

# Brown Act Training and Presentation

Citizens Advisory Committee  
September 17, 2025  
Agenda Item 8



# Caltrain Citizens Advisory Committee

- The Citizens Advisory Committee (CAC) was formed by the Joint Powers Board of Directors (Board) via Resolution No. 1992-28, and Bylaws were introduced via Resolution No. 2002-13, which made the CAC subject to the Brown Act
- The CAC is composed of volunteer members who serve in an advisory capacity to the Board and convey community information, ideas, and comments to the Board
- Members of the CAC also provide input on the needs of current and potential rail customers, and review and comment on staff proposals and actions as requested by the Board
- The CAC is advisory only and does not have independent decision-making authority

# Purpose of the Brown Act

- The Act promotes:
  - Government transparency: Ensures deliberations of local government are open and public
    - Exceptions to right of access narrowly construed to promote meaningful access
  - Public Participation: Requires public notice of items to be considered, public access to materials, and preserves right of public to participate in decision making
- Courts rely heavily upon these purposes when interpreting the Brown Act and determining if violations have occurred

# Application of the Act

- Applies to all “meetings” of “legislative bodies” of local agencies
- “Meeting” means any congregation of a majority of a legislative body at the same time and location, including teleconference locations, to hear, discuss, deliberate, or act on an item within the subject matter jurisdiction of the legislative body
- Brown Act bodies include the governing bodies, subsidiary bodies, and any other body of a local agency created by charter, ordinance, resolution or formal action of a legislative body that is itself a legislative body, including committees
- Specifically applies to the CAC per its authorizing resolution and Article III, Section 2 of its Bylaws

# Requirements of the Act

- Notice for agenda posted in publicly accessible location 72 hours before a regular meeting; 24 hours before special meetings and one hour before emergency meetings
- Open and public: all persons must be permitted to attend meetings
- Public has the right to address CAC via public comment with reasonable time limitations; cannot prohibit criticism but may prohibit personal attacks and disruptive comments
- CAC may not discuss items not on the agenda, unless an exception applies
- Prohibits serial meetings, i.e., a majority of members of a legislative body outside of a lawful meeting may not directly or indirectly use a series of meetings to discuss, deliberate, or take action on any item of business within the subject matter jurisdiction of the body

# Serial Meetings

- Serial meetings prohibited because they deprive the public of an opportunity for meaningful participation in legislative body decision-making
- Typically, serial meetings occur when:
  - 1) members contact one another individually until a quorum has discussed, deliberated, or taken action on an item within the body's subject matter jurisdiction; or
  - 2) a staff member speaks to multiple members one by one to share opinions or seek a decision on a proposed action until a quorum has discussed, deliberated, or taken action on an item within the body's subject matter jurisdiction
- Communication technologies present Brown Act challenges related to serial meetings:
  - Forwarding or replying to emails
  - Text messages
  - Participation on social media, chatrooms, forums, or blogs

# Meetings – Exceptions

- Discussions that do not involve specific business within the jurisdiction of the body or sharing comments or positions of other members are permitted:
  - Separate communications of employees or officials outside of a meeting with members to answer questions or provide information
  - Separate communications of members on an internet-based social media platform to answer questions, provide information to the public, or to solicit information
  - Individual contacts
  - Conferences or similar gatherings open to the public involving discussions of issues of interest to the public or public agencies the body represents
  - Social or ceremonial occasions
  - Open and public meetings of other organizations, agencies, legislative bodies of the same agency, or a standing committee of the body

# Use of Social Media

- May use social media platforms such as Facebook and Twitter to engage in communications with the public regarding matters within CAC's jurisdiction:
  - Answer questions
  - Provide information
  - Solicit information
- Prohibited from using social media platforms to engage in communications with a majority of CAC colleagues regarding matters within CAC's jurisdiction, including through the use of emojis
- Members are prohibited from using social media platforms to:
  - Respond to a colleague's post about matters within CAC's jurisdiction
  - Share a communication posted by a colleague about matters within CAC's jurisdiction



# Recent Amendments to Brown Act

- Assembly Bill 557 (AB 557) allows members to participate in meetings remotely via teleconference without noticing their location or providing public access during a declared state of emergency
- Assembly Bill 2449 (AB 2449) allows members to participate remotely in meetings for just cause or due to emergency circumstances for a limited number of meetings per year without noticing their location or providing public access
- Assembly Bill 2302 (AB 2302) clarifies the number of meetings that a member may rely on the just cause and emergency circumstances exceptions
- Senate Bill 1100 (SB 1100) clarifies when a legislative body may permissibly remove disruptive individuals from meetings in order to allow the meeting to continue

# Brown Act Teleconferencing

|                             | Teleconferencing<br>(Gov. Code § 54953(b))            | AB 557 – State of Emergency (Gov. Code § 54953(e))                                  | AB 2449 – Just Cause<br>(Gov. Code § 54953(f))                                              | AB 2449 – Emergency Circumstances<br>(Gov. Code § 54953(f))                                 |
|-----------------------------|-------------------------------------------------------|-------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------|
| <b>When it is available</b> | Any time                                              | Proclaimed state of emergency in effect and the body makes required findings        | Member has a qualifying short-term reason                                                   | Medical emergency prevents in-person attendance.                                            |
| <b>Address on agenda</b>    | Each location noticed; agenda posted at each location | Members' locations aren't noticed                                                   | Location of members relying upon exception aren't noticed                                   | Location of members relying upon exception aren't noticed                                   |
| <b>Public access</b>        | All locations open to the public                      | Public access provided via call-in/online platform; must pause if audio/video fails | Public attends at the noticed in-person location or the remote platform                     | Public attends at the noticed in-person location or the remote platform                     |
| <b>In-person presence</b>   | None                                                  | None. Must provide two-way public access (telephonic or audiovisual)                | A quorum must be physically present at one public location within the agency's jurisdiction | A quorum must be physically present at one public location within the agency's jurisdiction |

# Brown Act Teleconferencing (cont.)

|                                            | Teleconferencing<br>(Gov. Code § 54953(b))          | AB 557 – State of<br>Emergency (Gov.<br>Code § 54953(e))                                                                      | AB 2449 – Just Cause<br>(Gov. Code § 54953(f))                                                                                 | AB 2449 – Emergency<br>Circumstances<br>(Gov. Code § 54953(f))                                                                    |
|--------------------------------------------|-----------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------|
| <b>Technology<br/>&amp;<br/>Disclosure</b> | Roll-call votes;<br>otherwise no on-<br>camera rule | Must allow real-time<br>public comment via call-<br>in or internet; stop<br>business if<br>broadcast/comment<br>channel fails | Remote member must use audio +<br>video; must disclose whether any<br>adults are in the room and their<br>general relationship | Remote member must use<br>audio + video; must disclose<br>whether any adults are in the<br>room and their general<br>relationship |
| <b>Approval</b>                            | No special approval<br>after proper notice          | Body adopts/renews<br>findings referencing the<br>emergency and<br>continued need                                             | Member declares just cause “as soon<br>as possible”; no vote required                                                          | Member requests; the body<br>must approve by majority at a<br>public meeting                                                      |
| <b>Limits</b>                              | None                                                | Emergency must persist<br>and findings renewed                                                                                | Twice per year, if meeting once per<br>month or less                                                                           | Twice per year, if meeting<br>once per month or less                                                                              |
| <b>Sunset</b>                              | None                                                | None                                                                                                                          | January 1, 2026                                                                                                                | January 1, 2026                                                                                                                   |

# Potential Amendments to Brown Act

Senate Bill 707 (SB 707, if enacted, effective January 1, 2026) proposes changes to the Brown Act's open meetings and teleconferencing requirements, including, among other things:

## **Open Meetings:**

- Requiring an opportunity for public attendance via 2-way telephonic service or 2-way audiovisual platform (until 2030)
  - Approving a local policy on disruption of telephonic or internet services during meetings
- Translating agendas into all “applicable languages” – languages spoken by 20% of the population in a jurisdiction if that population speaks English less than “very well”

# Potential Amendments to Brown Act

Senate Bill 707 (SB 707, effective January 1, 2026) proposes changes to the Brown Act's open meetings and teleconferencing requirements, including, among other things:

## Remote Teleconferencing Provisions:

- Extends just cause exception until 2030 and expands the definition by including:
  - Emergency circumstances
  - Immunocompromised family member
  - Military service
- Expands state of emergency teleconferencing to include local emergencies
- Clarifies disruptive attendee provisions applied to teleconferenced meetings
- Permits members of a legislative body to participate remotely as a reasonable accommodation pursuant to any applicable law

# JPB Remote Meeting Policy

- Members may participate in Board or Committee meetings: (1) in person; (2) remotely provided location is identified on agenda and is accessible to the public; or (3) remotely under AB 2449 exceptions for just cause and emergency circumstances
- Members of the public will have the opportunity to participate in Board and Committee meetings in person, or via a two-way audiovisual platform, or a two-way telephonic service and a live webcasting of the meeting
- The California Attorney General provided guidance on intersection of the Brown Act and Americans with Disabilities Act
  - Remote meeting participation may serve as a reasonable accommodation for a member with a qualifying disability (Cal. Att. Gen. Op. 23-1002, Jul. 24, 2024)
    - Must be connected in real time through both audio and visual means
    - Must disclose the identities of any adults present with them at the remote location

# JPB Remote Meeting Policy (cont'd)

- Board Secretary or Staff Liaison will alert the Board or Committee Chair and members if it appears that a quorum of members will not be physically present at the meeting; the Board or Committee may deny the request for emergency circumstances or cancel the meeting if there will be no quorum
- Upon notice of remote participation for just cause or approval of a request for remote participation due to emergency circumstances, the Board Secretary shall post a revised agenda if there is sufficient time to do so given the nature and timing of the emergency or just cause request

# JPB Code of Conduct for Public Meetings

The Chair or other presiding member may remove a disruptive attendee if:

- Preceded by a warning to the individual that the individual's behavior is disrupting the meeting and that the individual's failure to cease the behavior may result in removal
- The individual does not promptly cease the disruptive behavior
- The warning requirement does not apply to behavior that constitutes a use of force or a true threat of force



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