

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 amended, 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 *proceedings and* 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. The Legislature finds and declares all of the*
2 *following:*

3 *(a) It is the intent of the Legislature to ensure the protection*
4 *and advancement of ratepayer interests with respect to public*
5 *utility matters.*

6 *(b) The Office of Ratepayer Advocates is an independent*
7 *division of the Public Utilities Commission that advocates solely*
8 *on behalf of public utility ratepayers.*

9 *(c) The goal of the Office of Ratepayer Advocates is to*
10 *advocate on behalf of ratepayers to obtain the lowest possible*
11 *rates for public utility service consistent with safe and reliable*
12 *service levels, and to ensure that utility customers have access to*
13 *the best possible information about their options and choices.*

14 *(d) In order to support this goal, it is necessary to clarify the*
15 *role of the Office of Ratepayer Advocates and to provide it with*
16 *the necessary tools to accomplish its goal.*

17 ~~SECTION 1.~~

18 *SEC. 2. Section 309.5 of the Public Utilities Code is amended*
19 *to read:*

20 309.5. (a) There is within the commission a Division of
21 Ratepayer Advocates to represent and advocate on behalf of the
22 interests of *California* public utility customers and subscribers ~~in~~
23 ~~California~~. The goal of the division shall be to obtain ~~cost~~
24 ~~transparency~~ and the lowest possible rate for service consistent
25 with reliable and safe service levels. For revenue allocation and
26 rate design matters, the division shall primarily consider the
27 interests of residential and small commercial customers.

28 (b) The director of the division shall be appointed by and serve
29 at the pleasure of the Governor, subject to confirmation by the
30 Senate. The director shall annually appear before the appropriate
31 policy committees of the Assembly and the Senate to report on
32 the activities of the division.

1 (c) ~~Consistent with Section 307~~ *The director shall develop a*
2 *budget for the division which shall be subject to final approval of*
3 *the commission. In accordance with the approved budget, the*
4 *commission shall, by rule or order, provide for the assignment of*
5 *personnel to, and the functioning of, the division. The division*
6 *may employ experts necessary to carry out its functions.*
7 *Personnel and resources shall be provided to the division at a*
8 *level sufficient to ensure that customer and subscriber interests*
9 *are effectively represented in all significant forums, including*
10 ~~*state and federal courts and federal agencies. proceedings and*~~
11 ~~*forums. The director may appoint an attorney who shall*~~
12 ~~*represent the division, and shall report to and serve at the*~~
13 ~~*pleasure of the director.*~~

14 (d) The commission shall develop appropriate procedures to
15 ensure that the existence of the division does not create a conflict
16 of roles for any employee. The procedures shall include, but shall
17 not be limited to, the development of a code of conduct and
18 procedures for ensuring that advocates and their representatives
19 on a particular case or proceeding are not advising
20 decisionmakers on the same case or proceeding.

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

29 (e) *The division may compel the production or disclosure of*
30 *any information it deems necessary to perform its duties from*
31 *any entity regulated by the commission, provided that any*
32 *objections to any request for information shall be decided in*
33 *writing by the assigned commissioner or by the president of the*
34 *commission, if there is no assigned commissioner.*

35 (f) There is hereby created the Public Utilities Commission
36 Ratepayer Advocate Account in the General Fund. Moneys from
37 the Public Utilities Commission Utilities Reimbursement
38 Account in the General Fund shall be transferred in the annual
39 Budget Act to the Public Utilities Commission Ratepayer
40 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~~ *director* 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 Division of Ratepayer Advocates.

(2) The total dollars expended by the 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 Division of Ratepayer Advocates.

(h) The division shall 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 in good faith to reach agreement on issues raised by the division regarding any regulated entity in the complaint proceeding.

~~SEC. 2.~~

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

321. (a) The commission shall establish an office of the public ~~adviser~~ *advisor* and shall appoint a public ~~adviser~~ *advisor*, including a separate office in the Los Angeles office of the commission. The commission may employ staff as necessary to carry out the duties of the office of the public ~~adviser~~ *advisor*. The office of the public ~~adviser~~ *advisor* shall 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 public ~~adviser~~ *advisor* shall advise the commission on procedural matters relating to public participation in proceedings of the commission.

1 (b) The public advisor and executive director shall publicize
2 the commission's programs for encouraging and supporting
3 participation in the commission's proceedings.

4 ~~SEC. 3.~~

5 *SEC. 4.* Section 321.5 of the Public Utilities Code is repealed.

6 ~~SEC. 4.~~

7 *SEC. 5.* No reimbursement is required by this act pursuant to
8 Section 6 of Article XIII B of the California Constitution because
9 the only costs that may be incurred by a local agency or school
10 district will be incurred because this act creates a new crime or
11 infraction, eliminates a crime or infraction, or changes the
12 penalty for a crime or infraction, within the meaning of Section
13 17556 of the Government Code, or changes the definition of a
14 crime within the meaning of Section 6 of Article XIII B of the
15 California Constitution.