



NAPA VALLEY TRANSPORTATION AUTHORITY

Board Agenda Memo

TO: NVTA Board of Directors
FROM: Danielle Schmitz, Executive Director
REPORT BY: Osman Mufti, Legal Counsel
SUBJECT: Brown Act Updates and Senate Bill 707

RECOMMENDATION

Information Only

COMMITTEE RECOMMENDATION

None

EXECUTIVE SUMMARY

New legislation (SB 707) effective January 1, 2026, provides changes to the Brown Act including extending the sunset date of the “remote location” meeting attendance rules that were implemented as a result of the COVID 19 pandemic. Attachment 1 provides details on the applicable changes to NVTA.

FISCAL IMPACT

Is there a fiscal impact? No

ATTACHMENT(S)

- 1) Memo from Sloan Sakai on the Brown Act Updates of SB 707

Memorandum

To: NVTa Board of Directors

From: Osman Mufti, Partner
Sloan Sakai Yeung & Wong LLP

Date: December 2, 2025

Re: Brown Act Updates; SB 707

BACKGROUND/DISCUSSION:

New legislation (SB 707) effective January 1, 2026, provides changes to the Brown Act including extending the sunset date of the “remote location” meeting attendance rules that were implemented as a result of the COVID 19 pandemic. This memo provides an overview of the changes applicable to NVTa.

The substantive changes applicable to NVTa including the revisions to the post pandemic “remote” meeting attendance rules due to “just cause” are as follows:

1. **No Sunsetting of the Social Media Comment Rules.** The rules relating to board members posting and commenting on social media posts which were effective January 1, 2021, were made permanent with the elimination of the 2026 sunset date. In summary, the social media comment rule clarifies that a majority of the board members may not comment on a social meeting platform about matters related to the public agency’s jurisdiction. (Gov. Code § 54952.2(b)(3).¹)

Members must be cautious when providing information, responding to comments, or giving a “thumbs up” or other reaction emoji on social media platforms on matters relating to the local agency. If a majority of the members are on that social meeting platform, then a violation of the Brown Act can occur.

2. **Provide a Copy of the Brown Act to All Members.** Local agencies will now be required to provide a copy of the Brown Act to any person elected or appointed to serve as a

¹ All code references are to the Government Code.

member of a legislative body of the local agency. Prior law only encouraged local agencies to do so. (§ 54952.7.)

All existing board members and new board members (as part of the new board member on-boarding process) will receive an electronic copy of the Brown Act from the NVTB Board Secretary.

3. **Teleconference Participation is a Reasonable Accommodation for Members with Disabilities.** Teleconferencing is specifically articulated as a reasonable accommodation for members of the legislative body who have a disability. The Act is now clear that a member may attend a board meeting by remote participation as a reasonable accommodation and the meeting agenda does not need to include the member's location or require the public to be present at that member's remote location. The member who has the disability is required to use audio and visual technology during the entire meeting and disclose if there are individuals over 18 years old present in the room at that remote location (which is similar to the post pandemic "just cause" remote participation requirements). In addition, the member is considered to be in-person at the physical agenda meeting room for quorum purposes. (§ 54953(c).)

This new provision codified a 2024 California Attorney General Opinion allowing a member to attend a public meeting remotely as a reasonable accommodation pursuant to the federal Americans with Disabilities Act.

4. **Meeting Technology Definitions and Disruptions to Teleconference Meetings.** The public has a right to record the proceedings of an open and public meeting of a legislative body of a local agency, with limited exception. Now the definitions and tools related to the right to record and the technology required for remote and teleconference meetings and participation reflect current technologies. In addition, these technology definitions now apply to the rules for removing participants who disrupt meetings. (§§.54953.5, 54957.95, 54957.96.)

The new legislation also extends the Board Chair's ability to exclude disruptive participants from a meeting to include remote participants. If a "Zoom bomber" disrupts a meeting, the individual may be removed from the teleconference, after a reasonable warning from the Board Chair. This new provision codifies the response that many agencies implemented when virtual meetings were unfortunately inappropriately disrupted.

5. **Post Pandemic Remote Location Meeting Participation Rules for "Just Cause" Extended and Revised.** The post pandemic remote participation rules based on "just cause" are extended and modified. The substantive procedures remain largely the same

when participating with a few new or different requirements which are reviewed below. (§§ 54953.8, 54953.8.1-54953.8.7.)

A. “Just Cause” Circumstances to Allow Participation from a Remote Location.

The new Brown Act provisions allow for remote participation at board meetings by combining the prior “just cause” and “emergency circumstances” provisions into new “just cause” circumstances to include the following situations:

- (1) To provide childcare or caregiving to a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner;
- (2) A contagious illness prevents a member from attending in person;
- (3) A need related to a physical or mental condition that is not within the ADA reasonable accommodation provision provided by the new Brown Act exception provision of section 54953;
- (4) Travel while on official business of that local agency or another state or local agency;
- (5) An immunocompromised relative requires member to participate remotely, to include a child, parent, grandparent, sibling, spouse or domestic partner;
- (6) A physical or family medical emergency that prevents in person attendance;
- (7) Specified military service obligations that prevents a members in person attendance. (§54953.8.3(c).)

B. Agenda Requirements to Allow for the Remote Participation Option.

In order to allow for the option for members to participate remotely based on “just cause” the agenda must contain certain information as follows:

- a. The agenda must include the information on how to access the meeting remotely. (§ 54953.8(b).) Agencies that want to allow members to remotely participate should have a practice to include on each agenda the virtual meeting link or information to see and hear the proceedings electronically. If a “just cause” reason develops after the meeting agenda is posted, the member can only participate remotely if the agenda included an option to remotely see and hear the meeting. NVTB’s practice is to include a Zoom link on the meeting agenda.
- b. The agenda must include information on the procedure for receiving and resolving requests for accommodations and the agency must have a process for receiving and swiftly resolving requests for accommodations

and accessing meetings. (§ 54953.8(b)(8).) This is already addressed on NVTB's agenda by providing staff contact information to respond to accommodation requests.

C. Requirements During the Meeting when a Director Participates Remotely.

If a Director participates at a meeting pursuant to "just cause" the following must occur at the meeting:

- a. The Director must notify NVTB as soon as they are aware of the just cause need, including at the start of the meeting. (§ 54953.8.3(a)(1).)
- b. At the meeting the Director must provide a general description of the "just cause" circumstances relating to the need to appear remotely. (§ 54953.8.3(a)(1).)
- c. Members must announce if there is anyone over 18 in the room with them and their relationship with those individuals. (§ 54953.8(e).)
- d. There must be a quorum of the board in one physical agendized meeting location. (§ 54953.8.3(a).) This requirement for "remote" participation remains and differs from the traditional teleconference meeting requirement that allows for a quorum of the board to be located at different teleconference locations.
- e. The new legislation removes the prior post pandemic requirement that the board vote at the meeting to allow for a member to participate remotely pursuant to the repealed "emergency" justification. Since a vote by the Board is no longer required NVTB can remove from the agenda format any action item for remote board member attendance purposes pursuant to AB 2449 enacted at the end of the pandemic.
- f. Members participating remotely must use both audio and visual technology. Remember the member must keep their camera on during the entire meeting when participating due to "just cause." (§54953.8.3(a)(2).)

D. Technology and Public Participation including Public Comment Requirements.

At a meeting in which Directors are participating remotely the meeting technology and public comment procedures must be in compliance with the following:

- a. The meeting must provide two-way live visual and audio for the meeting for the public. (§ 54953.8(b).)
- b. The meeting must provide for and allow for real time public audio comments during meeting. (§ 54953.8(b).)
- c. NVTB cannot mandate that public comments be submitted prior to the meeting. (§ 54953.8(b).)

- d. If the broadcast is interrupted or the public is unable to make real time public comments there must be no further board action until the call-in or internet service technology is restored. (§ 54953.8(b).)
- e. If the agenda sets a time for considering any agenda matter, the public comment period for that noticed timed matter may not occur until that timed public comment period has lapsed. (§ 54953.8(b).)

E. Meeting Minutes and Recordkeeping Requirements.

Certain record keeping obligations apply if members remotely participate in meetings to include the following:

- a. If a Director participates at a meeting under the remote participation rules the minutes must reflect that the member participated remotely and the “just cause” grounds for the remote participation. (§ 54953.8(b)(7) and §54953.8.3(b).)
- b. Just cause remote participation may still be used by each Director a limited number of times each calendar year as follows:
 - i. Two times for agencies that meet once a month or less;
 - ii. Five times for agencies that meet twice a month;
 - iii. Seven times for agencies that meet three or more times a month.
- c. If an agency allows members to participate in meetings remotely the agency is to identify and make available a list of one or more meeting locations that may be available for use to conduct its meetings.

6. Continuation of Remote Meeting Options During State and Local Emergencies.

The post COVID 19 exceptions to allow for meetings to be conducting only online without a physical meeting location were amended and extended during a “proclaimed state of emergency or local emergency.” (Gov. Code § 54953.8.2.) If a state or local emergency is declared and certain findings are made, then relaxed virtual meetings may occur. If the emergency remains active continuing legislative findings can be made every 45 days to allow the continuation or remote public meetings.

7. New Justifications for “Remote Participation” of “multijurisdictional body.”

The new legislation provided additional limited circumstances in which “remote participation” procedures may apply to defined multijurisdictional bodies. NVTB qualifies as a “multijurisdictional” body under the new legislation. These new meeting options may be helpful to NVTB.

- a. “Eligible multijurisdictional body” An “eligible multijurisdictional body” is a board whose members are appointed, and which is either a (1) joint powers entity or (2)

a body that includes representatives from more than one county, city or special district. (§54953.8.7.) NVTB qualifies as an “eligible multijurisdictional body” as it’s a JPA and its members are appointed by multiple local agencies.

- b. A member may participate in an NVTB meeting from a remote location pursuant to the “eligible multijurisdictional body” if the following occurs:
 - a. NVTB adopts a resolution authorizing the use of teleconferencing pursuant to the multijurisdictional body rules.
 - b. At least a quorum of the board must participate from a one or more physical location that is listed on the agenda, open to the public, and within the boundaries of Napa County.
 - c. The NVTB meeting agenda identifies each member who plans to participate remotely from a location that is not listed as a meeting location on the agenda.
 - d. No member who participates remotely receives compensation for attending a NVTB meeting. Reimbursement of reasonable and necessary expenses is permitted.
 - e. The remote meeting location must be more than 20 miles each way from any of the physical meeting locations listed on the agenda.
 - f. The member participating remotely must keep their camera on during the meeting.
 - g. The number of times that a member may participate from a remote location pursuant to these requirements is limited to 2 times a year if the body meets once a month or less, five times a year if the body meets twice a month, or seven times a year if the body meets three or more times a month.

8. Traditional Teleconference Meeting Rules Remain Unchanged

As a reminder, the newly revised remote location participation rules have not altered the Brown Act requirements to allow for traditional teleconferenced meetings of the members which requires the following: (1) the members are connected by electronic means of either audio or video, or both, (2) at least a quorum of the Board participates from locations within the boundaries of the agency; (3) each teleconference location is identified in the meeting agenda; (4) the agenda is physically posted at each meeting location, (5) each teleconference location is accessible to the public, (5) the public has an opportunity to participate and comment at each teleconference location, and (6) all votes are taken by roll call. (§ 54953.) All local agencies can continue to hold teleconference meetings where members are located at more than one location when these traditional Brown Act teleconference meeting rules are followed.