Date of Hearing: April 3, 2024

ASSEMBLY COMMITTEE ON UTILITIES AND ENERGY
Cottie Petrie-Norris, Chair
AB 3247 (Irwin) – As Amended March 11, 2024

SUBJECT: Public Advocate's Office: appointment of the director

SUMMARY: Requires the director of the Public Advocate's Office (PAO) to be alternately appointed for 4-year terms by the Speaker of the Assembly and the President pro Tempore of the Senate.

EXISTING LAW: Requires the PAO director to be appointed by, and serve at the pleasure of, the Governor, subject to confirmation by the Senate. (Public Utilities Code § 309.5)

FISCAL EFFECT: Unknown. This bill is keyed fiscal and will be referred to the Committee on Appropriations for its review.

BACKGROUND:

In 1996, the Legislature passed SB 960 (Leonard, Chapter 856, Statutes of 1996), which created the Office of Ratepayer Advocates (ORA) to advocate on behalf of public utility customers at the California Public Utilities Commission (CPUC). This legislation established a consumer advocacy function within but separate from the CPUC's decision-making apparatus. SB 960 established the ORA director as a gubernatorial appointee subject to Senate confirmation, strengthening the consumer-facing and independent profile of the Office.[1]

The ORA, renamed the PAO in 2018, has been strengthened with expansion and autonomy over its advocacy, budget, and staffing resources from a successive series of legislative actions, including SB 960, SB 608 (Escutia, Chapter 440, Statutes of 2005), SB 96 (Committee on Budget, Chapter 356, Statutes of 2013), and SB 854 (Committee on Budget and Fiscal Review, Chapter 51, Statutes of 2018). Separate from the CPUC, the PAO independently conducts its own evaluations of utility applications, performs its own modelling, and develops its own recommendations and proposals. In 2023, PAO advocated in 235 proceedings and filed 816 pleadings at the CPUC on behalf of ratepayers.[2]

A recent showcase of the PAO's efforts is with Pacific Gas & Electric's (PG&E) latest General Rate Case proceeding. PG&E requested to increase its average annual spending to $16.6 billion by 2026. After review of PG&E's proposal, the PAO recommended cost reductions, mostly around alternative wildfire mitigation measures, that would cost PG&E ratepayers $3 billion less in annual spending than the PG&E proposal. The CPUC's final decision fell between these two proposals at $14.3 billion annually for 2023 through 2026.

COMMENTS:

1) *Author's statement.* According to the author, "Over the past 10 years, electric utility rates have increased dramatically – 127% increases by Pacific Gas & Electric (PG&E), 91%

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[1] Public Utilities Code § 309.5
[2] PAO; *2023 Annual Report.*

increases by Southern California Edison (SCE), and 72% rate increases by San Diego Gas & Electric (SDG&E). In light of exorbitant rate and bill increases approved by the Public Utilities Commission, the need for transparency in energy decisions is growing. To prioritize consumer advocacy, and to minimize the potential for conflicts of interest, the Legislative appointment of the Public Advocate would create a necessary degree of separation between the CPUC and the Public Advocate's Office."

2) *True independence.* The PAO director and the CPUC commissioners are currently appointed by the Governor. The author proposes to move appointment of the PAO director to the Legislature in order to increase the degree of separation between the PAO and the CPUC. The underlying proposition by the author is that in so doing, the PAO could act even more independently from the executive branch – and specifically the CPUC. The degree to which that extra independence may or may not yield benefits to ratepayers, over-and-above the advocacy work the PAO already provides within and outside CPUC processes, is unclear. However, such a move to further distinguish PAO from the CPUC is in alignment with past statutory changes that afford greater independence to the Office.

   Other states with offices that advocate solely for ratepayers resolve this concern over conflicts of interest by placing that office in agencies that are separate from the states' utilities commissions, oftentimes at the Attorney General's (AG) Office and thereby appointed by the AG.[3] SB 960 recognized a benefit of keeping the PAO housed within the CPUC to preserve the efficiency of mutual operations. Despite its placement, the PAO *statutorily* operates independently of the CPUC with respect to policy engagement, staffing decisions, and budget control. How independently PAO operates in *practice* is what this measure seeks to further affirm.

3) *Related legislation.*

   AB 2054 (Bauer-Kahan) would prohibit a PAO director from being employed by an entity subject to regulation by the CPUC for a period of 10 years and prohibit a CPUC commissioner or PAO director from accepting a gift from an entity subject to regulation by the CPUC. This bill would also institute reviews of and require shareholders to split on expenditures above CPUC forecasts in balancing accounts. Status: *set for hearing* in the Assembly Committee on Utilities and Energy on April 3rd, 2024.

4) *Prior legislation.*

   SB96 (Committee on Budget and Fiscal Review) required that the director of the PAO develop a budget for the office that would be submitted to the Department of Finance for final approval, effectively making it an independent program within the CPUC. Status: Chapter 356, Statutes of 2013.

   SB 960 (Leonard) established appointment of the PAO director by the Governor, subject to confirmation by the Senate. The bill gave authority to the PAO to compel the production or disclosure of any information it deems necessary to perform its duties from entities regulated by the CPUC. It also required the PAO to develop a code of conduct

[3] Montana State Legislature; "Consumer Advocates and Utility Regulation: A 50 States Survey"; March 2020.

and procedures to ensure that employees of PAO work independently from decision-makers at the CPUC. Status: Chapter 856, Statutes of 1996.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file.

Opposition

None on file.

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