

# BAGLEY-KEENE OPEN MEETING ACT

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## **Declared policy of the state**

“It is the public policy of this state that public agencies exist to aid in the conduct of the people's business and the proceedings of public agencies be conducted openly so that the public may remain informed. In enacting this article the Legislature finds and declares ... that actions of state agencies be taken openly and that their deliberation be conducted openly....”

Govt. Code §11120.

# OVERVIEW

- All Board meetings must be open and public
- **The Board must provide a notice and agenda to the public for all meetings 10 calendar days in advance**
- The Board must conduct its meetings and make its decisions in public
- The Board must allow all persons to attend and participate in its meetings

# WHO IS COVERED BY THE BAGLEY-KEENE ACT?

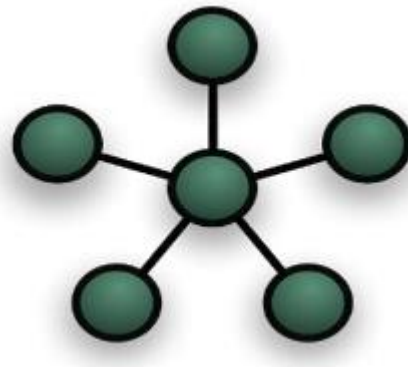
- State bodies that consist of multiple members (two or more people) created by statute or required by law to conduct official meetings
- Advisory Bodies, if:
  - Created by the Legislature, or
  - Created by the Board or any member of the Board, and has three or more members
- Delegated Body
  - Exercises power that has been delegated by the Board
  - Common example is an Executive Committee

# WHAT CONSTITUTES A MEETING?

A “Meeting” is defined as “any congregation of a majority of the members [of the Board]. . . at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of [the Board].”

# SERIAL MEETINGS

- Serial meetings constitute a meeting where communications “taken as a whole” involve the majority of members.
- Linear communications 1 → 2 → 3 → 4
- Spoke & Hub communications



# SUBCOMMITTEES

- Boards are allowed to establish subcommittees
- Subcommittees that act in an *advisory capacity* only need to comply with Bagley-Keene if more than two members are assigned to the subcommittee
- Subcommittees that are *delegated authority* to act on behalf of the Board must always comply with Bagley-Keene

# MEETINGS BY TELECONFERENCE/VIDEOCONFERENCE

- Mandatory conditions of a teleconference location:
  - A member of the Board is present at the site
  - Each site is accessible to the public
  - ADA compliant
  - Public can hear
- Agenda must be provided and public allowed to speak from each location
- Votes by roll call



# PURPOSE OF THE ACT

- Operating under the requirements of the Act can sometimes be frustrating for both board members and staff
  - This results from the lack of efficiency built into the Act and the unnatural communication patterns brought about by compliance with its rules
- Developing consensus
  - Group of individuals with a variety of experiences, backgrounds and viewpoints
  - There needs to be a seat at the table reserved for the public
- **Simply put, some efficiency is sacrificed for the benefits of greater public participation in government**

# NOTICE

- 10 day Notice
  - Sent to everyone who has requested a copy
  - Sent to members
  - Posted on internet
- Notice includes:
  - Name, phone number and address of person who can answer questions about meeting and agenda
- Must include web site address

# AGENDA

- Brief general description (less than 20 words) of each item to be discussed or transacted
  - Provide information to help the public determine whether or not they should attend and/or participate
  - Applies to open session and closed session items
- Board may not discuss or act on matters not included in the agenda
- New issues may be included on the next agenda

# PUBLIC ACCESS AND PARTICIPATION

- All meetings are open to the public
- All votes are open; no secret ballots
- ADA compliant
- Board may not impose conditions on public attendance at a meeting
- Public must have the opportunity to speak either before or during consideration of each agenda item
- No discrimination of attendance based on race, national origin, etc.; no entrance fee

# PUBLIC COMMENT

- The Board must take public comments on agenda items
  - Before or during board discussion
    - Must allow critical comments
  - Time allowed
    - Reasonable regulations may be adopted
    - Per speaker
    - Overall time allowed

# CLOSED SESSIONS

- Must list as “closed session” and meet and cite statutory exception
- Decisions made in closed session are publicly announced and confidential minutes kept
- Examples of permissible closed sessions include the following:
  - Personnel Exception
  - Pending Litigation Exception
  - Real Property Exception
  - Security Exception

# REMEDIES FOR VIOLATION OF BAGLEY-KEENE

- Decisions can be overturned
- May have to restart the process
- Potential for lawsuit
- Misdemeanor if proven intent to deceive public

END OF PRESENTATION

