

AMENDED IN ASSEMBLY AUGUST 18, 2000

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**

*(Coauthor: Assembly Member Calderon)*

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. *The bill would set forth certain related legislative findings.*

(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~~ *instead require each director to be a voter and a landowner in the district and a resident of the division he or she represents at the time of his or her nomination or appointment and throughout his or her term, except as provided.*

~~The bill would require the Public Utilities Commission to certify a district to sell electricity in the service territory of~~

~~specified entities, as prescribed prohibit a district from constructing, leasing, acquiring, or operating facilities for the purpose of serving retail electric customers located in the service territory of an electrical corporation or a local publicly owned electric utility unless the district provides to the customers of the electric corporation or local publicly owned utility certain programs and services that are comparable to those of the current distribution service providers, and would require the district to certify by ordinance certain matters. 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. The bill would provide that these restrictions would not become operative if AB 2634 is enacted and becomes operative.~~

(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

1 local distribution service of not less than the lowest  
2 expenditure level of the three largest electrical  
3 corporations in California on a percent of revenue basis,  
4 calculated from each utility's total revenue requirement  
5 for the year ended December 31, 1994, and each utility's  
6 total annual expenditure under paragraphs (1), (2), and  
7 (3) of subdivision (c) of Section 381 and Section 382, to  
8 fund investments by the utility and other parties in any  
9 or all of the following:

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

12 (2) New investment in renewable energy resources  
13 and technologies consistent with existing statutes and  
14 regulations which promote those resources and  
15 technologies.

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

20 (4) Services provided for low-income electricity  
21 customers, including, but not limited to, energy  
22 efficiency services, education, weatherization, and rate  
23 discounts.

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

1 on the need for the programs, the governing body shall  
2 consider all of the following:

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

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

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

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

11 (c) Following a determination pursuant to subdivision

12 (b) that low-income services are needed, the local  
13 publicly owned utility shall promptly implement or  
14 expand those programs. The local publicly owned electric  
15 utility shall work with existing weatherization providers  
16 to implement energy efficiency, education, and  
17 weatherization programs.

18 ~~(d) In addition to complying with subdivisions (b) to~~  
19 ~~(d), inclusive, an irrigation district that is a local publicly~~  
20 ~~owned electric utility collecting funds under subdivision~~  
21 ~~(a) shall allocate not less than 10 percent of its public~~  
22 ~~benefit surcharge revenue to nonrate assistance~~  
23 ~~low-income energy programs, including, but not limited~~  
24 ~~to, low income weatherization programs, energy~~  
25 ~~efficiency programs, education, and outreach. Irrigation~~  
26 ~~districts shall work with existing weatherization~~  
27 ~~providers to ensure efforts are implemented.~~

28 *(d) It is the intent of the Legislature to encourage*  
29 *irrigation districts that provide retail electric service, to*  
30 *consult with community advisory boards comprised of*  
31 *community members representing low-income*  
32 *customers in order to implement the low-income*  
33 *programs pursuant to paragraph (4) of subdivision (a).*  
34 *These low-income programs include, but are not limited*  
35 *to, rate discounts for low-income customers and nonrate*  
36 *discount low-income energy efficiency programs.*

37 *(e) It is the intent of the Legislature to encourage*  
38 *irrigation districts to work with community-based*  
39 *organizations, community action agencies, or*  
40 *community-based weatherization providers to*

1 *implement these programs. It is the intent of the*  
2 *Legislature that irrigation districts adopt low-income*  
3 *programs by July 1, 2001.*

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

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

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

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 before it expands its service to~~  
29 ~~retail customers located in the service territory of an~~  
30 ~~electrical corporation. The commission, upon notice and~~  
31 ~~with opportunity to be heard as provided in Article 1~~  
32 ~~(commencing with Section 1701) of Chapter 9 of Part 1,~~  
33 ~~shall issue a decision or resolution certifying the district’s~~  
34 ~~programs, if it determines all of the following:~~

35 ~~(b) Notwithstanding any other provision of law, a~~  
36 ~~district may not construct, lease, acquire, or operate~~  
37 ~~facilities for the purpose of serving retail electric~~  
38 ~~customers located in the service territory of an electrical~~  
39 ~~corporation or a local publicly owned electric utility~~  
40 ~~unless the district provides to the customers of the~~

1 *electric corporation or local publicly owned utility public*  
2 *purpose programs, universal service, customer*  
3 *protection, and environmental policies regarding*  
4 *distribution facilities that are comparable to those of the*  
5 *current distribution service providers.*

6 *(c) Prior to the construction, lease, acquisition, or*  
7 *operation of facilities for the purpose of serving retail*  
8 *electric customers located in the service territory of an*  
9 *electrical corporation or a local publicly owned electric*  
10 *utility, a district shall certify by ordinance, consistent with*  
11 *the needs determination provided for in Section 385, all*  
12 *of the following:*

13 (1) The district has established and funded public  
14 purpose and low-income programs in accordance with  
15 Section 385.

16 (2) The district will provide universal service to all  
17 retail customers who request service within reasonable  
18 physical proximity to the district's distribution or  
19 transmission wires and poles allowing for line extensions  
20 and service, at published tariff rates and on a just,  
21 reasonable, and nondiscriminatory basis, comparable to  
22 that provided by the current distribution service  
23 provider.

24 (3) The district will provide consumer protection and  
25 direct transaction provisions comparable to those  
26 established for the current distribution service provider  
27 and the district has established environmental policies to  
28 minimize or eliminate the duplication of electric  
29 transmission or distribution facilities.

30 *(d) In certifying its low-income programs pursuant to*  
31 *subdivision (c), a district shall follow public notice and*  
32 *hearing procedures and make detailed findings on the*  
33 *record supporting its decision.*

34 SEC. 3. Section 21100 of the Water Code is amended  
35 to read:

36 ~~21100. Each director, except as otherwise provided in~~  
37 ~~this division, shall be a voter of the district and a resident~~  
38 ~~of the division that he or she represents at the time of his~~  
39 ~~or her nomination or appointment and during his or her~~  
40 ~~entire term, except in the case of a director elected at a~~

~~formation election, he or she shall be a resident in the proposed district at the time of his or her nomination and a resident of the division that he or she represents during his or her entire term.~~

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

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

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

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

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

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

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

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

~~21100. (a) Each director, except as otherwise provided in this division, shall be a voter and a landowner in the district and a resident of the division that he or she represents at the time of his or her nomination or~~



1 *appointment and through his or her entire term, except*  
2 *in the case of the director elected at a formation election.*  
3 *A director elected at a formation election shall be a*  
4 *resident and landowner in the proposed district at the*  
5 *time of his or her nomination and a resident of the division*  
6 *that he or she represents during his or her entire term.*

7 *(b) In any district having no more than 15 landowners*  
8 *who are voters in the district, a person need not be a voter*  
9 *but shall be qualified to be a director of the district if he*  
10 *or she is a landowner of the district at the time of his or*  
11 *her nomination or appointment and during his or her*  
12 *entire term.*

13 *(c) In a district providing retail electricity for*  
14 *residents of the district, each director, except as*  
15 *otherwise provided in this division, shall be a voter of the*  
16 *district and a resident of the division that he or she*  
17 *represents at the time of his or her nomination or*  
18 *appointment and during his or her entire term, except in*  
19 *the case of a director elected at a formation election. A*  
20 *director elected at a formation election shall be a resident*  
21 *in the proposed district at the time of his or her*  
22 *nomination and a resident of the division that he or she*  
23 *represents during his or her entire term.*

24 *SEC. 4. Section 2 of this act, adding Section 9607 to the*  
25 *Public Utilities Code, shall not become operative if*  
26 *Assembly Bill 2638 of the 1999–2000 Regular Session is*  
27 *enacted and becomes operative.*

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

38 *However, notwithstanding Section 17610 of the*  
39 *Government Code, if the Commission on State Mandates*  
40 *determines that this act contains other costs mandated by*

1 the state, reimbursement to local agencies and school  
2 districts for those costs shall be made pursuant to Part 7  
3 (commencing with Section 17500) of Division 4 of Title  
4 2 of the Government Code. If the statewide cost of the  
5 claim for reimbursement does not exceed one million  
6 dollars (\$1,000,000), reimbursement shall be made from  
7 the State Mandates Claims Fund.

