



AGENDA SUMMARY EUREKA CITY COUNCIL

TITLE: Teleconferenced Public Meetings Pursuant to Assembly Bill 361

DEPARTMENT: City Clerk

PREPARED BY: Pam Powell

PRESENTED FOR: Action Information only Discussion

RECOMMENDATION

Adopt a Resolution of the City Council Authorizing the City to Re-Authorize Teleconference Public Meetings Pursuant to Assembly Bill 361.

FISCAL IMPACT

 No Fiscal Impact Included in Budget Additional Appropriation

COUNCIL GOALS/STRATEGIC VISION

DISCUSSION

On September 20, 2021, Governor Newsom signed Executive Order N-15-21 clarifying that cities may continue to meet remotely in accordance with procedures established by prior Executive Orders. Assembly Bill 361 (AB 361) allows cities to continue to meet remotely during proclaimed states of emergency under modified Brown Act requirements that are similar but not identical to the rules and procedures established by the previous Executive Brown Act Orders.

AB 361 authorizes local agencies to use teleconference without complying with the teleconferencing requirement imposed by the Ralph M. Brown Act during a declared state of emergency, when state or local health officials have imposed or recommend measures to promote social distancing during the proclaimed state of emergency.

On June 11, 2021, Governor Newsom issued Executive Order N-08-21, which among other things rescinded his prior Executive Order N-29-20 and set a date of October 1, 2021, for public agencies to transition back to public meetings held in full compliance with the Brown Act.

As the Delta variant has surged in California, the legislature has acted to extend the COVID-19 exceptions to COVID-19 exceptions to the Brown Act

S teleconference requirements, subject to some additional safeguards. AB 361 allows a local agency to use teleconferencing in any of the following circumstances without complying with the Brown Act provisions:

- 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
- 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.
- The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote that as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

A local agency that holds a meeting under these circumstances would be required by AB 361 to follow the steps listed below, in addition to giving notice of the meeting and posting agendas as required under the Brown act. These additional requirements are intended to protect the public's right to participate in the meetings of local agency legislative bodies.

Pursuant to AB 361 local agencies are required to do all of the following in addition to meeting notice requirements under the Brown Act:

- Allow the public to access the meeting and require that the agenda provide an opportunity for the public to directly address the legislative body pursuant to the Brown Act's other teleconferencing provisions.
- In each instance when the local agency provides notice of the teleconferenced meeting or posts its agenda, give notice for how the public can access the meeting and provide public comment.
- Identify and include in the agenda an opportunity for all persons to attend via a call-in or an internet-based service option; the legislative body needs not provide a physical location for the public to attend or provide comments.
- Conduct teleconference meetings in a manner that protect the statutory and constitutional rights of the public.
- Stop the meeting until public access is restored in the event of a serve disruption that either prevents the local agency from broadcasting the meeting to the public using the call-in or internet-based service option or is within the local agency's control and prevent the public from submitting public comments (any actions taken during such a service disruption can be challenged under the Brown Act's existing challenge provision).
- Not require comments be submitted in advance (though the legislative body may provide that as an option) and provide the opportunity to comment in real time.
- Provide adequate time for public comment, either by establishing a timed public comment period or by allowing a reasonable amount of time to comment.
- If the legislative body uses a third-party website or platform to host the teleconference, and the third-party service requires users to register to

participate, the legislative body must provide adequate time during the comment period for users to register

The City of Eureka currently adheres to the above listed requirements.

AB 361 also provides that if the state of emergency remains active for more than 30 days, a local agency must make the following finding by majority vote every 30 days to continue using the bill's exemption to the Brown Act teleconferencing rules:

- The legislative body has reconsidered the circumstances of the emergency; and
- Either of the following circumstances exist: The state of emergency continues to directly impact the ability of member to meet safely in person, or State or local officials continue to impose or recommend social distancing measures.

The goal of AB 361 is "to improve and enhance public access to local agency meetings during the COVID-19 pandemic and future applicable emergencies by allowing broader access through teleconferencing options: consistent with Executive Order N-29-20. The bill contains an urgency clause, which became effective upon signing with a sunset of January 1, 2024.

Council adopted Resolution No. 2021-57 on October 5, 2021 authorizing the first 30-day period to conduct teleconferenced meetings and reauthorized teleconferencing by adopting Resolution No. 2021-63; Resolution No. 2021-73; Resolution No. 2022-01, 2022-08, 2022-16, 2022-21, 2022-25, 2022-28, 2022-38, 2022-45, 2022-49 2022-55 and 2022-65 allowing for the additional 30-day periods. Staff is seeking the adoption of the tenth 30-day period to allow for teleconference and hybrid meetings.

REVIEWED AND APPROVED BY:

City Attorney

City Clerk/Information Technology

Community Services

Development Services

Finance

Fire