

AMENDED IN SENATE AUGUST 23, 2004

AMENDED IN SENATE JUNE 17, 2004

AMENDED IN ASSEMBLY APRIL 21, 2004

AMENDED IN ASSEMBLY APRIL 15, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2303**

**Introduced by Assembly Member Leno**

February 19, 2004

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An act to add Section 451.5 to the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 2303, as amended, Leno. Public utilities: ~~corporate taxation; insolvency~~ *executive bonuses*.

(1) Under existing law, the Public Utilities Commission has regulatory authority over public utilities, ~~and~~. *Existing law* authorizes the commission to fix just and reasonable rates and charges.

This bill would require that any expense resulting from a bonus paid to an executive officer, as defined, of ~~an insolvent~~ *a public utility, as defined that has ceased to pay its debts in the ordinary course of business*, be borne by the shareholders of the public utility and would prohibit any expense ~~resulting from the payment of a bonus by an insolvent public utility~~ from being recovered in rates. ~~The bill would require the commission to audit insolvent public utilities to ensure that the bill is enforced.~~ *The bill would exempt from these requirements a*

*bonus that is specifically defined in a standard employee compensation contract.*

(2) Under existing law, a violation of the Public Utilities Act or an order of the commission is a crime.

Because certain provisions of this bill would be a part of the act and a violation of those provisions would be a crime, this bill would impose a state-mandated local program by creating a new crime.

(3) 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 451.5 is added to the Public Utilities  
2 Code, to read:

3 ~~451.5.—(a) Any expense resulting from a bonus paid to an~~  
4 ~~executive officer of an insolvent public utility shall be borne by the~~  
5 ~~shareholders of the public utility. No expense resulting from the~~  
6 ~~payment of a bonus by an insolvent public utility may be recovered~~  
7 ~~in rates. After a public utility becomes insolvent, the commission~~  
8 ~~shall perform an audit to ensure that this section is enforced. For~~  
9 ~~purposes of this section, “insolvent” means the public utility has~~  
10 ~~filed for bankruptcy protection in a United States Bankruptcy~~  
11 ~~Court.~~

12 ~~(b) The requirements of subdivision (a) do not apply to any~~  
13 ~~bonus that is part of a standard employee compensation contract.~~

14 451.5. (a) Any expense resulting from a bonus paid to an  
15 executive officer of a public utility that has ceased to pay its debts  
16 in the ordinary course of business shall not be recoverable either  
17 directly or indirectly in rates and shall be borne exclusively by the  
18 shareholders of the public utility. This prohibition shall be  
19 operative for a period of no less than two years after the public  
20 utility resumes paying its debts in the ordinary course of business,  
21 and shall be operative for any additional time period as  
22 determined by the commission.



1     **(b)** *The requirements of subdivision (a) do not apply to a bonus*  
2 *that is specifically defined in a standard employee compensation*  
3 *contract.*

4     **(c)** For purposes of this section, “executive officer” means any  
5 person who performs policy making functions and is employed by  
6 the public utility *subject to the approval of the board of directors,*  
7 and includes the president, secretary, treasurer, and any vice  
8 president in charge of a principal business unit, division, or  
9 function of the public utility.

10     **SEC. 2.** No reimbursement is required by this act pursuant to  
11 Section 6 of Article XIII B of the California Constitution because  
12 the only costs that may be incurred by a local agency or school  
13 district will be incurred because this act creates a new crime or  
14 infraction, eliminates a crime or infraction, or changes the penalty  
15 for a crime or infraction, within the meaning of Section 17556 of  
16 the Government Code, or changes the definition of a crime within  
17 the meaning of Section 6 of Article XIII B of the California  
18 Constitution.

