

AMENDED IN ASSEMBLY APRIL 30, 2015

AMENDED IN ASSEMBLY MARCH 24, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 853**

---

**Introduced by Assembly Member Roger Hernández**

February 26, 2015

---

An act to add Section 764 to the Public Utilities Code, relating to energy.

### LEGISLATIVE COUNSEL'S DIGEST

AB 853, as amended, Roger Hernández. Electrical and gas corporations: security of plant and facilities.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations and gas corporations, as defined. If the commission finds after a hearing that the rules, practices, equipment, appliances, facilities, or service of any public utility, or of the methods of manufacture, distribution, transmission, storage, or supply employed by the public utility, are unjust, unreasonable, unsafe, improper, inadequate, or insufficient, the Public Utilities Act requires that the commission determine and, by order or rule, fix the rules, practices, equipment, appliances, facilities, service, or methods to be observed, furnished, constructed, enforced, or employed. The Public Utilities Act requires the commission to prescribe rules for the performance of any service or the furnishing of any commodity of the character furnished or supplied by any public utility and, on proper demand and tender of rates, require the public utility to furnish the commodity or render the service within the time

and upon the conditions provided in the rules adopted by the commission.

This bill would, to the extent feasible, require an electrical corporation or gas corporation to utilize direct employees, as defined, for any work associated with the design, engineering, and operation of its nuclear, electrical, and gas infrastructure, including all computer and information technology systems, unless the utility files a Tier 3 advice letter with the commission that demonstrates that the work can be performed safely and securely, and without jeopardizing the security of its nuclear, electrical, and gas infrastructure ~~infrastructure~~, by persons that are not direct employees. The bill would require the commission to open a proceeding, or expand the scope of an existing proceeding, to evaluate the advice letter and to hold not less than one duly noticed public hearing for the proceeding. The bill would require the commission to issue a written decision determining whether the electrical corporation or gas corporation may utilize persons that are not direct employees for the described work.

Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because the provisions of this bill would be a part of the act and because a violation of an order or decision of the commission implementing its requirements would be a crime, the bill would impose a state-mandated local program by creating a new crime.

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.

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

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

- 1 SECTION 1. Section 764 is added to the Public Utilities Code,
- 2 to read:
- 3 764. (a) The Legislature finds and declares all of the following:
- 4 (1) Protecting the security of nuclear, electrical, and natural gas
- 5 utility systems is a paramount state interest.

1 (2) Protecting the privacy of ratepayers' personal information,  
2 including usage information, is a paramount state interest.

3 (3) Recent intrusions into major corporate computer systems,  
4 including Sony and Anthem Blue Cross, and the theft of  
5 information from those systems have demonstrated the  
6 vulnerability of those systems.

7 (4) The computer systems of California's electrical corporations  
8 and gas corporations have information about the design,  
9 engineering, and operation of the nuclear, electrical, and natural  
10 gas utility infrastructure, as well as personal information about  
11 California ratepayers. This information could be used to  
12 compromise the security of California's utility infrastructure and  
13 the privacy of California's ratepayers.

14 (5) Widespread deployment of smart meters, smart grid  
15 equipment, and microgrids increases the importance of protecting  
16 the computer systems of electrical corporations and gas  
17 corporations.

18 (6) The part of any computer system that is most vulnerable to  
19 being compromised is the personnel who operate that system.

20 (7) Electrical corporations and gas corporations should make  
21 every reasonable effort to protect their computer systems from  
22 unauthorized intrusions.

23 (8) To protect the security of electrical and natural gas utility  
24 computer systems, including nuclear infrastructure, the information  
25 technology personnel who operate those systems should be direct  
26 employees of the electrical corporation or gas corporation.

27 (9) To protect the security of nuclear, electrical, and gas utility  
28 infrastructure, the design, engineering, and operation of that  
29 infrastructure should, to the extent feasible, be performed by direct  
30 employees of the electrical corporation or gas corporation.

31 (b) For purposes of this section, "direct employees" for  
32 construction or maintenance work include the employees of a  
33 contractor or subcontractor licensed in California and working  
34 under the direct supervision of the electrical corporation or gas  
35 corporation.

36 (c) To the extent feasible, an electrical corporation or gas  
37 corporation shall utilize direct employees for any work associated  
38 with the design, engineering, and operation of its nuclear, electrical,  
39 and gas infrastructure, including all computer and information  
40 technology systems, unless the utility complies with the

1 requirements of this section and obtains the approval of the  
2 commission pursuant to this section.

3 (d) Before utilizing persons that are not direct employees for  
4 work associated with the design, engineering, and operation of its  
5 nuclear, electrical, and gas infrastructure, including all computer  
6 and information technology systems, an electrical corporation or  
7 gas corporation shall file a Tier 3 advice letter with the commission  
8 that demonstrates that the work can be performed safely and  
9 securely, and without jeopardizing the security of its nuclear,  
10 electrical, and gas infrastructure.

11 (e) The commission shall open a proceeding, or expand the  
12 scope of an existing proceeding, to evaluate the advice letter. The  
13 commission shall hold not less than one duly noticed public hearing  
14 for the proceeding. The commission shall issue a written decision  
15 determining whether the electrical corporation or gas corporation  
16 may utilize persons that are not direct employees for the described  
17 work.

18 (f) *A person or corporation owning or operating a qualifying*  
19 *facility pursuant to federal law or a facility that is an exempt*  
20 *wholesale generator is not an electrical corporation due to the*  
21 *ownership or operation of that facility. This subdivision is*  
22 *declaratory of existing law.*

23 SEC. 2. No reimbursement is required by this act pursuant to  
24 Section 6 of Article XIII B of the California Constitution because  
25 the only costs that may be incurred by a local agency or school  
26 district will be incurred because this act creates a new crime or  
27 infraction, eliminates a crime or infraction, or changes the penalty  
28 for a crime or infraction, within the meaning of Section 17556 of  
29 the Government Code, or changes the definition of a crime within  
30 the meaning of Section 6 of Article XIII B of the California  
31 Constitution.