

AGENDA ITEM 1 D
Consent Item

MEMORANDUM

DATE: December 1, 2022

TO: El Dorado County Transit Authority

FROM: Matthew Mauk, Executive Director

SUBJECT: Remote or Hybrid Public Meeting Provisions of Assembly Bill (AB) 361

REQUESTED ACTION:
BY MOTION,

Adoption of Resolution No. 22-31 declaring intent to continue remote or hybrid teleconferencing meetings as a result of the continuing COVID-19 pandemic State of Emergency declared by Governor Newsom

BACKGROUND

The Ralph M. Brown Act (“the Brown Act”) provides guidance and requirements for public agencies and local governments in California to hold and conduct business at open and public meetings. The Brown Act ensures the public is involved, informed, and active in the decisions and discussions of local, regional, and state governance. The El Dorado County Transit Authority (El Dorado Transit) Board of Director and advisory committee meetings are held to the standards within the Brown Act and are conducted consistent with the requirements therein.

In response to the COVID-19 pandemic, on March 12, 2020, the Governor issued Executive Order No. N-25-20 that waived certain requirements of the Brown Act including:

- the requirement that the notice of each meeting location be provided for those members of the legislative body (board or committee) participating in the meeting
- the requirement that each meeting location be accessible to members of the public
- the requirement that members of the public be able to address the legislative body (board and committee) at each meeting location
- the requirement that agencies post agendas at all meeting locations, and
- the requirement that at least a quorum of the legislative body (board and committee) participate from locations within the boundaries of the territory over which they exercise jurisdiction.

In accordance with these modifications to the Brown Act, El Dorado Transit has been holding meetings virtually over the Zoom meeting platform since the beginning of the pandemic. These modifications to the Brown Act expired on September 30, 2021.

El Dorado County Public Health Officer's Recommendations for Safe Board and Commission Meetings During COVID-19 Pandemic dated September 30, 2021, makes the following recommendations to allow virtual-attendance meetings to continue:

- Offer attendees a remote access option to the extent possible, while meeting the intent of the Brown Act about transparency and full participation;
- Arrange seating to encourage staff and members of the public to physically distance;
- Clearly post messages instructing people not to enter meeting venues when they feel unwell and to follow current guidelines for face-coverings, vaccination, and testing, when applicable.

DISCUSSION

To continue the allowance of the Brown Act modifications and to continue allowing remote or hybrid meetings to protect health and safety, Governor Newsom signed Assembly Bill (AB) 361 on September 16, 2021. AB 361 extended these modifications through June of 2024, for any State or Local government agency which is under a declared State of Emergency. Assembly Bill 361 permits remote or hybrid meetings but requires the following:

- agencies may not close public comment periods for written comments in advance of a meeting, but instead only close the comment period at the same time it is closed during a meeting
- that agencies must clearly advertise the means by which the public can observe the meeting and offer comments during the meeting via either a call or internet-based option
- the public must be given an opportunity to comment directly, and
- that in the event of a disruption in the broadcasting of the meeting the legislative body (board or committee) would take no further action until meeting access would be restored to the public.

The provisions of AB 361 regarding remote or hybrid meetings can only be used in the event there is an active, Governor issued state of emergency under the California Emergency Services Act and a legislative body decides by resolution that there is a need to meet remotely. AB 361 also requires legislative bodies to approve by resolution the decision to meet remotely every 30 days.

Given that the Governor's state of emergency presently remains in effect, staff and El Dorado Transit Legal Counsel recommend adoption of the attached Resolution No. 22-31, allowing El Dorado Transit governing and advisory bodies the ability to hold remote or hybrid public meetings, thus invoking the provisions of AB 361. Unless directed otherwise, staff plans to continue to present an updated version of this resolution to the El Dorado Transit Board of Directors for consideration at each upcoming scheduled monthly meeting while a state of emergency exists.

**EL DORADO COUNTY TRANSIT AUTHORITY
RESOLUTION NO. 22-31**

RESOLUTION OF THE BOARD OF DIRECTORS OF
THE EL DORADO COUNTY TRANSIT AUTHORITY
REGARDING THE RALPH M. BROWN ACT AND PROVISIONS PROVIDED UNDER AB
361 TO CONTINUE MEETING VIRTUALLY DURING THE ONGOING COVID-19
PANDEMIC STATE OF EMERGENCY DECLARED BY GOVERNOR NEWSOM

WHEREAS, On March 4, 2020, Governor Newsom issued a Proclamation of State of Emergency in response to the COVID-19 pandemic which remains in effect; and

WHEREAS, on March 17, 2020, Governor Newsom issued Executive Order N-29-20 that suspended the teleconferencing rules set forth in the California Open Meeting law, Government Code section 54950 et seq. (the “Brown Act”), provided certain requirements were met and followed; and

WHEREAS, on June 11, 2021, Governor Newsom issued Executive Order N-08-21 that clarified the suspension of the teleconferencing rules set forth in the Brown Act, and further provided that those provisions would remain suspended through September 30, 2021; and

WHEREAS, on September 16, 2021, Governor Newsom signed AB 361 that permits a legislative body subject to the Brown Act to continue to meet under abbreviated teleconference procedures; and

WHEREAS, on September 30, 2021 the El Dorado County Public Health Officer released “Recommendations for Safe Board and Commission Meetings During COVID-19 Pandemic” recommending offering a remote option for public meeting attendance to the extent possible and physical distancing, among other recommendations; and

WHEREAS, the El Dorado County Transit Authority has an important governmental interest in protecting the health, safety, and welfare of those who participate in meetings of El Dorado County Transit Authority’s legislative body subject to the Brown Act;

NOW THEREFORE, BE IT RESOLVED, by the El Dorado County Transit Authority Board of Directors as follows:

1. The Board has reconsidered the state of emergency proclaimed by the Governor of California in response to the COVID-19 pandemic.
2. State and local public health officials continue to recommend measures to promote social distancing.
3. This finding applies to all the El Dorado County Transit Authority governing and advisory bodies subject to the Brown Act, including but not limited to, the El Dorado County Transit Authority Board of Directors, Transit Advisory Committee, and any other standing

committees.

4. Staff is directed to return to the Board of Directors no later than thirty (30) days after the adoption of this resolution, or by the next regular meeting for the Board of Directors to consider making the findings required by AB 361 in order to continue meeting under its provisions.

PASSED AND ADOPTED BY THE GOVERNING BOARD OF THE EL DORADO COUNTY TRANSIT AUTHORITY at a regular meeting of said Board, held on the 1st day of December 2022 by the following vote of said Board:

AYES:

NOES:

ABSTAIN:

ABSENT:

John Hidahl, Chairperson

ATTEST:

Megan Wilcher, Secretary to the Board