

AMENDED IN ASSEMBLY SEPTEMBER 4, 2009

AMENDED IN SENATE MAY 20, 2009

AMENDED IN SENATE APRIL 29, 2009

**SENATE BILL**

**No. 655**

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**Introduced by Senator Padilla**

February 27, 2009

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~~An act to amend Section 345.5 of the Public Utilities Code, relating to energy.~~ *An act to amend Section 6369 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.*

LEGISLATIVE COUNSEL'S DIGEST

SB 655, as amended, Padilla. ~~Independent System Operator: transmission facilities.~~ *Sales and use taxes: exemption: diabetic supplies.*

*The Sales and Use Tax Law imposes a tax on retailers measured by the gross receipts from the sale of tangible personal property sold at retail in this state, or on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer for storage, use, or other consumption in this state. That law provides various exemptions from that tax, including an exemption for insulin and insulin syringes furnished by a registered pharmacist to a person for treatment of diabetes as directed by a physician.*

*This bill would expand this exemption to be applicable to insulin, insulin syringes, skin puncture lancets, and glucose test strips furnished by a registered pharmacist or any retailer, as provided.*

*Counties and cities are authorized to impose local sales and use taxes, and districts, as defined, are authorized to impose transactions and use taxes, in conformity with state sales and use taxes. Exemptions from*

*state sales and use taxes enacted by the Legislature are incorporated into these taxes.*

*Section 2230 of the Revenue and Taxation Code provides that the state will reimburse counties and cities for revenue losses caused by the enactment of sales and use tax exemptions.*

*This bill would provide that, notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made and the state shall not reimburse local agencies for sales and use tax revenues lost by them pursuant to this bill.*

*This bill would take effect immediately as a tax levy, but its operative date would depend on its effective date.*

~~The Public Utilities Act requires the Independent System Operator, a nonprofit public benefit corporation created pursuant to law, to ensure efficient use and reliable operation of the state's electricity transmission grid. The operator is required to manage the transmission grid and related energy markets in a manner consistent with applicable state laws intended to protect the public's health and the environment. The operator is also required to consult and coordinate with state and local agencies to ensure that the operator operates in furtherance of state laws regarding consumer and environmental protection.~~

~~This bill would specify that those state laws regarding consumer and environmental protection include, but are not limited to, the California Renewables Portfolio Standard Program and the California Global Warming Solutions Act of 2006.~~

~~The bill would require the operator to appear annually before appropriate policy committees of the Legislature to report on the operator's activities. The bill also would declare legislative intent that the operator ensure that the transmission grid is secure from unauthorized intrusion.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: ~~no~~-yes.

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

- 1     SECTION 2. Section 6369 of the Revenue and Taxation Code
- 2     is amended to read:
- 3     6369. (a) There are exempted from the taxes imposed by this
- 4     part the gross receipts from the sale in this state of, and the storage,
- 5     use, or other consumption in this state of, medicines:

1 (1) Prescribed for the treatment of a human being by a person  
2 authorized to prescribe the medicines, and dispensed on  
3 prescription filled by a registered pharmacist in accordance with  
4 law.

5 (2) Furnished by a licensed physician and surgeon, dentist, or  
6 podiatrist to his or her own patient for treatment of the patient.

7 (3) Furnished by a health facility for treatment of any person  
8 pursuant to the order of a licensed physician and surgeon, dentist,  
9 or podiatrist.

10 (4) Sold to a licensed physician and surgeon, podiatrist, dentist,  
11 or health facility for the treatment of a human being.

12 (5) Sold to this state or any political subdivision or municipal  
13 corporation thereof, for use in the treatment of a human being; or  
14 furnished for the treatment of a human being by a medical facility  
15 or clinic maintained by this state or any political subdivision or  
16 municipal corporation thereof.

17 (6) Furnished without charge by a pharmaceutical manufacturer  
18 or distributor to a licensed physician, surgeon, dentist, podiatrist,  
19 or health facility for the treatment of a human being, or furnished  
20 by a pharmaceutical manufacturer or distributor without charge to  
21 an institution of higher education for instruction or research,  
22 provided that the exemption provided in this paragraph is limited  
23 to medicines of a type that can be dispensed only (A) for the  
24 treatment of a human being and (B) pursuant to prescriptions issued  
25 by persons authorized to prescribe medicines. The exemption  
26 provided in this paragraph shall include the materials used to  
27 package, and the constituent elements and ingredients used to  
28 produce, the medicines described in this paragraph and is intended  
29 to preclude any imposition of tax pursuant to Section 6094 or 6095  
30 with respect to those materials, elements, and ingredients.

31 (b) “Medicines” as used in this section, means any substance  
32 or preparation intended for use by external or internal application  
33 to the human body in the diagnosis, cure, mitigation, treatment,  
34 or prevention of disease and commonly recognized as a substance  
35 or preparation intended for that use. However, “medicines” does  
36 not include any of the following:

37 (1) Any auditory, prosthetic, ophthalmic, or ocular device or  
38 appliance.

39 (2) Articles that are in the nature of splints, bandages, pads,  
40 compresses, supports, dressings, instruments, apparatus,

1 contrivances, appliances, devices, or other mechanical, electronic,  
2 optical, or physical equipment or article or the component parts  
3 and accessories thereof.

4 (3) Any alcoholic beverage the manufacture, sale, purchase,  
5 possession, or transportation of which is licensed and regulated  
6 by the Alcoholic Beverage Control Act (Division 9 (commencing  
7 with Section 23000) of the Business and Professions Code).

8 (c) Notwithstanding subdivision (b), “medicines” as used in this  
9 section means and includes any of the following:

10 (1) Sutures, whether or not permanently implanted.

11 (2) Bone screws, bone pins, pacemakers, and other articles,  
12 other than dentures, permanently implanted in the human body to  
13 assist the functioning of any natural organ, artery, vein, or limb  
14 and which remain or dissolve in the body.

15 (3) (A) Orthotic devices, other than orthodontic devices,  
16 designed to be worn on the person of the user as a brace, support,  
17 or correction for the body structure, and replacement parts for these  
18 devices. However, orthopedic shoes and supportive devices for  
19 the foot are not exempt unless they are custom-made biomechanical  
20 foot orthoses or are an integral part of a leg brace or artificial leg.

21 (B) For purposes of this paragraph, “custom-made  
22 biomechanical foot orthoses” means an individually prescribed  
23 foot orthosis which is custom fabricated over a neutral or near  
24 neutral subtalar joint with a pronated midtarsal joint position  
25 positive plaster model of the patient’s foot, which model, when  
26 the cast is modified to support the osseous position of the forefoot  
27 in relationship to the rearfoot, embodies the angular osseous  
28 relationships of the anterior and posterior portions of the foot.

29 (4) Prosthetic devices, and replacement parts for those devices,  
30 designed to be worn on or in the person of the user to replace or  
31 assist the functioning of a natural part of the human body, other  
32 than auditory, ophthalmic, and ocular devices or appliances, and  
33 other than dentures, removable or fixed bridges, crowns, caps,  
34 inlays, artificial teeth, and other dental prosthetic materials and  
35 devices.

36 (5) Artificial limbs and eyes, or their replacement parts, for  
37 human beings.

38 (6) Programmable drug infusion devices to be worn on or  
39 implanted in the human body.

1 (d) “Health facility” as used in this section has the meaning  
2 ascribed to it in Section 1250 of the Health and Safety Code, and  
3 also includes any “clinic” as defined in Section 1200 of the Health  
4 and Safety Code.

5 (e) Insulin and, insulin syringes, *skin puncture lancets*, and  
6 *glucose strips* furnished by a registered pharmacist or any retailer  
7 to a person for treatment of diabetes as directed by a physician  
8 shall be deemed to be dispensed on prescription within the meaning  
9 of this section.

10 (f) Orthotic and prosthetic devices, and replacement parts for  
11 these devices, furnished pursuant to the written order of a physician  
12 or podiatrist, shall be deemed to be dispensed on prescription  
13 within the meaning of paragraph (1) of subdivision (a), whether  
14 or not the devices are furnished by a registered pharmacist.

15 (g) Mammary prostheses, and any appliances and related  
16 supplies necessary as the result of any surgical procedure by which  
17 an artificial opening is created in the human body for the  
18 elimination of natural waste, shall be deemed to be dispensed on  
19 prescription within the meaning of this section.

20 *SEC. 2. Notwithstanding Section 2230 of the Revenue and*  
21 *Taxation Code, no appropriation is made by this act and the state*  
22 *shall not reimburse any local agency for any sales and use tax*  
23 *revenues lost by it under this act.*

24 *SEC. 3. This act provides for a tax levy within the meaning of*  
25 *Article IV of the Constitution and shall go into immediate effect.*  
26 *However, the provisions of this act shall become operative on the*  
27 *first day of the first calendar quarter commencing more than 90*  
28 *days after the effective date of this act.*

29 ~~SECTION 1. The Legislature finds and declares the following:~~

30 ~~(a) The deployment of smart grid technology creates additional~~  
31 ~~opportunities for unauthorized persons or entities to impact the~~  
32 ~~transmission grid.~~

33 ~~(b) Because uninterrupted and reliable electric service is a matter~~  
34 ~~of public health and safety, and is necessary for the conduct of~~  
35 ~~commerce, it is the intent of the Legislature that the Independent~~  
36 ~~System Operator take all necessary steps to ensure that the~~  
37 ~~transmission grid is secure from intrusion by unauthorized persons~~  
38 ~~or entities.~~

39 ~~SEC. 2. Section 345.5 of the Public Utilities Code is amended~~  
40 ~~to read:~~

1     ~~345.5. (a) The Independent System Operator, as a nonprofit,~~  
2 ~~public benefit corporation, shall conduct its operations consistent~~  
3 ~~with applicable state and federal laws and consistent with the~~  
4 ~~interests of the people of the state.~~

5     ~~(b) To ensure the reliability of electric service and the health~~  
6 ~~and safety of the public, the Independent System Operator shall~~  
7 ~~manage the transmission grid and related energy markets in a~~  
8 ~~manner that is consistent with all of the following:~~

9     ~~(1) Making the most efficient use of available energy resources.~~  
10 ~~For purposes of this section, “available energy resources” include~~  
11 ~~energy, capacity, ancillary services, and demand bid into markets~~  
12 ~~administered by the Independent System Operator. “Available~~  
13 ~~energy resources” do not include a schedule submitted to the~~  
14 ~~Independent System Operator by an electrical corporation or a~~  
15 ~~local publicly owned electric utility to meet its own customer load.~~

16     ~~(2) Reducing, to the extent possible, overall economic cost to~~  
17 ~~the state’s consumers.~~

18     ~~(3) Maximizing availability of existing electric generation~~  
19 ~~resources necessary to meet the needs of the state’s electricity~~  
20 ~~consumers.~~

21     ~~(c) The Independent System Operator shall do all of the~~  
22 ~~following:~~

23     ~~(1) Consult and coordinate with appropriate state and local~~  
24 ~~agencies to ensure that the Independent System Operator operates~~  
25 ~~in furtherance of state law regarding consumer and environmental~~  
26 ~~protection, including, but not limited to, the California Renewables~~  
27 ~~Portfolio Standard Program (Article 16 (commencing with Section~~  
28 ~~399.11)) and the California Global Warming Solutions Act of 2006~~  
29 ~~(Division 25.5 (commencing with Section 38500) of the Health~~  
30 ~~and Safety Code).~~

31     ~~(2) Ensure that the purposes and functions of the Independent~~  
32 ~~System Operator are consistent with the purposes and functions~~  
33 ~~of nonprofit, public benefit corporations in the state, including~~  
34 ~~duties of care and conflict-of-interest standards for officers and~~  
35 ~~directors of a corporation.~~

36     ~~(3) Maintain open meeting standards and meeting notice~~  
37 ~~requirements consistent with the general policies of the~~  
38 ~~Bagley-Keene Open Meetings Act (Article 9 (commencing with~~  
39 ~~Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of~~  
40 ~~the Government Code) and affording the public the greatest~~

1 possible access, consistent with other duties of the corporation.  
2 The Independent System Operator's Open Meeting Policy, as  
3 adopted on April 23, 1998, and in effect as of May 1, 2002, meets  
4 the requirements of this paragraph. The Independent System  
5 Operator shall maintain a policy that is no less consistent with the  
6 Bagley-Keene Open Meetings Act than its policy in effect as of  
7 May 1, 2002.

8 (4) Provide public access to corporate records consistent with  
9 the general policies of the California Public Records Act (Chapter  
10 3.5 (commencing with Section 6250) of Division 7 of Title 1 of  
11 the Government Code) and affording the public the greatest  
12 possible access, consistent with the other duties of the corporation.  
13 The Independent System Operator's Information Availability  
14 Policy, as adopted on October 22, 1998, and in effect as of May  
15 1, 2002, meets the requirements of this paragraph. The Independent  
16 System Operator shall maintain a policy that is no less consistent  
17 with the California Public Records Act than its policy in effect as  
18 of May 1, 2002.

19 (5) Appear annually before the appropriate policy committees  
20 of the Senate and the Assembly to report on the Independent  
21 System Operator's activities.