



**SAN JOAQUIN COUNCIL OF GOVERNMENTS
MANAGEMENT AND FINANCE COMMITTEE
555 E. Weber Avenue
Stockton 95202**

**Wednesday, September 14, 2022
Noon**

<https://sjcog.zoom.us/j/81138385055?pwd=YUlaMWQrWkFUMWdkSTFGWHdmUIA2dz09>

**Teleconference Number: 1-669-900-6833
Meeting ID: 811 3838 5055
Passcode: 635189**

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. Members of the public may participate in the meeting electronically using the Zoom link. **If participating using Zoom, please use the “raise hand” or chat feature to be recognized to speak.***

*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 American 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 the Clerk of the Board at (209) 235-0600 at least 24 hours prior to the meeting.

AGENDA

1. Call to Order and Roll Call
2. Public Comments
3. Teleconference Meetings During a Proclaimed State of Emergency Action
4. Other Matters of Business
5. Adjournment (September 21, 2022)

Chair: Jay Wilverding
San Joaquin County

Vice Chair: Dominique Romo
City of Escalon

AGENDA ITEM **3**



September 2022
Special M & F Committee

STAFF REPORT

SUBJECT: Continued Teleconference Meetings During a Proclaimed State of Emergency

RECOMMENDED ACTION: Approve Resolution R-23-35

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 20, 2021, the Management and Finance Committee adopted Resolution Number R-22-15, 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 23-35

Prepared by: Rod A. Attebery, General Counsel



**RESOLUTION
SAN JOAQUIN COUNCIL OF GOVERNMENTS**

R-23-35

**A RESOLUTION OF THE MANAGEMENT AND FINANCE COMMITTEE OF THE
SAN JOAQUIN COUNCIL OF GOVERNMENTS (SJCOG) DETERMINING TO
CONTINUE CONDUCTING MEETINGS OF THE MANAGEMENT AND FINANCE
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 Management and Finance 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 Management and Finance Committee previously adopted a Resolution, Number R-22-15 on October 20, 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 Management and Finance Committee must make findings that the Management and Finance 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 Management and Finance 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. Management and Finance Committee began using teleconferencing in accordance with subdivision (e) of Section 54953 of the Government Code,

as amended by AB 361, on October 20, 2021, and have made the requisite findings by majority vote not later than 30 days after October 20, 2021, and every 30 days thereafter.

Section 3. State of Emergency. Management and Finance 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 Management and Finance 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 14th day of September, 2022, by the following votes of the San Joaquin Council of Governments, to wit;

AYES:

NOES:

JAY WILVERDING, Chair