



SAN JOAQUIN COUNCIL OF GOVERNMENTS

555 E. Weber Avenue, Stockton, CA 95202

TECHNICAL ADVISORY COMMITTEE

Thursday, December 9, 2021
10:00 A.M.

<https://sjcog.zoom.us/j/84896325610?pwd=cGRsbDhIUUtKMHMwL1JhV2kwNjRMUT09>

Teleconference Number: 1-669-900-6833

Meeting ID: 848 9632 5610

Passcode: 269576

Note: If you don't have access to a smart device or a computer with a webcam & a mic, you can dial in using the teleconference number and meeting ID above.

Attention Callers: Please mute the call unless speaking

NOTICE Coronavirus COVID-19

In accordance with the Ralph M. Brown Act (Cal. Gov. Code 54950 et seq.), as amended by Assembly Bill 361 (2021), The San Joaquin Council of Governments and staff will be participating in this meeting via teleconference. In the interest of maintaining appropriate social distancing, members of the public may participate in the meeting electronically using the Zoom link. To be recognized to speak, please use the "raise hand" or chat feature in Zoom.

We have also provided a call-in number, as identified on this Agenda, and encourage you to attend by telephone. To be recognized to speak, press *9 which will signal the moderator.

The San Joaquin Council of Governments is in compliance with the Americans with Disabilities Act and will make all reasonable accommodations for the disabled to participate in employment, programs and facilities. Persons requiring assistance or auxiliary aid in order to participate should contact Rebecca Calija at (209) 235-0600 at least 24 hours prior to the meeting.

A G E N D A

1. Call to Order / Introductions / Roll Call

2. Public Comments

At this time, the public may address the Technical Advisory Committee on any non-agenalized item that is within the subject matter of this agency. If a member of the public wishes to speak on an agenda item he or she is invited to address the Technical Advisory Committee at the time the item is up for consideration. A five-minute maximum time limit for a speaker will apply to all "items from the audience". The determination of whether an item is within the subject matter of the Committee is a discretionary decision to be made by the chair of the Technical Advisory Committee.

3. Consent Calendar Item: A

Action A. Teleconference Meetings During a Proclaimed State of Emergency R-22-32
 (Ryan Niblock)

4. Other Matters of Business

5. Meeting Adjourned to Thursday, January 6, 2022, at 10:00 a.m.

AGENDA ITEM 3A



December 2021
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STAFF REPORT

SUBJECT: Teleconference Meetings During a Proclaimed State of Emergency

RECOMMENDED ACTION: Approve Resolution R-22-32

SUMMARY:

On September 16, 2021, Governor Gavin Newsom signed Assembly Bill 361 (“AB 361”) into law, amending the Ralph M. Brown Act (Gov. Code, § 54950 *et seq.*) (the “Brown Act”). AB 361 codified certain modified requirements for teleconference meetings held by public agencies, similar to those previously authorized and extended by executive order during the COVID-19 State of Emergency.

AB 361 was introduced to provide a longer-term solution for teleconference meetings during states of emergency, effective until January 1, 2024. AB 361 amends Section 54953 of the Government Code to allow the legislative body of a local agency to meet remotely without complying with the normal teleconference rules for agenda posting, physical location access, or quorum rules. To do so, one of three scenarios must exist, all of which require that the Governor has proclaimed a State of Emergency pursuant to Government Code section 8625:

- A. State or local officials have imposed or recommended measures to promote social distancing;
- B. The agency is holding a meeting for the purpose of determining whether meeting in person would present imminent risks to the health or safety of attendees; or
- C. The agency is holding a meeting and has determined that meeting in person would present imminent risks to the health or safety of attendees.

(Gov. Code, § 54953(e)(1).)

An agency and any committee that is required to comply with the Brown Act, that holds a meeting under either of the three scenarios must continue to post its agenda in the time required by the Brown Act and ensure that the public is able to address the board directly through teleconference means. (*Id.* at subd. (e)(2). If a disruption prevents the agency or committee from broadcasting the meeting or receiving public comments in real time, the agency or committee cannot take further action until those functions are restored; any actions taken during such a disruption are subject to legal challenge. (*Id.*)

Assuming the State of Emergency remains in effect, if the SJCOG Board of Directors (the “Board”) or SJCOG committees wish to continue meeting under the modified rules, then the Board, and each committee that wants to continue to meet using teleconference must each individually adopt

an initial resolution within 30 days of the first teleconference meeting, and then must adopt an extension resolution at least every 30 days thereafter. (*Id.* at subd. (e)(3).) The resolutions must contain findings stating that the Board or committee has reconsidered the circumstances of the State of Emergency and either (1) the State of Emergency continues to directly impact the ability of the members to meet safely in person; or (2) State or local officials continue to impose or recommend measures to promote social distancing. (*Id.*)

Where consecutive regular meetings fall outside the 30-day time frame, the Board or committee should hold a special “AB 361” remote meeting within the 30-day window simply to re-authorize the AB 361 exceptions. Without the AB 361 exceptions, the Board or committee will be required to return to normal in-person meetings or provide public access at each remote location under the traditional teleconference rules, as of October 1, 2021. Therefore, if the AB 361 authorization lapses and the Board or a committee wishes to hold a teleconference meeting, it will be required to post agendas and provide public access at each remote location, identify those locations in the agenda, and maintain a quorum of the board within agency boundaries. If a meeting is not held in conformity with AB 361, board members may not teleconference from their residences or other locations which are not open and accessible to the public.

FISCAL IMPACT:

None.

ATTACHMENT:

Resolution

Prepared by: Rod A. Attebery, General Counsel



RESOLUTION
SAN JOAQUIN COUNCIL OF GOVERNMENTS
TECHNICAL ADVISORY COMMITTEE

R-22-32

A RESOLUTION OF THE TECHNICAL ADVISORY COMMITTEE OF THE SAN JOAQUIN COUNCIL OF GOVERNMENTS (SJCOG) DETERMINING TO CONDUCT MEETINGS OF THE SJCOG TECHNICAL ADVISORY COMMITTEE USING TELECONFERENCING PURSUANT TO GOVERNMENT CODE 54953 AS AMENDED BY AB 361 FOR THE PERIOD DECEMBER 9, 2021 TO JANUARY 8, 2022.

WHEREAS, the San Joaquin Council of Governments is committed to preserving and nurturing public access and participation in meetings of the Technical Advisory Committee; and

WHEREAS, all meetings San Joaquin Council of Governments' legislative bodies are open and public, as required by the Ralph M. Brown Act (Cal. Gov. Code 54950 – 54963), so that any member of the public may attend, participate, and watch the District's legislative bodies conduct their business; and

WHEREAS, the Brown Act, Government Code section 54953(e), as amended by AB 361 (2021), makes provisions for remote teleconferencing participation in meetings by members of a legislative body, without compliance with the requirements of Government Code section 54953(b)(3), subject to the existence of certain conditions; and

WHEREAS, a required condition is that a state of emergency is declared by the Governor pursuant to Government Code section 8625, proclaiming the existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions as described in Government Code section 8558; and

WHEREAS, it is further required that state or local officials have imposed or recommended measures to promote social distancing, or, the legislative body meeting in person would present imminent risks to the health and safety of attendees; and

WHEREAS, on March 4, 2020, the Governor proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19; and

WHEREAS, Cal-OSHA adopted emergency regulations (Section 3205) imposing requirements on California employers, including measures to promote social distancing; and

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WHEREAS, an Order of the San Joaquin County Public Health Officer acknowledges that close contact to other persons increases the risk of transmission of COVID-19; and

WHEREAS, currently the dominant strain of COVID-19 in the country, is more transmissible than prior variants of the virus, may cause more severe illness, and that even fully vaccinated individuals can spread the virus to others resulting in rapid and alarming rates of COVID-19 cases and hospitalizations, therefore, meeting in person would present imminent risks to the health or safety of attendees.

NOW, THEREFORE, BE IT RESOLVED, that the SJCOG Technical Advisory Committee approves:

Section 1. Recitals. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

Section 2. Finding of Imminent Risk to Health or Safety of Attendees. SJCOG Technical Advisory Committee does hereby find that the current dominant strain of COVID-19 in the country, is more transmissible than prior variants of the virus, may cause more severe illness, and that even fully vaccinated individuals can spread the virus to others resulting in rapid and alarming rates of COVID-19 cases and hospitalizations has caused, and will continue to cause, conditions of peril to the safety of persons, thereby presenting an imminent risk to health and/or safety to SJCOG's employees and attendees of SJCOG's legislative bodies' public meetings; and

Section 3. Teleconference Meetings. The SJCOG Technical Advisory Committee does hereby determine as a result of the State of Emergency proclaimed by the Governor, and the recommended measures to promote social distancing made by State and local officials that the SJCOG Technical Advisory Committee may conduct their meetings without compliance with paragraph (3) of subdivision (b) of Government Code section 54953, as authorized by subdivision (e)(1)(A) and (B) of section 54953, and shall comply with the requirements to provide the public with access to the meetings as prescribed in paragraph (2) of subdivision (e) of section 54953; and

Section 4. Direction to Staff. The Executive Director and SJCOG staff are hereby authorized and directed to take all actions necessary to carry out the intent and purpose of this Resolution including, conducting open and public meetings in accordance with Government Code section 54953(e) and other applicable provisions of the Brown Act.

Section 5. Effective Date of Resolution. This Resolution shall take effect immediately upon its adoption.

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PASSED AND APPROVED this 9th day of December 2021, by the following votes of the San Joaquin Council of Governments, to wit;

AYES:

NOES:

ABSENT:

NAJEE ZARIF, Chair