Date of Hearing: April 12, 2023

ASSEMBLY COMMITTEE ON UTILITIES AND ENERGY
Eduardo Garcia, Chair
AB 1434 (Sanchez) – As Introduced February 17, 2023

SUBJECT: Public Utilities Commission: commissioner compensation

SUMMARY: Prohibits the annual salary paid to each public utility commissioner from being funded with revenues collected from a charge imposed on ratepayers.

EXISTING LAW:

1) Establishes the Public Utilities Commission Utilities Reimbursement Account for the support of the activities of the California Public Utilities Commission. (Public Utilities Code § 402)

2) Authorizes the California Public Utilities Commission to annually determine a fee to be paid by every electrical, gas, telephone, telegraph, water, sewer system, and heat corporation and every other public utility providing service directly to customers and subject to the jurisdiction of the commission other than a railroad, and the fee established shall be part of the commission budget. The annual fee shall be established to produce a total amount equal to that amount established in the authorized commission budget for the same year, including adjustments for increases in employee compensation, and other increases appropriated by the Legislature. (Public Utilities Code § 431- 435)

3) Asserts that state commissioners shall be civil executive officers, and their salaries as fixed by law shall be paid in the same manner as the salaries of other state officers. (Public Utilities Code § 304)

4) Declares that the public interest is best served by a commission that is appropriately funded and staffed, that can thoroughly examine the issues before it, and can take timely and well-considered action on matters before it. (Public Utilities Code §401). Further, funding the Public Utilities Commission by means of a reasonable fee be imposed upon each common carrier and business related to each public utility that the commission regulates helps to achieve those goals and is, therefore, in the public interest. (Public Utilities Code § 401(a)

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

BACKGROUND:

In 1911, the California Public Utilities Commission (CPUC) was established after a constitutional amendment was approved by voters to reorganize the Railroad Commission, created decades earlier to regulate the state's railroad industry.[1] In 1912, the Legislature passed

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[1] Pg.13, CPUC; *A Brief History of the California Public Utilities Commission: Examining the Past to Help Shape the Future;"*August 2014

the Public Utilities Act, expanding the Commission's regulatory authority to include natural gas, electric, telephone, and water companies as well as railroads and marine transportation companies.[2] In 1946, voters approved renaming the Railroad Commission the California Public Utilities Commission.[3] The Governor usually appoints the five Commissioners, who are confirmed by the Senate, for six year staggered terms and appoints one of the five to serve as CPUC President. These commissioners make all policy decisions, meeting twice a month to vote on items noted on a public agenda. There are over 1,000 employees spread across 11 divisions that assist the commissioners in their regulatory functions.

Prior to 1982, the CPUC was funded primarily by general taxes with only trucking regulation being supported by regulatory fees levied on truckers and paid to the transportation rate fund.[4] In 1982 the Legislature passed Chapter 1139 and 1016 which established the Public Utilities Commission Utilities Reimbursement Account (PUCURA), and shifted the funding source from general taxes to various user fees on the entities it regulates.[5] This account is ratepayer funded and supports a wide range of activities at the CPUC. Even though PUCURA is technically housed within the General Fund[6] its revenues are not proceeds of taxes. As stated above, the revenues are from fees imposed on public utilities subject to the jurisdiction of the CPUC that are passed on to ratepayers. As of 2022, the PUCURA had a beginning balance of approximately $194 million, with a reserve of close to $188 million.[7]

Specifically, CPUC Commissioners are compensated through the CPUC's Distributed Administration Budget, which like PUCURA is funded by ratepayers. As illustrated below in Table 1, in FY 2022-2023, the Distributed Administration Budget expenditure is reported to be $97 million and covers 403 staff positions.

Table 1: 3-YEAR BUDGET EXPENDITURES AND POSITIONS[8]

	Positions			Expenditures		
	2021-22	**2022-23**	**2023-24**	**2021-22***	**2022-23***	**2023-24***
Regulation of Utilities	650.4	693.9	770.9	$1,029,631	$931,841	$1,840,204
Universal Service Telecommunications Programs	46.2	46.2	51.2	470,919	893,980	2,057,011
Regulation of Transportation	176.3	185.3	185.3	42,294	102,504	99,365
Public Advocate's Office	178.0	178.0	179.0	44,537	55,277	55,233
Administration	369.8	403.6	405.6	66,528	97,737	96,805
Administration - Distributed	-	-	-	-66,528	-97,737	-96,805
TOTALS, POSITIONS AND EXPENDITURES (All Programs)	**1,420.7**	**1,507.0**	**1,592.0**	**$1,587,381**	**$1,983,602**	**$4,051,813**

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[2] CPUC; "CPUC History & Organizational Structure"; https://www.cpuc.ca.gov/about-cpuc/divisions
[3] ibid
[4] Pg. 2, Office of the Legislative Analyst; *The Public Utilities Commission: A Review of Regulatory Fee Funding*, January 1988.
[5] Pg. 5, Office of the Legislative Analyst; *The Public Utilities Commission: A Review of Regulatory Fee Funding*, January 1988
[6] DOF; "Public Utilities Commission Utilities Reimbursement Account, General Fund," https://esd.dof.ca.gov/funds/app/download/0462
[7] 2023-2024 Governor's Budget Fund Condition Statement, https://ebudget.ca.gov/2023-24/pdf/GovernorsBudget/8000/8660FCS.pdf
[8] DOF; "3-YEAR EXPENDITURES AND POSITIONS", Department Report (ca.gov)

The amount of commissioner salaries, like that of all other non-elected executive department heads, are determined by Section 11550 of California's Government Code and are subject to annual increases.[9] According to public records, the leadership salaries of regulatory entities such as California Energy Commission, the California Environmental Protection Agency, the California Natural Resources Agency, and the California Air Resources Board whose responsibilities overlap with the work of CPUC seem to be similar in range as the salaries of CPUC commissioners. The CPUC bears enormous responsibilities with its commitment to ensuring a safe and reliable utility infrastructure at reasonable rates for ratepayers. As such, existing law asserts that, "the public interest is best served by a commission that is appropriately funded and staffed, that can thoroughly examine the issues before it, and that can take timely and well-considered action on matters before it."[10]

Report on Inequities in California's Electricity Rates – In February 2021, researchers at the University of California, Berkeley's Energy Institute at Haas and NEXT 10 published a report examining the causes behind California's high electricity prices, and offered pricing reforms that could potentially improve efficiency and equity. The report demonstrated that lower- and average-income households increasingly bear a greater burden of the high fixed costs of delivering electricity. The authors suggest that to address these inequities, the state—directly through tax revenue—could support some of the measures currently embedded in utility rates, with revenue raised from sales or income taxes to more progressively fund these initiatives.[11]

COMMENTS:

1) *Author's Statement*. According to the author, "As ratepayers struggle to pay skyrocketing utility bills, the PUC Commissioners rake in generous, six-digit salaries. It is unconscionable for the state to allow burdened ratepayers to shell out for these bureaucrats' outrageous compensation. That's why I introduced AB 1434, to prohibit ratepayer dollars from funding the high salaries of PUC Commissioners. This is currently the policy for California's utility executives, and it should also apply to our PUC commissioners."

2) *Current Budget Deficit.* The benefit of utilizing ratepayer-funded user fees to support basic functions of the CPUC, is it tends to "free up" General Fund monies, providing flexibility for the Legislature to prioritize other programs. For context, the Legislature's change in 1982 from funding CPUC commissioner salaries from general taxes to ratepayer-funded regulatory fees occurred during extremely tight budgetary times. In January 2023, the Newsom administration projected a budget deficit of $ 22.5 billion for the coming fiscal year. Transferring CPUC commissioner salaries from ratepayer funds to the general fund, as proposed by this bill, during such a budget deficit, could jeopardize either the stability of the salaries of dedicated CPUC public servants, or the funding opportunities for other state programs that may be cut to make room for the commissioner salaries.

3) *Ratepayers verses Taxpayers.* The author proposes to use the state's general fund to pay for commissioner salaries and has stated that the motivation of the introduction of this bill is to relieve ratepayers who are currently struggling to pay skyrocketing utility bills. As raised in

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[9] Public Utilities Code § 11550-11564.5
[10] Public Utilities Code § 401(a)
[11] Pg 5, Borenstein, S., Fowlie, M., and Sallee, J., "Designing Electricity Rates for an Equitable Energy Transition," *Energy Institute at Haas* working paper WP 314, February 2021.

the 2021 Haas paper mentioned previously, paying for costs that serve a state-wide purpose with utility rates is regressive, burdening lower-income households more significantly. While using revenue from taxes would be much more progressive and could provide potential relief for low-income Californians struggling to pay their bills. Such shifting of costs follows recent legislative efforts passed out of this committee to move public purpose program funds from ratepayers to taxpayers.[12]

4) *Stable Funding*. Additionally, user fees tend to provide CPUC with a more stable funding source over time. These fees generally are less affected by downturns in the economy and provides CPUC with flexibility to set fees and be able to continue its current operations without interruptions.

5) Related Legislation

AB 982 (Villapudua, 2023) eliminates from electric investor-owned utility (IOU) rates the costs of various programs, including utility bill discount programs for low-income customers, and instead establishes a Public Utilities Public Purpose Programs Fund (PUPPP Fund) in the State Treasury to fund the programs. Status: *pending hearing* in the Assembly Committee on Appropriations.

6) Prior Legislation

AB 2765 (Santiago, 2022), largely the same bill as this measure, eliminated funding for certain public purpose programs from the rates paid by customers of the state's IOUs, except for funding for specific programs to subsidize costs borne by low-income ratepayers. Status: Died – Assembly Committee on Appropriations.

AB 205 (Committee on Budget) among its many provisions, provided an additional $1.2 billion to cover outstanding energy utility arrears accrued during the COVID-19 pandemic, and made other programmatic changes. Additionally mandated the CPUC to establish an income-graduated fixed charge for default residential rates by July 1, 2024, with no fewer than three income thresholds, so that low-income ratepayers would realize lower average monthly bills. Status: Chapter 61, Statutes of 2022.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file

Opposition

None on file

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[12] AB 982, Villapudua, 2023; and AB 2765, Santiago, 2022.