

**Introduced by Senators Simitian and Perata**January 20, 2005

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An act to amend Sections 25740, 25743, and 25744 of, and to repeal Sections 25745 and 25749 of, the Public Resources Code, and to amend Sections 387, 399.11, 399.12, 399.13, 399.14, 399.15, and 399.16 of, to add Section 399.17 to, and to add Article 9 (commencing with Section 635) to Chapter 3 of Part 1 of Division 1 of, the Public Utilities Code, relating to energy.

## LEGISLATIVE COUNSEL'S DIGEST

SB 107, as introduced, Simitian. Renewable energy.

(1) Existing law expresses the intent of the Legislature, in establishing the Renewable Energy Resources Program, to increase the amount of renewable electricity generated per year, so that it equals at least 17% of the total electricity generated for consumption in California per year by 2006.

This bill would revise and recast that intent language so that the amount of electricity generated per year from renewable energy resources is increased to an amount that equals at least 20% of the total electricity sold to retail customers in California per year by December 31, 2010. The bill would make conforming changes related to this provision.

(2) The Public Utilities Act imposes various duties and responsibilities on the Public Utilities Commission (CPUC) with respect to the purchase of electricity and requires the CPUC to review and adopt a procurement plan and a renewable energy procurement plan for each electrical corporation pursuant to the California Renewables Portfolio Standard Program. The program requires that a retail seller of electricity, including electrical corporations, community choice aggregators, and electric service providers, but not including

local publicly owned electric utilities, purchase a specified minimum percentage of electricity generated by eligible renewable energy resources, as defined, in any given year as a specified percentage of total kilowatthours sold to retail end-use customers each calendar year (renewables portfolio standard). The renewables portfolio standard requires each electrical corporation to increase its total procurement of eligible renewable energy resources by at least an additional 1% of retail sales per year so that 20% of its retail sales are procured from eligible renewable energy resources no later than December 31, 2017.

This bill would instead require that each retail seller, as defined, increase its total procurement of eligible renewable energy resources by at least an additional 1% of retail sales per year so that 20% of its retail sales are procured from eligible renewable energy resources no later than December 31, 2010.

(3) Existing law requires the State Energy Resources Conservation and Development Commission (Energy Commission) to certify eligible renewable energy resources, to design and implement an accounting system to verify compliance with the renewables portfolio standard by retail sellers, and to allocate and award supplemental energy payments to cover above-market costs of renewable energy.

This bill would require the Energy Commission to establish a renewable energy credit, as defined, trading program and to develop tracking, accounting, verification, and enforcement mechanisms for the program. The bill would prohibit the Energy Commission from certifying or awarding tradeable renewable energy credits for electricity generated pursuant to any electricity purchase contract with a retail seller executed before January 1, 2005, that does not contain explicit terms and conditions specifying the ownership or disposition of those credits. The bill would prohibit the Energy Commission from certifying or awarding tradeable renewable energy credits for electricity generated pursuant to any purchase contract executed after January 1, 2005, pursuant to a prescribed federal act. The bill would provide for the tracking of deliveries under these purchase contracts through a prescribed accounting system. The bill would additionally require the Energy Commission to require any retail seller of electricity that does not meet the requirements of the renewables portfolio standard by directly owning or purchasing electricity generated from eligible renewable energy resources, to purchase renewable energy credits for a quantity of electricity produced from eligible renewable energy resources, that is sufficient to make up the

shortfall. The bill would require the CPUC to establish rules authorizing electrical corporations to meet the renewables portfolio standard requirements using renewable energy credits. The bill would require the rules to prohibit an electrical corporation from selling renewable energy credits associated with eligible renewable energy resources included in the corporation's baseline quantity on January 1, 2004. The bill would require the Energy Commission to certify, and would specify criteria for, the eligibility of renewable energy credits associated with electricity delivered to a local publicly owned electric utility by an eligible renewable energy resource, for purposes of compliance with the renewables portfolio standard by a retail seller. The bill would make other technical and conforming changes.

(4) Under existing law, the governing board of a local publicly owned electric utility is responsible for implementing and enforcing a renewables portfolio standard that recognizes the intent of the Legislature to encourage renewable energy resources, while taking into consideration the effect of the standard on rates, reliability, and financial resources and the goal of environmental improvement. Existing law requires the governing board of a local publicly owned electric utility to annually report certain information relative to renewable energy resources to its customers.

This bill would additionally require that the governing board of a local publicly owned electric utility annually report the utility's status in implementing a renewables portfolio standard and progress toward attaining the standard to its customers and to report to the Energy Commission the information that the governing board is required to annually report to their customers. These additional reporting requirements would thereby impose a state-mandated local program. The bill would require the Energy Commission to report to the Governor and Legislature no later than January 1, 2007, with recommendations for how to incentivize each local publicly owned electric utility to implement and enforce a renewables portfolio standard program consistent with the renewables portfolio standard program requirements applicable to a retail seller of electricity.

(5) Under the Public Utilities Act, the CPUC requires electrical corporations to identify a separate rate component to fund programs that enhance system reliability and provide in-state benefits. This rate component is a nonbypassable element of local distribution and collected on the basis of usage. The funds are collected to support cost-effective energy efficiency and conservation activities, public

interest research and development not adequately provided by competitive and regulated markets, and renewable energy resources (renewable energy public goods charge). Under existing law, 51.5% of the money collected as part of the renewable energy public goods charge is required to be used for programs designed to foster the development of new in-state renewable electricity generation facilities, and to secure for the state the environmental, economic, and reliability benefits that operation of those facilities will provide. Existing law also provides that any of those funds used for new in-state renewable electricity generation facilities are required to be expended in accordance with a specified report of the Energy Commission to the Legislature, subject to certain requirements, including the awarding of supplemental energy payments.

This bill would require that these funds be awarded only to a project that is selected by an electrical corporation pursuant to a competitive solicitation procedure found by the CPUC to comply with the Renewables Portfolio Standard Program and that the project participant has entered into an electricity purchase agreement resulting from that solicitation that is approved by the CPUC. The bill would authorize certain projects to receive supplemental energy payments under certain circumstances. The bill would revise existing criteria for Energy Commission consideration of an out-of-state electrical generation facility as an eligible renewable energy resource.

(6) Existing law requires that 17.5% of the money collected under the renewable energy public goods charge be used for a multiyear, consumer-based program to foster the development of emerging renewable technologies in distributed generation applications, and that certain funds be expended in accordance with the above-described report, subject to, among other things, the requirement that funding for emerging technologies be provided through a competitive, market-based process.

This bill would make technical and nonsubstantive changes to these provisions.

(7) Existing law requires that 10% of the money collected under the renewable energy public goods charge be used for customer credits to customers that entered into a direct transaction on or before September 20, 2001, for purchases of electricity produced by registered in-state renewable electricity generating facilities.

This bill would delete this provision.

(8) Existing law requires the use of standard terms and conditions by all electrical corporations in contracting for eligible renewable energy resources.

This bill would require that those terms and conditions include the requirement that, no later than 6 months after the CPUC's approval of an electricity purchase agreement, the following information about the agreement be disclosed by the CPUC: party names, resource type, project location, and project capacity.

(9) This bill would require an electrical corporation or local publicly owned electric utility to adopt certain strategies in a long-term plan or a procurement plan, as applicable, to achieve efficiency in the use of fossil fuels and to address carbon emissions, as specified.

(10) This bill would delete certain obsolete and duplicative provisions and make technical and conforming changes.

(11) Existing law makes a violation of the Public Utilities Act or a violation of an order of the CPUC a crime.

Because a violation of the provisions of the bill or of any CPUC order implementing these provisions would be a crime, this bill would impose a state-mandated local program by creating new crimes.

(12) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote:  $\frac{2}{3}$ . Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

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

1 SECTION 1. Section 25740 of the Public Resources Code is  
2 amended to read:  
3 25740. It is the intent of the Legislature in establishing this  
4 program, to increase the amount of ~~renewable~~ electricity  
5 generated *from renewable energy resources* per year, so that it

1 equals at least ~~17~~ 20 percent of the total electricity generated for  
2 ~~consumption~~ *total retail sales of electricity* in California per year  
3 by ~~2006~~ *December 31, 2010*.

4 SEC. 2. Section 25743 of the Public Resources Code is  
5 amended to read:

6 25743. (a) Fifty-one and one-half percent of the money  
7 collected pursuant to the renewable energy public goods charge;  
8 shall be used for programs designed to foster the development of  
9 new in-state renewable electricity generation facilities, and to  
10 secure for the state the environmental, economic, and reliability  
11 benefits that operation of those facilities will provide.

12 (b) Any funds used for new in-state renewable electricity  
13 generation facilities pursuant to this section shall be expended in  
14 accordance with the report, subject to all of the following  
15 requirements:

16 (1) In order to cover the above market costs of *eligible*  
17 renewable *energy* resources as approved by the Public Utilities  
18 Commission and selected by retail sellers to fulfill their  
19 obligations under Article 16 (commencing with Section 399.11)  
20 of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities  
21 Code, the commission shall award funds in the form of  
22 supplemental energy payments, subject to the following criteria:

23 (A) The commission may establish caps on supplemental  
24 energy payments. The caps shall be designed to provide for a  
25 viable energy market capable of achieving the goals of Article 16  
26 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of  
27 the Public Utilities Code. The commission may waive application  
28 of the caps to accommodate a facility; if it is demonstrated to the  
29 satisfaction of the commission; that operation of the facility  
30 would provide substantial economic and environmental benefits  
31 to end-use customers subject to the funding requirements of the  
32 renewable energy public goods charge.

33 (B) Supplemental energy payments shall be awarded only to  
34 facilities that are eligible for funding under this subdivision.

35 (C) Supplemental energy payments awarded to facilities  
36 selected by an electrical corporation pursuant to Article 16  
37 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of  
38 Division 1 of the Public Utilities Code shall be paid for ~~the lesser~~  
39 ~~of 10 years, or~~ *no longer than 10 years, but shall, subject the*  
40 *payment caps in subparagraph (A), be equal to the cumulative*

1 *above-market costs relative to the applicable market price*  
2 *referent at the time of initial contracting, over the duration of the*  
3 *contract with the electrical corporation.*

4 (D) The commission shall reduce or terminate supplemental  
5 energy payments for projects that fail either to commence and  
6 maintain operations consistent with the contractual obligations to  
7 an electrical corporation, or that fail to meet eligibility  
8 requirements.

9 (E) Funds shall be managed in an equitable manner in order  
10 for retail sellers to meet their obligation under Article 16  
11 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of  
12 Division 1 of the Public Utilities Code.

13 (F) *A project may receive funds pursuant to this section only*  
14 *if it is selected by an electrical corporation pursuant to a*  
15 *competitive solicitation that is found by the Public Utilities*  
16 *Commission to comply with the California Renewables Portfolio*  
17 *Standard Program under Article 16 (commencing with Section*  
18 *399.11) of Chapter 2.3 of Part 1 of Division 1 of the Public*  
19 *Utilities Code, and that has entered into an electricity purchase*  
20 *agreement resulting from that solicitation, that is approved by*  
21 *the Public Utilities Commission. A project selected for an*  
22 *electricity purchase agreement by another retail seller may*  
23 *receive supplemental energy payments if the retail seller*  
24 *demonstrates to the Public Utilities Commission that the*  
25 *selection of the project is consistent with the results of a*  
26 *least-cost and best-fit process, and the supplemental energy*  
27 *payments are reasonable in comparison to those paid under*  
28 *similar contracts with other retail sellers. The commission may*  
29 *not award supplemental energy payments for the sale or*  
30 *purchase of renewable energy credits.*

31 (2) The commission may determine as part of a solicitation,  
32 that a facility that does not meet the definition of an “in-state  
33 renewable electricity generation technology” facility solely  
34 because it is located outside the state, is eligible for funding  
35 under this subdivision if it meets all of the following  
36 requirements:

37 (A) ~~It is located so that~~ it is or will be connected to the  
38 Western Electricity Coordinating Council (WECC) transmission  
39 system.

1 ~~(B) It is developed with guaranteed contracts to sell its~~  
 2 ~~generation to end-use customers subject to the funding~~  
 3 ~~requirements of Section 381, or to marketers that provide this~~  
 4 ~~guarantee for resale of the generation, for a period of time at least~~  
 5 ~~equal to the amount of time it receives incentive payments under~~  
 6 ~~this subdivision commences initial commercial operation after~~  
 7 ~~January 1, 2005.~~

8 (C) *It has a contract with a retail seller or another entity to*  
 9 *supply electricity to end-use customers subject to the renewable*  
 10 *energy public goods charge for a period of time at least equal to*  
 11 *the duration of incentive payments provided pursuant to this*  
 12 *subdivision.*

13 (D) *It demonstrates delivery of the electricity under contract*  
 14 *to the retail seller serving end-use customers subject to the*  
 15 *renewable energy public goods charge.*

16 ~~(E)~~

17 (E) It will not cause or contribute to any violation of a  
 18 California environmental quality standard or requirement.

19 ~~(F)~~

20 (F) If the facility is outside of the United States, it is  
 21 developed and operated in a manner that is as protective of the  
 22 environment as a similar facility located in the state.

23 ~~(G)~~

24 (G) It meets any other condition established by the  
 25 commission.

26 (3) Facilities that are eligible to receive funding pursuant to  
 27 this subdivision shall be registered in accordance with criteria  
 28 developed by the commission and those facilities may not receive  
 29 payments for any electricity produced that has any of the  
 30 following characteristics:

31 (A) Is sold under an existing long-term contract with an  
 32 existing in-state electrical corporation if the contract includes  
 33 fixed energy or capacity payments, except for that electricity that  
 34 satisfies subparagraph (C) of paragraph (1) of subdivision (c) of  
 35 Section 399.6 of the Public Utilities Code.

36 (B) Is used onsite or is sold to customers in a manner that  
 37 excludes competitive transition charge payments, or is otherwise  
 38 excluded from competitive transition charge payments.



1 (C) Is produced by a facility that is owned by an electrical  
2 corporation or a local publicly owned electric utility as defined in  
3 subdivision (d) of Section 9604 of the Public Utilities Code.

4 (D) Is a hydroelectric generation project that will require a  
5 new or increased appropriation of water under Part 2  
6 (commencing with Section 1200) of Division 2 of the Water  
7 Code.

8 (E) Is a solid waste conversion facility, unless the facility  
9 meets the criteria established in paragraph (3) of subdivision (a)  
10 of Section 25741 and the facility certifies that any local agency  
11 sending solid waste to the facility is in compliance with Division  
12 30 (commencing with Section 40000), has reduced, recycled, or  
13 composted solid waste to the maximum extent feasible, and shall  
14 have been found by the California Integrated Waste Management  
15 Board to have diverted at least 30 percent of all solid waste  
16 through source reduction, recycling, and composting.

17 (4) Eligibility to compete for funds or to receive funds shall be  
18 contingent upon having to sell the output of the renewable  
19 electricity generation facility to customers subject to the funding  
20 requirements of the renewable energy public goods charge.

21 (5) The commission may require applicants competing for  
22 funding to post a forfeitable bid bond or other financial guaranty  
23 as an assurance of the applicant's intent to move forward  
24 expeditiously with the project proposed. The amount of any bid  
25 bond or financial guaranty may not exceed 10 percent of the total  
26 amount of the funding requested by the applicant.

27 (6) In awarding funding, the commission may provide  
28 preference to projects that provide tangible demonstrable benefits  
29 to communities with a plurality of minority or low-income  
30 populations.

31 (c) Repowered existing facilities shall be eligible for funding  
32 under this subdivision if the capital investment to repower the  
33 existing facility equals at least 80 percent of the value of the  
34 repowered facility.

35 (d) Facilities engaging in the direct combustion of municipal  
36 solid waste or tires are not eligible for funding under this  
37 subdivision.

38 (e) Production incentives awarded under this subdivision prior  
39 to January 1, 2002, shall commence on the date that a project  
40 begins electricity production, provided that the project was

1 operational prior to January 1, 2002, unless the commission finds  
2 that the project will not be operational prior to January 1, 2002,  
3 due to circumstances beyond the control of the developer. Upon  
4 making a finding that the project will not be operational due to  
5 circumstances beyond the control of the developer, the  
6 commission shall pay production incentives over a five-year  
7 period, commencing on the date of operation, provided that the  
8 date that a project begins electricity production may not extend  
9 beyond January 1, 2007.

10 (f) Facilities generating electricity from biomass energy shall  
11 be considered an in-state renewable electricity generation  
12 technology facility to the extent that they report to the  
13 commission the types and quantities of biomass fuels used and  
14 certify to the satisfaction of the commission that fuel utilization  
15 is limited to the following:

16 (1) Agricultural crops and agricultural wastes and residues.

17 (2) Solid waste materials such as waste pallets, crates,  
18 dunnage, manufacturing, and construction wood wastes,  
19 landscape or right-of-way tree trimmings, mill residues that are  
20 directly the result of the milling of lumber, and rangeland  
21 maintenance residues.

22 (3) Wood and wood wastes that meet all of the following  
23 requirements:

24 (A) Have been harvested pursuant to an approved timber  
25 harvest plan prepared in accordance with the Z'berg-Nejedly  
26 Forest Practice Act of 1973 (Chapter 8 (commencing with *See*:  
27 *Section 4511*) of Part 2 of Division 4).

28 (B) Have been harvested for the purpose of forest fire fuel  
29 reduction or forest stand improvement.

30 (C) Do not transport or cause the transportation of species  
31 known to harbor insect or disease nests outside zones of  
32 infestation or current quarantine zones, as identified by the  
33 Department of Food and Agriculture or the Department of  
34 Forestry and Fire Protection, unless approved by the Department  
35 of Food and Agriculture and the Department of Forestry and Fire  
36 Protection.

37 SEC. 3. Section 25744 of the Public Resources Code is  
38 amended to read:

39 25744. (a) Seventeen and one-half percent of the money  
40 collected pursuant to the renewable energy public goods charge

1 shall be used for a multiyear, consumer-based program to foster  
2 the development of emerging renewable technologies in  
3 distributed generation applications.

4 (b) Any funds used for emerging technologies pursuant to this  
5 section shall be expended in accordance with the report, subject  
6 to all of the following requirements:

7 (1) Funding for emerging technologies shall be provided  
8 through a competitive, market-based process that ~~shall be~~ *is* in  
9 place for a period of not less than five years, and ~~shall be~~ *is*  
10 structured ~~so as~~ to allow eligible emerging technology  
11 manufacturers and suppliers to anticipate and plan for increased  
12 sale and installation volumes over the life of the program.

13 (2) The program shall provide monetary rebates, buydowns, or  
14 equivalent incentives, subject to ~~subparagraph (C)~~ *paragraph*  
15 (3), to purchasers, lessees, lessors, or sellers of eligible electricity  
16 generating systems. Incentives shall benefit the end-use  
17 consumer of renewable generation by directly and exclusively  
18 reducing the purchase or lease cost of the eligible system, or the  
19 cost of electricity produced by the eligible system. Incentives  
20 shall be issued on the basis of the rated electrical generating  
21 capacity of the system measured in watts, or the amount of  
22 electricity production of the system, measured in kilowatt hours.  
23 Incentives shall be limited to a maximum percentage of the  
24 system price, as determined by the commission.

25 (3) Eligible distributed emerging technologies are  
26 photovoltaic, solar thermal electric, fuel cell technologies that  
27 utilize renewable fuels, and wind turbines of not more than 50  
28 kilowatts rated electrical generating capacity per customer site,  
29 and other distributed renewable emerging technologies that meet  
30 the emerging technology eligibility criteria established by the  
31 commission. Eligible electricity generating systems are intended  
32 primarily to offset part or all of the consumer's own electricity  
33 demand, and shall not be owned by local publicly owned electric  
34 utilities, nor be located at a customer site that is not receiving  
35 distribution service from an electrical corporation that is subject  
36 to the renewable energy public goods charge and contributing  
37 funds to support programs under this chapter. All eligible  
38 electricity generating system components shall be new and  
39 unused, shall not have been previously placed in service in any  
40 other location or for any other application, and shall have a

1 warranty of not less than five years to protect against defects and  
2 undue degradation of electrical generation output. Systems and  
3 their fuel resources shall be located on the same premises of the  
4 end-use consumer where the consumer's own electricity demand  
5 is located, and all eligible electricity generating systems shall be  
6 connected to the utility grid in California. The commission may  
7 require eligible electricity generating systems to have meters in  
8 place to monitor and measure a system's performance and  
9 generation. Only systems that will be operated in compliance  
10 with applicable law and the rules of the Public Utilities  
11 Commission shall be eligible for funding.

12 (4) The commission shall limit the amount of funds available  
13 for any system or project of multiple systems and reduce the  
14 level of funding for any system or project of multiple systems  
15 that has received, or may be eligible to receive, any government  
16 or utility funds, incentives, or credit.

17 (5) In awarding funding, the commission may provide  
18 preference to systems that provide tangible demonstrable benefits  
19 to communities with a plurality of minority or low-income  
20 populations.

21 (6) In awarding funding, the commission shall develop and  
22 implement eligibility criteria and a system that provides  
23 preference to systems based upon system performance, taking  
24 into account factors, including, ~~but not limited to,~~ shading,  
25 insulation levels, and installation orientation.

26 (7) At least once annually, the commission shall publish and  
27 make available to the public the balance of funds available for  
28 emerging renewable energy resources for rebates, buydowns, and  
29 other incentives for the purchase of these resources.

30 (c) Notwithstanding Section 399.6 of the Public Utilities Code,  
31 the commission may expend, until December 31, 2008, up to  
32 sixty million dollars (\$60,000,000) of the funding allocated to the  
33 Renewable Resources Trust Fund for the program established in  
34 this section, subject to the repayment requirements of subdivision  
35 (f) of Section 25751.

36 SEC. 4. Section 25745 of the Public Resources Code is  
37 repealed.

38 ~~25745. (a) Ten percent of the money collected pursuant to the~~  
39 ~~renewable energy public goods charge shall be used to provide~~  
40 ~~customer credits to customers that entered into a direct~~

1 ~~transaction on or before September 20, 2001, for purchases of~~  
2 ~~electricity produced by registered in-state renewable electricity~~  
3 ~~generating facilities:~~

4 ~~(b) Any funds used for customer credits pursuant to this~~  
5 ~~section shall be expended, as provided in the report, subject to all~~  
6 ~~of the following requirements:~~

7 ~~(1) Customer credits shall be awarded to California retail~~  
8 ~~customers located in the service territory of an electrical~~  
9 ~~corporation that is subject to the renewable energy public goods~~  
10 ~~charge that is contributing funds to support programs under this~~  
11 ~~chapter, and that is purchasing qualifying electricity from~~  
12 ~~renewable electricity generating facilities, through transactions~~  
13 ~~traceable to specific generation sources by any auditable contract~~  
14 ~~trail or equivalent that provides commercial verification that the~~  
15 ~~electricity from the claimed renewable electricity generating~~  
16 ~~facilities has been sold once and only once to a retail customer.~~

17 ~~(2) Credits awarded pursuant to this paragraph may be paid~~  
18 ~~directly to electric service providers, energy marketers,~~  
19 ~~aggregators, or generators if those persons or entities account for~~  
20 ~~the credits on the recipient customer's bills. Credits may not~~  
21 ~~exceed one and one-half cents (\$0.015) per kilowatthour. Credits~~  
22 ~~awarded to members of the combined class of customers, other~~  
23 ~~than residential and small commercial customers, may not exceed~~  
24 ~~one thousand dollars (\$1,000) per customer per calendar year. In~~  
25 ~~no event may more than 20 percent of the total customer~~  
26 ~~incentive funds be awarded to members of the combined class of~~  
27 ~~customers other than residential and small commercial~~  
28 ~~customers.~~

29 ~~(3) The commission shall develop criteria and procedures for~~  
30 ~~the identification of energy purchasers and providers that are~~  
31 ~~eligible to receive funds pursuant to this paragraph through a~~  
32 ~~process consistent with this paragraph. These criteria and~~  
33 ~~procedures shall apply only to funding eligibility and may not~~  
34 ~~extend to other renewable marketing claims.~~

35 ~~(4) Customer credits may not be awarded for the purchase of~~  
36 ~~electricity that is used to meet the obligations of a renewable~~  
37 ~~portfolio standard.~~

38 ~~(5) The Public Utilities Commission shall notify the~~  
39 ~~commission in writing within 10 days of revoking or suspending~~  
40 ~~the registration of any electric service provider pursuant to~~

1 paragraph (4) of subdivision (b) of Section 394.25 of the Public  
2 Utilities Code.

3 SEC. 5. Section 25749 of the Public Resources Code is  
4 repealed.

5 ~~25749. The commission shall, by December 1, 2003, prepare~~  
6 ~~and submit to the Legislature a comprehensive renewable~~  
7 ~~electricity generation resource plan that describes the renewable~~  
8 ~~resource potential available in California, and recommendations~~  
9 ~~for a plan for development to achieve the target of increasing the~~  
10 ~~amount of electricity generated from renewable sources per year,~~  
11 ~~so that it equals 17 percent of the total electricity generated for~~  
12 ~~consumption in California by 2006. The commission shall~~  
13 ~~consult with the Public Utilities Commission, electrical~~  
14 ~~corporations, and the Independent System Operator, in the~~  
15 ~~development and preparation of the plan.~~

16 SEC. 6. Section 387 of the Public Utilities Code is amended  
17 to read:

18 387. (a) Each governing body of a local publicly owned  
19 electric utility, as defined in Section 9604, shall be responsible  
20 for implementing and enforcing a renewables portfolio standard  
21 that recognizes the intent of the Legislature to encourage  
22 renewable resources, while taking into consideration the effect of  
23 the standard on rates, reliability, and financial resources and the  
24 goal of environmental improvement.

25 (b) Each local publicly owned electric utility shall report, on  
26 an annual basis, to its customers *and to the State Energy*  
27 *Resources Conservation and Development Commission*, the  
28 following:

29 (1) Expenditures of public goods funds collected pursuant to  
30 Section 385 for renewable energy resource development. Reports  
31 shall contain a description of programs, expenditures, and  
32 expected or actual results.

33 (2) The resource mix used to serve its customers by fuel type.  
34 Reports shall contain the contribution of each type of renewable  
35 energy resource with separate categories for those fuels  
36 considered eligible renewable energy resources as defined by  
37 Section 399.12.

38 (3) *The utility's status in implementing a renewables portfolio*  
39 *standard pursuant to subdivision (a) and the utility's progress*  
40 *toward attaining the standard following implementation.*

1 SEC. 7. Section 399.11 of the Public Utilities Code is  
2 amended to read:

3 399.11. The Legislature finds and declares all of the  
4 following:

5 (a) In order to attain a target of *generating 20 percent of total*  
6 *retail sales of electricity in California from renewable energy for*  
7 ~~the State of California~~ *resources by December 31, 2010*, and for  
8 the purposes of increasing the diversity, reliability, public health  
9 and environmental benefits of the energy mix, it is the intent of  
10 the Legislature that the California Public Utilities Commission  
11 and the State Energy Resources Conservation and Development  
12 Commission implement the California Renewables Portfolio  
13 Standard Program described in this article.

14 (b) Increasing California's reliance on renewable energy  
15 resources may promote stable electricity prices, protect public  
16 health, improve environmental quality, stimulate sustainable  
17 economic development, create new employment opportunities,  
18 and reduce reliance on imported fuels.

19 (c) The development of renewable energy resources *and the*  
20 *delivery of the electricity generated by those resources to*  
21 *customers in California* may ameliorate air quality problems  
22 throughout the state and improve public health by reducing the  
23 burning of fossil fuels and the associated environmental impacts  
24 *and by reducing in-state fossil fuel extraction.*

25 (d) The California Renewables Portfolio Standard Program is  
26 intended to complement the Renewable Energy *Resources*  
27 Program administered by the State Energy Resources  
28 Conservation and Development Commission and established  
29 pursuant to ~~Sections 383.5 and 445~~ *Chapter 8.6 (commencing*  
30 *with Section 25740) of Division 15 of the Public Resources Code.*

31 (e) *New and modified electric transmission facilities may be*  
32 *necessary to facilitate the state achieving its renewables portfolio*  
33 *standard targets. In order to attain a target of generating 20*  
34 *percent of total retail sales of electricity in California from*  
35 *renewable energy resources by December 31, 2010, the state*  
36 *must expedite regulatory proceedings related to the addition or*  
37 *modification of electric transmission by fast-tracking the*  
38 *processing of transmission permit requests needed to facilitate*  
39 *the development or delivery of renewable generation. It is the*  
40 *intent of the Legislature that the commission report to the*

1 *Legislature annually, consistent with its reporting obligations*  
2 *under Section 1701.6, the actions it has taken to fast-track*  
3 *completion of proceedings related to the addition or modification*  
4 *of electric transmission needed to access renewable energy*  
5 *resources, and the results of those actions.*

6 SEC. 8. Section 399.12 of the Public Utilities Code is  
7 amended to read:

8 399.12. For purposes of this article, the following terms have  
9 the following meanings:

10 (a) ~~(1)~~—“Eligible renewable energy resource” means an  
11 electric generating facility that ~~is one of the following~~ *meets the*  
12 *definition of “in-state renewable electricity generation facility”*  
13 *in Section 25741 of the Public Resources Code, subject to the*  
14 *following limitations:*

15 ~~(1) The facility meets the definition of “in-state renewable~~  
16 ~~electricity generation technology” in Section 383.5.~~

17 ~~(2)~~

18 (1) A geothermal generation facility originally commencing  
19 operation prior to September 26, 1996, shall be eligible for  
20 purposes of adjusting a retail seller’s baseline quantity of eligible  
21 renewable energy resources except for ~~output~~ *electricity* certified  
22 as incremental geothermal production by the Energy  
23 Commission, provided that the incremental ~~output~~ *electricity*  
24 was not sold to an electrical corporation under contract entered  
25 into prior to September 26, 1996. For each facility seeking  
26 certification, the Energy Commission shall determine historical  
27 production trends and establish criteria for measuring  
28 incremental geothermal production that recognizes the declining  
29 *geothermal* output of existing steamfields and the contribution of  
30 capital investments in the facility or wellfield. *This paragraph*  
31 *shall remain operative only until January 1, 2010.*

32 ~~(3)~~

33 (2) (A) *An existing small hydroelectric generation facility of*  
34 *30 megawatts or less* ~~procured or owned by an electrical~~  
35 ~~corporation as of the date of enactment of this article~~ *shall be*  
36 *eligible only if a retail seller owned or procured the electricity*  
37 *from the facility as of December 31, 2003, and that electricity*  
38 *shall be eligible only for purposes of establishing the baseline of*  
39 *an electrical corporation pursuant to paragraph (3) of subdivision*  
40 ~~(a) of Section 399.15.~~ A new hydroelectric facility is not an



1 eligible renewable energy resource if it will require a new or  
2 increased appropriation or diversion of water under Part 2  
3 (commencing with Section 1200) of Division 2 of the Water  
4 Code.

5 *(B) Notwithstanding subparagraph (A), an existing conduit*  
6 *hydroelectric facility, as defined by Section 823a of Title 16 of*  
7 *the United States Code, of 30 megawatts or less, shall be eligible*  
8 *for the purposes of satisfying a retail seller's baseline quantity of*  
9 *eligible renewable energy resources. A new conduit*  
10 *hydroelectric facility, as defined by Section 823a of Title 16 of*  
11 *the United States Code, of 30 megawatts or less, shall be an*  
12 *eligible renewable energy resource so long as it does not require*  
13 *a new or increased appropriation or diversion of water under*  
14 *Part 2 (commencing with Section 1200) of Division 2 of the*  
15 *Water Code.*

16 ~~(4)~~

17 (3) A facility engaged in the combustion of municipal solid  
18 waste shall not be considered an eligible renewable resource  
19 unless it is located in Stanislaus County and was operational  
20 prior to September 26, 1996. ~~Output from such facilities~~  
21 *Electricity generated by a facility meeting these requirements*  
22 *shall be eligible only for the purpose of adjusting a retail seller's*  
23 *baseline quantity of eligible renewable energy resources.*

24 (4) *Notwithstanding paragraph (1), any geothermal electricity*  
25 *included in the baseline of a retail seller from a facility under a*  
26 *long-term contract executed before January 1, 2004, shall be*  
27 *eligible to satisfy the annual procurement targets of any retail*  
28 *seller upon the expiration of that contract.*

29 (b) *"Energy Commission" means the State Energy Resources*  
30 *Conservation and Development Commission.*

31 ~~(b)~~

32 (c) *"Retail seller" means an entity engaged in the retail sale of*  
33 *electricity to end-use customers located within the state,*  
34 *including any of the following:*

35 (1) An electrical corporation, as defined in Section 218.

36 (2) A community choice aggregator. The commission shall  
37 institute a rulemaking to determine the manner in which a  
38 community choice aggregator will participate in the renewables  
39 portfolio standard subject to the same terms and conditions  
40 applicable to an electrical corporation.

1 (3) An electric service provider, as defined in Section 218.3,  
2 subject to the following conditions:

3 (A) An electric service provider shall be considered a retail  
4 seller under this article for sales to any customer acquiring  
5 service after January 1, 2003.

6 (B) An electric service provider shall be considered a retail  
7 seller under this article for sales to all its customers beginning on  
8 the earlier of January 1, 2006, or the date on which a contract  
9 between an electric service provider and a retail customer  
10 expires. Nothing on this subdivision may require an electric  
11 service provider to disclose the terms of the contract to the  
12 commission.

13 (C) The commission shall institute a rulemaking to determine  
14 the manner in which electric service providers will participate in  
15 the renewables portfolio standard *program*. The electric service  
16 provider shall be subject to the same terms and conditions  
17 applicable to an electrical corporation pursuant to this article.  
18 Nothing in this paragraph shall impair a contract entered into  
19 between an electric service provider and a retail customer prior to  
20 the suspension of direct access by the commission pursuant to  
21 Section 80110 of the Water Code.

22 (4) “Retail seller” does not include any of the following:

23 (A) A corporation or person employing cogeneration  
24 technology or producing ~~power~~ *electricity* consistent with  
25 subdivision (b) of Section 218.

26 (B) The Department of Water Resources acting in its capacity  
27 pursuant to Division 27 (commencing with Section 80000) of the  
28 Water Code.

29 (C) A local publicly owned ~~electrical~~ *electric* utility as  
30 defined in subdivision (d) of Section 9604.

31 ~~(e)~~

32 (d) “Renewables portfolio standard” means the specified  
33 percentage of electricity generated by eligible renewable energy  
34 resources that a retail seller is required to procure pursuant to  
35 Sections 399.13 and 399.15.

36 (e) “Renewable energy credit” means a certificate of proof,  
37 issued through the accounting system established by the Energy  
38 Commission pursuant to Section 399.13, that one unit of  
39 electricity was generated by an eligible renewable energy  
40 resource and delivered to a retail seller, the Independent System

1 *Operator, or a local publicly owned electric utility subject to the*  
2 *requirements of subdivision (e) of Section 399.13. The Energy*  
3 *Commission shall ensure that the renewable energy credit*  
4 *includes all renewable and environmental attributes associated*  
5 *with the production of electricity from the eligible renewable*  
6 *energy resource, and shall rely on the definition of “renewable*  
7 *energy credit” adopted as a standard term by the commission.*  
8 *Any electricity generated by an eligible renewable energy*  
9 *resource attributable to the use of nonrenewable fuels, beyond a*  
10 *de minimus quantity, as determined by the Energy Commission,*  
11 *shall not result in the creation of any renewable energy credits.*

12 SEC. 9. Section 399.13 of the Public Utilities Code is  
13 amended to read:

14 399.13. The Energy Commission shall do all of the following:

15 (a) Certify eligible renewable energy resources that it  
16 determines meet the criteria described in subdivision (a) of  
17 Section 399.12.

18 (b) Design and implement an accounting system to verify  
19 compliance with the renewables portfolio standard by retail  
20 sellers, to ensure that *electricity generated by an eligible*  
21 *renewable energy output resource* is counted only once for the  
22 purpose of meeting the renewables portfolio standard of this state  
23 or any other state, ~~and for verifying~~ *to certify renewable energy*  
24 *credits produced by eligible renewable energy resources, and to*  
25 *verify* retail product claims in this state or any other state. In  
26 establishing the guidelines governing this *accounting* system, the  
27 Energy Commission shall collect data from electricity market  
28 participants that it deems necessary to verify compliance of retail  
29 sellers, in accordance with the requirements of this article and the  
30 California Public Records Act (Chapter 3.5 (commencing with  
31 Section 6250) of Division 7 of Title 1 of the Government Code).  
32 In seeking data from electrical corporations, the Energy  
33 Commission shall request data from the commission. The  
34 commission shall collect data from electrical corporations and  
35 remit the data to the Energy Commission within 90 days of the  
36 request.

37 (c) *Establish a system for tracking and verifying renewable*  
38 *energy credits. The Energy Commission shall consult with other*  
39 *states in the Western Electricity Coordinating Council*  
40 *transmission system to develop consistent mechanisms and*

1 *protocols for verifying renewable energy credits and to prevent*  
2 *double counting of the electricity generated from any eligible*  
3 *renewable energy resource.*

4 *(d) Allocate and award supplemental energy payments*  
5 *pursuant to ~~Section 383.5~~ Chapter 8.6 (commencing with Section*  
6 *25740) of Division 15 of the Public Resources Code, to eligible*  
7 *renewable energy resources to cover above-market costs of*  
8 *renewable energy. A project may receive supplemental energy*  
9 *payments only if it is selected by an electrical corporation*  
10 *pursuant to a competitive solicitation that is found by the*  
11 *commission to comply with the California Renewables Portfolio*  
12 *Standard Program under this article and that has entered into an*  
13 *electricity purchase agreement resulting from that solicitation*  
14 *that is approved by the commission. A project selected for an*  
15 *electricity purchase agreement by another retail seller may*  
16 *receive supplemental energy payments if the retail seller*  
17 *demonstrates to the commission that the selection of the project*  
18 *is consistent with the results of a least-cost and best-fit process,*  
19 *and that the supplemental energy payments are reasonable in*  
20 *comparison to those paid under similar contracts with other*  
21 *retail sellers. The Energy Commission shall not award*  
22 *supplemental energy payments for the sale or purchase of*  
23 *renewable energy credits.*

24 *(e) Certify, for purposes of compliance with the renewables*  
25 *portfolio standard by a retail seller, the eligibility of renewable*  
26 *energy credits associated with deliveries of electricity by an*  
27 *eligible renewable energy resource to a local publicly owned*  
28 *electric utility if the Energy Commission determines that the*  
29 *following conditions have been satisfied:*

30 *(1) The local publicly owned electric utility procuring the*  
31 *electricity complies with the requirements of this article.*

32 *(2) The local publicly owned electric utility has established*  
33 *annual procurement targets comparable to those applicable to*  
34 *an electrical corporation, is procuring sufficient eligible*  
35 *renewable energy resources to satisfy the targets, and will not*  
36 *fail to satisfy the targets in the event that the renewable energy*  
37 *credit is sold to another retail seller.*

38 *(f) The Energy Commission shall not certify or award*  
39 *tradeable renewable energy credits for electricity generated*  
40 *pursuant to any electricity purchase contract with a retail seller*

1 *executed before January 1, 2005, unless the contract contains*  
2 *explicit terms and conditions specifying the ownership or*  
3 *disposition of those credits. Deliveries under those contracts*  
4 *shall be tracked through the accounting system described in*  
5 *subdivision (b) and included in the baseline quantity of eligible*  
6 *renewable energy resources of the purchasing retail seller*  
7 *pursuant to Section 399.15.*

8 *(g) The Energy Commission shall not certify or award*  
9 *tradeable renewable energy credits for electricity generated*  
10 *under any electricity purchase contract executed after January 1,*  
11 *2005, pursuant to the federal Public Utility Regulatory Policies*  
12 *Act of 1978 (16 U.S.C. Sec. 2601 et seq.). Deliveries under the*  
13 *electricity purchase contracts shall be tracked through the*  
14 *accounting system described in subdivision (b) and count*  
15 *towards the renewables portfolio standard obligations of the*  
16 *purchasing retail seller.*

17 SEC. 10. Section 399.14 of the Public Utilities Code is  
18 amended to read:

19 399.14. (a) The commission shall direct each electrical  
20 corporation to prepare *a* renewable energy procurement ~~plans~~  
21 *plan* as described in paragraph (3) to satisfy its obligations under  
22 the renewables portfolio standard. To the extent feasible, this  
23 procurement plan shall be proposed, reviewed, and adopted by  
24 the commission as part of, and pursuant to, a general  
25 procurement plan process. The commission shall require each  
26 electrical corporation to review and update its renewable energy  
27 procurement plan as it determines to be necessary.

28 (1) (A) The commission shall not require an electrical  
29 corporation to conduct procurement to fulfill the renewables  
30 portfolio standard until the commission determines either of the  
31 following:

32 (i) The electrical corporation has attained an investment grade  
33 credit rating as determined by at least two major rating agencies.

34 (ii) The electrical corporation is able to procure eligible  
35 renewable energy resources on reasonable terms, those resources  
36 can be financed if necessary, and the procurement will not impair  
37 the restoration of an electrical corporation's creditworthiness.  
38 This provision shall not apply before April 1, 2004, for any  
39 electrical corporation that on June 30, 2003, is in federal court

1 under Chapter 11 of the federal ~~bankruptcy law~~ *Bankruptcy*  
2 *Code (11 U.S.C. Sec. 1101 et seq.)*.

3 (B) Within 90 days of the commission's determination as  
4 provided in subparagraph (A), an electrical corporation shall  
5 conduct solicitations to implement a renewable energy  
6 procurement plan. The determination required by this paragraph  
7 shall apply only to the requirements established pursuant to this  
8 article. The requirements established for an electrical corporation  
9 pursuant to Section 454.5 shall be governed by that section.

10 ~~(2) Not later than six months after the effective date of this~~  
11 ~~section, the~~ *The* commission shall adopt, by rule, for all  
12 electrical corporations, all of the following:

13 (A) A process for determining market prices pursuant to  
14 subdivision (c) of Section 399.15. The commission shall make  
15 specific determinations of market prices after the closing date of  
16 a competitive solicitation conducted by an electrical corporation  
17 for eligible renewable energy resources. In order to ensure that  
18 the market price established by the commission pursuant to  
19 subdivision (c) of Section 399.15 does not influence the amount  
20 of a bid submitted through the competitive solicitation in a  
21 manner that would increase the amount ratepayers are obligated  
22 to pay for *electricity generated by eligible* renewable energy  
23 *resources*, and in order to ensure that the bid price does not  
24 influence the establishment of the market price, the electrical  
25 corporation shall not transmit or share the results of any  
26 competitive solicitation for eligible renewable energy resources  
27 until the commission has established market prices pursuant to  
28 subdivision (c) of Section 399.15.

29 (B) A process that provides criteria for the rank ordering and  
30 selection of least-cost and best-fit *eligible* renewable *energy*  
31 resources to comply with the annual California Renewables  
32 Portfolio Standard Program obligations on a total cost basis. This  
33 process shall consider estimates of indirect costs associated with  
34 needed transmission investments and ongoing utility expenses  
35 resulting from integrating and operating eligible renewable  
36 energy resources.

37 (C) Flexible rules for compliance, including, ~~but not limited~~  
38 ~~to,~~ *both of the following:*

39 (i) *Rules* permitting electrical corporations to apply excess  
40 procurement in one year to subsequent years or inadequate

1 procurement in one year to no more than the following three  
2 years.

3 *(ii) Rules permitting electrical corporations to purchase*  
4 *renewable energy credits from an eligible renewable energy*  
5 *resource pursuant to a contract of at least 10 years duration,*  
6 *under the condition that the electricity generated by the eligible*  
7 *renewable energy resource is sold into the California electricity*  
8 *market and no feasible or cost-effective transmission facilities*  
9 *exist to deliver the electricity to the electrical corporation's*  
10 *service territory.*

11 (D) Standard terms and conditions to be used by all electrical  
12 corporations in contracting for eligible renewable energy  
13 resources, including performance requirements for renewable  
14 generators. *A contract for the purchase of electricity generated*  
15 *by an eligible renewable energy resource shall include the*  
16 *renewable energy credits associated with all electricity*  
17 *generation specified under the contract. The standard terms and*  
18 *conditions shall include the requirement that, no later than six*  
19 *months after the commission's approval of an electricity*  
20 *purchase agreement entered into pursuant to this article, the*  
21 *following information about the agreement shall be disclosed by*  
22 *the commission: party names, resource type, project location,*  
23 *and project capacity.*

24 (3) Consistent with the goal of procuring the least-cost and  
25 best-fit eligible renewable energy resources, the renewable  
26 energy procurement plan submitted by an electrical corporation  
27 shall include, ~~but is not limited to,~~ all of the following:

28 (A) An assessment of annual or multiyear portfolio supplies  
29 and demand to determine the optimal mix of renewable  
30 generation resources with deliverability characteristics that may  
31 include peaking, dispatchable, baseload, firm, and as-available  
32 capacity.

33 (B) Provisions for employing available compliance flexibility  
34 mechanisms established by the commission.

35 (C) A bid solicitation setting forth the need for renewable  
36 generation of each deliverability characteristic, required online  
37 dates, and locational preferences, if any.

38 (4) In soliciting and procuring eligible renewable energy  
39 resources, each electrical corporation shall offer contracts of no  
40 less than 10 years in duration, unless the commission approves of

1 a contract of shorter duration. *Any bid solicitation or contract of*  
2 *less than 10 years in duration shall be considered*  
3 *nonconforming.*

4 (5) In soliciting and procuring eligible renewable energy  
5 resources, each electrical corporation may give preference to  
6 projects that provide tangible demonstrable benefits to  
7 communities with a plurality of minority or low-income  
8 populations.

9 (b) The commission shall review and accept, modify, or reject  
10 each electrical corporation's renewable *energy* procurement plan  
11 ~~90 days~~ prior to the commencement of renewable procurement  
12 pursuant to this article by the electrical corporation.

13 (c) The commission shall review the results of a renewable  
14 energy resources solicitation submitted for approval by an  
15 electrical corporation and accept or reject proposed contracts  
16 with eligible renewable energy resources based on consistency  
17 with the approved renewable *energy* procurement plan. If the  
18 commission determines that the bid prices are elevated due to a  
19 lack of effective competition amongst the bidders, the  
20 commission shall direct the electrical corporation to renegotiate  
21 ~~such~~ *the* contracts or conduct a new solicitation.

22 (d) If an electrical corporation fails to comply with a  
23 commission order adopting a renewable *energy* procurement  
24 plan, the commission shall exercise its authority pursuant to  
25 Section 2113 to require compliance. *The commission shall*  
26 *enforce comparable penalties on any other retail seller that fails*  
27 *to meet annual procurement targets established pursuant to*  
28 *Section 399.15.*

29 (e) Upon application by ~~an electrical corporation~~ *a retail*  
30 *seller*, the commission may authorize ~~another~~ *a procurement*  
31 entity to enter into contracts on behalf of customers of  
32 ~~the electrical corporation~~ *retail seller* for deliveries of eligible  
33 renewable energy resources to satisfy the annual *renewables*  
34 portfolio standard obligations, subject to similar terms and  
35 conditions applicable to ~~an electrical corporation~~ *a retail seller*.  
36 The commission shall allow the procurement entity to recover  
37 reasonable costs through retail rates subject to review and  
38 approval.

39 (f) Procurement and administrative costs associated with  
40 long-term contracts entered into by an electrical corporation for



1 eligible renewable energy resources pursuant to this article, at or  
2 below the market price determined by the commission pursuant  
3 to subdivision (c) of Section 399.15, shall be deemed reasonable  
4 per se, and shall be recoverable in rates.

5 (g) For purposes of this article, “procure” means that a ~~utility~~  
6 ~~retail seller~~ may acquire the ~~renewable output of electric~~  
7 ~~generation facilities~~ *electricity generated by an eligible*  
8 *renewable energy resource* that it owns or for which it has  
9 contracted. Nothing in this article is intended to imply that the  
10 purchase of electricity from third parties in a wholesale  
11 transaction is the preferred method of fulfilling a retail seller’s  
12 obligation to comply with this article.

13 (h) Construction, alteration, demolition, installation, and repair  
14 work on an eligible renewable energy resource that receives  
15 production incentives or supplemental energy payments pursuant  
16 to Section ~~383.5~~ *25742 or 25743 of the Public Resources Code*,  
17 including, ~~but not limited to~~, work performed to qualify, receive,  
18 or maintain production incentives or supplemental energy  
19 payments is “public works” for the purposes of Chapter 1  
20 (commencing with Section 1720) of Part 7 of Division 2 of the  
21 Labor Code.

22 SEC. 11. Section 399.15 of the Public Utilities Code is  
23 amended to read:

24 399.15. (a) In order to fulfill unmet long-term resource needs,  
25 the commission shall establish a renewables portfolio standard  
26 requiring all electrical corporations to procure a minimum  
27 quantity of ~~output from~~ *electricity generated by* eligible  
28 renewable energy resources, *or an equivalent quantity of*  
29 *renewable energy credits*, as a specified percentage of total  
30 kilowatthours sold to their retail end-use customers each calendar  
31 year, if sufficient funds are made available pursuant to paragraph  
32 (2), and ~~Sections 399.6 and 383.5~~ *Section 399.6 and Chapter 8.6*  
33 *(commencing with Section 25740) of Division 15 of the Public*  
34 *Resources Code*, to cover the above-market costs of eligible  
35 renewables, ~~and subject to all of the following:~~ .

36 ~~(1) An electric corporation shall not be required to enter into~~  
37 ~~long-term contracts with eligible renewable energy resources that~~  
38 ~~exceed the market prices established pursuant to subdivision (e)~~  
39 ~~of this section.~~

1 ~~(2) The Energy Commission shall provide supplemental~~  
2 ~~energy payments from funds in the New Renewable Resources~~  
3 ~~Account in the Renewable Resource Trust Fund to eligible~~  
4 ~~renewable energy resources pursuant to Section 383.5,,~~  
5 ~~consistent with this article, for above-market costs. Indirect costs~~  
6 ~~associated with the purchase of eligible renewable energy~~  
7 ~~resources, such as imbalance energy charges, sale of excess~~  
8 ~~energy, decreased generation from existing resources, or~~  
9 ~~transmission upgrades shall not be eligible for supplemental~~  
10 ~~energy payments, but shall be recoverable by an electrical~~  
11 ~~corporation in rates, as authorized by the commission.~~

12 ~~(3) For purposes of setting annual procurement targets, the~~  
13 ~~commission shall establish an initial baseline for each electrical~~  
14 ~~corporation based on the actual percentage of retail sales~~  
15 ~~procured from eligible renewable energy resources in 2001, and,~~  
16 ~~to the extent applicable, adjusted going forward pursuant to~~  
17 ~~subdivision (a) of Section 399.12.~~

18 (b) The commission shall implement annual procurement  
19 targets for each electrical corporation *retail seller* as follows:

20 (1) Beginning on January 1, 2003, each electrical corporation  
21 *retail seller* shall, pursuant to subdivision (a), increase its total  
22 procurement of eligible renewable energy resources by at least an  
23 additional 1 percent of retail sales per year so that 20 percent of  
24 its retail sales are procured from eligible renewable energy  
25 resources no later than December 31, 2017. ~~An electrical~~  
26 ~~corporation with 20 percent of retail sales procured from eligible~~  
27 ~~renewable energy resources in any year shall not be required to~~  
28 ~~increase its procurement of such resources in the following year~~  
29 ~~2010.~~

30 (2) *For purposes of setting annual procurement targets, the*  
31 *commission shall establish an initial baseline for each electrical*  
32 *corporation based on the actual percentage of retail sales*  
33 *procured from eligible renewable energy resources in 2001, and,*  
34 *to the extent applicable, adjusted going forward pursuant to*  
35 *subdivision (a) of Section 399.12. The Commission shall*  
36 *establish baselines and set annual procurement targets for other*  
37 *retail sellers that ensure that the departure of customer loads*  
38 *from bundled service by an electrical corporation do not cause*  
39 *any reduction in the quantity of eligible renewable energy*

1 *resources that would have otherwise been procured by the*  
2 *electrical corporation to serve those customers.*

3 (3) Only for purposes of establishing these targets, the  
4 commission shall include all ~~power~~ *electricity* sold to retail  
5 customers by the Department of Water Resources pursuant to  
6 Section 80100 of the Water Code in the calculation of retail sales  
7 by an electrical corporation.

8 ~~(3)~~

9 (4) In the event that ~~an electrical corporation~~ *a retail seller*  
10 fails to procure sufficient eligible renewable energy resources in  
11 a given year to meet any annual target established pursuant to  
12 this subdivision, the ~~electrical corporation~~ *retail seller* shall  
13 procure additional eligible renewable energy resources in  
14 subsequent years to compensate for the shortfall if sufficient  
15 funds are made available pursuant to paragraph (2), ~~and Sections~~  
16 ~~399.6 and 383.5~~ *of subdivision (a), Section 399.6, and Chapter*  
17 *8.6 (commencing with Section 25740) of Division 15 of the*  
18 *Public Resources Code, to cover the above-market costs of*  
19 ~~eligible renewables~~ *renewable energy resources.*

20 ~~(4)~~

21 (5) If supplemental energy payments from the Energy  
22 Commission, in combination with the market prices approved by  
23 the commission, are insufficient to cover the above-market costs  
24 of eligible renewable energy resources, the commission shall  
25 allow ~~an electrical corporation~~ *a retail seller* to limit its annual  
26 procurement obligation to the quantity of eligible renewable  
27 energy resources that can be procured with available  
28 supplemental energy payments. *A retail seller shall not be*  
29 *required to enter into long-term contracts with operators of*  
30 *eligible renewable energy resources that exceed the market*  
31 *prices established pursuant to subdivision (c).*

32 (c) The commission shall establish a methodology to  
33 determine the market price of electricity for terms corresponding  
34 to the length of contracts with renewable generators, in  
35 consideration of the following:

36 (1) The long-term market price of electricity for fixed price  
37 contracts, determined pursuant to the electrical corporation's  
38 general procurement activities as authorized by the commission.

1 (2) The long-term ownership, operating, and fixed-price fuel  
2 costs associated with fixed-price electricity from new generating  
3 facilities.

4 (3) The value of different products including baseload,  
5 peaking, and as-available ~~output~~ electricity.

6 (d) *The Energy Commission shall provide supplemental*  
7 *energy payments from funds in the New Renewable Resources*  
8 *Account of the Renewable Resource Trust Fund to eligible*  
9 *renewable energy resources pursuant to Chapter 8.6*  
10 *(commencing with Section 25740) of Division 15 of the Public*  
11 *Resources Code, consistent with this article, for above-market*  
12 *costs. Indirect costs associated with the purchase of eligible*  
13 *renewable energy resources by an electrical corporation,*  
14 *including imbalance energy charges, sale of excess energy,*  
15 *decreased generation from existing resources, or transmission*  
16 *upgrades, shall not be eligible for supplemental energy*  
17 *payments, but are recoverable in rates, as authorized by the*  
18 *commission.*

19 (e) The establishment of a renewables portfolio standard shall  
20 not constitute implementation by the commission of the federal  
21 Public Utility Regulatory Policies Act of 1978 (Public Law  
22 95-617).

23 ~~(e)~~

24 (f) The commission shall consult with the Energy Commission  
25 in calculating market prices under subdivision (c) and  
26 establishing other renewables portfolio standard policies.

27 (g) *The commission shall establish rules that authorize the use*  
28 *of renewable energy credits to satisfy annual procurement*  
29 *targets. At a minimum, the rules shall do all of the following:*

30 (1) *Prohibit a renewable energy credit from being counted*  
31 *more than once by any retail seller for compliance with the*  
32 *renewables portfolio standard of this state or any other state, or*  
33 *for verifying retail product claims in this state or any other state.*

34 (2) *Ensure that any revenues received by an electrical*  
35 *corporation for the sale of renewable energy credits are credited*  
36 *to ratepayers.*

37 (3) *Limit the quantity of renewable energy credits that can be*  
38 *procured unbundled from electricity generation to meet the*  
39 *annual procurement targets of a retail seller.*

1 (4) Require every retail seller to demonstrate that all  
2 purchased renewable energy credits are certified by the Energy  
3 Commission and comply with the requirements of this article.

4 (5) Ensure that no retail seller shall be obligated to procure  
5 renewable energy credits to satisfy annual procurement targets  
6 in the event that supplemental energy payments, in combination  
7 with the market prices approved by the commission, are  
8 insufficient to cover the above-market costs of long-term  
9 contracts with eligible renewable energy resources.

10 (6) Prohibit an electrical corporation from selling renewable  
11 energy credits associated with eligible renewable energy  
12 resources included in that electrical corporation's baseline  
13 quantity on January 1, 2004.

14 (7) Prohibit sales of renewable energy credits by an electrical  
15 corporation during any year in which the electrical corporation  
16 utilizes flexible compliance rules to permit inadequate  
17 procurement pursuant to subparagraph (C) of paragraph (2) of  
18 subdivision (a) of Section 399.14.

19 SEC. 12. Section 399.16 of the Public Utilities Code is  
20 amended to read:

21 399.16. The ~~commission~~ Energy Commission may consider  
22 an electric generating facility that is located outside the state to  
23 be an eligible renewable energy resource if ~~it~~ the facility meets  
24 the criteria described in Section 399.12 and all of the following  
25 requirements:

26 (a) It is ~~located so that it is, or will be,~~ connected to the  
27 Western Electricity Coordinating Council (WECC) transmission  
28 system.

29 (b) It is ~~developed with guaranteed contracts to sell its~~  
30 ~~generation~~ commences initial commercial operation after  
31 January 1, 2006, supplies electricity under a guaranteed contract  
32 with a retail seller, and demonstrates delivery of energy, to a the  
33 contracted amount of electricity to that retail seller ~~or the~~  
34 ~~Independent System Operator.~~

35 (c) It participates in the accounting system to verify  
36 compliance with the renewables portfolio standard by retail  
37 sellers, once established by the State Energy Resources  
38 Conservation and Development Commission pursuant to  
39 subdivision (b) of Section 399.13.

1 SEC. 13. Section 399.17 is added to the Public Utilities Code,  
2 to read:

3 399.17. (a) Subject to the provisions of this section, the  
4 requirements of this article apply to an electrical corporation with  
5 60,000 or fewer customer accounts in California that serves retail  
6 end-use customers outside California.

7 (b) For an electrical corporation with 60,000 or fewer  
8 customer accounts in California that serves retail end-use  
9 customers outside California, an eligible renewable energy  
10 resource includes a facility that is located outside California, if  
11 the facility is connected to the Western Electricity Coordinating  
12 Council (WECC) transmission system, provided all of the  
13 following conditions are met:

14 (1) The electricity generated by the facility is procured by the  
15 electrical corporation on behalf of its California customers, and is  
16 not used to fulfill renewable energy procurement requirements in  
17 other states.

18 (2) The electrical corporation participates in, and complies  
19 with, the accounting system administered by the Energy  
20 Commission pursuant to subdivision (b) of Section 399.13.

21 (3) The Energy Commission verifies that the electricity  
22 generated by the facility is eligible to meet the annual  
23 procurement targets of this article.

24 (c) The commission shall determine the annual procurement  
25 targets for an electrical corporation with 60,000 or fewer  
26 customer accounts in California that serves retail end-use  
27 customers outside California, as a specified percentage of total  
28 kilowatthours sold by the electrical corporation to its retail  
29 end-use customers in California in a calendar year.

30 (d) An electrical corporation with 60,000 or fewer customer  
31 accounts in California that serves retail end-use customers  
32 outside California, may use an integrated resource plan prepared  
33 in compliance with the requirements of another state utility  
34 regulatory commission, to fulfill the requirement to prepare a  
35 renewable energy procurement plan pursuant to this article,  
36 provided the plan meets the requirements of Sections 399.11,  
37 399.12, 399.13, and 399.14, as modified by this section.

38 (e) Procurement and administrative costs associated with  
39 long-term contracts entered into by an electrical corporation with  
40 60,000 or fewer customer accounts in California that serves retail

1 end-use customers outside California, for eligible renewable  
2 energy resources pursuant to this article, at or below the market  
3 price determined by the commission pursuant to subdivision (c)  
4 of Section 399.15, shall be deemed reasonable per se, and shall  
5 be recoverable in rates of the electrical corporation's California  
6 customers, provided the costs are not recoverable in rates in other  
7 states served by the electrical corporation.

8 SEC. 14. Article 9 (commencing with Section 635) is added  
9 to Chapter 3 of Part 1 of Division 1 of the Public Utilities Code,  
10 to read:

11  
12 Article 9. Long-Term Plans and Procurement Plans  
13

14 635. In a long-term plan adopted by an electrical corporation  
15 or in a procurement plan implemented by a local publicly owned  
16 electric utility, the electrical corporation or local publicly owned  
17 electric utility shall adopt a strategy applicable both to newly  
18 constructed or repowered generation owned and procured by the  
19 electrical corporation or local publicly owned electric utility to  
20 achieve efficiency in the use of fossil fuels and to address carbon  
21 emissions consistent with the loading order approved by the  
22 commission, or for a local publicly owned electric utility, a  
23 functionally equivalent order by its governing body, the State  
24 Energy Resources Conservation and Development Commission,  
25 and the California Consumer Power and Conservation Financing  
26 Authority.

27 SEC. 15. The State Energy Resources Conservation and  
28 Development Commission shall, on or before January 1, 2007,  
29 report to the Governor and the Legislature with recommendations  
30 for how to incentivize each local publicly owned electric utility,  
31 as defined in Section 9604 of the Public Utilities Code, to  
32 implement and enforce a renewables portfolio standard program  
33 meeting the requirements of Section 399.15 of the Public  
34 Utilities Code, utilizing eligible renewable energy resources, as  
35 defined in Section 399.12. The commission may include the  
36 report as a component of the 2005 Integrated Energy Policy or  
37 the next renewable energy report required pursuant to Section  
38 25758 of the Public Resources Code. The commission shall use  
39 existing resources to comply with this section.

1 SEC. 16. No reimbursement is required by this act pursuant to  
2 Section 6 of Article XIII B of the California Constitution for  
3 certain costs that may be incurred by a local agency or school  
4 district because, in that regard, this act creates a new crime or  
5 infraction, eliminates a crime or infraction, or changes the  
6 penalty for a crime or infraction, within the meaning of Section  
7 17556 of the Government Code, or changes the definition of a  
8 crime within the meaning of Section 6 of Article XIII B of the  
9 California Constitution.

10 However, if the Commission on State Mandates determines  
11 that this act contains other costs mandated by the state,  
12 reimbursement to local agencies and school districts for those  
13 costs shall be made pursuant to Part 7 (commencing with Section  
14 17500) of Division 4 of Title 2 of the Government Code.

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