

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CALIFORNIA STATE ALLOCATION BOARD
PUBLIC MEETING
(TELECONFERENCE)

DEPARTMENT OF GENERAL SERVICES
ZIGGURAT BUILDING
707 3RD STREET
CONFERENCE ROOM 4-221
WEST SACRAMENTO, CALIFORNIA 95605

DATE: WEDNESDAY, SEPTEMBER 27, 2023

TIME: 3:00 P.M.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

APPEARANCES:

MEMBERS OF THE BOARD PRESENT:

GAYLE MILLER, Chief Deputy Director, Policy, Department of Finance, designated representative for Joe Stephenshaw, Director, Department of Finance

ANA LASSO, Director, Department of General Services

JEREMY SMITH, Appointee of Gavin Newsome, Governor of the State of California

JUAN MIRELES, Director, School Facilities and Transportation Services Division, California Department of Education, designated representative for Tony Thurmond, Superintendent of Public Instruction

SENATOR JOHN LAIRD

SENATOR JOSH NEWMAN

ASSEMBLYMEMBER MIA BONTA

ASSEMBLYMEMBER LAURIE DAVIES

REPRESENTATIVES OF THE STATE ALLOCATION BOARD/OFFICE OF PUBLIC SCHOOL CONSTRUCTION PRESENT:

LISA SILVERMAN, Executive Officer

MICHAEL WATANABE, Deputy Executive Officer

Transcribed by: Rachel Wiley,
eScribers, LLC
Phoenix, Arizona

--o0o--

1 at the top of their inbox when we're ready to adjourn
2 into closed session.

3 And with that, we will establish a quorum. Ms.
4 Jones, will you call the roll, please.

5 **MS. JONES:** Yes, I will.

6 Senator Wilk?

7 Senator Laird?

8 **SENATOR LAIRD:** Here.

9 **MS. JONES:** Senator Newman?

10 **SENATOR NEWMAN:** Here.

11 **MS. JONES:** Assemblymember Bonta?

12 **ASM. BONTA:** Here.

13 **MS. JONES:** Assemblymember Muratsuchi.

14 Assemblymember Davies.

15 Juan Mireles?

16 **MR. MIRELES:** Here.

17 **MS. JONES:** Jeremy Smith.

18 **MR. SMITH:** Here.

19 **MS. JONES:** Anna Lasso.

20 **MS. LASSO:** Here.

21 **MS. JONES:** Gayle Miller?

22 **GAYLE MILLER:** Here.

23 We have a quorum. Next, we will move to the minutes
24 for August 23, 2023. Any public comments? I will move.
25 May we have a second, please?

1 **ASM. BONTA:** Second.

2 **GAYLE MILLER:** Thank you, Assemblymember Bonta.

3 May we call the roll, please?

4 **MS. JONES:** Certainly.

5 Senator Laird?

6 **SENATOR LAIRD:** Aye.

7 **MS. JONES:** Senator Newman?

8 **SENATOR NEWMAN:** Aye.

9 **MS. JONES:** Assemblymember Bonta?

10 **ASM. BONTA:** Aye.

11 **MS. JONES:** Juan Mireles?

12 **MR. MIRELES:** Aye.

13 **MS. JONES:** Jeremy Smith?

14 **MR. SMITH:** Aye.

15 **MS. JONES:** Anna Lasso?

16 **MS. LASSO:** Aye.

17 **MS. JONES:** Gayle Miller?

18 **GAYLE MILLER:** Aye.

19 The minutes are approved. Next, we'll move to the

20 Executive Officer statement, please, Ms. Silverman.

21 **MS. SILVERMAN:** We have a few announcements tonight.

22 Obviously, some great news about the fall bond sale that

23 actually occurred mid-September. We have the monies in

24 our accounts effective about a week ago, but we'll be

25 introducing at the November 29th meeting those bond

1 proceeds for \$171 million, so that's great news. So stay
2 tuned for November to have some projects approved.

3 And then our second update is really that we're
4 highlighting that we have the second round of
5 apportionments for the extended full day kinder program.
6 And then again, the Board did close up the filing round
7 on March 2nd and we had an overwhelming -- a number of
8 applications for 146 applications that came in for nearly
9 \$1.5 billion. So tucked in your agenda today and the
10 action item we'll be introducing those projects, 346
11 million. So proud that we're moving that forward. And
12 then any residual projects and residual funds will be
13 awarded in November.

14 And then our next announcement is just to remind the
15 Board that we have a -- we won't have a meeting in
16 October, and we will have a remote meeting offered on
17 November 29th. And then my last announcement is I wanted
18 to share with the Board that I'm retiring effective
19 December 1st. So I'm really thrilled for this next
20 chapter. And it's been an awarding opportunity. Just --
21 I'm just humbled by this opportunity to serve the Board
22 for the last 13 years and nearly 14 years. So I'm
23 excited. I'm looking forward to this transition. About
24 39 years of public service, it's been a great run. And
25 I'm humbled, again, and I'm going to miss you dearly.

1 And most of all, I will be missing collaboration with our
2 districts and our members. And I look forward to keeping
3 the movement alive. And I'll be missing my staff, and
4 what a great team we have. So I really am excited about
5 this new opportunity. And so I want to share the news
6 tonight.

7 **GAYLE MILLER:** So I think there are few people in
8 public service that have contributed as much as Lisa
9 Silverman. Now, look, you've made me emotional. I think
10 it's not only in the -- obviously the schools that have
11 been built and the ways our students have been able to
12 learn and study, but in with the humility and
13 professionalism and grace that you've brought to this
14 work, as it really is second to none. It is an
15 incredible loss to the State of California. The way
16 you've lifted up your team and really worked with
17 districts in a way that they really don't even need
18 consultants, that you have worked so hard to solve
19 problems, and really do the best for the people we all do
20 this work for is truly, truly phenomenal. And if I could
21 have talked to you out of it, I certainly would have.
22 But I do think it's an incredible opportunity for you.
23 And I know that you'll continue to serve in everything
24 you do but. Hopefully we'll have some real time to
25 express gratitude for you and to you, but I just

1 personally just want to take a moment to really thank you
2 from the bottom of my heart. I've learned more about
3 what it is to be a selfless servant from you than really
4 anyone else, so thank you, Lisa.

5 **MS. SILVERMAN:** Thank you. And I shed a lot of
6 tears this morning when I shared the news with my staff,
7 so I'm trying to keep myself together, but thank you.

8 **GAYLE MILLER:** Anybody else?

9 **MS. LASSO:** I'd like to just also chime in, and Lisa
10 and I have spoken about this at length. Like you, Gayle,
11 I wish I could talk her out of this, but I knew this
12 might be coming. And I'm just so proud to have you part
13 of our DGS team, aside from leading the OPEC, and you're
14 going to be sorely missed. But I know that you left an
15 incredibly strong team in place, and I thank you from the
16 bottom of my heart that you put this team together and
17 you've grown them. And I've had an opportunity to meet
18 most of them in some of your team building exercises. So
19 thank you so much, Lisa, for your service and your
20 commitment to our public schools.

21 **MS. SILVERMAN:** Thank you.

22 **MR. MIRELES:** I also just want to say really
23 quickly, first of all, congratulations, Lisa. I'm
24 excited for you and your family on your next chapter. Of
25 course, this is another huge loss for OPSC. We just

1 recently lost Barbara and now you. But like you said,
2 OPSC has a great team and together you have led them
3 through many challenges and got them to the place that
4 they're at today and helping a lot, countless number of
5 schools to be built, to be modernized. Thanks to the
6 work that you have done, your leadership team has done.
7 So we will miss you. But I'm also really excited for you
8 on your next chapter.

9 **MS. SILVERMAN:** Thank you.

10 **GAYLE MILLER:** And Juan Mireles worked at OPSC, too,
11 so we have --

12 **MS. SILVERMAN:** Yes.

13 **GAYLE MILLER:** -- we have a whole like legacy of
14 people who have committed themselves to public service
15 thanks to Lisa.

16 **MS. SILVERMAN:** It's been a great journey. Thank
17 you.

18 **GAYLE MILLER:** Okay. So you want to move on to
19 consent agenda? Let's give away some money.

20 **MS. SILVERMAN:** Consent agenda is ready for
21 approval. And just to remind folks that we have \$146
22 million in projects and yay, great news. We've been
23 really busy. So there's 48 projects for approval.

24 **GAYLE MILLER:** Great.

25 Any public comment? Just a reminder to use the

1 raise hand feature. Seeing none, any questions? May we
2 have a motion in the second, please?

3 **SENATOR NEWMAN:** So moved.

4 **GAYLE MILLER:** Moved by Senator Newman, seconded by
5 Juan Mireles.

6 May we call the roll, please?

7 **MS. JONES:** Senator Laird?

8 **SENATOR LAIRD:** Aye.

9 **MS. JONES:** Senator Newman?

10 **SENATOR NEWMAN:** Aye.

11 **MS. JONES:** Assemblymember Bonta?

12 **ASM. BONTA:** Aye.

13 **MS. JONES:** Juan Mireles?

14 **MR. MIRELES:** Aye.

15 **MS. JONES:** Jeremy Smith?

16 **MR. SMITH:** Aye.

17 **MS. JONES:** Anna Lasso?

18 **MS. LASSO:** Aye.

19 **MS. JONES:** Gayle Miller?

20 **GAYLE MILLER:** Aye.

21 **GAYLE MILLER:** The consent agenda is approved.

22 Next, we'll move to the financial reports, please, Lisa.

23 **MS. SILVERMAN:** Yes. On page 112, we just wanted to
24 again highlight the fund releases for the month of
25 August. And so we didn't -- we weren't able to share

1 those updates, obviously, last month, but we had nearly
2 \$39 million that was dispersed to school districts, so
3 that's great news. Actively, this fund release process
4 is working and the direct apportionment model, so that's
5 really great news. And as far as the status of funds, as
6 we shared on page 115, 116, those approvals that were
7 part of the consent agenda is noted on the status of
8 funds. So with that, I will open it up to any questions.

9 **GAYLE MILLER:** Any questions? Any comments? Great.
10 Next, we will move to -

11 Mr. Watanabe, are we moving to the additional grant
12 for general site development?

13 **MR. WATANABE:** Yeah. This is a quick one. We're
14 seeking board's approval to extend the general site grant
15 for an additional two years. Currently, the general site
16 grant is a supplemental grant to the school facility
17 program grants. It covers your hardscape areas, your
18 landscaped sidewalks, parking lots, athletic fields, and
19 such. The current regulation expires January 1st, 2024,
20 so to be able to continue giving that grant, we do need
21 to extend it on an emergency basis so that it is in
22 effect in time with a zero gap in funding. So we're
23 proposing two years, that gets us through any potential
24 future -- until a future bond measure is approved and see
25 how that changes the program. But it allows us to

1 continue the grant for anyone getting general fund
2 proceeds beginning January 1 forward. So with that, a
3 recommendation is a two-year extension on the general
4 site grant.

5 **GAYLE MILLER:** Great. Thank you.

6 Any questions? Any public comment? Seeing none,
7 may we have a motion and a second, please?

8 **ASM. BONTA:** So moved.

9 **GAYLE MILLER:** Thank you, Ms. Bonta.

10 **SENATOR NEWMAN:** Second.

11 **GAYLE MILLER:** Seconded by Senator Newman.

12 May we take the roll, please?

13 **MS. JONES:** Sure.

14 Senator Laird?

15 **SENATOR LAIRD:** Aye.

16 **MS. JONES:** Senator Newman?

17 **SENATOR NEWMAN:** Aye.

18 **MS. JONES:** Assemblymember Bonta?

19 **ASM. BONTA:** Aye.

20 **MS. JONES:** Juan Mireles?

21 **MR. MIRELES:** Aye.

22 **MS. JONES:** Jeremy Smith?

23 **MR. SMITH:** Aye.

24 **MS. JONES:** Anna Lasso?

25 **MS. LASSO:** Aye.

1 **MS. JONES:** Oh, thank you.

2 Gayle Miller?

3 **GAYLE MILLER:** Aye.

4 **GAYLE MILLER:** The additional grant for general site
5 development is approved for two years. Now, Mr.
6 Watanabe, we'll move to the proposed amendments to the
7 California preschool T.K. and full-day kinder facilities
8 grant program, please.

9 **MR. WATANABE:** Thank you. Yeah, we're on page 136
10 of the agenda, and we're doing two things in this item.
11 One is proposing proposed regs to modify the program for
12 future funding rounds, and the second is a policy
13 approval from the Board going forward for prior third
14 round and fourth round projects. This came about because
15 OPSC has four appeals in house with school districts
16 asking for extensions to their timelines for
17 apportionment they received last fall for the full-day
18 kindergarten program. We took a look at their request,
19 and as we took a look at these requests, we thought it's
20 a good time to revisit the timeline set forward in this
21 program.

22 When the program was first created in 2018, they
23 only had 100 million to work with. They are meant to be
24 quick projects, convert existing kids from part-day
25 programs to full-day programs. So if you had two sets of

1 classes sharing a classroom, we would drop down another
2 classroom so you can do two full-day classrooms. On
3 average, the projects were about two classrooms in size,
4 but with the expansion into 2021 to include preschool and
5 transitional kindergarten classrooms, we're seeing
6 project sizes double. On average, the four classrooms
7 per project, the largest ones approved last year had ten
8 classrooms. So it was no longer just a quick drop a few
9 classrooms down and move on with their school. There's a
10 lot more consideration school districts are taking to
11 account from drop off areas, playground space, and just
12 separation of these younger kids.

13 So as we looked at the deadlines, on page 137, we
14 kind of lay out what was existing and what we're
15 proposing. Under the current regulations, once school
16 districts get an advanced apportionment from us, they
17 have one year to get DSA and CD plan approvals for to us
18 as well as full contracts for completion of the project.
19 Regardless whether in that 12 months they gave us the
20 plans early or late, they only had one year to finish the
21 project and give us the final expenditure report. Well,
22 with the school district that we have the appeals, we're
23 finding out there's not enough time for them to complete
24 these projects due to a number of circumstances. One is
25 just from a timing standpoint. These projects, the only

1 way they can meet the one-year deadline a lot of them
2 have indicated is they use modular facilities. Well, in
3 January 2023, there was a code change during the
4 triennial building code cycles, and a lot of these
5 modular companies have had not time -- enough time to get
6 new buildings approved so that school districts can use
7 them. There are a number of districts -- or a number of
8 companies working their way through DSA right now, but
9 they don't anticipate getting DSA approval on their plans
10 until end of this calendar year. And that presents a
11 problem for a lot of these school districts because their
12 due dates to us are September, October and November
13 respectively. And what we've shown on Attachment B is
14 out of the 69 projects that were approved last year, only
15 three have met those requirements so far. A lot of them
16 are coming up on their deadlines. A lot of them had
17 deadlines on September 21st of this month.

18 The second proposal we're doing -- so we would like
19 to propose that that 12-month extension be expanded to 18
20 months, kind of aligns with our school facility program.
21 The other alignment we're trying to do is extend the
22 completion deadline to three years from apportionment.
23 Under the SFP, projects have three years after fund
24 release to complete their project. We're proposing under
25 this program they have three years from apportionment to

1 do their project.

2 Now, just like the SFP, anyone that can't make that
3 first 18-month deadline, we are proposing an exemption
4 exception to that rule if they can show substantial
5 progress to the Board that they're at least making
6 forward progress on their project. So maybe they've
7 submitted to DSA but not have come out of it yet. Or
8 maybe they haven't got DSA plans but not have signed
9 construction contracts. So we're proposing regs to
10 extend that to a maximum of three years from
11 apportionment, which would not be moveable at that point.
12 They would need to finish it.

13 We talked to the four districts with appeals. All
14 of them believe these new regs will help them with their
15 projects and get them to completion. If the Board
16 approves these regs, it applied to all future rounds. So
17 the second thing we're asking the Board to do is apply
18 from a policy standpoint everyone approved in the third
19 round last year, allow them to have these extended
20 deadlines as well. And everyone that's being approved
21 this month agenda allow this month and the fourth round
22 for -- we're taking the carryover to November, allow
23 these timelines to extend to them as well. So two
24 recommendations are recommended to the Board to help all
25 these school districts out.

1 **GAYLE MILLER:** Great. Thank you very much.

2 Any questions? Any public comment? May we have a
3 motion?

4 **SENATOR LAIRD:** I would move the proposed
5 amendments.

6 **GAYLE MILLER:** Thank you, Senator Laird.

7 **MR. SMITH:** Second.

8 **GAYLE MILLER:** Mr. Smith seconds.

9 May we take the roll, please?

10 **MS. JONES:** Certainly.

11 Senator Laird?

12 **SENATOR LAIRD:** Aye.

13 **MS. JONES:** Senator Newman.

14 **SENATOR NEWMAN:** Aye.

15 **MS. JONES:** Assemblymember Bonta.

16 **ASM. BONTA:** Aye.

17 **MS. JONES:** Assemblymember Davies?

18 **ASM. DAVIES:** Aye.

19 **MS. JONES:** Juan Mireles.

20 **MR. MIRELES:** Aye.

21 **MS. JONES:** Jeremy Smith?

22 **MR. SMITH:** Aye.

23 **MS. JONES:** Anna Lasso?

24 **MS. LASSO:** Aye.

25 **MS. JONES:** Gayle Miller?

1 **GAYLE MILLER:** Aye.

2 The proposed amendments to the preschool TK and
3 full-day kinder facilities grant are approved. Next, we
4 will move to the California preschool TK and full-day
5 kindergarten apportionments. Please, Ms. Silverman.

6 **MS. SILVERMAN:** Yes. As we shared earlier, I just
7 wanted to highlight that this last filing round, again,
8 we have 84 projects to present for \$346, and that's on
9 attachment B, so we're thrilled for that opportunity.
10 And again, this program was established based on priority
11 points and those districts that actually met the
12 threshold for financial hardship, they actually gained 40
13 points. And then it's based on a sliding scale for up to
14 40 points based on your free, reduced-price meals. So
15 again, it's a sliding scale, very competitive this round.
16 Again, as I mentioned, we had nearly \$1.5 billion in
17 request. And with the adoption of the timelines provided
18 by Michael and the Board just adopted, and just to
19 highlight that these apportionments, if the Board does
20 grant those approvals, that they will have the extended
21 timeline. And, again, just remind them that they have to
22 submit a valid fund release to our office within 18
23 months. And again, this aligns with the normal school
24 facilities program. So the project must be completed
25 within the three years within the first apportionment.

1 And again, we're happy to present that to the Board
2 tonight.

3 **GAYLE MILLER:** Great. Thank you.

4 Any questions? Any public comment? May we have a
5 motion and a second, please?

6 **ASM. BONTA:** Moved.

7 **ASM. DAVIES:** Davies makes a motion.

8 **GAYLE MILLER:** Thank you. Moved by Assemblymember
9 Bonta, seconded by Assemblymember Davies.

10 May we take the roll, please?

11 **MS. JONES:** Certainly.

12 Senator Laird?

13 **SENATOR LAIRD:** Aye.

14 **MS. JONES:** Senator Newman.

15 **SENATOR NEWMAN:** Aye.

16 **MS. JONES:** Assemblymember Bonta.

17 **ASM. BONTA:** Aye.

18 **MS. JONES:** Assemblymember Davies?

19 **ASM. DAVIES:** Aye.

20 **MS. JONES:** Juan Mireles?

21 **MR. MIRELES:** Aye.

22 **MS. JONES:** Jeremy Smith?

23 **MR. SMITH:** Aye.

24 **MS. JONES:** Anna Lasso?

25 **MS. LASSO:** Aye.

1 **MS. JONES:** Gayle Miller?

2 **GAYLE MILLER:** Aye.

3 **GAYLE MILLER:** The apportionments are approved.

4 Ms. Davies, we'll go back really quickly on a couple
5 of items on the minutes.

6 **MS. JONES:** How do you --

7 **ASM. DAVIES:** Aye.

8 **MS. JONES:** Thank you.

9 **GAYLE MILLER:** On the consent calendar?

10 **ASM. DAVIES:** Aye.

11 **MS. JONES:** Thank you.

12 **GAYLE MILLER:** Thank you.

13 **MS. JONES:** Additional grant for general and site
14 development?

15 **ASM. DAVIES:** Aye.

16 **GAYLE MILLER:** Great. Thank you very much. Now, we
17 will turn it over -- just a reminder, we do have closed
18 session today. We have an annual opportunity to learn
19 about Bagley-Keene. And I know many of you know it. It
20 is very different to the legislative requirements. And
21 because OPSC has run into some problems in the past, we
22 asked for Jay to come and make sure Board members are
23 familiar with the differences between Bagley-Keene and
24 other boards that you sit on in the way we're governed.

25 So I'm going to turn it over to -- and I'm so sorry,

1 to the deputy attorney general so that we can learn a
2 little bit today. And I just -- I do want to note that
3 our members' time is really precious. I know you already
4 know that. And to the extent we can really hit the high
5 points on this, we obviously really appreciate it. But
6 sincerely --

7 **SENATOR LAIRD:** And Madam Chair --

8 **GAYLE MILLER:** Yes.

9 **SENATOR LAIRD:** -- Madam Chair?

10 **GAYLE MILLER:** Yeah.

11 **SENATOR LAIRD:** If I can make a brief comment before
12 he does?

13 **GAYLE MILLER:** Please.

14 **SENATOR LAIRD:** I authored the bill to deal with
15 Bagley-Keene requirements for state boards and
16 commissions, and the governor signed it over the weekend.
17 So the things that we'll get a briefing on will change
18 slightly on January 1st. Although the bill allows for a
19 board to choose the current system unchanged or allow for
20 remote participation and remote participation by both
21 board members and by the public. So just FYI, there will
22 be some options that kick in on January 1st that aren't
23 totally what will be included in the briefing today.

24 **GAYLE MILLER:** Yeah, I appreciate that. And we're
25 very grateful to have some reliability and continuity in

1 terms of Bagley-Keene. And I think what we'll hear about
2 today is also just about serial meetings and how many
3 people can speak about an issue, how lobbying works for
4 the State Allocation Board in addition to what you're
5 saying, which is how and when we can meet. So I do think
6 that's an important point. Thank you. And thank you for
7 offering that bill, we're very grateful.

8 **SENATOR LAIRD:** It was a pain in the ass.

9 **GAYLE MILLER:** Yeah, I know. I'm sorry, but it
10 makes a difference. I will say -- this, I swear, is the
11 last thing I'll say. If we were to survey all these
12 boards and commissions, they in my, and this is not
13 scientific, but the public participation without
14 exception, everyone says by allowing some version of
15 remote participation, that participation is up like by at
16 least 30 percent. That's the lowest number I've heard.
17 So I do hope that we continue to just have folks that
18 engage and participate, because that's actually what
19 makes this work interesting. So thank you for that.

20 Okay. Sorry, Mr. Dalju.

21 **MR. DALJU:** Not a problem. Thanks, Gayle. So my
22 name is Milad Dalju, and I'm an attorney with the
23 Department of Justice. And I will try to keep this as
24 brief as I can. And then at the very end, if there is
25 any follow-up questions or any type of clarification

1 anybody would like, we can just take it from there.

2 So I'm here today to present a very broad overview
3 of the requirements of Bagley-Keene Open Meeting Act.
4 Complying with the requirements of Bagley-Keene creates
5 inefficiencies and frustration because it deprives people
6 of their natural communication patterns. As a member of
7 a public body, learning to comply with Bagley-Keene is
8 not intuitive. But if you understand the purpose of it,
9 it may make it easier to comply with its requirements.

10 If I can ask someone to play the slideshow.
11 Awesome. Thank you. I'm just going to make sure I'm.
12 Right. Can I get the next slide, please? Perfect.

13 The purpose of Bagley-Keene is not to promote
14 government efficiency. If efficiency was the priority,
15 the legislature would have created a department with a
16 single decision maker. Instead, it created a multi-
17 member body, and doing so it determined that consensus
18 building was more important than efficiency. The
19 consensus building process takes time and is very
20 different from the individual decision-maker model. The
21 legislature also decided that the public should have a
22 seat at the table. Bagley-Keene Open Meeting notice,
23 public participation, and records requirements promote
24 the public's ability to be part of the process. If you
25 keep in mind that consensus building and public

1 participations are higher priorities than efficiency,
2 then Bagley-Keene requirements are much easier to
3 understand and follow.

4 There are five types of multi-member bodies that are
5 required to comply with Bagley-Keene. The most common
6 are multi-member state bodies created by statute or by
7 the governor's executive order. Because the State
8 Allocation Board is a multi-member state body created by
9 statute, it is required to comply with Bagley-Keene.

10 Next slide, please.

11 Another type of body that is required to comply with
12 Bagley-Keene is an advisory body of a state body. An
13 advisory body is a subcommittee of a state body that
14 consists of at least three members, has not been
15 delegated any decision-making authority, and is created
16 by formal action of the state body or a member of the
17 state body. Members of an advisory body can be members
18 of the state body. They can be staff, or they can even
19 be private citizens.

20 We're still on the prior slide, please.

21 Formal action includes any type of action of a state
22 body resulting in an advisory body. For example, a state
23 body directing its staff qualifies as a formal action.
24 Formal action can also include implied ratification. For
25 example, if three members of a commission regularly meet

1 outside of a public meeting to discuss agency business,
2 it is possible that the three members have created an
3 advisory body. Therefore, we generally caution that no
4 more than two members of a state body should discuss
5 agency business outside of a public meeting. We refer to
6 this as the rule of two. Complying with the rule of two
7 can help commissioners avoid inadvertent violations of
8 Bagley-Keene.

9 Next slide, please.

10 Bagley-Keene also applies to multi-member bodies
11 that have been delegated any decision-making authority of
12 a state body such as an executive committee of a state
13 body.

14 Next slide, please.

15 Finally, Bagley-Keene applies to a private or local
16 public body if a member of a state body serves on that
17 public body in their official capacity and the body
18 receives funding from that member state body.

19 Next slide, please.

20 It's important to remember that individuals
21 appointed to a state body are members as soon as they are
22 appointed, even before they are sworn in.

23 Next slide.

24 Do you guys like how fast we're going here? Okay.

25 Bagley-Keene requires all meetings of state bodies to be

1 open to the public. A meeting is a gathering of a
2 majority of a state body to deliberate on any matter
3 under the jurisdiction of that state body. Deliberation
4 includes not only decision making, but also information
5 gathering.

6 Next slide, please.

7 Bagley-Keene specifically prohibits serial meetings.
8 A serial meeting is a series of communications, each
9 involving less than a majority of members of a state
10 body, but collectively involving a majority of members of
11 a state body to deliberate on any matter under the state
12 body's jurisdiction. A serial meeting can occur through
13 a chain of communications from one member to another, or
14 when one person acts as a hub of a wheel and communicates
15 individually with various spokes. A serial meeting can
16 also occur directly or indirectly through intermediaries.
17 A serial meeting can involve face-to-face communication,
18 telephone calls, emails, and texting. Again, the
19 philosophy behind Bagley-Keene is to promote public
20 participation in the deliberation process. Serial
21 meetings are prohibited because when members of a state
22 body engage in serial communication outside of a public
23 meeting, the public is deprived of the opportunity to
24 participate in deliberation.

25 Next slide, please.

1 There are some very narrow exceptions to the open
2 meeting requirement. For example, staff may brief or
3 respond to questions from one member at a time about an
4 item agendised for a public meeting. But staff may not
5 communicate the comments or views of one member to other
6 members, which could constitute a prohibited serial
7 meeting.

8 Next slide, please.

9 There are specific types of gatherings that are not
10 considered meetings. For example, a conversation between
11 a member of a state body and a nonmember, such as a
12 member of the public or staff, so long as it is not part
13 of a serial meeting does not qualify as a meeting. There
14 are also limited exceptions for conferences,
15 nongovernmental meetings, meetings of other governmental
16 bodies, and social gatherings so long as a majority of
17 members do not discuss any agency business. One-way
18 confidential legal advice from staff counsel to board
19 members is also not a meeting, so long as board members
20 do not discuss the legal advice amongst themselves
21 outside of a noticed public meeting.

22 Next slide, please.

23 Bagley-Keene requires meetings to be noticed at
24 least ten calendar days in advance, including posting
25 notice on the internet. The notice must also be provided

1 in writing to anyone who requests a copy of the notice.
2 Anyone may request to receive notices for all meetings of
3 a state board. Notice must include an agenda of all
4 matters to be discussed at the meeting, including a brief
5 description of each matter. The brief description should
6 contain enough information about the matter so that an
7 average person can make an informed decision whether to
8 attend and participate in the meeting. If an agenda item
9 concerns a contract, loan, or grant, we recommend that
10 the description reflect the purpose, parties, and dollar
11 amount of the contract, loan, or grant. Generally, items
12 may not be added to the agenda after the ten-day notice
13 period has passed. A board member may not discuss any
14 item not agendised at a public meeting, even if no action
15 is to be taken by the board.

16 Next slide, please.

17 Generally, a member of a state body may not
18 participate in a meeting if they are not physically
19 present at the meeting. However, one or more members may
20 participate in a meeting remotely only if specific
21 requirements are met. Bagley-Keene refers to these
22 meetings as teleconference meetings. For a
23 teleconference meetings, all remote locations that
24 members are participating from must be disclosed in the
25 notice agenda, must be available for members of the

1 public to participate from, and must be ADA compliant.
2 All those must be taken by roll call. At least one
3 member must participate from the primary in-person
4 location of the meeting. I refer to these teleconference
5 rules as the traditional teleconference rules, which have
6 been in effect since prior to the pandemic. There have
7 been some other teleconference exceptions that were
8 available during the pandemic and up until the end of
9 this year. And as the senator mentioned, his bill that
10 was signed by the governor is going to become effective
11 on January 1st, 2024, and it's going to provide a set of
12 teleconference rules separate from these traditional
13 rules. So these traditional rules will still be in
14 effect. So your Board can still use these rules, but
15 there will be another set of rules that will be available
16 I believe from January 1st, 2024, through January 1st,
17 2026.

18 **SENATOR LAIRD:** That's correct. There's a sunset in
19 those new rules.

20 **MR. DALJU:** That's right. That's right. Since the
21 beginning of the pandemic, there have been exemptions to
22 traditional teleconference requirements either by
23 executive order or legislation. The most current
24 exemption, which expires at the end of this calendar
25 year, allows complete virtual meetings with no in-person

1 requirements for members of the board's staff or the
2 public. Today's virtual meeting is being held under this
3 particular exception, and that's the exception that's
4 going to expire at the end of this calendar year.

5 Next slide, please.

6 Members of the public must have the opportunity to
7 attend every meeting. You may not require members of the
8 public to provide identification. In particular
9 circumstances, security officers may require
10 identification, but that information may not be shared
11 with meeting personnel. Signup sheets must clearly state
12 that they are voluntary, and identification may not be
13 required to provide public comment. Members of the
14 public may record, film, or stream meetings unless it is
15 disruptive to the meeting. Opportunity for public
16 comment must be provided before or during every meeting.
17 The most common practice is to provide opportunity for
18 public comment for each agenda item after staff
19 presentation but before deliberation by the members.
20 Time limits may be imposed on public comments so long as
21 they are reasonable under the circumstances.

22 Next slide, please.

23 When records are provided to a majority of a body,
24 they must be promptly provided to members of the public
25 upon request. Records prepared in connection with the

1 meeting should be available for inspection at the
2 meeting. Records provided by a third-party should be
3 made available as soon as practicable.

4 Next slide, please.

5 The public has the right to monitor votes of each
6 member, and Bagley-Keene requires that all votes and
7 abstentions be public and recorded. Best practice is to
8 use roll-call for all decisions and to record votes in
9 the meeting minutes.

10 Next slide, please.

11 There are discrete and narrow exceptions to the
12 requirement that all meetings of state bodies must be
13 open to the public. State bodies may meet in closed
14 session, meaning without members of the public, only
15 under specific circumstances that are expressly
16 identified in Bagley-Keene. There are closed session
17 exemptions that apply to all state bodies, and there are
18 some that by statute may only be used by particular state
19 bodies. One of the exemptions that may be used by any
20 state body is the pending litigation exception.

21 Next slide, please.

22 A board may meet in closed session to confer with or
23 receive advice from its legal counsel regarding pending
24 litigation when discussion in open session would
25 prejudice the position of the body in the litigation. To

1 obtain legal advice from its counsel on a litigation
2 matter, the board must follow specific procedural
3 requirements. Not all legal advice may be heard in
4 closed session, only legal advice related to pending or
5 imminent litigation. The closed session must be properly
6 noticed. For litigation that has already been initiated,
7 the agenda must include the title of the case. Legal
8 counsel is required to submit a memorandum to the board
9 stating the specific reasons and legal authority for the
10 closed session no later than one week after the closed
11 session takes place. However, the memo is confidential
12 and exempt from disclosure. Information received in
13 discussions held in closed session are confidential and
14 may not be disclosed to outside parties by members or
15 staff who attend the closed session. It's important to
16 remember that confidentiality of a closed session is the
17 commission or the board's privilege, not that of
18 individual board members.

19 Next slide, please.

20 There are special procedural requirements that apply
21 to all closed sessions. The noticed agenda must indicate
22 that there will be a closed session, identify the items
23 to be discussed, and state the statutory authority for
24 the closed session. Before convening the closed session,
25 the body must also announce an open session, the issues

1 that it will discuss in closed session, and allow for
2 public comment. The body may address in closed session
3 only those matters listed on the agenda and announced at
4 the meeting. Board members may not stray into other
5 topics, even if those topics are reasonably related to
6 the closed session agenda item. A staff member must
7 attend each closed session to record topics discussed and
8 decisions made in closed session. After the closed
9 session, the board must reconvene in public before
10 adjourning the meeting. Only those staff members with an
11 essential role may attend a closed session.

12 Next slide, please.

13 Failure to comply with Bagley-Keene can result in
14 penalties and injunctive relief, including reversal of an
15 action or decision by the state body.

16 And the last slide, please.

17 That concludes the presentation. If any members
18 have a question or need some clarification on any of
19 these rules, I'm happy to try to answer those questions.

20 And we --

21 **GAYLE MILLER:** Thank you.

22 **MR. DALJU:** -- also have -- we also have a Bagley-
23 Keene guide that we recently updated with all the changes
24 that have happened. And that's available on DOJ's
25 website.

1 **GAYLE MILLER:** And will be updated with Senator
2 Laird's bill in January.

3 **MR. DALJU:** That's right, will be updated January
4 1st.

5 **GAYLE MILLER:** So --

6 **MR. DALJU:** That's right.

7 **GAYLE MILLER:** -- you've heard it from the source,
8 Mr. Dalju. Well, I really appreciate that. That was
9 really well done and fantastic. I think the issue we've
10 run into in the past, obviously, is serial meetings and
11 speaking to a majority of the Board. So that's how these
12 trainings came about, because it is different than a
13 legislative body.

14 So any questions? Tour of Bagley-Keene in 15
15 minutes.

16 If only your bill could have gone that fast,
17 Senator. No good deed goes unpunished.

18 Okay. No questions. So we are now going to the 90-
19 day workload and then before we go into closed session.

20 **MS. SILVERMAN:** Any questions on a 90-day workload?

21 **GAYLE MILLER:** No. Any public comments, anyone
22 wishing to comment for any reason on anything not on the
23 agenda or on the agenda, for that matter, please raise
24 your Zoom hand. We will plan something for Lisa at
25 another time. I know that many of you would like to be

1 able to acknowledge her. So with that, we will meet in
2 closed session pursuant to Government Code Section
3 11126(e) for the purpose of conferring with and receiving
4 advice from legal counsel regarding pending litigation.

5 Upon conclusion of the closed session, I will report
6 out from our session, if necessary. All Board members,
7 please leave this meeting and access the closed session-
8 specific Zoom meeting link. You'll see it in your inbox.
9 Mr. Watanabe bumped it up for everyone. So please leave
10 this. And then I believe, Mr. Egan, that I can just come
11 back and close out the meeting? We don't need a quorum
12 to do that because we don't take a motion to adjourn; is
13 that --

14 **MR. EGAN:** Correct.

15 **GAYLE MILLER:** -- correct? Okay. Great.

16 So with that, final opportunity for public comment,
17 anyone that wants to make a public comment for any
18 reason? Seeing none, we will adjourn into closed
19 session, and I will come back into open session to report
20 out. Thank you, everyone. Have a great day.

21 (Whereupon, a closed session was held.)

22 **GAYLE MILLER:** The board met in closed session
23 pursuant to Government Code Sections 11126(e)(1) and
24 (e)(2)(c). And the State Allocation Board decided to
25 initiate joint litigation with the California School

1 Finance Authority. Are there any questions? Any final
2 opportunity for public comments, please use the raised
3 hand feature.

4 Seeing none, thank you, Ms. Silverman. Immense
5 gratitude for your service and thank you, thank you.

6 Thanks everyone. Have a great afternoon. Take
7 care. Bye-bye.

8 **MS. SILVERMAN:** Bye. Have a good one.

9

10 (End of recording)

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

