



## Board Report 23-15

Date: April 18, 2023

To: Board of Deferred Compensation Administration

From: Staff

Subject: Review of Board Meeting Format and Consideration of Remote Participation under AB 2449

### Board of Deferred Compensation Administration

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### **Recommendation:**

That the Board approve, on a trial basis, a hybrid meeting format and allow for remote participation under Assembly Bill (AB) 2449.

### **Background:**

Remote meeting provisions under AB 361 are no longer applicable with the expiration of the Governor's state of emergency declaration on February 28, 2023. AB 2449 subsequently provided certain modifications to the teleconference rules under the Brown Act wherein remote participation by Board members are permitted under certain circumstances without complying with the location posting requirements of the remote location under the general Brown Act teleconference rules until December 31, 2025.

At its meeting of February 21, 2023, Board members also asked some clarifying questions related to future meeting format, which is addressed in this report.

### **Discussion:**

Following are the meeting format options for the Board for future meetings.

#### **Option 1: Resume In-Person Meeting Format**

- Revert to the in-person meeting process that was followed prior to the pandemic under traditional Brown Act rules.
- Members of the public may attend in-person and provide public comment in-person.
  - As a courtesy, a call-in number for public comment and a video livestream may be provided. Should there be an interruption of these options, the in-person meeting may continue.

- Board members wishing to participate remotely would need to follow the default rules under the Brown Act. This would require a Board member to identify their location on the agenda, post the agenda there, and provide public access for anyone to join.

### Option 2: Adopt Hybrid Meeting Format (under AB 2449)

- This would allow members of the public to have the ability to call-in to make public comment and also allow limited remote participation for Board members that would not be as onerous under the default teleconference Brown Act rules.
- Devices would be placed at either side of the Commission Room by DCP staff to provide a general view of the Board and presenters from various locations.
- The Board cannot take any action if the broadcast of the meeting or the public's ability to provide comment is interrupted or unavailable.

- **Board Members**

- In-person quorum will still need to be established.
- Board members looking to participate remotely after an in-person quorum is established may do so under two scenarios:

- a) Just Cause Exception

- Just Cause generally means childcare needs, contagious illness of the Board member, related to physical or mental disability, or Board or City related travel.
- The Board member must provide notification as soon as possible with the request to meet remotely (even as late as the day of the meeting). The Board member must also announce such remote participation at the start of the Board meeting.
- As part of the announcement, the Board member participating remotely will need to give a brief general explanation as to why the Board member is meeting remotely.
  - ◆ For example, due to childcare issues, traveling on City or Board business, illness that prevents participating in person.
- The Just Cause Exception can only be used for two meetings in a calendar year.

- b) Emergency Circumstances Exception

- An Emergency Circumstance means a physical or family medical emergency.
- An Emergency Circumstances Exception request must be approved by the Board through a vote as an Agenda item.
  - ◆ Agenda item description can be general in nature and brief.
- If the request does not allow for a sufficient period of time to post the item on the agenda, the Board can take up the item as an emergency item under the Brown Act rules and vote on the item.
- The Board Member must alert the Board of this request as soon as possible

- c) If participating remotely for either Just Cause or Emergency Circumstances, the Board member will need to disclose if anyone 18 years or older is present in the room where the Board member is participating remotely.

- d) Just Cause and Emergency Circumstances Exceptions are to be of limited use by the Board member.

- A Board member may not assert the exception and remotely participate for a period that exceeds either 3 consecutive months or for 20 percent of the regular meetings in a calendar year; or Board member may not assert the exception and remotely participate for more than two meetings if the regular meeting occurs fewer than 10 times per calendar year.
      - ◆ For this Board, a member may not assert the exception and remotely participate for more than two meetings per year.
    - Two-way audio and video will be provided via Zoom (must keep camera and audio on at all times).
- **City Attorney, DCP Staff, and consultants/presenters**
  - Remote participation if exhibiting any symptoms, need for quarantine/isolation, or to mitigate travel and emissions if possible.
  - Two-way audio and video will be provided via Zoom.
- **Members of the Public**
  - One-way video via livestream and two-way audio via call-in number to be indicated on the agenda.
  - Public Comment may be made in-person or via call-in number.

Staff recommends Option 2, to adopt a hybrid meeting format and allow AB 2449 remote participation exceptions for Board members as well as providing more accessibility to stakeholders and members of the public. This is recommended on a trial basis, subject to further assessment by Staff of any technical or administrative challenges in hosting a hybrid meeting format (e.g. audiovisual issues, device errors, or a meeting interruption caused by connection issues with the internet or the livestream/Zoom platform or otherwise).

Alternatively, the meetings may be held fully in-person. If so, Staff would recommend the option to call-in for public comment and a livestream be additionally offered as a courtesy. Should there be an interruption with the call-in option or the livestream, the Board meeting may still continue. This will additionally allow for the meeting to be set up in the event a Board member wishes to attend remotely in accordance with AB 2449 or the general teleconference rules of the Brown Act.

Upon the direction of the Board, staff can return with an updated recommendation should there be a need to reconsider the Board meeting format.

Submitted by:




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