



Bill Analysis

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Sponsor:

Bill Number: AB 339

Related Bills: See Legislative
History

Introduced: January 28, 2021

SUBJECT

Bagley-Keene Act Call-in and Internet Options

SUMMARY

This bill would require all open public meetings held by the Legislature, local agencies, and state bodies to include the opportunity for all persons to attend via a call-in option or an internet-based service option. This bill would also add requirements regarding noticing, translation services, and public comments options for public meetings.

This analysis only addresses the provisions that would impact the department.

RECOMMENDATION

No position

SUMMARY OF AMENDMENTS

Not applicable.

REASON FOR THE BILL

The reason for the bill is to ensure the Legislature, local agencies, and state agencies provide both a call-in and an internet-based service option, provide language access services for immigrant communities, and meeting agendas and instructions to access all public meetings remotely are posted in a timely and accessible manner.

ANALYSIS

This analysis only addresses the provisions of the bill that impact the department's programs and operations.

This bill would amend the Government Code (GC) to define a meeting under the Bagley-Keene Open Meeting Act to include a virtual congregation using teleconferencing technology. State bodies would be required to provide the opportunity for all persons, including the public, to attend open meetings either through a call-in option or an internet-based service option that provides closed captioning services. The requirement to post agendas at all teleconference locations must still be met, if all members are attending through teleconferencing options.

This bill would expand the existing requirement for one member of the state body to be physically present at an accessible location. This location must accommodate a reasonable number of people to ensure the public can provide comments in person.

This bill would require instructions on how to attend the meeting by call-in or internet-based service options. Any person who is attending the public meeting in person would not have more time or be prioritized over a person attending through the call-in or internet-based service options. The instructions need to be posted online at least 72 hours before for all regular meetings and at least 24 hours before for all special meetings. This bill would also require the instructions to be posted in languages that five (5) percent of the population of the state body's jurisdiction speaks.

This bill would require, in compliance with the Dymally-Alatorre Bilingual Services Act, a state body to provide translation services for those languages where at least five (5) percent of the population speaks within the jurisdiction. If there is a time limit for public comment, those requiring translation services will be provided double the amount of time as an English speaker to accommodate time for the translation service. The additional time would not be required if simultaneous translation services are available.

This bill would also make nonsubstantive technical changes.

Effective/Operative Date

This bill would be effective and operative January 1, 2022.

Federal/State Law

Federal Law

Various federal statutes establish open meeting requirements for federal agencies. Agencies may publish notices of upcoming meetings and hearings in the Federal Register. The Federal Advisory Committee Act, which became law in 1972, applies to government committees that advise the President and executive agencies on specific matters. Most federal agencies are subject to the open meeting provisions of the Government in the Sunshine Act, passed in 1976. This law requires "every portion of every meeting of an agency to be open to public observation." The exemptions to this requirement include matters of national defense, internal agency matters, and matters covered by privacy statutes.

Title VI of the Civil Rights Act of 1964 states that no person shall be excluded from participation in, denied the benefits of, or be subject to discrimination based on race, color, or national origin under any program or activity receiving federal financial assistance. A federal program's failure to assure that people who are not proficient in the English language can effectively participate in and benefit from the federal program or activity may constitute discrimination on the basis of national origin. Based

on Executive Order 13166, federal agencies are required to provide services and information to individuals with Limited English Proficiency (LEP) in a manner that ensures meaningful access by the applicants or beneficiaries of those federal agency programs or activities.

State Law

Under the Bagley-Keene Act, set forth in GC sections 11120-11132, all state boards and commissions have essentially three duties. First, to give timely and sufficient public notice of meetings to be held. Second, to provide an opportunity for public comment. Third, to conduct such meetings in open session, except where a closed session is specifically authorized.

Under current law, unless otherwise excepted, state bodies are required to provide notice at least 10 days in advance of a meeting that includes among other things, a specific agenda for the meeting that briefly describes each item of business for both open and closed sessions.

Specific to the Franchise Tax Board (FTB), GC section 11125.1 requires, prior to the FTB taking final action on any item, writings that are public records prepared and distributed by the FTB staff or individual members to members of the state body prior to or during a meeting be:

- Made available for public inspection at that meeting.
- Distributed to all persons who request notice in writing pursuant to subdivision (a) of Section 11125.
- Made available on the internet.

Current state law provides an exception from the requirement to allow public comment before the full membership of a state body for an agenda item that has previously been subject to public comment before a meeting of a committee of the state body.

The Dymally-Alatorre Bilingual Services Act (DABSA), requires every state agency directly involved in the furnishing of information or the rendering of services to the public, where contact is made with a substantial number of non-English-speaking people, to employ a sufficient number of qualified bilingual persons in public contact positions to ensure provision of information and services to the public in the language of the non-English-speaking person.

Implementation Considerations

The department has identified the following implementation considerations. Department staff is available to work with the author's office to resolve these and other concerns that may be identified.

As a non-tax bill, the bill would be effective January 1, 2022. For clarity consider amending the bill to provide a specific operative date, for example, the bill could be operative with respect to meetings subject to the Bagley-Keene Act scheduled on or after a specific date.

Technical Considerations

None noted.

Policy Considerations

None noted.

LEGISLATIVE HISTORY

AB 29 (Cooper & Rubio, 2021/2022) would modify the current noticing requirement under the Bagley-Keene Act to require that all writings or materials, connected with a matter subject to discussion or consideration at a noticed meeting, provided to a member of a state body by staff of a state agency, board, or commission, or another member of the state body, are to be made available on the state body's internet website, and be provided to any person that requests the writings or materials in writing, on the same day that the writings and materials are disseminated to members of the state body, or at least 72 hours in advance of the meeting, whichever is earlier. AB 29 is currently in the Assembly Governmental Organization committee.

AB 885 (Quirk, 2021/2022) would modify provisions of the Bagley-Keene Act to 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. AB 885 is currently in the Assembly, pending referral.

AB 1291 (Frazier, 2021/2022) would modify provisions of the Bagley-Keene Act to require a state body to utilize a translator or other translating technology in certain situations. AB 1291 is currently in the Assembly, pending referral.

AB 2028 (Aguilar-Curry & Gonzalez, 2019/2020) would have modified the noticing and availability of documents and writings requirements under the Bagley-Keene Act to eliminate the exception for agenda items that have previously been subject to public comment during a public meeting of a committee of the state body from the general rule that allows the public to comment on each agenda item of a state body. AB 2028 did not pass out of the Senate by the constitutional deadline.

AB 2958 (Quirk, Chapter 881, Statutes of 2018) modified the Bagley-Keene Act to authorize members of a state body that is an advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body that has no rule-making authority to attend meetings remotely via teleconference, as specified, provided the meeting complies with all other applicable requirements of the Bagley-Keene Act.

AB 67 (Dymally, Chapter 259, Statute of 2007) added definitions for “qualified bilingual person, employee or interpreter” to the Dymally-Alatorre Bilingual Services Act and expanded the instances in which a state agency may be exempted from the requirements of delivering bilingual services.

AB 3035 (Committee on Judiciary, Chapter 300, Statutes of 2002) among other things, amended the 10 day noticing requirement of the Bagley-Keene Act to require that the 10 day notice be made available in appropriate alternative formats, as specified, upon request by any person with a disability, and include information regarding how, to whom, and by when a request for any disability-related accommodation may be made by a person who requires such an accommodation to participate in the public meeting.

PROGRAM BACKGROUND

Currently, FTB provides bilingual services in over 47 different languages to the taxpayers of California. These translation services are provided primarily by 338 FTB employees self-identified as being fluent in foreign languages. Seventy-six of the FTB employees providing bilingual services are certified, primarily in the Spanish language. In instances where a taxpayer contacts the department in a language not provided, the department would contract with outside agencies for language assistance to service the taxpayer.

FISCAL IMPACT

This bill would not significantly impact the department's costs.

ECONOMIC IMPACT

Revenue Estimate

This bill as introduced January 28, 2021, would not impact state income or franchise tax revenue.

LEGAL IMPACT

None noted.

APPOINTMENTS

None noted.

SUPPORT/OPPOSITION

To be determined.

ARGUMENTS

To be determined.

LEGISLATIVE CONTACT

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