

**Introduced by Senator Hill**

December 18, 2014

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An act to amend Sections 305, 306, 307, 308, 309.6, 321.6, 1701, 1701.1, 1701.4, and 1759 of, and to add Section 1701.6 to, the Public Utilities Code, relating to the Public Utilities Commission.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 48, as introduced, Hill. Public Utilities Commission.

(1) The California Constitution establishes the Public Utilities Commission, with jurisdiction over all public utilities. The California Constitution grants the commission certain general powers over all public utilities, subject to control by the Legislature, and authorizes the Legislature, unlimited by the other provisions of the Constitution, to confer additional authority and jurisdiction upon the commission that is cognate and germane to the regulation of public utilities. Existing law requires the Governor to designate the president of the commission from among its members and requires the president to direct the executive director, the attorney, and other staff of the commission, except for the Office of Ratepayer Advocates. Existing law authorizes the executive director and the attorney to undertake certain actions if directed or authorized by the president, except as otherwise directed or authorized by vote of the commission.

This bill would repeal the requirement that the president direct the executive director, the attorney, and other commission staff. The bill would delete the authority of the president to direct or authorize the executive director and attorney to undertake certain actions, thereby requiring that they be directed or authorized to undertake those actions by the commission. The bill would require the commission to develop performance criteria for the commission and the executive director and

to annually evaluate the performance of the executive director based on the criteria established in the previous year.

(2) The Public Utilities Act provides that the office of the commission be in the City and County of San Francisco, that the office always be open, legal holidays and nonjudicial days excepted, that the commission hold its sessions at least once in each calendar month in the City and County of San Francisco, and authorizes the commission to also meet at those other times and places as may be expedient and necessary for the proper performance of its duties.

This bill would require that the commission hold its sessions at least once in each calendar month in the City and County of San Francisco or the City of Sacramento and would require that the commission hold no less than 6 sessions each year in the City of Sacramento.

(3) The California Constitution authorizes the commission to establish its own procedures, subject to statutory limitations or directions and constitutional requirements of due process. Existing law requires the commission to determine whether a proceeding requires a hearing and, if so, to determine whether the matter requires a quasi-legislative, an adjudication, or a ratesetting hearing. For these purposes, quasi-legislative cases are cases that establish policy rulemakings and investigations which may establish rules affecting an entire industry, adjudication cases are enforcement cases and complaints except those challenging the reasonableness of any rates or charges, and ratesetting cases are cases in which rates are established for a specific company, including general rate cases, performance-based ratemaking, and other ratesetting mechanisms.

This bill would make the Administrative Adjudication Code of Ethics applicable to adjudication hearings of the commission.

(4) Existing law requires the commission, upon initiating a hearing, to assign one or more commissioners to oversee the case and an administrative law judge, where appropriate. Existing law requires the assigned commissioner to prepare and issue, by order or ruling, a scoping memo that describes the issues to be considered and the applicable timetable for resolution. Existing law requires the commission, to adopt procedures on the disqualification of administrative law judges due to bias or prejudice similar to those of other state agencies and superior courts.

This bill would require the commission to additionally adopt procedures on the disqualification of commissioners due to bias or prejudice similar to those of other state agencies and superior courts.

(5) The Public Utilities Act requires the commission to develop, publish, and annually update an annual workplan that does all the following: (a) describes in clear detail the scheduled ratemaking proceedings and other decisions that may be considered by the commission during the calendar year, (b) include information on how members of the public and ratepayers can gain access to the commission's ratemaking process and information regarding the specific matters to be decided, (c) include information on the operation of the office of the public adviser and identify the names and telephone numbers of those contact persons responsible for specific cases and matters to be decided, and (d) include a statement that specifies activities that the commission proposes to reduce the costs of, and rates for, energy, including electricity, and for improving the competitive opportunities for state agriculture and other rural energy consumers. The act requires the commission to submit the workplan to the Governor and Legislature by February 1 of each year.

This bill would expand the requirement that the workplan describe in clear detail the scheduled proceedings that may be considered by the commission during the calendar year to include all proceedings and not just ratemaking proceedings. The bill would additionally require that the workplan include performance criteria for the commission and executive director and evaluate the performance of the executive director during the previous year based on the criteria established in the prior year's workplan.

(6) The Public Utilities Act requires the commission to create, and annually submit to the Governor and Legislature by February 1, a report on the number of cases where resolution exceeded the time periods prescribed in scoping memos and the days that commissioners presided in hearings.

This bill would delete the requirement that the report include the number of cases where resolution exceeded the time periods prescribed in scoping memos and instead would require the report to describe the commission's timeliness in resolving cases and include information on the disposition of applications for rehearings. The bill would require that the report include the number of scoping memos issued in each proceeding and to include the number of orders issued extending the statutory deadlines for all adjudication, ratesetting, and quasi-legislative cases.

(7) Existing law regulates communications in hearings before the commission and defines "ex parte communication" to mean any oral

or written communication between a decisionmaker and a person with an interest in a matter before the commission concerning substantive, but not procedural, issues that does not occur in a public hearing, workshop, or other public proceeding, or on the official record of the proceeding on the matter. Existing law requires the commission, by regulation, to adopt and publish a definition of the terms “decisionmaker” and “persons” for those purposes, along with any requirements for written reporting of ex parte communications and appropriate sanctions for noncompliance with any rule proscribing ex parte communications. Existing law requires the commission to permit ex parte communications in quasi-legislative cases without restriction.

This bill would revise the definition of an “ex parte communication” to include communication between a decisionmaker and a representative of the financial industry, even if the representative does not have an interest in the matter. The bill would require that the commission’s definition of who is a “decisionmaker” include commissioners, the executive director of the commission, and the attorney of the commission. The bill would permit ex parte communications in quasi-legislative proceedings only in the following circumstances: (A) for oral ex parte communications if all interested parties are invited and given not less than 3 days’ notice, (B) for written ex parte communications if copies of the communication are transmitted to all parties on the same day, and (C) if an ex parte communication meeting is granted to any party, all other parties are required to be granted individual ex parte meetings of a substantially equal period of time and not less than 3 days’ notice would be required to be sent of this right at the time that the request is granted. The bill would make a violation of the ex parte communications requirements punishable by a fine of not more than \$50,000 or by imprisonment for not more than one year in the county jail, or by both fine and imprisonment. By creating a new crime, the bill would impose a state-mandated local program. The bill would require the commission to post all prepared written testimony submitted in its formal proceedings on the commission’s Internet Web site.

(8) The California Constitution provides that the Legislature has plenary power to establish the manner and scope of review of commission action in a court of record. Existing law provides that only the Supreme Court and the court of appeal have jurisdiction to review, reverse, correct, or annul any order or decision of the commission or to suspend or delay the execution or operation thereof, or to enjoin,

restrain, or interfere with the commission in the performance of its official duties.

This bill would authorize an action to enforce the requirements of the Bagley-Keene Open Meeting Act or the California Public Records Act to be brought against the commission in the superior court.

(9) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. (a) The Legislature finds and declares all of the  
2 following:

3     (1) On June 3, 2014, California's Fourth District Court of  
4 Appeal, in *Disenhouse v. Peevey* (2014) 226 Cal.App.4th 1096,  
5 held that an interested person desiring to enforce the Bagley-Keene  
6 Open Meeting Act against the Public Utilities Commission must  
7 do so by filing a petition for writ of mandamus in the Supreme  
8 Court or the Court of Appeal and may not do so by filing an action  
9 for injunctive relief in the superior court.

10    (2) The intent of the Bagley-Keene Open Meeting Act is that  
11 actions of state agencies be taken openly and that their deliberation  
12 be conducted openly.

13    (3) The people's right to remain informed so that they may  
14 retain control over the instruments of government that they have  
15 created is not less of a right for some agencies than for other  
16 agencies, nor shall the people's ability to enforce the Bagley-Keene  
17 Open Meeting Act be more hampered for some agencies than for  
18 other agencies.

19    (4) The duties, responsibilities, and actions of the Public Utilities  
20 Commission affect the well-being of current and future generations  
21 and the public interest and principles of fundamental fairness and  
22 due process of law require that the commission conduct its affairs  
23 in an open, objective, and impartial manner, free of undue influence  
24 and the abuse of power and authority.

(b) It is the intent of the Legislature that the Public Utilities Commission should be subject to the judicial review provisions of the Bagley-Keene Open Meeting Act.

SEC. 2. Section 305 of the Public Utilities Code is amended to read:

305. The Governor shall designate a president of the commission from among the members of the commission. The president shall ~~direct the executive director, the attorney, and other staff of the commission, except for the staff of the division described in Section 309.5, in the performance of their duties, in accordance with commission policies and guidelines. The president shall~~ preside at all meetings and sessions of the commission.

SEC. 3. Section 306 of the Public Utilities Code is amended to read:

306. (a) The office of the commission shall be in the City and County of San Francisco. The office shall always be open, legal holidays and nonjudicial days excepted. The commission shall hold its sessions at least once in each calendar month in the City and County of San Francisco *or the City of Sacramento*. The commission may also meet at such other times and in such other places as may be expedient and necessary for the proper performance of its duties, and for that purpose may rent quarters or offices. *The commission shall hold no less than six sessions each year in the City of Sacramento.*

(b) The meetings of the commission shall be open and public in accordance with the provisions of Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code.

In addition to the requirements of Section 11125 of the Government Code, the commission shall include in its notice of meetings the agenda of business to be transacted, and no item of business shall be added to the agenda subsequent to the notice in the absence of an unforeseen emergency situation. A rate increase shall not constitute an unforeseen emergency situation. As used in this subdivision, “meeting” shall include all investigations, proceedings, and showings required by law to be open and public.

(c) The commission shall have a seal, bearing the inscription “Public Utilities Commission State of California.” The seal shall be affixed to all writs and authentications of copies of records and to such other instruments as the commission shall direct.

1 (d) The commission may procure all necessary books, maps,  
2 charts, stationery, instruments, office furniture, apparatus, and  
3 appliances.

4 SEC. 4. Section 307 of the Public Utilities Code is amended  
5 to read:

6 307. (a) The commission may appoint as attorney to the  
7 commission an attorney at law of this state, who shall hold office  
8 during the pleasure of the commission.

9 (b) The attorney shall represent and appear for the people of the  
10 State of California and the commission in all actions and  
11 proceedings involving any question under this part or under any  
12 order or act of the commission. If directed to do so by the ~~president,~~  
13 ~~except as otherwise directed by vote of the~~ commission, the  
14 attorney shall intervene, if possible, in any action or proceeding  
15 in which any such question is involved.

16 (c) The attorney shall commence, prosecute, and expedite the  
17 final determination of all actions and proceedings directed or  
18 authorized by ~~the president, except as otherwise directed or~~  
19 ~~authorized by vote of the~~ commission, advise the commission and  
20 each commissioner, when so requested, in regard to all matters in  
21 connection with the powers and duties of the commission and the  
22 members thereof, and generally perform all duties and services as  
23 attorney to the commission that ~~the president, or vote of the~~  
24 commission; may require of ~~him.~~ *him or her.*

25 SEC. 5. Section 308 of the Public Utilities Code is amended  
26 to read:

27 308. (a) The commission shall appoint an executive director,  
28 who shall hold office during its pleasure. The executive director  
29 shall be responsible for the commission's executive and  
30 administrative duties and shall organize, coordinate, supervise,  
31 and direct the operations and affairs of the commission and  
32 expedite all matters within the commission's jurisdiction.

33 (b) The executive director shall keep a full and true record of  
34 all proceedings of the commission, issue all necessary process,  
35 writs, warrants, and notices, and perform ~~such any other duties as~~  
36 ~~the president, or vote of the commission, the commission~~  
37 prescribes. The ~~president~~ *commission* may authorize the executive  
38 director to dismiss complaints or applications when all parties are  
39 in agreement thereto, in accordance with rules that the commission  
40 may prescribe.

1 (c) The commission may appoint assistant executive directors  
2 who may serve warrants and other process in any county or city  
3 and county of this state.

4 (d) *The commission shall develop performance criteria for the*  
5 *commission and the executive director and shall annually evaluate*  
6 *the performance of the executive director based on the criteria*  
7 *established in the previous year.*

8 SEC. 6. Section 309.6 of the Public Utilities Code is amended  
9 to read:

10 309.6. (a) The commission shall adopt procedures on the  
11 disqualification of *commissioners and* administrative law judges  
12 due to bias or prejudice similar to those of other state agencies and  
13 superior courts.

14 (b) The commission shall develop the procedures with the  
15 opportunity for public review and comment.

16 SEC. 7. Section 321.6 of the Public Utilities Code is amended  
17 to read:

18 321.6. (a) The commission shall do all of the following:

19 (1) Develop, publish, and annually update an annual workplan  
20 that describes in clear detail the scheduled ~~ratemaking~~ proceedings  
21 and other decisions that may be considered by the commission  
22 during the calendar year. The plan shall include, but is not limited  
23 to, information on how members of the public and ratepayers can  
24 gain access to the commission's ratemaking process and  
25 information regarding the specific matters to be decided. The plan  
26 shall also include information on the operation of the office of the  
27 public adviser and identify the names and telephone numbers of  
28 those contact persons responsible for specific cases and matters  
29 to be decided. The plan shall also include a statement that specifies  
30 activities that the commission proposes to reduce the costs of, and  
31 rates for, energy, including electricity, and for improving the  
32 competitive opportunities for state agriculture and other rural  
33 energy consumers. *The plan shall also include performance criteria*  
34 *for the commission and executive director and shall evaluate the*  
35 *performance of the executive director during the previous year*  
36 *based on the criteria established in the prior year's workplan.* The  
37 commission shall post the plan under the Official Documents area  
38 of its Internet Web site and shall develop a program to disseminate  
39 the information in the plan utilizing computer mailing lists to



1 provide regular updates on the information to those members of  
2 the public and organizations which request that information.

3 (2) Produce a complete accounting of its transactions and  
4 proceedings for the preceding year, together with other facts,  
5 suggestions, and recommendations that it deems of value to the  
6 people of the state and a statement that specifies the activities and  
7 achievements of the commission in reducing the costs of, and rates  
8 for, energy, including electricity, for state agriculture and other  
9 rural energy consumers.

10 (3) ~~Create a report on the number of cases where resolution~~  
11 ~~exceeded the time periods prescribed in scoping memos describing~~  
12 ~~the commission's timeliness in resolving cases, information on the~~  
13 ~~disposition of applications for rehearings, and the days that~~  
14 ~~commissioners presided in hearings. The report shall include the~~  
15 ~~number of scoping memos issued in each proceeding and the~~  
16 ~~number of orders issued extending the statutory deadlines pursuant~~  
17 ~~to subdivision (d) of Section 1701.2, for all adjudication cases,~~  
18 ~~and pursuant to subdivision (a) of Section 1701.5, for all ratesetting~~  
19 ~~or quasi-legislative cases.~~

20 (4) Submit annually the plan, accounting, and report required  
21 by paragraphs (1), (2), and (3) to the Governor and Legislature no  
22 later than February 1 of each year.

23 (b) The president of the commission shall annually appear before  
24 the appropriate policy committees of the Senate and Assembly to  
25 report on the annual workplan access guide of the commission  
26 required pursuant to this section.

27 (c) The president of the commission shall annually appear before  
28 the appropriate policy committees of the Senate and Assembly to  
29 report on the annual report of the commission on the ~~number of~~  
30 ~~cases where resolution exceeded the time periods prescribed in~~  
31 ~~scoping memos~~ *commission's timeliness in resolving cases* and  
32 the days that commissioners presided in ~~hearings, pursuant to~~  
33 ~~Section 13 of Chapter 856 of the Statutes of 1996.~~ *hearings.*

34 SEC. 8. Section 1701 of the Public Utilities Code is amended  
35 to read:

36 1701. (a) All hearings, investigations, and proceedings shall  
37 be governed by this part and by rules of practice and procedure  
38 adopted by the commission, and in the conduct thereof the technical  
39 rules of evidence need not be applied. No informality in any  
40 hearing, investigation, or proceeding or in the manner of taking

1 testimony shall invalidate any order, decision or rule made,  
2 approved, or confirmed by the commission.

3 (b) Notwithstanding Section 11425.10 of the Government Code,  
4 *Articles 1 through 15, inclusive, of Chapter 4.5* (commencing with  
5 Section 11400) of Part 1 of Division 3 of Title 2 of the Government  
6 Code ~~does~~ do not apply to a hearing by the commission under this  
7 code. *The Administrative Adjudication Code of Ethics (Article 16*  
8 *(commencing with Section 11475) of Chapter 4.5)* shall apply to  
9 *adjudication proceedings of the commission.*

10 SEC. 9. Section 1701.1 of the Public Utilities Code is amended  
11 to read:

12 1701.1. (a) The commission, consistent with due process,  
13 public policy, and statutory requirements, shall determine whether  
14 a proceeding requires a hearing. The commission shall determine  
15 whether the matter requires a quasi-legislative, an adjudication,  
16 or a ratesetting hearing. The commission's decision as to the nature  
17 of the proceeding shall be subject to a request for rehearing within  
18 10 days of the date of that decision. If that decision is not appealed  
19 to the commission within that time period it shall not be  
20 subsequently subject to judicial review. Only those parties who  
21 have requested a rehearing within that time period shall  
22 subsequently have standing for judicial review and that review  
23 shall only be available at the conclusion of the proceeding. The  
24 commission shall render its decision regarding the rehearing within  
25 30 days. The commission shall establish regulations regarding ex  
26 parte communication on case categorization issues.

27 (b) The commission upon initiating a hearing shall assign one  
28 or more commissioners to oversee the case and an administrative  
29 law judge where appropriate. The assigned commissioner shall  
30 schedule a prehearing conference. The assigned commissioner  
31 shall prepare and issue by order or ruling a scoping memo that  
32 describes the issues to be considered and the applicable timetable  
33 for resolution.

34 (c) (1) Quasi-legislative cases, for purposes of this article, are  
35 cases that establish policy, including, but not limited to,  
36 rulemakings and investigations which may establish rules affecting  
37 an entire industry.

38 (2) Adjudication cases, for purposes of this article, are  
39 enforcement cases and complaints except those challenging the  
40 reasonableness of any rates or charges as specified in Section 1702.

1 (3) Ratesetting cases, for purposes of this article, are cases in  
2 which rates are established for a specific company, including, but  
3 not limited to, general rate cases, performance-based ratemaking,  
4 and other ratesetting mechanisms.

5 (4) “Ex parte communication,” for purposes of this article,  
6 means any oral or written communication between a decisionmaker  
7 and a person with an interest in a matter before the commission  
8 *or a representative of the financial industry* concerning substantive,  
9 but not procedural issues, that does not occur in a public hearing,  
10 workshop, or other public proceeding, or on the official record of  
11 the proceeding on the matter. “Person with an interest,” for  
12 purposes of this article, means any of the following:

13 (A) Any applicant, an agent or an employee of the applicant,  
14 or a person receiving consideration for representing the applicant,  
15 or a participant in the proceeding on any matter before the  
16 commission.

17 (B) Any person with a financial interest, as described in Article  
18 1 (commencing with Section 87100) of Chapter 7 of Title 9 of the  
19 Government Code, in a matter before the commission, or an agent  
20 or employee of the person with a financial interest, or a person  
21 receiving consideration for representing the person with a financial  
22 interest.

23 (C) A representative acting on behalf of any civic,  
24 environmental, neighborhood, business, labor, trade, or similar  
25 organization who intends to influence the decision of a commission  
26 member on a matter before the commission.

27 The commission shall by regulation adopt and publish a  
28 definition of decisionmakers and persons for purposes of this  
29 section, *which shall include commissioners, the executive director,*  
30 *and the attorney to the commission*, along with any requirements  
31 for written reporting of ex parte communications and appropriate  
32 sanctions, *in addition to those described in Section 1701.6*, for  
33 noncompliance with any rule proscribing ex parte communications.  
34 The regulation shall provide that reportable communications shall  
35 be reported by the ~~party~~, *party and the decisionmaker*, whether  
36 the communication was initiated by the party or the decisionmaker.  
37 Communications shall be reported *by the party* within three  
38 working days of the communication by filing a “Notice of Ex Parte  
39 Communication” with the commission in accordance with the

1 procedures established by the commission for the service of that  
2 notice. The notice shall include the following information:

3 (i) The date, time, and location of the communication, and  
4 whether it was oral, written, or a combination.

5 (ii) The identity of the recipient and the person initiating the  
6 communication, as well as the identity of any persons present  
7 during the communication.

8 (iii) A description of the party's, but not the decisionmaker's,  
9 communication and its content, to which shall be attached a copy  
10 of any written material or text used during the communication.

11 *(d) The commission shall post all prepared written testimony*  
12 *submitted in its formal proceedings on its Internet Web site.*

13 SEC. 10. Section 1701.4 of the Public Utilities Code is  
14 amended to read:

15 1701.4. (a) If the commission pursuant to Section 1701.1 has  
16 determined that a quasi-legislative case requires a hearing, the  
17 procedures prescribed by this section shall be applicable. The  
18 assigned administrative law judge shall act as an assistant to the  
19 assigned commissioner in quasi-legislative cases. The assigned  
20 commissioner shall be present for formal hearings. The assigned  
21 commissioner shall prepare the proposed rule or order with the  
22 assistance of the administrative law judge. The assigned  
23 commissioner shall present the proposed rule or order to the full  
24 commission in a public meeting. The report shall include the  
25 number of days of hearing and the number of days that the  
26 commissioner was present.

27 (b) Ex parte communications shall be permitted ~~without any~~  
28 ~~restrictions.~~ *in quasi-legislative cases, subject to the following:*

29 *(1) Oral ex parte communications may be permitted if all*  
30 *interested parties are invited and given not less than three days'*  
31 *notice.*

32 *(2) Written ex parte communications may be permitted if copies*  
33 *of the communication are transmitted to all parties on the same*  
34 *day.*

35 *(3) If an ex parte communication meeting is granted to any*  
36 *party, all other parties shall also be granted individual ex parte*  
37 *meetings of a substantially equal period of time and shall be sent*  
38 *a notice of this right at the time that the request is granted. In no*  
39 *event shall that notice be less than three days.*

1 (c) Any party has the right to present a final oral argument of  
2 its case before the commission. Those requests shall be scheduled  
3 in a timely manner. A quorum of the commission shall be present  
4 for the final oral arguments.

5 (d) The commission may, in issuing its rule or order, adopt,  
6 modify, or set aside the proposed decision or any part of the rule  
7 or order. The final rule or order of the commission shall be issued  
8 not later than 60 days after the issuance of the proposed rule or  
9 order. Under extraordinary circumstances the commission may  
10 extend this date for a reasonable period. The 60-day period shall  
11 be extended for 30 days if any alternate rule or order is proposed  
12 pursuant to Section 311.

13 SEC. 11. Section 1701.6 is added to the Public Utilities Code,  
14 to read:

15 1701.6. A violation of the ex parte communications  
16 requirements of this article by any person is punishable by a fine  
17 of not more than fifty thousand dollars (\$50,000) or by  
18 imprisonment for not more than one year in a county jail, or by  
19 both that fine and imprisonment.

20 SEC. 12. Section 1759 of the Public Utilities Code is amended  
21 to read:

22 1759. (a) No court of this state, except the Supreme Court and  
23 the court of appeal, to the extent specified in this article, shall have  
24 jurisdiction to review, reverse, correct, or annul any order or  
25 decision of the commission or to suspend or delay the execution  
26 or operation thereof, or to enjoin, restrain, or interfere with the  
27 commission in the performance of its official duties, as provided  
28 by law and the rules of court.

29 (b) The writ of mandamus shall lie from the Supreme Court and  
30 from the court of appeal to the commission in all proper cases as  
31 prescribed in Section 1085 of the Code of Civil Procedure.

32 (c) *This section does not apply to an action brought against the*  
33 *commission to enforce the requirements of the Bagley-Keene Open*  
34 *Meeting Act (Article 9 (commencing with Section 11120) of*  
35 *Chapter 1 of Part 1 of Division 3 of Title 2 of the Government*  
36 *Code) or the California Public Records Act (Chapter 3.5*  
37 *(commencing with Section 6250) of Division 7 of Title 1 of the*  
38 *Government Code), which action may be brought in the superior*  
39 *court.*

1 SEC. 13. No reimbursement is required by this act pursuant to  
2 Section 6 of Article XIII B of the California Constitution because  
3 the only costs that may be incurred by a local agency or school  
4 district will be incurred because this act creates a new crime or  
5 infraction, eliminates a crime or infraction, or changes the penalty  
6 for a crime or infraction, within the meaning of Section 17556 of  
7 the Government Code, or changes the definition of a crime within  
8 the meaning of Section 6 of Article XIII B of the California  
9 Constitution.

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