

Date of Hearing: April 21, 2021

ASSEMBLY COMMITTEE ON UTILITIES AND ENERGY

Chris Holden, Chair

AB 1471 (Villapudua) – As Introduced February 19, 2021

**SUBJECT:** Public Utilities Commission

**SUMMARY:** Requires the California Public Utilities Commission (CPUC) office to be located in Stockton rather than San Francisco. Additionally directs the Governor and the Senate, beginning January 1, 2023, to consider in the selection and confirmation process of CPUC commissioners candidates with permanent residences in each of three areas of California: northern, central valley, and southern.

**EXISTING LAW:**

- 1) Establishes the CPUC with five members appointed by the Governor and confirmed by the Senate, and empowers it to regulate privately owned public utilities in California. (Article XII of the California Constitution; Public Utilities Code § 301 et seq.)
- 2) Requires the office of the CPUC to be located in the City and County of San Francisco. Requires the CPUC to hold at least one session per calendar month and permits the CPUC to meet in other places as may be expedient and necessary. (Public Utilities Code § 306)
- 3) Requires the CPUC to annually report a list of its public meetings held outside San Francisco both for the previous year and anticipated in the coming year. Additionally requires the CPUC to solicit input from customers from diverse regions of the state, process that input into CPUC decision-making, and report on the efforts to increase public participation. (Public Utilities Code § 910)
- 4) Prohibits the State of California from discriminating against, or granting preferential treatment to, “any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting.” (Article I of the California Constitution, § 31, enacted through Prop. 209 (1996))

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

**BACKGROUND:**

*CPUC Locational Diversity and Public Participation – Legislative Response to the San Bruno Disaster.* In September 2010, eight people were killed when a natural gas pipeline exploded in San Bruno, California. This tragedy focused the public’s attention on gas utilities and the regulators tasked with overseeing them. With this came increased scrutiny, as *ex parte* violations and friendly utility relationships with regulators were uncovered throughout various CPUC

proceedings and in the courts.<sup>1</sup> Legislative action, primarily arising as packages of reform bills aimed at the CPUC, swiftly followed each revelation.

Two bills in the 2016 package,<sup>2</sup> AB 2903 (Gatto, 2016) and SB 512 (Hill, Chapter 808, Statutes of 2016), introduced reforms to CPUC public participation. AB 2903 (Gatto, 2016) required the CPUC to evaluate and report by March 31, 2017 options to locate its operations and staff outside of the CPUC's San Francisco headquarters. AB 2903 (Gatto, 2016) stalled in the Legislature, but the report proposed in the measure was ultimately adopted in a budget trailer bill that same year – SB 840 (Committee on Budget and Fiscal Review, Chapter 341, Statutes of 2016). The subsequent report, detailed below, explored “options for staffing locations in areas of the state that would allow the CPUC to better collaborate with other state agencies, provide more training opportunities for staff, and promote public accessibility to the agency.”<sup>3</sup> The report largely raised questions for consideration, without promoting a specific outcome.

SB 512 (Hill, Chapter 808, Statutes of 2016) permits the CPUC to hold its monthly meetings outside its San Francisco headquarters, as well as requires the CPUC to annually report on the public meetings held outside San Francisco both for the previous year and anticipated in the coming year. In 2019 the CPUC conducted five voting meetings<sup>4</sup> in areas outside San Francisco; these included Los Angeles, Oxnard, Coachella, Redding, and Sacramento. In addition to voting meetings, the CPUC also convenes public participation hearings throughout the state to hear directly from the communities that would be impacted by certain matters before the CPUC. In 2020, before the pandemic, the CPUC held public meetings in 10 different cities throughout the state. However, since March 2020, the CPUC has conducted its business entirely remotely. According to the CPUC, this transition to remote meetings has increased public participation, sometimes by tenfold.

## COMMENTS:

- 1) *Author's statement.* “Expanding the diversity of thought and experience within the CPUC would greatly benefit the lives of all Californians who are impacted by the decisions they make every day. By ensuring the Commission has first-hand experience with all regions of California, we can further guarantee appropriate and sustainable investments for our energy infrastructure that meet the needs of every community across our state. Just as San Joaquin County is ecologically and socioeconomically different than San Francisco, so are energy needs. Given the decisions of the CPUC affect every corner of the state, those making the decisions on energy needs should be deeply aware of the social and economic impacts they have on the state as a whole.”

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<sup>1</sup> OII 15-05-015, for instance, was established at the conclusion of OII 11-02-016 when the City of San Bruno discovered PG&E engaged in numerous written communications concerning the assignment of a particular ALJ to PG&E's 2015-2017 Gas transmission rate case. The so-called “judge shopping scandal.” The CPUC would ultimately fine PG&E \$1.05 million for the *ex parte* violation.

<sup>2</sup> AB 2168 (Williams), AB 2903 (Gatto), SB 62 (Hill), SB 215 (Leno), SB 512 (Hill), SB 661 (Hill), and SB 1017 (Hill)

<sup>3</sup> Pg. 3; CPUC Policy & Planning Division; *Senate Bill 840 Report: Location Options for CPUC Operations*; March 31, 2017.

<sup>4</sup> Voting meetings are monthly or bimonthly meetings of the full Commission where they adopt rules, decisions, and process major business.

- 2) *Increasing Diversity of Boards and Commissions.* Renewed national conversations have called for prioritizing diversity in the workplace and academia. These calls are supported by studies that conclude diverse boards contribute to better decision making, improve company governance, and can respond to market shifts more effectively.<sup>5,6</sup> Legislative efforts have mirrored these calls for increased diversity, by requiring boards of directors of publicly traded companies to have a minimum number of women<sup>7</sup> or persons identifying as being from underrepresented communities.<sup>8</sup>

The calls for increased diversity are not restricted to race or gender, but include other forms of demographic diversity, which together informs the broader context of a person's individual experience and worldview. As noted in the Harvard Business Review:<sup>9</sup> *“Among other things, a demographically diverse board is more likely to represent the composition of a company's employees, customers, and suppliers and can therefore provide a board with a better understanding of the company's key constituencies. Thus, a demographically diverse board may help a company identify and respond to market shifts and changes in consumer expectations more effectively than a homogenous board.”*

State Government, since the 1996 passage of Proposition 209, has been prohibited from considering race, sex, color, ethnicity, or national origin in the hiring of public employees. However, diversity considerations based on age, residence location, education or professional background, or other demographic factors are not excluded outright. Many state commissions or boards have education or career backgrounds as criteria for appointment. For the five appointments to the California Energy Commission, the Governor and Senate must evaluate professional and educational experience as qualifying criteria.<sup>10</sup> For twelve of the appointments to the California Air Resources Board, the Governor and Senate must base qualifications on education or career backgrounds for six of the candidates and on memberships to various regional air districts throughout the state for another six candidates.<sup>11</sup> For the five appointments to the State Water Resources Control Board, the Governor and Senate must consider both professional background and experience, as well as ensure the board is “composed of members from different regions of the state,” if possible.<sup>12</sup>

Currently, CPUC Commissioner appointments are bound by Article XII § 1 of the California Constitution, which details the composition (5 members) and timeline (6-year, staggered terms) of the appointments, but is silent on any qualifying criteria. This bill establishes as criteria for the Governor and Senate to consider CPUC candidates with permanent residence in northern California, the central valley, or Southern California. In doing so, this bill would establish a demographic diversity consideration for CPUC Commissioner appointments that is currently absent in statute.

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<sup>5</sup> Jared Landaw, “How Diverse Is Your Board, Really?” Harvard Business Review; June 11, 2020.

<sup>6</sup> Hunt, V., Layton, D., and Prince, S. *Diversity Matters*; McKinsey & Company Article; February 2, 2015.

<sup>7</sup> SB 826, Jackson, Chapter 954, Statutes of 2018.

<sup>8</sup> AB 979, Holden, Chapter 316, Statutes of 2020.

<sup>9</sup> Jared Landaw, “How Diverse Is Your Board, Really?” Harvard Business Review; June 11, 2020.

<sup>10</sup> Public Resources Code § 25201.

<sup>11</sup> Health and Safety Code § 39510.

<sup>12</sup> Water Code § 175.

This bill does not prescribe a specific number of Commissioners to each region but requires broad consideration of each area. However, as currently drafted this bill suggests a single candidate needs to have three residences in each of the specified regions. Rather, the author's intent seems to seek having each candidate with a permanent residence in only one location, but the broader pool of candidates collectively representing each region. *The committee may wish to consider a clarifying amendment to specify this bill's consideration of CPUC commissioner appointments does not require a single candidate to have three residences in each of the three designated regions of the state.*

- 3) *Impact of Moving the CPUC – Office Space.* According to a 2017 CPUC report, when the California Railroad Commission was reformed in 1912 into the CPUC the agency was intentionally kept in San Francisco in order to “promote independence from the influence of the Southern Pacific [Railroad] dominating Sacramento.”<sup>13</sup> However, as noted above, following the San Bruno explosion in 2010 calls to reform the CPUC included a review of the CPUC headquarters' location and questioning of the agency's independence. While the CPUC has been headquartered in San Francisco since the late 1800s, the agency has also kept a number of regional offices over the past decades including in Southern California and Sacramento. The CPUC also had a sizable field office presence throughout the 1950s to the 1990s, largely through its transportation safety program, which included branches in Bakersfield, Campbell, Culver City, Downey, El Centro, El Monte, Eureka, Fresno, Oakland, Redding, Sacramento, San Bernardino, San Jose, San Diego, Santa Ana, Santa Barbara, Santa Rosa, Stockton, Van Nuys, and West Bay.<sup>14</sup>

As of April 2021, the CPUC employed 1,143 staff and had 7 office locations – 2 in San Francisco, including the headquarters where the majority (approximately 800) of the staff work, 4 in Sacramento, and 1 in Los Angeles.<sup>15</sup> The CPUC headquarters at 505 Van Ness Avenue in San Francisco is a 207,156 square-foot state-owned property that the CPUC rents from the Department of General Services (DGS) for \$2.63 per square foot monthly.<sup>16</sup> For context, the average monthly cost of office space in San Francisco, prior to the pandemic, was between \$5 and \$7.50 per square foot.<sup>17</sup> Starting in 2011, the CPUC headquarters underwent a multi-year renovation that brought the building up to safety and health codes.<sup>18</sup>

This bill requires the CPUC office to be located in Stockton, rather than San Francisco. Currently, DGS owns a four-story building in Stockton, the Stockton State Building, which was built in 1967. Ten different departments occupy the space. The current rental

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<sup>13</sup> Pg. 5; CPUC Policy & Planning Division; *Senate Bill 840 Report: Location Options for CPUC Operations*; March 31, 2017.

<sup>14</sup> Pg. 8; *ibid.*

<sup>15</sup> Numbers received from a CPUC data request by the Committee; April 14, 2021.

<sup>16</sup> This very cheap price is due to the CPUC entering into a contract for the location with DGS in 1986 and maintains a cap on operational cost increases at 2% per year.

<sup>17</sup> According to the website Squarefoot.com; <https://www.squarefoot.com/ca/san-francisco/office-space#:~:text=Average%20asking%20rents%20for%20office,foot%20for%20Class%20B%20spaces>.

<sup>18</sup> Pg. 6; CPUC Policy & Planning Division; *Senate Bill 840 Report: Location Options for CPUC Operations*; March 31, 2017.

rate for the Stockton State Building is \$2.04 per square foot per month.<sup>19</sup> However, these comparisons of rental rate are academic, as the Stockton State Building has approximately 20,093 square feet of available space; roughly ten times less space than the CPUC's current San Francisco headquarters. Such limited space makes the Stockton State Building unlikely to accommodate the over 800 CPUC employees that would be relocated to Stockton. Moreover, DGS reports the Stockton State Building is likely to involve significant one-time costs for new tenants given ongoing environmental safety issues associated with asbestos and lead. The building is considered old, with critical systems nearing the end of their usable life, making improvements prohibitively expensive. The Senate currently has pending legislation to authorize the sale of the property.<sup>20</sup>

These considerations seem to indicate, should this bill be adopted, the state must either search for available existing office space in Stockton that is large enough to accommodate the sizable CPUC workforce, or build a new building for the CPUC. According to DGS, if the state built a new CPUC building in Stockton the rental rate would *not* be \$2.04 per square foot per month. The low rental rates for both the Stockton State Building and the existing CPUC headquarters are due to the fact that bonds for those buildings have been paid off; this would not be the case for a new state property.

- 4) *Impact of Moving the CPUC – People.* Aside from the considerations of physical location costs, CPUC employees would be impacted by a relocation to Stockton. As of 2016, almost two-thirds of the CPUC workforce were represented by Service Employees International Union Local 1000 (SEIU).<sup>21</sup> During discussions evaluating the CPUC's relocation and reorganization in 2017,<sup>22</sup> SEIU reported survey results showing CPUC staff was “very concerned about a move from San Francisco” and was “most concerned about a forced move from one division [within the CPUC] to another to comply with relocation needs.”<sup>23</sup> These results indicate broader quality of life concerns when employees are asked to relocate, such as: how the relocation may upend employee proximity to family, schools, friends, religious groups, or other neighborhood networks; as well as the loss of cherished homes, neighborhoods, or community services. It also may result in added familial strain, should partners need to find new employment in the new location.

Cost of living and competing salaries also influence employee relocation concerns. During the 2016 workshops, the CPUC reported “cost of living in San Francisco is significantly higher than in the rest of the state. This makes it hard to backfill positions in San Francisco, especially among administrative staff. Los Angeles employees expressed frustration about being unable to afford to relocate to San Francisco to take advantage of promotional opportunities at the headquarters.” Stockton has a cost of living considerably

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<sup>19</sup> As reported to this Committee by DGS on April 13, 2021.

<sup>20</sup> SB 828, Committee on Governmental Organization, 2021. In Senate – Pending Referral.

<sup>21</sup> SEIU Local 1000 letter to CPUC Policy and Planning Division Director Marzia Zafar, December 15, 2016; [http://www.cpuc.ca.gov/uploadedFiles/CPUCWebsite/WebForms/doc/SEIU\\_Regionalization\\_Workshop\\_Presentation.pdf](http://www.cpuc.ca.gov/uploadedFiles/CPUCWebsite/WebForms/doc/SEIU_Regionalization_Workshop_Presentation.pdf)

<sup>22</sup> pursuant to SB 840 (Committee on Budget and Fiscal Review, Chapter 341, Statutes of 2016)

<sup>23</sup> Pg. 12; CPUC Policy & Planning Division; *Senate Bill 840 Report: Location Options for CPUC Operations*; March 31, 2017.

lower than San Francisco,<sup>24</sup> so these barriers may be minimized should the CPUC headquarters relocate to Stockton. Additionally, the CPUC does not have location based salary disparities for the majority of its authorized positions. For example, a senior regulatory analyst in Los Angeles is eligible for the same salary as one located in Sacramento or San Francisco.<sup>25</sup>

It is unclear how the modifications to remote work brought by the COVID-19 pandemic may become permanent workplace options for the CPUC. Prior to the pandemic, approximately 570 CPUC employees (roughly half of the workforce) had telework agreements authorizing either full or partial telework. Since March 2020, all CPUC staff have largely been working from home leaving the CPUC office spaces mostly unused. The CPUC reports their objectives once it is safe to return to office spaces will be: 1) support continued remote work for employees even when it is safe to return to the office, 2) reduce the physical office footprint to support state budget needs and goals, and 3) keep office space friendly, usable, and safe for any employees working there. Depending on post-pandemic remote accommodations, it is unclear how much of the CPUC workforce may be displaced should the headquarters move to Stockton as proposed by this bill.

- 5) *Impact of Moving the CPUC – The City.* The author notes a major driver for this bill is the impact a relocation to Stockton might have on CPUC decision-making. By some accounts, Stockton is considered the most racially and ethnically diverse city in America<sup>26</sup> and additionally is located in a climate zone with very different energy needs from San Francisco. The author suggests these factors will influence CPUC staff and Commissioner utility policy, either overtly by enabling more Stockton residents to participate in CPUC hearings and workshops, or subtly by the CPUC employees living in the community. However, through past legislative action mentioned above, the CPUC already holds meetings and workshops outside of San Francisco in order to solicit direct feedback from communities impacted by their decision-making. It is unclear how full relocation may influence CPUC policy in ways unique from their existing outreach requirements.

Yet the impact of the CPUC moving to Stockton is not unidirectional. The CPUC will likewise influence Stockton. Such a large state agency relocating to Stockton is likely to bring recruiting opportunities for locals, economic opportunities for the city broadly, and impacts to the housing and rental sector should the entirety of the CPUC workforce relocate. Most of these factors are outside the consideration of this committee, but it is worth recognizing that whatever benefits may be brought to Stockton could create equal loss to San Francisco.

*Considering the multiple impacts the move to Stockton proposed under this bill may have on the CPUC, its workforce, and the state budget, the committee should consider*

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<sup>24</sup> According to the website bestplaces.net, SF cost of living is 269.3 (indexed to a national average of 100) and Stockton is 113.9. As viewed on April 13, 2021.

<sup>25</sup> Pg. 9; CPUC Policy & Planning Division; *Senate Bill 840 Report: Location Options for CPUC Operations*; March 31, 2017.

<sup>26</sup> Mario Koran, "Stockton, California, is the most racially and ethnically diverse city in America;" *The Guardian*; January 23, 2020.

*amending the bill to have the CPUC consider such a move, but not mandating such a move occur.*

6) *Related Legislation.*

SB 828 (Committee on Governmental Organization, 2021) authorizes the Director of General Services to dispose of specified state properties, including the Stockton State Office Building. Status: Senate – Pending Referral.

7) *Prior Legislation.*

ACA 5 (Weber) repeals Article I, Section 31 of the California Constitution, permitting the use of race and gender as decision factors in public employment, public education, and public contracting. Full repeal contingent upon a vote of the electorate. Status: Chapter 23, Statutes of 2020. The passage of the measure put Proposition 16 on the November 2020 ballot, which was ultimately defeated 57.23% to 42.77%.

AB 979 (Holden) requires publicly held corporations to fill their board seats with a minimum number of directors from underrepresented communities, as specified. Status: Chapter 316, Statutes of 2020.

SB 826 (Jackson) requires domestic and foreign publicly traded corporations with their principal executive offices in California to have minimum numbers of women on their boards. Status: Chapter 954, Statutes of 2018.

SB 840 (Committee on Budget and Fiscal Review), among its many provisions, requires the CPUC to report by March 31, 2017 on options to locate their operations and staff outside of the CPUC's San Francisco headquarters. Status: Chapter 341, Statutes of 2016.

SB 512 (Hill) proposes a suite of reforms to the operations and governance of the CPUC, including removing the requirement that the CPUC monthly meetings be held in San Francisco; requiring the CPUC to solicit input from customers from diverse regions of the state, process that input into CPUC decisionmaking, and report on the efforts to increase public participation; and requiring the CPUC to list the public meetings held outside San Francisco both for the previous year and anticipated in the coming year. Status: Chapter 808, Statutes of 2016.

AB 2903 (Gatto, 2016), among its many provisions, required the CPUC to report by March 31, 2017 on options to locate their operations and staff outside of the CPUC's San Francisco headquarters. Status: Died – In Committee – Senate Energy, Utilities, and Communications.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

California State Association of Electrical Workers  
California State Pipe Trades Council  
International Union of Elevator Constructors  
Western States Council Sheet Metal, Air, Rail and Transportation

**Opposition**

None on file.

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