

# Memorandum

CHAIRMAN  
MEMBERS OF THE COMMISSION

Date : September 17, 1990

Subject: OPEN MEETING LAW

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At the request of Chairman Brinegar, I have prepared this briefing memorandum concerning the provisions of the Bagley-Keene Open Meeting Act. (Cal. Gov. Code §§ 11120-11132.)<sup>1/</sup> The Act applies to all multi-member state agencies, and requires that all aspects of the decision-making process be conducted in public. This includes discussion, debate, and the acquisition of information.

Central to the operation of the Act is the principle that all meetings of a covered agency be open to the public, with limited exceptions. The principle issue that is presented is what constitutes a "meeting" for purposes of the Act.

## A. What is a Meeting?

The Attorney General has opined that a meeting is a gathering of a quorum of the members where business of the agency is discussed or transacted. (61 Cal.Ops. Atty. Gen. 220 (1978).) The Act's coverage is not limited to duly noticed regular or special meetings, nor does it matter whether a gathering of members occurs under formal or informal circumstances.

As will be demonstrated by the examples to follow, the easiest way for you to analyze whether a particular situation constitutes a meeting is to ask the following question: "Will an item of Commission business have been discussed separately or together by a quorum of the Members?" If the answer to this question is in the affirmative, a meeting has taken place regardless of the other circumstances. Thus, if a Member calls or meets with three other Members to discuss separately or together an item

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<sup>1/</sup>Unless otherwise indicated, all references are to the Government Code. In addition to the Act, reference was made in the preparation of this memorandum to a booklet prepared by the Attorney General entitled "Open Meeting Laws" (1989 ed.). A copy may be obtained for Commission members upon request.

of Commission business, a meeting has taken place. The same result would be reached if I or any other person serving as your staff were to call or meet with four or more Members for any purpose other than planning upcoming meetings (time, place, agenda, etc.). Conversely, if the entire Commission were to gather informally for lunch, so long as no official business is discussed, a meeting for purposes of the Act has not taken place.

B. Notice and Agenda Requirements

The Act provides for two types of noticed public meetings: 1) those which require 10-day notice of the time, date, location and agenda; and 2) emergency meetings. For noticed meetings, written notice must be provided to all persons who have requested information. The agenda must sufficiently describe each item of business to be transacted or discussed so that the public may understand its nature. In the event that a member of the public raises an item not on the agenda, the Commission may accept testimony and discuss it so long as action is deferred to a subsequent meeting. (§ 11125(a).)

While the Act provides for emergency meetings to be held upon one-hour telephone notice to media outlets, it does not appear that any of the authorized circumstances for such meetings will be applicable to the Commission. The limited circumstances under which emergency meetings are allowable are as follows: 1) work stoppages or crippling public disasters; 2) administrative disciplinary matters requiring immediate attention; and 3) issues concerning licensure which require action with 10 days. (§ 11125.5.)

Should the Commission decide to create any internal advisory committees, members should be aware that meetings of such committees are likewise subject to the 10-day notice requirement. The parameters of the agenda, however, are more related, requiring only a brief general description of the business to be transacted or discussed. (§ 11125(c).)

C. Closed Sessions

The Act sets forth numerous situations where closed sessions may be held, provided that such sessions are noticed and that the statement of the reason for the closed session and the statutory authority therefore are specified. Most of the circumstances under which a closed session may be held would appear to be inapplicable to the Commission. Those with potential applicability are as follows: 1) personnel matters; and 2) conferring with legal counsel on pending litigation. (§§ 11126(a),(g).) If a closed session is held, a confidential minute book must be maintained. (§ 11126.1.)

D. Rights of Members of the Public at Public Meetings

Members of the public may attend a meeting of the Commission without registering or providing other information. If the Commission wishes to use a "sign-in" sheet, it must indicate that it is voluntary and not a precondition for attendance. (§ 11124.) Any person may tape-record the proceedings, unless the commission reasonably finds that this would disrupt the proceedings. (§ 11124.1.)

Unlike the Brown Act, which applies to local government, the Act does not guarantee the right of the public to provide testimony at a public meeting. During a public meeting, if a disturbance is created and removal of the disruptive persons alone would not result in the meeting continuing unimpeded, all persons may be excluded, with the exception of media personnel not involved in the disturbance. (§ 11126.5.)

E. Penalties for Violations of the Act

The Act provides for criminal penalties, civil injunctive relief, and attorney's fees in the event of violations of the Act. (§§ 11130, 11130.7.) In addition, interested members of the public may bring suit to have actions taken in violation of the public meeting laws declared null and void. (§ 11130.3.)

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THE BAGLEY-KEENE OPEN MEETING ACT

Government Code Sections 11120-11132

**§ 11120. Policy statement; requirement for open meetings**

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; defined**

As used in this article "state body" means every state board, or commission, or similar multimember body of the state which is required by law to conduct official meetings and every commission created by executive order, but does not include:

(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 (Sections 9027 to 9032, inclusive).

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

(e) State agencies provided for in Section 1702 of the Health and Safety Code, except as provided in Section 1720 of the Health and Safety Code.

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

**§ 11121.2. State body; multimember agency**

As used in this article, "state body" also means any board, commission, committee, or similar multimember body which exercises any authority of a state body delegated to it by that state body.

**§ 11121.7. Member of state body acting in official capacity as member of other agency**

As used in this article, "state body" also means any board, commission, committee, or similar multimember body on which a member of a body which is a state body pursuant to Section 11121, 11121.2, or 11121.5 serves in his or her official capacity as a representative of such state body and which is supported, in whole or in part, by funds provided by the state body, whether such body is organized and operated by the state body or by a private corporation.

**§ 11121.8. Applicability to advisory bodies**

As used in this article, "state body" also means any 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.

**§ 11121.9. Requirement to provide law to members**

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.

**§ 11122. Action taken, defined**

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.

**§ 11123. Requirement for open meeting**

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.

**§ 11124. No conditions for attending meetings**

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**

Any person attending an open and public meeting of the state body shall have the right to record the proceedings on a tape recorder in the absence of a reasonable finding of the state body that such recording constitutes, or would constitute, a disruption of the proceedings.

**§ 11125. Required notice**

(a) The state body shall provide notice of its meeting to any person who requests such notice in writing. Notice shall be given 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 notice requirement 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 notice of a meeting of a body which is a state body as defined in Section 11121, 11121.2, 11121.5, or 11121.7, shall include a specific agenda for the meeting, which shall include the items of business to be transacted or discussed, and no item shall be added to the agenda subsequent to the provision of this notice.

(c) The notice of a meeting of an advisory body, which is a state body as defined in Section 11121.8, shall include a brief, general description of the business to be transacted or discussed, and no item shall be added subsequent to the provision of the notice.

(d) Notice of a meeting of a state body which 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 [sic] reasonable time of, and nearby, the meeting of the state body.

(e) 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.

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

#### § 11125.1. Public records

(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 a member, officer, employee, or agent of such body for discussion or consideration at a public meeting of such body, are public records under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) as soon as distributed, and shall be made available pursuant to Sections 6253 and 6256. However, this section shall not include any writing exempt from public disclosure under Section 6253.5, 6254, or 6254.7.

(b) Writings which are public records under subdivision (a) and which are distributed prior to commencement of a public meeting shall be made available for public inspection upon request prior to commencement of such meeting.

(c) Writings which are public records under subdivision (a) and which are distributed during a public meeting and prior to commencement of their discussion at such meeting shall be made available for public inspection prior to commencement of, and during, their discussion at such meeting.

(d) Writings which are public records under subdivision (a) and which are distributed during their discussion at a public meeting shall be made available for public inspection immediately or as soon thereafter as is practicable.

(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 6257. The writings described in subdivisions (b), (c), and (d) 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 exempt from public inspection 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**

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.

**§ 11125.5. Emergency meeting, defined; notice; public report**

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.

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:

- (a) Work stoppage or other activity which severely impairs public health, safety, or both.
- (b) Crippling disaster which severely impairs public health, safety, or both.
- (c) Difficulties with examinations for licensure which require immediate attention.
- (d) Administrative disciplinary matters, including, but not limited to, consideration of proposed decisions and stipulations, and pending litigation, which require immediate attention.
- (e) Consideration of applications for licensure where a decision must be made in less than 10 days.
- (f) Consideration by a licensing agency of proposed legislation which requires immediate attention due to legislative action

which may be taken prior to the next regularly scheduled meeting of the agency, or due to time limitations imposed by law.

(g) Action on a loan or grant provided pursuant to Division 31 (commencing with Section 50000) of the Health and Safety Code if a 10-day delay would detrimentally affect the ability to provide or operate low- or moderate-income housing or seriously affect the fiscal integrity of the program pursuant to which the loan or grant was made or the assisted housing development.

However, newspapers of general circulation and radio or television stations which 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. In the event that 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 such 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.

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 actions taken at such meeting shall be posted for a minimum of 10 days in a public place as soon after the meeting as possible.

#### **§ 11126. Closed sessions**

(a) 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, 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. 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, which 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. The state body also may exclude from any such public or closed session, during the examination of a witness, any or all other witnesses in the matter being investigated by the state body. Following the public hearing or closed session, the body may deliberate on the decision to be reached in a closed session.

For the purposes of this section, "employee" shall 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.

(b) Nothing in this article shall be construed to prevent state bodies which administer the licensing of persons engaging in businesses or professions from holding closed sessions to prepare, approve, grade, or administer examinations.

(c) Nothing in this article shall be construed to prevent an advisory body of a state body which administers the licensing of persons engaged in businesses or professions from conducting a closed session to discuss matters which 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.

(d) Nothing in this article shall be construed to prohibit a state body from holding a closed session to deliberate on a decision to be reached based upon evidence introduced in a proceeding required to be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1, Division 3, Title 2 or similar provision of law.

(e) Nothing in this article shall be construed to prevent any state body from holding a closed session to consider matters affecting the national security.

(f) Nothing in this article shall be construed to 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.

(g) Nothing in this article shall be construed to prevent any closed session to consider the conferring of honorary degrees, or gifts, donations, and bequests which the donor or proposed donor has requested in writing to be kept confidential.

(h) Nothing in this article shall be construed to 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.

(i) Nothing in this article shall be construed to 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.

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 which the negotiations may concern and the person or persons with whom its negotiator may negotiate.

For purposes of this subdivision, the negotiator may be a member of the state body.

For purposes of this subdivision, "lease" includes renewal or renegotiation of a lease.

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

(j) Nothing in this article shall be construed to 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.

(k) Nothing in this article shall be construed to prevent the Franchise Tax Board from holding closed sessions for the purpose of discussion of confidential tax returns or data 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.

(l) Nothing in this article shall be construed to prevent the Board of Corrections from holding closed sessions when considering reports of crime conditions under the provisions of Section 6027 of the Penal Code.

(m) Nothing in this article shall be construed to prevent the State Air Resources Board from holding closed sessions when considering the proprietary specifications and performance data of manufacturers.

(n) Nothing in this article shall be construed to prevent a state body which 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 which could have a material effect on the net income of the corporation. For the purpose of real property investment decisions which may be considered in a closed session pursuant to this subdivision a state body shall also be exempt from the provision of subdivision (i) relating to the identification of real properties prior to the closed session.

(o) Nothing in this article shall be construed to prevent a state body, or such boards, commissions, administrative officers, or other representatives as 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) 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.

(p) 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.

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 regulated utilities.

(q) 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.

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:

(1) 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.

(2)(A) 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; or

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

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

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 paragraph (2) or (3), 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 6254.1 [sic] [6254.25].

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.

Disclosure of a memorandum required under this subdivision shall not be deemed as 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.

(r) Nothing in this article shall be construed to prevent the examining committee established by the State Board of Forestry, 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.

(s) Nothing in this article shall be construed to prevent an administrative committee established by the State 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 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.

(t) Nothing in this article shall be construed to prevent a state body, as defined in Section 11121.2, from conducting a closed session to consider any matter which properly could be considered in closed session by the state body whose authority it exercises.

(u) Nothing in this article shall be construed to prevent a state body, as defined in Section 11121.7, from conducting a closed session to consider any matter which properly could be considered in a closed session by the body defined as a state body pursuant to Section 11121, 11121.2, or 11121.5.

(v) Nothing in this article shall be construed to prevent a state body, as defined in Section 11121.8 from conducting a closed session to consider any matter which properly could be considered in a closed session by the state body it advises.

(w) Nothing in this article shall be construed to prevent the State Board of Equalization from holding closed sessions for either of the following:

(1) When considering matters pertaining to the appointment or removal of the executive secretary of the State Board of Equalization.

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

(x) Nothing in this article shall be construed to prevent the California Earthquake Prediction Evaluation Council, or other body appointed to advise the Director of the Office of Emergency Services or the Governor pursuant to Section 8590 concerning matters relating to volcanic or earthquake predictions, from holding closed sessions when considering the evaluation of possible predictions.

(y) This article shall not prevent the Teachers' Retirement Board from holding closed session when considering matters pertaining to the appointment or removal of the chief executive officer of the State Teachers' Retirement System.

**§ 11126.1. Minutes; availability**

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. Public notice and legal authority for closed session**

(a) Prior to holding any closed session, the state body shall state the general reason or reasons for the closed session, and cite the specific statutory authority, including the particular section, subdivision, and paragraph under which the session is being held. If the session is closed pursuant to paragraph (1) of subdivision (q) 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 statement.

(c) The statement 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 closed session agenda has been published in compliance with this section, any additional pending litigation (under subdivision (q) 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. Such an announcement shall be deemed to comply fully with the requirements of this section.

(e) Nothing in this section shall require or authorize the giving of names or other information which would constitute an invasion of privacy or otherwise unnecessarily divulge the particular facts concerning the closed session.

**§ 11126.5. Removal of disruptive persons**

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**

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**

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**

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

**§ 11129. Continuation of meeting; notice requirement**

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 which is noticed pursuant to Section 11125. 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**

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 actions or threatened future action by members of the state body.

**§ 11130.3. Cause of action to void action**

(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 30 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**

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 with knowledge; misdemeanor**

Each member of a state body who attends a meeting of such body in violation of any provision of this article, with knowledge of the fact that the meeting is in violation thereof, is guilty of a misdemeanor.

**§ 11131. Prohibited meeting facilities; discrimination**

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. 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.

**§ 11132. Closed sessions: Express authorization required**

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

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