

ITEM 6

LEGISLATIVE UPDATE

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

SB 544 Bagley-Keene Open Meeting Act: teleconferencing (Laird, Statutes 2023, chapter 216)

This bill amends, repeals, and adds Government Code section 11123, relating to public meetings via teleconferencing. This bill was chaptered on September 22, 2023, and is effective on January 1, 2024.

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 authorizes meetings through teleconference subject to specified requirements, including, among others, that the state body post agendas at all teleconference locations, that each teleconference location be identified in the notice and agenda of the meeting or proceeding, that each teleconference location be accessible to the public, that the agenda provide an opportunity for members of the public to address the state body directly at each teleconference location, and that at least one member of the state body be physically present at the location specified in the notice of the meeting.

This bill enacted additional, alternative provisions under which a state body may hold a meeting by teleconference. The bill requires at a majority of the members (a quorum) to be physically present in a single teleconference location and at least one member of the state body to be physically present at each teleconference location, defined for these purposes as a physical location that is accessible to the public and from which members of the public may participate in the meeting.

The bill, under specified circumstances, authorizes a member of the state body to participate from a remote location, which would not be required to be accessible to the public and which the bill would prohibit the notice and agenda from disclosing. Specifically, the bill authorizes a member's remote participation if the other members who are physically present at the same teleconference location constitute a majority of the state body. The bill also authorizes a member's remote participation if the member has a need related to a disability and notifies the state body, as specified. Under the bill, that member is counted toward the majority of members required to be physically present at the same teleconference location. The bill requires a member who participates from a remote location to disclose whether any other individuals 18 years of age or older are present in the room at the remote location with the member and the general nature of the member's relationship with those individuals.

This bill requires the members of the state body to visibly appear on camera during the open portion of a meeting that is publicly accessible via the internet or other online platform unless the appearance would be technologically impracticable, as specified. A member who

does not appear on camera due to challenges with internet connectivity is required to announce the reason for their nonappearance when they turn off their camera.

This bill also requires the state body to provide a means by which the public may remotely hear audio of the meeting, remotely observe the meeting, remotely address the body, or attend the meeting by providing on the posted agenda a teleconference telephone number, an internet website or other online platform, and a physical address for each teleconference location. The bill requires the telephonic or online means provided to the public to access the meeting to be equivalent to the telephonic or online means provided to a member of the state body participating remotely. The bill requires any notice required by the act to specify the applicable teleconference telephone number, internet website or other online platform, and physical address of each teleconference location, as well as any other information indicating how the public can access the meeting remotely and in person. If the state body allows members of the public to observe and address the meeting telephonically or otherwise electronically, the state body is required to implement and advertise, as prescribed, a procedure for receiving and swiftly resolving requests for reasonable modification or accommodation from individuals with disabilities, as specified. The bill imposes requirements consistent with the above-described existing law provisions, including a requirement that the agenda provide an opportunity for members of the public to address the state body directly, as specified. The bill entitles members of the public to exercise their right to directly address the state body during the teleconferenced meeting without being required to submit public comments before the meeting or in writing.

This bill provides that it does not affect prescribed existing notice and agenda requirements and requires the state body to post an agenda on its internet website and, on the day of the meeting, at each teleconference location designated in the notice of the meeting.

This bill requires the state body, upon discovering that a means of remote participation required by the bill has failed during the meeting and cannot be restored, to end or adjourn the meeting in accordance with prescribed adjournment and notice provisions, including information about reconvening.

Existing law authorizes a multimember state advisory body to hold an open meeting by teleconference pursuant to an alternative set of provisions that are in addition to the above-described provisions generally applicable to state bodies. Under those alternative provisions, a quorum of the members of the state advisory body must be in attendance at the primary physical meeting location, as specified, and all decisions taken during the meeting must be by rollcall vote.

This bill sunsets the above provisions on January 1, 2026.

Existing law prohibits requiring a person, as a condition of attendance at a meeting of a state body, to register their name, to provide other information, to complete a questionnaire, or otherwise to fulfill any condition precedent to their attendance. Existing law requires an attendance list, register, questionnaire, or other similar document posted at or near the entrance to the room where the meeting is to be held, or circulated to persons present during the meeting, to state clearly that the signing, registering, or completion of the document is voluntary, and that all persons may attend the meeting regardless of whether a person signs, registers, or completes the document.

This bill exempts from those provisions an internet website or other online platform that may require the submission of information to log into a teleconferenced meeting. The bill would permit a person to submit a pseudonym or other anonymous information when using the internet website or other online platform to attend the 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 makes legislative findings to that effect.

AB 143 State Government (Assembly Committee on Budget, as amended August 29, 2023)

Among other things, this budget trailer bill would have added and repealed Section 11133 of the Government Code to amend the Bagley-Keene Open Meeting Act with respect to teleconferencing requirements. On September 13, 2023, this bill was re-referred to the Senate Committee on Budget and Fiscal Review, where it remains.

SB 143 State Government (Senate Committee on Budget and Fiscal Review, Statutes 2023, chapter 196)

Among other things, this budget trailer bill added and repealed Section 11133 of the Government Code. On September 13, 2023 this bill was approved by the Governor and was chaptered.

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 authorizes meetings through teleconference under specified conditions, including, among others, that each teleconference location be accessible to the public and that at least one member of the state body be physically present at the location specified in the notice of the meeting.

Prior to July 1, 2023, existing law authorized, subject to specified notice and accessibility requirements, a state body to hold public meetings through teleconferencing and suspended certain requirements of the act, including the requirements referenced above.

This bill, until December 31, 2023, reinstates the above-described authorization for a state body to hold public meetings through teleconferencing.