

AMENDED IN ASSEMBLY JUNE 16, 2005

AMENDED IN SENATE APRIL 18, 2005

AMENDED IN SENATE MARCH 31, 2005

SENATE BILL

No. 608

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. *Under existing law, a director of the division is appointed by, and serves at the pleasure of, the Governor, subject to confirmation by the Senate.* 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. *Under the bill, commencing April 1, 2007, the Governor's appointment of the division director, if confirmed by the Senate, would be for a 6-year term, subject to the resignation of the appointee or removal for cause.* The bill would require the commission to provide personnel and resources to the division, including attorneys and other legal support, sufficient to ensure that customer and subscriber interests are effectively represented in all significant proceedings and forums. The bill would authorize the director of the division to appoint a lead attorney to represent the division.

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

19 309.5. (a) There is within the commission a Division of
20 Ratepayer Advocates to represent and advocate on behalf of the
21 interests of California public utility customers and subscribers.
22 The goal of the division shall be to obtain the lowest possible rate
23 for service consistent with reliable and safe service levels. For
24 revenue allocation and rate design matters, the division shall
25 primarily consider the interests of residential and small
26 commercial customers.

27 ~~(b) The director of the division shall be appointed by and serve~~
28 ~~at the pleasure of the Governor, subject to confirmation by the~~
29 ~~Senate. The director shall annually appear before the appropriate~~

30 (b) (1) (A) *Until March 31, 2007, the director of the division*
31 *shall be appointed by, and serve at the pleasure of, the Governor,*
32 *subject to confirmation by the Senate.*

33 (B) *Commencing April 1, 2007, the director of the division*
34 *shall be appointed by the Governor, subject to confirmation by*
35 *the Senate. An appointment pursuant to this subparagraph shall*

1 *be for a term of six years, subject to the resignation of the*
2 *appointee or removal for cause.*

3 (2) *The director shall annually appear before the appropriate*
4 *policy committees of the Assembly and the Senate to report on*
5 *the activities of the division.*

6 (c) The director shall develop a budget for the division which
7 shall be subject to final approval of the commission. In
8 accordance with the approved budget, the commission shall, by
9 rule or order, provide for the assignment of personnel to, and the
10 functioning of, the division. The division may employ experts
11 necessary to carry out its functions. Personnel and resources,
12 including attorneys and other legal support, shall be provided by
13 the commission to the division at a level sufficient to ensure that
14 customer and subscriber interests are effectively represented in
15 all significant proceedings and forums. The director may appoint
16 a lead attorney who shall represent the division, and shall report
17 to and serve at the pleasure of the director. All attorneys assigned
18 by the commission to perform services for the division shall
19 report to and be directed by the lead attorney appointed by the
20 director.

21 (d) The commission shall develop appropriate procedures to
22 ensure that the existence of the division does not create a conflict
23 of roles for any employee. The procedures shall include, but shall
24 not be limited to, the development of a code of conduct and
25 procedures for ensuring that advocates and their representatives
26 on a particular case or proceeding are not advising
27 decisionmakers on the same case or proceeding.

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

34 (f) There is hereby created the Public Utilities Commission
35 Ratepayer Advocate Account in the General Fund. Moneys from
36 the Public Utilities Commission Utilities Reimbursement
37 Account in the General Fund shall be transferred in the annual
38 Budget Act to the Public Utilities Commission Ratepayer
39 Advocate Account. The funds in the Public Utilities Commission
40 Ratepayer Advocate Account shall be utilized exclusively by the

1 division in the performance of its duties as determined by the
2 director. The director shall annually submit a staffing report
3 containing a comparison of the staffing levels for each five-year
4 period.

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

9 (1) The number of personnel years assigned to the Division of
10 Ratepayer Advocates.

11 (2) The total dollars expended by the Division of Ratepayer
12 Advocates in the prior year, the estimated total dollars expended
13 in the current year, and the total dollars proposed for
14 appropriation in the following budget year.

15 (3) Workload standards and measures for the Division of
16 Ratepayer Advocates.

17 (h) The division shall meet and confer in an informal setting
18 with a regulated entity prior to issuing a report or pleading to the
19 commission regarding alleged misconduct, or a violation of a law
20 or a commission rule or order, raised by the division in a
21 complaint. The meet and confer process shall be utilized in good
22 faith to reach agreement on issues raised by the division
23 regarding any regulated entity in the complaint proceeding.

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

26 321. (a) The commission shall establish an office of the
27 public advisor and shall appoint a public advisor, including a
28 separate office in the Los Angeles office of the commission. The
29 commission may employ staff as necessary to carry out the duties
30 of the office of the public advisor. The office of the public
31 advisor shall assist members of the public and ratepayers who
32 desire to testify before or present information to the commission
33 in any hearing or proceeding of the commission. The public
34 advisor shall advise the commission on procedural matters
35 relating to public participation in proceedings of the commission.

36 (b) The public advisor and executive director shall publicize
37 the commission's programs for encouraging and supporting
38 participation in the commission's proceedings.

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

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

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