

**BAGLEY KEENE UPDATE**  
**SB 544 (2023)**  
**OVERVIEW OF KEY RULES EFFECTIVE JANUARY 1, 2024**

**Senate Bill 544 Background**

SB 544 creates an alternative set of Bagley-Keene provisions, under which a state body may hold meetings by teleconference. SB 544 also amends portions of Government Code section 11123.5, applicable to advisory bodies, providing an additional optional framework for meetings. These provisions remain in effect until January 1, 2026, at which point replacement provisions will take effect. Key provisions of SB 544 are summarized below.

Whether these new provisions apply depends on the specific circumstances regarding the individual member, multimember body, and/or the particular scheduled meeting. Therefore, any specific questions should be directed to the Executive Director as CCDA teleconferencing and remote participation is arranged and overseen by CCDA staff in consultation with the DGS Office of Legal Services.

**SB 544 Key Provisions of Government Code Section 11123.2**  
**(Applicable to All State Bodies)**

The below provisions are applicable to all state bodies. They are in addition to the existing rules that permit teleconference locations that are publicly noticed, open, and accessible to members of the public and at which a member must be physically present.

New SB 544 teleconference rules:

- Majority of members must be physically present at the same location, referred to as a “teleconference location.” (Gov. Code section 11123.2(j)(1)).
- More than one teleconference location may be used, but at least one member of the state body must be physically present at each teleconference location. (Gov. Code section 11123.2(i)).
- The public must be able to attend and participate at every other teleconference location. (Gov. Code section 11123.2(a)(2), (d)(1).)
- Members in excess of a majority can participate in meetings from remote locations that are not required to be accessible to the public. The notice and agenda shall not disclose the remote location. (Gov. Code section 11123.2(j)(1)).
- Under some conditions, disability accommodations may allow a member to participate remotely and count toward the majority of members.
  - A member attending and participating from a remote location may count toward the majority required to hold a teleconference if both of the following conditions are met:

- (1) The member has a need related to a physical or mental disability, as those terms are defined in Sections 12926 and 12926.1, that is not otherwise reasonably accommodated pursuant to the federal Americans with Disability Act of 1990 (42 U.S.C. Sec. 12101 et seq.) and
  - (2) The member notifies the state body at the earliest opportunity possible, including at the start of a meeting, of their need to participate remotely, including providing a general description of the circumstances relating to their need to participate remotely at the given meeting. (Gov. Code section 11123.2(j)(2)(A)-(B).)
- If a member notifies the body of the member's need to attend and participate remotely pursuant to the provisions described directly above, the body shall take action to approve the exception and shall request a general description of the circumstances relating to the member's need to participate remotely at the meeting, for each meeting in which the member seeks to participate remotely. The body shall not require the member to provide a general description that exceeds 20 words or to disclose any medical diagnosis or disability, or any personal medical information that is already exempt under existing law, such as the Confidentiality of Medical Information Act.
- Members participating from remote locations must disclose if other people 18 years of age or older are present in the room and the general nature of the relationship. (Gov. Code section 11123.2(j)(4)).
  - All members must appear on camera during open portions of meetings (provided that meeting materials shown on the screen do not block their appearance) unless technologically impractical, for example because of internet connectivity issues. If that happens, the member must announce the reason for their nonappearance when turning off their camera. (Gov. Code section 11123.2(k)(1)-(3).)
  - The public must be provided a means to remotely hear audio of the meeting, remotely observe the meeting, remotely address the body, or attend the meeting by providing on the posted agenda a teleconference telephone number, an internet website or other online platform, and a physical address for each teleconference location. (Gov. Code section 11123.2(d)(1)).
- If the public may participate electronically or telephonically, as outlined directly above, the state must both:
    - (1) Implement a procedure for receiving and swiftly resolving requests for reasonable modification or accommodation from individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), and resolving any doubt whatsoever in favor of accessibility and

(2) Advertise that procedure each time notice is given of the means by which members of the public may observe the meeting and offer public comment. (Gov. Code section 11123.2(d)(3)(A)-(B).)

- Meetings must be audible and visible to the public at each teleconference location. (Gov. Code section 11123.2(c)).

**SB 544 Key Provisions of Government Code Section 11123.5  
(Applicable Only to Advisory Bodies)**

SB 544 permits all members of advisory bodies to appear remotely, subject to specific requirements below:

- A primary physical meeting location must be designated in the notice of the meeting where members of the public may physically attend, observe, hear, and participate in the meeting. At least one staff member of the body must be present at the primary physical meeting location during the meeting. The advisory body shall post the agenda at the primary physical meeting location but need not post the agenda at a remote location. (Gov. Code section 11123.5(f)).
- Any member appearing remotely must be listed in the minutes of the meeting. (Gov. Code section 11123.5(b)).
- The body shall provide notice to the public at least 24 hours before the meeting that identifies any member who will participate remotely by posting the notice on its internet website and by emailing notice to any person who has requested notice of meetings. (Gov. Code section 11123.5(c))
- The location of a member who will participate remotely is not required to be disclosed in the public notice or email and need not be accessible to the public. (Gov. Code section 11123.5(d)).
- When a member participates remotely, the state body must provide a means by which the public may remotely hear audio of the meeting or remotely observe the meeting, including, if available, equal access equivalent to members of the state body participating remotely. (Gov. Code section 11123.5(g)).
- Advisory members must visibly appear on camera during the open portion of a meeting that is publicly accessible via the internet or other online platform. If a member does not appear on camera due to challenges with internet connectivity, the member must announce the reason for their nonappearance when they turn off their camera. (Gov. Code section 11123.5(h)).