



SAN JOAQUIN COUNCIL OF GOVERNMENTS

555 E. Weber Avenue, Stockton, CA 95202

SPECIAL TECHNICAL ADVISORY COMMITTEE

Thursday, January 5, 2023

10:00 A.M.

<https://sjcog.zoom.us/j/81954077664>

Teleconference Number: 1-669-900-6833

Webinar ID: 819 5407 7664

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 Rosie Gutierrez 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 Presentation
At this time, the public may address the Technical Advisory Committee on any non-agendized 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. Continued Teleconference Meetings During a Proclaimed State of Emergency **ACTION**
(Ryan Niblock)
4. Other Matters of Business
5. Meeting Adjourned to Thursday, January 12, 2023, at 10:00 a.m.

AGENDA ITEM **3**



STAFF REPORT

SUBJECT: **Continued Teleconference Meetings During a Proclaimed State of Emergency**

RECOMMENDED ACTION: **Approve Resolution R-23-89**

DISCUSSION:

SUMMARY:

On March 4, 2020, Governor Newsom declared a State of Emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the State prepare for a broader spread of COVID-19. The March 4, 2020, State of Emergency remains in effect.

On September 16, 2021, Governor 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.

On October 28, 2021, the SJCOG Board adopted Resolution Number R-22-17, finding that the requisite conditions existed for SJCOG’s legislative bodies to conduct remote teleconference meetings in accordance with the requirements of AB 361.

In conducting meetings under AB 361, SJCOG 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. 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.*)

To continue conducting teleconference meetings in accordance with AB 361, the SJCOG Board (and its committees under the Brown Act) must make findings every 30 days that it 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.

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.

The attached Resolution acknowledges that the March 4, 2020, State of Emergency is currently in effect, and that the ongoing conditions of the State of Emergency directly impact the ability of SJCOG’s Board (or its committees) to meet safely in person.

If necessary, additional Resolutions making the requisite findings may be presented at future meetings for consideration. These Resolutions can be included and considered through the Board’s/committees consent calendar.

FISCAL IMPACT:

None.

ATTACHMENT:

Resolution R-23-89

Prepared by: Rod A. Attebery, General Counsel



RESOLUTION SAN JOAQUIN COUNCIL OF GOVERNMENTS

R-23-89

A RESOLUTION OF THE TECHNICAL ADVISORY COMMITTEE OF THE SAN JOAQUIN COUNCIL OF GOVERNMENTS (SJCOG) DETERMINING TO CONTINUE CONDUCTING MEETINGS OF THE TECHNICAL ADVISORY COMMITTEE USING TELECONFERENCING PURSUANT TO GOVERNMENT CODE 54953 AS AMENDED BY AB 361.

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

WHEREAS, all meetings of SJCOG’s 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, the Technical Advisory Committee previously adopted a Resolution, Number R-22-14 on October 14, 2021, finding that the requisite conditions exist for the legislative bodies of SJCOG to conduct remote teleconference meetings without compliance with paragraph (3) of subdivision (b) of section 54953; and

WHEREAS, as a condition of extending the use of the provisions found in section 54953(e), the Technical Advisory Committee must make findings that the Technical Advisory Committee has reconsidered the circumstances of the state of emergency and that either the state of emergency continues to 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.

NOW, THEREFORE, BE IT RESOLVED, that the 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. AB 361 Compliance. Technical Advisory Committee began using teleconferencing in accordance with subdivision (e) of Section 54953 of the Government Code, as amended by AB 361, on October 14, 2021, and have made the requisite findings by majority vote not later than 30 days after October 14, 2021, and every 30 days thereafter.

Section 3. State of Emergency. The Technical Advisory Committee hereby reconsiders the circumstances of the current State of Emergency proclaimed by the Governor on March 4, 2020, and find that the ongoing conditions of the State of Emergency, specifically that 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, and therefore, meeting in person would present imminent risks to the health or safety of attendees and directly impact the ability of SJCOG members to meet safely in person.

Section 4. Measures to Promote Social Distancing. The Technical Advisory Committee hereby finds that Cal-OSHA and the County Health Official continue to recommend measures to promote physical distancing.

Section 5. Remote Teleconference Meetings. The Executive Director of San Joaquin Council of Governments is 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 6. Effective Date of Resolution. This Resolution shall take effect immediately upon its adoption

PASSED AND APPROVED this 5th day of January 2023, by the following votes of the San Joaquin Council of Governments, to wit;

AYES:

NOES:

ABSENT:

ED LOVELL, Chair