

Senate Bill No. 1755

CHAPTER 848

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

[Approved by Governor September 24, 2002. Filed
with Secretary of State September 24, 2002.]

LEGISLATIVE COUNSEL'S DIGEST

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

(1) 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 electricity, 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 electricity, except by mutual agreement between the district and the property owner. If a district elects to provide for its own generation of electricity, the bill would require the Public Utilities Commission to determine a cost-recovery mechanism to be imposed through a nonbypassable charge, for reimbursement of the Department of Water Resources and the electrical corporation for certain electricity purchase costs, to prevent a shifting of costs to an electrical corporation's bundled customers. Because a violation of an order or decision of the commission is a crime, the bill would impose a state-mandated local program.

(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.

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

SECTION 1. Section 31149.7 is added to the Water Code, to read:

31149.7. (a) A district may provide, generate, and deliver electric power, and may construct, operate, and maintain any and all works,

facilities, improvements, and property, or portion thereof, necessary or convenient for that generation and delivery.

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

- (1) Pumping operations.
- (2) Water treatment operations.
- (3) Barrier intrusion operations.
- (4) Desalination operations.

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

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

(e) (1) It is the intent of the Legislature, that each district that has purchased electricity from an electrical corporation on or after February 1, 2001, regardless of whether the district thereafter generates its own electricity, bear a pro rata share of the Department of Water Resources’ electricity purchase costs, that are recoverable from electrical corporation customers in commission-approved rates. It is the further intent of the Legislature to prevent any shifting of recoverable costs from districts that generate their own electricity pursuant to this section, to electrical corporation bundled customers.

(2) To the extent that any shifting of recoverable costs would occur, in the determination of the commission, those costs shall be recovered from districts that generate their own electricity, pursuant to this section.

(3) The Legislature finds and declares that the revisions of this subdivision are consistent with the requirements of Chapter 4 of the Statutes of 2001, First Extraordinary Session, and do not constitute a change in, but are declaratory of existing law.

(f) A district that generates its own electricity pursuant to this section shall be responsible for paying the following:

(1) A charge equivalent to the charges that would otherwise be imposed on the district by the commission to recover bond related costs pursuant to any agreement between the commission and the Department of Water Resources pursuant to Section 80110 of the Water Code, which charges shall be payable until all obligations of the Department of Water Resources pursuant to Division 27 (commencing with Section 80000)



of the Water Code are fully paid or otherwise discharged. All bond charges are the property of the Department of Water Resources.

(2) If a district generates new offsite power, it shall be responsible for the additional costs of the Department of Water Resources, equal to the share of the Department of Water Resources' estimated net unavoidable electricity purchase contract costs attributable to the district as determined by the commission, for the period commencing with the district's initial generation of its offsite electricity, through the expiration of all then existing electricity purchase contracts entered into by the Department of Water Resources.

(g) A district generating its own electricity pursuant to this section shall reimburse the electrical corporation that previously served the district for all of the following:

(1) The electrical corporation's unrecovered past undercollections for electricity purchases, including any financing costs, attributable to that district, that the commission lawfully determines may be recovered in rates.

(2) Any additional costs of the electrical corporation recoverable in commission approved rates, equal to the share of the electrical corporation's estimated net unavoidable electricity purchase contract costs attributable to the district, as determined by the commission, for the period commencing with the district's initial generation of electricity pursuant to this section, through the expiration of all then existing electricity purchase contracts entered into by the electrical corporation.

(h) (1) Any charges imposed pursuant to subdivision (f) shall be the property of the Department of Water Resources. Any charges imposed pursuant to subdivision (g) shall be the property of the particular electrical corporation. The commission shall establish sufficient mechanisms, including agreements with, or orders with respect to, electrical corporations as are necessary to ensure that charges payable pursuant to this section shall be promptly remitted to the party entitled to the payment.

(2) Charges imposed pursuant to this section shall be nonbypassable.

(i) Prior to implementing this section, the commission shall submit a report certifying its satisfaction of the provisions of this section to the Senate Energy, Utilities and Communications Committee, or its successor, and the Assembly Committee on Utilities and Commerce, or its successor.

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

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



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

- (1) Pumping operations.
- (2) Water treatment operations.
- (3) Barrier intrusion operations.
- (4) Desalination operations.

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

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

(e) (1) It is the intent of the Legislature, that each district that has purchased electricity from an electrical corporation on or after February 1, 2001, regardless of whether the district thereafter generates its own electricity, bear a pro rata share of the Department of Water Resources’ electricity purchase costs, that are recoverable from electrical corporation customers in commission-approved rates. It is the further intent of the Legislature to prevent any shifting of recoverable costs from districts that generate their own electricity pursuant to this section, to electrical corporation bundled customers.

(2) To the extent that any shifting of recoverable costs would occur, in the determination of the commission, those costs shall be recovered from districts that generate their own electricity, pursuant to this section.

(3) The Legislature finds and declares that the revisions of this subdivision are consistent with the requirements of Chapter 4 of the Statutes of 2001, First Extraordinary Session, and do not constitute a change in, but are declaratory of existing law.

(f) A district that generates its own electricity pursuant to this section shall be responsible for paying the following:

(1) A charge equivalent to the charges that would otherwise be imposed on the district by the commission to recover bond related costs pursuant to any agreement between the commission and the Department of Water Resources pursuant to Section 80110 of the Water Code, which charges shall be payable until all obligations of the Department of Water Resources pursuant to Division 27 (commencing with Section 80000) of the Water Code are fully paid or otherwise discharged. All bond charges are the property of the Department of Water Resources.



(2) If a district generates new offsite power, it shall be responsible for the additional costs of the Department of Water Resources, equal to the share of the Department of Water Resources' estimated net unavoidable electricity purchase contract costs attributable to the district as determined by the commission, for the period commencing with the district's initial generation of its offsite electricity, through the expiration of all then existing electricity purchase contracts entered into by the Department of Water Resources.

(g) A district generating its own electricity pursuant to this section shall reimburse the electrical corporation that previously served the district for all of the following:

(1) The electrical corporation's unrecovered past undercollections for electricity purchases, including any financing costs, attributable to that district, that the commission lawfully determines may be recovered in rates.

(2) Any additional costs of the electrical corporation recoverable in commission approved rates, equal to the share of the electrical corporation's estimated net unavoidable electricity purchase contract costs attributable to the district, as determined by the commission, for the period commencing with the district's initial generation of electricity pursuant to this section, through the expiration of all then existing electricity purchase contracts entered into by the electrical corporation.

(h) (1) Any charges imposed pursuant to subdivision (f) shall be the property of the Department of Water Resources. Any charges imposed pursuant to subdivision (g) shall be the property of the particular electrical corporation. The commission shall establish sufficient mechanisms, including agreements with, or orders with respect to, electrical corporations as are necessary to ensure that charges payable pursuant to this section shall be promptly remitted to the party entitled to the payment.

(2) Charges imposed pursuant to this section shall be nonbypassable.

(i) Prior to implementing this section, the commission shall submit a report certifying its satisfaction of the provisions of this section to the Senate Energy, Utilities and Communications Committee, or its successor, and the Assembly Committee on Utilities and Commerce, or its successor.

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



changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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