

**Metropolitan Transportation Commission**  
**Policy Advisory Council**

May 12, 2023

Agenda Item 3c

**Assembly Bill 817 (Pacheco): Brown Act Teleconferencing Reform**

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**Subject:**

Expands remote meeting options for non-decision-making local legislative bodies – including advisory boards – that do not take final action.

**Background:**

The Ralph M. Brown Act requires, with specified exceptions, that all meetings of a local legislative body be open to the 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; the agenda is posted outside the teleconference location; the teleconference location is open to the public; and at least a quorum of the legislative body participates from locations within the boundaries of its jurisdiction.

With the onset of the COVID-19 pandemic, local legislative bodies struggled to conduct their meetings in compliance with the 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 notice of, or public access to, the remote location (i.e., homes). AB 361 extended public accessibility and transparency by, among other items, requiring the opportunity for the public to join via telephone or video conference.

On February 28, 2023, the state-issued COVID-19 State of Emergency ended, which impacted legislative bodies' ability to conduct remote meetings utilizing AB 361. A 2022 bill, AB 2449 (Rubio) does allow local agencies to hold remote public meetings without identifying each teleconference location and without making each location accessible to the public, but only if a quorum of the legislative body participates from a *single physical location open to the public*. Notably, this alternative can only be used under limited circumstances and is challenging to utilize in conjunction with the more general teleconferencing option.

### AB 817 Overview

AB 817 (Pacheco) would provide that “subsidiary bodies” – which the bill defines as a body that serves exclusively in an advisory capacity and does not take final action on legislation, regulations, contracts, licenses, permits, or any other entitlements – may *indefinitely* use alternative teleconferencing provisions similar to the emergency provisions, so long as the legislative body that established the subsidiary body makes specified findings and votes every 12 months to allow for remote meetings. Specifically, subsidiary bodies may meet remotely without posting the location of each member and without regard to where participants are located to meet current law’s quorum requirements, so long as the bodies comply with the following:

- Subsidiary bodies meeting remotely must ensure the public may hear and visually observe the meeting and address the subsidiary body, including through providing public comment in real time.
- Members of the subsidiary body must participate through both audio and visual technology.
- Meetings must be noticed as otherwise required by the Brown Act, except that physical locations do not need to be posted and instead the notice must include information about how members of the public may access the meeting and offer public comment.

While some public agencies have been interested in restoring the broad flexibility to meet entirely remotely as was allowed during the state of emergency, there is significant resistance to this among the Legislature. This “compromise” bill – which is co-sponsored by the League of California Cities, California Association of Recreation and Parks Districts, California Association of Counties, Urban Counties of California and Rural Counties of California – would retain the requirement that *decision-making bodies* (including MTC, the ABAG Executive Board, city councils and boards of supervisors) meet either in person or in compliance with current law’s teleconference requirements.

For MTC and ABAG, committees that would likely be eligible under AB 817 to take advantage of this flexible remote meeting option include:

- Policy Advisory Council (and subsidiary committees)
- Partnership Board
- ABAG Housing Committee
- ABAG Regional Planning Committee
- Advancing California Finance Authority Credit Committee
- Bay Area Housing Finance Authority Advisory Committee

Some standing committees are not listed above, such as the Joint MTC/ABAG Legislation Committee and the Clipper Executive Board (CEB), as there is some ambiguity as to whether they qualify as a subsidiary body. Further evaluation is needed before staff can make a final determination.

**Recommendation:**

Support / ABAG Executive Board Approval

Support / MTC Commission Approval

**Discussion**

MTC/ABAG's 2023 Advocacy Program supports Brown Act reform to provide long-term flexibility for regional and multi-jurisdictional agencies to conduct business remotely as a means of increasing board member, advisory council and public participation.

While AB 817 does not extend remote meeting options to all regional and multi-jurisdictional agency meetings, staff's assessment is that it threads the needle between maintaining the transparency and accountability spirit of the Brown Act – a priority for decisionmakers in Sacramento – while expanding options for remote participation where it is most critical, namely with advisory bodies. This is a politically viable approach that could help retain the uptick in civic engagement made possible during the COVID emergency. Additionally, remote meetings make it possible for a more diverse and representative cross sector of the Bay Area public to serve on our various advisory bodies. Members of MTC's Policy Advisory Council have shared the significant challenges they face participating in person or under current law's "open meeting"

requirements for teleconferencing. Last month, the Policy Advisory Council approved a motion recommending MTC support the bill (see Attachment A).

For these reasons, staff recommends a “support” position on AB 817.

**Known Positions**

See Attachment B

**Attachments:**

- Attachment A: Memo from MTC’s Policy Advisory Council
- Attachment B: AB 817 Known Positions

  
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Andrew B. Fremier



## *Memorandum*

**To:**

Metropolitan Transportation Commission (MTC)

**From:**

MTC Policy Advisory Council Chair Randi Kinman

**CC:**

MTC Policy Advisory Council Members

**Date:**

April 12, 2023

**Work Item Number:**

1114

**Regarding:**

Assembly Bill (AB) 817 (Pacheco): Brown Act Teleconferencing Reform

**Summary:**

At its Wednesday, April 12, 2023 meeting, the Policy Advisory Council received a report from Rebecca Long, Director of Legislation and Public Affairs, providing an update on legislative efforts to reform the Ralph M. Brown Act, known colloquially as “California’s sunshine law for local government.”

Councilmember Adina Levin suggested that the Council vote on the statement below, which passed unanimously with 19 “ayes” (including all the Councilmembers present).

**Council Statement to Metropolitan Transportation Commission:**

**“The Commission should support AB 817 – The Brown Act Teleconferencing Reform” bill.**

Regards,

Randi Kinman, Council Chair

**Known Positions - Assembly Bill 817 (Pacheco)**

*as of April 25, 2023*

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**Support**

California Association of Recreation and Parks Districts [CO-SPONSOR]

California State Association of Counties [CO-SPONSOR]

League of California Cities [CO-SPONSOR]

Rural County Representatives of California [CO-SPONSOR]

Urban Counties of California [CO-SPONSOR]

AARP

Association of California School Administrators

Association of California Healthcare Districts (ACHD)

Bay Area Air Quality Management District

Bet Tzedek

CA In-home Supportive Services Consumer Alliance

California Air Pollution Control Officers Association

California Association of Councils of Governments

California Association of Public Authorities for Ihss

California Commission on Aging

California Municipal Utilities Association (CMUA)

City and County Association of Governments of San Mateo County

City Clerks Association of California

City of Bell

City of Belmont

City of Carlsbad

City of Downey

City of Mountain View

City of Norwalk

City of Redwood City

City of San Marcos

City of Thousand Oaks

City of West Hollywood

City of Winters

City of Woodland

Civicwell (formally the Local Government Commission)

Conejo Recreation and Park District

Contra Costa County

Contra Costa County Advisory Council on Aging

County of Monterey County of Santa Barbara

County of Santa Cruz

County of Yolo

Democracy Winters

Disability Rights California

Fair Oaks Recreation & Park District

Hand in Hand: the Domestic Employers Network

Homebridge

Justice in Aging

Lake Cuyamaca

Livermore Area Recreation and Park District

Los Angeles County Division, League of California Cities

Los Angeles County Sanitation Districts

Peninsula Traffic Congestion Relief Alliance (COMMUTE.ORG)

Placer Independent Resource Services

Regional Climate Protection Authority

Rim of The World Recreation and Park District

Sacramento Area Council of Governments

San Carlos; City of

San Diego; County of

San Mateo County Board of Supervisors

Santa Barbara County Association of Governments

Santa Cruz County Board of Supervisors

Sonoma Clean Power

Sonoma County Transportation Authority

Thousand Oaks; City of

Village Movement California

Yolo County In-home Supportive Services Advisory Committee

**Opposition**

ACLU California Action

Cal Aware

California Broadcasters Association

California News Publishers Association

First Amendment Coalition

Howard Jarvis Taxpayers Association (HJTA)

Leadership Council for Justice and Accountability

National Press Photographers Association

Nlgja: Association of Lgbtq+ Journalists

Northern California Society of Professional Journalists

Radio Television Digital News Association

San Diego Pro Chapter of The Society of Professional Journalists

Society of Professional Journalists, Greater Los Angeles Chapter

Society of Professional Journalists, Northern California Chapter