

AMENDED IN ASSEMBLY JUNE 15, 2011

SENATE BILL

No. 939

Introduced by ~~Committee on Governmental Organization~~ (Senators ~~Wright (Chair), Anderson, Berryhill, Calderon, Cannella, Corbett, De León, Evans, Hernandez, Padilla, Strickland, Wyland, and Yee~~) *Senator Wright*

March 21, 2011

~~An act to amend Sections 8880.4 and 12419.5 of the Government Code, relating to the California State Lottery. An act to amend Sections 892, 892.2, 893, and 894 of, and to repeal Section 892.1 of, the Public Utilities Code, relating to the natural gas surcharge.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 939, as amended, ~~Committee on Governmental Organization Wright. California State Lottery. Natural gas surcharge.~~

Existing law establishes a surcharge on all natural gas consumed in the state to fund certain low-income assistance programs, cost-effective energy efficiency and conservation activities, and public interest research and development. Existing law requires a public utility gas corporation, as defined, to collect the surcharge from natural gas consumers, as specified, and to remit the moneys collected to the State Board of Equalization (state board) on a quarterly basis. Existing law requires persons consuming natural gas delivered by an interstate pipeline to pay the surcharge to the state board. Existing law requires every public utility gas corporation and every person consuming natural gas transported by a provider other than the public utility gas corporation to file a quarterly return with the state board in the form prescribed by the state board. The money from the surcharge is transmitted by the state board to the Treasurer for deposit in the Gas

Consumption Surcharge Fund and is continuously appropriated to specified entities, including to the commission, or to an entity designated by the commission, to fund low-income assistance programs, cost-effective energy efficiency and conservation activities, and public interest research and development not adequately provided by the competitive and regulated markets.

This bill would require only persons consuming natural gas delivered by an interstate pipeline to pay the surcharge to the state board and require only those persons consuming natural gas transported by a provider other than the public utility gas corporation to file a quarterly return with the state board. A public utility gas corporation would continue to collect the surcharge to fund the specified programs, but would not remit the moneys collected to the state board. The bill would make other conforming changes.

~~The California State Lottery Act of 1984, enacted by initiative, authorizes the California State Lottery and provides for its operation and administration by the California State Lottery Commission and the Director of the California State Lottery, with certain limitations. The act requires that not less than 84% of the total annual revenues from the sale of state lottery tickets or shares be returned to the public in the form of prizes and net revenues to benefit public education, and that no more than 16% of those revenues be used for expenses of the lottery. The act specifies that none of its provisions may be changed except to further its purpose by a bill passed by a $\frac{2}{3}$ vote of each house of the Legislature and signed by the Governor. A provision of the act requires the commission to promulgate regulations to establish a system of verifying the validity of prizes and to effect payment of the prizes, as specified.~~

~~This bill would amend the act, and a related provision, to correct incorrect references to the provision of the act that requires the commission to promulgate regulations, and would make other technical, nonsubstantive changes to the act and the related provision.~~

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

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

1 SECTION 1. Section 892 of the Public Utilities Code is
2 amended to read:

1 892. The revenue from the surcharge imposed pursuant to this
2 article and collected by a public utility gas corporation shall be
3 paid to the State Board of Equalization in the form of remittances.
4 Persons consuming natural gas delivered by an interstate pipeline
5 shall pay the surcharge to the State Board of Equalization in the
6 form of remittances. The board shall transmit the payments to the
7 Treasurer who shall deposit the payments in the Gas Consumption
8 Surcharge Fund, which is hereby created in the State Treasury.

9 *SEC. 2. Section 892.1 of the Public Utilities Code is repealed.*

10 ~~892.1. The surcharges imposed by this part and the amounts
11 thereof required to be collected by public utility gas corporations
12 are due quarterly on or before the last day of the month next
13 succeeding each calendar quarter.~~

14 *SEC. 3. Section 892.2 of the Public Utilities Code is amended*
15 *to read:*

16 892.2. On or before the last day of the month following each
17 calendar quarter, a return for the preceding quarterly period shall
18 be filed with the State Board of Equalization, in such form as the
19 board may prescribe. ~~A return shall be filed by every public utility
20 gas corporation, and,~~ by every person consuming, as defined in
21 this article, natural gas transported by a provider other than the
22 public utility gas corporation. The return shall be signed by the
23 person required to file the return or by his or her duly authorized
24 agent.

25 *SEC. 4. Section 893 of the Public Utilities Code is amended*
26 *to read:*

27 893. The State Board of Equalization shall administer the
28 surcharge imposed pursuant to this article *that is remitted to it* in
29 accordance with the Fee Collection Procedures Law (Part 30
30 (commencing with Section 55001) of Division 2 of the Revenue
31 and Taxation Code.

32 *SEC. 5. Section 894 of the Public Utilities Code is amended*
33 *to read:*

34 894. The State Board of Equalization may collect any unpaid
35 surcharge imposed pursuant to this article *that is to be remitted to*
36 *it pursuant to Section 892.2.*

37 ~~SECTION 1. Section 8880.4 of the Government Code, as
38 amended by Section 1 of Chapter 13 of the Statutes of 2010, is
39 amended to read:~~

1 ~~8880.4.— Revenues of the state lottery shall be allocated so as~~
2 ~~to maximize the amount of funding allocated to public education,~~
3 ~~including from the first full fiscal year following enactment of the~~
4 ~~act adding Section 8880.4.5, as follows:~~

5 ~~(a) Not less than 87 percent of the total annual revenues from~~
6 ~~the sale of state lottery tickets or shares shall be returned to the~~
7 ~~public in the form of prizes and net revenues to benefit public~~
8 ~~education.~~

9 ~~(1) The commission shall determine the percentage of total~~
10 ~~annual revenues that shall be returned to the public in the form of~~
11 ~~prizes as described in this chapter, however the percentage shall~~
12 ~~not be less than 50 percent of the total revenues.~~

13 ~~(2) (A) The percentage of the total annual revenues to be~~
14 ~~allocated to the benefit of public education, as specified in Section~~
15 ~~8880.5, shall be established by the commission at a level that~~
16 ~~maximizes the total net revenues allocated to the benefit of public~~
17 ~~education.~~

18 ~~(B) Fifty percent of any increase in the amount calculated~~
19 ~~pursuant to this paragraph from the amount calculated in the~~
20 ~~1997-98 fiscal year shall be allocated to school districts and~~
21 ~~community college districts for the purchase of instructional~~
22 ~~materials, on the basis of an equal amount per unit of average daily~~
23 ~~attendance, as defined by law, and through a fair and equitable~~
24 ~~distribution system across grade levels.~~

25 ~~(3) All unclaimed prize money shall revert to the benefit of~~
26 ~~public education, as provided for in subdivision (e) of Section~~
27 ~~8880.321.~~

28 ~~(4) All of the interest earned upon funds held in the State Lottery~~
29 ~~Fund shall be allocated to the benefit of public education, as~~
30 ~~specified in Section 8880.5. This interest is in addition to, and shall~~
31 ~~not be considered as any part of, the total annual revenues that are~~
32 ~~required to be allocated for the benefit of public education as~~
33 ~~specified in paragraph (2).~~

34 ~~(5) No more than 13 percent of the total annual revenues shall~~
35 ~~be allocated for payment of expenses of the lottery as described~~
36 ~~in this chapter. To the extent that expenses of the lottery are less~~
37 ~~than 13 percent of the total annual revenues, any surplus funds~~
38 ~~also shall be allocated to the benefit of public education, as~~
39 ~~specified in this section or in Section 8880.5.~~

1 ~~(b) Funds allocated for the benefit of public education pursuant~~
2 ~~to subdivision (a) are in addition to other funds appropriated or~~
3 ~~required under existing constitutional reservations for educational~~
4 ~~purposes. No program shall have the amount appropriated to~~
5 ~~support that program reduced as a result of funds allocated pursuant~~
6 ~~to subdivision (a). Funds allocated for the benefit of public~~
7 ~~education pursuant to subdivision (a) shall not supplant funds~~
8 ~~committed for child development programs.~~

9 ~~(c) All of the following shall not be considered revenues for the~~
10 ~~purposes of this section:~~

11 ~~(1) Revenues recorded as a result of a nonmonetary exchange.~~
12 ~~“Nonmonetary exchange” means a reciprocal transfer, in~~
13 ~~compliance with generally accepted accounting principles, between~~
14 ~~the lottery and another entity that results in the lottery acquiring~~
15 ~~assets or services and the lottery providing assets or services.~~

16 ~~(2) Reimbursements received by the lottery for the cost of goods~~
17 ~~or services provided by the lottery that are less than or equal to~~
18 ~~the cost of the same goods or services provided by the lottery.~~

19 ~~(d) Reimbursements received in excess of the cost of the same~~
20 ~~goods and services provided by the lottery, as specified in~~
21 ~~paragraph (2) of subdivision (c), are not a part of the total annual~~
22 ~~revenues required to be allocated for the benefit of public~~
23 ~~education, as specified in paragraph (2) of subdivision (a). This~~
24 ~~amount shall be allocated for the benefit of public education as~~
25 ~~specified in Section 8880.5.~~

26 ~~(e) This section shall remain in effect only until December 31~~
27 ~~of the year of notification from the Controller to the Legislature~~
28 ~~and the Governor that the events described in paragraphs (1) and~~
29 ~~(2) of subdivision (c) of Section 8880.4.5 have occurred, and as~~
30 ~~of that date is repealed, unless a later enacted statute, that is enacted~~
31 ~~before December 31 of that year, deletes or extends that date.~~

32 ~~SEC. 2. Section 8880.4 of the Government Code, as added by~~
33 ~~Section 2 of Chapter 13 of the Statutes of 2010, is amended to~~
34 ~~read:~~

35 ~~8880.4. Revenues of the state lottery shall be allocated as~~
36 ~~follows:~~

37 ~~(a) Not less than 84 percent of the total annual revenues from~~
38 ~~the sale of state lottery tickets or shares shall be returned to the~~
39 ~~public in the form of prizes and net revenues to benefit public~~
40 ~~education.~~

1 ~~(1) Fifty percent of the total annual revenues shall be returned~~
2 ~~to the public in the form of prizes as described in this chapter.~~

3 ~~(2) At least 34 percent of the total annual revenues shall be~~
4 ~~allocated to the benefit of public education, as specified in Section~~
5 ~~8880.5. Fifty percent of any increase in the amount calculated~~
6 ~~pursuant to this paragraph from the amount calculated in the~~
7 ~~1997-98 fiscal year shall be allocated to school districts and~~
8 ~~community college districts for the purchase of instructional~~
9 ~~materials, on the basis of an equal amount per unit of average daily~~
10 ~~attendance, as defined by law, and through a fair and equitable~~
11 ~~distribution system across grade levels.~~

12 ~~(3) All unclaimed prize money shall revert to the benefit of~~
13 ~~public education, as provided for in subdivision (c) of Section~~
14 ~~8880.321.~~

15 ~~(4) All of the interest earned upon funds held in the State Lottery~~
16 ~~Fund shall be allocated to the benefit of public education, as~~
17 ~~specified in Section 8880.5. This interest is in addition to, and shall~~
18 ~~not be considered as any part of, the 34 percent of the total annual~~
19 ~~revenues that is required to be allocated for the benefit of public~~
20 ~~education as specified in paragraph (2).~~

21 ~~(5) No more than 16 percent of the total annual revenues shall~~
22 ~~be allocated for payment of expenses of the lottery as described~~
23 ~~in this chapter. To the extent that expenses of the lottery are less~~
24 ~~than 16 percent of the total annual revenues, any surplus funds~~
25 ~~also shall be allocated to the benefit of public education, as~~
26 ~~specified in this section or in Section 8880.5.~~

27 ~~(b) Funds allocated for the benefit of public education pursuant~~
28 ~~to subdivision (a) are in addition to other funds appropriated or~~
29 ~~required under existing constitutional reservations for educational~~
30 ~~purposes. No program shall have the amount appropriated to~~
31 ~~support that program reduced as a result of funds allocated pursuant~~
32 ~~to subdivision (a). Funds allocated for the benefit of public~~
33 ~~education pursuant to subdivision (a) shall not supplant funds~~
34 ~~committed for child development programs.~~

35 ~~(c) All of the following shall not be considered revenues for the~~
36 ~~purposes of this section:~~

37 ~~(1) Revenues recorded as a result of a nonmonetary exchange.~~
38 ~~“Nonmonetary exchange” means a reciprocal transfer, in~~
39 ~~compliance with generally accepted accounting principles, between~~

1 the lottery and another entity that results in the lottery acquiring
2 assets or services and the lottery providing assets or services.

3 (2) Reimbursements received by the lottery for the cost of goods
4 or services provided by the lottery that are less than or equal to
5 the cost of the same goods or services provided by the lottery.

6 (d) Reimbursements received in excess of the cost of the same
7 goods and services provided by the lottery, as specified in
8 paragraph (2) of subdivision (c), are not a part of the 34 percent
9 of total annual revenues required to be allocated for the benefit of
10 public education, as specified in paragraph (2) of subdivision (a).
11 This amount shall be allocated for the benefit of public education
12 as specified in Section 8880.5.

13 (e) This section shall become operative on January 1 of the year
14 following notification from the Controller to the Legislature and
15 the Governor that the events described in paragraphs (1) and (2)
16 of subdivision (c) of Section 8880.4.5 have occurred.

17 SEC. 3. Section 12419.5 of the Government Code is amended
18 to read:

19 12419.5. The Controller may, in his or her discretion, offset
20 any amount due a state agency from a person or entity, against any
21 amount owing that person or entity by any state agency. The
22 Controller may deduct from the claim, and draw his or her warrants
23 for the amounts offset in favor of the respective state agencies to
24 which due, and, for any balance, in favor of the claimant. Whenever
25 insufficient to offset all amounts due state agencies, the amount
26 available shall be applied in such manner as the Controller, in his
27 or her discretion, shall determine. If, in the discretion of the
28 Controller, the person or entity refuses or neglects to file his or
29 her claim within a reasonable time, the head of the state agency
30 owing the amount shall file the claim on behalf of that person or
31 entity. If approved by the Controller, the claim shall have the same
32 force and effect as though filed by that person or entity. The
33 amount due any person or entity from the state or any agency
34 thereof is the net amount otherwise owing that person or entity
35 after any offset as provided in this section.

36 For purposes of this section, an amount owing to a person or
37 entity by any state agency shall include any tax refund.

- 1 ~~This section shall not apply to payment of online game prizes~~
- 2 ~~of ninety-nine dollars (\$99) or lower by California State Lottery~~
- 3 ~~Retailers pursuant to subdivision (a) of Section 8880.321.~~

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