

AMENDED IN SENATE MAY 6, 2015  
AMENDED IN SENATE APRIL 14, 2015

**SENATE BILL**

**No. 48**

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**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 Sections ~~1701.6~~ 309.8 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. *This bill would require the commission to post all prepared written testimony submitted in its formal proceedings on its Internet Web site.*

~~(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)~~

~~(4) The Public Utilities Act requires the commission to develop, publish, and annually update an annual workplan that does all of the following: (a) (A) describes in clear detail the scheduled ratemaking proceedings and other decisions that may be considered by the commission during the calendar year, (b) (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) (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) (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)~~

~~(5) 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)~~

~~(6) 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-no*.

*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 (*Article 9 (commencing with Section 11120)*  
7 *of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government*  
8 *Code*) against the Public Utilities Commission must do so by filing  
9 a petition for writ of mandamus in the Supreme Court or the ~~Court~~  
10 ~~of Appeal~~ *court of appeal* and may not do so by filing an action  
11 for injunctive relief in the superior court.

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

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

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

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

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

32 305. The Governor shall designate a president of the  
33 commission from among the members of the commission. The  
34 president shall preside at all meetings and sessions of the  
35 commission.

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

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

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

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

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

27 (d) The commission may procure all necessary books, maps,  
28 charts, stationery, instruments, office furniture, apparatus, and  
29 appliances.

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

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

35 (b) The attorney shall represent and appear for the people of the  
36 State of California and the commission in all actions and  
37 proceedings involving any question under this part or under any  
38 order or act of the commission. If directed to do so by the  
39 commission, the attorney shall intervene, if possible, in any action  
40 or proceeding in which any such question is involved.

1 (c) The attorney shall commence, prosecute, and expedite the  
2 final determination of all actions and proceedings directed or  
3 authorized by the commission, advise the commission and each  
4 commissioner, when so requested, in regard to all matters in  
5 connection with the powers and duties of the commission and the  
6 members thereof, and generally perform all duties and services as  
7 attorney to the commission that the commission may require of  
8 him or her.

9 SEC. 5. Section 308 of the Public Utilities Code is amended  
10 to read:

11 308. (a) The commission shall appoint an executive director,  
12 who shall hold office during its pleasure. The executive director  
13 shall be responsible for the commission's executive and  
14 administrative duties and shall organize, coordinate, supervise,  
15 and direct the operations and affairs of the commission and  
16 expedite all matters within the commission's jurisdiction.

17 (b) The executive director shall keep a full and true record of  
18 all proceedings of the commission, issue all necessary process,  
19 writs, warrants, and notices, and perform any other duties the  
20 commission prescribes. The commission may authorize the  
21 executive director to dismiss complaints or applications when all  
22 parties are in agreement thereto, in accordance with rules that the  
23 commission may prescribe.

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

27 ~~(d) The commission shall develop performance criteria for the~~  
28 ~~commission and the executive director and shall annually evaluate~~  
29 ~~the performance of the executive director based on the criteria~~  
30 ~~established in the previous year.~~

31 ~~SEC. 6. Section 309.6 of the Public Utilities Code is amended~~  
32 ~~to read:~~

33 ~~309.6. (a) The commission shall adopt procedures on the~~  
34 ~~disqualification of commissioners and administrative law judges~~  
35 ~~due to bias or prejudice similar to those of other state agencies and~~  
36 ~~superior courts.~~

37 ~~(b) The commission shall develop the procedures with the~~  
38 ~~opportunity for public review and comment.~~

39 *SEC. 6. Section 309.8 is added to the Public Utilities Code, to*  
40 *read:*

1 309.8. *The commission shall post all prepared written testimony*  
2 *submitted in its formal proceedings on its Internet Web site.*

3 SEC. 7. Section 321.6 of the Public Utilities Code is amended  
4 to read:

5 321.6. (a) The commission shall do all of the following:

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

29 (2) Produce a complete accounting of its transactions and  
30 proceedings for the preceding year, together with other facts,  
31 suggestions, and recommendations that it deems of value to the  
32 people of the state and a statement that specifies the activities and  
33 achievements of the commission in reducing the costs of, and rates  
34 for, energy, including electricity, for state agriculture and other  
35 rural energy consumers.

36 (3) Create a report describing the commission's timeliness in  
37 resolving cases, information on the disposition of applications for  
38 rehearings, and the days that commissioners presided in hearings.  
39 The report shall include the number of scoping memos issued in  
40 each proceeding and the number of orders issued extending the

1 statutory deadlines pursuant to subdivision (d) of Section 1701.2,  
2 for all adjudication cases, and pursuant to subdivision (a) of Section  
3 1701.5, for all ratesetting or quasi-legislative cases.

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

7 (b) The president of the commission shall annually appear before  
8 the appropriate policy committees of the Senate and Assembly to  
9 report on the annual workplan access guide of the commission  
10 required pursuant to this section.

11 (c) The president of the commission shall annually appear before  
12 the appropriate policy committees of the Senate and Assembly to  
13 report on the annual report of the commission on the commission’s  
14 timeliness in resolving cases and the days that commissioners  
15 presided in hearings.

16 SEC. 8. Section 1701 of the Public Utilities Code is amended  
17 to read:

18 1701. (a) All hearings, investigations, and proceedings shall  
19 be governed by this part and by rules of practice and procedure  
20 adopted by the commission, and in the conduct thereof the technical  
21 rules of evidence need not be applied. No informality in any  
22 hearing, investigation, or proceeding or in the manner of taking  
23 testimony shall invalidate any order, decision or rule made,  
24 approved, or confirmed by the commission.

25 (b) Notwithstanding Section 11425.10 of the Government Code,  
26 Articles 1 through 15, inclusive, of Chapter 4.5 (commencing with  
27 Section 11400) of Part 1 of Division 3 of Title 2 of the Government  
28 Code do not apply to a hearing by the commission under this code.  
29 The Administrative Adjudication Code of Ethics (Article 16  
30 (commencing with Section 11475) of Chapter ~~4.5~~ *4.5 of Part 1*  
31 *of Division 3 of Title 2 of the Government Code*) shall apply to  
32 adjudication proceedings of the commission.

33 ~~SEC. 9. Section 1701.1 of the Public Utilities Code is amended~~  
34 ~~to read:~~

35 ~~1701.1. (a) The commission, consistent with due process,~~  
36 ~~public policy, and statutory requirements, shall determine whether~~  
37 ~~a proceeding requires a hearing. The commission shall determine~~  
38 ~~whether the matter requires a quasi-legislative, an adjudication,~~  
39 ~~or a ratesetting hearing. The commission’s decision as to the nature~~  
40 ~~of the proceeding shall be subject to a request for rehearing within~~

1 10 days of the date of that decision. If that decision is not appealed  
2 to the commission within that time period it shall not be  
3 subsequently subject to judicial review. Only those parties who  
4 have requested a rehearing within that time period shall  
5 subsequently have standing for judicial review and that review  
6 shall only be available at the conclusion of the proceeding. The  
7 commission shall render its decision regarding the rehearing within  
8 30 days. The commission shall establish regulations regarding ex  
9 parte communication on case categorization issues.

10 (b) The commission upon initiating a hearing shall assign one  
11 or more commissioners to oversee the case and an administrative  
12 law judge where appropriate. The assigned commissioner shall  
13 schedule a prehearing conference. The assigned commissioner  
14 shall prepare and issue by order or ruling a scoping memo that  
15 describes the issues to be considered and the applicable timetable  
16 for resolution.

17 (e) (1) Quasi-legislative cases, for purposes of this article, are  
18 cases that establish policy, including, but not limited to,  
19 rulemakings and investigations which may establish rules affecting  
20 an entire industry.

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

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

28 (d) (1) “Ex parte communication,” for purposes of this article,  
29 means any oral or written communication between a decisionmaker  
30 and a person with an interest in a matter before the commission  
31 or a representative of the financial industry concerning any matter  
32 that the commission has not specified as being a procedural matter  
33 that is an appropriate subject for ex parte communication, that does  
34 not occur in a public hearing, workshop, or other public proceeding,  
35 or on the official record of the proceeding on the matter. The  
36 commission shall specify those procedural matter that are  
37 appropriate subjects for ex parte communications in its Rules of  
38 Practice and Procedure. “Person with an interest,” for purposes of  
39 this article, means any of the following:

1 ~~(A) Any applicant, an agent or an employee of the applicant,~~  
2 ~~or a person receiving consideration for representing the applicant,~~  
3 ~~or a participant in the proceeding on any matter before the~~  
4 ~~commission.~~

5 ~~(B) Any person with a financial interest, as described in Article~~  
6 ~~1 (commencing with Section 87100) of Chapter 7 of Title 9 of the~~  
7 ~~Government Code, in a matter before the commission, or an agent~~  
8 ~~or employee of the person with a financial interest, or a person~~  
9 ~~receiving consideration for representing the person with a financial~~  
10 ~~interest.~~

11 ~~(C) A representative acting on behalf of any civic,~~  
12 ~~environmental, neighborhood, business, labor, trade, or similar~~  
13 ~~organization who intends to influence the decision of a commission~~  
14 ~~member on a matter before the commission.~~

15 ~~(2) The commission shall by regulation adopt and publish a~~  
16 ~~definition of decisionmakers and persons for purposes of this~~  
17 ~~section, which shall include commissioners, the executive director,~~  
18 ~~and the attorney to the commission, along with any requirements~~  
19 ~~for written reporting of ex parte communications and appropriate~~  
20 ~~sanctions, in addition to those described in Section 1701.6, for~~  
21 ~~noncompliance with any rule proscribing ex parte communications.~~  
22 ~~The regulation shall provide that reportable communications shall~~  
23 ~~be reported by the party and the decisionmaker pursuant to~~  
24 ~~paragraphs (3) and (4), whether the communication was initiated~~  
25 ~~by the party or the decisionmaker.~~

26 ~~(3) The communication shall be reported by the party within~~  
27 ~~three working days of the communication by filing a “Notice of~~  
28 ~~Ex Parte Communication” with the commission in accordance~~  
29 ~~with the procedures established by the commission for the service~~  
30 ~~of that notice. The notice shall include the following information:~~

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

33 ~~(B) The identity of the recipient and the person initiating the~~  
34 ~~communication, as well as the identity of any persons present~~  
35 ~~during the communication.~~

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

39 ~~(4) Any decisionmaker who makes or receives a prohibited ex~~  
40 ~~parte communication, or who learns that a permissible ex parte~~

1 communication was not reported pursuant to paragraph (3), shall  
2 disclose the content of the communication and give all parties an  
3 opportunity to address the communication.

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

6 ~~SEC. 10. Section 1701.4 of the Public Utilities Code is~~  
7 ~~amended to read:~~

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

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

22 ~~(1) Oral ex parte communications may be permitted if all~~  
23 ~~interested parties are invited and given not less than three days'~~  
24 ~~notice.~~

25 ~~(2) Written ex parte communications may be permitted if copies~~  
26 ~~of the communication are transmitted to all parties on the same~~  
27 ~~day.~~

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

33 ~~(e) Any party has the right to present a final oral argument of~~  
34 ~~its case before the commission. Those requests shall be scheduled~~  
35 ~~in a timely manner. A quorum of the commission shall be present~~  
36 ~~for the final oral arguments.~~

37 ~~(d) The commission may, in issuing its rule or order, adopt,~~  
38 ~~modify, or set aside the proposed decision or any part of the rule~~  
39 ~~or order. The final rule or order of the commission shall be issued~~  
40 ~~not later than 60 days after the issuance of the proposed rule or~~

1 order. Under extraordinary circumstances the commission may  
2 extend this date for a reasonable period. The 60-day period shall  
3 be extended for 30 days if any alternate rule or order is proposed  
4 pursuant to Section 311.

5 ~~SEC. 11.~~ Section 1701.6 is added to the Public Utilities Code,  
6 to read:

7 1701.6. ~~A knowing and willful violation of the ex parte~~  
8 ~~communications requirements of this article by any person is~~  
9 ~~punishable by a fine of not more than fifty thousand dollars~~  
10 ~~(\$50,000) or by imprisonment for not more than one year in a~~  
11 ~~county jail, or by both that fine and imprisonment.~~

12 ~~SEC. 12.~~

13 ~~SEC. 9.~~ Section 1711 is added to the Public Utilities Code, to  
14 read:

15 1711. Where feasible and appropriate, except for adjudication  
16 cases, before instituting an investigation or proceeding on its own  
17 motion, the commission shall seek the views of those who are  
18 likely to be affected, including those who are likely to benefit from,  
19 and those who are potentially subject to, a decision in that  
20 investigation or proceeding. The commission shall demonstrate  
21 its efforts to comply with this section in the text of the order  
22 instituting the investigation or proceeding.

23 ~~SEC. 13.~~

24 ~~SEC. 10.~~ Section 1759 of the Public Utilities Code is amended  
25 to read:

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

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

36 (c) This section does not apply to an action brought against the  
37 commission to enforce the requirements of the Bagley-Keene Open  
38 Meeting Act (Article 9 (commencing with Section 11120) of  
39 Chapter 1 of Part 1 of Division 3 of Title 2 of the Government  
40 Code) or the California Public Records Act (Chapter 3.5

1 (commencing with Section 6250) of Division 7 of Title 1 of the  
2 Government Code), which action may be brought in the superior  
3 court.

4 ~~SEC. 14. No reimbursement is required by this act pursuant to~~  
5 ~~Section 6 of Article XIII B of the California Constitution because~~  
6 ~~the only costs that may be incurred by a local agency or school~~  
7 ~~district will be incurred because this act creates a new crime or~~  
8 ~~infraction, eliminates a crime or infraction, or changes the penalty~~  
9 ~~for a crime or infraction, within the meaning of Section 17556 of~~  
10 ~~the Government Code, or changes the definition of a crime within~~  
11 ~~the meaning of Section 6 of Article XIII B of the California~~  
12 ~~Constitution.~~

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