

STATE OF CALIFORNIA

Public Utilities Commission
San Francisco

M e m o r a n d u m

Date: July 12, 2011

To: The Commission
(Meeting of July 14, 2011)

From: Edward Randolph, Director
Office of Governmental Affairs (OGA) — Sacramento

Subject: **SB 343 (De León) – Energy: efficiency.**
As amended: June 30, 2011

LEGISLATIVE SUBCOMMITTEE RECOMMENDATION: SUPPORT

SUMMARY OF BILL:

SB 343 requires the California Public Utilities Commission (CPUC), in consultation with the California Energy Commission (CEC), the State Treasurer, and the California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA), to determine appropriate energy efficiency financing measures, programs, and funding sources for the residential, commercial, and public building sectors in order to achieve the statewide energy efficiency goals for those sectors identified in the California Energy Efficiency Strategic Plan.

SUMMARY OF SUPPORTING ARGUMENTS FOR RECOMMENDATION:

The CPUC supports this bill, as amended. New financing measures for energy efficiency will be an important piece of the package of programs that must be in place to meet the state's long-term efficiency goals. SB 343 is generally consistent with an existing statutory mandate and can be addressed in existing Rulemaking 09-11-014, which concerns the investor-owned utilities' post-2012 energy efficiency portfolios.

DIVISION ANALYSIS (Energy Division):

Energy efficiency continues to be a significant, untapped resource

It is widely accepted that there is substantial untapped potential for commercial buildings to reduce their energy consumption. Commercial buildings (including government and institutional buildings) consume about one-third or more of the state's electricity, and comprise an estimated 6-8 billion square feet of space in existing

buildings. Collectively, building owners may have the potential to invest \$12-16 billion in energy efficiency, with an expected return in less than five years and an effective cost per unit of energy saved that falls far below the cost to build or buy conventional energy resources.

Only a small fraction of potential energy efficiency investments are occurring today. IOU energy efficiency programs for the commercial sector amount to approximately \$400 million per year with about half of this (or about \$200 million), paying financial incentives to help offset the cost of efficiency improvements. Assuming the financial incentives pay between one-fourth and one-half the cost of those improvements, this suggests that efficiency investments for commercial buildings amount to perhaps \$400 – 800 million per year, or about 3-5 percent each year of the potential.

Why energy efficiency remains an untapped resource

Despite significant statewide investment in energy efficiency, there are still untapped, cost-effective, areas for improvement in efficiency. A number studies have documented the barriers to optimal levels of energy efficiency. These include the following factors:

1. Lack of knowledge and information about what exact efficiency measures to take and what their expected performance will be.
2. An owner/agent or principal/agent problem where building owners have no/little direct economic gain when making building improvements in leased space where the occupant/tenant pays the utility bill and thus the owner will not see any revenue gain or reduced operating costs as a result of the efficiency improvement.
3. Even where there is an owner/occupant, lack of access to capital for the project, or reluctance to commit limited capital resources and balance sheet debt to investments falling outside the core focus of the business or institutional purpose.

Financing can help, but on its own is not sufficient to overcome the other barriers.

The CEC and CPUC are currently implementing the Legislature's direction on financing

In 2009, the Legislature approved AB 758 (Skinner), directing the CEC to develop and the CPUC to investigate the prospects for funding/financing a program to achieve energy efficiency in California's existing buildings (all buildings, including residences, businesses, and institutions). In a parallel timeframe, the CPUC, in D.09-09-047 directed the Energy Division, together with the IOUs, to explore the availability financing mechanisms and to assess the extent to which non-existent or insufficient financing mechanisms were a major reason that efficiency investments were not occurring at their full potential. The CEC has just begun the technical work for its responsibilities under this law and anticipates initial recommendations late in 2011. The CPUC just released a consultant study on the needs and gaps in financing. The two agencies expect to coordinate and integrate their work in the 2011-12 timeframe to identify market needs

and solutions for an even larger set of energy users than the commercial sector focus of SB 343.

While SB 343 is generally consistent with the above work, it appears that the direction in AB 758 and D.09-09-047 are sufficient to address its goals and objectives.

PROGRAM BACKGROUND:

The CPUC authorized initial utility “on bill financing” (OBF) for certain commercial/institutional customers with the 2006-08 energy efficiency portfolio. Sempra took the lead on this, and Southern California Edison conducted a small pilot program. Then, with D.09-09-047 the CPUC directed all four IOUs to:

1. Offer similar OBF financing programs for energy efficiency;
2. Start with a total of \$40 million in loan funds to be made available to all non-residential customers making efficiency improvements,
3. Collaborate with Energy Division staff on an analysis of financing needs and gaps and to identify clearly advised financing mechanisms, and;
4. Return to the CPUC with proposals for new or expanded financing mechanisms based on this analysis and market response.

Energy efficiency financing mechanisms are the subject of much discussion in energy efficiency, financial, and policy circles, ranging from: the U.S. government, the American Council for an Energy Efficient Economy, large finance companies, and many large states and cities on the one hand, to California forums involving the Legislature, Governor’s office, state agencies, utilities, environmental advocacy organizations, commercial building associations and labor, all reflected in the recent California Energy Efficiency Industry Council forum. It is clear the issue is timely and ripe, but extremely complex.

LEGISLATIVE HISTORY:

AB 758 (Skinner) required the CEC to develop and implement a comprehensive program to achieve energy savings in existing residential and nonresidential building stock, including energy assessments, cost-effective energy efficiency improvements, financing options, public outreach, and education efforts.

STATUS:

SB 343 is currently awaiting a hearing in the Assembly Natural Resources Committee.

SUPPORT/OPPOSITION:

None on file.

STAFF CONTACTS:

Dan Chia, Deputy Director, OGA

(916) 324-5945

dc2@cpuc.ca.gov

BILL LANGUAGE:

BILL NUMBER: SB 343 AMENDED
BILL TEXT

AMENDED IN ASSEMBLY JUNE 30, 2011
AMENDED IN ASSEMBLY JUNE 22, 2011
AMENDED IN SENATE MAY 31, 2011
AMENDED IN SENATE MAY 10, 2011
AMENDED IN SENATE APRIL 25, 2011

INTRODUCED BY Senator De León

FEBRUARY 15, 2011

~~An act to add Chapter 4 (commencing with Section 26043) to, and to repeal Article 4 (commencing with Section 26043.50) of Chapter 4 of, Division 16 of the Public Resources Code, and to amend Section 399.8 of the Public Utilities Code, relating to energy, and making an appropriation therefor.— An act to add Section 381.3 to the Public Utilities Code, relating to energy.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 343, as amended, De León. Energy: efficiency.

Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations and gas corporations, as defined. Existing law requires the PUC to investigate the ability of electrical corporation and gas corporations to provide energy efficiency financing options to their customers to implement a comprehensive program developed by the State Energy Resources Conservation and Development Commission (Energy Commission) and requires the PUC to include an assessment of each electrical corporation's and each gas corporation's implementation of that program in a specified triennial report required under existing law. Pursuant to this requirement, the PUC has opened Rulemaking 09-11-014.

This bill would require the PUC, in Rulemaking 09-11-014, in consultation with the Energy Commission, the Treasurer, and the California Alternative Energy and Advanced Transportation Financing Authority, to determine appropriate energy efficiency financing measures, programs, and funding sources for the residential, commercial, and public building sectors in order to achieve the statewide energy efficiency goals for those sectors identified in the California Energy Efficiency Strategic Plan adopted by the PUC.

~~(1) The California Alternative Energy and Advanced Transportation Financing Act requires the California Alternative Energy and Advanced Transportation Financing Authority, in consultation with the State Energy Resources Conservation and Development Commission, to establish criteria for selecting projects related to renewable energy and alternative transportation technologies that would receive financial assistance, including loans, loan loss reserves, interest rate reductions, insurance, guarantees, and other credit enhancement~~

~~or liquidity facilities from the authority.~~

~~— This bill would require the authority to establish a Commercial Energy Efficiency Retrofit Revolving Loan Program for the purposes of providing loans for energy efficiency retrofit for commercial properties. The bill would require the authority to accept and evaluate applications for energy retrofits for commercial properties to accomplish specified goals. The bill would establish in the State Treasury the California Alternative Energy and Advanced Transportation Financing Authority Energy Efficiency Retrofit Bank Fund (bank fund). Moneys from the bank fund would be available for expenditure for the general administration of the loan program upon appropriation of the Legislature. The bill would continuously appropriate the moneys in the bank fund to the authority for all other purposes of the loan program, thereby resulting in an appropriation.~~

~~— This bill would require the Legislative Analyst's Office, by an unspecified date, to submit a report to the Joint Legislative Budget Committee on the effectiveness of the loan program. The bill would repeal this requirement on an unspecified date.~~

~~— (2) Existing law, the Public Utilities Act, requires the Public Utilities Commission to require an electrical corporation, until January 1, 2012, to identify a separate electrical rate component, commonly referred to as the "public goods charge," to fund energy efficiency, renewable energy, and research, development, and demonstration programs that enhance system reliability and provide in-state benefits. Electrical corporations are required to collect and allocate these funds in accordance with prescribed requirements. Under existing law, a violation of the Public Utilities Act is a crime.~~

~~— This bill would require the commission to require each electrical corporation to remit an unspecified amount of that money collected to the California Alternative Energy and Advanced Transportation Financing Authority for deposit in the bank fund.~~

~~— Because this bill would add a requirement to the Public Utilities Act, the violation of which would be a crime, it would create a state-mandated local program.~~

~~— (3) 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: $\frac{2}{3}$ majority . Appropriation: ~~yes~~ no . Fiscal committee: yes. State-mandated local program: ~~yes~~ no .~~

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 381.3 is added to the Public Utilities Code , to read:

381.3. In pending Rulemaking 09-11-014, the commission, in consultation with the Energy Commission, the Treasurer, and the California Alternative Energy and Advanced Transportation Financing Authority, shall determine appropriate energy efficiency financing measures, programs, and funding sources for the residential, commercial, and public building sectors in order to achieve the

statewide energy efficiency goals for those sectors identified in the California Energy Efficiency Strategic Plan, as updated by the commission in January 2011.

~~SECTION 1. Chapter 4 (commencing with Section 26043) is added to Division 16 of the Public Resources Code, to read:~~

~~CHAPTER 4. COMMERCIAL ENERGY EFFICIENCY RETROFIT REVOLVING LOAN PROGRAM~~

~~Article 1. General Provisions~~

~~26043. The purpose of this chapter is to promote and accelerate the implementation of energy efficiency retrofits of commercial properties in California. Commercial properties represent a large potential for energy savings, greenhouse gas emissions reductions, and creation of jobs in the state. In furtherance of these objectives, the authority may approve projects for financial assistance in the form of loans on terms established pursuant to this chapter.~~

~~26043.1. To the extent not inconsistent with Section 26003, the following definitions shall apply for the purposes of this chapter:~~

~~(a) "Bank fund" means the California Alternative Energy and Advanced Transportation Financing Authority Energy Efficiency Retrofit Bank Fund established pursuant to Section 26043.10.~~

~~(b) "Borrower" means a person or entity engaged in business operations in the state.~~

~~(c) "Commercial property" means improvement to real property used for business operations in the state.~~

~~(d) "Energy retrofit" means the installation, utilization, implementation, or deployment of equipment on or in existing commercial properties or the making of modifications to existing commercial properties with the purpose of reducing energy use or increasing the efficiency of the use of energy within the commercial property.~~

~~26043.2. The authority shall make every effort to expedite the operation of this chapter and shall adopt emergency regulations for the purposes of implementing the chapter in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For the purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health and safety, and general welfare.~~

~~26043.3. The authority shall accept applications from borrowers for financing of energy retrofits of commercial properties. The applications shall be considered and evaluated based upon the extent to which the proposed energy retrofits will accomplish the following:~~

~~(a) Produce energy savings.~~

~~(b) Involve equipment manufactured or assembled in California.~~

~~(c) Create new jobs in California.~~

~~(d) Result in a reduction in greenhouse gas emissions, a reduction in air or water pollution, an increase in energy efficiency, or a reduction in energy consumption, as compared to existing conditions~~

~~and beyond what is required by federal or state law or regulations.~~

~~—(e) Leverage other private or public funds.~~

~~—(f) Other factors the authority deems appropriate in advancing the purposes of this chapter.~~

~~—26043.4. The authority shall, by regulation, establish program priorities, an application process, and terms and conditions for loans made pursuant to this chapter.~~

~~—Article 2. Energy Efficiency Retrofit Bank Fund~~

~~—26043.10. (a) There is hereby established in the State Treasury the California Alternative Energy and Advanced Transportation Financing Authority Energy Efficiency Retrofit Bank Fund for the purposes of implementing the objectives and provisions of this chapter. The authority may establish accounts within the bank fund from time to time as the authority deems appropriate.~~

~~—(b) Notwithstanding Section 13340 of the Government Code and except as provided in subdivision (c), moneys in the bank fund are continuously appropriated to the authority without regard to fiscal year for the implementation of this chapter.~~

~~—(c) (1) Moneys in the bank fund shall be available for expenditure for general administration of the program implementing this chapter only upon appropriation by the Legislature.~~

~~—(2) This subdivision does not limit the authority to expend moneys in the bank fund that are directly related to servicing of approved debts.~~

~~—(d) The bank fund shall be organized as a public enterprise fund.~~

~~—(e) The executive director may, if appropriate, transfer funds between accounts established, from time to time, pursuant to subdivision (a) to accomplish the objective of this chapter.~~

~~—Article 3. Powers and Authorities~~

~~—26043.11. (a) The authority may pledge any or all of the moneys in the bank fund as security for payment of the principal of, and interest on, any particular issuance of bonds issued pursuant to this division for the purposes of this chapter. The authority may use any or all of the moneys in the bank fund, including the grant account, to retain or purchase for retention or sale, subordinated bonds issued by the authority for the purposes of this chapter, by a special purpose trust, or by a sponsor pursuant to this chapter. For these purposes, or as necessary or convenient to the accomplishment of any other purpose of the authority, the authority may divide the bank fund into separate accounts or subaccounts. All moneys accruing to the authority pursuant to this chapter from any sources shall be deposited in the bank fund.~~

~~—(b) Subject to priorities that may be created by the pledge of particular moneys in the bank fund to secure any issuance of revenue bonds of the authority for the purposes of this chapter, a special purpose trust, or a sponsor, and subject further to reasonable costs that may be incurred by the authority in administering the program authorized by this chapter, all moneys in the bank fund derived from any source, shall be held in trust for the security and payment of revenue bonds of the authority, a special purpose trust, or a sponsor and shall not be used or pledged for any other purpose so long as~~

~~the revenue bonds are outstanding and unpaid.~~

~~—(c) Pursuant to any agreements with the holders of revenue bonds pledging any particular assets, revenues, or moneys, the authority may create separate accounts or subaccounts in the bank fund to manage these assets, revenues, or moneys in the manner set forth in the agreements.~~

~~—(d) The authority may, from time to time, direct the Treasurer to invest moneys in the bank fund that are not required for its current needs, including proceeds from the sale of any bonds, in any eligible securities specified in Section 16430 of the Government Code as the authority shall designate. The authority may direct the Treasurer to deposit moneys in interest-bearing accounts in any bank in this state or in any savings and loan association in this state. The authority may alternatively require the transfer of moneys in the bank fund to the Surplus Money Investment Fund for investment pursuant to Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code. Notwithstanding Section 16305.7 of the Government Code, all interest or other increment resulting from the investment or deposit of moneys from the bank fund shall be deposited in the bank fund. Moneys in the bank fund shall not be subject to transfer to any other funds pursuant to Part 2 (commencing with Section 16300) of Division 4 of Title 2 of the Government Code, except to the Surplus Money Investment Fund.~~

~~—(e) Subject to any agreement with holders of particular bonds, and to the extent permitted by law, the authority may also invest moneys of the bank fund, including, but not limited to, proceeds of any of its bonds or refunding bonds, in obligations of financial institutions as are permitted by resolution. The authority may alternatively require the transfer of moneys in the bank fund to the Surplus Money Investment Fund for investment pursuant to Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code.~~

~~—(f) Subject to any agreement with the holders of particular bonds, all interest or other increment resulting from the investment or deposit shall be deposited in the bank fund, notwithstanding Section 16305.7 of the Government Code. Moneys in the bank fund shall not be subject to transfer to any other fund pursuant to Part 2 (commencing with Section 16300) of Division 4 of Title 2 of the Government Code except to the Surplus Money Investment Fund.~~

~~—(g) The authority shall cause all moneys in the bank fund that are in excess of current requirements to be invested and reinvested, from time to time.~~

~~—26043.12. (a) The authority may administer and distribute among the authority's accounts and subaccounts, at its discretion, any moneys made available to the bank fund from the federal government, a public agency, or any other source for carrying out the purposes of this chapter.~~

~~—(b) The assets of the bank fund shall be available for the payment of salaries and other expenses charged against the bank fund in accordance with this chapter.~~

~~—26043.13. All expenses incurred in carrying out the purposes of this chapter shall be payable solely from funds provided pursuant to this chapter, and no liability or obligation shall be imposed upon the state and none shall be incurred by the authority beyond the extent to which moneys shall have been provided pursuant to this chapter.~~

~~—26043.14. (a) Moneys in the bank fund received from the proceeds~~

~~of bonds issued pursuant to this division for the purposes of this chapter may not be transferred to any other fund except as necessary to pay the expenses of operating the program authorized by this chapter, nor shall the authority utilize any moneys other than moneys in the bank fund to satisfy liabilities arising from projects authorized by this chapter.~~

~~— (b) The bank fund, on behalf of the authority, may borrow or receive moneys from the authority or from any federal, state, or local agency or private entity, in order to create reserves in the bank fund as provided in this chapter and as authorized by resolution of the authority.~~

~~— 26043.15. (a) Notwithstanding Chapter 2 (commencing with Section 12850) of Part 2.5 of, and Article 2 (commencing with Section 13320) of Chapter 3 of Part 3 of, Division 3 of Title 2 of the Government Code, expenditures of the bank fund shall not be subject to the supervision or approval of any other officer or division of state government, with the exception of the Legislature. However, the authority's budget shall be prepared and reviewed not later than November 1 of each year and the authority shall submit to the Legislature a report of its activities for the prior fiscal year. However, the authority's budget regarding the bank fund shall be prepared and reviewed in accordance with Section 50913 of the Government Code, and, not later than November 1 of each year, the authority shall submit to the Legislature a report of its activities in implementing this chapter for the prior fiscal year. The authority's operating budget shall be subject to review and appropriation in the annual Budget Act.~~

~~— (b) The submissions required pursuant to subdivision (a) shall be submitted in accordance with Section 9795 of the Government Code.~~

~~— Article 4. Reporting~~

~~— 26043.50. (a) On or before January 1, _____, the Legislative Analyst's Office shall submit a report to the Joint Legislative Budget Committee on the effectiveness of this chapter by evaluating all of the following factors:~~

~~— (1) The number of jobs created by the loan program in California.~~

~~— (2) The number of businesses that have remained in California or relocated to California as a result of the loan program.~~

~~— (3) The amount of state and local revenue and economic activity generated by the loan program.~~

~~— (4) The amount of reduction in greenhouse gas emissions, air and water pollution, and energy consumption.~~

~~— (5) Other factors deemed appropriate by the Legislative Analyst.~~

~~— (b) This article shall remain in effect only until January 1, _____, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, _____, deletes or extends that date.~~

~~— SEC. 2. — Section 399.8 of the Public Utilities Code is amended to read:~~

~~— 399.8. (a) In order to ensure that the citizens of this state continue to receive safe, reliable, affordable, and environmentally sustainable electric service, it is the policy of this state and the intent of the Legislature that prudent investments in energy efficiency, renewable energy, and research, development and demonstration shall continue to be made.~~

~~—(b) (1) Every customer of an electrical corporation shall pay a nonbypassable system benefits charge authorized pursuant to this article. The system benefits charge shall fund energy efficiency, renewable energy, and research, development and demonstration.~~

~~—(2) Local publicly owned electric utilities shall continue to collect and administer system benefits charges pursuant to Section 385.~~

~~—(c) (1) The commission shall require each electrical corporation to identify a separate rate component to collect revenues to fund energy efficiency, renewable energy, and research, development and demonstration programs authorized pursuant to this section beginning January 1, 2002, and ending January 1, 2012. The rate component shall be a nonbypassable element of the local distribution service and collected on the basis of usage.~~

~~—(2) This rate component shall not exceed, for any tariff schedule, the level of the rate component that was used to recover funds authorized pursuant to Section 381 on January 1, 2000. If the amounts specified in paragraph (1) of subdivision (d) are not recovered fully in any year, the commission shall reset the rate component to restore the unrecovered balance, provided that the rate component shall not exceed, for any tariff schedule, the level of the rate component that was used to recover funds authorized pursuant to Section 381 on January 1, 2000. Pending restoration, any annual shortfalls shall be allocated pro rata among the three funding categories in the proportions established in paragraph (1) of subdivision (d).~~

~~—(d) The commission shall order San Diego Gas and Electric Company, Southern California Edison Company, and Pacific Gas and Electric Company to collect these funds commencing on January 1, 2002, as follows:~~

~~—(1) Two hundred twenty eight million dollars (\$228,000,000) per year in total for energy efficiency and conservation activities, sixty five million five hundred thousand dollars (\$65,500,000) in total per year for renewable energy, and sixty two million five hundred thousand dollars (\$62,500,000) in total per year for research, development and demonstration. The funds for energy efficiency and conservation activities shall continue to be allocated in proportions established for the year 2000 as set forth in paragraph (1) of subdivision (b) of Section 381.~~

~~—(2) The amounts shall be adjusted annually at a rate equal to the lesser of the annual growth in electric commodity sales or inflation, as defined by the gross domestic product deflator.~~

~~—(e) The commission shall ensure that each electrical corporation allocates funds transferred by the Energy Commission pursuant to subdivision (b) of Section 25743 of the Public Resources Code in a manner that maximizes the economic benefit to all customer classes that funded the New Renewable Resources Account.~~

~~—(f) The commission and the Energy Commission shall retain and continue their oversight responsibilities as set forth in Sections 381 and 384, and Chapter 7.1 (commencing with Section 25620) and Chapter 8.6 (commencing with Section 25740) of Division 15 of the Public Resources Code.~~

~~—(g) An applicant for the Large Nonresidential Standard Performance Contract Program funded pursuant to paragraph (1) of subdivision (b) and an electrical corporation shall promptly attempt to resolve disputes that arise related to the program's guidelines and parameters prior to entering into a program agreement. The applicant~~

~~shall provide the electrical corporation with written notice of any dispute. Within 10 business days after receipt of the notice, the parties shall meet to resolve the dispute. If the dispute is not resolved within 10 business days after the date of the meeting, the electrical corporation shall notify the applicant of his or her right to file a complaint with the commission, which complaint shall describe the grounds for the complaint, injury, and relief sought. The commission shall issue its findings in response to a filed complaint within 30 business days of the date of receipt of the complaint. Prior to issuance of its findings, the commission shall provide a copy of the complaint to the electrical corporation, which shall provide a response to the complaint to the commission within five business days of the date of receipt. During the dispute period, the amount of estimated financial incentives shall be held in reserve until the dispute is resolved.~~

~~— (h) The commission shall require each electrical corporation to remit _____ dollars (\$ _____) collected pursuant to this section to the California Alternative Energy and Advanced Transportation Financing Authority for deposit in the California Alternative Energy and Advanced Transportation Financing Authority Energy Efficiency Retrofit Bank Fund established pursuant to Section 26043.10 of the Public Resources Code.~~

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