

AMENDED IN ASSEMBLY JUNE 30, 2002

AMENDED IN ASSEMBLY JUNE 24, 2002

AMENDED IN SENATE MAY 20, 2002

AMENDED IN SENATE APRIL 30, 2002

SENATE BILL

No. 1755

Introduced by Senator Soto

(Principal coauthor: Assembly Member Negrete McLeod)

(Coauthors: Senators Costa and Vincent)

(Coauthors: Assembly Members Calderon, Correa, Frommer, and Oropeza)

February 21, 2002

An act to add Sections 31149.7 and 71663.5 to the Water Code, relating to electric power.

LEGISLATIVE COUNSEL'S DIGEST

SB 1755, as amended, Soto. County water districts and municipal water districts: electric power.

The County Water District Law and the Municipal Water District Law of 1911 grant to county water districts and municipal water districts, respectively, prescribed powers relating to water and other services.

This bill would authorize those districts to provide, generate, and deliver electric power, and to construct, operate, and maintain works, facilities, improvements, and property for that generation and delivery. The bill would prohibit those districts from acquiring property employed in the generation or delivery of electric power, except by mutual agreement between the district and the property owner. If a

district elects to provide for its own power, this bill would set forth the formula for reimbursement to the Department of Water Resources and the electrical corporation that previously serviced the district.

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 31149.7 is added to the Water Code, to
2 read:

3 31149.7. (a) A district may provide, generate, and deliver
4 electric power, and may construct, operate, and maintain any and
5 all works, facilities, improvements, and property, or portion
6 thereof, necessary or convenient for that generation and delivery.

7 (b) The electric powerplant or plants and transmission lines
8 constructed pursuant to this section may be leased for operation.
9 The power generated shall be used by a district for its own
10 purposes. A district may sell surplus power to a public or private
11 entity that is engaged in the distribution or sale of electricity. For
12 purposes of this section, “for its own purposes” means a district
13 performing only functions in its capacity as a water district,
14 including, but not be limited to, any of the following:

15 (1) Pumping operations.

16 (2) Water treatment operations.

17 (3) Barrier intrusion operations.

18 (4) Desalination operations.

19 (c) Nothing in this section grants to a district the authority to
20 provide, sell, or deliver electric power at retail.

21 (d) A district may not acquire property employed in the
22 generation or delivery of electric power for public or private utility
23 purposes, except by mutual agreement between the district and the
24 owner of that property.

25 (e) A district that elects to provide for its own power pursuant
26 to this section shall reimburse the department for all *costs incurred*
27 *by the department as a result of the provision of this power, if these*
28 *costs are established by the Public Utilities Commission for*
29 *self-generation customers. In determining what costs, if any, are*
30 *reimbursable, the commission may take into consideration any or*
31 *all of the following:*



(1) The department's unrecovered actual cost of power procurement, including any financing and administrative costs, attributable to the district, as determined by the Public Utilities Commission. The department's actual cost shall be calculated as the difference, if any, between the department's total actual procurement costs attributable to the district and the revenues collected by the department from the district during the district's term of service with the department. The Public Utilities Commission shall publish, and update as necessary, a formula for calculation of unrecovered costs that are due pursuant to this subdivision.

(2) Any additional costs of the department, equal to the district's proportionate share of the department's estimated net unavoidable power purchase contract costs, for the period commencing with the district's self-provision of electricity, through the expiration of all power purchase contracts entered into by the department existing at the time the district elects to provide for its own power. The proportionate share and unavoidable costs shall be determined by the Public Utilities Commission.

(f) A district that elects to provide for its own power pursuant to this section shall reimburse the electrical corporation that previously served the district for *any costs incurred by the electrical corporation as a result of the provision of this power, if these costs are established by the Public Utilities Commission for self-generation customers. In determining what costs, if any, are reimbursable, the commission may take into consideration any or* all of the following:

(1) The electrical corporation's unrecovered actual cost of power procurement, including any financing and administrative costs, attributable to the district, as determined by the Public Utilities Commission. The electrical corporation's actual cost shall be calculated as the difference, if any, between its total actual procurement costs attributable to the district and the revenues collected by the electrical corporation from the district during the district's term of service with the electrical corporation.

(2) Any additional costs of the electrical corporation, equal to the district's proportionate share of the electrical corporation's estimated net unavoidable power purchase contract costs, for the period commencing with the district's self-provision of electricity, through the expiration of all power purchase contracts entered into

1 by the electrical corporation existing at the time the district elects
2 to provide for its own power. The proportionate share and
3 unavoidable costs shall be determined by the Public Utilities
4 Commission.

5 SEC. 2. Section 71663.5 is added to the Water Code, to read:

6 71663.5. (a) A district may provide, generate, and deliver
7 electric power, and may construct, operate, and maintain any and
8 all works, facilities, improvements, and property, or portion
9 thereof, necessary or convenient for that generation and delivery.

10 (b) The electric powerplant or plants and transmission lines
11 constructed pursuant to this section may be leased for operation.
12 The power generated shall be used by a district for its own
13 purposes. A district may sell surplus power to a public or private
14 entity that is engaged in the distribution or sale of electricity. For
15 purposes of this section, “for its own purposes” means a district
16 performing only functions in its capacity as a water district,
17 including, but not be limited to, any of the following:

18 (1) Pumping operations.

19 (2) Water treatment operations.

20 (3) Barrier intrusion operations.

21 (4) Desalination operations.

22 (c) Nothing in this section grants to a district the authority to
23 provide, sell, or deliver electric power at retail.

24 (d) A district may not acquire property employed in the
25 generation or delivery of electric power for public or private utility
26 purposes, except by mutual agreement between the district and the
27 owner of that property.

28 (e) A district that elects to provide for its own power pursuant
29 to this section shall reimburse the department for all *costs incurred*
30 *by the department as a result of the provision of this power, if these*
31 *costs are established by the Public Utilities Commission for*
32 *self-generation customers. In determining what costs, if any, are*
33 *reimbursable, the commission may take into consideration any or*
34 *all of the following:*

35 (1) The department’s unrecovered actual cost of power
36 procurement, including any financing and administrative costs,
37 attributable to the district, as determined by the Public Utilities
38 Commission. The department’s actual cost shall be calculated as
39 the difference, if any, between the department’s total actual
40 procurement costs attributable to the district and the revenues

collected by the department from the district during the district's term of service with the department. The Public Utilities Commission shall publish, and update as necessary, a formula for calculation of unrecovered costs that are due pursuant to this subdivision.

(2) Any additional costs of the department, equal to the district's proportionate share of the department's estimated net unavoidable power purchase contract costs, for the period commencing with the district's self-provision of electricity, through the expiration of all power purchase contracts entered into by the department existing at the time the district elects to provide for its own power. The proportionate share and unavoidable costs shall be determined by the Public Utilities Commission.

(f) A district that elects to provide for its own power pursuant to this section shall reimburse the electrical corporation that previously served the district for *any costs incurred by the electrical corporation as a result of the provision of this power, if these costs are established by the Public Utilities Commission for self-generation customers. In determining what costs, if any, are reimbursable, the commission may take into consideration any or* all of the following:

(1) The electrical corporation's unrecovered actual cost of power procurement, including any financing and administrative costs, attributable to the district, as determined by the Public Utilities Commission. The electrical corporation's actual cost shall be calculated as the difference, if any, between its total actual procurement costs attributable to the district and the revenues collected by the electrical corporation from the district during the district's term of service with the electrical corporation.

(2) Any additional costs of the electrical corporation, equal to the district's proportionate share of the electrical corporation's estimated net unavoidable power purchase contract costs, for the period commencing with the district's self-provision of electricity, through the expiration of all power purchase contracts entered into by the electrical corporation existing at the time the district elects to provide for its own power. The proportionate share and unavoidable costs shall be determined by the Public Utilities Commission.

O