

From: [Rasheed Shabazz - OGC](#)
To: [City Clerk](#); [Lara Weisiger](#); [Elizabeth Mackenzie](#)
Cc: rasheed@berkeley.edu
Subject: Proposed Resolution on Remote Meeting Participation for July OGC Meeting
Date: Friday, June 25, 2021 3:38:10 PM
Attachments: [AB339-012821.pdf](#)
[AB-339-Fact-Sheet.pdf](#)

Greetings Lara & Elizabeth,

Below is correspondence I received from Alameda resident Zac Bowling related to current state legislation AB 339. I wish to bring the following resolution before the OGC, in hopes that we (Commission) can recommend the City (Council) continue online/remote meetings.

The Governor's order is set to expire. I'd like this considered at our July meeting in hopes that this suggestion could come to staff and later to the Council before that time. I'm attaching a Fact sheet and an analysis of the bill by a state agency.

Process-wise: How could I work with staff to bring this forward? I do not know the cost to continue remote participation nor what the hybrid model/meeting process would look like or impact business.

Goal: As stated above, I know that virtual has made participating more convenient for many people. The goal is to ensure people continue to have access and to increase access.

Rasheed

RESOLUTION

CONTINUATION OF REMOTE PARTICIPATION ACCESS TO ALL CITY COUNCIL, BOARD AND COMMISSION MEETINGS IN CITY OF ALAMEDA

WHEREAS, the City of Alameda's Sunshine Ordinance clarifies and supplements the Ralph M. Brown Act as an affirmation of good government, continued commitment to open and democratic procedures, as an effort to expand community participation; and

WHEREAS, the Sunshine Ordinance's goal is to ensure the citizens of Alameda have opportunities to address the various legislative bodies of the City prior to decisions being made, and to provide greater or more expedited public access to open and public meetings, and

WHEREAS, COVID-19 has exacerbated existing barriers to civic engagement and political participation in public meetings and discourse, as linguistic, geographical, technological, and physical barriers impact the ability of publics to participate,

WHEREAS, since shelter-in-place and Governor Newsom's subsequent order to waive the physical in-person meeting requirement of the Brown Act for participation at the beginning of the pandemic enabled local bodies to hold meetings virtually;

WHEREAS, virtual participation has enabled access for community members who may otherwise have participated due to employment, parenting, caregiving, or family obligations, (dis)abilities, transportation, or health and safety may have been able to participate in meetings of Alameda's City Council and its boards and commissions;

WHEREAS, the proposed state legislation Assembly Bill 399 seeks to allow for greater public access through requiring specific entities to provide a telephonic or internet-based service option and instructions on how to access these options to the public for specified meetings, but only applies until December 31, 2023 and jurisdictions with a quarter million residents; and

WHEREAS, the bill also proposed requiring legislative bodies of local agencies to make available instructions for joining meetings available to all non-English-speaking persons upon request, and publish the instructions in the 2 most spoken languages other than English within the local agency's jurisdiction.

WHEREAS, COVID-19 precautions have increased usage of remote participation options, for example, community members have been able to access City Council and Board and Commission meetings through Zoom,

WHEREAS, providing continued opportunities for remote participation promotes public participation in critical local decisions,

WHEREAS, the Sunshine Ordinance encourages

THEREFORE BE IT RESOLVED, the Open Government Commission recommends that the Alameda City Council continue and improve the public's access through remote meeting access to the Council and its Boards and Commission, and

BE IT RESOLVED, the Open Government Commission recommends that the City public instructions on accessing public meetings in non-English languages commonly spoken in Alameda, and

BE IT RESOLVED, that the Open Government Commission recommends that the City Council amend the Sunshine Ordinance to increase public access by requiring remote participation access to public meetings.

AB 339:

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB339

<https://leadershipcounsel.org/wp-content/uploads/2021/03/AB-339-Fact-Sheet.pdf>

From: Zac Bowling <zac@zacbowling.com>

Sent: Wednesday, June 23, 2021 11:37 AM

To: Rasheed Shabazz - OGC

Subject: [EXTERNAL] Extending Remote Public Comment after Governor's Executive Order

Commissioner Shabazz,

After the state of emergency ends, the governor's orders requiring remote public comment will end. As you know, having remote access to government has been important for making government more accessible. Especially for working individuals who can now attend meetings where they otherwise could not.

A bill introduced in the assembly, AB 339, would have continued that going but unfortunately was amended in committee to only apply to the largest 15 cities.

We can at least fix that in Alameda. So my idea is that we add the core of AB 339 to our own sunshine ordinance. We continue to allow remote public access to meetings via zoom and telephone.

Would this be something that you would consider agendaizing in OGC?

Thanks!

Zac Bowling



Bill Analysis

Author: Lee and Cristina
Garcia

Sponsor:

Related Bills: See Legislative
History

Bill Number: AB 339

Introduced: January 28, 2021

SUBJECT

Bagley-Keene Act Call-in and Internet Options

SUMMARY

This bill would require all open public meetings held by the Legislature, local agencies, and state bodies to include the opportunity for all persons to attend via a call-in option or an internet-based service option. This bill would also add requirements regarding noticing, translation services, and public comments options for public meetings.

This analysis only addresses the provisions that would impact the department.

RECOMMENDATION

No position

SUMMARY OF AMENDMENTS

Not applicable.

REASON FOR THE BILL

The reason for the bill is to ensure the Legislature, local agencies, and state agencies provide both a call-in and an internet-based service option, provide language access services for immigrant communities, and meeting agendas and instructions to access all public meetings remotely are posted in a timely and accessible manner.

ANALYSIS

This analysis only addresses the provisions of the bill that impact the department's programs and operations.

This bill would amend the Government Code (GC) to define a meeting under the Bagley-Keene Open Meeting Act to include a virtual congregation using teleconferencing technology. State bodies would be required to provide the opportunity for all persons, including the public, to attend open meetings either through a call-in option or an internet-based service option that provides closed captioning services. The requirement to post agendas at all teleconference locations must still be met, if all members are attending through teleconferencing options.

This bill would expand the existing requirement for one member of the state body to be physically present at an accessible location. This location must accommodate a reasonable number of people to ensure the public can provide comments in person.

This bill would require instructions on how to attend the meeting by call-in or internet-based service options. Any person who is attending the public meeting in person would not have more time or be prioritized over a person attending through the call-in or internet-based service options. The instructions need to be posted online at least 72 hours before for all regular meetings and at least 24 hours before for all special meetings. This bill would also require the instructions to be posted in languages that five (5) percent of the population of the state body's jurisdiction speaks.

This bill would require, in compliance with the Dymally-Alatorre Bilingual Services Act, a state body to provide translation services for those languages where at least five (5) percent of the population speaks within the jurisdiction. If there is a time limit for public comment, those requiring translation services will be provided double the amount of time as an English speaker to accommodate time for the translation service. The additional time would not be required if simultaneous translation services are available.

This bill would also make nonsubstantive technical changes.

Effective/Operative Date

This bill would be effective and operative January 1, 2022.

Federal/State Law

Federal Law

Various federal statutes establish open meeting requirements for federal agencies. Agencies may publish notices of upcoming meetings and hearings in the Federal Register. The Federal Advisory Committee Act, which became law in 1972, applies to government committees that advise the President and executive agencies on specific matters. Most federal agencies are subject to the open meeting provisions of the Government in the Sunshine Act, passed in 1976. This law requires "every portion of every meeting of an agency to be open to public observation." The exemptions to this requirement include matters of national defense, internal agency matters, and matters covered by privacy statutes.

Title VI of the Civil Rights Act of 1964 states that no person shall be excluded from participation in, denied the benefits of, or be subject to discrimination based on race, color, or national origin under any program or activity receiving federal financial assistance. A federal program's failure to assure that people who are not proficient in the English language can effectively participate in and benefit from the federal program or activity may constitute discrimination on the basis of national origin. Based

on Executive Order 13166, federal agencies are required to provide services and information to individuals with Limited English Proficiency (LEP) in a manner that ensures meaningful access by the applicants or beneficiaries of those federal agency programs or activities.

State Law

Under the Bagley-Keene Act, set forth in GC sections 11120-11132, all state boards and commissions have essentially three duties. First, to give timely and sufficient public notice of meetings to be held. Second, to provide an opportunity for public comment. Third, to conduct such meetings in open session, except where a closed session is specifically authorized.

Under current law, unless otherwise excepted, state bodies are required to provide notice at least 10 days in advance of a meeting that includes among other things, a specific agenda for the meeting that briefly describes each item of business for both open and closed sessions.

Specific to the Franchise Tax Board (FTB), GC section 11125.1 requires, prior to the FTB taking final action on any item, writings that are public records prepared and distributed by the FTB staff or individual members to members of the state body prior to or during a meeting be:

- Made available for public inspection at that meeting.
- Distributed to all persons who request notice in writing pursuant to subdivision (a) of Section 11125.
- Made available on the internet.

Current state law provides an exception from the requirement to allow public comment before the full membership of a state body for an agenda item that has previously been subject to public comment before a meeting of a committee of the state body.

The Dymally-Alatorre Bilingual Services Act (DABSA), requires every state agency directly involved in the furnishing of information or the rendering of services to the public, where contact is made with a substantial number of non-English-speaking people, to employ a sufficient number of qualified bilingual persons in public contact positions to ensure provision of information and services to the public in the language of the non-English-speaking person.

Implementation Considerations

The department has identified the following implementation considerations. Department staff is available to work with the author's office to resolve these and other concerns that may be identified.

As a non-tax bill, the bill would be effective January 1, 2022. For clarity consider amending the bill to provide a specific operative date, for example, the bill could be operative with respect to meetings subject to the Bagley-Keene Act scheduled on or after a specific date.

Technical Considerations

None noted.

Policy Considerations

None noted.

LEGISLATIVE HISTORY

AB 29 (Cooper & Rubio, 2021/2022) would modify the current noticing requirement under the Bagley-Keene Act to require that all writings or materials, connected with a matter subject to discussion or consideration at a noticed meeting, provided to a member of a state body by staff of a state agency, board, or commission, or another member of the state body, are to be made available on the state body's internet website, and be provided to any person that requests the writings or materials in writing, on the same day that the writings and materials are disseminated to members of the state body, or at least 72 hours in advance of the meeting, whichever is earlier. AB 29 is currently in the Assembly Governmental Organization committee.

AB 885 (Quirk, 2021/2022) would modify provisions of the Bagley-Keene Act to require a state body that elects to conduct a meeting or proceeding by teleconference to make the portion that is required to be open to the public both audibly and visually observable. AB 885 is currently in the Assembly, pending referral.

AB 1291 (Frazier, 2021/2022) would modify provisions of the Bagley-Keene Act to require a state body to utilize a translator or other translating technology in certain situations. AB 1291 is currently in the Assembly, pending referral.

AB 2028 (Aguilar-Curry & Gonzalez, 2019/2020) would have modified the noticing and availability of documents and writings requirements under the Bagley-Keene Act to eliminate the exception for agenda items that have previously been subject to public comment during a public meeting of a committee of the state body from the general rule that allows the public to comment on each agenda item of a state body. AB 2028 did not pass out of the Senate by the constitutional deadline.

AB 2958 (Quirk, Chapter 881, Statutes of 2018) modified the Bagley-Keene Act to authorize members of a state body that is an advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body that has no rule-making authority to attend meetings remotely via teleconference, as specified, provided the meeting complies with all other applicable requirements of the Bagley-Keene Act.

AB 67 (Dymally, Chapter 259, Statute of 2007) added definitions for “qualified bilingual person, employee or interpreter” to the Dymally-Alatorre Bilingual Services Act and expanded the instances in which a state agency may be exempted from the requirements of delivering bilingual services.

AB 3035 (Committee on Judiciary, Chapter 300, Statutes of 2002) among other things, amended the 10 day noticing requirement of the Bagley-Keene Act to require that the 10 day notice be made available in appropriate alternative formats, as specified, upon request by any person with a disability, and include information regarding how, to whom, and by when a request for any disability-related accommodation may be made by a person who requires such an accommodation to participate in the public meeting.

PROGRAM BACKGROUND

Currently, FTB provides bilingual services in over 47 different languages to the taxpayers of California. These translation services are provided primarily by 338 FTB employees self-identified as being fluent in foreign languages. Seventy-six of the FTB employees providing bilingual services are certified, primarily in the Spanish language. In instances where a taxpayer contacts the department in a language not provided, the department would contract with outside agencies for language assistance to service the taxpayer.

FISCAL IMPACT

This bill would not significantly impact the department's costs.

ECONOMIC IMPACT

Revenue Estimate

This bill as introduced January 28, 2021, would not impact state income or franchise tax revenue.

LEGAL IMPACT

None noted.

APPOINTMENTS

None noted.

SUPPORT/OPPOSITION

To be determined.

ARGUMENTS

To be determined.

LEGISLATIVE CONTACT

FTBLegislativeServices@ftb.ca.gov

ALEX LEE

ASSEMBLYMEMBER, TWENTY-FIFTH DISTRICT

ASSEMBLY BILL 339

PUBLIC PARTICIPATION



SUMMARY

This bill would allow for continued remote participation in local and state hearings/meetings and expand language access, allowing for more people to participate in government meetings and decisions.

BACKGROUND

Laws governing public participation for the State Legislature and local agencies all require certain processes for members of the public to participate at open meetings. However, participation is often limited to those who are able to travel to meetings to speak in-person, and to those who speak and read English. These requirements, along with inconsistent language access standards, often preclude immigrants and low-income people from participating.

While COVID-19 precautions have increased usage of remote participation options, not all agencies allow for effective remote participation. Additionally, there is frequently confusion over how to access meetings through remote technology options. The lack of timely notification and clear instructions reinforces obstacles.

THE PROBLEM

COVID-19 has exacerbated existing barriers that prevent people from participating in one of our democracy's greatest features - public discourse designed to inform the rules and policies that govern us. In addition, linguistic, physical, and geographic isolation prevents constituents from exercising their civic duties, which limits our governing bodies from achieving their full potential.

SOLUTION

AB 339 would protect the public's access to government, both during and following the COVID-19 pandemic.

This bill would ensure that:

- Local agencies and the State Legislature provide both call-in and internet service-based options for all public meetings so constituents can participate either remotely or in-person.
- Language access services are provided for immigrant communities.
- Meeting agendas and instructions for accessing meetings remotely are posted in a timely and accessible manner.

SUPPORT

Leadership Counsel for Justice and Accountability (Sponsor)

ACLU CA Action (Co-sponsor)
Abundant Housing LA
Alianza Coachella Valley
Alliance for Children's Rights
Alliance of Californians for Community Empowerment (ACCE)
California Children's Trust
California Environmental Justice Alliance (CEJA)
California Institute for Rural Studies
California Teachers Association
California Work & Family Coalition
California YIMBY
Californians Aware
Californians for Justice
Californians for Pesticide Reform
Center on Race, Poverty, and the Environment
Central California Asthma Collaborative
Central California Environmental Justice Network
Central Valley Air Quality Coalition
Citizens for Choice Nevada County
Clean Water Action
ClimatePlan
Coalition for Humane Immigrant Rights (CHIRLA)
Congregations Organized for Prophetic Engagement
Courage Campaign
Cultiva La Salud
Dignity and Power Now
Dolores Huerta Foundation
Faith in the Valley
Fairmead Community & Friends
Fresno Barrios Unidos
Fresno Building Healthy Communities
Fresno Metro Black Chamber of Commerce
GenerationUp
Gente Organizada
Greenbelt Alliance
Hmong Innovating Politics
Housing California
Housing Is A Human Right OC
INDIVISIBLE District 46
Inland Equity Partnership
Interfaith Movement for Human Integrity
Jakara Movement
Jewish Family & Community Services East Bay
Justice LA
La Defensa
League of Women Voters
Los Angeles Sunshine Coalition
Mi Familia Vota
NAMI LA
NextGen CA
NOlympics LA
Nuestra Casa
Orange County Emergency Response Coalition
Orange County Equality Coalition
Orange County LGBTQ Center
People's Budget OC

People for Housing OC
People's Collective for Environmental Justice
People's Homeless Task Force OC
Pesticide Action Network
Planning and Conservation League
PolicyLink
Ponoma Economic Opportunity Center
Pueblo Unido CDC
Riverside NAACP
Root & Rebound
South County Homeless Task Force
Time for Change Foundation
Voices for Progress
White People 4 Black Lives
Women for: Orange County
Youth Justice Education Clinic, Loyola Law School

Andrae Gonzales, Bakersfield City Council
Bryan Ososio, Mayor of Delano
Daniel Penaloza, Porterville City Council
Hilda Solis, LA County Supervisor
Katie Valenzuela, Sacramento City Council
Rigel Robinson, Berkeley City Council

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