

## **STAFF REPORT**

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**DATE:** February 27, 2023  
**TO:** Sacramento Regional Transit Board of Directors  
**FROM:** Olga Sanchez-Ochoa, General Counsel / Tabetha Smith, Clerk to the Board  
**SUBJ:** AUTHORIZE THE BOARD OF DIRECTORS TO TELE-CONFERENCE FROM FEBRUARY 27, 2023 THROUGH FEBRUARY 28, 2023, IN COMPLIANCE WITH THE BROWN ACT PURSUANT TO GOVERNMENT CODE SECTION 54953 AS AMENDED BY ASSEMBLY BILL 361, DURING THE COVID-19 PANDEMIC

### RECOMMENDATION

Adopt the Attached Resolution.

### RESULT OF RECOMMENDED ACTION

Adoption of the Resolution will authorize implementation of AB 361 for Board meetings conducted between February 27, 2023, and February 28, 2023. Meetings conducted during this time period may be conducted via teleconference due to the Covid-19 pandemic.

### FISCAL IMPACT

There is no fiscal impact.

### DISCUSSION

Governor Newsom signed an executive order on September 17, 2021 waiving the application of Assembly Bill 361 ("AB 361") until October 1, 2021, when the provisions of a prior executive order that established certain requirements for public agencies to meet remotely during the COVID-19 emergency would expire. AB 361 amended the Ralph M. Brown Act to authorize modified procedures for remote (teleconference) meetings held during a state of emergency and when state or local officials impose or recommend measures to promote social distancing. See *Cal. Gov. Code* § 54953(e). These new rules supersede and replace similar rules in the Governor's Executive Order No. N-29-20, which the SacRT Board had been adhering to since its adoption at the onset of the COVID-19 pandemic. To avail itself of these modified procedures, the Brown Act requires the Board find, by a majority vote, that it has reconsidered the circumstances of the state of emergency, and (i) the state of emergency continues to directly impact the ability of the members to meet safely in person and/or (ii) state or local officials continue to impose or recommend measures to promote social distancing. The findings must be made no later

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than 30 days after using the modified procedures, and every 30 days thereafter. Unlike many of SacRT's member agencies, SacRT's auditorium is significantly small, making it difficult to safely space out members of the Board, staff and the public to meet safely in person. Because the peril of transmission has not been eliminated, masks mandates have been lifted and COVID cases are currently on the rise, the safest course of action is to continue meeting virtually for SacRT's February 27, 2023 Board meeting. A public agency subject to the Brown Act may rely on the provisions in AB 361, so long as a "state of emergency" has been declared by the State or a local health official. Governor Gavin Newsom has announced that the current Covid state of emergency will be lifted on February 28, 2023. Consequently, the resolution staff is proposing for adoption only authorizes virtual meetings up to February 28, 2023. Therefore, staff recommends that the Board adopt the attached Resolution authorizing the Board to meet virtually as allowed under AB 361, beginning and including February 27, 2023, through February 28, 2023.

An additional requirement of AB 361 is that members of the public be allowed to participate in real time during the virtually held Board meeting. Thus, members of the public can virtually participate in the Board meetings in real time.

RESOLUTION NO. 2023-02-012

Adopted by the Board of Directors of the Sacramento Regional Transit District on this date:

February 27, 2023

**AUTHORIZE THE BOARD OF DIRECTORS TO TELE-CONFERENCE FROM FEBRUARY 27, 2023 THROUGH FEBRUARY 28, 2023, IN COMPLIANCE WITH THE BROWN ACT PURSUANT TO GOVERNMENT CODE SECTION 54953 AS AMENDED BY ASSEMBLY BILL 361, DURING THE COVID-19 PANDEMIC**

THAT, on March 4, 2020, Governor Gavin Newsom issued a Proclamation of State of Emergency in response to the novel coronavirus (a disease now known as COVID-19); and

THAT, on November 10, 2021, Governor Gavin Newsom signed Executive Order N-21-21 extending the declaration of a State of Emergency in response to the novel coronavirus to March 31, 2022 and again on April 16, 2022 it was extended to June 30, 2022 and on June 17, 2022 it was again extended and is currently still in place; and

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE BOARD OF DIRECTORS OF THE SACRAMENTO REGIONAL TRANSIT DISTRICT AS FOLLOWS:

WHEREAS, the Sacramento County Health Officer declared a local health emergency related to the COVID-19 on March 6, 2020. The County Administrator, acting in his capacity as the Director of Emergency Services, proclaimed the existence of a local emergency related to COVID-19 on March 6, 2020; and

WHEREAS, on March 17, 2020, Governor Newsom issued Executive Order N-29-20, which suspended and modified the teleconferencing requirements under the Brown Act (California Government Code section 54950 et seq.) so that local legislative bodies can hold public meetings via teleconference (with audio or video communications, without a physical meeting location), as long as the meeting agenda identifies the teleconferencing procedures to be used; 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, on June 11, 2021, the Governor issued Executive Order N-08-21, which extended the provision of N-29-20 concerning the conduct of public meetings through September 30, 2021, and the Governor subsequently signed legislation revising Brown Act requirements for teleconferenced public meetings (Assembly Bill 361, referred to hereinafter as “AB 361”); and

WHEREAS, on October 17, 2022, the Governor announced that he will lift the current state of emergency proclamation on February 28, 2023, but as of the date of this Resolution, the State of California remains under a state of emergency and 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 the state of emergency will remain in place until February 28, 2023; and

WHEREAS, as of the date of this Resolution, neither the County Health Officer nor the County Administrator have exercised their powers to lift the local health emergency and local state of emergency declared and proclaimed on March 6, 2020; and

WHEREAS, the County Health Officer has confirmed that continued local rates of transmission of the virus and variants causing COVID-19 are such that meeting in person would present imminent risks to the health or safety of attendees of public meetings; and

NOW, THEREFORE, BE IT RESOLVED AND FOUND as follows: 1. The Board of Directors hereby finds that the facts set forth in the above recitals are true and correct, and establish the factual basis for the adoption of this Resolution; 2. There is an ongoing proclaimed state of emergency relating to the novel coronavirus causing the disease known as COVID-19 and as a result of that emergency, meeting in person would present imminent risks to the health or safety of attendees of in-person meetings of this legislative body within the meaning of California Government Code section 54953(e)(1). 3. Under the present circumstances, including the risks mentioned in the preceding paragraph, the Board of Directors determines that authorizing teleconferenced public meetings consistent with Assembly Bill 361 is necessary and appropriate beginning and including February 27, 2023, and continuing through February 28, 2023. 4. Staff are directed to take all actions necessary to implement this Resolution in accordance with the foregoing provisions and the requirements of Government Code section 54953, as amended by Assembly Bill 361, including but not limited to returning for ratification of this Resolution every 30 days after teleconferencing for the first time pursuant to Assembly Bill 361 for so long as either of the following circumstances exists: (a) the state of emergency continues to directly impact the ability of this legislative body to meet in person; and/or (b) state or local officials, including but not limited to the County Health Officer, continue to impose or recommend measures to promote social distancing.

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PATRICK KENNEDY, Chair

A T T E S T:

HENRY LI, Secretary

By: \_\_\_\_\_  
Tabetha Smith, Assistant Secretary