

ITEM 7

LEGISLATIVE UPDATE

Trailer Bill: Bagley-Keene Open Meeting Act: Remote Participation in Meetings

Trailer Bill language posted on the Department of Finance’s website,¹ as updated May 14, 2021, specifies that a “meeting” under the Bagley-Keene Open Meeting Act (act), includes a meeting held by teleconference. The bill would require all meetings to be held by teleconference, authorize but not require state agencies to also provide an in-person venue, and would remove the provisions of the act that require each teleconference location to be identified in the notice and agenda and accessible to the public. The bill would instead require the state body to provide a means by which the public may remotely hear or observe the meeting, as specified, and would require information to be provided in any notice to the public indicating how the public can access the meeting remotely.

The bill would require the state body to provide an opportunity for members of the public to address the state body. The bill would specify that no member of the state body would be required to be physically present at any physical meeting location designated in the agenda of the meeting. It would also require the agency to post the agenda 10-days in advance of the meeting, or as provided in accordance with the provisions applicable to a special or emergency meeting, as well as posted on the state body’s internet website and at any physical meeting location designated in the agenda.

The bill would also provide that the notice of the meeting is required to specify the means by which a meeting may be accessed by teleconference. The bill would prohibit the agenda from disclosing any information regarding any remote location from which a member is participating.

The bill would further require that if a state body discovers that a means of remote access required by these provisions has failed for the majority of participants during a meeting, the state body would be required to end or adjourn the meeting and take specified actions to notify participants and communicate when the state body intends to reconvene the meeting and how a member of the public may hear audio of, or observe, the meeting.

Existing law prohibits a state body from requiring, as a condition to attend a meeting, a person to register the person’s name, or to provide other information, or to fulfill any condition precedent to the person’s attendance. This bill would exclude from that prohibition an internet website or other online platform that may require identification to log into a teleconference.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest. This bill would make legislative findings to that effect.

¹ See Corrections and General Government, Bagley-Keene Open Meeting Act: Remote Participation in Meetings, <https://esd.dof.ca.gov/dofpublic/trailerBill.html> (accessed on June 30, 2021).

If this language is included the trailer bill and is enacted, it would take effect immediately, not later than October 1, 2021 which is the last day for the Governor to sign or veto bills.

AB 1013 State mandates: claims

AB 1013 was introduced by Assembly Member Lackey on February 18, 2021.

The California Constitution requires, whenever the Legislature or a state agency mandates a new program or higher level of service on any local government, including school districts, the state to provide a subvention of funds to reimburse the local government, unless an exception applies. Statutory provisions that establish procedures for making that reimbursement include a requirement that no claim shall be made or paid unless it exceeds \$1,000. This bill would amend Government Code section 17564 to lower the minimum claim amount to \$900.

On March 4, 2021, the bill was referred to the Assembly Committee on Local Government.

The member's office could not be reached for comment, however, this bill contains the same language as the member's 2020 spot bill, AB 2395 State mandates: claims, which staff tracked last year.

This bill has not had a hearing and has not made it out of its house of origin before the deadline to do so for this session. Therefore, it may become a two-year bill if it clears the Assembly by January 31, 2022.

AB 885 Bagley-Keene Open Meeting Act: teleconferencing

AB 885 was introduced by Assembly Member Quirk on February 17, 2021.

The Bagley-Keene Open Meeting Act (Bagley-Keene Act), requires, with specified exceptions, that all meetings of a state body, as defined, be open and public, and all persons be permitted to attend any meetings of a state body, except as provided. The Bagley-Keene Act, among other things, requires a state body that elects to conduct a meeting or proceeding by teleconference to make the portion of the meeting that is required to be open to the public audible to the public at the location specified in the notice of the meeting. This bill would require a state body that elects to conduct a meeting or proceeding by teleconference to make the portion that is required to be open to the public both audibly and visually observable. This bill would also require a state body that elects to conduct a meeting or proceeding by teleconference to post an agenda at the designated primary physical meeting location in the notice of the meeting where members of the public may physically attend the meeting and participate and requires that at least one of the members be present at the primary physical location of the public meeting.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest. This bill would make legislative findings to that effect.

On March 25, 2021, the bill was referred to the Assembly Committee on Governmental Organization. However, this bill did not make it out of its house of origin before the deadline to do so for this session. Therefore, it may become a two-year bill if it clears the Assembly by January 31, 2022. Commission staff will continue to monitor for any legislation that affects the mandates process.