

Date of Hearing: March 30, 2022

ASSEMBLY COMMITTEE ON UTILITIES AND ENERGY

Eduardo Garcia, Chair

AB 1960 (Villapudua) – As Introduced February 10, 2022

SUBJECT: Public Utilities Commission

SUMMARY: States regional qualifications the governor and Senate should consider, beginning January 1, 2024, when selecting a person to serve as a commissioner on the California Public Utilities Commission (CPUC).

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. The commissioners are appointed for staggered, six-year terms. (Section 1 of Article XII of the California Constitution; Public Utilities Code § 301 et seq.)
- 2) 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 nonfiscal and will be referred directly to the Assembly floor upon passage in this committee. A previous iteration of this legislation, AB 1471 (Villapudua, 2021), was analyzed by the Appropriations Committee and found to make no new requirements of the CPUC nor any other entity and, therefore, would have resulted in no new state costs.

BACKGROUND:

CPUC commissioners. Pursuant to Section 1 of Article XII of the California Constitution, the CPUC has five commissioners appointed by the governor, and confirmed by the senate, with each commissioner serving six-year staggered terms. Commissioners meet at monthly (often semi-monthly) business meetings to vote on pending items at the agency. Commissioners serve full-time and receive a salary as civil executive officers. The governor designates the president of the CPUC, pursuant to Public Utilities Code §305, among the five commissioners. The president presides at meetings and sessions of the CPUC and directs the executive director, the attorney, and other staff of the CPUC. The president of the CPUC is also required to annually appear before the appropriate policy committees of the Senate and Assembly to present the annual report of the agency, required pursuant to Section 910 of the Public Utilities Code.

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, sustainable, and affordable investments for our utility, transportation and communications infrastructure that meets 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, water, transportation and broadband needs should be deeply aware of the social and economic impacts they have on the state as a whole.”

- 2) *Qualifications for State Agency Appointments.* 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.¹ 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.² 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.³
- 3) *Regional Diversity of CPUC Commissioners.* CPUC commissioner appointments are bound by Section 1 of Article XII of the California Constitution, which details the composition and timeline of the appointments, but is silent on any qualifying criteria. This bill establishes a regional consideration the governor and Senate may use when selecting candidates for CPUC commissioner appointments, with at least one candidate from each of three listed regions of the state: central valley, northern and southern California.

This bill does not prescribe a specific number of commissioners to each region but requires broad consideration of each area. The CPUC’s SB 840 Report, written following the passage of SB 840 (Committee on Budget and Fiscal Review, Chapter 341, Statutes of 2016), noted such potential benefits for staff residing in different parts of the state, contending “*there may well be considerable value in our staff being customers of the utilities, and being a part of the communities where the impacts of those utilities are felt.*” In that regard, it would seem reasonable that such benefits could extend to commissioners.

- 4) *Prior Legislation.*

AB 1471 (Villapudua, 2021) stated regional qualifications the governor and Senate should consider when selecting a person to serve as a commissioner on the CPUC, and authorized the CPUC to consider locating its headquarters in a city other than San Francisco. Provisions in this bill are largely similar to those in AB 1471. Status: Held under submission – Senate Appropriations.

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%.

¹ Public Resources Code § 25201.

² Health and Safety Code § 39510.

³ Water Code § 175.

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.

REGISTERED SUPPORT / OPPOSITION:**Support**

Sempra Energy

Opposition

None on file.

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