AMENDED IN SENATE MAY 6, 1999

AMENDED IN SENATE APRIL 21, 1999

SENATE BILL No. 1217

Introduced by Senator Polanco

February 26, 1999

An act to add ~~Section 381.5~~ *Sections 381.5, 382.5, and 382.7* to, and to add Chapter 1.5 (commencing with Section 270) to Part 1 of Division 1 of, the Public Utilities Code, relating to public utilities, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1217, as amended, Polanco. Public Utilities Commission: advisory boards: electrical restructuring: public benefit programs.

(1) Existing law provides for various programs relating to telephone corporations to be administered by the Public Utilities Commission, and paid for in the utility rates authorized by the commission.

This bill would, under the Public Utilities Act, create 6 advisory boards to advise the commission regarding the implementation, development, and administration of specified programs, and to carry out the programs pursuant to the commission's direction, control, and approval. The bill would require the commission to determine the number and qualifications of the members of each advisory board, as specified, and would prescribe certain matters of organization and procedure for each advisory board. The bill would require the boards to submit an annual budget to the commission for approval, and a report describing the activities of the board, as prescribed. The bill would create a fund in the State Treasury for each advisory board. The bill would require telephone corporations to submit to the commission approved rate revenues for transfer by the commission to the Controller for deposit in the appropriate fund as created by the bill. The bill would require any unexpended revenues collected prior to the operative date of the bill to be deposited in the appropriate fund, as specified. The bill would continuously appropriate the funds in each fund, as specified, thus making an appropriation. The bill would require the commission to conduct financial audits of the revenues for each of the funds, and to conduct compliance audits with regard to each program, as specified. Because, under the act, a violation of those provisions would be a crime, the bill would impose a state-mandated local program by creating new crimes.

(2) The act requires the commission to order specified electrical corporations to collect and spend certain funds for prescribed public benefit programs. The act specifically requires cost-effective energy efficiency and conservation activities to be funded by San Diego Gas and Electric Company, Southern California Edison Company, and Pacific Gas and Electric Company at specified levels, commencing January 1, 1998, through December 31, 2001.

~~This bill, notwithstanding the above provision, would require the San Diego Gas and Electric Company, Southern California Edison Company, Pacific Gas and Electric Company, Southern California Gas Company, and any other public utility designated by the commission, to administer those activities described above that are non-low-income activities, as prescribed by the commission, through December 31, 2001. The bill would require the commission, before January 1, 2002, to study the feasibility of administering the activities though a nonprofit public benefit corporation. Because a violation of the act by a public utility is a crime, this bill would impose a state-mandated local program by creating a new crime.~~

The bill would require the Department of Community Services and Development, commencing June 1, 2000, to administer specified energy efficiency programs provided to low-income *gas and* electricity customers, as prescribed, and, for those purposes, to contract with the nonprofit and for-profit contractors under contract with the San Diego Gas and Electric Company, Southern California Edison Company, Pacific Gas and Electric Company, and Southern California Gas Company as of April 1, 1999. *The bill would require the department, for the purpose of the California Alternative Rates for Energy Program, to contract with nonprofit and for-profit contractors, taking into account cost, experience, and other attributes of a contractor that the department determines will benefit local communities. The bill would require the Bureau of State Audits, on or before July 1, 2002, and every 2 years thereafter, to conduct a performance and financial audit of the administration by the department of the low-income energy efficiency programs and the California Alternative Rates for Energy Program, as prescribed. The bill would make related legislative findings and declarations and statements of Legislative intent.*

(3) 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: yes. Fiscal committee: yes. State-mandated local program: yes.

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

SECTION 1. Chapter 1.5 (commencing with Section 270) is added to Part 1 of Division 1 of the Public Utilities Code, to read:

CHAPTER 1.5. ADVISORY BOARDS

270. (a) The following funds are hereby created in the State Treasury:

(1) The California High-Cost Fund-A Administrative Committee Fund.

(2) The California High-Cost Fund-B Administrative Committee Fund.

(3) The Universal Lifeline Telephone Service Trust Administrative Committee Fund.

(4) The Deaf and Disabled Telecommunications Program Administrative Committee Fund.

(5) The Payphone Service Providers Committee Fund.

(6) The California Teleconnect Fund Administrative Committee Fund.

(b) Moneys in the funds may only be expended pursuant to this chapter.

(c) Moneys in each fund may not be appropriated, or in any other manner transferred or otherwise diverted, to any other fund or entity.

271. For each advisory board created pursuant to this chapter all of the following are applicable:

(a) The commission shall establish the number of, and qualifications for, persons to serve as members of each board, and shall appoint the members of each board. In determining the qualifications of persons who will serve as members of each board, the commission shall consider the purpose of the program, and shall attempt to achieve balanced public participation, for each board. The membership of each board shall reflect, to the extent possible, and consistent with existing law, the ethnic and gender diversity of the state.

(b) Each board shall determine, subject to approval by the commission, the time, location, and number of monthly meetings for each board.

(c) A majority of the number of members of each board constitutes a quorum.

(d) A board cannot act at a meeting without the presence of a quorum.

(e) The affirmative vote of a majority of those members present at the meeting of a board is necessary in order to pass any motion, resolution, or measure.

(f) The commission shall determine for each board whether the board members shall receive expense reimbursement pursuant to Section 19820 of the

Government Code and a per diem allowance, as specified in Section 11564.5 of the Government Code, or as established by the commission. Each member of a board who is not a commission or public utility employee, or who is not otherwise compensated by an employer for service on the board, shall be entitled to make a claim for and to receive a per diem allowance, if authorized by the commission. Each member of a board who is not a public utility employee, or who is not otherwise reimbursed by an employer for expenses incurred when serving on the board, shall be entitled to make a claim for and to receive expense reimbursement, if authorized by the commission. The commission shall allow all reasonable expense and per diem claims. The payments in each instance shall be made only from the fund that supports the activities of the board and shall be subject to the availability of money in that fund. The claims shall be filed by the board with the commission.

273. Each advisory board created pursuant to this chapter shall do both of the following:

(a) Submit an annual budget to the commission. Within 90 calendar days after receiving a board's annual budget, the commission shall either accept, accept with conditions, or reject the submitted budget.

(b) Notwithstanding Section 7550.5 of the Government Code, submit, in accordance with procedures established by the commission, a report that shall describe the activities of the board during the prior reporting period. The report shall be submitted on an annual or more frequent basis, as ordered by the commission.

274. The commission may, whenever it determines it to be necessary, conduct financial audits of the revenues required to be collected and submitted to the commission for each of the funds specified in Section 270. The commission may, whenever it determines it to be necessary, conduct compliance audits on the compliance with commission orders with regard to each program subject to this chapter. The commission shall conduct a financial and compliance audit at least once every three

years. The first three-year period for a financial and compliance audit commences on January 1, 2000. The second and subsequent three-year periods for financial audits commence three years after the completion of the prior financial audit. The second and subsequent three-year periods for compliance audits commence three years after the completion of the prior compliance audit. The commission may contract with the Bureau of State Audits or the Department of Finance for all necessary auditing services. All costs for audits shall be paid from the fund that supports the activities of the board audited and shall be subject to the availability of money in that fund.

275. (a) There is hereby created the California High-Cost Fund-A Administrative Committee, which is an advisory board to advise the commission regarding the development, implementation, and administration of a program to provide for transfer payments to small independent telephone corporations providing local exchange services in high-cost rural and small metropolitan areas in the state to create fair and equitable local rate structures, as provided for in Section 739.3, and to carry out the program pursuant to the commission's direction, control, and approval.

(b) All revenues collected by telephone corporations in rates authorized by the commission to fund the program specified in subdivision (a) shall be submitted to the commission pursuant to a schedule established by the commission. The commission shall transfer the moneys received to the Controller for deposit in the California High-Cost Fund-A Administrative Committee Fund. All interest earned by moneys in the fund shall be deposited in the fund. Any unexpended revenues collected prior to the operative date of this section shall be submitted to the commission, and the commission shall transfer those moneys to the Controller for deposit in the California High-Cost Fund-A Administrative Committee Fund.

(c) Notwithstanding Section 13340 of the Government Code, moneys in the California High-Cost Fund-A Administrative Committee Fund are hereby continuously appropriated to the commission, without regard to fiscal years, to be utilized exclusively by the commission for the program specified in subdivision (a), including all costs of the board and the commission associated with the administration and oversight of the program and the fund.

276. (a) There is hereby created the California High-Cost Fund-B Administrative Committee, which is an advisory board to advise the commission regarding the development, implementation, and administration of a program to provide for transfer payments to telephone corporations providing local exchange services in high-cost areas in the state to create fair and equitable local rate structures, as provided for in Section 739.3, and to carry out the program pursuant to the commission's direction, control, and approval.

(b) All revenues collected by telephone corporations in rates authorized by the commission to fund the program specified in subdivision (a) shall be submitted to the commission pursuant to a schedule established by the commission. The commission shall transfer the moneys received to the Controller for deposit in the California High-Cost Fund-B Administrative Committee Fund. All interest earned by moneys in the fund shall be deposited in the fund. Any unexpended revenues collected prior to the operative date of this section shall be submitted to the commission, and the commission shall transfer those moneys to the Controller for deposit in the California High-Cost Fund-B Administrative Committee Fund.

(c) Notwithstanding Section 13340 of the Government Code, moneys in the California High-Cost Fund-B Administrative Committee Fund are hereby continuously appropriated to the commission, without regard to fiscal years, to be utilized exclusively by the commission for the program specified in subdivision (a), including all costs of the board and the commission associated with the administration and oversight of the program and the fund.

277. (a) There is hereby created the Universal Lifeline Telephone Service Trust Administrative

Committee, which is an advisory board to advise the commission regarding the development, implementation, and administration of a program to ensure lifeline telephone service is available to the people of the state, as provided for in Article 8 (commencing with Section 871) of Chapter 4 of Part 1 of Division 1, and to carry out the program pursuant to the commission's direction, control, and approval.

(b) All revenues collected by telephone corporations in rates authorized by the commission to fund the program specified in subdivision (a) shall be submitted to the commission pursuant to a schedule established by the commission. The commission shall transfer the moneys received to the Controller for deposit in the Universal Lifeline Telephone Service Trust Administrative Committee Fund. All interest earned by moneys in the fund shall be deposited in the fund. Any unexpended revenues collected prior to the operative date of this section shall be submitted to the commission, and the commission shall transfer those moneys to the Controller for deposit in the Universal Lifeline Telephone Service Trust Administrative Committee Fund.

(c) Notwithstanding Section 13340 of the Government Code, moneys in the Universal Lifeline Telephone Service Trust Administrative Committee Fund are hereby continuously appropriated to the commission, without regard to fiscal years, to be utilized exclusively by the commission for the program specified in subdivision (a), including all costs of the board and the commission associated with the administration and oversight of the program and the fund.

278. (a) There is hereby created the Deaf and Disabled Telecommunications Program Administrative Committee, which is an advisory board to advise the commission regarding the development, implementation, and administration of programs to provide specified telecommunications services and equipment to persons in this state who are deaf or disabled, as provided for in Sections 2881, 2881.1, and

2881.2, and to carry out the programs pursuant to the commission's direction, control, and approval.

(b) All revenues collected by telephone corporations in rates authorized by the commission to fund the programs specified in subdivision (a) shall be submitted to the commission pursuant to a schedule established by the commission. The commission shall transfer the moneys received to the Controller for deposit in the Deaf and Disabled Telecommunications Program Administrative Committee Fund. All interest earned by moneys in the fund shall be deposited in the fund. Any unexpended revenues collected prior to the operative date of this section shall be submitted to the commission, and the commission shall transfer those moneys to the Controller for deposit in the Deaf and Disabled Telecommunications Program Administrative Committee Fund. In addition, those revenues that are collected pursuant to subdivision (d) of Section 2881 shall be accounted for separately, as required by subdivision (b) of Section 2881.2, and deposited in the fund created by the commission pursuant to subdivision (b) of Section 2881.2.

(c) Notwithstanding Section 13340 of the Government Code, moneys in the Deaf and Disabled Telecommunications Program Administrative Committee Fund are hereby continuously appropriated to the commission, without regard to fiscal years, to be utilized exclusively by the commission for the program specified in subdivision (a), including all costs of the board and the commission associated with the administration and oversight of the program and the fund.

279. (a) There is hereby created the Payphone Service Providers Committee, which is an advisory board to advise the commission regarding the development, implementation, and administration of programs to educate payphone service providers, ensure compliance with the commission's requirements for payphone operations, and educate consumers on matters related to payphones, as provided for in commission Decision

90-06-018, and to provide for the placement of telecommunications devices capable of servicing the needs of the deaf or the hearing-impaired in existing buildings and public accommodations, as specified in subdivision (a) of Section 2881.2.

(b) All revenues collected by telephone corporations in rates authorized by the commission to fund the programs specified in subdivision (a) shall be submitted to the commission pursuant to a schedule established by the commission. The commission shall transfer the moneys received to the Controller for deposit in the Payphone Service Providers Committee Fund. All interest earned by moneys in the fund shall be deposited in the fund. Any unexpended revenues collected prior to the operative date of this section shall be submitted to the commission, and the commission shall transfer those moneys to the Controller for deposit in the Payphone Service Providers Committee Fund.

(c) Notwithstanding Section 13340 of the Government Code, moneys in the Payphone Service Providers Committee Fund are hereby continuously appropriated to the commission, without regard to fiscal years, to be utilized exclusively by the commission for the program specified in subdivision (a), including all costs of the board and the commission associated with the administration and oversight of the program and the fund.

280. (a) There is hereby created the California Teleconnect Fund Administrative Committee, which is an advisory board to advise the commission regarding the development, implementation, and administration of a program to advance universal service by providing discounted rates to qualifying schools, libraries, hospitals, health clinics, and community organizations, consistent with Chapter 278 of the Statutes of 1994, and to carry out the program pursuant to the commission's direction, control, and approval.

(b) All revenues collected by telephone corporations in rates authorized by the commission to fund the program specified in subdivision (a) shall be submitted to the commission pursuant to a schedule established by the commission. The commission shall transfer the moneys received to the Controller for deposit in the California Teleconnect Fund Administrative Committee Fund. All interest earned by moneys in the fund shall be deposited in the fund. Any unexpended revenues collected prior to the operative date of this section shall be submitted to the commission, and the commission shall transfer those moneys to the Controller for deposit in the California Teleconnect Fund Administrative Committee Fund.

(c) Notwithstanding Section 13340 of the Government Code, moneys in the California Teleconnect Fund Administrative Committee Fund are hereby continuously appropriated to the commission, without regard to fiscal years, to be utilized exclusively by the commission for the program specified in subdivision (a), including all costs of the board and the commission associated with the administration and oversight of the program and the fund.

281. Any revenues that are deposited in funds created pursuant to this chapter shall not be used by the state for any purpose other than as specified in this chapter.

SEC. 2. Section 381.5 is added to the Public Utilities Code, to read:

~~381.5. (a) Notwithstanding paragraph (1) of subdivision (c) of Section 381, San Diego Gas and Electric Company, Southern California Edison Company, Pacific Gas and Electric Company, Southern California Gas Company, and any other public utility designated by the commission, shall administer the cost-effective energy efficiency and conservation activities described in that paragraph that are non-low-income activities, as prescribed by the commission, through December 31, 2001. Before January 1, 2002, the commission shall study the feasibility of administering those activities through a nonprofit public benefit corporation.~~

381.5. (a) The Legislature finds and declares all of the following:

(1) A low-income energy efficiency program, designed to assist low-income households, should serve as

one of the many existing programs operated within the Department of Community Services and Development, including, but not limited to, food and nutrition, job training, employment, education, housing, and emergency assistance programs.

(2) The Department of Community Services and Development, for many years, has administered low-income energy assistance and weatherization programs funded by the federal Department of Health and Human Services and the federal Department of Energy.

(3) The stated mission of the Department of Community Services and Development is to develop resources that California's low-income communities need to move from poverty to self-sufficiency by collaboration with its network of community service providers and other public and private organizations. Those community service organizations and agencies have demonstrated their capacity to offer a variety of services to assist the Department of Community Services and Development in achieving its mission objectives.

(b) It is the intent of the Legislature to do both of the following:

(1) To protect and strengthen the current network of community service providers by transferring low-income energy efficiency programs and the California Alternative Rates for Energy Program to the Department of Community Services and Development, thereby integrating low-income energy efficiency programs with the range of services presently administered by the Department of Community Services and Development.

(2) To ensure that the administration of low-income energy efficiency programs is not accomplished through creation of an additional administrative entity, which would contribute to the needless growth of government.

(c) It is the further intent of the Legislature that any evaluation of the effectiveness of low-income energy efficiency programs shall be based not solely on cost criteria, but also on the degree to which the provision of

services allows maximum program accessibility to quality programs to low-income communities by agencies that have demonstrated performance in effectively delivering services to those communities.

~~(b)~~

(d) (1) Commencing June 1, 2000, the Department of Community Services and Development shall administer the energy efficiency programs provided to low-income *gas and* electricity customers, including, but not limited to, weatherization, appliance repair and replacement, energy education, and the California Alternative Rates for Energy Program.

~~(c) (1)~~

(2) The Department of Community Services and Development, for the purposes of administrating the programs described in ~~subdivision (b)~~ *paragraph (1),* shall contract with the nonprofit and for-profit contractors under contract with the San Diego Gas and Electric Company, Southern California Edison Company, Pacific Gas and Electric Company, and Southern California Gas Company as of April 1, 1999. *To ensure direct ratepayer benefit within each utility service area, the Department of Community Services and Development shall ensure that any funds collected by each utility in support of low-income energy efficiency programs are expended within the service territory of that utility.*

~~(2) Except as specified in paragraph (3), the policies~~

(3) Except as specified in paragraph (4), the policies and procedures, and program eligibility, for the low-income energy efficiency programs shall be those in effect on April 1, 1999.

~~(3)~~

(4) The Department of Community Services and Development may modify the policies and procedures and program eligibility described in paragraph ~~(2), after considering public input.~~

~~SEC. 3.~~ *(3), and may select additional contractors to deliver program services, or discontinue contractors, after considering public input from a variety of sources,* *including, but not limited to, representatives of low-income populations and communities. The Department of Community Services and Development, with respect to the selection of new service providers, shall give special consideration to local public and private nonprofit organizations that receive federal Low-Income Home Energy Assistance program funds or federal Department of Energy Low-Income Weatherization Assistance program funds, or that are currently providing service under the low-income energy efficiency programs described in paragraph (1).*

SEC. 3. Section 382.5 is added to the Public Utilities Code, to read:

382.5. For the purposes of implementing the outreach portions of the California Alternative Rates for Energy Program, as required by the commission, the Department of Community Services and Development shall contract with nonprofit and for-profit contractors, taking into account cost, experience, and other attributes of a contractor that the Department of Community Services and Development determines will benefit local communities.

SEC. 4. Section 382.7 is added to the Public Utilities Code, to read:

382.7. On or before July 1, 2002, and every two years thereafter, the Bureau of State Audits shall conduct a performance and financial audit of the administration by the Department of Community Services and Development of the low-income energy efficiency programs and the California Alternative Rates for Energy Program pursuant to Sections 381.5 and 382.5. The audit shall consider all of the following:

(a) The efficiency of program expenditures, including, but not limited to, an assessment of administrative costs.

(b) An evaluation of the quality and efficiency of service delivered to low-income households.

(c) Procedures for handling complaints, including, but not limited to, an inventory of inspection failures.

(d) An assessment of the ratio of services delivered to the population of those persons eligible to receive services, including, but not limited to, an assessment of barriers to the receipt of service under the low-income energy efficiency programs.

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

O