

ASSEMBLY BILL

No. 2058

Introduced by Assembly Member Wilk
(Coauthor: Senator DeSaulnier)

February 20, 2014

An act to amend Section 11121 of the Government Code, relating to state government, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2058, as introduced, Wilk. Open meetings.

The Bagley-Keene Open Meeting Act requires that all meetings of a state body, as defined, be open and public and that all persons be permitted to attend and participate in any meeting of a state body, subject to certain conditions and exceptions.

This bill would modify the definition of “state body” to exclude an advisory body with less than 3 individuals, except for certain standing committees. This bill would also make legislative findings and declarations in this regard.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

1 (a) The unpublished decision of the Third District Court of
2 Appeals in *Funeral Security Plans v. State Board of Funeral*
3 *Directors* (1994) 28 Cal. App.4th 1470 is an accurate reflection of
4 legislative intent with respect to the applicability of the
5 Bagley-Keene Open Meeting Act (Article 9 (commencing with
6 Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of
7 the Government Code) (Bagley-Keene Act) to a two-member
8 standing advisory committee of a state body. A two-member
9 standing committee of a state body, even if operating solely in an
10 advisory capacity, already is a “state body,” as defined in
11 subdivision (d) of Section 11121 of the Government Code,
12 irrespective of its size, if a member of the state body sits on the
13 committee and the committee receives funds from the state body.
14 For this type of two-member standing advisory committee, this
15 bill is declaratory of existing law.

16 (b) A two-member standing committee of a state body, even if
17 operating solely in an advisory capacity, already is a “state body,”
18 as defined in subdivision (b) of Section 11121 of the Government
19 Code, irrespective of its composition, if it exercises any authority
20 of a state body delegated to it by that state body. For this type of
21 two-member standing advisory committee, this bill is declaratory
22 of existing law.

23 (c) All two-member standing advisory committees of a local
24 body are subject to open meeting requirements under the Ralph
25 M. Brown Act (Chapter 9 (commencing with Section 54950) of
26 Part 1 of Division 2 of Title 5 of the Government Code) (Brown
27 Act). It is the intent of the Legislature in this act to reconcile
28 language in the Brown Act and Bagley-Keene Act with respect to
29 all two-member standing advisory committees, including, but not
30 limited to, those described in subdivisions (a) and (b).

31 SEC. 2. Section 11121 of the Government Code is amended
32 to read:

33 11121. As used in this article, “state body” means each of the
34 following:

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

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

4 (c) An advisory board, advisory commission, advisory
5 committee, advisory subcommittee, or similar multimember
6 advisory body of a state body, if created by formal action of the
7 state body or of any member of the state body, ~~and if the advisory~~
8 ~~body so created consists of three or more persons.~~ *Advisory bodies*
9 *created to consist of fewer than three individuals are not a state*
10 *body, except that standing committees of a state body, irrespective*
11 *of their composition, which have a continuing subject matter*
12 *jurisdiction, or a meeting schedule fixed by resolution, policies,*
13 *bylaws, or formal action of a state body are state bodies for the*
14 *purposes of this chapter.*

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

22 SEC. 3. This act is an urgency statute necessary for the
23 immediate preservation of the public peace, health, or safety within
24 the meaning of Article IV of the Constitution and shall go into
25 immediate effect. The facts constituting the necessity are:

26 In order to avoid unnecessary litigation and ensure the people's
27 right to access of the meetings of public bodies pursuant to Section
28 3 of Article 1 of the California Constitution, it is necessary that
29 act take effect immediately.