

Date of Hearing: April 4, 2018

ASSEMBLY COMMITTEE ON GOVERNMENTAL ORGANIZATION

Adam Gray, Chair

AB 2917 (Cooper) – As Introduced February 16, 2018

SUBJECT: California Horse Racing Board: public records: votes

SUMMARY: Would require that a public record of every vote of the California Horse Racing Board (CHRB) be posted on the CHRB's Internet Web site no later than 48 hours after the vote is taken.

EXISTING LAW:

- 1) Provides that the CHRB regulate the various forms of horse racing authorized in this state.
- 2) Specifies that CHRB consists of seven members, appointed by the Governor, and that each member shall hold office for a term of four years, commencing at the expiration of the previous term.
- 3) Requires the CHRB to appoint an executive director. The executive director shall keep a full and true record of all proceedings of the board, preserve at the board's general office all books, documents, and papers of the board, prepare for service such notices and other papers as may be required of him or her by the board, and perform such other duties as the board may prescribe.
- 4) Requires the CHRB to establish and maintain a general office for the transaction of its business in Sacramento. The CHRB may establish any branch office for the transaction of its business at a place to be determined by it, and may hold meetings at any other place within the state when the interests of the public may be better served.
- 5) Requires a public record of every vote be maintained at the CHRB's general office. Specifies that at least four members of the CHRB shall concur in the taking of any official action or in the exercise of any of the board's duties, powers, or functions.
- 7) Requires, under the Bagley-Keene Act (Act), that all meetings of state bodies be open to the public, with certain specific exceptions.
- 8) Requires, under the California Public Records Act (CPRA), for state and local agencies to make their records available for public inspection, unless an exemption from disclosure applies.

FISCAL EFFECT: Unknown

COMMENTS:

Purpose of the bill. According to the author's office, while existing law requires that votes of the CHRB be maintained at a general office in Sacramento, there is currently no requirement that votes taken by board members of the CHRB be made available to the public on its Internet Web site.

The author's office contends that requiring these votes to be posted on the CHRB's Internet Web site within 48 hours, provides members of the public with another option for accessing this information in a timely manner. Additionally, this bill helps ensure that the public is aware of the actions taken by the CHRB, which promotes openness and transparency in decision-making.

California Horse Racing Board. The mission of the CHRB is to ensure the integrity, viability, and safety of the California horse racing industry by regulating pari-mutuel wagering for the protection of the public, promoting horse racing, breeding, and wagering opportunities, and fostering safe racing through the development and enforcement of track safety standards and regulations for the health and welfare of all participants.

The principal functions of the CHRB are to adopt rules and regulations to protect the public and ensure the safety of human and equine athletes; license racing associations and racing-industry participants; allocate race days to racing associations and fairs; monitor and audit pari-mutuel handle and takeout; assess racing surfaces and implement safety standards; enforce laws, rules and regulations pertaining to horse racing; and act as a quasi-judicial body in matters pertaining to horse racing.

The seven-member board operates through an executive director, who is responsible for operations and the regulation of the horse-racing industry. The executive director is directed to provide public notice of committee meetings in accordance with the Bagley-Keene Open Meeting Act. According to the 46th Annual Report of the CHRB, "Racing commissioners met 24 times in 2016 for public Board and Committee meetings. Noticed meetings are open to the public and include a published agenda"

Bagley-Keene Act. When the Legislature enacted the Bagley-Keene Act of 1967, it essentially said that when a body sits down to develop its consensus, there needs to be a seat at the table reserved for the public. In doing so, the Legislature has provided the public with the ability to monitor and be part of the decision-making process. The Act explicitly mandates open meetings for California state agencies, boards, and commissions. It facilitates transparency of government activities and protects the rights of citizens to participate in state government deliberations. Therefore, absent a specific reason to keep the public out of meetings, the public should be allowed to monitor and participate in the decision-making process. Similarly, California's Brown Act of 1953 protects citizen's rights to open meetings at the local and county government levels.

California Public Records Act. The CPRA presumes that all records held by the government are accessible to the public unless expressly made exempt from disclosure. It gives members of the public two main rights: the right to inspect records free of charge and the right to obtain a copy of records after paying for the direct costs of duplication or a statutory fee.

The law gives agencies time periods for responding to a request; once a request is made, the agency must either produce the records in a reasonable amount of time, as specified, or justify its decision to withhold the record by showing that the record is exempt under an expressed provision of law or that the public interest in disclosure of the record is clearly outweighed by the public interest in nondisclosure. There are several general categories of documents or information that are exempt from disclosure, essentially due to the character of the information. The CPRA allows a member of the public to sue to enforce the law and provides that a prevailing plaintiff can recover attorney fees and costs of bringing the suit.

Prior legislation: AB 2257 (Maienschein), Chapter 265, Statutes of 2016. Imposed additional requirements for online postings of agendas for the public meetings of local agency governing bodies.

SB 399 (Hall, 2015). Would have required that a public record of every vote of the California Gambling Control Commission be posted on their Internet Web site no later than 48 hours after the vote is taken. (Amended to address an issue pertaining to tidelands and submerged lands)

AB 85 (Wilk, 2015). Would have modified the Act to require two-member advisory committees of a “state body” to hold open, public meetings, if at least one member of the advisory committee is a member of the larger state body and the advisory committee is supported, in whole or in part, by state funds. (Vetoed by Governor Brown)

AB 2720 (Ting), Chapter 510, Statutes of 2014. Required a state body to publicly report any action taken and the vote or abstention on that action of each member present for the action.

SB 103 (Liu, 2011). Would have required, upon the request of a member of a state body, a state body to hold an open or closed meeting by teleconference. In addition, the bill would have required state agencies that operate internet websites to provide a live audio or video feed on the website for any board meetings that are open to the public. (Held in Assembly Appropriations Committee)

SB 519 (Committee on Governmental Organization), Chapter 92, Statutes of 2007. Amended the Act to authorize the calling of a special meeting to provide for an interim executive officer of a state body upon the death, incapacity, or vacancy in the office of the executive officer.

SB 95 (Ayala), Chapter 949, Statutes of 1997. Made various changes to the Act by expanding the notice, disclosure and reporting requirements for open and closed meetings of state bodies.

REGISTERED SUPPORT / OPPOSITION:

Support

California Authority of Racing Fairs (Sponsor)

Opposition

None on file

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