

California Road Charge Pilot Program Technical Advisory Committee (TAC)

Meeting Agenda
January 23, 2015
10:00 am – 4:00 pm

Lincoln Plaza Auditorium, 1st Floor
400 P Street
Sacramento, CA

Agenda Item	Responsible Party	Status	Reference Material
1.) Roll Call	Jim Madaffer, Chair	I	Attachment 1
2.) Welcome and Introductions Committee Member Perspectives	Jim Madaffer, Chair	I	Attachment 2
3.) Senate Bill 1077 Overview (organizational relationships)	Carrie Pourvahidi, CTC Staff	I	Attachment 3
4.) Technical Advisory Committee Role & Responsibilities a.) Mission Statement b.) Operating Procedures c.) Bagley Keene Open Meeting Act d.) 2015 Meeting Schedule	Jim Madaffer, Chair Laura Pennebaker, CTC Staff George Spanos, CTC Legal Counsel Laura Pennebaker, CTC Staff	A	Attachment 4B 4C 4D
5.) Transportation Funding Overview	Steven Keck, Division Chief Department of Transportation – Division of Budgets	I	
6.) California Transportation Infrastructure Priorities Workgroup on the Road Usage Charge	Brian Annis, Undersecretary California State Transportation Agency	I	
Lunch Break			
7.) Road Usage Charge – Washington State Planning and Policy Experiences	Reema Griffith – Executive Director Washington State Transportation Commission	I	
8.) Road Usage Charge - Oregon State Implementation Experiences	James Whitty – Program Manager, Office of Innovative Partnerships and Alternative Funding Oregon Department of Transportation	I	
9.) Work Plan Development Discussion/Next Steps	All	A	
10.) Other Matters/Public Comment*	Jim Madaffer, Chair	I	
11.) Adjourn	Jim Madaffer, Chair	I	

Item Status: "A" denotes an "Action Item"; "I" denotes an "Information Item" CTC: "California Transportation Commission"

* Public Comment: Persons attending the meeting who wish to address the Committee on agenda or non-agenda items are asked to complete a Speaker Request Card and give it to the Executive Assistant prior to the start of the meeting. Public Comment for agenda items will be heard during the Committee's consideration of those items and Public Comment for non-agenda items will be heard at the end of the meeting. Typically, public comment will be limited to 90 seconds per person; however, the Chair may decide to shorten or lengthen the public comment period at his or her discretion. Agenda items may be taken out of order.

Reasonable Accommodation: Any individual with a disability who requires reasonable accommodation to attend or participate may request assistance by contacting the Commission at (916) 654-4245. Requests for reasonable accommodations should be made as soon as possible but at least five days prior to the scheduled meeting.

California Transportation Commission – Road Charge Technical Advisory Committee Roster

Name	Organization	Title	Area of Representation
James Madaffer (Chair)	California Transportation Commission	Commissioner	California Transportation Commission
Jim Beall	California Senate	Senator	Legislature
David Finigan	Del Norte County	Supervisor	Regional Transportation Agency
Stephen Finnegan	Automobile Club of Southern California	Manager of Government & Community Affairs	Highway User Groups
Scott Haggerty	Alameda County	Supervisor	Regional Transportation Agency
Gautam Hans	Center for Democracy and Technology	Director and Policy Counsel	Data Security and Privacy Industry
Loren Kaye	Foundation for Commerce and Education	President	Business and Economy
Richard Marcantonio	Public Advocates, Inc.	Managing Attorney	Social Equity
Pam O'Connor	City of Santa Monica	Councilmember	Regional Transportation Agency
Robert Poythress	City of Madera	Mayor	Regional Transportation Agency
Eric Sauer	California Trucking Association	Vice-President of Policy & Government Relations	Highway User Groups
Lee Tien	Electronic Frontier Foundation	Senior Attorney	Privacy Rights Advocacy
Martin Wachs	UCLA Luskin School of Public Affairs	Professor Emeritus of Urban Planning	National Research and Policymaking
TBD	California Assembly	Assemblymember	Legislature
TBD	TBD	TBD	Telecommunications Industry

California Road Charge Technical Advisory Committee Member Biographies

1.) James Madaffer – Commissioner, California Transportation Commission (CTC) California Transportation Commission Representative

Jim Madaffer is the owner of Madaffer Enterprises, Inc., a successful public policy and government relations consulting firm specializing in government and corporate relations statewide, representing clients from a variety of industries including medical devices, insurance, travel, legal, development, telecommunications, and more. In 2000, Jim was elected to the San Diego City Council and was reelected in 2004. During his tenure on the City Council from 2000-2008 (leaving due to term limits), Jim held a number of leadership positions including President Pro-Tem and Mayor Pro-Tem.

Jim's accomplishments as an elected official are numerous: building libraries, fostering economic development, water and waste water policy and specializing in regional transportation and planning issues. Jim is also Past President of the League of California Cities. He served on the League Board of Directors for over eight years. During his tenure with the League, Jim led the passage of several statewide ballot measures that protect cities, represented California Cities before federal officials in Washington DC on various issues and worked closely with the Governor and California's legislative leadership on budget, environmental, transportation and planning issues. Jim was appointed by Governor Brown to the California Transportation Commission in January 2014.

2.) Senator Jim Beall (D – San Jose) – California State Senate Legislative Representative – Senate

Jim Beall was elected in November 2012 to the California State Senate to represent District 15. He brings a lifetime of experience and understanding in government efficiency, transportation, and human services to the State Senate. In three decades of public service – first as a San Jose City Councilman, then as a Santa Clara County Supervisor, and an Assemblymember - Jim Beall has left his mark across Silicon Valley. He spurred the construction of Highways 85 and 87; fought to bring BART to San Jose; and authored bills to ease financing for seismic upgrades for our hospitals and also to grow California's solar industry. This has meant thousands of good jobs for working families. He is known throughout California for his legislation to help foster care children, low-income families, and people with disabilities. And he has made a lasting difference in the lives of over 100,000 local youth by leading the drive to create the Children's Health Initiative to ensure that every child in Santa Clara County can be covered by health insurance.

3.) David Finigan – Supervisor, Del Norte County Regional Transportation Agency Representative

Supervisor Finigan has served on the Del Norte County Board of Supervisors since he was first elected in 1996, serving five times as Chairman. Now in his fifth term, Supervisor Finigan also sits on various local, state and regional boards. He is a Past President of the California State Association of Counties, and also serves on the board and as a past Chair of the Regional Council of Rural Counties. Additionally, he serves on the boards of the Western Interstate Region of the National Association of Counties, and on the National Association of Counties Transportation Steering Committee.

Aside from serving on Del Norte County's Local Transportation Commission, Supervisor Finigan is also presently Chair of the Border Coast Regional Airport Authority and Treasurer for the Tri Agency Economic Development Joint Powers Authority. Supervisor Finigan served on the economic development working group of the Governor's Broadband Task Force and is currently a member of Cal Fire's Demonstration Forest Advisory Council and the National Forest Counties and Schools Coalition board of directors. In addition,

Supervisor Finigan was one of the founding and current commissioners of First 5 Del Norte / Children's and Family Commission. David is also the Broker/owner of Finigan Real Estate, having worked as a realtor for 27 years.

4.) Stephen Finnegan – Manager of Government & Community Affairs, Automobile Club of Southern CA Highway User Group Representative

Stephen Finnegan has over 25 years of experience in transportation, finance, business, and advocacy. His career includes work as a financial analyst with Bank of America, positions in planning and operations with the Los Angeles County Metropolitan Transportation Authority (Metro), serving as a management consultant to public agencies and non-profit organizations, and leading government affairs, community relations, traffic safety, advocacy, and public policy work for the Automobile Club of Southern California and affiliated AAA clubs providing service to 14 million members in 21 states.

At Metro, Mr. Finnegan was the planning director for the San Gabriel Valley, managed the County's \$12 billion, seven-year Transportation Improvement Program, served as the Metro liaison to the California Transportation Commission, and managed the nation's largest public motorist aid system. As a consultant, Mr. Finnegan completed management, performance, financial, transportation, and other studies for cities, counties, special districts, and non-profit organizations in California and the west.

Mr. Finnegan currently leads government affairs, community relations, and public policy work for the Automobile Club of Southern California where he advocates for motorist, insurance, and business issues, including improved mobility and traffic safety, effective and efficient use of transportation resources, adequate infrastructure for economic growth, and a healthy business environment. Mr. Finnegan received a Master of Arts degree in urban planning from the University of California at Los Angeles and a Bachelor of Arts from Claremont McKenna College.

5.) Scott Haggerty – Supervisor, Alameda County Regional Transportation Agency Representative

Scott Haggerty was first elected to the Alameda County Board of Supervisors in November of 1996 and is currently serving a fifth four-year term on the Board. He was elected by the Board to serve as its vice president for 2013-14. Supervisor Haggerty's district includes the cities of Livermore, Dublin, most of the city of Fremont and unincorporated areas of East Alameda County.

Supervisor Haggerty has taken a leading role in improving transportation throughout the region. He is active on a number of boards and commissions and has extensive experience in transportation policy. Appointed to the Metropolitan Transportation Commission (MTC) in 2000, he formerly served as chair and vice chair. He is also a member of the Association of Bay Area Governments (ABAG) as well as the former chair of the Bay Area Air Quality Management District (BAAQMD). At the county-wide level, Supervisor Haggerty serves as chair of the Alameda County Transportation Commission (ACTC); member and former chair of the Altamont Commuter Express Joint Powers Authority (ACE); member and chair of the Livermore Amador Valley Transit Authority (LAVTA); member of the Tri-Valley Transportation Council (TVTC); and member of the Board of Supervisors Transportation and Planning Committee.

At the national level, Supervisor Haggerty represents Alameda County at the National Association of Counties (NACo) serving in various leadership capacities including vice chair of the Large Urban County Caucus. He is also a long-time member of NACo's Transportation Steering Committee serving two terms as its chair as well as heading up subcommittees for Rail and Transit and for Ports. NACo's membership totals more than 2,000 counties representing 80 percent of the U.S. population.

**6.) Gautam Hans – Director and Policy Counsel, Center for Democracy and Technology
Data Security and Privacy Representative**

Gautam Hans is Director and Policy Counsel for the Center for Democracy and Technology (CDT), San Francisco, promoting CDT's presence on the West Coast as a leader in technology policy and advocacy. His work focuses on digital civil liberties policy, outreach, and development. Gautam joined CDT in 2012 as the Ron Plesser Fellow, focusing on consumer privacy issues, including mobile technology, government regulation and enforcement, and the intersection of privacy and free speech. As the Plesser Fellow, he advocated CDT's consumer privacy agenda in multi-stakeholder convenings, regulatory filings, conferences, and the press. Prior to joining CDT, Gautam interned at the FTC's Bureau of Consumer Protection, the Electronic Privacy Information Center, the American Civil Liberties Union of Michigan, and the American Civil Liberties Union of Northern California.

In 2006, Gautam earned his B.A. in English and Comparative Literature from Columbia University. He then worked as an Editorial Assistant at the Knopf Group of Random House. While in law school, he served as Editor-in-Chief of the Michigan Telecommunications and Technology Law Review and worked as a student attorney in the Michigan Clinical Law Program and the Entrepreneurship Clinic. In 2012, Gautam earned his J.D., cum laude, from the University of Michigan Law School and his M.S. in Information from the University of Michigan School of Information.

**7.) Loren Kaye – President, Foundation for Commerce and Education
Business and Economy Representative**

Loren Kaye was appointed president of the Foundation for Commerce and Education in January 2006. Mr. Kaye has devoted his career to developing, analyzing and implementing public policy issues in California, with a special emphasis on improving the state's business and economic climate. Mr. Kaye is also a gubernatorial appointee to the state's Little Hoover Commission, charged with evaluating the efficiency and effectiveness of state agencies and programs. Mr. Kaye served in senior policy positions for Governors Pete Wilson and George Deukmejian, including Cabinet Secretary to the Governor and Undersecretary of the California Trade and Commerce Agency.

Mr. Kaye has also represented numerous private sector interests, managing issues that affect specific business sectors to promote an improved business climate or to resist further regulation or costs on business. Mr. Kaye lives in Sacramento with his wife and daughter. The California Foundation for Commerce and Education is affiliated with the California Chamber of Commerce and serves as a "think tank" for the California business community. The Foundation is dedicated to preserving and strengthening the California business climate and private enterprise through accurate, impartial and objective research and analysis of public policy issues of interest to the California business and public policy communities.

**8.) Richard Marcantonio – Managing Attorney, Public Advocates, Inc.
Social Equity Representative**

Richard A. Marcantonio leads Public Advocates' transportation, housing, and climate justice advocacy and litigation team. His deep knowledge of both affordable housing and transportation equity makes him a valued interdisciplinary advocate. As California reforms its approach to regional planning for land use and transportation, Richard is working with coalitions around the state to ensure that laws calling for greenhouse gas emission reductions are implemented to bring benefits, rather than added burdens, to low-income communities and communities of color. Before coming to Public Advocates, Richard served as director of litigation at Legal Aid of the North Bay for nine years, specializing in housing issues in Marin and Napa Counties.

Richard has also practiced civil and appellate litigation at the Howard, Rice law firm and clerked for the Hon. Robert L. Carter, U.S. District Judge for the Southern District of New York. Richard received his A.B. from Princeton University in 1982. He graduated cum laude and Order of the Coif from New York University School of Law in 1987, where he was articles editor of the N.Y.U. Review of Law and Social Change, and represented low-income clients at N.Y.U.'s Urban Law Clinic and Unemployment Action Center.

**9.) Pam O'Connor – Councilmember, City of Santa Monica
Regional Transportation Agency Representative**

Throughout nearly two decades, Councilmember Pam O'Connor has championed policies and partnerships that enhance community livability and wellbeing. She is particularly interested in issues that advance mobility, transportation and sustainability. Mayor O'Connor serves on the Los Angeles County Metropolitan Transportation Authority (Metro) Board where she leads Metro's Sustainability Committee and chairs its Planning and Programming Committee. Pam O'Connor is also Chair of the Exposition Metro Line Construction Authority Board that oversees building of the light rail line that extends from Downtown Los Angeles to Santa Monica. In 2012 as President of the Southern California Association of Governments, the nation's largest metropolitan planning organization, she led the 84-member Regional Council in the unanimous adoption of the region's first Sustainable Communities Strategy.

She holds Masters' degrees in Planning and in Technology Management from Eastern Michigan University and a B.S. in Communications from Southern Illinois University. Councilmember O'Connor views community wellbeing as the natural next step in the evolution of local government, as well as a way to advance the connection between mobility and sustainability issues by looking at their impact through the lens of human flourishing.

**10.) Robert Poythress – Mayor, City of Madera
Regional Transportation Agency Representative**

Mayor Robert Poythress is currently serving his third term in office. He was first elected to the City Council in 2004 and reelected in 2008 and 2012. In 2012, Robert was elected as the first elected Mayor in the City of Madera through 2016. Robert is a native Maderan. He graduated from Madera High School in 1974. After high school, he attended California Polytechnic State University, San Luis Obispo, California and in 1978 graduated with a Bachelor of Science (BS) Degree in Agricultural Business Management; and in 1998 he earned his graduate degree from Pacific Coast Banking School, University of Washington. Robert has been in the banking industry since 1979. He is currently Vice President and Manager of Citizen's Business Bank in Madera, California where he has been since 2005. He is also a partner in Teco Hardware and Poythress Farms. Robert currently serves as a Commissioner on the Madera County Transportation Commission and as Chairman of the San Joaquin Valley Regional Policy Council.

**11.) Eric Sauer – Vice-President of Policy & Government Relations, California Trucking Association
Highway User Group Representative**

Eric Sauer is the Vice President of Policy and Government Relations for the California Trucking Association (CTA) and is responsible for overseeing the Association's advocacy, regulatory and policy agenda and priorities. Mr. Sauer has been with CTA since 2001 and was promoted to Vice President in 2006. Throughout his tenure at CTA, Mr. Sauer has worked extensively with the California Highway Patrol, Department of Motor Vehicles, Department of Transportation (Caltrans) and the Federal Motor Carrier Safety Administration on the development and implementation of major programs and regulations impacting the trucking industry. Additionally, Mr. Sauer has been the Chairperson for the California Transportation Permit Advisory Council since its inception. He is a graduate of California State University Sacramento and resides in Drytown (Amador County).

**12.) Lee Tien – Senior Attorney, Electronic Frontier Foundation
Privacy Rights Advocacy Representative**

Lee Tien is a Senior Staff Attorney with the Electronic Frontier Foundation, specializing in free speech law, privacy, and surveillance law. Before joining EFF, Lee was a sole practitioner specializing in Freedom of Information Act (FOIA) litigation. Mr. Tien has published articles on children's sexuality and information technology, anonymity, surveillance, and the First Amendment status of publishing computer software. Lee received his undergraduate degree in psychology from Stanford University, where he was very active in journalism at the *Stanford Daily*. After working as a news reporter at the *Tacoma News Tribune* for a year, Lee went to law school at Boalt Hall, University of California at Berkeley. Lee also did graduate work in the Program in Jurisprudence and Social Policy at UC-Berkeley.

**13.) Martin Wachs – Professor Emeritus, UCLA Luskin School of Public Affairs
National Research and Policy Representative**

Martin Wachs served as Professor Emeritus of Civil & Environmental Engineering and of City & Regional Planning at the University of California, Berkeley, where he directed the Institute of Transportation Studies. He earlier spent 25 years at UCLA, where he was Chairman of the Department of Urban Planning for eleven years. After retiring from the University, Wachs became the Director of the Transportation, Space, and Technology Program at the RAND Corporation in Santa Monica. He is now teaching courses and conducting research at UCLA in transportation policy and working on transportation policy projects at RAND.

Wachs is the author of 180 articles and wrote or edited five books on subjects related to transportation finance and economics, relationships between transportation, land use, and air quality, transportation needs of the elderly, techniques for the evaluation of transportation systems, and the use of performance measurement in transportation planning. His research also addresses, equity in transportation policy, crime in public transit systems, and the response of transportation systems to natural disasters including earthquakes.

Dr. Wachs served on the Executive Committee of the Transportation Research Board (TRB) for nine years and was the TRB Chairman during the year 2000. He is the recipient of a Guggenheim Foundation Fellowship, two Rockefeller Foundation Humanities Fellowships, a UCLA Alumni Association Distinguished Teaching Award, the Pyke Johnson Award for the best paper presented at an annual meeting of the Transportation Research Board, and the Carey Award for service to the TRB. In January of 2010 he delivered the Thomas Deen Distinguished Lecture at the annual meeting of the TRB. In 2011 he received the Distinguished Transportation Researcher award from the Transportation Research Forum.

Senate Bill No. 1077

CHAPTER 835

An act to add and repeal Chapter 7 (commencing with Section 3090) of Division 2 of, and to repeal Chapter 7 (commencing with former Section 3100) of Division 2 of, the Vehicle Code, relating to vehicles.

[Approved by Governor September 29, 2014. Filed with
Secretary of State September 29, 2014.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1077, DeSaulnier. Vehicles: road usage charge pilot program.

Existing law establishes the Transportation Agency, which consists of the Department of the California Highway Patrol, the California Transportation Commission, the Department of Motor Vehicles, the Department of Transportation, the High-Speed Rail Authority, and the Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun.

This bill would require the Chair of the California Transportation Commission to create a Road Usage Charge (RUC) Technical Advisory Committee in consultation with the Secretary of the Transportation Agency. The bill would require the technical advisory committee to study RUC alternatives to the gas tax and to make recommendations to the Secretary of the Transportation Agency on the design of a pilot program, as specified. The bill would also authorize the technical advisory committee to make recommendations on the criteria to be used to evaluate the pilot program. The bill would require the technical advisory committee to consult with specified entities and to consider certain factors in carrying out its duties. The bill would require the Transportation Agency, based on the recommendations of the technical advisory committee, to implement a pilot program to identify and evaluate issues related to the potential implementation of an RUC program in California by January 1, 2017. The bill would require the agency to prepare and submit a report of its findings to the technical advisory committee, the commission, and the appropriate fiscal and policy committees of the Legislature by no later than June 30, 2018, as specified. The bill would also require the commission to include its recommendations regarding the pilot program in its annual report to the Legislature, as specified. The bill would repeal these provisions on January 1, 2019.

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

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

(a) An efficient transportation system is critical for California's economy and quality of life.

(b) The revenues currently available for highways and local roads are inadequate to preserve and maintain existing infrastructure and to provide funds for improvements that would reduce congestion and improve service.

(c) The gas tax is an ineffective mechanism for meeting California's long-term revenue needs because it will steadily generate less revenue as cars become more fuel efficient and alternative sources of fuel are identified. By 2030, as much as half of the revenue that could have been collected will be lost to fuel efficiency. Additionally, bundling fees for roads and highways into the gas tax makes it difficult for users to understand the amount they are paying for roads and highways.

(d) Other states have begun to explore the potential for a road usage charge to replace traditional gas taxes, including the State of Oregon, which established the first permanent road user charge program in the nation.

(e) Road usage charging is a policy whereby motorists pay for the use of the roadway network based on the distance they travel. Drivers pay the same rate per mile driven, regardless of what part of the roadway network they use.

(f) A road usage charge program has the potential to distribute the gas tax burden across all vehicles regardless of fuel source and to minimize the impact of the current regressive gas tax structure.

(g) Experience to date in other states across the nation demonstrates that mileage-based charges can be implemented in a way that ensures data security and maximum privacy protection for drivers.

(h) It is therefore important that the state begin to explore alternative revenue sources that may be implemented in lieu of the antiquated gas tax structure now in place.

(i) Any exploration of alternative revenue sources shall take privacy implications into account, especially with regard to location data. Travel locations or patterns shall not be reported, and legal and technical safeguards shall protect personal information.

SEC. 2. Chapter 7 (commencing with Section 3090) is added to Division 2 of the Vehicle Code, to read:

CHAPTER 7. ROAD USAGE CHARGE PILOT PROGRAM

3090. (a) The Chair of the California Transportation Commission shall create, in consultation with the Secretary of the Transportation Agency, a Road Usage Charge (RUC) Technical Advisory Committee.

(b) The purpose of the technical advisory committee is to guide the development and evaluation of a pilot program to assess the potential for mileage-based revenue collection for California's roads and highways as an alternative to the gas tax system.

(c) The technical advisory committee shall consist of 15 members. In selecting the members of the technical advisory committee, the chair shall

consider individuals who are representative of the telecommunications industry, highway user groups, the data security and privacy industry, privacy rights advocacy organizations, regional transportation agencies, national research and policymaking bodies, including, but not limited to, the Transportation Research Board and the American Association of State Highway and Transportation Officials, Members of the Legislature, and other relevant stakeholders as determined by the chair.

(d) Pursuant to Section 14512 of the Government Code, the technical advisory committee may request the Department of Transportation to perform such work as the technical advisory committee deems necessary to carry out its duties and responsibilities.

(e) The technical advisory committee shall study RUC alternatives to the gas tax. The technical advisory committee shall gather public comment on issues and concerns related to the pilot program and shall make recommendations to the Secretary of the Transportation Agency on the design of a pilot program to test alternative RUC approaches. The technical advisory committee may also make recommendations on the criteria to be used to evaluate the pilot program.

(f) In studying alternatives to the current gas tax system and developing recommendations on the design of a pilot program to test alternative RUC approaches pursuant to subdivision (e), the technical advisory committee shall take all of the following into consideration:

(1) The availability, adaptability, reliability, and security of methods that might be used in recording and reporting highway use.

(2) The necessity of protecting all personally identifiable information used in reporting highway use.

(3) The ease and cost of recording and reporting highway use.

(4) The ease and cost of administering the collection of taxes and fees as an alternative to the current system of taxing highway use through motor vehicle fuel taxes.

(5) Effective methods of maintaining compliance.

(6) The ease of reidentifying location data, even when personally identifiable information has been removed from the data.

(7) Increased privacy concerns when location data is used in conjunction with other technologies.

(8) Public and private agency access, including law enforcement, to data collected and stored for purposes of the RUC to ensure individual privacy rights are protected pursuant to Section 1 of Article I of the California Constitution.

(g) The technical advisory committee shall consult with highway users and transportation stakeholders, including representatives of vehicle users, vehicle manufacturers, and fuel distributors as part of its duties pursuant to subdivision (f).

3091. (a) Based on the recommendations of the RUC Technical Advisory Committee, the Transportation Agency shall implement a pilot program to identify and evaluate issues related to the potential implementation of an RUC program in California by January 1, 2017.

(b) At a minimum, the pilot program shall accomplish all of the following:
(1) Analyze alternative means of collecting road usage data, including at least one alternative that does not rely on electronic vehicle location data.

(2) Collect a minimum amount of personal information including location tracking information, necessary to implement the RUC program.

(3) Ensure that processes for collecting, managing, storing, transmitting, and destroying data are in place to protect the integrity of the data and safeguard the privacy of drivers.

(c) The agency shall not disclose, distribute, make available, sell, access, or otherwise provide for another purpose, personal information or data collected through the RUC program to any private entity or individual unless authorized by a court order, as part of a civil case, by a subpoena issued on behalf of a defendant in a criminal case, by a search warrant, or in aggregate form with all personal information removed for the purposes of academic research.

3092. (a) The Transportation Agency shall prepare and submit a report of its findings based on the results of the pilot program to the RUC Technical Advisory Committee, the California Transportation Commission, and the appropriate policy and fiscal committees of the Legislature by no later than June 30, 2018. The report shall include, but not be limited to, a discussion of all of the following issues:

(1) Cost.

(2) Privacy, including recommendations regarding public and private access, including law enforcement, to data collected and stored for purposes of the RUC to ensure individual privacy rights are protected pursuant to Section 1 of Article I of the California Constitution.

(3) Jurisdictional issues.

(4) Feasibility.

(5) Complexity.

(6) Acceptance.

(7) Use of revenues.

(8) Security and compliance, including a discussion of processes and security measures necessary to minimize fraud and tax evasion rates.

(9) Data collection technology, including a discussion of the advantages and disadvantages of various types of data collection equipment and the privacy implications and considerations of the equipment.

(10) Potential for additional driver services.

(11) Implementation issues.

(b) The California Transportation Commission shall include its recommendations regarding the pilot program in its annual report to the Legislature as specified in Sections 14535 and 14536 of the Government Code.

3093. This chapter shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

SEC. 3. Chapter 7 (commencing with former Section 3100) of Division 2 of the Vehicle Code is repealed.

Mission Statement

Through an open forum, identify and design an equitable gas tax replacement pilot program that examines a potential sustainable funding solution to meet California's transportation system needs.

**California Transportation Commission
Road Charge Technical Advisory Committee
Draft Operating Procedures**

Purpose

Guide the development and evaluation of a pilot program to assess the potential for mileage-based revenue collection for California's roads and highways as an alternative to the gas tax system.

Responsibilities

The Road Charge Technical Advisory Committee (Committee) has the following responsibilities:

1. Study road charge alternatives to the gas tax.
2. Gather public comment on issues and concerns related to a road charge pilot program.
3. Recommend to the Transportation Agency Secretary the:
 - a. Design of a pilot program to test alternative road charge approaches.
 - b. Criteria to evaluate the pilot program.

Operating Procedures

1. The Committee is subject to and will comply with the Bagley-Keene Open Meeting Act of 2004.
2. A Commissioner of the California Transportation Commission (Commission) will serve as the Committee Chairman who shall preside at all meetings. The Committee Chairman will appoint a Vice-Chairman to serve in the Chairman's absence.
3. The Committee will operate by consensus. The goal will be to reach unanimous consensus – meaning that all members can support, or live with, the Committee's recommendations. If unanimous consensus cannot be reached, the majority opinion, as determined by vote, will be conveyed as the Committee's recommendations, with differences of opinion noted and included as part of the Committee's final recommendations. Proxy voting is not permitted.
4. Committee members are expected to participate in every meeting to achieve continuity in discussions from one meeting to the next. Alternate Committee members are not permitted. If members cannot attend a meeting it is his or her responsibility to be informed about the topics discussed by the next meeting by viewing the webcast or reading the minutes prior to the next meeting, or both. Due to the compressed schedule for the development of the pilot program any member missing three meetings will be removed from the Committee.
5. If a Committee member cannot attend a meeting and wishes to make a statement regarding an agenda item, he or she may provide the Chairman with a written statement, which will be read to the full group when the issue is considered, and which shall be made available to the public as provided by the Bagley-Keene Open Meeting Act.

6. The Commission's Executive Director may designate a member(s) of the Commission's staff to serve as staff to the Committee.
7. Meeting summaries will be prepared and posted in the document library on the Committee website for review and comment before the final version is posted on the project website.
8. Inquiries from the media or others regarding the Committee's deliberations or work product should be directed to the Committee Chairman or to the Committee's staff. Committee members are asked to let the process reach its conclusion before describing potential strategies or concepts as Committee recommendations. Members agree to bring issues or concerns pertaining to the operation of the Committee to the Committee itself before raising them with others.
9. Each member will work diligently to understand any issue or concern raised by their organization and communicate those issues in a timely fashion to the full Committee, to provide the Committee with an opportunity to respond to the issues or concerns.
10. Interim and final reports will be written in a manner that fairly and accurately reflects the findings, recommendations and opinions of the Committee. Where clear differences of opinion remain on important issues, the final report will properly capture and convey divergent views.
11. Nothing in this document is intended to restrict, limit, or otherwise inhibit the free expression of opinions by any member of the Committee when that member makes it clear that he or she is speaking for himself or herself or on behalf of the interests he or she represents.
12. General public comments are scheduled at the conclusion of the meeting. The Chair may impose a time limit. Comment cards will be made available at the meeting and the Committee website will provide an opportunity for public comment.
13. Requests for legal services to the Committee will be addressed by the Committee Chairman to the Commission's General Counsel.

**SUMMARY OF PERTINENT PROVISIONS OF
THE OPEN MEETING ACT AND THE PUBLIC RECORDS ACT**

Bagley-Keene Open Meeting Act

The Bagley-Keene Open Meeting Act applies to state-level multi-member entities. (Gov. C. §§ 11120 et seq.)¹ It is similar to the Brown Act, the difference being that the Brown Act (§§ 54950 et seq.) applies to local and regional bodies. Both acts have the same purpose, stated in identical fashion in each of the Acts:

[The intent of the law is that the actions of public bodies] be taken openly and that their deliberations 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.

(§§ 11120 and 54950.)

This policy has a constitutional dimension. “The people have the right of access to information concerning the conduct of the people’s business, and, therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny.” (Constitution, Article I, Section 3, subdivision (b)(1).)

The Open Meeting Act requires that notice of meetings, including a specific agenda, be given to the public and generally requires that the meetings be conducted in public. (§§ 11123 and 11125.)

An authorized “Meeting” means a congregation of a majority of the members of a state body at the same time and place to discuss any item within the body’s subject matter jurisdiction, where proper notice has been given. (§11122.5, subd. (a).) With certain exceptions, all meetings of the body shall be open and public. (§11123, subd. (a).)

Other “meetings” or discussions are generally prohibited if they involve subject matter discussions among a majority of the body. This prohibition applies to discussions:

in which members participate through a series of communications (including telephonic and electronic) that eventually involve a majority of the body.

that take place through an intermediary, including an intermediary who is not a member of the body.

(§§ 11122.5, subd. (b).) Obviously, the point of this prohibition is to avoid circumvention of the requirement that meetings be held openly and publicly.

Documents distributed to a majority of the members of a body that pertain to an item “subject to discussion or consideration at a public meeting of the body” generally become public records. (Gov. C. §11125.1, subd. (a).)

Members of the public are entitled to “an opportunity . . . to directly address the state body on each agenda item *before or during* the state body’s discussion or consideration of the item. (Gov. C. §11125.7.) In this way the members of the body have the benefit of public comment during their deliberation and action on the agenda item.

¹ All section references are to the Government Code.

Public Records Act

Committee generated documents are subject to the Public Records Act. The act defines "public records" to include "any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics." (§ 6252, subd. (e).) As noted above, writings distributed to all or a majority of members of the body that pertain to an item on the agenda are subject to the act.

The purpose of the Public Records Act is fundamentally the same as that of the Bagley-Keene Open Meeting Act. "[A]ccess to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state." (§ 6250.)

Does the Public Records Act apply to e-mails and text messages that concern subjects falling within the jurisdiction of the body and that are transmitted from or to a member of the body when private e-mail accounts are used? This issue is pending in *City of San Jose v. Superior Court*, Case No. S218066. The Court describes the issue as follows:

Are written communications pertaining to city business, including email and text messages, which (a) are sent or received by public officials and employees on their private electronic devices using their private accounts, (b) are not stored on city servers, and (c) are not directly accessible by the city, "public records" within the meaning of the California Public Records Act?

The trial court ruled that such e-mails and text messages are subject to disclosure under the Public Records Act.

The Court of Appeal overturned the trial court's order, stating that "the Act does not require public access to communications between public officials using exclusively private cell phones or e-mail accounts." The person who sought the records then filed a petition for review with the Supreme Court. The Supreme Court granted review and the case is now being briefed.

End Note

The above points represent a summary and generalized overview of some of the pertinent points concerning open meeting and public records requirements, and therefore should not be treated as specific advice applicable to any specific situation that may arise. Requests for legal advice can be communicated through the committee chair or through a designated member of the Commission's staff.

George Spanos
General Counsel
California Transportation Commission



California LEGISLATIVE INFORMATION

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GOVERNMENT CODE - GOV

TITLE 2. GOVERNMENT OF THE STATE OF CALIFORNIA [8000 - 22980] (Title 2 enacted by Stats. 1943, Ch. 134.)

DIVISION 3. EXECUTIVE DEPARTMENT [11000 - 15986] (Division 3 added by Stats. 1945, Ch. 111.)

PART 1. STATE DEPARTMENTS AND AGENCIES [11000 - 11894] (Part 1 added by Stats. 1945, Ch. 111.)

CHAPTER 1. State Agencies [11000 - 11148.5] (Chapter 1 added by Stats. 1945, Ch. 111.)

ARTICLE 9. Meetings [11120 - 11132] (Article 9 added by Stats. 1967, Ch. 1656.)

11120. 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.

(Amended by Stats. 1981, Ch. 968, Sec. 4.)

11121. As used in this article, "state body" means each of the following:

- (a) Every state board, or commission, or similar multimember body of the state that is created by statute or required by law to conduct official meetings and every commission created by executive order.
- (b) A board, commission, committee, or similar multimember body that exercises any authority of a state body delegated to it by that state body.
- (c) An 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.
- (d) A board, commission, committee, or similar multimember body on which a member of a body that is a state body pursuant to this section serves in his or her official capacity as a representative of that state body and that is supported, in whole or in part, by funds provided by the state body, whether the multimember body is organized and operated by the state body or by a private corporation.

(Amended by Stats. 2003, Ch. 62, Sec. 117. Effective January 1, 2004.)

11121.1. As used in this article, "state body" does not include any of the following:

- (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 (Article 2.2 (commencing with Section 9027) of Chapter 1.5 of Part 1 of Division 2 of Title 2).
- (d) State agencies when they are conducting proceedings pursuant to Section 3596.
- (e) State agencies provided for in Section 109260 of the Health and Safety Code, except as provided in Section 109390 of the Health and Safety Code.
- (f) The Credit Union Advisory Committee established pursuant to Section 14380 of the Financial Code.

(Amended by Stats. 2008, Ch. 344, Sec. 2. Effective September 26, 2008.)

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11121.9. 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.

(Amended by Stats. 1981, Ch. 968, Sec. 7.1.)

11121.95. Any person appointed or elected to serve as a member of a state body who has not yet assumed the duties of office shall conform his or her conduct to the requirements of this article and shall be treated for purposes of this article as if he or she has already assumed office.

(Added by Stats. 1997, Ch. 949, Sec. 1. Effective January 1, 1998.)

11122. 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.

(Amended by Stats. 1981, Ch. 968, Sec. 7.3.)

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

(b) (1) A majority of the members of a state body shall not, outside of a meeting authorized by this chapter, use 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.

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

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

(1) Individual contacts or conversations between a member of a state body and any other person that do not violate subdivision (b).

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

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

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

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

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

(6) The attendance of a majority of the members of a state body at an open and noticed meeting of a standing committee of that body, if the members of the state body who are not members of the standing committee attend only as observers.

(Amended by Stats. 2009, Ch. 150, Sec. 1. Effective January 1, 2010.)

11123. (a) 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.

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(b) (1) This article does not prohibit a state body from holding an open or closed meeting by teleconference for the benefit of the public and state body. The meeting or proceeding held by teleconference shall otherwise comply with all applicable requirements or laws relating to a specific type of meeting or proceeding, including the following:

(A) The teleconferencing meeting shall comply with all requirements of this article applicable to other meetings.

(B) The portion of the teleconferenced meeting that is required to be open to the public shall be audible to the public at the location specified in the notice of the meeting.

(C) If the state body elects to conduct a meeting or proceeding by teleconference, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the rights of any party or member of the public appearing before the state body. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. The agenda shall provide an opportunity for members of the public to address the state body directly pursuant to Section 11125.7 at each teleconference location.

(D) All votes taken during a teleconferenced meeting shall be by rollcall.

(E) The portion of the teleconferenced meeting that is closed to the public may not include the consideration of any agenda item being heard pursuant to Section 11125.5.

(F) At least one member of the state body shall be physically present at the location specified in the notice of the meeting.

(2) For the purposes of this subdivision, "teleconference" means a meeting of a state body, the members of which are at different locations, connected by electronic means, through either audio or both audio and video. This section does not prohibit a state body from providing members of the public with additional locations in which the public may observe or address the state body by electronic means, through either audio or both audio and video.

(c) The state body shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(Amended by Stats. 2014, Ch. 510, Sec. 1. Effective January 1, 2015.)

11123.1. All meetings of a state body that are open and public shall meet the protections and prohibitions contained in Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof.

(Added by Stats. 2002, Ch. 300, Sec. 1. Effective January 1, 2003.)

11124. 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.

(Amended by Stats. 1981, Ch. 968, Sec. 8.)

11124.1. (a) Any person attending an open and public meeting of the state body shall have the right to record the proceedings with an audio or video recorder or a still or motion picture camera in the absence of a reasonable finding by the state body that the recording cannot continue without noise, illumination, or obstruction of view that constitutes, or would constitute, a persistent disruption of the proceedings.

(b) Any audio or video recording of an open and public meeting made for whatever purpose by or at the direction of the state body shall be subject to inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), but may be erased or destroyed 30 days after the recording. Any inspection of an audio or video recording shall be provided without charge on equipment made available by the state body.

(c) No state body shall prohibit or otherwise restrict the broadcast of its open and public meetings in the absence of a reasonable finding that the broadcast cannot be accomplished without noise, illumination, or obstruction of view that would constitute a persistent disruption of the proceedings.

(Amended by Stats. 2009, Ch. 88, Sec. 42. Effective January 1, 2010.)

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(a) The state body shall provide notice of its meeting to any person who requests that notice in writing. Notice shall be given and also made available on the Internet 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 written notice shall additionally include the address of the Internet site where notices required by this article are made available.

(b) The notice of a meeting of a body that is a state body shall include a specific agenda for the meeting, containing a brief description of the items of business to be transacted or discussed in either open or closed session. A brief general description of an item generally need not exceed 20 words. A description of an item to be transacted or discussed in closed session shall include a citation of the specific statutory authority under which a closed session is being held. No item shall be added to the agenda subsequent to the provision of this notice, unless otherwise permitted by this article.

(c) Notice of a meeting of a state body that 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 reasonable time of, and nearby, the meeting of the state body.

(d) 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.

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

(f) The notice shall be made available in appropriate alternative formats, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof, upon request by any person with a disability. The notice shall include information regarding how, to whom, and by when a request for any disability-related modification or accommodation, including auxiliary aids or services may be made by a person with a disability who requires these aids or services in order to participate in the public meeting.

(Amended by Stats. 2002, Ch. 300, Sec. 2. Effective January 1, 2003.)

11125.1. (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 any person in connection with a matter subject to discussion or consideration at a public meeting of the body, are disclosable public records under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall be made available upon request without delay. However, this section shall not include any writing exempt from public disclosure under Section 6253.5, 6254, or 6254.7 of this code, or Section 489.1 or 583 of the Public Utilities Code.

(b) Writings that are public records under subdivision (a) and that are distributed to members of the state body prior to or during a meeting, pertaining to any item to be considered during the meeting, shall be made available for public inspection at the meeting if prepared by the state body or a member of the state body, or after the meeting if prepared by some other person. These writings shall be made available in appropriate alternative formats, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof, upon request by a person with a disability.

(c) In the case of the Franchise Tax Board, prior to that state body taking final action on any item, writings pertaining to that item that are public records under subdivision (a) that are prepared and distributed by the Franchise Tax Board staff or individual members to members of the state body prior to or during a meeting shall be:

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

(d) Prior to the State Board of Equalization taking final action on any item that does not involve a named tax or fee payer, writings pertaining to that item that are public records under subdivision (a) that are prepared and distributed by board staff or individual members to members of the state body prior to or during a meeting shall be:

- (1) Made available for public inspection at that meeting.

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(2) Distributed to all persons who request or have requested copies of these writings.

(3) Made available on the Internet.

(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 6253, except that no surcharge shall be imposed on persons with disabilities in violation of Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. The writings described in subdivision (b) 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 limit or delay the public's right to inspect 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.

(Amended by Stats. 2005, Ch. 188, Sec. 1. Effective January 1, 2006.)

11125.2. 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.

(Amended by Stats. 1981, Ch. 968, Sec. 10.3.)

11125.3. (a) Notwithstanding Section 11125, a state body may take action on items of business not appearing on the posted agenda under any of the conditions stated below:

(1) Upon a determination by a majority vote of the state body that an emergency situation exists, as defined in Section 11125.5.

(2) Upon a determination by a two-thirds vote of the state body, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that there exists a need to take immediate action and that the need for action came to the attention of the state body subsequent to the agenda being posted as specified in Section 11125.

(b) Notice of the additional item to be considered shall be provided to each member of the state body and to all parties that have requested notice of its meetings as soon as is practicable after a determination of the need to consider the item is made, but shall be delivered in a manner that allows it to be received by the members and by newspapers of general circulation and radio or television stations at least 48 hours before the time of the meeting specified in the notice. Notice shall be made available to newspapers of general circulation and radio or television stations by providing that notice to all national press wire services. Notice shall also be made available on the Internet as soon as is practicable after the decision to consider additional items at a meeting has been made.

(Amended by Stats. 2001, Ch. 243, Sec. 9. Effective January 1, 2002.)

11125.4. (a) A special meeting may be called at any time by the presiding officer of the state body or by a majority of the members of the state body. A special meeting may only be called for one of the following purposes when compliance with the 10-day notice provisions of Section 11125 would impose a substantial hardship on the state body or when immediate action is required to protect the public interest:

(1) To consider "pending litigation" as that term is defined in subdivision (e) of Section 11126.

(2) To consider proposed legislation.

(3) To consider issuance of a legal opinion.

(4) To consider disciplinary action involving a state officer or employee.

(5) To consider the purchase, sale, exchange, or lease of real property.

(6) To consider license examinations and applications.

(7) To consider an action on a loan or grant provided pursuant to Division 31 (commencing with Section 50000) of the Health and Safety Code.

(8) To consider its response to a confidential final draft audit report as permitted by Section 11126.2.

(9) To provide for an interim executive officer of a state body upon the death, incapacity, or vacancy in the office of the executive officer.

(b) When a special meeting is called pursuant to one of the purposes specified in subdivision (a), the state body shall provide notice of the special meeting to each member of the state body and to all parties that have requested notice of its meetings as soon as is practicable after the decision to call a special meeting has been

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made, but shall deliver the notice in a manner that allows it to be received by the members and by newspapers of general circulation and radio or television stations at least 48 hours before the time of the special meeting specified in the notice. Notice shall be made available to newspapers of general circulation and radio or television stations by providing that notice to all national press wire services. Notice shall also be made available on the Internet within the time periods required by this section. The notice shall specify the time and place of the special meeting and the business to be transacted. The written notice shall additionally specify the address of the Internet Web site where notices required by this article are made available. No other business shall be considered at a special meeting by the state body. The written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the clerk or secretary of the state body a written waiver of notice. The waiver may be given by telegram, facsimile transmission, or similar means. The written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes. Notice shall be required pursuant to this section regardless of whether any action is taken at the special meeting.

(c) At the commencement of any special meeting, the state body must make a finding in open session that the delay necessitated by providing notice 10 days prior to a meeting as required by Section 11125 would cause a substantial hardship on the body or that immediate action is required to protect the public interest. The finding shall set forth the specific facts that constitute the hardship to the body or the impending harm to the public interest. The finding shall be adopted by a two-thirds vote of the body, or, if less than two-thirds of the members are present, a unanimous vote of those members present. The finding shall be made available on the Internet. Failure to adopt the finding terminates the meeting.

(Amended by Stats. 2007, Ch. 92, Sec. 1. Effective January 1, 2008.)

11125.5. (a) 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 or the 48-hour notice requirement of Section 11125.4.

(b) 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:

- (1) Work stoppage or other activity that severely impairs public health or safety, or both.
- (2) Crippling disaster that severely impairs public health or safety, or both.

(c) However, newspapers of general circulation and radio or television stations that 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. Notice shall also be made available on the Internet as soon as is practicable after the decision to call the emergency meeting has been made. If 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 those 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.

(d) 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 action taken at the meeting shall be posted for a minimum of 10 days in a public place, and also made available on the Internet for a minimum of 10 days, as soon after the meeting as possible.

(Amended by Stats. 1999, Ch. 393, Sec. 3. Effective January 1, 2000. As provided in Sec. 7 of Ch. 393, amendment is to be implemented on July 1, 2001, or other date authorized by Dept. of Information Technology pursuant to Executive Order D-3-99.)

11125.6. (a) An emergency meeting may be called at any time by the president of the Fish and Game Commission or by a majority of the members of the commission to consider an appeal of a closure of or restriction in a fishery adopted pursuant to Section 7710 of the Fish and Game Code. In the case of an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of an established fishery, the commission may hold an emergency meeting without complying with the 10-day notice requirement of Section 11125 or the 48-hour notice requirement of Section 11125.4 if the delay necessitated by providing the 10-day notice of a public meeting required by Section 11125 or the 48-hour notice required by Section 11125.4 would significantly adversely impact the economic benefits of a fishery to the participants in the fishery and to the people of the state or significantly adversely impact the sustainability of a fishery managed by the state.

(b) At the commencement of an emergency meeting called pursuant to this section, the commission shall make a finding in open session that the delay necessitated by providing notice 10 days prior to a meeting as required by

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Section 11125 or 48 hours prior to a meeting as required by Section 11125.4 would significantly adversely impact the economic benefits of a fishery to the participants in the fishery and to the people of the state or significantly adversely impact the sustainability of a fishery managed by the state. The finding shall set forth the specific facts that constitute the impact to the economic benefits of the fishery or the sustainability of the fishery. The finding shall be adopted by a vote of at least four members of the commission, or, if less than four of the members are present, a unanimous vote of those members present. Failure to adopt the finding shall terminate the meeting.

(c) Newspapers of general circulation and radio or television stations that have requested notice of meetings pursuant to Section 11125 shall be notified by the presiding officer of the commission, or a designee thereof, one hour prior to the emergency meeting by telephone.

(d) The minutes of an emergency meeting called pursuant to this section, a list of persons who the president of the commission, or a designee thereof, notified or attempted to notify, a copy of the rollcall vote, and any action taken at the meeting shall be posted for a minimum of 10 days in a public place as soon after the meeting as possible.

(Added by Stats. 1998, Ch. 1052, Sec. 21. Effective January 1, 1999.)

11125.7. (a) Except as otherwise provided in this section, the state body shall provide an opportunity for members of the public to directly address the state body on each agenda item before or during the state body's discussion or consideration of the item. This section is not applicable if the agenda item has already been considered by a committee composed exclusively of members of the state body at a public meeting where interested members of the public were afforded the opportunity to address the committee on the item, before or during the committee's consideration of the item, unless the item has been substantially changed since the committee heard the item, as determined by the state body. Every notice for a special meeting at which action is proposed to be taken on an item shall provide an opportunity for members of the public to directly address the state body concerning that item prior to action on the item. In addition, the notice requirement of Section 11125 shall not preclude the acceptance of testimony at meetings, other than emergency meetings, from members of the public if 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 state body may adopt reasonable regulations to ensure that the intent of subdivision (a) is carried out, including, but not limited to, regulations limiting the total amount of time allocated for public comment on particular issues and for each individual speaker.

(c) (1) Notwithstanding subdivision (b), when a state body limits time for public comment the state body shall provide at least twice the allotted time to a member of the public who utilizes a translator to ensure that non-English speakers receive the same opportunity to directly address the state body.

(2) Paragraph (1) shall not apply if the state body utilizes simultaneous translation equipment in a manner that allows the state body to hear the translated public testimony simultaneously.

(d) The state body shall not prohibit public criticism of the policies, programs, or services of the state body, or of the acts or omissions of the state body. Nothing in this subdivision shall confer any privilege or protection for expression beyond that otherwise provided by law.

(e) This section is not applicable to closed sessions held pursuant to Section 11126.

(f) This section is not applicable to decisions regarding proceedings held pursuant to Chapter 5 (commencing with Section 11500), relating to administrative adjudication, or to the conduct of those proceedings.

(g) This section is not applicable to hearings conducted by the California Victim Compensation and Government Claims Board pursuant to Sections 13963 and 13963.1.

(h) This section is not applicable to agenda items that involve decisions of the Public Utilities Commission regarding adjudicatory hearings held pursuant to Chapter 9 (commencing with Section 1701) of Part 1 of Division 1 of the Public Utilities Code. For all other agenda items, the commission shall provide members of the public, other than those who have already participated in the proceedings underlying the agenda item, an opportunity to directly address the commission before or during the commission's consideration of the item.

(Amended by Stats. 2012, Ch. 551, Sec. 1. Effective January 1, 2013.)

11125.8. (a) Notwithstanding Section 11131.5, in any hearing that the California Victim Compensation and Government Claims Board conducts pursuant to Section 13963.1 and that the applicant or applicant's representative does not request be open to the public, no notice, agenda, announcement, or report required under this article need identify the applicant.

(b) In any hearing that the board conducts pursuant to Section 13963.1 and that the applicant or applicant's representative does not request be open to the public, the board shall disclose that the hearing is being held

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pursuant to Section 13963.1. That disclosure shall be deemed to satisfy the requirements of subdivision (a) of Section 11126.3.

(Amended by Stats. 2006, Ch. 538, Sec. 249. Effective January 1, 2007.)

11125.9. Regional water quality control boards shall comply with the notification guidelines in Section 11125 and, in addition, shall do both of the following:

(a) Notify, in writing, all clerks of the city councils and county boards of supervisors within the regional board's jurisdiction of any and all board hearings at least 10 days prior to the hearing. Notification shall include an agenda for the meeting with contents as described in subdivision (b) of Section 11125 as well as 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. Each clerk, upon receipt of the notification of a board hearing, shall distribute the notice to all members of the respective city council or board of supervisors within the regional board's jurisdiction.

(b) Notify, in writing, all newspapers with a circulation rate of at least 10,000 within the regional board's jurisdiction of any and all board hearings, at least 10 days prior to the hearing. Notification shall include an agenda for the meeting with contents as described in subdivision (b) of Section 11125 as well as 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.

(Added by Stats. 1997, Ch. 301, Sec. 1. Effective January 1, 1998.)

11126. (a) (1) 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, evaluation of performance, 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.

(2) 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, and that 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.

(3) The state body also may exclude from any public or closed session, during the examination of a witness, any or all other witnesses in the matter being investigated by the state body.

(4) Following the public hearing or closed session, the body may deliberate on the decision to be reached in a closed session.

(b) For the purposes of this section, "employee" does 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. Furthermore, for purposes of this section, the term employee includes a person exempt from civil service pursuant to subdivision (e) of Section 4 of Article VII of the California Constitution.

(c) Nothing in this article shall be construed to do any of the following:

(1) Prevent state bodies that administer the licensing of persons engaging in businesses or professions from holding closed sessions to prepare, approve, grade, or administer examinations.

(2) Prevent an advisory body of a state body that administers the licensing of persons engaged in businesses or professions from conducting a closed session to discuss matters that 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.

(3) Prohibit a state body from holding a closed session to deliberate on a decision to be reached in a proceeding required to be conducted pursuant to Chapter 5 (commencing with Section 11500) or similar provisions of law.

(4) 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.

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- (5) Prevent any closed session to consider the conferring of honorary degrees, or gifts, donations, and bequests that the donor or proposed donor has requested in writing to be kept confidential.
- (6) 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.
- (7) (A) 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.
- (B) 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 that the negotiations may concern and the person or persons with whom its negotiator may negotiate.
- (C) For purposes of this paragraph, the negotiator may be a member of the state body.
- (D) For purposes of this paragraph, "lease" includes renewal or renegotiation of a lease.
- (E) Nothing in this paragraph shall preclude a state body from holding a closed session for discussions regarding eminent domain proceedings pursuant to subdivision (e).
- (8) 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.
- (9) Prevent the Council for Private Postsecondary and Vocational Education from holding closed sessions to consider matters pertaining to the appointment or termination of the Executive Director of the Council for Private Postsecondary and Vocational Education.
- (10) Prevent the Franchise Tax Board from holding closed sessions for the purpose of discussion of confidential tax returns or information 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.
- (11) Require the Franchise Tax Board to notice or disclose any confidential tax information considered in closed sessions, or documents executed in connection therewith, the public disclosure of which is prohibited pursuant to Article 2 (commencing with Section 19542) of Chapter 7 of Part 10.2 of Division 2 of the Revenue and Taxation Code.
- (12) Prevent the Corrections Standards Authority from holding closed sessions when considering reports of crime conditions under Section 6027 of the Penal Code.
- (13) Prevent the State Air Resources Board from holding closed sessions when considering the proprietary specifications and performance data of manufacturers.
- (14) Prevent the State Board of Education or the Superintendent of Public Instruction, or any committee advising the board or the Superintendent, from holding closed sessions on those portions of its review of assessment instruments pursuant to Chapter 5 (commencing with Section 60600) of, or pursuant to Chapter 9 (commencing with Section 60850) of, Part 33 of Division 4 of Title 2 of the Education Code during which actual test content is reviewed and discussed. The purpose of this provision is to maintain the confidentiality of the assessments under review.
- (15) Prevent the Department of Resources Recycling and Recovery or its auxiliary committees from holding closed sessions for the purpose of discussing confidential tax returns, discussing trade secrets or confidential or proprietary information in its possession, or discussing other data, the public disclosure of which is prohibited by law.
- (16) Prevent a state body that 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 that could have a material effect on the net income of the corporation. For the purpose of real property investment decisions that may be considered in a closed session pursuant to this paragraph, a state body shall also be exempt from the provisions of paragraph (7) relating to the identification of real properties prior to the closed session.
- (17) Prevent a state body, or boards, commissions, administrative officers, or other representatives that 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), Chapter 10.3 (commencing with Section 3512), Chapter 10.5 (commencing with Section 3525), or Chapter 10.7 (commencing with Section 3540) 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.

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(18) (A) Prevent a state body from holding closed sessions to consider matters posing a threat or potential threat of criminal or terrorist activity against the personnel, property, buildings, facilities, or equipment, including electronic data, owned, leased, or controlled by the state body, where disclosure of these considerations could compromise or impede the safety or security of the personnel, property, buildings, facilities, or equipment, including electronic data, owned, leased, or controlled by the state body.

(B) Notwithstanding any other provision of law, a state body, at any regular or special meeting, may meet in a closed session pursuant to subparagraph (A) upon a two-thirds vote of the members present at the meeting.

(C) After meeting in closed session pursuant to subparagraph (A), the state body shall reconvene in open session prior to adjournment and report that a closed session was held pursuant to subparagraph (A), the general nature of the matters considered, and whether any action was taken in closed session.

(D) After meeting in closed session pursuant to subparagraph (A), the state body shall submit to the Legislative Analyst written notification stating that it held this closed session, the general reason or reasons for the closed session, the general nature of the matters considered, and whether any action was taken in closed session. The Legislative Analyst shall retain for no less than four years any written notification received from a state body pursuant to this subparagraph.

(19) Prevent the California Sex Offender Management Board from holding a closed session for the purpose of discussing matters pertaining to the application of a sex offender treatment provider for certification pursuant to Sections 290.09 and 9003 of the Penal Code. Those matters may include review of an applicant's qualifications for certification.

(d) (1) 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.

(2) 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 any person or entity under the jurisdiction of the commission.

(e) (1) 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.

(2) 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:

(A) 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.

(B) (i) 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.

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

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

(ii) 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 subparagraph (A) or (B), 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 6254.25.

(iii) 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.

(iv) 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.

(f) In addition to subdivisions (a), (b), and (c), nothing in this article shall be construed to do any of the following:

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- (1) Prevent a state body operating under a joint powers agreement for insurance pooling from holding a closed session to discuss a claim for the payment of tort liability or public liability losses incurred by the state body or any member agency under the joint powers agreement.
- (2) Prevent the examining committee established by the State Board of Forestry and Fire Protection, 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.
- (3) Prevent the enforcement advisory committee established by the California 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 the qualifications examining committee established by the California 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.
- (4) Prevent a state body, as defined in subdivision (b) of Section 11121, from conducting a closed session to consider any matter that properly could be considered in closed session by the state body whose authority it exercises.
- (5) Prevent a state body, as defined in subdivision (d) of Section 11121, from conducting a closed session to consider any matter that properly could be considered in a closed session by the body defined as a state body pursuant to subdivision (a) or (b) of Section 11121.
- (6) Prevent a state body, as defined in subdivision (c) of Section 11121, from conducting a closed session to consider any matter that properly could be considered in a closed session by the state body it advises.
- (7) Prevent the State Board of Equalization from holding closed sessions for either of the following:
 - (A) When considering matters pertaining to the appointment or removal of the Executive Secretary of the State Board of Equalization.
 - (B) For the purpose of hearing confidential taxpayer appeals or data, the public disclosure of which is prohibited by law.
- (8) Require the State Board of Equalization to disclose any action taken in closed session or documents executed in connection with that action, the public disclosure of which is prohibited by law pursuant to Sections 15619 and 15641 of this code and Sections 833, 7056, 8255, 9255, 11655, 30455, 32455, 38705, 38706, 43651, 45982, 46751, 50159, 55381, and 60609 of the Revenue and Taxation Code.
- (9) Prevent the California Earthquake Prediction Evaluation Council, or other body appointed to advise the Director of Emergency Services or the Governor concerning matters relating to volcanic or earthquake predictions, from holding closed sessions when considering the evaluation of possible predictions.
- (g) This article does not prevent either of the following:
 - (1) The Teachers' Retirement Board or the Board of Administration of the Public Employees' Retirement System from holding closed sessions when considering matters pertaining to the recruitment, appointment, employment, or removal of the chief executive officer or when considering matters pertaining to the recruitment or removal of the Chief Investment Officer of the State Teachers' Retirement System or the Public Employees' Retirement System.
 - (2) The Commission on Teacher Credentialing from holding closed sessions when considering matters relating to the recruitment, appointment, or removal of its executive director.
- (h) This article does not prevent the Board of Administration of the Public Employees' Retirement System from holding closed sessions when considering matters relating to the development of rates and competitive strategy for plans offered pursuant to Chapter 15 (commencing with Section 21660) of Part 3 of Division 5 of Title 2.
- (i) This article does not prevent the Managed Risk Medical Insurance Board from holding closed sessions when considering matters related to the development of rates and contracting strategy for entities contracting or seeking to contract with the board, entities with which the board is considering a contract, or entities with which the board is considering or enters into any other arrangement under which the board provides, receives, or arranges services or reimbursement, pursuant to Part 6.2 (commencing with Section 12693), Part 6.3 (commencing with Section 12695), Part 6.4 (commencing with Section 12699.50), Part 6.5 (commencing with Section 12700), Part 6.6 (commencing with Section 12739.5), or Part 6.7 (commencing with Section 12739.70) of Division 2 of the Insurance Code.
- (j) Nothing in this article shall be construed to prevent the board of the State Compensation Insurance Fund from holding closed sessions in the following:

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(1) When considering matters related to claims pursuant to Chapter 1 (commencing with Section 3200) of Division 4 of the Labor Code, to the extent that confidential medical information or other individually identifiable information would be disclosed.

(2) To the extent that matters related to audits and investigations that have not been completed would be disclosed.

(3) To the extent that an internal audit containing proprietary information would be disclosed.

(4) To the extent that the session would address the development of rates, contracting strategy, underwriting, or competitive strategy, pursuant to the powers granted to the board in Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code, when discussion in open session concerning those matters would prejudice the position of the State Compensation Insurance Fund.

(k) The State Compensation Insurance Fund shall comply with the procedures specified in Section 11125.4 of the Government Code with respect to any closed session or meeting authorized by subdivision (j), and in addition shall provide an opportunity for a member of the public to be heard on the issue of the appropriateness of closing the meeting or session.

(Amended by Stats. 2013, Ch. 352, Sec. 234. Effective September 26, 2013. Operative July 1, 2013, by Sec. 543 of Ch. 352.)

11126.1. 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.

(Amended by Stats. 1981, Ch. 968, Sec. 13.)

11126.2. (a) Nothing in this article shall be construed to prohibit a state body that has received a confidential final draft audit report from the Bureau of State Audits from holding closed sessions to discuss its response to that report.

(b) After the public release of an audit report by the Bureau of State Audits, if a state body meets to discuss the audit report, it shall do so in an open session unless exempted from that requirement by some other provision of law.

(Added by Stats. 2004, Ch. 576, Sec. 2. Effective January 1, 2005.)

11126.3. (a) Prior to holding any closed session, the state body shall disclose, in an open meeting, the general nature of the item or items to be discussed in the closed session. The disclosure may take the form of a reference to the item or items as they are listed by number or letter on the agenda. If the session is closed pursuant to paragraph (2) of subdivision (d) of Section 11126, the state body shall state the title of, or otherwise specifically identify, the proceeding or disciplinary action contemplated. However, should the body determine that to do so would jeopardize the body's ability to effectuate service of process upon one or more unserved parties if the proceeding or disciplinary action is commenced or that to do so would fail to protect the private economic and business reputation of the person or entity if the proceeding or disciplinary action is not commenced, then the state body shall notice that there will be a closed session and describe in general terms the purpose of that session. If the session is closed pursuant to subparagraph (A) of paragraph (2) of subdivision (e) 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 disclosure.

(c) The disclosure 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 agenda has been published in compliance with this article, any pending litigation (under subdivision (e) 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, unless the body states that to do so would jeopardize the body's

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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. Such an announcement shall be deemed to comply fully with the requirements of this section.

(e) Nothing in this section shall require or authorize a disclosure of names or other information that would constitute an invasion of privacy or otherwise unnecessarily divulge the particular facts concerning the closed session or the disclosure of which is prohibited by state or federal law.

(f) After any closed session, the state body shall reconvene into open session prior to adjournment and shall make any reports, provide any documentation, and make any other disclosures required by Section 11125.2 of action taken in the closed session.

(g) The announcements required to be made in open session pursuant to this section may be made at the location announced in the agenda for the closed session, as long as the public is allowed to be present at that location for the purpose of hearing the announcement.

(Amended by Stats. 2001, Ch. 243, Sec. 11. Effective January 1, 2002.)

11126.4. (a) Nothing in this article shall be construed to prevent the California Gambling Control Commission from holding a closed session when discussing matters involving trade secrets, nonpublic financial data, confidential or proprietary information, and other data and information, the public disclosure of which is prohibited by law or a tribal-state gaming compact.

(b) Discussion in closed session authorized by this section shall be limited to the confidential data and information related to the agenda item and shall not include discussion of any other information or matter.

(c) Before going into closed session the commission shall publicly announce the type of data or information to be discussed in closed session, which shall be recorded upon the commission minutes.

(d) Action taken on agenda items discussed pursuant to this section shall be taken in open session.

(Added by Stats. 2005, Ch. 274, Sec. 1. Effective January 1, 2006.)

11126.5. 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.

(Amended by Stats. 1981, Ch. 968, Sec. 15.)

11126.7. 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.

(Amended by Stats. 1981, Ch. 968, Sec. 16.)

11127. 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.

(Amended by Stats. 1981, Ch. 968, Sec. 17.)

11128. Each closed session of a state body shall be held only during a regular or special meeting of the body.

(Amended by Stats. 1981, Ch. 968, Sec. 18.)

11128.5. The state body may adjourn any regular, adjourned regular, special, or adjourned special meeting to a time and place specified in the order of adjournment. Less than a quorum may so adjourn from time to time. If all members are absent from any regular or adjourned regular meeting, the clerk or secretary of the state body may declare the meeting adjourned to a stated time and place and he or she shall cause a written notice of the adjournment to be given in the same manner as provided in Section 11125.4 for special meetings, unless that notice is waived as provided for special meetings. A copy of the order or notice of adjournment shall be conspicuously posted on or near the door of the place where the regular, adjourned regular, special, or adjourned special meeting was held within 24 hours after the time of the adjournment. When a regular or adjourned regular meeting is adjourned as provided in this section, the resulting adjourned regular meeting is a regular meeting for

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all purposes. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings by law or regulation.

(Added by Stats. 1997, Ch. 949, Sec. 11. Effective January 1, 1998.)

11129. 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 reconvened to any subsequent meeting of the state body in the same manner and to the same extent set forth in Section 11128.5 for the adjournment of meetings. 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.

(Amended by Stats. 1997, Ch. 949, Sec. 12. Effective January 1, 1998.)

11130. (a) The Attorney General, the district attorney, or 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 past actions or threatened future action by members of the state body or to determine whether any rule or action by the state body to penalize or otherwise discourage the expression of one or more of its members is valid or invalid under the laws of this state or of the United States, or to compel the state body to audio record its closed sessions as hereinafter provided.

(b) The court in its discretion may, upon a judgment of a violation of Section 11126, order the state body to audio record its closed sessions and preserve the audio recordings for the period and under the terms of security and confidentiality the court deems appropriate.

(c) (1) Each recording so kept shall be immediately labeled with the date of the closed session recorded and the title of the clerk or other officer who shall be custodian of the recording.

(2) The audio recordings shall be subject to the following discovery procedures:

(A) In any case in which discovery or disclosure of the audio recording is sought by the Attorney General, the district attorney, or the plaintiff in a civil action pursuant to this section or Section 11130.3 alleging that a violation of this article has occurred in a closed session that has been recorded pursuant to this section, the party seeking discovery or disclosure shall file a written notice of motion with the appropriate court with notice to the governmental agency that has custody and control of the audio recording. The notice shall be given pursuant to subdivision (b) of Section 1005 of the Code of Civil Procedure.

(B) The notice shall include, in addition to the items required by Section 1010 of the Code of Civil Procedure, all of the following:

(i) Identification of the proceeding in which discovery or disclosure is sought, the party seeking discovery or disclosure, the date and time of the meeting recorded, and the governmental agency that has custody and control of the recording.

(ii) An affidavit that contains specific facts indicating that a violation of the act occurred in the closed session.

(3) If the court, following a review of the motion, finds that there is good cause to believe that a violation has occurred, the court may review, in camera, the recording of that portion of the closed session alleged to have violated the act.

(4) If, following the in camera review, the court concludes that disclosure of a portion of the recording would be likely to materially assist in the resolution of the litigation alleging violation of this article, the court shall, in its discretion, make a certified transcript of the portion of the recording a public exhibit in the proceeding.

(5) Nothing in this section shall permit discovery of communications that are protected by the attorney-client privilege.

(Amended by Stats. 2009, Ch. 88, Sec. 43. Effective January 1, 2010.)

11130.3. (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 90 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:

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(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.

(Amended by Stats. 1999, Ch. 393, Sec. 5. Effective January 1, 2000.)

11130.5. 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.

(Amended by Stats. 1985, Ch. 936, Sec. 2.)

11130.7. Each member of a state body who attends a meeting of that body in violation of any provision of this article, and where the member intends to deprive the public of information to which the member knows or has reason to know the public is entitled under this article, is guilty of a misdemeanor.

(Amended by Stats. 1997, Ch. 949, Sec. 14. Effective January 1, 1998.)

11131. 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 ancestry or any characteristic listed or defined in Section 11135, or that is inaccessible to disabled persons, or where members of the public may not be present without making a payment or purchase. 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.

(Amended by Stats. 2007, Ch. 568, Sec. 32. Effective January 1, 2008.)

11131.5. No notice, agenda, announcement, or report required under this article need identify any victim or alleged victim of crime, tortious sexual conduct, or child abuse unless the identity of the person has been publicly disclosed.

(Added by Stats. 1997, Ch. 949, Sec. 16. Effective January 1, 1998.)

11132. Except as expressly authorized by this article, no closed session may be held by any state body.

(Added by Stats. 1987, Ch. 1320, Sec. 4.)

2015 TENTATIVE MEETING SCHEDULE

CALIFORNIA TRANSPORTATION COMMISSION
ROAD CHARGE TECHNICAL ADVISORY COMMITTEE

JANUARY 23 (F), 2015 – SACRAMENTO AREA*

FEBRUARY 26 (TH), 2015 – SACRAMENTO AREA

MARCH 25 (W), 2015 – ORANGE COUNTY*

APRIL 23 (TH), 2015 – CENTRAL COAST

MAY 27 (W), 2015 – CENTRAL VALLEY*

JUNE 24 (W), 2015 – SACRAMENTO AREA*

JULY 23 (TH) 2015 – SIERRA NEVADA/TAHOE AREA

AUGUST 26 (W), 2015 – SAN DIEGO AREA*

SEPTEMBER 24 (TH) 2015 – NORTHSTATE AREA

OCTOBER 21 (W), 2015 – BAY AREA*

NOVEMBER 19 (TH), 2015 – LOS ANGELES AREA

DECEMBER 9 (W), 2015 – INLAND EMPIRE*

* First day of regularly scheduled Commission meeting