
*Authority Board **STAFF REPORT***

Meeting Date: December 15, 2021

Subject	NEW ITEM: Consideration to Continue Conducting Remote Teleconferencing Meetings of the Legislative Bodies of the Authority Pursuant to Assembly Bill (AB) 361
Summary of Issues	<p>In March 2020, amid rising concern surrounding the spread of COVID-19 throughout communities in the State of California, Governor Gavin Newsom (Governor) declared a State of Emergency and issued a series of Executive Orders (EO). These EOs, which allowed for modifications of the teleconferencing requirements to the Ralph M. Brown Act (Brown Act) were terminated on September 30, 2021, although the declared State of Emergency still exists. On September 16, 2021, the Governor signed AB 361, with an effective date of October 1, 2021, to allow public agencies to continue conducting remote teleconferencing meetings in accordance with the Brown Act provisions pursuant to AB 361 by adopting a resolution consistent with the terms of California Government Code, Section 54953, Subdivision (e), Paragraph (1), Subparagraph (B). On September 30, 2021, the Authority Board adopted Resolution 21-45-A proclaiming a local emergency, ratifying the proclamation of a State of Emergency, authorizing remote teleconference meetings of the legislative bodies of the Authority for the period of October 2021 pursuant to the Brown Act provisions under AB 361, and authorizing the 30-day renewal to be approved at subsequent meetings by minute order. AB 361 has a requirement to reconsider the circumstances of the State of Emergency every 30 days and determine whether the State of Emergency continues to</p>

directly impact the ability of the members to meet safely in person, or State or local officials continue to impose or recommend measures to promote social distancing. Authority staff reconsidered the circumstances of the State of Emergency, determined that it continues to directly impact the ability of members to meet safely in person and that State and local officials continue to recommend measures to promote social distancing, and recommends that the legislative bodies of the Authority continue to meet remotely for the month of January 2022.

Recommendations

Staff seeks approval to proclaim a local emergency, ratify the proclamation of a State of Emergency, and authorize the continuation of conducting remote teleconference meetings of the legislative bodies of the Authority for the period of January 2022 pursuant to the Brown Act provisions under AB 361.

Staff Contact

Tarienne Grover

Financial Implications

There is no immediate fiscal impact.

Options

1. Adopt a resolution to continue conducting remote teleconferencing meetings of the legislative bodies of the Authority pursuant to AB 361.
2. Resume in-person meetings for all legislative bodies of the Authority.
3. Move to hybrid meetings for all legislative bodies of the Authority with the option for telecommuting that follows the standard (pre-pandemic) Brown Act requirements for teleconferencing.

Attachments

None

Changes from Committee

N/A

Background

In March 2020, amid rising concern surrounding the spread of COVID-19 throughout communities in the State of California, the Governor declared a State of Emergency and issued a series of EOs. These EOs (N-25-20, N-29-20, N-35-20) collectively modified certain requirements created by the Brown Act, the state’s local agency public meetings law.

The orders waived several requirements, including requirements in the Brown Act expressly or impliedly requiring the physical presence of members of the legislative body, the clerk, or other personnel of the body, or of the public as a condition of participation in or for the purpose of establishing a quorum for a public meeting

Legislative bodies of the Authority are to include the Authority Board meetings, all Standing Board Committees as defined in the Authority’s Administrative Code, other standing, special, ad-hoc, advisory or other Board Committees subject to the Brown Act including Policy Advisory Committees, Task Force, and sub-committees. This also includes the Regional Transportation Planning Committees (RTPCs) consisting of the Transportation Partnership and Cooperation (TRANSPAC), East County Transportation Planning (TRANSPLAN), Southwest Area Transportation Committee (SWAT), and the West Contra Costa Transportation Advisory Committee (WCCTAC) and their respective advisory committees. The RTPCs that are Joint Powers Authorities (TRANSPAC, TRANSPLAN, and WCCTAC) should adopt their own resolution.

Furthermore, the orders waived the following requirements:

- Local agencies must provide notice of each teleconference location from which a member of the legislative body will be participating in a public meeting.
- Each teleconference location must be accessible to the public.
- Members of the public must be able to address the legislative body at each teleconference location.

- Local agencies must post agendas at all teleconference locations.
- At least a quorum of the members of the local body must participate from locations within the boundaries of the territory over which the local body exercises jurisdiction.

On June 11, 2021, the Governor issued EO N-08-21, which rescinded the aforementioned modifications made to the Brown Act, effective September 30, 2021. On September 16, 2021, the Governor signed AB 361, which went into effect on October 1, 2021, to provide local agencies with the ability to meet remotely during proclaimed state emergencies under modified Brown Act requirements, similar in many ways to the rules and procedures established by the Governor's EOs, with a sunset of January 1, 2024. AB 361 provisions can only be used when a gubernatorial State of Emergency has been issued and remains active. It is not sufficient that county officials have issued a local emergency declaration – the emergency declaration must be one that is made pursuant to the California Emergency Services Act (California Government Code § 8625). It also permits a local agency to meet remotely when there is a State of Emergency declaration while state or local officials have recommended or required measures to promote social distancing.

AB 361 requires that a resolution be adopted by majority vote to enact the provisions of AB 361 for a maximum period of 30 days, to continue meeting under the modified Brown Act requirements of AB 361.

On September 30, 2021, the Authority Board adopted Resolution 21-45-A proclaiming a local emergency, ratifying the proclamation of a State of Emergency, authorizing remote teleconference meetings of the legislative bodies of the Authority for the period of October 2021 pursuant to the Brown Act provisions under AB 361, and authorizing the 30-day renewal to be approved at subsequent meetings by minute order.

Every 30 days, the Authority is required to renew its resolution, consistent with the requirements of AB 361, to continue meeting under the modified Brown Act requirements or allow the resolution to lapse and return to in-person meetings. In order to renew the resolution, the Authority must reconsider the circumstances of the State of Emergency and determine that 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.

Authority staff has reconsidered the circumstances of the State of Emergency and determines that the declaration remains active, and has identified ongoing, direct impacts to the ability to meet safely in-person, in addition to active social distancing measures as directed by relevant State and local officials. Additionally, on September 20, 2021, Contra Costa Health Services issued Recommendations for Safely Holding Public Meetings and continues to strongly recommended that all public meetings be held online to present the lowest risk of transmission of COVID-19, that the public is provided the opportunity to attend via a call-in option or an internet-based service option to give those at higher risk of and/or higher concern about COVID-19 an alternative to participating in person, that a written safety protocol be developed and followed that includes protocols requiring social distancing – i.e., six feet of separation between attendees and face masks for all attendees, and that a voluntary attendance sheet with names and contact information be used to assist in contact tracing of any cases linked to a public meeting.

Staff seeks approval to proclaim a local emergency, ratify the proclamation of a State of Emergency, and authorize the continuation of conducting remote teleconference meetings of the legislative bodies of the Authority for the period of January 2022 pursuant to the Brown Act provisions under AB 361.

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