

2023-2024 KERN COUNTY GRAND JURY



East Kern Health Care District *Rural Health Care Crisis!*

Release Date
April 29, 2024

EAST KERN HEALTH CARE DISTRICT

Rural Health Care Crisis!

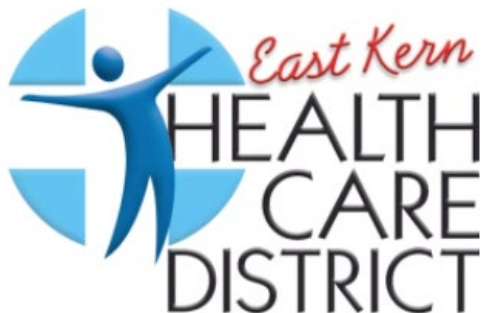


Image Courtesy EKHCD Website

SUMMARY:

“More than 7 million Californians, mostly minorities, live in areas with less than one primary care physician for every 2,000 residents,” according to an article in *The Bakersfield Californian*, February 15, 2024. As per a 2022 University of California news release, the rural areas are among the fastest growing, poorest, and least healthy regions of California. These areas also have the fewest medical doctors per capita. Many residents in rural communities have a higher incidence of disease, higher mortality rates, lower life expectancies, and higher rates of chronic pain. As one navigates through the Eastern portions of Kern County, including California City and Ridgecrest, the rural health care crisis becomes very real.

Rural hospitals and clinics deliver not only traditional hospital services such as emergency care, inpatient care, outpatient care, and laboratory testing, but most of them also deliver physical therapy, long-term care, and primary care. The majority of the communities they serve are at least a half-hour or more than an hour drive to the nearest hospital, and many communities have no other alternative sources of health care. Today, these hospitals and clinics are in financial crisis, which contributes to the challenges, disparities, and poorer health outcomes faced by rural communities in accessing quality health care services compared to urban areas.

The challenges in rural health care are multifaceted, stemming from a combination of systemic, geographic, economic, and social factors. However, the main factors contributing to this crisis include a shortage of health care professionals, limited access to medical facilities, reimbursement policies of insurance companies, inadequate federal, state, and local funding, and barriers to transportation. Rural communities are consistently tasked with doing more with less.

Annexation may be the answer for the East Kern Health Care District (EKHCD) and the Ridgecrest Regional Hospital (RRH) as they are faced with similar issues as outlined above. The low reimbursement rates by Medicare, Medicaid, and private insurance companies are negatively

impacting the finances of rural health care, making survival a struggle. The RRH is in dire need of a life preserver because of this. Without additional funding, the RRH facilities may be forced to lay off key service personnel; affecting surgery, respiratory therapy, physical therapy, environmental services, laboratory services, and other clinics. The hospital has already suspended their Labor and Delivery Unit. Addressing these issues will require innovative solutions tailored to the unique needs of these communities. Combining tools and resources by banding together may be the answer to the rural health care crisis in Eastern Kern County.

PURPOSE OF INQUIRY:

Pursuant to the California Penal Code §933.5, the Grand Jury has the authority to investigate and report on the operations and management of all special districts within Kern County. The 2023-2024 Kern County Grand Jury (Grand Jury) completed an investigation into the activities of the Board of Directors and the operations and management of the East Kern Health Care District. This is not the first Grand Jury investigation into the District. The 2009-2010 Kern County Grand Jury report had no recommendations.

METHODOLOGY:

The Grand Jury researched topics about California's hospital and health care districts, along with The Ralph M. Brown Act, Fair Political Practices Commission (FPPC) ethics training, California Health and Safety Codes, and other related topics. Interviews were conducted with the EKHCD Board of Directors, local citizens, administrative staff of the RRH, Emergency Medical Services Executive Professional, and administrative staff of the Kern County Local Agency Formation Commission (LAFCo).

The Grand Jury also inspected the District's facilities on North Loop Boulevard and Bay Avenue in California City, and visited the Ridgecrest Regional Hospital in Ridgecrest, California. The Grand Jury attended several Board Meetings via Zoom, watched videos, and listened to audio recordings and reviewed the minutes of previous Board Meetings. All material evidence and pronouncements used in this report were gathered by the Grand Jury.

Some of the other documents reviewed by the Grand Jury include:

- California Government Codes
- Association of California Healthcare Districts website
- East Kern Health Care District's website
- Ridgecrest Regional Hospital's website
- East Kern Health Care District Financial Statements and Independent Auditor's Reports for the Fiscal Years Ending June 30, 2022 and June 30, 2023
- Consultation Interim Report Guided Negotiations and Strategic Planning East Kern Health Care District, January 16, 2024

- EKHCD and RRH Press and News Releases: June 8, 2023, December 6, 2023, January 26, 2024, February 15, 2024, February 16, 2024
- Government Compensation in California, per the California State Controller's website

DISCUSSION OF FACTS:

History:

The East Kern Health Care District was established in 1977 to serve the rural communities in Eastern Kern County and a small portion of San Bernardino County. The District focuses on its communities and uses their mission statement of *Building Health, Well-Being, and Resiliency* as a guide to help bring quality health care to its residents. The EKHCD's main function is to provide property management for four medical facilities in California City to facilitate the organization and delivery of comprehensive health care to rural residents of Eastern Kern County. The EKHCD is governed under the California Government Code and the Health and Safety Code §§32000 to 32492, with a five-member elected Board of Directors.

The District receives its funding from both property taxes and medical property rental fees. According to the 2022 Financial Statements and Independent Auditor's Report, the District collected \$66,896 for property rentals, and \$242,137 in property taxes. The 2023 Report indicates rental income of \$61,323 and property taxes of \$243,561.

The February 29, 2024 Board Meeting Minutes showed that taxes received to date were \$135,902, bank account balances were \$1,691,452, total assets were \$2,653,796, and total liabilities were \$173,474.

Services:

The EKHCD owns and leases four medical facilities in California City to medical professionals, which include a community health center, medical offices, primary care offices, and a physical therapy office. The District's facility on Bay Avenue is currently empty and undergoing reconstruction due to a fire. (See Appendix C)

Website:

The EKCHD operates and maintains a website (www.ekhcd.org), which offers options such as quick links to board member contact information, board meetings and agendas, and community updates. Completed Board Member Trainings as well as District Transparency are also available to the public.

Board Meetings:

The EKCHD Board meets on the first Tuesday of each month at 5:00 pm at 9300 North Loop Boulevard. All meetings are currently held in person and accessible via Zoom. Public comments may be made in person or through teleconference, when recognized by the Board President. (See Appendix D for AB 2449 Requirements for Remote Participation Procedures for Conducting a Meeting). Public comments may also be provided by emailing in advance.

Annexation:

The EKHCD Board of Directors voted at the December 5, 2023 Board Meeting to expand its boundaries to the northern and eastern Kern County Lines, which would incorporate Ridgecrest Regional Hospital and the surrounding communities within Kern County. Following this action, both EKHCD and RRH must submit a letter of intent for consideration by Kern County LAFCo and then must file an application for the annexation. Both entities use three principles: access, excellence, and transparency, to guide them through the annexation process.

In news releases, the EKHCD stated that, in light of threats to sustainable funding and access to health care (particularly in rural communities), it hopes that combining the resources of the East Kern communities will improve the provision of health care to residents. “We have many challenges today in health care, and it’s important to find solutions for those,” said an EKHCD Board Member. The EKHCD is looking for a plan that will protect and improve health care in the Eastern Kern communities for the next 50 years.

The RRH Board of Directors acknowledges that their health care facilities, like many geographically remote hospitals, are in financial distress. The factors that have negatively impacted hospitals across the state and nation include rising costs, inadequate reimbursements for service, and a shortage of qualified providers. Furthermore, the 501(c)(3) tax status of the RRH means it is not eligible for state or federal funding such as earthquake repairs, COVID recovery, and other critical services. A spokesperson for RRH stated, “These unforeseen circumstances have significantly impacted the potential sustainability of our hospital. To that end, RRH has seen several service cuts relating to inadequate funding and provider shortages... We believe that partnering with East Kern Health Care District will give us a pathway to protect the RRH services that remain, and potentially restore what we have lost.”

Both EKHCD and RRH have employed consultants to navigate the transition and the LAFCo process to ensure that the annexation meets all legal and ethical requirements of a governmental agency. Public information meetings for the annexation have taken place in both California City and Ridgecrest. Public notices of these meetings have been published in the local newspapers on two separate occasions, and these were also posted at the hospital, the EKHCD Board Room, and the local public libraries. Anyone who owns property in the region within the proposed annexation will also receive a notice in the mail.

FINDINGS:

- F1. The EKHCD Board Meeting agendas are posted in a timely manner on their website. Meetings are held in a small office on North Loop Boulevard and made accessible via Zoom. Unfortunately, the live audio-visual feed is poor quality and does not show all Board Members participating in the meeting. The audio-visual shortcomings can be distracting and frustrating, therefore making the flow of information difficult for the public to follow. Board Members sit facing the camera, meaning that they sit with their backs to the public. This makes it difficult for the Board to engage with community members.
- F2. Not all previous meetings are available on the website for the public to review. In addition, some archived Zoom videos are poor quality, as the sound frequently cuts out, and Board Members in some meetings used only audio without the visual aspect. This does not meet the requirements of AB 2449.
- F3. Board Meetings are scheduled for 5:00 pm and usually begin on time; however, one board member frequently arrives late or attends via Zoom from another location. This disrupts the flow of the meeting. Zooming from an alternate location raises the question by the Grand Jury, “Can this member be considered part of the quorum, and is the remote location open to the public?” This may not meet the requirements of AB 2449.
- F4. Board Members generally follow the guidelines of The Brown Act, and their legal counsel provides guidance in times of uncertainty; however, Robert’s Rules of Order are not always followed. Some Board Members have been observed using cell phones throughout the meeting and engaging in side conversations, sometimes behind notepads preventing the public from hearing the topic of conversation. Some Board Members also sporadically leave the room for a few minutes, thus affecting the quorum status.
- F5. The aftermath of the fire at the building on Bay Avenue revealed that the building was not up to current building codes. The building sustained fire, water, and structural damages resulting in an unsafe condition. Asbestos was also detected during an inspection. Code upgrades may not be covered by their insurance claim, leaving the EKHCD to pay for the upgrades.
- F6. Annexation of Ridgecrest Regional Hospital will benefit Eastern Kern County communities with improved access to health care and governmental funding sources. During the annexation process, the EKHCD will have to update their Administrative Code of Operating Procedures and Municipal Service Review (MSR) to include the operations of RRH facilities and its other entities.

- F7. The EKHCD Board opted not to fill a position left vacant in 2023. This has led to voting difficulties and maintaining a quorum. Three Board Member positions will be open for election in November 2024, filling all five seats.
- F8. The EKHCD website is well maintained; however, the Staff and Board Meeting Minutes webpages need to be updated regularly and made available to the public.

COMMENTS:

The Grand Jury appreciates the input provided by all interviewees, the cooperation of the East Kern Health Care District Board Members, and Ridgecrest Regional Hospital staff in preparation of this report. The District's website was very useful in obtaining the needed documents, information, and links to important webpages. The Grand Jury looks forward to seeing how EKHCD navigates the annexation process with Ridgecrest Regional Hospital and hopes the rural Eastern Kern County will benefit with improved access to health care.

RECOMMENDATIONS:

The 2023-2024 Kern County Grand Jury recommends that the East Kern Health Care District should:

- R1. Relocate the Board meetings to a room that can accommodate the entire Board and the public. Audio-visual equipment should be properly positioned so that all Board Members can be seen and heard at the same time anytime there is a quorum. This should be in place by September 1, 2024. (Finding 1)
- R2. Ensure both Board Meeting minutes and videos are made available to the public prior to the next meeting. This should be in place by September 1, 2024. (Findings 2 and 4)
- R3. Change the Board Meetings to a time that is more convenient to accommodate all Board Members and the public. This will reduce meeting distractions (Board Members coming in late or having to leave the room) and ensure a quorum is met at all times. This should be completed by September 1, 2024. (Finding 3)
- R4. Establish and adhere to a decorum policy for the Board Meetings to ensure public transparency. Follow Robert's Rules of Order, eliminate cell phone usage, and reduce side bar conversations during the meeting. This should be in place by September 1, 2024. (Finding 4)
- R5. Work with California City's Building Planning Department to ensure that repairs of the Bay Avenue Building will be up to current building codes. This should be initiated by September 1, 2024. (Finding 5)

R6. Develop and publish a strategic plan with the Ridgecrest Regional Hospital on how to use the annexation to benefit all residents of Eastern Kern County with convenient access to medical and health care. This should be in place by November 30, 2024. (Finding 6)

NOTES:

- The East Kern Health Care District should post a copy of this report where it will be available for public review.
- Persons wishing to receive an email notification of newly released reports may sign up at: www.kerncounty.com/government/other-agencies/grand-jury
- Present and past Kern County Grand Jury Final Reports and Responses can be accessed on the Kern County Grand Jury website www.kerncounty.com/government/other-agencies/grand-jury

RESPONSE DEADLINE:

- **REQUIRED WITHIN 90 DAYS FROM:** East Kern Health Care District
 - Findings 1 through 8
 - Recommendations 1 through 6
- **REQUESTED WITHIN 90 DAYS FROM:** Ridgecrest Regional Hospital

RESPONSES ARE REQUIRED PURSUANT TO PENAL CODE §§933(c) AND 933.05 WITHIN 90 DAYS TO:

- **PRESIDING JUDGE**
SUPERIOR COURT OF CALIFORNIA
COUNTY OF KERN
1415 TRUXTUN AVENUE, SUITE 212
BAKERSFIELD, CA 93301
- **FOREPERSON**
KERN COUNTY GRAND JURY
1415 TRUXTUN AVENUE, SUITE 600
BAKERSFIELD, CA 93301

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code §929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.

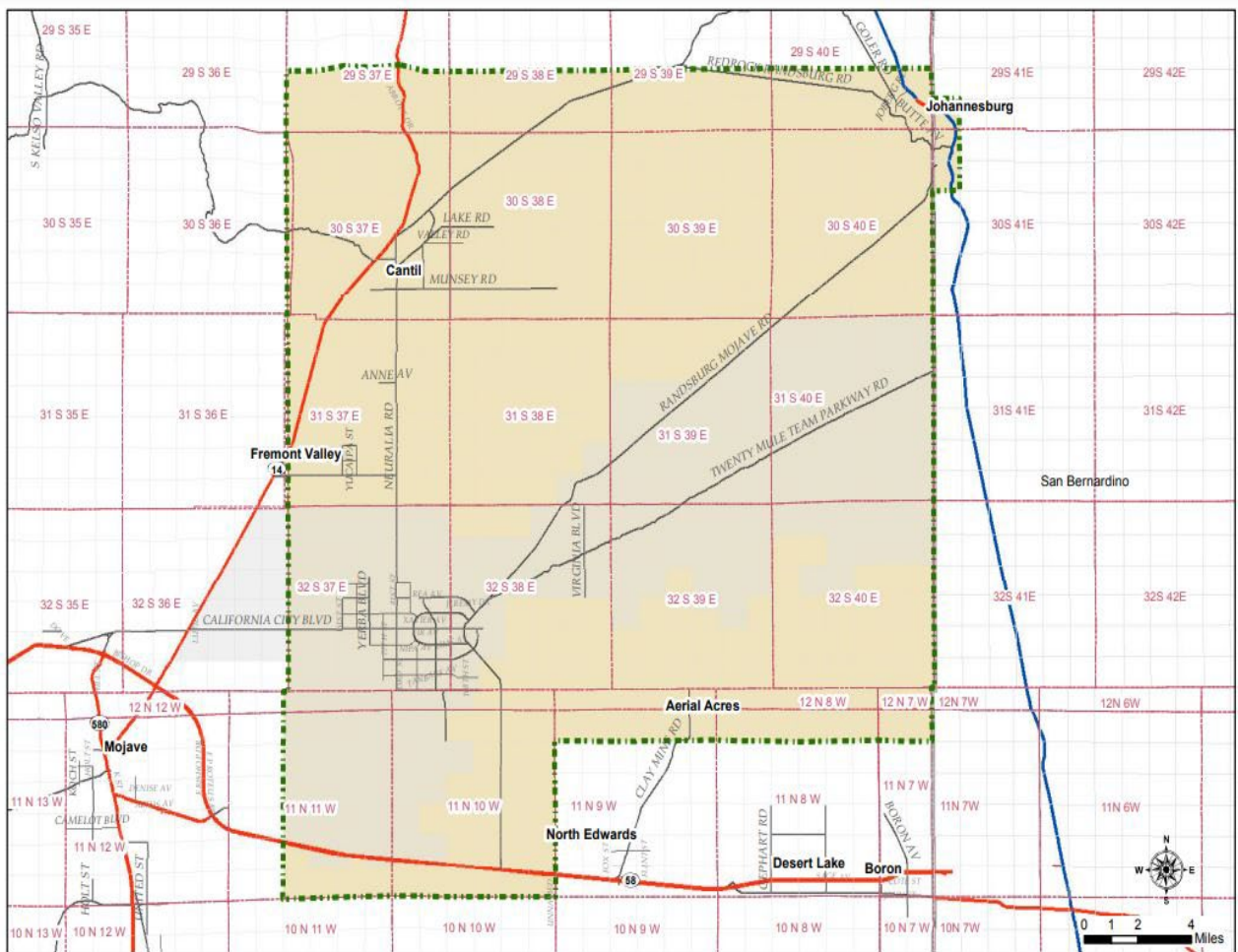
GLOSSARY:

1. **501(c)(3):** is an organization that is a United States corporation, trust, unincorporated association or other type of organization exempt from federal income tax under section 501(c)(3) of Title 26 of the United States Code. It is one of the 29 types of 501(c) nonprofit organizations in the United States.
2. **FPPC:** Fair Political Practices Commission oversees many public officials that are required to take an ethics-training course to educate them on the ethical standards required of any individual who works in state or local government. Cities, counties and special districts in California are required by law (AB 1234, Chapter 700, Stats. of 2005) to provide ethics training to their local officials. The FPPC is responsible for administering and enforcing the Political Reform Act. It enacts regulations that implement the law, issues advice letters, and adopts advisory opinions that apply the Act as well as the regulations to particular circumstances.
3. **LAFCo:** Local Agency Formation Commissions are local agencies mandated by the State legislature to encourage the orderly formation of local governmental agencies, preserve agricultural land resources, and discourage urban sprawl.
4. **MSR:** Municipal Service Review is a comprehensive study designed to better inform LAFCo, local agencies, and the community about the provision of municipal services. Service reviews attempt to capture and analyze information about the governance structures and efficiencies of service providers, and to identify opportunities for greater coordination and cooperation between providers. The service review is a prerequisite to a sphere of influence determination and may also lead a LAFCo to take other actions under its authority.
5. **Quorum:** is the number (such as a majority) of officers or members of a body that when duly assembled is legally competent to transact business.
6. **The Ralph M. Brown Act:** is a California law that guarantees the public's right to attend and participate in meetings of local legislative bodies.
7. **Robert's Rules of Order:** are a specific kind of parliamentary procedure rules to help groups to hold meetings.
8. **Rural:** in general, a rural area or a countryside is a geographic area that is located outside towns and cities. Typical rural areas have a low population density and small settlements.

APPENDICES:



Appendix A

2024 Map of the East Kern Health Care District



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Legend

-  SPHERE OF INFLUENCE
-  DISTRICT BOUNDARY



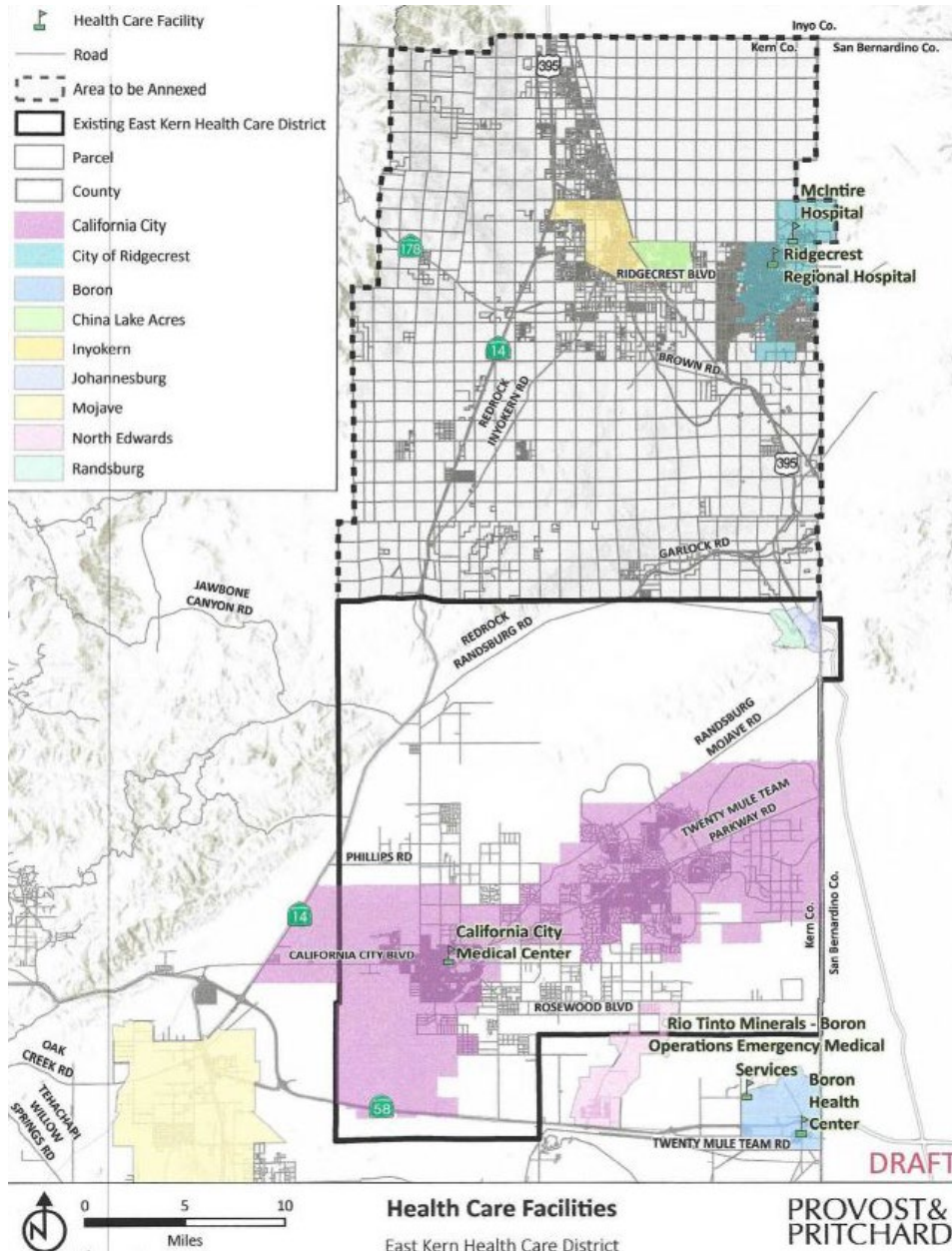
East Kern Hospital District/Sphere of Influence

This map is for general reference purposes only, it is not an official document. Every reasonable effort has been made to assure the accuracy of the map and data provided; nevertheless, some information may not be accurate. Kern LAFCO issues no warranty express or implied as to the fitness of the data for any particular use.

Provided by LAFCO

Appendix B:

Possible Annexation to East Kern Health Care District



Provided by EKHCD Minutes

Appendix C:

Photos



Photo by Grand Jury



EKHCD Properties, North Loop Blvd.
Photos by Grand Jury



EKHCD Property, Bay Ave.
Photos by Grand Jury



Fire Damage Repair, Bay Ave.
Photos by Grand Jury

Appendix D: Overview of AB 2449 Remote Participation Procedures

To avail itself of the teleconferencing rules established under AB 2449, a public agency must comply with the following meeting requirements:

1. A quorum of the members of the agency's legislative body must participate in person from a singular physical location identified on the agenda.
2. The legislative body must provide either (i) a two-way audiovisual platform, such as Zoom or WebEx, which allows the meeting to be viewed and heard from a remote location, or (ii) a two-way telephonic service and a live webcasting of the meeting, this requirement may be satisfied with any combination of platforms that allows the meeting to be viewed and heard from a remote location.
3. The agenda must give notice of the means by which members of the public may access the meeting and offer public comment; and
4. The meeting must be paused (and no action may be taken), if the broadcasting platform, either audio or visual, is interrupted.

If a member of a legislative body wishes to participate remotely under the new procedures, all of the following requirements, (1) through (4) below, must apply:

1. The request to remotely participate must be on the basis of a circumstance that qualifies as a "just cause" or "emergency" circumstance within the meaning of AB 2449: (i) Just Cause Circumstance: At the earliest opportunity possible (including at the start of a regular meeting), the requesting member must notify the legislative body that he/she has a "just cause" reason for participating remotely. The request must generally describe the specific circumstances that prevent in person participation. Under AB 2449, "just cause" is specifically defined to mean any of the following circumstances:
 - a. A childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires them to participate remotely.
 - b. A contagious illness that prevents a member from attending in person.
 - c. A need related to certain statutorily defined forms of physical or mental disability.
 - d. Travel while on official business of the public agency or for another state or local agency.

It is important to note that under AB 2449, members are limited to a maximum of two (2) times per calendar year to invoke the "just cause" exception to in-person participation. (ii) Emergency Circumstance: An "emergency circumstance" is defined to mean a "*physical or family medical emergency that prevents a member from attending a meeting in person.*" To invoke the "emergency circumstance" exception, the requesting member, as soon as possible, must request that the legislative body allow him/her to participate remotely due to some specified "emergency circumstance." In turn, the member's legislative body must take action to approve the request at the earliest opportunity. The legislative body shall also request a general description (not

exceeding 20 words) that describes the circumstances relating to the requesting members “emergency.” The requesting member is not, however, required to disclose any medical diagnosis or disability, or any personal medical information that is already exempt under existing law. The member must also make a separate request for each meeting in which he/she seeks to participate remotely under the “emergency circumstance” exception. Participation via teleconference under the “emergency circumstance” exception *does not* count toward the two-meeting limitation applicable to the “just cause” exception to in-person participation.

2. The member must publicly disclose at the meeting before any action is taken, whether any other individuals 18 years of age or older are present in the room at the remote location with the member, and the general nature of the member’s relationship with any such individuals.
3. The member must participate through *both* audio and visual technology.
4. A member’s remote participation may not exceed (i) three consecutive months, or (ii) 20% of a legislative body’s regular meetings within a single calendar year. Also, if the legislative body regularly meets fewer than 10 times per calendar year, a member’s participation from a remote location cannot be for more than two meetings total.

Source: Olivarez Madruga Law Organization LLP