AMENDED IN ASSEMBLY SEPTEMBER 7, 2005

AMENDED IN ASSEMBLY SEPTEMBER 1, 2005

AMENDED IN SENATE APRIL 26, 2005

AMENDED IN SENATE MARCH 31, 2005

SENATE BILL No. 580

Introduced by Senator Escutia
(Principal coauthor: Senator Alarcon)

February 18, 2005

~~An act to amend Section 130311.5 of the Health and Safety Code, and to amend Sections 382.1 and 739.1 of of the Public Utilities Code, relating to the utility low-income assistance programs.~~ *An act to add Section 12803.4 to the Government Code, and to amend Sections 382.1 and 739.1 of the Public Utilities Code, relating to low-income utility assistance programs.*

LEGISLATIVE COUNSEL'S DIGEST

SB 580, as amended, Escutia. Public Utilities Commission: Low-Income Oversight Board *and California Alternate Rates for Energy*.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities and can establish its own procedures, subject to statutory limitations or directions and constitutional requirements of due process. Existing law establishes a Low-Income Oversight Board to advise the commission on low-income electric and gas customer issues and to serve as a liaison for the commission to low-income ratepayers and representatives. Existing law specifies the membership of the board.

This bill would expand the duties of the board to include advising the commission on low-income water customer issues and to serve as a liaison for the commission to those low-income ratepayers and representatives. The bill would increase the membership of the board by 2 persons selected by the commission, the first with expertise in the low-income community and who is not affiliated with any state agency or utility group, and the second who is a representative of a water corporation.

Existing law requires the commission to establish a program of assistance to low-income electric and gas customers, referred to as the California Alternate Rates for Energy ~~or CARE~~ *(CARE)* program. Existing law requires that each local publicly owned electric utility, as defined, ensure that low-income families within the utility's service territory have access to affordable electricity, that the current level of assistance reflects the level of need, that the utility consider increasing the level of discount or raising the eligibility level for any existing rate assistance program to be reflective of customer need, and that the utility streamline enrollment for low-income programs by collaborating with other electric or gas providers within the same service territory.

This bill would expand the duties of the Low-Income Oversight Board to include assisting the commission in complying with certain requirements of the CARE program. *The bill would require the Secretary of the California Health and Human Services Agency to evaluate, on or before April 1, 2006, how the use of programs and databases, as specified, may be optimized to facilitate the automatic enrollment of eligible customers into the CARE program.*

~~Existing law, the Health Insurance Portability and Accountability Implementation Act of 2001, until January 1, 2008, makes an office established by the Governor within the Health and Human Services Agency responsible for implementing the provisions of the federal Health Insurance Portability and Accountability Act (HIPAA).~~

~~This bill would require the office within the Health and Human Services Agency to obtain any waivers of HIPAA needed to implement automatic enrollment of persons enrolled in the Medi-Cal program or treating Healthy Families Program, in the CARE program. The bill would require the office to cooperate with any local publicly owned electric utility to obtain any waivers of HIPAA needed to facilitate enrollment of persons enrolled in the Medi-Cal program or~~

~~Healthy Families Program, in a low-income assistance program adopted by the utility.~~

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

SECTION 1. The Legislature finds and declares both of the following:

(a) It is in the public interest to ensure that all persons eligible for gas and electric service under tariffs established for the California Alternate Rates for Energy or CARE program are enrolled in the program.

(b) It is in the public interest to achieve automatic enrollment of persons eligible for the CARE program through interagency cooperation among the California Health and Human Services Agency, including the State Department of Health Services and the State Department of Social Services, the Public Utilities Commission, electrical corporations, and gas corporations.

SEC. 2. Section 12803.4 is added to the Government Code, to read:

12803.4. The Secretary of the California Health and Human Services Agency shall evaluate, on or before April 1, 2006, how the use of established state and federal programs and databases may be optimized in order to facilitate the automatic enrollment of eligible customers into the California Alternate Rates for Energy or CARE program established pursuant to Section 739.1 of the Public Utilities Code, while complying with state and federal privacy laws.

~~SEC. 2. Section 130311.5 of the Health and Safety Code is amended to read:~~

~~130311.5. (a) The office shall assume statewide leadership, coordination, direction, and oversight responsibilities for determining which provisions of state law concerning personal medical information are preempted by HIPAA pursuant to Section 160.203 of Title 45 of the Code of Federal Regulations. State entities impacted by HIPAA shall, at the direction of the office, do the following:~~

~~(1) Assist in determining which state laws concerning personal medical information are preempted by HIPAA.~~

~~(2) Conform to all determinations made by the office concerning HIPAA preemption issues.~~

~~(b) Any provision of state law concerning personal medical information that is determined by the office to be preempted by HIPAA pursuant to Section 160.203 of Title 45 of the Code of Federal Regulations, shall not be applicable to the extent of that preemption. The remainder of the provisions of state law concerning personal medical information shall remain in full force and effect.~~

~~(c) The office shall obtain any waivers of HIPAA needed to implement automatic enrollment of persons enrolled in the Medi-Cal program or Healthy Families Program, in the California Alternate Rates for Energy or CARE program, established pursuant to Section 739.1 of the Public Utilities Code. The office shall cooperate with any local publicly owned electric utility to obtain any waivers of HIPAA needed to facilitate enrollment of persons enrolled in the Medi-Cal program or Healthy Families Program, in a low-income assistance program adopted by the utility consistent with Section 386 of the Public Utilities Code.~~

~~(d) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.~~

SEC. 3. Section 382.1 of the Public Utilities Code is amended to read:

382.1. (a) There is hereby established a Low-Income Oversight Board that shall advise the commission on low-income electric, gas, and water customer issues and shall serve as a liaison for the commission to low-income ratepayers and representatives. The Low-Income Oversight Board shall replace the Low-Income Advisory Board in existence on January 1, 2000. The Low-Income Oversight Board shall do all of the following to advise the commission regarding the commission’s duties:

(1) Monitor and evaluate implementation of all programs provided to low-income electricity, gas, and water customers.

(2) Assist in the development and analysis of any assessments of low-income customer need.

(3) Encourage collaboration between state and utility programs for low-income electricity and gas customers to maximize the leverage of state and federal energy efficiency funds to both lower the bills and increase the comfort of low-income customers.

(4) Provide reports to the Legislature, as requested, summarizing the assessment of need, audits, and analysis of program implementation.

(5) Assist in streamlining the application and enrollment process of programs for low-income electricity and gas customers with general low-income programs, including, but not limited to, the Universal Lifeline Telephone Service (ULTS) program and, including compliance with Section 739.1.

(6) Encourage the usage of the network of community service providers in accordance with Section 381.5.

(b) The Low-Income Oversight Board shall be comprised of 11 members to be selected as follows:

(1) Five members selected by the commission who have expertise in the low-income community and who are not affiliated with any state agency or utility group. These members shall be selected in a manner to ensure an equitable geographic distribution.

(2) One member selected by the Governor.

(3) One member selected by the commission who is a commissioner or commissioner designee.

(4) One member selected by the Department of Community Services and Development.

(5) One member selected by the commission who is a representative of private weatherization contractors.

(6) One member selected by the commission who is a representative of an electrical or gas corporation.

(7) One member selected by the commission who is a representative of a water corporation.

(c) The Low-Income Oversight Board shall alternate meeting locations between northern, central, and southern California.

(d) The Low-Income Oversight Board may establish a technical advisory committee consisting of low-income service providers, utility representatives, consumer organizations, and commission staff, to assist the board and may request utility representatives and commission staff to assist the technical advisory committee.

(e) The commission shall do all of the following in conjunction with the board:

(1) Work with the board, interested parties, and community-based organizations to increase participation in programs for low-income customers.

(2) Provide technical support to the board.

(3) Ensure that the energy burden of low-income electricity and gas customers is reduced.

(4) Provide formal notice of board meetings in the commission's daily calendar.

(f) (1) Members of the board and members of the technical advisory committee shall be eligible for compensation in accordance with state guidelines for necessary travel.

(2) Members of the board and members of the technical advisory committee who are not salaried state service employees shall be eligible for reasonable compensation for attendance at board meetings.

(3) All reasonable costs incurred by the board in carrying out its duties pursuant to subdivision (a), including staffing, travel, and administrative costs, shall be reimbursed through the public utilities reimbursement account and shall be part of the budget of the commission and the commission shall consult with the board in the preparation of that portion of the commission's annual proposed budget.

SEC. 4. Section 739.1 of the Public Utilities Code is amended to read:

739.1. (a) The commission shall establish a program of assistance to low-income electric and gas customers, the cost of which shall not be borne solely by any single class of customer. The program shall be referred to as the California Alternate Rates for Energy or CARE program. The commission shall ensure that the level of discount for low-income electric and gas customers correctly reflects the level of need.

(b) The commission shall work with the public utility electrical and gas corporations to establish penetration goals. The commission shall authorize recovery of all administrative costs associated with the implementation of the CARE program that the commission determines to be reasonable, through a balancing account mechanism. Administrative costs shall include, but are not limited to, outreach, marketing, regulatory compliance, certification and verification, billing, measurement and evaluation, and capital improvements and upgrades to communications and processing equipment.

(c) The commission shall examine methods to improve CARE enrollment and participation. This examination shall include, but need not be limited to, comparing information from CARE and the Universal Lifeline Telephone Service (ULTS) to determine the most effective means of utilizing that information to increase CARE enrollment, automatic enrollment of ULTS customers who are eligible for the CARE program, customer privacy issues, and alternative mechanisms for outreach to potential enrollees. The commission shall ensure that a customer consents prior to enrollment. The commission shall consult with interested parties, including ULTS providers, to develop the best methods of informing ULTS customers about other available low-income programs, as well as the best mechanism for telephone providers to recover reasonable costs incurred pursuant to this section.

(d) The commission shall improve the CARE application process by cooperating with other entities and representatives of California government, including the California Health and Human Services Agency and the Secretary of California Health and Human Services, to ensure that all gas and electric customers eligible for public assistance programs in California that reside within the service territory of an electrical corporation or gas corporation, are enrolled in the CARE program. ~~Cooperation shall include both of the following: (1) working with the agency to place on application forms for programs of public assistance, a provision authorizing electric and gas service to be provided pursuant to the applicable CARE program tariff, and a provision for the transmission of the authorization to the electrical corporation or gas corporation providing the electric or gas service; and (2) Assisting the Office of HIPAA Implementation, established pursuant to Division 110 (commencing with Section 130300) of the Health and Safety Code, in applying for any waivers of federal authority needed to transmit enrollment information to electrical corporations and gas corporations for the limited purpose of enrolling persons enrolled in programs of public assistance into the CARE program.~~ To the extent practicable, the commission shall develop a CARE application process using the existing ULTS application process as a model. The commission shall work with public utility electrical and gas corporations and the Low-Income Oversight Board established in Section 382.1 to meet the low-income objectives in this section.

(e) The commission's program of assistance to low-income electric and gas customers shall, as soon as practicable, include nonprofit group living facilities specified by the commission, if the commission finds that the residents in these facilities substantially meet the commission's low-income eligibility requirements and there is a feasible process for certifying that the assistance shall be used for the direct benefit, such as improved quality of care or improved food service, of the low-income residents in the facilities. The commission shall authorize utilities to offer discounts to eligible facilities licensed or permitted by appropriate state or local agencies, and to facilities, including women's shelters, hospices, and homeless shelters, that may not have a license or permit but provide other proof satisfactory to the utility that they are eligible to participate in the program.

(f) It is the intent of the Legislature that the commission ensure CARE program participants are afforded the lowest possible electric and gas rates and, to the extent possible, are exempt from additional surcharges attributable to the current energy crisis.

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