

## Agenda

**Thursday, May 5, 2022**

**Special Meeting: 3:00 P.M.**

**Location: NCTD Administrative Offices,  
810 Mission Avenue, Oceanside, CA 92054**

**View Live Stream at:**

**<https://www.youtube.com/GoNCTD>**

### MISSION

North County Transit District's mission is to deliver safe, convenient, reliable and user-friendly public transportation services.

### VISION

Our vision is to build an integrated transit system that enables our customers to travel easily and efficiently throughout our growing region.

For individuals with disabilities, NCTD will provide assistive services. To obtain such services or copies of documents in an alternate format, please call or write, a minimum of 72 hours prior to the event, to request these needed reasonable modifications. NCTD will make every attempt to accommodate requests that do not give 72-hour notice. Please contact the Clerk of the Board at (760) 966-6553.

For individuals with sensory disabilities, this document is available in alternate formats. For information, please contact the Clerk of the Board at 760/966-6553. Persons with hearing impairment, please use the California Relay Service (CRS): 800/735-2929 TTY; 800/735-2922 voice; 800/855-3000 Spanish. CRS Customer Service: 877/632-9095 English or 877/419-8440 Spanish.

Agenda materials can be made available in alternative languages upon request. To make a request, please call (760) 966-6553 at least 72 hours in advance of the meeting.

Los materiales de la agenda de NCTD están disponibles en otros idiomas. Para hacer una solicitud, llame al (760) 966-6553 al menos 72 horas antes de la reunión."

Any writings or documents provided to a majority of the members of the NCTD Board of Directors regarding any item on this agenda will be made available for public inspection at the office of the Clerk of the Board located at 810 Mission Avenue, Oceanside, CA 92054, during normal business hours.

## **COVID-19 PUBLIC SERVICE ANNOUNCEMENT AND SPECIAL PROCEDURES:**

The Governor of California declared a state of emergency in March of 2020 due to the COVID-19 public health emergency. On April 14, 2022 the NCTD Board of Directors Adopted Resolution No 21-05 authorizing the District to hold virtual meetings during a proclaimed state of emergency in compliance with the Brown Act (Gov. Code § 54950 et seq.) and pursuant to Assembly Bill 361.

**IN PERSON PARTICIPATION AT THE NCTD BOARD OF DIRECTORS MEETINGS WILL NOT BE ALLOWED.** Pursuant to Government Code section 54953, NCTD is providing alternatives to in-person attendance for viewing and participating in NCTD Board and/or Committee meetings.

### **Zoom Participation:**

Members of the public may view or participate in the meeting through Zoom from a PC, MAC, iPad, iPhone, or Android device, at the following URL:

<https://nctd.zoom.us/j/89284311114>

### **Phone Participation:**

To join the meeting by phone, dial 669-900-6833

Webinar ID: 892 8431 1114

If you would like to speak on an agenda item via Zoom during the meeting, you must email the Clerk of the Board at [clerk@nctd.org](mailto:clerk@nctd.org). Please provide the Clerk your name and item number you wish to comment on. *If you plan on calling into the Zoom meeting rather than videoconferencing, you must also provide the telephone number you will be using.* You must be logged on to the Zoom meeting by phone or online to speak. When it is your turn to comment, the Clerk will call you by name or phone number. Members of the public may register with the Clerk to speak on an agenda item up until the public comment period is closed.

Members of the public may also submit their comments via email at [publiccomment@nctd.org](mailto:publiccomment@nctd.org). All timely received comments will be provided to the Board/Committee and made available for public inspection on the NCTD website at: <https://gonctd.com/about-nctd/board-information/> prior to the meeting and included in the record of the Board/Committee Meeting.

The public may also provide oral comments on agenda items by calling (760) 966-6560. When prompted, the caller should identify the agenda item they wish to speak about and leave a message not to exceed three minutes. All timely received telephonic comments will be provided to the Board/Committee prior to the meeting and made available for public inspection on the NCTD website at: <https://gonctd.com/about-nctd/board-information/>.

## SPECIAL MEETING BEGINNING AT 3:00 PM

- CALL TO ORDER
- ROLL CALL OF BOARD MEMBERS
- SAFETY BRIEF & EVACUATION PROCEDURES – Anthony Flores, Clerk of the Board
- PUBLIC COMMUNICATIONS

There is a time limit of 15 minutes for this section of Public Communications and each speaker is limited to three minutes for their presentation.

Members of the public may submit their comments via email at [publiccomment@nctd.org](mailto:publiccomment@nctd.org). The public may also provide oral comments on agenda items by calling (760) 966-6560. When prompted, the caller should identify the agenda item they wish to speak about and leave a message not to exceed three minutes. All timely received written and/or telephonic comments will be shared with the Board of Directors and made available for public inspection prior to the meeting. Written and/or telephonic comments may not be read aloud nor played for the Board of Directors during the meeting. All telephonic and written comments will be made part of the record.

### A. AGENDA ITEM 1

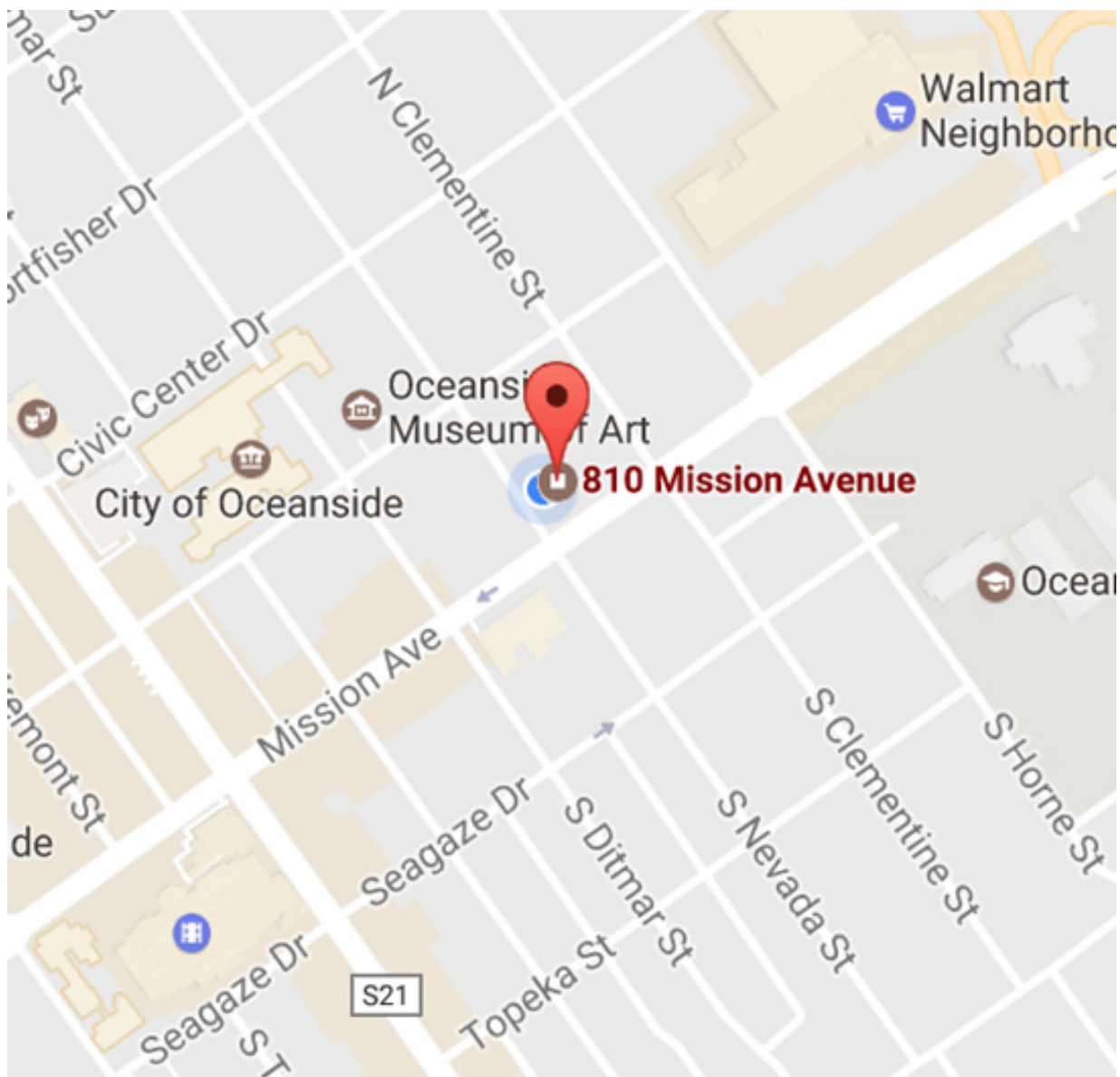
1. Consider Adopting Resolution No. 22-06 Proclaiming a Local Emergency, Re-Ratifying the Proclamation of a State of Emergency and Re-Authorizing Remote Teleconference Meetings of the Legislative Bodies of the North County Transit District in Compliance with Assembly Bill 361 Effective May 6, 2022 Through May 19, 2022 or Resume In-Person Meetings Effective May 6, 2022 (Attachment 1A)  
*(Laura Coté, Chief Administrative Officer)*
- ADJOURNMENT
  - CERTIFICATIONS AND RULES (FOR BOARD AND PUBLIC INFORMATION)
    - Posting of Board Agenda (Page 5)
    - Rules for Public Speakers at meetings of the North County Transit District (Page 6)
    - Quorum and Voting Information (Page 7)

#### Upcoming Meetings:

- *PAF Committee Meeting: May 12, 2022 at 1:00 p.m.*
- *Regular Board Meeting: May 19, 2022 at 2:00 p.m.*

*All Regular Board and Committee Meetings will be held at NCTD Administrative Offices, 810 Mission Ave., Oceanside CA, unless otherwise provided on public notice.*

## MAP OF NORTH COUNTY TRANSIT DISTRICT OFFICES



The NCTD Board Chambers is located at NCTD Administrative Offices, 810 Mission Avenue, Oceanside, CA 92054 and is accessible by the COASTER (NCTD Commuter Rail), SPRINTER (NCTD Hybrid Rail), and the BREEZE (NCTD Bus).

Please log onto [www.goNCTD.com](http://www.goNCTD.com) to check our current routes and schedules, or call 1-800-COMMUTE.

April 29, 2022

**To:** North County Transit District Board Members  
**From:** Anthony Flores, Clerk of the Board  
**Subject:** POSTING OF BOARD AGENDA

In Compliance with the Ralph M. Brown Act, as Amended, the following information is provided.

The Agenda for this Special meeting of the Board was posted as follows:

**Special Meeting:** May 5, 2022 at 3:00 p.m.

**Posted At:** 810 Mission Avenue, Oceanside, CA

**Posted Online At:** [www.goNCTD.com](http://www.goNCTD.com)

**Date & Time of Posting:** April 29, 2022 at 5:00 p.m.

**Posted By:** Anthony Flores, Clerk of the Board

## **Rules for Public Speakers at Meetings of the North County Transit District**

Per Board policy, all public communications at meetings of the North County Transit District shall be made and received in accordance with the following procedures except where modified and/or temporarily superseded with COVID-19 protocols as provided in the **COVID-19 PUBLIC SERVICE ANNOUNCEMENT AND SPECIAL PROCEDURES** provided in this agenda.

### **1. COMMENTS FOR MATTERS NOT ON AGENDA**

- A. Total time limit for telephonic comments:
  - Beginning of meeting: Fifteen (15) minutes
  - End of meeting: No time limit.
- B. Time limit per speaker per meeting: Three (3) minutes, with no donation of time allowed.
- C. Priority: First come, first served. Speakers who registered to speak with the Clerk will be able to address the Board of Directors in the order they were received.
- D. Order on agenda: Comments for matters not on the agenda will be heard at the beginning of the meeting and if the time limit stated in Paragraph A is exhausted, comments that were unable to be heard due to time limit stated above, will be heard at the end of the meeting under “*Remaining Public Communications.*”

### **2. TIME LIMITS FOR ADDRESSING MATTERS ON THE AGENDA**

- A. Total time limit: None.
- B. Time limit per speaker: Three (3) minutes, with one donation of three minutes, for a maximum of six minutes.
- C. These rules apply to both public hearing and non-public hearing items listed on the agenda.
- D. Comments made not germane to the subject matter of the agenda item being considered are out of order.

### **3. CUTOFF FOR TURNING IN SPEAKER SLIPS**

- A. Members of the public may register with the Clerk to speak on an agenda item up until the public comment period is closed.

### **4. MODIFICATION OF RULES BY CHAIR**

- A. The Board Chair may, in his or her absolute discretion, relax the requirements of these rules. However, a decision of the Chair to do so in one instance shall not be deemed a waiver of the rules as to any other instance or matter.

## Quorum and Voting

Pursuant to Public Utilities Code § 125102, a majority of the Board members eligible to vote shall constitute a quorum for the transaction of business and all official acts of the Board shall require the affirmative vote of a majority of the members of the Board eligible to vote; however, after a vote of the members is taken, a weighted vote may be called by any two members eligible to vote.

In the case of a weighted vote, the County of San Diego and each city (with exception of the City of San Diego), shall, in total, exercise 100 votes to be apportioned annually based on population. Approval under the weighted vote procedure requires the vote of the representatives of not less than three jurisdictions representing not less than 51 percent of the total weighted vote to supersede the original action of the Board. When a weighted vote is taken on any item that requires more than a majority vote of the Board members eligible to vote, it shall also require the supermajority percentage of the weighted vote. County population: The population of the County of San Diego shall be the population in the unincorporated area of the county within the area of jurisdiction of the Board pursuant to Public Utilities Code § 125052.

Updated 12/26/18			
2017 Service Area Population (ACS)			948,787
Cities Total			712,025
	2017 ACS	Percentage	Votes
<b>Carlsbad</b>	113,147	11.9%	12
<b>Del Mar</b>	4,338	0.5%	1
<b>Encinitas</b>	62,595	6.6%	7
<b>Escondido</b>	150,783	15.9%	16
<b>Oceanside</b>	174,811	18.4%	18
<b>San Marcos</b>	93,493	9.9%	10
<b>SD County</b>	236,762	25.0%	25
<b>Solana Beach</b>	13,362	1.4%	1
<b>Vista</b>	99,496	10.5%	10
			100

\*ACS – American Community Survey





**STAFF REPORT**

**CONSIDER ADOPTING RESOLUTION NO. 22-06 PROCLAIMING A LOCAL EMERGENCY, RE-RATIFYING THE PROCLAMATION OF A STATE OF EMERGENCY AND RE-AUTHORIZING REMOTE TELECONFERENCE MEETINGS OF THE LEGISLATIVE BODIES OF THE NORTH COUNTY TRANSIT DISTRICT IN COMPLIANCE WITH ASSEMBLY BILL 361 EFFECTIVE MAY 6, 2022 THROUGH MAY 19, 2022 OR RESUME IN-PERSON MEETINGS EFFECTIVE MAY 6, 2022**

**Time Sensitive:**  **Consent:**

**STAFF  
RECOMMENDATION:**

That the Board of Directors adopt one of the two (2) alternatives:

- 1) Adopt Resolution No. 22-06 proclaiming a local emergency, re-ratifying the proclamation of a state of emergency and re-authorizing remote teleconference meetings of the legislative bodies of the North County Transit District in compliance with Assembly Bill 361 effective May 6, 2022 through May 19, 2022; or
- 2) Resume in-person meetings effective May 6, 2022.

**BACKGROUND  
INFORMATION:**

On September 30, 2021, the North County Transit District's (NCTD/District) Board of Directors (Board) adopted Resolution No. 21-04, A Resolution of the Board of Directors of the North County Transit District Proclaiming a Local Emergency. Ratifying the Proclamation of a State Emergency on March 4, 2020, and by Executive Order N-15-21 and Executive Order N-08-21 and Authorizing Remote Teleconference Meetings of the Legislative Bodies of the North County Transit District in Compliance with Assembly Bill 361, Adopted September 16, 2021, and Pursuant to Brown Act Provisions (Agenda Item No. 1).

On April 26, 2022, the existing Executive Order N-5-22 was readopted by the California Division of Occupational Safety and Health Standards Board (the Standards Board) and was extended from May 5, 2022 to December 31, 2022 to allow time for the Standards Board and the California legislature to consider additional COVID-19 mitigation measures.

Pursuant to the provisions in Assembly Bill 361, the NCTD Board of Directors must approve to continue the use of remote teleconference meetings for NCTD's legislative bodies. If adopted, Resolution No. 22-06 re-authorizes the use of remote teleconference meetings until the earlier of May 19, 2022, or such time as the Board adopts a subsequent finding in accordance with Government Code section 54953(e)(3) to extend the time during which the legislative bodies of the District may continue to teleconferencing.

This action provides for the option of NCTD's legislative bodies to meet virtually if it is in the District's best interest based on the continued state of emergency arising from the COVID-19 pandemic as well as state and/or local officials continuing to recommend measures to promote social distancing, thereby allowing use of the adapted teleconferencing rules allowed for under AB 361.



Staff has prepared Resolution No. 22-06 should the Board elect to adopt the finding re-authorizing the use of remote teleconference meetings.

**ATTACHMENT:** 1A – Draft Resolution No. 22-06 Re-Authorizing Virtual Meetings

**GOAL/STRATEGIC DIRECTION:** Legal, Regulatory and Policy Compliance

**FISCAL IMPACT:** This staff report has no fiscal impact.

**COMMITTEE REVIEW:** None

**STAFF CONTACT:** **Laura Côté, Chief Administrative Officer**  
E-mail: [lcote@nctd.org](mailto:lcote@nctd.org) Phone: 760-967-2852



## RESOLUTION NO. 22-06

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NORTH COUNTY TRANSIT DISTRICT PROCLAIMING A LOCAL EMERGENCY, RE-RATIFYING THE PROCLAMATION OF A STATE OF EMERGENCY ON MARCH 4, 2020, AND BY EXECUTIVE ORDER N-1-22, EXECUTIVE ORDER N-15-21, AND EXECUTIVE ORDER N-08-21, AND RE-AUTHORIZING REMOTE TELECONFERENCE MEETINGS OF THE LEGISLATIVE BODIES OF NORTH COUNTY TRANSIT DISTRICT FOR THE PERIOD OF MAY 6, 2022, THROUGH MAY 19, 2022, PURSUANT TO BROWN ACT PROVISIONS.**

**WHEREAS**, the North County Transit District is committed to preserving and nurturing public access and participation in meetings of the Board of Directors; and

**WHEREAS**, all meetings of North County Transit District's legislative bodies are open and public, as required by the Ralph M. Brown Act (Cal. Gov. Code Sections 54950 – 54963), so that any member of the public may attend, participate, and watch the District's legislative bodies conduct their business; and

**WHEREAS**, the Board of Directors previously adopted Resolution Number 22-05 on April 14, 2022, finding that the requisite conditions exist for the legislative bodies of the North County Transit District to conduct remote teleconference meetings without compliance with paragraph (3) of subdivision (b) of section 54953; and

**WHEREAS**, as a condition of extending the use of the provisions found in section 54953(e), the Board of Directors must reconsider the circumstances of the state of emergency that exists in the District, and the Board of Directors has done so; and

**WHEREAS**, emergency conditions persist in the District, specifically, a state of emergency is declared by the Governor pursuant to Government Code section 8625, proclaiming the existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions as described in Government Code section 8558; and

**WHEREAS**, state and/or local officials have imposed or recommended measures to promote social distancing, or, the legislative body meeting in person would present imminent risks to the health and safety of attendees; and

**WHEREAS**, On April 26, 2022, the existing Executive Order N-5-22 was readopted by the California Division of Occupational Safety and Health Standards Board (the Standards Board) and was extended from May 5, 2022, to December 31, 2022, to allow time for the Standards Board and the California legislature to consider additional COVID-19 mitigation measures; and

**WHEREAS**, the Board of Directors does hereby find that the state of emergency, and, social distancing orders has caused, and will continue to cause, conditions of peril to the safety of persons within the District that are likely to be beyond the control of services, personnel, equipment, and facilities of the District, and desires to affirm a local emergency exists and re-ratify the proclamation of state of emergency by the Governor of the State of California and ratify the Health and Human Services Agency issued State Public Health Officer Order; and

**WHEREAS**, as a consequence of the local emergency persisting, the Board of Directors does hereby find that the legislative bodies of the North County Transit District shall continue to conduct their meetings without compliance with paragraph (3) of subdivision (b) of Government Code section 54953, as authorized by subdivision (e) of section 54953, and that such legislative bodies shall continue to comply with the requirements to provide the public with access to the meetings as prescribed in paragraph (2) of subdivision (e) of section 54953; and

**WHEREAS**, the North County Transit District has taken the following measures to ensure public access to the District's Regular, Special, and Committee Meetings:

- Written public comments may be submitted to the District,
- Telephonic comments may be submitted to the District ahead of a scheduled meeting, and
- A live public participation option will be provided to the public and detailed on the cover page of the District's Agenda Packet.

**NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE NORTH COUNTY TRANSIT DISTRICT DOES HEREBY FIND AND RESOLVE AS FOLLOWS:**

**Section 1.** Recitals. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

**Section 2.** Affirmation that Local Emergency Persists. The Board of Directors hereby considers the conditions of the state of emergency in the District and proclaims that a local emergency persists throughout the District, and The State of California Health and Human Services Agency has issued State Public Health Officer Order of June 11, 2021 and the San Diego County Order Of The Health Officer (effective June 15, 2021) imposing face covering and isolation requirements and recommending social distancing measures.

**Section 3.** Re-ratification of Governor's Proclamation of a State of Emergency. The Board hereby ratifies the Governor of the State of California's Proclamation of State of Emergency, effective as of its issuance date.

**Section 4.** Remote Teleconference Meetings. The Executive Director and its designee(s) and legislative bodies of North County Transit District are hereby authorized and directed

to take all actions necessary to carry out the intent and purpose of this Resolution including, conducting open and public meetings in accordance with Government Code section 54953(e) and other applicable provisions of the Brown Act.

**Section 5. Effective Date of Resolution.** This Resolution shall take effect immediately upon its adoption and shall be effective until the earlier of May 19, 2022, or such time as the Board of Directors adopts a subsequent finding in accordance with Government Code section 54953(e)(3) to extend the time during which the legislative bodies of the North County Transit District may continue to teleconference without compliance with paragraph (3) of subdivision (b) of section 54953 of the Government Code. Nothing herein requires the Board of Directors to act to extend the term of this Resolution if the Governor of the State issues an Executive Order suspending any or all of the provisions of the Ralph M. Brown Act to allow legislative bodies to conduct public meetings without strict compliance with the teleconferencing provisions of the Brown Act.

**PASSED, APPROVED AND ADOPTED** at the special meeting of the Board of Directors of the North County Transit District this 5<sup>th</sup> day of May 2022.

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BOARD CHAIR  
North County Transit District

#### CERTIFICATION

I, Anthony Flores, duly appointed and qualified, Clerk of the Board of the North County Transit District, do hereby certify that the above is a true and correct copy of a resolution passed and approved by the Board of Directors of the North County Transit District adopted at a legally convened meeting of the Board of Directors of the North County Transit District held on the 5<sup>th</sup> day of May 2022.

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CLERK OF THE BOARD  
North County Transit District





**CONSIDER ADOPTING RESOLUTION NO. 22-06 PROCLAIMING A LOCAL EMERGENCY,  
RE-RATIFYING THE PROCLAMATION OF A STATE OF EMERGENCY AND  
RE-AUTHORIZING REMOTE TELECONFERENCE MEETINGS OF THE LEGISLATIVE  
BODIES OF THE NORTH COUNTY TRANSIT DISTRICT IN COMPLIANCE WITH ASSEMBLY  
BILL 361 EFFECTIVE MAY 6, 2022 THROUGH MAY 19, 2022 OR RESUME IN-PERSON  
MEETINGS EFFECTIVE MAY 6, 2022**

Special Board Meeting  
May 5, 2022

COASTER SPRINTER BREEZE FLEX LIFT

# Assembly Bill 361

- Signed by the Governor on September 16, 2021
- Authorizes a local agency to use teleconferencing without complying with certain requirements of the Brown Act such as posting an agenda at every location where a Board member is participating from, so long as the legislative body holds a meeting during a proclaimed state of emergency and:
  - state or local officials have imposed or recommended measures to promote social distancing; and
  - for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees; and
  - has determined, by majority vote, that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.
- Board is required to assert continuing findings every 30 days should it wish to continue holding meetings virtually
- Governor Newsom has not completely lifted the State of Emergency related to COVID-19





# Recent Legislation/Governor's ETS

- **Emergency Temporary Standard (ETS) extended to December 31, 2022:**
  - The current Emergency Temporary Standard (ETS) was extended from May 5, 2022 to December 31, 2022, to allow for Cal/OSHA Standards Board and the California legislature consider additional COVID-19 mitigation measures
- **AB 1944: Local government: open and public meetings:**
  - Would authorize members of local legislative bodies to teleconference from a remote location without making the address of that location public as long as a majority agrees to this
  - Would require the agenda to identify any member of the legislative body that will participate in the meeting remotely
  - If a legislative body elects to use teleconferencing, it shall provide both of the following:
    - A video stream accessible to members of the public.
    - An option for members of the public to address the body remotely during the public comment period through an audio-visual or call-in option



# Recent Legislation/Governor's ETS

- **AB 2449: Local government: open and public meetings:**
  - Would authorize members of local legislative bodies to teleconference from a remote location
  - Requires a quorum of members be present in person to conduct the meeting
- **AB 1944 and AB 2449 both passed out of Committee this week**



# Regional Pulse

Agency	Board/Council Participation	Public Participation
Imperial Beach	Hybrid, w/ proclamation	In-person or In-writing
SANDAG	Hybrid, w/ proclamation	Hybrid
MTS	Hybrid, w/ proclamation	In Writing, Virtual
Del Mar	Virtual, w/ proclamation	In Writing, Virtual
National City	Virtual, w/ proclamation	In Writing, Virtual
La Mesa	Hybrid, w/ proclamation	In-Person, In Writing, Virtual
Poway	Hybrid, w/ proclamation	In-person, telephone, in-writing, virtual



# Meeting Alternatives

## The Board of Directors is asked to adopt one of the two alternatives:

- (1) Adopt Resolution No. 22-06 proclaiming a local emergency, re-ratifying the proclamation of a state of emergency and re-authorizing remote teleconference meetings of the legislative bodies of the North County Transit District in compliance with Assembly Bill 361 effective May 6, 2022 through May 19, 2022; or
- (2) Resume in person meetings effective May 6, 2022



# Questions?



# AB 361 Impacts on Local Agency Compliance with the Brown Act

## Brown Act Requirement

The agency shall post agendas at all teleconference locations.

Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public.





# AB 361 Impacts on Local Agency Compliance with the Brown Act

## Brown Act Requirement

During the teleconferenced meeting, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction.



# AB 361 Impacts on Local Agency Compliance with the Brown Act

## Brown Act Requirement

The agenda shall provide an opportunity for members of the public to address the legislative body directly at each teleconference location.

