

Date of Hearing: April 6, 2015

ASSEMBLY COMMITTEE ON TRANSPORTATION

Jim Frazier, Chair

AB 1284 (Baker) – As Introduced February 27, 2015

SUBJECT: Bay Area state-owned toll bridges: Toll Bridge Program Oversight Committee

SUMMARY: Repeals provisions that exempt the Toll Bridge Project Oversight Committee (TBPOC) from open meeting laws.

EXISTING LAW:

- 1) Directs the Metropolitan Transportation Commission (MTC) and the California Department of Transportation (Caltrans) to establish the TBPOC to consist of the Caltrans director, MTC's executive director, and the executive director of the California Transportation Commission (CTC).
- 2) Assigns TBPOC with the responsibility to: review the Toll Bridge Seismic Safety Retrofit Program's project status, costs, and schedules; resolve project issues; evaluate project changes; develop and regularly update cost estimates, risk assessments, and cash flow requirements; and provide program direction.
- 3) Specifically exempts TBPOC from state and local open meeting laws.
- 4) Declares that it is California's policy that public agencies exist to aid in the conduct of the people's business and that the proceedings of public agencies should be conducted openly so that the public may remain informed.
- 5) Generally requires, under the Bagley-Keene Open Meeting Act, that all meetings of a state body, as defined, be open and public and that all persons be permitted to attend and participate in any meeting of a state body.
- 6) Similarly requires, under the Ralph M. Brown Act, that all meetings of a local government body be open and public and that all persons be permitted to attend and participate in any meeting.

FISCAL EFFECT: Unknown

COMMENTS: AB 144 (Hancock), Chapter 71, Statutes of 2005, established TBPOC to provide project oversight and project control for the Toll Bridge Seismic Safety Retrofit Program in California. Provisions of AB 144 specifically exempted the committee from both state and local agency open meeting act requirements for reasons that are not clear from the bill's historical documents.

The author introduced this bill to provide more transparency to TBPOC deliberations. The author cites problems that have plagued the East Span of the San Francisco-Oakland Bay Bridge

and related investigations as evidence of the need for greater accountability. The author believes that subjecting TBPOC to open meeting law requirements will lead to greater transparency which will, in turn, lead to greater accountability.

Although TBPOC is specifically exempted from open meeting statutes, it voted in May of last year to adopt open meeting policies. These policies reflect many, but not all, of the requirements set forth in existing law to govern meetings of state and local government bodies. According to MTC, while it has "taken important steps to open our process, we have done so in a way that balances the need for openness with the need to conduct business as efficiently as possible. In short, we believe we are now in full compliance with the spirit of Bagley-Keene while maintaining some differences from the law's literal provisions."

One notable difference between existing open meeting laws and TBPOC's open meeting policy is the manner in which closed sessions are addressed. Existing law allows for public agencies to meet in closed session but only under narrow, specified circumstances and within prescribed notifications procedures. TBPOC's open meeting policy, on the other hand, provides for broad closed sessions, as determined necessary by the members of the committee, and allows the committee to limit reporting on closed sessions at subsequent regular meetings.

The work of the TBPOC will be ending shortly. All of the state-owned toll bridges under its oversight have achieved seismic safety and the one remaining project, the demolition of the old east span of the San Francisco-Oakland Bay Bridge, is due to be completed next year.

Committee concerns:

- 1) Membership of the TBPOC is made up of employees of two state agencies (Caltrans and CTC) and one local agency (MTC). By deleting the current exemption from open meeting laws, the bill creates ambiguity that should be resolved because it is not clear whether TBPOC should be governed by statutes that apply to state bodies or to local bodies. The bill should be amended to clarify which provisions the author believes should govern the TBPOC.
- 2) Members of the TBPOC are the director of Caltrans and the executive directors of CTC and of MTC. Caltrans is not defined as a state body under open meeting laws and the executive directors of CTC and MTC are staff to, not members of, the state and local bodies they represent, respectively. Consequently, it is not clear that TBPOC would naturally be considered a state or local body subject to open meeting laws.

Again, to eliminate this ambiguity the bill should be amended to identify which definition of either a state or local body the author believes applies to TBPOC for purposes of subjecting it to open meeting law requirements. Simply deleting the exemption does not provide this clarity.

Double referral: This bill will be referred to the Assembly Local Government Committee should it pass out of this committee.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file

Opposition

None on file

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