

Senate Bill No. 1243

CHAPTER 420

An act to amend Sections 2705 and 2706 of the Public Utilities Code, relating to water.

[Approved by Governor August 10, 1995. Filed with Secretary of State August 11, 1995.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1243, Kelley. Water sales.

(1) Under existing law, mutual water companies are permitted to sell water to state agencies, or any political subdivision thereof, without being classified as public utilities or becoming subject to the jurisdiction of the Public Utilities Commission.

Existing law also permits a mutual water company to sell water to other public agencies, but specifies that in doing so the mutual water company becomes a public utility and is subject to commission jurisdiction.

This bill would permit a mutual water company to sell water to any federal agency that provides fire protection or operates park facilities, or to transfer water or water rights to, or exchange water or water rights with, another entity pursuant to state or federal law, without causing it to become a public utility subject to the jurisdiction of the commission.

(2) Under existing law, specified persons and entities are permitted to sell or deliver water to water conservation districts without being classified as public utilities.

This bill would also provide that any person, firm, or corporation with water that is not being used to supply water to a public water system or not otherwise dedicated to public use, that sells, leases, transfers, or otherwise delivers the water at wholesale to any public agency or to a water corporation providing water utility service, is not a public utility.

The bill would provide that those provisions do not apply to mutual water companies.

(3) Existing law also specifies other acts that a mutual water company may perform without becoming a public utility and becoming subject to the commission's jurisdiction. One of these acts is to deliver water pursuant to any contract for water service made under specified circumstances prior to October 1, 1961.

This bill would eliminate the requirement that the contract be made prior to October 1, 1961.



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

SECTION 1. Section 2705 of the Public Utilities Code is amended to read:

2705. Any corporation or association that is organized for the purposes of delivering water to its stockholders and members at cost, including use of works for conserving, treating, and reclaiming water, and that delivers water to no one except its stockholders or members, or to the state or any agency or department thereof, to any city, county, school district, or other public district, or any federal agency that provides fire protection or operates park facilities, or to any other mutual water company, at cost, is not a public utility, and is not subject to the jurisdiction, control or regulation of the commission. However, a mutual water company may perform the following acts without becoming a public utility and becoming subject to the jurisdiction, control or regulation of the commission:

(a) May deliver water at cost to any lessee of its stock or shares or other evidence of membership where the lease is in writing signed by the owner of the stock or shares or other evidence of membership and the lessee thereof and approved by the mutual water company.

(b) May deliver water at cost to any land leased by a stockholder, shareholder, or member of the mutual water company to a person not a stockholder, shareholder or member thereof, provided the lease is in writing signed by the stockholder, shareholder or member and the lessee of the land and approved by the mutual water company.

(c) May transfer water or water rights to, or exchange water or water rights with, another entity pursuant to state or federal law, or both.

(d) In a bona fide water emergency, but for no longer than the existence of the emergency, may deliver water at cost to any person owning or leasing real property located within or adjacent to the service area of the mutual water company, provided that the water is delivered pursuant to a written contract signed by the mutual water company and the person to whom the water is delivered.

(e) May deliver water pursuant to any contract for water service made:

(1) In settlement of litigation involving disputed water rights or any judgment in the litigation.

(2) In consideration of the conveyance of a well, water right, or easement for water distribution purposes.

All of these leases and contracts shall be preserved for a period of 10 years by a mutual water company and shall be subject to inspection by the commission.

The term "cost" as used in this section shall be construed to mean without profit.

SEC. 2. Section 2706 of the Public Utilities Code is amended to read:



2706. (a) Any person, firm, or corporation, their lessees, trustees, receivers or trustees appointed by any court, who sells or delivers water exclusively to a water conservation district organized under the laws of the state or who leases or otherwise permits the use of ditches or other water transmission facilities exclusively by the district is not a public utility within the meaning of this chapter. No portion of the works, property, or water rights of any of those parties shall be deemed dedicated to a public use by reason of selling or delivering water to a water conservation district.

(b) Any person, firm, or corporation with water that is not being used to supply water to a public water system, or that is not otherwise dedicated to public use, that sells, leases, transfers, or otherwise delivers the water at wholesale to any public agency or to a water corporation providing water utility service, is not a public utility within the meaning of this chapter.

(c) This section does not apply to mutual water companies.

