

# AGENDA ITEM

112 NOVEMBER 20 2015

**DATE:** November 9, 2015

**TO:** Members, Board Executive Committee  
Members, Board of Trustees

**FROM:** Vanessa Holton, General Counsel  
Dina Goldman, Acting Chief Assistant General Counsel

**SUBJECT:** Bagley-Keene Implementing Procedures

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## EXECUTIVE SUMMARY

Under the provisions of the recently enacted fee bill, the State Bar will be required to comply with the Bagley-Keene Open Meeting Act, effective April 1, 2016. While the Bar's existing open meeting rules are largely compliant with Bagley-Keene, full compliance will require the Board of Trustees to modify some of its existing open meeting practices.<sup>1</sup> The Bar's existing rules on open meetings will be superseded by the provisions of Bagley-Keene. The Executive Committee has recommended that the Board of Trustees repeal these rules. The Executive Committee also requested staff to prepare Implementing Procedures to guide the Board's compliance with Bagley-Keene. This item presents Implementing Procedures for adoption by the Board.

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## BACKGROUND

Existing law requires that every meeting of the Board of Trustees must be open to the public, with only specific exceptions for closed session. (Bus. & Prof. Code, § 6026.5) In 2011, the Legislature added section 6026.7 to the Business and Professions Code to require that the Board "ensure that its open meeting requirements ... are consistent with, and conform to Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Division 3 of Title 2 of the Government Code)."<sup>2</sup>

Senate Bill No. 387, approved by the Governor and chaptered by the Secretary of State on October 6, 2015, at Chapter 537, Statutes of 2015, ("SB 387") will subject the State Bar to all requirements of Bagley-Keene, commencing April 1, 2016. SB 387 will also retain the grounds for closed sessions permitted by Business and Professions Code section 6026.5 and these provisions, pursuant to Bagley-Keene, would be applicable to

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<sup>1</sup> State Bar President David Pasternak would like the Board to begin following Bagley-Keene on January 1, 2016, in advance of the April 1 effective date of the amendment to section 6026.7, at the same time as compliance with required with the Open Records Act.

<sup>2</sup> Hereinafter, "Bagley-Keene."

all committees of the Board and the State Bar.<sup>3</sup> The Bar's existing rules on open meetings will be superseded by the provisions of Bagley-Keene and the Executive Committee has recommended to the Board that they should be repealed.

## **DISCUSSION**

As requested by the Executive Committee, this item presents Implementing Procedures to guide the Board in its compliance with Bagley-Keene. Attachment A contains the proposed Implementing Procedures for adoption by the Board.

## **FISCAL/PERSONNEL IMPACT**

Not applicable, however the Board will need to consider the expense of staff time, travel, off-site meetings in the preparation of the State Bar's 2016-2018 budget as a result of estimated additional meetings of committees of the Board and State Bar required to comply with Bagley-Keene.

## **RULE AMENDMENTS**

N/A

## **BOARD BOOK IMPACT**

Replaces tab 10, article 1, section 3.

## **BOARD COMMITTEE RECOMMENDATIONS**

The Board Executive Committee recommends that the Board of Trustees approve the following resolution:

**RESOLVED**, that the Board of Trustees hereby adopts the Implementing Procedures For Board Of Trustee Compliance With The Bagley-Keene Open Meeting Act, in the form attached hereto.

## **ATTACHMENT(S) LIST**

- A.** Implementing Procedures For Board Of Trustee Compliance With The Bagley-Keene Open Meeting Act.

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<sup>3</sup> SB 387 amended Business and Professions Code section 6026.5, which contains the existing permissible grounds under which the Board may go into closed session to provide that the meetings of the Board under the statute are "[p]ursuant to [new] Section 6026.7," which states that "... all meetings of the State Bar are subject to the Bagley-Keene Open Meeting Act...." (SB 387, §§ 3, 5.)