

AMENDED IN ASSEMBLY JANUARY 24, 2022

AMENDED IN ASSEMBLY APRIL 14, 2021

AMENDED IN ASSEMBLY APRIL 12, 2021

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 646

Introduced by Assembly Members Low, Cunningham, and Gipson
(Coauthor: Senator Roth)

February 12, 2021

An act to add Section 493.5 to the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL’S DIGEST

AB 646, as amended, Low. Department of Consumer Affairs: boards: expunged convictions.

Existing law establishes the Department of Consumer Affairs, which is composed of various boards, and authorizes a board to suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued. Existing law, the Medical Practice Act, provides for the licensure and regulation of the practice of medicine by the Medical Board of California and requires the board to post certain historical information on current and former licensees, including felony and certain misdemeanor convictions. Existing law also requires the Medical Board of California, upon receipt of a certified copy of an expungement order from a current or former licensee, to post notification of the expungement order and the date thereof on its internet website.

This bill would require a board within the department that has posted on its ~~internet website~~ *online license search system* that a person's license was revoked because the person was convicted of a crime, within 90 days of receiving an expungement order for the underlying offense from the person, if the person reapplies for licensure or is relicensed, to post notification of the expungement order and the date thereof on ~~the board's internet website~~ *its online license search system*. The bill would require the board, on receiving an expungement order, if the person is not currently licensed and does not reapply for licensure, to remove within the same period the initial posting on its ~~internet website~~ *online license search system* that the person's license was revoked and information previously posted regarding arrests, charges, and convictions. The bill would ~~authorize~~ *require* the board to charge a fee of \$25 to the person, ~~not to exceed the cost person to cover the reasonable regulatory cost of administering the bill's provisions.~~ *provisions, unless there is no associated cost.* The bill would require the fee to be deposited by the board into the appropriate fund and would make the fee available only upon appropriation by the Legislature.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

- 1 SECTION 1. Section 493.5 is added to the Business and
- 2 Professions Code, to read:
- 3 493.5. (a) A board within the department that has posted on
- 4 its ~~internet website~~ *online license search system* that a person's
- 5 license was revoked because the person was convicted of a crime,
- 6 upon receiving from the person a certified copy of an expungement
- 7 order granted pursuant to Section 1203.4 of the Penal Code for the
- 8 underlying offense, shall, within 90 days of receiving the
- 9 expungement order, unless it is otherwise prohibited by law, or by
- 10 other terms or conditions, do either of the following:
- 11 (1) If the person reapplies for licensure or has been relicensed,
- 12 post notification of the expungement order and the date thereof on
- 13 its ~~internet website~~ *online license search system*.
- 14 (2) If the person is not currently licensed and does not reapply
- 15 for licensure, remove the initial posting on its ~~internet website~~
- 16 *online license search system* that the person's license was revoked

1 and information previously posted regarding arrests, charges, and
2 convictions.

3 (b) ~~A(1) Except as provided in paragraph (2), a board within~~
4 ~~the department may shall charge a fee of twenty-five dollars (\$25)~~
5 ~~to a person described in subdivision (a), not to exceed (a) to cover~~
6 ~~the reasonable regulatory cost of associated with administering~~
7 ~~this section. The~~

8 (2) *A board shall not charge the fee if there is no cost associated*
9 *with administering this section.*

10 (3) *A board may adopt regulations to implement this subdivision.*
11 *The adoption, amendment, or repeal of a regulation authorized*
12 *by this subdivision is hereby exempted from the rulemaking*
13 *provisions of the Administrative Procedure Act (Chapter 3.5*
14 *(commencing with Section 11340) of Part 1 of Division 3 of Title*
15 *2 of the Government Code).*

16 (4) *The fee shall be deposited by the board into the appropriate*
17 *fund and shall be available only upon appropriation by the*
18 *Legislature.*

19 (c) For purposes of this section, “board” means an entity listed
20 in Section 101.

21 (d) If any provision in this section conflicts with Section 2027,
22 Section 2027 shall prevail.

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AMENDED IN ASSEMBLY MARCH 7, 2022
AMENDED IN ASSEMBLY FEBRUARY 23, 2022

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 1604

Introduced by Assembly Member Holden

January 4, 2022

An act to amend Sections 11140, 18502, 18931, 18933, 18936, 19402, and 19574 of, and to add Sections 8310.6, 18553, and 18930.1 to, the Government Code, relating to human resources.

LEGISLATIVE COUNSEL'S DIGEST

AB 1604, as amended, Holden. The Upward Mobility Act of 2022: boards and commissions: civil service: examinations: classifications.

Existing law provides that it is the policy of the State of California that the composition of state boards and commissions shall be broadly reflective of the general public, including ethnic minorities and women.

This bill ~~would~~ *would, except as specified*, require that, on or after January 1, 2023, all state boards and commissions consisting of one or more volunteer members have at least one board member or commissioner from an underrepresented community. The bill would define the term “board member or commissioner from an underrepresented community” as an individual who self-identifies as Black, African American, Hispanic, Latino, Asian, Pacific Islander, Native American, Native Hawaiian, or Alaska Native; who self-identifies as gay, lesbian, bisexual, or transgender; who is a veteran, as defined; or who has a disability, as defined. The bill would apply these requirements only as vacancies on state boards and commissions occur.

The California Constitution establishes the State Personnel Board (board) and requires the board to, among other things, enforce the civil service statutes, prescribe probationary periods and classifications, adopt rules authorized by statute, and review disciplinary actions. The Constitution also requires the executive officer of the board to administer the civil service statutes under the rules of the board. Under existing law, the board is authorized to conduct audits and investigations of the personnel practices of the Department of Human Resources and appointing authorities to ensure compliance with civil service policies, procedures, and statutes. Existing law establishes the Department of Human Resources (department) and provides that, subject to the requirements of the California Constitution, it succeeds to and is vested with the duties, purposes, responsibilities, and jurisdiction exercised by the board as its designee with respect to the board's administrative and ministerial functions.

This bill, among other things, would instead authorize the department, at the direction of and in conjunction with the State Personnel Board, to conduct audits and investigations of personnel practices of other departments and appointing authorities to ensure compliance with civil service policies, procedures, and statutes. The bill would require the department to oversee compliance with rules prescribed by the board consistent with a merit-based civil service system to govern appointments, classifications, examinations, probationary periods, disciplinary actions, and other matters related to the board's constitutional authority, and require the department, pursuant to a process established by the State Personnel Board, to investigate complaints filed by employees in a state department's equal employment opportunity program and personnel office, other civil service employees, applicants, and members of the public alleging violations of civil service laws and report findings to the board for adjudication.

Existing law requires any state agency, board, or commission that directly or by contract collects demographic data as to the ancestry or ethnic origin of Californians to use separate collection categories and tabulations for major Asian and Pacific Islander groups, as specified.

This bill would require any state agency, board, or commission that directly or by contract collects demographic data as to the ancestry or ethnic origin of Californians to use separate collection categories and tabulations for specified African American groups. The bill would distinguish between African Americans who are descendants of persons

enslaved in the United States and African Americans who are not descendants of persons enslaved in the United States, as defined.

Existing law requires that lists of eligible applicants for civil service positions be established as a result of free competitive examinations. Existing law, with regard to the requirements governing examinations for establishing employment lists, authorizes the department to designate an appointing power to design, announce, or administer examinations and requires the board to establish minimum qualifications for determining the fitness and qualifications of employees for each class of position.

This bill would require instead that the board establish a process that includes diversity and best practices in each aspect of the design, announcement, and administration of the examinations and, in developing qualifications for determining the fitness and qualifications of employees, create standards for statements of qualifications used as examination criteria for the State of California in determining the fitness and qualifications of employees for each class of position. The bill would also require that examinations with an oral component be video and otherwise electronically recorded and all other examination materials be maintained for each examination, as specified. The bill would also require the announcement for an examination to include the core competencies, as defined, and the standard statement of qualifications, if applicable.

Existing law requires all appointing authorities of state government to establish an effective program of upward mobility for employees in low-paying occupational groups. Existing law requires each upward mobility program to include annual goals for upward mobility and a timetable for when progress will occur, and requires the department to approve the goals and timetables. Existing law authorizes an appointing authority that determines that it will be unable to achieve the goals to ask the department for a reduction in the goals, as specified.

This bill would repeal the authorization for an appointing authority to ask the department for a reduction in their annual upward mobility goals, and would instead require the appointing authority to submit a report explaining the failure to achieve the goals and what requirements are necessary to facilitate achieving the goals, as specified, and then submit the report to specified persons. The bill would, on or before July 1, 2023, require the department to develop model upward mobility goals that include race, gender, LGBTQ, veteran status, or physical or mental

disability as factors, and to provide a report to the Legislature outlining the department workforce analysis used to develop those model goals.

Existing law authorizes a state appointing power to take adverse action against state civil service employees for specified causes for discipline, and provides procedures for state civil service disciplinary proceedings. Existing law authorizes the board to hold hearings and make investigations concerning all matters relating to the enforcement and effect of the State Civil Service Act, as specified.

This bill would require each appointing power to provide the Department of Human Resources with a report, no later than April 1 of each year, detailing certain information regarding adverse actions against state employees, including, but not limited to, the ethnicity, race, gender identity, or sexual orientation of each employee served with an adverse action in the preceding calendar year.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

1 SECTION 1. This act shall be known, and may be cited, as the
2 Upward Mobility Act of 2022.

3 SEC. 2. Section 8310.6 is added to the Government Code, to
4 read:

5 8310.6. (a) A state agency, board, or commission that directly
6 or by contract collects demographic data as to the ancestry or
7 ethnic origin of Californians shall use separate collection
8 categories and tabulations for the following:

9 (1) African Americans who are descendants of persons enslaved
10 in the United States.

11 (2) African Americans who are not descendants of persons
12 enslaved in the United States, including, but not limited to, African
13 Blacks, Caribbean Blacks, and other African Americans or Blacks.

14 (b) The data collected pursuant to the different collection
15 categories and tabulations described in subdivision (a) shall be
16 included in every demographic report on ancestry or ethnic origins
17 of Californians by the state agency, board, or commission
18 published or released on or after January 1, 2023. The data shall
19 be made available to the public in accordance with state and
20 federal law, except for personal identifying information, which
21 shall be deemed confidential.

(c) As used in this section, the following definitions apply:

(1) “African Americans who are descendants of persons enslaved in the United States” means individuals who self-identify as Black or African American with at least one ancestor who was enslaved or subject to chattelization in the United States.

(2) “African Blacks” means individuals with origins from the continent of Africa, including, but not limited to, one or more of the following countries: Algeria, Angola, Benin, Botswana, Burkina Faso, Burundi, Cabo Verde, Cameroon, Central African Republic, Chad, Comoros, Côte d’Ivoire, Democratic Republic of Congo, Djibouti, Egypt, Equatorial Guinea, Eritrea, Eswatini, Ethiopia, Gabon, Gambia, Ghana, Guinea, Guinea-Bissau, Kenya, Lesotho, Liberia, Libya, Madagascar, Malawi, Mali, Mauritania, Mauritius, Morocco, Mozambique, Namibia, Niger, Nigeria, Republic of the Congo, Rwanda, São Tomé and Príncipe, Senegal, Seychelles, Sierra Leone, Somalia, South Africa, South Sudan, Sudan, Tanzania, Togo, Tunisia, Uganda, Zambia, or Zimbabwe.

(3) “Caribbean Blacks” means individuals with origins from Caribbean countries, including, but not limited to, one or more of the following countries: Belize, Puerto Rico, Cuba, Jamaica, Haiti, Trinidad and Tobago, Guyana, Barbados, Grenada, St. Croix, St. Kitts, the Bahamas, and the Dominican Republic.

(4) “Other African Americans or Blacks” means individuals with African ancestry originating from any country not included in paragraph (2) or (3).

~~SEC. 2.~~

SEC. 3. Section 11140 of the Government Code is amended to read:

11140. (a) It is the policy of the State of California that the composition of state boards and commissions shall be broadly reflective of the general public, including ethnic minorities and women.

(b) (1) On or after January 1, 2023, all state boards and commissions consisting of one or more volunteer members or commissioners shall have at least one volunteer board member or commissioner from an underrepresented community.

(2) Notwithstanding paragraph (1), this subdivision shall not apply to a state board or commission concerning public employment, public education, or public contracting.

(c) For purposes of this section, the following definitions apply:

(1) “Board member or commissioner from an underrepresented community” means all of the following:

(A) An individual who self-identifies as Black, African American, Hispanic, Latino, Asian, Pacific Islander, Native American, Native Hawaiian, or Alaska Native.

(B) An individual who self-identifies as gay, lesbian, bisexual, or transgender.

(C) An individual who has served in and has been discharged under other than dishonorable conditions from service in the United States Army, Navy, Air Force, Marine Corps, or Coast Guard.

(D) An individual who has a “physical disability” or a “mental disability” as defined in Section 12926.

(2) “Volunteer member or commissioner” means an “administrative volunteer” as defined in subdivision (b) of Section 3111, who is selected to serve on a board or commission by the appropriate nominating authority and who does not receive any compensation or financial gain from any state agency, as defined in Section 11000. A volunteer may receive per diem and remain a volunteer within the meaning of this section, and that volunteer shall not be considered to be an employee solely on the basis of receiving the per diem.

(d) Notwithstanding the date specified in *paragraph (1) of subdivision (b)*, the requirements of this section shall only apply as vacancies on state boards and commissions occur.

(e) Subject to subdivision (d), this section shall only apply to a vacancy appointment by the Governor or the Governor’s designees, the chair of a board or commission or the chair’s designees, the Speaker of the Assembly, and the President pro Tempore of the Senate or Senate Rules Committee, or any combination thereof.

~~SEC. 3.~~

SEC. 4. Section 18502 of the Government Code is amended to read:

18502. (a) There is hereby created in state government the Department of Human Resources. The department succeeds to and is vested with the following:

(1) All of the powers and duties exercised and performed by the Department of Personnel Administration.

(2) Those powers, duties, and authorities necessary to operate the state civil service system pursuant to Article VII of the

1 California Constitution, this code, the merit principle, and
2 applicable rules duly adopted by the State Personnel Board.

3 (b) (1) The State Personnel Board shall prescribe rules
4 consistent with a merit based civil service system to govern
5 appointments, classifications, examinations, probationary periods,
6 disciplinary actions, and other matters related to the board's
7 authority under Article VII of the California Constitution. The
8 State Personnel Board shall ensure that all changes to regulations
9 are circulated for public comment.

10 (2) The department shall oversee compliance with rules
11 prescribed by the State Personnel Board consistent with a
12 merit-based civil service system to govern appointments,
13 classifications, examinations, probationary periods, disciplinary
14 actions, and other matters related to the board's authority under
15 Article VII of the California Constitution.

16 (3) The department, at the direction of and in conjunction with
17 the State Personnel Board, may conduct audits and investigations
18 of personnel practices of other departments and appointing
19 authorities to ensure compliance with civil service policies,
20 procedures, and statutes.

21 (4) Pursuant to a process established by the State Personnel
22 Board, the department shall investigate complaints filed by
23 employees in a state department's equal employment opportunity
24 program and personnel office, other civil service employees,
25 applicants, and members of the public alleging violations of civil
26 service laws and report findings to the State Personnel Board for
27 adjudication.

28 (c) This section shall not limit the authority of the Department
29 of Human Resources and the State Personnel Board to delegate,
30 share, or transfer between them responsibilities for programs within
31 their respective jurisdictions pursuant to an agreement.

32 (d) The rules and regulations of the State Personnel Board and
33 of the Department of Personnel Administration shall remain in
34 effect unless and until contradicted by the terms of this chapter or
35 amended or repealed by the board or the Department of Human
36 Resources.

37 ~~SEC. 4. Section 8310.6 is added to the Government Code, to~~
38 ~~read:~~

39 ~~8310.6. (a) A state agency, board, or commission that directly~~
40 ~~or by contract collects demographic data as to the ancestry or ethnic~~

1 origin of Californians shall use separate collection categories and
2 tabulations for the following:

3 (1) ~~African Americans who are descendants of persons enslaved~~
4 ~~in the United States.~~

5 (2) ~~African Americans who are not descendants of persons~~
6 ~~enslaved in the United States, including, but not limited to, African~~
7 ~~Blacks, Caribbean Blacks, and other African Americans or Blacks.~~

8 (b) ~~The data collected pursuant to the different collection~~
9 ~~categories and tabulations described in subdivision (a) shall be~~
10 ~~included in every demographic report on ancestry or ethnic origins~~
11 ~~of Californians by the state agency, board, or commission published~~
12 ~~or released on or after January 1, 2023. The data shall be made~~
13 ~~available to the public in accordance with state and federal law,~~
14 ~~except for personal identifying information, which shall be deemed~~
15 ~~confidential.~~

16 (c) ~~As used in this section, the following definitions apply:~~

17 (1) ~~“African Americans who are descendants of persons enslaved~~
18 ~~in the United States” means individuals who self-identify as Black~~
19 ~~or African American with at least one ancestor who was enslaved~~
20 ~~or subject to chattelization in the United States.~~

21 (2) ~~“African Blacks” means individuals with origins from the~~
22 ~~continent of Africa, including, but not limited to, one or more of~~
23 ~~the following countries: Algeria, Angola, Benin, Botswana,~~
24 ~~Burkina Faso, Burundi, Cabo Verde, Cameroon, Central African~~
25 ~~Republic, Chad, Comoros, Côte d’Ivoire, Democratic Republic of~~
26 ~~Congo, Djibouti, Egypt, Equatorial Guinea, Eritrea, Eswatini,~~
27 ~~Ethiopia, Gabon, Gambia, Ghana, Guinea, Guinea-Bissau, Kenya,~~
28 ~~Lesotho, Liberia, Libya, Madagascar, Malawi, Mali, Mauritania,~~
29 ~~Mauritius, Morocco, Mozambique, Namibia, Niger, Nigeria,~~
30 ~~Republic of the Congo, Rwanda, São Tomé and Príncipe, Senegal,~~
31 ~~Seychelles, Sierra Leone, Somalia, South Africa, South Sudan,~~
32 ~~Sudan, Tanzania, Togo, Tunisia, Uganda, Zambia, or Zimbabwe.~~

33 (3) ~~“Caribbean Blacks” means individuals with origins from~~
34 ~~Caribbean countries, including, but not limited to, one or more of~~
35 ~~the following countries: Belize, Puerto Rico, Cuba, Jamaica, Haiti,~~
36 ~~Trinidad and Tobago, Guyana, Barbados, Grenada, St. Croix, St.~~
37 ~~Kitts, the Bahamas, and the Dominican Republic.~~

38 (4) ~~“Other African Americans or Blacks” means individuals~~
39 ~~with African ancestry originating from any country not included~~
40 ~~in paragraph (2) or (3).~~

1 SEC. 5. Section 18553 is added to the Government Code, to
2 read:

3 18553. “Core competencies” mean the particular education,
4 experience, knowledge, and abilities that each applicant is required
5 to have in order to be considered eligible for a particular group of
6 classifications.

7 SEC. 6. Section 18930.1 is added to the Government Code, to
8 read:

9 18930.1. The board shall establish a process that includes
10 diversity and best practices in each aspect of the design,
11 announcement, and administration of examinations for the
12 establishment of employment lists.

13 SEC. 7. Section 18931 of the Government Code is amended
14 to read:

15 18931. (a) The board shall establish minimum qualifications
16 for determining the fitness and qualifications of employees for
17 each class of position. The department may require applicants for
18 examination or appointment to provide documentation as it deems
19 necessary to establish the applicants’ qualifications.

20 (b) The board, in developing the qualifications referenced in
21 subdivision (a), shall also incorporate standards for statements of
22 qualifications used as examination criteria for the State of
23 California in determining the fitness and qualifications of
24 employees for each class of position. The department may require
25 applicants for examination or appointment to provide
26 documentation as it deems necessary to establish the applicants’
27 qualifications.

28 (c) Whenever the law requires that an applicant for a position
29 as a peace officer be screened to ensure that the applicant is free
30 from emotional and mental impairment, the department or the
31 designated appointing authority shall undertake that screening
32 subject to the applicant’s right to appeal to the board.

33 SEC. 8. Section 18933 of the Government Code is amended
34 to read:

35 18933. (a) Within a reasonable time before the scheduled date,
36 the department or a designated appointing power shall announce
37 or advertise examinations for the establishment of eligible lists.
38 The announcement shall include the following:

39 (1) The date and place of the examination.

1 (2) The nature of the minimum qualifications and the functional
2 core competencies.

3 (3) The general scope of the examination.

4 (4) The relative weight of its several parts if more than one type
5 of test is to be utilized.

6 (5) Any other information the department deems proper.

7 (6) The standard statement of qualifications, if applicable.

8 (b) The department shall notify the Department of Veterans
9 Affairs when any promotional examination for the establishment
10 of an eligible list is announced or advertised to eligible candidates.
11 The notification shall state the job position and include all of the
12 information listed in paragraphs (1) to (6), inclusive, of subdivision
13 (a).

14 SEC. 9. Section 18936 of the Government Code is amended
15 to read:

16 18936. (a) All examination materials, including examination
17 questions and any written material, shall be maintained for each
18 examination for three years, after which they shall be disposed of
19 pursuant to a policy adopted by the board.

20 (b) Examinations that have an oral examination component shall
21 be video or otherwise electronically recorded. Examinees shall be
22 informed that they are being recorded. The recordings shall be
23 maintained for each examination for three years, after which they
24 shall be disposed of pursuant to a policy adopted by the board.

25 (c) The final earned rating of each person competing in any
26 examination shall be determined by the weighted average of the
27 earned ratings on all phases of the examination, according to the
28 weights for each phase established by the department or a
29 designated appointing power in advance of the giving of the
30 examination and published as a part of the announcement of the
31 examination.

32 (d) The department or a designated appointing power may set
33 minimum qualifying ratings for each phase of an examination and
34 may provide that competitors failing to achieve those ratings in
35 any phase shall be disqualified from any further participation in
36 the examination.

37 SEC. 10. Section 19402 of the Government Code is amended
38 to read:

39 19402. (a) All upward mobility programs shall include annual
40 goals that include the number of employees expected to progress

1 from positions in low-paying occupational groups to entry-level
2 technical, professional, and administrative positions, and the
3 timeframe within which this progress shall occur. The Department
4 of Human Resources shall be responsible for approving each
5 department's annual upward mobility goals and timetables.

6 (b) (1) By July 1, 2023, the Department of Human Resources
7 shall develop model upward mobility goals based on department
8 workforce analysis and shall post the model goals on its internet
9 website.

10 (2) The model upward mobility goals may include race, gender,
11 LGBTQ, veteran status, and physical or mental disability as factors
12 to the extent permissible under state and federal equal protection
13 laws.

14 (3) On or before July 1, 2023, the Department of Human
15 Resources shall provide a copy of the model upward mobility goals
16 and a corresponding report outlining the workforce analysis used
17 to develop the model upward mobility goals to each member of
18 the Legislature. The report shall be submitted in compliance with
19 Section 9795.

20 (c) If the appointing authority is unable to meet its annual
21 upward mobility goals and timetables for two consecutive fiscal
22 years, the appointing authority shall submit a report explaining
23 why it failed to achieve its goals and what requirements are
24 necessary to facilitate achieving its goals in the subsequent two
25 fiscal years. The appointing authority shall submit the report to
26 the department, the Director of the Department of Finance, and
27 the Legislative Analyst.

28 SEC. 11. Section 19574 of the Government Code is amended
29 to read:

30 19574. (a) The appointing power, or its authorized
31 representative, may take adverse action against an employee for
32 one or more of the causes for discipline specified in this article.
33 Adverse action is valid only if a written notice is served on the
34 employee prior to the effective date of the action, as defined by
35 board rule. The notice shall be served upon the employee either
36 personally or by mail and shall include: (1) a statement of the
37 nature of the adverse action; (2) the effective date of the action;
38 (3) a statement of the reasons therefor in ordinary language; (4) a
39 statement advising the employee of the right to answer the notice
40 orally or in writing; and (5) a statement advising the employee of

1 the time within which an appeal must be filed. The notice shall be
2 filed with the board not later than 15 calendar days after the
3 effective date of the adverse action.

4 (b) Effective January 1, 1996, this subdivision shall apply only
5 to state employees in State Bargaining Unit 5. This section shall
6 not apply to discipline as defined by Section 19576.1.

7 (c) (1) No later than April 1 of each year, each appointing power
8 shall provide to the Department of Human Resources a report
9 detailing all of the following information:

10 (A) The total number of adverse actions served on state
11 employees in the preceding calendar year.

12 (B) The ethnicity or race of each employee served with an
13 adverse action in the preceding calendar year, if available.

14 (C) The gender identity or sexual orientation of each employee
15 served with an adverse action in the preceding calendar year, if
16 available.

17 (D) The statutory basis for discipline under Section 19572 for
18 each adverse action served in the preceding calendar year.

19 (E) A brief factual summary of the basis for discipline for each
20 adverse action served in the preceding calendar year.

21 (F) The type of discipline imposed in each adverse action,
22 including, but not limited to, outright termination, the nature of
23 any demotion, the length of any suspension, or any other type of
24 discipline.

25 (2) No later than June 1 of each year, the department shall
26 include in its annual workforce analysis and census report the items
27 as reported by each appointing authority pursuant to this
28 subdivision and submit this report to the Legislature.

29 (3) This report shall be submitted in compliance with Section
30 9795.

31 (4) The information required pursuant to subparagraphs (B) and
32 (C) of paragraph (1) may be provided at the discretion of the
33 employee, and an appointing power shall not require an employee
34 to disclose this information.

35 SEC. 12. The provisions of this act are severable. If any
36 provision of this act or its application is held invalid, that invalidity
37 shall not affect other provisions or applications that can be given
38 effect without the invalid provision or application.

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ASSEMBLY BILL**No. 1733****Introduced by Assembly Member Quirk**

January 31, 2022

An act to amend Section 101.7 of the Business and Professions Code, and to amend Sections 11122.5, 11123, 11124, 11125, 11125.4, 11128.5, and 11129 of, and to repeal Section 11123.5 of, the Government Code, relating to state government, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1733, as introduced, Quirk. State bodies: open meetings.

Existing law, the Bagley-Keene Open Meeting Act, requires, with specified exceptions, that all meetings of a state body be open and public and all persons be permitted to attend any meeting of a state body. The act defines a “meeting” to include 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. The act authorizes teleconferenced meetings under specified circumstances, provided that at least one member of the state body is physically present at the location specified in the notice of the meeting, and all votes taken during a teleconferenced meeting are taken by rollcall. The act provides that if the state body elects to conduct a meeting or proceeding by teleconference, the state body is required to 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. The act requires each teleconference location to be identified in the notice and agenda of the meeting or proceeding, and each teleconference

location to be accessible to the public, and the agenda to provide an opportunity for members of the public to address the state body at each teleconference location.

Existing law requires a state body to provide notice of its meeting to any person who requests that notice in writing and to provide notice of the meeting of its internet website at least 10 days in advance of the meeting, as prescribed. Existing law exempts from the 10-day notice requirement, special meetings and emergency meetings in accordance with specified provisions. Existing law authorizes a state body to adjourn any regular, adjourned regular, special, or adjourned special meeting to a time and place specified in the order of adjournment, and authorizes a state body to similarly continue or recontinue any hearing being held, or noticed, or ordered to be held by a state body at any meeting.

This bill would specify that a “meeting” under the act, includes a meeting held entirely by teleconference. The bill would require all open meetings to be held by teleconference, would allow for use of teleconference in closed sessions, and would remove existing provisions of the act that require each teleconference location to be identified in the notice and agenda and accessible to the public. The bill would instead require the state body to provide a means by which the public may remotely hear, or hear and observe, the meeting and may remotely address the state body via two-way audio-visual platform or two-way telephonic service, as specified, and would require information to be provided in any notice to the public indicating how the public can access the meeting remotely. The bill would require the state body to provide an opportunity for members of the public to address the state body. The bill would require the state body to provide members of the public a physical location to hear, observe, and address the state body, and would authorize the members of the state body to participate in a meeting remotely or at a designated physical meeting location, and specify that physical presence at any physical meeting location is not necessary for the member to be deemed present at the meeting. The bill would require the agenda to be posted 10 days in advance of the meeting, or as provided in accordance with the provisions applicable to a special or emergency meeting, as well as posted on the state body’s internet website and, on the day of the meeting, at any physical meeting location designated in the notice. The bill would also provide that the notice of the meeting is required to specify the means by which a meeting may be accessed by teleconference. The bill would prohibit the notice and agenda from disclosing any information regarding any remote location

from which a member is participating, and require members attending a meeting from a remote location to disclose whether any other individuals 18 years of age or older are present in the room, as specified.

If a state body discovers that a means of remote participation, as defined, required by these provisions has failed during a meeting and cannot be restored, the state body would be required to end or adjourn the meeting and take specified actions to notify participants and communicate when the state body intends to reconvene the meeting and how a member of the public may hear audio of, or observe, the meeting.

This bill would remove certain notice provisions specific to advisory bodies of state boards.

Existing law prohibits a state body from requiring, as a condition to attend a meeting, a person to register the person's name, or to provide other information, or to fulfill any condition precedent to the person's attendance.

This bill would exclude from that prohibition an internet website or other online platform that may require identification to log into a teleconference.

Existing law limits the purposes for which a state body is authorized to call a special meeting, including, among others, consideration of disciplinary action involving a state officer or employee and consideration of license examinations and applications.

This bill would add to those purposes deliberation on a decision to be reached in a proceeding required to be conducted pursuant to provisions governing administrative adjudicative proceedings or similar provisions of law.

Under existing law, the Department of Consumer Affairs, which is under the control of the Director of Consumer Affairs, is composed of various boards, as defined, that license and regulate various professions and vocations. Existing law requires the boards to meet at least 2 times each calendar year. Existing law requires those boards to meet at least once each calendar year in northern California and once each calendar year in southern California in order to facilitate participation by the public and its licensees.

This bill would exempt a board from the requirement to meet in northern and southern California each once a year if the board's meetings are held entirely by teleconference.

This bill would also make conforming changes.

This bill would declare the Legislature's intent, consistent with the Governor's Executive Order No. N-29-20, to improve and enhance public access to state and local agency meetings during the COVID-19 pandemic and future emergencies by allowing broader access through teleconferencing options.

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

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

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

1 SECTION 1. Section 101.7 of the Business and Professions
2 Code is amended to read:
3 101.7. (a) Notwithstanding any other provision of law, boards
4 shall meet at least two times each calendar year. Boards shall meet
5 at least once each calendar year in northern California and once
6 each calendar year in southern California in order to facilitate
7 participation by the public and its ~~licensees~~. *licensees, unless the*
8 *board's meetings are held entirely by teleconference.*
9 (b) The director has discretion to exempt any board from the
10 requirement in subdivision (a) upon a showing of good cause that
11 the board is not able to meet at least two times in a calendar year.
12 (c) The director may call for a special meeting of the board
13 when a board is not fulfilling its duties.
14 (d) An agency within the department that is required to provide
15 a written notice pursuant to subdivision (a) of Section 11125 of
16 the Government Code, may provide that notice by regular mail,
17 email, or by both regular mail and email. An agency shall give a
18 person who requests a notice the option of receiving the notice by
19 regular mail, email, or by both regular mail and email. The agency
20 shall comply with the requester's chosen form or forms of notice.
21 (e) An agency that plans to webcast a meeting shall include in
22 the meeting notice required pursuant to subdivision (a) of Section
23 11125 of the Government Code a statement of the board's intent
24 to webcast the meeting. An agency may webcast a meeting even
25 if the agency fails to include that statement of intent in the notice.
26 SEC. 2. Section 11122.5 of the Government Code is amended
27 to read:

1 11122.5. (a) As used in this article, “meeting” includes any
2 congregation of a majority of the members of a state body at the
3 same time and ~~place~~ *place, including one held entirely by*
4 *teleconference*, to hear, discuss, or deliberate upon any item that
5 is within the subject matter jurisdiction of the state body to which
6 it pertains.

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

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

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

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

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

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

38 (3) The attendance of a majority of the members of a state body
39 at an open and publicized meeting organized to address a topic of
40 state concern by a person or organization other than the state body,

1 if a majority of the members do not discuss among themselves,
2 other than as part of the scheduled program, business of a specific
3 nature that is within the subject matter jurisdiction of the state
4 body.

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

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

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

20 SEC. 3. Section 11123 of the Government Code is amended
21 to read:

22 11123. (a) All meetings of a state body shall be open and
23 public and all persons shall be permitted to attend any meeting of
24 a state body except as otherwise provided in this article.

25 (b) (1) This article ~~does not prohibit~~ *requires* a state body ~~from~~
26 ~~holding to hold~~ an open ~~or closed~~ meeting by teleconference for
27 the benefit of the public and state ~~body~~. *body, and allows for use*
28 *of teleconference in closed sessions*. The meeting or proceeding
29 held by teleconference shall otherwise comply with all applicable
30 requirements or laws relating to a specific type of meeting or
31 proceeding, including *all of* the following:

32 (A) ~~The teleconferencing~~ *teleconferenced* meeting shall comply
33 with all requirements of this article applicable to other meetings.

34 (B) The portion of the teleconferenced meeting that is required
35 to be open to the public *at any physical location specified in the*
36 *notice of the meeting* shall be *visible and* audible to the public at
37 the location specified in the notice of the meeting.

38 (C) ~~If the~~ *The* state body ~~elects to conduct a meeting or~~
39 ~~proceeding by teleconference, it shall post agendas at all~~
40 ~~teleconference locations and~~ *shall* conduct teleconference meetings

1 in a manner that protects the rights of any party or member of the
2 public appearing before the state body. *The state body shall provide*
3 *a means by which the public may remotely hear audio of the*
4 *meeting or remotely hear and observe the meeting, and a means*
5 *by which the public may remotely address the state body, as*
6 *appropriate, via either a two-way audio-visual platform or a*
7 *two-way telephonic service. Should the state body elect to use a*
8 *two-way telephonic service only, it must also provide live*
9 *webcasting of the open meeting. The applicable teleconference*
10 *phone number or internet website, or other information indicating*
11 *how the public can access the meeting remotely, shall be specified*
12 *in any notice required by this article. Each teleconference location*
13 *shall be identified in the notice and agenda of the meeting or*
14 *proceeding, and each teleconference location shall be accessible*
15 *to the public. The agenda shall provide an opportunity for members*
16 *of the public to remotely address the state body directly pursuant*
17 *to Section 11125.7 at each teleconference location. 11125.7.*

18 (D) *The state body shall provide members of the public with a*
19 *physical location at which the public may hear, observe, and*
20 *address the state body. Each physical location shall be identified*
21 *in the notice of the meeting.*

22 (E) *Members of the public shall be entitled to exercise their*
23 *right to directly address the state body during the teleconferenced*
24 *meeting without being required to submit public comments prior*
25 *to the meeting or in writing.*

26 ~~(D)~~

27 (F) *The members of the state body may remotely participate in*
28 *a meeting. The members of the state body may also be physically*
29 *present and participate at a designated physical meeting location,*
30 *but no member of the state body shall be required to be physically*
31 *present at any physical meeting location designated in the notice*
32 *of the meeting in order to be deemed present at the meeting. All*
33 *votes taken during a teleconferenced meeting shall be by rollcall.*

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

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

39 (G) *This section does not affect the requirement prescribed by*
40 *this article that the state body post an agenda of a meeting in*

1 accordance with the applicable notice requirements of this article,
2 including Section 11125, requiring the state body post an agenda
3 of a meeting at least 10 days in advance of the meeting, Section
4 11125.4, applicable to special meetings, and Sections 11125.5 and
5 11125.6, applicable to emergency meetings. The state body shall
6 post the agenda on its internet website and, on the day of the
7 meeting, at any physical meeting location designated in the notice
8 of the meeting. The notice and agenda shall not disclose
9 information regarding any remote location from which a member
10 is participating.

11 (H) Upon discovering that a means of remote participation
12 required by this section has failed during a meeting and cannot
13 be restored, the state body shall end or adjourn the meeting in
14 accordance with Section 11128.5. In addition to any other
15 requirements that may apply, the state body shall provide notice
16 of the meeting's end or adjournment on the state body's internet
17 website and by email to any person who has requested notice of
18 meetings of the state body by email under this article. If the meeting
19 will be adjourned and reconvened on the same day, further notice
20 shall be provided by an automated message on a telephone line
21 posted on the state body's agenda, internet website, or by a similar
22 means, that will communicate when the state body intends to
23 reconvene the meeting and how a member of the public may hear
24 audio of the meeting or observe the meeting.

25 (2) For the purposes of this subdivision, ~~“teleconference”~~ all of
26 the following definitions shall apply:

27 (A) ~~“Teleconference” means a meeting of a state body, the~~
28 ~~members of which are at different locations, connected body that~~
29 ~~provides for a connection by electronic means, including by~~
30 ~~telephone, an internet website, or other online platform, through~~
31 ~~either audio or both audio and video.~~ This section does not prohibit
32 a state body from providing members of the public with additional
33 physical locations in which the public may observe ~~or~~ and address
34 the state body by electronic means, through either audio or both
35 audio and video.

36 (B) ~~“Remote location” means a location from which a member~~
37 ~~of a state body participates in a meeting other than any physical~~
38 ~~meeting location designated in the notice of the meeting. Remote~~
39 ~~locations need not be accessible to the public.~~

1 (C) “Remote participation” means participation in a meeting
2 by teleconference at a location other than any physical meeting
3 location designated in the notice of the meeting. Watching or
4 listening to a meeting via webcasting or another similar electronic
5 medium that does not permit members to interactively hear,
6 discuss, or deliberate on matters, does not constitute participation
7 remotely.

8 (D) “Two-way audio-visual platform” means an online platform
9 that provides participants with the ability to participate in a
10 meeting via both an interactive video conference and a two-way
11 telephonic function.

12 (E) “Two-way telephonic service” means a telephone service
13 that does not require internet access, is not provided as part of a
14 two-way audio-visual platform, and allows participants to dial a
15 telephone number to listen and verbally participate.

16 (F) “Webcasting” means a streaming video broadcast online
17 or on television, using streaming media technology to distribute
18 a single content source to many simultaneous listeners and viewers.
19 This section does not prohibit a state body from providing members
20 of the public with additional physical locations in which the public
21 may observe and address the state body by electronic means.

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

25 (d) A state body that is organized within the Department of
26 Consumer Affairs and meets at least two times each calendar year
27 shall be deemed to have met the requirements of subdivision (a)
28 of Section 101.7 of the Business and Professions Code.

29 (e) This section shall not be construed to deny state bodies the
30 ability to encourage full participation by appointees with
31 developmental or other disabilities.

32 (f) If a member of a state body attends a meeting by
33 teleconference from a remote location, the member shall disclose
34 whether any other individuals 18 years of age or older are present
35 in the room at the remote location with the member, and the
36 general nature of the member’s relationship with any such
37 individuals.

38 SEC. 4. Section 11123.5 of the Government Code is repealed.

39 ~~11123.5. (a) In addition to the authorization to hold a meeting~~
40 ~~by teleconference pursuant to subdivision (b) of Section 11123,~~

1 any state body that is an advisory board, advisory commission,
2 advisory committee, advisory subcommittee, or similar
3 multimember advisory body may hold an open meeting by
4 teleconference as described in this section, provided the meeting
5 complies with all of the section's requirements and, except as set
6 forth in this section, it also complies with all other applicable
7 requirements of this article.

8 (b) A member of a state body as described in subdivision (a)
9 who participates in a teleconference meeting from a remote location
10 subject to this section's requirements shall be listed in the minutes
11 of the meeting.

12 (c) The state body shall provide notice to the public at least 24
13 hours before the meeting that identifies any member who will
14 participate remotely by posting the notice on its Internet Web site
15 and by emailing notice to any person who has requested notice of
16 meetings of the state body under this article. The location of a
17 member of a state body who will participate remotely is not
18 required to be disclosed in the public notice or email and need not
19 be accessible to the public. The notice of the meeting shall also
20 identify the primary physical meeting location designated pursuant
21 to subdivision (c).

22 (d) This section does not affect the requirement prescribed by
23 this article that the state body post an agenda of a meeting at least
24 10 days in advance of the meeting. The agenda shall include
25 information regarding the physical meeting location designated
26 pursuant to subdivision (c), but is not required to disclose
27 information regarding any remote location.

28 (e) A state body described in subdivision (a) shall designate the
29 primary physical meeting location in the notice of the meeting
30 where members of the public may physically attend the meeting
31 and participate. A quorum of the members of the state body shall
32 be in attendance at the primary physical meeting location, and
33 members of the state body participating remotely shall not count
34 towards establishing a quorum. All decisions taken during a
35 meeting by teleconference shall be by rollcall vote. The state body
36 shall post the agenda at the primary physical meeting location, but
37 need not post the agenda at a remote location.

38 (f) When a member of a state body described in subdivision (a)
39 participates remotely in a meeting subject to this section's
40 requirements, the state body shall provide a means by which the

1 public may remotely hear audio of the meeting or remotely observe
2 the meeting, including, if available, equal access equivalent to
3 members of the state body participating remotely. The applicable
4 teleconference phone number or Internet Web site, or other
5 information indicating how the public can access the meeting
6 remotely, shall be in the 24-hour notice described in subdivision
7 (a) that is available to the public.

8 (g) ~~Upon discovering that a means of remote access required~~
9 ~~by subdivision (f) has failed during a meeting, the state body~~
10 ~~described in subdivision (a) shall end or adjourn the meeting in~~
11 ~~accordance with Section 11128.5. In addition to any other~~
12 ~~requirements that may apply, the state body shall provide notice~~
13 ~~of the meeting's end or adjournment on its Internet Web site and~~
14 ~~by email to any person who has requested notice of meetings of~~
15 ~~the state body under this article. If the meeting will be adjourned~~
16 ~~and reconvened on the same day, further notice shall be provided~~
17 ~~by an automated message on a telephone line posted on the state~~
18 ~~body's agenda, or by a similar means, that will communicate when~~
19 ~~the state body intends to reconvene the meeting and how a member~~
20 ~~of the public may hear audio of the meeting or observe the meeting.~~

21 (h) ~~For purposes of this section:~~

22 (1) ~~"Participate remotely" means participation in a meeting at~~
23 ~~a location other than the physical location designated in the agenda~~
24 ~~of the meeting.~~

25 (2) ~~"Remote location" means a location other than the primary~~
26 ~~physical location designated in the agenda of a meeting.~~

27 (3) ~~"Teleconference" has the same meaning as in Section 11123.~~

28 (i) ~~This section does not limit or affect the ability of a state body~~
29 ~~to hold a teleconference meeting under another provision of this~~
30 ~~article.~~

31 SEC. 5. Section 11124 of the Government Code is amended
32 to read:

33 11124. (a) No person shall be required, as a condition to
34 attendance at a meeting of a state body, to register ~~his or her~~ *the*
35 *person's* name, to provide other information, to complete a
36 questionnaire, or otherwise to fulfill any condition precedent to
37 ~~his or her~~ *the person's* attendance.

38 If

39 (b) *If* an attendance list, register, questionnaire, or other similar
40 document is posted at or near the entrance to the room where the

1 meeting is to be held, *or electronically posted*, or is circulated to
2 persons present during the meeting, it shall state clearly that the
3 signing, registering, or completion of the document is voluntary,
4 and that all persons may attend the meeting regardless of whether
5 a person signs, registers, or completes the document.

6 *(c) This section does not apply to an internet website or other*
7 *online platform that may require identification to log into a*
8 *teleconference.*

9 SEC. 6. Section 11125 of the Government Code is amended
10 to read:

11 11125. (a) The state body shall provide notice of its meeting
12 to any person who requests that notice in writing. Notice shall be
13 given and also made available on the ~~Internet~~ *state body's internet*
14 *website* at least 10 days in advance of the meeting, and shall include
15 the name, address, and telephone number of any person who can
16 provide further information prior to the meeting, but need not
17 include a list of witnesses expected to appear at the meeting. The
18 written notice shall additionally include the address of the ~~Internet~~
19 *site internet website* where notices required by this article are made
20 available. *The notice shall specify the means by which a meeting*
21 *may be accessed by teleconference in accordance with the*
22 *requirements of subparagraph (C) of paragraph (1) of subdivision*
23 *(b) of Section 11123, including sufficient information necessary*
24 *to access the teleconference. The notice shall also specify any*
25 *designated physical meeting location at which the public may*
26 *observe and address the state body.*

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

37 ~~(c) Notice of a meeting of a state body that complies with this~~
38 ~~section shall also constitute notice of a meeting of an advisory~~
39 ~~body of that state body, provided that the business to be discussed~~
40 ~~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)~~

(c) 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)~~

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

~~(f)~~

(e) 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.

(f) *State bodies shall conduct meetings subject to this chapter consistent with applicable state and federal civil rights laws, including, but not limited to, any applicable language access and other nondiscrimination obligations.*

SEC. 7. Section 11125.4 of the Government Code is amended to read:

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 (1) To consider “pending litigation” as that term is defined in
2 subdivision (e) of Section 11126.
- 3 (2) To consider proposed legislation.
- 4 (3) To consider issuance of a legal opinion.
- 5 (4) To consider disciplinary action involving a state officer or
6 employee.
- 7 (5) To consider the purchase, sale, exchange, or lease of real
8 property.
- 9 (6) To consider license examinations and applications.
- 10 (7) To consider an action on a loan or grant provided pursuant
11 to Division 31 (commencing with Section 50000) of the Health
12 and Safety Code.
- 13 (8) To consider its response to a confidential final draft audit
14 report as permitted by Section 11126.2.
- 15 (9) To provide for an interim executive officer of a state body
16 upon the death, incapacity, or vacancy in the office of the executive
17 officer.
- 18 (10) *To deliberate on a decision to be reached in a proceeding*
19 *required to be conducted pursuant to Chapter 5 (commencing with*
20 *Section 11500) or similar provisions of law.*
- 21 (b) When a special meeting is called pursuant to one of the
22 purposes specified in subdivision (a), the state body shall provide
23 notice of the special meeting to each member of the state body and
24 to all parties that have requested notice of its meetings as soon as
25 is practicable after the decision to call a special meeting has been
26 made, but shall deliver the notice in a manner that allows it to be
27 received by the members and by newspapers of general circulation
28 and radio or television stations at least 48 hours before the time
29 of the special meeting specified in the notice. Notice shall be made
30 available to newspapers of general circulation and radio or
31 television stations by providing that notice to all national press
32 wire services. Notice shall also be made available on the Internet
33 within the time periods required by this section. The notice shall
34 specify the time and place of the special meeting and the business
35 to be transacted. The written notice shall additionally specify the
36 address of the ~~Internet Web site~~ *internet website* where notices
37 required by this article are made available. No other business shall
38 be considered at a special meeting by the state body. The written
39 notice may be dispensed with as to any member who at or prior
40 to the time the meeting convenes files with the clerk or secretary

1 of the state body a written waiver of notice. The waiver may be
2 given by telegram, facsimile transmission, or similar means. The
3 written notice may also be dispensed with as to any member who
4 is actually present at the meeting at the time it convenes. Notice
5 shall be required pursuant to this section regardless of whether any
6 action is taken at the special meeting.

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

19 SEC. 8. Section 11128.5 of the Government Code is amended
20 to read:

21 11128.5. The state body may adjourn any regular, adjourned
22 regular, special, or adjourned special meeting to a time and ~~place~~
23 *place, including by teleconference*, specified in the order of
24 adjournment. Less than a quorum may so adjourn from time to
25 time. If all members are absent from any regular or adjourned
26 regular meeting, the clerk or secretary of the state body may declare
27 the meeting adjourned to a stated time and ~~place~~ *place, including*
28 *by teleconference*, and ~~he or she~~ *the clerk or the secretary* shall
29 cause a written notice of the adjournment to be given in the same
30 manner as provided in Section 11125.4 for special meetings, unless
31 that notice is waived as provided for special meetings. A copy of
32 the order or notice of adjournment shall be conspicuously posted
33 *on the state body's internet website, and if applicable*, on or near
34 the door of the place where the regular, adjourned regular, special,
35 or adjourned special meeting was held within 24 hours after the
36 time of the adjournment. When a regular or adjourned regular
37 meeting is adjourned as provided in this section, the resulting
38 adjourned regular meeting is a regular meeting for all purposes.
39 When an order of adjournment of any meeting fails to state the

1 hour at which the adjourned meeting is to be held, it shall be held
2 at the hour specified for regular meetings by law or regulation.

3 SEC. 9. Section 11129 of the Government Code is amended
4 to read:

5 11129. Any hearing being held, or noticed or ordered to be
6 held by a state body at any meeting may by order or notice of
7 continuance be continued or recontinued to any subsequent meeting
8 of the state body in the same manner and to the same extent set
9 forth in Section 11128.5 for the adjournment of meetings. A copy
10 of the order or notice of continuance shall be conspicuously posted
11 *on the state body's internet website, and if applicable, on or near*
12 *the door of the place where the hearing was held within 24 hours*
13 *after the time of the continuance; provided, that if the hearing is*
14 *continued to a time less than 24 hours after the time specified in*
15 *the order or notice of hearing, a copy of the order or notice of*
16 *continuance of hearing shall be posted immediately following the*
17 *meeting at which the order or declaration of continuance was*
18 *adopted or made.*

19 SEC. 10. It is the intent of the Legislature in enacting this act
20 to improve and enhance public access to state and local agency
21 meetings by allowing broader access through teleconferencing
22 options consistent with the Governor's Executive Order No.
23 N-29-20 dated March 17, 2020, and related executive orders,
24 permitting expanded use of teleconferencing during the COVID-19
25 pandemic.

26 SEC. 11. This act is an urgency statute necessary for the
27 immediate preservation of the public peace, health, or safety within
28 the meaning of Article IV of the California Constitution and shall
29 go into immediate effect. The facts constituting the necessity are:

30 In order to protect public health, expand access to government
31 participation by the public, and increase transparency in state
32 government operations during the COVID-19 pandemic, it is
33 necessary that this act take effect immediately.

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Introduced by Senator Newman

February 15, 2022

An act to add Section 8693 to the Business and Professions Code, relating to structural pest control.

LEGISLATIVE COUNSEL'S DIGEST

SB 1064, as introduced, Newman. Structural pest control: workers' compensation insurance coverage.

Existing law establishes the Structural Pest Control Board, within the Department of Consumer Affairs, and requires the board to license and regulate structural pest control operators, as specified. Existing law makes a violation of provisions regulating structural pest control operators a misdemeanor.

Existing law, the Contractors' State License Law, provides for the licensing and regulation of contractors by the Contractors State License Board within the Department of Consumer Affairs. Existing law requires every licensed contractor, or applicant for licensure, to have on file at all times with the Contractors State License Board a current and valid Certificate of Workers' Compensation Insurance or Certification of Self-Insurance, or a statement certifying that they have no employees and are not required to obtain or maintain workers' compensation insurance, and specifies various rules that apply to certain license classifications. Existing law requires the insurer, including the State Compensation Insurance Fund, to report to the registrar of contractors the name, license number, policy number, dates that coverage is scheduled to commence and lapse, and cancellation date if the policy is canceled for specified reasons. Existing law provides that willful or deliberate disregard and violation of workers' compensation insurance laws constitutes a cause for disciplinary action.

This bill would, similar to the provision governing contractors, prohibit the Structural Pest Control Board from issuing, reinstating, or continuing to maintain any structural pest control operator company registration under this chapter unless the applicant or existing company has filed a current and valid Certificate of Workers' Compensation Insurance as evidence of current and valid Workers' Compensation Insurance coverage, or a statement certifying that they have no employees and are not required to obtain or maintain workers' compensation insurance. The bill would also require the insurer, including the State Compensation Insurance Fund, to report to the registrar of the Structural Pest Control Board the company name, registration number, policy number, dates that coverage is scheduled to commence and lapse, and cancellation date if the policy is canceled for specified reasons. The bill would provide that willful or deliberate disregard and violation of workers' compensation insurance laws constitutes a cause for disciplinary action, and that a violation of these provisions is not a misdemeanor, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

- 1 SECTION 1. Section 8693 is added to the Business and
- 2 Professions Code, to read:
- 3 8693. (a) The board shall not issue, reinstate, or continue to
- 4 maintain any company registration under this chapter unless the
- 5 applicant or existing company has filed a current and valid
- 6 Certificate of Workers' Compensation Insurance as evidence of
- 7 current and valid Workers' Compensation Insurance coverage. A
- 8 Certificate of Workers' Compensation Insurance shall be issued
- 9 and filed, electronically or otherwise, by an insurer duly licensed
- 10 to write workers' compensation insurance in this state. If
- 11 reciprocity conditions exist, as provided in Section 3600.5 of the
- 12 Labor Code, the registrar shall require the information deemed
- 13 necessary to ensure compliance with this section.
- 14 (b) This section does not apply to a registered company that has
- 15 no employees provided that a statement is filed with the board on
- 16 a form prescribed by the registrar prior to the issuance,
- 17 reinstatement, or continued maintenance of a company registration,
- 18 certifying that the registered company does not employ any person

1 in any manner so as to become subject to the workers'
2 compensation laws of California or is not otherwise required to
3 provide for workers' compensation insurance coverage under
4 California law.

5 (c) (1) The insurer, including the State Compensation Insurance
6 Fund, shall report to the registrar the following information for
7 any policy required under this section: company name, registration
8 number, policy number, dates that coverage is scheduled to
9 commence and lapse, and cancellation date if applicable.

10 (2) A workers' compensation insurer shall also report to the
11 registrar a registered company whose workers' compensation
12 insurance policy is canceled by the insurer if all of the following
13 conditions are met:

14 (A) The insurer has completed a premium audit or investigation.

15 (B) A material misrepresentation has been made by the insured
16 that results in financial harm to the insurer.

17 (C) No reimbursement has been paid by the insured to the
18 insurer.

19 (d) (1) Willful or deliberate disregard and violation of workers'
20 compensation insurance laws constitutes a cause for disciplinary
21 action by the registrar against the registered company and the
22 qualifying manager or managers.

23 (2) The provisions of Section 8553 shall not apply to any
24 violation of this section.

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