

ITEM 9

LEGISLATIVE UPDATE

Commission staff continues to monitor legislation for bills that might affect the mandates process.

AB 1610 State mandates: claims

AB 1610 was introduced by Assembly Member Lackey on January 5, 2022 and was referred to the Assembly Committee on Local Government on January 14, 2022.

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 amount to \$800.

This bill contains the similar language to the member's 2021 bill, AB 1013 State mandates: claims, which staff tracked last year and the member's 2020 spot bill, AB 2395 State mandates: claims, which staff tracked the previous year.

AB 1967 State Government

AB 1967 was introduced by Assembly Member Daly on February 10, 2022. This bill may be heard in committee on March 13, 2022.

Existing law, Government Code section 17550 et seq., sets forth the sole procedure by which local agencies and school districts may claim reimbursement for costs mandated by the state. This bill would make technical, non-substantive, changes to those provisions.

AB 1733 State bodies: open meetings

AB 1733 was introduced by Assembly Member Quirk on January 31, 2022 and was referred to the Assembly Committees on Governmental Organization and Business and Professions on February 18, 2022.

Existing law, the Bagley-Keene Open Meeting Act, requires, with specified exceptions, that all meetings of a state body be open and public and all persons be permitted to attend any meeting of a state body. The act defines a "meeting" to include any congregation of a majority of the members of a state body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the state body to which it pertains. The act authorizes teleconferenced meetings under specified circumstances, provided that at least one member of the state body is physically present at the location specified in the notice of the meeting, and all votes taken during a teleconferenced meeting are taken by rollcall. The act provides that if the state body elects to conduct a meeting or proceeding by teleconference, the state body is required to post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the rights of any party or member of the public appearing before the state body. The act requires each teleconference location to be identified in the notice and agenda of the meeting or proceeding, and

each teleconference location to be accessible to the public, and the agenda to provide an opportunity for members of the public to address the state body at each teleconference location.

Existing law requires a state body to provide notice of its meeting to any person who requests that notice in writing and to provide notice of the meeting of its internet website at least 10 days in advance of the meeting, as prescribed. Existing law exempts from the 10-day notice requirement, special meetings and emergency meetings in accordance with specified provisions. Existing law authorizes a state body to adjourn any regular, adjourned regular, special, or adjourned special meeting to a time and place specified in the order of adjournment, and authorizes a state body to similarly continue or recontinue any hearing being held, or noticed, or ordered to be held by a state body at any meeting.

This bill would specify that a “meeting” under the act, includes a meeting held entirely by teleconference. The bill would require all open meetings to be held by teleconference, would allow for use of teleconference in closed sessions, and would remove existing 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 hear and observe, the meeting and may remotely address the state body via two-way audio-visual platform or two-way telephonic service, 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 require the state body to provide members of the public a physical location to hear, observe, and address the state body, and would authorize the members of the state body to participate in a meeting remotely or at a designated physical meeting location, and specify that physical presence at any physical meeting location is not necessary for the member to be deemed present at the meeting. The bill would require the agenda to be posted 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, on the day of the meeting, at any physical meeting location designated in the notice. 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 notice and agenda from disclosing any information regarding any remote location from which a member is participating, and require members attending a meeting from a remote location to disclose whether any other individuals 18 years of age or older are present in the room, as specified.

If a state body discovers that a means of remote participation, as defined, required by these provisions has failed during a meeting and cannot be restored, 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.

The bill also makes other changes regarding special meetings, advisory bodies of state boards, and provisions particular to various specific boards and commissions.

This bill would declare the Legislature’s intent, consistent with the Governor’s Executive Order No. N-29-20, to improve and enhance public access to state and local agency meetings during the COVID-19 pandemic and future emergencies by allowing broader access through teleconferencing options.

This bill would declare that it is to take effect immediately as an urgency statute.

AB 1795 Open meetings: remote participation

AB 1795 was introduced by Assembly Member Fong on February 7, 2022. On February 18, 2022, it was referred to the Assembly Committee on Governmental Organization. It may be heard in committee on March 10, 2022.

Existing law, the Bagley-Keene Open Meeting Act, requires state bodies to allow all persons to attend meetings and provide an opportunity for the public to address the state body regarding any item included in its agenda, except as specified.

This bill would require state bodies, subject to existing exceptions, to provide all persons the ability to participate both in-person and remotely, as defined, in any meeting and to address the body remotely.

AB 2066 Communication: telegraph corporations, telegraphy, and telegrams

AB 2066 was introduced by Member Seyarto on February 14, 2022. On February 24, 2022, it was referred to the Assembly Committee on Communications and Conveyance. It may be heard in committee on March 17, 2022.

This bill would make numerous substantive and technical changes to telegraph laws, not relevant to the Commission. This bill would also amend the provisions for special meetings under Bagley-Keene by removing the telegram as a means for a member to waive notice.

Additionally, Commission staff continues to monitor the following bills from last year:

AB 1013 State mandates: claims

AB 1013 (Lackey) was referred to the Assembly Committee on Local Government on March 4, 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.

This bill contains the same language as the member’s 2020 spot bill, AB 2395 State mandates: claims, which staff tracked the previous year.

On January 31, 2022, this bill died pursuant to Article IV, Section 10(c) of the California Constitution because it did not make it out of its house of origin by the deadline.

AB 885 Bagley-Keene Open Meeting Act: teleconferencing

AB 885 (Quirk) was re-referred to the Assembly Committee on Governmental Organization on March 25, 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 January 31, 2022, this bill died pursuant to Article IV, Section 10(c) of the California Constitution because it did not make it out of its house of origin by the deadline.

AB 29 State Bodies: meetings

AB 29 (Cooper) was referred to the Assembly Committee on Appropriations suspense file on April 21, 2021 and on May 20, 2021, the bill was held under submission.

Existing law, the Bagley-Keene Open Meeting Act, requires that all meetings of a state body, as defined, be open and public, and that all persons be permitted to attend any meeting of a state body, except as otherwise provided in that act. Existing law requires the state body to provide notice of its meeting, including specified information and a specific agenda of the meeting, as provided, to any person who requests that notice in writing and to make that notice available on the internet at least 10 days in advance of the meeting.

This bill would require that notice to include all writings or materials provided for the noticed meeting to a member of the state body by the staff of a state agency, board, or commission, or another member of the state body that are in connection with a matter subject to discussion or consideration at the meeting. The bill would require those writings or materials to be made available on the state body's internet website, and to any person who requests the writings or materials in writing, on the same day as the dissemination of the writings and materials to members of the state body or at least 72 hours in advance of the meeting, whichever is earlier. The bill would prohibit a state body from discussing those writings or materials, or from taking action on an item to which those writings or materials pertain, at a meeting of the state body unless the state body has complied with these provisions.

On January 31, 2022, this bill died pursuant to Article IV, Section 10(c) of the California Constitution because it did not make it out of its house of origin by the deadline.

AB 884 State agencies: audits

AB 884 (Patterson) was referred to the Assembly Committee on Appropriations suspense file on May 5, 2021 and on May 20, 2021, the bill was held under submission.

Existing law requires all state and local agencies with an aggregate spending of \$50,000,000 or more annually to consider establishing an ongoing audit function.

This bill would require all state agencies with an aggregate spending of \$50,000,000 or more annually to establish an ongoing audit function.

Existing law requires any governing body, as defined, that oversees a state agency that performs or reviews internal audits to establish an audit committee. Existing law, the Bagley-Keene Open Meeting Act (Bagley-Keene Act), requires that all meetings of a state body, as defined, be open and public, and all persons be permitted to attend any meeting of a state body, except as provided. Violation of the Bagley-Keene Act is a crime.

This bill would extend the requirements of the Bagley-Keene Act to the internal audit committees established by any governing body if the governing body is subject to the Bagley-Keene Act. By expanding the scope of an existing crime, this bill would impose a state-mandated local program.

Existing law generally requires all internal auditor operations of state agencies to meet specified criteria. If a state agency does not report to a governing body, existing law requires the internal auditor operations to, among other things, report audit findings and recommendations to the head or deputy head of the state agency and to the general counsel of the state agency, if applicable. If a state agency is overseen by a governing body, existing law requires the internal audit operations to, among other things, report audit findings and recommendations to the audit committee and general counsel of the governing body.

This bill would require both of these types of state agencies to post audit findings and recommendations on its internet website within five days of reporting its audit findings and recommendations, as described above. The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement. This bill would provide that no reimbursement is required by this act for a specified reason.

On January 31, 2022, this bill died pursuant to Article IV, Section 10(c) of the California Constitution because it did not make it out of its house of origin by the deadline.