

AMENDED IN ASSEMBLY APRIL 26, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2120

Introduced by Assembly Member Weber

February 17, 2016

An act to amend Section 1802 of the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 2120, as amended, Weber. Public Utilities Commission: proceedings: intervenor fees: customers.

Under existing law, the Public Utilities Commission has broad regulatory authority pursuant to the California Constitution and the Public Utilities Act over public utilities, as defined. Existing law provides compensation for reasonable advocate's fees, reasonable expert witness fees, and other reasonable costs to public utility customers and representatives of customers for participation or intervention in formal proceedings of the commission involving electrical, gas, water, telegraph, and telephone public utilities, but does not provide that compensation for local government agencies.

This bill would make legislative findings and declarations relating to local educational agency involvement in commission proceedings. The bill would authorize compensation for participation or intervention in the proceedings described above for a county office of education, ~~on behalf of any of the local educational agencies in whole or part within the county or on behalf of itself, or for a community college district. or a consortium of public school districts or agencies participating or intervening on behalf of local K–12 educational agencies in a commission proceeding relating to gas or electricity rates.~~ *The bill*

would require that a representative of a consortium not have had a direct financial interest in the resolution of the commission proceeding within the 2 years preceding the filing of comments with the commission and not have a direct financial interest in the resolution until 2 years after that resolution.

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

3 (a) Many local educational agencies, including school districts,
4 county offices of education, and community college ~~districts~~
5 *districts*, have experienced rapid increases in energy costs due to
6 energy rate increases approved by the Public Utilities Commission.

7 (b) Local educational agencies are disproportionately affected
8 by rapid increases in energy costs and differ from other public
9 agencies because they are strictly limited in their ability to raise
10 local tax revenues to cover operational cost increases. Local
11 educational agencies seeking to participate in Public Utilities
12 Commission proceedings must hire attorneys and experts at their
13 own expense, using the state and local dollars that were designated
14 for educational programs.

15 (c) The cost of intervening in Public Utilities Commission
16 proceedings is often prohibitive for local educational agencies;
17 therefore, the perspectives of local educational agencies are often
18 lost during proceedings to discuss rate changes.

19 (d) The Public Utilities Commission’s Intervenor Compensation
20 Program is intended to ensure that individuals and groups that
21 represent residential or small commercial electric utility customers
22 have the financial resources to bring their concerns and interests
23 to the commission during formal proceedings.

24 (e) As a regional agency, a county office of education is the
25 appropriate intervenor in a proceeding affecting any local
26 educational agency in whole or part within the county.

27 SEC. 2. Section 1802 of the Public Utilities Code is amended
28 to read:

29 1802. As used in this article:

1 (a) “Compensation” means payment for all or part, as determined
2 by the commission, of reasonable advocate’s fees, reasonable
3 expert witness fees, and other reasonable costs of preparation for
4 and participation in a proceeding, and includes the fees and costs
5 of obtaining an award under this article and of obtaining judicial
6 review, if any.

7 (b) (1) “Customer” means any of the following:

8 (A) A participant representing consumers, customers, or
9 subscribers of any electrical, gas, telephone, telegraph, or water
10 corporation that is subject to the jurisdiction of the commission.

11 (B) A representative who has been authorized by a customer.

12 (C) A representative of a group or organization authorized
13 pursuant to its articles of incorporation or bylaws to represent the
14 interests of residential customers, or to represent small commercial
15 customers who receive bundled electric service from an electrical
16 corporation.

17 (D) (i) Notwithstanding paragraph (2), a county office of
18 education or a ~~community college district~~ *consortium of public*
19 *school districts or agencies*.

20 (ii) (I) ~~A county office of education may~~ *consortium of public*
21 *school districts or agencies shall only* participate or intervene
22 pursuant to this article on behalf of ~~any of the a~~ *a* local K-12
23 educational agencies ~~in whole or part within the county or on behalf~~
24 ~~of itself.~~ *agency in a commission proceeding relating to gas or*
25 *electricity rates.*

26 (II) *A representative of a consortium of public school districts*
27 *or agencies participating or intervening pursuant to this article*
28 *in a commission proceeding shall not have had a direct financial*
29 *interest in the resolution of the commission proceeding within the*
30 *two years preceding the filing of comments with the commission,*
31 *and shall not have a direct financial interest in the resolution of*
32 *the proceeding sooner than two years after that resolution.*

33 (2) “Customer” does not include any state, federal, or local
34 government agency, any publicly owned public utility, or any
35 entity that, in the commission’s opinion, was established or formed
36 by a local government entity for the purpose of participating in a
37 commission proceeding.

38 (c) “Expert witness fees” means recorded or billed costs incurred
39 by a customer for an expert witness.

1 (d) “Other reasonable costs” means reasonable out-of-pocket
2 expenses directly incurred by a customer that are directly related
3 to the contentions or recommendations made by the customer that
4 resulted in a substantial contribution.

5 (e) “Party” means any interested party, respondent public utility,
6 or commission staff in a hearing or proceeding.

7 (f) “Proceeding” means an application, complaint, or
8 investigation, rulemaking, alternative dispute resolution procedures
9 in lieu of formal proceedings as may be sponsored or endorsed by
10 the commission, or other formal proceeding before the commission.

11 (g) “Significant financial hardship” means either that the
12 customer cannot afford, without undue hardship, to pay the costs
13 of effective participation, including advocate’s fees, expert witness
14 fees, and other reasonable costs of participation, or that, in the case
15 of a group or organization, the economic interest of the individual
16 members of the group or organization is small in comparison to
17 the costs of effective participation in the proceeding.

18 (h) “Small commercial customer” means ~~any~~ a nonresidential
19 customer with a maximum peak demand of less than 50 kilowatts.
20 The commission may establish rules to modify or change the
21 definition of “small commercial customer,” including use of criteria
22 other than a peak demand threshold, if the commission determines
23 that the modification or change will promote participation in
24 proceedings at the commission by organizations representing small
25 businesses, without incorporating large commercial and industrial
26 customers.

27 (i) “Substantial contribution” means that, in the judgment of
28 the commission, the customer’s presentation has substantially
29 assisted the commission in the making of its order or decision
30 because the order or decision has adopted in whole or in part one
31 or more factual contentions, legal contentions, or specific policy
32 or procedural recommendations presented by the customer. ~~Where~~
33 *If* the customer’s participation has resulted in a substantial
34 contribution, even if the decision adopts that customer’s contention
35 or recommendations only in part, the commission may award the
36 customer compensation for all reasonable advocate’s fees,
37 reasonable expert fees, and other reasonable costs incurred by the

1 customer in preparing or presenting that contention or
2 recommendation.

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