



To: San Mateo County Emergency Medical Care Committee (EMCC)

From: Travis Kusman, MPH, Paramedic
Director, Emergency Medical Services

Date: July 13, 2022

Subject: Resolution to make findings relating to remote meetings under the Brown Act

RECOMMENDATION:

Adopt a resolution finding that the ongoing COVID-19 pandemic state of emergency presents imminent risks to the health or safety of attendees and that it continues to directly impact the ability of members of the Emergency Medical Care Committee to meet safely in person.

BACKGROUND:

On June 11, 2021, Governor Newsom issued Executive Order N-08-21, which waived, through September 30, 2021, certain provisions of the Brown Act relating to teleconferences/remote meetings by local agency legislative bodies. The Executive Order waived, among other things, the provisions of the Brown Act that otherwise required the physical presence of members of local agency legislative bodies in a particular location as a condition of participation in, or to constitute a quorum for, a public meeting.

The waivers set forth in the Executive Order expired on October 1, 2021, and absent any further State action, local agency legislative bodies subject to the Brown Act would have been required to fully comply with the Brown Act's meeting requirements as they existed prior to March 2020, including the Brown Act's various restrictions and requirements related to teleconferences.

On September 16, 2021, the Governor signed into law Assembly Bill (AB) 361, a bill that came into effect immediately and that codifies certain of the teleconference procedures that local agencies have adopted in response to the Governor's Brown Act-related Executive Orders. Specifically, AB 361 allows a local agency to continue to use teleconferencing under the same basic rules as provided in the Executive Orders as long as there is a proclaimed state of emergency, in combination with either (1) local health official recommendations for social distancing or (2) findings adopted by majority vote of the local agency legislative body that meeting in person would present imminent risks to the health or safety of meeting attendees.

DISCUSSION:

Because local rates of transmission of COVID-19 are still in the "high" tier as measured by the Centers for Disease Control, we recommend that your Committee avail itself of the provisions of AB 361 allowing continuation of online meetings by adopting findings to the effect that conducting in-person meetings would present an imminent risk to the health and safety of attendees. A resolution to this effect with the opportunity to renew such findings on per meeting basis, is attached hereto.

FISCAL IMPACT:

None



RESOLUTION NO. EMCC71322361

**RESOLUTION FINDING THAT, AS A RESULT OF THE CONTINUING COVID-19
PANDEMIC STATE OF EMERGENCY DECLARED BY GOVERNOR NEWSOM,
MEETING IN PERSON FOR MEETINGS OF THE SAN MATEO COUNTY EMERGENCY MEDICAL CARE
COMMITTEE WOULD PRESENT IMMINENT RISKS TO THE HEALTH OR SAFETY OF
ATTENDEES**

WHEREAS, on March 4, 2020, the Governor proclaimed pursuant to his authority under the California Emergency Services Act, California Government Code section 8625, that a state of emergency exists with regard to a novel coronavirus (a disease now known as COVID-19); and

WHEREAS, on June 4, 2021, the Governor clarified that the “reopening” of California on June 15, 2021 did not include any change to the proclaimed state of emergency or the powers exercised thereunder, and as of the date of this Resolution, neither the Governor nor the Legislature have exercised their respective powers pursuant to California Government Code section 8629 to lift the state of emergency either by proclamation or by concurrent resolution in the state Legislature; 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 September 16, 2021, Governor Newsom signed AB 361 that provides that a legislative body subject to the Brown Act may continue to meet without fully complying with the teleconferencing rules in the Brown Act provided the legislative body determines that meeting in person would present imminent risks to the health or safety of attendees, and further requires that certain findings be made by the legislative body every thirty (30) days; and

WHEREAS, it is the opinion of the San Mateo County Attorney’s Office that boards and commissions that meet less frequently than every 30 days may adopt the AB 361 remote meeting resolution at the beginning of each meeting; and

WHEREAS, California Department of Public Health (“CDPH”) and the federal Centers for Disease Control and Prevention (“CDC”) caution that the Omicron variant of COVID-19, currently 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

WHEREAS, the CDC has established a “Community Level” metrics designed to reflect a community’s COVID-19 case rate and percent positivity; and

WHEREAS, the County of San Mateo is currently in the “High” Community Level category (<https://www.cdc.gov/coronavirus/2019-ncov/your-health/covid-by-county.html>); and

WHEREAS, the San Mateo County Emergency Medical Care Committee (EMCC) has an important governmental interest in protecting the health, safety and welfare of those who participate in its meetings; and,

WHEREAS, in the interest of public health and safety, as affected by the emergency caused by the spread of COVID-19, the EMCC deems it necessary to find that meeting in person would present imminent risks to the health or safety of attendees, and thus intends to invoke the provisions of AB 361 related to teleconferencing;

NOW, THEREFORE, IT IS HEREBY DETERMINED AND ORDERED THAT

1. The recitals set forth above are true and correct.
2. The EMCC finds that meeting in person would present imminent risks to the health or safety of attendees.
3. Staff is directed to bring to the EMCC for adoption of this resolution an item for the EMCC to consider making the findings required by AB 361 in order to continue meeting under its provisions.
4. Staff is directed to take such other necessary or appropriate actions to implement the intent and purposes of this resolution.