

Memo

To: San Francisco Peninsula Rail Program Executive Steering Committee
From: TJPA staff
Date: December 17, 2021
Re: Findings Under AB 361 Regarding the Continued Use of Teleconferencing Technologies for Meetings of the ESC

The San Francisco Peninsula Rail Program Executive Steering Committee (“ESC”) is an advisory body established pursuant to the San Francisco Peninsula Rail Program Memorandum of Understanding, effective June 5, 2020, between the Transbay Joint Powers Authority; the Metropolitan Transportation Commission; the San Francisco County Transportation Authority; the Peninsula Corridor Joint Powers Board; the California High Speed Rail Authority; and the City and County of San Francisco. Meetings of the ESC are held in conformance with the Brown Act (Govt Code Sections 54950 *et seq.*).

On March 4, 2020, the Governor of the State of California proclaimed a state of emergency under the State Emergency Services Act in connection with the Coronavirus Disease 2019 (“COVID-19”) pandemic, and that state of emergency remains in effect.

On February 25, 2020, the Mayor of the City and County of San Francisco declared a local emergency, and on March 6, 2020, the City and County of San Francisco’s Health Officer declared a local health emergency, and both those declarations remain in effect. The City and County of San Francisco Health Officer has issued at least one order (Health Office Order No. C-19-07y) and one directive (Health Officer Directive No. 2020-33i) that recommend measures to promote physical distancing and other social distancing measures, and those orders and directives remain in effect. On July 31, 2020, the Mayor of the City and County of San Francisco issued an emergency order that, with limited exceptions, prohibits policy bodies from meeting in person under any circumstances, so as to ensure the safety of policy body members, staff, and the public.

The County of Santa Clara Health Officer has issued a communication (dated September 21, 2021), continuing to recommend that public bodies meet remotely to the extent possible, based on, among other things, the continued increased safety protection that social distancing provides as a one means by which to reduce the risk of COVID-19 transmission, and that communication remains in effect.

The California Department of Industrial Relocations Division of Occupational Safety and Health (“Cal/OSHA”) has promulgated Section 3205 of Title 8 of the California Code of Regulations, which requires most employers in California, including the TJPA, to train and instruct employees about measures that can decrease the spread of COVID-19, including physical distancing and other social distancing measures, and those regulations remain in effect.



On September 16, 2021, the Governor signed Assembly Bill (“AB”) 361 (Rivas, Chapter 165, Statutes of 2021), a bill that amends the Brown Act to allow local public agencies to continue to meet by teleconferencing technology during a state of emergency without complying with restrictions in the Brown Act that would otherwise apply, subject to certain conditions, which must be reconsidered every 30 days. The ESC last considered and adopted a motion on the continuation of remote public meetings under AB 361 on November 19.

The Executive Steering Committee has met remotely during the COVID-19 pandemic and, so long as the state of emergency continues, can continue to do so in a manner that allows public participation and transparency while minimizing health risks to members, staff, and the public that would be present with in-person meetings.

Accordingly, TJPA staff recommends that the ESC move to approve the following findings:

1. As described above, as of the date of this meeting, the Governor’s proclaimed state of emergency remains in effect;
2. As described above, as of the date of this meeting, State and local officials recommend measures to promote physical distancing and other social distancing measures;
3. For the reasons described above, for at least the next 30 days, it is necessary for the ESC to continue meeting exclusively by teleconferencing technology to promote public health and safety;
4. ESC meetings held exclusively by teleconferencing technology will provide an opportunity for members of the public to address the body and will otherwise occur in a manner that protects the statutory and constitutional rights of parties and members of the public to attend such meetings via teleconferencing; and
5. The ESC will review and reconsider the findings made herein at a meeting of the ESC within the next 30 days, or if the committee does not meet within the next 30 days, at the next earliest meeting of the ESC.