

Olivehurst Public Utility District



Agenda Item Report

Meeting Date: October 20, 2022

Item description/summary:

New Rules and Updates to the Brown Act for Remote Attendance.

On September 13, 2022, Governor Newsom signed California Assembly Bill 2449 (AB 2449) into law which will become effective January 1, 2023. AB 2449 amends the Brown Act to provide an additional procedure for members of legislative bodies to attend public meetings remotely without identifying their teleconference site on the agency's agenda or ensuring accessibility to the public if the below procedures are followed.

Only if a quorum of the legislative body participates from a physical location open to the public, the remaining agency members can participate remotely in two situations:

1. Just Cause:

Just Cause is defined as any one of the following:

- Childcare or caregiving of a child, parent, grandparent, grandchild, sibling, or domestic partner that requires a member to participate remotely;
- A contagious illness that prevents a member from attending in person;
- A need related to physical or mental disability; or
- Travel while on business of the legislative body or another state or local agency.

In order to participate remotely under the "Just Cause" provision, the member must notify the legislative body at the earliest possible opportunity, including at the start of the meeting, for their need for remote participation, and provide a general description of the circumstances related to one of the four items listed justifying their virtual attendance.

A member may only participate remotely under the "Just Cause" provisions up to two meetings per calendar year.

2. Emergency Circumstances:

Emergency Circumstances is defined at a physical or family member emergency that prevents the member from attending in person.

In order for to participate remotely under the "Emergency Circumstance" provision, the member must request that the legislative body allow them to participate in the meeting remotely because of emergency circumstances and the legislative body must take action to approve the request. The request to participate remotely must be made as soon as possible and the legislative body may take action on this request at the earliest opportunity. If the request does not allow sufficient time to place it on the agenda for the meeting for which the request is made, the legislative body may take action on the request at the beginning of the meeting by majority vote.

The legislative body must request a general description of the circumstances relating to the member's need to appear remotely. This description does not have to be more than 20 words and the member does not have to disclose any personal medical information.

Additional Rules for Members Participating Remotely:

If agency members participate remotely under this new law for either the “Just Cause” or “Emergency Circumstances” situations described, then the following rules will apply:

- The legislative body must provide a way for the public to remotely hear, visually observe, and remotely address the legislative body, either by a two-way audiovisual platform or a two-way telephonic service and a live webcasting of the meeting.
- The legislative body must provide notice of how the public can access the meeting and offer comments.
- The agenda must identify and include an opportunity for the public to attend and directly address the legislative body through a call-in option, an internet-based service option, and in-person at the location of the meeting.
- The legislative body cannot require comments to be submitted before the start of the meeting. The public must be allowed to make “real time” public comment.
- If there is a disruption to the meeting broadcast or in the ability to take call-in or internet-based public comment, no further action can be taken on agenda items until the issue is resolved.
- The legislative body must implement a procedure for receiving and resolving requests for reasonable accommodations for individuals with disabilities and must give notice of these procedures.
- Members participating remotely must participate through both audio and visual technology.
- Members participating remotely must publicly disclose at the meeting before any action is taken whether any other individuals 18 years of age or older are present in the room at the remote location with the member and the general nature of the member’s relationship with the individual.
- A member may not participate in meetings solely by teleconference under this law for more than three consecutive months or 20% of the regular meetings for the public agency within a calendar year. If the legislative body regularly meets less than 10 times a year, a member may not participate remotely for more than two meetings.

Legislative bodies may still meet via teleconference by following the traditional Brown Act rules of identifying the teleconference site on the agency’s agenda and ensuring it is accessible for the public to attend.

Legislative bodies may meet by teleconference under AB 361 until January 1, 2024 during the Governor’s proclaimed State of Emergency and as long as other requirements are met.

January 1, 2023 to January 1, 2024 – Traditional Brown Act Rules, AB361, and New Rules under AB 2449 must be followed.

January 1, 2024 to January 1, 2026 – Traditional Brown Act Rules and New Rules under AB 2449 must be followed.

January 1, 2026 and Onward – Traditional Brown Act Rules must be followed.

Fiscal Analysis:

None

Employee Feedback

None

Sample Motion:

Information only.

Prepared by:

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