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CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 32

**Introduced by Assembly Members Nunez and Pavley
(Principal coauthor: Assembly Member Nation)
(Coauthors: Assembly Members Bass, Berg, Chan, Chu, Cohn,
Dymally, Evans, Frommer, Goldberg, Hancock, Jones,
Karnette, Klehs, Koretz, Laird, Leno, Levine, Lieber, Lieu,
Montanez, Mullin, Nava, Oropeza, Ridley-Thomas, Ruskin,
Saldana, Wolk, and Yee)
(Coauthors: Senators Bowen, Chesbro, Escutia, Kehoe, Kuehl,
Lowenthal, Romero, Simitian, Speier, and Vincent)**

December 6, 2004

An act to amend Section 39003 of, and to add Chapter 7 (commencing with Section 42875) to Part 4 of Division 26 of, the Health and Safety Code, and to amend Section 25730 of the Public Resources Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 32, as amended, Nunez. Air pollution: greenhouse gases: California Global Warming Solutions Act of 2006.

(1) Under existing law, the State Air Resources Board, the State Energy Resources Conservation and Development Commission (Energy Commission), and the California Climate Action Registry all have responsibilities with respect to the control of emissions of greenhouse gases, as defined, and the Secretary for Environmental Protection is required to coordinate emission reductions of greenhouse gases and climate change activity in state government.

This bill would provide that the state board is the state agency charged with monitoring and regulating the sources and reducing emissions of gases that cause global warming. The bill would enact the California Global Warming Solutions Act of 2006, to require the state board to adopt regulations on or before January 1, 2008, establishing a program to require the reporting and verification of statewide greenhouse gas emissions, as defined. The bill would require the state board to adopt, on or before January 1, 2008, a statewide greenhouse gas emissions limit equivalent to the statewide greenhouse gas emissions levels in 1990 to become effective in 2020, as specified. The bill would also require the state board to establish a series of enforceable interim emissions limits that progressively reduce emissions levels to contribute to meeting the 2020 limit, as specified. The bill would require the state board to adopt greenhouse gas emissions reduction strategies, as defined.

The bill would require the Governor to establish an interagency task force to coordinate investments of state moneys and state programs that reduce emissions of greenhouse gases, promote economic growth, make information publicly available to assist sources of greenhouse gases to meet the requirements of the bill, ensure that existing state programs support the emissions limits established by the state board, monitor conditions and coordinate planning and the state's response to changing climate conditions as they impact state water supplies, air quality, environmental and public health conditions, and the state's economy, and create and maintain an Internet Web site, as specified.

Because the bill would require the state board to establish emissions limits and other requirements, the violation of which would be a crime, this bill would create a state-mandated local program.

(2) Under existing law the Energy Commission, in consultation with certain state agencies, departments, and boards with jurisdiction over matters affecting climate change, is required, by January 1, 2002, to update the inventory of greenhouse gas emissions from all sources located in the state, as identified in a specified report, to update its

inventory every 5 years, and to report on the updated inventory to the Governor and the Legislature. Existing law requires the Energy Commission to conduct at least one public workshop prior to finalizing each updated inventory and to post its report and inventory on the Internet. Existing law additionally requires the Energy Commission to convene an interagency task force consisting of state agencies with jurisdiction over matters affecting climate change to ensure policy coordination for those activities, and to establish a climate change advisory committee, as provided, to make recommendations to the Energy Commission on the most equitable and efficient ways to implement international and national climate change requirements, as provided.

This bill would delete the above-described requirements and instead require that the Energy Commission update its inventory of emissions of greenhouse gases to supplement the information collected by the state board and enable the state board to maintain a reasonably comprehensive inventory of the state's emissions of greenhouse gases.

(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: 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. Section 39003 of the Health and Safety Code is
2 amended to read:
3 39003. The State Air Resources Board is the state agency
4 charged with coordinating efforts to attain and maintain ambient
5 air quality standards, to conduct research into the causes of and
6 solution to air pollution, to monitor and regulate the sources and
7 reduce emissions of gases that cause global warming, and to
8 systematically attack the serious problem caused by motor
9 vehicles, which is the major source of air pollution in many areas
10 of the state.

1 SEC. 2. Chapter 7 (commencing with Section 42875) is
2 added to Part 4 of Division 26 of the Health and Safety Code, to
3 read:

4
5 CHAPTER 7. CALIFORNIA GLOBAL WARMING SOLUTIONS ACT
6 OF 2006
7

8 42875. This chapter shall be known, and may be cited, as the
9 California Global Warming Solutions Act of 2006.

10 42875.5. The Legislature finds and declares all of the
11 following:

12 (a) Global warming poses a serious threat to California’s
13 economic well-being, public health, and environment. The
14 potential adverse consequences include the degradation of air
15 quality, the loss of mountain snowpack leading to serious water
16 supply problems and risk of catastrophic flooding, rising sea
17 levels displacing thousands of coastal businesses and residences,
18 and severe damage to California’s marine ecosystems and the
19 natural environment.

20 (b) Global warming will directly affect some of California’s
21 largest industries, including agriculture, wine, tourism, skiing,
22 recreational and commercial fishing, and forestry.

23 (c) Global warming will increase the strain on electricity
24 supplies necessary to meet demand for summer air-conditioning
25 in the hottest parts of the state.

26 (d) California has a strong record of leadership on
27 environmental issues, including enacting some of the nation’s
28 first air quality protections, energy efficiency requirements,
29 renewable energy standards, and landmark greenhouse gas
30 emission standards for passenger vehicles.

31 (e) California’s leadership and actions to reduce global
32 warming will have a significant impact by encouraging other
33 states, the federal government, and other countries to act, all of
34 which will be necessary to fully address this issue. In addition, by
35 exercising early leadership, California will position its economy,
36 technology centers, and businesses to benefit from national and
37 international efforts to reduce greenhouse gas emissions now and
38 in the future.

39 42876. For the purposes of this chapter, the following terms
40 have the following meanings:

- 1 (a) “Allowance” means an authorization to emit, during a
2 specified year, up to one ton of carbon dioxide equivalence.
- 3 (b) “Carbon dioxide equivalence” means the amount of carbon
4 dioxide by weight that would produce the same global warming
5 impact as a given weight of another greenhouse gas, based on the
6 most recent information available from the Intergovernmental
7 Panel on Climate Change.
- 8 (c) “Cost-effectiveness” means the cost per unit of reduced
9 emissions of greenhouse gases from a particular source or
10 category of sources resulting from an emissions reduction
11 strategy compared to the cost of reduced emissions resulting
12 from other emissions reduction strategies for the same source or
13 categories of sources.
- 14 (d) “Displacement” means a reduction in greenhouse gas
15 emissions within the state that is offset by an increase in
16 greenhouse gas emissions outside the state.
- 17 (e) “Emissions reduction strategies” means programs,
18 measures, standards, and flexible compliance mechanisms
19 pursuant to this chapter applicable to sources or categories of
20 sources.
- 21 (f) “Flexible compliance mechanisms” means mechanisms,
22 including banking, borrowing, and market mechanisms, that
23 provide compliance flexibility to entities that are required to
24 ensure that their greenhouse gas emissions do not exceed their
25 emissions allowances.
- 26 (g) “Greenhouse gases” or “greenhouse gas” means
27 “greenhouse gases” as defined in Section 42801.1, ~~or a~~
28 ~~substance, contaminant, or particle determined by the state board~~
29 ~~to cause or contribute to climate change pursuant to Section~~
30 ~~42880.~~
- 31 (h) “Interim emissions limit” means a maximum annual
32 allowable level of greenhouse gas emissions established by the
33 state board for sources or categories of sources.
- 34 (i) “Significant sources” means sources or categories of
35 sources whose emissions are at a level that the state board
36 determines that their participation in the program established
37 pursuant to Section 42877 will further the objective of enabling
38 the state board to effectively monitor compliance with the
39 statewide emissions limit.

1 (j) “Statewide emissions” means the total annual emissions of
2 greenhouse gases from all sources in the state, including all
3 emissions of greenhouse gases from the generation of electricity
4 delivered and consumed in California, accounting for
5 transmission and distribution line losses, whether the electricity
6 is generated in-state or imported. Statewide emissions shall be
7 expressed in tons of carbon dioxide equivalence.

8 (k) “Statewide emissions limit” means a maximum annual
9 allowable level of statewide emissions.

10 42876.5. All state agencies shall consider and implement
11 strategies to reduce greenhouse gas emissions. It is the intent of
12 the Legislature that the state board cooperate with other state
13 agencies to achieve the statewide emissions limits created
14 pursuant to Section 42878 and account for projected reductions
15 in greenhouse gas emissions from state agency programs not
16 subject to this chapter.

17 42877. (a) On or before January 1, 2008, the state board shall
18 adopt regulations establishing a program to require the reporting
19 and verification of statewide greenhouse gas emissions and to
20 monitor and enforce compliance.

21 (b) The regulations shall require the monitoring and annual
22 reporting of greenhouse gas emissions from significant sources
23 identified by the state board, beginning with the sources or
24 categories of sources that contribute the most to statewide
25 emissions. The reporting program shall also account for all
26 electricity consumed in the state, including transmission and
27 distribution line losses from electricity generated within the state
28 or imported from outside the state.

29 (c) The state board may add other significant sources to the
30 program no later than January 1, 2010.

31 (d) The regulations shall, where appropriate and feasible,
32 incorporate the standards and protocols developed by the
33 California Climate Action Registry, established pursuant to
34 Chapter 6 (commencing with Section 42800). Entities that
35 voluntarily participated in the California Climate Action Registry
36 prior to December 31, 2006, and have a fully developed reporting
37 program, shall not be required to significantly alter their
38 reporting or verification program except as necessary to ensure
39 that reporting is complete and verifiable for the purposes of state
40 regulation and tracking of greenhouse gas emissions.

1 42877.5. If the federal government enacts a law limiting
2 greenhouse gas emissions that the state board determines is of
3 equivalent or greater effectiveness in achieving the statewide
4 emissions limits and timeframes established pursuant to this
5 chapter, the state board may modify or elect not to adopt
6 emissions reduction strategies pursuant to this chapter for any
7 greenhouse gas or source included in the federal law.

8 42878. (a) (1) It is the intent of the Legislature that the state
9 board design emissions reduction strategies to meet the statewide
10 emissions limits established pursuant to this section in a manner
11 that minimizes costs and maximizes benefits for California's
12 economy, improves and modernizes California's energy
13 infrastructure, maximizes additional environmental and
14 economic cobenefits for California, and complements state
15 efforts to improve air quality.

16 (2) (A) The state board shall consult broadly with
17 stakeholders in developing regulations to meet the purposes of
18 this chapter and to meet the statewide emissions limits in a
19 beneficial and cost-effective manner.

20 (B) By March 1, 2007, the state board shall convene a
21 stakeholder process to inform the development of regulations and
22 programs to reduce greenhouse gases in California. The state
23 board shall solicit information and input from regulated entities
24 on the most efficient, low-cost, and beneficial ways they can
25 reduce their greenhouse gas emissions, identify regulatory and
26 legal barriers to implementing emissions reduction strategies,
27 evaluate state investment strategies in research and development
28 and applied technologies, and work with regulated entities to
29 develop draft plans that may be used in conjunction with
30 regulatory process to reduce greenhouse gas emissions. The
31 purpose of these plans shall be to reduce regulatory costs and
32 obligations, where feasible, in achieving greenhouse gas
33 reductions called for in this chapter.

34 (3) It is the intent of the Legislature that the state board
35 coordinate and consult with other state agencies that regulate
36 significant emitters of greenhouse gases. It is the further intent of
37 the Legislature that the Public Utilities Commission and the state
38 board cooperate in the development of emissions reduction
39 strategies, including limits on greenhouse gas emissions applied
40 to electricity and natural gas providers regulated by the Public

1 Utilities Commission in order to ensure that electricity and
2 natural gas providers are not required to meet duplicative or
3 inconsistent requirements, and to ensure that consistent
4 requirements are met.

5 (b) On or before January 1, 2008, the state board shall
6 determine what the statewide greenhouse gas emissions levels
7 were in 1990, and adopt a statewide emissions limit that is
8 equivalent to that level to become effective in 2020. The state
9 board shall evaluate the best available scientific and economic
10 information on greenhouse gas emissions to determine the 1990
11 level. ~~The state board shall not require individual entities to
12 provide information on their 1990 emissions levels.~~

13 (c) The state board shall establish an advisory committee
14 consisting of three representatives from communities in the state
15 with the most significant exposure to air contaminants or
16 localized air contaminants, or both, including, but not limited to,
17 communities with minority populations or low-income
18 populations, or both. The Governor, the President pro Tempore
19 of the Senate, and the Speaker of the Assembly shall each
20 appoint one of the members of the committee. This committee
21 shall make recommendations to the state board during the public
22 process to develop and adopt emissions reduction strategies.

23 (d) Beginning January 1, 2009, the state board shall adopt
24 greenhouse gas emissions reduction strategies by regulation. In
25 adopting emissions reduction strategies, the state board shall do
26 all of the following:

27 (1) Design emissions reduction strategies, including
28 distribution of emissions allowances where appropriate, in a
29 manner that is equitable, seeks to minimize costs and maximize
30 the total benefits to California, and encourages early action to
31 reduce greenhouse gas emissions.

32 (2) Ensure that emissions reduction strategies do not
33 disproportionately burden low- and moderate-income
34 households.

35 (3) (A) ~~Provide~~ *Consider providing* flexible compliance
36 mechanisms, including providing for conditions on flexible
37 compliance mechanisms, based on recommendations from the
38 stakeholder process pursuant to subparagraph (B) or based on the
39 report pursuant to subparagraph (C). The state board shall ensure
40 that the flexible compliance mechanisms, in conjunction with the

1 other emissions reduction strategies adopted by the state board,
2 achieve, at a minimum, the emissions reductions required by this
3 chapter.

4 (B) Prior to considering market mechanisms to reduce
5 greenhouse gas emissions, the state board shall work with the
6 advisory committee established pursuant to subdivision (c), as
7 well as with other stakeholders, to identify circumstances under
8 which the operation of market-based programs to reduce
9 greenhouse gas emissions may worsen localized air pollution
10 problems, particularly in communities that are already
11 disproportionately impacted by pollution from power plants,
12 refineries, commercial trucking routes, ports, and other major
13 large industrial facilities. The state board shall consider the
14 potential for direct, indirect, and cumulative impacts on air
15 quality from these programs.

16 (C) Prior to considering flexible compliance mechanisms
17 pursuant to this chapter, the state board shall evaluate and report
18 to the Legislature the types, need, and costs and benefits of these
19 mechanisms with the purpose of identifying which mechanisms
20 would be most beneficial in achieving reductions in greenhouse
21 gases. The report shall recommend which mechanisms should be
22 considered in regulations to reduce greenhouse gases, and should
23 prioritize and recommend conditions for mechanisms to protect
24 air quality, the environment, and public health, and reduce the
25 costs of implementation. The state board shall work with the
26 stakeholder community and other appropriate parties and state
27 agencies in this study.

28 (4) Ensure that entities that have voluntarily reduced their
29 greenhouse gas emissions prior to the implementation of this
30 section receive appropriate consideration for early voluntary
31 reductions.

32 (5) Ensure that the implementation of this section
33 complements and does not interfere with efforts to achieve and
34 maintain federal and state health based ambient air quality
35 standards and to address toxic air contaminant emissions.

36 (6) Evaluate the long-term cost-effectiveness of emissions
37 reduction strategies.

38 (7) Evaluate the societal benefits of emissions reduction
39 strategies, including reductions in other air pollutants,

1 diversification of energy sources, and other benefits to the
2 economy, environment, and public health.

3 (8) Minimize the administrative burden of implementing and
4 complying with the emissions reduction strategies.

5 (9) Design emissions reduction strategies in a manner that
6 minimizes displacement of greenhouse gas emissions.

7 (10) Where feasible, coordinate with other states, the federal
8 government, and other countries in the design and
9 implementation of emissions reduction strategies in order to
10 minimize displacement of greenhouse gas emissions, maximize
11 the effectiveness of California's program, and facilitate the
12 development of effective regional, national, and global programs
13 for reducing emissions of greenhouse gasses.

14 (e) On or before January 1, 2010, the state board shall
15 establish a series of enforceable interim emissions limits
16 applicable to sources or categories of sources, or both, to become
17 effective beginning on January 1, 2012, that progressively reduce
18 emissions levels to contribute to meeting the 2020 limit. In
19 determining which sources and categories of sources will be
20 subject to the interim emissions limits, the state board shall
21 consider factors including, but not limited to, the following for
22 each source or category of sources:

23 (1) The significance of its contribution to statewide emissions.

24 (2) The effectiveness of existing emissions reduction strategies
25 in reducing greenhouse gas emissions.

26 (3) The ease of implementation and cost-effectiveness of
27 further greenhouse gas emission reductions from these sources.

28 (f) On or before January 1, 2015, the state board shall adopt
29 regulations that establish a statewide emissions limit, to become
30 effective on January 1, 2030, including a scheduled series of
31 limits that will progressively reduce emissions of greenhouse
32 gases from the 2020 emissions limit to the 2030 limit. The state
33 board shall evaluate the best available economic and scientific
34 information and existing and projected technological capabilities
35 for the purpose of adopting these regulations.

36 42878.5. Any violation of any rule, regulation, order,
37 emission limitation or other emissions reduction strategy adopted
38 by the state board pursuant to Sections 42877 and 42878 shall be
39 subject to the penalty provisions of Article 3 (commencing with

1 Section 42400) of Chapter 4 of Part 4. The state board shall be
2 responsible for enforcing these penalty provisions.

3 42879. (a) Nothing in this chapter shall relieve any entity of
4 compliance with state air and water quality requirements, or
5 other requirements for protecting public health or the
6 environment.

7 (b) Nothing in this chapter shall limit or expand the existing
8 authority of any district. ~~It is the intent of the Legislature that the~~
9 ~~state board consult with the districts in the development of~~
10 ~~measures for the reduction of emissions of greenhouse gases that~~
11 ~~will affect emissions of criteria pollutants from stationary~~
12 ~~sources.~~

13 (c) This chapter shall not be interpreted to preclude, prohibit,
14 or restrict the construction of any new facility or the expansion of
15 an existing facility subject to regulation under this chapter if all
16 applicable permitting requirements are met and the facility is in
17 compliance with regulations adopted pursuant to this chapter.

18 42880. ~~(a)~~ No later than January 1, 2008, the state board
19 shall complete a study to identify additional substances,
20 contaminants, and particles suspected to cause or contribute to
21 climate change, including, but not limited to, tropospheric ozone
22 and ozone precursors, carbon monoxide, chlorofluorocarbons,
23 and their substitutes.

24 ~~(b) The state board shall update the study annually.~~

25 42880.5. ~~(a) The state board may require any additional~~
26 ~~actions necessary to reduce greenhouse gas emissions to the~~
27 ~~levels required by this chapter. If Chapter 200 of the Statutes of~~
28 ~~2002 is not fully implemented, the state board shall adopt~~
29 ~~necessary measures to compensate for the loss of anticipated~~
30 ~~reductions in greenhouse gases in the transportation sector.~~

31 ~~(b) The state board may provide information and assistance to~~
32 ~~cities, counties, and local agencies to help reduce greenhouse gas~~
33 ~~emissions in their jurisdictions.~~

34 42880.5. *If the regulations adopted pursuant to Section*
35 *43018.5 do not remain in effect, the state board shall implement*
36 *alternative regulations to control mobile sources of greenhouse*
37 *gas emissions to achieve equivalent or greater reductions.*

38 42880.7. (a) *The state board may provide information and*
39 *assistance to cities, counties, and local agencies to help reduce*
40 *greenhouse gas emissions in their jurisdictions.*

1 (b) *It is the intent of the Legislature that the state board*
2 *consult with the districts in the development of measures for the*
3 *reduction of emissions of greenhouse gases that will affect*
4 *emissions of criteria air pollutants from stationary sources.*

5 42881. On or before January 1, 2009, and annually thereafter,
6 the state board, in consultation with the task force established
7 pursuant to Section 42883, shall report to the Legislature on the
8 current level of emissions of greenhouse gases and progress
9 made toward compliance with the statewide emissions limits on
10 greenhouse gases established by the state board. The report shall
11 include an inventory of current emissions of greenhouse gases
12 and shall evaluate the adequacy of the regulations adopted to
13 meet the emissions limits of this chapter.

14 42883. (a) The Governor shall establish an interagency task
15 force, to be convened by the Secretary for Environmental
16 Protection which shall consist of the following:

17 (1) The Secretary of the Resources Agency or his or her
18 designee.

19 (2) The Secretary of the Business, Transportation and Housing
20 Agency or his or her designee.

21 (3) The Secretary of the State and Consumer Services Agency
22 or his or her designee.

23 (4) The President of the Public Utilities Commission or his or
24 her designee.

25 (5) The chairperson of the state board or his or her designee.

26 (6) The Chairperson of the State Energy Resources
27 Conservation and Development Commission or his or her
28 designee.

29 (7) Representatives of other state agencies or departments that
30 the Governor determines have an important role in reducing
31 emissions of greenhouse gases.

32 (b) The interagency task force shall establish an advisory
33 committee consisting of stakeholders including representatives
34 from industry groups, environmental and environmental justice
35 groups, experts, and others, to inform its activities.

36 (c) The interagency task force, to the extent feasible, shall do
37 all of the following:

38 (1) Coordinate state investments and programs that reduce
39 emissions of greenhouse gases.

1 (2) Promote economic growth by encouraging California
2 industries to develop and deploy technologies and processes that
3 reduce greenhouse gas emissions for use both in California and
4 for export.

5 (3) Make education and outreach information publicly
6 available about state programs that provide assistance for sources
7 of greenhouse gases to meet the requirements of this chapter.

8 (4) Ensure that existing state programs support the emissions
9 limits on greenhouse gases established by the state board
10 pursuant to this chapter.

11 (5) Monitor conditions and coordinate planning and the state's
12 response to changing climate conditions as they impact state
13 water supplies, air quality, environmental and public health
14 conditions, and the state's economy.

15 (6) Create and maintain an Internet Web site clearinghouse for
16 information on the state's policies and emissions reduction
17 strategies to reduce greenhouse gas emissions, the activities of
18 the interagency task force, and any other information on the
19 state's efforts to meet the purposes of this chapter.

20 SEC. 3. Section 25730 of the Public Resources Code is
21 amended to read:

22 25730. The commission, in consultation with the State Air
23 Resources Board, the Department of Forestry and Fire
24 Protection, the Department of Transportation, the State Water
25 Resources Control Board, the California Integrated Waste
26 Management Board, and other state agencies with jurisdiction
27 over matters affecting climate change, shall do both of the
28 following:

29 (a) Acquire and develop data and information on global
30 climate change, and provide state, regional, and local agencies,
31 utilities, business, industry, and other energy and economic
32 sectors with information on the costs, technical feasibility, and
33 demonstrated effectiveness of methods for reducing or mitigating
34 the production of greenhouse gases from in-state sources,
35 including net reductions through the management of natural
36 forest reservoirs. The commission, in consultation with the State
37 Air Resources Board, shall provide a variety of forums for the
38 exchange of that information among interested parties, and shall
39 provide other state agencies with information on cost-effective

1 and technologically feasible methods that can be used to reduce
2 or mitigate the emissions of greenhouse gases.

3 (b) Update its inventory of emissions of greenhouse gases in
4 order to supplement the information collected by the State Air
5 Resources Board pursuant to Section 42877 of the Health and
6 Safety Code, and to enable the State Air Resources Board to
7 maintain a reasonably comprehensive inventory of the state's
8 emissions of greenhouse gases. The inventory shall include
9 information on the greenhouse gas emissions associated with
10 petroleum products consumed in California based on, and
11 including, but not limited to, data collected pursuant to the
12 Petroleum Industry Information Reporting Act of 1980 (Chapter
13 4.5 (commencing with Section 25350) of Division 15).

14 SEC. 4. No reimbursement is required by this act pursuant to
15 Section 6 of Article XIII B of the California Constitution because
16 the only costs that may be incurred by a local agency or school
17 district will be incurred because this act creates a new crime or
18 infraction, eliminates a crime or infraction, or changes the
19 penalty for a crime or infraction, within the meaning of Section
20 17556 of the Government Code, or changes the definition of a
21 crime within the meaning of Section 6 of Article XIII B of the
22 California Constitution.