



California Senate Bill 391

Teleconference Board Meetings During State of Emergency

November 2021

In March 2020, as a result of the COVID-19 pandemic, association Boards began transitioning from in-person Board Meetings to completely virtual meetings via Zoom or a similar videoconference platform. Nineteen months later, most association Boards and residents have grown to appreciate the convenient virtual Board Meeting platform, leaving many asking – Can we meet virtually indefinitely?

As you may be aware, existing California law permits virtual Board Meetings, held via teleconference or videoconference, provided that the noticed agenda provides for a physical location so that Association members have the ability to attend in person should they choose. As a result of the pandemic and state and local mandates that barred gathering in person, industry legal experts believed it was absolutely prudent to strictly adhere to municipal mandates and advised Boards to meet 100% virtually without the need for a physical location, which was technically not supported by California law, until now.

Senate Bill 391, which goes into effect immediately, recognizes that it is not realistic or possible to meet in person during a “Declared Emergency”, which is defined as:

1. A state of disaster or emergency declared by the federal government or
2. A state of emergency proclaimed by the governor under Section 8625 of Government Code and/or a local emergency proclamation by a local governing body or official under Section 8630 of the Government Code.

In case of a Declared Emergency, Board Meetings and/or Meetings of the Members may be conducted entirely virtually via teleconference/videoconference without the need to provide for a physical location for members to attend if the following conditions are met:

1. The notice for the initial meeting under the Declared Emergency must be delivered to members individually via USPS mail. If the Declared Emergency is such that mail delivery is not possible, the association may send notice of the first meeting via email to all members who have provided their email addresses.
2. The meeting agenda and notice for each virtual meeting must meet all other civil code meeting notice requirements as well as the following:
 - Technical Instructions on how to participate by teleconference/videoconference;





- The telephone number and email address of someone who can provide technical assistance should it be necessary; and
- A reminder that the members have the right to continue to request individual delivery of meeting agendas/notices moving forward.

For Meetings in which ballots are to be tabulated, such as Annual Elections or Special Elections, the following additional conditions apply:

1. The meeting must be conducted via videoconference whereby members can visually witness the meeting; and
2. The videoconference camera must be placed in a location whereby the members have the ability to witness the inspector of elections counting the ballots and tabulating votes.

Most of the widely used videoconference platforms today allow for attendees to join either via video or telephone, so as a recommended best practice, we encourage videoconference platforms over strictly teleconference platforms (such as conference call in numbers). The ability for attendees to join via video allows for more engagement and less confusion as attendees benefit from nonverbal communication and the ability to see who is speaking. At the same time, it allows those without a camera or videoconference capabilities to attend via teleconference.

SB 391 also serves as clear indicator that entirely virtual Board Meetings will not be permitted post-pandemic or outside of a Declared Emergency. That said, please keep in mind that a hybrid model is legally permitted, whereby Board Members and residents may attend meetings via teleconference or videoconference so long as there is a physical location noticed on the meeting agenda where members may attend in person should they choose to do so.

At PMP, we have implemented “smart” conference rooms at all of our division offices equipped with cameras, audio, and large screen monitors, that serve as physical meeting locations at no cost to the Association. Additionally, we have subscribed to the paid service, Zoom Professional, which provides for unlimited meeting attendees and no time limits.

Post pandemic or sans a Declared Emergency, this hybrid meeting model is highly recommended as it provides Board Members and residents with the option of attending in person or virtually, whichever they prefer.

If you have any questions or feedback that you would like to share regarding this educational piece, please feel free to contact Brad Watson, President & CEO of PMP Management at bwatson@pmpmanage.com.

