

## ASSEMBLY THIRD READING

AB 2028 (Aguilar-Curry)

As Amended June 4, 2020

Majority vote

**SUMMARY:**

This bill modifies the Bagley-Keene Open Meeting Act (Bagley-Keene) to require a state body to post online relevant writings and materials on the same day as they are disseminated to members of the body, or at least 48 hours in advance of the meeting, whichever is earlier.

**Major Provisions**

- 1) Requires that all writings or materials provided for a noticed meeting to a member of a state body by the staff of a state agency be made available on the same day as they are disseminated to members of the body, or at least 48 hours in advance of the meeting, whichever is earlier.
- 2) Provides that this requirement does not apply to writings or materials prepared for a matter to be discussed in a closed session of the state body.
- 3) Deletes a provision allowing a state body to not hear public comment on an agenda item if the item had already been considered by a committee composed exclusively of members of the state body at a public meeting where members of the public were afforded the opportunity to provide public comment, as specified.
- 4) Specifies if relevant writings and materials are related to current legislation, a state body is entitled to post online additional materials related to that active legislation as it becomes available.

**COMMENTS:**

The Bagley-Keene Act facilitates transparency of government activities and protects the rights of citizens to participate in state government deliberations. Therefore, absent a specific reason to keep the public out of meetings, the public should be allowed to monitor and participate in the decision-making process.

Under Bagley-Keene, a state body must disclose their agenda ten days prior to holding a meeting. Public disclosure of the items to be discussed and acted upon in advance of a meeting allows members of the public adequate time to review the items listed, so they can provide substantive, efficient, and informed comments during the public comment period.

This existing law also requires that a state body must provide an opportunity for members of the public to directly provide comment on each agenda item for discussion or consideration. Although Bagley-Keene requires state agencies, boards, and commissions to post their agendas publically online ten days prior to a meeting, existing law does not include a similar public notice requirement for supporting documents the body will consider relating to an item on the agenda.

**According to the Author:**

"This bill ensures the public has access to all relevant background documents prior to the meeting of a state agency, board or commission. Public access to information is a critical component of our democratic process and encourages informed public engagement with our state leaders. This bill provides the diverse public of our state with a platform to share their opinions and make their voices heard."

**Arguments in Support:**

The California Nurses Association/National Nurses United writes in support, "this bill will close loopholes in the Bagley-Keene Act and provide for greater transparency and disclosure in state public meetings. It is crucial the Legislature act to codify these protections and ensure government transparency. In these uncertain times, it is even more crucial the Legislature act to ensure state agencies, commissions and boards provide crucial transparency when they are not meeting in person."

**Arguments in Opposition:**

The Board of Behavioral Sciences writes in opposition, "the Board recognizes the importance of full public transparency in regard to its meetings, and always strives to do everything possible in order to achieve this. However, it has serious concerns that in some instances, the proposed requirement that all writings or materials be made available online at least 10 days in advance of a meeting for them to be discussed will have a chilling effect on the Board's ability to take action based on the most recent available information."

**FISCAL COMMENTS:**

According to the Assembly Committee on Appropriations, potentially significant costs to state agencies for complying with new notice and open meeting requirements. While this bill applies to a range of state agencies and departments, the Department of Consumer Affairs (DCA) will be the most acutely affected. A range of DCA programs, such as the Board of Behavioral Sciences, will see increased workload and costs related to fast tracking materials to meet the required 48-day deadline. Altogether, additional DCA costs could exceed \$150,000 annually.

**VOTES:****ASM GOVERNMENTAL ORGANIZATION: 19-0-2**

**YES:** Gray, Bigelow, Aguiar-Curry, Berman, Bonta, Brough, Daly, Gallagher, Eduardo Garcia, Gipson, Jones-Sawyer, Lackey, Low, Mathis, Melendez, Quirk-Silva, Robert Rivas, Blanca Rubio, Salas

**ABS, ABST OR NV:** Cooley, Cooper

**ASM APPROPRIATIONS: 18-0-0**

**YES:** Gonzalez, Bigelow, Bauer-Kahan, Bloom, Bonta, Calderon, Carrillo, Chau, Megan Dahle, Diep, Eggman, Fong, Gabriel, Eduardo Garcia, Petrie-Norris, McCarty, Robert Rivas, Voepel

**UPDATED:**

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