

ASSEMBLY BILL

No. 825

Introduced by Assembly Member Rendon

February 26, 2015

An act to amend Sections 314.5, 583, and 1759 of, to amend, renumber, and add Section 309.1 of, and to add Sections 309.2, 468, and 717 to, the Public Utilities Code, relating to the Public Utilities Commission.

LEGISLATIVE COUNSEL'S DIGEST

AB 825, as introduced, Rendon. Public Utilities Commission

(1) Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations, gas corporations, heat corporations, telegraph corporations, telephone corporations, and water corporations. 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. Existing law requires the commission to appoint an executive director who is responsible for the commission's executive and administrative duties and to organize, coordinate, supervise, and direct the operations and affairs of the commission and expedite all matters within the commission's jurisdiction. Existing law authorizes the executive director to employ those officers, administrative law judges, experts, engineers, statisticians, accountants, inspectors, clerks, and employees as the executive director deems necessary to carry out the provisions of the Public Utilities Act or to perform the duties and exercise the powers conferred upon the commission by law.

This bill would prohibit the commission from reassigning any staff member from a duty or activity authorized by statute to another duty or activity unless the Legislature has authorized personnel for that duty or activity. The bill would require the commission's internal auditor to report directly to the president, executive director, and the attorney to the commission.

(2) The California Constitution authorizes the commission to establish rules, examine records, and prescribe a uniform system of accounts for all public utilities. The Public Utilities Act requires the commission to inspect and audit the books and records of electrical corporations, gas corporations, heat corporations, telegraph corporations, telephone corporations, and water corporations for regulatory and tax purposes. An inspection and audit is required to be done at least every 3 years if the utility has over 1,000 customers and at least every 5 years if the utility has 1,000 or fewer customers. The act requires that reports of the inspections and audit and other pertinent information be furnished to the State Board of Equalization for use in the assessment of the public utilities.

This bill would delete the requirement that the reports of the inspections and audit and other pertinent information be furnished to the State Board of Equalization for use in the assessment of the public utilities and instead require that the inspections and audit and other pertinent information be posted on the commission's Internet Web site.

(3) 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, with certain exceptions, prohibits a public utility from changing any rate, except upon a showing before the commission and a finding by the commission that the new rate is justified. With certain exceptions, whenever any electrical, gas, heat, telephone, water, or sewer system corporation files an application to change any rate for the services or commodities furnished by it, existing law requires that the corporation furnish its customers notice of its application to the commission for approval of the new rate. This notice requirement does not apply to any rate change proposed by a corporation pursuant to an advice letter submitted to the commission filed pursuant to commission-established procedures for advice letters.

This bill would require each public utility that submits an application to change its rates to include in its application a summary of the application that can be understood by the utility's ratepayers. The bill would require that this summary be posted on the commission's Internet

Web site and, if the utility has an Internet Web site, to be posted on the utility's Internet Web site. Each public utility that maintains an Internet Web site would additionally be required to include on that site contact information for a utility official who can discuss the nature of the rate application.

(4) Every public utility is required by existing law, to furnish such reports as the commission may require. No information furnished to the commission by a public utility, except those matters specifically required to be open to public inspection, are open to public inspection or made public except by order of the commission or a commissioner in the course of a hearing or proceeding. Any present or former officer or employee of the commission who divulges any information in violation of these provisions is guilty of a misdemeanor.

This bill would provide that if in a proceeding before the commission, a public utility, or subsidiary, affiliate, or holding company, seeks to file a pleading, report, or other document with the commission that preserves the confidentiality of information contained therein, it would be required to file a public version of the pleading, report, or other document that contains sufficient information for any other party to the proceeding to understand the nature of its contents. The bill would authorize any party to the proceeding to file a motion to make public a pleading, report, or other document filed under a claim of confidentiality. The bill would require an administrative law judge assigned to the proceeding or the assigned commissioner to hold a hearing on the motion and determine whether the pleading, report, or other document should be made public.

(5) Existing law requires the commission to publish and maintain certain documents and information, including making available on the commission's Internet Web site, the commission's annual work plan, general orders, and Rules of Practice and Procedure, the proposed and alternate proposed decisions and resolutions, the agenda, agenda item documents, rulings of the commission, and adopted decisions and resolutions of the commission.

This bill would require the commission to post on its Internet Web site a summary, as specified, of all electricity procurement contracts entered into by an electrical corporation during the previous 3 years, the expenses of which the commission has approved as being just and reasonable, and a list of all public utilities with ratesetting cases then pending before the commission with information, in summary form, as

to the amount of any rate increase being sought, both in cumulative amount and by unit or other means billed to ratepayers.

(6) The California Constitution provides that the Legislature has plenary power to establish the manner and scope of review of commission action in a court of record. Existing law provides that only the Supreme Court and the court of appeal have jurisdiction to review, reverse, correct, or annul any order or decision of the commission or to suspend or delay the execution or operation thereof, or to enjoin, restrain, or interfere with the commission in the performance of its official duties.

This bill would authorize an action to enforce the requirements of the Bagley-Keene Open Meeting Act or the California Public Records Act to be brought against the commission in the superior court.

(7) 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 certain provisions of this bill would be a part of the act and because a violation of an order or decision of the commission implementing its requirements would be a crime, the bill would impose a state-mandated local program by creating a new crime.

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.

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

- 1 SECTION 1. Section 309.1 of the Public Utilities Code is
- 2 amended and renumbered to read:
- 3 ~~309.1.~~
- 4 305.5. The Governor may appoint one adviser for each member
- 5 of the commission upon the request of the commission member.
- 6 Each adviser shall receive a salary fixed by the commission with
- 7 the approval of the Department of Human Resources. The total
- 8 number of advisers exempt from civil service ~~may~~ shall not exceed
- 9 five.

1 SEC. 2. Section 309.1 is added to the Public Utilities Code, to
2 read:

3 309.1. The commission shall not reassign any staff member
4 from a duty or activity authorized by statute to another duty or
5 activity unless the Legislature has authorized personnel for that
6 duty or activity.

7 SEC. 3. Section 309.2 is added to the Public Utilities Code, to
8 read:

9 309.2. The commission's internal auditor shall report directly
10 to the president, executive director, and the attorney to the
11 commission.

12 SEC. 4. Section 314.5 of the Public Utilities Code is amended
13 to read:

14 314.5. The commission shall inspect and audit the books and
15 records for regulatory and tax purposes (a) at least once in every
16 three years in the case of every electrical, gas, heat, telegraph,
17 telephone, and water corporation serving over 1,000 customers,
18 and (b) at least once in every five years in the case of every
19 electrical, gas, heat, telegraph, telephone, and water corporation
20 serving 1,000 or fewer customers. An audit conducted in
21 connection with a rate proceeding shall be deemed to fulfill the
22 requirements of this section. Reports of ~~such~~ *the* inspections and
23 audits and other pertinent information shall be ~~furnished to the~~
24 ~~State Board of Equalization for use in the assessment of public~~
25 ~~utilities.~~ *posted on the commission's Internet Web site.*

26 SEC. 5. Section 468 is added to the Public Utilities Code, to
27 read:

28 468. (a) Each public utility that submits an application to
29 change its rates shall include in its application a summary of the
30 application that can be understood by the utility's ratepayers. This
31 summary shall be posted on the commission's Internet Web site
32 and, if the utility has an Internet Web site, shall be posted on the
33 utility's Internet Web site.

34 (b) Each public utility that maintains an Internet Web site shall
35 include on that site contact information for a utility official who
36 can discuss the nature of the rate application. If the rate application
37 includes different rates depending upon the utility's service
38 territory, the contact information shall identify a utility official
39 who can discuss the nature of the rate application for each separate
40 service territory. The utility official shall also be qualified to

1 discuss, in general terms, the operation of the utility in each service
2 territory.

3 SEC. 6. Section 583 of the Public Utilities Code is amended
4 to read:

5 583. (a) No information furnished to the commission by a
6 public utility, or any business ~~which~~ *that* is a subsidiary or affiliate
7 of a public utility, or a corporation ~~which~~ *that* holds a controlling
8 interest in a public utility, except those matters specifically required
9 to be open to public inspection by this part, shall be open to public
10 inspection or made public except on order of the commission, or
11 by the commission or a commissioner in the course of a hearing
12 or proceeding. Any present or former officer or employee of the
13 commission who divulges ~~any such~~ *that* information is guilty of
14 a misdemeanor.

15 (b) *If in a proceeding before the commission, a public utility,*
16 *or any business that is a subsidiary or affiliate of a public utility,*
17 *or a corporation that holds a controlling interest in a public utility,*
18 *seeks to file a pleading, report, or other document with the*
19 *commission that preserves the confidentiality of information*
20 *contained therein, it shall file a public version of the pleading,*
21 *report, or other document that contains sufficient information for*
22 *any other party to the proceeding to understand the nature of its*
23 *contents. An administrative law judge assigned to the proceeding,*
24 *the assigned commissioner, or the commission may determine the*
25 *sufficiency of the information contained in the public version of*
26 *the pleading, report, or other document.*

27 (c) *Any party to a proceeding before the commission may file*
28 *a motion to make public a pleading, report, or other document*
29 *filed by a public utility, or any business that is a subsidiary or*
30 *affiliate of a public utility, or a corporation that holds a controlling*
31 *interest in a public utility, under a claim of confidentiality. An*
32 *administrative law judge assigned to the proceeding or the*
33 *assigned commissioner shall hold a hearing on the motion and*
34 *determine whether the pleading, report, or other document should*
35 *be made public. In determining the motion, the administrative law*
36 *judge or assigned commissioner shall make written findings and*
37 *conclusions.*

38 (d) *At any public hearing, an assigned administrative law judge*
39 *may provide direction to the parties in a proceeding as to what*

1 *types of information may be filed with the commission under a*
2 *claim of confidentiality.*

3 SEC. 7. Section 717 is added to the Public Utilities Code, to
4 read:

5 717. The commission shall make available to the public on its
6 Internet Web site the following information:

7 (a) A summary of all electricity procurement contracts entered
8 into by an electrical corporation during the previous three years,
9 the expenses of which the commission has approved as being just
10 and reasonable. The summary shall include information as to the
11 name of the generating facility, its location, the electricity or
12 electricity products procured, the fuel or energy source used to
13 generate the electricity, the estimated total expense that the
14 electrical corporation will incur pursuant to the contract, the
15 estimated cost by unit of energy that the electrical corporation will
16 incur pursuant to the contract, when the contract was approved by
17 the commission, and if applicable, the decision or resolution
18 approving the contract. Information on costs of the contract shall
19 not be posted until the electrical corporation has completed the
20 legal transactions required to acquire the electricity or electricity
21 products.

22 (b) A list of all public utilities with ratesetting cases then
23 pending before the commission with information, in summary
24 form, as to the amount of any rate increase being sought, both in
25 cumulative amount and by unit or other means billed to ratepayers.

26 SEC. 8. Section 1759 of the Public Utilities Code is amended
27 to read:

28 1759. (a) No court of this state, except the Supreme Court and
29 the court of appeal, to the extent specified in this article, shall have
30 jurisdiction to review, reverse, correct, or annul any order or
31 decision of the commission or to suspend or delay the execution
32 or operation thereof, or to enjoin, restrain, or interfere with the
33 commission in the performance of its official duties, as provided
34 by law and the rules of court.

35 (b) The writ of mandamus shall lie from the Supreme Court and
36 from the court of appeal to the commission in all proper cases as
37 prescribed in Section 1085 of the Code of Civil Procedure.

38 (c) *This section does not apply to an action brought against the*
39 *commission to enforce the requirements of the Bagley-Keene Open*
40 *Meeting Act (Article 9 (commencing with Section 11120) of*

1 *Chapter 1 of Part 1 of Division 3 of Title 2 of the Government*
2 *Code) or the California Public Records Act (Chapter 3.5*
3 *(commencing with Section 6250) of Division 7 of Title 1 of the*
4 *Government Code), which action may be brought in the superior*
5 *court.*

6 SEC. 9. No reimbursement is required by this act pursuant to
7 Section 6 of Article XIII B of the California Constitution because
8 the only costs that may be incurred by a local agency or school
9 district will be incurred because this act creates a new crime or
10 infraction, eliminates a crime or infraction, or changes the penalty
11 for a crime or infraction, within the meaning of Section 17556 of
12 the Government Code, or changes the definition of a crime within
13 the meaning of Section 6 of Article XIII B of the California
14 Constitution.