

Submitted by Speaker Notthedarkweb\_MNZP (Dem.), on behalf of himself



*In the State Assembly of the Republic of Fremont*

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## **EFFICIENT GOVERNMENT ACT**

*An Act to provide for the efficient administration of the State Government, to reclaim legislative prerogatives, to establish administrative procedures to reduce regulation, to consequently amend certain statutes, and for other purposes*

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*The people of the Republic of Fremont do enact as follows:*

### **Sec. 1. Short title and table of contents.**

- (a) This Act may be cited as the “Efficient Government Act of 2021”.
- (b) The table of contents for this Act is as follows—

- Sec. 1. Short title and table of contents.
- Sec. 2. Declaration of policy.
- Sec. 3. Interpretation and entry into effect.

### *TITLE I—ADMINISTRATIVE PROCEDURE*

- Sec. 101. Short title and definitions.
- Sec. 102. Administrative rulemaking.
- Sec. 103. Repeal of rules.
- Sec. 104. Interstate compacts.
- Sec. 105. Judicial review.

## *TITLE II—EXECUTIVE REORGANIZATION*

- Sec. 201. Short title and definitions.
- Sec. 202. Reform of emergency powers.
- Sec. 203. Reorganization of agencies.
- Sec. 204. Protection of budget prerogative.
- Sec. 205. Civil service protection.
- Sec. 206. Prosecutorial discretion
- Sec. 207. Social benefits preserved.
- Sec. 208. Legal representation.
- Sec. 209. Law enforcement.

## *TITLE III—GOVERNMENT REFORM*

- Sec. 301. Appointment of senators; advice and consent.
- Sec. 302. Independent electoral commission.
- Sec. 303. Municipal rights.
- Sec. 304. Statutory interpretation.

### **Sec. 2. Declaration of policy.**

The State Assembly finds and declares—

- (1) that the State Constitution vests the legislative power in the Legislature and empowers the Legislature to constrain the limits of delegations to the executive branch;
- (2) that unchallenged primary of executive power is incompatible with the separation of powers;
- (3) that ensuring due process in administrative rulemaking is consistent with the protected constitution liberty of Fremonters; and
- (4) that ensuring non-partisanship is an important public policy priority.

### **Sec. 3. Interpretation and entry into effect.**

- (a) The Act takes effect immediately after enactment.
- (b) If any provision of this Act, or the application of a provision to any person or circumstance, is held to be invalid for any reason in any court of competent jurisdiction, the remainder of this Act, and the application of the provisions and amendment to any other person or circumstance, shall not be affected.

Each title and section of this Act is expressly intended to operate independently of any other title.

## **TITLE I—ADMINISTRATIVE PROCEDURE**

### **Sec. 101. Short title and definitions.**

- (a) This title may be cited as the “Fremont Administrative Procedure Act of 2021”.
- (b) In this title—
  - (i) “agency” means any unit of the Executive Department not expressly exempted by this section, including the Executive Offices of the Governor and Lieutenant Governor;
  - (ii) “consent of the Legislature” means the passage of a resolution by the Legislature to the effect of consenting to the proposed action;
  - (iii) “repeal” means any action by an agency which withdraws or, through amendment or supersession, substantively abrogates in significant part, a rule;
  - (iv) “rule” means the whole or the part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of an agency;
- (c) This title does not apply to—
  - (i) State-owned and State-chartered corporations, public benefit corporations, and public authorities;
  - (ii) the Military Department;
  - (iii) the administrative courts and tribunals, in the exercise of their adjudicative functions;
  - (iv) the exercise of core, innate constitutional functions;
  - (v) State regulatory agencies, in their individualized discretionary civil enforcement actions; and
  - (vi) purely ceremonial or advisory functions.

### **Sec. 102. Administrative rulemaking.**

Agency rules are unlawful and shall be set aside when they are—

- (i) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

- (ii) contrary to the State or Federal Constitutions;
- (iii) in excess of statutory jurisdiction or authority; or
- (iv) enacted in retaliation for the lawful actions of a local government.

### **Sec. 103. Repeal of rules.**

The repeal of rules is fully subject to the requirements of section 102. Moreover, the repeal of a rule is void without seven days' written notice to the Speaker of the Legislature before the effective date of the repeal.

### **Sec. 104. Interstate compacts.**

- (a) The Governor may not withdraw from any interstate compact to which the State has entered by virtue of the [Consolidated Revenue and Appropriations Act of 2021](#) without the consent of the Legislature.
- (b) Section 306 of the same Act is hereby amended in subsection (a) to strike “and to give effect with the full faith and credit of the State to such compacts” and to substitute in its place “where such compacts do not bind the State to a mandatory duty; provided that, notwithstanding, the compact entered on April 26, 2021 with the State of Superior shall remain in full force.”

### **Sec. 105. Judicial review.**

- (a) There is a private right of action to challenge any agency rule or repeal issued on or after July 10, 2021 which violates this title. Relief from any unlawful agency action under this title shall only extend to declaratory judgment invalidating the agency action and grant of a writ of administrative mandamus.
- (b) The Supreme Court shall have original jurisdiction of all causes of action arising out of this title.

## **TITLE II—EXECUTIVE REORGANIZATION**

### **Sec. 201. Short title and definitions.**

- (a) This title may be cited as the “Executive Reorganization Act of 2021”.
- (b) In this title—
  - (i) “Indigenous territory” means any Indian reservation, along with the entirety of Alaska and Hawaii; and

- (ii) “Social assistance” means Medicaid, the Children’s Health Insurance Program, Temporary Assistance for Needy Families, Supplemental Nutrition Assistance Program, Federal and state rental assistance or subsidy programs, the provision of general relief to indigent persons, and State-subsidized higher or vocational public education.

**Sec. 202. Reform of emergency powers.**

- (a) The [Emergency Services Act](#) (Government Code §§ 8550 *et seq.*) is hereby amended at subsection 8567(a) by adding after “effect of law” the words “, provided that no order or regulation shall abrogate or suspend a statutory or regulatory requirement”.
- (b) The same section is amended by adding at the end of subsection (b) the words “A state of emergency shall terminate no more than 14 days after the issuance of the proclamation. The emergency proclamation may not be extended or substantively reissued following this period without a two-thirds vote of the Legislature approving of the request.”
- (c) The same Act is amended at subsection 8558(b) by adding at the end the phrase “A state of emergency must be supported by clear and convincing evidence of an imminent, concrete and widespread peril and substantially related to its factual justification.”.
- (d) The [Military and Veterans Code](#) is hereby amended at section 143 by striking the words “or that the officers of any county or city are unable or have failed for any reason to enforce the laws,”.
- (e) The same Code is hereby amended by adding after the same section the following section:

**143.1.** Notwithstanding any other provision of law, the Governor shall not call forth the militia under State command to enforce any law which is properly in the reserved or primary domain of the Government of the United States.

- (f) The [Police Reform Act](#) is hereby amended at subsection 207(b) by substituting for the existing text the words “The Republican Guard is authorized to a strength of 3,500 personnel.”
- (g) The same section is hereby amended at subsection (d) by striking the words “all law enforcement officers and” and by adding at the end the words “When enforcing the law, personnel of the Guard are law enforcement officers fully

subject to the provisions of this Act and shall not engage in any activity or action prohibited by statute or regulation.”

- (h) The same section is hereby amended by striking subsection (e).
- (i) *Interpretation.* The Legislature intends for every amendment made by this section to operate independently, notwithstanding the invalidation of any provision or application thereof.

### **Sec. 203. Reorganization of agencies.**

The Department of Natural Resources is hereby transferred to the Office of the Secretary of State.

### **Sec. 204. Protection of budget prerogative.**

- (a) The Consolidated Revenue and Appropriations Act of 2021 is hereby amended at subsection 305(a) by adding at the end the words “The auction floor price for carbon allowances may never be reduced once raised”.
- (b) Section 308 of the same Act is amended at subsection (c) by striking the entirety of the sentence beginning with “The determination of”.
- (c) The same section is amended at subsection (b) by striking the entirety of the sentence beginning with “No bill purporting”.
- (d) The same Act is amended at section 303 by adding at the end the following—

(d) No appropriation intended for the support of legislative, judicial, and independent executive functions shall be reprogrammed, impounded, or otherwise suffer from suspended disbursement.

### **Sec. 205. Civil service protection.**

- (a) The Consolidated Revenue and Appropriations Act of 2021 is hereby amended at subsection 302(g) by adding at the end the words “No officer of the State shall abrogate the independence of the System, of its Board, or of its member institutions”.
- (b) The same section is amended at subsection (b) by striking the words “unless they be equally divided”.
- (c) The total number of officer and employee positions in any State department or other executive unit which is allocated funding in title II of the same Act shall not be reduced by more than one per centum in the current fiscal year.

### **Sec. 206. Prosecutorial discretion.**

- (a) *Declaration of intent.* The Legislature intends through subsection (b) to codify the precedent of *In re Reforms to Immigration Agencies*, 101 M.S.Ct. 118 (2020) in the statutes of the State.
- (b) The exercise of prosecutorial discretion shall not be interpreted to encompass the deliberate and wholesale non-enforcement of statutes of a regulatory or penal character. Directions by the Governor to district attorneys shall not be construed to benefit from the absolute discretion accorded to individualized charging decisions.
- (c) No licensing scheme or requirement may be suspended except as expressly authorized by the statute establishing such scheme or requirement.

### **Sec. 207. Social benefits preserved.**

- (a) The Governor and all other officers of the State are prohibited from requesting any waiver or derogation from the State's obligations in the administration of Medicaid, the Children's Health Insurance Program, Temporary Assistance for Needy Families, Affordable Care Act health insurance markets, Supplemental Nutrition Assistance Program, and Federal housing assistance which was not in force on June 1, 2021.
- (b) The Governor and all other officers of the State are prohibited from conditioning the provision of any form of social assistance upon any work requirement or other condition which is not expressly authorized by State statute or required by Federal law.
- (c) No State officer may issue any rule, regulation or directive whatsoever which attempts to restrict the ability of the State or of any local government unit to continue providing nondiscriminatory public funding for abortion.
- (d) No State officer or agency may issue any rule, regulation or directive whatsoever, or grant any license or permit, which purports to authorize the construction or expansion of pipeline infrastructure for the transportation of oil, natural gas, synthetic liquid or gaseous fuels, or any refined product produced therefrom through Indigenous territory or through any State park or monument.

### **Sec. 208. Legal representation.**

- (a) In any action against the State, the Executive Department is required to present a good-faith legal defense of the constitutional validity of any

enactment of the Legislature. A court of law may by injunction or writ of mandamus compel the chief executive to arrange for the speedy arrangement of counsel for the State when the Attorney General is vacant or delinquent.

- (b) In any legal challenge to the constitutionality of an enactment of the Legislature, or in any constitutional question which implicates the separation of powers or the delegation of legislative authority, the courts of the State shall grant the Legislature intervention of right to defend the validity of its enactment or the prerogatives of the Legislative Department.

### **Sec. 209. Law enforcement.**

- (a) All law enforcement officers employed by the Community Protection Service in any division are members of the State civil service and shall be subject to the oversight of the State Personnel Board with all the protections thereof, except as provided in the Police Reform Act. The Office of Police Discipline's powers operate notwithstanding civil service protections.
- (b) The Police Reform Act is hereby amended by adding at the end of section 206 the following—
  - (d) The Community Patrol Division units in each county shall be under the general guidance and advice of the government of that county, and shall coordinate with the county government on the day to day administration of its local public safety functions. The State shall not override local public safety priorities and policies except as required by this Act or by exigent circumstances.

## **TITLE III—GOVERNMENT REFORM**

### **Sec. 301. Appointment of senators; advice and consent.**

- (a) In the event that a vacancy arises in the United States Senate, the Governor shall present his or her nominee in writing to the Speaker, who shall schedule a confirmation vote. The Governor shall be permitted to appoint the said nominee to the Senate after the Legislature grants its advice and consent by majority vote.
- (b) The Legislature does not consent to the appointment of senators by any method other than that enumerated in this section. Any appointment made by the Governor in violation of this section is invalid *ab initio*.



### **Sec. 302. Independent electoral commission.**

- (a) There is hereby established as an independent, non-departmental agency the electoral commission of Fremont, which shall assume, exclusive of any other department or officer, all powers of the Secretary of State under the Elections Code. Powers vested in the commission may be delegated to officers and employees thereof.
- (b) The commission established in subsection (a) shall consist of two members from each political party which won at least one seat at the previous legislative election, along with two members not of any represented political party, to be appointed by the Governor with the advice and consent of the Legislature. Members of the commission shall serve for two year terms, renewable without limit, and shall not be dismissed except for good and sufficient cause.
- (c) Members of the commission established in subsection (a) are entitled to compensation in the amount of \$125,000 per annum, plus a per diem travel stipend of \$50.
- (d) The Secretary of State shall be the neutral chairperson of the commission but shall have no vote. The Secretary of State shall cause to be transferred forthwith to the commission established in subsection (a) all the assets, resources, personnel and documents of the elections and political reform divisions of his or her office.
- (e) The commission established in subsection (a) shall operate in an independent and non-partisan manner, and shall have all powers necessary and proper for the performance of administrative and executive functions. Notwithstanding any other authority, the Governor and the Secretary shall not intervene in the internal affairs of the commission, countermand its lawful regulations, or otherwise prevent any member or officer of the commission from carrying out their statutory duties.

### **Sec. 303. Municipal rights.**

- (a) The [Municipal Bill of Rights](#) is hereby amended by adding at the end of subsection 3(e) the words “No officer or employee of the State may defer any budget authority allocated for the assistance of local government for any purpose or under any authority not expressly created by statute.”
- (b) The same statute is hereby amended at subsection 1(b) by substituting for the definition of “Local government unit” the following:

“Local government unit” means any municipality, county, charter city, Alaskan borough, or other form of territorial, general purpose local government;

- (c) The same statute is hereby amended by adding in subsection 5(a), after the words “Local government units”, the phrase “, or any resident thereof acting as relator,”.
- (d) The same statute is hereby amended at subsection 5(b) by adding the word “non-binding” before “declaratory relief” and the word “legally binding” before “declaratory and injunctive relief”.
- (e) The same statute is hereby amended by striking subsections 6(a) and (c).
- (f) The same statute is hereby amended by substituting for section 7 the words “This Act takes effect on July 10, 2021”.

**Sec. 304. Statutory interpretation.**

In the interpretation of all statutes, except as provided otherwise in the text thereof, the terms “California”, “Western State” and “Sierra” shall refer to the State.