

AMENDED IN SENATE AUGUST 25, 2000  
AMENDED IN SENATE AUGUST 10, 2000  
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,

1 and weatherization programs, upon regulated gas  
2 utilities that have public policy goals not directly related  
3 to the provision of gas service. The costs borne by gas  
4 utilities to provide these programs have historically been  
5 recovered through gas rates established by the Public  
6 Utilities Commission.

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

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

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

26  
27 Article 10. Natural Gas Surcharge  
28

29 890. (a) On and after January 1, 2001, there shall be  
30 imposed a surcharge on all natural gas consumed in this  
31 state. The commission shall establish a surcharge to fund  
32 low-income assistance programs required by Sections  
33 739.1, 739.2, and 2790 and cost-effective energy efficiency  
34 and conservation activities and public interest research  
35 and development authorized by Section 740 and not  
36 adequately provided by the competitive and regulated  
37 markets. Upon implementation of this article, funding for  
38 those programs shall be removed from the rates of gas  
39 utilities.

1 (b) (1) Except as specified in Section 898, a public  
2 utility gas corporation, as defined in subdivision (b) of  
3 Section 891, shall collect the surcharge imposed pursuant  
4 to subdivision (a) from any person consuming natural gas  
5 in this state who receives gas service from the public  
6 utility gas corporation.

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

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

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

33 (e) The commission shall annually establish a  
34 surcharge rate for each class of customer for the service  
35 territory of each public utility gas corporation. A  
36 customer of an interstate gas pipeline, as defined in  
37 Section 891, shall pay the same surcharge rate as the  
38 customer would pay if the customer received service  
39 from the public utility gas corporation in whose service  
40 territory the customer is located. The commission shall

1 determine the total volume of retail natural gas  
2 transported within the service territory of a utility gas  
3 provider, that is not subject to exemption pursuant to  
4 Section 896, for the purpose of establishing the surcharge  
5 rate.

6 (f) The commission shall allocate the surcharge for gas  
7 used by all customers, including those customers who  
8 were not subject to the surcharge prior to January 1, 2001.

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

13 (h) The State Board of Equalization shall notify each  
14 person who consumes natural gas delivered by an  
15 interstate pipeline of the surcharge rate for each class of  
16 customer within the service territory of a public utility  
17 gas corporation.

18 (i) The surcharge imposed pursuant to subdivision (a)  
19 shall be in addition to any other charges for natural gas  
20 sold or transported for consumption in this state.  
21 Effective on July 1, 2001, the surcharge imposed pursuant  
22 to this article shall be identified as a separate line item on  
23 the bill of a customer of a public utility gas corporation.

24 (j) Notwithstanding subdivision (a), public utility gas  
25 corporations shall continue to collect in rates those costs  
26 of programs described in subdivision (a) of Section 890  
27 that are uncollected prior to the operative date of this  
28 article.

29 891. (a) "Gas utility" means any public utility gas  
30 corporation or interstate pipeline as defined in this  
31 section.

32 (b) "Public utility gas corporation" means a public  
33 utility gas corporation as defined in Section 216.

34 (c) "Interstate pipeline" means any entity that owns  
35 or operates a natural gas pipeline delivering natural gas  
36 to consumers in the state and is subject to rate regulation  
37 by the Federal Energy Regulatory Commission.

38 (d) Each gas utility shall notify the State Board of  
39 Equalization of its status under this section. Each person  
40 who consumes natural gas delivered by an interstate

1 pipeline shall annually register with the State Board of  
2 Equalization. The State Board of Equalization may  
3 require any documentation that it determines to be  
4 necessary to implement this article.

5 892. The revenue from the surcharge imposed  
6 pursuant to this article and collected by a public utility gas  
7 corporation shall be paid to the State Board of  
8 Equalization in the form of remittances. Persons  
9 consuming natural gas delivered by an interstate pipeline  
10 shall pay the surcharge to the State Board of Equalization  
11 in the form of remittances. The board shall transmit the  
12 payments to the Treasurer who shall deposit the  
13 payments in the Gas Consumption Surcharge Fund,  
14 which is hereby created in the State Treasury.

15 892.1. The surcharges imposed by this part and the  
16 amounts thereof required to be collected by public utility  
17 gas corporations are due quarterly on or before the last  
18 day of the month next succeeding each calendar quarter.

19 892.2. On or before the last day of the month following  
20 each calendar quarter, a return for the preceding  
21 quarterly period shall be filed with the State Board of  
22 Equalization in such form as the board may prescribe. A  
23 return shall be filed by every public utility gas  
24 corporation, and by every person consuming, as defined  
25 in this article, natural gas transported by a provider other  
26 than the public utility gas corporation. The return shall be  
27 signed by the person required to file the return or by his  
28 or her duly authorized agent.

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

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

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



1 (a) To the commission or an entity designated by the  
2 commission to fund programs described in subdivision  
3 (a) of Section 890.

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

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

8 896. "Consumption" means the use or employment of  
9 natural gas. Consumption does not include the use or  
10 employment of natural gas to generate power for sale, the  
11 sale or purchase of natural gas for resale to end users, the  
12 sale or use of gas for enhanced oil recovery, natural gas  
13 utilized in cogeneration technology projects to produce  
14 electricity, or natural gas that is produced in California  
15 ~~and is not required to meet the gas quality specifications~~  
16 ~~of the local gas utility and transported on a proprietary~~  
17 ~~pipeline.~~ Consumption does not include the consumption  
18 of natural gas which this state is prohibited from taxing  
19 under the United States Constitution or the California  
20 Constitution.

21 897. Nothing in this article impairs the rights and  
22 obligations of parties to contracts approved by the  
23 commission, as the rights and obligations were  
24 interpreted as of January 1, 1998.

25 898. Notwithstanding Section 890, a municipality,  
26 district, or public agency that offers in published tariffs  
27 home weatherization services, rate assistance for  
28 low-income customers, or programs similar to those  
29 described in subdivision (a) of Section 890, shall not be  
30 required to collect a surcharge pursuant to this article  
31 from customers within its service territory. A  
32 municipality, district, or public agency shall be required  
33 to collect a surcharge pursuant to this article from  
34 customers served by the municipality, district, or public  
35 agency outside of its service territory unless the  
36 commission determines that the entity offers those  
37 customers services similar to those offered by gas utilities  
38 as described in subdivision (a) of Section 890.

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

4 900. The commission shall determine the most  
5 efficient and cost-effective way to provide programs  
6 pursuant to Sections 739.1, 739.2, and 2790 in a consistent  
7 manner statewide by utility provider service territory. In  
8 determining the most cost-effective way to provide  
9 service that benefits persons eligible for low-income  
10 programs, the commission shall consider factors,  
11 including, but not limited to, outreach efforts to reach the  
12 targeted population and the types of discounts and  
13 services that should be provided by each utility. On or  
14 before July 1, 2001, the commission shall develop and  
15 implement efficient and cost-effective programs  
16 pursuant to Sections 739.1, 739.2, and 2790. The  
17 commission may conduct compliance audits to ensure  
18 compliance with any commission order or resolution  
19 relating to the implementation of programs pursuant to  
20 Sections 739.1, 739.2, and 2790, and may conduct financial  
21 audits.

22 SEC. 3. No reimbursement is required by this act  
23 pursuant to Section 6 of Article XIII B of the California  
24 Constitution because the only costs that may be incurred  
25 by a local agency or school district will be incurred  
26 because this act creates a new crime or infraction,  
27 eliminates a crime or infraction, or changes the penalty  
28 for a crime or infraction, within the meaning of Section  
29 17556 of the Government Code, or changes the definition  
30 of a crime within the meaning of Section 6 of Article  
31 XIII B of the California Constitution.