

**LITTLE HOOVER -- BAGLEY-KEENE  
STATEMENT OF TONY MARINO, LEGISLATIVE AIDE  
TO SENATOR JERRY HILL**

Thank you for allowing me to speak.

Senator Hill had hoped to address you in person, but had been unable to break free in this, the last week of the Legislative session.

He appreciates the thoughtful discussion that you have had on this issue.

I will restrict my comments to the PUC—the agency with which the Senator is most familiar.

You can be assured that there is no one in this Legislature more interested in making sure that all five commissioners are contributing to PUC decisions and operations.

This commission has an almost comically difficult charge to break government apart into manageable, analyzable parts, and then come up with a solution that improves the whole.

When it comes to the PUC, we can't really consider the law in a vacuum--something that I think this commission is recognizing.

There's the law, the governance structure, and the people. In the end, we will want to determine what outcomes we hope the PUC to achieve.

When he left the PUC at the beginning of the year, Commissioner Mark Ferron made some suggestions to address what he considered the PUC's "serious governance problem".

While commissioners are ostensibly in charge, he found that he had little control of the operations of the organization.

He suggested a way to manage Bagley-Keene by having 2-commissioner subcommittees overseeing important internal issues on Audit, Budget, External Relations, and Safety.

These were not policy committees, but governance committees.

It is not clear that the PUC has attempted this on internal matters.

If we are concerned about commissioners remaining informed, we can't ignore governance.

We also can't ignore the importance of the people in contributing to a well-functioning organization.

The City of San Bruno has, through a legal settlement with the PUC, obtained emails that it claims demonstrate illegal ex parte communications between the PUC and PG&E.

If some commissioners are erring in other aspects of the law, that could lead to information that needs to be disclosed to leak throughout all commissioners.

Also, the PUC needs to demonstrate its commitment to transparency.

There have been "stakeholder" meetings--invite-only affairs where all five commissioners meet in a closed-door meeting.

They get around Bagley-Keene, by putting no more than two commissioners in a single room.

The Monterey Herald has editorialized against this practice, and there was even a lawsuit against it, yet the PUC had continued the practice.

Additionally, the PUC was able to convince an appellate court that--unlike all other state boards or commissions--someone wishing to enforce Bagley-Keene on the commission cannot go to superior court but must instead go

to appellate court, making the law much more difficult to enforce.

Senator Hill's bill, SB 115, will correct that—either this year if it gets an end-of-session hearing or next year if not.

The PUC also maintains that superior courts cannot enforce the Public Records Act.

The PUC needs to consider how these attempts to find loopholes in Bagley-Keene and the Public Records Act might affect their attempts to find relief from existing Bagley-Keene restrictions.

It may be that we should change the Bagley-Keene Open Meeting Act, but we also have to look at the structure and the people of these organizations, too.

The most important thing that I would look at when pondering a Bagley-Keene change is "what are we hoping to accomplish."

The PUC has engaged in a zero-based budgeting exercise that will help it develop goals and determine how best to achieve them.

This should help them develop performance goals.

To wrap up—if we want to change the law, we can't just look at the surface problems but need to define the outcomes we hope to achieve.

Thank you.