



Bill Analysis

Author: Quirk

Sponsor:

Bill Number: AB 885

Related Bills: See Legislative
History

Amended: March 24, 2021

SUBJECT

Bagley-Keene Act Teleconference Access

SUMMARY

This bill, under the Government Code (GC), would modify provisions of the Bagley-Keene Open Meeting Act (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, to clarify that the teleconference requirements apply to all state bodies, to require that agendas be posted at designated locations, as described, and that a state body quorum can be established by members attending in person or via teleconferencing.

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

RECOMMENDATION

No position.

SUMMARY OF AMENDMENTS

The March 24, 2021, amendments modified the provisions of the bill to specify how agendas must be posted for state body meetings or proceedings conducted by teleconference, added that a state body quorum can be established by members in person or via teleconferencing, and made other technical nonsubstantive changes.

REASON FOR THE BILL

The reason for this bill is to modify the Bagley-Keene Act to enhance the public's audible and visual observation of a state body's meeting or proceeding by teleconference.

ANALYSIS

With respect to all meetings of a state body, this bill would under the GC, modify the current teleconferencing requirement under the Bagley-Keene Act to require that any portion of a teleconferenced meeting that is required to be open to the public be

both audibly and visually observable to the public at the location specified in the notice of the meeting. This bill would modify the definition of “teleconference” to mean a meeting of a state body, the members of which are at different locations, connected by electronic means, through both audio and video.

When a member of a state body participates remotely, pursuant to this bill, the state body would be required to provide a means by which the public may remotely observe the meeting’s proceedings, both audibly and visually, including the members of the state body that are participating remotely.

If the meeting is adjourned and reconvened on the same day, the state body must communicate when the state body intends to reconvene the meeting and how a member of the public may observe the meeting, both audibly and visually.

In addition, if the state body elects to conduct a meeting or proceeding by teleconference, it must 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.

The bill would provide that a quorum of the members of the state body can be established by members that are in attendance via teleconference or in person physically at the primary physical meeting location.

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.

State Law

The preamble of the Bagley-Keene Act provides that it is the public policy of this state that public agencies exist to aid in the conduct of the people's business and the proceedings of public agencies be conducted openly so that the public may remain informed. The Bagley-Keene Act implements a provision of the California Constitution that states that meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny. The act facilitates accountability and transparency of government activities and protects the rights of citizens to participate in State government deliberations.

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.

Implementation Considerations

None noted.

Technical Considerations

None noted.

Policy Considerations

None noted.

LEGISLATIVE HISTORY

AB 29 (Cooper & Rubio, 2021/2022) would, under the GC, 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 Appropriations Committee.

AB 339 (Lee, et al., 2021/2022) was modified and no longer impacts the department.

AB 1291 (Frazier, 2021/2022) would, under the GC, modify provisions of the Bagley-Keene Act to allow at least twice the allotted time for public comment to a member of the public who utilizes translating technology; and makes other nonsubstantive technical changes. AB 1291 is currently in the Assembly.

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 2028 (Aguiar-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.

SB 387 (Jackson, Chapter 537, Statutes of 2016), among other things, modified the definition of "state body" for purposes of the Bagley-Keene Act to include the State Bar of California.

PROGRAM BACKGROUND

None noted.

FISCAL IMPACT

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

ECONOMIC IMPACT

Revenue Estimate

This bill, as amended March 24, 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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