

LEGISLATIVE BULLETIN

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Discussion Continues on Fixing Hold Harmless

The House of Representatives passed a \$6.2 billion budget on Tuesday. The 42-25 vote had five Democrats joining all 37 Republicans to pass the bill. Among other items, the bill contains an increase in some teachers' salaries, increases in child protection programs and \$35 million for economic development. Spending in this budget will be tight, as the amount of "new" money from oil and gas production has steadily decreased since the summer budget estimates.

Several bills the League is monitoring saw committee action this week. Senate Finance Committee Substitute for Senate Bill 101, originally introduced by Senator Steven Neville, received a Tabled recommendation. The Substitute amends current law to reduce the gross receipts tax (GRT) rate, repeals hold harmless distributions to municipalities and counties, reduces authority to impose municipal and county hold harmless gross receipts taxes, and requires local governments that have already imposed hold harmless gross receipts taxes in excess of the new limits to conform to the new limits unless the revenue is pledged to service the debt on revenue bonds.

Senate Bill 274, Hold Harmless & Food Deduction Changes, introduced by Senator John Arthur Smith, received a Without Recommendation from the Senate Corporations and Transportation Committee. The bill converts the existing distribution to each municipality of a portion of the state's gross receipts tax revenue from that municipality to an equivalent grant of municipal local option tax authority at a rate of 1.225%. For municipalities created in the future, this authority may be imposed by municipal government action without referendum. For existing municipalities, it is imposed by this bill to maintain continuity of revenues. The bill grants gross receipts taxpayers a new credit against state gross receipts tax liability in the amount of tax due under the new 1.225% municipal tax authority and converts the existing deduction for sales of food to a credit (adjusted to eliminate interaction with the new credit proposed). This credit means that the state gross receipts tax will continue to not apply to sales of food. Revises and simplifies the hold harmless distributions to municipalities and counties to eliminate any distribution with respect to food. Repeals the authority for the municipal and county hold harmless local option gross receipts taxes, except (on constitutional grounds) for those local governments that have already imposed the tax and bonded the proceeds. The bill lowers the gross receipts and compensating tax rates from 5.125% to 5% and raises the Working Families Tax Credit to 14% of federal Earned Income Tax Credit. The bill now goes to Senate Finance Committee.

Senate Bill 464, Lodgers' Tax Audits introduced by Senator Carlos Cisneros, received a Without Recommendation from the Senate Corporations and Transportation Committee. The bill amends several sections of the Lodgers' Tax Act. Section 3-38-17.1 is amended to permit a municipality or county, for good cause, to select any vendor for audit to verify the amount of gross taxable rent subject to the occupancy tax to ensure that the full amount of occupancy tax on that rent is collected. Makes the municipality or county the entity for enforcement of the Act instead of the Attorney General and district attorney. The bill creates a penalty of a petty misdemeanor and a fine up to \$500 or imprisonment for up to 90 days for a violation by any person of the new provision of the occupancy tax to participate and cooperate in an audit made pursuant to the Act.

Senate Bill 114, Local Government Special Fuels Taxes, introduced by Senator Ron Griggs, received a Do Pass recommendation from the Senate Corporations and Transportation Committee. The bill authorizes municipalities and counties by ordinance to impose a tax on special fuels of up to \$0.02 per gallon, subject to referendum. The new tax may be imposed in increments of \$0.01. The bill now goes to Senate Finance Committee.

House Bill 366, Oil & Gas State Preemption, introduced by House Majority Leader Nate Gentry, received a Do Pass recommendation from the House Energy, Environment and Natural Resources Committee. The bill, as amended, gives the state exclusive preemptive jurisdiction on almost all aspects of the oil and gas industry.

LEAGUE OFFICE PARKING DURING THE SESSION

Because of the demand for parking around the Capitol during the session, we must protect the availability of parking for our municipal officials and staff. In order to reduce the possibility of accidents, a few areas in our lots are designated by signs as “NO PARKING” AREAS.” If you are visiting the session and need to park in the League lots, please help us by observing the following rules:

- 1. Do not park in the areas designated as “NO PARKING” zones.*
 - 2. Obtain a League Parking Permit from the reception desk and leave it on the rear-view mirror of your car so that it’s easily visible.*
 - 3. DOUBLE PARKING OR PARKING BEHIND ANOTHER CAR IS NO LONGER PERMITTED IN OUR LOTS.*
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YOUR LEGISLATIVE BULLETIN

This is the first in the series of weekly League **Legislative Bulletins** designed to communicate with municipal officials, legislators and the Executive Branch of state government.

The **Bulletin** will be sent by first class mail from Santa Fe each Friday afternoon so that it should arrive at its destination by the following Monday morning.

If you would like to receive the Bulletin electronically, we will send you a link by email each Friday. You can contact Roger Makin via e-mail (rmakin@nmml.org) or by fax (505-984-1392). Please be sure to include your name, title, municipality or agency, mailing address, and e-mail address. The Bulletin will also be posted each Friday on the League’s website at www.nmml.org. We urge you to take advantage of this service in order to reduce mailing costs and time delays.

Municipal officials who receive the **Bulletin** include all mayors, commissioners, councilors, trustees, managers, clerks, municipal judges, police chiefs and many other municipal officials.

The **Legislative Bulletin** contains:

- ◆ a brief review of all bills of municipal interest of which we have received a copy since the prior Bulletin (it will save you and us time if you make a note of the House or Senate Bill number you are interested in);
- ◆ a brief analysis of key legislative developments of the past week;
- ◆ detailed explanations of key municipal bills; and, perhaps,
- ◆ an Action Call if any important municipal bill is scheduled to be heard in committee or on the floor of either house.

Your legislator can be reached by name through the **Legislative Switchboard: (505) 986-4300** in Santa Fe. For those of you on line, the Legislature’s web site also contains the e-mail addresses of those legislators who use the service. That address is: <http://www.nmlegis.gov>. Also check the League’s web site (www.nmml.org) for League information.

CAPITAL PROJECT FUNDING BILLS

Capital outlay project requests in recent years have not been introduced as legislative bills, but submitted as “capital outlay requests.” All approved requests are then included in a major capital outlay bill for final passage.

In past years we have reported these requests as we received the printed copies. The legislature will track all capital outlay requests electronically only. Therefore, we are no longer able to report the requests for you as we had in the past. However, the good news is that all requests will be listed on the legislative web site at legis.state.nm.us (click on Bill Finder on the left, then on Capital Outlay). Each request is listed under the appropriate county and then alphabetically by title and includes the description of the request along with the dollar amount. Legislative Council Service will be updating the information every Tuesday and Friday evenings so the new introductions will be available for you early on Wednesdays and Saturdays. We checked the site today and think you will find it an easy way to find your special projects. As always, you can contact your legislators directly to find out when your project will be scheduled for hearing.

BIOGRAPHY OF A BILL

A bill is introduced by a sponsoring legislator on the floor of either house, numbered by the clerk and referred for consideration to one or more committees of that house. The deadline for introduction of all bills except appropriations bills or bills requested by the Governor (*special messages*) is Noon on the 30th day of a 60-day session (**February 19**). Committee recommendations usually determine the success or failure of a bill. A bill may be amended in committee or on the floor at any point in the process — sometimes changed so severely that its own author would not recognize it — or a substitute measure with the same number and general subject matter may be put in its place.

If you are very interested in a particular bill, do not be dismayed if it seems to sit for a long time in committee, particularly in a tax, finance or appropriations committee. Bills which ask for money or for taxing authority often lie dormant until the last few days of a session and then move with unbelievable speed.

If a bill passes successfully through its committee referrals, it returns to the floor of the house in which it was introduced for floor consideration. If it passes that house, it goes to the other house. However, it may also be tabled, referred again or defeated.

In the second house the bill is again considered in one or several committees and it may again be amended or substituted. If it gets through its committee assignments, it returns to the floor of that house for consideration and may from there be referred, tabled, passed or defeated.

If the bill passes the second house and it has been amended or substituted by the second house, the originating house must concur or fail to concur with the changes. If the originating house fails to concur, a conference committee representing both houses is appointed to decide what to present to both houses for acceptance.

A bill that has been passed in some agreed-upon form by both the House and the Senate goes to the Governor for signature. The Governor may choose to sign or to veto the bill. If the bill contains an appropriation, the Governor may veto portions if she wishes (*line item veto*); if it does not, she may only veto the entire bill. If vetoed, 2/3 of the House and 2/3 of the Senate must vote in favor of the bill in order to override the veto. If the veto override fails, the bill is dead. Most bills do not reach the Governor's desk before the Legislature adjourns (**Noon, March 21**). The Governor has 20 days following the close of the session (**Noon, April 10**) to sign, veto or fail to sign (*pocket veto*) any bill that he did not act on during the session. Any bill is much more likely to have died in committee or on the floor before even reaching the Governor's desk.

In New Mexico, no more than 1/4 to 1/3 of bills introduced ever make it all the way to enactment. The historic trend in New Mexico is for more and more introductions each succeeding session.

ABBREVIATION CODE

HB	House Bill	SB	Senate Bill
HCR	House Concurrent Resolution	SCR	Senate Concurrent Resolution
HJR	House Joint Resolution	SJR	Senate Joint resolution
HJM	House Joint Memorial	SJM	Senate Joint Memorial
HM	House Memorial	SM	Senate Memorial

* Contains Emergency Clause (effective immediately on Governor's signing)
CA - Constitutional Amendment (requires approval by statewide electorate)

HOUSE COMMITTEES	SENATE COMMITTEES
HAFC	Appropriations and Finance
HAWC	Agriculture, Water & Wildlife
HBEC	Business & Employment
HCW	Committee of the Whole
HEC	Education
HEENC	Energy, Environment & Natural Resources
HEEC	Enrolling and Engrossing
HGEIC	Government, Elections & Indian Affairs
HHC	Health
HJC	Judiciary
HRPAC	Regulatory & Public Affairs
HPSC	Printing and Supplies
HRC	Rules and Order of Business
HTPWC	Transportation and Public Works
HSCAC	Safety & Civil Affairs
	HWMC Ways & Means
	SCC Committee's Committee
	SCONC Conservation
	SCORC Corporations and Transportation
	SCW Committee of the Whole
	SEC Education
	SFC Finance
	SIAC Indian and Cultural Affairs
	SJC Judiciary
	SPAC Public Affairs
	SRC Rules

Bill Introductions Through Wednesday, February 18, 2015

- HB 530 IGNITION INTERLOCK LICENSES & REMOVAL (Maestas)** Amends §§66-5-35, 66-5-502 and 66-5-503; the bill allows drivers whose driving privilege or driver's license is pending revocation or denial to obtain an ignition interlock license, in the same manner as if their license had been revoked or denied. Provisions for removal of an ignition interlock device at the request of the owner or lessee of the motor vehicle are provided. Effective 7/1/15. HJC/ HSCAC
- HB 531 EXPUNGEMENT OF CRIMINAL RECORDS (Maestas)** Enacts new material; the bill enacts the Criminal Record Expungement Act that provides a process for the seeking expungement of arrest records following a wrongful arrest, release without conviction for a violation of a municipal ordinance, misdemeanor or felony or in the event of identity theft. Expungement upon conviction of a municipal ordinance or misdemeanor is also possible after completion of a sentence or probation. Effective 1/1/16. HAWC/HHC
- HB 532 WHISTLEBLOWER PROTECTION POSTING REQUIREMENTS (Larrañaga)** Amends §§§§10-16C-1 through 10-16C-4 and 10-16C-6; the bill amends and repeals sections of the Whistleblower Protection Act. Several definitions are amended including "retaliatory action," "unlawful and unethical act", and "good faith," which is eliminated as a defined term due to subsequent amendments in the bill. Damages of back pay for a whistleblower who is retaliated against by removal from a job are to be calculated from the date the action seeking damages is filed, not from the date the retaliatory act occurs. The section repealed is §10-16C-5 which requires that provisions of the Whistleblower Protection Act be posted prominently in the workplace. HJC/HSCAC
- HB 534 VOLUNTEER FIREFIGHTER RETIREMENT CREDIT (Gonzales)** Amends §10-11A-6; the bill extends the period of time which a volunteer firefighter may request a correction or adjustment to service credits earned but not credited by the PERA to the two calendar years prior to the request for a correction or adjustment. Effective 1/1/16. HGEIC/HWMC
- HB 537 GOV'T EMPLOYEE POLITICAL ACTIVITY (Cook)** Amends §§10-16-2 and 10-16-3.1; the bill amends the definition section of the Governmental Conduct Act by adding definitions of "public purpose," "public notice" and "public resources" and then continues to define what constitutes improper use of public resources. HGEIC/HJC
- HB 538 BABY CHANGING STATIONS IN PUBLIC RESTROOMS (Romero)** Enacts new material; the bill enacts a new section that improves gender neutrality regarding baby changing stations located in public restroom facilities. Baby changing stations would be required under certain circumstances in both men's and women's restrooms in places of public accommodation. HRPAC/HJC
- HB 545 MISDEMEANOR PRETRIAL DETENTION (Maez)** Same as SB 538. HJC/HSCAC
- HB 546 PAYMENTS OF COSTS FOR SPECIAL ELECTIONS (Maez)** Enacts new material; the bill enacts a new section of Chapter 1, Article 24, of the Election Code requiring that a special election shall be paid for by the state, local government or special district calling for the election, not by another source of funds. If a violation of this provision is found the votes cast in the special election shall be nullified by the district court and the result of the special election shall be void. Effective 7/1/15. HGEIC/HAFC
- *HB 550 PROHIBIT SALE OF POWDERED ALCOHOL (Lundstrom)** Enacts new material; the bill enacts a new section of the Liquor Control Act creating a fourth degree felony to use, sell, offer to sell or possess powdered alcohol or for a person licensed to sell alcoholic beverages to use powdered alcohol in the preparation of alcoholic beverages. EMERGENCY CLAUSE. HHC/HJC
- HB 557 RESIDENT VETERAN BUSINESS PREFERENCE CHANGES (Wooley)** Amends §§13-1-21 and 13-4-2 and repeals §§13-1-21 and 13-4-2, the effective date of which is 7/1/22; the bill increases the maximum annual revenues a business can generate and still qualify for a 10% preference authorized by these sections of the Procurement Code and removes the graduated preference allowances based on annual

conservation, treatment, recycling & reuse and additional projects; **Angel Fire** - water conservation, treatment, recycling & reuse and additional projects; water storage, conveyance and delivery; **Bernalillo** – additional water storage and conveyance; **Bloomfield** - additional water storage and conveyance; **Capitan** - additional water storage and conveyance and additional projects; **Causey** - additional water storage, conveyance and delivery; **Corona** - additional water storage, conveyance and delivery; **Eagle Nest** - additional water storage, conveyance and delivery; **Elida** - additional water storage, conveyance and delivery; **Estancia** - additional water storage, conveyance and delivery; **Eunice** - additional water storage, conveyance and delivery; **Gallup** - additional water storage, conveyance and delivery; **Hagerman** - additional water storage, conveyance and delivery; and additional projects; **Hatch** - additional water storage, conveyance and delivery; **Jal** - additional water storage, conveyance and delivery; **Las Vegas** - additional water storage, conveyance and delivery; **Los Lunas** - additional water storage, conveyance and delivery; **Magdalena** - additional water storage, conveyance and delivery; **Mesilla** - additional water storage, conveyance and delivery; **Pecos** - additional water storage, conveyance and delivery; **Portales** - additional water storage, conveyance and delivery; **Red River** - additional water storage, conveyance and delivery; **Ruidoso Downs** - additional water storage, conveyance and delivery; **Santa Fe** - additional water storage, conveyance and delivery; and additional projects; and watershed restoration and management; **Taos Ski Valley** - additional water storage, conveyance and delivery; and additional projects; **Taos** - additional water storage, conveyance and delivery; **Texico** - additional water storage, conveyance and delivery; **Truth or Consequences** - additional water storage, conveyance and delivery; **Tularosa** - additional water storage, conveyance and delivery; **Vaughn** - additional water storage, conveyance and delivery; **Wagon Mound** - additional water storage, conveyance and delivery; **Cuba** – watershed management. EMERGENCY CLAUSE. HAWC/ HWM

HB 580 TAX & REV. DEPT. INFO TO OTHER STATES (Montoya) Amends §7-1-8.7; the bill amends the Tax Administration Act confidentiality provisions to allow the Taxation and Revenue Department to reveal to tax officials from another state including local governments, New Mexico taxpayer information as necessary to administer the other state’s tax laws. HWMC

HB 581 LOCAL OPTION GRT DISTRIBUTION ADJUSTMENTS (Dodge) A summary of the bill dealing with GRT distribution adjustments:

- Defines the payback period as 47 months and the recoverable amount is 50% of a 3 year average annual distribution of the gross receipts tax;
- Allows the municipality to receive information concerning the claim refund that involves a recoverable amount;
- Provides a notice by the Tax and Revenue Department to the municipality and establishes a 90 day response period. If no response is made by the municipality, the recoverable amount will be paid back in 6 months by the municipality;
- If a municipality responds to the Tax and Revenue Department notice within the 90 days, the Department and municipality will negotiate a payback period. The Department will also provide a range of gross receipts tax information to the municipality for their information.

HB 588 PAWNBROKER DAILY REPORT REQUIREMENTS (Rehm) Amends §56-12-1, 56-12-2 and 56-12-9; the bill expands the Pawnbrokers Act to include new property acquired in a pawn transaction or for resale by a pawnbroker in the daily reports the pawnbroker is required to submit to the local law enforcement agency. The reports are to be made in a form approved by the local law enforcement agency and must be reported with used property required currently to be reported daily. Effective 7/1/15. HRPAC/HBEC

HB 589 LAW ENFORCEMENT PROTECTION FUND DISTRIBUTIONS (Ruiloba) Amends §§29-13-2.1, 29-13-4, 29-13-5, 29-13-7; the bill includes the Law Enforcement Academy and regional law enforcement training facilities in the distribution of the Law Enforcement Protection Fund in the amount of \$50,000 per year, possibly per facility, although that is unclear. HSCAC/HAFC

- HJM 14 ADDRESS INSTITUTIONAL RACISM (Martinez, Javier)** Encourages agencies that receive state funding to address institutional racism by adopting policies no later than 1/1/16 to address institutional racism. HSCAC
- SB 642 DISPOSAL OF PROPERTY BY STATE AGENCIES (Burt)** Amends §13-6-2; real or personal property may be sold, traded, leased or otherwise disposed of by a state agency, local public body, school district or state educational institution provided that a written determination has been made that any sale or disposition is in the best interest of the agency or body and may convey interest in properties without warranty; agencies and local bodies may dispose of real property by trade or lease; raises the monetary threshold from \$5,000 to \$10,000 of value that requires approval of the State Budget Division of DFA; raises the monetary threshold for approval of a sale by the State Board of Finance and legislative approval from \$25,000 to \$60,000; sale, trade or lease exceeding 25 years or disposal of property valued at \$200,000 or greater requires approval of the State Board of Finance and approval by the legislature. SRC/SPAC
- SB 647 RULES OF PRIORITY ADMINISTRATION OF WATER (Cervantes)** Amends §72-2-9.1 to make rules adopted by the State Engineer be consistent with Article 16 of the New Mexico Constitution. SCONC/SJC
- SB 648 STATE ENGINEER POWERS & DUTIES (Cervantes)** Amends §72-2-1; the State Engineer shall only have the authority to administer water that is either the subject of permits and licenses issued by the Office of the State engineer or adjudicated by a court in a manner consistent with the doctrine of prior adjudication under the New Mexico Constitution; the State Engineer shall have no adjudicatory authority to determine or alter legal elements of water rights; the State Engineer shall not use the Engineer's authority to extinguish a water right except through the appropriate abandonment or forfeiture proceedings; the Engineer and employees of the Office shall only provide technical support in disputes concerning or adjudicating the waters of the state. SCONC/SJC
- SB 651 INCREASE SOME CARELESS DRIVING PENALTIES (Torraco)** Amends §66-8-114; whoever commits careless driving that results in death or great bodily harm is guilty of a misdemeanor; if the sentence is suspended or deferred, the term of probation is two years and requires driver improvement measures; a violation of the Motor Vehicle Code is a violation of probation. Effective 7/1/15. SPAC/SJC
- SB 653 TWO-TIERED DRIVER'S LICENSES (Ingle)** Amends §66-5-9 to create a two-tier driver's license that can comply with the federal Real ID Act; license not intended to be used for federal purposes shall have the statement "not for federal purposes" on them; federal licenses have a four-year limit; has methods for application of both licenses; has the same requirements for department-issued identification cards; it is a felony for a person knowing or willfully provide a false or fictitious name in any application for an identity card or solicit another person to violate this section. Effective 7/1/15. SPAC/SJC/SFC
- SB 656 RAISE GAS TAX & CREATE ROAD MAINTENANCE FUND (Smith)** Amends several sections concerning distributions; creates the State Road Maintenance Fund and makes distributions to the fund from the Gasoline and Special Fuels Taxes; raises the state Gasoline Tax beginning in 2019 from \$.17 per gallon to \$.27 per gallon over a six-year period; after April 30, 2025, the rate is to be indexed by a chain price index, which is the chained price index for non-residential construction calculated by the United State Bureau of Economic Analysis; raises the Special Fuels Tax during the same period from \$.26 per gallon to \$.31 per gallon with the same indexing provisions after April 30, 2015; makes an additional \$.05 distribution to municipalities and counties, with 90 percent of the distribution going to municipalities and 10 percent to counties. Effective 7/1/15. SCORC/SFC
- SB 661 ED FACILITY & CONSTRUCTION MANAGER AT RISK (Cervantes)** Amends several sections of the Procurement Code to remove educational facilities from construction manager at risk delivery method. SPAC/SJC
- SB 662 ART SALES AT AUCTIONS GROSS RECEIPTS (Payne)** New material exempts from gross receipts the receipts from the sale of fine art sold at auction to a bidder that is not a New Mexico resident and does not have a principal place of business in the state, provided the auction is conducted within a municipality;

municipality means a municipality with a population of at least 67,500 but less than 68,000 according to the latest federal census, located in a Class A County with a population of at least 144,000 but less than 145,000. Effective 7/1/15. SCORC/SFC

SB 664 EMPLOYEE PREFERENCE ACT (Ingle) New material creates the Employee Preference Act; employer is all political subdivisions of the state; prohibits an employer from requiring as a condition of employment to become or remain a member of a labor union or to pay dues to a union; amend 10-7E-4 of the Public employee Bargaining Act to remove the fair share definition and removes it a permissive subject of bargaining; raises the minimum wage from \$6.05 per hour to \$8.00 per hour; training employees shall have a minimum wage of \$7.50 per hour during the training period not to exceed six months. Effective date of the raise in minimum wage is 7/1/15. SPAC/SJC

SB 665 WATER WELLS, LEASES, HEARINGS & ABANDONMENT(Griggs) Amends §72-1-9; a water right acquired and held unused pursuant to this section shall not be automatically lost after 40 years, except by statutory forfeiture or judicial proceeding to prove abandonment; the State Engineer may approve a lessee's use of water during the pendency of the hearing process for leases of less than three years for less than 200 acre-feet of water; lists several factors that must be provided if a protestant alleged impairment of water rights; for a replacement well over 100 feet from the original well or a supplemental well, the amount of water available for appropriation is the greater of the amount of water put to full beneficial use by the water right's owner, the amount of the owner's permitted water right or the amount of the owner's declared water right; provided that at least some portion of the owner's permitted or declared water right previously has been put to beneficial use. SCONC/SJC

SB 669 LOCAL OPTION GRT DISTRIBUTION ADJUSTMENTS (Ingle) Same as HB 581. SCORC/SFC

SB 673 ALLOW CUSTOMER'S WINE IN RESTAURANTS (Griggs) Amends §60-3A-12; allows a dispenser, canopy licensee or restaurant licensee to allow a customer to bring onto and consume on the premises the customer's own bottle of wine; the licensee may charge a corkage fee; requires the customer to purchase a full-course meal and consumed a portion of the wine brought onto the premise; the remainder of the wine may be taken off the premises if the licensee attaches a customer receipt for the meal and notes the customer had provided his own wine. Effective 7/1/15. SCORC/SJC

SJR 17 LEGISLATIVE POWER TO COMPEL WITNESSES (Cervantes) Proposes to amend Article 4 of the New Mexico Constitution to add a new section to read: "Each House of the legislature and any committee of either House or joint committee of both Houses, pursuant to the procedural rules of each House or joint rules of both Houses, shall have the power to compel the attendance and testimony of a witness before either House or a committee or to command a person to produce documents, electronically stored information or tangible items in that person's custody or control. The presiding officer of the Senate, the Speaker of the House or the chair of a committee of both Houses of the legislature may administer an oath to a witness who has been compelled to appear and testify pursuant to this section." SRC/SJC