



To: Mayor and Members of the City Council

From: Michael Roush, Legal Counsel

Date: January 16, 2025

Subject: **Revised Brown Act Provisions Concerning Attending Meetings Remotely**

The Brown Act has been revised effective January 1, 2025, concerning members of legislative bodies, i.e., Council, standing subcommittees, committees and commissions, to attend meetings remotely. For the most part the same rules apply as have been in effect since February 2023. For example, legislative bodies are required to attend meetings in person but may attend meetings remotely under certain circumstances discussed in more detail below. The most significant revision, however, is that a member is now limited to attending meetings remotely under the just cause or the emergency circumstances provisions no more than five times per calendar year and, in the case of attending meetings remotely under the just cause provisions, limited to attending meetings under those provisions to no more than twice in a calendar year.

Meetings Effective January 1, 2025

Council, Commission and Committee members will continue to need to attend meetings in person. Members of the public may attend meetings either in person or remotely, so long as there is City technology that will allow members of the public to observe and participate in the meeting in essentially the same fashion as if they were in person. The City has the required technology.

Methods for Members to Participate Remotely.

Under the Brown Act, legislative body members are permitted to attend a meeting remotely if certain requirements of the Brown Act are followed. Under long standing procedures under the Brown Act, a member may participate remotely, for example, when the member is traveling so long as a quorum of the legislative body is within the jurisdiction of the local agency, the agenda must reflect where any "remote" member will actually be (*e.g.*, the address of a hotel), the member must post the agenda at that location (*e.g.*, on the door of the hotel room or conference room in which the member will participate remotely), the location must be accessible by the public, and all votes must be done by roll call. As noted, councilmembers have used the procedures described in this paragraph from time-to-time, for example when attending out of town conferences or when on vacation.

The Brown Act was amended in 2023 to allow members of a legislative body to attend meetings

remotely under other, but limited, circumstances: so long as a quorum of the legislative body participates in person from a physical location open to the public, other members may participate in the meeting remotely under specified conditions if they have either just cause or there are emergency circumstances.

Just Cause

Just cause is defined as any one of the following: childcare or caregiving of a child, parent, grandchild, grandparent, sibling, spouse or domestic partner; a contagious illness; a need related to physical or mental disability; or travel on business of the local agency. The member must notify the legislative body at the earliest opportunity and provide a general description of the circumstances above. The member must also publicly disclose at the meeting whether any other individual 18 years of age or older is present in the room where the member is and, if so, the general nature of the member's relationship with such individual. The member must also participate through audio and visual technology. Significantly, a member may only participate remotely under the just cause provisions twice per calendar year and a member may only participate using the just cause and emergency circumstances remote participation procedures, collectively, no more than five times each calendar year.

Emergency Circumstances

Emergency circumstances mean a physical or family medical emergency that prevents a member from attending a meeting in person. To utilize this provision, the member must request (not just notify) the legislative body as soon as possible and the legislative body must consider the request at the earliest possible time and must approve the request if the member is to be allowed to participate remotely. If the member has not already done so, the legislative body must request a general description of the emergency circumstances, but the description need not be more than 20 words and need not disclose any private, personal, or medical information. As with the just cause provisions, the member must publicly disclose at the meeting whether any other individual 18 years of age or older is present in the room where the member is and, if so, the general nature of the member's relationship with the individual. The member must also participate through audio and visual technology. And the use of remote participation by a member under the just cause and emergency circumstances participation provisions, collectively, may not exceed five in any calendar year.

Additional Requirements

For a member to participate remotely under the just cause or emergency circumstances provisions, the following, among other requirements, must also be met:

1. The public must be able, remotely, to hear, visually observe, and address the legislative body (e.g., via in a two-way audiovisual platform).
2. There must be a notice of how the public may access the meeting and offer comments.
3. The agenda must provide information as to how the public may attend and address the legislative body, whether through call in, internet-based service, or in person.
4. If there is a disruption of the meeting broadcast or in the ability to take public comment, no further action on the item may be taken until the issue is resolved, although the legislative body may continue to discuss the item. Once the broadcast is restored, the legislative body must allow public comment before taking any action.

Conclusion

The City Clerk and the City Attorney/Legal Counsel will work with any Council, Commission or Committee member who wishes to avail him/herself of these provisions. If there are questions about the conduct of meetings or about the revised Brown Act provisions, please let us know.

cc: All Commissions and Committees

Ways Members of a Legislative Body (Council, Commissions, Committees) May Participate in Meetings effective January 1, 2025

	Notes for Members	Notes for Staff
Member Attending the meeting in Person	Meetings held in person at Brisbane City Hall 50 Park Place, Brisbane	If a meeting of a legislative body of a local agency lacks a quorum, it does not constitute a meeting under the Brown Act. Cal. Gov't Code § 54952.2.
Absent/No Show	Check attendance policy in City Council Handbook or Committees and Commission policy from Resolution No. 2013-12	Check attendance policy in City Council Handbook or Committees and Commission policy from Resolution No. 2013-12
Member attending the meeting virtually, i.e., remotely, under the Just Cause provisions	<p>Provisions for child care or caregiving of a child, parent, grandchild, grandparent, sibling, spouse or domestic partner; a contagious illness; a need related to physical or mental disability; or travel on business of the City</p> <p>The member must <u>notify</u> the legislative body at the earliest opportunity and provide a general description of one or more of the circumstances above</p> <p>Email notice is sufficient if sent to the - chair, city clerk and staff lead and the member provides a general description of one or more of the circumstances above.</p>	<p>There must be an in-person quorum but subcommittees may have one in person and one remote member (if more than 2 members in a subcommittee, the majority of the members must be in person)</p> <p>Receive Email Notice from member that provides a general description of one or more of the circumstances under "Notes for Members"</p> <p>All votes must be conducted by roll call</p>

	<p>Need not disclose any private personal or medical information</p> <p>The member must publicly disclose at the meeting whether any other individual 18 years of age or older is present in the room where the member is and, if so, the general nature of the member's relationship with the individual.</p> <p>The member must participate through both audio and visual technology.</p> <p>Use of the just cause provisions to attend meetings remotely is limited to two per calendar year but a member may not participate remotely under the just cause and the emergency circumstances provisions collectively, more than five times in each calendar year for each legislative body on which a member sits</p>	
Member attending the meeting virtually, i.e., remotely, using "Emergency Circumstance" provisions	<p>An emergency circumstance is a physical or family medical emergency that prevents a member from attending a meeting in person</p> <p>Email <u>request</u>- to the chair, city clerk and staff lead and provide a general description of the emergency (which need not be more than 20 words) and need not disclose any private, personal, or medical information</p> <p>Legislative body must consider the request at the earliest possible time (there will be a standing item on the consent calendar) and must approve the request if the member is to be allowed to participate remotely.</p> <p>The member must publicly disclose at the meeting whether any other</p>	<p>There must be an in-person quorum but subcommittees may have one in person and one remote person (if more than 2 members in a subcommittee, the majority of the members must be in person)</p> <p>On the agenda have a standing item under Roll Call so that the legislative body has the opportunity to consider and then act on the request</p> <p>Receive Email <u>request</u> from member that provides a general description of the emergency</p> <p>All votes must be conducted by roll call</p>

	<p>individual 18 years of age or older is present in the room where the member is and, if so, the general nature of the member's relationship with such individual.</p> <p>The member must participate through both audio and visual technology.</p> <p>A member may not participate remotely under the just cause and emergency circumstances provisions collectively, more than five times in each calendar year for each legislative body on which a member sits.</p>	
<p>Member attending the meeting by Teleconferencing <u>(Only Audio (in Zoom only audio); no video)</u></p>	<p>The Brown Act allows a member to attend a meeting by teleconference if the member complies with the certain statutory requirements: The teleconference location is accessible to the public and the location is noted on the agenda, e.g., the address of a hotel where the member is staying or the member's home address; The location must be accessible by the public.</p> <p>Contact the city clerk for all requirements</p>	<p>There must be an in-person quorum but subcommittees may have one in person and one remote person</p> <p>Post location where the member will be on the agenda</p> <p>All votes must be conducted by roll call</p>

FAQs

1. Are these the same rules applicable to Subcommittee meetings?

The requirements of the Brown Act apply to “legislative bodies” of **local governmental agencies**. The term “legislative body” is defined to include the governing body of a local agency (e.g., the city council) and any commission, committee, board or other body of the local agency, whether permanent or temporary, decision-making or advisory, that is created by formal action of a legislative body (Government Code, section 54952). This includes standing subcommittee meetings but not ad hoc subcommittee meetings. Ad hoc subcommittees are temporary, that is, they have a defined purpose and a time frame to accomplish that purpose, and are not considered “legislative bodies”. As such, ad hoc committees may, but are not required to, comply with all provisions of the Brown Act.

2. What happens if there are technical difficulties during the Legislative Bodies’ meeting?

As long as interactive audio is maintained (i.e., even when the live stream and/or cable channel is down)— the meeting may continue and the legislative body may vote on an item.

If there is no longer interactive video/audio (e.g., Zoom is no longer working), the legislative body may not vote on an item, however, the members of the legislative body may (but are not required to) continue discussing the item and asking questions.

If interactive video/audio becomes active, the legislative body must allow more public comment on that item before taking action on the item.

3. What if the legislative body has a need to do a site visit at an off site location ?

When meetings are held off site, the body must first meet at its regular meeting place and then proceed to the off site/outdoor location. As a practical matter, a member or a member of the public could not attend that remotely. Accordingly, the agendas for those meetings should be clear that the meetings will not be conducted in a hybrid fashion

- 4. For typical teleconferencing, i.e., where the member is participating remotely but not under the just cause or emergency circumstances provisions, does the member really need to post the agenda on the front door of the member's residence, or on the door of the member's hotel room, where the member will be participating remotely?**

The statute is ambiguous about this. It provides that the agenda shall be posted at all teleconference locations, each teleconference location shall be identified on the meeting notice and agenda, and each teleconference location shall be accessible to the public. In the absence of clarifying language from the Legislature or a decision by the courts, the safer approach is to post the agenda on the front door of the member's residence or the door of the hotel room/conference room from which the member will be participating remotely.

- 5. What level of detail is required to be provided when a member wants to participate remotely in a meeting for physical or family medical emergency reasons?**

When a member has a valid physical or family medical emergency that prevents the member from attending the meeting in person but does allow the member to attend remotely, the member must only provide a general explanation of the medical reasons. The explanation should be limited to 20 words and shall not require the member to disclose any medical diagnosis or disability, or any other personal medical information that is exempt from disclosure under the law.