
SENATE COMMITTEE ON APPROPRIATIONS

Senator Anthony Portantino, Chair
2019 - 2020 Regular Session

AB 2028 (Aguiar-Curry) - State agencies: meetings

Version: July 28, 2020

Urgency: No

Hearing Date: August 19, 2020

Policy Vote: G.O. 13 - 0

Mandate: No

Consultant: Janelle Miyashiro

Bill Summary: AB 2028 amends the Bagley-Keene Open Meeting Act to require specified timeframes for posting meeting materials and modifies the public testimony process.

Fiscal Impact: Unknown, potentially significant costs for various state agencies to comply with the provisions of the bill. Total costs of the bill are indeterminate, but vary across the affected state agencies. For example:

- The State Water Board (SWB) anticipates ongoing costs of up to approximately \$1 million to collect and post the required documentation for its regular meetings as well as for each of the nine Regional Water Boards.
- The Department of Consumer Affairs anticipates variable costs across its programs, ranging from minor and absorbable to the hundreds of thousands of dollars.

If all state agencies and commissions affected by the bill experience similar cost pressures, the fiscal impact of the bill may be in the millions of dollars.

The Department of Justice anticipates a fiscal impact of up to \$25,000 (General Fund) to its Record Management Branch.

Background: The Legislature enacted the Bagley-Keene Act of 1967 to provide the public with the ability to monitor and be part of the decision-making process of state government. The Bagley-Keene Act explicitly mandates open meetings for California State agencies, boards, and commissions to facilitate transparency of government activities and protect the rights of citizens to participate in state government deliberations.

Under Bagley-Keene, a state body must disclose their agenda 10 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. The Bagley-Keene Act does not require the option for public comment on an item, if it was discussed during a prior committee meeting of that body.

Although Bagley-Keene requires state agencies, boards, and commissions to post their agendas publically online 10 days prior to a meeting, it does not include a similar public notice requirement for supporting documents the body will consider relating to an item on the agenda.

Proposed Law: This bill:

- Requires the writings or materials provided for a noticed meeting to a member of the state body, as specified, to be made available on the state body's internet website no later than the first business day following the dissemination of the writings and materials to members of the state body, or at least 48 hours in advance of the meeting, whichever is earlier.
- Requires a state body to make materials provided to members of a state body, including writings and materials provided by another state body, to be made available immediately upon receipt of a written request.
- Requires that any writings or materials provided to the members of a state body by another state body after the time period described above be posted on the state body's internet website no later than the first business day, but prior to the meeting of the state body, following the dissemination of the writings and materials to the members of the state body.
- Exempts writings or materials prepared for a matter to be discussed in a closed session of a state body and state financial materials that put the California State Treasurer at a competitive disadvantage in financial transactions from the new posting requirements above.
- Deletes an existing exemption regarding public comment at meetings of a state body, thereby making the requirement to provide an opportunity to address the state body applicable to an agenda item for which the public had an opportunity to address at a public meeting of a committee of the state body.
- Includes Legislative findings and declarations.

Staff Comments: Under the provisions of the bill, the SWB reports that it would be required to routinely collect information on each noticed agenda item at each meeting. This would entail conducting searches of agency servers and e-mail accounts for documents pertaining to each item, and would additionally require staff to proactively coordinate with program staff to ensure that all communications, meeting notes, and messages would be posted in accordance with the bill. Additionally, this systematic collection of documents would need to be replicated for each of the nine Regional Water Boards. The SWB reports that while the Regional Water Boards do not meet as often or typically on as great a number of noticed items, carrying out the provisions of this bill to post documentation related to posted items would still require a substantial amount of ongoing work.

All documents newly posted under the provisions of this bill would need to be formatted to ensure that they meet state law. The SWB reports that the volume of documentation that would be posted on the its websites would be substantial, ranging from e-mails to

scanned documents and handwritten notes. The formatting and posting of thousands of documents across various media in an accessible manner, across the Regional Water Boards as well as the SWB, would require significant ongoing resources. Overall costs to the SWB could potentially be higher, depending on increased SWB activities in emergency situations such as drought or disaster response. These costs would spread across funding programs for water rights, water quality, drinking water, and financial assistance, and would result in increased regulatory fees.

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