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Brief Introduction to the Workforce Innovation and Opportunity Act and the Focus of the State Strategic Plan

The enactment of the Workforce Innovation and Opportunity Act of 2014 brought with it several changes to the nation's federally funding workforce system programs. One of the primary changes is the requirement to do joint strategic planning and alignment of workforce system partners. This planning effort in California includes core partners Chancellor's Office of California's Community College system, California Department of Education Adult and Family Literacy programs, Department of Rehabilitation, the California Employment Development Department, and other departments under the Labor and Workforce Development Agency.

A second change is the focus on designating regional planning units and similarly, regional planning efforts to further align programs to respond to the dynamics within a regional economy and bring about greater cooperation among the variety of federal, state and community based organizations that provide employment related training and programs in the region. Additional changes include a greater focus on serving Out of School youth and development, common performance measures across core partner programs, and implementation of pro-active business engagement strategies that support regional industry employers and development of career pathways that meet their need for a skilled workforce.

The State Board, in collaboration with state and local partners, completed the comprehensive strategic plan "Skills Attainment for Upward Mobility; Aligned Services for Shared Prosperity" and received approval from the U.S. Departments of Labor and Education on October 20, 2016.

Implementing the Policy Objectives and Strategies of the State Plan

Consistent with WIOA, the State Board has developed its State Plan with three policy objectives in mind. These objectives affect both state-level policy and administrative practices across programs as well as local policy and service delivery:

- Fostering "demand-driven skills attainment". Workforce and education programs need to align program content with the state's industry sector needs so as to provide California's employers and businesses with the skilled workforce necessary to compete in the global economy.

- Enabling upward mobility for all Californians, including populations with barriers to employment. Workforce and education programs need to be accessible for all Californians and ensure that everyone has access to a marketable set of skills, and is able to access the level of education necessary to get a good job that ensures both long-term economic self-sufficiency and economic security.
- Aligning, coordinating, and integrating programs and services to economize limited resources to achieve scale and impact, while also providing the right services to clients, based on each client's particular and potentially unique needs, including any needs for skills-development.

The seven State Plan strategies are as follows:

- sector strategies: aligning workforce and education programs with sector needs; the success of these efforts will depend on the depth of industry engagement.
- career pathways: enabling progressive skills development through education and training programs, using multiple entry and exit points, so that each level of skills development increases the likelihood of success in the labor market; these pathways should be flexibly designed and include, where necessary, remedial programming, so as to allow those with basic skills deficiencies an ability to participate
- regional partnerships: building partnerships between industry leaders, workforce professionals, education and training providers, and economic development leaders to support regional economic growth; the success of these efforts will depend on the depth of industry engagement
- “earn and learn”—using training and education practices that combine applied learning opportunities with compensation; the success of earn and learn programs depends on sustained employer engagement, and where appropriate, the involvement of organized labor, especially as this pertains to the development of partnerships with labor- management apprenticeship and pre-apprenticeship programs
- supportive services: providing ancillary services like childcare, transportation, and counseling to facilitate program completion
- integrated service delivery: braiding resources and services to meet client needs

- creating cross-system data capacity, including diagnostic labor market data to assess where to invest, and performance data to assess the value of investments

Under the Plan, these seven strategies will be carried out at both the regional and local level with some of the strategies being primarily regional in orientation, with others primarily being local in orientation. Regional plans and partnerships will focus on engaging employers and building regional workforce and education “pipelines” that align with regional industry sector needs. As such, the use of sector strategies, the identification of relevant career pathways, and the carrying out of regional organizing efforts will be addressed primarily through WIOA regional plans required under Section 106 of WIOA.

Local partnerships and plans will be focused primarily on providing services to individuals and “feeding” the regional pipeline using AJCCs as an access point or “on ramp” for skills attainment for individuals who need to up-skill, especially those populations with barriers to employment. As a consequence, partnerships to integrate service delivery, braid resources, and provide supportive services will necessarily develop at the local level on the basis of local plans and partnerships and especially through the alignment, integration, and coordination of services under MOUs to operate the local AJCC system.

The remaining policy strategies “earn and learn” and “creating cross system data capacity” will be employed at both the local and regional levels, as warranted, depending on the types of regional and local partnerships that form to meet employer and individual worker and student needs. For example, coordination between the subsidized employment programs operated under CalWORKs, with other programs like WIOA Title I Adult and Out of School Youth programs, as well as programs for at-risk youth and WIOA Title II programs pertaining to basic skills remediation, will typically happen at the local level because County Welfare programs are not organized regionally.

Regional Plans and “Regional Sector Pathways”: The Pivot of the State Plan

WIOA Section 106 includes the requirement that the Governor both identify and organize Local Boards into regional planning units (RPU). The purpose of RPUs is to provide for the regional coordination and alignment of workforce development activities by Local Boards working in the same economic region.

WIOA envisions that Local Boards organized in RPUs will engage in joint planning, coordinate service delivery, share administrative costs, and enter into regional coordination efforts with economic development agencies operating in the same region. WIOA also directs Local Boards to engage in the joint

development and implementation of regional sector initiatives so as to align workforce services and investments with regional industry sector needs.

Under this State Plan, a primary objective and requirement of WIOA regional plans will be to work with local community colleges and community college Regional Consortia and other training and education providers, including the state's seventy regional Adult Education Block Grant consortia to build "Regional Sector Pathway" programs, career pathway programs that result in the attainment of industry-valued and recognized postsecondary credentials that are both portable and aligned with regional workforce needs.

Under this State Plan, the key regional partners involved with the development and implementation of WIOA regional plans will include the following:

- Industry sector leaders, associations, and business organizations
- Regionally organized Local Boards (RPU's)
- Local economic development agencies
- Regional consortia of community colleges
- Regional consortia of adult basic education providers (including both WIOA Title 2 and other state-funded basic education programs)
- Representatives of K-14 CTE programs funded by either federal Perkins funds or various state-specific CTE funding streams, when relevant county offices of education and other local educational agencies determine that participation will benefit students participating in CTE programs

Additional regional partners may also include the Employment Training Panel, Department of Rehabilitation, and County Welfare Agencies. These entities may wish to participate in regional plans and the regional planning process to leverage the employer engagement efforts required and made central to regional planning.

The Workforce Innovation and Opportunity Act

Investing in America's Competitiveness

KEY IMPROVEMENTS FROM CURRENT LAW

Changes to the Workforce Development System:

- Eliminates 15 programs; 14 within WIA and one higher education program.
- Applies one set of accountability metrics to every federal workforce program under the bill.
- Requires states to produce one strategic plan describing how they will provide training, employment services, adult education and vocational rehabilitation through a coordinated, comprehensive system.
- Reduces the number of required members on state and local workforce boards.
- Strengthens alignment between local workforce areas and labor markets and economic development regions.
- Strengthens evaluation and data reporting requirements.
- Specifies authorized appropriation levels for each of the fiscal years 2015-2020.
- Adds a minimum and maximum funding level to the dislocated worker formula beginning in fiscal year 2016 to reduce volatility.

Changes to Training and Employment Services:

- Eliminates the “sequence of services” and merges “core and intensive activities” into a combined “career services.”
- Emphasizes access to real-world training opportunities through:
 - Increasing the ability to use on-the-job training (*reimbursement rates up to 75 percent for eligible employers*), incumbent worker training (*may use up to 20 percent of local funds*), and customized training;
 - New opportunities to utilize prior learning assessments;
 - Pay-for-performance training contracts for adults and youth (*local boards may use up to 10 percent of funds*); and
 - Requirements for implementation of industry or sector partnerships and career pathway strategies.
- Requires 75 percent of youth funding to support out-of-school youth, of which 20 percent is prioritized for work-based activities.

Changes to Job Corps:

- Improves the procurement process for center operators to support high-quality services by:
 - Collecting information on key factors indicating the ability of an applicant to operate a center;
 - Providing the operator of a high-performing center the opportunity to compete for contract renewal; and
 - Placing limits on the ability of an operator of a chronically low-performing center to compete for a contract renewal, or to continue to operate that center.
- Allows the U.S. Department of Labor to provide technical assistance to Job Corps operators and centers to improve operations and outcomes.
- Collects more data on Job Corps operations and financial management to better inform Congress and the public about the program.

Changes to Adult Education:

- Strengthens the connection between adult education, postsecondary education, and the workforce.
- Improves services to English language learners.
- Requires evaluations and additional research on adult education activities.

Changes to State Vocational Rehabilitation Services:

- Sets high expectations for individuals with disabilities with respect to employment.
- Provides youth with disabilities the services and supports necessary to be successful in competitive, integrated employment.

Organization, Composition, Roles and Responsibilities

Organization:

The California Workforce Development Board (State Board) is the body responsible for assisting the Governor in the development, oversight, and continuous improvement of California's workforce investment system and the alignment of the education and workforce investment systems to the needs of the 21st century economy and workforce.

The board reports, through its executive director, to the Secretary of the Labor and Workforce Development Agency.

Composition

Members of the State Board are appointed by the Governor to assist in the development of the State Plan and to carry out the range of functions identified below. The State Board is comprised of the Governor and representatives from the following categories:

- Two members of each house of the Legislature, appointed by the appropriate presiding officer of each house.
- A majority of board members shall be representatives of business who:
 - Are owners of businesses, chief executives or operating officers of businesses, and other business executives or employers with optimum policymaking or hiring authority, who, in addition, may be members of a local board described in Section 3122(b)(2)(A)(i) of Title 29 of the United States Code.
 - Represent businesses, including small businesses, or organizations representing businesses that include high-quality, work-relevant training and development in in-demand industry sectors or occupations in the state.
 - Are appointed from a group of individuals nominated by state business organizations and business trade associations.
- Not less than 20 percent of board members shall be representatives of the workforce within the state, including representatives of labor organizations nominated by state labor federations, who shall not be less than 15 percent of the board membership and who shall include at least one representative that is a member of a labor organization or a training director, from a joint labor-management apprenticeship program, or if no such joint program exists in the state, such a representative of an apprenticeship program in the state.

Representatives appointed pursuant to this subdivision may include:

- Representatives of community-based organizations that have demonstrated experience and expertise in addressing the employment, training, or education needs of individuals with barriers to employment, including organizations that serve veterans or that provide or support competitive, integrated employment for individuals with disabilities.

- Representatives of organizations that have demonstrated experience and expertise in addressing the employment, training, or education needs of eligible youth, including representatives of organizations that serve out-of-school youth.
- The balance of board members:
 - Shall include representatives of government that are lead state officials with primary responsibility for the core programs and shall include chief elected officials, collectively representing cities, counties, and cities and counties where appropriate.
 - May include other representatives and officials as the Governor may designate, like any of the following:
 - ✓ State agency officials from agencies that are one-stop partners, not specified in paragraph (1), including additional one-stop partners whose programs are covered by the State Plan, if any.
 - ✓ State agency officials responsible for economic development or juvenile justice programs in the state.
 - ✓ Individuals who represent an Indian tribe or tribal organization.
 - ✓ State agency officials responsible for education programs in the state, including chief executive officers of community colleges and other institutions of higher education.

Other requirements of board membership shall include:

- The Governor shall select a chairperson for the board from among the business representatives.
- The members of the board shall represent diverse geographic areas of the state, including urban, rural, and suburban areas.

Roles and Responsibilities

The board shall assist the Governor in the following:

- Promoting the development of a well-educated and highly skilled 21st century workforce.
- Developing, implementing, and modifying the State Plan. The State Plan shall serve as the comprehensive framework and coordinated plan for the aligned investment of all federal and state workforce training and employment services funding streams and programs. To the extent feasible and when appropriate, the state plan should reinforce and work with adult education and career technical education efforts that are responsive to labor market trends.
- The review of statewide policies, of statewide programs, and of recommendations on actions that should be taken by the state to align workforce, education, training, and employment funding programs in the state in a manner that supports a comprehensive and streamlined workforce development system in the state, including the review and provision of comments on the State Plan, if any, for programs and activities of one-stop partners that are not core programs.
- Developing and continuously improving the statewide workforce investment system, including:

- The identification of barriers and means for removing barriers to better coordinate, align, and avoid duplication among the programs and activities carried out through the system.
 - The development of strategies to support the use of career pathways for the purpose of providing individuals, including low-skilled adults, youth, and individuals with barriers to employment, and including individuals with disabilities, with workforce investment activities, education, and supportive services to enter or retain employment. To the extent permissible under state and federal laws, these policies and strategies should support linkages between kindergarten and grades 1 to 12, inclusive, and community college educational systems in order to help secure educational and career advancement. These policies and strategies may be implemented using a sector strategies framework and should ultimately lead to placement in a job providing economic security or job placement in an entry-level job that has a well-articulated career pathway or career ladder to a job providing economic security.
 - The development of strategies for providing effective outreach to and improved access for individuals and employers who could benefit from services provided through the workforce development system.
 - The development and expansion of strategies for meeting the needs of employers, workers, and jobseekers, particularly through industry or sector partnerships related to in-demand industry sectors and occupations, including policies targeting resources to competitive and emerging industry sectors and industry clusters that provide economic security and are either high-growth sectors or critical to California's economy, or both. These industry sectors and clusters shall have significant economic impacts on the state and its regional and workforce development needs and have documented career opportunities.
- Recommending adult and dislocated worker training policies and investments that offer a variety of career opportunities while upgrading the skills of California's workforce. These may include training policies and investments pertaining to any of the following:
 - Occupational skills training, including training for nontraditional employment.
 - On-the-job training.
 - Incumbent worker training.
 - Programs that combine workplace training with related instruction, which may include cooperative education programs.
 - Training programs operated by the private sector.
 - Skill upgrading and retraining.
 - Entrepreneurial training.
 - Transitional jobs.
 - Job readiness training provided in combination with any of the services itemized above
 - Adult education and literacy activities provided in combination with any of the services itemized above.
 - Customized training conducted with a commitment by an employer or group of employers to employ an individual upon successful completion of the training.
 - The identification of regions, including planning regions and the designation of local areas after consultation with local boards and chief elected officials.

- The development and continuous improvement of the one-stop delivery system in local areas, including providing assistance to local boards, one-stop operators, one-stop partners, and providers with planning and delivering services, including training services and supportive services, to support effective delivery of services to workers, job seekers, and employers.
- Recommending strategies to the Governor for strategic training investments of the Governor's 15-percent discretionary funds.
- Developing strategies to support staff training and awareness across programs supported under the workforce development system.
- The development and updating of comprehensive state performance accountability measures, including state adjusted levels of performance, to assess the effectiveness of the core programs in the state as required under Section 3141(b) of Title 29 of the United States Code. As part of this process the board shall do all of the following:
 - Develop a workforce metrics dashboard, to be updated annually, that measures the state's human capital investments in workforce development to better understand the collective impact of these investments on the labor market. The workforce metrics dashboard shall be produced using existing available data and resources that are currently collected and accessible to state agencies. The board shall convene workforce program partners to develop a standardized set of inputs and outputs for the workforce metrics dashboard. The workforce metrics dashboard shall do all of the following:
 - ✓ Provide a status report on credential attainment, training completion, degree attainment, and participant earnings from workforce education and training programs. The board shall publish and distribute the final report.
 - ✓ Provide demographic breakdowns, including, to the extent possible, race, ethnicity, age, gender, veteran status, wage and credential or degree outcomes, and information on workforce outcomes in different industry sectors.
 - ✓ Measure, at a minimum and to the extent feasible with existing resources, the performance of the following workforce programs: community college career technical education, the Employment Training Panel, Title I and Title II of the federal Workforce Investment Act of 1998, Trade Adjustment Assistance, and state apprenticeship programs.
 - ✓ Measure participant earnings in California, and to the extent feasible, in other states. The Employment Development Department shall assist the board by calculating aggregated participant earnings using unemployment insurance wage records, without violating any applicable confidentiality requirements.
 - The effective operation of one-stop centers, relating to the use of business outreach, partnerships, and service delivery strategies, including strategies for serving individuals with barriers to employment.

- The development of effective local boards, which may include information on factors that contribute to enabling local boards to exceed negotiated local levels of performance, sustain fiscal integrity, and achieve other measures of effectiveness.
- Effective training programs that respond to real-time labor market analysis, that effectively use direct assessment and prior learning assessment to measure an individual's prior knowledge, skills, competencies, and experiences, and that evaluate such skills, and competencies for adaptability, to support efficient placement into employment or career pathways.
- The development and review of statewide policies affecting the coordinated provision of services through the state's one-stop delivery including the development of all of the following:
 - Objective criteria and procedures for use by local boards in assessing the effectiveness and continuous improvement of one-stop centers described in Section 3151(e) of Title 29 of the United States Code.
 - Guidance for the allocation of one-stop center infrastructure funds under Section 3151(h) of Title 29 of the United States Code.
 - Policies relating to the appropriate roles and contributions of entities carrying out one-stop partner programs within the one-stop delivery system, including approaches to facilitating equitable and efficient cost allocation in such a system.
- The development of strategies for technological improvements to facilitate access to, and improve the quality of, services and activities provided through the one-stop delivery system, including such improvements to all of the following:
 - Enhance digital literacy skills.
 - Accelerate the acquisition of skills and recognized postsecondary credentials by participants.
 - Strengthen the professional development of providers and workforce professionals.
 - Ensure the technology is accessible to individuals with disabilities and individuals residing in remote areas.
- The development of strategies for aligning technology and data systems across one-stop partner programs to enhance service delivery and improve efficiencies in reporting on performance accountability measures, including the design and implementation of common intake, data collection, case management information, and performance accountability measurement and reporting processes and the incorporation of local input into such design and implementation, to improve coordination of services across one-stop partner programs.
- The development of allocation formulas for the distribution of funds for employment and training activities for adults, and youth workforce investment activities, to local areas.
- The preparation of the annual report to the U.S. Department of Labor.
- The development of the statewide workforce and labor market information system.

- The development of such other policies as may promote statewide objectives for, and enhance the performance of, the workforce development system in the state.
- Helping individuals with barriers to employment, including low-skill, low-wage workers, the long-term unemployed, and members of single-parent households, achieve economic security and upward mobility by implementing policies that encourage the attainment of marketable skills relevant to current labor market trends.
- In efforts to expand job training and employment for allied health professions, the California Workforce Development Board, in consultation with the Division of Apprenticeship Standards, shall also:
 - Identify opportunities for “earn and learn” job training opportunities that meet the industry’s workforce demands and that are in high-wage, high-demand jobs.
 - Identify and develop specific requirements and qualifications for entry into “earn and learn” job training models.
 - Establish standards for “earn and learn” job training programs that are outcome oriented and accountable. The standards shall measure the results from program participation, including a measurement of how many complete the program with an industry-recognized credential that certifies that the individual is ready to enter the specific allied health profession for which he or she has been trained.
 - Develop means to identify, assess, and prepare a pool of qualified candidates seeking to enter “earn and learn” job training models.

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(SEIU 721)

Michael Gallo

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Floyd Trammell

Executive Director - West Bay Local Development Corporation

Joe Xavier

Director- Department of Rehabilitation

Gunjan Aggarwal

Global Head of Talent Acquisition - Ericsson

Gary King

Chief Workforce Officer - Sacramento Municipal Utilities District

Rebecca Miller

Workforce Director - SEIU United Healthcare Workers-West (UHW)

Fabrizio Sasso

Executive Director - Sacramento Labor Council

**CALIFORNIA WORKFORCE INVESTMENT BOARD
BYLAWS**

ARTICLE I: NAME

Public Law 113-128, the Workforce Innovation and Opportunity Act (WIOA) of 2014 requires that each state establish a state workforce development board to carry out certain responsibilities related to the state's workforce investment system. The California Workforce Development Board, hereinafter referred to as the State Board, was established through Executive Order (D-9-99) and formalized through the enactment of state statutes in 2006.

ARTICLE II: PURPOSE

The State Board is the body responsible for assisting the Governor in the development, oversight and continuous improvement of California's workforce investment system and the alignment of the education and workforce investment systems to meet the needs of the 21st century economy and workforce.

ARTICLE III: GOVERNANCE

The State Board shall reside within the California Labor and Workforce Development Agency and shall report through its Executive Director to the Secretary of the Labor and Workforce Development Agency.

ARTICLE IV: STATE BOARD MEMBERSHIP

Section I – Appointments

The members of the State Board are appointed by the Governor in conformity with Section 14012 of the California Unemployment Insurance Code. In addition, the Senate President Pro Tem shall appoint two legislative members, and the Speaker of the Assembly shall appoint two legislative members. The Governor may add additional members to those required by the California Unemployment Insurance Code.

Section 2 – Composition

A majority of the members of the State Board shall be private sector representatives. At least 15 percent of the membership shall be representatives from organized labor. The Chair of the State Board shall be selected by the Governor from among the private sector representatives.

Section 3 – Designees

Section 7.5 in the General Provisions of the California Government Code allows a Director of a State Department or a Secretary of a State Agency, either of whom is appointed as a member of a State body, to designate a deputy director of that Department or Agency, exempt from State civil service, to act in the Director's or Secretary's place. Each Department Director or Agency Secretary may have a designee, however only one designee may vote on behalf of the Department or Agency at any one meeting. If more than one designee is present for a meeting, the Chair will select which designee can participate in voting for that meeting. State Department Directors and Agency Secretaries must notify the Chair in writing of the names and titles of their designees prior to the designees' participation on the State Board.

Section 7.6 in the General Provisions of the California Government Code allows a Constitutional Officer to appoint a designee. A designee for a Constitutional Officer must be a deputy who is exempt from State civil service. Section 7.6 also allows a member of the California Legislature to name a designee. In addition, the California

Constitution Article 9, Section 2.1, requires that the State Superintendent of Public Instruction designee be an individual from one of the following offices which are exempt from State civil service: the Deputy Superintendent of Public Instruction, or one of the three Associate Superintendents of Public Instruction. The Constitutional Officers must notify the Chair in writing of the names and titles of the designees prior to the designees' participation on the State Board.

Section 4 – Alternates and Proxies

Under no circumstances shall the State Board permit absentee or proxy voting at any of its proceedings.

Section 5 – Conflict of Interest

Members of the State Board are subject to a comprehensive body of state law governing conflict of interest. (*Government Code* §§ 81000-91014). Pursuant to State and federal law, the State Board has adopted and promulgated a Conflict of Interest Code. The State Board members, including designees, are required to file statements of economic interests with the State Board. The State Board staff will maintain copies on file and deliver the original statements of economic interests to the Fair Political Practices Commission. The statements of economic interests are governed by State law and include the specific kinds of financial information members of the State Board must disclose. Upon appointment, Board members are required to file an "Assuming Office" statement within 30 days of their appointment. Thereafter, Board members are required to file annual statements. Board members are also required to file "Leaving Office" statements upon vacating their position.

Section 6 – Resignation

A member may resign from the State Board by sending a written notice, which includes the effective date of resignation, to the Governor. The member must also send copies of that written notice to the Chair and the Executive Director.

Section 7 – Removal

The Governor has sole authority to appoint and to remove members of the State Board. The Chair, on behalf of the Executive Committee, may request the written resignation of any State Board member who fails, without good cause, to attend three consecutive State Board meetings or who otherwise demonstrates an inability or unwillingness to actively participate in the meetings, discussions, activities, and decisions of the State Board. In the event that such a member fails to submit a written resignation, the Chair, on behalf of the Executive Committee, may forward a written recommendation for removal to the Governor.

ARTICLE V: OFFICERS

The State Board shall have two officers: the State Board Chair (Chair) and the State Board Vice-Chair (Vice-Chair). The Chair shall be a member of the private sector appointed by the Governor and shall serve at the pleasure of the Governor.

The Chair shall call and preside at all State Board meetings and perform other duties as required by the State Board. The Vice-Chair shall act as Chair in the Chair's absence and perform other duties as required.

ARTICLE VI: COMMITTEES

Section 1 – Committee Structure

The State Board will operate with a committee structure comprised of standing committees, special committees, and ad hoc committees:

Standing Committees – are constituted to perform continuing functions and are permanent committees of the State Board. A standing committee is comprised of State Board members for purposes of voting. A standing committee shall have a minimum of five members in addition to the chair and the vice chair of the committee. A standing committee is established or discontinued through an amendment to these bylaws. With the exception of the Executive Committee, the Chair shall designate the chair, vice-chair, and members of a standing committee annually, subject to ratification by the full State Board.

The committee chair shall be the presiding officer at all committee meetings. The committee vice-chair shall assume the duties of the committee chair in the committee chair's absence.

Special Committees – are assigned specific tasks and assignments by the State Board Chair. Membership may include State Board members and State and local partners, stakeholders, practitioners, and customers, all as voting members. Unless otherwise specified in the description of the committees adopted as part of these bylaws, the State Board Chair shall designate the chair, vice-chair, and members of each special committee, subject to ratification by the Executive Committee.

The committee chair shall be the presiding officer at all committee meetings. The committee vice-chair shall assume the duties of the committee chair in the committee chair's absence.

Ad Hoc Committees – are informal workgroups, task forces, councils and other formal sub-groups comprised of State Board members, and/or State Board staff, and/or State

and local partner, stakeholder, and practitioner staff. Ad hoc committees may be established by the Chair, the Executive Director, or special committee chairs, and are not subject to ratification by the full State Board nor the Executive Committee.

Ad hoc committees are time-limited and task oriented and are formed to develop work products for the State Board. Each Ad hoc committee shall remain in existence only as long as necessary to fully address the task with which it is charged.

Section 2 – Standing Committees

There shall be two standing committees of the State Board:

The Executive Committee – shall be chaired by the State Board Chair and shall consist of the Vice-Chair, the Secretary of the Labor and Workforce Development Agency (or the Secretary's designee), and the Executive Director of the State Board. The membership of the Executive Committee shall reflect the membership of the full State Board with a minimum of one third private sector, one third labor organizations and one third governmental entities. The State Board Chair shall have the discretion to appoint additional members to the Executive Committee as deemed appropriate.

The Executive Committee shall meet at the call of the Chair, as required by State Board meetings, issues, activities, and workflow. It shall provide recommendations to the full State Board regarding committee assignments; coordinate the work of standing, special, and ad hoc committees; develop agendas for State Board meetings; and shall be empowered to take action on behalf of the full State Board in instances where urgency and time constraints do not permit items to be acted upon by the full State Board. All such actions and commitments shall be reported to the full State Board at its next regularly scheduled meeting.

The Green Collar Jobs Council – shall be comprised of appropriate representatives from the State Board’s existing membership and meet at the call of the Chair. The Green Collar Jobs Council shall perform the duties and responsibilities specified in Sections 15002 - 15003 of the California Unemployment Insurance Code and shall report all actions to the full State Board at its next regularly scheduled meeting

ARTICLE VII: MEETINGS

Section 1 – Board Meetings

The State Board shall conduct at least one, full, public meeting each year. It is the goal of the State Board, however, to conduct full State Board meetings three to four times each year and in such locations as will facilitate the work of the State Board and the participation of the public. Regular attendance at meetings is expected of each Board member. The meetings will be open and accessible to the public and will be publicly announced.

The State Board and its Committees may utilize technologies to promote greater participation among its members. Such technologies may include, but not limited to teleconference, webinar, and/or other web-based meeting tools. All meeting locations shall be publicly noticed and accessible to the public in accordance with the Bagley-Keene Open Meeting Act.

Section 2 – Board Quorum

A quorum is defined as a majority of the members appointed to the State Board. If a quorum is not present at a State Board meeting, the State Board may not vote or take action, but members in attendance may continue to meet for the purpose of discussion, including taking public testimony on agenda items.

ARTICLE VIII: CLOSED MEETINGS

A closed session of the State Board may be called to discuss personnel issues, pending litigation, or any other matters appropriate for a closed meeting under Government Code Section 11126. The Chair may call for a closed meeting, or a closed meeting may be called by any member, with a majority vote.

ARTICLE IX: PARLIAMENTARY AUTHORITY

Robert's Rules of Order shall govern the State Board in all cases in which they are applicable and in which they are not inconsistent with these Bylaws, any special rules of order the Board may adopt, or any applicable State and federal laws and regulations.

ARTICLE X: CHANGES IN BYLAWS

These Bylaws may be amended or replaced and new Bylaws adopted by the approval of a majority vote by those members voting at a State Board meeting with a quorum present, provided that the amendment is not in conflict with any State and federal laws and regulations and had been noticed in writing to all State Board members 30 days in advance of any proposed action by the State Board.

Workforce Innovation and Opportunity Act Overview of Funding Streams and Allocation Methodology

Introduction

This overview will describe the funding allocation methodologies for the various streams of Workforce Innovation and Opportunity Act (WIOA) funding. The overview is based upon the provisions of the WIOA.

WIOA funding comes to the State in 3 distinct funding streams: **Adult, Dislocated Worker** and **Youth**. Allocation of funds occurs as follows:

Youth

15% is retained by the Governor

85% is allocated by formula to local workforce development areas

Adult

15% is retained by the Governor

85% is allocated by formula to local workforce development areas

Dislocated Worker

15% is retained by the Governor

60% is allocated by formula to local workforce development areas

25% is retained for Rapid Response Activities

50% of this RR fund is allocated to local workforce areas for RR activities

50% of this RR fund is retained by the state for Additional Assistance grants distributed by application

Formula Distribution

The allocation of funding within each funding stream is based on complex funding formulae.

Federal to State Allotments

The following depicts how the federal budget appropriation is allocated to the States.

Adult funds are allotted based upon three evenly weighted formula factors:

- 1/3: State relative share of total unemployed
- 1/3: State relative share of excess unemployed (at least 4.5 percent)
- 1/3: State relative share of economically disadvantaged adults

Youth funds are allocated based upon the same weighted formula factors as adult funds except that economically disadvantage youth comprise the last factor.

Dislocated worker funds are allotted based upon three evenly weighted formula factors:

- 1/3: State relative share of total unemployed
- 1/3: State relative share of excess unemployed (at least 4.5 percent)
- 1/3: State relative share of long-term unemployed (15 weeks or more)

State to Local Area Allotments

The following depicts how the State allocates funding to Local workforce development area.

Adult and youth program funds are allotted based upon three formula factors evenly weighted:

- 1/3: Local area relative share of total unemployed in areas of substantial unemployment (at least 6.5 percent)
- 1/3: Local area relative share of excess unemployed (at least 4.5 percent)
- 1/3: Local area relative share of economically disadvantaged adult or youth

Dislocated worker funds are allocated to local areas based upon the following percentages:

- 10 percent are distributed based upon the relative number of short-term unemployment insurance claimants in each local area compared to the total number of short-term claimants in all local areas. (11 weeks or less)

- 30 percent are distributed based upon the relative number of mid-term unemployment insurance claimants in the local area compared to the total number of mid-term claimants in all local areas. (12 to 23 weeks)
- 40 percent are distributed based upon the relative number of long-term unemployment insurance claimants in each local area compared to the total number of long-term claimants in all local areas. (24 weeks or more)
- 20 percent of the funds are distributed based on long-term unemployment, which is determined by the percentage of unemployment claimants drawing 15 weeks or more of benefits by multiplying this by the total civilian unemployed in the local area relative to the number in all local areas.

Statewide WIOA Activities—Governor’s 15% and 25% Discretionary Funding

WIOA specifies certain statewide activities, which are funded by withholding up to 15% of the Adult, Youth and Dislocated Worker funds. In addition, up to 25% of Dislocated Worker funds can be withheld for statewide activities. California reserves the maximum amount of both funds for statewide activities.

Statewide activities include:

- Rapid Response activities and additional assistance to local areas with funding shortfalls
- Disseminating a list of eligible training and youth services providers
- Evaluating workforce development activities
- Incentive grants
- Technical assistance to local areas not meeting performance measures
- Assisting in establishing One-Stop centers
- Additional assistance to local areas with high concentrations of eligible youth
- Operating a fiscal and managerial accountability information system

Local Area WIOA Activities

Workforce development services are provided at local America’s Job Centers of California (AJCC), which are administered by Local Workforce Development. The types of services provided are detailed in WIOA and are labeled career and training.

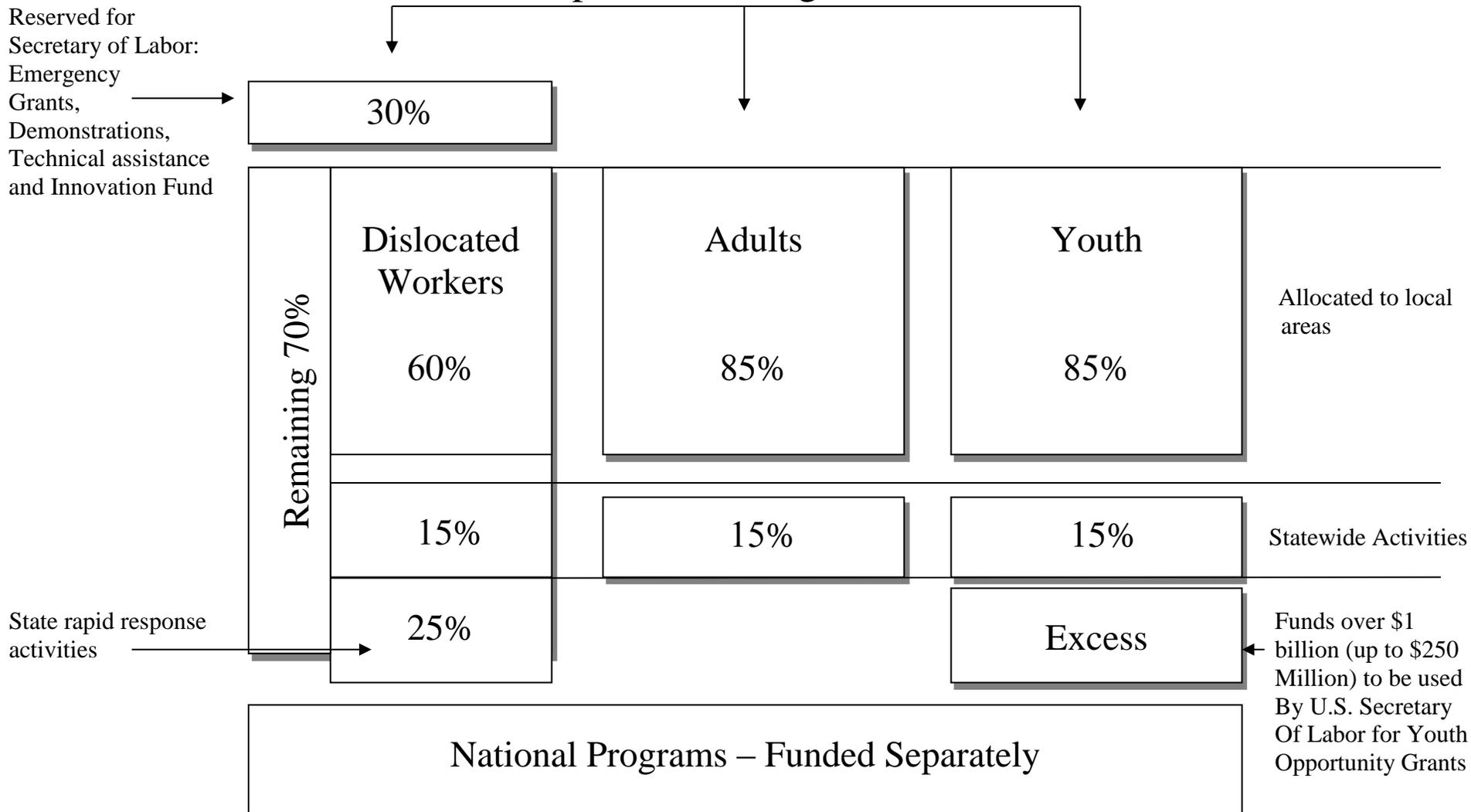
Career services include outreach, intake and orientation; initial skill assessment; job search and placement assistance; information regarding eligible training providers; supportive services information; and assistance in receiving public assistance and unemployment insurance, comprehensive assessments; development of individual employment plans; group or individual counseling; and case management.

Training services are available for those who have been determined by AJCC operators to be in need of them and who will benefit after career services have been ineffective.

Youth services are provided to individuals 14 to 24 years of age in certain targeted groups, such as out-of-school, disabled, migrant farm worker, etc. These services are intended to return the individual to school or prepare him/her for the workforce.

Funding

Separate Funding Streams



Fair Political Practices Commission

Gift Limits

A “gift” is a payment or other benefit that confers a personal benefit for which the official or employee did not provide payment or services of equal or greater value. A gift includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public. At the end of each year, these officials and employees must report gifts received from various sources. Gifts from a single source aggregating to **\$50** or more must be disclosed. The gift limit for calendar years 2017 and 2018 is **\$470**. This means that gifts from a single, reportable source may not exceed \$470 in a calendar year. If gifts from one source in 12 months exceed the \$470 limit for calendar year 2017 or 2018 limit, the Political Reform Act imposes restrictions including disqualification of an official from participating in any action or decision involving the source of the gifts.

For officials and employees who file Statements of Economic Interests (Form 700) under an agency’s conflict-of-interest code (“designated employees”), this limit applies only if the official or employee would be required to report income or gifts from that source on the Form 700, as outlined in the “disclosure category” portion of the agency’s conflict-of-interest code. This will remain in effect until December 31, 2018.

State agency officials, including legislators, legislative staff and state commission members may not accept gifts aggregating more than **\$10 in a calendar month** from a single lobbyist or lobbying firm if the lobbyist or firm is registered to lobby or should be registered to lobby the official’s or employee’s agency.

Assuming Office Statement:

If you are a newly appointed official or are newly employed in a position designated in a state or local agency’s conflict-of-interest code, your assuming office date is the date you were sworn in or otherwise authorized to serve in the position. If you are a newly elected official, your assuming office date is the date you were sworn in.

- Investments, interests in real property, and business positions held on the date you assumed the office or position must be reported. In addition, income (including loans, gifts, and travel payments) received during the 12 months prior to the date you assumed the office or position is reportable.

Assuming Office Statements must be filed within **30 days** after assuming office.

Annual Statement:

Generally, the period covered is January 1, 20XX, through December 31, 20XX. If the period covered by the statement is different than January 1, 20XX, through December 31, 20XX, (for example, you assumed office between October 1, 20XX, and December 31, 20XX, or you are combining statements), you must specify the period covered.

- Investments, interests in real property, business positions held, and income (including loans, gifts, and travel payments) received during the period covered by the statement must be reported. Do not change the preprinted dates on Schedules A-1, A-2, and B unless you are required to report the acquisition or disposition of an interest that did not occur in 2010.

Leaving Office Statement:

Generally, the period covered is January 1, 20XX, through the date you stopped performing the duties of your position. If the period covered differs from January 1, 20XX, through the date you stopped performing the duties of your position (for example, you assumed office between October 1, 20XX, and December 31, 20XX, or you are combining statements), the period covered must be specified.

- Investments, interests in real property, business positions held, and income (including loans, gifts, and travel payments) received during the period covered by the statement must be reported. Do not change the preprinted dates on Schedules A-1, A-2, and B unless you are required to report the acquisition or disposition of an interest that did not occur in 2009.

Leaving Office Statements must be filed no later than **30 days** after leaving the office or position.

Following is a link to the FPPC website and the Form 700 Reference Pamphlet:

FPPC website: www.fppc.ca.gov

2017 Form 700 Reference Pamphlet: <http://www.fppc.ca.gov/Form700.html>



A Handy Guide
to
The Bagley-Keene Open Meeting Act 2004

California Attorney General's Office

INTRODUCTION

The Bagley-Keene Open Meeting Act (“the Act” or “the Bagley-Keene Act”), set forth in Government Code sections 11120-11132¹, covers all state boards and commissions. Generally, it requires these bodies to publicly notice their meetings, prepare agendas, accept public testimony and conduct their meetings in public unless specifically authorized by the Act to meet in closed session. Following is a brief summary of the Act’s major provisions. Although we believe that this summary is a helpful road map, it is no substitute for consulting the actual language of the Act and the court cases and administrative opinions that interpret it.

If you wish to obtain additional copies of this pamphlet, they may be ordered or downloaded via the Attorney General’s Home Page, located on the World Wide Web at <http://caag.state.ca.us>. You may also write to the Attorney General’s Office, Public Inquiry Unit, P.O. Box 944255, Sacramento, CA 94244-2550 or call us at (800) 952-5225 (for callers within California), or (916) 322-3360 (for callers outside of California); the TTY/TDD telephone numbers are (800) 952-5548 (for callers within California), or (916) 324-5564 (for callers outside of California).

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.

If efficiency were the top priority, the Legislature would create a department and then permit the department head to make decisions. However, when the Legislature creates a multimember board, it makes a different value judgment. Rather than striving strictly for efficiency, it concludes that there is a higher value to having a group of individuals with a variety of experiences, backgrounds and viewpoints come together to develop a consensus. Consensus is developed through debate, deliberation and give and take. This process can sometimes take a long time and is very different in character than the individual-decision-maker model.

Although some individual decision-makers follow a consensus-building model in the way that they make decisions, they’re not required to do so. When the Legislature creates a multimember body, it is mandating that the government go through this consensus building process.

When the Legislature enacted the Bagley-Keene Act, it imposed still another value judgment on the governmental process. In effect, the Legislature said that when a body sits down to develop its consensus, there needs to be a seat at the table reserved for the public. (§ 11120.) By reserving this place for the public, the Legislature has provided the public with the ability to monitor and participate in the decision-making process. If the body were permitted to meet in secret, the public’s role in the decision-making process would be negated. Therefore, absent a specific reason to keep

¹All statutory references are to the Government Code.

the public out of the meeting, the public should be allowed to monitor and participate in the decision-making process.

If one accepts the philosophy behind the creation of a multimember body and the reservation of a seat at the table for the public, many of the particular rules that exist in the Bagley-Keene Act become much easier to accept and understand. Simply put, some efficiency is sacrificed for the benefits of greater public participation in government.

BODIES COVERED BY THE ACT: General Rule

The general rule for determining whether a body is covered by the Act involves a two part test (§ 11121(a)):

First, the Act covers multimember bodies. A multimember body is two or more people. Examples of multimember bodies are: state boards, commissions, committees, panels, and councils. Second, the body must be created by statute or required by law to conduct official meetings. If a body is created by statute, it is covered by the Act regardless of whether it is decision-making or advisory.

■ **Advisory Bodies**

The Act governs two types of advisory bodies: (1) those advisory bodies created by the Legislature and (2) those advisory bodies having three or more members that are created by formal action of another body. (§11121(c).) If an advisory body created by formal action of another body has only two members, it is not covered by the Bagley-Keene Act. Accordingly, that body can do its business without worrying about the notice and open meeting requirements of the Act. However, if it consists of three people, then it would qualify as an advisory committee subject to the requirements of the Act.

When a body authorizes or directs an individual to create a new body, that body is deemed to have been created by formal action of the parent body even if the individual makes all decisions regarding composition of the committee. The same result would apply where the individual states an intention to create an advisory body but seeks approval or ratification of that decision by the body.

Finally, the body will probably be deemed to have acted by formal action whenever the chair of the body, acting in his or her official capacity, creates an advisory committee. Ultimately, unless the advisory committee is created by staff or an individual board member, independent of the body's authorization or desires, it probably should be viewed as having been created by formal action of the body.

■ **Delegated Body**

The critical issue for this type of body is whether the committee exercises some power that has been delegated to it by another body. If the body has been delegated the power to act, it is a delegated committee. (§ 11121(b).) A classic example is the executive committee that is given authority to act on behalf of the entire body between meetings. Such executive committees are delegated committees and are covered by the requirements of the Act.

There is no specific size requirement for the delegated body. However, to be a body, it still must be comprised of multiple members. Thus, a single individual is not a delegated body.

■ **Commissions Created by the Governor**

The Act specifically covers commissions created by executive order. (§ 11121(a).) That leaves open two potential issues for resolution with respect to this type of body. First, what's an executive order as opposed to other exercises of power by the Governor? Second, when is a body a "commission" within the meaning of this provision? There is neither case law nor an Attorney General opinion addressing either of these issues in this context.

■ **Body Determined by Membership**

The next kind of body is determined by who serves on it. Under this provision, a body becomes a state body when a member of a state body, in his or her official capacity, serves as a representative on another body, either public or private, which is funded in whole or in part by the representative's state body. (§ 11121(d).) It does not come up often, but the Act should be consulted whenever a member of one body sits as a representative on another body.

In summary, the foregoing are the general types of bodies that are defined as state bodies under the Bagley-Keene Act. As will be discussed below, these bodies are subject to the notice and open meeting requirements of the Act.

MEMBERS-TO-BE

The open meeting provisions of the Act basically apply to new members at the time of their election or appointment, even if they have not yet started to serve. (§ 11121.95.) The purpose of this provision is to prevent newly appointed members from meeting secretly among themselves or with holdover members of a body in sufficient numbers so as to constitute a quorum. The Act also requires bodies to provide their new members with a copy of the Act. (§ 11121.9.) We recommend that this Handy Guide be used to satisfy that requirement.

WHAT IS A MEETING?

The issue of what constitutes a meeting is one of the more troublesome and controversial issues under the Act. A meeting occurs when a quorum of a body convenes, either serially or all together, in one place, to address issues under the body's jurisdiction. (§ 11122.5.) Obviously, a meeting would include a gathering where members were debating issues or voting on them. But a meeting also includes situations in which the body is merely receiving information. To the extent that a body receives information under circumstances where the public is deprived of the opportunity to monitor the information provided, and either agree with it or challenge it, the open-meeting process is deficient.

Typically, issues concerning the definition of a meeting arise in the context of informal gatherings such as study sessions or pre-meeting get-togethers. The study session historically arises from the body's desire to study a subject prior to its placement on the body's agenda. However, if a quorum is involved, the study session should be treated as a meeting under the Act. With respect to pre-meeting briefings, this office opined that staff briefings of the city council a half hour before the noticed city council meeting to discuss the items that would appear on the council's meeting agenda were themselves meetings subject to open meeting laws.² To the extent that a briefing is desirable, this office recommends that the executive officer prepare a briefing paper which would then be available to the members of the body, as well as, to the public.

■ **Serial Meetings**

The Act expressly prohibits the use of direct communication, personal intermediaries, or technological devices that are employed by a majority of the members of the state body to develop a collective concurrence as to action to be taken on an item by the members of the state body outside of an open meeting. (§ 11122.5(b).) Typically, a serial meeting is a series of communications, each of which involves less than a quorum of the legislative body, but which taken as a whole involves a majority of the body's members. For example, a chain of communications involving contact from member A to member B who then communicates with member C would constitute a serial meeting in the case of a five-person body. Similarly, when a person acts as the hub of a wheel (member A) and communicates individually with the various spokes (members B and C), a serial meeting has occurred. In addition, a serial meeting occurs when intermediaries for board members have a meeting to discuss issues. For example, when a representative of member A meets with representatives of members B and C to discuss an agenda item, the members have conducted a serial meeting through their representatives acting as intermediaries.

²42 Ops.Cal.Atty.Gen. 61 (1963); see also 32 Ops.Cal.Atty.Gen. 240 (1958).

In the *Stockton Newspapers* case, the court concluded that a series of individual telephone calls between the agency attorney and the members of the body constituted a meeting.³ In that case, the attorney individually polled the members of the body for their approval on a real estate transaction. The court concluded that even though the meeting was conducted in a serial fashion, it nevertheless was a meeting for the purposes of the Act.

An executive officer may receive spontaneous input from board members on the agenda or on any other topic. But problems arise if there are systematic communications through which a quorum of the body acquires information or engages in debate, discussion, lobbying, or any other aspect of the deliberative process, either among themselves or between board members and the staff.

Although there are no cases directly on point, if an executive officer receives the same question on substantive matters addressed in an upcoming agenda from a quorum of the body, this office recommends that a memorandum addressing these issues be provided to the body and the public so they will receive the same information.

This office has opined that under the Brown Act (the counterpart to the Bagley-Keene Act which is applicable to local government bodies) that a majority of the board members of a local public agency may not e-mail each other to discuss current topics related to the body's jurisdiction even if the e-mails are also sent to the secretary and chairperson of the agency, posted on the agency's Internet website, and made available in printed form at the next public meeting of the board.⁴

The prohibition applies only to communications employed by a quorum to develop a collective concurrence concerning action to be taken by the body. Conversations that advance or clarify a member's understanding of an issue, or facilitate an agreement or compromise among members, or advance the ultimate resolution of an issue, are all examples of communications that contribute to the development of a concurrence as to action to be taken by the body. Accordingly, with respect to items that have been placed on an agenda or that are likely to be placed upon an agenda, members of state bodies should avoid serial communications of a substantive nature that involve a quorum of the body.

In conclusion, serial meeting issues will arise most commonly in connection with rotating staff briefings, telephone calls or e-mail communications among a quorum of board members. In these situations, part of the deliberative process by which information is received and processed, mulled over and discussed, is occurring without participation of the public.

Just remember, serial-meeting provisions basically mean that what the body can not do as a group it can not do through serial communications by a quorum of its members.

³*Stockton Newspapers, Inc. v. Redevelopment Agency* (1985) 171 Cal.App.3d 95, 105. See also, 65 Ops.Cal.Atty.Gen. 63, 66 (1982); 63 Ops.Cal.Atty.Gen. 820, 828-829 (1980).

⁴ Cal.Atty.Gen., Indexed Letter, No. IL 00-906 (February 20, 2001).

■ Contacts by the Public

One of the more difficult areas has to do with the rights of the public to contact individual members. For example, a communication from a member of the public to discuss an issue does not violate the Act. (§ 11122.5(c)(1).) The difficulty arises when the individual contacts a quorum of the body.

So long as the body does not solicit or orchestrate such contacts, they would not constitute a violation of the Bagley-Keene Act. Whether its good policy for a body to allow these individual contacts to occur is a different issue.

■ Social Gatherings

The Act exempts purely social situations from its coverage. (§ 11122.5(c)(5).) However, this construction is based on the premise that matters under the body's jurisdiction will not be discussed or considered at the social occasion. It may be useful to remind board members to avoid "shop talk" at the social event. Typically, this is difficult because service on the body is their common bond.

■ Conferences and Retreats

Conferences are exempt from the Act's coverage so long as they are open to the public and involve subject matter of general interest to persons or bodies in a given field. (§ 11122.5(c)(2).) While in attendance at a conference, members of a body should avoid private discussions with other members of their body about subjects that may be on an upcoming agenda. However, if the retreat or conference is designed to focus on the laws or issues of a particular body it would not be exempt under the Act.

■ Teleconference Meetings

The Act provides for audio or audio and visual teleconference meetings for the benefit of the public and the body. (§ 11123.) When a teleconference meeting is held, each site from which a member of the body participates must be accessible to the public. [Hence, a member cannot participate from his or her car, using a car phone or from his or her home, unless the home is open to the public for the duration of the meeting.] All proceedings must be audible and votes must be taken by rollcall. All other provisions of the Act also apply to teleconference meetings. For these reasons, we recommend that a properly equipped and accessible public building be utilized for teleconference meetings. This section does not prevent the body from providing additional locations from which the public may observe the proceedings or address the state body by electronic means.

NOTICE AND AGENDA REQUIREMENTS

The notice and agenda provisions require bodies to send the notice of its meetings to persons who have requested it. (§ 11125(a).) In addition, at least ten days prior to the meeting, bodies must

prepare an agenda of all items to be discussed or acted upon at the meeting. (§ 11125(b).) In practice, this usually translates to boards and commissions sending out the notice and agenda to all persons on their mailing lists. The notice needs to state the time and the place of the meeting and give the name, phone number and address of a contact person who can answer questions about the meeting and the agenda. (§ 11125(a).) The agenda needs to contain a brief description of each item to be transacted or discussed at the meeting, which as a general rule need not exceed 20 words in length. (§ 11125(b).)

The agenda items should be drafted to provide interested lay persons with enough information to allow them to decide whether to attend the meeting or to participate in that particular agenda item. Bodies should not label topics as “discussion” or “action” items unless they intend to be bound by such descriptions. Bodies should not schedule items for consideration at particular times, unless they assure that the items will not be considered prior to the appointed time.

The notice and agenda requirements apply to both open and closed meetings. There is a tendency to think that agendas need not be prepared for closed session items because the public cannot attend. But the public’s ability to monitor closed sessions directly depends upon the agenda requirement which tells the public what is going to be discussed.

REGULAR MEETINGS

The Act, itself, does not directly define the term “regular meeting.” Nevertheless, there are several references in the Act concerning regular meetings. By inference and interpretation, the regular meeting is a meeting of the body conducted under normal or ordinary circumstances. A regular meeting requires a 10-day notice. This simply means that at least 10 days prior to the meeting, notice of the meeting must be given along with an agenda that sufficiently describes the items of business to be transacted or discussed. (§§ 11125(a), 11125(b).) The notice for a meeting must also be posted on the Internet, and the web site address must be included on the written agenda. In addition, upon request by any person with a disability, the notice must be made available in appropriate alternative formats, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the applicable federal rules and regulations. The notice must contain information regarding the manner in which and the deadline by which a request for any disability-related modification or accommodation, including auxiliary aids or services, may be made by a person requiring these aids or services in order to participate in the meeting.

In two special situations, items may be added to the agenda within the 10-day notice period, provided that they are added and notice is given no later than 48 hours prior to the meeting. (§ 11125.) The first such situation is where the body concludes that the topic it wishes to add would qualify for an emergency meeting as defined in the Act. (§ 11125.3(a)(1).) The second situation is where there is a need for immediate action and the need for action came to the attention of the body after the agenda was mailed in accordance with the 10-day notice requirement. (§ 11125.3(a)(2).) This second situation requires a two-thirds vote or a unanimous vote if two-thirds of the members are not present.

Changes made to the agenda under this section must be delivered to the members of the body and to national wires services at least 48 hours before the meeting and must be posted on the Internet as soon as practicable.

SPECIAL MEETINGS

A few years ago, special meetings were added to the Act to provide relief to agencies that, due to the occurrence of unforeseen events, had a need to meet on short notice and were hamstrung by the Act's 10-day notice requirement. (§ 11125.4.) The special meeting requires that notice be provided at least 48 hours before the meeting to the members of the body and all national wire services, along with posting on the Internet.

The purposes for which a body can call a special meeting are quite limited. Examples include pending litigation, legislation, licencing matters and certain personnel actions. At the commencement of the special meeting, the body is required to make a finding that the 10-day notice requirement would impose a substantial hardship on the body or that immediate action is required to protect the public interest and must provide a factual basis for the finding. The finding must be adopted by two-thirds vote and must contain articulable facts that support it. If all of these requirements are not followed, then the body can not convene the special meeting and the meeting must be adjourned.

EMERGENCY MEETINGS

The Act provides for emergency meetings in rare instances when there exists a crippling disaster or a work stoppage that would severely impair public health and safety. (§ 11125.5.) An emergency meeting requires a one-hour notice to the media and must be held in open session. The Act also sets forth a variety of other technical procedural requirements that must be satisfied.

PUBLIC PARTICIPATION

Since one of the purposes of the Act is to protect and serve the interests of the general public to monitor and participate in meetings of state bodies, bodies covered by the Act are prohibited from imposing any conditions on attendance at a meeting. (§ 11124.) For example, while the Act does not prohibit use of a sign-in sheet, notice must be clearly given that signing-in is voluntary and not a pre-requisite to either attending the meeting or speaking at the meeting. On the other hand, security measures that require identification in order to gain admittance to a government building are permitted so long as security personnel do not share the information with the body.

In addition, members of the public are entitled to record and to broadcast (audio and/or video) the meetings, unless to do so would constitute a persistent disruption. (§ 11124.1.)

To ensure public participation, the Legislature expressly afforded an opportunity to the public to speak or otherwise participate at meetings, either before or during the consideration of each agenda item. (§11125.7.) The Legislature also provided that at any meeting the body can elect to consider comments from the public on any matter under the body's jurisdiction. And while the body cannot act on any matter not included on the agenda, it can schedule issues raised by the public for consideration at future meetings. Public comment protected by the Act includes criticism of the programs, policies and officials of the state body.

ACCESS TO RECORDS

Under the Act, the public is entitled to have access to the records of the body. (§ 11125.1.) In general, a record includes any form of writing. When materials are provided to a majority of the body either before or during the meeting, they must also be made available to the public without delay, unless the confidentiality of such materials is otherwise protected. Any records provided to the public, must be available in appropriate alternative formats, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the applicable federal rules and regulations, upon request by a person with a disability.

Notwithstanding the foregoing, the Act makes Government Code section 6254, the most comprehensive exemption under the California Public Records Act, applicable to records provided to the body. That is, if the record that is being provided to the board members is a record that is otherwise exempt from disclosure under section 6254 of the Government Code, then the record need not be disclosed to members of the public. (§ 11125.1(a).) However, the public interest balancing test, set forth in Government Code section 6255, is expressly made inapplicable to records provided to members of the body.

If an agency has received a request for records, the Public Records Act allows the agency to charge for their duplication. (§ 11125.1(c).) Please be aware that the Public Records Act limits the amount that can be charged to the direct cost of duplication. This has been interpreted to mean a pro-rata share of the equipment cost and probably a pro-rata share of the employee cost in order to make the copies. It does not include anything other than the mere reproduction of the records. (See, § 6253.9 for special rules concerning computer records.) Accordingly, an agency may not recover for the costs of retrieving or redacting a record.

ACCESSABILITY OF MEETING LOCATIONS

The Act requires that the place and manner of the meeting be nondiscriminatory. (§ 11131.) As such, the body cannot discriminate on the basis of race, religion, national origin, etc. The meeting site must also be accessible to the disabled. Furthermore, the agency may not charge a fee for attendance at a meeting governed by the Act.

CLOSED SESSIONS

Although, as a general rule, all items placed on an agenda must be addressed in open session, the Legislature has allowed closed sessions in very limited circumstances, which will be discussed in detail below. Closed sessions may be held legally only if the body complies with certain procedural requirements. (§ 11126.3)

As part of the required general procedures, the closed session must be listed on the meeting agenda and properly noticed. (§ 11125(b).) Prior to convening into closed session, the body must publically announce those issues that will be considered in closed session. (§ 11126.3.) This can be done by a reference to the item as properly listed on the agenda. In addition, the agenda should cite the statutory authority or provision of the Act which authorizes the particular closed session. (§11125(b).) After the closed session has been completed, the body is required to reconvene in public. (§ 11126.3(f).) However, the body is required to make a report only where the body makes a decision to hire or fire an individual. (§ 11125.2.) Bodies under the Bagley-Keene Act are required to keep minutes of their closed sessions. (§ 11126.1.) Under the Act, these minutes are confidential, and are disclosable only to the board itself or to a reviewing court.

Courts have narrowly construed the Act's closed-session exceptions. For example, voting by secret ballot at an open-meeting is considered to be an improper closed session. Furthermore, closed sessions may be improperly convened if they are attended by persons other than those directly involved in the closed session as part of their official duties.

■ **Personnel Exception**

The personnel exception generally applies only to employees. (§ 11126(a) and (b).) However, a body's appointment pursuant to subdivision (e) of Section 4 of Article VII of the California Constitution (usually the body's executive director) has been designated an employee for purposes of the personnel exception. On the other hand, under the Act, members of the body are not to be considered employees, and there exists no personnel exception or other closed session vehicle for board members to deal with issues that may arise between them. Board elections, team building exercises, and efforts to address personality problems that may arise between members of the board, cannot be handled in closed session.

Only certain categories of subject matter may be considered at a closed session authorized under the personnel exception. (§ 11126(a)(1).) The purpose of the personnel exception is to protect the privacy of the employee, and to allow the board members to speak candidly. It can be used to consider appointments, employment, evaluation of performance, discipline or dismissal, as well as to hear charges or complaints about an employee's actions. Although the personnel exception is appropriate for discussion of an employee's competence or qualifications for appointment or employment, we do not think that discussion of employee compensation may be conducted in closed

session in light of an appellate court decision interpreting a similar exception in the Brown Act, (the counterpart to the Bagley-Keene Act which is applicable to local government bodies).⁵

The Act requires compliance with specific procedures when the body addresses a complaint leveled against an employee by a third person or initiates a disciplinary action against an employee. Under either circumstance, the Act requires 24-hour written notice to the employee. (§ 11126(a)(2).) Failure to provide such notice voids any action taken in closed session.

Upon receiving notice, the employee has the right to insist that the matter be heard in public session. (§ 11126(a)(2).) However, the opposite is not true. Under the Act, an employee has no right to have the matter heard in closed session. If the body decides to hold an open session, the Bagley-Keene Act does not provide any other option for the employee. Considerations, such as the employee's right to privacy, are not addressed under the Bagley-Keene Act.

If an employee asserts his or her right to have the personnel matter addressed in open session, the body must present the issues and information/evidence concerning the employee's performance or conduct in the open session. However, the body is still entitled to conduct its deliberations in closed session. (§ 11126(a)(4).)

■ **Pending Litigation Exception**

The purpose of the pending litigation exception is to permit the agency to confer with its attorney in circumstances where, if that conversation were to occur in open session, it would prejudice the position of the agency in the litigation. (§ 11126(e)(1).) The term "litigation" refers to an adjudicatory proceeding that is held in either a judicial or an administrative forum. (§11126(e)(2)(c)(iii).) For purposes of the Act, litigation is "pending" in three basic situations. (§11126(e)(2).) First, where the agency is a party to existing litigation. Secondly, where under existing facts and circumstances, the agency has substantial exposure to litigation. And thirdly, where the body is meeting for the purpose of determining whether to initiate litigation. All of these situations constitute pending litigation under the exception.

For purposes of the Bagley-Keene Act, the pending litigation exception constitutes the exclusive expression of the attorney-client privilege. (§ 11126(e)(2).) In general, this means that independent statutes and case law that deal with attorney-client privilege issues do not apply to interpretations of the pending litigation provision of the Bagley-Keene Act. Accordingly, the specific language of the Act must be consulted to determine what is authorized for discussion in closed session.

Because the purpose of the closed session exception is to confer with legal counsel, the attorney must be present during the entire closed session devoted to the pending litigation. The Act's pending litigation exception covers both the receipt of advice from counsel and the making of

⁵*San Diego Union v. City Council* (1983) 146 Cal.App.3d 947.

litigation decisions (e.g., whether to file an action, and if so, what approach should be taken, whether settlement should be considered, and if so, what the settlement terms should be.

What happens in a situation where a body desires legal advice from counsel, but the Act's pending litigation exception does not apply? In such a case, legal counsel can either (1) provide the legal advice orally and discuss it in open session; or (2) deliver a one-way legal advice memorandum to the board members. The memorandum would constitute a record containing an attorney-client privileged communication and would be protected from disclosure under section 6254(k) of the Public Records Act. (11125.1(a).) However, when the board members receive that memorandum, they may discuss it only in open session, unless there is a specific exception that applies which allows them to consider it in closed session.⁶

■ **Deliberations Exception**

The purpose of the deliberations exception is to permit a body to deliberate on decisions in a proceeding under the Administrative Procedures Act, or under similar provisions of law, in closed session. (§ 11126(c)(3).)

■ **Real Property Exception**

Under the Act, the real-property exception provides that the body can, in closed session, advise its negotiator in situations involving real estate transactions and in negotiations regarding price and terms of payment. (§ 11126(c)(7).) However, before meeting in closed session, the body must identify the specific parcel in question and the party with whom it is negotiating. Again, the Act requires that the body properly notice its intent to hold a closed session and to cite the applicable authority enabling it to do so.

■ **Security Exception**

A state body may, upon a two-thirds vote of those present, conduct a closed session to consider matters posing a potential threat of criminal or terrorist activity against the personnel, property, buildings, facilities, or equipment, including electronic data, owned, leased, or controlled by the state body, where disclosure of these considerations could adversely affect their safety or security. (11126(c)(18).) After such a closed session, the state body must reconvene in open session prior to adjournment and report that a closed session was held along with a description of the general nature of the matters considered, and whether any action was taken in closed session.

Whenever a state body utilizes this closed session exception, it must also provide specific written notice to the Legislative Analyst who must retain this information for at least four years. (11126(c)(18)(D).) This closed session exception will sunset in 2006. (11126(h).)

⁶*Roberts v. City of Palmdale* (1993) 5 Cal.4th 363, 381.

REMEDIES FOR VIOLATIONS

The Act provides for remedies and penalties in situations where violations have allegedly occurred. Depending on the particular circumstances, the decision of the body may be overturned (§ 11130.3), violations may be stopped or prevented (§ 11130), costs and fees may be awarded (§11130.5), and in certain situations, there may be criminal misdemeanor penalties imposed as well. (§ 11130.7.)

Within 90 days of a decision or action of the body, any interested person may file suit alleging a violation of the Act and seeking to overturn the decision or action. Among other things, such suit may allege an unauthorized closed session or an improperly noticed meeting. Although the body is permitted to cure and correct a violation so as to avoid having its decision overturned, this can be much like trying to put toothpaste back in the tube. If possible, the body should try to return to a point prior to when the violation occurred and then proceed properly. For example, if the violation involves improper notice, we recommend that the body invalidate its decision, provide proper notice, and start the process over. To the extent that information has been received, statements made, or discussions have taken place, we recommend that the body include all of this on the record to ensure that everyone is aware of these events and has had an opportunity to respond.

In certain situations where a body has violated the Act, the decision can not be set aside or overturned; namely, where the action taken concerns the issuance of bonds, the entering into contracts where there has been detrimental reliance, the collection of taxes, and, in situations where there has been substantial compliance with the requirements of the Act. (11130.3(b).)

Another remedy in dealing with a violation of the Act involves filing a lawsuit to stop or prevent future violations of the Act. (§ 11130.) In general, these legal actions are filed as injunctions, writs of mandates, or suits for declaratory relief. The Legislature has also authorized the Attorney General, the District Attorney or any other interested person to use these remedies to seek judicial redress for past violations of the Act.

A prevailing plaintiff may recover the costs of suit and attorney's fees from the body (not individual members). (§ 11130.5.) On the other hand, if the body prevails, it may recover attorney's fees and costs only if the plaintiff's suit was clearly frivolous and totally without merit.

The Act provides for misdemeanor penalties against individual members of the body if the member attends a meeting in violation of the Act with the intent to deprive the public of information to which he or she knows, or has reason to know, the public is entitled to receive. (§ 11130.7.)

THE BAGLEY-KEENE OPEN MEETING ACT

Government Code Sections 11120-11132
(January 2004)

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THE BAGLEY-KEENE OPEN MEETING ACT

Government Code Sections 11120-11132

§ 11120. Policy statement; requirement for open meetings

11120. 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 it is the intent of the law that actions of state agencies be taken openly and that their deliberation be conducted openly.

The people of this state do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

This article shall be known and may be cited as the Bagley-Keene Open Meeting Act.

§ 11121. State body

11121. As used in this article, "state body" means each of the following:

(a) Every state board, or commission, or similar multimember body of the state that is created by statute or required by law to conduct official meetings and every commission created by executive order.

(b) A board, commission, committee, or similar multimember body that exercises any authority of a state body delegated to it by that state body.

(c) An advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body of a state body, if created by formal action of the state body or of any member of the state body, and if the advisory body so created consists of three or more persons.

(d) A board, commission, committee, or similar multimember body on which a member of a body that is a state body pursuant to this section serves in his or her official capacity as a representative of that state body and that is supported, in whole or in part, by funds provided by the state body, whether the multimember body is organized and operated by the state body or by a private corporation.

§ 11121.1. State body; exceptions

11121.1. As used in this article, “state body” does not include any of the following:

(a) State agencies provided for in Article VI of the California Constitution.

(b) Districts or other local agencies whose meetings are required to be open to the public pursuant to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5).

(c) State agencies provided for in Article IV of the California Constitution whose meetings are required to be open to the public pursuant to the Grunsky-Burton Open Meeting Act (Article 2.2 (commencing with Section 9027) of Chapter 1.5 of Part 1 of Division 2 of Title 2).

(d) State agencies when they are conducting proceedings pursuant to Section 3596.

(e) State agencies provided for in Section 109260 of the Health and Safety Code, except as provided in Section 109390 of the Health and Safety Code.

(f) State agencies provided for in Section 11770.5 of the Insurance Code.

(g) The Credit Union Advisory Committee established pursuant to Section 14380 of the Financial Code.

§ 11121.9. Requirement to provide law to members

11121.9. Each state body shall provide a copy of this article to each member of the state body upon his or her appointment to membership or assumption of office.

§ 11121.95. Application to persons who have not assumed office

11121.95. Any person appointed or elected to serve as a member of a state body who has not yet assumed the duties of office shall conform his or her conduct to the requirements of this article and shall be treated for purposes of this article as if he or she has already assumed office.

§ 11122. Action taken; defined

11122. As used in this article “action taken” means a collective decision made by the members of a state body, a collective commitment or promise by the members of the state body to make a positive or negative decision or an actual vote by the members of a state body when sitting as a body or entity upon a motion, proposal, resolution, order or similar action.

§ 11122.5. Meeting defined; exceptions

11122.5. (a) As used in this article, “meeting” includes any congregation of a majority of the members of a state body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the state body to which it pertains.

(b) Except as authorized pursuant to Section 11123, any use of direct communication, personal intermediaries, or technological devices that is employed by a majority of the members of the state body to develop a collective concurrence as to action to be taken on an item by the members of the state body is prohibited.

(c) The prohibitions of this article do not apply to any of the following:

(1) Individual contacts or conversations between a member of a state body and any other person.

(2) The attendance of a majority of the members of a state body at a conference or similar gathering open to the public that involves a discussion of issues of general interest to the public or to public agencies of the type represented by the state body, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specified nature that is within the subject matter jurisdiction of the state body. This paragraph is not intended to allow members of the public free admission to a conference or similar gathering at which the organizers have required other participants or registrants to pay fees or charges as a condition of attendance.

(3) The attendance of a majority of the members of a state body at an open and publicized meeting organized to address a topic of state concern by a person or organization other than the state body, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specific nature that is within the subject matter jurisdiction of the state body.

(4) The attendance of a majority of the members of a state body at an open and noticed meeting of another state body or of a legislative body of a local agency as defined by Section 54951, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled meeting, business of a specific nature that is within the subject matter jurisdiction of the other state body.

(5) The attendance of a majority of the members of a state body at a purely social or ceremonial occasion, provided that a majority of the members do not discuss among themselves business of a specific nature that is within the subject matter jurisdiction of the state body.

(6) The attendance of a majority of the members of a state body at an open and noticed meeting of a standing committee of that body, provided that the members of the state body who are not members of the standing committee attend only as observers.

§ 11123. Requirement for open meetings; teleconference meetings

11123. (a) All meetings of a state body shall be open and public and all persons shall be permitted to attend any meeting of a state body except as otherwise provided in this article.

(b) (1) This article does not prohibit a state body from holding an open or closed meeting by teleconference for the benefit of the public and state body. The meeting or proceeding held by teleconference shall otherwise comply with all applicable requirements or laws relating to a specific type of meeting or proceeding, including the following:

(A) The teleconferencing meeting shall comply with all requirements of this article applicable to other meetings.

(B) The portion of the teleconferenced meeting that is required to be open to the public shall be audible to the public at the location specified in the notice of the meeting.

(C) If the state body elects to conduct a meeting or proceeding by teleconference, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the rights of any party or member of the public appearing before the state body. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. The agenda shall provide an opportunity for members of the public to address the state body directly pursuant to Section 11125.7 at each teleconference location.

(D) All votes taken during a teleconferenced meeting shall be by rollcall.

(E) The portion of the teleconferenced meeting that is closed to the public may not include the consideration of any agenda item being heard pursuant to Section 11125.5.

(F) At least one member of the state body shall be physically present at the location specified in the notice of the meeting.

(2) For the purposes of this subdivision, “teleconference” means a meeting of a state body, the members of which are at different locations, connected by electronic means, through either audio or both audio and video. This section does not prohibit a state body from providing members of the public with additional locations in which the public may observe or address the state body by electronic means, through either audio or both audio and video.

§ 11123.1. Compliance with the ADA

11123.1. All meetings of a state body that are open and public shall meet the protections and prohibitions contained in Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof.

§ 11124. No conditions for attending meetings

11124. No person shall be required, as a condition to attendance at a meeting of a state body, to register his or her name, to provide other information, to complete a questionnaire, or otherwise to fulfill any condition precedent to his or her attendance. If an attendance list, register, questionnaire, or other similar document is posted at or near the entrance to the room where the meeting is to be held, or is circulated to persons present during the meeting, it shall 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.

§ 11124.1. Right to record meetings

11124.1. (a) Any person attending an open and public meeting of the state body shall have the right to record the proceedings with an audio or video tape recorder or a still or motion picture camera in the absence of a reasonable finding by the state body that the recording cannot continue without noise, illumination, or obstruction of view that constitutes, or would constitute, a persistent disruption of the proceedings.

(b) Any tape or film record of an open and public meeting made for whatever purpose by or at the direction of the state body shall be subject to inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), but may be erased or destroyed 30 days after the taping or recording. Any inspection of an audio or video tape recording shall be provided without charge on an audio or video tape player made available by the state body.

(c) No state body shall prohibit or otherwise restrict the broadcast of its open and public meetings in the absence of a reasonable finding that the broadcast cannot be accomplished without noise, illumination, or obstruction of view that would constitute a persistent disruption of the proceedings.

§ 11125. Required notice

11125. (a) The state body shall provide notice of its meeting to any person who requests that notice in writing. Notice shall be given and also made available on the Internet at least 10 days in advance of the meeting, and shall include the name, address, and telephone number of any person who can provide further information prior to the meeting, but need not include a list of witnesses expected to appear at the meeting. The written notice shall additionally include the address of the Internet site where notices required by this article are made available.

(b) The notice of a meeting of a body that is a state body shall include a specific agenda for the meeting, containing a brief description of the items of business to be transacted or discussed in either open or closed session. A brief general description of an item generally need not exceed 20 words. A description of an item to be transacted or discussed in closed session shall include a citation of the specific statutory authority under which a closed session is being held. No item shall be added to the agenda subsequent to the provision of this notice, unless otherwise permitted by this article.

(c) Notice of a meeting of a state body that complies with this section shall also constitute notice of a meeting of an advisory body of that state body, provided that the business to be discussed by the advisory body is covered by the notice of the meeting of the state body, provided that the specific time and place of the advisory body's meeting is announced during the open and public state body's meeting, and provided that the advisory body's meeting is conducted within a reasonable time of, and nearby, the meeting of the state body.

(d) A person may request, and shall be provided, notice pursuant to subdivision (a) for all meetings of a state body or for a specific meeting or meetings. In addition, at the state body's discretion, a person may request, and may be provided, notice of only those meetings of a state body at which a particular subject or subjects specified in the request will be discussed.

(e) A request for notice of more than one meeting of a state body shall be subject to the provisions of Section 14911.

(f) The notice shall be made available in appropriate alternative formats, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof, upon request by any person with a disability. The notice shall include information regarding how, to whom, and by when a request for any disability-related modification or accommodation, including auxiliary aids or services may be made by a person with a disability who requires these aids or services in order to participate in the public meeting.

§ 11125.1. Agenda; writings provided to body; public records

11125.1. (a) Notwithstanding Section 6255 or any other provisions of law, agendas of public meetings and other writings, when distributed to all, or a majority of all, of the members of a state body by any person in connection with a matter subject to discussion or consideration at a public meeting of the body, are disclosable public records under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall be made available upon request without delay. However, this section shall not include any writing exempt from public disclosure under Section 6253.5, 6254, or 6254.7 of this code, or Section 489.1 or 583 of the Public Utilities Code.

(b) Writings that are public records under subdivision (a) and that are distributed to members of the state body prior to or during a meeting, pertaining to any item to be considered during the

meeting, shall be made available for public inspection at the meeting if prepared by the state body or a member of the state body, or after the meeting if prepared by some other person. These writings shall be made available in appropriate alternative formats, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof, upon request by a person with a disability.

(c) In the case of the Franchise Tax Board, prior to that state body taking final action on any item, writings pertaining to that item that are public records under subdivision (a) that are distributed to members of the state body by board staff or individual members prior to or during a meeting shall be:

(1) Made available for public inspection at that meeting.

(2) Distributed to all persons who request notice in writing pursuant to subdivision (a) of Section 11125.

(3) Made available on the Internet.

(d) Prior to the State Board of Equalization taking final action on any item that does not involve a named tax or fee payer, writings pertaining to that item that are public records under subdivision (a) that are prepared and distributed by board staff or individual members to members of the state body prior to or during a meeting shall be:

(1) Made available for public inspection at that meeting.

(2) Distributed to all persons who request or have requested copies of these writings.

(3) Made available on the Internet.

(e) Nothing in this section shall be construed to prevent a state body from charging a fee or deposit for a copy of a public record pursuant to Section 6253, except that no surcharge shall be imposed on persons with disabilities in violation of Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. The writings described in subdivision (b) are subject to the requirements of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall not be construed to limit or delay the public's right to inspect any record required to be disclosed by that act, or to limit the public's right to inspect any record covered by that act. This section shall not be construed to be applicable to any writings solely because they are properly discussed in a closed session of a state body. Nothing in this article shall be construed to require a state body to place any paid advertisement or any other paid notice in any publication.

(f) "Writing" for purposes of this section means "writing" as defined under Section 6252.

§ 11125.2. Announcement of personnel action

11125.2. Any state body shall report publicly at a subsequent public meeting any action taken, and any rollcall vote thereon, to appoint, employ, or dismiss a public employee arising out of any closed session of the state body.

§ 11125.3. Exception to agenda requirements

11125.3. (a) Notwithstanding Section 11125, a state body may take action on items of business not appearing on the posted agenda under any of the conditions stated below:

(1) Upon a determination by a majority vote of the state body that an emergency situation exists, as defined in Section 11125.5.

(2) Upon a determination by a two-thirds vote of the state body, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that there exists a need to take immediate action and that the need for action came to the attention of the state body subsequent to the agenda being posted as specified in Section 11125.

(b) Notice of the additional item to be considered shall be provided to each member of the state body and to all parties that have requested notice of its meetings as soon as is practicable after a determination of the need to consider the item is made, but shall be delivered in a manner that allows it to be received by the members and by newspapers of general circulation and radio or television stations at least 48 hours before the time of the meeting specified in the notice. Notice shall be made available to newspapers of general circulation and radio or television stations by providing that notice to all national press wire services. Notice shall also be made available on the Internet as soon as is practicable after the decision to consider additional items at a meeting has been made.

§ 11125.4. Special meetings

11125.4. (a) A special meeting may be called at any time by the presiding officer of the state body or by a majority of the members of the state body. A special meeting may only be called for one of the following purposes where compliance with the 10-day notice provisions of Section 11125 would impose a substantial hardship on the state body or where immediate action is required to protect the public interest:

(1) To consider “pending litigation” as that term is defined in subdivision (e) of Section 11126.

(2) To consider proposed legislation.

(3) To consider issuance of a legal opinion.

(4) To consider disciplinary action involving a state officer or employee.

(5) To consider the purchase, sale, exchange, or lease of real property.

(6) To consider license examinations and applications.

(7) To consider an action on a loan or grant provided pursuant to Division 31 (commencing with Section 50000) of the Health and Safety Code.

(b) When a special meeting is called pursuant to one of the purposes specified in subdivision (a), the state body shall provide notice of the special meeting to each member of the state body and to all parties that have requested notice of its meetings as soon as is practicable after the decision to call a special meeting has been made, but shall be delivered in a manner that allows it to be received by the members and by newspapers of general circulation and radio or television stations at least 48 hours before the time of the special meeting specified in the notice. Notice shall be made available to newspapers of general circulation and radio or television stations by providing that notice to all national press wire services. Notice shall also be made available on the Internet within the time periods required by this section. The notice shall specify the time and place of the special meeting and the business to be transacted. The written notice shall additionally specify the address of the Internet site where notices required by this article are made available. No other business shall be considered at a special meeting by the state body. The written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the clerk or secretary of the state body a written waiver of notice. The waiver may be given by telegram, facsimile transmission, or similar means. The written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes. Notice shall be required pursuant to this section regardless of whether any action is taken at the special meeting.

(c) At the commencement of any special meeting, the state body must make a finding in open session that the delay necessitated by providing notice 10 days prior to a meeting as required by Section 11125 would cause a substantial hardship on the body or that immediate action is required to protect the public interest. The finding shall set forth the specific facts that constitute the hardship to the body or the impending harm to the public interest. The finding shall be adopted by a two-thirds vote of the body, or, if less than two-thirds of the members are present, a unanimous vote of those members present. The finding shall be made available on the Internet. Failure to adopt the finding terminates the meeting.

§ 11125.5. Emergency meetings

11125.5. (a) In the case of an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of public facilities, a state body may hold an emergency meeting without complying with the 10-day notice requirement of Section 11125 or the 48-hour notice requirement of Section 11125.4.

(b) For purposes of this section, “emergency situation” means any of the following, as determined by a majority of the members of the state body during a meeting prior to the emergency meeting, or at the beginning of the emergency meeting:

(1) Work stoppage or other activity that severely impairs public health or safety, or both.

(2) Crippling disaster that severely impairs public health or safety, or both.

(c) However, newspapers of general circulation and radio or television stations that have requested notice of meetings pursuant to Section 11125 shall be notified by the presiding officer of the state body, or a designee thereof, one hour prior to the emergency meeting by telephone. Notice shall also be made available on the Internet as soon as is practicable after the decision to call the emergency meeting has been made. If telephone services are not functioning, the notice requirements of this section shall be deemed waived, and the presiding officer of the state body, or a designee thereof, shall notify those newspapers, radio stations, or television stations of the fact of the holding of the emergency meeting, the purpose of the meeting, and any action taken at the meeting as soon after the meeting as possible.

(d) The minutes of a meeting called pursuant to this section, a list of persons who the presiding officer of the state body, or a designee thereof, notified or attempted to notify, a copy of the rollcall vote, and any action taken at the meeting shall be posted for a minimum of 10 days in a public place, and also made available on the Internet for a minimum of 10 days, as soon after the meeting as possible.

§ 11125.6. Emergency meetings; Fish and Game Commission

11125.6. (a) An emergency meeting may be called at any time by the president of the Fish and Game Commission or by a majority of the members of the commission to consider an appeal of a closure of or restriction in a fishery adopted pursuant to Section 7710 of the Fish and Game Code. In the case of an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of an established fishery, the commission may hold an emergency meeting without complying with the 10-day notice requirement of Section 11125 or the 48-hour notice requirement of Section 11125.4 if the delay necessitated by providing the 10-day notice of a public meeting required by Section 11125 or the 48-hour notice required by Section 11125.4 would significantly adversely impact the economic benefits of a fishery to the participants in the fishery and to the people of the state or significantly adversely impact the sustainability of a fishery managed by the state.

(b) At the commencement of an emergency meeting called pursuant to this section, the commission shall make a finding in open session that the delay necessitated by providing notice 10 days prior to a meeting as required by Section 11125 or 48 hours prior to a meeting as required by Section 11125.4 would significantly adversely impact the economic benefits of a fishery to the participants in the fishery and to the people of the state or significantly adversely impact the sustainability of a fishery managed by the state. The finding shall set forth the specific facts that

constitute the impact to the economic benefits of the fishery or the sustainability of the fishery. The finding shall be adopted by a vote of at least four members of the commission, or, if less than four of the members are present, a unanimous vote of those members present. Failure to adopt the finding shall terminate the meeting.

(c) Newspapers of general circulation and radio or television stations that have requested notice of meetings pursuant to Section 11125 shall be notified by the presiding officer of the commission, or a designee thereof, one hour prior to the emergency meeting by telephone.

(d) The minutes of an emergency meeting called pursuant to this section, a list of persons who the president of the commission, or a designee thereof, notified or attempted to notify, a copy of the rollcall vote, and any action taken at the meeting shall be posted for a minimum of 10 days in a public place as soon after the meeting as possible.

§ 11125.7 Opportunity for public to speak at meeting

11125.7. (a) Except as otherwise provided in this section, the state body shall provide an opportunity for members of the public to directly address the state body on each agenda item before or during the state body's discussion or consideration of the item. This section is not applicable if the agenda item has already been considered by a committee composed exclusively of members of the state body at a public meeting where interested members of the public were afforded the opportunity to address the committee on the item, before or during the committee's consideration of the item, unless the item has been substantially changed since the committee heard the item, as determined by the state body. Every notice for a special meeting at which action is proposed to be taken on an item shall provide an opportunity for members of the public to directly address the state body concerning that item prior to action on the item. In addition, the notice requirement of Section 11125 shall not preclude the acceptance of testimony at meetings, other than emergency meetings, from members of the public, provided, however, that no action is taken by the state body at the same meeting on matters brought before the body by members of the public.

(b) The state body may adopt reasonable regulations to ensure that the intent of subdivision (a) is carried out, including, but not limited to, regulations limiting the total amount of time allocated for public comment on particular issues and for each individual speaker.

(c) The state body shall not prohibit public criticism of the policies, programs, or services of the state body, or of the acts or omissions of the state body. Nothing in this subdivision shall confer any privilege or protection for expression beyond that otherwise provided by law.

(d) This section is not applicable to closed sessions held pursuant to Section 11126.

(e) This section is not applicable to decisions regarding proceedings held pursuant to Chapter 5 (commencing with Section 11500), relating to administrative adjudication, or to the conduct of those proceedings.

(f) This section is not applicable to hearings conducted by the State Board of Control pursuant to Sections 13963 and 13963.1.

(g) This section is not applicable to agenda items that involve decisions of the Public Utilities Commission regarding adjudicatory hearings held pursuant to Chapter 9 (commencing with Section 1701) of Part 1 of Division 1 of the Public Utilities Code. For all other agenda items, the commission shall provide members of the public, other than those who have already participated in the proceedings underlying the agenda item, an opportunity to directly address the commission before or during the commission's consideration of the item.

§ 11125.8. Closed session; Board of Control; crime victims

11125.8. (a) Notwithstanding Section 11131.5, in any hearing that the State Board of Control conducts pursuant to Section 13963.1 and that the applicant or applicant's representative does not request be open to the public, no notice, agenda, announcement, or report required under this article need identify the applicant.

(b) In any hearing that the board conducts pursuant to Section 13963.1 and that the applicant or applicant's representative does not request be open to the public, the board shall disclose that the hearing is being held pursuant to Section 13963.1. That disclosure shall be deemed to satisfy the requirements of subdivision (a) of Section 11126.3.

§ 11125.9. Regional water quality control boards; additional notice requirements

11125.9. Regional water quality control boards shall comply with the notification guidelines in Section 11125 and, in addition, shall do both of the following:

(a) Notify, in writing, all clerks of the city councils and county boards of supervisors within the regional board's jurisdiction of any and all board hearings at least 10 days prior to the hearing. Notification shall include an agenda for the meeting with contents as described in subdivision (b) of Section 11125 as well as the name, address, and telephone number of any person who can provide further information prior to the meeting, but need not include a list of witnesses expected to appear at the meeting. Each clerk, upon receipt of the notification of a board hearing, shall distribute the notice to all members of the respective city council or board of supervisors within the regional board's jurisdiction.

(b) Notify, in writing, all newspapers with a circulation rate of at least 10,000 within the regional board's jurisdiction of any and all board hearings, at least 10 days prior to the hearing. Notification shall include an agenda for the meeting with contents as described in subdivision (b) of Section 11125 as well as the name, address, and telephone number of any person who can provide further information prior to the meeting, but need not include a list of witnesses expected to appear at the meeting.

§ 11126. Closed sessions

11126. (a)(1) Nothing in this article shall be construed to prevent a state body from holding closed sessions during a regular or special meeting to consider the appointment, employment, evaluation of performance, or dismissal of a public employee or to hear complaints or charges brought against that employee by another person or employee unless the employee requests a public hearing.

(2) As a condition to holding a closed session on the complaints or charges to consider disciplinary action or to consider dismissal, the employee shall be given written notice of his or her right to have a public hearing, rather than a closed session, and that notice shall be delivered to the employee personally or by mail at least 24 hours before the time for holding a regular or special meeting. If notice is not given, any disciplinary or other action taken against any employee at the closed session shall be null and void.

(3) The state body also may exclude from any public or closed session, during the examination of a witness, any or all other witnesses in the matter being investigated by the state body.

(4) Following the public hearing or closed session, the body may deliberate on the decision to be reached in a closed session.

(b) For the purposes of this section, “employee” does not include any person who is elected to, or appointed to a public office by, any state body. However, officers of the California State University who receive compensation for their services, other than per diem and ordinary and necessary expenses, shall, when engaged in that capacity, be considered employees. Furthermore, for purposes of this section, the term employee includes a person exempt from civil service pursuant to subdivision (e) of Section 4 of Article VII of the California Constitution.

(c) Nothing in this article shall be construed to do any of the following:

(1) Prevent state bodies that administer the licensing of persons engaging in businesses or professions from holding closed sessions to prepare, approve, grade, or administer examinations.

(2) Prevent an advisory body of a state body that administers the licensing of persons engaged in businesses or professions from conducting a closed session to discuss matters that the advisory body has found would constitute an unwarranted invasion of the privacy of an individual licensee or applicant if discussed in an open meeting, provided the advisory body does not include a quorum of the members of the state body it advises. Those matters may include review of an applicant’s qualifications for licensure and an inquiry specifically related to the state body’s enforcement program concerning an individual licensee or applicant where the inquiry occurs prior to the filing of a civil, criminal, or administrative disciplinary action against the licensee or applicant by the state body.

(3) Prohibit a state body from holding a closed session to deliberate on a decision to be reached in a proceeding required to be conducted pursuant to Chapter 5 (commencing with Section 11500) or similar provisions of law.

(4) Grant a right to enter any correctional institution or the grounds of a correctional institution where that right is not otherwise granted by law, nor shall anything in this article be construed to prevent a state body from holding a closed session when considering and acting upon the determination of a term, parole, or release of any individual or other disposition of an individual case, or if public disclosure of the subjects under discussion or consideration is expressly prohibited by statute.

(5) Prevent any closed session to consider the conferring of honorary degrees, or gifts, donations, and bequests that the donor or proposed donor has requested in writing to be kept confidential.

(6) Prevent the Alcoholic Beverage Control Appeals Board from holding a closed session for the purpose of holding a deliberative conference as provided in Section 11125.

(7) (A) Prevent a state body from holding closed sessions with its negotiator prior to the purchase, sale, exchange, or lease of real property by or for the state body to give instructions to its negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease.

(B) However, prior to the closed session, the state body shall hold an open and public session in which it identifies the real property or real properties that the negotiations may concern and the person or persons with whom its negotiator may negotiate.

(C) For purposes of this paragraph, the negotiator may be a member of the state body.

(D) For purposes of this paragraph, “lease” includes renewal or renegotiation of a lease.

(E) Nothing in this paragraph shall preclude a state body from holding a closed session for discussions regarding eminent domain proceedings pursuant to subdivision (e).

(8) Prevent the California Postsecondary Education Commission from holding closed sessions to consider matters pertaining to the appointment or termination of the Director of the California Postsecondary Education Commission.

(9) Prevent the Council for Private Postsecondary and Vocational Education from holding closed sessions to consider matters pertaining to the appointment or termination of the Executive Director of the Council for Private Postsecondary and Vocational Education.

(10) Prevent the Franchise Tax Board from holding closed sessions for the purpose of discussion of confidential tax returns or information the public disclosure of which is prohibited by

law, or from considering matters pertaining to the appointment or removal of the Executive Officer of the Franchise Tax Board.

(11) Require the Franchise Tax Board to notice or disclose any confidential tax information considered in closed sessions, or documents executed in connection therewith, the public disclosure of which is prohibited pursuant to Article 2 (commencing with Section 19542) of Chapter 7 of Part 10.2 of the Revenue and Taxation Code.

(12) Prevent the Board of Corrections from holding closed sessions when considering reports of crime conditions under Section 6027 of the Penal Code.

(13) Prevent the State Air Resources Board from holding closed sessions when considering the proprietary specifications and performance data of manufacturers.

(14) Prevent the State Board of Education or the Superintendent of Public Instruction, or any committee advising the board or the superintendent, from holding closed sessions on those portions of its review of assessment instruments pursuant to Chapter 5 (commencing with Section 60600) of, or pursuant to Chapter 8 (commencing with Section 60850) of, Part 33 of the Education Code during which actual test content is reviewed and discussed. The purpose of this provision is to maintain the confidentiality of the assessments under review.

(15) Prevent the California Integrated Waste Management Board or its auxiliary committees from holding closed sessions for the purpose of discussing confidential tax returns, discussing trade secrets or confidential or proprietary information in its possession, or discussing other data, the public disclosure of which is prohibited by law.

(16) Prevent a state body that invests retirement, pension, or endowment funds from holding closed sessions when considering investment decisions. For purposes of consideration of shareholder voting on corporate stocks held by the state body, closed sessions for the purposes of voting may be held only with respect to election of corporate directors, election of independent auditors, and other financial issues that could have a material effect on the net income of the corporation. For the purpose of real property investment decisions that may be considered in a closed session pursuant to this paragraph, a state body shall also be exempt from the provisions of paragraph (7) relating to the identification of real properties prior to the closed session.

(17) Prevent a state body, or boards, commissions, administrative officers, or other representatives that may properly be designated by law or by a state body, from holding closed sessions with its representatives in discharging its responsibilities under Chapter 10 (commencing with Section 3500), Chapter 10.3 (commencing with Section 3512), Chapter 10.5 (commencing with Section 3525), or Chapter 10.7 (commencing of Section 3540) of Division 4 of Title 1 as the sessions relate to salaries, salary schedules, or compensation paid in the form of fringe benefits. For the purposes enumerated in the preceding sentence, a state body may also meet with a state conciliator who has intervened in the proceedings.

(18) (A) Prevent a state body from holding closed sessions to consider matters posing a threat or potential threat of criminal or terrorist activity against the personnel, property, buildings, facilities, or equipment, including electronic data, owned, leased, or controlled by the state body, where disclosure of these considerations could compromise or impede the safety or security of the personnel, property, buildings, facilities, or equipment, including electronic data, owned, leased, or controlled by the state body.

(B) Notwithstanding any other provision of law, a state body, at any regular or special meeting, may meet in a closed session pursuant to subparagraph (A) upon a two-thirds vote of the members present at the meeting.

(C) After meeting in closed session pursuant to subparagraph (A), the state body shall reconvene in open session prior to adjournment and report that a closed session was held pursuant to subparagraph (A), the general nature of the matters considered, and whether any action was taken in closed session.

(D) After meeting in closed session pursuant to subparagraph (A), the state body shall submit to the Legislative Analyst written notification stating that it held this closed session, the general reason or reasons for the closed session, the general nature of the matters considered, and whether any action was taken in closed session. The Legislative Analyst shall retain for no less than four years any written notification received from a state body pursuant to this subparagraph.

(d)(1) Notwithstanding any other provision of law, any meeting of the Public Utilities Commission at which the rates of entities under the commission's jurisdiction are changed shall be open and public.

(2) Nothing in this article shall be construed to prevent the Public Utilities Commission from holding closed sessions to deliberate on the institution of proceedings, or disciplinary actions against any person or entity under the jurisdiction of the commission.

(e) (1) Nothing in this article shall be construed to prevent a state body, based on the advice of its legal counsel, from holding a closed session to confer with, or receive advice from, its legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the state body in the litigation.

(2) For purposes of this article, all expressions of the lawyer-client privilege other than those provided in this subdivision are hereby abrogated. This subdivision is the exclusive expression of the lawyer-client privilege for purposes of conducting closed session meetings pursuant to this article. For purposes of this subdivision, litigation shall be considered pending when any of the following circumstances exist:

(A) An adjudicatory proceeding before a court, an administrative body exercising its adjudicatory authority, a hearing officer, or an arbitrator, to which the state body is a party, has been initiated formally.

(B)(i) A point has been reached where, in the opinion of the state body on the advice of its legal counsel, based on existing facts and circumstances, there is a significant exposure to litigation against the state body.

(ii) Based on existing facts and circumstances, the state body is meeting only to decide whether a closed session is authorized pursuant to clause (i).

(C) (i) Based on existing facts and circumstances, the state body has decided to initiate or is deciding whether to initiate litigation.

(ii) The legal counsel of the state body shall prepare and submit to it a memorandum stating the specific reasons and legal authority for the closed session. If the closed session is pursuant to paragraph (1), the memorandum shall include the title of the litigation. If the closed session is pursuant to subparagraph (A) or (B), the memorandum shall include the existing facts and circumstances on which it is based. The legal counsel shall submit the memorandum to the state body prior to the closed session, if feasible, and in any case no later than one week after the closed session. The memorandum shall be exempt from disclosure pursuant to Section 6254.25.

(iii) For purposes of this subdivision, "litigation" includes any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator.

(iv) Disclosure of a memorandum required under this subdivision shall not be deemed a waiver of the lawyer-client privilege, as provided for under Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code.

(f) In addition to subdivisions (a), (b), and (c), nothing in this article shall be construed to do any of the following:

(1) Prevent a state body operating under a joint powers agreement for insurance pooling from holding a closed session to discuss a claim for the payment of tort liability or public liability losses incurred by the state body or any member agency under the joint powers agreement.

(2) Prevent the examining committee established by the State Board of Forestry and Fire Protection, pursuant to Section 763 of the Public Resources Code, from conducting a closed session to consider disciplinary action against an individual professional forester prior to the filing of an accusation against the forester pursuant to Section 11503.

(3) Prevent an administrative committee established by the California Board of Accountancy pursuant to Section 5020 of the Business and Professions Code from conducting a closed session to consider disciplinary action against an individual accountant prior to the filing of an accusation against the accountant pursuant to Section 11503. Nothing in this article shall be construed to prevent an examining committee established by the California Board of Accountancy pursuant to

Section 5023 of the Business and Professions Code from conducting a closed hearing to interview an individual applicant or accountant regarding the applicant's qualifications.

(4) Prevent a state body, as defined in subdivision (b) of Section 11121, from conducting a closed session to consider any matter that properly could be considered in closed session by the state body whose authority it exercises.

(5) Prevent a state body, as defined in subdivision (d) of Section 11121, from conducting a closed session to consider any matter that properly could be considered in a closed session by the body defined as a state body pursuant to subdivision (a) or (b) of Section 11121.

(6) Prevent a state body, as defined in subdivision (c) of Section 11121, from conducting a closed session to consider any matter that properly could be considered in a closed session by the state body it advises.

(7) Prevent the State Board of Equalization from holding closed sessions for either of the following:

(A) When considering matters pertaining to the appointment or removal of the Executive Secretary of the State Board of Equalization.

(B) For the purpose of hearing confidential taxpayer appeals or data, the public disclosure of which is prohibited by law.

(8) Require the State Board of Equalization to disclose any action taken in closed session or documents executed in connection with that action, the public disclosure of which is prohibited by law pursuant to Sections 15619 and 15641 of this code and Sections 833, 7056, 8255, 9255, 11655, 30455, 32455, 38705, 38706, 43651, 45982, 46751, 50159, 55381, and 60609 of the Revenue and Taxation Code.

(9) Prevent the California Earthquake Prediction Evaluation Council, or other body appointed to advise the Director of the Office of Emergency Services or the Governor concerning matters relating to volcanic or earthquake predictions, from holding closed sessions when considering the evaluation of possible predictions.

(g) This article does not prevent either of the following:

(1) The Teachers' Retirement Board or the Board of Administration of the Public Employees' Retirement System from holding closed sessions when considering matters pertaining to the recruitment, appointment, employment, or removal of the chief executive officer or when considering matters pertaining to the recruitment or removal of the Chief Investment Officer of the State Teachers' Retirement System or the Public Employees' Retirement System.

(2) The Commission on Teacher Credentialing from holding closed sessions when considering matters relating to the recruitment, appointment, or removal of its executive director.

(h) This section shall remain in effect only until January 1, 2006, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2006, deletes or extends that date.

§ 11126.1. Minutes; availability

11126.1. The state body shall designate a clerk or other officer or employee of the state body, who shall then attend each closed session of the state body and keep and enter in a minute book a record of topics discussed and decisions made at the meeting. The minute book made pursuant to this section is not a public record subject to inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall be kept confidential. The minute book shall be available to members of the state body or, if a violation of this chapter is alleged to have occurred at a closed session, to a court of general jurisdiction. Such minute book may, but need not, consist of a recording of the closed session.

§ 11126.3. Required notice for closed sessions

11126.3. (a) Prior to holding any closed session, the state body shall disclose, in an open meeting, the general nature of the item or items to be discussed in the closed session. The disclosure may take the form of a reference to the item or items as they are listed by number or letter on the agenda. If the session is closed pursuant to paragraph (2) of subdivision (d) of Section 11126, the state body shall state the title of, or otherwise specifically identify, the proceeding or disciplinary action contemplated. However, should the body determine that to do so would jeopardize the body's ability to effectuate service of process upon one or more unserved parties if the proceeding or disciplinary action is commenced or that to do so would fail to protect the private economic and business reputation of the person or entity if the proceeding or disciplinary action is not commenced, then the state body shall notice that there will be a closed session and describe in general terms the purpose of that session. If the session is closed pursuant to subparagraph (A) of paragraph (2) of subdivision (e) of Section 11126, the state body shall state the title of, or otherwise specifically identify, the litigation to be discussed unless the body states that to do so would jeopardize the body's ability to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

(b) In the closed session, the state body may consider only those matters covered in its disclosure.

(c) The disclosure shall be made as part of the notice provided for the meeting pursuant to Section 11125 or pursuant to subdivision (a) of Section 92032 of the Education Code and of any order or notice required by Section 11129.

(d) If, after the agenda has been published in compliance with this article, any pending litigation (under subdivision (e) of Section 11126) matters arise, the postponement of which will prevent the state body from complying with any statutory, court-ordered, or other legally imposed deadline, the state body may proceed to discuss those matters in closed session and shall publicly announce in the meeting the title of, or otherwise specifically identify, the litigation to be discussed, unless the body states that to do so would jeopardize the body's ability to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage. Such an announcement shall be deemed to comply fully with the requirements of this section.

(e) Nothing in this section shall require or authorize a disclosure of names or other information that would constitute an invasion of privacy or otherwise unnecessarily divulge the particular facts concerning the closed session or the disclosure of which is prohibited by state or federal law.

(f) After any closed session, the state body shall reconvene into open session prior to adjournment and shall make any reports, provide any documentation, and make any other disclosures required by Section 11125.2 of action taken in the closed session.

(g) The announcements required to be made in open session pursuant to this section may be made at the location announced in the agenda for the closed session, as long as the public is allowed to be present at that location for the purpose of hearing the announcement.

§ 11126.5. Removal of disruptive persons

11126.5. In the event that any meeting is willfully interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of individuals who are willfully interrupting the meeting the state body conducting the meeting may order the meeting room cleared and continue in session. Nothing in this section shall prohibit the state body from establishing a procedure for readmitting an individual or individuals not responsible for willfully disturbing the orderly conduct of the meeting. Notwithstanding any other provision of law, only matters appearing on the agenda may be considered in such a session. Representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held pursuant to this section.

§ 11126.7. Charging fees prohibited

11126.7. No fees may be charged by a state body for providing a notice required by Section 11125 or for carrying out any provision of this article, except as specifically authorized pursuant to this article.

§ 11127. State bodies covered

11127. Each provision of this article shall apply to every state body unless the body is specifically excepted from that provision by law or is covered by any other conflicting provision of law.

§ 11128. Time restrictions for holding closed sessions

11128. Each closed session of a state body shall be held only during a regular or special meeting of the body.

§ 11128.5. Adjournment

11128.5. The state body may adjourn any regular, adjourned regular, special, or adjourned special meeting to a time and place specified in the order of adjournment. Less than a quorum may so adjourn from time to time. If all members are absent from any regular or adjourned regular meeting, the clerk or secretary of the state body may declare the meeting adjourned to a stated time and place and he or she shall cause a written notice of the adjournment to be given in the same manner as provided in Section 11125.4 for special meetings, unless that notice is waived as provided for special meetings. A copy of the order or notice of adjournment shall be conspicuously posted on or near the door of the place where the regular, adjourned regular, special, or adjourned special meeting was held within 24 hours after the time of the adjournment. When a regular or adjourned regular meeting is adjourned as provided in this section, the resulting adjourned regular meeting is a regular meeting for all purposes. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings by law or regulation.

§ 11129. Continuation of meeting; notice requirement

11129. Any hearing being held, or noticed or ordered to be held by a state body at any meeting may by order or notice of continuance be continued or recontinued to any subsequent meeting of the state body in the same manner and to the same extent set forth in Section 11128.5 for the adjournment of meetings. A copy of the order or notice of continuance shall be conspicuously posted on or near the door of the place where the hearing was held within 24 hours after the time of the continuance; provided, that if the hearing is continued to a time less than 24 hours after the time specified in the order or notice of hearing, a copy of the order or notice of continuance of hearing shall be posted immediately following the meeting at which the order or declaration of continuance was adopted or made.

§ 11130. Legal remedies to stop or prohibit violations of act

11130. (a) The Attorney General, the district attorney, or any interested person may commence an action by mandamus, injunction, or declaratory relief for the purpose of stopping or preventing violations or threatened violations of this article or to determine the applicability of this

article to past actions or threatened future action by members of the state body or to determine whether any rule or action by the state body to penalize or otherwise discourage the expression of one or more of its members is valid or invalid under the laws of this state or of the United States, or to compel the state body to tape record its closed sessions as hereinafter provided.

(b) The court in its discretion may, upon a judgment of a violation of Section 11126, order the state body to tape record its closed sessions and preserve the tape recordings for the period and under the terms of security and confidentiality the court deems appropriate.

(c) (1) Each recording so kept shall be immediately labeled with the date of the closed session recorded and the title of the clerk or other officer who shall be custodian of the recording.

(2) The tapes shall be subject to the following discovery procedures:

(A) In any case in which discovery or disclosure of the tape is sought by the Attorney General, the district attorney, or the plaintiff in a civil action pursuant to this section or Section 11130.3 alleging that a violation of this article has occurred in a closed session that has been recorded pursuant to this section, the party seeking discovery or disclosure shall file a written notice of motion with the appropriate court with notice to the governmental agency that has custody and control of the tape recording. The notice shall be given pursuant to subdivision (b) of Section 1005 of the Code of Civil Procedure.

(B) The notice shall include, in addition to the items required by Section 1010 of the Code of Civil Procedure, all of the following:

(i) Identification of the proceeding in which discovery or disclosure is sought, the party seeking discovery or disclosure, the date and time of the meeting recorded, and the governmental agency that has custody and control of the recording.

(ii) An affidavit that contains specific facts indicating that a violation of the act occurred in the closed session.

(3) If the court, following a review of the motion, finds that there is good cause to believe that a violation has occurred, the court may review, in camera, the recording of that portion of the closed session alleged to have violated the act.

(4) If, following the in-camera review, the court concludes that disclosure of a portion of the recording would be likely to materially assist in the resolution of the litigation alleging violation of this article, the court shall, in its discretion, make a certified transcript of the portion of the recording a public exhibit in the proceeding.

(5) Nothing in this section shall permit discovery of communications that are protected by the attorney-client privilege.

§ 11130.3. Cause of action to void action

11130.3. (a) Any interested person may commence an action by mandamus, injunction, or declaratory relief for the purpose of obtaining a judicial determination that an action taken by a state body in violation of Section 11123 or 11125 is null and void under this section. Any action seeking such a judicial determination shall be commenced within 90 days from the date the action was taken. Nothing in this section shall be construed to prevent a state body from curing or correcting an action challenged pursuant to this section.

(b) An action shall not be determined to be null and void if any of the following conditions exist:

(1) The action taken was in connection with the sale or issuance of notes, bonds, or other evidences of indebtedness or any contract, instrument, or agreement related thereto.

(2) The action taken gave rise to a contractual obligation upon which a party has, in good faith, detrimentally relied.

(3) The action taken was in substantial compliance with Sections 11123 and 11125.

(4) The action taken was in connection with the collection of any tax.

§ 11130.5. Court costs; attorney's fees

11130.5. A court may award court costs and reasonable attorney's fees to the plaintiff in an action brought pursuant to Section 11130 or 11130.3 where it is found that a state body has violated the provisions of this article. The costs and fees shall be paid by the state body and shall not become a personal liability of any public officer or employee thereof. A court may award court costs and reasonable attorney's fees to a defendant in any action brought pursuant to Section 11130 or 11130.3 where the defendant has prevailed in a final determination of the action and the court finds that the action was clearly frivolous and totally lacking in merit.

§ 11130.7. Violation; misdemeanor

11130.7. Each member of a state body who attends a meeting of that body in violation of any provision of this article, and where the member intends to deprive the public of information to which the member knows or has reason to know the public is entitled under this article, is guilty of a misdemeanor.

§ 11131. Prohibited meeting facilities; discrimination

11131. No state agency shall conduct any meeting, conference, or other function in any facility that prohibits the admittance of any person, or persons, on the basis of race, religious creed, color, national origin, ancestry, or sex, or that is inaccessible to disabled persons, or where members of the public may not be present without making a payment or purchase. As used in this section,

“state agency” means and includes every state body, office, officer, department, division, bureau, board, council, commission, or other state agency.

§ 11131.5. Required notice; exemption for name of victim

11131.5. No notice, agenda, announcement, or report required under this article need identify any victim or alleged victim of crime, tortious sexual conduct, or child abuse unless the identity of the person has been publicly disclosed.

§ 11132. Closed sessions; express authorization required

11132. Except as expressly authorized by this article, no closed session may be held by any state body.

CALIFORNIA WORKFORCE DEVELOPMENT BOARD

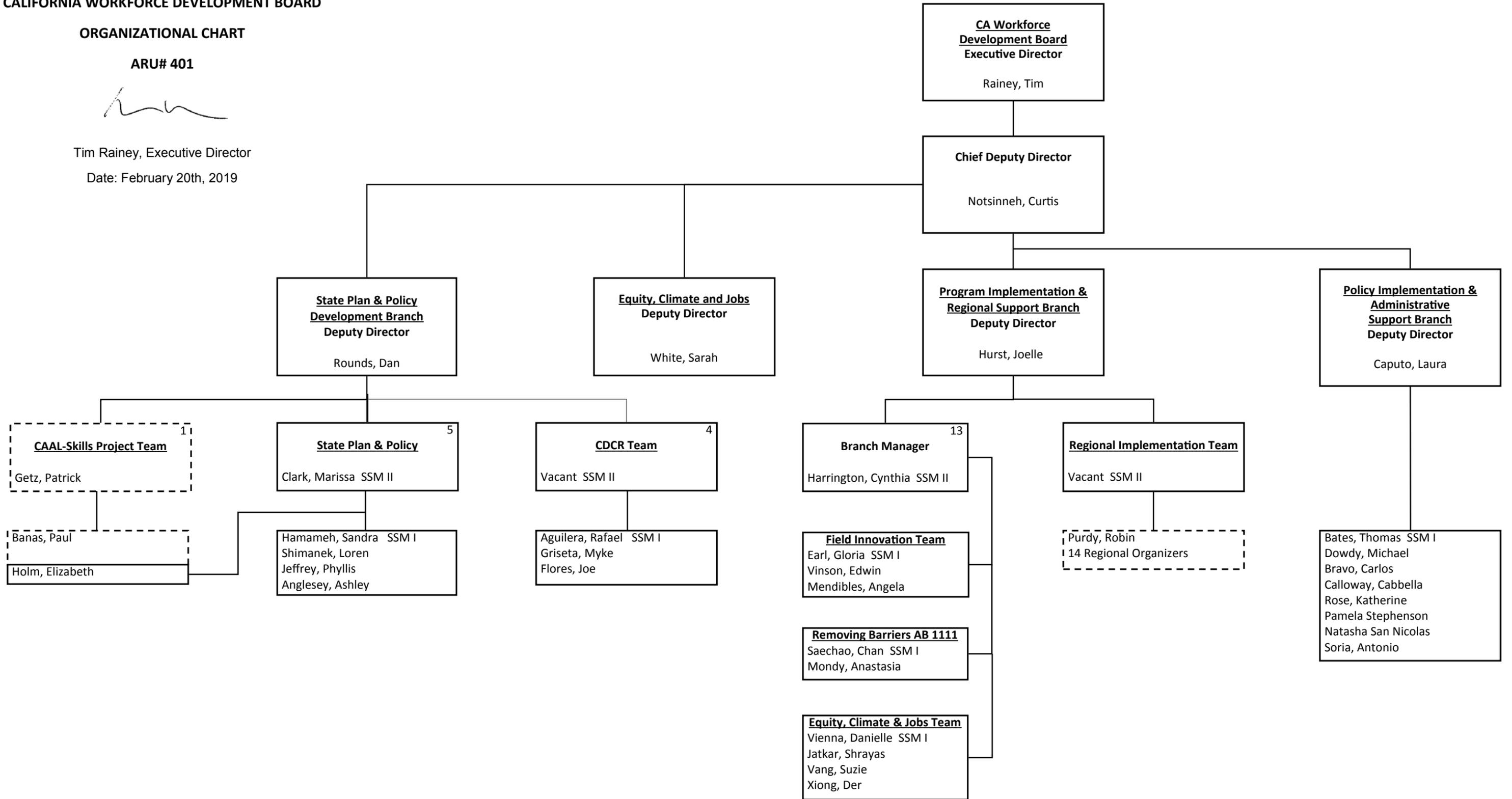
ORGANIZATIONAL CHART

ARU# 401



Tim Rainey, Executive Director

Date: February 20th, 2019



List of Local Workforce Development Areas in the State

Alameda County Workforce Development Board

Anaheim Workforce Development Board

Contra Costa County Workforce Development Board

Foothill Workforce Development Board

Fresno County Workforce Development Board - Workforce Connection

Golden Sierra Workforce Development Board

Humboldt County Workforce Development Board

Imperial County Workforce Development Board

Kern, Inyo, & Mono County Workforce Development Board

Kings County Workforce Development Board

Los Angeles City Workforce Development Board

Los Angeles County Workforce Development Board

Madera County Workforce Assistance Center

Mendocino County Workforce Development Board

Merced County Workforce Development Board

Monterey County Workforce Development Board

Mother Lode Job Connection (Amador, Calaveras, Mariposa & Tuolumne)

Workforce Alliance of the North Bay (Napa, Lake and Marin Counties)

North Central Counties Consortium [Colusa, Glenn, Sutter, & Yuba Counties]

North Valley Job Training Consortium (NoVa) [Cities of Cupertino, Los Altos, Milpitas, Mountain View, Palo Alto, Santa Clara & Sunnyvale, and San Mateo County]

Northern Rural Training & Employment Consortium (NoRTEC) [Butte, Del Norte, Lassen, Modoc, Plumas, Siskiyou, Shasta, Tehama & Trinity Counties]

Oakland Workforce Development Board

Orange County Workforce Development Board

Pacific Gateway Workforce Development Network [Long Beach]

Richmond Workforce Development Board

Riverside County Workforce Development Board

Sacramento Employment and Training Agency

San Benito County Workforce Development Board

San Bernardino County Workforce Development Board (City and County)

San Diego Workforce Partnership, Inc.

San Francisco Workforce Development Board

San Joaquin County Workforce Development Board

San Luis Obispo County Workforce Development Board

Santa Ana Workforce Development Board

Santa Barbara County Workforce Development Board

Santa Cruz Workforce Development Board

San Jose/Silicon Valley WIN - Work 2 Future

Solano County Workforce Development Board

Sonoma County Workforce Development Board

South Bay Workforce Development Board [Cities of El Segundo, Gardena, Hawthorne, Hermosa Beach, Inglewood, Lawndale, Manhattan Beach, & Redondo Beach]

Southeast Los Angeles County Workforce Development Board (SELACO) [Cities of Artesia, Bellflower, Cerritos, Downey, Hawaiian Gardens, Lakewood, & Norwalk]

Stanislaus River Valley Alliance

Tulare County Workforce Development Board

Ventura County Workforce Development Board

Verdugo Workforce Development Board

Yolo County Workforce Development Board

Regional Planning Units

1. **Coastal Region** (4 boards): Monterey, San Luis Obispo, Santa Barbara
Santa Cruz

Counties Included (4): Monterey, Santa Cruz, Santa Barbara, San Luis Obispo

Major City Populations in Region: Salinas, Santa Maria, Santa Barbara, Monterey, San Luis Obispo, Santa Cruz

2. **Middle Sierra** (1 board): Mother Lode

Counties Included (4): Amador, Calaveras, Mariposa, Tuolumne

Major City Populations in Region: Sonora, Angels City

3. **North Coast** (1 Board): Humboldt

Counties Included (1): Humboldt

Major City Populations in Region: Eureka

4. **North State** (1 board): NORTEC

Counties Included (11): Del Norte, Siskiyou, Modoc, Trinity, Shasta, Tehama, Butte, Nevada, Sierra, Plumas, Lassen

Major City Populations in Region: Redding, Chico, Paradise, Oroville, Truckee, Susanville

5. **Capitol Region** (4 boards): Golden Sierra, North Central Counties, SETA , Yolo

Counties Included (9): Alpine, Sacramento, Yolo, Sutter, Colusa, Glenn, Yuba, Placer, El Dorado

Major City Populations in Region: Sacramento, Elk Grove, Roseville

6. **East Bay** (4 boards): Contra Costa County, Alameda, Richmond, Oakland

Counties Included (2): Contra Costa, Alameda

Major City Populations in Region: Oakland, Fremont, Concord, Berkeley, Richmond, Antioch

7. **North Bay** (5 boards): Marin, Napa-Lake, Sonoma, Solano, Mendocino

Counties Included (6): Marin, Napa, Lake, Sonoma, Solano, and Mendocino

Major City Populations in Region: Santa Rosa, Vallejo, Fairfield, San Rafael, Napa, Ukiah

8. **Bay-Peninsula** (4 boards): San Francisco, NOVA, San Jose, San Benito

Counties Included (4): San Francisco, San Mateo, Santa Clara, San Benito

Major City Populations in Region: San Jose, San Francisco, Sunnyvale, Santa Clara, Daly City, San Mateo, Palo Alto

9. **San Joaquin Valley and Associated Counties** (8 Boards): Fresno, Kern-Inyo-Mono, Kings, Madera, Merced, San Joaquin, Stanislaus, Tulare

Counties Included (10): Fresno, Kern, Inyo, Mono, Kings, Madera, Merced, San Joaquin, Stanislaus, Tulare

Major City Populations in Region: Fresno, Bakersfield, Stockton, Modesto, Visalia, Clovis, Merced

10. **Southern Border** (2 Boards): San Diego, Imperial

Counties Included (2): San Diego, Imperial

Major City Populations in Region: San Diego, Chula Vista, Oceanside, Escondido, Carlsbad, El Cajon

11. **Los Angeles Basin** (7 Boards): Los Angeles City, Los Angeles County, Foothill, Southeast Los Angeles County, South Bay, Verdugo, Pacific Gateway

Counties Included (1): Los Angeles

Major City Populations in Region: Los Angeles, Long Beach, Santa Clarita, Glendale, Lancaster, Palmdale, Pomona, Torrance, Pasadena, El Monte, Downey, Inglewood, West Covina, Norwalk, Burbank, Carson, Compton, Santa Monica,

12. **Orange** (3 Boards): Santa Ana, Orange, Anaheim

Counties Included (1): Orange

Major City Populations in Region: Anaheim, Santa Ana, Irvine, Huntington Beach, Garden Grove, Orange, Fullerton, Costa Mesa, Mission Viejo

13. Inland Empire (3 Boards): Riverside, San Bernardino County

Counties Included (2): Riverside, San Bernardino

Major City Populations in Region: Riverside, San Bernardino, Fontana, Moreno Valley, Rancho Cucamonga, Ontario, Corona, Victorville, Murrieta, Temecula, Rialto

14. Ventura (1 Board)

Counties Included (1): Ventura

Major City Populations in Region: Oxnard, Thousand Oaks, Simi Valley, San Buenaventura

WIOA Regional Planning Units



Glossary of Common Acronyms and Abbreviations

AB	Assembly Bill	DWED	CCC Division of Workforce and Economic Development
ADA	Americans with Disabilities Act	EDD-WSB	Employment Development Department Workforce Services Branch
Ag Plan	Wagner Peyser Act Agricultural Outreach Plan	ES	Employment Service
BLS	Bureau of Labor Statistics	ESL	English as a Second Language
BTHA	Business Transportation & Housing Agency	ETA	DOL Employment & Training Administration
Cal JOBS	California's Job Opening Browse System	ETP	Employment Training Panel
CalWorks	California Work Opportunity & Responsibility to Kids	ETPL	Eligible Training Provider List
CCC	California Community Colleges	GCJC	Green Collar Jobs Council
CCEPD	California Committee on the Employment of Persons with Disabilities	GED	General Equivalency Diploma
CEC	California Energy Commission	GO-Biz	Governor's Office of Business and Economic Development
CDA	California Department of Aging	HHSA	California Health and Human Services Agency
CDE	California Department of Education	HUD	U.S. Department of Housing and Urban Development
CDSS	California Department of Social Services	HWDC	Health Workforce Development Council
CLEO	Chief Local Elected Official	ICM	Industry Clusters Methodology
CFR	Code of Federal Regulations	IPSC	Issues and Policies Special Committee
CTE	Career Technical Education	ITA	Individual Training Accounts
CWA	California Workforce Association	JS	Job Service
CWSN	California Workforce Services Network	LEP	Limited English Proficient
DABSA	Dymally-Alatorre Bilingual Services Act	LMI	Labor Market Information
DGS	Department of General Services	LMID	Labor Market Information Division
DOL	Department of Labor	Local Plan	Strategic Local Workforce Plan
DOLETA	United States Department of Labor, Employment & Training Administration	LWIA	Local Workforce Investment Area
DVOP	Disabled Veterans Outreach Program	Local Board	Local Workforce Investment Board
		LVER	Local Veterans Employment Representative

MOU	Memoranda of Understanding	WIAB	Workforce Investment Act Bulletin
MSA	Metropolitan Service Area	WPA	Wagner-Peyser Act
MSFW	Migrant & Seasonal Farm Workers	WSB	Workforce Services Branch
		WSD	Workforce Services Division
NAICS	North American Industry Classification System		
OJT	On-the-Job-Training		
OMB	Office of Management and Budget		
O*NET	Occupational Information Network		
One-Stop	One-Stop Career Center		
OSHPD	Office of State Health Planning and Development		
Perkins CTE	Carl D. Perkins Career and Technical Education Act of 2006		
PY	Program Year		
RAP	Registered Apprenticeship Program		
RPU	Regional Planning Unit		
SB	Senate Bill		
SFP	Solicitation for Proposal		
State Board	California Workforce Development Board		
STEM	Science, Technology, Engineering and Math		
SYVT	State Youth Vision Team		
TAA	Trade Adjustment Assistance		
TANF	Temporary Assistance to Needy Families		
TEGL	Training & Employment Guidance Letter		
TEN	Training and Employment Guidance Notice		
UI	Unemployment Insurance		
UIB	Unemployment Insurance Branch		
USDA	U.S. Department of Agriculture		
WARN	Worker Adjustment and Retraining Notification		
WIOA	Workforce Innovation and Opportunity Act		
WD	Workforce Directive		