



To: Children And Families Commission Of San Luis Obispo County

From: Natalie Laacke, District Counsel

Date: November 17, 2021

Re: **Item 4 - Resolution Of The Children And Families Commission Of San Luis Obispo County (“First 5”) Proclaiming A Local Emergency Persists, Re-Ratifying The Proclamation Of A State Of Emergency By Governor Newsom’s Order Dated March 4, 2020 And Authorizing Remote Teleconference Meetings Of The Legislative Bodies Of First 5 For The Period Of November 17, 2021 To December 16, 2021 Pursuant To Brown Act Provisions**

Item to Consider:

Consider adoption of a resolution pursuant to AB 361 to find that as a result of the continuing COVID-19 pandemic state of emergency declared by Governor Newsom, holding First 5 meetings in person would present imminent risks to the health or safety of attendees.

Staff Report:

RECOMMENDATION:

It is recommended that the Commission adopt Resolution 2021-02 pursuant to AB 361 to find that as a result of the continuing COVID-19 pandemic state of emergency declared by Governor Newsom, holding First 5 meetings in person would present imminent risks to the health or safety of attendees.

SUMMARY:

On September 16, 2021, Governor Newsom signed AB 361. This legislation amends the Brown Act to allow meeting bodies subject to the Brown Act to meet via teleconference during a proclaimed state of emergency in accordance with teleconference procedures established by AB 361 rather than under the Brown Act’s more narrow standard rules for participation in a meeting by teleconference. If the Commission desires to continue to meet remotely via teleconference after September 30, 2021, it is required to adopt a resolution making the requisite findings under AB 361. The new law also requires the Commission to reconsider that determination no later than 30 days after the first teleconference meeting held pursuant to AB 361 and every 30 days thereafter. Adoption of the proposed resolution, attached as Attachment A, will enable the Commission to meet via teleconference in October and to reconsider the determination for subsequent meetings.

DISCUSSION:

On March 4, 2020, Governor Newsom issued a Proclamation of State of Emergency in response to the COVID-19 pandemic. That proclamation remains in effect. As a result of the state of emergency, the Governor issued executive orders that waived the normally strict provisions of the Brown Act relating to holding and participating in meetings via teleconferencing. Executive Order N-29-20 allowed bodies subject to the Brown Act to meet without a physical meeting location, so long as various requirements were met, including providing the public the opportunity to observe and participate in the meeting telephonically or electronically. Executive Order No. N-08-21 extended the suspension of the Brown Act's normal teleconferencing rules through September 30, 2021.

On September 16, the Governor signed AB 361, urgency legislation which took effect immediately. (Attachment B.) AB 361 amended Government Code section 54953 to address holding meetings subject to the Brown Act via teleconference during a declared state of emergency. The amended section 54953 takes the place of the provisions of the prior executive orders related to teleconferencing, except that Governor Newsom has subsequently clarified that requirements related to public meetings of local legislative bodies set forth in Executive Order N-08-21 would continue to govern through September 30, 2021, so long as notice of the public meeting is provided, and the public has the opportunity to observe and participate in the meeting as required by AB 361.

AB 361 allows a board, commission or committee subject to the Brown Act, called "legislative bodies" under the Brown Act, to meet via teleconference without following the normal Brown Act teleconference rules if any of the following circumstances exist:

- A) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.
- (B) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees. [or]
- (C) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees. (Gov't Code §54953(e)(1) [AB 361, p. 9].)

If the meeting is held via teleconference under these provisions, the meeting body must meet certain requirements under AB 361, including providing public access to the meeting and opportunity for the public to address the members of the legislative body.



AB 361 also requires periodic review of the determination to continue to meet via teleconference. If the state of emergency is still active, or if “state or local officials have imposed or recommended measures to promote social distancing,” then no later than 30 days after meeting via teleconference for the first time pursuant to AB 361, the body must make a finding that the body “has reconsidered the circumstances of the state of emergency” and further find that “[a]ny of the following circumstances exist: (i) The state of emergency continues to directly impact the ability of the members to meet safely in person. (ii) State or local officials continue to impose or recommend measures to promote social distancing.” (Gov’t Code §54953(e)(3) [AB 361, p. 11].)

On September 30, 2021, your Board adopted Resolution No.2021-01, finding that the requisite conditions exist for the legislative bodies of First 5 to conduct remote teleconference meetings pursuant to AB 361.

Adoption of the attached Resolution 2021-02 will enable the Board to continue to meet remotely via teleconference at its meetings for the thirty (30) days following the adoption of the resolution. Due to the need to continually renew, in compliance with AB 361, staff proposes to present this Board with like resolutions until the state of emergency ends or this Board determines to conduct meetings in-person.

Attachments:

Draft Resolution 2021-02
AB 361