

Senate Bill No. 1939

CHAPTER 1041

An act to amend Section 385 of, and to add Section 9607 to, the Public Utilities Code, and to amend Section 21100 of the Water Code, relating to public utilities.

[Approved by Governor September 30, 2000. Filed
with Secretary of State September 30, 2000.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1939, 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, thereby imposing a state-mandated local program. 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 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 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, it would impose a state-mandated local program. The bill would provide that these restrictions would not become operative if AB 2638 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.

The people of the State of California do enact as follows:

SECTION 1. (a) It is the intent of the Legislature to encourage irrigation districts that provide retail electric service, to consult with community advisory boards comprised of community members representing low-income customers in order to implement the low-income programs pursuant to paragraph (4) of subdivision (a) of Section 385 of the Public Utilities Code. These low-income programs include, but are not limited to, rate discounts for low-income customers and nonrate discount low-income energy efficiency programs.

(b) It is the intent of the Legislature to encourage irrigation districts to work with community-based organizations, community action agencies, or community-based weatherization providers to implement these programs. It is the intent of the Legislature that irrigation districts adopt low-income programs by July 1, 2001.

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

385. (a) Each local publicly owned electric utility shall establish a nonbypassable, usage based charge on local distribution service of not less than the lowest expenditure level of the three largest electrical corporations in California on a percent of revenue basis, calculated from each utility's total revenue requirement for the year ended December 31, 1994, and each utility's total annual expenditure under paragraphs (1), (2), and (3) of subdivision (c) of Section 381 and Section 382, to fund investments by the utility and other parties in any or all of the following:

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

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

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

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

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

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

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

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

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

(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.

SEC. 3. 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.

(b) Notwithstanding any other provision of law, a district may not construct, lease, acquire, or operate 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 public purpose programs, universal service, customer protection, and environmental policies regarding distribution facilities that are comparable to those of the current distribution service providers.

(c) Prior to the construction, lease, acquisition, or operation of 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, a district shall certify by ordinance, consistent with the needs determination provided for in Section 385, all of the following:

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

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

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

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

SEC. 4. Section 21100 of the Water Code is amended to read:

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 appointment and through his or her entire term, except in the case of the director elected at a formation election. A director elected at a formation election shall be a resident and landowner 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.

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

(c) In a district providing retail electricity for residents of the district, each director, except as otherwise provided in this division, shall be a voter of the district and a resident of the division that he

or she represents at the time of his or her nomination or appointment and during his or her entire term, except in the case of a director elected at a formation election. A director elected at a formation election 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. 5. Section 2 of this act, adding Section 9607 to the Public Utilities Code, shall not become operative if Assembly Bill 2638 of the 1999–2000 Regular Session is enacted and becomes operative.

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

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

