

Tulare County Association of Governments

AGENDA ITEM IV

May 16, 2022

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SUBJECT:

Action: Review Conditions of State Assembly Bill 361 to Continue Allowing Remote Attendance at Governing Board Meetings

BACKGROUND:

In response to the COVID-19 pandemic, the Governor suspended part of the Brown Act concerning the requirements for allowing Governing Board members to remotely participate in Board meetings. The suspended provisions require that (1) Governing Board meeting agendas allowing remote Board Member participation list each of the specific locations from which Board members will be remotely participating, (2) such agendas be posted at each such location, and (3) members of the general public must be allowed to remotely participate in the meeting from each of the listed locations. The suspension was done to promote social distancing and so to help limit the spread of COVID-19.

DISCUSSION:

The Governor's suspension of these Brown Act provisions expired as of September 30 and was replaced by new AB 361, an urgency statute that became effective as of September 30. Under AB 361, Governing Boards can continue to allow remote Board members participation in Brown Act meetings if several conditions are met:

1. The meeting is held during a declared State of Emergency (like the Governor's COVID-19 pandemic State of Emergency that's still in effect in California);
2. The Governing Board adopts findings to the effect that allowing remote meeting participation by Governing Board members promotes social distancing, which in turn helps prevent the spread of COVID-19; and
3. The Governing Board confirms these conditions continue to be met every 30 days.

The Tulare County Association of Governments Board of Governors adopted a resolution allowing remote attendance at its meetings pursuant to AB 361 on October 18, 2021, and renewed AB 361's required findings at its meetings of December 6, 2021, January 24, 2022, February 28, 2022, and March 21, 2022.

At the Governing Board's April 18, 2022, meeting, Board members expressed the view that the required findings regarding the need for social distancing due to the COVID-19 pandemic were no longer applicable in light of the reopening of the local economy and relaxation at the federal and state levels of masking and other social distancing rules and recommendations, and so the approval of remote meeting participation under AB 361 should be allowed to expire. However, in light of concerns raised about the potential lack of in-person quorums for the day's TCAG and TCTA Board meetings and the lack of advance notice to Board members that remote participation in the Board meetings under AB 361 would not be allowed for that day's meetings, the Board voted to renew the findings for the April 18, 2022 meeting but put Board members, alternate Board members, and member agencies on notice that the Board was unlikely to approve

further renewals of the AB 361 findings and so Board members, alternates, and member agencies should plan accordingly for attendance at future Governing Board meetings.

If the Governing Board opts not to renew the AB 361 findings, then Governing Board meetings must be held in accordance with the regular Brown Act requirements, meaning that Board members will have to be present in person in order to participate in Board meetings, or meet the strict Brown Act requirements outlined above for remote teleconferencing participation.

Apart from remote participation in Board meetings by Governing Board members, the public, TCAG staff and consultants, and staff from CalTrans and the offices of state and federal elected representatives, have participated remotely in TCAG and TCTA Board meetings and routinely presented staff reports and updates on agenda items during the pandemic. Continuing to allow such participation is within the Board's discretion and can be authorized even if the AB 361 findings are not renewed. TCAG staff and legal counsel recommend the Board continue to allow such participation for the public, staff, and consultants as a courtesy, as a way to encourage greater public participation in the meetings, and to spare people from the time and expense of having to travel sometimes great distances in order to listen in or participate in the meetings.

RECOMMENDATIONS:

1. Renew the findings required by AB 361 and so continue allowing everyone the option to participate in governing board meetings remotely through the use of the teleconferencing provisions of AB 361, with the understanding that the Board must be asked to review and consider renewal of the findings every 30 days as required by AB 361; or
2. Decide to not renew the AB 361 findings and suspend all remote access beginning June 1, 2022: or
3. Decide not to renew the AB 361 findings but continue to allow remote access for the public, TCAG staff and consultants, and staff from CalTrans and the offices of state and federal elected representatives to attend and participate in Board meetings and/or present agenda items as necessary.

FISCAL IMPACT:

None

ATTACHMENT:

None