

AMENDED IN SENATE APRIL 24, 2001

AMENDED IN SENATE MARCH 28, 2001

CALIFORNIA LEGISLATURE—2001–02 FIRST EXTRAORDINARY SESSION

**SENATE BILL**

**No. 27**

**Introduced by Senator Bowen**

January 31, 2001

---

---

An act to amend Section 80110 of, and to add Section 80111 to, the Water Code, relating to electric power, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 27, as amended, Bowen. Department of Water Resources: power.

(1) Existing law authorizes the Department of Water Resources to enter into contracts for the purchase of electric power, to sell power to retail end use customers and, with certain exceptions, to local publicly owned electric utilities at not more than the department's acquisition costs. Existing law specifies that the department retains title to all power sold by it to the retail end use customers. After the passage of a specified period of time, existing law suspends the right of retail end use customers to acquire service from other providers until the department no longer supplies power under these provisions.

This bill would delete the provision that suspends the right of retail end use customers to acquire service from other providers until the department no longer supplies power under these provisions after the passage of a specified period of time. The bill would make various clarifying, nonsubstantive changes to these provisions.

The bill would specify that the right of a retail end use customer who has not purchased power from an electrical corporation, as defined, on or after January 17, 2001, to purchase power from an alternate provider, as defined, may not be limited by these provisions. The bill would authorize the Public Utilities Commission to limit the right of a retail end use customer who purchases power from an electrical corporation to purchase power from an alternate provider, *as specified, but only to the extent the commission determines is necessary, however, except that* a customer may elect service from an alternate provider at any time, upon payment of a fee, ~~as specified,~~ to the department, *as specified, of any uncollected amounts equivalent to the department's net unavoidable cost of power procurement.* The bill would authorize the department, in certain circumstances, to impose a specified fee if a retail end use customer previously served by an alternate provider acquires service from an electrical corporation. The bill would require the commission to notify each customer of an electrical corporation of the conditions of purchasing power from an alternate provider within 90 days of the effective date of these provisions. Because a violation of an order of the commission is a crime under existing provisions of law, the bill would create a state-mandated local program by expanding the definition of a crime.

(2) 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.

(3) The bill would declare that it is to take effect immediately as an urgency statute.

Vote: <sup>2</sup>/<sub>3</sub>. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

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

1 SECTION 1. It is the intent of the Legislature, in enacting this  
 2 act, to establish a policy to govern the circumstances under which  
 3 retail end use customers may choose to acquire service from  
 4 energy providers other than the Department of Water Resources.  
 5 The goal of that policy is to provide retail end use customers the  
 6 greatest possible flexibility in procuring power while preventing

any negative consequences for those customers who continue to be served by the Department of Water Resources.

SEC. 2. Section 80110 of the Water Code is amended to read:

80110. The department shall retain title to all power sold by it to the retail end use customers. The department shall be entitled to recover, as a revenue requirement, amounts and at the times necessary to enable it to comply with Section 80134, and shall advise the commission of those revenue requirements as the department determines to be appropriate. Such revenue requirements may also include any advances made to the department hereunder or hereafter for purposes of this division, or from the Department of Water Resources Electric Power Fund, and General Fund moneys expended by the department pursuant to the Governor's Emergency Proclamation dated January 17, 2001. For purposes of this division and except as otherwise provided in this section, the Public Utilities Commission's authority, as set forth in the first paragraph of Section 451 of the Public Utilities Code, shall apply, except any just and reasonable review under Section 451 shall be conducted and determined by the department to ensure that the department's charges, in the aggregate, do not exceed the revenue requirements of the department. The commission, under the first paragraph of Section 451 of the Public Utilities Code, may enter into an agreement with the department with respect to charges for purposes of this division, and that agreement shall have the force and effect of a financing order adopted in accordance with Article 5.5 (commencing with Section 840) of Chapter 4 of Part 1 of Division 1 of the Public Utilities Code. In no case may the commission increase the electricity charges in effect on the date that the act that adds this section becomes effective for residential customers for existing baseline quantities or usage by those customers of up to 130 percent of existing baseline quantities, until such time as the department has recovered the costs of power it has procured for the retail end use customers as provided in this division. The department shall have the same rights to enforce and collect the payment by retail end use customers for power sold by the department as do other providers of power to such customers.

SEC. 3. Section 80111 is added to the Water Code, to read:

80111. (a) As used in this section, the following terms have the following meanings:

(1) “Electrical corporation” means an electrical corporation, as defined in Section 218 of the Public Utilities Code, serving the customers for which the department is procuring power pursuant to this division.

(2) “Alternate provider” means an entity, other than an electrical corporation, supplying electrical power within the service territory of an electrical corporation.

(b) The right of a retail end use customer who has not purchased power from an electrical corporation on or after January 17, 2001, to purchase power from an alternate provider may not be limited by this section.

(c) The commission may limit the right of a retail end use customer who purchases power from an electrical corporation to purchase power from an alternate provider *pursuant to this section, but only* to the extent the commission determines is necessary to ensure satisfaction of any power purchase obligation or bond obligation incurred by the department under this division to procure power to serve that customer.

(d) Notwithstanding subdivision (c), a customer may elect service from an alternate provider at any time, upon payment ~~of a fee~~ to the department *of any uncollected amounts* equivalent to the department’s net unavoidable cost of power procurement, including any financing costs, attributable to that customer, as determined by the department. *The department’s net unavoidable cost shall be calculated as the difference, if any, between the department’s total actual procurement costs and the rates collected by the department from the customer during the term of service. Any amounts due pursuant to this section for the purchase of power may be payable in installments over a term coincident with the term of bonds issued to finance the purchase of such power.*

(e) If a retail end use customer previously served by an alternate provider acquires service from an electrical corporation, the department may impose a fee equivalent to any unavoidable costs imposed on the department’s portfolio attributable to the load of that customer, if the fee is necessary to avoid imposing costs on other customers of the electrical corporation, or on the state.

(f) Within 90 days of the effective date of this section, the commission shall require each electrical corporation customer to

1 be notified of conditions for purchasing power from an alternate  
2 provider imposed by this section.

3 SEC. 4. No reimbursement is required by this act pursuant to  
4 Section 6 of Article XIII B of the California Constitution because  
5 the only costs that may be incurred by a local agency or school  
6 district will be incurred because this act creates a new crime or  
7 infraction, eliminates a crime or infraction, or changes the penalty  
8 for a crime or infraction, within the meaning of Section 17556 of  
9 the Government Code, or changes the definition of a crime within  
10 the meaning of Section 6 of Article XIII B of the California  
11 Constitution.

12 SEC. 5. This act is an urgency statute necessary for the  
13 immediate preservation of the public peace, health, or safety  
14 within the meaning of Article IV of the Constitution and shall go  
15 into immediate effect. The facts constituting the necessity are:

16 In order to establish, at the earliest possible time, a policy to  
17 govern the circumstances under which retail end use customers  
18 may choose to acquire service from energy providers other than  
19 the Department of Water Services, it is necessary that this act take  
20 effect immediately.

O

