

AMENDED IN SENATE AUGUST 31, 2001
AMENDED IN SENATE AUGUST 27, 2001
AMENDED IN SENATE AUGUST 20, 2001
AMENDED IN SENATE JULY 11, 2001
AMENDED IN ASSEMBLY JUNE 20, 2001
AMENDED IN ASSEMBLY JUNE 13, 2001

CALIFORNIA LEGISLATURE—2001-02 SECOND EXTRAORDINARY SESSION

ASSEMBLY BILL

No. 57

**Introduced by Assembly Members Wiggins, Alquist, and
Thomson**

May 24, 2001

An act to amend Section 11652 of, ~~to add Section 9618 to, the Public Utilities Code, to amend Sections 22475 and 22476 of, to add Section 24252.1 to, and to add Article 9 (commencing with Section 22200) to Chapter 1 of Part 5 of Division 1 of, the Water~~ *the Public Utilities Code*, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 57, as amended, Wiggins. Municipal utility districts ~~and irrigation districts~~: public agencies.

(1) ~~Existing law relating to the restructuring of the electrical services industry regulates local publicly owned electric utilities.~~

~~The bill would establish procedures under which a local publicly owned utility may provide retail electric or gas service, or both, within~~



~~city limits or in the unincorporated portions of a county, including the acquisition of public utility assets.~~

~~The bill would provide that if the electrical or gas corporation providing service is under the jurisdiction of a federal bankruptcy court, an offer by a local publicly owned utility to purchase its assets at book value, as defined, or greater is in the best interests of the electrical or gas corporation's shareholders, its rate payers, and the public.~~

~~(2) Existing law authorizes any public agency together with unincorporated territory, or 2 or more public agencies, with or without unincorporated territory, to organize and incorporate as a municipal utility district by filing a resolution or petition. Existing law requires the board of supervisors to whom the resolution or petition is presented to call an election within the proposed district and to canvass the returns of each public agency and each parcel of unincorporated territory. The board of supervisors is required to order and declare the district created and established of the public agencies and territory in which a majority of those who voted did so in favor of the creation of the district if the total number of voters in the approving public agencies and territory is not less than $\frac{2}{3}$ the number of voters within the district as first proposed, according to the register used at the election.~~

~~This bill would recast and reorganize these provisions. The bill would require that the number of registered voters in the approving public agencies and territory be not less than $\frac{2}{3}$ the number of registered voters within the district as proposed to the voters, in order to declare the district created where a majority of those who voted did so in favor of the district. The bill would provide that those public agencies and parcels of unincorporated territory in which a majority of those persons voting did not vote in favor of the creation of the district shall be excluded from the district.~~

~~(3) The Irrigation District Law provides for the formation of irrigation districts and grants powers to those districts relating to, among other things, water, electric power, flood control, and sewage disposal. The district law specifically authorizes a district to construct and operate electric light and power lines, but prohibits a district from doing so within any city unless permission granted by the governing body of the city.~~

~~This bill would authorize irrigation districts to purchase or otherwise acquire natural gas from any agency or entity and to provide for the acquisition, operation, leasing, and control of equipment and facilities for the exploration, development, production, distribution, sale, lease,~~



~~or other disposition of natural gas for its own use, and to certain other entities.~~

~~The bill would authorize an irrigation district to enter into any futures contract, put, call, or swap agreement for electricity, natural gas, coal, weather, or other related financial product determined to be necessary by the board of that district for any of the uses or purposes of the district.~~

~~The bill would also authorize an irrigation district to construct and operate gas lines but would prohibit a district from doing so within any city unless permission granted by the governing body of the city.~~

~~(4)~~

(2) This bill would incorporate changes to Section 11652 of the Public Utilities Code, proposed by SB 23 2X, to be operative, as specified, only if SB 23 2X and this bill are both chaptered and become effective, and this bill is chaptered last.

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

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

1 ~~SECTION 1.—Section 9618 is added to the Public Utilities~~
2 ~~Code, to read:~~

3 ~~9618.—(a) Upon the resolution of the city council of a city or~~
4 ~~the board of supervisors of a county that requests that a local~~
5 ~~publicly owned utility provide retail electric or gas service, or~~
6 ~~both, within the city limits, in the case of a council, or the~~
7 ~~unincorporated portions of the county, in the case of a board, the~~
8 ~~local publicly owned utility shall undertake actions as it~~
9 ~~determines to be prudent to determine if the provision of service~~
10 ~~is economically feasible and in the utility’s best interests. If the~~
11 ~~local publicly owned utility determines that service is~~
12 ~~economically feasible and in its best interests, it shall immediately~~
13 ~~commence negotiations with the electric or gas corporation then~~
14 ~~providing that service for the purchase of its utility facilities. This~~
15 ~~section only applies in any city, or in unincorporated areas of a~~
16 ~~county, in which retail electric or gas service, or both, is provided~~
17 ~~by an electrical corporation or gas corporation.~~

18 ~~(b) Once a local publicly owned utility has commenced service~~
19 ~~pursuant to the request of a city or county pursuant to subdivision~~
20 ~~(a), unless the local publicly owned utility and the city or county~~
21 ~~have agreed to a specific term, the local publicly owned utility’s~~



1 authority to provide electric or gas service shall endure in full force
2 and effect until the local publicly owned utility voluntarily
3 surrenders or abandons its authority, or a public agency purchases
4 by voluntary agreement or condemns and takes under the power
5 of eminent domain, all property actually used and useful in the
6 provision of service by the local publicly owned utility, or until the
7 local publicly owned utility's authority is forfeited for
8 noncompliance with the terms of that authority.

9 (c) If the electrical or gas corporation providing service is
10 under the jurisdiction of a federal bankruptcy court, there shall be
11 a presumption that an offer by a local publicly owned utility to
12 purchase utility assets at book value or greater is in the best
13 interests of the electrical or gas corporation's shareholders, its
14 ratepayers, and the public. For the purposes of this section, "book
15 value" means an amount equal to the arithmetic average of the
16 amounts determined using the "original cost less depreciation"
17 and "replacement cost new less depreciation" methodologies. To
18 the extent that the approval of the commission under Section 851
19 is required for the purchase or sale, either the electrical or gas
20 corporation or the local publicly owned utility may apply to the
21 commission for approval of the purchase of the public utility
22 assets, and the commission shall expeditiously review the
23 application.

24 SEC. 2.—

25 SECTION 1. Section 11652 of the Public Utilities Code is
26 amended to read:

27 11652. (a) The board of supervisors shall canvass, separately,
28 the returns of each public agency and each parcel of
29 unincorporated territory, if any.

30 (b) Subject to subdivision (c), the board of supervisors shall
31 declare a district created and established of those public agencies
32 and parcels of unincorporated territory in which a majority of
33 those persons who voted did so in favor of the creation of the
34 district. Those public agencies and parcels of unincorporated
35 territory in which a majority of those persons voting did not vote
36 in favor of the creation of the district shall be excluded from the
37 district.

38 (c) A district may be created and established pursuant to
39 subdivision (b) only if the number of registered voters in the
40 approving public agencies and parcels of unincorporated territory



1 is two-thirds or more of the total number of registered voters
2 within the district as proposed to the voters.

3 ~~SEC. 3.—~~

4 *SEC. 2.* Section 11652 of the Public Utilities Code is amended
5 to read:

6 11652. The board of supervisors shall canvass the returns of
7 each public agency and each parcel of unincorporated territory, if
8 any, separately, and shall order and declare the district created and
9 established of only the public agencies and territory in which a
10 majority of those who voted on the proposition voted in favor of
11 the creation of the district.

12 ~~SEC. 4.—Article 9 (commencing with Section 22200) is added~~
13 ~~to Chapter 1 of Part 5 of Division 11 of the Water Code, to read:~~

14
15 *Article 9.—Natural Gas*

16
17 ~~22200. (a) Any district may purchase or otherwise acquire~~
18 ~~natural gas from any agency or entity, public or private, and may~~
19 ~~provide for the acquisition, operation, leasing, and control of~~
20 ~~equipment and facilities for the exploration, development,~~
21 ~~production, distribution, sale, lease, or other disposition of natural~~
22 ~~gas, for its own use, to municipalities, public entities, and gas~~
23 ~~corporations, and to industrial customers whose individual~~
24 ~~average monthly use, at the time gas sales from a district~~
25 ~~commenced, exceeded 5,000 therms using a 12-month average~~
26 ~~calculated for the previous 12 months excluding any months in~~
27 ~~which gas use was 200 therms or less.~~

28 ~~(b) An irrigation district must procure or produce natural gas~~
29 ~~in order to construct distribution facilities or provide for the~~
30 ~~distribution and sale of natural gas subject to this section.~~

31 ~~22201.—Any power granted by this division to a district may~~
32 ~~be used by the district to carry out this article.~~

33 ~~22202.—The board and the officers, agents, and employees of~~
34 ~~a district may undertake all necessary and proper acts for the~~
35 ~~construction and operation of its natural gas works.~~

36 ~~SEC. 5.—Section 24252.1 is added to the Water Code, to read:~~

37 ~~24252.1.—An irrigation district may enter into any futures~~
38 ~~contract, put, call, or swap agreement for electricity, natural gas,~~
39 ~~coal, weather, or other related financial product determined to be~~
40 ~~necessary by the board of that district for any of the uses or~~



1 ~~purposes of the district and by the futures contract, put, call, or~~
2 ~~swap agreement to bind the district for the payment of the~~
3 ~~consideration specified therein.~~

4 ~~SEC. 6. Section 22475 of the Water Code is amended to read:~~

5 ~~22475. A district may construct and operate in a manner~~
6 ~~affording security for life and property electric light and power~~
7 ~~lines, or gas lines, along, over, under, or upon any road or across~~
8 ~~any railway or conduit which the route of the lines intersects or~~
9 ~~runs along.~~

10 ~~SEC. 7. Section 22476 of the Water Code is amended to read:~~

11 ~~22476. A district may not construct and operate electric light~~
12 ~~and power lines, or gas lines, along, over, under, or upon any road~~
13 ~~within any city unless permission to do so is granted by the~~
14 ~~governing body of the city, which in so doing may impose~~
15 ~~reasonable conditions upon the proposed use.~~

16 ~~SEC. 8.—~~

17 ~~SEC. 3. Section 2 1 of this bill amends Section 11652 of the~~
18 ~~Public Utilities Code. Section 3 2 of this bill amends Section 11652~~
19 ~~of the Public Utilities Code as proposed by SB 23 2X. If both this~~
20 ~~bill and SB 23 2X are enacted and become effective, and each bill~~
21 ~~amends Section 11652 of the Public Utilities Code, and this bill is~~
22 ~~enacted after SB 23 2X, Section 3 2 of this bill shall be operative~~
23 ~~from the effective date of this bill until January 1, 2007, and shall~~
24 ~~become inoperative on January 1, 2007, and Section 2 1 of this bill~~
25 ~~shall become operative on January 1, 2007. If this bill is enacted~~
26 ~~and becomes effective, and SB 23 2X is not enacted and does not~~
27 ~~become effective, then Section 2 1 of this bill shall become~~
28 ~~operative on the effective date of this bill, and Section 3 2 of this~~
29 ~~bill shall not become operative.~~

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