

Date of Hearing: April 30, 2025

**ASSEMBLY COMMITTEE ON UTILITIES AND ENERGY**

Cottie Petrie-Norris, Chair

AB 1173 (Patterson) – As Amended March 25, 2025

**SUBJECT:** Public Utilities Commission: organization

**SUMMARY:** Requires the commission to establish an online portal or email address to report ethics concerns to the commission and prohibits a staff member who moves from the Public Advocate's Office (PAO) to the California Public Utilities Commission (CPUC) from working on any matter that the staff member participated in while employed at the PAO.

**EXISTING LAW:**

- 1) Establishes the CPUC jurisdiction over all public utilities and grants the CPUC general powers over all public utilities and common carriers, subject to oversight by the Legislature. (California Constitution, Article 12)
- 2) Establishes the PAO as an independent office within the CPUC to advocate for utility customers. (Public Utilities Code § 309.5)
- 3) Requires the PAO director to be appointed by the Governor and subject to confirmation by the Senate. (Public Utilities Code § 309.5)
- 4) Mandates the CPUC adopt a Conflict of Interest Code and Statement of Incompatible Activities by February 28, 1998. (Public Utilities Code § 303)
- 5) Prohibits any CPUC commissioner from holding an official relation to or financial interest in any person or corporation subject to regulation by the CPUC. Further prohibits public utility executives from CPUC appointments for a period of two years following employment with the utility. (Public Utilities Code § 303)
- 6) Requires the CPUC to appoint an ethics officer within its legal division, whose responsibilities include instituting enhanced ethics training and providing confidential advice for CPUC employees and commissioners. (Public Utilities Code § 307.2)
- 7) Establishes that the requirements in Government Code and Public Contract Code related to entering into contracts for consultant or advisory services apply to the activities of the CPUC, except when the CPUC makes a finding that extraordinary circumstances justify expedited contracting for consultant and advisory services. (California Public Utilities Code § 632)
- 8) Exempts the CPUC from the requirements to employ only the AG as legal counsel in any matter in which the CPUC is involved, or to seek written consent of the AG prior to employment of counsel in any judicial proceeding. (Government Code §§ 11040-11045)

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

**CONSUMER COST IMPACTS:** Unknown

**BACKGROUND:**

*Function of the Public Advocates Office* – The statutory mandate of the Public Advocates Office is to represent and advocate on behalf of the public utility customer, as an independent entity within the CPUC. The goal of the office is to obtain the lowest possible rate for service consistent with reliable and safe service levels. The PAO must primarily consider the interests of residential and small commercial customers when considering matters of revenue allocation and rate design.<sup>1</sup>

*History of the Public Advocates Office* – 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.<sup>2</sup>

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 2024, PAO advocated in 208 proceedings and filed 811 pleadings at the CPUC on behalf of ratepayers.<sup>3</sup>

*Filing a Complaint about the CPUC to the CPUC* – The CPUC currently has a comment or complaint form on its website.<sup>4</sup> Comments can be made anonymously or including contact information. The comments are publicly available on our website. The comments or complaints from this portal are sent to the Public Advisor. This portal also includes language accessibility options.

*The Need for Reform at the CPUC* – As the jurisdiction of the CPUC has grown, so has its impact on Californians. This greater responsibility has also led to greater scrutiny. In the last fifteen years, independent audits have identified issues with budgeting functions<sup>5</sup> and revenue

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<sup>1</sup> Public Utilities Code § 309.5

<sup>2</sup> Ibid

<sup>3</sup> PAO; 2024 Annual Report.

<sup>4</sup> <https://www.cpuc.ca.gov/consumer-support/file-a-complaint/complaints-about-cpuc>, accessed April 28, 2025.

<sup>5</sup> Department of Finance, Audit and Evaluation Reports, 2013, *California Public Utilities Commission Budget Process Performance Audit* (138660016BIR).

collection within the CPUC.<sup>6</sup> Tragedies such as the San Bruno Disaster, where eight people were killed as a result of a natural gas pipeline explosion, and the Camp Fire, where PG&E was found negligent and guilty of 84 counts of involuntary manslaughter, have focused criticism on CPUC's safety mandates and regulatory activities. In 2014 and 2015, private communications between utility companies and decision makers raised ethical concerns about undue influence. This led the CPUC to hire Strumwasser & Woocher to provide independent advice and counsel on CPUC ex parte rules and practices. Among the recommendation in their report was that the CPUC should appoint an independent Ethics Officer to develop codes of conduct for decision-makers and for advocates appearing in Commission proceedings<sup>7</sup>. In 2017, SB 19 established an ethics officer within the legal division of the CPUC, whose responsibilities include instituting enhanced ethics training and providing confidential advice for CPUC employees and commissioners. Other changes implemented by SB 19 include the creation of an internal auditor and the prohibition of public utility executives from serving as CPUC commissioners for two years after employment, among other provisions.<sup>8</sup>

## COMMENTS:

- 1) *Author's Statement.* According to the author: "The legislature established the Public Advocate's Office to serve as an independent consumer advocate within the California Public Utilities Commission (CPUC), representing the interests of utility customers. While the Public Advocate's Office is physically located within CPUC offices, they operate independently from the Commissioners and their staff. However, allowing former Advocate's Office staff to work on cases they handled before joining the Commission creates a significant conflict of interest. There is no forum to address these conflicts of interest, which worsens this issue. AB 1173 addresses these concerns by prohibiting former Advocate's Office employees at the CPUC from overseeing cases they previously worked on. It also establishes a process for the public to communicate their ethical concerns to the CPUC. These common-sense reforms will strengthen public trust in government and ensure the CPUC is more responsive to the needs and concerns of Californians.
- 2) *The Purpose of the Bill.* There has long been demand for reform at the CPUC. The CPUC conducts quasi-legislative proceedings and adjudicatory proceedings and therefore conflict of interest concerns can arise between the parties involved. A conflict of interest refers to the ethical problems that may arise between parties with a preexisting relationship.<sup>9</sup> Currently, these conflict of interest concerns are handled internally by the CPUC according to their Conflict of Interest Code and Statement of Incompatible Activities. This bill would mandate specific ethical provisions would need to be followed, in addition to the CPUC's existing code.

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<sup>6</sup> Department of Finance, Audit and Evaluation Reports, 2021, California Public Utilities Commission Performance Audit (Report No. 21-8660-028), 2021.

<sup>7</sup> Report to the California Public Utilities Commission Regarding Ex Parte Communications and Related Practices, June 22, 2015.

<sup>8</sup> PUC §§ 307.2-307.6

<sup>9</sup> Legal information Institute, Cornell Law School.

- 3) *Singling out the Public Advocates Office.* The authors argue that it is unethical to have members of the PAO join the CPUC and work on similar topics because it creates a conflict of interest. The PAO is an independent organization tasked with advocating for lower consumer costs, and therefore may have confidential information. However, if members of the PAO have a conflict of interest when moving to the CPUC, then anyone who has advocated before the CPUC, including an employee of a utility, has a conflict of interest. In addition, the bill prevents staff members from working on “any matter” at the CPUC that they worked on at the PAO. This mandate would severely restrict the ability of the CPUC to recruit employees with relevant experience or allow employees with experience to perform effectively at the CPUC. *Therefore, the committee recommends narrowing the scope of the restriction to individuals listed on a formal filing or who have sponsored testimony. In addition, the committee recommends refraining from singling out the Public Advocates Office, and changing the language so that any individual, no matter their previous employment, who has been listed on a formal filing, or has sponsored testimony in a proceeding, cannot later work on that same proceeding as an employee at the CPUC.*

4) *Related Legislation.*

AB 705 (Boerner) transfers the internal audit unit of the CPUC to a newly established Independent Office of Audits and Investigations (“Audits Office”) within the CPUC. The Audits Office is designed to ensure transparency, accountability, and efficiency in the use of ratepayer funds and the effective execution of CPUC programs and statutory mandates. Status: Pending hearing in the Assembly Committee on Appropriations after passing through the Assembly Committee on Utilities and Energy 18-0-0

5) *Prior Legislation.*

AB 3247 (Irwin, 2024) would require the director of the PAO to be appointed for 4-year terms, with appointment authority alternating between the Speaker of the Assembly, who will make the first four-year appointment, and the President pro Tempore of the Senate, and states the director shall serve at the pleasure of the appointing authority. Status: Held in the Senate Committee on Energy, Utilities and Communication.

AB 2054 (Bauer-Kahan, 2024) 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: Held in suspense in the Senate Committee on Appropriations

AB 2903 (Gatto, 2016) provided a suite of reforms of the operations of the CPUC, including clarifying the responsibilities and oversight of various positions; improvements to ethics practices; reports related to telecommunications services and CPUC staffing; stating the intent of the Legislature to transfer most non-rail, for-hire transportation

services to the STA; and others. Status: Held in the Senate Committee on Energy, Utilities and Communications

ACA 11 (Gatto, 2016) would have proposed a measure on the ballot to authorize the Legislature to reallocate or reassign all or a portion of the functions of the CPUC to other state agencies, departments, boards, or other entities, consistent with specified purposes and proposed to repeal the provisions of the California Constitution pertaining to the CPUC effective January 1, 2019. Status: Held in Senate Committee on Energy, Utilities and Communications

SB 19 (Hill) provides a suite of reforms of the operations of the CPUC, including: the transfer, by July 1, 2018, of four transportation-related functions from the CPUC to other agencies or jurisdictions; clarifies and, in some cases, codifies the responsibilities and oversight of various positions; clarifies CPUC notification requirements for contracting of outside legal services. Status: Chapter 421, Statutes of 2017.

AB 825 (Rendon, 2015) reforms of the CPUC by increasing transparency, including requiring the California State Auditor's Office to appoint an Inspector General within its office for the CPUC, expanding the roles and responsibilities of the CPUC public advisor, specifying additional requirements of commissioners, and increased transparency of electric utilities' procurement, among others. Status: Vetoed by the governor.

SB 48 (Hill, 2015) proposes a suite of reforms of the governance and operations of the CPUC, including, among others, requiring sessions in Sacramento, applying the Code of Ethics from the Administrative Procedures Act to administrative law judge, clarifying and augmenting the information the CPUC must provide the Legislature in its annual report, and others. Status: Vetoed by the governor.

SB 215 (Leno-Hueso) proposed a suite of reforms of the rules, operations and procedures of the CPUC pertaining to the laws and rules related to ex parte communications and criteria and process for disqualification of commissioners to a proceeding. Status: Chapter 807, Statutes of 2016

SB 512 (Hill) proposed a suite of reforms of the operations and governance of the CPUC, including allowing intervenor compensation for certain local governments, requiring specified information to be available to the public, requiring specified reporting of the CPUC regarding the timeliness of proceedings, applying the Code of Ethics from the Administrative Procedures Act to administrative law judges, and others. Status: Chapter 808, Statutes of 2016

SB 660 (Leno-Hueso, 2015) would have proposed a suite of reforms of the governance, rules, operations and procedures of the CPUC, including: reform of laws and rules related to ex parte communications, criteria and process for disqualification of CPUCs to a proceeding, and authorizes the CPUC to appoint the chief administrative law judge. Status: Vetoed by the governor.

SB 1017 (Hill, 2016) would have modified statutes that limit public access to utility supplied documents at the CPUC, including specifying an action arising from the CPRA may be brought before the Superior Court instead of the Supreme Court. Status: Held on Assembly Floor.

SB 96 (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.

AB 1055 (Hill, 2011) prohibits a commissioner or employee of the California Public Utilities Commission (PUC) from knowingly soliciting specified contributions from persons or entities that the PUC regulates, or from people who represent entities regulated by the PUC, or sitting on a board that solicits contributions from the same. Status: Vetoed by the Governor

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 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.

**Analysis Prepared by:** Kristen Koenig / U. & E. / (916) 319-2083