



The Government of Tomorrow: Online Meetings

Report #261 | June 2021



Milton Marks Commission on California State
Government Organization and Economy

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Dedicated to Promoting Economy and Efficiency in California State Government

The Little Hoover Commission, formally known as the Milton Marks "Little Hoover" Commission on California State Government Organization and Economy, is an independent state oversight agency.

By statute, the Commission is a bipartisan board composed of five public members appointed by the governor, four public members appointed by the Legislature, two senators and two assemblymembers.

In creating the Commission in 1962, the Legislature declared its purpose:

...to secure assistance for the Governor and itself in promoting economy, efficiency and improved services in the transaction of the public business in the various departments, agencies and instrumentalities of the executive branch of the state government, and in making the operation of all state departments, agencies and instrumentalities, and all expenditures of public funds, more directly responsive to the wishes of the people as expressed by their elected representatives...

The Commission fulfills this charge by listening to the public, consulting with the experts and conferring with the wise. In the course of its investigations, the Commission typically empanels advisory committees, conducts public hearings and visits government operations in action.

Its conclusions are submitted to the Governor and the Legislature for their consideration. Recommendations often take the form of legislation, which the Commission supports through the legislative process.

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This report is available from the Commission's website at www.lhc.ca.gov.

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Letter from the Chair

June 28, 2021

The Honorable Gavin Newsom
Governor of California

The Honorable Toni Atkins
Speaker pro Tempore of the Senate
and members of the Senate

The Honorable Anthony Rendon
Speaker of the Assembly
and members of the Assembly

The Honorable Scott Wilk
Senate Minority Leader

The Honorable Marie Waldron
Assembly Minority Leader

DEAR GOVERNOR AND MEMBERS OF THE LEGISLATURE:

Over the last year, under the provisions of the Governor's Executive Order, state boards and commissions have had the ability to meet via remote technology, with no physical location accessible to the public. The following report considers the benefits of these temporary provisions and details our recommendations to help the state utilize new technologies and capitalize on the experiences of the last year.

We found that allowing the public to access meetings electronically is a simple, cheap and manageable reform that will make California more transparent. Furthermore, the Commission found that remote participation by the members of boards and commissions saves taxpayer money and creates a state government that is more effective, inclusive and flexible.

In order to take advantage of these benefits in the long-term, the Commission recommends that the state make two simple reforms to Bagley-Keene: give the public remote access to every meeting and make it easier for members of boards to participate remotely.

Temporary provisions allowing state agencies to meet remotely are set to expire on September 30. Given this fast-approaching deadline, the Commission asks that you act quickly to make these critical changes.

The Commission respectfully submits this work and stands prepared to help you address this challenge.

Sincerely,

Pedro Nava, Chair
Little Hoover Commission

■ Executive Summary

California policymakers must act quickly to update the state's open meeting law – the Bagley-Keene Act – to reflect new technologies and the experience of the past year.

We believe two key reforms will create an updated Bagley-Keene framework that increases public access while capturing the efficiency and cost-saving advantages of new technologies. Results from our survey of state boards and commissions that have met remotely during the pandemic provide a better understanding of their experiences and the benefits of reform.

Increasing Access to All Public Meetings

Online access to public meetings benefits those who traditionally face obstacles in interacting with state government, such as low-income people, rural Californians, and people with physical disabilities. Requiring that state agencies allow the public to access meetings electronically is a simple, cheap and manageable reform that will make California government more transparent.

The Commission recommends that the Legislature and the Governor amend Bagley-Keene to require that boards and commissions provide public access to their meetings in both a physical location and a teleconferencing option.

Removing Barriers to Remote Participation

Over the last year, state boards and commissions have held meetings in which their own members participated via remote technology. Our survey of Bagley-Keene agencies affirms that such meetings offer substantial benefits to the public, including reduced travel costs, a broadening of potential board members and commissioners who are able to serve,

and the ability to meet more often and in a timely way.

However, the traditional requirements of Bagley-Keene – those that were in place before the pandemic and that remain in statute today – make it extremely difficult for board and commission members to participate remotely.

The Commission recommends that the Legislature and the Governor amend Bagley-Keene to allow for the remote participation of board and commission members without required public disclosure and public accessibility to those locations.

■ Introduction

In March of 2020, as the pandemic took hold and state government transitioned to remote work, Governor Newsom issued Executive Order N-29-20, waiving specified provisions of California's open-meetings law, the Bagley-Keene Open Meeting Act. The Governor's order allowed state boards and commissions to meet entirely via remote technology, with no physical location accessible to the public. Although the Governor's order was issued as a public health measure, over the ensuing year it transitioned into an experiment in a new age of government.

The experiment was successful. As public bodies across the state met remotely, public accessibility improved while costs went down. It is time now to make the experiment a permanent feature of California government. Our statutes should catch up to our technology and experience.

This can be achieved through two simple but critical reforms – give the public remote access to every meeting, and make it easier for the members of boards to participate remotely.

First, to ensure maximum accessibility for the public, require that every meeting be accessible both through a physical location and a remote option, such as a telephone conference call or an Internet service. Californians can walk in or log on – their choice.

Second, to capture the full benefits of online meetings – such as lower travel costs and a greater diversity of potential board members – make it easier for members of Bagley-Keene agencies to participate remotely. Current law requires that every location from which a board member joins a meeting – including a home office or a spare bedroom – must be accessible to all members of the public. That makes no sense. Members of the public have every right to watch public agencies do the public's business; they don't have a right to invade someone's home.

Combining these two key changes will increase public

access, strengthen government accountability, save taxpayer money, allow for a broader representation on state boards and commissions, and bring the law into line with the modern world. California government should be an open book, but there's no reason it can't be read online.

Background

The [Bagley-Keene Act](#) is a cornerstone of California's open-government laws.¹ With very limited exceptions, it requires that state boards and commissions meet publicly, with lengthy advance notice of the meeting and the agenda. The public must be allowed to attend and to comment on the proceedings. The law allows for remote, "teleconference" participation by members of the board or commission, but requires public disclosure and public accessibility for each of the remote locations.²

These requirements posed an obvious public-health issue during the pandemic, and thus the Governor, by [Executive Order](#), waived key provisions of Bagley-Keene.³ In essence, state bodies were allowed to meet entirely by teleconference, with no specified physical location for the meeting, and no requirement for a physical location accessible to the public. Crucially, the Governor waived the requirement for public disclosure of the remote locations from which board members and commissioners were participating. So long as members of the public could "observe and address the meeting" by remote technology, the public agency had satisfied the requirement for meeting openly.

The Governor's order cleared the way for state boards and commissions to meet via remote technologies – such as Zoom, Microsoft Teams or some other similar service, or even by simple conference call – with members participating from their homes or private offices. Our Commission met in exactly this manner, as did most other agencies covered by Bagley-Keene.

To measure the experience of state agencies under these provisions, we surveyed 124 state boards or commissions covered by Bagley-Keene, and received a response from 46, or slightly more than a third of those surveyed. (See Appendix A for details and methodology.) Almost all of the agencies who responded said they had held entirely remote meetings during the pandemic, and about a third said they had actually met more frequently due to their ability to meet remotely. (The other two-thirds said there had been no change in meeting frequency; no agency reported less frequent meetings.) As outlined below in more detail, most agencies reported a variety of positive outcomes from the remote meetings: greater public participation, more frequent attendance by board and commission members, and reduced costs to the state. Of those agencies that have witnesses testify, nearly half reported that it was easier to secure witnesses. Our own experience at the Little Hoover Commission echoed all of these findings.

However, as the pandemic subsides, state agencies face an uncertain future regarding their ability to meet remotely. On June 11, Governor Newsom issued a new [Executive Order](#) essentially keeping

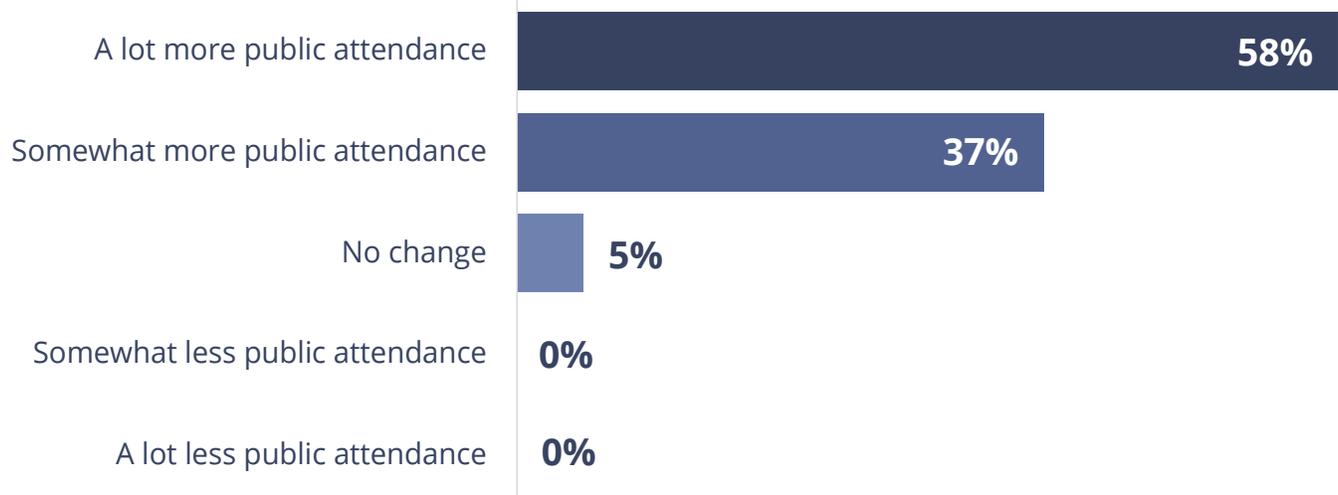
in place the pandemic Bagley-Keene requirements, but only until Sept. 30.⁴ After that, the pre-pandemic requirements of Bagley-Keene would resume.

We are supporters of Bagley-Keene; California government is stronger for its openness. But we also believe that some provisions of the law must be updated to reflect new technologies, and the practical experience of using those new technologies during the past year. Given the fast-approaching expiration of the Governor’s order, we believe policymakers must act quickly to create an updated Bagley-Keene framework that increases public access while capturing the efficiency and cost-saving advantages of new technologies. Below, we outline two key reforms that we believe would accomplish these goals.

Greater Public Accessibility

Meetings are more accessible when members of the public don’t have to leave their homes or offices to listen and watch.⁵ This obvious truth is critical to reform. A physical meeting location – such as a hearing room in the state Capitol or conference room in a state office building – can be accessed only by

“Do you feel that remote meetings have changed the level of public attendance?”



people who can come to Sacramento, take time off from work or family responsibilities, and physically attend the meeting. A meeting which the public can attend online, by contrast, can be accessed by people throughout California (and indeed around the world), often from the comfort and ease of their own homes. Especially in a state as vast as California, it is a high hurdle indeed to require that members of the public travel to Sacramento just to watch their government at work.

The empirical data from the pandemic shows that, at least in the view of the agencies that hold such meetings, they are more accessible. More than 95 percent of agencies responding to our survey said they believe that remote meetings have increased attendance, and most said there had been “a lot more public attendance.”

This increased public accessibility has particular advantages for equity and inclusion. Online access does not benefit those who can attend physical meetings – often the well-heeled, retired people, special interests with a presence in Sacramento, and the like – but it clearly benefits those who traditionally face obstacles in interacting with state government, such as low-income people, rural Californians, and people with physical disabilities. [Current law](#) acknowledges the importance of such issues by requiring meeting locations that are accessible to the disabled;⁶ for many disabled people, the Internet is surely more accessible than the state Capitol.

Online access is by no means perfect, of course. As noted in our Commission’s recent Issue Brief, [California’s Digital Divide](#), as many as 2.3 million Californians lack access to broadband. Overall, the state’s access to broadband is ranked 13th in the nation, with strong access to low-cost plans but slow speeds.⁷ Researchers have consistently found that poor people, people of color, and rural residents have less access to the Internet. Governor

Newsom’s [recent announcement](#) of a \$7 billion plan to expand broadband access is an important step toward addressing this problem, and progress in this regard will only increase the accessibility of online meetings.⁸

But even with current rates of Internet access, a requirement that members of the public have a remote option to observe the meeting and comment upon the proceedings is a clear step forward in increased public accessibility.

Recommendation 1: Take the meeting to the public, not the other way around

We recommend that the Legislature and the Governor amend Bagley-Keene to require that boards and commissions provide public access to their meetings both in a physical location and a teleconferencing option. (For reasons we discuss below, the physical location we envision need not necessarily include board and commission members, but rather might simply be a location at which members of the public may listen to and watch audio and video of the meeting.)

Such a requirement will not be onerous for state agencies – the past year has proven that agencies can easily and cheaply provide remote public access, even when they had no warning of the need to do so and had to transition on the fly amid state budget cuts, salary reductions, and dramatically changed working conditions. After the past 12 months, no reasonable person can claim that remote meetings are simply too difficult to organize. As has been the case during the past year, agencies should be required to accommodate individuals with disabilities, publicly notice the technological means by which members of the public may attend the meeting and make public comment, and abide by other existing requirements for public notice. Current law requiring rollcall votes during teleconference

meetings should also be retained.

We are aware that some public-access advocates and some state agencies have expressed concerns about technology failures – should the ability to meet be held hostage to the reliability of the Internet? The law clearly needs to make some provision for such a situation, but existing requirements face some of the same issues. [Current law](#), for example, allows for greater flexibility for remote participation by members of purely advisory bodies, but also requires that if the method of remote access fails, the meeting must adjourn.⁹ An [Attorney General's opinion](#) in 2016 found that the Brown Act's requirement for online agenda-posting is not necessarily violated if an agenda is inaccessible for a portion of the required period due to technical difficulties.¹⁰ The same opinion also found that in such a case an agency may hold its meeting if it "has otherwise substantially complied with the Brown Act's agenda-posting requirements." Existing law, in other words, already contemplates and addresses the potential for technological failure. Similar language could be incorporated into a reform statute, either allowing agencies to continue meetings without the teleconference option if a sufficient number of members were physically present, or simply requiring agencies to adjourn the meeting, much as they would do now if a power outage or fire caused their meeting room to be unavailable.

The broader point is that in a world in which so much is increasingly reliant on the Internet – business, politics, journalism, healthcare, education, etc. – a fear of technological failure cannot forestall needed reforms. California cannot create the government of tomorrow if it fears technology.

At a time when our society is rightfully focused on issues of equity and inclusion, requiring that state agencies allow the public to access meetings electronically is a simple, cheap and manageable reform that will make California government more transparent.

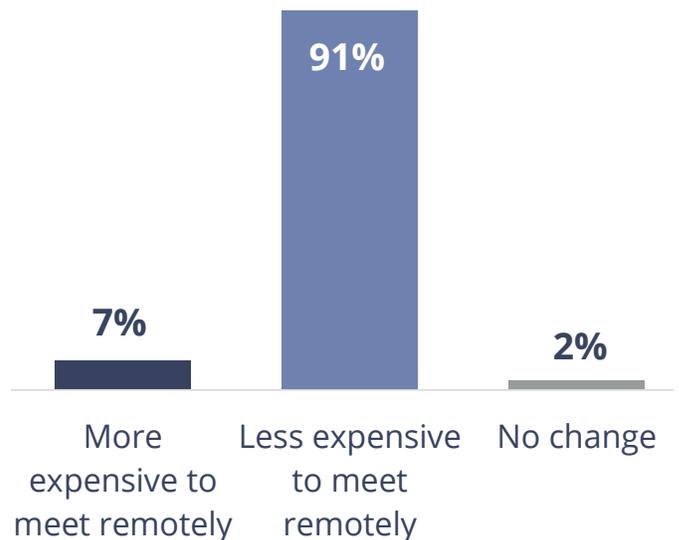
Benefits of Remote Participation

During the pandemic state boards and commissions have held meetings in which their own members participate via remote technology. Such meetings offer substantial benefits to the public, including reduced travel costs, a broadening of potential board members and commissioners who are able to serve, and the ability to meet more often and in a timely way. Our Commission has experienced these benefits directly, and our survey of other Bagley-Keene agencies confirms that we are not alone.

REDUCED COSTS

When board or commission members must travel to Sacramento (or any other given location in the state) to attend meetings in person, the agency bears significant costs, such as airfare, mileage, hotel accommodations and per diem. For our own Commission, pre-pandemic travel costs were the

“Have remote meetings impacted your expenditures, due to the lack of travel costs, increased technology costs, or other changes?”



Asked of those who said their costs had decreased: “Roughly how much have your annual expenditures decreased due to remote meetings?”

28%

Reported that their annual expenditures decreased by less than \$10,000.

49%

Reported that their annual expenditures decreased by \$10,000 - \$50,000.

23%

Reported that their annual expenditures decreased by more than \$50,000.

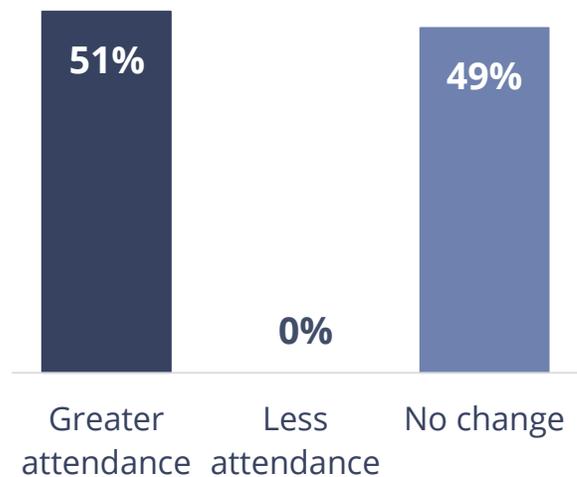
third largest component of our budget, behind only staff salaries and office space. Our ability to meet via remote technology has eliminated almost all such costs. Our survey of Bagley-Keene agencies found that more than 90 percent of responding agencies similarly reported reduced costs due to remote meetings. In the context of the state budget, the savings are not large – about half the responding agencies estimated the savings at between \$10,000 and \$50,000 a year – but there is no reason that taxpayers should foot any unnecessary bill.

When asked to specify what costs have been reduced or increased, the vast majority of respondents identified decreased travel and facility rental costs. Some respondents cited increased technology costs such as Zoom licenses or cameras, but these were usually more than offset by savings. Only three of the 43 agencies that responded to this question identified a net increase in costs.

BETTER ATTENDANCE BY COMMISSION MEMBERS

Californians who agree to serve on state boards and commissions often give freely of their time – many are not compensated at all. Their service is often deeply committed, but given the travel times discussed above, sometimes board members must miss meetings. That is far less likely to happen if participation in a meeting requires only that members log on. About half of agencies responding to our survey indicated that remote meetings have increased attendance by members.

“Do you feel that remote meetings have changed the frequency of attendance for members of your organization?”



BROADER POTENTIAL POOL OF PUBLIC SERVANTS

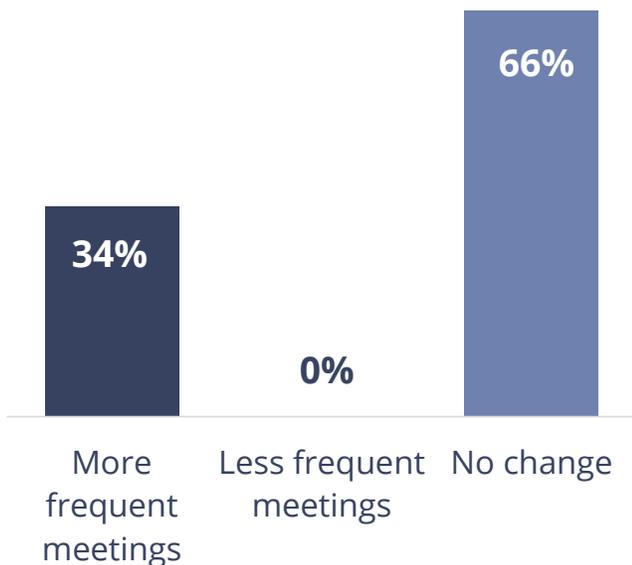
The need for travel also restricts the potential pool of people able to serve on state boards and commissions. Typically, members of a board or commission must spend an entire day, and perhaps more, in traveling to Sacramento, attending a meeting, and returning home. Given such requirements, it may be difficult for some people to accept appointment to a state body. Many people may not be able to take so much time away from work. The parents of young children, perhaps

especially women, may find it impossible to be away from home. People from distant parts of the state – especially rural areas with limited airline service – may find such travel particularly time-consuming. As a result, service on state boards and commissions can be tilted toward the affluent or the retired. This should not be. California deserves the most inclusive and diverse state government possible, a goal that is furthered by reducing the burdens of service.

MORE FREQUENT AND TIMELY MEETINGS

Remote participation allows for more frequent and timely meetings. Our own Commission’s experience again illustrates this fact. The Commission traditionally met 10 times a year, but during the pandemic we have roughly doubled our meeting frequency. By meeting more often, we are better able to set agendas that reflect ongoing events, creating a more timely focus for our work. About a third of agencies responding to our survey reported that they are meeting more often due to their ability to meet remotely.

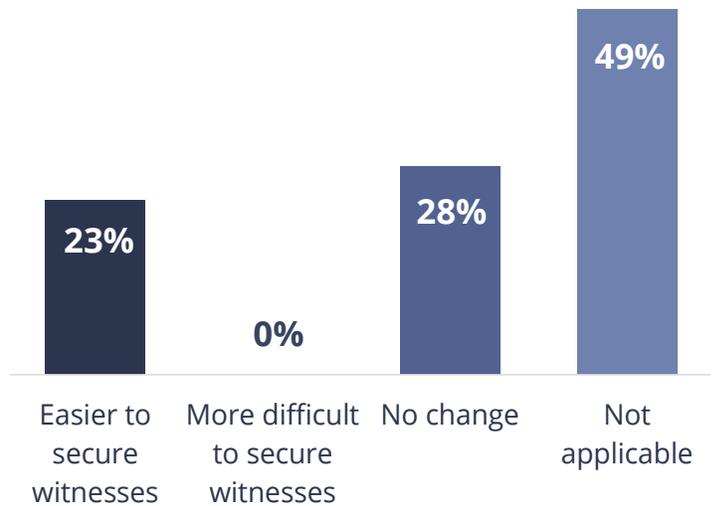
“Has the frequency of your meetings changed due to your ability to meet remotely?”



BETTER WITNESSES

For agencies that call witnesses to testify, remote access has been a boon. Our survey found that roughly half of the agencies that have witnesses said it has been easier to secure high-quality speakers.

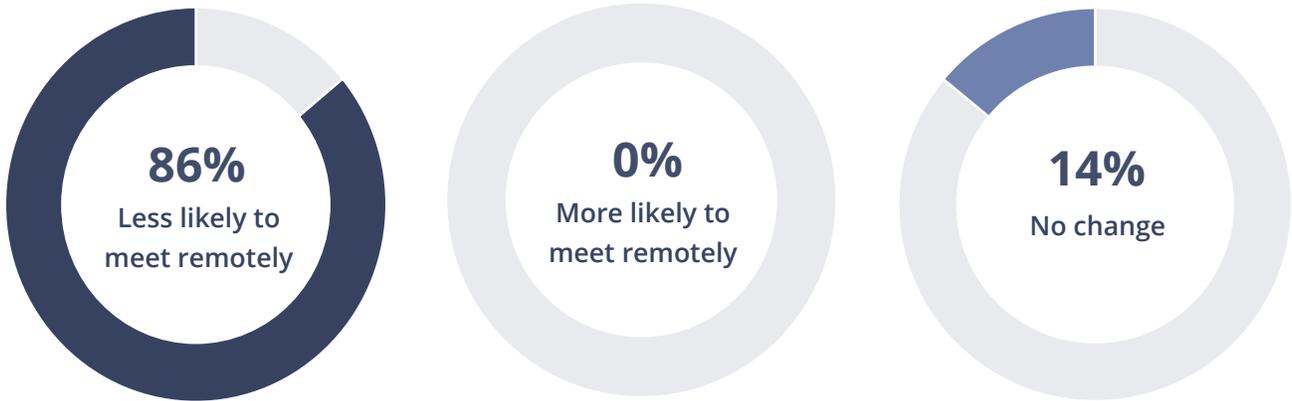
“If your organization has witnesses who appear before you, has your ability to secure high-quality witnesses changed due to their ability to appear remotely?”



In short, remote participation by the members of boards and commissions saves taxpayer money and creates a state government that is more effective, inclusive and flexible.

However, the traditional requirements of Bagley-Keene – those that were in place before the pandemic and that remain in statute today – make it extremely difficult for board and commission members to participate remotely. Prior to the pandemic, the law required public disclosure and public accessibility to every location from which a board or commission member participated. Effectively, this prohibits members from participating from their homes or even their private offices. Understandably, they are reluctant to publicly disclose their home addresses, and even more so

“If you were required to hold future meetings under pre-pandemic requirements, in which the physical location of each participating member of your organization had to be publicly noticed and accessible, would this affect your decision to hold remote meetings?”



to allow access to any member of the public who might show up. Indeed, the [Department of Justice's guide to Bagley-Keene](#) notes the difficulty of a member participating from home, and then adds, “For these reasons, we recommend that a properly equipped and accessible public building be utilized for teleconference meetings.”¹¹

Thus, if the state reverts to the traditional Bagley-Keene statute upon the expiration of the Governor's order, members of boards and commissions will effectively be unable to participate from their homes – precisely the kind of participation that has produced benefits during the past year. Our survey of state agencies confirmed that agencies will not hold remote meetings under the standards of the pre-pandemic Bagley-Keene law, with more than 85 percent saying they would not do so.

Recommendation 2: Remove barriers to remote participation

To capture the benefits of remote meetings, including remote participation by members of state

boards and commissions, we recommend that the Legislature and the Governor amend Bagley-Keene to allow for the remote participation of board and commission members without required public disclosure and public accessibility to those locations. If policymakers wish to do so, the law could limit the disclosure and accessibility exemption to the board member's private residence.

Some public-access advocates argue that much is lost when members of the public cannot sit in the same room with board or commission members during a meeting. They argue that the public's ability to witness the physical interaction of board members is a substantial benefit, and that people who wish to travel to Sacramento and attend an in-person meeting must be able to do so. Anything less is a blow to transparent government. We respect those concerns, but we reach different conclusions. First, we do not believe that physical presence in a room is critical to public access. What is critical is that members of the public have the ability to know what board members and commissioners say and do – every word at every public meeting, every vote, every action. Allowing agencies to take

advantage of modern technology doesn't diminish that access. Second, even if the public's inability to be physically present amounts to some minor reduction in access, this must be counter-balanced against the improvements, discussed above, that remote participation can create – lower costs, greater inclusion, and greater flexibility. It's critical to note that these advantages benefit the public. Californians deserve an open and transparent government, but they also deserve one that takes advantage of technological change to advance goals like efficiency and inclusion.

Other objections seem to us even less convincing, for example that members of the public will not be able to see if someone else is in the room with a participating board member, or even that someone might impersonate a member of a board or commission. As for the first issue, at an in-person meeting held under current law, a lobbyist or advocate could meet with a board or commission member privately immediately before a meeting, or even during a break, or could text a member during a meeting. It is unlikely that the influence of such private interests will be markedly increased by someone sitting behind a laptop silently making gestures during a remote meeting (assuming that a board member wanted to allow such a person into their home). As for impersonation, we find this highly unlikely, but if policymakers are deeply concerned about the potential for such shenanigans, they can make it a crime to impersonate a board or commission member during remote participation at a meeting.

We recommend that the statute be permissive with regard to the disclosure and access of remote locations. If agencies wish to disclose such locations and allow public access, they should be able to do so. For example, a board member might access a meeting from a conference room with suitable public facilities, and there is no reason in such a case to prohibit public disclosure and access.

We also recognize that some agencies may wish to hold meetings in various locations around the state, and that the physical presence of board and commission members at such meetings could bring a variety of benefits. Our own Commission is an example. We have held public hearings across the state, both to learn from diverse geographic settings, and to emphasize our role as a statewide body. Obviously we do not wish to preclude such meetings, and nothing in our proposed reforms would do so. Boards and commissions should certainly be able to meet in a physical location whenever they believe it is advantageous to their mission.

What is critical is that members of the public have the ability to know what board members and commissioners say and do – every word at every public meeting, every vote, every action.

Finally, we recommend that all board and commission members be allowed to participate remotely. We anticipate that at times, nearly all members might attend in person – perhaps for a meeting focused on a particular regional issue and held at a relevant location around the state, for example. In other cases, one or two members might attend physically at a public location. At other times, all members might participate remotely. In the latter case, agencies would still have to provide at least one physical location for the meeting, which would simply be a place where members of the public could go to listen to the meeting, and from which they could make public comment. Alternatively, policymakers could choose to require that at least one member of the board or commission be present at the physical site.

Reform Process

To be most effective, the changes we have recommended must be made quickly. As noted above, the Governor's recent executive order waives the relevant provisions of Bagley-Keene only until Sept. 30.

Seeking to address these issues, the Department of Finance has prepared a [trailer bill](#) that would require state agencies to hold teleconference meetings, and allow members of the board or commission to participate remotely from undisclosed locations.¹² In fact the bill would prohibit state agencies from disclosing remote locations, a difference from our recommendations.

Earlier this year Assemblymember Quirk, who is a member of our Commission, introduced [Assembly Bill 885](#), which would allow for remote participation by members of boards and commissions from undisclosed locations, although it would, similar to our recommendations, require the continued existence of at least one physical location from which members of the public could watch and listen to the meeting.¹³ This bill, which did not move out of the Assembly, would have required that board and commission members participating remotely have both audio and visual connections, a specific not addressed in our recommendations. AB 885 would also not have required that every public meeting of a Bagley-Keene agency be available for remote access by the public, another difference from our recommendations.

Regardless of the precise vehicle that is used, we believe the Legislature and the Governor should act quickly to ensure that state agencies can build upon the momentum of the past year and continue to meet remotely even after the rescission of the Governor's executive order.

Conclusion

The year of the pandemic has proven that state government can take advantage of modern technology to hold meetings that are more accessible, more affordable, and more efficient. Remote access to all public meetings unquestionably increases the public's ability to monitor state government. The practical ability of board and commission members to participate remotely from their homes or private offices allows for this important segment of state government to increase efficiency, inclusion and flexibility.

Appendix A: Remote Meetings Survey

The Commission surveyed state boards and commissions to learn more about the experiences of organizations that have met remotely during the pandemic. The survey – conducted between Tuesday, May 11, 2021 and Friday, May 21, 2021 – was sent to 124 individuals representing 125 state boards and commissions. We compiled the list of organizations from Capitol Enquiry’s 2021 California State Agency Directory, California State Government’s Agency Database, and Capitol Morning Report. Where contact information was available, we sent the survey to the corresponding organization’s executive director/officer. When this information was not available, we sent the survey to the contact person listed on the corresponding organization’s website. If none was listed, we included the organization’s general email address. Although our Commission is governed by Bagley-Keene, we did not survey ourselves.

Of the 124 individuals who received the survey, two opted out. 46 individuals responded to the survey, three of which indicated that their organization has not met entirely remotely during the pandemic and thus did not complete the remainder of the survey. Most (85 percent) of those who responded are executive directors/officers.

Respondents were asked a maximum of 9 questions, one of which was open-ended. Below are the questions asked in the survey:

1. Has your organization held entirely remote meetings during the pandemic (i.e., meetings in which there was no physical location accessible to the public)?

	Responses	Percent
Yes	43	93%
No	3	7%

2. Has the frequency of your meetings changed due to your ability to meet remotely?

	Responses	Percent
More frequent meetings	15	34%
Less frequent meetings	0	0%
No change	29	66%

3. Do you feel that remote meetings have changed the level of public attendance?

	Responses	Percent
A lot more public attendance	25	58%
Somewhat more public attendance	16	37%
No change	2	5%
Somewhat less public attendance	0	0%
A lot less public attendance	0	0%

4. Do you feel that remote meetings have changed the frequency of attendance for members of your organization?

	Responses	Percent
Greater attendance	22	51%
Less attendance	0	0%
No change	21	49%

5. Have remote meetings impacted your expenditures, due to the lack of travel costs, increased technology costs, or other changes?

	Responses	Percent
More expensive to meet remotely	3	7%
Less expensive to meet remotely	39	91%
No change	1	2%

If more expensive: Roughly how much have your annual expenditures increased due to remote meetings?

	Responses	Percent
Less than \$10,000 per year	1	33%
\$10,000-50,000 per year	1	33%
More than \$50,000 per year	1	33%

Appendix A: Continued

If less expensive: Roughly how much have your annual expenditures decreased due to remote meetings?

	Responses	Percent
Less than \$10,000 per year	11	28%
\$10,000-50,000 per year	19	49%
More than \$50,000 per year	9	23%

Optional: What costs have increased or decreased as a result of remote meetings?

Responses to this question were open-ended.

6. If your organization has witnesses who appear before you, has your ability to secure high-quality witnesses changed due to their ability to appear remotely?

	Responses	Percent
Easier to secure witnesses	10	23%
More difficult to secure witnesses	0	0%
No change	12	28%
Not applicable	21	49%

7. If you were required to hold future meetings under pre-pandemic requirements, in which the physical location of each participating member of your organization had to be publicly noticed and accessible, would this affect your decision to hold remote meetings?

	Responses	Percent
Less likely to meet remotely	37	86%
More likely to meet remotely	0	0%
No change	6	14%

■ Notes

1. Similar requirements apply to local government agencies, although these provisions are contained in a separate law, the Brown Act. Although many provisions of the Bagley-Keene Act and the Brown Act are nearly identical, some critical facts about state government and local government are different – especially the typical geographic reach of state and local agencies. Given these differences and our Commission’s focus on state government, this report addresses only the potential reform of the Bagley-Keene Act, not the Brown Act. However, we recommend that policymakers consider whether changes are also needed to the Brown Act in light of the past year’s experiences.
2. The Bagley-Keene Open Meeting Act is found in the California Government Code, Sec. 11120 et seq.
3. The Governor issued Executive Order N-25-20 on March 12, 2020, and Executive Order N-29-20 on March 17, 2020, both waiving provisions of Bagley-Keene.
4. Executive Order N-08-21.
5. The Bagley-Keene Act, written in a different era, refers to “teleconference” meetings. In this report, we are referring to any system that allows the public to listen to the meeting remotely, whether by conference phone call, Internet service or some other system, and to make public comment using that system. We are aware that some reform proposals require both audio and video of the participating board members, but we do not have a firm recommendation regarding a requirement for video in addition to audio.
6. California Government Code Section 11131.
7. Little Hoover Commission. “Issue Brief: California’s Digital Divide.” December 2020. <https://lhc.ca.gov/report/issue-brief-californias-digital-divide>.
8. Jackie Botts. “Newsom proposes \$7 billion expansion in broadband internet.” May 17, 2021. CalMatters. <https://calmatters.org/projects/newsom-broadband-expansion/>.
9. Government Code Section 11123.5.
10. 99 Ops.Cal.Atty.Gen. 11.
11. California Attorney General’s Office. “A Handy Guide to Bagley-Keene Open Meeting Act 2004.” https://oag.ca.gov/sites/all/files/agweb/pdfs/publications/bagleykeene2004_ada.pdf
12. “Bagley-Keene Open Meeting Act: Remote Participation in Meetings,” <https://esd.dof.ca.gov/trailer-bill/public/trailerBill/pdf/392>. Accessed on 6-14-21.
13. Assembly Bill 885 (Quirk, 2021). https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB885.

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■ Little Hoover Commission Members

CHAIRMAN PEDRO NAVA | Santa Barbara

Appointed to the Commission by Speaker of the Assembly John Pérez in April 2013 and reappointed by Speaker of the Assembly Anthony Rendon in 2017 and again in 2021. Government relations advisor. Former State Assemblymember from 2004 to 2010, civil litigator, deputy district attorney and member of the state Coastal Commission. Elected chair of the Commission in March 2014.

VICE CHAIRMAN SEAN VARNER | Riverside

Appointed to the Commission by Governor Edmund G. Brown Jr. in April 2016 and reappointed in January 2018. Managing partner at Varner & Brandt LLP where he practices as a transactional attorney focusing on mergers and acquisitions, finance, real estate, and general counsel work. Elected vice chair of the Commission in March 2017.

DION ARONER | Berkeley

Appointed to the Commission by the Senate Rules Committee in April 2019. Partner for Aroner, Jewel, and Ellis. Former State Assemblymember from 1996 to 2002, chief of staff for Assemblymember Tom Bates, social worker for Alameda County, and the first female president of Service Employees International Union 535.

DAVID BEIER | San Francisco

Appointed to the Commission by Governor Edmund G. Brown Jr. in June 2014 and reappointed in January 2018. Managing director of Bay City Capital. Former senior officer of Genentech and Amgen, and counsel to the U.S. House of Representatives Committee on the Judiciary.

CYNTHIA BUIZA | Los Angeles

Appointed to the Commission by Speaker of the Assembly Anthony Rendon in October 2018. Executive director of the California Immigrant Policy Center. Former policy director for the American Civil Liberties Union, San Diego, and policy and advocacy director at the Coalition for Humane Immigrant Rights of Los Angeles.

BILL EMMERSON | Redlands

Appointed to the Commission by Governor Edmund G. Brown Jr. in December 2018. Former senior vice president of state relations and advocacy at the California Hospital Association, State Senator from 2010 to 2013, State Assemblymember from 2004 to 2010, and orthodontist.

ASM. CHAD MAYES | Yucca Valley

Appointed to the Commission by Speaker of the Assembly Toni Atkins in September 2015. Elected in November 2014 to represent the 42nd Assembly District. Represents Beaumont, Hemet, La Quinta, Palm Desert, Palm Springs, San Jacinto, Twentynine Palms, Yucaipa, Yucca Valley, and surrounding areas.

SEN. JIM NIELSEN | Gerber

Appointed to the Commission by the Senate Rules Committee in March 2019. Elected in January 2013 to represent the 4th Senate District. Represents Chico, Oroville, Paradise, Red Bluff, Yuba City, and surrounding areas.

ASM. BILL QUIRK | Hayward

Appointed to the Commission by Speaker of the Assembly Anthony Rendon in 2017. Elected in November 2012 to represent the 20th Assembly District. Represents Hayward, Union City, Castro Valley, San Lorenzo, Ashland, Cherryland, Fairview, Sunol, and North Fremont.

SEN. RICHARD ROTH | Riverside

Appointed to the Commission by the Senate Rules Committee in February 2013. Elected in November 2012 to represent the 31st Senate District. Represents Corona, Coronita, Eastvale, El Cerrito, Highgrove, Home Gardens, Jurupa Valley, March Air Reserve Base, Mead Valley, Moreno Valley, Norco, Perris, and Riverside.

CATHY SCHWAMBERGER | Calistoga

Appointed to the Commission by the Senate Rules Committee in April 2018 and reappointed in January 2019. Associate general counsel for State Farm Mutual Automobile Insurance Company. Former board member of the Civil Justice Association of California and the Capital Political Action Committee.

JANNA SIDLEY | Los Angeles

Appointed to the Commission by Governor Edmund G. Brown Jr. in April 2016 and reappointed in February 2020. General counsel at the Port of Los Angeles since 2013. Former deputy city attorney at the Los Angeles City Attorney's Office from 2003 to 2013.

Full biographies are available on the Commission's website at www.lhc.ca.gov.

“DEMOCRACY ITSELF IS A PROCESS OF CHANGE, AND SATISFACTION AND COMPLACENCY ARE ENEMIES OF GOOD GOVERNMENT.”

By Governor Edmund G. “Pat” Brown,
addressing the inaugural meeting of the Little Hoover Commission,
April 24, 1962, Sacramento, California



Milton Marks Commission on California State
Government Organization and Economy

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