

ITEM 7

LEGISLATIVE UPDATE

AB 473 California Public Records Act: conforming revisions

AB 473 (Chau) was chaptered on October 7, 2021.

The California Public Records Act requires state and local agencies to make their records available for public inspection, unless an exemption from disclosure applies.

This bill would recodify and reorganize the provisions of the act. The bill would include provisions to govern the effect of recodification and state that the bill is intended to be entirely nonsubstantive in effect. The bill would contain related legislative findings and declarations. The bill would become operative on January 1, 2023.

This bill would incorporate additional changes proposed by AB 386, AB 562, and SB 823 to be operative only if this bill and AB 386, AB 562, and SB 823 are enacted and this bill is enacted last. None of those bills were enacted prior to AB 473 or the end of session.

AB 474 California Public Records Act: conforming revisions

AB 474 (Chau) was chaptered on October 7, 2021.

The California Public Records Act requires state and local agencies to make their records available for public inspection, unless an exemption from disclosure applies.

This bill would enact various conforming and technical changes related to AB 473, which recodifies and reorganizes the California Public Records Act. The operative effect of this bill was conditional on the enactment of AB 473 which was enacted on October 7, 2021, with an operative date of January 1, 2023. The bill also provides that any other bill enacted by the Legislature during the 2021 calendar year that takes effect on or before January 1, 2022, and that affects a provision of this bill shall prevail over this act, except as specified.

Most of the changes made by this bill, including amendments to Government Code sections 11124.1, 11125.1, 11126, and 11126.1, are technical in nature or are unrelated to the mandates process.

AB 1013 State mandates: claims

AB 1013 was introduced by Assembly Member Lackey on February 18, 2021. On March 4, 2021, the bill was referred to the Assembly Committee on Local Government.

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 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 year. 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 (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.

However, this bill did not make it out of its house of origin before the deadline to do so for this year. Therefore, it may become a two-year bill if it clears the Assembly by January 31, 2022.

AB 29 State Bodies: meetings

AB 29 (Cooper) was re-referred to the Assembly Committee on Appropriations on April 21, 2021 and was held in the suspense file, and on May 20, 2021, it 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.

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

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.

This bill did not make it out of its house of origin before the deadline to do so for this year. 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 mandates law or the mandates process.