

AMENDED IN SENATE AUGUST 30, 2011
AMENDED IN SENATE AUGUST 15, 2011
AMENDED IN SENATE JUNE 21, 2011
AMENDED IN ASSEMBLY MAY 27, 2011
AMENDED IN ASSEMBLY MARCH 25, 2011
CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 509

Introduced by Assembly Member Skinner

February 15, 2011

An act to amend Sections 277, 382, and 739.1 of the Public Utilities Code, and to amend Sections 19851, 19852, and 19853 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 509, as amended, Skinner. Federal earned income tax credit: notification: state departments and agencies.

The federal income tax law authorizes a refundable earned income tax credit for certain low-income individuals who have earned income and who meet certain other requirements. Existing California law requires an employer, as defined, to notify all employees that they may be eligible for the federal earned income tax credit (EITC), as specified.

This bill would require state departments and agencies that serve those who may qualify for the EITC, as defined, to notify their program recipients that they may be eligible for the EITC, at least once a year during the months of January through April, or alternatively, to provide this annual notification during a regularly scheduled contact with a

recipient by telephone, mail, or electronic communication, or by an in-person communication, as specified. This bill would require state departments and agencies that do not directly communicate with persons who may qualify for the EITC to communicate indirectly through agencies or districts serving those persons.

~~Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including telephone corporations, and establishes the Universal Lifeline Telephone Service Trust Administrative Committee Fund, moneys within which may be used for specified purposes. Existing law, among other requirements, requires the commission to establish a program of assistance to low-income electric and gas customers, which is referred to as the California Alternate Rates for Energy (CARE) program and provides that the commission shall authorize recovery of administrative costs associated within the implementation of the CARE program.~~

~~This bill would authorize the Public Utilities Commission to use the moneys collected for the purposes of the Universal Lifeline Telephone Service to accomplish the EITC notifications, described above, and to recover any administrative costs associated with the notifications. The bill also would authorize the commission in addition to the recovery of specified administrative costs associated with the CARE program, to recover administrative costs associated with the notifications.~~

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

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

- 1 SECTION 1. ~~Section 277 of the Public Utilities Code is~~
- 2 ~~amended to read:~~
- 3 ~~277.—(a) There is hereby created the Universal Lifeline~~
- 4 ~~Telephone Service Trust Administrative Committee, which is an~~
- 5 ~~advisory board to advise the commission regarding the~~
- 6 ~~development, implementation, and administration of a program to~~
- 7 ~~ensure lifeline telephone service is available to the people of the~~
- 8 ~~state, as provided for in Article 8 (commencing with Section 871)~~
- 9 ~~of Chapter 4 of Part 1 of Division 1, and to carry out the program~~
- 10 ~~pursuant to the commission’s direction, control, and approval.~~
- 11 ~~(b) All revenues collected by telephone corporations in rates~~
- 12 ~~authorized by the commission to fund the program specified in~~
- 13 ~~subdivision (a) shall be submitted to the commission pursuant to~~

1 ~~a schedule established by the commission. Commencing on~~
2 ~~October 1, 2001, and continuing thereafter, the commission shall~~
3 ~~transfer the moneys received, and all unexpended revenues~~
4 ~~collected prior to October 1, 2001, to the Controller for deposit in~~
5 ~~the Universal Lifeline Telephone Service Trust Administrative~~
6 ~~Committee Fund. All interest earned by moneys in the fund shall~~
7 ~~be deposited in the fund.~~

8 ~~(e) Moneys appropriated from the Universal Lifeline Telephone~~
9 ~~Service Trust Administrative Committee Fund to the commission~~
10 ~~shall be utilized exclusively by the commission for the program~~
11 ~~specified in subdivision (a), including all costs of the board and~~
12 ~~the commission associated with the administration and oversight~~
13 ~~of the program and the fund, and for the purposes of Part 10.3~~
14 ~~(commencing with Section 19850) of Division 2 of the Revenue~~
15 ~~and Taxation Code.~~

16 ~~SEC. 2. Section 382 of the Public Utilities Code is amended~~
17 ~~to read:~~

18 ~~382.—(a) Programs provided to low-income electricity~~
19 ~~customers, including, but not limited to, targeted energy-efficiency~~
20 ~~services and the California Alternate Rates for Energy program~~
21 ~~shall be funded at not less than 1996 authorized levels based on~~
22 ~~an assessment of customer need.~~

23 ~~(b) In order to meet legitimate needs of electric and gas~~
24 ~~customers who are unable to pay their electric and gas bills and~~
25 ~~who satisfy eligibility criteria for assistance, recognizing that~~
26 ~~electricity is a basic necessity, and that all residents of the state~~
27 ~~should be able to afford essential electricity and gas supplies, the~~
28 ~~commission shall ensure that low-income ratepayers are not~~
29 ~~jeopardized or overburdened by monthly energy expenditures.~~
30 ~~Energy expenditure may be reduced through the establishment of~~
31 ~~different rates for low-income ratepayers, different levels of rate~~
32 ~~assistance, and energy efficiency programs.~~

33 ~~(c) Nothing in this section shall be construed to prohibit electric~~
34 ~~and gas providers from offering any special rate or program for~~
35 ~~low-income ratepayers that is not specifically required in this~~
36 ~~section.~~

37 ~~(d) Beginning in 2002, an assessment of the needs of~~
38 ~~low-income electricity and gas ratepayers shall be conducted~~
39 ~~periodically by the commission with the assistance of the~~
40 ~~Low-Income Oversight Board. The assessment shall evaluate~~

1 ~~low-income program implementation and the effectiveness of~~
2 ~~weatherization services and energy efficiency measures in~~
3 ~~low-income households. The assessment shall consider whether~~
4 ~~existing programs adequately address low-income electricity and~~
5 ~~gas customers' energy expenditures, hardship, language needs,~~
6 ~~and economic burdens.~~

7 ~~(e) The commission shall, by not later than December 31, 2020,~~
8 ~~ensure that all eligible low-income electricity and gas customers~~
9 ~~are given the opportunity to participate in low-income energy~~
10 ~~efficiency programs, including customers occupying apartments~~
11 ~~or similar multiunit residential structures. The commission and~~
12 ~~electrical corporations and gas corporations shall make all~~
13 ~~reasonable efforts to coordinate ratepayer-funded programs with~~
14 ~~other energy conservation and efficiency programs and to obtain~~
15 ~~additional federal funding to support actions undertaken pursuant~~
16 ~~to this subdivision.~~

17 ~~These programs shall be designed to provide long-term~~
18 ~~reductions in energy consumption at the dwelling unit based on~~
19 ~~an audit or assessment of the dwelling unit, and may include~~
20 ~~improved insulation, energy efficient appliances, measures that~~
21 ~~utilize solar energy, and other improvements to the physical~~
22 ~~structure.~~

23 ~~(f) The commission shall allocate funds necessary to meet both~~
24 ~~the low-income objectives in this section and the purposes of Part~~
25 ~~10.3 (commencing with Section 19850) of Division 2 of the~~
26 ~~Revenue and Taxation Code.~~

27 ~~SEC. 3. Section 739.1 of the Public Utilities Code is amended~~
28 ~~to read:~~

29 ~~739.1. (a) As used in this section, the following terms have~~
30 ~~the following meanings:~~

31 ~~(1) "Baseline quantity" has the same meaning as defined in~~
32 ~~Section 739.~~

33 ~~(2) "California Solar Initiative" means the program providing~~
34 ~~ratepayer funded incentives for eligible solar energy systems~~
35 ~~adopted by the commission in Decision 05-12-044 and Decision~~
36 ~~06-01-024, as modified by Article 1 (commencing with Section~~
37 ~~2851) of Chapter 9 of Part 2 and Chapter 8.8 (commencing with~~
38 ~~Section 25780) of Division 15 of the Public Resources Code.~~

39 ~~(3) "CalWORKs program" means the program established~~
40 ~~pursuant to the California Work Opportunity and Responsibility~~

1 to Kids Act (Chapter 2 (commencing with Section 11200) of Part
2 3 of Division 9 of the Welfare and Institutions Code).

3 (4) ~~“Public goods charge” means the nonbypassable separate~~
4 ~~rate component imposed pursuant to Article 7 (commencing with~~
5 ~~Section 381) of Chapter 2.3 and the nonbypassable system benefits~~
6 ~~charge imposed pursuant to the Reliable Electric Service~~
7 ~~Investments Act (Article 15 (commencing with Section 399) of~~
8 ~~Chapter 2.3).~~

9 (b) (1) ~~The commission shall establish a program of assistance~~
10 ~~to low-income electric and gas customers with annual household~~
11 ~~incomes that are no greater than 200 percent of the federal poverty~~
12 ~~guideline levels, the cost of which shall not be borne solely by any~~
13 ~~single class of customer. The program shall be referred to as the~~
14 ~~California Alternate Rates for Energy or CARE program. The~~
15 ~~commission shall ensure that the level of discount for low-income~~
16 ~~electric and gas customers correctly reflects the level of need.~~

17 (2) ~~The commission may, subject to the limitation in paragraph~~
18 ~~(4), increase the rates in effect for CARE program participants for~~
19 ~~electricity usage up to 130 percent of baseline quantities by the~~
20 ~~annual percentage increase in benefits under the CalWORKs~~
21 ~~program as authorized by the Legislature for the fiscal year in~~
22 ~~which the rate increase would take effect, but not to exceed 3~~
23 ~~percent per year.~~

24 (3) ~~Beginning January 1, 2019, the commission may, subject~~
25 ~~to the limitation in paragraph (4), establish rates for CARE program~~
26 ~~participants pursuant to this section and Sections 739 and 739.9;~~
27 ~~subject to both of the following:~~

28 (A) ~~The requirements of subdivision (b) of Section 382 that the~~
29 ~~commission ensure that low-income ratepayers are not jeopardized~~
30 ~~or overburdened by monthly energy expenditures.~~

31 (B) ~~The requirement that the level of the discount for~~
32 ~~low-income electricity and gas ratepayers correctly reflects the~~
33 ~~level of need as determined by the needs assessment conducted~~
34 ~~pursuant to subdivision (d) of Section 382.~~

35 (4) ~~Tier 1, tier 2, and tier 3 CARE rates shall not exceed 80~~
36 ~~percent of the corresponding tier 1, tier 2, and tier 3 rates charged~~
37 ~~to residential customers not participating in the CARE program,~~
38 ~~excluding any Department of Water Resources bond charge~~
39 ~~imposed pursuant to Division 27 (commencing with Section 80000)~~
40 ~~of the Water Code, the CARE surcharge portion of the public~~

1 goods charge, any charge imposed pursuant to the California Solar
2 Initiative, and any charge imposed to fund any other program that
3 exempts CARE participants from paying the charge.

4 (5) Rates charged to CARE program participants shall not have
5 more than three tiers. An electrical corporation that does not have
6 a tier 3 CARE rate may introduce a tier 3 CARE rate that, in order
7 to moderate the impact on program participants whose usage
8 exceeds 130 percent of baseline quantities, shall be phased in to
9 80 percent of the corresponding rates charged to residential
10 customers not participating in the CARE program, excluding any
11 Department of Water Resources bond charge imposed pursuant to
12 Division 27 (commencing with Section 80000) of the Water Code,
13 the CARE surcharge portion of the public goods charge, any charge
14 imposed pursuant to the California Solar Initiative, and any other
15 charge imposed to fund a program that exempts CARE participants
16 from paying the charge. For an electrical corporation that does not
17 have a tier 3 CARE rate that introduces a tier 3 CARE rate, the
18 initial rate shall be no more than 150 percent of the CARE baseline
19 rate. Any additional revenues collected by an electrical corporation
20 resulting from the adoption of a tier 3 CARE rate shall, until the
21 utility's next periodic general rate case review of cost allocation
22 and rate design, be credited to reduce rates of residential ratepayers
23 not participating in the CARE program with usage above 130
24 percent of baseline quantities.

25 (e) The commission shall work with the public utility electrical
26 and gas corporations to establish penetration goals. The
27 commission shall authorize recovery of all administrative costs
28 associated with the implementation of the CARE program, and all
29 the administrative costs associated with the implementation of Part
30 10.3 (commencing with Section 19850) of Division 2 of the
31 Revenue and Taxation Code that the commission determines to
32 be reasonable, through a balancing account mechanism.
33 Administrative costs shall include, but are not limited to, outreach,
34 marketing, regulatory compliance, certification and verification,
35 billing, measurement and evaluation, and capital improvements
36 and upgrades to communications and processing equipment.

37 (d) The commission shall examine methods to improve CARE
38 enrollment and participation. This examination shall include, but
39 need not be limited to, comparing information from CARE and
40 the Universal Lifeline Telephone Service (ULTS) to determine

1 the most effective means of utilizing that information to increase
2 CARE enrollment, automatic enrollment of ULTS customers who
3 are eligible for the CARE program, customer privacy issues, and
4 alternative mechanisms for outreach to potential enrollees. The
5 commission shall ensure that a customer consents prior to
6 enrollment. The commission shall consult with interested parties,
7 including ULTS providers, to develop the best methods of
8 informing ULTS customers about other available low-income
9 programs, as well as the best mechanism for telephone providers
10 to recover reasonable costs incurred pursuant to this section.

11 (e) (1) The commission shall improve the CARE application
12 process by cooperating with other entities and representatives of
13 California government, including the California Health and Human
14 Services Agency and the Secretary of California Health and Human
15 Services, to ensure that all gas and electric customers eligible for
16 public assistance programs in California that reside within the
17 service territory of an electrical corporation or gas corporation,
18 are enrolled in the CARE program. To the extent practicable, the
19 commission shall develop a CARE application process using the
20 existing ULTS application process as a model. The commission
21 shall work with public utility electrical and gas corporations and
22 the Low-Income Oversight Board established in Section 382.1 to
23 meet the low-income objectives in this section.

24 (2) The commission shall ensure that an electrical corporation
25 or gas corporation with a commission-approved program to provide
26 discounts based upon economic need in addition to the CARE
27 program, including a Family Electric Rate Assistance program,
28 utilize a single application form, to enable an applicant to
29 alternatively apply for any assistance program for which the
30 applicant may be eligible. It is the intent of the Legislature to allow
31 applicants under one program, that may not be eligible under that
32 program, but that may be eligible under an alternative assistance
33 program based upon economic need, to complete a single
34 application for any commission-approved assistance program
35 offered by the public utility.

36 (f) The commission's program of assistance to low-income
37 electric and gas customers shall, as soon as practicable, include
38 nonprofit group living facilities specified by the commission, if
39 the commission finds that the residents in these facilities
40 substantially meet the commission's low-income eligibility

1 requirements and there is a feasible process for certifying that the
 2 assistance shall be used for the direct benefit, such as improved
 3 quality of care or improved food service, of the low-income
 4 residents in the facilities. The commission shall authorize utilities
 5 to offer discounts to eligible facilities licensed or permitted by
 6 appropriate state or local agencies, and to facilities, including
 7 women’s shelters, hospices, and homeless shelters, that may not
 8 have a license or permit but provide other proof satisfactory to the
 9 utility that they are eligible to participate in the program.

10 (g) It is the intent of the Legislature that the commission ensure
 11 CARE program participants are afforded the lowest possible
 12 electric and gas rates and, to the extent possible, are exempt from
 13 additional surcharges attributable to the energy crisis of 2000–01.

14 ~~SEC. 4.~~

15 *SECTION 1.* Section 19851 of the Revenue and Taxation Code
 16 is amended to read:

17 19851. The Legislature finds and declares as follows:

18 (a) Congress created the federal earned income tax credit (EITC)
 19 in 1975 to offset the adverse effects of the Medicare and social
 20 security payroll taxes on working poor families and to encourage
 21 low-income workers to seek employment rather than welfare.

22 (b) Due to a relatively low percentage of federal earned income
 23 tax credit eligible persons who participate in the federal Earned
 24 Income Tax Credit program, hundreds of millions of federal dollars
 25 go unclaimed by the working poor in California.

26 (c) In order to alleviate the tax burden on working poor persons
 27 and families, to enhance the wages and income of working poor
 28 persons and families, to ensure that California receives its share
 29 of the federal money available in the federal Earned Income Tax
 30 Credit program, and to inject additional federal money into the
 31 California economy, the state shall facilitate the furnishing of
 32 information to working poor persons and families regarding the
 33 availability of the federal earned income tax credit so that they
 34 may claim that credit on their federal income tax returns.

35 (d) It is the intent of this act to offer the most cost-effective
 36 assistance to eligible taxpayers through the following:

- 37 (1) Notices provided by their employers.
- 38 (2) Notices provided by state departments and agencies that
- 39 serve those who may qualify for the EITC.

1 ~~SEC. 5.~~

2 ~~SEC. 2.~~ Section 19852 of the Revenue and Taxation Code is
3 amended to read:

4 19852. For purposes of this part, the following terms have the
5 following meanings:

6 (a) “Employer” means any California employer who is subject
7 to, and is required to provide, unemployment insurance to his or
8 her employees, under the Unemployment Insurance Code.

9 (b) “Employee” means any person who is covered by
10 unemployment insurance by his or her employer, pursuant to the
11 Unemployment Insurance Code.

12 (c) “EITC” means the federal earned income tax credit, as
13 defined in Section 32 of the Internal Revenue Code.

14 (d) “State departments and agencies that serve those who may
15 qualify for the EITC” means ~~those departments and agencies that~~
16 ~~operate state or federally funded programs primarily engaged in~~
17 ~~providing services to low-income individuals and families.~~
18 ~~Departments, agencies, and programs under this subdivision may~~
19 ~~include, but are not limited to, the following:~~ *the following*
20 *programs in the specified departments and agencies:*

21 (1) The State Department of Education: free or reduced-price
22 meal program and National School Lunch Program.

23 ~~(2) The State Department of Social Services: the CalWORKs~~
24 ~~program, CalFresh, and foster families.~~

25 ~~(3) The Public Utilities Commission: California Alternate Rates~~
26 ~~for Energy, the Energy Savings Assistance Program, Payment~~
27 ~~Plans, and Emergency Payment Assistance Programs, including~~
28 ~~Family Electric Rate Assistance, the California Weatherization~~
29 ~~Assistance Program, the Low Income Home Energy Assistance~~
30 ~~Program, the California LifeLine Telephone Program, and Link-Up.~~

31 ~~(4)~~

32 (2) Employment Development Department: California
33 Unemployment Insurance.

34 ~~(5)~~

35 (3) State Department of Health Care Services: the Medi-Cal
36 program.

37 ~~(6)~~

38 (4) Managed Risk Medical Insurance Board (MRMIB): the
39 Healthy Families Program.

1 ~~SEC. 6.~~

2 *SEC. 3.* Section 19853 of the Revenue and Taxation Code is
3 amended to read:

4 19853. (a) An employer shall notify all employees that they
5 may be eligible for the EITC within one week before or after, or
6 at the same time, that the employer provides an annual wage
7 summary, including, but not limited to, a Form W-2 or a Form
8 1099, to any employee.

9 (b) The state departments and agencies that serve those who
10 may qualify for the EITC, as defined in subdivision (d) of Section
11 19852, shall notify their program recipients that they may be
12 eligible for the EITC, at least once a year during the months of
13 January through April, or alternatively, shall provide this annual
14 notification during a regularly scheduled contact with a recipient
15 by telephone, mail, or electronic communication, or by an in-person
16 communication. State departments or agencies that do not directly
17 communicate with persons or households with persons who may
18 qualify for the EITC may communicate indirectly through agencies,
19 districts, or regulated entities that serve eligible persons or
20 households with eligible persons. Departments, agencies, and
21 programs are encouraged to develop the most effective method to
22 provide notice to recipients of EITC eligibility, as long as the notice
23 contains substantially the same language as the notice described
24 in Section 19854.

25 (c) The employer shall provide the notification required by
26 subdivision (a) by handing directly to the employee or mailing to
27 the employee's last known address either of the following:

28 (1) Instructions on how to obtain any notices available from the
29 Internal Revenue Service for this purpose, including, but not
30 limited to, the IRS Notice 797 and Form W-5, or any successor
31 notice or form.

32 (2) Any notice created by the employer, as long as it contains
33 substantially the same language as the notice described in
34 paragraph (1) or in Section 19854.

35 (d) The employer shall not satisfy the notification required by
36 subdivision (a) by posting a notice on an employee bulletin board
37 or sending it through office mail. However, these methods of
38 notification are encouraged to help inform all employees of the
39 EITC.

1 (e) Every employer shall process, in accordance with federal
2 law, Form W-5 for advance payments of the EITC, upon the
3 request of the employee.

O