

To: Members of the YSAQMD Board of Directors

From: Denise Almaguer, Administrative Operations Coordinator & Board Clerk

Date: August 10, 2022

Subject: Authorization of Remote Teleconference Meetings of the YSAQMD Board of Directors Pursuant to Assembly Bill 361

Recommended Action

It is recommended that proposed Resolution Authorizing Remote Teleconference Meetings of the YSAQMD Board of Directors Pursuant to Assembly Bill 361 be approved.

Reason for Recommended Action

The proposed resolution will allow the current YSAQMD Board meeting to be held virtually.

Background

Meetings of the YSAQMD Board of Directors (YSAQMD Board) are conducted pursuant to the provisions of the Ralph M. Brown Act. The Brown Act has traditionally placed significant restrictions on teleconferenced meetings, including requiring that each teleconference location be accessible to the public (i.e., participation of Board members from homes or private offices has not been permitted).

In the early days of the COVID-19 pandemic, the Governor issued a series of Executive Orders temporarily suspending the restrictions on teleconferenced meetings, under which most YSAQMD meetings and those of its affiliated legislative bodies have been conducted during the last year-and-a-half. These Executive Orders terminated on September 30, 2021. In their place, the Legislature has enacted Assembly Bill 361 (R. Rivas), which permits legislative bodies to continue holding teleconferenced meetings without the traditional Brown Act restrictions (through December 2023) under any of the following circumstances:

- 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.
- 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.

To continue holding teleconferenced meetings in the manner to which YSAQMD Board members and the public have become accustomed, the YSAQMD Board will need to make one of the determinations required by Assembly Bill 361. The "imminent risk" determinations are factually supportable, as the continued rates of transmission of the COVID-19 virus, including the Omicron variant, can indeed

present imminent risks to the health and safety of some in-person attendees, particularly those with pre-existing health conditions.

If the proposed resolution making these determinations is approved, the current YSAQMD Board meeting will proceed as a remote meeting, in substantially the same manner as previous meetings during the past 18 months. (Assembly Bill 361 includes several additional requirements for teleconferenced meetings, including providing an opportunity for “real time” public comment, and suspending the meeting in the event that remote connectivity is lost; however, these are all consistent with YSAQMD's existing practices.)

Attachment: Resolution No. 22-10

RESOLUTION NO. 22-10

AUTHORIZING REMOTE TELECONFERENCE MEETINGS OF THE YOLO-SOLANO AIR QUALITY MANAGEMENT DISTRICT'S BOARD OF DIRECTORS PURSUANT TO ASSEMBLY BILL 361

WHEREAS, the Yolo-Solano Air Quality Management District (YSAQMD) is committed to preserving and nurturing public access and participation in meetings of YSAQMD's legislative bodies; and

WHEREAS, the Brown Act, Government Code section 54953, subdivision (e), makes provisions for remote teleconferencing participation in meetings by members of a legislative body, without compliance with the requirements of Government Code section 54953, subdivision (b)(3), subject to the existence of certain conditions; and

WHEREAS, a required condition is that a state of emergency is declared by the Governor pursuant to Government Code section 8625, proclaiming the existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions as described in Government Code section 8558; and

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

WHEREAS, 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, the continued rates of transmission of the virus and variants causing COVID-19 within YSAQMD member counties are such that meeting in person would present imminent risks to the health or safety of some attendees of public meetings, particularly those with pre-existing health conditions; and

WHEREAS, the Board of Directors has considered the current circumstances of the state of emergency, and determined that the state of emergency continues to directly impact the ability of the members to meet safely in person

NOW, THEREFORE, BE IT RESOLVED by the YSAQMD Board of Directors as follows:

1. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.
2. A proclaimed state of emergency exists and as a result of the emergency, meeting in person would present imminent risks to the health or safety of some attendees, particularly those with pre-existing health conditions.

3. The Board of Directors is hereby authorized and directed to conduct open and public meetings in accordance with Government Code section 54953, subdivision (e) and other applicable provisions of the Brown Act.
4. This Resolution is intended to enable the Board of Directors to meet via teleconference in accordance with Assembly Bill 361 of 2021 (Statutes 2021, Chapter 165).
5. This Resolution shall take effect immediately upon its adoption and shall be effective for a period of thirty (30) days thereafter, unless extended pursuant to Government Code section 54953, subdivision (e)(3). Expiration of this resolution shall not prejudice any subsequent action to adopt another resolution in accordance with Government Code section 54953, subdivision (e) during the present or any future state of emergency.

PASSED AND ADOPTED by the YSAQMD Board of Directors on this 10th day of August 2022, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Ronald Kott, Chair
Board of Directors

Attest:

Approved as to Form:

Denise Almaguer, Board Clerk

Hope Welton, District Counsel