

ASSEMBLY BILL

No. 736

Introduced by Assembly Member Jerome Horton

February 17, 2005

An act to amend Section 851 of the Public Utilities Code, relating to the regulation of public utilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 736, as introduced, Jerome Horton. Public utilities: regulation.

Existing law prohibits any public utility other than a common carrier by railroad, as defined, from selling, leasing, assigning, mortgaging, or otherwise disposing of or encumbering the whole or any part of specified property necessary or useful in the performance of the public utility's duties to the public, among other requirements. Existing law makes void every sale, lease, assignment, mortgage, disposition, encumbrance, merger, or consolidation made other than in accordance with the order of the commission authorizing it.

This bill would make technical, nonsubstantive changes to that provision.

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 851 of the Public Utilities Code is
- 2 amended to read:
- 3 851. No public utility other than a common carrier by railroad
- 4 subject to Part I of the Interstate Commerce Act (Title 49,
- 5 U.S.C.) shall sell, lease, assign, mortgage, or otherwise dispose
- 6 of or encumber the whole or any part of its railroad, street

1 railroad, line, plant, system, or other property necessary or useful
2 in the performance of its duties to the public, or any franchise or
3 permit or any right thereunder, nor by any means whatsoever,
4 directly or indirectly, merge or consolidate its railroad, street
5 railroad, line, plant, system, or other property, or franchises or
6 permits or any part thereof, with any other public utility, without
7 first having secured from the commission an order authorizing it
8 so to do. Every—~~such~~ sale, lease, assignment, mortgage,
9 disposition, encumbrance, merger, or consolidation made other
10 than in accordance with the order of the commission authorizing
11 it is void. The permission and approval of the commission to the
12 exercise of a franchise or permit under Article 1 (commencing
13 with Section 1001) of Chapter 5 of this part, or the sale, lease,
14 assignment, mortgage, or other disposition or encumbrance of a
15 franchise or permit under this article shall not revive or validate
16 any lapsed or invalid franchise or permit, or enlarge or add to the
17 powers or privileges contained in the grant of any franchise or
18 permit, or waive any forfeiture.

19 Nothing in this section shall prevent the sale, lease,
20 encumbrance or other disposition by any public utility of
21 property—~~which~~ *that* is not necessary or useful in the performance
22 of its duties to the public, and any disposition of property by a
23 public utility shall be conclusively presumed to be of property
24 ~~which~~ *that* is not useful or necessary in the performance of its
25 duties to the public, as to any purchaser, lessee or encumbrancer
26 dealing with—~~such~~ *that* property in good faith for value,; provided;
27 ~~however~~, that nothing in this section shall apply to the
28 interchange of equipment in the regular course of transportation
29 between connecting common carriers.