

AMENDED IN ASSEMBLY APRIL 6, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 1002

Introduced by Assembly Member Wright

February 25, 1999

An act to add Article 10 (commencing with Section 890) to Chapter 4 of Part 1 of Division 1 of the Public Utilities Code, relating to public utilities, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1002, as amended, R. Wright. Natural gas: consumption surcharge.

(1) The Public Utilities Act and other existing law requires electrical and gas corporations to create certain public purpose programs, including assistance to low-income customers and low-income weatherization. The act authorizes the Public Utilities Commission to allow the inclusion of expenses for research and development in rates to be charged by, among other utilities, gas corporations.

This bill, except as specified, would require the commission to impose a surcharge on all natural gas consumed in this state to fund those public purpose programs, cost-effective energy efficiency and conservation activities, and public interest research and development, as prescribed. *The bill would require utility and nonutility gas providers, as described, to collect the surcharge from natural gas consumers, as specified.* The money from the surcharge would be deposited in the Gas

Consumption Surcharge Fund, which fund the bill would create, for continuous appropriation to specified entities, as prescribed. *This bill would authorize the commission to authorize a gas corporation to offer natural gas service to customers who partially or fully bypass the distribution system of the gas corporation at competitive market-based rates filed with the commission, as specified.* Because a violation of the act is a crime, this bill would impose a state-mandated local program by creating a new crime. The bill would make legislative findings and declarations relating to the surcharge.

(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.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

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

1 SECTION 1. (a) The Legislature finds and declares
2 that statutes and regulations have imposed programs and
3 fees, such as ~~low-income—assistance~~ *energy efficiency,*
4 *public interest research and development, low-income*
5 *assistance,* and weatherization programs, upon regulated
6 gas utilities that have public policy goals not directly
7 related to the provision of gas service. The costs borne by
8 gas utilities to provide these programs have historically
9 been recovered through gas rates established by the
10 Public Utilities Commission.

11 (b) The Legislature also finds and declares that, due to
12 changes in state and federal regulations, the monopolies
13 for the provisions of gas service in California that
14 effectively permitted the commission to allocate the cost
15 of these public policy programs to all gas users are being
16 replaced with competitive markets. Gas customers may
17 continue to take advantage of the deregulation of the gas
18 industries by obtaining service from nonregulated gas
19 providers who are not required to provide these

1 programs. Thus, these customers do not pay the costs of
2 public policy programs.

3 (c) It is the intent of the Legislature to continue public
4 policy programs in an equitable manner that will ensure
5 that all gas consumers will provide a fair share of adequate
6 funding for these programs without increasing the
7 current funding levels for these programs.

8 SEC. 2. Article 10 (commencing with Section 890) is
9 added to Chapter 4 of Part 1 of Division 1 of the Public
10 Utilities Code, to read:

11
12 Article 10. Natural Gas Surcharge
13

14 890. (a) No later than January 1, 2000, the
15 commission shall impose a surcharge, as provided in this
16 article, on all natural gas consumed in this state to fund
17 low-income assistance programs required by Sections
18 739.1, 739.2, and 2790, cost-effective energy efficiency and
19 conservation activities, and public interest research and
20 development authorized by Section 740 that is not
21 adequately provided by the competitive and regulated
22 markets. Upon implementation of this article, funding for
23 those programs shall be removed from the rates of gas
24 utilities.

25 (b) *Except as specified in Section 898, a utility gas*
26 *provider, as described in Section 891, shall collect the*
27 *surcharge imposed pursuant to subdivision (a) from any*
28 *person consuming natural gas in this state who receives*
29 *gas service from the utility gas provider. A nonutility gas*
30 *provider, as described in Section 891, shall collect the*
31 *surcharge imposed pursuant to subdivision (a) from any*
32 *person consuming natural gas in this state who receives*
33 *gas service from that nonutility gas provider.*

34 (c) *Except as specified in Section 898, all persons*
35 *consuming natural gas in this state shall be liable for the*
36 *surcharge imposed pursuant to subdivision (a).*

37 (d) The commission shall annually determine the
38 amount of money required for the following year to
39 administer this chapter and fund the natural gas related

1 programs described in subdivision (a) *for the service*
2 *territory of each utility gas provider.*

3 ~~(e)~~

4 (e) The commission shall annually establish a
5 surcharge rate for each class of customer *for the service*
6 *territory of each utility gas provider. A customer of a*
7 *nonutility gas provider shall pay the same surcharge rate*
8 *as the customer of a utility gas provider with comparable*
9 *natural gas usage. The commission shall, in determining*
10 *the total retail natural gas transported within the service*
11 *territory of a utility gas provider for the purpose of*
12 *establishing the surcharge rate, shall rely on information*
13 *reported in the California Gas Report to determine the*
14 *volumes of retail gas transported within the service*
15 *territory of the utility gas provider. The commission shall*
16 *allocate the surcharge for gas used by noncore customers,*
17 *including those customers who were not subject to the*
18 *surcharge prior to January 1, 2000, on an equal cent per*
19 *therm basis. The rates for core customers shall not be*
20 *affected by the inclusion of those noncore customers who*
21 *were not required to fund the programs described in*
22 *subdivision (a) prior to January 1, 2000.*

23 (f) *The commission shall notify the State Board of*
24 *Equalization of the surcharge rate for each class of*
25 *customer served by a nonutility provider in the service*
26 *territory of a utility gas provider.*

27 (g) *The State Board of Equalization shall notify each*
28 *nonutility gas provider of the surcharge rate for each class*
29 *of customer within the service territory of a utility gas*
30 *provider.*

31 ~~(d)~~

32 (h) *The surcharge imposed pursuant to subdivision*
33 *(a) shall be in addition to any other charges for natural*
34 *gas sold or transported for consumption in this state. The*
35 *surcharge imposed pursuant to this article shall be*
36 *identified as a separate line item on all gas bills received*
37 *by each class of customer.*

38 ~~(e)~~

39 (i) *Notwithstanding subdivision (a), gas utilities shall*
40 *continue to collect in rates those costs of programs*

1 associated with Sections 739.1, 739.2, and 2790 that are
2 uncollected prior to the operative date of this article.

3 891. Each ~~utility~~ *gas corporation* transporting or
4 selling natural gas for consumption in this state shall
5 notify the State Board of Equalization that it is a utility gas
6 provider. Each ~~nonutility~~ pipeline company transporting
7 natural gas in this state *that operates pursuant to a*
8 *certificate issued by the Federal Energy Regulatory*
9 *Commission and that is not regulated by the commission*
10 shall notify the State Board of Equalization that it is a
11 nonutility ~~gas transporter~~ *natural gas provider*. The State
12 Board of Equalization may require any documentation
13 that it determines to be necessary to implement this
14 article. ~~The State Board of Equalization shall provide the~~
15 ~~commission with information necessary to establish a~~
16 ~~surcharge pursuant to Section 890.~~

17 892. ~~“Consumption” means the utilization or~~
18 ~~employment of natural gas. Consumption does not~~
19 ~~include the use or employment of natural gas to generate~~
20 ~~power for sale, the sale or purchase of natural gas for~~
21 ~~resale to end users, or natural gas utilized in cogeneration~~
22 ~~technology projects to produce electricity in accordance~~
23 ~~with Section 454.4 of the Public Utilities Code.~~

24 893. ~~Except as specified in Section 897, all utility gas~~
25 ~~providers shall collect a surcharge pursuant to this article~~
26 ~~from persons consuming natural gas in this state who~~
27 ~~receive gas service from a utility. All nonutility gas~~
28 ~~pipelines shall collect that surcharge from persons~~
29 ~~consuming natural gas in this state who receive gas~~
30 ~~transportation service from a nonutility gas transporter.~~
31 ~~The surcharge shall be in addition to the charges for the~~
32 ~~natural gas sold or transported for consumption in this~~
33 ~~state.~~

34 894. ~~The revenue from the surcharge imposed~~
35 ~~pursuant to this article and collected by utility gas~~
36 ~~providers and nonutility gas providers shall be paid to the~~
37 ~~State Board of Equalization.~~

38 895. ~~Except as specified in Section 892, all persons~~
39 ~~consuming natural gas in this state shall be liable for the~~
40 ~~surcharge imposed pursuant to this article.~~

~~896. (a) All money required to be paid to the state under this article shall be paid in the form of remittances payable to the State Board of Equalization. The board shall transmit the payments to the Treasurer to be deposited in the Gas Consumption Surcharge Fund, which is hereby created in the State Treasury.~~

~~(b) Notwithstanding Section 13340 of the Government Code, funds in the Gas Consumption Surcharge Fund are continuously appropriated solely for the following, to be paid by the Controller as follows:~~

~~(1) To pay eligible persons providing natural gas related programs and projects specified in subdivision (a) of Section 890. This amount shall not exceed the amount determined by the commission to fund those programs.~~

892. The revenue from the surcharge imposed pursuant to this article and collected by utility gas providers and nonutility gas providers shall be paid to the State Board of Equalization in the form of remittances. The board shall transmit the payments to the Treasurer who shall deposit the payments in the Gas Consumption Surcharge Fund, which is hereby created in the State Treasury.

893. The State Board of Equalization shall administer the surcharge imposed pursuant to this article in accordance with the Fee Collection Procedures Law (Part 30 (commencing with Section 55001) of Division 2 of the Revenue and Taxation Code.

894. The State Board of Equalization may collect any unpaid surcharge imposed pursuant to this article.

895. Notwithstanding Section 13340 of the Government Code, funds in the Gas Consumption Surcharge Fund are continuously appropriated, without regard to fiscal years, as follows:

(a) To the commission or an entity designated by the commission to fund programs pursuant to Sections 739.1, 739.2, and 2790.

(b) To the California Board for Energy Efficiency, or an entity designated by the commission, to fund public interest research and development not adequately provided by the competitive and regulated markets.

~~(2)–~~

(c) To pay the commission for its costs in carrying out its duties and responsibilities under this article.

~~(3) To pay the Controller for its costs in administering this article.~~

~~(4)–~~

(d) To pay the State Board of Equalization for its costs in administering this article.

~~897.—~~

896. *“Consumption” means the use or employment of natural gas. Consumption does not include the use or employment of natural gas to generate power for sale, the sale or purchase of natural gas for resale to end users, the sale or use of gas for enhanced oil recovery, or natural gas utilized in cogeneration technology projects to produce electricity.*

897. *Nothing in this article impairs the rights and obligations of parties to contracts approved by the commission.*

898. Notwithstanding Section 890, a municipality, district, or public agency that provides *programs similar to those described in subdivision (a) of Section 890, including home weatherization services for low-income customers or that offers rate assistance to low-income customers shall not be weatherization services or rate assistance for low-income customers shall not be* required to collect a surcharge pursuant to this article from customers within its ~~jurisdiction~~ *service territory*. A municipality, district, or public agency shall be required to collect a surcharge pursuant to this article from customers served by the municipality, district, or public agency outside of its ~~jurisdiction~~ *service territory* unless the commission determines that the entity offers those customers services similar to those offered by gas utilities as described in subdivision (a) of Section 890.

~~898.—Sections 895 and 896 shall~~

899. *Sections 890 and 892 do not apply to any gas customer of a municipality, district, or public agency exempted by Section 897 895 from collecting a surcharge.*

~~899. The State Board of Equalization shall administer the surcharge imposed pursuant to this article in accordance with the Fee Collection Procedures Law (Part 30 (commencing with Section 55001) of Division 2 of the Revenue and Taxation Code).~~

~~900. The State Board of Equalization shall have the authority to collect any unpaid surcharges imposed pursuant to this article.~~

900. The commission shall create an advisory board to make recommendations regarding the most efficient and cost-effective way to provide programs pursuant to Sections 739.1, 739.2, and 2970 in a consistent manner statewide by utility provider service territory. The advisory board shall be comprised of representatives from utility gas providers, nonutility gas providers, the Office of Ratepayer Advocates, the Energy Division within the commission, consumer groups, community-based organizations providing programs, and other interested parties. On or before July 1, 2000, the advisory group shall prepare and submit to the commission a report. The commission may accept, reject, or modify the recommendations. On or before July 1, 2001, the commission shall implement efficient and cost-effective programs pursuant to Sections 739.1, 739.2, and 2970. The commission may conduct compliance audits to ensure compliance with any commission order or resolution relating to the implementation of programs pursuant to Sections 739.1, 739.2, and 2970.

901. (a) The Legislature finds and declares that recent changes in the natural gas industry have provided natural gas customers with the opportunity to take some or all of their natural gas services from natural gas providers regulated by the Federal Regulatory Energy Commission. Despite these changes in the industry, natural gas corporations regulated by the Public Utilities Commission continue to have an obligation to serve customers who partially or fully bypass their distribution system.

(b) It is the intent of the Legislature to authorize gas corporations to fulfill their obligation to serve customers

1 *who partially or fully bypass the gas corporation's*
2 *distribution system by offering service at competitive*
3 *market-based rates.*

4 *(c) The commission shall authorize a gas corporation*
5 *to offer to provide natural gas service to customers who*
6 *partially or fully bypass the gas corporation's distribution*
7 *system at competitive market-based rates filed with the*
8 *commission.*

9 *(d) Notwithstanding subdivision (c), the commission*
10 *shall not approve any rate application that relieves the*
11 *gas corporation of the obligation to serve wholesale*
12 *customers where the bypass gas supply is natural gas*
13 *produced and consumed within the service territory of*
14 *the wholesale customer.*

15 SEC. 3. No reimbursement is required by this act
16 pursuant to Section 6 of Article XIII B of the California
17 Constitution because the only costs that may be incurred
18 by a local agency or school district will be incurred
19 because this act creates a new crime or infraction,
20 eliminates a crime or infraction, or changes the penalty
21 for a crime or infraction, within the meaning of Section
22 17556 of the Government Code, or changes the definition
23 of a crime within the meaning of Section 6 of Article
24 XIII B of the California Constitution.