

**DOCKETED**

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## California Energy Commission's Assembly Bill 1657 Blue Ribbon Commission on Lithium Roles and Responsibilities

### I. Background and Purpose

Assembly Bill 1657 (Garcia, Chapter 271, 2020) (AB 1657), requires the Energy Commission (CEC) to convene the Blue Ribbon Commission on Lithium Extraction in California (hereafter referred to as the Lithium Valley Commission), with members appointed as detailed in AB 1657. The Lithium Valley Commission is charged with reviewing, investigating, and analyzing certain issues and potential incentives, as further detailed in AB 1657, regarding lithium extraction and use in California, and to consult, when feasible, with the United States Environmental Protection Agency and the United States Department of Energy in performing these tasks. AB 1657 requires the Lithium Valley Commission to submit, on or before October 1, 2022, a report to the Legislature documenting its findings and recommendations.

### II. Lithium Valley Commission Membership

Lithium Valley Commission members are appointed pursuant to AB 1657 to fill specific membership roles representing a variety of interests, including industry, organizations, agencies, tribes, and communities. Of the 14 commission members, the CEC has responsibility to appoint nine members, with the remaining appointments to be made by the California Public Utilities Commission, the Secretary of the California Natural Resources Agency, the Senate Committee on Rules, the Speaker of the Assembly, and the Governor.

#### **a. The Lithium Valley Commission is subject to the Bagley-Keene Open Meeting Act.**

The Lithium Valley Commission will hold meetings that are subject to the Bagley-Keene Open Meeting Act (Bagley-Keene Act), set forth in Government Code sections 11120-11132. The Bagley-Keene Act requires meetings of state bodies, including those meetings held by advisory bodies, be conducted openly, with opportunity for public participation. The Lithium Valley Commission must be aware of two key aspects of the law: (1) what constitutes a meeting and (2) how meetings must be noticed.

First, a meeting is defined by the law as any congregation of a majority of the members of a state body, either serially or at the same time and place, to hear, discuss, or deliberate upon any item that is within the state body's subject matter



jurisdiction. Meetings occur when a majority of Lithium Valley Commission members are physically or virtually present or are communicating through a series of intermediaries or electronic means. For example, if an e-mail is sent to the entire Lithium Valley Commission and members' reply emails cause a majority of the members to discuss Lithium Valley Commission business via e-mail, that would constitute a meeting. A majority of members of the Lithium Valley Commission may not use a series of communications of any kind, including written communication, either directly or through intermediaries, to hear, discuss, or deliberate on any item of business that is within its subject matter jurisdiction.

The second key aspect of the Bagley-Keene Act is that it requires public notice of all meetings of a majority of members (and certain subcommittees). The Act generally requires publication of a meeting notice and a specific agenda at least 10 days in advance of a meeting date. Meeting location or details of participation for remote meetings must be included in the notice.

There are consequences for violating the Bagley-Keene Act. It is a misdemeanor if a Lithium Valley Commission member attends a meeting in violation of the Bagley-Keene Act, and where the member intends to deprive the public of information to which the member knows or has reason to know the public is entitled.

For more information regarding Bagley-Keene Act requirements, please review the publication by [the Office of the California Attorney General](https://oag.ca.gov/sites/all/files/agweb/pdfs/publications/bagleykeene2004_ada.pdf) at [https://oag.ca.gov/sites/all/files/agweb/pdfs/publications/bagleykeene2004\\_ada.pdf](https://oag.ca.gov/sites/all/files/agweb/pdfs/publications/bagleykeene2004_ada.pdf).

## **b. Frequency of meetings and attendance**

The Lithium Valley Commission, and potentially sub-groups or subcommittees, will meet as often as needed to complete all mandated activities. The exact schedules for activities will be determined by the Lithium Valley Commission. The term of service for all appointed members will begin no later than March 1, 2021 and end no later than October 1, 2023. The Lithium Valley Commission is to submit, on or before October 1, 2022, a report to the Legislature documenting its findings and recommendations.

Regular meeting attendance is essential for effective participation in the Lithium Valley Commission. Each Lithium Valley Commission member is responsible for attending and actively participating in meetings, reviewing and being familiar with materials provided before meetings, and soliciting and sharing input with other members. By accepting an appointment to serve on the Lithium Valley Commission, the member agrees to fulfill these responsibilities to the best of his or her ability.



### **III. Lithium Valley Commission Roles and Responsibilities**

The Lithium Valley Commission will serve to fulfil the requirements and expectations as outlined in [AB 1657](#), and will be composed of individuals from a wide range of backgrounds. The Lithium Valley Commission shall review, investigate, and analyze issues relating to lithium extraction and use in California, including:

- (1) Actions that will support the further development of geothermal power that have the potential to provide the cobenefit of lithium recovery from existing and new geothermal facilities;
- (2) Market opportunities for lithium;
- (3) The potential benefits of, and added value to, existing and new geothermal facilities in areas that contain mineral-rich brines for the state, the western energy grid, and the United States, including, but not limited to, grid stability, reliability, and resiliency;
- (4) Methods of overcoming technical and economic challenges currently limiting lithium extraction, processing, and production from geothermal brines;
- (5) Safe environmental methods and standards for lithium extraction from geothermal brines and how this compares to other methods for deriving lithium;
- (6) Potential economic and environmental impacts to the state resulting from extraction, processing, and production of lithium and lithium-dependent products from geothermal brines;
- (7) The importance of, and opportunities for, the application of local, state, and federal incentives and investments to facilitate lithium extraction from geothermal brines; and
- (8) Recommendations for legislative or regulatory changes that may be needed to encourage lithium extraction from geothermal brines, including whether the development of a centralized tracking system for lithium project permitting by state and local regulatory agencies would assist with development of the lithium industry.

The Chair of the Lithium Valley Commission shall be selected by the members of the Lithium Commission during its first meeting.

Members of the Lithium Valley Commission shall not serve in the capacity of staff of the CEC and shall have no authority to negotiate or otherwise act on behalf of the CEC.

### **IV. CEC Responsibilities**

The elected Chair of the Lithium Valley Commission is the presiding member over Lithium Valley Commission meetings. CEC staff will support and facilitate the Lithium



Valley Commission's activities by providing proper notice of and an agenda for all Lithium Valley Commission meetings, providing Lithium Valley Commission members necessary materials, and ensuring that stakeholders and the public have ample opportunity to participate in Lithium Valley Commission meetings and activities.

The CEC has established a docket as a public record for the Lithium Valley Commission. Information on the docket will include documents submitted to and by the Lithium Valley Commission, public notices, and any meeting transcripts. CEC staff will provide logistical support related to attendance at Lithium Valley Commission meetings and conference calls, distribution of materials related to Lithium Valley Commission meetings and conference calls, and assist the Lithium Valley Commission to better understand existing policies and programs. CEC staff will review, analyze, and synthesize advice and guidance from the Lithium Valley Commission, stakeholders and public to assist the Lithium Valley Commission in developing the required report. The CEC will facilitate stakeholder and public engagement and comment on Lithium Valley Commission activities and documents.

## **V. Applicability of the Political Reform Act**

The disclosure requirements and conflict of interest prohibition applies only to public officials serving as employees or members of state or local government agencies, or consultants thereto, or individuals specified in an agency's conflict of interest code. The Lithium Valley Commission is not a state agency or local government agency as defined in the Political Reform Act. Additionally, its members are not considered "consultants" under the Political Reform Act as that term is defined in regulation, because: (a) they are not authorized to make decisions, enter into contracts, negotiate, or otherwise act on behalf of the CEC, (b) they are not serving in the capacity of staff, and (c) they are not performing the duties of an individual who is holding a position that is designated in the CEC's conflict of interest code. Nor are they designated in the CEC's conflict of interest code.

Lithium Valley Commission members are, thus, neither decision-makers nor staff for the CEC. They shall not serve in the capacity of staff of the CEC and shall have no authority to negotiate or otherwise act on behalf of the CEC. They are, specifically, members of an advisory body created by statute for the discrete task of developing and submitting the required report to the Legislature. Therefore, members of the Lithium Valley Commission are not subject to the Political Reform Act's restrictions or the requirement to file an annual economic interest statement.