

AMENDED IN SENATE JUNE 19, 2000  
AMENDED IN SENATE JUNE 6, 2000  
AMENDED IN SENATE AUGUST 17, 1999  
AMENDED IN SENATE JULY 8, 1999  
AMENDED IN ASSEMBLY MAY 27, 1999  
AMENDED IN ASSEMBLY APRIL 26, 1999  
AMENDED IN ASSEMBLY APRIL 14, 1999  
AMENDED IN ASSEMBLY APRIL 6, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1002**

**Introduced by Assembly Member Wright**

February 25, 1999

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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 establish a surcharge on all natural gas consumed in this state to fund certain low-income assistance programs, cost-effective energy efficiency and conservation activities, and public interest research and development, as prescribed. The bill would require a public utility gas corporation, 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. 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.

The bill would result in a change in state taxes for the purpose of increasing state revenues within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of  $\frac{2}{3}$  of the membership of each house of the Legislature.

(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 energy efficiency, low-income assistance,  
4 and weatherization programs, upon regulated gas  
5 utilities that have public policy goals not directly related  
6 to the provision of gas service. The costs borne by gas  
7 utilities to provide these programs have historically been



1 recovered through gas rates established by the Public  
2 Utilities Commission.

3 (b) The Legislature also finds and declares that, due to  
4 changes in state and federal regulations, the monopolies  
5 for the provisions of gas service in California that  
6 effectively permitted the commission to allocate the cost  
7 of these public policy programs to all gas users are being  
8 replaced with competitive markets. Gas customers may  
9 continue to take advantage of the deregulation of the gas  
10 industries by obtaining service from nonregulated gas  
11 providers who are not required to provide these  
12 programs. Thus, these customers do not pay the costs of  
13 public policy programs.

14 (c) It is the intent of the Legislature to continue public  
15 policy programs in an equitable manner that will ensure  
16 that all gas consumers will provide a fair share of adequate  
17 funding for these programs without increasing the  
18 current funding levels for these programs.

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

22  
23 Article 10. Natural Gas Surcharge  
24

25 890. (a) On and after January 1, 2000, there shall be  
26 imposed a surcharge on all natural gas consumed in this  
27 state. The commission shall establish a surcharge to fund  
28 low-income assistance programs required by Sections  
29 739.1, 739.2, and 2790 and cost-effective energy efficiency  
30 and conservation activities and public interest research  
31 and development authorized by Section 740 and not  
32 adequately provided by the competitive and regulated  
33 markets. Upon implementation of this article, funding for  
34 those programs shall be removed from the rates of gas  
35 utilities.

36 (b) (1) Except as specified in Section 898, a public  
37 utility gas corporation, as defined in subdivision (b) of  
38 Section 891, shall collect the surcharge imposed pursuant  
39 to subdivision (a) from any person consuming natural gas

1 in this state who receives gas service from the public  
2 utility gas corporation.

3 (2) A public utility gas corporation is relieved from  
4 liability to collect the surcharge insofar as the base upon  
5 which the surcharge is imposed is represented by  
6 accounts which have been found to be worthless and  
7 charged off in accordance with generally accepted  
8 accounting principles. If the public utility gas corporation  
9 has previously paid the amount of the surcharge it may,  
10 under regulations prescribed by the board, take as a  
11 deduction on its return the amount found to be worthless  
12 and charged off. If any accounts are thereafter collected  
13 in whole or in part, the surcharge so collected shall be  
14 paid with the first return filed after that collection. The  
15 commission may by regulation promulgate such other  
16 rules with respect to uncollected or worthless accounts as  
17 it shall deem necessary to the fair and efficient  
18 administration of this part.

19 (c) Except as specified in Section 898, all persons  
20 consuming natural gas in this state that has been  
21 transported by an interstate pipeline, as defined in  
22 subdivision (c) of Section 891, shall be liable for the  
23 surcharge imposed pursuant to subdivision (a).

24 (d) The commission shall annually determine the  
25 amount of money required for the following year to  
26 administer this chapter and fund the natural gas related  
27 programs described in subdivision (a) for the service  
28 territory of each public utility gas corporation.

29 (e) The commission shall annually establish a  
30 surcharge rate for each class of customer for the service  
31 territory of each public utility gas corporation. A  
32 customer of an interstate gas pipeline, as defined in  
33 Section 891, shall pay the same surcharge rate as the  
34 customer would pay if the customer received service  
35 from the public utility gas corporation in whose service  
36 territory the customer resides. The commission shall  
37 determine the total volume of retail natural gas  
38 transported within the service territory of a utility gas  
39 provider, that is not subject to exemption pursuant to

1 Section 896, for the purpose of establishing the surcharge  
2 rate.

3 (f) The commission shall allocate the surcharge for gas  
4 used by all customers, including those customers who  
5 were not subject to the surcharge prior to January 1, 2000,  
6 based on the following formula:

7 ~~(1) The commission shall allocate all costs associated~~  
8 ~~with funding the public purpose programs by core and~~  
9 ~~noncore customer classes using the cost allocation~~  
10 ~~principles and the program budget in place December~~  
11 ~~31, 1998. The rates for core customers shall not be affected~~  
12 ~~by the inclusion of those noncore customers who were not~~  
13 ~~required to fund the programs described in subdivision~~  
14 ~~(a) prior to January 1, 2000.~~

15 ~~(2) The commission shall allocate any increase in the~~  
16 ~~cost to fund the California Alternative Rates for Energy~~  
17 ~~(CARE) program, described in Section 739.1, above the~~  
18 ~~December 31, 1998, level, by allocating 85 percent of the~~  
19 ~~increase in program cost to the core customer class and~~  
20 ~~15 percent of the increase in program cost to the noncore~~  
21 ~~customer class.~~

22 ~~(3) The commission shall allocate any reduction in the~~  
23 ~~cost to fund the California Alternative Rates for Energy~~  
24 ~~(CARE) program, described in Section 739.1, down to the~~  
25 ~~December 31, 1998, program funding level by allocating~~  
26 ~~85 percent of the reduction to the core customer class and~~  
27 ~~15 percent of the reduction to the noncore customer class.~~  
28 ~~Any reductions in the cost to fund the California~~  
29 ~~Alternative Rates for Energy (CARE) program,~~  
30 ~~described in Section 739.1, below the December 31, 1998,~~  
31 ~~program funding level shall be allocated based on the cost~~  
32 ~~allocation principles in place for each customer class on~~  
33 ~~December 31, 1998. 2001.~~

34 (g) The commission shall notify the State Board of  
35 Equalization of the surcharge rate for each class of  
36 customer served by an interstate pipeline in the service  
37 territory of a public utility gas corporation.

38 (h) The State Board of Equalization shall notify each  
39 person who consumes natural gas delivered by an  
40 interstate pipeline of the surcharge rate for each class of

1 customer within the service territory of a public utility  
2 gas corporation.

3 (i) The surcharge imposed pursuant to subdivision (a)  
4 shall be in addition to any other charges for natural gas  
5 sold or transported for consumption in this state.  
6 Effective on July 1, 2001, the surcharge imposed pursuant  
7 to this article shall be identified as a separate line item on  
8 the bill of a customer of a public utility gas corporation.

9 (j) Notwithstanding subdivision (a), public utility gas  
10 corporations shall continue to collect in rates those costs  
11 of programs described in subdivision (a) of Section 890  
12 that are uncollected prior to the operative date of this  
13 article.

14 891. (a) “Gas utility” means any public utility gas  
15 corporation or interstate pipeline as defined in this  
16 section.

17 (b) “Public utility gas corporation” means a public  
18 utility gas corporation as defined in Section 216.

19 (c) “Interstate pipeline” means any entity that owns  
20 or operates a natural gas pipeline delivering natural gas  
21 to consumers in the state and is subject to rate regulation  
22 by the Federal Energy Regulatory Commission.

23 (d) Each gas utility shall notify the State Board of  
24 Equalization of its status under this section. Each person  
25 who consumes natural gas delivered by an interstate  
26 pipeline shall annually register with the State Board of  
27 Equalization. The State Board of Equalization may  
28 require any documentation that it determines to be  
29 necessary to implement this article.

30 892. The revenue from the surcharge imposed  
31 pursuant to this article and collected by a public utility gas  
32 corporation shall be paid to the State Board of  
33 Equalization in the form of remittances. Persons  
34 consuming natural gas delivered by an interstate pipeline  
35 shall pay the surcharge to the State Board of Equalization  
36 in the form of remittances. The board shall transmit the  
37 payments to the Treasurer who shall deposit the  
38 payments in the Gas Consumption Surcharge Fund,  
39 which is hereby created in the State Treasury.

1 892.1. The surcharges imposed by this part and the  
2 amounts thereof required to be collected by public utility  
3 gas corporations are due quarterly on or before the last  
4 day of the month next succeeding each calendar quarter.

5 892.2. On or before the last day of the month following  
6 each calendar quarter, a return for the preceding  
7 quarterly period shall be filed with the State Board of  
8 Equalization in such form as the board may prescribe. A  
9 return shall be filed by every public utility gas  
10 corporation, and by every person consuming, as defined  
11 in this article, natural gas purchased from a provider  
12 other than the public utility gas corporation. The return  
13 shall be signed by the person required to file the return  
14 by his or her duly authorized agent.

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

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

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

26 (a) To the commission or an entity designated by the  
27 commission to fund programs described in subdivision  
28 (a) of Section 890.

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

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

33 896. "Consumption" means the use or employment of  
34 natural gas. Consumption does not include the use or  
35 employment of natural gas to generate power for sale, the  
36 sale or purchase of natural gas for resale to end users, the  
37 sale or use of gas for enhanced oil recovery, or natural gas  
38 utilized in cogeneration technology projects to produce  
39 electricity. Consumption does not include the  
40 consumption of natural gas which this state is prohibited

1 from taxing under the United States Constitution or the  
2 California Constitution.

3 897. Nothing in this article impairs the rights and  
4 obligations of parties to contracts approved by the  
5 commission, as the rights and obligations were  
6 interpreted as of January 1, 1998.

7 898. Notwithstanding Section 890, a municipality,  
8 district, or public agency that offers in published tariffs  
9 home weatherization services, rate assistance for  
10 low-income customers, or programs similar to those  
11 described in subdivision (a) of Section 890, shall not be  
12 required to collect a surcharge pursuant to this article  
13 from customers within its service territory. A  
14 municipality, district, or public agency shall be required  
15 to collect a surcharge pursuant to this article from  
16 customers served by the municipality, district, or public  
17 agency outside of its service territory unless the  
18 commission determines that the entity offers those  
19 customers services similar to those offered by gas utilities  
20 as described in subdivision (a) of Section 890.

21 899. Sections 890 and 892 do not apply to any gas  
22 customer of a municipality, district, or public agency  
23 exempted by Section 898 from collecting a surcharge.

24 900. The commission shall determine the most  
25 efficient and cost-effective way to provide programs  
26 pursuant to Sections 739.1, 739.2, and 2790 in a consistent  
27 manner statewide by utility provider service territory. In  
28 determining the most cost-effective way to provide  
29 service that benefits persons eligible for low-income  
30 programs, the commission shall consider factors,  
31 including, but not limited to, outreach efforts to reach the  
32 targeted population and the types of discounts and  
33 services that should be provided by each utility. On or  
34 before July 1, 2001, the commission shall develop and  
35 implement efficient and cost-effective programs  
36 pursuant to Sections 739.1, 739.2, and 2790. The  
37 commission may conduct compliance audits to ensure  
38 compliance with any commission order or resolution  
39 relating to the implementation of programs pursuant to



1 Sections 739.1, 739.2, and 2790, and may conduct financial  
2 audits.

3 SEC. 3. No reimbursement is required by this act  
4 pursuant to Section 6 of Article XIII B of the California  
5 Constitution because the only costs that may be incurred  
6 by a local agency or school district will be incurred  
7 because this act creates a new crime or infraction,  
8 eliminates a crime or infraction, or changes the penalty  
9 for a crime or infraction, within the meaning of Section  
10 17556 of the Government Code, or changes the definition  
11 of a crime within the meaning of Section 6 of Article  
12 XIII B of the California Constitution.

