

**Tulare County Regional Transit Agency**  
**AGENDA**  
**January 30, 2022**  
**6:00 pm**  
**Tulare County Regional Transit Agency**  
**210 N. Church Street, Suite B**  
**Visalia, CA 93291**

NOTE: This meeting will allow Board Members and the public to participate in the meeting via Teleconference, pursuant to Assembly Bill 361, available at:

[https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=202120220AB361](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB361)

**Zoom Meeting | Direct Link:** <https://bit.ly/2Zt4BQY>

**Toll Free Call in:** (888) 475-4499 | **Meeting ID:** 744 710 0343 | **Passcode:** 82243742

**Call in only instructions:** Enter your meeting ID followed by #, Enter # for participant ID, Enter the passcode followed by #.

*In compliance with the Americans with Disabilities Act and the California Ralph M. Brown Act, if you need special assistance to participate in this meeting, including auxiliary aids, translation requests, or other accommodations, or to be able to access this agenda and documents in the agenda packet, please contact the Tulare County Association of Governments ("TCAG") office at 559-623-0450 at least 3 days prior to the meeting. Any staff reports and supporting materials provided to the Board after the distribution of the agenda packet are available for public inspection at the TCAG office.*

- I. CALL TO ORDER, WELCOME, AND ROLL CALL**
- II. PLEDGE OF ALLEGIANCE**
- III. PUBLIC COMMENT**

**NOTICE TO THE PUBLIC**  
**PUBLIC COMMENT PERIOD**

At this time, members of the public may comment on any item of interest to the public and within the subject matter jurisdiction of TCRTA but not appearing on this agenda. Under state law, matters presented under this item cannot be discussed or acted upon by the Board at this time. For items appearing on the agenda, the public is invited to make comments at the time the item comes up for Board consideration. Any person addressing the Board will be limited to a maximum of three (3) minutes so that all interested parties have an opportunity to speak with a total of fifteen (15) minutes allotted for the Public Comment Period. Speakers are requested to state their name(s) and address(es) for the record.

**IV. REPORTS:**

This is the time for all committee reports; executive committee reports; and staff informational items:

- A. Safety Committee (None)
- B. Sustainability Committee (None)

**V. PRESENTATIONS:**

- A. None

**VI. INFORMATIONAL ITEMS:**

- A. TCRTA Staff Introductions

**VII. CONSENT CALENDAR ITEMS:**

All Consent Calendar Items are considered routine and will be enacted in one motion. There will be no separate discussion of these matters unless a request is made, in which event the item will be removed from the Consent Calendar. All items removed from the Consent Calendar for further discussion will be heard at the end of Action and Information Items.

**Request Approval of the Consent Calendar Items VII-A through VII-C.**

- A. Approve Minutes of December 8, 2022 (Pages 01-02)
- B. Reaffirm Conditions of SB 361 To Continue Remote Attendance (Page 03)
- C. Approve Revised 2023 TCRTA Board Meeting Schedule (Page 05-06)

**VIII. DISCUSSION/ACTION ITEMS:**

- A. ACTION - Administer Oath of Office to Directors (No Page)
- B. ACTION - Election and Seating of Chair and Vice Chair of Board (Page 07)
- C. ACTION - Consideration to Amend Joint Powers Agreement and Bylaws (Page 09-10)
- D. INFORMATION: Conflict of Interest Code (Form 700) Due April 1, 2023 (Page 11)
- E. DISCUSSION - Memo – Brown Act Amendments (Pages 13-17)

**IX. OTHER BUSINESS:**

- A. Director's Report
- B. Request from Board Members for Future Agenda Items

**X. CLOSED SESSION ITEMS:**

It is the intention of the Board of Directors to meet in closed session concerning:

- A. None

**XI. ADJOURN:**

The next scheduled Tulare County Regional Transit Agency (TCRTA) Board meeting date, if approved, will be **February 22, 2023 and will take place at 6:00 pm** at the Tulare County Regional Transit Agency (TCRTA), 210 N. Church Street, Suite B, Sequoia Conference Room, Visalia, CA 93291.

**TULARE COUNTY REGIONAL TRANSIT AGENCY**

<b>BOARD OF DIRECTORS</b>	<b>ALTERNATE</b>	<b>AGENCY</b>
Kuldip Thusu	Armando Longoria	City of Dinuba
Vicki Riddle	Frankie Alves	City of Exeter
Greg Gomez – Vice Chair	Tina Hernandez	City of Farmersville
Hipolito Cerros	Rosaena Sanchez	City of Lindsay
Donald Weyhrauch	Raymond Beltran	City of Porterville
Jose Sigala – Chair	Terry Sayre	City of Tulare
Rudy Mendoza	Jose Martinez	City of Woodlake
Eddie Valero	Amy Shuklian	County of Tulare
Vacant California	Vacant	Tule River Tribe of

**EX OFFICIO MEMBERS**

Georgina Landecho, CalVans  
Kellie Carrillo, TCAG Public Transit Representative

**TCRTA STAFF**

Rich Tree, TCRTA Executive Director  
Albert Barragan, TCRTA Transit Manager  
Vacant, TCRTA Finance Manager  
Teresa Ortega, TCRTA Transit Analyst  
Jennie Miller, TCRTA Transit Analyst  
Clayton Landis, TCRTA Transit Analyst  
Olivia Forte, TCRTA Transit Coordinator  
\*Patrick Beck, County Counsel  
\*Leslie Davis, TCAG Finance Director (TCAG)  
\*Servando Quintanilla Jr., TCAG Analyst I (TCAG)  
\*TCRTA is receiving support from the Tulare County Association of Governments and County of Tulare

TCRTA  
210 N. Church Street, Suite B  
Visalia, CA 93291  
Phone: (559) 623-0450  
Fax: (559) 733-6720  
[www.tularecog.org](http://www.tularecog.org)

**Tulare County Regional Transit Agency  
Minutes**

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**December 8, 2022, 6:00 p.m.**

**Members Present:** Thusu, Gomez, Sigala, Mendoza, & Valero  
**Members Absent:** Garver, Caudillo, & Weyhrauch  
**Alternates:** Cerros  
**Ex Officio Present:**  
**Staff Present:** Rich Tree, Jennie Miller, Teresa Ortega, Servando Quintanilla, Maria Garza, Brideget Moore  
**Counsel Present:** Patrick Beck

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**I. CALL TO ORDER:**

Chair Sigala called the meeting to order at 6:00 p.m.

**III. PUBLIC COMMENT:**

No public comments were heard.

**IV. CLOSED SESSION:**

None

**V. REPORTS:**

**Safety Committee**

None

**Sustainability Committee**

None

**VI. PRESENTATIONS:**

**A. Via – Mobility-as-a-Service Study**

Ms. Thorsen gave an introduction of the Via presentation and introduced Mr. Farabow who gave a presentation on service alternatives and recommendations such as Demand-Response Services, Active Transportation, and Multimodal Services Delivery.

**B. RideCo – Regional On-Demand Simulation**

Mr. Kirkpatrick gave a presentation on RideCo simulation with an introduction to RideCo, Key Outcomes of a Regional Microtransit Services, Proposed Program & Approach for TCRTA, and Product Review.

**VII. INFORMATIONAL ITEMS:**

**A. Brown Armstrong Engagement Letter**

Mr. Tree gave an update on the audit and that Brown Armstrong would continue to work on the audit.

**VIII. CONSENT CALENDAR ITEMS:**

**A. Approve Minutes of November 10, 2022**

**B. Reaffirm Conditions of State Assembly Bill 361 To Continue Remote Attendance**

Upon motion by Member Gomez and seconded by Member Sigala the Tulare County Regional Transit Agency unanimously approved Items A-B as presented.

**IX. ACTION AND INFORMATION ITEMS:**

**B. Discussion - Effects of 2022 Amendments to Brown Act**

Mr. Beck stated that The Governor's suspension of these Brown Act provisions expired as of September 30, 2021 and was replaced by State Assembly Bill (AB) 361, an urgency statute that became effective as of September 30, 2021 and Under AB 361, Governing Boards can continue to allow remote Board members participation in Brown Act public 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 day

**C. Discussion - Social Service Technical Advisory Committee**

Mr. Fox gave a presentation on Transportation Development Act (TDA), Local Transportation Fund (LTD), State Transit Assistance (STA), Unmet Needs, and discussed SSTAC member requirements.

**D. Discussion - Stuff the Bus Food Drive Campaign**

Mr. Boulware provide an overview of the "Stuff the Bus" food drive program, dates, and location to participate, and food banks to be served.

**X. OTHER BUSINESS:**

**A. Director's Report**

Mr. Tree discussed Form 700 for those leaving office and for those that are new to the TCRTA Board and mentioned that TCRTA would be hiring more staff and officially transferred Albert Barragan and Teresa Ortega to TCRTA.

**B. Request from Board Members for Future Agenda Items**

Mr. Thusu wanted a financial stability overview.

**XI. ADJOURN**

The meeting adjourned at 8:00 p.m. Chair Sigala confirmed the next scheduled meeting of the Tulare County Regional Transit Agency (TCRTA) Board of Directors will be held on **January 9, 2023 and will take place at 6:00 p.m.** at the Tulare County Regional Transit Agency (TCRTA), 210 N. Church Street, Suite B, Sequoia Conference Room, Visalia, CA 93291.

# Tulare County Regional Transit Agency

## **AGENDA ITEM VII-B**

**January 30, 2023**

**Prepared by Richard Tree, Executive Director**

### **SUBJECT:**

**Action:** Reaffirm Conditions Of State Assembly Bill 361 To Continue Remote Attendance

### **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 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, 2021 and was replaced by State Assembly Bill (AB) 361, an urgency statute that became effective as of September 30, 2021. Under AB 361, Governing Boards can continue to allow remote Board members participation in Brown Act public 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;
3. The Governing Board confirms these conditions continue to be met every 30 days.

The Tulare County Regional Transit Agency Board of Directors passed a resolution adopting a policy of remote attendance pursuant to AB 361 on October 18, 2021.

### **RECOMMENDATION:**

That the Tulare County Regional Transit Agency Board of Directors reaffirm Resolution No. 2021-11 to continue to participate in its governing board meetings remotely by the teleconferencing provisions of AB 361.

### **FISCAL IMPACT:**

None

### **ATTACHMENT:**

None

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# Tulare County Regional Transit Agency

## **AGENDA ITEM VII-C**

**January 30, 2023**

**Prepared by Jennie Miller, TCRTA Staff**

### **SUBJECT:**

**Action:** Approve Revised 2023 TCRTA Board Meeting Schedule

### **BACKGROUND:**

The Bylaws of the Tulare County Regional Transit Agency state, "At its first meeting of each calendar year, the Board of Directors shall establish a schedule of regular meetings for that year, including date, time, and location for such meetings. Every regular meeting of the Board of Directors shall be held at such date and time and at such location within the boundaries of the County of Tulare as so established and publicly noticed in the agenda for the meeting. Regular meetings of the Board may be cancelled or may be held on such other dates and/or at such other times and locations as may be approved by the Board or as directed by the Board's Chair".

### **DISCUSSION:**

At the Board Meeting of November 10, 2022, the Board of Directors approved the 2023 TCRTA Board Meeting Schedule for the 2023 calendar year. The TCRTA Board of Directors generally meets on the third Monday of each month at 3:00 pm, except for months where there are holiday and/or calendar conflicts. Alternate meeting times/days are being proposed for those months where conflicts exist, to allow for participation by all Board members and staff.

### **RECOMMENDATION:**

That the Tulare County Regional Transit Agency Board of Directors:

1. Approve the Revised 2023 TCRTA Board Meeting Schedule.

### **FISCAL IMPACT:**

None

### **ATTACHMENT:**

1. Revised 2023 TCRTA Board Meeting Schedule

**Tulare County Regional Transit Agency (TCRTA)  
Revised 2023 Board Meeting Schedule**

<b>Date</b>	<b>Location</b>
January 30, 2023*	Tulare County Regional Transit Agency 210 N. Church St., Visalia, CA 93291
February 22, 2023*	Tulare County Regional Transit Agency 210 N. Church St., Visalia, CA 93291
March 20, 2023	Tulare County Regional Transit Agency 210 N. Church St., Visalia, CA 93291
April 12, 2023*	Tulare County Regional Transit Agency 210 N. Church St., Visalia, CA 93291
May 15, 2023	Tulare County Regional Transit Agency 210 N. Church St., Visalia, CA 93291
June 14, 2023*	Tulare County Regional Transit Agency 210 N. Church St., Visalia, CA 93291
July 17, 2023	Tulare County Regional Transit Agency 210 N. Church St., Visalia, CA 93291
August 21, 2023	Tulare County Regional Transit Agency 210 N. Church St., Visalia, CA 93291
September 18, 2023	Tulare County Regional Transit Agency 210 N. Church St., Visalia, CA 93291
October 16, 2023	Tulare County Regional Transit Agency 210 N. Church St., Visalia, CA 93291
November 15, 2023*	Tulare County Regional Transit Agency 210 N. Church St., Visalia, CA 93291
December 18, 2023	Tulare County Regional Transit Agency 210 N. Church St., Visalia, CA 93291

The TCRTA Board meets at 6:00 pm. Most meetings fall on the third Monday of each month. Meeting dates with asterisks have been changed due to holidays and/or calendar conflicts.

Meetings will be held at the location noted above for each month, unless otherwise noted in that month's agenda.

Tulare County Regional Transit Agency

**AGENDA ITEM VIII-B**

**January 30, 2023**

**Prepared by Richard Tree, Executive Director**

**SUBJECT:**

**Discussion:** Election and Seating of Chair and Vice Chair of the Board of Directors

**DISCUSSION:**

At the meeting of August 17, 2020, the Board of Directors elected Director Crocker as Chair and Director Sigala as Vice Chair. The terms for the selected officers were to conclude on June 30, 2022.

At the meeting of January 11, 2021, the Board of Directors elected Director Sigala as Chair and Director Gomez as Vice Chair. The change in officers was due to the 2020 election, in which, Chair Crocker was not re-elected to the County Board of Supervisors. The terms for the selected officers shall conclude on January 16, 2023.

As specified in the Joint Powers Agreement, TCRTA shall appoint a Chair and Vice Chair to serve for two years, and staff is recommending holding an election and seating of Chair and Vice Chair of the Board of Directors.

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# Tulare County Regional Transit Agency

## **AGENDA ITEM VIII-C**

**January 30, 2023**

**Prepared by Richard Tree, Executive Director**

### **SUBJECT:**

**Action:** Consideration To Amend The Joint Powers Agreement And Bylaws

### **BACKGROUND:**

School districts in Tulare County are challenged with addressing transportation barriers that often impede student success. Additionally, school districts are faced with similar challenges as public transportation regarding workforce shortages, rising operational costs, transitioning the fleet to zero-emission, and antiquated scheduling that limits access to education, jobs, healthcare, and recreational activities.

Over the years, TCRTA and the Porterville Unified School District (PUSD) have partnered on several funding opportunities to improve access to education. Through these partnership opportunities the agency's have developed a strong and positive working relationship.

Currently, TCRTA and PUSD are partnering on a workforce development project, a Transformative Climate Communities (TCC) project, and frequently collaborate on transitioning our fleets to zero-emission.

Because of our similar challenges, PUSD is seeking the Board's consideration to amend the Joint Powers Agreement and Bylaws to include student transportation in the Agency's purpose and include PUSD as a Member Agency.

At the Board meeting of November 10, 2022, the Board of Directors elected to take no action on amending the Joint Powers Agreement to include student transportation, in favor of authorizing staff to continue discussing the needs of PUSD, and to draft a service agreement.

TCRTA Bylaws may be amended by the Board from time-to-time as the Board deems necessary. Such amendments shall be within the regular business of the Board and may be adopted upon approval of a quorum of the Board.

### **DISCUSSION:**

Since November 10, 2022, staff has continued its discussions with PUSD to identify areas in which a partnership could be formed, and services can be provided. Originally the discussions centered around afterschool transportation gaps that PUSD's current third-party operator was challenged with providing. Over time, those discussions have evolved into the potential of TCRTA assuming administrative responsibilities of PUSD's student transportation department, home-to-school, and afterschool transportation. This is due, in part, to benefits realized through the JPA, TCRTA's experience with managing third-party operators, experience in operating and maintaining zero-emission fleets, and the possibility of commingling the workforce.

In addition, the California Education Code (§39800.1) requires local school districts and the county office of education to develop local plans describing the transportation services it will offer to students, and how it will prioritize planned transportation services

for students in transitional kindergarten, kindergarten, any of grades 1 to 6, inclusive programs, and students who are low income. The plan may also provide service to middle school and high school students. The student transportation plan must be developed in partnership with the regional transit agency and adopted by school districts before April 1, 2023 and updated by April 1 each year.

Furthermore, the expiration of PUSD's third-party operator contract, in June 2023, presents an extraordinary opportunity to consider consolidating student and public transportation services within the Joint Powers Agreement and solidifying a regional plan to provide sustainable and efficient student and public transportation services that will improve access to education, healthcare, and jobs.

To avoid any delays, a cautious and well thought out plan must be expedited to meet the upcoming deadlines. Simultaneously, TCRTA and PUSD staff must begin drafting a student transportation plan and prepare a Request for Proposals (RFP) for a third-party operator. To accomplish these tasks, staff recommends amending the Joint Powers Agreement and Bylaws to include student transportation and include PUSD as a Member Agency, contingent on legal acceptance. To avoid any potential funding issues, staff is also recommending that student transportation be setup as a separate department within TCRTA with its own budget. Continuing TCRTA's cost accounting approach would provide transparency and accuracy to its Member Agencies.

Much like TCRTA's member agencies, PUSD may consider transferring or leasing its assets (vehicles), leasing its maintenance facility, and assigning administrative responsibilities to TCRTA. PUSD's average annual student transportation operating budget is \$2.4 million, with a fleet size of 42 vehicles and a forklift. PUSD also contracts with a third-party operator, which is expiring at the end of June 2023.

Currently, TCRTA's annual operating budget is \$50 million, a \$30 million Capital Improvement Program, and a fleet size of 105 vehicles. In comparison, PUSD's operating budget is similar in size to Dinuba's transit budget. Regarding administration responsibilities, TCRTA's existing organizational structure can expand its capacity with little adjustments.

**RECOMMENDATION:**

That the Tulare County Regional Transit Agency Board of Directors:

1. Reaffirm its support to partnering with the Porterville Unified School District; and
2. Authorize staff to draft amendments to the Joint Powers Agreement and Bylaws; and
3. Schedule a Special Board Meeting on February 8, 2023 to consider Porterville Unified School District's membership.

**FISCAL IMPACT:**

Member agencies fully fund their respective services dependent on the funding their agencies receive. Adding additional member agencies is revenue neutral.

**ATTACHMENT:**

None

# Tulare County Regional Transit Agency

## **AGENDA ITEM VIII-D**

**January 30, 2023**

**Prepared by Richard Tree, Executive Director**

### **SUBJECT:**

**Information:** Conflict of Interest Code (Form 700) Due April 1, 2023

### **BACKGROUND:**

The Tulare County Regional Transit Agency is required to adopt and maintain a conflict of interest code. This code outlines who must disclose information on an annual basis, and what type of information must be disclosed.

### **DISCUSSION:**

The Political Reform Act requires certain officials and employees who serve in positions designated in an agency's conflict of interest code to file a Statement of Economic Interest (Form 700). The Form 700 is available in an interactive version on the Fair Political Practices Commission website: [www.fppc.ca.gov](http://www.fppc.ca.gov).

### **ATTACHMENT:**

None

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**OFFICE MEMORANDUM \* TULARE COUNTY \* COUNTY COUNSEL**  
**(559) 636-4950**  
**Fax # (559) 737-4319**

To: Members of the Board  
Tulare County Regional Transit Agency (TCRTA)

Date: December 12, 2022

From: Patrick A. Beck, Deputy County Counsel

Subject: Effect of 2022 Amendments to Brown Act  
(Our Matter No. 20221203)

**Question Presented:**

What will be the practical impact on the Governing Boards of the 2022 amendments to the Brown Act regarding remote attendance at Board meetings?

**Brief Answer:**

Board members may attend and participate in a Board meeting remotely under the pandemic rules probably only until February 28, 2023, then under the slightly more relaxed rules until January 1, 2026, and under the basic rules at any time.

**Background:**

AB 2449, signed into law by the Governor earlier this year, will amend the Brown Act regarding teleconferencing and require changes in the way in which TCRTA Board members participate in future Board meetings. The new law will take effect on January 1, 2023. The following is a discussion of the changes made by this statute.

**Discussion:**

**Changes to teleconferencing rules**

AB 2449<sup>i</sup> will extend, until January 1, 2026, the temporary authority for members of a legislative body of a local agency to use teleconferencing without complying with the usual requirements that each teleconference location be identified on the agenda and be made accessible to the public. Two versions of the temporary procedures are included in the new statute.

a. **Short-term extension of pandemic rules**

For 2023 only, the Brown Act will continue to allow the entire Board to meet remotely under the pandemic rules.<sup>ii</sup> You have become familiar with these rules, which are as follows.

First, a state of emergency must have been proclaimed. The definition of “state of emergency” will continue to be limited to a particular state statute which requires the Governor to formally declare the emergency (which can be at the request of local authorities).<sup>iii</sup> As you know, the Governor has announced that the declared COVID-19 state of emergency will end on February 28, 2023.<sup>iv</sup> Accordingly, absent a COVID surge or another emergency which causes the Governor to issue another emergency declaration, the authority to meet entirely remotely will end on that date.

Second, state or local officials must have imposed or recommended measures to promote social distancing.

Finally, the legislative body must determine, by majority vote, that as a result of the emergency, meeting in person would present imminent risks to the health or safety of meeting attendees.

If these conditions are met, then all members of the legislative body may attend and participate in the Board meeting remotely. The agenda must include notice of the means by which members of the public may access the meeting and offer public comment and must include an opportunity for all persons to attend via call-in or internet-based options. If public access through the remote options is disrupted, then the legislative body may not take any further action until service is restored. Live public comment must be allowed – a legislative body may not restrict public comments to those submitted in advance.

The legislative body must re-adopt the three findings listed above at least every 30 days. The findings must indicate that the legislative body has reconsidered the circumstances of the state of emergency and has concluded either that the emergency continues to directly impact the ability of the members to meet safely in person, and/or that state or local officials continue to impose or recommend measures to promote social distancing.

b. Short-term addition of slightly relaxed remote attendance rules (2023 – 2025)

Many boards have found that the pandemic allowance for all board members to attend remotely has been useful for reasons other than the pandemic. For example, it has been easier to get a quorum, and has allowed board members to avoid traveling to meetings in distant locations. Unfortunately, the Legislature apparently was not interested in allowing board members to continue attending remotely under more general remote attendance rules.

However, for 2023 through 2025, the Brown Act will include a temporary version of remote attendance which is slightly more relaxed than the usual requirements.<sup>v</sup> First, at least a quorum of the members of the legislative body must attend and participate in person from a single location that is open to the public and located within the jurisdiction of the agency. (For a 10-person board like TCRTA, this means that at least a majority (6 members) must attend and participate in person, the remainder may attend and participate remotely.)

Second, the legislative body must provide public access through both audio and visual means. Options listed in the statute are a two-way audiovisual platform, or a two-way telephonic service combined with live webcasting. The same requirements listed above (notice of how members of the public may access the meeting and offer public comment, an opportunity to attend via call-in or internet-based options, stopping action if public access through the remote options is disrupted, and live public comment) will also apply to this type of remote attendance.

Third, a board member may attend and participate in the meeting remotely only if strict requirements are met: first, the board member either must have “just cause” (as defined below) for attending remotely, with that member limited to remote attendance at only two meetings per calendar year for “just cause,” or the member may request that the body allow the member to participate remotely due to “emergency circumstances” (as defined below), and the legislative body takes action to approve the request. For both “just cause” and “emergency circumstances” remote participation, that member’s overall remote attendance may not exceed three consecutive months or 20 percent of the

regular meetings of the board within a calendar year, or more than two meetings if the legislative body regularly meets fewer than 10 times per calendar year.

A declaration of “just cause” does not require action by the legislative body. The board member must notify the legislative body of the need to participate remotely “at the earliest opportunity possible,” which may be as late as “the start of a regular meeting.”<sup>vi</sup>

The term “just cause” is limited to the following:

- A childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner.
- A contagious illness.
- A need related to a physical or mental disability.
- Travel while on official business of the legislative body or another state or local agency.

The board member is only required to provide a general description of the circumstances which constitute “just cause.” The board member is not required to disclose any medical diagnosis or disability, or provide any personal medical information.

The procedures for a request to participate remotely due to “emergency circumstances” are slightly different. The board member must still make the request “as soon as possible,” but must make a separate request for each board meeting.<sup>vii</sup> In addition, the legislative body must take action to allow the remote participation due to the emergency circumstances.<sup>viii</sup> If the request was not submitted in time to be on the agenda, then the legislative body may take action anyway, under a new exception to the agenda rules for a regular meeting.<sup>ix</sup>

The term “emergency circumstances” is limited to “a physical or family medical emergency that prevents a member from attending in person.”<sup>x</sup> There is no information in the easily available legislative history explaining what the Legislature meant by this phrase.

Until there is clarification, we believe the Board can interpret this phrase as meaning a “physical ... emergency” or a “family medical emergency.” Thus, we believe the Board can approve remote attendance whenever a board member has an emergency which physically prevents the board member from attending in person – unsafe or impassible roads due to conditions such as fog, snow, flooding, or a traffic jam, the board member’s car breaking down on the way to the meeting, etc. For family, on the other hand, we believe the Board can approve remote attendance only due to a medical emergency – a family member’s car breaking down would not allow the Board to approve remote attendance.

As with the “just cause” allowance, the description of emergency circumstances can be general. The board member is not required to disclose any medical diagnosis or disability or provide any personal medical information.

Fourth, for both types of remote attendance, the board member must publicly disclose, before any action is taken at the meeting, whether any other adults are present in the room at the remote location with the member, and the general nature of the member’s relationship with any such individuals.

Finally, also for both types of remote attendance, the board member must participate through both audio and visual technology.

This version of the statute will be repealed effective January 1, 2026.

We will work with staff on procedures to allow Board members to use the new remote attendance rules should they have a need to do so.

c. Basic rules for remote attendance

As described above, the pandemic rules will probably end on February 28, 2023, and the slightly more relaxed rules will be repealed as of January 1, 2026. The basic rules continue to be available now and will also be the sole option starting in 2026.<sup>xi</sup>

The main difference between the basic rules and the temporary rules is that under the basic rules the board member attending remotely can only do so if this is planned ahead of time. In particular, the board member may attend only from a location accessible to the public and which is listed on the agenda, the agenda must be publicly posted at the remote location, and at least a quorum of the board must participate from locations within the jurisdiction of the agency. In other ways, the basic rules are more generous than the temporary ones. The board member need not participate by both audio and visual technology, need not disclose who else is in the room, and need not explain why the board member is not attending in person, or have the legislative body formally approve the request to attend remotely.

Conclusion:

The 2022 amendments to the Brown Act will provide some limited assistance for remote attendance at meetings. As indicated, the amendments likely will require changes in how TCRTA Board Members attend and participate in Board meetings.

We hope this information is helpful. Please let us know if you have questions or need anything else on this matter. Thank you.

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<sup>i</sup> Stats. 2022, ch. 285, effective January 1, 2023.

<sup>ii</sup> Stats. 2022, ch. 285, § 1, amending Gov. Code, § 54953, subd. (e), as added by Stats. 2021, ch. 165, § 3, to be repealed on January 1, 2024.

<sup>iii</sup> Stats. 2022, ch. 285, § 1, amending Gov. Code, § 54953, subd. (e), as added by Stats. 2021, ch. 165, § 3, to be repealed on January 1, 2024. The “state of emergency” statute is Gov. Code, § 8625, as cross-referenced in subd. (j)(5) of the 2023 version of § 54953.

<sup>iv</sup> See press release from Governor’s office, available online at <https://www.gov.ca.gov/2022/10/17/governor-newsom-to-end-the-covid-19-state-of-emergency/#:~:text=SACRAMENTO%20%E2%80%93%20Today%2C%20Governor%20Gavin%20Newsom,used%20to%20combat%20COVID%2D19> (viewed on Nov. 15, 2022).

<sup>v</sup> Stats. 2022, ch. 285, § 1, amending Gov. Code, § 54953, as added by Stats. 2021, ch. 165, § 3, to be repealed on January 1, 2024; and Stats. 2022, ch. 285, § 2, amending Gov. Code, § 54953, as added by Stats. 2021, ch. 165, § 4, operative Jan. 1, 2024, to be repealed on January 1, 2026. The remote attendance rules are in subd. (f) of the

2023 version, which, with the repeal of the pandemic rules at the end of 2023, will become subd. (e) of the 2024-2025 version.

<sup>vi</sup> Stats. 2022, ch. 285, § 1, amending Gov. Code, § 54953, as added by Stats. 2021, ch. 165, § 3, to be repealed on January 1, 2024; and § 2, amending Gov. Code, § 54953, as added by Stats. 2021, ch. 165, § 4, operative Jan. 1, 2024, to be repealed on January 1, 2026. The quoted language is from subd. (f)(2)(A)(i) of the 2023 version, and from subd. (e)(2)(A)(i) of the 2024-2025 version.

<sup>vii</sup> Stats. 2022, ch. 285, § 1, amending Gov. Code, § 54953, as added by Stats. 2021, ch. 165, § 3, to be repealed on January 1, 2024; and § 2, amending Gov. Code, § 54953, as added by Stats. 2021, ch. 165, § 4, operative Jan. 1, 2024, to be repealed on January 1, 2026. The quoted language is from subd. (f)(2)(A)(ii)(I) of the 2023 version, and from subd. (e)(2)(A)(ii)(I) of the 2024-2025 version.

<sup>viii</sup> Stats. 2022, ch. 285, § 1, amending Gov. Code, § 54953, as added by Stats. 2021, ch. 165, § 3, to be repealed on January 1, 2024; and § 2, amending Gov. Code, § 54953, as added by Stats. 2021, ch. 165, § 4, operative Jan. 1, 2024, to be repealed on January 1, 2026. The quoted language is from subd. (f)(2)(A)(ii)(II) of the 2023 version, and from subd. (e)(2)(A)(ii)(II) of the 2024-2025 version.

<sup>ix</sup> Stats. 2022, ch. 285, § 4, amending Gov. Code, § 54954.2, effective January 1, 2023, to be repealed on January 1, 2026. See also Stats. 2022, ch. 285, § 1, amending Gov. Code, § 54953, as added by Stats. 2021, ch. 165, § 3, to be repealed on January 1, 2024; and § 2, amending Gov. Code, § 54953, as added by Stats. 2021, ch. 165, § 4, operative Jan. 1, 2024, to be repealed on January 1, 2026, adding a cross-reference to § 54954.2 to § 54953, in subd. (f)(2)(A)(ii)(II) of the 2023 version, and in subd. (e)(2)(A)(ii)(II) of the 2024-2025 version. Stats. 2022, ch. 285, § 5 adds a replacement version of Gov. Code, § 54954.2, which reverts to the pre-pandemic version of the statute, operative January 1, 2026.

<sup>x</sup> New subd. (j)(1) of Gov. Code, § 54953, as added by Stats. 2021, ch. 165, § 3, effective January 1, 2023, to be repealed on January 1, 2024. The same language will become subd. (i)(1) in Stats. 2022, ch. 285, § 2, amending Gov. Code, § 54953, as added by Stats. 2021, ch. 165, § 4, operative Jan. 1, 2024, to be repealed on January 1, 2026.

<sup>xi</sup> Stats. 2022, ch. 285, § 3, effective January 1, 2023, adding a replacement version of Gov. Code, § 54953 which reverts to the pre-pandemic version of the statute, operative January 1, 2026.