

AMENDED IN SENATE APRIL 13, 2000

AMENDED IN SENATE APRIL 5, 2000

AMENDED IN SENATE MARCH 28, 2000

SENATE BILL

No. 1939

Introduced by ~~Senator Alarcon~~ *Senators Alarcon and Solis*

February 24, 2000

An act to amend Section 385 of, and to add Section 9607 to, the Public Utilities Code, and to amend Section 22120 of the Water Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 1939, as amended, Alarcon. Public utilities: electric power.

(1) Existing law requires each local publicly owned utility to establish a nonbypassable usage based charge to fund investments in specified public purpose programs, including providing services for low-income electricity customers. The charge is required to be not less than the lowest expenditure of the 3 largest electrical corporations in California based on a percentage of revenue.

This bill would require a specified percentage of charge revenues to be invested in programs servicing low-income electricity customers. Because a violation of this provision would be a crime, this bill would impose a state-mandated local program by creating a new crime.

(2) The Irrigation District Law authorizes an irrigation district that is governed under that law to sell, dispose of, and distribute electric power for use outside its boundaries.

~~This bill would require the Public Utilities Commission to approve the sale of~~ *certify a district to sell* electricity ~~by an irrigation district in the service territory of specified entities, as prescribed. Prior to granting approval, the commission would be required to make findings, as prescribed. The bill would prohibit a district from providing electric service to a retail customer of an electrical corporation or a publicly owned utility, unless the customer first confirms in writing an obligation to pay to the electrical corporation or publicly owned utility currently providing service, a nonpassable public purpose charge imposed by the regulatory body for that electrical corporation or publicly owned utility.~~ Because this bill would increase the duties of local entities by requiring them to obtain commission ~~approval~~ *certification* in order to sell electricity, it would impose a state-mandated local program.

(3) 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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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 385 of the Public Utilities Code
2 is amended to read:

1 385. (a) Except as provided in subdivision (b), each
2 local publicly owned electric utility shall establish a
3 nonbypassable, usage based charge on local distribution
4 service of not less than the lowest expenditure level of the
5 three largest electrical corporations in California on a
6 percent of revenue basis, calculated from each utility's
7 total revenue requirement for the year ended December
8 31, 1994, and each utility's total annual expenditure under
9 paragraphs (1), (2), and (3) of subdivision (c) of Section
10 381 and Section 382, to fund investments by the utility and
11 other parties in the low-income programs described in
12 subdivision (b), and in any or all of the following:

13 (1) Cost-effective demand-side management services
14 to promote energy efficiency and energy conservation.

15 (2) New investment in renewable energy resources
16 and technologies consistent with existing statutes and
17 regulations which promote those resources and
18 technologies.

19 (3) Research, development and demonstration
20 programs for the public interest to advance science or
21 technology which is not adequately provided by
22 competitive and regulated markets.

23 (b) Each local publicly owned electric utility shall
24 establish and fund programs servicing low-income
25 electricity customers *comparable to those established*
26 *under Section 382*. Those programs shall include, but are
27 not limited to, targeted energy efficiency services,
28 *outreach and education*, and rate discounts. The
29 percentage of the ~~nonbypassable, usage based charge~~
30 ~~allocated to the low-income programs shall be not less~~
31 ~~than the percentage required for investor-owned utilities~~
32 ~~in Section 382 and shall be based on an assessment of~~
33 ~~customer need.~~ *charge established under subdivision (a)*
34 *allocated to low-income programs shall be not less than*
35 *the percentage of charge revenues allocated to*
36 *low-income programs in 1999 by the Los Angeles*
37 *Department of Water and Power and the Sacramento*
38 *Municipal Utility District, and shall be based on a*
39 *demographic representation of need.*

1 SEC. 2. Section 9607 is added to the Public Utilities
2 Code, to read:

3 9607. (a) Notwithstanding Section 9604, for purposes
4 of this section, “district” means an irrigation district
5 furnishing electric services formed pursuant to the
6 Irrigation District Law as set forth in Division 11
7 (commencing with Section 20500) of the Water Code.

8 (b) Notwithstanding any other provision of law, a
9 ~~district may not, without the prior approval of the~~
10 ~~commission district may, to the extent consistent with~~
11 ~~subdivision (b) of Section 9605,~~ construct, lease, acquire,
12 or operate facilities for the ~~distribution of electricity~~
13 ~~purpose of serving retail electric customers located in the~~
14 service territory of an electrical corporation providing
15 electric distribution services as that territory existed on
16 January 1, 2000, or in the service territory of a local
17 publicly owned electric utility providing electric
18 distribution services as of January 1, 2000:

19 ~~(c) The commission may not approve the request of a~~
20 ~~district to provide distribution of electricity in the service~~
21 ~~territory of an entity as set forth in subdivision (a) unless~~
22 ~~the commission determines all of the following:~~

23 ~~(1) Service by the district within the service territory~~
24 ~~is consistent with the policies of the state, as set forth in~~
25 ~~Section 8101.~~

26 ~~(2) The district has established and funded public~~
27 ~~purpose and low-income programs in accordance with~~
28 ~~subdivisions (a) and (b) of Section 385.~~

29 ~~(3) The district has provided universal service to all~~
30 ~~customers who request service at the published tariff~~
31 ~~rates within the territory to be served.~~

32 ~~(4) The district has adopted consumer protection and~~
33 ~~direct transaction provisions comparable to those~~
34 ~~established by the Public Utilities Commission for~~
35 ~~electrical corporations.~~

36 ~~(d) A district may not provide partial or full electric~~
37 ~~service to a retail customer of an electrical corporation or~~
38 ~~a publicly owned utility, unless the customer of that~~
39 ~~electrical corporation or publicly owned utility first~~
40 ~~confirms in writing an obligation to pay, through tariff or~~

1 ~~otherwise, to the electrical corporation or publicly owned~~
2 ~~utility currently providing service, a nonbypassable~~
3 ~~public purpose charge imposed by the regulatory body~~
4 ~~for that electrical corporation or publicly owned utility.~~
5 ~~The charge shall be paid directly to the electrical~~
6 ~~corporation or publicly owned utility providing~~
7 ~~electricity in the service territory in which the customer~~
8 ~~is located.~~, if the district has obtained certification, as
9 described in subdivision (c), that its public purpose,
10 universal service, and consumer protections programs
11 are comparable to those of the current distribution
12 service provider.

13 (c) The district shall request certification from the
14 commission to serve retail customers located in the
15 service territory of an electrical corporation and from the
16 local regulatory body of the local publicly owned electric
17 utility's service territory. The commission, upon notice
18 and with opportunity to be heard as provided in Article
19 1 (commencing with Section 1701) of Chapter 9 of Part
20 1, shall issue a decision or resolution certifying the
21 district's programs, if it determines all of the following:

22 (1) The district has established and funded public
23 purpose and low-income programs in accordance with
24 Section 385.

25 (2) The district will provide universal service to all
26 retail customers who request service within the territory
27 to be served, at published tariff rates and on a just,
28 reasonable, and nondiscriminatory basis, comparable to
29 that provided by the current distribution service
30 provider.

31 (3) The district will provide consumer protection and
32 direct transaction provisions comparable to those
33 established for the current distribution service provider
34 and service by the district within the service territory will
35 be consistent with the policies of this state to prevent or
36 eliminate economic waste as set forth in Section 8101.

37 SEC. 3. Section 22120 of the Water Code is amended
38 to read:

1 22120. Except as provided in Section 9607 of the
2 Public Utilities Code, a district may sell, dispose of, and
3 distribute electric power for use outside of its boundaries.

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

14 However, notwithstanding Section 17610 of the
15 Government Code, if the Commission on State Mandates
16 determines that this act contains other costs mandated by
17 the state, reimbursement to local agencies and school
18 districts for those costs shall be made pursuant to Part 7
19 (commencing with Section 17500) of Division 4 of Title
20 2 of the Government Code. If the statewide cost of the
21 claim for reimbursement does not exceed one million
22 dollars (\$1,000,000), reimbursement shall be made from
23 the State Mandates Claims Fund.

