

AMENDED IN SENATE MAY 10, 2005

AMENDED IN SENATE APRIL 18, 2005

**SENATE BILL**

**No. 204**

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**Introduced by Senator Bowen**

February 10, 2005

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An act to amend Section 25205 of the Public Resources Code, and to amend Section 303 of, and to add Section 303.5 to, the Public Utilities Code, relating to commission memberships.

LEGISLATIVE COUNSEL'S DIGEST

SB 204, as amended, Bowen. Public Utilities Commission: State Energy Resources Conservation and Development Commission: commission memberships.

Existing law prohibits members of the California Public Utilities Commission (CPUC) from holding an official relationship with, or having a financial interest in, any person or corporation subject to CPUC regulation. Existing law prohibits members of the CPUC from holding an official relation to, or having a financial interest in, a person or corporation subject to regulation by the CPUC. Existing law provides that if a member of the CPUC acquires a financial interest in a corporation or person subject to regulation by the CPUC other than voluntarily, his or her office becomes vacant unless within a reasonable time he or she divests the financial interest. Existing law requires the CPUC, by February 28, 1998, to adopt an updated Conflict of Interest Code and Statement of Incompatible Activities.

This bill would additionally preclude membership on the CPUC by any person who, during the 2 years preceding appointment, received a substantial portion of his or her income from any person or corporation subject to CPUC regulation. The bill would prohibit CPUC members from being employed by a person or corporation

subject to CPUC regulation, while a member of the CPUC or within 2 years thereafter. The bill would prohibit CPUC members from holding any other public office or position. The bill would require CPUC members to comply with provisions governing conflicts of interest of officers and employees appointed within the state civil service. The bill would prohibit members and employees of the CPUC from participating personally and substantially in matters in which the person knows that the person, his or her spouse or minor child, partner, any organization he or she serves or has served as an officer, director, trustee, partner, or employee has a direct or indirect financial interest or has had such an interest during the two years prior to his or her appointment as a member of the CPUC. The bill would prohibit any person who is a partner, employer, or employee of a member or employee of the CPUC from acting as an attorney, agent, or employee for any person other than the state in connection with any matter in which the CPUC is a party or has a direct and substantial interest. The bill would make a violation of these provisions a ~~felony~~ *misdemeanor*, subject to fine or imprisonment. By creating a new crime, the bill would impose a state-mandated local program.

This bill would provide that if a member of the CPUC acquires or maintains a financial interest in a person or corporation and knows or should know the person or corporation is subject to regulation by the CPUC, his or her office would immediately ~~becomes~~ *become* vacant. The bill would provide that if a member of the CPUC involuntarily acquires or maintains a financial interest in a person or corporation subject to regulation by the CPUC, his or her office would become vacant unless within a reasonable time he or she divests the financial interest. The bill would require the CPUC, by June 1, 2006, to adopt an updated Conflict of Interest Code and Statement of Incompatible Activities.

The existing Warren-Alquist State Energy Resources Conservation and Development Act establishes the State Energy Resources Conservation and Development Commission (Energy Commission), with various duties and responsibilities with respect to energy policy and planning. Existing law prohibits any person from being a member of the Energy Commission who, during the 2 years prior to appointment, received any substantial portion of his *or her* income directly or indirectly from any electric utility, as defined, or who engages in the sale or manufacture of any major component of any facility, as defined. Existing law prohibits a member of the Energy

Commission from being employed by any electric utility, applicant, as defined, or from being employed within 2 years after he *or she* ceases to be a member of the Energy Commission, by any person engaged in the sale or manufacture of any major component of any facility.

This bill would prohibit any person from being a member of the Energy Commission who, during the 2 years prior to appointment, received any substantial portion of his or her income directly or indirectly from any person or corporation subject to regulation by the Energy Commission, or who engages in the sale or manufacture of any major component of any facility. The bill would prohibit a member of the Energy Commission from being employed by any person or corporation subject to regulation by the Energy Commission, including an applicant, or within 2 years after he or she ceases to be a member of the Energy Commission, by any person engaged in the sale or manufacture of any major component of any facility.

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 25205 of the Public Resources Code is  
2 amended to read:  
3 25205. (a) No person shall be a member of the commission  
4 who, during the two years prior to appointment to the  
5 commission, received any substantial portion of his or her  
6 income directly or indirectly from any person or corporation  
7 subject to regulation by the commission, or who engages ~~in the~~  
8 sale or manufacture of any major component of any facility. No  
9 member of the commission shall be employed by any person or  
10 corporation subject to regulation by the commission, including an  
11 applicant, or, within two years after he *or she* ceases to be a  
12 member of the commission, by any person who engages in the  
13 sale or manufacture of any major component of any facility.

1 (b) Except as provided in Section 25202, the members of the  
2 commission shall not hold any other elected or appointed public  
3 office or position.

4 (c) The members of the commission and all employees of the  
5 commission shall comply with all applicable provisions of  
6 Section 19990 of the Government Code.

7 (d) No person who is a member or employee of the  
8 commission shall participate personally and substantially as a  
9 member or employee of the commission, in any matter in which,  
10 to his or her knowledge, he or she, his or her spouse, minor child,  
11 or partner, or any organization, except a governmental agency or  
12 educational or research institution qualifying as a nonprofit  
13 organization under state or federal income tax law, in which he  
14 or she is serving, or has served as an officer, director, trustee,  
15 partner, or employee while serving as a member or employee of  
16 the commission or within two years prior to his or her  
17 appointment as a member of the commission, has a direct or  
18 indirect financial interest.

19 (e) No person who is a partner, employer, or employee of a  
20 member or employee of the commission shall act as an attorney,  
21 agent, or employee for any person other than the state in  
22 connection with any matter in which the commission is a party or  
23 has a direct and substantial interest.

24 (f) The provisions of this section shall not apply if the  
25 Attorney General finds that the interest of the member or  
26 employee of the commission is not so substantial as to be deemed  
27 likely to affect the integrity of the services which the state may  
28 expect from such *the* member or employee.

29 (g) Any person who violates any provision of this section is  
30 guilty of a felony and shall be subject to a fine of not more than  
31 ten thousand dollars (\$10,000) or imprisonment in the state  
32 prison, or both.

33 SEC. 2 Section 303 of the Public Utilities Code is amended to  
34 read:

35 303. (a) A public utilities commissioner may not hold an  
36 official relation to nor have a financial interest in a person or  
37 corporation subject to regulation by the commission. If any  
38 commissioner acquires or maintains a financial interest in a  
39 person or corporation that the commissioner knows or should  
40 know is subject to regulation by the commission, his or her office

1 shall immediately become vacant. If any commissioner  
2 involuntarily acquires or maintains a financial interest in a person  
3 or corporation subject to regulation by the commission, his or her  
4 office shall become vacant unless within a reasonable time he or  
5 she divests himself or herself of the interest.

6 (b) The commission shall adopt an updated Conflict of Interest  
7 Code and Statement of Incompatible Activities, by June 1, 2006,  
8 in a manner consistent with applicable law.

9 SEC. 3. Section 303.5 is added to the Public Utilities Code, to  
10 read:

11 303.5. (a) No person shall be a member of the commission  
12 who, during the two years prior to appointment to the  
13 commission, received any substantial portion of his or her  
14 income directly or indirectly from any person or corporation  
15 subject to regulation by the commission. No member of the  
16 commission shall be employed by any person or corporation  
17 subject to regulation by the commission during the term he or she  
18 is a member of the commission, or within two years after he or  
19 she ceases to be a member of the commission.

20 (b) The members of the commission shall not hold any other  
21 elected or appointed public office or position.

22 (c) The members of the commission and all employees of the  
23 commission shall comply with all applicable provisions of  
24 Section 19990 of the Government Code.

25 (d) No person who is a member or employee of the  
26 commission shall participate personally and substantially as a  
27 member or employee of the commission, in any matter in which,  
28 to his or her knowledge, he or she, his or her spouse, minor child,  
29 or partner, or any organization in which he or she is serving, or  
30 has served as officer, director, trustee, partner, or employee while  
31 serving as a member or employee of the commission or within  
32 two years prior to her or his appointment as a member of the  
33 commission, has a direct or indirect financial interest.

34 (e) No person who is a partner, employer, or employee of a  
35 member or employee of the commission shall act as an attorney,  
36 agent, or employee for any person other than the state in  
37 connection with any matter in which the commission is a party or  
38 has a direct and substantial interest.

39 (f) Any person who violates any provision of this section is  
40 guilty of a felony and shall be subject to a fine of not more than

1 ~~ten thousand dollars (\$10,000) or imprisonment in the state~~  
2 ~~prison, or both. misdemeanor, and is punishable by a fine of not~~  
3 ~~more than ten thousand dollars (\$10,000), by imprisonment in~~  
4 ~~the county jail for not more than one year, or both, for each~~  
5 ~~violation.~~

6 SEC. 4. No reimbursement is required by this act pursuant to  
7 Section 6 of Article XIII B of the California Constitution because  
8 the only costs that may be incurred by a local agency or school  
9 district will be incurred because this act creates a new crime or  
10 infraction, eliminates a crime or infraction, or changes the  
11 penalty for a crime or infraction, within the meaning of Section  
12 17556 of the Government Code, or changes the definition of a  
13 crime within the meaning of Section 6 of Article XIII B of the  
14 California Constitution.