



November 3, 2021

Hon. Rob Bonta
Attorney General
1300 I Street, 17th Floor
Sacramento, California 95814

Attention: Ms. Anabel Renteria
Initiative Coordinator

Dear Attorney General Bonta:

Pursuant to Elections Code Section 9005, we have reviewed the proposed constitutional initiative (A.G. File No. 21-0020) related to the California Public Utilities Commission (CPUC) and wildfires.

BACKGROUND

CPUC Responsible for Regulating a Variety of Industries. CPUC is governed by five commissioners appointed by the Governor and is responsible for the regulation of privately owned “public utilities.” The main industries overseen by CPUC include:

- ***Energy.*** CPUC regulates private companies that sell natural gas and electricity, also known as investor-owned utilities (IOUs). These companies include Pacific Gas and Electric, Southern California Edison, and San Diego Gas and Electric.
- ***Transportation.*** CPUC oversees various transportation services, including railroads and rail transit systems, for-hire passenger carriers (such as limousines and airport shuttles), and Transportation Network Companies—or TNCs (such as Lyft and Uber).
- ***Telecommunications.*** CPUC regulates certain telecommunications companies, including internet and telephone providers.
- ***Water.*** CPUC is responsible for regulating private water companies (water IOUs). Roughly 16 percent of Californians receive their water from a water IOU.
- ***Public Purpose Programs.*** CPUC administers or oversees several “public purpose programs” that subsidize certain services or activities, including reduced telephone rates for low-income households, support for broadband service in underserved areas, energy efficiency improvements in buildings, and reduced electricity and gas rates for low-income households.

CPUC Regulatory Authority and Processes. The commission’s specific authority differs for each industry it regulates. For example, in some industries such as energy, CPUC has the authority to approve or reject the rates IOUs charge customers—also known as ratemaking authority. In other industries, such as TNCs, its regulatory authority is limited to other aspects of an industry, such as


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safety. Additionally, CPUC has quasi-judicial authority, which means it hears arguments, interprets laws, and makes decisions in a way that is similar to a court of law. This type of authority and decision-making process differs from most state government agencies.

Annual CPUC Budget of \$2.8 Billion, Including About \$200 Million for CPUC Staffing. The 2021-22 state budget provides \$2.8 billion, primarily from state special funds and federal funds, to support CPUC. The large majority of this funding goes to support public purpose programs and broadband infrastructure. The commission currently has about 1,200 positions and the budget provides about \$200 million for employee salaries and benefits. Funds to support CPUC state operations—such as staff—are largely generated from charges assessed on regulated companies and their ratepayers.

Current Federal and State Wildfire Recovery Assistance Programs. In the event of a large-scale wildfire, individuals can be forced to evacuate their homes, which can suffer significant damage. The federal government and the State of California provide various types of financial and in-kind assistance following certain major wildfire disasters to offset some of the affected households' costs associated with recovering from the wildfire. The type of federal and state assistance that is available can vary by disaster, with some assistance only available in the aftermath of larger state or federally declared disasters. Some of the main assistance programs for individuals and households are:

- **Federal Individuals and Households Program (IHP).** The Federal Emergency Management Agency administers IHP, which provides assistance to individuals and households for certain disaster-related losses and expenses. These include various housing-related assistance, such as for housing repair and replacement, temporary housing construction, and rental assistance. Assistance could also include reimbursements for various nonhousing related expenses caused by a disaster—including medical, dental, funeral, child care, heating, personal property, legal, and moving costs. As of 2018, the maximum grant level was \$34,000, which is adjusted annually based on inflation. Total IHP payments for expenses related to 2020 wildfires in California were about \$28 million.
- **State Supplemental Grant Program (SSGP).** The California Department of Social Services operates SSGP to provide additional funds to individuals who meet the federal IHP requirements and have received the maximum amount allowed under that program and private insurance, but still have additional unreimbursed eligible costs. A variety of costs are eligible, such as rental and housing assistance, personal property, and disaster-related medical costs. The maximum grant under the SSGP program is \$10,000, though the grants typically range from \$200 to \$2,000.
- **Federal Food Aid Programs.** The federal government has programs to provide food aid during disasters. The United States Department of Agriculture provides food for people staying in shelters, and the Disaster Supplemental Nutrition Assistance Program (D-SNAP) provides food assistance to low-income households affected by disasters. Additionally, schools that participate in the National School Lunch Program can serve meals at no charge to students who have been rendered homeless or who participate in D-SNAP.

PROPOSAL

Reassigns CPUC Functions to Other State Agencies. This measure amends the California Constitution to require the Legislature, within one year of passage of the measure, to pass new laws to reallocate or reassign CPUC functions and authorities to other state agencies, departments, or boards (hereafter “agencies”). After this occurs, CPUC and any unassigned authorities would be eliminated. The measure specifies the transfer of the following functions and authorities:

- Energy activities to the California Energy Commission and/or the Department of Conservation.
- Water activities to within the California Natural Resources Agency.
- Transportation activities—excluding TNCs—to within the State Transportation Agency.
- Activities related to TNCs and telecommunications companies to the Department of Consumer Affairs (DCA). (The measure specifies that ratemaking and quasi-judicial authority over TNC and telecommunication activities cannot be transferred to DCA.)

The measure specifies that—in order to preserve jobs and expertise and minimize displacement of state workers—the Legislature must attempt to ensure existing CPUC workers obtain similar employment in the state agencies to which the functions of CPUC are reassigned.

Establishes State Fund to Pay Certain Expenses for Individuals Affected by Wildfires. The measure establishes a new state fund called the Special Wildfire Victims Fund and allocates \$90 million to the fund. (The source of funding used to establish the fund is not specified in the measure.) Upon request by the State Fire Chief, monies in the fund must be made available to immediately assist victims of wildfires with their housing, food, and other basic needs. The State Fire Chief is required to develop guidelines for how and when the funds will be made available to victims. The measure also requires the Legislature to continuously appropriate monies sufficient to replenish the fund.

FISCAL EFFECTS

Reassigning Functions From CPUC to Other Agencies

The fiscal effects associated with reassigning CPUC functions and authorities would depend, in part, on the details of the legislation enacted to reassign these duties. For purposes of this analysis, we assume the Legislature transfers all functions and authorities currently within CPUC to other state agencies and that the new procedures and staffing levels are not dramatically different from those for current programs. However, if the Legislature makes substantial changes to the authorities and/or decision-making procedures that are transferred to other agencies, there could be more substantial fiscal effects than those identified below.

One-Time State Costs to Transition CPUC Staff and Equipment. This measure would likely result in one-time costs totaling low tens of millions of dollars related to transitioning personnel and activities from San Francisco—where most CPUC operations are currently located—to Sacramento—where other state agencies are located. First, we estimate that one-time staff relocation costs would likely be about \$20 million. The actual costs could be higher or lower depending in part on the number of CPUC staff that choose to relocate. Second, there would be other one-time costs

related to moving office equipment from San Francisco to Sacramento and for tenant upgrades needed in the new Sacramento facilities. We estimate these additional one-time costs would likely be several million dollars.

Net State Savings Related to Facility Relocation. If staff are relocated from San Francisco to Sacramento, the state would have costs to rent office space in Sacramento. Such a move would vacate the main CPUC headquarters in San Francisco, which is in a building owned by the state. The state could lease the current CPUC building to private tenants or sell it. If the state leased the building, the annual revenue generated would be higher than the cost of renting an equivalent amount of office space in Sacramento, likely by several million dollars annually. This is because property values in San Francisco are higher than Sacramento. Alternatively, if the state chose to sell the CPUC building in San Francisco, it would receive about \$100 million to \$200 million in one-time revenue.

Ongoing Effects on State Costs for Staffing and Operations. The measure could have a variety of effects on costs for ongoing staffing and operations needed to carry out CPUC's current regulatory and programmatic functions. On the one hand, there could be some "economies of scale" that might be lost as certain centralized CPUC functions—such as administrative law judges, utility auditing, and safety inspections—are split among different state agencies. This could result in higher ongoing costs.

On the other hand, in the long run, there could be some potential efficiencies gained by integrating certain CPUC programmatic activities with similar activities in other agencies. For example, CPUC and the California Energy Commission work closely on a wide variety of energy-related activities, including demand forecasting, energy reliability, environmental programs, and energy efficiency activities. Moving some of these activities to the Energy Commission could reduce travel time between agencies and, in the long run, result in staffing efficiencies if the programs become better coordinated and integrated. In addition, in implementing this measure, the Legislature could decide to change some of the authorities and streamline some of the administrative processes that are used to make decisions when they are transferred to other agencies. This might reduce administrative costs in some cases.

The net ongoing fiscal effect of these and other changes are highly uncertain because, in part, they depend on how the Legislature decides to reassign CPUC's functions and how the new administering agencies implement their new responsibilities. Despite these substantial uncertainties, we estimate that net effects on staffing and operations—either costs or savings—are unlikely to exceed several million dollars annually.

Special Wildfire Victims Fund

One-Time State Costs Related to Establishing Special Wildfire Victims Fund. This measure would result in one-time costs of \$90 million to establish the Special Wildfire Victims Fund. Additionally, there would be minor one-time costs related to developing guidelines for how the funds will be allocated to individuals and households affected by wildfires.

Ongoing Annual State Costs Related to Paying Individuals Affected by Wildfires. The state would have some annual costs related to replenishing the Special Wildfire Victims Fund when it is used to assist wildfire victims. The annual costs of paying individuals and households affected by wildfires would largely depend on the degree to which the new state fund would replace funding for activities that are currently paid for by the federal government. As discussed above, for the most

damaging wildfires, the federal IHP pays for housing and other basic necessities for individuals affected by wildfires. According to federal regulations, federal disaster assistance is intended to supplement—and not replace—state emergency relief programs, services, and funds. Establishing a new state fund to pay for housing and other basic necessities creates a risk that the federal government would no longer pay for services currently provided through IHP. If the federal government no longer paid for IHP in California, the costs that were previously covered by IHP would now be paid by the state, from the new Special Wildfire Victims Fund. The annual state costs would depend on the severity of wildfires in a particular year, but would likely range from minor costs to tens of millions of dollars. Alternatively, if the federal government continued to provide IHP funding in California and the new wildfire fund paid for only additional services not already covered by existing state and federal programs (such as food for certain families that do not qualify for current programs), then the annual costs would likely be minor.

Summary of Fiscal Effects. We estimate that this measure could have the following major fiscal effects on the state and local governments:

- About \$90 million in one-time state costs to establish the Special Wildfire Victims Fund, plus annual state costs of up to tens of millions of dollars, depending on the severity of wildfire damage each year.
- One-time state costs in the low tens of millions of dollars to relocate California Public Utilities Commission staff to other state agencies. Ongoing net state savings of several million dollars annually or one-time state revenues of \$100 million to \$200 million, depending on use of the existing commission headquarters in San Francisco.

Sincerely,

for Gabriel Petek
Legislative Analyst

for Keely Martin Bosler
Director of Finance