

Assembly Bill No. 1130

CHAPTER 616

An act to amend Sections 309.7, 421, 765.6, and 5012 of, and to add Section 421.2 to, the Public Utilities Code, relating to public utilities.

[Approved by Governor October 4, 1995. Filed
with Secretary of State October 5, 1995.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1130, Morrissey. Public Utilities Commission: annual reports: annual audit: railroad corporation fees.

(1) Existing law establishes the safety division of the Public Utilities Commission. The safety division is responsible for inspection, surveillance, and investigation of the rights-of-way, facilities, equipment, and operations of railroads and public mass transit guideways, and for enforcing state and federal laws, regulations, orders, and directives relating to transportation of persons or commodities, or both, of any nature or description, by rail. Existing law requires the Public Utilities Commission to report to the Legislature annually on the activities of the safety division.

This bill would require the annual report of the Public Utilities Commission to the Legislature regarding the safety division to be submitted on or before November 30 of each year.

(2) Existing law generally requires the Public Utilities Commission to require the payment of fees by every common carrier and related business. Existing law requires that the total of these fees equal the amount of the commission's annual budget prorated to the extent of the commission's regulatory duties with respect to each class of carrier or related business or public utility for which each particular fee is established.

This bill would limit the budget for expenditure of railroad corporation fees.

Existing law requires the commission, commencing with the 1993-94 fiscal year, and in each subsequent fiscal year, to conduct an audit of the expenditure of the funds received pursuant to these provisions. The results of each audit are required to be reported, in writing, commencing on or before February 15, 1995, with respect to the audit for the 1993-94 fiscal year, and on or before February 15 of each year thereafter, to the appropriate policy and budget committees of the respective houses of the Legislature.

This bill would require this audit to be conducted by the Bureau of State Audits, for the 1996-97 fiscal year and fiscal years thereafter until the 1999-2000 fiscal year, and to be reported on or before January 15 of each year.

(3) Existing law requires the Public Utilities Commission, not later than July 1, 1992, and annually thereafter, to identify track sections that it determines pose local safety hazards, and report on those sites to the Legislature.

Existing law requires the commission, not later than December 31, 1992, to propose regulations it determines would establish a program to eliminate or reduce the safety hazards identified in the report. Existing law requires the commission to dedicate sufficient resources necessary to adequately carry out the State Participation Program for the regulation of rail transportation of hazardous materials as authorized by certain federal laws. Existing law requires the commission to hire specified additional personnel for the purpose of enforcing compliance by railroads operating in this state with state and federal safety regulations. Existing law also requires the commission, on or before July 1, 1992, to establish, by regulation, a minimum inspection standard to ensure inspection of railroad locomotives, equipment, and facilities in class I yards not less frequently than every 180 days, and inspection of all branch and main line track not less frequently than every 12 months.

Existing law further requires the commission to report annually to the Legislature on the compliance with these requirements.

This bill would require that, commencing in 1996, this report shall be submitted on or before November 30 of each year.

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

SECTION 1. Section 309.7 of the Public Utilities Code is amended to read:

309.7. (a) The safety division of the commission shall be responsible for inspection, surveillance, and investigation of the rights-of-way, facilities, equipment, and operations of railroads and public mass transit guideways, and for enforcing state and federal laws, regulations, orders, and directives relating to transportation of persons or commodities, or both, of any nature or description by rail. The safety division shall advise the commission on all matters relating to rail safety, and shall propose to the commission rules, regulations, orders and other measures necessary to reduce the dangers caused by unsafe conditions on the railroads of the state. The delegation of enforcement responsibility to the rail safety division shall not diminish the power of other agencies of state government to enforce laws relating to employee or environmental safety pollution prevention or public health and safety.

(b) In performing its duties, the safety division shall exercise all powers of investigation granted to the commission, including rights to enter upon land or facilities, inspect books and records, and compel testimony. The commission shall employ sufficient federally certified inspectors to ensure at the time of inspection that railroad



locomotives and equipment and facilities located in class I railroad yards in California are inspected not less frequently than every 180 days, and all main and branch line tracks are inspected not less frequently than every 12 months. In performing its duties, the safety division shall consult with representatives of railroad corporations, labor organizations representing railroad employees, and the Federal Railroad Administration.

(c) The general counsel shall assign to the safety division the personnel and attorneys necessary to fully utilize the powers granted to the commission by any state law, and by any federal law relating to rail transportation, including, but not limited to, the Federal Rail Safety Act (45 U.S.C. Secs. 421m, et seq.), to enforce safety laws, rules, regulations, and orders, and to collect fines and penalties resulting from the violation of any safety rule or regulation.

(d) The activities of the safety division that relate to safe operation of common carriers by rail, other than those relating to grade crossing protection, shall also be supported by the fees paid by railroad corporations, if any, pursuant to Sections 421 to 424, inclusive. The activities of the safety division that relate to grade crossing protection shall be supported by funds appropriated therefor from the State Highway Account in the State Transportation Fund. On or before November 30 of each year, the commission shall report to the Legislature on the activities of the safety division, and shall fully document in the report all expenditures of those funds in the audit report provided in subdivision (f) of Section 421.

SEC. 2. Section 421 of the Public Utilities Code is amended to read:

421. (a) The commission shall annually determine a fee to be paid by every passenger stage corporation, charter-party carrier of passengers, pipeline corporation, for-hire vessel operator, common carrier vessel operator, railroad corporation, and commercial air operator and every other common carrier and related business subject to the jurisdiction of the commission, except as otherwise provided in Article 3 (commencing with Section 431) of this chapter and Chapter 6 (commencing with Section 5001) of Division 2.

(b) The annual fee shall be established to produce a total amount equal to the amount established in the authorized commission budget for the same year, including adjustments appropriated by the Legislature and an appropriate reserve, to regulate common carriers and related businesses, less the amount to be paid from special accounts or funds pursuant to Section 403, reimbursements, federal funds, other revenues, and unencumbered funds from the preceding year.

(c) Notwithstanding any other provision of law, the fees paid by railroad corporations shall be used for state-funded railroad investigation and enforcement activities of the commission, other than the rail safety activities funded by the Transportation Planning



and Development Account pursuant to Section 99315.5. The railroad fees shall be set annually at a level which generates not less than the amount sufficient to fund activities pursuant to Section 765.5.

(d) On January 1, 1992, the commission shall submit to the Legislature a detailed budget implementing this section for the 1992-93 fiscal year. The commission shall also submit to the Legislature by January 1, 1993, and on each January 1 thereafter, a detailed budget for expenditure of railroad corporation fees for the ensuing budget year. The budget for expenditure of railroad corporation fees, for each of the 1996-97 and 1997-98 fiscal years, shall not exceed the amount of three million dollars (\$3,000,000). Expenditures of this budget shall be limited to the following items:

(1) Expenditures for railroad-safety personnel directly involved in inspecting railroads and enforcing rail safety regulations.

(2) Expenditures for clerical and support staff directly associated with railroad-safety inspections.

(3) Expenditures for legal personnel to pursue violations of rail safety regulations.

(4) Expenditures for an audit by the Bureau of State Audits pursuant to subdivision (f), not to exceed seventy-five thousand dollars (\$75,000).

(e) The Department of Finance shall notify the Joint Legislative Budget Committee, pursuant to Section 28.00 of the annual Budget Act, prior to authorizing any change in the Budget Act appropriation for railroad corporation fees that is larger than one hundred thousand dollars (\$100,000), or 10 percent of the amount budgeted, whichever is less.

(f) Except as otherwise provided in this subdivision, commencing with the 1993-94 fiscal year, and in each subsequent fiscal year until the 1999-2000 fiscal year, the commission shall conduct an audit of the expenditure of the funds received pursuant to this section, except that for the 1996-97 fiscal year and fiscal years thereafter the audit shall be conducted by the Bureau of State Audits. The results of this audit shall be reported, in writing, commencing on or before February 15, 1995, with respect to the audit for the 1993-94 fiscal year, and on or before January 15 of each year thereafter, with respect to the audit for the fiscal year ending on the previous June 30, to the appropriate policy and budget committees of the respective houses of the Legislature. The commission shall reimburse the Bureau of State Audits for the costs of the audits beginning with the 1996-97 fiscal year.

(g) On or before January 1, 1994, the commission shall hire a minimum of four additional operating practices inspectors, exclusive of supervisory personnel, who are, or shall become, by July 1, 1994, federally certified, for the purpose of enforcing compliance by railroads operating in this state with state and federal safety regulations.



(h) The commission, in performing its duties, shall limit the expenditure of funds for rail safety division purposes to those railroad corporation fees collected pursuant to subdivision (d). In no event, shall the commission fund railroad safety activities utilizing funds from other commission accounts unrelated to railroad safety.

SEC. 3. Section 421.2 is added to the Public Utilities Code, to read:

421.2. (a) The safety division of the commission shall be responsible for inspection, surveillance, and investigation of the rights-of-way, facilities, equipment, and operations of railroads and public mass transit guideways, and for enforcing state and federal laws, regulations, orders, and directives relating to transportation of persons or commodities, or both, of any nature or description by rail. The safety division shall advise the commission on all matters relating to rail safety, and shall propose to the commission rules, regulations, orders and other measures necessary to reduce the dangers caused by unsafe conditions on the railroads of the state. The delegation of enforcement responsibility to the rail safety division shall not diminish the power of other agencies of state government to enforce laws relating to employee or environmental safety pollution prevention or public health and safety.

(b) In performing its duties, the safety division shall exercise all powers of investigation granted to the commission, including rights to enter upon land or facilities, inspect books and records, and compel testimony. The commission shall employ sufficient federally certified inspectors to ensure at the time of inspection that railroad locomotives and equipment and facilities located in class I railroad yards in California are inspected not less frequently than every 180 days, and all main and branch line tracks are inspected not less frequently than every 12 months. In performing its duties, the safety division shall consult with representatives of railroad corporations, labor organizations representing railroad employees, and the Federal Railroad Administration.

(c) The general counsel shall assign to the safety division the personnel and attorneys necessary to fully utilize the powers granted to the commission by any state law, and by any federal law relating to rail transportation, including, but not limited to, the Federal Rail Safety Act (45 U.S.C. Secs. 421m, et seq.), to enforce safety laws, rules, regulations, and orders, and to collect fines and penalties resulting from the violation of any safety rule or regulation.

(d) The activities of the safety division that relate to safe operation of common carriers by rail, other than those relating to grade crossing protection, shall also be supported by the fees paid by railroad corporations, if any, pursuant to Sections 421 to 424, inclusive. The activities of the safety division that relate to grade crossing protection shall be supported by funds appropriated therefor from the State Highway Account in the State Transportation Fund. On or before November 30 of each year, the commission shall report to the



Legislature on the activities of the safety division, and shall fully document in the report all expenditures of those funds in the audit report provided in subdivision (f) of Section 421.

SEC. 4. Section 765.6 of the Public Utilities Code is amended to read:

765.6. The commission shall report to the Legislature on the compliance with the requirements of Section 765.5, as added by Chapter 763 of the Statutes of 1991, on or before January 1, 1993, and annually thereafter. Commencing in 1996, the report shall be submitted on or before November 30 of each year. The annual report shall include a determination by the commission of the impact on competition, if any, of the regulatory fees assessed railroad corporations and motor carriers for the support of the commission's activities.

SEC. 5. Section 5012 of the Public Utilities Code is amended to read:

5012. Commencing with the 1993-94 fiscal year, and each subsequent fiscal year, except as provided in subdivision (f) of Section 421, the Public Utilities Commission shall conduct an audit of the expenditures of the funds received pursuant to this chapter. The results of this audit shall be reported in writing, commencing on or before February 15, 1995, with respect to the audit for the 1993-94 fiscal year, and on or before February 15th of each year thereafter, with respect to the audit for the fiscal year ending on the previous June 30th, to the appropriate policy and budget committees of the respective houses of the Legislature.

SEC. 6. (a) Section 1 of this act, which amends Section 309.7 of the Public Utilities Code shall become inoperative if either Senate Bill 960 or Assembly Bill 1451 of the 1995-96 Regular Session, or both, become operative, and affect Section 309.7 of the Public Utilities Code.

(b) Section 3 of this act, which adds Section 421.2 to the Public Utilities Code shall only become operative if either Senate Bill 960 or Assembly Bill 1451, or both, become operative, and affect Section 309.7 of the Public Utilities Code, and shall become operative on the operative date of either Senate Bill 960 or Assembly Bill 1451.

