

AMENDED IN ASSEMBLY APRIL 11, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2603**

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**Introduced by Assembly Member Nazarian**

February 19, 2016

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An act to ~~amend Sections 1801.3 and 1802 of, and to add Section 1809 to,~~ add Section 5388 to the Public Utilities Code, relating to ~~proceedings of the Public Utilities Commission.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2603, as amended, Nazarian. Public Utilities Commission: ~~proceedings: intervenor compensation.~~ *Passenger Charter-party Carriers' Act: complaint registration and resolution mechanism.*

*Charter-party carriers of passengers, including transportation network companies, are subject to the jurisdiction and control of the Public Utilities Commission under the Passenger Charter-party Carriers' Act.*

*This bill would require the commission to establish a telephone communications service, with a designated telephone number, that would be available to members of the public to communicate to the commission any concerns, or register complaints, regarding service provided by charter-party carriers of passengers, including transportation network companies. The bill would require each charter-party carrier of passengers to include the telephone number designated by the commission on all contracts for service made after January 1, 2018, and for a transportation network company or other charter-party carrier of passengers that arranges for transportation utilizing application software, commonly termed an app, the bill would require that the customer be notified of the existence of, and purpose*

*for, the telephone number as part of the electronic transaction. The bill would require the commission to maintain a record of all concerns and complaints communicated to the commission and to establish rules or guidelines as to what concerns and complaints do or do not raise matters of serious concern. As to those concerns and complaints that do not raise a matter of serious concern, the commission staff would be required to diligently attempt to informally resolve the concern or complaint. The bill would require the commission to investigate each concern or complaint that raises a matter of serious concern and initiate and conclude appropriate enforcement action with respect to any violation of the act or a rule adopted by the commission pursuant to the act.*

*Under existing law, a violation of the Passenger Charter-party Carriers' Act or an order or direction of the commission pursuant to the act is a crime.*

*Because the provisions of this bill are within the act and require action by the commission to implement its requirements, a violation of these provisions would impose a state-mandated local program by creating a new crime.*

*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.*

~~Under existing law, the Public Utilities Commission has broad regulatory authority pursuant to the California Constitution and the Public Utilities Act over public utilities, as defined, including common carriers, toll bridge corporations, electrical corporations, gas corporations, pipeline corporations, telephone corporations, telegraph corporations, water corporations, sewer system corporations, and heat corporations. In addition, the commission has more limited authority over certain other corporations, including charter-party carriers of passengers. Existing law provides compensation for reasonable advocate's fees, reasonable expert witness fees, and other reasonable costs to public utility customers and representatives of customers for participation or intervention in formal proceedings of the commission involving electrical, gas, water, telegraph, and telephone public utilities.~~

~~This bill would additionally authorize compensation to be awarded by the commission for reasonable advocate's fees, reasonable expert~~

witness fees, and other reasonable costs to customers and representatives of customers for participation or intervention in formal proceedings of the commission involving a corporation that is subject to regulation by the commission pursuant to the Passenger Charter-Party Carriers' Act.

Existing law requires the commission to deny compensation to any customer who attempts to delay or obstruct the orderly and timely fulfillment of the commission's responsibilities.

This bill would require the commission to deny any claim for compensation for contributions to a closed proceeding unless otherwise specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: ~~no~~ yes.

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

1     SECTION 1. Section 5388 is added to the Public Utilities Code,  
2     to read:  
3     5388. (a) The commission shall establish a telephone  
4     communications service that is available to members of the public  
5     to communicate to the commission any concerns, or register  
6     complaints, regarding service provided by charter-party carriers  
7     of passengers, including transportation network companies. The  
8     commission shall designate a telephone number for members of  
9     the public to dial to communicate their concerns or complaints.  
10    The commission shall require each charter-party carrier of  
11    passengers to include the telephone number designated by the  
12    commission on all contracts for service made after January 1,  
13    2018. For a transportation network company or other charter-party  
14    carrier of passengers that arrange for transportation utilizing  
15    application software, commonly termed an app, the commission  
16    shall require that the customer be notified of the existence of, and  
17    purpose for, the telephone number as part of the electronic  
18    transaction. The commission may maintain additional, alternative  
19    means for members of the public to express concerns or register  
20    complaints.  
21    (b) The commission shall maintain a record of all concerns and  
22    complaints communicated to the commission relative to  
23    charter-party carriers of passengers, including transportation  
24    network companies. The commission shall establish rules or  
25    guidelines as to what concerns and complaints do or do not raise

1 *matters of serious concern. As to those concerns and complaints*  
 2 *that do not raise a matter of serious concern, the commission staff*  
 3 *shall diligently attempt to informally resolve the concern or*  
 4 *complaint and shall maintain a record of whether the concern or*  
 5 *complaint was resolved. The commission shall investigate each*  
 6 *concern or complaint made to the commission that raises a matter*  
 7 *of serious concern and initiate and conclude appropriate*  
 8 *enforcement action with respect to any violation of this act or a*  
 9 *rule adopted by the commission pursuant to this act. The*  
 10 *commission shall maintain a record of all concerns and complaints*  
 11 *that result in an investigation, a description of the investigation*  
 12 *conducted by the commission, and the result of the investigation.*

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

22 ~~SECTION 1. Section 1801.3 of the Public Utilities Code is~~  
 23 ~~amended to read:~~

24 ~~1801.3. It is the intent of the Legislature that:~~

25 ~~(a) The provisions of this article shall apply to all formal~~  
 26 ~~proceedings of the commission involving electrical, gas, water,~~  
 27 ~~telegraph, and telephone corporations and to corporations that are~~  
 28 ~~subject to regulation by the commission pursuant to Chapter 8~~  
 29 ~~(commencing with Section 5351) of Division 2.~~

30 ~~(b) The provisions of this article shall be administered in a~~  
 31 ~~manner that encourages the effective and efficient participation of~~  
 32 ~~all groups that have a stake in the public utility regulation process.~~

33 ~~(c) The process for finding eligibility for intervenor~~  
 34 ~~compensation be streamlined, by simplifying the preliminary~~  
 35 ~~showing by an intervenor of issues, budget, and costs.~~

36 ~~(d) Intervenors be compensated for making a substantial~~  
 37 ~~contribution to proceedings of the commission, as determined by~~  
 38 ~~the commission in its orders and decisions.~~

39 ~~(e) Intervenor compensation be awarded to eligible intervenors~~  
 40 ~~in a timely manner, within a reasonable period after the intervenor~~

1 has made the substantial contribution to a proceeding that is the  
2 basis for the compensation award.

3 (f) ~~This article shall be administered in a manner that avoids~~  
4 ~~unproductive or unnecessary participation that duplicates the~~  
5 ~~participation of similar interests otherwise adequately represented~~  
6 ~~or participation that is not necessary for a fair determination of the~~  
7 ~~proceeding.~~

8 SEC. 2. Section 1802 of the Public Utilities Code is amended  
9 to read:

10 1802. As used in this article:

11 (a) ~~“Compensation” means payment for all or part, as determined~~  
12 ~~by the commission, of reasonable advocate’s fees, reasonable~~  
13 ~~expert witness fees, and other reasonable costs of preparation for~~  
14 ~~and participation in a proceeding, and includes the fees and costs~~  
15 ~~of obtaining an award under this article and of obtaining judicial~~  
16 ~~review, if any.~~

17 (b) (1) ~~“Customer” means any of the following:~~

18 (A) ~~A participant representing consumers, customers, or~~  
19 ~~subscribers of any electrical, gas, telephone, telegraph, or water~~  
20 ~~corporation or representing consumers, customers, or passengers~~  
21 ~~of any corporation subject to regulation by the commission~~  
22 ~~pursuant to Chapter 8 (commencing with Section 5351) of Division~~  
23 ~~2.~~

24 (B) ~~A representative who has been authorized by a customer.~~

25 (C) ~~A representative of a group or organization authorized~~  
26 ~~pursuant to its articles of incorporation or bylaws to represent the~~  
27 ~~interests of residential customers, or to represent small commercial~~  
28 ~~customers who receive bundled electric service from an electrical~~  
29 ~~corporation.~~

30 (2) ~~“Customer” does not include any state, federal, or local~~  
31 ~~government agency, any publicly owned public utility, or any~~  
32 ~~entity that, in the commission’s opinion, was established or formed~~  
33 ~~by a local government entity for the purpose of participating in a~~  
34 ~~commission proceeding.~~

35 (e) ~~“Expert witness fees” means recorded or billed costs incurred~~  
36 ~~by a customer for an expert witness.~~

37 (d) ~~“Other reasonable costs” means reasonable out-of-pocket~~  
38 ~~expenses directly incurred by a customer that are directly related~~  
39 ~~to the contentions or recommendations made by the customer that~~  
40 ~~resulted in a substantial contribution.~~

1 (e) “Party” means any interested party, respondent public utility,  
2 or commission staff in a hearing or proceeding.

3 (f) “Proceeding” means an application, complaint, or  
4 investigation, rulemaking, alternative dispute resolution procedures  
5 in lieu of formal proceedings as may be sponsored or endorsed by  
6 the commission, or other formal proceeding before the commission.

7 (g) “Significant financial hardship” means either that the  
8 customer cannot afford, without undue hardship, to pay the costs  
9 of effective participation, including advocate’s fees, expert witness  
10 fees, and other reasonable costs of participation, or that, in the case  
11 of a group or organization, the economic interest of the individual  
12 members of the group or organization is small in comparison to  
13 the costs of effective participation in the proceeding.

14 (h) “Small commercial customer” means any nonresidential  
15 customer with a maximum peak demand of less than 50 kilowatts.  
16 The commission may establish rules to modify or change the  
17 definition of “small commercial customer,” including use of criteria  
18 other than a peak demand threshold, if the commission determines  
19 that the modification or change will promote participation in  
20 proceedings at the commission by organizations representing small  
21 businesses, without incorporating large commercial and industrial  
22 customers.

23 (i) “Substantial contribution” means that, in the judgment of  
24 the commission, the customer’s presentation has substantially  
25 assisted the commission in the making of its order or decision  
26 because the order or decision has adopted in whole or in part one  
27 or more factual contentions, legal contentions, or specific policy  
28 or procedural recommendations presented by the customer. Where  
29 the customer’s participation has resulted in a substantial  
30 contribution, even if the decision adopts that customer’s contention  
31 or recommendations only in part, the commission may award the  
32 customer compensation for all reasonable advocate’s fees,  
33 reasonable expert fees, and other reasonable costs incurred by the  
34 customer in preparing or presenting that contention or  
35 recommendation.

36 SEC. 3. Section 1809 is added to the Public Utilities Code, to  
37 read:

1     ~~1809. The commission shall deny any claim for compensation~~  
2     ~~for contributions to a closed proceeding unless otherwise specified~~  
3     ~~in this article.~~

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