

To: CalSavers Retirement Savings Board

From: David Teykaerts, Executive Director, CalSavers Retirement Savings Board

Re: 2024 Changes to Bagley-Keene Open Meeting Act from SB 544

Summary

Effective January 1, 2024, SB 544 revises certain teleconferencing requirement under the Bagley-Keene Open Meeting Act, which mandates all meetings of a state body be open and public. **The most important change requires that meetings be held in-person and at a physical location, with a quorum of Board members in physical attendance, with certain abilities to participate remotely for other members beyond the quorum.** The Act no longer exempts or permits 100% remote meetings. The other important changes to the Act relate to methods and rules of remote participation by members of a state body, staff, and the general public.

These changes will require the CalSavers Retirement Savings Board to hold in-person meetings at a “teleconference location” that is accessible to the public via both in-person participation and remote participation. BCA members, staff, and the public may participate at “remote locations”, subject to certain conditions, as discussed below.

The main question for us to determine is which members, who must consist of a quorum of at least five (5) will participate in meetings in-person at the State Treasurer’s Office in Sacramento, and which members would like to participate remotely. This arrangement does not need to be permanent or binding and can be adjusted as needed, provided it meets the Act’s requirements. For this reason, we do not believe the operation of the CalSavers Board meetings in 2024 will require any formal board action. The notice that that we will start hosting in-person meetings to comply with the updates to the Bagley Keene Act starting in January 2024 may be announced by the Executive Director during the next board meeting.

Key Provisions

A) In Person Meetings Require Attendance of a Majority of the State Body’s Members. *A majority of the members of the state body must be physically present at the same teleconference location.* This location must be equally visible and audible to all participants, including the general public who are in-person, and those who are participating remotely. The teleconference location must have the technical capacity for the public to address the state body both in person and from a remote location. If a Teams or Zoom link is available to board members, the public will need equal access to participate virtually and may not be provided only a phone line.

B) Remote Participation Allowed at “Remote Locations”.

Additional members of the state body, in excess of a majority of the members, may attend and participate in the meeting from a remote location. A remote location is not required to be accessible to the public. The notice and agenda shall not disclose information regarding a remote location. Remote participation of specific board members must be disclosed at least 24 hours beforehand by the board by posting the notice on its internet website and by emailing notice to any person who has requested notice of meetings. Otherwise, the board member(s) may not participate in the board meeting in their official capacity.

C) Remote Participation by Disabled Members Deemed “In-Person”

The Act now authorizes a member's remote participation, if the member has a need related to a disability and notifies the state body, as specified. Under the bill, that member will be counted toward the majority of members required to be physically present at the same teleconference location.

D) Presence of Other Adults in “Remote Locations” Must be Disclosed

If a member of the state body attends the meeting by teleconference from a remote location, the member shall disclose whether any other individuals 18 years of age or older are present in the room at the remote location with the member, and the general nature of the member's relationship with any such individuals.

E) Members of a State Body are Required to be On-Camera

The members of the state body shall visibly appear on camera during the open portion of a meeting that is publicly accessible via the internet or other online platform, as provided. If any technological disruption, such as low bandwidth, requires any remote member of a state body to appear in audio only, they shall so announce the reason for turning off the video.

F) Role Call Votes

All votes taken during the teleconferenced meeting shall be by rollcall. The state body shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

G) Technical Problems at Meetings and Rescheduling

Upon discovering that a means of remote public access and participation required has failed during a meeting and cannot be restored, the state body shall end or adjourn the meeting. The body shall provide notice to the public of such failure, and if the meeting is reconvened the same day, notice shall be provided via website or other permitted method.

H) Sunset Clause

The bill will remain in effect until January 1, 2026, at which point the law will revert to its current form.