



SERC Meeting
10/31/2013

- Bagley-Keene Open Meeting Act
- EPRCA and SERC/LEPC Liability

Bagley-Keene
Open Meeting
Act

Bagley-Keene Overview

- What is a meeting?
- Content
- Notice
- Public location(s)
- Teleconference*
- Access
- Public comment
- No secret ballots
- No proxy votes
- Closed Meetings

Teleconferencing

- Permitted
 - Each site accessible to the public
 - May have additional observation locations
 - All proceedings audible
 - Voting by roll call
 - All other provisions apply
-

EPCRA and SERC/LEPC Liability

EPCRA & SERC/LEPC Liability

- Requirements
 - EPCRA Compliance
 - Bagley-Keene
 - General Guidelines:
 - For member to be *held* individually liable, it would take exceptional misconduct on their behalf (litigation v. liability)
 - Act responsibly
 - Exercise discretion
 - Act in good faith
 - No personal gain or unrelated agenda
-

Liability Protections in California

- California Tort Claims Act
 - Emergency Services Act
 - Common Law
-

California Tort Claims Act

- Government Code §820.2
 - Public employee not liable for injury resulting from act or omission where exercised vested discretion
 - Government Code §820.9
 - Members of locally appointed boards, commissions, etc. not vicariously liable for act or omission of board
 - Not immune from own wrongful conduct
-

California Tort Claims Act

- Government Code §822.2
 - Public employee acting in scope of employment not liable for injury caused by misrepresentation
 - Unless guilty of fraud, corruption or actual malice
-

Emergency Services Act

Government Code §8655

- "The state or its political subdivisions shall not be liable for any claim based upon the exercise or performance, or the failure to exercise or perform, a discretionary function or duty on the part of a state or local agency or any employee of the state or its political subdivisions in carrying out provisions of this chapter."

- Broader application
-

Key Cases

Farmers Insurance v. California

- Medfly eradication damaged cars
- Policy decisions are discretionary
- Liability immunity under ESA

Soto v. California

- Student injured during training exercise
 - Design of exercise was discretionary
 - Extended immunity beyond emergencies
-

Disclaimer

- This presentation was not intended to offer legal advice

- Always consult your legal counsel regarding liability and risks that may attach to your official actions
-



Contact Information

Alex J. Pal

*Staff Counsel for the Governor's
Office of Emergency Services*

Office: (916) 845-8973

Alex.Pal@calema.ca.gov
