

ASSEMBLY BILL

No. 1315

Introduced by Assembly Member Ruskin

February 27, 2009

An act to amend Sections 11351 and 11342.600 of the Government Code, and to amend Sections 305, 306, 307, and 308 of the Public Utilities Code, relating to the Public Utilities Commission.

LEGISLATIVE COUNSEL'S DIGEST

AB 1315, as introduced, Ruskin. Public Utilities Commission.

The Administrative Procedure Act contains provisions relating to the adoption, review, approval, filing, publication, and judicial review of regulations, as defined, adopted by state agencies in accordance with statutory mandates. The act exempts the Public Utilities Commission, among others, from provisions relating to the adoption, review, approval, and judicial review of regulations, and limits the application of provisions relating to the filing and publication of regulations to only the rules of procedure of the commission.

This bill would repeal this exemption and limitation with respect to the commission. The bill would specify that the definition of “regulation” includes every proceeding designated “quasi-legislative” by the commission pursuant to certain existing law.

The California Constitution establishes the commission, with jurisdiction over all public utilities, as defined. The California Constitution grants the commission certain general powers over all public utilities, subject to control by the Legislature, and authorizes the Legislature, unlimited by the other provisions of the Constitution, to confer additional authority and jurisdiction upon the commission, that is cognate and germane to the regulation of public utilities. Existing

law requires the Governor to designate the president of the commission from among its members and requires the president to direct the executive director, the attorney, and other staff of the commission, except for the Division of Ratepayer Advocates.

This bill would require the Governor to appoint, subject to the approval of the Senate, a president of the commission from among its members. The bill would repeal the requirement that the president direct commission staff.

Existing law requires the office of the commission to be in the City and County of San Francisco and that, with certain exceptions, the office always be open. Existing law requires the commission to hold its sessions at least once in each calendar month in that city and county, and authorizes the commission to also meet at such other times and in such other places as may be expedient and necessary for the proper performance of its duties.

This bill would also require the commission to hold at least one session in each calendar month in the City of Sacramento.

Existing law authorizes the attorney for the commission, if directed to do so by the president, except as otherwise directed by vote of the commission, to intervene, if possible, in any action or proceeding involving any question arising pursuant to the Public Utilities Act. Existing law requires the attorney for the commission to commence, prosecute, and expedite the final determination of all actions and proceedings, and to generally perform all duties and services as attorney to the commission, as directed or authorized by the president, except as otherwise directed or authorized by vote of the commission.

This bill would authorize the attorney for the commission, if directed to do so by the commission, to intervene, if possible, in any action or proceeding involving any question arising pursuant to the Public Utilities Act. This bill would require the attorney for the commission to commence, prosecute, and expedite the final determination of all actions and proceedings, and to generally perform all duties and services as attorney to the commission, as directed or authorized by the commission.

Existing law requires the executive director for the commission to keep a full and true record of all proceedings of the commission, issue all necessary process, writs, warrants, and notices, and perform such other duties as the president, or vote of the commission, prescribes. Existing law provides that the president may authorize the executive director to dismiss complaints or applications when all parties are in

agreement thereto, in accordance with rules that the commission may prescribe.

This bill would require the executive director to keep a full and true record of all proceedings of the commission, issue all necessary process, writs, warrants, and notices, and perform the other duties the commission prescribes. The bill would provide that the commission may authorize the executive director to dismiss complaints or applications when all parties are in agreement thereto, in accordance with rules that the commission may prescribe.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11351 of the Government Code is
2 amended to read:

3 11351. (a) Except as provided in subdivision (b), Article 5
4 (commencing with Section 11346), Article 6 (commencing with
5 Section 11349), Article 7 (commencing with Section 11349.7),
6 and Article 8 (commencing with Section 11350) shall not apply
7 to the ~~Public Utilities Commission or the Workers' Compensation~~
8 Appeals Board, and Article 3 (commencing with Section 11343)
9 and Article 4 (commencing with Section 11344) shall apply only
10 to the rules of procedure of ~~these state agencies~~ *the board*.

11 (b) The ~~Public Utilities Commission and the Workers'~~
12 Compensation Appeals Board shall comply with paragraph (5) of
13 subdivision (a) of Section 11346.4 with respect to regulations that
14 are required to be filed with the Secretary of State pursuant to
15 Section 11343.

16 (c) Article 8 (commencing with Section 11350) shall not apply
17 to the Division of Workers' Compensation.

18 SEC. 2. Section 11342.600 of the Government Code is amended
19 to read:

20 11342.600. "Regulation" means every rule, regulation, order,
21 or standard of general application or the amendment, supplement,
22 or revision of any rule, regulation, order, or standard adopted by
23 any state agency to implement, interpret, or make specific the law
24 enforced or administered by it, or to govern its procedure.
25 "Regulation" includes, but is not limited to, every proceeding

1 *designated “quasi-legislative” by the Public Utilities Commission*
2 *pursuant to Section 1701.1 of the Public Utilities Code.*

3 SEC. 3. Section 305 of the Public Utilities Code is amended
4 to read:

5 305. The Governor shall ~~designate~~ *appoint, subject to the*
6 *approval of the Senate*, a president of the commission from among
7 the members of the commission. ~~The president shall direct the~~
8 ~~executive director, the attorney, and other staff of the commission,~~
9 ~~except for the staff of the division described in Section 309.5, in~~
10 ~~the performance of their duties, in accordance with commission~~
11 ~~policies and guidelines.~~ The president shall preside at all meetings
12 and sessions of the commission.

13 SEC. 4. Section 306 of the Public Utilities Code is amended
14 to read:

15 306. (a) The office of the commission shall be in the City and
16 County of San Francisco. The office shall always be open, legal
17 holidays and nonjudicial days excepted. The commission shall
18 hold its sessions at least once in each calendar month in the City
19 and County of San Francisco. *The commission shall hold at least*
20 *one session in each calendar month in the City of Sacramento.*
21 The commission may also meet at such other times and in such
22 other places as may be expedient and necessary for the proper
23 performance of its duties, and for that purpose may rent quarters
24 or offices.

25 (b) The meetings of the commission shall be open and public
26 in accordance with the provisions of Article 9 (commencing with
27 Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of
28 the Government Code.

29 In addition to the requirements of Section 11125 of the
30 Government Code, the commission shall include in its notice of
31 meetings the agenda of business to be transacted, and no item of
32 business shall be added to the agenda subsequent to the notice in
33 the absence of an unforeseen emergency situation. A rate increase
34 shall not constitute an unforeseen emergency situation. As used
35 in this subdivision, “meeting” shall include all investigations,
36 proceedings, and showings required by law to be open and public.

37 (c) The commission shall have a seal, bearing the inscription
38 “Public Utilities Commission State of California.” The seal shall
39 be affixed to all writs and authentications of copies of records and
40 to such other instruments as the commission shall direct.

1 (d) The commission may procure all necessary books, maps,
2 charts, stationery, instruments, office furniture, apparatus, and
3 appliances.

4 SEC. 5. Section 307 of the Public Utilities Code is amended
5 to read:

6 307. (a) The commission may appoint as attorney to the
7 commission an attorney at law of this state, who shall hold office
8 during the pleasure of the commission.

9 (b) The attorney shall represent and appear for the people of the
10 State of California and the commission in all actions and
11 proceedings involving any question under this part or under any
12 order or act of the commission. If directed to do so by the ~~president,~~
13 ~~except as otherwise directed by vote of the~~ commission, the
14 attorney shall intervene, if possible, in any action or proceeding
15 in which any such question is involved.

16 (c) The attorney shall commence, prosecute, and expedite the
17 final determination of all actions and proceedings directed or
18 authorized by the ~~president, except as otherwise directed or~~
19 ~~authorized by vote of the~~ commission, advise the commission and
20 each commissioner, when so requested, in regard to all matters in
21 connection with the powers and duties of the commission and the
22 members thereof, and generally perform all duties and services as
23 attorney to the commission that the ~~president, or vote of the~~
24 ~~commission,~~ *commission* may require of him or her.

25 SEC. 6. Section 308 of the Public Utilities Code is amended
26 to read:

27 308. (a) The commission shall appoint an executive director,
28 who shall hold office during its pleasure. The executive director
29 shall be responsible for the commission's executive and
30 administrative duties and shall organize, coordinate, supervise,
31 and direct the operations and affairs of the commission and
32 expedite all matters within the commission's jurisdiction.

33 (b) The executive director shall keep a full and true record of
34 all proceedings of the commission, issue all necessary process,
35 writs, warrants, and notices, and perform ~~such~~ *the* other duties as
36 the ~~president, or vote of the commission,~~ *commission* prescribes.
37 The ~~president~~ *commission* may authorize the executive director to
38 dismiss complaints or applications when all parties are in
39 agreement thereto, in accordance with rules that the commission
40 may prescribe.

- 1 (c) The commission may appoint assistant executive directors
- 2 who may serve warrants and other process in any county or city
- 3 and county of this state.

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