2020 – GOVERNOR PROCLAIMS EMERGENCY AND EXECUTIVE ORDER WAIVES BROWN ACT REQUIREMENTS FOR MEETING IN PERSON:
 - ✓ MEETINGS MUST BE PUBLICLY NOTICED;
 - ✓ AT LEAST ONE LOCATION IS PUBLICLY ACCESIBLE AND AVAILABLE FOR MEMBERS OF THE PUBLIC TO ATTEND AND OFFER COMMENT; AND,
 - ✓ PUBLIC ENTITY MUST BE ABLE TO QUICKLY RESOLVE REASONABLE ACCOMODATION REQUESTS.

DURING PANDEMIC (cont.)

- SEPTEMBER 16, 2021 – AB 361 ADOPTED AND EFFECTIVE IMMEDIATELY.
- SUPERSEDES GOVERNOR’S EXECUTIVE ORDER, BUT IS EFFECTIVE ONLY DURING DECLARED EMERGENCY.
 - ✓ ALL VOTES MUST BE TAKEN BY ROLL CALL;
 - ✓ EVERY 30 DAYS AFTER 1ST MEETING, A MAJORITY OF THE MEMBERS MUST MAKE THE FOLLOWING FINDINGS:
 - THERE CONTINUES TO EXIST AN ACTIVE STATE OF EMERGENCY PROCLAMATION BY THE GOVERNOR;
 - STATE OR LOCAL HEALTH OFFICIALS RECOMMEND SOCIAL DISTANCING; AND
 - THE BODY RECONSIDERED THE CIRCUMSTANCES OF THE EMERGENCY.

DURING PANDEMIC (cont.)

- AB 361 (cont.)
 - ✓ THE LEGISLATIVE BODY MUST PROVIDE A METHOD BY WHICH THE PUBLIC MAY ACCESS THE MEETING AND MAKE PUBLIC COMMENT.
 - ✓ NO ACTION SHALL BE TAKEN IF AN INTERNET DISRUPTION AFFECTS THE PUBLIC'S ABILITY TO PARTICIPATE.
 - ✓ EFFECTIVE THROUGH DECEMBER 31, 2023.
 - ✓ GOVERNOR NEWSOM HAS INDICATED HIS INTENT TO TERMINATE THE COVID-19 STATE OF EMERGENCY AT THE END OF FEBRUARY, 2023, MAKING AB 361 INOPERATIVE.

POST-PANDEMIC

- IN SEPTEMBER OF 2022, THE GOVERNOR SIGNED INTO LAW AB 2449, WHICH WILL BECOME EFFECTIVE JANUARY 1, 2023.
- STATUTE INCORPORATES TRADITIONAL TELECONFERENCING UNDER THE BROWN ACT, AND THE PROVISIONS OF AB 361.
- STATUTE PROVIDES OTHER, MORE LIMITED, MEANS FOR LEGISLATIVE BODY MEMBERS TO PARTICIPATE REMOTELY.

POST-PANDEMIC (cont.)

- AB 2449:
 - ✓ INCLUDES TRADITIONAL TELECONFERENCING.
 - ✓ INCLUDES AB 361 CONDITIONS.
 - ✓ ADDS “JUST CAUSE” AND “EMERGENCY CIRCUMSTANCES”:
 - BOTH REQUIRE A QUORUM OF MEMBERS TO BE IN A PHYSICAL LOCATION WITHIN THE JURISDICTION ACCESSIBLE TO THE PUBLIC.
 - VOTES MUST BE BY ROLL CALL.
 - PUBLIC MUST BE PROVIDED ABILITY TO PARTICIPATE REMOTELY.

POST-PANDEMIC (cont.)

- AB 2449:
 - MEETING MUST BE BROADCAST WITH EITHER TWO-WAY AUDIO-VISUAL PLATFORM (E.G. ZOOM) OR A TWO-WAY TELEPHONIC SERVICE WITH LIVE WEBCASTING.
 - MEETING ACTIVITY MUST CEASE IF INTERNET OR TELEPHONIC ACCESS IS INTERRUPTED.
 - MEMBERS MUST PARTICIPATE WITH BOTH AUDIO AND VISUAL TECHNOLOGY.
 - REMOTE MEMBER MUST IDENTIFY ANYONE 18 YEARS OF AGE OR OLDER IN THE ROOM WITH THE LEGISLATOR AND RELATIONSHIP.

POST-PANDEMIC (cont.)

- AB 2449 (cont.):

- ✓ JUST CAUSE:

- MEMBER MUST NOTIFY THE LEGISLATIVE BODY AS SOON AS POSSIBLE (INCLUDES THE START OF A REGULAR MEETING) AND PROVIDE A GENERAL DESCRIPTION OF THE CIRCUMSTANCES.

- CARE OF A CHILD, PARENT, GRANDPARENT, GRANDCHILD, SIBLING, SPOUSE, OR DOMESTIC PARTNER;
 - CONTAGIOUS ILLNESS THAT PREVENTS A MEMBER FROM ATTENDING IN PERSON;
 - PHYSICAL OR MENTAL DISABILITY; OR
 - OFFICIAL BUSINESS TRAVEL FOR THE LEGISLATIVE BODY OR ANOTHER STATE OR LOCAL AGENCY.

POST-PANDEMIC (cont.)

- AB 2449 (cont.):

- ✓ JUST CAUSE (cont.):

- BOARD DOES NOT NEED TO VOTE ON JUST CAUSE EXCEPTION.

- ✓ EMERGENCY CIRCUMSTANCES:

- MEMBER MUST NOTIFY THE BOARD AS SOON AS POSSIBLE AND INCLUDE A GENERAL DESCRIPTION OF THE REASON (NOT EXCEEDING 20 WORDS).
 - PHYSICAL OR FAMILY MEDICAL EMERGENCY THAT PREVENTS A MEMBER FROM ATTENDING IN PERSON, BUT NEED NOT DISCLOSE MEDICAL CONDITION.

POST-PANDEMIC (cont.)

- AB 2449 (cont.):

- ✓ EMERGENCY CIRCUMSTANCES (cont.):

- BOARD NEEDS TO VOTE ON EMERGENCY CIRCUMSTANCES EXCEPTION.

- IF BOARD NOTIFIED AFTER AGENDA PUBLISHED, MAY ADD TO AGENDA AS AN URGENCY ITEM.

- ✓ JUST CAUSE MAY ONLY BE USED TWICE PER CALENDAR YEAR BY INDIVIDUAL MEMBERS.

- ✓ ANY TELECONFERENCE/REMOTE PARTICIPATION BY INDIVIDUAL MEMBERS IS LIMITED TO NOT MORE THAN 3 CONSECUTIVE MONTHS OR 20% OF ALL MEETINGS IN A CALENDAR YEAR.

POST-PANDEMIC (cont.)

- AB 2449 (cont.):
 - ✓ EFFECTIVE JANUARY 1, 2024, AB 361 PROCEDURES NO LONGER APPLICABLE.
 - ✓ AB 2449 EXPIRES DECEMBER 31, 2026, AND AFTER ONLY MEANS IS TRADITIONAL TELECONFERENCING.
- POLICY DECISIONS:
 - ✓ CONTINUED REMOTE PARTICIPATION BY THE PUBLIC
 - ✓ CONTINUED REMOTE PARTICIPATY BY STAFF

QUESTIONS