

**VALLEY CLEAN ENERGY ALLIANCE****Staff Report - Item 15**

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**TO:** Board of Directors

**FROM:** Mitch Sears, Executive Officer  
Alisa Lembke, Board Clerk/Administrative Analyst

**SUBJECT:** Board Meetings and Brown Act/AB 2449 rules regarding Teleconferencing meetings

**DATE:** January 19, 2023

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**RECOMMENDATIONS**

1. Resume in-person Board meetings beginning in February 2023;
2. Direct staff to explore options for “hybrid” public meetings to allow flexibility for remote participation by the public and agency staff/consultants and return with recommendations at a subsequent meeting.

**BACKGROUND AND ANALYSIS**

During the COVID-19 State of Emergency Assembly Bill (AB) 361 was adopted in 2021, effective until January 1, 2024, and amended the Brown Act to relax teleconferencing requirements during Governor-proclaimed emergencies. Assembly Bill 2449 was passed in late 2022, which addresses the use of teleconferencing (including videoconferencing) for meetings that are subject to the Brown Act (Government Code Sections 54950 et seq.). The provisions of AB 2449 are effective for a period of three years beginning January 1, 2023 and ending January 1, 2026. Governor Newsom plans to end California’s COVID-19 State of Emergency on February 28, 2023 which will affect public agencies ability to continue with remote public meetings, subject to the Brown Act under AB 361.

In the absence of a Governor-proclaimed state of emergency, members of legislative bodies will be able to participate in meetings remotely or by teleconference under either the traditional teleconferencing rules under the Brown Act or AB 2449. The requirements for remote participation in public meetings under Brown Act and AB 2449 are outlined below. Note: General Council has advised staff on these requirements.

**Teleconferencing Under the Brown Act**

The Brown Act requires that all public meetings of a local agency body:

- be open and public and that members of the public be permitted to attend and participate [Government Code Section 549539(a)];
- allows for meetings to occur via teleconferencing;

- the agenda must identify the teleconference location of each legislative body member that will be participating in the meeting;
- each teleconference location must be accessible to the public;
- member of the public must be allowed to address the legislative body at each teleconference location;
- the meeting agenda must be posted at each teleconference location; and,
- at least a quorum of the legislative body must participate from locations within the boundaries of the agency's jurisdiction.

#### AB 2449: New Alternative Teleconferencing Requirements for Limited Circumstances

Assembly Bill 2449 provides local agency legislative bodies an additional, but limited teleconferencing option starting January 1, 2023. While AB 2449 shares some similarities with AB 361, important differences include a requirement for a singular physical meeting space where at least a quorum of the body attends in person. AB 2449 provides the following:

- exempts local agencies from posting agendas at all teleconference locations;
- identifying all teleconference locations in the meeting agendas;
- making each teleconference location open to the public;
- allows teleconferencing with meeting notices and agendas must identify the means by which members of the public may access the meeting and offer public comment;
- meeting agendas must identify and include an opportunity for all person to attend and address the legislative body directly via a call-in option, via an internet-based service option, and at the in-person location at the meeting;
- at least a quorum of the legislative body must participate in person at a single physical location which must be situated within the boundaries of the agency jurisdiction;
- Members of the legislative body 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;
- Members must participate through both audio and visual technology so that the public can remotely hear and visually observe the members and requires two way communication with a live webcasting;
- in the event of a disruption that prevents the legislative body from broadcasting, allowing public call-in options or internet-based service option, the legislative body cannot take further action on items appearing on the agenda until public access is restored;
- the legislative body cannot require public comments to be submitted in advance of the meeting, instead must provide an opportunity for the public to address the legislative body in real time;
- does not allow frequent teleconferencing under relaxed requirements, instead allows members to participate remotely from "time to time" under two specified circumstances 1) just cause or 2) emergency circumstances and limits remote participation for "just cause" to two (2) meetings per calendar year and limits the length of time participating remotely; and,
- AB 2449 does not supersede AB 361 or the Brown Act teleconference requirements.

Staff believes that, except under limited circumstances, AB 2499 does not offer practical ways for the Board or Community Advisory Committee (CAC), to increase participation in public meetings through technology utilized during the early stages of the pandemic. Therefore, staff is not recommending any changes to how VCE’s administers public meetings at this time. However, there are potential options that staff will continue to explore under the existing Brown Act requirements that may provide efficiencies (e.g. remote participation, reduced travel times, etc.). These “satellite” type meetings are being utilized by other CCA’s and state/regional agencies and may prove useful to other multi-jurisdiction agencies like VCE. If this type of approach has merit and the Board provides direction as recommended, staff will return with a proposal for consideration by the Board at a subsequent meeting.

Both the Brown Act rules, as well as AB 2449, require advance planning and communication on the part of VCE Staff, as well as Board Members, in order to ensure that all applicable requirements are met. If the Board opts to use AB 2449 teleconferencing, Staff will need to ensure that a quorum of the Board will be at a singular physical location for every meeting, as well as creating a system for Board members to submit, and for Staff to track, remote participation requests and ensure that they are within the allowable limits.

For reference, VCE member jurisdictions are currently holding their meetings as follows:

<b>Jurisdiction</b>	<b>In person or Hybrid</b>	<b>Public Comments</b>	<b>Media</b>
City of Davis	In person	Written, prerecorded or in person	Live streaming to local cable channel and recorded
Yolo County	In person (starting 1/10/2023)	Written or in person	Live streaming to local cable channels and recorded
City of Woodland	In person	Written or in person	Live streaming to local cable channel and recorded
City of Winters	Hybrid	Written, remotely via Zoom, or in person	Live streaming via Zoom and recorded

**CONCLUSION**

An agency can meet remotely under any of the three (3) frameworks (Brown Act, AB 361, AB 2449), provided the procedural and circumstantial requirements of the chosen framework are met. Local agencies may also conduct public meetings entirely in-person. Staff is recommending resumption of in-person meetings beginning in February 2023 and the study of options to improve flexibility and achieve efficiencies if possible.