

## AGENDA

### SPECIAL BOARD MEETING MARIN COUNTY EMPLOYEES' RETIREMENT ASSOCIATION (MCERA)

One McInnis Parkway, 1st Floor  
Retirement Board Chambers  
San Rafael, CA

December 2, 2021 – 11:00 a.m.

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This meeting will be held via videoconference pursuant to MCERA Board of Retirement Resolution 2021/22-01, which invoked Government Code section 54953(e) for all MCERA Board and standing committee meetings through December 3, 2021.

Instructions for watching the meeting and/or providing public comment, as well as the links for access, are available on the [Watch & Attend Meetings](https://www.mcera.org/retirementboard/agendas-minutes/watchmeetings) page of MCERA's website. Please visit <https://www.mcera.org/retirementboard/agendas-minutes/watchmeetings> for more information.

The Board of Retirement encourages a respectful presentation of public views to the Board. The Board, staff and public are expected to be polite and courteous, and refrain from questioning the character or motives of others. Please help create an atmosphere of respect during Board meetings.

#### **CALL TO ORDER**

#### **ROLL CALL**

#### **A. OPEN TIME FOR PUBLIC EXPRESSION**

Note: The public may address the Board regarding any agenda item when the Board considers the item.

Open time for public expression, from three to five minutes per speaker, on items not on the Board Agenda. While members of the public are welcome to address the Board during this time on matters within the Board's jurisdiction, except as otherwise permitted by the Ralph M. Brown Act (Government Code Sections 54950 et seq.), no deliberation or action may be taken by the Board concerning a non-agenda item. Members of the Board may (1) briefly respond to statements made or questions posed by persons addressing the Board, (2) ask a question for clarification, or (3) provide a reference to staff for factual information.

#### **B. TOPIC OF GENERAL INTEREST**

1. Reconsideration of State of Emergency conditions under Assembly Bill (AB) 361 (Action)

Reconsider and take possible action to invoke Government Code section 54953(e), and to extend MCERA Resolution 2021/22-01 Authorizing Teleconferencing for Board and Standing Committee Meetings through January 2, 2022, because at least one of the

following circumstances exists:

1. The State of Emergency proclaimed remains in effect and continues to directly impact the ability of the members to meet safely in person; or
2. State or local officials continue to impose or recommend measures to promote social distancing.

**Note on Process:** Items designated for information are appropriate for Board action if the Board wishes to take action.

**Note on Voting:** As provided by statute, the Alternate Safety Member votes in the absence of the Elected General or Safety Member, and in the absence of both the Retired and Alternate Retired Members. The Alternate Retired Member votes in the absence of the Elected Retired Member. If both Elected General Members, or the Safety Member and an Elected General Member, are absent, then the Elected Alternate Retired Member may vote in place of one absent Elected General Member.



Agenda material is provided upon request. Requests may be submitted by email to [MCERABoard@marincounty.org](mailto:MCERABoard@marincounty.org), or by phone at (415) 473-6147.

MCERA is committed to assuring that its public meetings are accessible to persons with disabilities. If you are a person with a disability and require an accommodation to participate in a County program, service, or activity, requests may be made by calling (415) 473-4381 (Voice), Dial 711 for CA Relay, or by email at least five business days in advance of the event. We will do our best to fulfill requests received with less than five business days' notice. Copies of documents are available in alternative formats upon request.

The agenda is available on the Internet at <http://www.mcera.org>

B.1



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[MCERA.org](http://MCERA.org)

**Date:** November 24, 2021

**To:** Board of Retirement  
Marin County Employees' Retirement Association (MCERA)

**From:** Jeff Wickman *fw*  
Retirement Administrator

**Subject:** Considerations for Reinvoking the Provisions of Assembly Bill 361 in order to Conduct Board and Standing Committee Meetings Virtually

### **Background**

On October 13, 2021, the Board of Retirement adopted Resolution No. 2021/22-01 Authorizing Teleconferencing for Board and Standing Committee Meetings Pursuant to Government Code §54953(e) of the Brown Act ("Section 54953(e)"), through November 12, 2021. The Resolution was adopted in recognition that the conditions for invoking the provisions in Assembly Bill (AB) 361, permitting the Board to conduct remote access meetings, were similar to the way it had been meeting during the COVID-19 pandemic. On November 3, 2021, the Board reconsidered the circumstances of the emergency and made a finding that reinvoked these provisions through December 3, 2021.

This item is agendized for discussion so the Board can determine whether either or both of the conditions continue to exist, such that the Board may reinvoke Section 54953(e) and conduct its meetings via Zoom and YouTube for the next thirty (30) days. To make its determination, the Board must decide that 1) a State of Emergency under Government Code section 8625 remains in effect; and 2) (i) State or local officials had put in place social distancing measures to protect health, or, (ii) the local agency board determines that meeting in person would present imminent risks to the health and safety of attendees.

### **Recommendation**

On November 1<sup>st</sup>, the Marin County Public Health Officer rescinded the order for wearing face coverings in workplaces and public settings. Mandatory face coverings are still required for unvaccinated individuals under State of California guidelines. In addition, face coverings are still required regardless of vaccination status in certain public settings. The Marin County Board of Supervisors continues to require face coverings for anyone attending meetings in its Board chamber. On November 17, 2021 Governor Newsom extended the state's COVID-19 state of emergency declaration through March 2022.

Staff recommends that the Board make the finding(s) necessary to continue to conduct remote meetings under Section 54953(e), as it has to date, through January 2, 2022, on the basis the conditions identified in items (1), (2)(i) and (2)(ii) above continue to exist.

## B.1

Please note that the Board's regular January 8, 2022 meeting does not fall within 30 days of this proposed action. Therefore, if the Board adopts staff recommendation on this topic, then the issue will be agendaized for another special board meeting on December 15, 2021, scheduled to occur just prior to the Investment Committee meeting that day, with a recommendation to make the same finding(s) through January 14, 2022.

**RESOLUTION NO. 2021/22-01 OF THE MARIN COUNTY EMPLOYEES’  
RETIREMENT ASSOCIATION BOARD OF RETIREMENT AUTHORIZING  
TELECONFERENCING FOR BOARD AND STANDING COMMITTEE MEETINGS  
PURSUANT TO GOVERNMENT CODE §54953.**

WHEREAS, the Marin County Employees’ Retirement Association (“MCERA”) was established as a public sector defined benefit retirement system by the County of Marin on July 1, 1950, under the County Employees Retirement Law of 1937 (Gov. Code §§ 31450-31899.10); and

WHEREAS, the MCERA Board of Retirement (“Board”) is committed to preserving public access to, and encouraging public comment at, meetings of the Board and its standing committees, which currently included its Investment Committee, Governance Committee, Finance and Risk Management Committee, and Audit Committee (collectively, “Standing Committees”) (each of which are legislative bodies), in accordance with the Ralph M. Brown Act (Cal. Gov. Code 54950 – 54963) (“Brown Act”); and

WHEREAS, as of October 1, 2021, Government Code section 54953(e) of the Brown Act (“Section 54953(e)”) provides for teleconferencing by members of a legislative body, without compliance with the requirements of Government Code section 54953(b)(3), subject to certain conditions; and

WHEREAS, a required condition is that a state of emergency is proclaimed by the Governor pursuant to Government Code section 8625; and

WHEREAS, invocation of Section 54953(e) also requires that state 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, a State of Emergency was proclaimed by Governor Newsom for the State of California, dated March 4, 2020, pursuant to the California Emergency Services Act (Govt. Code §8625), based on an outbreak of respiratory illness due to a novel coronavirus (a disease known as COVID-19), also referred to herein as the “COVID-19 Pandemic”, and the COVID-19 Pandemic State of Emergency order has not been withdrawn; and

WHEREAS, on August 2, 2021, the Marin County Health Officer issued an Order stating, in pertinent part, “In order to slow the spread of the more contagious Delta variant of COVID-19, all people, regardless of vaccination status, are required to wear face coverings in public indoor settings in Marin County until further notice” (“Local Indoor Mask Order”); and

WHEREAS, as a consequence of the COVID-19 Pandemic State of Emergency and the Indoor Mask Order, and its own determination that meeting in person would present imminent risks to the health and safety of attendees resulting from COVID-19, the Board does hereby find that conditions exist to enable its legislative bodies to conduct their meetings as authorized by Section 54953(e); and

## B.1

WHEREAS, MCERA is to ensure that the public has access to Board and Standing Committee meetings by posting an agenda on its website and at its business office location at least 72 hours prior to the meeting containing information for members of the public on how to access and observe the meeting by Zoom, YouTube, or other call-in or internet-based service option, and how to provide public comment, both before and during the meeting. Further, persons requiring accommodations in accessing meetings are instructed to contact MCERA prior to the meeting.

NOW, THEREFORE, THE BOARD DOES HEREBY 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. Acknowledgement of Proclamation of COVID-19 State of Emergency and Local Indoor Mask Order. The Board hereby acknowledges that the COVID-19 State of Emergency and Local Indoor Mask Order (collectively “COVID-19 Conditions”) continue to exist within the geographical boundaries of the territory within which the Board and its Standing Committees hold meetings to conduct business.

Section 3. Determination Regarding Health and Safety Need to Continue Teleconferencing. The Board finds that the COVID-19 Conditions reflect imminent risks to the health and safety of Board and staff members and to others of meeting in person to conduct MCERA business.

Section 4. Remote Teleconference Meetings. The MCERA Retirement Administrator or designee and legislative bodies of MCERA 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 Section 54953(e).

Section 5. Effective Date of Resolution. This Resolution shall take effect immediately upon its adoption and shall be effective until the earlier of November 12, 2021, or such time the Board or a Standing Committee adopts a subsequent resolution in accordance with Section 54953(e)(3) to extend the time during which the each of them may continue to teleconference without compliance with Section 54953(b)(3), as set forth in Section 6 herein.

Section 6. Reconsideration of Circumstances Every 30 Days. For the period of time that the COVID-19 State of Emergency proclaimed remains in effect, the Board and/or Standing Committees may reconsider the circumstances of the emergency and make the findings as are necessary to continue to hold remote teleconference meetings as permitted by the Section 54953(e) every 30 days following adoption of this Resolution, until the provisions for the alternate authority exercised herein sunsets by operation of law on January 1, 2024.

PASSED AND ADOPTED by the MCERA Board of Retirement this 13<sup>th</sup> day of October, 2021, by the following vote:

AYES: Block, Cooper, Given, Gladstern, Klein, Murphy, Silberstein, Tomlin, Werby  
NOES: None  
ABSENT: None  
ABSTAIN: None



Steve Silberstein, Chair of the Board

Attest:



Jeff Wickman, Retirement Administrator