

**SENATE JUDICIARY COMMITTEE**  
**Senator Thomas Umberg, Chair**  
**2023-2024 Regular Session**

AB 2841 (Waldron)  
Version: May 1, 2024  
Hearing Date: June 11, 2024  
Fiscal: No  
Urgency: Yes

**SUBJECT**

Controlled substances: Research Advisory Panel: meetings

**DIGEST**

This bill authorizes the Research Advisory Panel of California (RAPC) to meet in closed session for the purpose of discussing, reviewing, and approving research projects that require the sharing of trade secrets, potential intellectual property, or proprietary information in its possession, the public disclosure of which is prohibited by law.

**EXECUTIVE SUMMARY**

RAPC authorizes applications for research projects concerning cannabis or hallucinogenic drugs, or the treatment of the abuse of controlled substances in the state. In August of 2023, RAPC identified an alleged conflict in existing law, mainly that they are subject to the Bagley-Keene Open Meeting Act (Bagley-Keene) which they assert they cannot comply with without violating other existing statutes relating to confidential and proprietary information. Prior to August, RAPC had solely met in closed session. As a consequence of RAPC refusing to meet, research in this state has been plunged into chaos. This bill seeks to address this issue by allowing RAPC to meet in closed session when reviewing and approving research proposal applications. This analysis contains both author proposed amendments and Committee amendments, which will be included in a mock-up at the end of the analysis.

This bill passed the Senate Health Committee on a vote of 11 to 0. This bill is an urgency measure. This bill is supported by MindMed, Inc. No timely opposition was received by the Committee.

## PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Provides, pursuant to the California Constitution, that 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 are required to be open to public scrutiny. (Cal. const. art. I, § 3(b)(1).)
  - a) Requires a statute to be broadly construed if it furthers the people's right of access, and narrowly construed if it limits the right of access. (Cal. const. art. I, § 3(b)(1).)
  - b) Requires a statute that limits the public's right of access to be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest. (Cal. const. art. I, § 3(b)(1).)
- 2) Establishes the Bagley-Keene Act, which requires state bodies to conduct their business in open public meetings, except as provided by the Act, and establishes requirements and procedures for such meetings. (Gov. Code § 11120 et seq.)<sup>1</sup>
  - a) "State bodies" covered by the Bagley-Keene Act include every state board, commission or body created by statute or required by law to conduct official meetings, every commission created by executive order, any board or body exercising the authority of a state body by delegation, any advisory body created by formal action of a state body, any state body that is supported by public funds and on which a member of a state body serves in their official capacity, and the State Bar of California. (§ 11121.)
  - b) "State bodies" do not include specified legislative agencies, agencies subject to the Brown Act, and certain educational and health-related agencies. (§ 11121.1.)
- 3) Authorizes state bodies to meet in closed session for various purposes including, among others, discussing personnel issues, pending litigation, or real estate purchases.
  - a) Provides numerous authorizations to meet in closed session to specific state bodies for certain reasons or purposes, such as to protect the information being discussed. (§ 11126.)
- 4) Authorizes state bodies subject to the Bagley-Keene Act to provide a teleconferencing option – which may be via audio or audiovisual means – for its meetings for the benefit of the public, subject to certain requirements, including that:
  - a) The meeting must be audible to the public at the location specified in the notice of the meeting.

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<sup>1</sup> All further references are to the Government Code unless specified otherwise.

- b) The agenda must provide an opportunity for members of the public to address the legislative body at each teleconference location.
  - c) All votes must be taken via rollcall.
  - d) At least one member of the state body must be physically present at the location specified in the notice of the meeting. (§ 11123.)
- 5) Authorizes state advisory boards and similar advisory bodies to hold a meeting via teleconference, without posting a member's remote location on the agenda or having the location that the member is participating from accessible by the public, if it complies with the following requirements:
- a) A member participating remotely must be listed in the minutes of the meeting.
  - b) The state body must provide public notice at least 24 hours before the meeting that identifies the member(s) participating remotely and the primary physical meeting location; the body need not disclose the remote locations.
  - c) The state body must designate a primary physical location and a quorum of the members must be in attendance at the primary physical meeting location; the remote members do not count towards establishing a quorum.
  - d) The state body must provide a means by which the public may remotely hear audio of, or observe, the meeting, with access equal to the members of the state body participating remotely. Instructions for remote access must be included in the 24-hour meeting notice.
  - e) Upon discovering that a provided means of remote access has failed, the body must end or adjourn the meeting and provide notice regarding when the state body will reconvene. (§ 11123.5.)
- 6) Establishes the Research Advisory Panel of California (RAPC) as an independent panel to encourage further research into the nature and effects of cannabis and hallucinogenic drugs and to coordinate research efforts on such subjects.
- a) Authorizes RAPC to approve research projects, which have been registered by the Attorney General (AG), concerning cannabis or hallucinogenic drugs, or the treatment of abuse of controlled substances in the state. Authorizes RAPC to withdraw approval of a research project at any time.
  - b) Authorizes RAPC to hold hearings on, and in other ways study, research projects concerning cannabis or hallucinogenic drugs and the treatment of abuse of controlled substances. (Health & Saf. Code §11480 & 11481.)
- 7) Requires RAPC to, annually and in a manner it determines, report to the Legislature and the Governor those research projects it approved, the nature of each research project, and the conclusions of the research project, where available. (Health & Saf. Code §11480(g) & 11481.)

This bill:

- 1) Authorizes RAPC to meet in closed session for the purpose of discussing, reviewing, and approving research projects that require the sharing of trade secrets, potential intellectual property, or proprietary information in its possession, the public disclosure of which is prohibited by law.
- 2) Makes the following Legislative findings as to the necessity for limiting the public's access to open meetings and for why the bill is an urgency statute:
  - a) In order to allow the Research Advisory Panel to conduct its review and approval of research studies in a quick manner, protect the privacy of subjects, and maintain the confidentiality of proprietary data, trade secrets, potential intellectual property, or other information, the public disclosure of which is prohibited by state or federal laws, or both, and regulations, it is necessary to provide the advisory panel with this limited exemption from the Bagley-Keene Open Meeting Act.
- 3) States that this statute is urgency statute.

#### COMMENTS

1. Stated need for the bill

The author writes:

The Research Advisory Panel of California (RAPC) has worked in closed sessions for 50 years, considering studies and research on Schedule I and II drugs. Closed sessions are necessary to protect trade secrets submitted by researchers and additionally, the confidentiality of material is required under the Evidence Code and the Public Records Act. Although the Bagley-Keene Open Meeting Act has provided significant transparency for the public, it is in direct conflict with the evidence and government code for panels like the RAPC. This conflict has directly halted progress of research surrounding new treatments, therefore halting progress for Californians and people across the country. AB 2841 will ensure that the RAPC can move forward with the authorization of studies that have been on hold for far too long.

2. Public access to the open meetings is a constitutional and statutory right

In 2004, the right of public access was enshrined in the California Constitution with the passage of Proposition 59 (Nov. 3, 2004, statewide gen. elec.),<sup>2</sup> which amended the California Constitution to specifically protect the right of the public to access and obtain

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<sup>2</sup> Prop. 59 was placed on the ballot by a unanimous vote of both houses of the Legislature. (SCA 1 (Burton, Ch. 1, Stats. 2004))

government records: “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.” (Cal. Const., art. I, sec. 3 (b)(1).) The California Constitution requires a statute to be broadly construed if it furthers the people’s right of access and narrowly construed if it limits the right of access, and requires a statute that limits the public’s right of access to be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest. (Cal. const. art. I, § 3(b)(1).)

Bagley-Keene generally requires state bodies to conduct their meetings openly and make them accessible to the public. The first section of Bagley-Keene lays out the public policy of the act, stating:

It is the public policy of this state that public agencies exist to aid in the conduct of the people’s business and the proceedings of public agencies be conducted openly so that the public may remain informed. In enacting this article the Legislature finds and declares that it is the intent of the law that actions of state agencies be taken openly and that their deliberation be conducted openly.

The people of this state do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created. (§ 11120.)

A state body includes boards, commissions, committees, councils, and any other public agencies created by state statute or executive order, with some exceptions, and the State Bar. (§ 11121.) The law does not apply to individual officials, advisory committees with no decision-making authority, or the California State Legislature. The law also requires state bodies to provide advance notice of their meetings and agendas and to allow public comments on matters under consideration. (Gov. Code § 11125.) Bagley-Keene allows state bodies to meet in closed sessions for the purposes of discussing personnel issues, pending litigation, or real estate purchases. (§ 11126.) Additionally, there are several authorizations to meet in closed session granted to specific state bodies for certain reasons or purposes, such as to protect the information being discussed. (*Id.*)

State bodies must provide at least ten days’ notice before a meeting, specifying the time and location, and post an agenda containing a brief description of each item to be discussed or acted upon. (§ 11125.) The agenda must be made available to the public, and state bodies cannot discuss or take action on items not listed on the agenda, with limited exceptions for emergency situations. (§ 11125.) State bodies must conduct their meetings openly, ensuring that members of the public can attend and participate without any restrictions based on race, gender, disability, or other discriminatory factors. (§ 11123.) Bagley-Keene also requires state bodies to provide reasonable

accommodations for individuals with disabilities, ensuring accessibility to meetings and materials. (§ 11123.1.) The public has the right to address state bodies on any agenda item before or during the meeting. (§ 11125.7.) State bodies must provide opportunities for public comment and cannot prohibit criticism of their policies, procedures, or actions. (*Id.*) They may, however, impose reasonable time limits on public comments to maintain order and facilitate the conduct of business. (*Id.* at subd. (b).)

3. RAPC ceased meeting in August of 2023 because it claims it cannot meet openly, which has led to a backlog of applications pending approval

a. *Background on RAPC*

Research entities seeking to conduct research projects concerning cannabis or hallucinogenic drugs or regarding the treatment of abuse of controlled substances in California are required to submit their research proposals or applications to RAPC prior to receiving a federal Drug Enforcement Agency (DEA) license to use controlled substances in the research project. These research projects may be affiliated with public and private research universities, as well as private pharmaceutical companies, drug manufacturers, or other private entities. RAPC evaluates the scientific validity of each proposed project, and is authorized to reject proposals if the panel decides the research is poorly conceived, would produce conclusions of little scientific value, or would not justify the exposure of human subjects in California to the risk of the proposed controlled substance exposure.

RAPC was created by the Legislature in 1972. Members of the panel are required to have expertise in certain fields, and are appointed by various appointing authorities including: the Governor, the Department of Public Health, the State Board of Pharmacy, the University of California, a statewide professional medical society, a private university, and the Attorney General. The Department of Justice (DOJ) provides administrative and legal support to the RAPC. (Health & Saf. Code § 11480.) The Senate Health Committee analysis of this bill states that “RAPC’s work complements a regulatory approval process that includes Institutional Review Boards (IRBs), the Federal Drug Administration (FDA), and DEA review of controlled substance research studies using Schedule I and II controlled substances, or that involve new treatments for misuse of substances, such as fentanyl and other opioids. While the FDA and DEA are government institutions, IRBs are institutional entities registered with the FDA and charged with providing ethical oversight of research involving human subjects.”<sup>3</sup>

b. *RAPC ceases meeting in August 2023*

In August of 2023 RAPC ceased meeting to approve research proposals. It is unclear to Committee staff exactly how backlogged research applications are pending approval,

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<sup>3</sup> Sen. Health Comm. analysis of AB 2841 (2023-24 reg. sess.) as amended May 1, 2024 at p. 2.

but the numbers reported indicate it could be around 70. This number may not be completely accurate of the true backlog as researchers may have not submitted proposals during this chaotic time. Pending applications are not only for new research but can also be for any currently approved projects that are seeking to amend their current proposal or move into the next phase of their research. RAPC's refusal to meet has created havoc in the research community, with repercussions including loss of grant funds and the trickledown effects of this on staffing at research entities, and important research being stymied.

The exact facts of what lead to RAPC choosing to no longer meet is not entirely clear to Committee staff. The situation has been presented to staff as a purported conflict in existing law that was realized in late 2023. Specifically, the conflict is that RAPC is likely subject to Bagley-Keene, and therefore is required to meet openly when meeting to approve research projects, which it has never done in the entirety of its existence. However, the argument has been made that they cannot meet publically due to other laws related to protection of proprietary and confidential information, specifically pointing to provisions in the Evidence Code. A Los Angeles Times article in May of 2024 reported:

The panel had long met behind closed doors to make its decisions, but concerns arose last year that it was supposed to fall under the Bagley-Keene Act, a state law requiring open meetings. Holding those meetings in public, however, raised alarm about exposing trade secrets and other sensitive information. So the panel stopped meeting at all. It has not convened since August. Meetings ordinarily scheduled for every other month have been canceled since October. The result has been a ballooning backlog: As of early May, there were 42 new studies and 28 amendments to existing projects awaiting approval, according to state officials.<sup>4</sup>

*c. RAPC has likely been subject to the provisions of Bagley-Keene since at least 2002*

Committee staff has analyzed the statutes under Bagley-Keene and recently enacted legislation and concludes that there has been no recent change to the Bagley-Keene that has created the purported conflict. In 2001 Bagley-Keene was overhauled and expanded what state entities were required to meet under its provisions in AB 192 (Canciamilla, Ch. 243, Stats. 2001). It is conceivable that prior to AB 192, RAPC would not have met the definition of state body under Bagley-Keene in Section 11121. However, since 2001 the only substantive change made to that section was to include the California State Bar under the definition of state body. The only conclusion staff can come to is that if RAPC is required to meet under Bagley-Keene it has been required to do so since at least 2002 when AB 192 would have become operative. As noted earlier, RAPC has never met in

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<sup>4</sup> Emily Alpert Reyes, *Bill could end holdup for California research on psychedelics and addiction treatment*, L.A. Times (May 7, 2024), available at <https://www.latimes.com/science/story/2024-05-07/california-bill-could-end-holdup-for-studies-on-psychedelics-and-addiction-treatment>.

open session during its entire existence. If there is indeed a conflict under existing law preventing RAPC from meeting it has existed for over 20 years.

*d. Provisions claimed to conflict with requirement to meet openly*

The provisions of the Evidence Code that the author contends conflict with the requirement that RAPC meet openly are contained in Sections 1040, 1060, and 1061 of the Evidence Code. Section 1060 of the Evidence Code provides that the owner of a trade secret has a privilege to refuse to disclose the secret, and to prevent another from disclosing it, if the allowance of the privilege will not tend to conceal fraud or otherwise work injustice if the privilege is claimed by the owner or an employee. (Evid. Code § 1060.) Trade secret is defined in the Civil Code as information, including a formula, pattern, compilation, program, device, method, technique, or process, that:

(1) derives independent economic value, actual or potential, from not being generally known to the public or to other persons who can obtain economic value from its disclosure or use; and (2) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

Section 1040 of the Evidence Code provides that a public entity has a privilege to refuse to disclose official information, and to prevent another from disclosing it, if the privilege is claimed by a person authorized by the public entity to do so, and either of the following apply:

- disclosure is forbidden by an act of the Congress of the United States or a statute of this state; or
- disclosure of the information is against the public interest because there is a necessity for preserving the confidentiality of the information that outweighs the necessity for disclosure in the interest of justice; but no privilege may be claimed under this paragraph if any person authorized to do so has consented that the information be disclosed in the proceeding. In determining whether disclosure of the information is against the public interest, the interest of the public entity as a party in the outcome of the proceeding may not be considered.

4. This bill seeks to authorize RAPC to meet in closed session when discussing applications

The intent of the bill is to allow RAPC to meet in closed session when discussing any application or amendment to an existing application. The bill provides that Bagley-Keene does not prevent RAPC from holding closed sessions for the purpose of discussing, reviewing, and approving research projects that require the sharing of trade secrets, potential intellectual property, or proprietary information in its possession, the public disclosure of which is prohibited by law. The author has proposed some amendments to the bill based on technical assistance and to address concerns raised by stakeholders that the current language in the bill does not fully capture the intent of the



bill. The amendment would authorize closed session to discuss, review, and approve research projects, including applications and amendments to applications, that contain sensitive and confidential information, including, but not limited to, trade secrets, potential intellectual property, or proprietary information, the public disclosure of which is prohibited by law. The term potential intellectual property is not used anywhere in the codes. Intellectual property is a generally understood term and one that is used in numerous code provisions. As such, the author has agreed to remove the word "potential".

The author also seeks to amend the bill to allow RAPC to meet under the teleconference provisions applicable to advisory bodies pursuant to Section 11123.5, which are less stringent than those for state bodies. The author posits that this authorization will assist in RAPC addressing the backlog of applications. The bill is an urgency statute. The author states that this is necessary so that RAPC can begin meeting as soon as possible. These amendments are included in the mock-up at the end of the analysis.

## 5. Concerns

No detailed analysis of RAPC's legal conclusions were provided to the Committee. As such, it is unclear to the Committee if there is truly no way for RAPC to meet its obligations under Bagley-Keene and other requirements of the Evidence Code. Nevertheless, this Committee has passed bills limiting access to public meetings when there are compelling policy reasons to do so. Additionally, Bagley-Keene provides closed session authorizations to specific state entities for specified purposes. For example, the Department of Resources Recycling and Recovery or its auxiliary committees may meet in closed session for the purpose of discussing confidential tax returns, discussing trade secrets or confidential or proprietary information in its possession, or discussing other data, the public disclosure of which is prohibited by law. (*Id.* at (c)(15).)

### *a. Closed session authorization and teleconference authorization*

The closed session meeting authorization under the author's proposed amendment will allow RAPC to continue meeting in closed session, which it had been doing since its inception in 1972. There is not much else that RAPC does that would fall outside of the closed session authorization, so the only real change to RAPC will be that they will have to agendize their meetings and allow for public comment. Under the author's amendment that would allow RAPC to meet under the teleconference provisions applicable to an advisory body, they would only have to provide a means by which the public may remotely hear audio of the meeting or remotely observe the meeting. (§ 1123.5(g).) No members of RAPC would have to actually be physically present at the physical location provided for the public to attend, only a staff member would be required to be present. (*Id.* at (f).) As there was never any public comment allowed before, it is unclear to the Committee if this will provide members of the public a

meaningful opportunity to comment. Additionally, as all votes on applications will be done in closed session, there is no requirement that these votes be reported publically. Some closed session authorizations under Bagley-Keene do require votes taken in closed session to be reported, such as for certain personnel decisions.

Given all of the above, the author has agreed to amend the bill to include a sunset date for both the closed session authorization and the ability to meet under the teleconference provisions that apply to advisory boards. This sunset will allow the RAPC to begin meeting again and begin to quickly address the backlog of applications, while also allowing the Legislature to ensure that RAPC is implementing these provisions in a way that is providing meaningful opportunity for public comment.

Things the Committee may wish to consider when the sunset dates are sought to be extended are:

- should the votes of the members taken in closed session be reported publically;
- is RAPC agendizing their meetings in a manner that gives adequate public notice and an ability to make meaningful public comment; and
- is it appropriate for the limited teleconference provision to be continued if the backlog has been addressed.

*b. Addressing the backlog*

As noted above, there is a large backlog of applications that RAPC will need to address in order to get research in California operational again. Stakeholders are generally supportive of the bill's goal of getting RAPC meeting again, but have expressed understandable concerns with how the backlog will be addressed. The author has agreed to amend the bill to require RAPC to provide a report to the Legislature by January 1, 2026 to provide an update on the backlog of applications that includes, at minimum, the number of backlog applications that have been reviewed and how many are still pending review. These amendments are included in the mock-up at the end of the analysis.

The University of California Office of the President has a support if amended position, writing:

UC is aware of 65 studies waiting to be reviewed by RAP-C. However, given the uncertainty of when RAP-C would resume meetings, there are more studies that have not been submitted for RAP-C review. UC is concerned that if this bill were to pass as written, RAP-C would not be able get through their backlog in an efficient manner, thus further delaying the start of studies or leading to studies being abandoned altogether. This not only impacts California's top research centers but penalizes California residents who may benefit from emerging treatments from these studies. We understand it is the author's intent to ensure that RAP-C begins meeting quickly and approving studies and this bill is not intended to be a

permanent solution. The UC respectfully requests that the bill be amended to ensure that studies currently pending before RAP-C be reviewed prior to the end of year.

As a long-term solution, UC would like to see legislation that addresses the redundant reviews and lengthy delays that RAP-C approval places on UC researchers. We look forward to engaging with the Legislature to ensure critical research continues on emerging treatment for mental health, substance use disorders, and other cutting-edge research without the need for RAP-C review if other applicable federal and institutional reviews are in place.

#### 6. Limitation on access to public meetings

The bill's provisions would limit the public's access to public meetings by allowing RAPC to meet in closed session and via teleconference provisions that apply to advisory bodies. These provisions will address the immediate issue of RAPC not meeting. The sunset date will allow the Legislature to revisit this authorization to more fully assess this limitation on the access to public meetings that this bill authorizes.

#### 7. Statements in support

MindMed, Inc. writes in support stating:

As you are aware, since late 2023 a dispute over the confidential nature of RAPC meetings has resulted in complete dysfunction and gridlock that has stopped all new clinical trials - and amendments to ongoing clinical trials - in the State of California that are overseen by RAPC. A wide range of proposals have been put forward about the role of RAPC and we believe a broader conversation about RAPC and its role is warranted; however, the most urgent and critical need today is to allow the resumption of the promising clinical research overseen by RAPC, as would be accomplished by AB 2841.

California has long been an essential hub of the biopharmaceutical industry in the United States and there are trials underway in the state, which are overseen by RAPC, that have the potential to bring relief to the millions of Californians suffering from mental health disorders. A number of these trials are waiting for approval or are on hold, which could delay the approval of new treatments for these patients who have few existing options for treatment. The state needs RAPC to not be in the impossible position of choosing between either not meeting or being required to publicly disclose the confidential information of patients and research studies being conducted in the state.

**SUPPORT**

None received

**OPPOSITION**

None received

**RELATED LEGISLATION**

Pending Legislation: None known.

Prior Legislation: None known.

**PRIOR VOTES**

Senate Health Committee (Ayes 11, Noes 0)  
Assembly Floor (Ayes 65, Noes 0)  
Assembly Health Committee (Ayes 9, Noes 0)  
Assembly Health Committee (Ayes 15, Noes 0)

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**MOCK-UP OF PROPOSED AMENDMENTS TO AB 2841 (WALDRON):<sup>5</sup>**

**SECTION 1.** Section 11126 of the Government Code is amended to read:

**11126.** (a) (1) Nothing in this article shall be construed to prevent a state body from holding closed sessions during a regular or special meeting to consider the appointment, employment, evaluation of performance, or dismissal of a public employee or to hear complaints or charges brought against that employee by another person or employee unless the employee requests a public hearing.

(2) As a condition to holding a closed session on the complaints or charges to consider disciplinary action or to consider dismissal, the employee shall be given written notice of their right to have a public hearing, rather than a closed session, and that notice shall be delivered to the employee personally or by mail at least 24 hours before the time for holding a regular or special meeting. If notice is not given, any disciplinary or other action taken against any employee at the closed session shall be null and void.

(3) The state body also may exclude from any public or closed session, during the examination of a witness, any or all other witnesses in the matter being investigated by the state body.

(4) Following the public hearing or closed session, the body may deliberate on the decision to be reached in a closed session.

(b) For the purposes of this section, “employee” does not include any person who is elected to, or appointed to a public office by, any state body. However, officers of the California State University who receive compensation for their services, other than per diem and ordinary and necessary expenses, shall, when engaged in that capacity, be considered employees. Furthermore, for purposes of this section, the term employee includes a person exempt from civil service pursuant to subdivision (e) of Section 4 of Article VII of the California Constitution.

(c) Nothing in this article shall be construed to do any of the following:

(1) Prevent state bodies that administer the licensing of persons engaging in businesses or professions from holding closed sessions to prepare, approve, grade, or administer examinations.

(2) Prevent an advisory body of a state body that administers the licensing of persons engaged in businesses or professions from conducting a closed session to discuss matters that the advisory body has found would constitute an unwarranted invasion of

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<sup>5</sup> The amendments may also include technical, nonsubstantive changes recommended by the Office of Legislative Counsel, as well as the addition of co-authors.

the privacy of an individual licensee or applicant if discussed in an open meeting, provided the advisory body does not include a quorum of the members of the state body it advises. Those matters may include review of an applicant's qualifications for licensure and an inquiry specifically related to the state body's enforcement program concerning an individual licensee or applicant where the inquiry occurs prior to the filing of a civil, criminal, or administrative disciplinary action against the licensee or applicant by the state body.

(3) Prohibit a state body from holding a closed session to deliberate on a decision to be reached in a proceeding required to be conducted pursuant to Chapter 5 (commencing with Section 11500) or similar provisions of law.

(4) Grant a right to enter any correctional institution or the grounds of a correctional institution where that right is not otherwise granted by law, nor shall anything in this article be construed to prevent a state body from holding a closed session when considering and acting upon the determination of a term, parole, or release of any individual or other disposition of an individual case, or if public disclosure of the subjects under discussion or consideration is expressly prohibited by statute.

(5) Prevent any closed session to consider the conferring of honorary degrees, or gifts, donations, and bequests that the donor or proposed donor has requested in writing to be kept confidential.

(6) Prevent the Alcoholic Beverage Control Appeals Board or the Cannabis Control Appeals Panel from holding a closed session for the purpose of holding a deliberative conference as provided in Section 11125.

(7) (A) Prevent a state body from holding closed sessions with its negotiator prior to the purchase, sale, exchange, or lease of real property by or for the state body to give instructions to its negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease.

(B) However, prior to the closed session, the state body shall hold an open and public session in which it identifies the real property or real properties that the negotiations may concern and the person or persons with whom its negotiator may negotiate.

(C) For purposes of this paragraph, the negotiator may be a member of the state body.

(D) For purposes of this paragraph, "lease" includes renewal or renegotiation of a lease.

(E) Nothing in this paragraph shall preclude a state body from holding a closed session for discussions regarding eminent domain proceedings pursuant to subdivision (e).

(8) Prevent the California Postsecondary Education Commission from holding closed sessions to consider matters pertaining to the appointment or termination of the Director of the California Postsecondary Education Commission.

(9) Prevent the Council for Private Postsecondary and Vocational Education from holding closed sessions to consider matters pertaining to the appointment or termination of the Executive Director of the Council for Private Postsecondary and Vocational Education.

(10) Prevent the Franchise Tax Board from holding closed sessions for the purpose of discussion of confidential tax returns or information the public disclosure of which is prohibited by law, or from considering matters pertaining to the appointment or removal of the Executive Officer of the Franchise Tax Board.

(11) Require the Franchise Tax Board to notice or disclose any confidential tax information considered in closed sessions, or documents executed in connection therewith, the public disclosure of which is prohibited pursuant to Article 2 (commencing with Section 19542) of Chapter 7 of Part 10.2 of Division 2 of the Revenue and Taxation Code.

(12) Prevent the Board of State and Community Corrections from holding closed sessions when considering reports of crime conditions under Section 6027 of the Penal Code.

(13) Prevent the State Air Resources Board from holding closed sessions when considering the proprietary specifications and performance data of manufacturers.

(14) Prevent the State Board of Education or the Superintendent of Public Instruction, or any committee advising the board or the Superintendent, from holding closed sessions on those portions of its review of assessment instruments pursuant to Chapter 5 (commencing with Section 60600) of Part 33 of Division 4 of Title 2 of the Education Code during which actual test content is reviewed and discussed. The purpose of this provision is to maintain the confidentiality of the assessments under review.

(15) Prevent the Department of Resources Recycling and Recovery or its auxiliary committees from holding closed sessions for the purpose of discussing confidential tax returns, discussing trade secrets or confidential or proprietary information in its possession, or discussing other data, the public disclosure of which is prohibited by law.

(16) Prevent a state body that invests retirement, pension, or endowment funds from holding closed sessions when considering investment decisions. For purposes of consideration of shareholder voting on corporate stocks held by the state body, closed sessions for the purposes of voting may be held only with respect to election of

corporate directors, election of independent auditors, and other financial issues that could have a material effect on the net income of the corporation. For the purpose of real property investment decisions that may be considered in a closed session pursuant to this paragraph, a state body shall also be exempt from the provisions of paragraph (7) relating to the identification of real properties prior to the closed session.

(17) Prevent a state body, or boards, commissions, administrative officers, or other representatives that may properly be designated by law or by a state body, from holding closed sessions with its representatives in discharging its responsibilities under Chapter 10 (commencing with Section 3500), Chapter 10.3 (commencing with Section 3512), Chapter 10.5 (commencing with Section 3525), or Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 as the sessions relate to salaries, salary schedules, or compensation paid in the form of fringe benefits. For the purposes enumerated in the preceding sentence, a state body may also meet with a state conciliator who has intervened in the proceedings.

(18) (A) Prevent a state body from holding closed sessions to consider matters posing a threat or potential threat of criminal or terrorist activity against the personnel, property, buildings, facilities, or equipment, including electronic data, owned, leased, or controlled by the state body, where disclosure of these considerations could compromise or impede the safety or security of the personnel, property, buildings, facilities, or equipment, including electronic data, owned, leased, or controlled by the state body.

(B) Notwithstanding any other law, a state body, at any regular or special meeting, may meet in a closed session pursuant to subparagraph (A) upon a two-thirds vote of the members present at the meeting.

(C) After meeting in closed session pursuant to subparagraph (A), the state body shall reconvene in open session prior to adjournment and report that a closed session was held pursuant to subparagraph (A), the general nature of the matters considered, and whether any action was taken in closed session.

(D) After meeting in closed session pursuant to subparagraph (A), the state body shall submit to the Legislative Analyst written notification stating that it held this closed session, the general reason or reasons for the closed session, the general nature of the matters considered, and whether any action was taken in closed session. The Legislative Analyst shall retain for no less than four years any written notification received from a state body pursuant to this subparagraph.

(19) Prevent the California Sex Offender Management Board from holding a closed session for the purpose of discussing matters pertaining to the application of a sex offender treatment provider for certification pursuant to Sections 290.09 and 9003 of the



Penal Code. Those matters may include review of an applicant's qualifications for certification.

(20)(A) Prevent the Research Advisory Panel established in Sections 11480 and 11481 of the Health and Safety Code from holding closed sessions for the purpose of discussing, reviewing, and approving research ~~projects that require the sharing of~~ *projects, including applications and amendment applications, which contain sensitive and confidential information, including, but not limited to, trade secrets, potential intellectual property, or proprietary information in its possession, the public disclosure of which is prohibited by law.*

*(B) This paragraph shall become inoperative on January 1, 2027.*

[...]

SEC 2. *Section 11480.5 is added to the Health and Safety Code to read:*

*(a) The Research Advisory Panel shall be considered a multimember advisory body solely for the purposes of Section 11123.5 of the Government Code.*

*(b) The panel shall provide a report to the Legislature on or before January 1, 2026 that provides an update on the backlog of applications that includes, at minimum, the number of backlog applications that have been reviewed and how many are still pending review.*

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