

# AB 1643 – California Heat Study: Advisory Committee Meeting

10:00am – 12:00pm

June 27, 2023



# Agenda

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## AB 1643 – California Heat Study: Advisory Committee

- I. Welcome and Introductions
- II. Legislative mandate of AB 1643
- III. Recommendations for Scope of Heat Study – Discussion
- IV. Public Comment
- V. Adjourn

# I. Introductions

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- Cal/OSHA Chief, Jeff Killip
- Committee Members

# Bagley-Keene Open Meetings Act: An Overview

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Kumani Armstrong,  
DIR Special Counsel

# I. What is Bagley Keene?

## 1. The Bagley-Keene Open Meeting Act (“the Act”) is set forth in Government Code sections 11120-11133.

- The Act covers multimember bodies. \*\*A multimember body is three or more people. Examples: state boards, commissions, advisory committees, councils, panels.
- The body must be created by statute or required by law to conduct official meetings.
- Generally, the Act ensures transparency and requires that these bodies publicly notice their meetings, prepare agendas, accept public testimony, and conduct their meetings in public unless specifically authorized by the Act to meet in closed session.
- Currently, the Act permits meetings to be conducted via teleconference and members can appear remotely.

## 2. What is a Meeting? Broad Interpretation.

The issue of what constitutes a meeting is one of the more complicated subjects under the Act.

- A meeting occurs when a quorum (majority) convenes, either serially or all together, in one place, to address issues under the body's jurisdiction.
- A meeting includes gatherings where members discuss issues or receive information relevant to the business of the advisory committee.

# II. Pitfalls and Things to Avoid

- 1. Serial Meetings – The Act expressly prohibits the use of direct communication, personal intermediaries, or technological devices that are employed by a majority of the members of the state body to develop a collective concurrence as to action to be taken on an item by the members of the state body outside of an open meeting.**
  - Typically, a serial meeting is a series of communications, each of which involves less than a quorum of the committee, but which taken as a whole involves a majority of the body's members.
    - Example 1: A chain of email communications involving contact from member A to member B who then communicates with member C would constitute a serial meeting in the case of a five-person body.

- Example 2: When a person acts as the hub of a wheel (member A) and communicates individually with the various spokes (members B and C), a serial meeting has occurred.
- Example 3: Intermediaries for board members have a meeting to discuss issues. When a representative of member A meets with representatives of members B and C to discuss an agenda item, the members have conducted a serial meeting through their representatives acting as intermediaries.

## **2. Public contact of individual members.**

- A communication from a member of the public to discuss an issue does not violate the Act. The difficulty arises when the individual contacts a quorum of the body. So long as the body does not solicit or orchestrate such contacts, they would not constitute a violation of the Bagley-Keene Act. Because of the high risk of impermissible contacts, it is not advisable for a body to allow these individual contacts to occur.



# III. Key Takeaways

Avoid talking about any advisory committee business or potential advisory committee business with other members outside of a public meeting.

- Goal is transparency
- Use common sense
- To the extent feasible, avoid discussing advisory committee business with the public outside of a public meeting.
- When in doubt, do not discuss advisory committee business outside of a public meeting and seek legal counsel.
- The Act provides for remedies and penalties in situations where violations occur. The decision of the body may be overturned, violations may be stopped or prevented, costs and fees may be awarded, and in certain situations, there may be criminal misdemeanor penalties imposed as well with the intent to deprive the public of information.

## II. Legislative Mandate of AB 1643

AB-1643 Labor and Workforce Development Agency: heat: advisory committee study.  
(Rivas, Chapter 263, Statutes of 2022)



- Establish an advisory committee to study and evaluate the effects of heat on California's workers, businesses, and the economy on or before July 1, 2023. In considering the effects of heat on California's workers, businesses, and the economy, the advisory committee will recommend a study that addresses prescribed topics relating to data collection, certain economic losses, injuries and illnesses, and methods of minimizing the effect of heat on workers. The advisory committee will be composed of specified representatives from state agencies, labor and business entities, and academia, of which will include the Division of Occupational Safety and Health (Cal/OSHA).

- The advisory committee will meet to recommend the scope of a study to the Labor Workforce Development Agency and issue a report of its findings to the Legislature no later than January 1, 2026.

California

# AB 1643 – Committee Composition

The advisory committee is comprised of the following members:

- A. The Secretary of Labor and Workforce Development, or their designee.
- B. One representative from, and appointed by, the Department of Industrial Relations.
- C. One representative from, and appointed by, the Division of Occupational Safety and Health.
- D. One representative from, and appointed by, the Employment Development Department.
- E. One representative from, and appointed by, the Business, Consumer Services and Housing Agency.
- F. One representative from, and appointed by, the Division of Workers' Compensation.
- G. One representative from the Climate Change and Health Equity Section, within and appointed by the State Department of Public Health.
- H. One representative appointed by the Labor and Workforce Development Agency, from a labor union, who has demonstrated expertise in high heat-related exposure.
- I. One representative appointed by the Labor and Workforce Development Agency, from a business, who has demonstrated expertise in high heat-related exposure.
- J. Three scholars, including at least one economist, appointed by the Labor and Workforce Development Agency, who have demonstrated expertise in high heat-related exposure.
- K. One representative from, and appointed by, the Governor's Office of Planning and Research.

# AB 1643 – Objectives

The advisory committee will meet periodically throughout 2023 to accomplish the following:

- Recommend the scope of a study to the agency.
- Consider the effects of heat on California's workers, businesses, and the economy, and recommend a study that addresses some or all of the following topics:



- How to improve data collection regarding worker injuries, illnesses, or deaths as well as losses to businesses and the economy to more accurately capture those traceable to heat.
- Time away from work and lost wages due to heat.
- The frequency at which different types of occupational injuries and illnesses occur at given temperatures and humidity levels, including injuries and illnesses not directly attributable to heat exposure.
- Underreporting of heat illnesses and injuries covered by workers' compensation, especially among low-income employees, including the underreporting of occupational heat exposure with effects on workers after their shifts.
- Evidence-based methods of minimizing the effect of heat on workers.

# **AB 1643 – REPORT TO THE LEGISLATURE**



(b) The advisory committee may contract with academic institutions or other researchers to complete its work.

(c) (1) The advisory committee shall issue and submit a report of its findings to the Legislature, including, but not limited to, the Assembly Labor and Employment Committee and the Senate Labor, Public Employment and Retirement Committee, no later than January 1, 2026.

(2) The report required pursuant to paragraph (1) shall be submitted in compliance with Section 9795.

(d) This section shall remain in effect only until January 1, 2027, and as of that date is repealed.

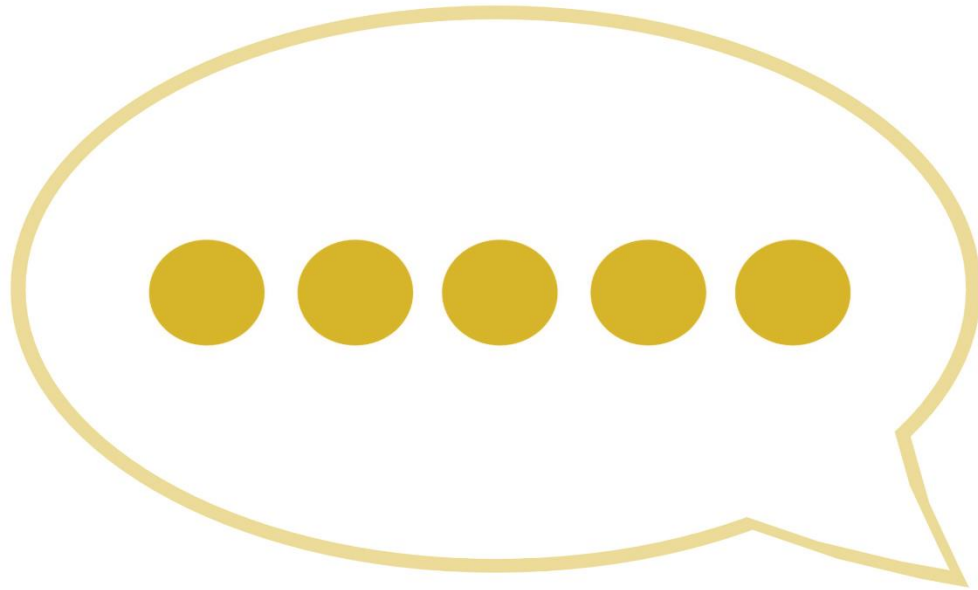


# III. Recommendations For Scope of Study

## Discussion

# IV. Public Comment

(Limited to 3 minutes for each comment)



# Thank you!

If you have any questions  
or additional comment,  
please email:

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