

Legal Alerts | 03/06/2025

2025 California Legal Updates: What You Need to Know – Part Five

Insight and Guidance on the Brown Act, Environment, Public Contracts, Affordable Housing and Housing Finance, Elections, Employment Law

In Part Five of the New Laws series from Best Best & Krieger LLP (BBK), new legislation for 2025 focusing on the Brown Act, Environment, Public Contracts, Affordable Housing, Elections and Employment Law includes key takeaways and analyses of AB 2715, AB 2302, SB 69, AB 1449, AB 334, SB 440, AB 453 and SB 428.

Brown Act

AB 2715

Assembly Bill 2715 (AB 2715) amends Section 54957 of the Government Code to allow local agencies to hold closed sessions on matters relating to cybersecurity threats. The new law went into effect on January 1, 2025.

AB 2715 does the following:

- Expands permissible grounds to hold a closed session to include cybersecurity threats. Specifically, it authorizes local agencies to meet in closed session to discuss potential threats to “critical infrastructure controls and critical infrastructure information relating to cybersecurity.”
- Defines “critical infrastructure controls” as networks and systems so critical to the local agency that their incapacity or destruction would have a debilitating impact on public health, safety, or economic security. “Critical infrastructure information” includes information pertaining to actual, potential, or threatened cybersecurity attacks on the agency.
- Allows a legislative body to have confidential discussions with security experts concerning cybersecurity, including assessment of vulnerabilities and controls before an attack and a planned response after any networks or systems are compromised.

AB 2302

Assembly Bill 2302 (AB 2302) makes minor updates to the teleconferencing provisions of the Ralph M. Brown Act (Brown Act). The Brown Act allows local agencies to use teleconferencing for the benefit of the public and the

legislative body pursuant to Government Code Section 54953, as long as all procedural requirements are met and the statutory and constitutional rights of the public are protected.

The teleconferencing requirements have been consistently amended since 2020 when the Legislature passed temporary teleconferencing regulations to permit “virtual” public meetings during the COVID-19 pandemic. Currently, existing law permits individual members of a legislative body to attend a public meeting by teleconference due to “emergency circumstances” (such as a medical emergency) or “just cause” (such as travel for official public business, contagious illness, or childcare) until January 1, 2026.

AB 2302 clarifies and simplifies the limits that apply to this type of teleconferencing. A member of a legislative body may participate by teleconference under this type of teleconferencing for no more than:

- Two meetings per year, if the legislative body regularly meets once per month or less.
- Five meetings per year, if the legislative body regularly meets twice per month.
- Seven meetings per year, if the legislative body regularly meets three or more times per month.

Please note, however, that there is still an absolute annual limit on the number of times a legislative body member may attend a public meeting under the “just cause” provision, which may only be used twice during a calendar year.

For the purpose of counting meetings attended by teleconference under this provision of the Brown Act, a “meeting” shall be defined as any number of meetings of the legislative body of a local agency that begins on the same calendar day.

Environment

SB 69

Senate Bill 69 (SB 69) amends Section 21152 of the Public Resources Code relating to the filing requirements of certain California Environmental Quality Act notices. SB 69 does the following:

- Requires a local agency to file a notice of determination with the State Clearinghouse in the Office of Planning and Research in addition to the county clerk of each county in which the project will be located. The filing requirement with the county clerk is already required under existing law.
- Authorizes a local agency to file a notice of exemption with the State Clearinghouse in the Office of Planning and Research, in addition to the county clerk of each county in which the project will be located.
- Requires the notice (including any subsequent or amended notice) to be posted both in the office, on the internet website of the county clerk, and by the Office of Planning and Research on the State Clearinghouse internet website within 24 hours of receipt. Such notice shall remain posted for a period of 30 days.
- Specifies that the posting of the notice by the Office of Planning and Research would not affect the applicable time periods to challenge an act or decision of a local agency.

AB 1449

Assembly Bill 1449 (AB 1449) amends the Public Resources Code related to affordable housing. AB 1449 sunsets on January 1, 2033. AB 1449 specifically does the following:

- Creates a new California Environmental Quality Act exemption to help fast-track 100% affordable housing projects. The project must be subject to a recorded California Tax Credit Allocation Committee regulatory agreement.
- Requires projects to dedicate at least two-thirds (2/3) of their space to residential use, with all residential units (except the managers' units) reserved for lower-income households.
- Requires projects to meet specific requirements, including proximity to public transit or other location requirements, labor standards, and environmental site standards.
- Applies to public agency actions, including permit issuance, rezoning, conveyance of publicly owned land for a qualifying project, certain necessary general plan amendments, and other related actions.

Public Contracts

AB 334

Assembly Bill 334 (AB 334) amends California's conflict-of-interest laws by refining how Government Code Section 1090 applies to independent contractors.

AB 334 codifies a two-step process from the Fair Political Practices Commission guidance to distinguish between independent contractors who are subject to Section 1090's prohibitions and those who are not.

- **Officer Status:** The first step assesses whether the independent contractor qualifies as an "officer" under Section 1090. If the contractor's duties under the initial contract did not include engaging in or advising on public contracting (such as preparing or assisting with bid solicitations), they are not considered an officer and the Section does not apply. If the independent contractor did engage in these duties, the analysis proceeds to step two, regarding participation in contracting decisions, below.
- **Participation in Contracting Decisions:** If the independent contractor is an "officer," the second step examines whether they actively participated in making the subsequent contract for a later phase of the same project. The law clarifies that merely participating in preliminary planning, discussions, or drafting conceptual plans does not constitute "making" the contract; provided that all bidders for the subsequent phase have equal access to the same information. If the independent contractor did not engage or advise in the "making" of the subsequent contract, they are not subject to Section 1090.

AB 334 also introduces a safe harbor, stating that public agencies and contractors who rely in good faith on AB 334's clarifications and who include specific contract language in their initial contracts are shielded from civil, criminal, or administrative penalties. AB 334 strikes balance, ensuring that independent contractors who do not influence public contracting decisions can remain eligible for subsequent project work.

Affordable Housing and Housing Finance

SB 440

Senate Bill 440 (SB 440) authorizes two or more local governments to establish regional housing finance authorities with the ability to raise, administer, and allocate funding for affordable housing. These authorities will operate at a regional level to provide financial and technical assistance to address California's housing crisis by enabling local agencies to collaborate on funding and policy initiatives.

SB 440 builds off of previous models of regional housing authorities, the Bay Area Housing Finance Authority, and the Los Angeles County Affordable Housing Solutions Agency by expanding the powers of regional authorities. These expanded powers include the ability to set land use and development parameters and oversee the selection of development partners.

One of SB 440's key provisions is an exemption from the California Environmental Quality Act (CEQA) for certain actions taken by the new regional housing finance authorities. Specifically, SB 440 states that an authority's actions "to raise, administer, or allocate funding for affordable housing preservation, new affordable housing production, or to provide technical assistance consistent with the authority's purpose" are not subject to CEQA. This exemption streamlines the financial and administrative phases of affordable housing development while still requiring environmental review for construction and other phases unless separately exempted.

Lastly, SB 440 imposes annual reporting requirements on the regional housing financing authorities. Each authority must submit annual reports to the Legislature detailing the projects funded, their status, and the income levels of the households served.

Elections

AB 453

Assembly Bill 453 (AB 453) modifies California's election procedures by requiring local governments transitioning from at-large to district-based elections under the California Voting Rights Act to set public hearings at a specific, predetermined hour.

Existing law requires local governments who are engaged in adjusting district boundaries to set discussion for an hour certain pursuant to the Fair Maps Act. This law replicates the requirement for governing bodies establishing districts for the first time. The aim of the law is to ensure that the public can anticipate when critical election discussions will take place, and can plan accordingly.

With the passage of AB 453, if a public hearing on transitioning to district-based elections is part of a broader regular or special government meeting, it must begin at a designated time rather than being pushed to an uncertain hour. However, AB 453 does permit the governing body to complete any ongoing agenda item (including public comment).

Employment

SB 428

Senate Bill 428 (SB 428) amends Section 527.8 of the Code of Civil Procedure relating to temporary restraining orders and protective orders in the workplace. SB 428 does the following:

- Authorizes any employer whose employee has suffered harassment, unlawful violence, or a credible threat of violence to seek a temporary restraining order and an injunction on behalf of the employee and other employees upon a showing of clear and convincing evidence that (1) an employee has suffered harassment from any individual that is reasonably likely to be carried out or has been carried out at the workplace; (2) great or irreparable harm would result to an employee; and (3) the respondent's course of conduct served no legitimate purpose.

- Requires an employer seeking such a temporary restraining order to provide the employee whose protection is sought the opportunity to decline to be named in the order before the filing of the petition.
- Expressly prohibits a court from issuing a temporary restraining order that prohibits speech or other activities protected by the federal and state constitutions (and federal, state, and local laws).

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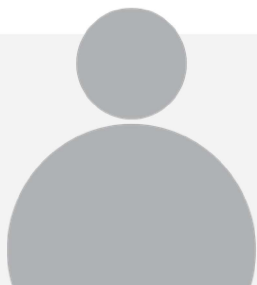


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