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AB-1266 Electrical and gas corporations: excess compensation. (2015-2016)

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Assembly Bill No. 1266

CHAPTER 599

An act to add Section 706 to the Public Utilities Code, relating to electrical and gas corporations.

[Approved by Governor October 08, 2015. Filed with Secretary of State October 08, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1266, Gonzalez. Electrical and gas corporations: excess compensation.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations and gas corporations. Existing law authorizes the commission to fix the rates and charges for every public utility, and requires that those rates and charges be just and reasonable. Existing law requires that any expense resulting from a bonus paid to an executive officer, as defined, of a public utility that has ceased to pay its debts in the ordinary course of business, be borne by the shareholders of the public utility and prohibits any expense from being recovered in rates.

This bill would prohibit an electrical corporation or gas corporation from recovering from ratepayers expenses for excess compensation, as defined, paid to an officer of the utility for a period of 5 years following a triggering event, as defined, unless the utility obtains the approval of the commission. The bill would provide that anytime within a 5-year period following a triggering event, and prior to paying or seeking recovery of excess compensation, the electrical corporation or gas corporation would be required to file an application with the commission containing specified information. The bill would require the commission, following a duly noticed public hearing in the proceeding to consider the application, to issue a written decision determining whether any expenses for excess compensation proposed to be paid by the corporation should be recovered in rates, or if previously authorized to be recovered in rates, should be refunded to ratepayers.

Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because the provisions of this bill would be a part of the act and because a violation of an order or decision of the commission implementing its requirements would be a crime, the bill would impose a state-mandated local program by creating a new crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 706 is added to the Public Utilities Code, to read:

706. (a) For purposes of this section, the following terms have the following meanings:

(1) "Excess compensation" means any annual salary, bonus, benefits, or other consideration of any value, paid to an officer of an electrical corporation or gas corporation that is in excess of one million dollars (\$1,000,000).

(2) A "triggering event" occurs if, after January 1, 2013, an electrical corporation or gas corporation violates a federal or state safety regulation with respect to the plant and facility of the utility and, as a proximate cause of that violation, ratepayers incur a financial responsibility in excess of five million dollars (\$5,000,000).

(b) For a five-year period following a triggering event, no electrical corporation or gas corporation shall recover expenses for excess compensation from ratepayers unless the utility complies with the requirements of this section and obtains the approval of the commission pursuant to this section.

(c) Any time within a five-year period following a triggering event and prior to paying or seeking recovery of excess compensation, an electrical corporation or gas corporation shall file an application with the commission that, with respect to any officer to whom it seeks to pay excess compensation, includes all of the following:

(1) The compensation history for the officer.

(2) The proposed compensation to be paid to the officer, including the compensation recovered from ratepayers and that paid solely by shareholders of the utility.

(3) Whether any of the compensation paid to an officer was previously included or proposed to be included in rates and any justification for the proposed compensation.

(4) Any additional information required by the commission.

(d) As part of the proceeding to consider the application, the commission shall consider the costs to ratepayers of the triggering event. The commission shall hold not less than one duly noticed public hearing in the proceeding. The commission shall issue a written decision determining whether any expenses for excess compensation proposed to be paid by the electrical corporation or gas corporation should be recovered in rates, or if previously authorized to be recovered in rates, should be refunded to ratepayers.

(e) A person or corporation owning or operating a qualifying facility pursuant to federal law or a facility that is an exempt wholesale generator is not an electrical corporation due to the ownership or operation of that facility. This subdivision is declaratory of existing law.

(f) In every decision on a general rate case, the commission shall require all authorized executive compensation to be placed in a balancing account, memorandum account, or other appropriate mechanism so that this section can be implemented without violating any prohibition on retroactive ratemaking.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.