

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1494

Introduced by Assembly Member Eng

February 27, 2009

An act to amend Section 11122.5 of the Government Code, relating to public meetings.

LEGISLATIVE COUNSEL'S DIGEST

AB 1494, as amended, Eng. Public meetings: definition.

The Bagley-Keene Open Meeting Act requires, with specified exceptions, that all meetings of a state body be open and public and all persons be permitted to attend any meeting of a state body. The act defines "meeting" for the purposes of the act and, with the exception of teleconferencing, prohibits any use of direct communication, personal intermediaries, or technological devices 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. Existing law specifies the contacts, conferences, and other types of gatherings that are excluded from this prohibition.

This bill would repeal that prohibition regarding the use of those communications or devices to develop a collective concurrence. The bill would instead prohibit a majority of the members of a state body from using a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter of the state body. The bill would additionally exclude from that prohibition an employee or official of a ~~local~~ state agency engaging in a separate conversation or

communication with a member of a ~~state~~ *legislative* body for the propose of answering questions or providing information, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

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

1 SECTION 1. Section 11122.5 of the Government Code is
2 amended to read:

3 11122.5. (a) As used in this article, “meeting” includes any
4 congregation of a majority of the members of a state body at the
5 same time and place to hear, discuss, or deliberate upon any item
6 that is within the subject matter jurisdiction of the state body to
7 which it pertains.

8 (b) ~~A(1)~~ A majority of the members of a state body shall not,
9 outside of a meeting authorized by this chapter, use a series of
10 communications of any kind, directly or through intermediaries,
11 to discuss, deliberate, or take action on any item of business that
12 is within the subject matter of the state body.

13 (2) *Paragraph (1) shall not be construed to prevent an employee*
14 *or official of a state agency from engaging in separate*
15 *conversations or communications outside of a meeting authorized*
16 *by this chapter with members of a legislative body in order to*
17 *answer questions or provide information regarding a matter that*
18 *is within the subject matter jurisdiction of the state agency, if that*
19 *person does not communicate to members of the legislative body*
20 *the comments or position of any other member or members of the*
21 *legislative body.*

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

24 ~~(1) An employee or an official of a local agency, as defined in~~
25 ~~Section 54951, engaging in a separate conversation or~~
26 ~~communication with members of a state body, if the conversation~~
27 ~~or communication meets all of the following criteria:~~

28 ~~(A) The conversation or communication is outside of a meeting~~
29 ~~authorized by this chapter.~~

30 ~~(B) The conversation or communication is for the propose of~~
31 ~~answering questions or providing information regarding a matter~~
32 ~~that is within the subject matter jurisdiction of the state body.~~

1 ~~(C) The employee or official does not communicate to a member~~
2 ~~of the state body regarding the comments or position or any other~~
3 ~~member of the state body.~~

4 ~~(2)~~

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

7 ~~(3)~~

8 (2) (A) The attendance of a majority of the members of a state
9 body at a conference or similar gathering open to the public that
10 involves a discussion of issues of general interest to the public or
11 to public agencies of the type represented by the state body, if a
12 majority of the members do not discuss among themselves, other
13 than as part of the scheduled program, business of a specified
14 nature that is within the subject matter jurisdiction of the state
15 body.

16 (B) Subparagraph (A) does not allow members of the public
17 free admission to a conference or similar gathering at which the
18 organizers have required other participants or registrants to pay
19 fees or charges as a condition of attendance.

20 ~~(4)~~

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

28 ~~(5)~~

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

35 ~~(6)~~

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

- 1 ~~(7)~~
- 2 (6) The attendance of a majority of the members of a state body
- 3 at an open and noticed meeting of a standing committee of that
- 4 body, if the members of the state body who are not members of
- 5 the standing committee attend only as observers.