

**ASSEMBLY BILL 361 AND
APPROVE EXTENDING VIRTUAL
COMMISSION MEETINGS**

Office of
The City Attorney
City of San Diego

MEMORANDUM
MS 59

(619) 533-5800

DATE: September 28, 2021
TO: Honorable Mayor and Councilmembers
FROM: City Attorney
SUBJECT: Legal Update: Assembly Bill 361 amending the Ralph M. Brown Act

INTRODUCTION

In March 2020, in response to the public health threat caused by the novel coronavirus, Covid-19, Governor Gavin Newsom issued Executive Orders N-25-20 and N-29-20 (Executive Orders) suspending provisions of the Ralph M. Brown Act (Brown Act). The Executive Orders allowed local jurisdictions to hold teleconferenced public meetings and for members of the public to observe and address the legislative bodies during teleconferenced meetings. The Executive Orders expire September 30, 2021.

On September 16, 2021, the Governor signed Assembly Bill 361 (A.B. 361) into law. A.B. 361 amends the Brown Act to codify the temporary rules established by the Executive Orders and provide a mechanism for the Council of the City of San Diego (Council) and City boards and commissions to continue teleconferencing during a proclaimed state of emergency related to Covid-19.¹

BACKGROUND

The California State legislature adopted the Brown Act in 1953 to "aid in the conduct of the people's business" by requiring that legislative bodies' "actions be taken openly and that their deliberations be conducted openly." Cal. Gov't Code § 54950. Meetings of a legislative body must be "open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency" unless the Brown Act provides otherwise. Cal. Gov't Code § 54953(a).

The Brown Act allows members of the legislative body to participate in meetings by teleconference provided that certain requirements as set forth in California Government Code section 54953(b) are met. In the absence of the Executive Orders and A.B. 361, the legislative

¹ The teleconferencing option in A.B. 361 applies to all legislative bodies in the City, defined in the Brown Act as including the City Council and commissions, committees, boards and other bodies, "whether permanent or temporary, decision making or advisory, created by charter, ordinance, resolution, or formal action of a legislative body." Cal. Gov't Code § 54952.

“For the duration of the Governor’s declared state of emergency related to the Covid-19 pandemic, the Council and the City’s boards and commissions may use teleconferencing in compliance with A.B. 361 if social distancing recommendations are in effect or if the Council adopts a resolution determining that meeting in person would present imminent risks to the health or safety of attendees.”

CITY ATTORNEY MEMO ON AB 361
AMENDING THE RALPH M. BROWN ACT

City of San Diego

Confirmed cases:
32,759

Case rates: 329.43

Transmission Rate
Category: High

Total cases: 223,462

County of San Diego (Updated 1/19/22)

Confirmed cases:
78,521

Outbreaks: 91

Avg. Daily Cases:
11,217

Deaths: 45

County of San Diego Totals:

Cases: 588,460

Deaths: 4,545

Outbreaks: 3,431

Sources: County of San Diego Coronavirus Disease Dashboards
County of San Diego News Center

COVID-19 DATA TO EVALUATE