

BEFORE THE
FRESNO COUNCIL OF GOVERNMENTS
RESOLUTION NO. 2021-46

RESOLUTION OF APPROVAL OF

IN THE MATTER OF:

Continued remote
meetings under AB 361

Continued remote meetings under
AB 361

WHEREAS, the Fresno Council of Governments is committed to preserving and fostering public access to and participation in the meetings of its Policy Board as required by the Ralph M. Brown Act (Gov. Code, § 54950, et seq.), so that any member of the public may attend and participate as the Policy Board and all subordinate boards, commissions, and committees conduct the people's business; and

WHEREAS, on January 31, 2020, the United States Secretary of Health and Human Services declared a public health emergency due to the threat of COVID-19, and the President of the United States issued a Proclamation Declaring a National State of Emergency Concerning COVID-19 beginning March 1, 2020; and

WHEREAS, the Governor of the State of California issued a Proclamation of a State of Emergency as a result of COVID-19 on March 4, 2020; and

WHEREAS, Executive Order N-29-20, issued by the Governor on March 17, 2020, suspended or modified provisions of the Brown Act relating to teleconferencing during the COVID-19 pandemic, which procedures were extended by Executive Order N-08-21 through September 30, 2021; and

WHEREAS, on September 16, 2021, Assembly Bill 361 was signed into law, amending Government Code section 54953, and providing for an alternative method of teleconferencing during public meetings, provided that the legislative body makes certain findings and the public is able to access and participate in teleconferenced public meetings; and

WHEREAS, under Executive Order N-15-21, the effective date of Assembly Bill 361 was set at October 1, 2021; and

WHEREAS, Government Code section 54953, subdivision (e)(1) provides bases for holding teleconferenced public meetings not in accordance with the public access requirements of section 53953, subdivision (b), where the following circumstances exist:

1. The meeting is held during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing, or
2. The meeting is held during a proclaimed state of emergency and the legislative body has determined, by majority vote, that, as a result of a proclaimed state of emergency, meeting in person would present imminent risks to the health or safety of attendees; and

WHEREAS, on September 30, 2021, the Policy Board found by a majority vote that, as a result of a proclaimed state of emergency, meeting in person would present imminent risks to the health or safety of attendees; and

WHEREAS, Government Code section 54953, subdivision (e)(3) requires that the legislative bodies make the following findings every 30 days in order to continue holding teleconferenced public meetings under section 54953, subdivision (e):

1. The legislative body has reconsidered the circumstances of the state of emergency; and
2. Any of the following circumstances exist:
 - a. The state of emergency continues to directly impact the ability of the members to meet safely in person; or
 - b. State or local officials continue to impose or recommend measures to promote social distancing; and

WHEREAS, as of the date of this Resolution, the State of California continues to be under a proclaimed state of emergency due to COVID-19; and

WHEREAS, the Policy Board of the Fresno Council of Governments has reconsidered the circumstances of the state of emergency; and

WHEREAS, COVID-19, and particularly the Delta variant, is causing and will continue to cause risks to the safety of persons within Fresno County, and directly impacts the safety of attendees of the Policy Board and all subordinate boards, commissions, and committees to meet in person.

NOW, THEREFORE, BE IT RESOLVED, by the Policy Board of the Fresno Council of Governments that:

1. The above recitals are true and correct and are incorporated into this resolution as findings by the Policy Board.
2. The Policy Board of the Fresno Council of Governments has finds that the following circumstances exist with respect to the proclaimed COVID-19 state of emergency:
 - a. As a result of the proclaimed COVID-19 state of emergency and the public health risks posed by COVID-19, meeting in person would present imminent risks to the health or safety of attendees; and
 - b. The Policy Board has reconsidered the circumstances of the state of emergency; and
 - c. The state of emergency continues to directly impact the ability of the members to meet safely in person.
3. As a result of the findings articulated in section 2, above, the Policy Board and all subordinate legislative bodies of the Fresno Council of Governments shall conduct or continue to conduct their meetings with remote participation by teleconference in the manner provided by Government Code section 54953, subd. (e), and all such legislative bodies shall comply with the requirements of section 54953, subd. (e)(2).
4. This Resolution shall take effect immediately upon its passage, and shall remain in effect until November 28, 2021 or such time as the Policy Board extends the time during which meetings may be held remotely in accordance with Government Code section 54953, subd. (e)(3). The Policy Board need not extend the termination date of this Resolution by further resolution, but may do so in the minutes of any subsequent regular or special meeting.

THE FOREGOING RESOLUTION was passed and adopted by the Fresno Council of Governments this 28th day of October, 2021.

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

Signed: David Cardenas, Chair

I hereby certify that the foregoing is a true copy of a resolution of the Fresno Council of Governments duly adopted at a regular meeting dated above.

Signed: Tony Boren, Executive Director