Date of Hearing: April 3, 2024

ASSEMBLY COMMITTEE ON UTILITIES AND ENERGY
Cottie Petrie-Norris, Chair
AB 2764 (Jim Patterson) – As Introduced February 15, 2024

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 (CPUC). (Public Utilities Code § 402)

2) Authorizes the CPUC 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. 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)

5) Limits the annual salary of the President and members of the Public Utilities Commission. (Government Code § 11553, 11553.5)

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

BACKGROUND:

In 1911, the 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 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. In 1946, voters approved renaming the Railroad Commission to the California Public Utilities Commission.[2]

The Governor 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.[3] In 1982, the Legislature passed Chapters 1139 and 1016 to establish 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. Even though PUCURA is technically housed within the General Fund,[4] its revenues are not proceeds of taxes. Rather, the revenues derive from fees imposed on public utilities subject to the jurisdiction of the CPUC, which utilities pass on to ratepayers.

From its funds, the CPUC compensates its commissioners as part of its Administration Budget. As illustrated below in Table 1, in FY 2023-2024, the Administration Budget expenditure was reported to cover 405 staff positions and total approximately $99 million.[5]

Table 1. 3-year expenditures and positions at the Public Utilities Commission

		Positions			Expenditures		
		2022-23	2023-24	2024-25	2022-23*	2023-24*	2024-25*
6680	Regulation of Utilities	693.9	770.9	806.4	$908,329	$1,282,308	$918,811
6685	Universal Service Telecommunications Programs	46.2	51.2	51.2	970,718	1,222,631	991,013
6690	Regulation of Transportation	185.3	185.3	186.3	45,237	103,006	103,512
6695	Public Advocate's Office	178.0	179.0	179.0	47,608	56,613	56,808
9900100	Administration	283.0	405.6	408.6	70,733	99,030	99,685
9900200	Administration - Distributed	-	-	-	-70,733	-99,030	-99,685
TOTALS, POSITIONS AND EXPENDITURES (All Programs)		**1,386.4**	**1,592.0**	**1,631.5**	**$1,971,892**	**$2,664,558**	**$2,070,144**

COMMENTS:

1) *Author's statement.* According to the author, "This proposed legislation addresses the compensation structure for commissioners at the Public Utilities Commission. The existing compensation structure relies on revenues collected from fees or charges imposed on ratepayers. This dependence raises concerns about fairness and transparency in funding commissioners' compensation, necessitating a reassessment of funding sources. The bill aims to prohibit funding for commissioners' annual salary and additional

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[1] CPUC; "A Brief History of the California Public Utilities Commission: Examining the Past to Help Shape the Future"; August 2014.
[2] CPUC; "Divisions: CPUC History & Organizational Structure".
[3] Office of the Legislative Analyst; "The Public Utilities Commission: A Review of Regulatory Fee Funding"; January 1988.
[4] DOF; "Public Utilities Commission Utilities Reimbursement Account, General Fund".
[5] DOF; "2024-25 Governor's Budget – GG 1: 8660 Public Utilities Commission".

compensation from fees or charges imposed on ratepayers, emphasizing that funds for compensation should be sourced from the General Fund or alternative non-ratepayer revenues."

2) *Only the CPUC?* As noted above, CPUC commissioner compensation is currently funded by ratepayers via the PUCURA. However, such an arrangement is not unique to the CPUC. Similarly, the operations and commissioner salaries at the California Energy Commission (CEC) are supported by revenues from the Energy Resources Programs Account (ERPA), which is funded through a statutory surcharge on retail electricity sales.[6] In other words, CEC commissioner salaries are also funded by ratepayers. It is unclear the merits of moving CPUC commissioner compensation to the general fund while keeping the CEC compensation scheme untouched.

   Moreover, the amount of CPUC commissioner salaries, like that of all other non-elected executive department heads including the CEC, are determined and capped by statute.[7] According to public records, the leadership salaries at regulatory entities whose responsibilities overlap with the work of the CPUC – such as the CEC, California Environmental Protection Agency, and California Air Resources Board – seem in a similar range as the salaries of CPUC commissioners. Such CPUC salary levels uphold the statutory principle that "the public interest is best served by a commission that is appropriately funded and staffed."[8]

3) *Inequities exacerbated by utility rate design.* A 2022 study by the University of California, Berkeley's Energy Institute at Haas and NEXT 10 examined how residential rate design impacts equity and adoption of electrification.[9] The report indicated that lower- and average-income households increasingly bear a greater burden of the high fixed costs of delivering electricity; thus, financing costs through electricity bills amounts to a regressive tax. The author proposes to use the state's general fund to pay for CPUC commissioner salaries and has stated that the motivation for the introduction of this bill is to address inequities in the current utility rate design. Using revenues from taxes would be more progressive and could provide modest relief for ratepayers. However, the level of ratepayer relief provided by moving CPUC commissioner salaries to the general fund is unclear; whereas the risks of doing so – especially during a budget deficit – seems high.

4) *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 2024, the Newsom administration projected a budget deficit of $38 billion for the coming fiscal year.[10] User fees tend to provide the CPUC and other entities a more stable

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[6] Revenue and Taxation Code, Chapter 991, Statutes of 1974.
[7] Government Code § 11550-11564.5
[8] Public Utilities Code § 401
[9] UC Berkeley, NEXT 10; "Paying for Electricity in California: How Residential Rate Design Impacts Equity and Electrification"; September 2022.
[10] California Budget & Policy Center; "First Look: Understanding the Governor's 2024-25 State Budget Proposal"; January 2024.

source of funding over time. These fees are generally less affected by downturns in the economy, and provide the CPUC with flexibility to continue its operations in a timely manner and without interruptions. 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.

5) *Prior legislation.*

AB 1434 (Sanchez, 2023), as reintroduced in this measure, would have prohibited the annual salary paid to each public utility commissioner from being funded with revenues collected from a charge imposed on ratepayers. Status: Died in the Assembly Committee on Appropriations.

AB 982 (Villapudua, 2023) would have eliminated from electric investor-owned utility (IOU) rates the costs of various programs, including utility bill discount programs for low-income customers, and instead established a Public Utilities Public Purpose Programs Fund in the State Treasury to fund the programs. Status: Died in the 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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