

Date of Hearing: April 18, 2017

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS

Rudy Salas, Chair

AB 710 (Wood) – As Amended March 27, 2017

SUBJECT: Department of Consumer Affairs: boards: meetings.

SUMMARY: Requires boards under the jurisdiction of the Department of Consumer Affairs (DCA) to meet at least once every other year in rural northern California.

EXISTING LAW:

- 1) States that the boards, bureaus, and commissions under the jurisdiction of the DCA are established for the purpose of ensuring that those private businesses and professions deemed to engage in activities which have potential impact upon the public health, safety, and welfare are adequately regulated in order to protect the people of California (Business and Professions Code (BPC) Section 101.6)
- 2) Requires boards to meet at least three times each calendar year, at least once each year in northern California and once each year in Southern California in order to facilitate participation by the public and its licensees. (BPC Section 101.7(a))
- 3) Authorizes the Director of the DCA to exempt any board from the requirement set forth in number 2) upon a showing of good cause that the board is not able to meet at least three times in a calendar year. (BPC Section 101.7(b))
- 4) Authorizes the Director of the DCA to call for a special meeting of a board when a board is not fulfilling its duties. (BPC Section 101.7(c))
- 5) Requires an agency that plans to webcast a meeting to include in the required meeting notice a statement of the board's intent to webcast the meeting, but does not prohibit the board from webcasting a meeting if the board fails to include the statement. (BPC Section 101.7(e))
- 6) States that each member of a board, commission, or committee is required to receive a per diem of one hundred dollars (\$100) for each day actually spent in the discharge of official duties and is to be reimbursed for traveling and other expenses necessarily incurred in the performance of official duties. (BPC Section 103)

THIS BILL:

- 1) Requires boards under the jurisdiction of the DCA to meet at least once every other calendar year in rural northern California.

FISCAL EFFECT: Unknown. This bill is keyed fiscal by the Legislative Counsel.

COMMENTS:

Purpose. This bill is sponsored by the author. According to the author, "the California [DCA] currently oversees over forty boards within its jurisdictions. These boards are in charge of the professional licensure of medical professionals, contractors, engineers, and many other professions. Given the wide range of issues covered by each board, current law requires each board to meet at least once in Northern California and at least once in Southern California each calendar year. This meeting requirement helps ensure that stakeholders from all over the state have an opportunity to be heard by the boards that are responsible to regulate and license them. Unfortunately, far too many times, board meetings do not take place in the rural parts of northern California. A board that meets in Santa Rosa, California would satisfy the northern California requirement, but there are still hundreds of miles north of Santa Rosa. If the board did not have any other planned meetings in northern California, a person from Crescent City, California would have to travel over 300 miles and over five hours to attend the board's meeting in Santa Rosa. [This bill] requires boards within DCA to meet at least once every other year in rural northern California. This will ensure that our rural communities have a fair opportunity to have their voices heard at board meetings."

Background. The DCA is one of eight agencies operating under the direction of the Business, Consumer Services and Housing Agency. The DCA issues almost 3 million licenses, certificates, and approvals to individuals and businesses in over 250 categories. DCA entities are semiautonomous regulatory bodies with the authority to set their own priorities and policies and take disciplinary action on their licensees. Board members are representatives of the public and of the profession a particular board oversees. The composition of each board is outlined in statute, with members appointed by the Governor and Legislature. Within the DCA are 40 entities, including 26 boards, 10 bureaus, 2 committees, 1 program, and 1 commission.

Board Composition and Meeting Requirements. Boards are semiautonomous entities with the authority to set their own priorities and policies and take disciplinary action on their licensees. Members of a board are usually split between representatives of the profession and representatives of the public. Board members are appointed by the Governor, the Senate Rules Committee, or the Speaker of the Assembly. The number of board members, who they represent, and who appoints them is set in state law. Membership on a DCA board is not a salaried position and those individuals who voluntarily serve on a board receive a small stipend of one hundred dollars (\$100) for each day actually spent in the discharge of official duties, board members are also reimbursed for traveling and other expenses incurred to attend board meetings as specified in the BPC. Both public and professional board members are often employed in ventures outside of the board in which they sit on; professional members may have practices or businesses which are completely separate from their role as a board member. Attendance and participation at a board meeting can require board members to take time away from their current employment or family responsibilities to participate in the process. Each board's quorum requirements to conduct official board business, including taking office votes are set forth in statute.

Under current law, each board is required to meet at a minimum of three times per year; at least once in northern California and at least once in southern California. Current law also permits the director of the DCA to exempt a board from these meeting requirements upon a showing of good

cause that the board is unable to meet at least three times per year. This bill would require boards to meet at least once every other year in rural northern California.

Bagley Keene Open Meeting Act. Board meetings are subject to the Bagley-Keene Open Meeting Act (Act) which generally requires boards to publicly notice their meetings, prepare agendas, accept public testimony, and conduct their meetings in public unless specifically authorized by the Act to meet in closed session. Agendas are required to be posted at a minimum of ten days prior to the board meeting there are limitations on topics addressed at a board meeting which are not noticed on the agenda. This bill would not alter boards' current requirements to comply with the provisions of the Act.

Prior Related Legislation. SB 1243 (Lieu) Chapter 395, Statutes of 2014, increased the transparency of information distributed by the DCA; requiring the DCA, the Attorney General, and the Office of Administrative Hearings to submit specified reports to the Legislature annually; enhancing unlicensed advertising enforcement; and, establishing a board member mentor program, among other things; extends until January 1, 2017 the provisions establishing the Veterinary Medical Board and the term of the executive officer; extends the Certified Common Interest Development Manager program and the Tax Preparer program until January 1, 2019.

SB 1047 (Senate Committee on Business, Professions and Economic Development), Chapter 354, Statutes of 2007, required all regulatory boards under the DCA to meet at least three times per calendar year, at least once in Northern California and once in Southern California, and authorizes the Director of DCA to exempt any regulatory board from the three-meeting requirement, upon a showing of good cause and to call a special meeting of any regulatory board when that regulatory board is not fulfilling its duties. Makes several non-controversial, minor or technical changes to statutes administered by various bureaus and boards under DCA.

IMPLEMENTATION ISSUES:

Public and stakeholder participation in board meetings are vital components of the deliberation process for boards in exercising their licensing, education and enforcement responsibilities as demonstrated by the current mandate for boards to meet in northern and southern California annually and the encouragement for boards to webcast meetings as often as possible. However, given travel, personnel, and budget constraints, the Committee may wish to note the implementation issues below:

- 1) Rural Northern California: As currently drafted, it is unclear what defines "rural" northern California. In addition, it is unclear why requiring meetings in rural locations of California would be limited to only those in Northern California.
- 2) Accessibility: Board members reside throughout California and are required to travel from their home city to attend board meetings which typically occur during normal business hours Monday through Friday. Travel opportunities to rural northern California could prove to be challenging for some board members which could prohibit their participation at a meeting. If the travel is too cumbersome, or requires too much time away from their current employment or family commitments, board participation could be reduced at those meetings, which could limit a board's ability to achieve a quorum.

- 3) Costs: Boards are special fund entities and receive no General Fund monies, relying solely on fees collected from licensed persons (real estate agents, physicians, architects, accountants, etc.). Board meetings held in locations outside of Sacramento (at the DCA or other state buildings) increase board costs in the form of staff travel expenses and facility costs. Board member travel expenses, staff travel expenses, and facility rental fees are all paid for through the collection of various licensee fees. The cost to travel to rural northern California could increase (given limited travel options) board costs, thereby potentially increasing licensee fees.
- 4) Teleconference: While teleconference opportunities may be restricted by provisions of the Act, providing access at a teleconference site in rural northern California could be helpful in enhancing public participation in rural communities.

REGISTERED SUPPORT:

None on file.

REGISTERED OPPOSITION:

None on file.

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