EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA

EXECUTIVE ORDER N-23-21

WHEREAS on March 4, 2020, I proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19; and

WHEREAS since March 2020, the State has taken decisive and meaningful actions to reduce the spread, and mitigate the impacts, of COVID-19, saving an untold number of lives; and

WHEREAS on November 20, 2020, the Occupational Safety and Health Standards Board (OSHSB) voted to adopt COVID-19 Prevention Emergency Temporary Standards (Emergency Temporary Standards), codified at California Code of Regulations, title 8, sections 3205, 3205.1, 3205.2, 3205.3, and 3205.4, which established various workplace safety requirements related to COVID-19 for employers, including requirements for face coverings and physical distancing, and which took effect on November 30, 2020 (OAL Matter No. 2020-1120-01E); and

WHEREAS on June 17, 2021, OSHSB voted to readopt the Emergency Temporary Standards, which took effect on June 17, 2021, and will expire on January 14, 2022 (OAL Matter No. 2021-0617-03EFP); and

WHEREAS the Emergency Temporary Standards remain integral to the State's ongoing response to COVID-19 as they afford balanced protections for workers from the spread and impact of COVID-19, and permit the continuation of business within the State with as little disruption as possible, as the State continues its progress in moving beyond the pandemic; and

WHEREAS in light of the evolving pandemic, including the emergence of new variants of the COVID-19 virus, and the need for appropriately tailored occupational safety and health standards to protect workers from the spread and impact of new variants of COVID-19, additional time is necessary to permit the Legislature to assess whether to enact workplace safety legislation in response to COVID-19, as well as to permit the Department of Industrial Relations, Division of Occupational Safety and Health to evaluate appropriate provisions to include in any permanent regulation it will propose to OSHSB to supersede the Emergency Temporary Standards; and

WHEREAS existing restrictions on the frequency and duration of readoption of the Emergency Temporary Standards would hinder California's ability to effectively respond to, and mitigate the impacts of, COVID-19; and

WHEREAS requiring large numbers of individuals to gather, and potentially travel long distances, for in-person corporation shareholder meetings in the midst of an on-going pandemic could potentially, and unnecessarily, expose numerous people to COVID-19 and undermine public health measures during the current State of Emergency; and

WHEREAS Assembly Bill 663, chaptered by the Secretary of State on October 5, 2021, amended the Corporations Code to permit corporations to conduct shareholder meetings using remote technology when the Governor has proclaimed a State of Emergency; and

WHEREAS it is necessary to provide clarification to ensure that a corporation may conduct shareholder meetings using remote technology regardless of whether a quorum of the corporation's board can readily be convened; and

WHEREAS under the provisions of Government Code section 8571, I find that strict compliance with various statutes and regulations specified in this Order would prevent, hinder, or delay appropriate actions to prevent and mitigate the effects of the COVID-19 pandemic.

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes, and in particular, Government Code sections 8567, 8571, and 8627 do hereby issue the following Order to become effective immediately:

IT IS HEREBY ORDERED THAT:

1. The limitations of Government Code section 11346.1(h) are waived to permit a third readoption of the Emergency Temporary Standards as described in this Order by OSHSB, so long as the effective period of the third readoption does not extend beyond December 31, 2022.

2. Any third readoption of the Emergency Temporary Standards described in this Order by OSHSB shall be subject to the provisions of Government Code, Division 3, Part 1, Chapter 3.5 (commencing with section 11340), except as provided herein. Any third readoption shall be effective upon filing by the Office of Administrative Law (OAL) with the Secretary of State and shall not remain in effect beyond December 31, 2022.

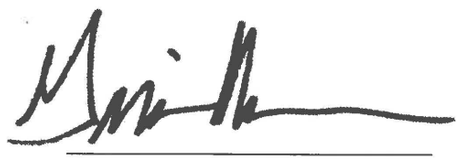
3. Nothing in this Order affects full application of Government Code, Division 3, Part 1, Chapter 3.5 (commencing with section 11340) to OSHSB's adoption of the Emergency Temporary Standards described in this Order as permanent regulations. A Certificate of Compliance adopted pursuant to Government Code, Division 3, Part 1, Chapter 3.5 (commencing with section 11340) must be submitted to OAL no later than December 31, 2022, or the emergency regulations will expire by operation of law.

4. To the extent that Corporations Code section 207(i)(5) requires that a quorum of a corporation's board of directors cannot be readily convened in order for there to exist an emergency as defined therein, that requirement is waived, from the date of this Order until March 31, 2022, as to any corporation conducting shareholder meetings using remote technology pursuant to Corporations Code section 600(e), as amended by Assembly Bill 663, in reliance on the proclaimed State of Emergency related to the COVID-19 pandemic.

I FURTHER DIRECT that as soon as hereafter possible, this Order be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this Order.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 16th day of December 2021.



GAVIN NEWSOM
Governor of California

ATTEST:

SHIRLEY WEBER, PH.D.
Secretary of State