

ASSEMBLY BILL

No. 415

Introduced by Assembly Member Garcia

February 15, 2013

An act to add Section 2120 to the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 415, as introduced, Garcia. Public utilities: Public Utilities Act: violation: defense.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities and can establish its own procedures, subject to statutory limitations or directions and constitutional requirements of due process. The Public Utilities Act regulates specified public utilities. A violation of the Public Utilities Act or an order, decision, rule, direction, demand, or requirement of the commission is a crime.

This bill would establish a reasonable good faith reliance defense, as specified, to an enforcement action by the commission pursuant to the act or an order, decision, rule, direction, demand, or requirement of the commission. The bill would prohibit the commission from commencing or maintaining an adjudication or other enforcement action or proceeding against an entity if that entity has relied, in good faith, on the advice or direction of the staff of the commission. The bill would provide that this defense does not apply to an action alleging a violation of the act that led, or could have directly led, to harm of humans.

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

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

1 SECTION 1. Section 2120 is added to the Public Utilities Code,
2 to read:
3 2120. (a) A reasonable good faith reliance upon the direction
4 and advice of commission staff is a defense to an enforcement
5 action brought by the commission pursuant to this part or pursuant
6 to an order, decision, rule, direction, demand, or requirement of
7 the commission.
8 (b) The commission shall not commence or maintain an
9 adjudication or other enforcement action or proceeding against a
10 public utility, or other person or corporation over which the
11 commission has or claims authority or jurisdiction, to fine, hold
12 in contempt, or otherwise punish or issue an order against the
13 public utility, or other person or corporation for a violation of this
14 part, or a rule or order adopted by the commission pursuant to this
15 part, if the public utility, or other person or corporation that has
16 relied, in good faith, on the advice or direction of staff of the
17 commission to whom the public utility, or other person or
18 corporation was directed, in writing, to consult on behalf of the
19 commission.
20 (c) For the purpose of this section, “reasonable good faith
21 reliance” means a reasonable belief that the action of an entity,
22 acting on the direction and advice of the staff of the commission,
23 is legal and consistent with the direction and advice provided.
24 (d) This section does not apply to an enforcement action that is
25 directly related to an action alleging a violation that led, or could
26 have directly led, to harm of humans.

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