



Board of Retirement Regular Meeting

Sacramento County Employees' Retirement System

Agenda Item 19

MEETING DATE: December 7, 2022

SUBJECT: Education: New Teleconferencing Rules Under AB 2449

SUBMITTED FOR: Consent **Deliberation and Action** **Receive and File**

RECOMMENDATION

Staff recommends the Board receive and file an education session about AB 2449.

PURPOSE

This item supports the Strategic Management Plan objective to promote transparency and compliance with laws and regulations.

DISCUSSION

Currently, Board members who wish to attend Board meetings remotely have only two pathways: (1) teleconferencing under the traditional Brown Act rules or (2) teleconferencing under the AB 361 rules, which require a proclaimed state of emergency. On September 13, 2022, Governor Newsom signed into law AB 2449, which creates a third teleconferencing pathway that becomes effective as of January 1, 2023. General Counsel Stephen Lau will provide a brief PowerPoint presentation about those new rules.

ATTACHMENTS

- Board Order
- AB 2449 PowerPoint Presentation

Prepared by:

/S/

Stephen Lau
General Counsel

Reviewed by:

/S/

Eric Stern
Chief Executive Officer



Retirement Board Order

Sacramento County Employees' Retirement System

**Before the Board of Retirement
December 7, 2022**

AGENDA ITEM:

Education: New Teleconferencing Rules Under AB 2449

THE BOARD OF RETIREMENT hereby accepts the recommendation of Staff to receive and file an education session about AB 2449.

I HEREBY CERTIFY that the above order was passed and adopted on December 7, 2022 by the following vote of the Board of Retirement, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

ALTERNATES:

(Present but not voting)

Keith DeVore
Board President

Eric Stern
Chief Executive Officer and
Board Secretary



New Teleconferencing Rules Under AB 2449

December 7, 2022

AB 2449 – Four Phases

- On Sept. 13, 2022, Gov. Newsom signed AB 2449.
- Now through January 1, 2023: Traditional Brown Act Rules and AB 361
- Jan. 1, 2023 – Jan. 1, 2024: Traditional Brown Act Rules, AB 361, and New AB 2449 Rules
- Jan. 1, 2024 – Jan. 1, 2026: Traditional Brown Act Rules and New AB 2449 Rules
- Jan. 1, 2026 Onward: Traditional Brown Act Rules

AB 2449 – Now Through Jan 1, 2023

- Traditional Brown Act rules require a Board quorum to meet in person in the agency's jurisdiction, the posting of the Board member's remote location on meeting notice and agenda, and public access to each teleconferencing location; or
- AB 361's abbreviated procedures require the Board to make the following determinations by majority vote to justify remote or virtual meetings:
 - That a proclaimed state of emergency exists, and either:
 - State or local officials have imposed or recommended social distancing measures, or
 - As a result of a proclaimed state of emergency, meeting in person would present imminent risks to the health and safety of attendees.
- AB 361 Potentially Moot: Gov. Newsom to end State of Emergency as of Feb. 28, 2023.

AB 2449 – Jan 1, 2023 to Jan. 1, 2024

- Traditional Brown Act Rules, AB 361, and New AB 2449 Rules
- AB 2449's new rules provide a hybrid model of physical and remote attendance, under certain circumstances.
- AB 2449 requires that at least a Board quorum to participate in person from a single physical, public location identified on the agenda.
- If the physical quorum requirement is met, AB 2449 permits a member who is not physically present to request virtual attendance at the meeting under two circumstances: (1) for "just cause" and (2) due to "emergency circumstances."

AB 2449 – “Just Cause”

- **Request Timing and Procedure:** In order to attend remotely for “just cause,” a Board member must (1) notify the Board at the earliest opportunity of their need for remote participation, and (2) provide a general description of the circumstances justifying their virtual attendance.
- Member may make their notification as late as the start of a regular Board meeting. The Board does not need to take action to allow its member to attend the meeting virtually under such circumstances.
- **Number of Instances Permitted:** A Board member is limited to two virtual attendances based on “just cause” per calendar year.

AB 2449 – “Just Cause”

- **Qualifying Reasons as “Just Cause”:** AB 2449 provides a list of reasons that qualify as “just cause” --
- There is a childcare or caregiving need (for a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner) that requires the member to participate remotely;
- A contagious illness prevents the Board member from attending the meeting in person;
- There is a need related to a defined physical or mental disability that is not otherwise accommodated for; or
- Traveling while on official business of the legislative body or another state or local agency.

AB 2449 – “Emergency Circumstances”

- **Request Timing and Procedure:** Board member must make a request to the Board to allow him/her to meet remotely due to an emergency circumstance, and further must provide a general description of the circumstance justifying such attendance. The Board member must make the request “as soon as possible,” and shall make a separate request for each meeting in which they seek to participate remotely.
- If the request does not allow sufficient time to be placed on the agenda as a proposed action item, then the legislative body may take action at the beginning of the meeting.

AB 2449 – “Emergency Circumstances”

- Unlike a “just cause” request, a request based on “emergency circumstances” requires that the Board take action and approve the remote attendance at the start of the meeting for the Board member to be allowed to participate remotely for that meeting.
- **Qualifying Reasons as an “Emergency Circumstance:”** AB 2449 defines “emergency circumstances” as “a physical or family medical emergency that prevents a member from attending the meeting in person.”
- A member is not required to disclose any medical diagnosis or disability, or any personal medical information that is already exempt from existing law.

AB 2449 – Additional Requirements

- Before any action is taken during the meeting, the remote Board member must publicly disclose whether any other individuals 18 years of age or older are present in the room at the remote location with the member, and the nature of the member's relationship with any such individuals.
- Remote Board member must participate through both audio and visual technology.
- A Board member's remote participation cannot be for more than three consecutive months or 20 percent of the regular meetings for the local agency within a calendar year. And if the Board regularly meets fewer than 10 times per calendar year, a member's participation from a remote location cannot be for more than two meetings.

AB 2449 – Technological Requirements

- **Notice and Agenda:** If a Board member teleconferences into a meeting pursuant to the new AB 2449 rules, the public must be allowed to comment via teleconferencing as well. The Board must provide either a two-way audiovisual platform or a two-way telephonic service and a live webcasting of the meeting. The Board must provide notice and post agendas that indicate how the public may access the meeting and offer comment. The agenda must identify and include an opportunity for all persons to attend via a call-in option, an internet-based service option, and at the in-person location.
- **Public Access:** Public access only needs to be assured at the teleconference location identified as the singular physical location at which a quorum of the legislative body will conduct the meeting, and the notices and agenda do not need to list the individual remote locations that members of the legislative body might attend the meeting from.

AB 2449 – Technological Requirements

- **Public comment:** An individual may be required to register before being allowed to provide public comment, where a third-party platform (such as Zoom or Microsoft Teams) is employed. However, the Board may not require public comments to be submitted in advance of the meeting and specifies that the agency must provide an opportunity for the public to address the Board and offer comment in real time.
- **Disrupted broadcasting procedures:** In the event that the broadcasting of the meeting to the public by phone or by Internet is disrupted, the Board may not take further action on agenda items until public access is restored. Actions taken on agenda items during a disruption are subject to challenge.