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Governor signs AB 361 allowing for virtual board meetings

On September 16, 2021, Governor Newsom signed AB 361 into law. The bill, which is an urgency bill that became effective immediately upon the Governor's signature, amends the Brown Act to provide the ability for boards to hold remote meetings during a proclaimed state of emergency without following the Brown Act's teleconferencing rules. Boards had been anxiously awaiting this bill, as Governor Newsom's Executive Order suspending certain parts of the Brown Act to allow teleconferenced meetings during the COVID-19 pandemic expires on September 30, 2021.

AB 361 provides that boards need not follow the Brown Act's teleconferencing rules if the board makes a finding that there is a proclaimed state of emergency **and** either state or local officials have imposed or recommended social distancing measures **or** meeting in person would present imminent risks to the health or safety of attendees due to the emergency. If a board chooses to use the option provided in AB 361, the board must make findings **every 30 days** that the board has reconsidered the circumstances of the state of emergency **and** either the state of emergency continues to directly impact the ability of the members to meet safely in person **or** state or local officials continue to impose or recommend measures to promote social distancing.

If boards utilize the remote meeting option provided in AB 361, they must also adhere to the following requirements:

- Give notice of meetings and post agendas as otherwise required by the Brown Act.
- Provide members of the public virtual access to the meeting and an opportunity to address the board directly through that virtual access;
- Provide notice of the means by which members of the public may access the meeting virtually in any instance in which they give notice of the time for the teleconferenced meeting or post the agenda for the teleconferenced meeting;
- Ensure the agenda identifies and includes an opportunity for all persons to attend the teleconference meeting by a call-in option or internet-based service option;
- Provide an opportunity for the public to address the board in real-time; boards may not require members of the public to submit comments in advance;
- Stop the meeting if there is a disruption into the call-in option or internet-based service option that results in members of the public being unable to access the meeting; boards may not take action on any agenda items during this disruption of access; and
- Refrain from closing a timed public comment period before the time for the comment period has elapsed. If boards do not use timed public comment periods, they must allow a reasonable time per agenda item for public comment.

The bill includes a sunset on local agency provisions which are repealed on January 1, 2024.