



Board of Retirement Regular Meeting

Sacramento County Employees' Retirement System

Agenda Item 3

MEETING DATE: February 16, 2022

SUBJECT: Teleconferencing Rules Under Ralph M. Brown Act

SUBMITTED FOR: Consent Deliberation and Action Receive and File

RECOMMENDATION

Staff recommends the Board make certain findings concerning the COVID-19 state of emergency in accordance with Government Code section 54953(e)(3). Such findings will allow the Board to meet by teleconferencing during the period from February 16, 2022 to March 18, 2022, without complying with certain restrictions that would otherwise apply.

PURPOSE

This item supports the Strategic Management Plan goal to promote transparency, fairness, and compliance with laws, regulations, and policies.

DISCUSSION

This proposed Order accompanying this memo follows the recent enactment of Assembly Bill No. 361 (AB 361), which introduces new teleconferencing rules into the Ralph M. Brown Act. Those new rules were discussed at length in Staff's memorandum to the Board (available at https://www.scers.org/sites/main/files/file-attachments/20211020_-_item_02.pdf?1634224275) and in open session at the October 20, 2021 Board meeting.

Briefly, AB 361 requires a public body to make certain findings about the risks of in-person gatherings within 30 days before it holds a meeting under relaxed teleconferencing rules. See Gov. Code § 54953(e)(3). Thus, in order for the Board to meet under relaxed teleconferencing rules for the next 30 days, it should, after due consideration, make the necessary public safety findings at the February 16, 2022 meeting. Those findings are that:

- (A) The legislative body has reconsidered the circumstances of the state of emergency.
- (B) Any of the following circumstances exist:
 - (i) The state of emergency continues to directly impact the ability of the members to meet safely in person.

- (ii) State or local officials continue to impose or recommend measures to promote social distancing.

See Gov. Code § 54953(e)(3).

The Proposed Order accompanying this memo contains findings consistent with the above. Specifically, the Proposed Order explains that (1) Governor Newsom's state of emergency proclamation regarding COVID-19 remains in effect; (2) the Sacramento County Health Officer's July 29, 2021 Order, which recommends measures to promote social distancing, also remains in effect; and (3) the Sacramento County Health Officer issued an order on January 6, 2022 that expressly requires all local bodies to suspend in-person meetings and hold all meetings virtually.

ATTACHMENT

- Board Order

Prepared by:

/S/

Stephen Lau
General Counsel

Reviewed by:

/S/

Eric Stern
Chief Executive Officer



Retirement Board Order

Sacramento County Employees' Retirement System

**Before the Board of Retirement
February 16, 2022**

AGENDA ITEM:

Teleconferencing Rules Under Ralph M. Brown Act

THE BOARD OF RETIREMENT hereby finds, declares, and orders as follows:

1. The Retirement Board intends to hold any special meeting to occur in the next 30 days by teleconference without complying with Section 54953(b)(3).

2. In order to do so, the Retirement Board must make certain findings in advance of such a meeting. Government Code section 54953(e)(3) states:

If a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference without compliance with [Section 54953(b)(3)], the legislative body shall, not later than 30 days after teleconferencing for the first time pursuant to [Section 54953(e)(1)], and every 30 days thereafter, make the following findings by majority vote:

- (A) The legislative body has reconsidered the circumstances of the state of emergency.
- (B) Any of the following circumstances exist:
 - (i) The state of emergency continues to directly impact the ability of the members to meet safely in person.



Retirement Board Order

Sacramento County Employees' Retirement System

- (ii) State or local officials continue to impose or recommend measures to promote social distancing.

3. The Board takes notice of the following:

a. In March 2020, Governor Newsom proclaimed a state of emergency in connection with the COVID-19 pandemic. On November 10, 2021, Governor Newsom extended that proclaimed state of emergency through at least March 31, 2022.

b. On July 29, 2021, the Sacramento County Health Officer issued an order (July 2021 Order) that recommends measures to promote social distancing. Specifically, the July 2021 Order recommends that, to reduce COVID-19 transmission, “persons should continue to follow CDC guidance for unvaccinated people . . . and for fully vaccinated people,” including by “avoiding crowds” and “avoiding poorly ventilated spaces.” The July 2021 Order specifically hyperlinks to and incorporates by reference the CDC guidance for unvaccinated people, which recommends that unvaccinated persons “stay 6 feet away from others.” The July 2021 Order remains in effect as of the date of this Order.

c. On January 6, 2022, the Sacramento County Health Officer issued an order (January 2022 Order), observing that “[t]he rapid emergence of the highly transmissible COVID-19 Omicron variant coupled with holiday gatherings has led to unprecedented COVID-19 case rates in Sacramento County.” The January 2022 Order calls for “[a]ll public boards [to] suspend in-person public meetings and conduct all meetings virtually.” It also calls for “[e]mployers and businesses [to] consider conducting meetings remotely and take other measures as necessary to reduce transmission risk as much as business needs will permit.”

4. Pursuant to Section 54953(e)(3), the Retirement Board hereby finds:

a. The Retirement Board has reconsidered the circumstances of the state of emergency.



Retirement Board Order

Sacramento County Employees' Retirement System

b. For all the reasons stated in Paragraph 3 above, local officials continue to recommend measures to promote social distancing, and the state of emergency continues to directly impact the ability of the members of the Retirement Board to meet safely in person.

5. Because the circumstances described in Section 54953(e)(1)(A) are present, the Retirement Board is authorized to use teleconferencing at any special meeting within the next 30 days without complying with Section 54953(b)(3).

6. The findings set forth in Paragraph 4 shall be effective from February 16, 2022 through March 18, 2022, unless the Retirement Board makes superseding findings before then. These findings shall govern any Retirement Board or Audit Committee meeting to take place in that period.

I HEREBY CERTIFY that the above order was passed and adopted on February 16, 2022 by the following vote of the Board of Retirement, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

ALTERNATES (Present but not voting):

Richard B. Fowler II
Board President

Eric Stern
Chief Executive Officer and
Board Secretary