

Assembly Bill No. 1890

CHAPTER 854

An act to amend Sections 955.1 and 3440.1 of the Civil Code, to amend Section 9104 of the Commercial Code, to amend Sections 63010, 63025.1, and 63071 of, and to add Article 6 (commencing with Section 63048) to Chapter 2 of Division 1 of Title 6.7 of, the Government Code, to amend Section 216 of, to add Chapter 2.3 (commencing with Section 330) to, to add Article 5.5 (commencing with Section 840) to Chapter 4 of, Part 1 of Division 1 of, to add Division 4.9 (commencing with Section 9600) to, and to repeal Article 12 (commencing with Section 394) of Chapter 2.3 of Part 1 of Division 1 of, the Public Utilities Code, relating to public utilities, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 23, 1996. Filed
with Secretary of State September 24, 1996.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1890, Brulte. Public utilities: electrical restructuring.

Existing law provides for the furnishing of utility services, including residential electrical, gas, heat, and water services, by privately owned public utilities subject to the jurisdiction and control of the Public Utilities Commission and similar services by publicly owned public utilities including municipal corporations subject to their governing bodies and municipal utility districts and public utility districts subject to their boards and directors.

The bill would amend the Public Utilities Act to require that the commission undertake various actions, including the facilitation of the efforts of the state's electrical corporations to develop and obtain authorization of the Federal Energy Regulatory Commission for the creation and operation of an Independent System Operator and an Independent Power Exchange, and the authorization of direct transactions between electricity suppliers and end use customers, subject to implementation of a nonbypassable charge.

This bill would prohibit any person, corporation, electrical corporation, or local publicly owned electric utility or other governmental entity other than a retail customer's existing electric service provider as of December 20, 1995, from providing electric service to a retail customer of a publicly owned electric utility unless the customer pays to the utility currently providing electric service, a nonbypassable generation-related severance fee or transition charge, as defined, established by the regulatory body for that utility.

The bill would prohibit a local publicly owned electric utility or other governmental entity from providing electrical service to a retail customer of an electrical corporation unless that customer pays a nonbypassable transition charge to the electrical corporation.

The bill would require the local regulatory body of each local publicly owned electric utility to determine whether it will authorize direct transactions between electricity suppliers and end use customers, subject to implementation of the nonbypassable severance fee or transition charge, and provide for procedures to implement the direct transactions.

This bill would provide for the issuance of rate reduction bonds for the recovery of transition costs, as defined, by electrical corporations, pursuant to the restructuring of the electrical services industry.

Under the Bergeson-Peace Infrastructure and Economic Development Bank Act, the California Infrastructure and Economic Development Bank is authorized to, among other things, issue and sell or purchase bonds, as defined, make loans, and provide for other types of financing for qualifying projects for public improvements by specified public agencies, known as sponsors, and to execute any instrument necessary, convenient, or appropriate to carry out any power expressly given to the bank by the act. The act also establishes and makes available to the bank the California Infrastructure Bank Fund, a special fund continuously appropriated for these purposes.

By providing for the financing of transition costs under the act which is a new use of continuously appropriated funds, this bill would make an appropriation.

The bill would also incorporate changes to Section 216 of the Public Utilities Code proposed by AB 2501, to take effect if both bills are chaptered and this bill is chaptered last.

Since a violation of the Public Utilities Act is a misdemeanor, the bill would impose additional duties upon local law enforcement agencies, and the bill would also impose additional duties on local agencies, thereby constituting a state-mandated local program.

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.

This bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

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

SECTION 1. (a) The Legislature finds and declares that the restructuring of the California electricity industry has been driven by

System Operator to seek federal authorization to perform its functions and to be able to secure the generation and transmission resources needed to achieve specified planning and operational reserve criteria. It is the further intent of the Legislature to require development of maintenance standards that will reduce the potential for outages and secure participation in the operation of the Independent System Operator by the state's independent local publicly owned utilities.

(d) It is the intent of the Legislature to protect the consumer by requiring registration of certain sellers, marketers, and aggregators of electricity service, requiring information to be provided to consumers, and providing for the compilation and investigation of complaints. It is the further intent of the Legislature to continue to fund low-income ratepayer assistance programs, public purpose programs for public goods research, development and demonstration, demand-side management and renewable electric generation technologies in an unbundled manner.

(e) It is the intent of the Legislature that electrical corporations shall, by June 1, 1997, or on the earliest possible date, apply concurrently for financing orders from the Public Utilities Commission and rate reduction bonds from the California Infrastructure and Economic Development Bank in amounts sufficient to achieve a rate reduction in the most expeditious manner for residential and small commercial customers of not less than 10 percent for 1998 and continuing through March 31, 2002.

SEC. 2. Section 955.1 of the Civil Code is amended to read:

955.1. (a) Except as provided in Sections 954.5 and 955 and subject to subdivisions (b) and (c), a transfer other than one intended to create a security interest (paragraph (1) of subdivision (a) of Section 9102 of the Commercial Code) of any general intangible (Section 9106 of the Commercial Code) consisting of any right to payment and any transfer of accounts or chattel paper excluded from the coverage of Division 9 of the Commercial Code by subdivision (f) of Section 9104 of the Commercial Code shall be deemed perfected as against third persons upon there being executed and delivered to the transferee an assignment thereof in writing.

(b) As between bona fide assignees of the same right for value without notice, the assignee first giving notice thereof to the obligor in writing has priority.

(c) The assignment is not, of itself, notice to the obligor so as to invalidate any payments made by the obligor to the transferor.

(d) This section does not apply to transfers or assignments of transition property, as defined in Section 840 of the Public Utilities Code.

SEC. 3. Section 3440.1 of the Civil Code is amended to read:

3440.1. This chapter does not apply to any of the following:

approved restructuring-related implementation programs. An electrical corporation's ability to collect the amounts from retail customers after the year 2001 shall be reduced to the extent the Independent System Operator or the Power Exchange reimburses the electrical corporation for the costs of any of these programs.

377. The commission shall continue to regulate the nonnuclear generation assets owned by any public utility prior to January 1, 1997, that are subject to commission regulation until those assets have been subject to market valuation in accordance with procedures established by the commission. If, after market valuation, the public utility wishes to retain ownership of nonnuclear generation assets in the same corporation as the distribution utility, the public utility shall demonstrate to the satisfaction of the commission, through a public hearing, that it would be consistent with the public interest and would not confer undue competitive advantage on the public utility to retain that ownership in the same corporation as the distribution utility.

378. The commission shall authorize new optional rate schedules and tariffs, including new service offerings, that accurately reflect the loads, locations, conditions of service, cost of service, and market opportunities of customer classes and subclasses.

379. Nuclear decommissioning costs shall not be part of the costs described in Sections 367, 368, 375, and 376, but shall be recovered as a nonbypassable charge until the time as the costs are fully recovered. Recovery of decommissioning costs may be accelerated to the extent possible.

Article 7. Research, Environmental, and Low-Income Funds

381. (a) To ensure that the funding for the programs described in subdivision (b) and Section 382 are not commingled with other revenues, the commission shall require each electrical corporation to identify a separate rate component to collect the revenues used to fund these programs. The rate component shall be a nonbypassable element of the local distribution service and collected on the basis of usage. This rate component shall fall within the rate levels identified in subdivision (a) of Section 368.

(b) The commission shall allocate funds collected pursuant to subdivision (a), and any interest earned on collected funds, to programs which enhance system reliability and provide in-state benefits as follows:

- (1) Cost-effective energy efficiency and conservation activities.
- (2) Public interest research and development not adequately provided by competitive and regulated markets.
- (3) In-state operation and development of existing and new and emerging renewable resource technologies defined as electricity produced from other than a conventional power source within the