

AMENDED IN SENATE MAY 3, 2000
AMENDED IN SENATE APRIL 13, 2000
AMENDED IN SENATE APRIL 5, 2000
AMENDED IN SENATE MARCH 28, 2000

SENATE BILL

No. 1939

Introduced by Senators Alarcon, *Hughes*, 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~~ *Sections 21100 and 22120* of the Water Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

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

(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 generally requires a member of the board of directors of an irrigation district to be a voter and a freeholder of the district and a resident of the division that the director represents at the time of nomination or appointment and during the director's entire term. That 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 remove that requirement that a director be a freeholder of the district, and would make a related change. The bill would require the Public Utilities Commission to certify a district to sell electricity in the service territory of specified entities, as prescribed. Because this bill would increase the duties of local entities by requiring them to obtain commission 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:
- 3 385. ~~(a) Except as provided in subdivision (b), each~~



1 385. Each local publicly owned electric utility shall
 2 establish a nonbypassable, usage based charge on local
 3 distribution service of not less than the lowest
 4 expenditure level of the three largest electrical
 5 corporations in California on a percent of revenue basis,
 6 calculated from each utility's total revenue requirement
 7 for the year ended December 31, 1994, and each utility's
 8 total annual expenditure under paragraphs (1), (2), and
 9 (3) of subdivision (c) of Section 381 and Section 382, to
 10 fund investments by the utility and other parties in the
 11 low-income programs described in subdivision (b), and
 12 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 charge established under subdivision
 30 (a) allocated to low-income programs shall be ~~not less~~
 31 ~~than the percentage of charge revenues allocated to~~
 32 ~~low-income programs in 1999 by the Los Angeles~~
 33 ~~Department of Water and Power and the Sacramento~~
 34 ~~Municipal Utility District, and shall be based on a~~
 35 ~~demographic representation of need.~~ *based on an*
 36 *assessment of customer need, with a rate discount of no*
 37 *less than 15 percent offered to those who qualify. Unless*
 38 *a local publicly owned electric utility is providing a rate*
 39 *discount of 15 percent or more for low-income customers*
 40 *on or before January 1, 2001, that local publicly owned*

1 *electric utility shall conduct a needs assessment on or*
2 *before December 31, 2001.*

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

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

10 (b) Notwithstanding any other provision of law, a
11 district may, to the extent consistent with subdivision (b)
12 of Section 9605, construct, lease, acquire, or operate
13 facilities for the purpose of serving retail electric
14 customers located in the service territory of an electrical
15 corporation providing electric distribution services as
16 that territory existed on January 1, 2000, or in the service
17 territory of a local publicly owned electric utility
18 providing electric distribution services as of January 1,
19 2000, if the district has obtained certification, as described
20 in subdivision (c), that its public purpose, universal
21 service, and consumer protections programs are
22 comparable to those of the current distribution service
23 provider.

24 (c) The district shall request certification from the
25 commission to serve retail customers located in the
26 service territory of an electrical corporation and from the
27 local regulatory body of the local publicly owned electric
28 utility’s service territory. The commission, upon notice
29 and with opportunity to be heard as provided in Article
30 1 (commencing with Section 1701) of Chapter 9 of Part
31 1, shall issue a decision or resolution certifying the
32 district’s programs, if it determines all of the following:

33 (1) The district has established and funded public
34 purpose and low-income programs in accordance with
35 Section 385.

36 (2) The district will provide universal service to all
37 retail customers who request service within the territory
38 to be served, at published tariff rates and on a just,
39 reasonable, and nondiscriminatory basis, comparable to

1 that provided by the current distribution service
2 provider.

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

9 SEC. 3. *Section 21100 of the Water Code is amended*
10 *to read:*

11 21100. Each director ~~shall~~, except as otherwise
12 provided in this division, *shall* be a voter ~~and a freeholder~~
13 of the district and a resident of the division ~~which that~~ he
14 *or she* represents at the time of his *or her* nomination or
15 appointment and during his *or her* entire term, except in
16 the case of a director elected at a formation election, he
17 *or she* shall be a resident ~~and freeholder~~ in the proposed
18 district at the time of his *or her* nomination and a resident
19 of the division ~~which that~~ he *or she* represents during his
20 *or her* entire term.

21 ~~In any district having no more than 15 freeholders who~~
22 ~~are voters in the district, a person need not be a voter but~~
23 ~~shall be qualified to be a director of the district if he is a~~
24 ~~freeholder of the district at the time of his nomination or~~
25 ~~appointment and during his entire term.~~

26 SEC. 4. *Section 22120 of the Water Code is amended*
27 *to read:*

28 22120. Except as provided in Section 9607 of the
29 Public Utilities Code, a district may sell, dispose of, and
30 distribute electric power for use outside of its boundaries.

31 ~~SEC. 4.—~~

32 SEC. 5. No reimbursement is required by this act
33 pursuant to Section 6 of Article XIII B of the California
34 Constitution for certain costs that may be incurred by a
35 local agency or school district because in that regard this
36 act creates a new crime or infraction, eliminates a crime
37 or infraction, or changes the penalty for a crime or
38 infraction, within the meaning of Section 17556 of the
39 Government Code, or changes the definition of a crime

1 within the meaning of Section 6 of Article XIII B of the
2 California Constitution.

3 However, notwithstanding Section 17610 of the
4 Government Code, if the Commission on State Mandates
5 determines that this act contains other costs mandated by
6 the state, reimbursement to local agencies and school
7 districts for those costs shall be made pursuant to Part 7
8 (commencing with Section 17500) of Division 4 of Title
9 2 of the Government Code. If the statewide cost of the
10 claim for reimbursement does not exceed one million
11 dollars (\$1,000,000), reimbursement shall be made from
12 the State Mandates Claims Fund.

