

AMENDED IN SENATE APRIL 7, 1999

AMENDED IN SENATE MARCH 16, 1999

SENATE BILL

No. 177

Introduced by Senators Peace and Burton

January 12, 1999

An act to add Section 625 to the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 177, as amended, Peace. Public utilities: eminent domain.

(1) The Public Utilities Act authorizes certain public utilities to condemn property, as prescribed.

This bill would amend the act to prohibit a public utility that offers competitive services from condemning any property for the purpose of competing with another entity in the offering of those competitive services, *unless the Public Utilities Commission finds that such an action would serve the public interest. The bill would authorize the commission to make such a finding if, in the determination of the commission, either of specified conditions is met. The bill would require the commission to develop procedures to facilitate access for affected property owners to eminent domain proceedings pursuant to those provisions, and to facilitate the participation of those owners in those proceedings.* Because a violation of the act is a crime, this bill would impose a state-mandated local program by creating a new crime.

(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: 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 625 is added to the Public
2 Utilities Code, to read:

3 625. (a) A public utility that offers competitive
4 services may not condemn any property for the purpose
5 of competing with another entity in the offering of those
6 competitive services, *unless the commission finds that*
7 *such an action would serve the public interest. The*
8 *commission may make such a finding if, in the*
9 *determination of the commission, either of the following*
10 *conditions is met:*

11 (1) *The public utility is providing services as a*
12 *provider of last resort that seeks to serve unserved areas.*

13 (2) *The public utility is able to show all of the following*
14 *with regard to the proposed condemnation:*

15 (A) *The public interest and necessity require the*
16 *proposed project.*

17 (B) *The property to be condemned is necessary for*
18 *the proposed project.*

19 (C) *That, if the commission does not permit the*
20 *acquisition of the property by eminent domain, the*
21 *hardship to the public utility will outweigh any hardship*
22 *to the owners of the property.*

23 (D) *The proposed project is located in a manner most*
24 *compatible with the greatest public good and least*
25 *private injury.*

26 (b) *The commission shall develop procedures to*
27 *facilitate access for affected property owners to eminent*
28 *domain proceedings pursuant to this section, and to*

1 *facilitate the participation of those owners in those*
2 *proceedings.*

3 SEC. 2. 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.

13 ~~Notwithstanding Section 17580 of the Government~~
14 ~~Code, unless otherwise specified, the provisions of this act~~
15 ~~shall become operative on the same date that the act~~
16 ~~takes effect pursuant to the California Constitution.~~

