

Introduced by Senator Escutia

February 22, 2005

An act to amend Sections 309.5 and 321 of, and to repeal Section 321.5 of, the Public Utilities Code, relating to the Public Utilities Commission.

LEGISLATIVE COUNSEL'S DIGEST

SB 608, as introduced, Escutia. Public Utilities Commission: Division of Ratepayer Advocates: office of the public advisor.

(1) 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 establishes a division, known as the Office of Ratepayer Advocates, within the commission to represent the interests of public utility customers and subscribers within the jurisdiction of the commission. Existing law requires the commission to provide personnel and resources to the division sufficient to ensure that customer and subscriber interests are fairly represented in all significant commission proceedings.

This bill would rename the Office of Ratepayer Advocates as the Division of Ratepayer Advocates and would provide that the purpose of the division is to represent and advocate on behalf of the interests of public utility customers and subscribers in the state. The bill would require the commission to provide personnel and resources to the division sufficient to ensure that customer and subscriber interests are effectively represented in all significant forums, including state and federal courts and federal agencies. The bill would require that achieving cost transparency be a goal of the division.

Existing law authorizes the division to compel the production or disclosure of information from entities regulated by the commission.

Existing law requires that any objection to any request for information be decided in writing by the assigned commissioner or the president of the commission if there is no assigned commissioner.

This bill would authorize the division to compel the production or disclosure of information from entities subject to specified divisions of the Public Utilities Code. The bill would require that any objection to any request for information be decided in writing by the presiding officer in a proceeding, or if there is no proceeding, by the executive director of the commission, and would provide for the award of appropriate sanctions for the withholding of information.

(2) Existing law requires the commission to establish an office of the public advisor to assist members of the public and ratepayers who desire to testify before or present information to the commission in any hearing or proceeding of the commission open to the public. Existing law requires a separate office of the public advisor in the Los Angeles office of the commission, staffed by a minimum of 3 employees.

This bill would delete the requirement that the office of the public advisor in the Los Angeles office of the commission have a minimum of 3 employees. The bill would state that the purpose of the office of the public advisor is to assist members of the public and ratepayers who desire to testify before or present information to the commission in any hearing or proceeding of the commission. The bill would require the public advisor to publicize the commission's programs for encouraging and supporting participation in the commission's proceedings.

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

Because the bill would expand the entities from which the division of ratepayer advocates can request information, including unregulated affiliates of public utilities and exempt wholesale generators, this bill would impose a state-mandated local program by expanding the definition of a crime.

(4) 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 309.5 of the Public Utilities Code is
2 amended to read:

3 309.5. (a) There is within the commission a ~~division~~ *Division*
4 *of Ratepayer Advocates* to represent and advocate on behalf of
5 the interests of public utility customers and subscribers ~~within the~~
6 ~~jurisdiction of the commission in California.~~ The goal of the
7 division shall be to obtain *cost transparency and* the lowest
8 possible rate for service consistent with reliable and safe service
9 levels. For revenue allocation and rate design matters, the
10 division shall primarily consider the interests of residential and
11 small commercial customers. ~~The amendments made to this~~
12 ~~section by Chapter 440 of the Statutes of 2001 are not intended to~~
13 ~~expand the representation and responsibilities of the division.~~

14 (b) The director of the division shall be appointed by and serve
15 at the pleasure of the Governor, subject to confirmation by the
16 Senate. The director shall annually appear before the appropriate
17 policy committees of the Assembly and the Senate to report on
18 the activities of the division.

19 (c) ~~The~~ *Consistent with Section 307, the* commission shall, by
20 rule or order, provide for the assignment of personnel to, and the
21 functioning of, the division. The division may employ experts
22 necessary to carry out its functions. Personnel and resources shall
23 be provided to the division at a level sufficient to ensure that
24 customer and subscriber interests are ~~fairly~~ *effectively*
25 represented in all significant ~~proceedings~~ *forums, including state*
26 *and federal courts and federal agencies.*

27 (d) The commission shall develop appropriate procedures to
28 ensure that the existence of the division does not create a conflict
29 of roles for any employee ~~or his or her representative.~~ The
30 procedures shall include, but shall not be limited to, the
31 development of a code of conduct and procedures for ensuring
32 that advocates and their representatives on a particular case or
33 proceeding are not advising decisionmakers on the same case or
34 proceeding.

(e) The division may compel the production or disclosure of any information it deems necessary to perform its duties from entities ~~regulated by the commission~~ *subject to Division 1 (commencing with Section 201) to Division 4.9 commencing with Section 9600*), provided that any objections to any request for information shall be decided in writing by the ~~assigned commissioner or by the president of the commission if there is no assigned commissioner~~ *presiding officer in the proceeding, or by the executive director if there is no proceeding, including appropriate sanctions for the withholding of information.*

(f) There is hereby created the Public Utilities Commission Ratepayer Advocate Account in the General Fund. Moneys from the Public Utilities Commission Utilities Reimbursement Account in the General Fund shall be transferred in the annual Budget Act to the Public Utilities Commission Ratepayer Advocate Account. The funds in the Public Utilities Commission Ratepayer Advocate Account shall be utilized exclusively by the division in the performance of its duties *as determined by the director*. The commission shall annually submit a staffing report containing a comparison of the staffing levels for each five-year period.

(g) On or before January 10 of each year, the commission shall provide to the chairperson of the fiscal committee of each house of the Legislature and to the Joint Legislative Budget Committee all of the following information:

(1) The number of personnel years assigned to the ~~Office~~ *Division* of Ratepayer Advocates.

(2) The total dollars expended by the ~~Office~~ *Division* of Ratepayer Advocates in the prior year, the estimated total dollars expended in the current year, and the total dollars proposed for appropriation in the following budget year.

(3) Workload standards and measures for the ~~Office~~ *Division* of Ratepayer Advocates.

(h) The division shall ~~agree to~~ meet and confer in an informal setting with a regulated entity prior to issuing a report or pleading to the commission regarding alleged misconduct, or a violation of a law or a commission rule or order, raised by the division in a complaint. The meet and confer process shall be utilized ~~as an informal means of attempting in good faith to reach resolution or~~

1 ~~consensus~~ *agreement* on issues raised by the division regarding
2 any regulated entity in the complaint proceeding.

3 SEC. 2. Section 321 of the Public Utilities Code is amended
4 to read:

5 321. (a) The commission shall establish an office of the
6 public adviser and shall appoint a public adviser, *including a*
7 *separate office in the Los Angeles office of the commission.* The
8 commission may employ staff as necessary to carry out the duties
9 of the office of the public adviser. The office of the public
10 adviser shall assist members of the public and ratepayers who
11 desire to testify before or present information to the commission
12 in any hearing or proceeding of the commission ~~open to the~~
13 ~~public.~~ The public adviser shall advise the commission on
14 procedural matters relating to public participation in proceedings
15 of the commission.

16 (b) *The public advisor and executive director shall publicize*
17 *the commission's programs for encouraging and supporting*
18 *participation in the commission's proceedings.*

19 SEC. 3. Section 321.5 of the Public Utilities Code is repealed.

20 ~~321.5. The commission shall establish a separate office of the~~
21 ~~public advisor in the Los Angeles office of the commission. The~~
22 ~~commission shall staff the office with a minimum of three~~
23 ~~employees to assist in fulfilling the duties of the public advisor.~~

24 SEC. 4. No reimbursement is required by this act pursuant to
25 Section 6 of Article XIII B of the California Constitution because
26 the only costs that may be incurred by a local agency or school
27 district will be incurred because this act creates a new crime or
28 infraction, eliminates a crime or infraction, or changes the
29 penalty for a crime or infraction, within the meaning of Section
30 17556 of the Government Code, or changes the definition of a
31 crime within the meaning of Section 6 of Article XIII B of the
32 California Constitution.