

AMENDED IN SENATE JUNE 2, 2003
AMENDED IN ASSEMBLY APRIL 22, 2003
AMENDED IN ASSEMBLY MARCH 18, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 84

Introduced by Assembly Member Cogdill

January 6, 2003

An act to amend Section 421 of the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 84, as amended, Cogdill. Public utilities: common carrier fees: annual audit.

Under existing law, the Public Utilities Commission is required to establish fees to be paid by every common carrier and related business, equaling 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 for which each particular fee is established. Existing law requires the commission, commencing with the 1993–94 fiscal year, until the 1999–2000 fiscal year, to conduct an audit of the expenditure of the funds received pursuant to these provisions, except that beginning with the 1996–97 fiscal year and until the 1999–2000 fiscal year, the audit was required to be conducted by the Bureau of State Audits, with the commission reimbursing the bureau for the costs of the audits.

This bill would require the bureau to ~~contract with an outside independent auditor to conduct the annual audit for each fiscal year;~~

~~indefinitely~~ conduct, or hire an outside independent auditor to conduct, an annual audit for the 2004–05, 2005–06, and 2006–07 fiscal years, and thereafter to conduct an audit biennially. The bill would require that the results of the audit be reported to the relevant policy and budget committees of the Legislature. The bill would require the commission to reimburse the bureau for ~~those annual~~ the audits, at a cost not to exceed ~~\$75,000~~ \$125,000 each, adjusted for inflation.

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. Section 421 of the Public Utilities Code is
 2 amended to read:
 3 421. (a) The commission shall annually determine a fee to be
 4 paid by every passenger stage corporation, charter-party carrier of
 5 passengers, pipeline corporation, for-hire vessel operator,
 6 common carrier vessel operator, railroad corporation, and
 7 commercial air operator and every other common carrier and
 8 related business subject to the jurisdiction of the commission,
 9 except as otherwise provided in Article 3 (commencing with
 10 Section 431) of this chapter and Chapter 6 (commencing with
 11 Section 5001) of Division 2.
 12 (b) The annual fee shall be established to produce a total
 13 amount equal to the amount established in the authorized
 14 commission budget for the same year, including adjustments
 15 appropriated by the Legislature and an appropriate reserve, to
 16 regulate common carriers and related businesses, less the amount
 17 to be paid from special accounts or funds pursuant to Section 403,
 18 reimbursements, federal funds, other revenues, and
 19 unencumbered funds from the preceding year.
 20 (c) Notwithstanding any other provision of law, the fees paid
 21 by railroad corporations shall be used for state-funded railroad
 22 investigation and enforcement activities of the commission, other
 23 than the rail safety activities funded by the Transportation
 24 Planning and Development Account pursuant to Section 99315.5.
 25 The railroad fees shall be set annually at a level which generates
 26 not less than the amount sufficient to fund activities pursuant to
 27 Sections 765.5, 7711, and 7712.

(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 employees occupying, and actually performing service in, railroad-safety personnel positions that are directly involved in inspecting railroads and enforcing rail safety regulations. The commission shall expend the funds budgeted pursuant to this subdivision for the salaries, per diem, and travel expenses of employees specified in this paragraph, unless by statute, the commission is specifically prohibited from expending all or part of those funds.

(2) Expenditures for employees occupying, and actually performing service in, clerical and support staff positions that are directly associated with railroad-safety inspections.

(3) Expenditures for legal personnel who actually pursue violations of rail safety regulations beyond the informal complaint level.

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

(5) Expenditures for the pro rata share of the commission’s overhead costs while state personnel are actually occupying the positions, and are performing the duties specified in paragraphs (1) to (4), inclusive.

(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) The Bureau of State Audits shall, pursuant to Section 8546 of the Government Code, contract with an outside independent auditor to conduct an annual audit of the expenditure of the funds

1 received pursuant to this section for each fiscal year. The Bureau
2 of State Audits shall report the results of this audit in writing, on
3 or before January 15 of each year, with respect to the audit for the
4 fiscal year ending on the previous June 30, to the appropriate
5 policy and budget committees of the respective houses of the
6 Legislature. The commission shall reimburse the Bureau of State
7 Audits for the costs of the audits. The outside independent auditor
8 shall be hired pursuant to public bid in accordance with rules and
9 procedures established by the Bureau of State Audits. The cost of
10 the outside audit for each fiscal year shall not exceed seventy-five
11 thousand dollars (\$75,000), adjusted annually for inflation.
12 conduct, or hire an outside independent auditor to conduct, an
13 audit of the expenditure of the funds received pursuant to this
14 section. For the 2004–05, 2005–06, and 2006–07 fiscal years, the
15 audit shall be conducted annually. Thereafter, the audit shall be
16 conducted biennially. The Bureau of State Audits shall report the
17 results of each audit in writing to the appropriate policy and
18 budget committees of the respective houses of the Legislature, on
19 or before March 30 following the end of the fiscal year being
20 audited, and for biennial audits, the March 30 following the end
21 of the second fiscal year, being audited. The commission shall
22 reimburse the Bureau of State Audits for the costs of the audits. Any
23 outside independent auditor shall be hired pursuant to public bid
24 in accordance with rules and procedures established by the Bureau
25 of State Audits. The cost of the audit shall not exceed one hundred
26 twenty-five thousand dollars (\$125,000), adjusted for inflation.

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

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

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