

AMENDED IN ASSEMBLY AUGUST 9, 2000

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

**Introduced by Senators Alarcon, Hughes, Murray, Polanco,
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 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 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, 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 any
13 or all of the following:
14 (1) Cost-effective demand-side management services
15 to promote energy efficiency and energy conservation.
16 (2) New investment in renewable energy resources
17 and technologies consistent with existing statutes and
18 regulations which promote those resources and
19 technologies.
20 (3) Research, development and demonstration
21 programs for the public interest to advance science or

1 technology which is not adequately provided by
2 competitive and regulated markets.

3 (4) Services provided for low-income electricity
4 customers, including, but not limited to, energy
5 efficiency services, education, weatherization, and rate
6 discounts.

7 (b) Each local publicly owned electric utility that has
8 not implemented programs for low-income electricity
9 customers including targeted energy efficiency services
10 and rate discounts based upon the income level of the
11 customer, or completed an assessment of need for those
12 programs, on or before December 31, 2000, shall perform
13 a needs assessment for the programs described in
14 paragraph (4) of subdivision (a) and shall hold one or
15 more public meetings, after notice, to review the findings
16 of the needs assessment. Following the public meetings,
17 the governing body of the local publicly owned electric
18 utility shall determine the amount of the total funds
19 collected pursuant to this section to be allocated to
20 low-income programs, including, but not limited to,
21 targeted energy efficiency services, education,
22 weatherization, and rate discounts. In making its decision
23 on the need for the programs, the governing body shall
24 consider all of the following:

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

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

29 ~~(3)–~~

30 (2) The availability of home weatherization services to
31 low-income customers pursuant to Section 2790.

32 ~~(4)–~~

33 (3) The availability of in-home energy efficiency
34 education in the utility's service area.

35 ~~(5)–~~

36 (4) Other factors that may indicate a need for
37 low-income services.

38 ~~(c) If the local publicly owned utility determines~~
39 ~~pursuant to paragraph (2) of subdivision (b) that~~
40 ~~low-income customers reside in the utility's service area,~~

~~rate discounts shall be established for those customers living below 125 percent of the federal poverty level. The governing body shall determine the percentage of rate discount.~~

~~(d)—~~

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

~~(e)—~~

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

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

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

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

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

1 (b) Notwithstanding any other provision of law, a
2 district may, to the extent consistent with subdivision (b)
3 of Section 9605, construct, lease, acquire, or operate
4 facilities for the purpose of serving retail electric
5 customers located in the service territory of an electrical
6 corporation providing electric distribution services as
7 ~~that territory existed on January 1, 2000, or in the service~~
8 *or in the service* territory of a local publicly owned
9 electric utility providing electric distribution services as
10 ~~of January 1, 2000~~, if the district has obtained certification,
11 as described in subdivision (c), that its public purpose,
12 universal service, and consumer protection programs are
13 at a minimum comparable to those of the current
14 distribution service providers.

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

26 (1) The district has established and funded public
27 purpose and low-income programs in accordance with
28 Section 385.

29 (2) The district will provide universal service to all
30 retail customers who request service within reasonable
31 physical proximity to the district's distribution or
32 transmission wires and poles allowing for line extensions
33 and service, at published tariff rates and on a just,
34 reasonable, and nondiscriminatory basis, comparable to
35 that provided by the current distribution service
36 provider.

37 (3) The district will provide consumer protection and
38 direct transaction provisions comparable to those
39 established for the current distribution service provider
40 and the district has established environmental policies to

~~1 foster environmental justice and minimize or eliminate~~
~~2 minimize or eliminate the duplication of electric~~
~~3 transmission or distribution facilities and other economic~~
~~4 waste facilities.~~

5 SEC. 3. Section 21100 of the Water Code is amended
6 to read:

7 21100. Each director, except as otherwise provided in
8 this division, shall be a voter of the district and a resident
9 of the division that he or she represents at the time of his
10 or her nomination or appointment and during his or her
11 entire term, except in the case of a director elected at a
12 formation election, he or she shall be a resident in the
13 proposed district at the time of his or her nomination and
14 a resident of the division that he or she represents during
15 his or her entire term.

16 SEC. 4. Section 21100.7 is added to the Water Code, to
17 read:

18 21100.7. (a) Notwithstanding Section 21100 or any
19 other provision of law, the board of directors of an
20 irrigation district may adopt a resolution that authorizes
21 a person holding title to real property within the district,
22 or his or her legal representative, to vote, in addition to
23 other authorized voters. Holders of title need not be
24 residents of the district in order to qualify as voters. Each
25 eligible voter shall be entitled to cast only one vote.

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

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

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

35 (e) (1) This section shall be operative as long as the
36 district does not provide water, drainage services,
37 electricity, flood control services, or sewage disposal
38 services for domestic purposes for residents of the district,
39 excepting for incidental domestic water provided.

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

4 (B) Each district shall notify the Secretary of State 30
5 days prior to commencing to provide any of the services
6 described in paragraph (1). The notice required by this
7 subparagraph shall state that it is being made pursuant to
8 this section.

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

19 However, notwithstanding Section 17610 of the
20 Government Code, if the Commission on State Mandates
21 determines that this act contains other costs mandated by
22 the state, reimbursement to local agencies and school
23 districts for those costs shall be made pursuant to Part 7
24 (commencing with Section 17500) of Division 4 of Title
25 2 of the Government Code. If the statewide cost of the
26 claim for reimbursement does not exceed one million
27 dollars (\$1,000,000), reimbursement shall be made from
28 the State Mandates Claims Fund.

