

AMENDED IN SENATE MARCH 28, 2016

SENATE BILL

No. 1422

Introduced by Senator Glazer

February 19, 2016

An act to amend Section ~~727.5~~ 799 of the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 1422, as amended, Glazer. ~~Water corporations: rate regulation. Public utilities and other service suppliers: collection of local taxes.~~

Under existing law, public utilities are required to bill their customers for various taxes imposed by public entities and remit the revenues from those taxes that are collected to the public entity. The Public Utilities Act provides that a public utility or other service supplier is not liable to any customer as a result of collecting these taxes, and grants various rights to, and imposes various requirements on, public utilities and other service suppliers with respect to the imposition, repeal, or collection of the taxes. Existing law, the Digital Infrastructure and Video Competition Act of 2006, establishes a procedure for the issuance of state franchises for the provision of video service, defined to include cable service and open-video systems, administered by the Public Utilities Commission.

This bill would explicitly define the term "other service supplier" for the purpose of those provisions to include, but not be limited to, a holder of a state franchise for the provision of video service.

~~Under existing law, the Public Utilities Commission is vested with regulatory authority over public utilities and other specified entities, including water corporations. Existing law authorizes the Public Utilities Commission, in establishing rates for water service, to establish separate~~

~~charges for costs associated with customer service, facilities, and fixed and variable operating costs, as specified.~~

~~This bill would make nonsubstantive changes to these provisions.~~

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

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

1 SECTION 1. Section 799 of the Public Utilities Code is
2 amended to read:

3 799. (a) With respect to all taxes enacted by any local
4 jurisdiction, including any city, county, or city and county,
5 including a chartered city or county, any district, including an
6 agency of the state, formed pursuant to general law or special act,
7 for the local performance of governmental or proprietary functions
8 within limited boundaries, or any public or municipal corporation,
9 and imposed on the customers of public utilities or other service
10 suppliers, which taxes have been collected by the public utilities
11 and other service suppliers and remitted to the local jurisdiction
12 all of the following shall apply:

13 (1) The public utility or other service supplier shall have no
14 duty to independently investigate or inquire with the local
15 jurisdiction concerning the validity of the tax ordinance.

16 (2) In connection with any actions or claims relating to or arising
17 from the invalidity of the tax ordinance, in whole or in part, the
18 public utility or other service supplier shall not be liable to any
19 customer as a consequence of collecting the tax.

20 (3) In the event a local jurisdiction is ordered to refund the tax,
21 it shall be the sole responsibility of the local jurisdiction to refund
22 the tax. Unless a public utility or other service supplier is
23 reimbursed by the local jurisdiction for the actual cost of assisting
24 the local jurisdiction, including, but not limited to, calculating or
25 verifying refunds, distributing refunds, providing data, or providing
26 data processing assistance, the public utility or other service
27 supplier shall not be required to assist the local jurisdiction to
28 refund the tax, including, but not limited to, calculating or verifying
29 refunds, distributing refunds, providing data, or providing data
30 processing assistance.

31 (4) In any action seeking to enjoin collection of taxes imposed
32 on customers of utilities or other service suppliers and collected

1 by the utilities or other service suppliers, in any action seeking
2 declaratory relief concerning the taxes, in any action seeking a
3 refund of the taxes, or in any action seeking otherwise to invalidate
4 the taxes, the sole necessary party defendant in the action shall be
5 the local jurisdiction on whose behalf the taxes are collected and
6 the public utility or other service supplier collecting the taxes shall
7 not be named as a party in the action.

8 (5) If a local jurisdiction repeals the tax, reduces an existing tax
9 rate, changes the tax base, or makes any other changes to the tax
10 that would affect the collection and remittance of the tax, the local
11 jurisdiction shall submit, on and after the effective date of the
12 enactment of the change, a written notification and supply all
13 requisite information to the public utility or service supplier, in
14 accordance with the procedures established by the public utility
15 or service supplier. The public utility or other service supplier shall
16 not be required to implement the changes any earlier than 60 days
17 from the date on which the public utility or other service provider
18 receives the written notification and all other information required
19 by the public utility or other service supplier. If the 60th day is not
20 the first day of a month, then the public utility or other service
21 provider shall implement the changes on the first day of the month
22 following the month in which the 60th day occurs.

23 (6) If a local jurisdiction adopts a new tax, the local jurisdiction
24 shall submit, on and after the effective date of the adoption of the
25 new tax, a written notification to the public utility or other service
26 supplier, in accordance with procedures established by the public
27 utility or other service supplier, requesting that the tax be collected.
28 The public utility or other service supplier shall not be required to
29 begin collecting the tax any earlier than 90 days from the date on
30 which the public utility or other service provider receives written
31 notification and all other information required by the public utility
32 or other service supplier. If the 90th day is not the first day of a
33 month, then the public utility or other service provider shall begin
34 the tax collection on the first day of the month following the month
35 in which the 90th day occurs. Nothing in this section shall be
36 construed to prevent the public utility or other service provider
37 from beginning the tax collection at an earlier date.

38 (b) *For purposes of this section, “other service supplier” shall*
39 *include, but not be limited to, a holder of a state franchise issued*
40 *pursuant to Section 5840.*

1 ~~(b)~~
 2 (c) The Legislature finds and declares that the limitations
 3 imposed by this section constitute an issue of statewide concern.
 4 The Legislature further finds and declares that the limitations
 5 imposed by this section are not municipal affairs as that term is
 6 used in Article XI of the California Constitution. Therefore, it is
 7 the intent of the Legislature that the limitations imposed by this
 8 section apply to all cities, counties, and cities and counties,
 9 including chartered cities and chartered counties, any district,
 10 including an agency of the state, formed pursuant to general law
 11 or special act, for the local performance of governmental or
 12 proprietary functions within limited boundaries, and any public or
 13 municipal corporation.

14 *SEC. 2. The amendment of Section 799 of the Public Utilities*
 15 *Code made by this act does not constitute a change in, but is*
 16 *declaratory of, existing law.*

17 ~~SECTION 1. Section 727.5 of the Public Utilities Code is~~
 18 ~~amended to read:~~

19 ~~727.5. (a) The commission, in establishing rates for water~~
 20 ~~service, shall consider, and may establish, separate charges for~~
 21 ~~costs associated with customer service, facilities, variable operating~~
 22 ~~costs, including fixed and variable costs associated with supplying~~
 23 ~~the water, or other components of the water service provided to~~
 24 ~~water users.~~

25 ~~(b) The commission shall consider, and may authorize, a water~~
 26 ~~corporation to assess a fee for future water service, or a reservation~~
 27 ~~charge for future water service, for persons or entities occupying~~
 28 ~~or owning property within the service territory of the water~~
 29 ~~corporation.~~

30 ~~(c) The commission shall consider, and may authorize, a water~~
 31 ~~corporation to establish a balancing account, rate stabilization~~
 32 ~~fund, or other contingency fund, the purpose of which shall be the~~
 33 ~~long-term stabilization of water rates.~~

34 ~~(d) The commission shall consider, and may authorize, a water~~
 35 ~~corporation to establish programs, including rate designs, for~~
 36 ~~achieving conservation of water and recovering the cost of these~~
 37 ~~programs through the rates.~~

38 ~~(e) In establishing rates for recovery of the costs of used and~~
 39 ~~useful water plant, the commission may utilize a capital structure~~
 40 ~~and payback methodology that shall maintain the reliability of~~

1 ~~water service, shall minimize the long-term cost to ratepayers,~~
2 ~~shall provide equity between present and future ratepayers, and~~
3 ~~shall afford the utility an opportunity to earn a reasonable return~~
4 ~~on its used and useful investment, to attract capital for investment~~
5 ~~on reasonable terms and to ensure the financial integrity of the~~
6 ~~utility.~~

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