

AMENDED IN ASSEMBLY JUNE 18, 2014
AMENDED IN ASSEMBLY MARCH 18, 2014
AMENDED IN ASSEMBLY JUNE 19, 2013
AMENDED IN SENATE MAY 8, 2013
AMENDED IN SENATE APRIL 8, 2013

SENATE BILL

No. 48

Introduced by Senator Hill

December 19, 2012

An act to amend Section 740.1 of, and to add ~~Sections~~ *Section* 740.12 and 740.13 to, the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 48, as amended, Hill. Public utilities: research and development projects.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations, gas corporations, heat corporations, and telephone corporations, as defined. Existing law authorizes the commission to fix the rates and charges for every public utility, and requires that those rates and charges be just and reasonable. Existing law authorizes electrical corporations, gas corporations, heat corporations, and telephone corporations to voluntarily adopt certain research and development programs and authorizes the commission to allow inclusion of expenses for research and development in rates. Existing law requires the commission to consider specified guidelines in evaluating the research, development, and demonstration programs proposed by electrical corporations and gas corporations. ~~Existing law establishes the Energy Resources~~

~~Programs Account and requires a specified surcharge on electricity usage to be transferred to the Energy Resources Programs Account.~~

~~This bill would authorize the commission to establish an advisory committee consisting of persons meeting specified requirements to evaluate whether proposed research and development projects meet the guidelines. The bill would, by July 1, 2016, require an electrical corporation with more than 100,000 customer accounts to create a peer review committee to evaluate whether projects meet the guidelines and to evaluate specific technical aspects of the proposed project. The bill would prohibit, except under specified conditions, the commission from approving the inclusion of expenses incurred by a project in electricity rates if the proposed project is not supplemented by a written evaluation from the peer review committee. The bill would require the commission, upon appropriation by the Legislature, to reimburse the electrical corporation for costs incurred in creating and operating the peer review committee from the Energy Resources Programs Account. The bill would require the commission, by December 31, 2015, and by December 31~~*Beginning at an unspecified date, this bill would require that findings supporting a decision to approve the inclusion of expenses incurred for research and development projects or programs in electricity rates be informed by independent expert review, as defined. The bill would require the commission by February 1, 2016, and by February 1 of every 3 years thereafter, to submit a report to the relevant policy and fiscal committees of the Legislature listing all research and development projects where the expenses of the project were or are recovered from ratepayers during the previous 3 years, including for each project the citations of all published papers, all oral and poster presentations given at public meetings, and all patents awarded for the funded research.*

~~Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the commission is a crime.~~

~~Because some electrical corporations would be required to create a peer review committee, a violation of which would be a crime, this bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

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

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

1 *SECTION 1. The Legislature finds and declares all of the*
2 *following:*

3 *(a) It is in the interest of the state that its residents have*
4 *confidence in the decisions of the state’s agencies and in the*
5 *operations of the industries that those agencies regulate.*

6 *(b) Research and development projects are scientific in nature,*
7 *technical in nature, or both, and therefore the advice of*
8 *independent scientific and technical experts may be used to inform*
9 *agency decisionmaking in the approval of those projects.*
10 *Demonstration projects concern the application of technology,*
11 *and so scientific and technical experts may not be necessary to*
12 *inform agency decisionmaking in approving those projects.*

13 *(c) It is in the interest of the state to ensure that the advice issued*
14 *by independent scientific and technical experts to state agencies*
15 *is sound, and that this advice should be, and should be perceived*
16 *to be, not only highly competent, but also the result of a process*
17 *that is fairly balanced in terms of the knowledge, experience, and*
18 *perspectives used to produce it, free of any significant conflict of*
19 *interest, and not subject to undue influence from the state agencies*
20 *that they advise.*

21 *(d) The goal of independent expert review is to ensure the*
22 *scientific integrity and technical credibility of a decisionmaking*
23 *process. Independent expert review is different from, and*
24 *complementary to, stakeholder involvement.*

25 *(e) The credibility of agency decisions is improved when the*
26 *results of independent scientific and technical expert review are*
27 *used to improve the quality of an agency’s decisionmaking process.*
28 *The use of independent expert review therefore provides observers*
29 *confidence that decisions are made with the best available scientific*
30 *and technical information.*

31 ~~SECTION 1.~~

32 *SEC. 2. Section 740.1 of the Public Utilities Code is amended*
33 *to read:*

34 740.1. (a) The commission shall consider the following
35 guidelines in evaluating the research, development, and

1 demonstration programs proposed by electrical and gas
2 corporations:

3 (1) Projects should offer a reasonable probability of providing
4 benefits to ratepayers.

5 (2) Expenditures on projects that have a low probability for
6 success should be minimized.

7 (3) Projects should be consistent with the corporation's resource
8 plan.

9 (4) Projects should not unnecessarily duplicate research
10 currently, previously, or imminently undertaken by other electrical
11 or gas corporations or research organizations.

12 (5) Each project should also support one or more of the
13 following objectives:

14 (A) Environmental improvement.

15 (B) Public and employee safety.

16 (C) Conservation by efficient resource use or by reducing or
17 shifting system load.

18 (D) Development of new resources and processes, particularly
19 renewable resources and processes that further supply technologies.

20 (E) Improve operating efficiency and reliability or otherwise
21 reduce operating costs.

22 ~~(b) The commission may establish an advisory committee to~~
23 ~~evaluate whether a research and development project meets the~~
24 ~~guidelines described in subdivision (a). The advisory committee,~~
25 ~~if established, shall be composed of persons who meet all of the~~
26 ~~following requirements:~~

27 ~~(1) Be independent of the person proposing the project.~~

28 ~~(2) Be independent of the persons conducting the proposed~~
29 ~~project, if different from those persons proposing the project.~~

30 ~~(3) Be knowledgeable in the field of endeavor to which the~~
31 ~~proposed project pertains.~~

32 *(b) (1) Findings supporting a decision to approve the inclusion*
33 *of expenses incurred for research and development projects or*
34 *programs in electricity rates pursuant to Section 740 shall be*
35 *informed by independent expert review. Independent expert review*
36 *means a review to examine the effectiveness with which the*
37 *proposed research and development application meets the*
38 *guidelines described in subdivision (a) that is performed by persons*
39 *who have the following attributes:*

40 (A) *Are independent of the applicant.*

1 (B) Are independent of the persons conducting the proposed
2 project or program, if different from the applicant.

3 (C) Are knowledgeable about the scientific or technical aspects
4 of the field of endeavor to which the proposed application pertains.

5 ~~(4) Be~~

6 (D) Are free of any financial or other interest that could
7 significantly impair the ability of the person ~~serving on the~~
8 ~~committee~~ to be objective or that could create an unfair competitive
9 advantage *in favor* of a person or organization.

10 (2) This subdivision shall become operative on ____.

11 (c) The establishment of an advisory committee *to perform the*
12 *independent review pursuant to subdivision (b)* is not an unlawful
13 delegation of the commission's authority.

14 SEC. 2.—Section 740.12 is added to the Public Utilities Code,
15 to read:

16 740.12.—(a) On or before July 1, 2016, an electrical corporation
17 with more than 100,000 customer accounts shall, in consultation
18 with the National Research Council, create a peer review committee
19 to evaluate whether a research and development project proposed
20 in an application for the inclusion of expenses for research and
21 development in rates pursuant to Section 740 meets the guidelines
22 in Section 740.1 and to evaluate all of the following technical
23 aspects:

24 ~~(1) The overall scientific or technical merits of the proposed~~
25 ~~project.~~

26 ~~(2) The extent to which the same or similar project could be~~
27 ~~performed by entities that the electrical corporation does not select.~~

28 ~~(3) The appropriateness of the level of requested funding in~~
29 ~~comparison to other projects by similarly experienced individuals~~
30 ~~using similar facilities performing in similar timeframes and~~
31 ~~circumstances.~~

32 ~~(4) The likelihood that the proposed project can be accomplished~~
33 ~~within the proposed time and budget by the investigators or the~~
34 ~~technical staff, given their experience and expertise and available~~
35 ~~resources.~~

36 ~~(b) The peer review committee shall have a membership of no~~
37 ~~more than nine persons.~~

38 ~~(c) The composition and policies of the peer review committee~~
39 ~~described in subdivision (a) shall ensure that the evaluation of an~~

1 application shall be performed by persons who meet all of the
2 following requirements:

3 (1) Be independent of persons submitting the proposed project
4 that is included in the application.

5 (2) Be independent of persons conducting the project, if different
6 from those persons proposing the project.

7 (3) Be knowledgeable in the field of endeavor to which the
8 proposed project pertains.

9 (4) Be free of any financial or other interest that could
10 significantly impair the ability of the person serving on the
11 committee to be objective or that could create an unfair competitive
12 advantage for a person or organization.

13 (d) The commission shall, upon appropriation by the Legislature,
14 reimburse the electrical corporation for costs incurred by the
15 electrical corporation in consulting with the National Research
16 Council and in creating and operating the peer review committee
17 from the Energy Resources Programs Account.

18 (e) The commission shall not approve the inclusion of expenses
19 incurred by a research and development project in electricity rates
20 pursuant to Section 740 for a proposed project that is not
21 supplemented by a written evaluation from the peer review
22 committee. In a decision to approve the inclusion of expenses
23 incurred by research and development projects in electricity rates
24 pursuant to Section 740, the commission shall make findings on
25 how the written evaluation by the peer review committee informed
26 the decision, including aspects of the proposed projects in which
27 the opinion of the commission differs from the opinion of the peer
28 review committee.

29 (f) The requirement for a written evaluation pursuant to
30 subdivision (e) may be waived by the commission for a proposed
31 project listed in an application submitted to the commission if both
32 of the following conditions are satisfied:

33 (1) Substantial funding for the project is contingent upon
34 approval by a state or federal agency.

35 (2) Funding for the project may be awarded by the state or
36 federal agency only after a review by persons who meet the criteria
37 in subdivision (e).

38 SEC. 3. Section 740.13740.12 is added to the Public Utilities
39 Code, to read:

1 ~~740.13.~~

2 ~~740.12.~~ (a) On or before ~~December 31, 2015,~~ *February 1,*
3 *2016,* and, notwithstanding Section 10231.5 of the Government
4 Code, on or before ~~December 31~~ *February 1* of every three years
5 thereafter or more frequently as determined by the commission,
6 the commission shall submit to the fiscal and relevant policy
7 committees of the Legislature a report listing all research and
8 development projects for which the costs of the projects were or
9 are recovered from ratepayers during the previous three years,
10 including, for each project the citations of all published papers, all
11 oral and poster presentations given at public meetings, and all
12 patents awarded for the funded projects.

13 (b) The report submitted pursuant to subdivision (a) shall be
14 submitted in compliance with Section 9795 of the Government
15 Code.

16 ~~SEC. 4. No reimbursement is required by this act pursuant to~~
17 ~~Section 6 of Article XIII B of the California Constitution because~~
18 ~~the only costs that may be incurred by a local agency or school~~
19 ~~district will be incurred because this act creates a new crime or~~
20 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
21 ~~for a crime or infraction, within the meaning of Section 17556 of~~
22 ~~the Government Code, or changes the definition of a crime within~~
23 ~~the meaning of Section 6 of Article XIII B of the California~~
24 ~~Constitution.~~