

AMENDED IN ASSEMBLY AUGUST 7, 2000

AMENDED IN SENATE MAY 18, 2000

AMENDED IN SENATE MAY 15, 2000

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**

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**Introduced by Senators Alarcon, Hughes, Murray, Polanco,  
and Solis**

February 24, 2000

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An act to amend Section 385 of, *and to add Section 9607 to*, the Public Utilities Code, and to amend Section 21100 of, and to add Section 21100.7 to, 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~~ *local publicly owned electric utility that has not implemented* programs servicing low-income electricity customers *to perform a needs assessment, and establish low-income services, as prescribed.* 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 also provide that the board of directors of an irrigation district may adopt a resolution that authorizes a resident and nonresident person holding title to real property within the district, or his or her legal representative to vote. The bill would also provide that any eligible voter, as defined, may be a member of the board of directors. The bill would provide that those provisions regarding titleholders are operation as long as the district does not provide certain services for domestic purposes and would require the district to notify the Secretary of State 30 days prior to commencing to provide any of those services.

*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.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason. 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) Each local publicly owned electric utility  
4 shall establish a nonbypassable, usage based charge on  
5 local distribution service of not less than the lowest  
6 expenditure level of the three largest electrical  
7 corporations in California on a percent of revenue basis,  
8 calculated from each utility's total revenue requirement  
9 for the year ended December 31, 1994, and each utility's  
10 total annual expenditure under paragraphs (1), (2), and  
11 (3) of subdivision (c) of Section 381 and Section 382, to  
12 fund investments by the utility and other parties ~~in the~~  
13 ~~low-income programs described in subdivision (b), and~~  
14 in any or all of the following:  
15 (1) Cost-effective demand-side management services  
16 to promote energy efficiency and energy conservation.



1 (2) New investment in renewable energy resources  
2 and technologies consistent with existing statutes and  
3 regulations which promote those resources and  
4 technologies.

5 (3) Research, development and demonstration  
6 programs for the public interest to advance science or  
7 technology which is not adequately provided by  
8 competitive and regulated markets.

9 (4) *Services provided for low-income electricity*  
10 *customers, including, but not limited to, energy*  
11 *efficiency services, education, weatherization, and rate*  
12 *discounts.*

13 (b) Each local publicly owned electric utility shall  
14 ~~establish and fund programs servicing low-income~~  
15 ~~electricity customers comparable to those established~~  
16 ~~under Section 382. Those programs shall include, but are~~  
17 ~~not limited to, targeted energy efficiency services,~~  
18 ~~outreach and education, and rate discounts. The~~  
19 ~~percentage of the charge established under subdivision~~  
20 ~~(a) allocated to low income programs shall be based on~~  
21 ~~an assessment of customer need, with a rate discount of~~  
22 ~~no less than 15 percent offered to those who qualify.~~  
23 ~~Unless a local publicly owned electric utility is providing~~  
24 ~~a rate discount of 15 percent or more for low income~~  
25 ~~customers on or before January 1, 2001, that local publicly~~  
26 ~~owned electric utility shall conduct a needs assessment on~~  
27 ~~or before December 31, 2001.~~

28 ~~SEC. 2. that has not implemented programs for~~  
29 ~~low-income electricity customers including targeted~~  
30 ~~energy efficiency services and rate discounts based upon~~  
31 ~~the income level of the customer, or completed an~~  
32 ~~assessment of need for those programs, on or before~~  
33 ~~December 31, 2000, shall perform a needs assessment for~~  
34 ~~the programs described in paragraph (4) of subdivision~~  
35 ~~(a) and shall hold one or more public meetings, after~~  
36 ~~notice, to review the findings of the needs assessment.~~  
37 ~~Following the public meetings, the governing body of the~~  
38 ~~local publicly owned electric utility shall determine the~~  
39 ~~amount of the total funds collected pursuant to this~~  
40 ~~section to be allocated to low-income programs,~~



1 including, but not limited to, targeted energy efficiency  
2 services, education, weatherization, and rate discounts.  
3 In making its decision on the need for the programs, the  
4 governing body shall consider all of the following:

5 (1) The number and income level of low-income  
6 customers that reside in the service area of the utility.

7 (2) The number and income level of low-income  
8 residents in the utility's service area.

9 (3) The availability of home weatherization services to  
10 low-income customers pursuant to Section 2790.

11 (4) The availability of in-home energy efficiency  
12 education in the utility's service area.

13 (5) Other factors that may indicate a need for  
14 low-income services.

15 (c) If the local publicly owned utility determines  
16 pursuant to paragraph (2) of subdivision (b) that  
17 low-income customers reside in the utility's service area,  
18 rate discounts shall be established for those customers  
19 living below 125 percent of the federal poverty level. The  
20 governing body shall determine the percentage of rate  
21 discount.

22 (d) Following a determination pursuant to subdivision  
23 (b) that low-income services are needed, the local  
24 publicly owned utility shall promptly implement or  
25 expand those programs. The local publicly owned electric  
26 utility shall work with existing weatherization providers  
27 to implement energy efficiency, education, and  
28 weatherization programs.

29 (e) In addition to complying with subdivisions (b) to  
30 (d), inclusive, an irrigation district that is a local publicly  
31 owned electric utility collecting funds under subdivision  
32 (a) shall do both of the following:

33 (1) Allocate not less than 10 percent of its public  
34 benefit surcharge revenue to non-rate assistance  
35 low-income energy programs, including, but not limited  
36 to, low-income weatherization programs, energy  
37 efficiency programs, education, and outreach. Irrigation  
38 districts shall work with existing weatherization  
39 providers to ensure efforts are implemented.



1 (2) If the irrigation district has insufficient low-income  
2 customers to fully utilize the benefits offered under these  
3 programs, the irrigation district shall provide the  
4 programs, or supplement energy efficiency work, to  
5 qualifying low-income residents located in or adjacent to  
6 the area in which the irrigation district is providing  
7 electric service.

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

10 9607. (a) Notwithstanding Section 9604, for purposes  
11 of this section, 'district' means an irrigation district  
12 furnishing electric services formed pursuant to the  
13 Irrigation District Law as set forth in Division 11  
14 (commencing with Section 20500) of the Water Code.

15 (b) Notwithstanding any other provision of law, a  
16 district may, to the extent consistent with subdivision (b)  
17 of Section 9605, construct, lease, acquire, or operate  
18 facilities for the purpose of serving retail electric  
19 customers located in the service territory of an electrical  
20 corporation providing electric distribution services as  
21 that territory existed on January 1, 2000, or in the service  
22 territory of a local publicly owned electric utility  
23 providing electric distribution services as of January 1,  
24 2000, if the district has obtained certification, as described  
25 in subdivision (c), that its public purpose, universal  
26 service, and consumer protection programs are at a  
27 minimum comparable to those of the current distribution  
28 service providers.

29 (c) The district shall request certification from the  
30 commission to serve retail customers located in the  
31 service territory of an electrical corporation and from the  
32 local regulatory body of the local publicly owned electric  
33 utility's service territory before it expands its service to  
34 retail customers located in the service territory of an  
35 electrical corporation. The commission, upon notice and  
36 with opportunity to be heard as provided in Article 1  
37 (commencing with Section 1701) of Chapter 9 of Part 1,  
38 shall issue a decision or resolution certifying the district's  
39 programs, if it determines all of the following:



1 (1) *The district has established and funded public*  
2 *purpose and low-income programs in accordance with*  
3 *Section 385.*

4 (2) *The district will provide universal service to all*  
5 *retail customers who request service within reasonable*  
6 *physical proximity to the district's distribution or*  
7 *transmission wires and poles allowing for line extensions*  
8 *and service, at published tariff rates and on a just,*  
9 *reasonable, and nondiscriminatory basis, comparable to*  
10 *that provided by the current distribution service*  
11 *provider.*

12 (3) *The district will provide consumer protection and*  
13 *direct transaction provisions comparable to those*  
14 *established for the current distribution service provider*  
15 *and the district has established environmental policies to*  
16 *foster environmental justice and minimize or eliminate*  
17 *the duplication of electric transmission or distribution*  
18 *facilities and other economic waste.*

19 SEC. 3. Section 21100 of the Water Code is amended  
20 to read:

21 21100. Each director, except as otherwise provided in  
22 this division, shall be a voter of the district and a resident  
23 of the division that he or she represents at the time of his  
24 or her nomination or appointment and during his or her  
25 entire term, except in the case of a director elected at a  
26 formation election, he or she shall be a resident in the  
27 proposed district at the time of his or her nomination and  
28 a resident of the division that he or she represents during  
29 his or her entire term.

30 ~~SEC. 3.—~~

31 SEC. 4. Section 21100.7 is added to the Water Code, to  
32 read:

33 21100.7. (a) Notwithstanding Section 21100 or any  
34 other provision of law, the board of directors of an  
35 irrigation district may adopt a resolution that authorizes  
36 a person holding title to real property within the district,  
37 or his or her legal representative, to vote, in addition to  
38 other authorized voters. Holders of title need not be  
39 residents of the district in order to qualify as voters. Each  
40 eligible voter shall be entitled to cast only one vote.



1 (b) The last equalized county assessment roll is  
2 conclusive evidence of ownership of the real property.

3 (c) Notwithstanding Section 21100, any eligible voter,  
4 as specified in this section, may be a member of a district's  
5 board of directors.

6 (d) As used in this section, "eligible voter" means a  
7 person who meets the requirements of Section 20527 or  
8 a person who is a holder of title to real property within the  
9 district.

10 (e) (1) This section shall be operative as long as the  
11 district does not provide water, drainage services,  
12 electricity, flood control services, or sewage disposal  
13 services for domestic purposes for residents of the district,  
14 excepting for incidental domestic water provided.

15 (2) (A) This section shall become inoperative if the  
16 district commences to provide any of the services  
17 described in paragraph (1).

18 (B) Each district shall notify the Secretary of State 30  
19 days prior to commencing to provide any of the services  
20 described in paragraph (1). The notice required by this  
21 subparagraph shall state that it is being made pursuant to  
22 this section.

23 ~~SEC. 4. No reimbursement is required by this act  
24 pursuant to Section 6 of Article XIII B of the California  
25 Constitution because the only costs that may be incurred  
26 by a local agency or school district will be incurred  
27 because this act creates a new crime or infraction,  
28 eliminates a crime or infraction, or changes the penalty  
29 for a crime or infraction, within the meaning of Section  
30 17556 of the Government Code, or changes the definition  
31 of a crime within the meaning of Section 6 of Article  
32 XIII B of the California Constitution.~~

33 *SEC. 5. No reimbursement is required by this act  
34 pursuant to Section 6 of Article XIII B of the California  
35 Constitution for certain costs that may be incurred by a  
36 local agency or school district because in that regard this  
37 act creates a new crime or infraction, eliminates a crime  
38 or infraction, or changes the penalty for a crime or  
39 infraction, within the meaning of Section 17556 of the  
40 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.*

