

AMENDED IN ASSEMBLY AUGUST 19, 2016

AMENDED IN ASSEMBLY AUGUST 1, 2016

AMENDED IN ASSEMBLY JUNE 20, 2016

SENATE BILL

No. 1017

Introduced by Senator Hill

February 11, 2016

An act to amend ~~Section 583 of, and to add Section 583.1 to, Sections 583 and 1759 of~~ the Public Utilities Code, relating to the Public Utilities Commission.

LEGISLATIVE COUNSEL'S DIGEST

SB 1017, as amended, Hill. Public Utilities Commission: public availability of utility supplied ~~documents: documents: judicial review.~~

The California Constitution establishes the Public Utilities Commission with certain general authority over all public utilities, including the authority to establish rules for all public utilities, subject to control by the Legislature. The Public Utilities Act prohibits the commission or an officer or employee of the commission from disclosing any information furnished to the commission by a public utility, a subsidiary, an affiliate, or a corporation holding a controlling interest in a public utility, unless the information is specifically required to be open to public inspection under the act, except on order of the commission or a commissioner in the course of a hearing or proceeding. Existing law provides that any officer or employee of the commission who divulges any such information is guilty of a misdemeanor.

~~This bill would replace the provision that makes divulging this information a misdemeanor, to instead provide, subject to certain exceptions, that any present or former officer or employee of the~~

~~commission who divulges this information or information that is prohibited from being released by any other state law or by federal law, for monetary gain, for employment gain or advance, to place a public utility that furnished the information at a competitive disadvantage, or to provide a competitive advantage to another is guilty of a misdemeanor. The bill would authorize the commission to adopt rules providing for the disclosure of information furnished to the commission by a public utility, a subsidiary, an affiliate, or a corporation holding a controlling interest in a public utility. The bill would require the commission to develop rules consistent with the California Public Records Act for the expeditious disclosure, without the necessity of an order of the commission or a commissioner in the course of a hearing or proceeding, of information related to (1) public health and safety emergencies, (2) public, employee, and contractor safety, and (3) environmental degradation caused by loss of operational control by a public utility. The bill would prohibit any document that is prohibited from being released by any other state law or by federal law from being made open to the public or being publicly released.~~

This bill would prohibit the commission or an officer or employee of the commission from disclosing any information furnished to the commission by a public utility, a subsidiary, an affiliate, or a corporation holding a controlling interest in a public utility, unless the information is specifically required to be open to public inspection by any provision of state or federal law, rather than only by the Public Utilities Act, except on order of the commission or a commissioner in the course of a hearing or proceeding. The bill would require the commission to provide a party furnishing information to the commission with notice and an opportunity to comment prior to the information being made available for inspection or being made public pursuant to this provision. The bill would require the commission, by July 1, 2018, to adopt a written process for the disclosure or publication of information furnished to the commission pursuant to the Public Utilities Act. The bill would make a present or former officer or employee of the commission guilty of a misdemeanor for divulging information contrary to these provisions only if the officer or employee knowingly and willfully makes the disclosure with the knowledge that the information is not publicly disclosable, or with the knowledge that a substantive provision of law required that the information be kept confidential.

The California Constitution grants the Legislature plenary authority, unlimited by the other provisions of the Constitution, to establish the

manner and scope of review of commission action in a court of record. The Public Utilities Act provides that no court of the state, except the Supreme Court and the court of appeal, has 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 against the commission arising under the California Public Records Act to be brought in the superior court.

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 that, pursuant
2 to Section 3 of Article I of the California Constitution, the public
3 should have access to all public records of state entities and this
4 right should extend to public records of the Public Utilities
5 Commission.

6 SEC. 2. Section 583 of the Public Utilities Code is amended
7 to read:

8 583. (a) ~~(1)~~—No information furnished to the commission by
9 a public utility, or any business which is a subsidiary or affiliate
10 of a public utility, or a corporation which holds a controlling
11 interest in a public utility, except those matters specifically required
12 to be open to public inspection by this part, shall be open to public
13 inspection or made public except on order ~~or rule~~ of the
14 commission, or by the commission or a commissioner in the course
15 of a hearing or proceeding.

16 ~~(2) No document shall be made open to the public or publicly~~
17 ~~released that is prohibited from being released by any other state~~
18 ~~law or by federal law.~~

19 ~~(b) (1) Any present or former officer or employee of the~~
20 ~~commission who, for monetary gain, for employment gain or~~
21 ~~advance, to place a public utility that furnished the information at~~
22 ~~a competitive disadvantage, or to provide a competitive advantage~~
23 ~~to another, divulges any information that is prohibited from being~~
24 ~~released pursuant to subdivision (a) is guilty of a misdemeanor.~~

1 ~~(2) It is not a crime to divulge information that is prohibited~~
2 ~~from being publicly released pursuant to subdivision (a) to the~~
3 ~~Bureau of State Audits as information relevant to a whistleblower~~
4 ~~complaint or to share information with a state entity under a~~
5 ~~memorandum of understanding that protects the confidentiality of~~
6 ~~the information.~~

7 ~~(b) The commission shall provide the party furnishing~~
8 ~~information to the commission with notice and an opportunity to~~
9 ~~comment prior to the information being made available for~~
10 ~~inspection or being made public pursuant to subdivision (a).~~

11 ~~(c) By July 1, 2018, the commission shall adopt a written process~~
12 ~~for the disclosure or publication of information furnished to the~~
13 ~~commission pursuant to this part.~~

14 ~~(d) Any present or former officer or employee of the commission~~
15 ~~who divulges information contrary to this section is guilty of a~~
16 ~~misdemeanor, if the officer or employee knowingly and willfully~~
17 ~~makes the disclosure with the knowledge that the information is~~
18 ~~not publicly disclosable, or with the knowledge that a substantive~~
19 ~~provision of law requires that the information be kept confidential.~~

20 ~~SEC. 3. Section 583.1 is added to the Public Utilities Code, to~~
21 ~~read:~~

22 ~~583.1. (a) The commission shall develop rules consistent with~~
23 ~~the California Public Records Act (Article 1 (commencing with~~
24 ~~Section 6250) of Chapter 3.5 of Division 7 of Title 1 of the~~
25 ~~Government Code) for the expeditious disclosure of information~~
26 ~~related to all of the following:~~

27 ~~(1) Public health and safety emergencies.~~

28 ~~(2) Public, employee, and contractor safety.~~

29 ~~(3) Environmental degradation caused by loss of operational~~
30 ~~control by a public utility.~~

31 ~~(b) Nothing in this part requires the commission to disclose~~
32 ~~documents when the public interest served by not disclosing the~~
33 ~~records clearly outweighs the public interest served by disclosure~~
34 ~~of the records.~~

35 ~~(c) Nothing in this part requires the commission to disclose~~
36 ~~documents regarding utility employees, contract employees, or~~
37 ~~individuals who generally have an objectively reasonable~~
38 ~~expectation of privacy in which disclosure would constitute an~~
39 ~~unwarranted invasion of personal privacy.~~

1 *SEC. 3. Section 1759 of the Public Utilities Code is amended*
2 *to read:*

3 1759. (a) No court of this state, except the Supreme Court and
4 the court of appeal, to the extent specified in this article, shall have
5 jurisdiction to review, reverse, correct, or annul any order or
6 decision of the commission or to suspend or delay the execution
7 or operation thereof, or to enjoin, restrain, or interfere with the
8 commission in the performance of its official duties, as provided
9 by law and the rules of court.

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

13 (c) *This section does not apply to an action arising from the*
14 *California Public Records Act (Chapter 3.5 (commencing with*
15 *Section 6250) of Division 7 of Title 1 of the Government Code).*
16 *Such an action may be brought in the superior court.*

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