

Metropolitan Transportation Commission

Policy Advisory Council

April 12, 2023

Agenda Item 7

Brown Act Legislative Landscape

Subject:

Update on the 2023 legislative landscape related to Brown Act reform.

Background:

The Ralph M. Brown Act, requires, with specified exceptions, that all meetings of a local legislative body be open and public, and that all persons be permitted to attend, unless a closed session is authorized. The law for decades has provided for the option of teleconferencing, so long as each teleconferenced location is posted in the meeting agenda, that the agenda is posted outside the teleconference location; that the teleconference location is open to the public; and at least a quorum of the legislative body participate from locations within the boundaries of its jurisdiction.

With the onset of the COVID-19 pandemic, local legislative bodies – including advisory boards such as MTC’s Policy Advisory Council – struggled to conduct their meetings in compliance with the public accessibility and transparency requirements of the Brown Act while still abiding by stay-at-home orders. In response, Governor Newsom issued executive orders and Assembly Bill (AB) 361 (Rivas, 2020) was enacted providing that while a state of emergency was in place, local legislative bodies could hold meetings remotely without providing public access and notice of the remote location (i.e. homes). AB 361 supported continued public accessibility and transparency by, among other items, requiring the opportunity for public to join via telephone or video conference.

In February 28, 2023, the state-issued COVID-19 State of Emergency ended, which impacts legislative bodies’ ability to conduct remote meetings utilizing AB 361. A 2022 bill, AB 2249 (Rubio) does allow local agencies to hold remote public meetings without identifying each teleconference location and without making each location accessible to the public, however this alternative can only be used under limited circumstances and is challenging to utilize in conjunction with the more general teleconferencing option.

Overview of 2023 Legislative Landscape:

Six lawmakers have introduced bills this year related to revising Brown Act teleconferencing rules. In general, these bills seek to thread the needle between maintaining the transparency and

accountability spirit of the Brown Act while expanding options for remote participation. The aim is to retain the uptick in civic engagement made possible during the COVID emergency with the substantial increase in public meetings held online and with remote participation options. Attachment A provides a summary and status update on each of those bills. For example, AB 817 (Pacheco) would provide that *advisory* bodies (non-decision-making bodies that do not take action) may indefinitely meet remotely without posting location and without regard to where participants are located to meet current law’s quorum requirements, regardless of whether a state of emergency is in place. This “compromise” bill – which would retain the requirement that decision-making bodies meet either in person or in compliance with current law’s teleconference requirements – is co-sponsored by the League of Cities, California Association of Recreation and Parks Districts, California Association of Counties, Urban Counties of California and Rural Counties of California.

MTC/ABAG 2023 Advocacy Program – Brown Act Reform for Policy Advisory Council:

MTC’s 2023 joint MTC/ABAG advocacy program supports Brown Act reform, with a specific focus on providing long-term flexibility for advisory councils, like the Policy Advisory Council, to conduct business remotely. This advocacy priority was developed in coordination with, and based on feedback from, the Policy Advisory Council. By reducing the time commitment and removing certain accessibility barriers, remote meetings make it possible for a more diverse cross sector of the Bay Area to serve on the Policy Advisory Council and participate in Council committees. Ongoing flexibility is essential to ensuring a robust cross-section of the Bay Area can continue to help shape the region via serving on the Policy Advisory Council.

Next Steps

Staff’s aim is to bring to the Legislation committee a recommendation to support legislation that will provide flexibility for the Policy Advisory Council to meet remotely, and are seeking your input before bringing a recommendation. Staff will provide a more detailed overview of the legislative landscape at your committee meeting to help inform the discussion. We look forward to your feedback.

Attachments:

- Attachment A: Overview of Brown Act Legislative Landscape