

AMENDED IN SENATE APRIL 14, 2015

SENATE BILL

No. 48

Introduced by Senator Hill

December 18, 2014

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~~ *Sections 1701.6 and 1711* to, the Public Utilities Code, relating to the Public Utilities Commission.

LEGISLATIVE COUNSEL'S DIGEST

SB 48, as amended, 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. *Except for in adjudication cases, the bill would require the commission, before instituting an investigation or proceeding on its own motion, where feasible and appropriate, to seek the views of those who are likely to be affected by a decision in the investigation or proceeding, including those who are likely to benefit from, and those who are potentially subject to, a decision in that investigation or proceeding.*

(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 delete the provision that an ex parte communication concerns a substantive, but not a procedural matter, and instead would provide that an ex parte communication concerns any matter that the commission has not specified as being a procedural matter that is an appropriate subject for ex parte communication. The bill would require the commission to specify those procedural matter that are appropriate subjects for ex parte communications in its Rules of Practice and Procedure.* 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 require that any decisionmaker who makes or receives a prohibited ex parte communication, or who learns that a permissible ex parte communication was not reported, to disclose the content of the communication and give all parties an opportunity to address the communication.* The bill would make a *knowing and willful* 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,

1 held that an interested person desiring to enforce the Bagley-Keene
2 Open Meeting Act against the Public Utilities Commission must
3 do so by filing a petition for writ of mandamus in the Supreme
4 Court or the Court of Appeal and may not do so by filing an action
5 for injunctive relief in the superior court.

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

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

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

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

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

26 305. The Governor shall designate a president of the
27 commission from among the members of the commission. The
28 president shall preside at all meetings and sessions of the
29 commission.

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

32 306. (a) The office of the commission shall be in the City and
33 County of San Francisco. The office shall always be open, legal
34 holidays and nonjudicial days excepted. The commission shall
35 hold its sessions at least once in each calendar month in the City
36 and County of San Francisco or the City of Sacramento. The
37 commission may also meet at such other times and in such other
38 places as may be expedient and necessary for the proper
39 performance of its duties, and for that purpose may rent quarters

1 or offices. The commission shall hold no less than six sessions
2 each year in the City of Sacramento.

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

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

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

19 (d) The commission may procure all necessary books, maps,
20 charts, stationery, instruments, office furniture, apparatus, and
21 appliances.

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

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

27 (b) The attorney shall represent and appear for the people of the
28 State of California and the commission in all actions and
29 proceedings involving any question under this part or under any
30 order or act of the commission. If directed to do so by the
31 commission, the attorney shall intervene, if possible, in any action
32 or proceeding in which any such question is involved.

33 (c) The attorney shall commence, prosecute, and expedite the
34 final determination of all actions and proceedings directed or
35 authorized by the commission, advise the commission and each
36 commissioner, when so requested, in regard to all matters in
37 connection with the powers and duties of the commission and the
38 members thereof, and generally perform all duties and services as
39 attorney to the commission that the commission may require of
40 him or her.

1 SEC. 5. Section 308 of the Public Utilities Code is amended
2 to read:

3 308. (a) The commission shall appoint an executive director,
4 who shall hold office during its pleasure. The executive director
5 shall be responsible for the commission's executive and
6 administrative duties and shall organize, coordinate, supervise,
7 and direct the operations and affairs of the commission and
8 expedite all matters within the commission's jurisdiction.

9 (b) The executive director shall keep a full and true record of
10 all proceedings of the commission, issue all necessary process,
11 writs, warrants, and notices, and perform any other duties the
12 commission prescribes. The commission may authorize the
13 executive director to dismiss complaints or applications when all
14 parties are in agreement thereto, in accordance with rules that the
15 commission may prescribe.

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

19 (d) The commission shall develop performance criteria for the
20 commission and the executive director and shall annually evaluate
21 the performance of the executive director based on the criteria
22 established in the previous year.

23 SEC. 6. Section 309.6 of the Public Utilities Code is amended
24 to read:

25 309.6. (a) The commission shall adopt procedures on the
26 disqualification of commissioners and administrative law judges
27 due to bias or prejudice similar to those of other state agencies and
28 superior courts.

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

31 SEC. 7. Section 321.6 of the Public Utilities Code is amended
32 to read:

33 321.6. (a) The commission shall do all of the following:

34 (1) Develop, publish, and annually update an annual workplan
35 that describes in clear detail the scheduled proceedings and other
36 decisions that may be considered by the commission during the
37 calendar year. The plan shall include, but is not limited to,
38 information on how members of the public and ratepayers can gain
39 access to the commission's ratemaking process and information
40 regarding the specific matters to be decided. The plan shall also

1 include information on the operation of the office of the public
2 adviser and identify the names and telephone numbers of those
3 contact persons responsible for specific cases and matters to be
4 decided. The plan shall also include a statement that specifies
5 activities that the commission proposes to reduce the costs of, and
6 rates for, energy, including electricity, and for improving the
7 competitive opportunities for state agriculture and other rural
8 energy consumers. The plan shall also include performance criteria
9 for the commission and executive director and shall evaluate the
10 performance of the executive director during the previous year
11 based on the criteria established in the prior year's workplan. The
12 commission shall post the plan under the Official Documents area
13 of its Internet Web site and shall develop a program to disseminate
14 the information in the plan utilizing computer mailing lists to
15 provide regular updates on the information to those members of
16 the public and organizations which request that information.

17 (2) Produce a complete accounting of its transactions and
18 proceedings for the preceding year, together with other facts,
19 suggestions, and recommendations that it deems of value to the
20 people of the state and a statement that specifies the activities and
21 achievements of the commission in reducing the costs of, and rates
22 for, energy, including electricity, for state agriculture and other
23 rural energy consumers.

24 (3) Create a report describing the commission's timeliness in
25 resolving cases, information on the disposition of applications for
26 rehearings, and the days that commissioners presided in hearings.
27 The report shall include the number of scoping memos issued in
28 each proceeding and the number of orders issued extending the
29 statutory deadlines pursuant to subdivision (d) of Section 1701.2,
30 for all adjudication cases, and pursuant to subdivision (a) of Section
31 1701.5, for all ratesetting or quasi-legislative cases.

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

35 (b) The president of the commission shall annually appear before
36 the appropriate policy committees of the Senate and Assembly to
37 report on the annual workplan access guide of the commission
38 required pursuant to this section.

39 (c) The president of the commission shall annually appear before
40 the appropriate policy committees of the Senate and Assembly to

1 report on the annual report of the commission on the commission's
2 timeliness in resolving cases and the days that commissioners
3 presided in hearings.

4 SEC. 8. Section 1701 of the Public Utilities Code is amended
5 to read:

6 1701. (a) All hearings, investigations, and proceedings shall
7 be governed by this part and by rules of practice and procedure
8 adopted by the commission, and in the conduct thereof the technical
9 rules of evidence need not be applied. No informality in any
10 hearing, investigation, or proceeding or in the manner of taking
11 testimony shall invalidate any order, decision or rule made,
12 approved, or confirmed by the commission.

13 (b) Notwithstanding Section 11425.10 of the Government Code,
14 Articles 1 through 15, inclusive, of Chapter 4.5 (commencing with
15 Section 11400) of Part 1 of Division 3 of Title 2 of the Government
16 Code do not apply to a hearing by the commission under this code.
17 The Administrative Adjudication Code of Ethics (Article 16
18 (commencing with Section 11475) of Chapter 4.5) shall apply to
19 adjudication proceedings of the commission.

20 SEC. 9. Section 1701.1 of the Public Utilities Code is amended
21 to read:

22 1701.1. (a) The commission, consistent with due process,
23 public policy, and statutory requirements, shall determine whether
24 a proceeding requires a hearing. The commission shall determine
25 whether the matter requires a quasi-legislative, an adjudication,
26 or a ratesetting hearing. The commission's decision as to the nature
27 of the proceeding shall be subject to a request for rehearing within
28 10 days of the date of that decision. If that decision is not appealed
29 to the commission within that time period it shall not be
30 subsequently subject to judicial review. Only those parties who
31 have requested a rehearing within that time period shall
32 subsequently have standing for judicial review and that review
33 shall only be available at the conclusion of the proceeding. The
34 commission shall render its decision regarding the rehearing within
35 30 days. The commission shall establish regulations regarding ex
36 parte communication on case categorization issues.

37 (b) The commission upon initiating a hearing shall assign one
38 or more commissioners to oversee the case and an administrative
39 law judge where appropriate. The assigned commissioner shall
40 schedule a prehearing conference. The assigned commissioner

1 shall prepare and issue by order or ruling a scoping memo that
2 describes the issues to be considered and the applicable timetable
3 for resolution.

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

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

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

15 ~~(4)–~~

16 (d) (1) “Ex parte communication,” for purposes of this article,
17 means any oral or written communication between a decisionmaker
18 and a person with an interest in a matter before the commission
19 or a representative of the financial industry concerning ~~substantive,~~
20 ~~but not procedural issues;~~ *any matter that the commission has not*
21 *specified as being a procedural matter that is an appropriate*
22 *subject for ex parte communication,* that does not occur in a public
23 hearing, workshop, or other public proceeding, or on the official
24 record of the proceeding on the matter. *The commission shall*
25 *specify those procedural matter that are appropriate subjects for*
26 *ex parte communications in its Rules of Practice and Procedure.*
27 “Person with an interest,” for purposes of this article, means any
28 of the following:

29 (A) Any applicant, an agent or an employee of the applicant,
30 or a person receiving consideration for representing the applicant,
31 or a participant in the proceeding on any matter before the
32 commission.

33 (B) Any person with a financial interest, as described in Article
34 1 (commencing with Section 87100) of Chapter 7 of Title 9 of the
35 Government Code, in a matter before the commission, or an agent
36 or employee of the person with a financial interest, or a person
37 receiving consideration for representing the person with a financial
38 interest.

39 (C) A representative acting on behalf of any civic,
40 environmental, neighborhood, business, labor, trade, or similar

1 organization who intends to influence the decision of a commission
2 member on a matter before the commission.

3 ~~The~~

4 (2) *The* commission shall by regulation adopt and publish a
5 definition of decisionmakers and persons for purposes of this
6 section, which shall include commissioners, the executive director,
7 and the attorney to the commission, along with any requirements
8 for written reporting of ex parte communications and appropriate
9 sanctions, in addition to those described in Section 1701.6, for
10 noncompliance with any rule proscribing ex parte communications.
11 The regulation shall provide that reportable communications shall
12 be reported by the party and the decisionmaker *pursuant to*
13 *paragraphs (3) and (4)*, whether the communication was initiated
14 by the party or the decisionmaker. ~~Communications~~

15 (3) *The communication* shall be reported by the party within
16 three working days of the communication by filing a “Notice of
17 Ex Parte Communication” with the commission in accordance
18 with the procedures established by the commission for the service
19 of that notice. The notice shall include the following information:

20 (i)

21 (A) The date, time, and location of the communication, and
22 whether it was oral, written, or a combination.

23 (ii)

24 (B) The identity of the recipient and the person initiating the
25 communication, as well as the identity of any persons present
26 during the communication.

27 (iii)

28 (C) A description of the party’s, but not the decisionmaker’s,
29 communication and its content, to which shall be attached a copy
30 of any written material or text used during the communication.

31 (4) *Any decisionmaker who makes or receives a prohibited ex*
32 *parte communication, or who learns that a permissible ex parte*
33 *communication was not reported pursuant to paragraph (3), shall*
34 *disclose the content of the communication and give all parties an*
35 *opportunity to address the communication.*

36 (d)

37 (e) The commission shall post all prepared written testimony
38 submitted in its formal proceedings on its Internet Web site.

39 SEC. 10. Section 1701.4 of the Public Utilities Code is
40 amended to read:

1 1701.4. (a) If the commission pursuant to Section 1701.1 has
2 determined that a quasi-legislative case requires a hearing, the
3 procedures prescribed by this section shall be applicable. The
4 assigned administrative law judge shall act as an assistant to the
5 assigned commissioner in quasi-legislative cases. The assigned
6 commissioner shall be present for formal hearings. The assigned
7 commissioner shall prepare the proposed rule or order with the
8 assistance of the administrative law judge. The assigned
9 commissioner shall present the proposed rule or order to the full
10 commission in a public meeting. The report shall include the
11 number of days of hearing and the number of days that the
12 commissioner was present.

13 (b) Ex parte communications shall be permitted in
14 quasi-legislative cases, subject to the following:

15 (1) Oral ex parte communications may be permitted if all
16 interested parties are invited and given not less than three days'
17 notice.

18 (2) Written ex parte communications may be permitted if copies
19 of the communication are transmitted to all parties on the same
20 day.

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

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

30 (d) The commission may, in issuing its rule or order, adopt,
31 modify, or set aside the proposed decision or any part of the rule
32 or order. The final rule or order of the commission shall be issued
33 not later than 60 days after the issuance of the proposed rule or
34 order. Under extraordinary circumstances the commission may
35 extend this date for a reasonable period. The 60-day period shall
36 be extended for 30 days if any alternate rule or order is proposed
37 pursuant to Section 311.

38 SEC. 11. Section 1701.6 is added to the Public Utilities Code,
39 to read:

1 1701.6. A *knowing and willful* violation of the ex parte
2 communications requirements of this article by any person is
3 punishable by a fine of not more than fifty thousand dollars
4 (\$50,000) or by imprisonment for not more than one year in a
5 county jail, or by both that fine and imprisonment.

6 *SEC. 12. Section 1711 is added to the Public Utilities Code,*
7 *to read:*

8 *1711. Where feasible and appropriate, except for adjudication*
9 *cases, before instituting an investigation or proceeding on its own*
10 *motion, the commission shall seek the views of those who are likely*
11 *to be affected, including those who are likely to benefit from, and*
12 *those who are potentially subject to, a decision in that investigation*
13 *or proceeding. The commission shall demonstrate its efforts to*
14 *comply with this section in the text of the order instituting the*
15 *investigation or proceeding.*

16 ~~SEC. 12.~~

17 *SEC. 13. Section 1759 of the Public Utilities Code is amended*
18 *to read:*

19 1759. (a) No court of this state, except the Supreme Court and
20 the court of appeal, to the extent specified in this article, shall have
21 jurisdiction to review, reverse, correct, or annul any order or
22 decision of the commission or to suspend or delay the execution
23 or operation thereof, or to enjoin, restrain, or interfere with the
24 commission in the performance of its official duties, as provided
25 by law and the rules of court.

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

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

37 ~~SEC. 13.~~

38 *SEC. 14. No reimbursement is required by this act pursuant to*
39 *Section 6 of Article XIII B of the California Constitution because*
40 *the only costs that may be incurred by a local agency or school*

1 district will be incurred because this act creates a new crime or
2 infraction, eliminates a crime or infraction, or changes the penalty
3 for a crime or infraction, within the meaning of Section 17556 of
4 the Government Code, or changes the definition of a crime within
5 the meaning of Section 6 of Article XIII B of the California
6 Constitution.

O