



Judicial Council of California · Administrative Office of the Courts

455 Golden Gate Avenue · San Francisco, California 94102-3688

www.courts.ca.gov

REPORT TO THE JUDICIAL COUNCIL

For business meeting on: December 12, 2013

Title	Agenda Item Type
Judicial Council Report to the Legislature: Implementation of Open Meetings Rule	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
None	December 12, 2013
Recommended by	Date of Report
Hon. Douglas P. Miller, Chair Executive and Planning Committee	November 26, 2013
Hon. Harry E. Hull Jr., Chair Rules and Projects Committee	Contact
Hon. Kenneth K. So, Chair Policy Coordination and Liaison Committee	Hon. Douglas P. Miller, 951-782-2660 Douglasp.miller@jud.ca.gov
Hon. Mary Ann O'Malley, Chair Litigation Management Committee	
Hon. James E. Herman, Chair Technology Committee	

Executive Summary

The chairs of the Judicial Council internal committees recommend the Judicial Council approve the *Report on Implementation of an Open Meetings Rule* and direct the Office of Governmental Affairs to submit it to the Joint Legislative Budget Committee by January 1, 2014. Supplemental report language from the fiscal year (FY) 2013–2014 Budget Package directs the Judicial Council to report to the Joint Legislative Budget Committee on implementation of an open meetings rule by January 1, 2014, and annually thereafter regarding any amendments adopted in the intervening fiscal year.

Recommendation

The chairs of Judicial Council internal committees recommend that the Judicial Council, effective December 12, 2013:

1. Approve the *Report on Implementation of an Open Meetings Rule*; and
2. Direct OGA to submit the report to the Joint Legislative Budget Committee (JLBC).

The report to the JLBC on implementation of an open meetings rule is attached.

Previous Council Action

No previous Judicial Council action.

Rationale for Recommendation

On June 14, 2013, the Legislature passed the Budget Act of 2013 (Assembly Bill 110). As part of Item 0250-101-0932, the Legislature added Provision 15 (Provision 15), requiring that, by October 1, 2013, the Judicial Council adopt a rule “regarding open meeting requirements” for committees and similar multimember bodies that “review issues and report to the Judicial Council.” On June 27, 2013, Governor Brown vetoed Provision 15 but, in his veto message, “urg[ed] the Judicial Council to continue efforts to provide greater public access to Judicial Branch committee activities.”

In addition to the budget bill language, the Legislature also adopted supplemental report language essentially restating Provision 15, to accompany the Budget Act. The supplemental report language directs the Judicial Council to report to the Joint Legislative Budget Committee (JLBC) on implementation of an open meetings rule by January 1, 2014, and annually thereafter regarding any amendments adopted in the intervening fiscal year. The supplemental report language provides in full as follows:

1. ***Open Working Groups***. Not later than January 1, 2014, the Judicial Council shall submit to the Joint Legislative Budget Committee a report on the implementation of an open meetings rule in accordance with the following:
 - (a) The rule shall apply to any committee, subcommittee, advisory group, working group, task force, or similar multimember body that reviews issues and reports to the Judicial Council.
 - (b) The rule shall provide for telephone access for requesting persons.
 - (c) The rule shall establish public notice requirements for any meeting of a body described above.

2. For each fiscal year beginning with 2014–2015, the report shall include the rule for that fiscal year and specific detail on amendments to the rule adopted in the prior fiscal year.

Supplemental report language contains statements of legislative intent and requests for studies, does not go to the Governor for review and approval, and is therefore not subject to veto. Although not legally binding, governmental entities customarily comply with such language.¹

Comments, Alternatives Considered, and Policy Implications

This report was not circulated for comment, and no alternatives were considered because submitting this report was requested in the Supplemental Report of the 2013–2014 Budget. The draft open meetings rule, as requested by the Supplemental Report, will be open for public comment until February 7, 2014.

Implementation Requirements, Costs, and Operational Impacts

Implementing the recommendations in this report results in no costs or operational impacts.

Attachments

1. *Report to the Joint Legislative Budget Committee on Implementation of an Open Meetings Rule*

¹ Sen. Advisory Com. on Cost Control in State Government, *California's Budget Process: Improving Quality, Cost-Efficiency, Effectiveness and Accountability in State Government* (1999), p. 15 (reflecting Department of Finance recommendation that executive branch entities comply). See also Legislative Analyst's website, www.lao.ca.gov/laoapp/main.aspx?type=2&PubTypeID=14 (supplemental language reports, produced and distributed each year by the Legislative Analyst's Office, recording statements of intent and requests for studies adopted by the Legislature for tracking purposes).



Judicial Council of California
ADMINISTRATIVE OFFICE OF THE COURTS

455 Golden Gate Avenue • San Francisco, California 94102-3688
Telephone 415-865-4200 • Fax 415-865-4205 • TDD 415-865-4272

TANI G. CANTIL-SAKAUYE
Chief Justice of California
Chair of the Judicial Council

STEVEN JAHR
Administrative Director of the Courts

January 1, 2014

Hon. Mark Leno
Chair, Joint Legislative Budget Committee
Attn: Ms. Peggy Collins
1020 N Street, Room 553
Sacramento, California 95814

Subject: Report on implementation of an open meetings rule

Dear Senator Leno:

The Supplemental Report of the 2013–2014 Budget Package directs the Judicial Council to report to the Joint Legislative Budget Committee (JLBC) on implementation of an open meetings rule by January 1, 2014.

Beginning this summer, the Judicial Council began drafting a proposed rule of court on open meetings. The supplemental report language for Item 0250-101-0932 of the Budget Act of 2013 is as follows:

1. ***Open Working Groups***. Not later than January 1, 2014, the Judicial Council shall submit to the Joint Legislative Budget Committee a report on the implementation of an open meetings rule in accordance with the following:
 - (a) The rule shall apply to any committee, subcommittee, advisory group, working group, task force, or similar multimember body that reviews issues and reports to the Judicial Council.
 - (b) The rule shall provide for telephone access for requesting persons.

- (c) The rule shall establish public notice requirements for any meeting of a body described above.
2. For each fiscal year beginning with 2014–2015, the report shall include the rule for that fiscal year and specific detail on amendments to the rule adopted in the prior fiscal year.

Attached is a draft of the proposed open meeting rule 10.75 for Judicial Council advisory body meetings. Also attached is a chart of key dates and activities for the development and implementation of the open meetings rule.

Although the process required by the California Rules of Court involves a single public comment period, the council is seeking feedback in a two-step process. First, on November 14, 2013, a preliminary draft of the rule was shared with all legislative offices, the Governor’s Office, Department of Finance, the Legislative Analyst, stakeholders, and the media, and feedback was sought. On that date, the Judicial Council also hosted two legislative briefings and a press conference, inviting feedback on the preliminary draft rule. The preliminary draft rule was posted on the judicial branch’s public website at www.courts.ca.gov, with a request for feedback from November 14 through November 20.

Second, taking into account feedback received on the preliminary draft, a revised draft was released on December 20, 2013, commencing the formal “invitation to comment” period required by the California Rules of Court. A revised draft of the proposed rule is available for comment online at <http://www.courts.ca.gov/policyadmin-invitationstocomment.htm>. The revised draft of the rule will remain open for public comment until February 7, 2014. The Judicial Council is expected to consider adopting the proposed rule during its April 2014 meeting.

The proposed rule would open many Judicial Council advisory body meetings to the public, requiring notice and a further opportunity for public comment. Please note the proposed rule is subject to change based on feedback received during the public comment period (December 20, 2013–February 7, 2014).

Comments on the revised draft may be submitted via e-mail to invitations@jud.ca.gov through February 7, 2014. Any written comments received at that address will become part of the public record.

Hon. Mark Leno
November 27, 2013
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If you have any questions related to this report please contact Cory Jasperson, Director of Governmental Affairs at 916-323-3121, or cory.jasperson@jud.ca.gov.

Sincerely,

Steven Jahr
Administrative Director of the Courts

SJ/LS
Enclosures (2)

cc: Hon. Nancy Skinner, Vice-Chair, JLBC and Member, California State Assembly
Hon. Kevin de León, California State Senate
Hon. Jean Fuller, California State Senate
Hon. Alex Padilla, California State Senate
Hon. Richard D. Roth, California State Senate
Hon. Mimi Walters, California State Senate
Hon. Lois Wolk, California State Senate
Hon. Rocky Chávez, California State Assembly
Hon. Wesley Chesbro, California State Assembly
Hon. Mike Gatto, California State Assembly
Hon. Jeff Gorell, California State Assembly
Hon. Diane L. Harkey, California State Assembly
Hon. Reginald Byron Jones-Sawyer, Jr., California State Assembly
Hon. Douglas P. Miller, Chair, Judicial Council Executive and Planning Committee
Hon. Harry E. Hull, Jr., Chair, Judicial Council Rules and Projects Committee
Hon. Kenneth K. So, Chair, Judicial Council Policy Coordination and Liaison Committee
Hon. Mary Ann O'Malley, Chair, Judicial Council Litigation Management Committee
Hon. James E. Herman, Chair, Judicial Council Technology Committee
Ms. Jody Patel, Chief of Staff, Administrative Office of the Courts (AOC)
Mr. Curtis L. Child, AOC Chief Operating Officer
Mr. Curt Soderlund, AOC Chief Administrative Officer
Mr. Cory T. Jasperson, Director, AOC Office of Governmental Affairs

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