

AMENDED IN ASSEMBLY APRIL 2, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 1323

Introduced by Assembly Member Mark Stone

February 22, 2019

An act to amend Section 583 of the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 1323, as amended, Mark Stone. Public utilities: information: confidentiality.

The Public Utilities Act prohibits the commission or an officer or employee of the commission from disclosing any information furnished to the commission by a public utility, a subsidiary, an affiliate, or a corporation holding a controlling interest in a public utility, unless the information is specifically required to be open to public inspection under the act, except on order of the commission or a commissioner in the course of a hearing or proceeding. *Existing law makes a disclosure of nonpublic information by a present or former officer or employee of the commission a misdemeanor.*

This bill would instead require the information to be open to public inspection unless federal or state law or an order of the commission based on a specified finding requires the information to be closed to inspection, or the withholding of that information is ordered by the commission, a commissioner, or an administrative law judge in the course of a hearing or proceeding. The bill would authorize a public utility, a subsidiary or affiliate of ~~the~~ a public utility, or a corporation holding a controlling interest in a public utility providing information to request the commission to withhold from public disclosure all or a

portion of the information provided. ~~The bill would require the commission, a commissioner, or the assigned administrative law judge to issue an order on the request within 45 days of the request. The bill would provide that the information be deemed a public record subject to public inspection if the commission, a commissioner, or the assigned administrative law judge fails to issue an order within 45 days of the request.~~ *The bill would establish mechanisms for resolving claims of confidentiality in the event the commission does not agree with one or more claims of confidentiality. The bill would make it a misdemeanor for a present or former officer or employee of the commission to divulge any information that is exempt from public disclosure, as determined by the commission.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 583 of the Public Utilities Code is
- 2 amended to read:
- 3 583. (a) All information furnished to the commission by a
- 4 public utility, or a business that is a subsidiary or affiliate of a
- 5 public utility, or a corporation that holds a controlling interest in
- 6 a public utility, except those matters specifically required to be
- 7 closed to public inspection by federal or state law, including the
- 8 provisions of the Evidence Code relating to privilege, shall be open
- 9 to public inspection and shall not be withheld from public
- 10 inspection except on order of the commission, or by the
- 11 commission, a commissioner, or an administrative law judge in
- 12 the course of a hearing or proceeding.
- 13 (b) The commission may, by order, designate specific categories
- 14 of information as confidential, if it finds that the public interest
- 15 served by not disclosing the information clearly outweighs the
- 16 public interest served by disclosing the information.
- 17 (c) This section does not authorize the disclosure of information
- 18 that is exempt from public disclosure under the California Public
- 19 Records Act (Chapter 3.5 (commencing with Section 6250) of
- 20 Division 7 of Title 1 of the Government Code).
- 21 (d) (1) A public utility, a subsidiary or an affiliate of ~~the a~~
- 22 public utility, or a corporation holding a controlling interest in a
- 23 public utility providing information to the commission may request

1 the commission to withhold from public disclosure all or a portion
2 of the information provided. The request shall specify provisions
3 of federal or state law, including the Evidence Code or the
4 California Public Records Act, and, if applicable, an order issued
5 pursuant to subdivision (b) that exempts the information from
6 public disclosure.

7 (2) The commission, a commissioner, or the assigned
8 administrative law judge shall grant the request upon an adequate
9 showing by the requester that the claimed information is exempt
10 from public disclosure pursuant to the specified provision of federal
11 or state law, or commission order.

12 ~~(3) Within 45 days of the filing of the request, the commission,
13 a commissioner, or the assigned administrative law judge shall
14 issue an order on the request.~~

15 ~~(4) If the commission, a commissioner, or the assigned
16 administrative law judge fails to issue an order on the request
17 within 45 days of the request, the information is deemed to be a
18 public record within the California Public Records Act and subject
19 to public inspection.~~

20 ~~(5) The information that is the subject of the request shall be
21 provisionally withheld from public disclosure for 45 days after the
22 filing of the request or 10 days after the issuance of the ruling on
23 the request, whichever comes first, and until all administrative and
24 judicial review, if any, has been exhausted.~~

25 (3) (A) *If the commission does not agree, in whole or in part,
26 with a request for confidentiality made pursuant to paragraph (1),
27 the commission shall provide the party furnishing information to
28 the commission with notice and an opportunity to bring a motion
29 for confidentiality prior to the information being made available
30 for inspection or being made public pursuant to this section. If the
31 commission disagrees only as to some of the claims of
32 confidentiality, the notice by the commission shall specify those
33 portions or parts as to which the commission does not agree with
34 the claim of confidentiality. The information subject to a claim of
35 confidentiality shall remain confidential during the pendency of
36 a motion for confidentiality. If no motion for confidentiality is
37 made within 45 days, the information as to which the commission
38 indicated that it did not agree with a claim of confidentiality shall
39 become a public record pursuant to the California Public Records
40 Act and shall be subject to public inspection. A motion brought by*

1 a public utility, a subsidiary or an affiliate of a public utility, or
2 a corporation holding a controlling interest in a public utility made
3 after receiving notice that the commission rejects a claim of
4 confidentiality shall have the legal effect of an application for
5 rehearing for purposes of Article 2 (commencing with Section
6 1731) and Article 3 (commencing with Section 1751) of Chapter
7 9.

8 (B) The full commission shall issue an order on a motion for
9 confidentiality within 45 days of the filing of the motion. If the
10 commission fails to issue an order within 45 days, the motion shall
11 be deemed denied and the information as to which the commission
12 indicated that it did not agree with a claim of confidentiality shall
13 become a public record pursuant to the California Public Records
14 Act and shall be subject to public inspection, subject to the right
15 of the moving party to seek a writ of review pursuant to Article 3
16 (commencing with Section 1751) of Chapter 9. Until the time to
17 bring a writ of review has passed, the information claimed to be
18 confidential shall be treated as confidential. If the moving party
19 timely files a writ of review, the information claimed to be
20 confidential shall remain confidential pending determination of
21 the writ.

22 (e) Any present or former officer or employee of the commission
23 who divulges any information that is exempt from public disclosure
24 under this ~~section~~ section, as determined by the commission, is
25 guilty of a misdemeanor.