AMENDED IN ASSEMBLY MAY 17, 2004

AMENDED IN ASSEMBLY APRIL 27, 2004

AMENDED IN ASSEMBLY APRIL 14, 2004

AMENDED IN ASSEMBLY MARCH 26, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL No. 2803

Introduced by Assembly Member Jerome Horton

February 20, 2004

An act to add Section 1701.7 to the Public Utilities Code, relating to the Public Utilities Commission.

LEGISLATIVE COUNSEL'S DIGEST

AB 2803, as amended, Jerome Horton. Public Utilities Commission: hearings*: record on economic impacts*.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities and can establish its own procedures, subject to statutory limitations or directions and constitutional requirements of due process. Existing law requires the commission to determine whether a proceeding requires a quasi-legislative, an adjudication, or a ratesetting hearing. *Existing law states the intent of the Legislature that the commission assess the economic effects or consequences of its decisions within existing resources and commission structures, and prohibits the commission from establishing a separate office or department for the purpose of evaluating economic development consequences of commission activities.*

This bill would require, if the commission determines that a ratesetting or quasi-legislative case requires a hearing, that the assigned commissioner or administrative law judge designate in the scoping memorandum whether there is a need to ~~perform an economic impact analysis~~ *develop a record on the economic impact of issues presented in the case*. The bill would require ~~the assigned commissioner or the assigned administrative law judge, in determining whether an economic impact analysis is necessary,~~ *every party in the case to provide a showing* to assess whether the ~~ratemaking~~ *ratesetting* or quasi-legislative case is likely to affect prescribed *and designated* elements of economic significance. The bill would require, if the assigned commissioner or the assigned administrative law judge determines that ~~an economic impact analysis~~ *it* is necessary~~, that the findings of the analysis~~ *to develop a record on the economic impact of issues presented in the case, that appropriate findings relative to the economic issues designated in the scoping memorandum* be included as a part of the final written decision. *The bill would require the commission to assess prescribed and designated elements of economic significance and find that on balance, the proposed decision is in the public interest. The bill would provide that the commission's costs are reimbursable from the utility, to be paid into an account to be created by the commission in the Utilities Reimbursement Account in the General Fund, to be available for expenditure by the commission upon appropriation by the Legislature.*

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

The provisions of this bill would be a part of the act and would require every party in designated cases to provide a showing to assess whether the case is likely to affect prescribed and designated elements of economic significance. Because a violation of that requirement and a violation of an order or decision of the commission with respect to reimbursement of the commission's costs would be a crime, the bill would impose a state-mandated local program by creating new crimes.

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: ~~no~~ *yes*.

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

SECTION 1. Section 1701.7 is added to the Public Utilities Code, to read:

1701.7. (a) If the commission determines that a ~~ratemaking~~ *ratesetting* or quasi-legislative case requires a hearing pursuant to Section 1701.1, the assigned commissioner or the assigned administrative law judge shall designate in the scoping memorandum whether there is a need to ~~perform an economic impact analysis. In determining whether an economic impact analysis is necessary, the assigned commissioner or the assigned administrative law judge shall~~ *develop a record on the economic impact of issues presented in the case. If it is determined that it is necessary to develop a record on the economic impact of these issues, every party to the case, including a public utility, shall provide a showing to* assess whether the ~~ratemaking~~ *ratesetting* or quasi-legislative case is likely to affect employment, capital investment, infrastructure deployment, public safety, or any other element determined to be of economic significance. ~~If~~ *Every party to the case, including a public utility, shall have the burden of demonstrating, by a preponderance of the evidence, whether the ratesetting or quasi-legislative case is likely to affect employment, capital investment, infrastructure deployment, public safety, or any other element determined to be of economic significance in the scoping memorandum.*

(b) If the assigned commissioner or the assigned administrative law judge determines that ~~an economic impact analysis is necessary, the findings of the analysis~~ *it is necessary to develop a record on the economic impact of issues presented in the case, appropriate findings relative to the economic impact designated in the scoping memorandum* shall be included as a part of the final written decision. *The commission shall assess whether the ratesetting or quasi-legislative case is likely to affect employment, capital investment, infrastructure deployment, public safety, or any other element determined to be of economic significance in the scoping memorandum and shall find based upon the assessment, that on balance, the proposed decision is in the public interest.*

(c) The requirements of this section apply to any ratesetting or quasi-legislative case initiated on or after January 1, 2005.

(d) The commission's costs of studying and evaluating the economic impact of issues, including the costs of any required consultants, are reimbursable from the utility. Cost reimbursements received by the commission shall be transferred to an account to be established by the commission in the commission's Utilities Reimbursement Account in the General Fund, and shall be available for expenditure by the commission upon appropriation by the Legislature.

(e) The Legislature finds and declares that to the extent that the commission is required by this section to analyze and make findings relative to the economic impact of issues presented in a ratesetting or quasi-legislative case, the commission may, consistent with Section 1701.5, require more than 18 months from the date the scoping memorandum is issued to resolve the issues raised in the scoping memorandum.

~~(b) Any additional cost to the commission resulting from the implementation of subdivision (a) shall not be borne by ratepayers or the General Fund.~~

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

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