

New Brown Act Rules applicable  
to Advisory Bodies stemming  
from SB 707 commencing on  
January 1, 2026



# Agenda

Introduction

Current Law

Fully Remote Meetings for Advisory  
Committees

Changes to Just Cause Remote  
Attendance

Remote Attendance for Members with  
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# Review of Current Law

# Teleconferencing options under current law


- The Brown Act currently permits committee members to attend committee meetings remotely using either traditional teleconferencing, just cause remote attendance, or emergency circumstances remote attendance.
- Traditional teleconferencing requires that the member's remote address be included in the meeting agenda, that the meeting agenda be posted at the remote location, and that the public have the ability to participate in the meeting from the member's remote location.
- Traditional teleconferencing also requires a quorum of members to participate in the meeting from locations within the BART District. Traditional teleconferencing is unchanged by SB 707 and will continue to be permitted under the Brown Act.

# AB 2449 Remote Meeting Options



- In order to participate in meetings remotely *without* posting a remote address or making the remote location accessible to the public, a member must currently qualify for just cause or emergency circumstances remote attendance, which were added to the Brown Act three years ago by AB 2449.
- Just cause and emergency circumstances remote attendance require at least a quorum of members to participate from one publicly-accessible location within the BART District.
- SB 707 made changes to these types of remote attendance, discussed more fully later in this presentation.



# Fully Remote Meetings for Advisory Committees



# Fully Remote Meetings for Advisory Committees

- SB 707 authorizes fully remote meetings by subsidiary legislative bodies, such as advisory committees appointed by the Board, subject to certain requirements and exceptions.
  - Note that *elected officials* serving as committee members in their official capacities are not permitted to rely upon the following rules for remote attendance at committee meetings, but may still use traditional teleconferencing or just cause remote attendance at such meetings.
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# Who is eligible for fully remote meetings ?

- A subsidiary body is eligible to hold fully remote meetings if the body satisfies all of the following conditions:
- The body is created by formal action of the Board;
- The body serves exclusively in an advisory capacity;
- The body is not authorized to take final action on legislation, regulations, contracts, licenses, permits, or any other entitlements, grants, or allocations of funds; and
- The body does not have primary subject matter jurisdiction, as defined by charter, ordinance, resolution, or other formal action of the Board, that focuses on elections, budgets, police oversight, privacy, removing from, or restricting access to, materials available in public libraries, or taxes or related spending proposals.





# Who is not eligible ?

- The following BART advisory committees are *not* eligible for fully remote meetings based on the committee's primary subject matter jurisdiction:
- Audit Committee (budget and general financial matters)
- Measure RR Bond Oversight Committee (taxes and related spending proposals)
- BART Police Civilian Review Board (police oversight)
- Transit Security Advisory Committee (police oversight)





# General Rule for BART Advisory Committees




- All other BART advisory committees appointed by the Board satisfy the requirements for fully remote meetings. Note that individual members of the non-eligible committees may still be able to participate remotely under provisions permitting remote attendance as a disability accommodation, remote attendance for just cause, and traditional teleconferencing.
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# Necessary Findings for BART Committees to hold fully remote meetings

- In order for eligible BART committees to hold fully remote meetings, the BART Board must first make the following findings by majority vote, and must thereafter adopt the findings every six months:
  - The Board has considered the circumstances of the subsidiary body;
  - Remote meetings of the subsidiary body would enhance public access to meetings of the subsidiary body, and the public has been made aware of the type of remote participation, including audio-visual or telephonic, that will be made available at a regularly scheduled meeting and has been provided the opportunity to comment at an in-person meeting of the legislative body authorizing the subsidiary body to meet entirely remotely; and
  - Remote meetings of the subsidiary body would promote the attraction, retention, and diversity of subsidiary body members.
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- Staff is working on bringing an agenda item to a Board meeting in early 2026 for the Board to consider making such findings. The Board will be required to adopt these findings every six months to enable committees to continue meeting remotely.



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- If the Board adopts the above findings, advisory committees may hold fully remote meetings subject to the following requirements:
  - The District must designate one physical meeting location within District boundaries where committee members participating in person are present and where members of the public may physically attend the meeting.
  - At least one District staff person must be present at the physical meeting location.
  - The meeting agenda must be posted at the physical meeting location.
  - Committee members participating remotely must visibly appear on camera during the open session portion of the meeting, unless the committee member has a physical or mental condition that is not a disability that results in a need to participate off camera.
  - A committee member's appearance on camera may cease only when their appearance would be technologically infeasible, including when the member experiences a lack of reliable broadband or internet connectivity that would be remedied by joining without video. If this happens, the member must announce the reason for their nonappearance prior to turning off their camera.

# WARNING!

- As noted above, elected officials serving as committee members in their official capacity are not permitted to participate remotely in committee meetings, except under the traditional teleconferencing rules or the just cause remote attendance rules.



# Recommendations to the BART Board

- Additionally, a committee that has been authorized by the BART Board to hold fully remote meetings may request to present its recommendations to the Board and upon receiving the request, the Board must hold a discussion regarding the recommendation at a regular meeting within 60 days of the request.
  - The Board's discussion may not be placed on the consent calendar, but it may be combined with the six-month re-authorization of remote committee meetings.
  - The Board is prohibited from taking action on the recommendation until the next regular meeting following the Board's initial discussion of the matter.
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# SB 7070 expands the circumstances for just cause remote attendance

- SB 707 expands the circumstances under which a committee member may use just cause remote attendance to include any of the following:
- A childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner
- A contagious illness that prevents the member from attending in person
- A need related to a physical or mental condition that does not qualify for disability accommodation
- Travel while on official business of the District or another state or local agency
- A physical or family medical emergency that prevents the member from attending in person (previously a basis for "emergency circumstances" remote participation) SB 707 eliminated "emergency circumstances" as a separate type of remote participation and folded this circumstance into "just cause" remote participation
- (NEW) An immunocompromised child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires the member to participate remotely
- (NEW) Military service obligations that result in a member being unable to attend in person because they are serving under official written orders for active duty, drill, annual training, or any other duty required as a member of the California National Guard or a United States Military Reserve organization that requires the member to be at least 50 miles outside the District's boundaries
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# Limitations on remote attendance

- Committee members are limited in the number of times per year they may use just cause remote attendance, depending on the number of regular meetings held by the committee per year. If the committee regularly meets once per month or less (which is the case for most BART advisory committees), members may use just cause remote attendance at up to two meetings per year. If the committee regularly meets twice per month, members may use just cause remote attendance at up to five meetings per year. If the committee regularly meets three or more times per month, members may use just cause remote attendance at up to seven meetings per year.

# Some things stay the same, some things change (handling minutes)

- Note that SB 707 leaves unchanged the just cause requirement that at least a quorum of committee members participate in person from a singular physical location clearly identified on the agenda that is open to the public and within the BART District. Members are also still required to announce at the start of the meeting their need to participate remotely for just cause, including a general description of the circumstances relating to the need to participate remotely.
- SB 707 adds a requirement that the minutes of any meeting at which a member participates remotely for just cause identify the specific provision of the Brown Act that the member relied upon to participate remotely, i.e., for a caregiving need, for a contagious illness, etc.

# **Remote Attendance for Members with Disabilities**

- SB 707 adds provisions expressly permitting a committee member with a disability to attend committee meetings remotely as a reasonable accommodation pursuant to any applicable law.
- A member participating remotely as a disability accommodation must participate using both audio and camera, except that a member may participate solely with audio if their disability results in a need to participate off camera.
- The member must disclose at the beginning of the meeting whether any other individual age 18 years or older are present in the room with them, and the general nature of the member's relationship with the individual.
- Remote participation as a disability accommodation must be treated as in-person attendance at the physical meeting location for all purposes, including establishing a quorum.

# SB 707 is additive to the existing framework of laws addressing meetings during emergencies

- SB 707 preserves the pandemic-era provisions permitting fully remote committee meetings during a state of emergency, and expands these provisions to include *local* states of emergency.

# Other Changes

- SB 707 includes the following additional amendments relevant to advisory committees:
- A requirement that agency staff provide a list to advisory committees of meeting locations that may be available to the committees to conduct their meetings.
- A clarification that legislative bodies, including advisory committees, may remove or limit participation from members of the public engaging in disruptive behavior, regardless of whether the individual is participating in person or remotely.
- A requirement that agency staff provide a copy of the Brown Act to all committee members by January 1, 2026.



Thank you

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