

**ASSEMBLY BILL**

**No. 1340**

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**Introduced by Assembly Member Chau**  
(Coauthor: Senator Mendoza)

February 27, 2015

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An act to add and repeal Section 37420.5 of the Government Code, and to add and repeal Section 10051.5 of the Public Utilities Code, relating to water utilities, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1340, as introduced, Chau. Local government: sale of water utility property.

Existing law provides a procedure that is generally applicable for a city to sell its real property. Existing law also establishes specific procedures for the sale of public utility property owned by a municipal corporation with certain provisions applicable to the sale of property of a water utility.

This bill would authorize the City of Montebello to sell all or part of its water utility pursuant to the procedures that are generally applicable to a sale of real property by a city, if certain requirements are met.

This bill would make legislative findings and declarations as to the necessity of a special statute for the City of Montebello.

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

Vote:  $\frac{2}{3}$ . 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 37420.5 is added to the Government  
2 Code, to read:

3 37420.5. (a) The City of Montebello may sell all or part of its  
4 water utility pursuant to this article as provided in Section 10051.5  
5 of the Public Utilities Code.

6 (b) This section shall remain in effect only until July 1, 2017,  
7 and as of that date is repealed, unless a later enacted statute, that  
8 is enacted before July 1, 2017, deletes or extends that date.

9 SEC. 2. Section 10051.5 is added to the Public Utilities Code,  
10 to read:

11 10051.5. (a) Notwithstanding any other provision of this  
12 article, the City of Montebello may sell all or part of its water  
13 utility property pursuant to Article 3 (commencing with Section  
14 37420) of Chapter 5 of Part 2 of Division 3 of Title 4 of the  
15 Government Code, subject and pursuant to the following additional  
16 provisions, limitations, and requirements:

17 (1) The governing body of the city shall not sell the water utility  
18 property for less than its fair market value determined as set forth  
19 in the Public Water System Investment and Consolidation Act of  
20 1997 (Chapter 2.5 (commencing with Section 2718) of Part 2 of  
21 Division 1).

22 (2) A majority of the members of the governing body of the city  
23 must approve the sale.

24 (3) The entity acquiring the water utility property shall be a  
25 public utility, as defined in Section 216, which is presently  
26 authorized by the commission to provide water utility service  
27 within the corporate limits of the city pursuant to a certificate of  
28 public convenience and necessity and the area of the one or more  
29 certificates includes or surrounds all or part of the city’s water  
30 utility system.

31 (4) As a condition of acquiring the city’s water system, the  
32 acquiring public utility shall file a revised service area map with  
33 the commission that shows the area formerly served through the  
34 city’s water utility system as part of the acquiring public utility’s  
35 service area. The acquiring public utility shall submit the map by  
36 filing a tier-one advice letter with the commission and, upon this  
37 filing, shall be deemed authorized and bound to render public  
38 utility water service to all persons in the area formerly served

1 through the city’s water utility system on the same terms,  
2 conditions, and rates that the commission has found to be just and  
3 reasonable for the acquiring public utility’s other customers in the  
4 city.

5 (b) This section shall remain in effect only until July 1, 2017,  
6 and as of that date is repealed, unless a later enacted statute, that  
7 is enacted before July 1, 2017, deletes or extends that date.

8 SEC. 3. The Legislature finds and declares that a special law  
9 is necessary and that a general law cannot be made applicable  
10 within the meaning of Section 16 of Article IV of the California  
11 Constitution because of the unique circumstances applicable to  
12 the City of Montebello. The City Council of the City of Montebello  
13 believes it is no longer in the public interest to own and operate  
14 all or part of a water utility and desires to sell its water utility.  
15 However, the city would be unable to do so in a timely manner  
16 because the Legislature has enacted statutes that may conflict with  
17 one another and with the City of Montebello’s urgent financial  
18 requirements, thereby preventing the City of Montebello from  
19 selling and the acquiring public utility from purchasing the water  
20 utility without an election and performance of other procedures.  
21 In order to clearly state the law with respect to the City of  
22 Montebello, a special statute is needed and a general statute cannot  
23 be made applicable.

24 SEC. 4. This act is an urgency statute necessary for the  
25 immediate preservation of the public peace, health, or safety within  
26 the meaning of Article IV of the Constitution and shall go into  
27 immediate effect. The facts constituting the necessity are:

28 The City of Montebello’s water utility infrastructure is aging  
29 and is experiencing numerous leaks and equipment failures. The  
30 aging and failing water utility infrastructure impairs the safety and  
31 reliability of the city’s water utility system, including its ability to  
32 provide water for public fire-fighting purposes. The city’s water  
33 utility serves only a small fraction of the city’s residents and is  
34 losing money despite significant recent rate increases. The city’s  
35 budget and general fund cannot make up for that revenue shortfall  
36 or the cost of the urgently needed water supply infrastructure  
37 upgrades and repairs of its water utility system. The City of  
38 Montebello desires to sell all or part of the city-owned water utility  
39 to a public utility capable of operating, managing, and upgrading  
40 the water system while financial conditions are favorable to the

1 city, however, the Legislature has adopted statutes governing the  
2 sale of municipal property which may conflict with each other and  
3 the urgent needs of the city. In order to provide the City of  
4 Montebello with the clear statutory authority to sell its water utility  
5 without an election as soon as possible, it is necessary that this act  
6 take effect immediately.

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