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Assembly Committee on Appropriations
Legislative Office Building
1021 O Street, Suite 8220
Sacramento, CA 95814

Re: Oppose, Unless Amended SB 544 (Laird)

Dear Chair Holden and Members of the Committee:

We, the undersigned organizations, respectfully oppose SB 544, as it would make drastic changes to California's landmark Bagley-Keene Open Meeting Act, significantly reducing the transparency, accountability, and democratic nature of California's state bodies. SB 544 would

permit government officials doing consequential work on state boards and commissions to conduct public business entirely virtually, avoiding being present at a physical location where the public and press can directly engage them.

While we understand that virtual meetings and temporary measures amid emergencies may be necessary, public officials serving on public bodies without regularly convening in person results in a reduction of public access. And while we enthusiastically support increased options for remote participation for members of the public, we oppose this bill because it would remove important protections that ensure public meetings are held in public places where Californians can petition their leaders and other government officials face to face.

We recognize recent amendments would require a quorum of members of the body to meet in person for one-half of the body's meetings. That is a compromise the people of California should not make. Therefore, we continue to oppose this bill because it would erode fundamental democratic protections and allow officials to simply phone it in.

California Should be a Leader in Using Technology to Advance Transparency and Civic Engagement, Not a Leader in Undermining Democratic Principles

As the country's most populous state, California serves as a leading example to the rest of the nation. With that, its state agencies hold immense power to make decisions on issues that have far-reaching consequences that may or may not have support from the public. SB 544 would allow the powerful legislative bodies of state agencies to decide, in advance and without public approval, whether to hear, discuss, deliberate, or take action on controversial items within their subject matter jurisdiction outside of the physical presence of the public.

The state bodies that are governed by the Bagley-Keene Act — including the Board of Parole Hearings, California Public Utilities Commission, CalOSHA, California Air Resources Board, California Coastal Commission and Commission on Peace Officers Standards and Training — wield immense regulatory power and make decisions of great consequence for the entire state. To take a recent example, the California Public Utilities Commission could have opted to hold its contentious vote on whether to allow the expansion of driverless taxi services in San Francisco without facing in-person public comment voicing scrutiny over the proposal. POST will begin the process to decertify law enforcement officers and under this bill, the families and victims of police misconduct would not have the opportunity to look those making the decision in the eye, in person or remotely, and express their painful experiences. Giving these bodies the power to designate half of their meetings as fully remote is only an invitation for gamesmanship at the expense of public access.

For journalists who do the important work of informing their communities, SB 544 makes newsgathering even more challenging. A primary newsgathering tool is being able to approach officials, see how decision-makers engage with the public, and observe how officials interact with one another on the dais. By allowing bodies to meet remotely indefinitely, SB 544 significantly hampers the ability of reporters and photographers to provide valuable information to their readers, leaving Californians less informed.

For those who do community organizing and advocate for social change, SB 544 makes this work more challenging. A primary organizing tool of impacted communities is to show up to public meetings in person, face the public officials who are making decisions that affect us all,

and at times raise awareness about important public policy among members of the observing press.

Existing Law Allows for Remote Participation of Members and Includes Guardrails that Have Protected the Public’s Right of Access for Decades

Two laws, the Ralph M. Brown Act and the Bagley-Keene Open Meeting Act, have been protecting Californians’ access to government meetings for decades – since 1953 and 1967, respectively. These laws give the people a seat at the table. They matter to us all. The California Constitution reinforces the Legislature’s long-held commitment to transparency. Specifically, in 2004, voters overwhelmingly voted in favor of Proposition 59, which amended the Constitution to recognize the public’s fundamental right to access public information. Article 1, section 3 explicitly mandates: “The people have the right of access to information concerning the conduct of the people’s business and, therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny.”

In 2022, lawmakers adopted a temporary measure via Section 80 of AB/SB 189, which modified the Bagley-Keene Act to suspend certain requirements of existing law until July 1, 2023, including the requirements that each teleconference location be accessible to the public and that members of the public be able to address the state body at each teleconference location.

SB 544, Even as Amended, Undercuts Existing Law by Making Government Less Transparent

SB 544 would leave the public in a room with one staff member for 50 percent of all meetings until Jan. 1, 2026, a sunset date introduced in the bill via recent amendments. This would fundamentally undermine one of the law’s key protections for public access and participation — the guarantee that the press and public can be physically present in the same room as those sitting on the dais and making decisions. Such physical presence has been a constant hallmark of democratic institutions. Among other things, it allows the public to directly address the body in real time and in person, to read body language, to approach and engage decisionmakers, to see how the public officials interact with one another, and whom else they may be speaking to. With these recent amendments there is nothing preventing these state bodies from putting their most controversial matters on agendas for entirely remote meetings, where they don’t even have to be on camera and can completely avoid public criticism or organization on the most controversial topics.

Officials who are in the same room as their constituents can’t just turn down the volume on criticism. SB 544 jeopardizes this public access by permitting public officials to “phone it in” and meet entirely telephonically if they so choose. This forces the public to try to follow along with zero visual cues, guessing at speakers’ voices and addressing public officials by audio only. For one-half of the body’s public meetings, the only option for members of the public who wish to attend in person, would be access to a room with an agency staffer, not a member of the body.

Virtual Access Can Increase Civic Engagement But It Cannot Be the Only Method of Access

The undersigned organizations, diverse in our missions but united in the need for government transparency and increased civic engagement, welcome additional options for virtual

attendance and participation by the public. We applaud the many government bodies all over the state that have successfully implemented hybrid public-meetings models, giving the public and press the option to attend and participate in person or by phone or video. Existing law does not prohibit these hybrid models. Unfortunately, SB 544 only guarantees virtual access for the public in the event members are participating virtually. And even then, under SB 544, participation can be limited to audio access, if the body so chooses, depriving the public of the ability to even see officials doing the public's business.

To address these issues, we seek amendments requiring a physical quorum of members in one location open to the public for all meetings; a requirement that officials who elect to use teleconferencing appear by video and that video access be made available to the public; and guardrails around technology disruptions and public comment.

Existing Law Allows for Remote Participation By Members and Include Guardrails That Protect the Public's Right of Access to Government Bodies

Before the temporary provisions introduced in 2022 AB/SB 189, the Bagley-Keene Act already allowed bodies to offer teleconferencing options for the public and allowed individual members to participate remotely with some relatively modest requirements, namely that (1) each member of the state body must participate from a location open to the public and (2) the agenda must be posted at the meeting location within specified time frames prior to the meeting. While we understand that these requirements may seem more burdensome than those that apply to the "all remote" environment many became used to amid the COVID-19 pandemic, they are modest – and, more importantly, that they serve a crucial right of public access, protected in California's Constitution and honored for many years.

While Entirely Remote Meetings May Save the State Some Money, Any Potential Savings Would Not Justify The End of In-Person Public Meetings

Proponents of prior legislation, 2022's SB 1733 (Quirk), argued it would save the state funds that would ordinarily be spent for officials' travel, hotel rooms, a meeting location and other costs associated with bringing individuals together. Whatever the potential savings may be, they are far outweighed by the cost to democracy. The [Little Hoover Commission June 2021 report](#) on remote meetings acknowledges that, in the context of the state budget, "the savings are not large – about half the responding agencies estimated the savings at between \$10,000 and \$50,000 a year." The reality is that while some state agencies may receive small cost savings from this bill, the true costs to democracy are unknown.

Transparency and public participation are vital to holding government accountable. Numerous studies show a correlation between a less engaged and informed citizenry and higher levels of government spending and debt, which is why legislation on teleconferencing should be aimed at further increasing the public's ability to engage through as many channels as possible, as opposed to reducing options.

Fully Remote Meetings Are No Guarantee to Diversifying Legislative Bodies

The undersigned organizations advocate for increased awareness about ways to achieve the goal of greater diversity and equity within government bodies and among the members of the public who attend public meetings. Allowing members to participate remotely and never have to face the public in person is not an effective way to diversify bodies governed by the Bagley-Keene Act. Diversifying our state bodies instead requires public officials to invest in robust

outreach to recruit diverse potential members, provide stipends for unpaid positions and travel, implement an open and transparent selection and appointment process, and exercise the political will to appoint more members from diverse backgrounds to public bodies. Simply allowing current members to join remotely will not create more diverse government bodies.

Proponents Contend Members Should Not Have to Disclose Their Home Addresses. We Agree. But The Problem Is Not the Disclosure Requirements or Opening Private Offices.

We can agree with prior arguments in favor of similar past legislation that certain members of government bodies should not have to disclose their home addresses on meeting agendas or open up their homes to the public. But the problem is not the disclosure requirements – it is the faulty presumption that public officials’ private homes or offices are appropriate places from which to join a public meeting. The public’s right of meaningful access, consistent with the California Constitution, should not be compromised based on the faulty premise that public officials should be attending public meetings from their private homes as the standard, ongoing practice.

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Due to these concerns, we are urging you to vote “NO” on SB 544.

Sincerely,



Brittney Barsotti
General Counsel, California News Publishers Association

Joined by:

- ACLU California Action
- Californians Aware
- California Broadcasters Association
- California Chamber of Commerce
- California Common Cause
- California Taxpayers Association
- CCNMA Latino Journalists of California
- First Amendment Coalition
- Greater Los Angeles Pro Chapter of the Society of Professional Journalists
- Howard Jarvis Taxpayers Association
- Institute of Governmental Advocates
- Media Alliance
- National Press Photographers Association
- NLGJA: The Association of LGBTQ+ Journalists, Los Angeles Chapter
- Orange County Press Club
- Pacific Media Workers Guild, News Guild-Communications Workers of America Local 39521
- Radio Television Digital News Association
- San Franciscans for Sunshine
- San Diego Pro Chapter of the Society of Professional Journalists
- Society of Professional Journalists, Northern California Chapter