

AMENDED IN SENATE JUNE 2, 2005
AMENDED IN ASSEMBLY APRIL 19, 2005
AMENDED IN ASSEMBLY APRIL 6, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 746

Introduced by Assembly Member Blakeslee

February 17, 2005

An act to amend Section 1748.1 of the Civil Code, and to add Section 755 to the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 746, as amended, Blakeslee. Public utilities: payment of billings.

Existing law authorizes the Public Utilities Commission to supervise and regulate every public utility in the state, including an electrical *or gas* corporation. Existing law authorizes the commission to establish rules for all public utilities, subject to control by the Legislature. Existing law authorizes the commission to fix the rates and charges for every public utility, and requires that those rates and charges be just and reasonable.

Existing law prohibits any retailer in a sales, service, or lease transaction with a consumer, from imposing a surcharge on a cardholder who elects to use a credit card in lieu of payment by cash, check, or similar means.

This bill would require the commission to authorize an electrical *or gas* corporation to offer convenient ~~bill payment methods to customers, including~~ credit card and debit card *bill* payment options. The bill would authorize an electrical *or gas* corporation to pass on

reasonable transaction ~~costs~~ *fees* incurred by the electrical or gas corporation in the form of fees charged to those customers that choose to pay by those payment options. The *bill would require the commission* ~~would be required~~ to determine the reasonableness of any transaction fees charged to customers that choose to pay by a convenient *credit card or debit card* bill payment option ~~and to ensure that no portion of any additional transaction costs incurred is shifted to customers that do not choose to pay a bill by credit card, debit card, or other convenient payment option. The bill would require that any transaction costs passed on in the form of fees charged to customers choosing to pay by a convenient payment option are offset by any savings in transaction costs the electrical corporation derives as a result of those customers choosing to pay by those methods. The bill would require the commission to determine how any associated costs or potential savings resulting to customers choosing to pay by a convenient bill payment option shall be passed on to electrical or gas corporation customers.~~

The bill would exclude from the existing prohibition upon a retailer imposing a surcharge on a cardholder who elects to use a credit card in lieu of payment by cash, check, or similar means, a charge by an electrical or gas corporation that is approved by the commission pursuant to the provisions that would be added by this bill.

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 1748.1 of the Civil Code is amended to
- 2 read:
- 3 1748.1. (a) No retailer in any sales, service, or lease
- 4 transaction with a consumer may impose a surcharge on a
- 5 cardholder who elects to use a credit card in lieu of payment by
- 6 cash, check, or similar means. A retailer may, however, offer
- 7 discounts for the purpose of inducing payment by cash, check, or
- 8 other means not involving the use of a credit card, provided that
- 9 the discount is offered to all prospective buyers.
- 10 (b) Any retailer who willfully violates this section by
- 11 imposing a surcharge on a cardholder who elects to use a credit
- 12 card and who fails to pay that amount to the cardholder within 30
- 13 days of a written demand by the cardholder of the retailer by

1 certified mail, shall be liable to the cardholder for three times the
2 amount at which actual damages are assessed. The cardholder
3 shall also be entitled to recover reasonable attorney's fees and
4 costs incurred in the action.

5 A cause of action under this section may be brought in small
6 claims court, if it does not exceed the jurisdiction of that court, or
7 in any other appropriate court.

8 (c) A consumer shall not be deemed to have elected to use a
9 credit card in lieu of another means of payment for purposes of
10 this section in a transaction with a retailer if only credit cards are
11 accepted by that retailer in payment for an order made by a
12 consumer over a telephone, and only cash is accepted at a public
13 store or other facility of the same retailer.

14 (d) Charges for third-party credit card guarantee services,
15 when added to the price charged by the retailer if cash were to be
16 paid, shall be deemed surcharges for purposes of this section
17 even if they are payable directly to the third party or are charged
18 separately.

19 (e) It is the intent of the Legislature to promote the effective
20 operation of the free market and protect consumers from
21 deceptive price increases for goods and services by prohibiting
22 credit card surcharges and encouraging the availability of
23 discounts by those retailers who wish to offer a lower price for
24 goods and services purchased by some form of payment other
25 than credit card.

26 (f) This section does not apply to charges for payment by
27 credit card or debit card that are made by an electrical *or gas*
28 corporation and approved by the Public Utilities Commission
29 pursuant to Section 755 of the Public Utilities Code.

30 SEC. 2. Section 755 is added to the Public Utilities Code, to
31 read:

32 755. (a) It is the intent of the Legislature that an electrical *or*
33 *gas* corporation that offers customers convenient ~~bill payment~~
34 ~~options, such as payment by~~ credit card or debit card *payment*
35 *options*, may recover the ~~additional net~~ expenses incurred by the
36 electrical *or gas* corporation for providing the customers the
37 option of paying their bills by credit card or debit card, while
38 ensuring that only the customers that choose to use these
39 payment options incur the additional charge and that no portion

1 of the expense is shifted to customers that do not choose to pay a
2 bill by credit card or debit card.

3 (b) An electrical *or gas* corporation may offer convenient ~~bill~~
4 ~~payment options to customers, including~~ credit card and debit
5 card *bill* payment options. The electrical *or gas* corporation may
6 pass on reasonable transaction ~~costs~~ *fees* incurred by the
7 electrical *or gas* corporation in the form of fees charged to those
8 customers that choose to pay by those payment options.

9 (c) The commission shall determine *through existing*
10 *regulatory mechanisms* the reasonableness of any transaction
11 fees charged to customers that choose to pay an electrical *or gas*
12 corporation by a convenient *credit card or debit card bill*
13 payment option pursuant to this section. ~~The commission shall~~
14 ~~ensure that only customers that choose to use convenient~~
15 ~~payment options pay for the additional transaction costs incurred~~
16 ~~and that no portion of those costs is shifted to customers that do~~
17 ~~not choose to pay a bill by credit card or debit card or other~~
18 ~~convenient payment option. The transaction costs that are passed~~
19 ~~on in the form of fees charged to customers that choose to pay by~~
20 ~~a convenient payment option shall be offset by any savings in~~
21 ~~transaction costs the electrical corporation derives as a result of~~
22 ~~those customers paying by the convenient payment option. The~~
23 ~~commission shall determine how any associated costs or~~
24 ~~potential savings as a result of those customers paying by the~~
25 ~~convenient credit card or debit card payment option shall be~~
26 ~~passed on to electrical or gas corporation customers.~~

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