

AMENDED IN SENATE MAY 4, 2005
AMENDED IN SENATE APRIL 19, 2005

SENATE BILL

No. 107

Introduced by Senators Simitian and Perata

January 20, 2005

An act to amend Sections 25740, 25741, 25743, and 25744 of, to add ~~Section 25752 to~~ and repeal Section 25305.1 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 amended, 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 *eligible* 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 California 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~~ *renewable energy credits, as defined*. 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.~~ *require that deliveries of electricity from an eligible renewable energy resource under any electricity purchase contract with a retail seller executed before January 1, 2006, be*

tracked and included in the baseline quantity of eligible renewable energy resources of the purchasing retail seller. The bill would require that electricity generated pursuant to a prescribed federal act and pursuant to a purchased contract executed on or after January 1, 2006, count towards the renewable portfolio standard requirements of the retail seller. 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) Existing law requires the State Energy Resources Conservation and Development Commission to prepare an integrated energy policy report every 2 years. Existing law requires the report to contain an overview of major energy trends and issues facing the state, including, but not limited to, supply, demand, pricing, reliability, efficiency, and impacts on public health and safety, the economy, resources, and the environment.

This bill would require the Energy Commission to review include in the integrated energy policy report to be adopted November 1, 2007, an assessment of the feasibility of increasing the target for the amount of electricity to be procured from eligible renewable energy resources to 33% by the year 2020, and to report the results of the review to the Governor and Legislature by July 1, 2007 recommend how to induce local publicly owned electric utilities to implement and enforce a

renewables portfolio standard utilizing eligible renewable energy resources.

~~(4)~~

(5) 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)~~

(6) 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 California 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 supplying electricity to retail sellers, as defined, to the extent the retail seller is servicing load that is within the distribution area of an electrical corporation and subject to the renewable energy public goods charge, to receive supplemental energy payments under certain circumstances. The bill would prohibit the Energy Commission from awarding supplemental energy payments for the sale or purchase of renewable energy credits or to service load that is not subject to the renewable energy public goods charge. 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)~~

(7) 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)~~

(8) 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)~~

(9) 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)~~

(10) 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)~~

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

~~(11)~~

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

~~Because certain~~ *Certain* of the provisions of this bill are a part of the act and an order of the CPUC would be required to implement these provisions, ~~and~~ *Because* a violation of the provisions of the bill that are part of the act 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)~~

(13) 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: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

1 *SECTION 1. Section 25305.1 is added to the Public*
2 *Resources Code, to read:*

3 *25305.1. (a) In addition to the assessments required by*
4 *Section 25305, the public interest energy strategies portion of the*
5 *integrated energy policy report to be adopted November 1, 2007,*
6 *shall include the following additional assessments:*

7 *(1) A review of the feasibility of increasing the target for*
8 *electricity to be procured from eligible renewable energy*
9 *resources, as defined in Section 399.12 of the Public Utilities*
10 *Code, to 33 percent by the year 2020. The review shall consider*
11 *and report on all of the following:*

12 *(A) The deliverability of electricity from eligible renewable*
13 *energy resources to end users and any needed additions or*
14 *upgrades to the transmission grid system.*

15 *(B) The potential impacts upon the rates of electrical*
16 *corporations and whether or not a renewable energy public*
17 *goods charge is necessary to fund the above-market costs of*
18 *electricity generated from eligible renewable energy resources.*

19 *(C) The progress made by electrical corporations and all*
20 *other retail sellers, as defined in Section 399.12 of the Public*
21 *Utilities Code, and local publicly owned electric utilities, as*
22 *defined in Section 9604 of the Public Utilities Code, toward*
23 *meeting the goal of procuring from eligible renewable energy*
24 *resources 20 percent of the electricity sold to retail customers*
25 *per year by December 31, 2010.*

26 *(2) Recommendations for how to induce each local publicly*
27 *owned electric utility, as defined in Section 9604 of the Public*
28 *Utilities Code, to implement and enforce a renewables portfolio*
29 *standard meeting the requirements of Article 16 (commencing*
30 *with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the*
31 *Public Utilities Code, utilizing eligible renewable energy*
32 *resources, as defined in Section 399.12 of the Public Utilities*
33 *Code.*

34 *(b) The commission shall use existing resources to comply*
35 *with this section.*

36 *(c) This section shall remain in effect only until January 1,*
37 *2008, and as of that date is repealed, unless a later enacted*

1 *statute, that is enacted before January 1, 2008, deletes or extends*
2 *that date.*

3 **SECTION 1.**

4 *SEC. 2.* Section 25740 of the Public Resources Code is
5 amended to read:

6 25740. It is the intent of the Legislature in establishing this
7 program, to increase the amount of electricity generated from
8 *eligible* renewable energy resources per year, so that it equals at
9 least 20 percent of total retail sales of electricity in California per
10 year by December 31, 2010.

11 ~~SEC. 2.~~

12 *SEC. 3.* Section 25741 of the Public Resources Code is
13 amended to read:

14 25741. As used in this chapter, the following terms have the
15 following meaning:

16 (a) “In-state renewable electricity generation facility” means a
17 facility that meets all of the following criteria:

18 (1) The facility uses biomass, solar thermal, photovoltaic,
19 wind, geothermal, fuel cells using renewable fuels, small
20 hydroelectric generation of 30 megawatts or less, digester gas,
21 municipal solid waste conversion, landfill gas, ocean wave,
22 ocean thermal, or tidal current, and any additions or
23 enhancements to the facility using that technology.

24 (2) The facility is located in the state or near the border of the
25 state with the first point of connection to *the transmission*
26 *network within* the Western Electricity Coordinating Council
27 (WECC) ~~transmission system~~ *service territory* located within this
28 state.

29 (3) For the purposes of this subdivision, “solid waste
30 conversion” means a technology that uses a noncombustion
31 thermal process to convert solid waste to a clean-burning fuel for
32 the purpose of generating electricity, and that meets all of the
33 following criteria:

34 (A) The technology does not use air or oxygen in the
35 conversion process, except ambient air to maintain temperature
36 control.

37 (B) The technology produces no discharges of air
38 contaminants or emissions, including greenhouse gases as
39 defined in Section 42801.1 of the Health and Safety Code.

1 (C) The technology produces no discharges to surface or
2 groundwaters of the state.

3 (D) The technology produces no hazardous wastes.

4 (E) To the maximum extent feasible, the technology removes
5 all recyclable materials and marketable green waste compostable
6 materials from the solid waste stream prior to the conversion
7 process and the owner or operator of the facility certifies that
8 those materials will be recycled or composted.

9 (F) The facility at which the technology is used is in
10 compliance with all applicable laws, regulations, and ordinances.

11 (G) The technology meets any other conditions established by
12 the commission.

13 (H) The facility certifies that any local agency sending solid
14 waste to the facility diverted at least 30 percent of all solid waste
15 it collects through solid waste reduction, recycling, and
16 composting. For purposes of this paragraph “local agency”
17 means any city, county, or special district, or subdivision thereof,
18 which is authorized to provide solid waste handling services.

19 (b) “Renewable energy public goods charge” means that
20 portion of the nonbypassable system benefits charge authorized
21 to be collected and to be transferred to the Renewable Resource
22 Trust Fund pursuant to the Reliable Electric Service Investments
23 Act (Article 15 (commencing with Section 399) of Chapter 2.3 of
24 Part 1 of Division 1 of the Public Utilities Code).

25 (c) “Report” means the report entitled “Investing in
26 Renewable Electricity Generation in California” (June 2001,
27 Publication Number P500-00-022) submitted to the Governor
28 and the Legislature by the commission.

29 (d) (1) “Retail seller” means ~~an entity engaged in the retail~~
30 ~~sale of electricity to end-use customers, including any of the~~
31 ~~following:~~

32 ~~(A) An electrical corporation, as defined in Section 218 of the~~
33 ~~Public Utilities Code, the load of which is subject to the~~
34 ~~renewable energy public goods charge.~~

35 ~~(B) A community choice aggregator that provides electricity~~
36 ~~within the distribution territory of an electrical corporation~~
37 ~~subject to the renewable energy public goods charge.~~

38 ~~(C) An electric service provider, as defined in Section 218.3 of~~
39 ~~the Public Utilities Code, to the extent the electric service~~
40 ~~provider provides electricity within the distribution territory of an~~

1 electrical corporation and to the extent the load of the electric
2 service provider is subject to the renewable energy public goods
3 charge.

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

5 ~~(A) A corporation or person employing cogeneration~~
6 ~~technology or producing power consistent with subdivision (b) of~~
7 ~~Section 218 of the Public Utilities Code.~~

8 ~~(B) The Department of Water Resources acting in its capacity~~
9 ~~pursuant to Division 27 (commencing with Section 80000) of the~~
10 ~~Water Code.~~

11 ~~(C) A local publicly owned electrical utility as defined in~~
12 ~~subdivision (d) of Section 9604 of the Public Utilities Code, a~~
13 ~~“retail seller” as defined in Section 399.12 of the Public Utilities~~
14 ~~Code.~~

15 ~~SEC. 3.~~

16 *SEC. 4.* Section 25743 of the Public Resources Code is
17 amended to read:

18 25743. (a) Fifty-one and one-half percent of the money
19 collected pursuant to the renewable energy public goods charge
20 shall be used for programs designed to foster the development of
21 new in-state renewable electricity generation facilities, and to
22 secure for the state the environmental, economic, and reliability
23 benefits that operation of those facilities will provide.

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

28 (1) In order to cover the above market costs of eligible
29 renewable energy resources as approved by the Public Utilities
30 Commission and selected by retail sellers to fulfill their
31 obligations under Article 16 (commencing with Section 399.11)
32 of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities
33 Code, the commission shall award funds in the form of
34 supplemental energy payments, subject to the following criteria:

35 (A) The commission may establish caps on supplemental
36 energy payments. The caps shall be designed to provide for a
37 viable energy market capable of achieving the goals of Article 16
38 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of
39 Division 1 of the Public Utilities Code. The commission may
40 waive application of the caps to accommodate a facility if it is

1 demonstrated to the satisfaction of the commission that operation
2 of the facility would provide substantial economic and
3 environmental benefits to end-use customers subject to the
4 ~~funding requirements of the~~ renewable energy public goods
5 charge.

6 (B) Supplemental energy payments shall be awarded only to
7 facilities that are eligible for funding under this ~~subdivision~~
8 *section*.

9 (C) Supplemental energy payments awarded to facilities
10 selected by an electrical corporation pursuant to Article 16
11 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of
12 Division 1 of the Public Utilities Code shall be paid for no longer
13 than 10 years, but shall, subject to the payment caps in
14 subparagraph (A), be equal to the cumulative above-market costs
15 relative to the applicable market price referent at the time of
16 initial contracting, over the duration of the contract with the
17 electrical corporation.

18 (D) The commission shall reduce or terminate supplemental
19 energy payments for projects that fail either to commence and
20 maintain operations consistent with the contractual obligations to
21 an electrical corporation, or that fail to meet eligibility
22 requirements.

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

27 (F) A project ~~may receive funds pursuant to this section~~
28 *selected by an electrical corporation may receive supplemental*
29 *energy payments* only if it ~~is selected by an electrical corporation~~
30 ~~pursuant to~~ *results from* a competitive solicitation that is found
31 by the Public Utilities Commission to comply with the California
32 Renewables Portfolio Standard Program under Article 16
33 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of
34 Division 1 of the Public Utilities Code, and ~~that~~ *the project* has
35 entered into an electricity purchase agreement resulting from that
36 solicitation, that is approved by the Public Utilities Commission.
37 A project selected for an electricity purchase agreement by
38 another retail seller may receive supplemental energy payments
39 *only* if the retail seller demonstrates to the Public Utilities
40 Commission that the selection of the project is consistent with

1 the results of a least-cost and best-fit process, and the
2 supplemental energy payments are reasonable in comparison to
3 those paid under similar contracts with other retail sellers. The
4 commission may not award supplemental energy payments ~~for~~
5 ~~the sale or purchase of renewable energy credits or to service~~
6 load that is not subject to the renewable energy public goods
7 charge.

8 (2) The commission may determine as part of a solicitation,
9 that a facility that does not meet the definition of an “in-state
10 renewable electricity generation ~~technology~~ *facility facility*”
11 solely because it is located outside the state, is eligible for
12 funding under this ~~subdivision~~ *section* if it meets all of the
13 following requirements:

14 (A) It is or will be connected to *the transmission network*
15 *within* the Western Electricity Coordinating Council (WECC)
16 ~~transmission system~~ *service territory*.

17 (B) It commences initial commercial operation after January 1,
18 ~~2005~~ *2006*.

19 (C) It has a contract with a retail seller or another entity to
20 supply electricity to end-use customers subject to the renewable
21 energy public goods charge for a period of time at least equal to
22 the duration of incentive payments provided pursuant to this
23 subdivision.

24 (D) It demonstrates delivery of the electricity under contract to
25 the retail seller serving end-use customers subject to the
26 renewable energy public goods charge.

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

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

32 (G) It meets any other condition established by the
33 commission.

34 (3) Facilities that are eligible to receive funding pursuant to
35 this ~~subdivision~~ *section* shall be registered in accordance with
36 criteria developed by the commission and those facilities may not
37 receive payments for any electricity produced that has any of the
38 following characteristics:

39 (A) Is sold under an existing long-term contract with an
40 existing in-state electrical corporation if the contract includes

1 fixed energy or capacity payments, except for that electricity that
2 satisfies subparagraph (C) of paragraph (1) of subdivision (c) of
3 Section 399.6 of the Public Utilities Code.

4 (B) Is used onsite or is sold to customers in a manner that
5 excludes ~~competitive~~ *competition* transition charge payments, or
6 is otherwise excluded from ~~competitive~~ *competition* transition
7 charge payments.

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

11 (D) Is a hydroelectric generation project that will require a
12 new or increased appropriation of water under Part 2
13 (commencing with Section 1200) of Division 2 of the Water
14 Code.

15 (E) Is a solid waste conversion facility, unless the facility
16 meets the criteria established in paragraph (3) of subdivision (a)
17 of Section 25741 and the facility certifies that any local agency
18 sending solid waste to the facility is in compliance with Division
19 30 (commencing with Section 40000), has reduced, recycled, or
20 composted solid waste to the maximum extent feasible, and shall
21 have been found by the California Integrated Waste Management
22 Board to have diverted at least 30 percent of all solid waste
23 through source reduction, recycling, and composting.

24 (4) Eligibility to compete for funds or to receive funds shall be
25 contingent upon having to sell the electricity generated by the
26 renewable electricity generation facility to customers subject to
27 ~~the funding requirements~~ of the renewable energy public goods
28 charge.

29 (5) The commission may require applicants competing for
30 funding to post a forfeitable bid bond or other financial guaranty
31 as an assurance of the applicant's intent to move forward
32 expeditiously with the project proposed. The amount of any bid
33 bond or financial guaranty may not exceed 10 percent of the total
34 amount of the funding requested by the applicant.

35 (6) In awarding funding, the commission may provide
36 preference to projects that provide tangible demonstrable benefits
37 to communities with a plurality of minority or low-income
38 populations.

39 (c) Repowered existing facilities shall be eligible for funding
40 under this subdivision if the capital investment to repower the

1 existing facility equals at least 80 percent of the value of the
2 repowered facility.

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

6 (e) Production incentives awarded under this subdivision prior
7 to January 1, 2002, shall commence on the date that a project
8 begins electricity production, provided that the project was
9 operational prior to January 1, 2002, unless the commission finds
10 that the project will not be operational prior to January 1, 2002,
11 due to circumstances beyond the control of the developer. Upon
12 making a finding that the project will not be operational due to
13 circumstances beyond the control of the developer, the
14 commission shall pay production incentives over a five-year
15 period, commencing on the date of operation, provided that the
16 date that a project begins electricity production may not extend
17 beyond January 1, 2007.

18 (f) Facilities generating electricity from biomass energy shall
19 be considered an in-state renewable electricity generation
20 ~~technology~~ facility to the extent that they report to the
21 commission the types and quantities of biomass fuels used and
22 certify to the satisfaction of the commission that fuel utilization
23 is limited to the following:

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

25 (2) Solid waste materials such as waste pallets, crates,
26 dunnage, manufacturing, and construction wood wastes,
27 landscape or right-of-way tree trimmings, mill residues that are
28 directly the result of the milling of lumber, and rangeland
29 maintenance residues.

30 (3) Wood and wood wastes that meet all of the following
31 requirements:

32 (A) Have been harvested pursuant to an approved timber
33 harvest plan prepared in accordance with the Z'berg-Nejedly
34 Forest Practice Act of 1973 (Chapter 8 (commencing with
35 Section 4511) of Part 2 of Division 4).

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

38 (C) Do not transport or cause the transportation of species
39 known to harbor insect or disease nests outside zones of
40 infestation or current quarantine zones, as identified by the

1 Department of Food and Agriculture or the Department of
2 Forestry and Fire Protection, unless approved by the Department
3 of Food and Agriculture and the Department of Forestry and Fire
4 Protection.

5 ~~SEC. 4.~~

6 *SEC. 5.* Section 25744 of the Public Resources Code is
7 amended to read:

8 25744. (a) Seventeen and one-half percent of the money
9 collected pursuant to the renewable energy public goods charge
10 shall be used for a multiyear, consumer-based program to foster
11 the development of emerging renewable technologies in
12 distributed generation applications.

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

16 (1) Funding for emerging technologies shall be provided
17 through a competitive, market-based process that is in place for a
18 period of not less than five years, and is structured to allow
19 eligible emerging technology manufacturers and suppliers to
20 anticipate and plan for increased sale and installation volumes
21 over the life of the program.

22 (2) The program shall provide monetary rebates, buydowns, or
23 equivalent incentives, subject to paragraph (3), to purchasers,
24 lessees, lessors, or sellers of eligible electricity generating
25 systems. Incentives shall benefit the end-use consumer of
26 renewable generation by directly and exclusively reducing the
27 purchase or lease cost of the eligible system, or the cost of
28 electricity produced by the eligible system. Incentives shall be
29 issued on the basis of the rated electrical generating capacity of
30 the system measured in watts, or the amount of electricity
31 production of the system, measured in kilowatthours. Incentives
32 shall be limited to a maximum percentage of the system price, as
33 determined by the commission.

34 (3) Eligible distributed emerging technologies are
35 photovoltaic, solar thermal electric, fuel cell technologies that
36 utilize renewable fuels, and wind turbines of not more than 50
37 kilowatts rated electrical generating capacity per customer site,
38 and other distributed renewable emerging technologies that meet
39 the emerging technology eligibility criteria established by the
40 commission. Eligible electricity generating systems are intended

1 primarily to offset part or all of the consumer's own electricity
2 demand, and shall not be owned by local publicly owned electric
3 utilities, nor be located at a customer site that is not receiving
4 distribution service from an electrical corporation that is subject
5 to the renewable energy public goods charge and contributing
6 funds to support programs under this chapter. All eligible
7 electricity generating system components shall be new and
8 unused, shall not have been previously placed in service in any
9 other location or for any other application, and shall have a
10 warranty of not less than five years to protect against defects and
11 undue degradation of electrical generation output. Systems and
12 their fuel resources shall be located on the same premises of the
13 end-use consumer where the consumer's own electricity demand
14 is located, and all eligible electricity generating systems shall be
15 connected to the utility grid in California. The commission may
16 require eligible electricity generating systems to have meters in
17 place to monitor and measure a system's performance and
18 generation. Only systems that will be operated in compliance
19 with applicable law and the rules of the Public Utilities
20 Commission shall be eligible for funding.

21 (4) The commission shall limit the amount of funds available
22 for any system or project of multiple systems and reduce the
23 level of funding for any system or project of multiple systems
24 that has received, or may be eligible to receive, any government
25 or utility funds, incentives, or credit.

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

30 (6) In awarding funding, the commission shall develop and
31 implement eligibility criteria and a system that provides
32 preference to systems based upon system performance, taking
33 into account factors, including shading, insulation levels, and
34 installation orientation.

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

39 (c) Notwithstanding Section 399.6 of the Public Utilities Code,
40 the commission may expend, until December 31, 2008, up to

1 sixty million dollars (\$60,000,000) of the funding allocated to the
2 Renewable Resources Trust Fund for the program established in
3 this section, subject to the repayment requirements of subdivision
4 (f) of Section 25751.

5 ~~SEC. 5.~~

6 ~~SEC. 6.~~ Section 25745 of the Public Resources Code is
7 repealed.

8 ~~SEC. 6.~~

9 ~~SEC. 7.~~ Section 25749 of the Public Resources Code is
10 repealed.

11 ~~SEC. 7.~~ Section 25752 is added to the Public Resources
12 Code, to read:

13 ~~25752. The commission shall review the feasibility of~~
14 ~~increasing the target for electricity to be procured from eligible~~
15 ~~renewable energy resources to 33 percent by the year 2020, and~~
16 ~~to report to the Governor and the Legislature by July 1, 2007,~~
17 ~~with the results of the review. The review shall consider and~~
18 ~~report on all of the following:~~

19 ~~(a) Deliverability of electricity from eligible renewable energy~~
20 ~~resources to end users and any needed additions or upgrades to~~
21 ~~the transmission grid system.~~

22 ~~(b) Potential impacts upon the rates of electrical corporations~~
23 ~~and whether or not a renewable energy public goods charge is~~
24 ~~necessary to fund the above-market costs of electricity generated~~
25 ~~from eligible renewable energy resources.~~

26 ~~(c) The progress made by electrical corporations toward~~
27 ~~meeting the goal of procuring from renewable energy resources~~
28 ~~20 percent of the electricity sold to retail customers per year by~~
29 ~~December 31, 2010.~~

30 ~~(d) The progress made by all other retail sellers and local~~
31 ~~publicly owned electric utilities as defined in subdivision (d) of~~
32 ~~Section 9604 of the Public Utilities Code, toward meeting the~~
33 ~~goal of procuring from renewable energy resources 20 percent of~~
34 ~~the electricity sold to retail customers per year by December 31,~~
35 ~~2010.~~

36 SEC. 8. Section 387 of the Public Utilities Code is amended
37 to read:

38 387. (a) Each governing body of a local publicly owned
39 electric utility, as defined in Section 9604, shall be responsible
40 for implementing and enforcing a renewables portfolio standard

1 that recognizes the intent of the Legislature to encourage
2 renewable resources, while taking into consideration the effect of
3 the standard on rates, reliability, and financial resources and the
4 goal of environmental improvement.

5 (b) Each local publicly owned electric utility shall report, on
6 an annual basis, to its customers and to the State Energy
7 Resources Conservation and Development Commission, the
8 following:

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

13 (2) The resource mix used to serve its customers by fuel type.
14 Reports shall contain the contribution of each type of renewable
15 energy resource with separate categories for those fuels
16 considered eligible renewable energy resources as defined by *in*
17 Section 399.12.

18 (3) The utility's status in implementing a renewables portfolio
19 standard pursuant to subdivision (a) and the utility's progress
20 toward attaining the standard following implementation.

21 SEC. 9. Section 399.11 of the Public Utilities Code is
22 amended to read:

23 399.11. The Legislature finds and declares all of the
24 following:

25 (a) In order to attain a target of generating 20 percent of total
26 retail sales of electricity in California from renewable energy
27 resources by December 31, 2010, and for the purposes of
28 increasing the diversity, reliability, public health and
29 environmental benefits of the energy mix, it is the intent of the
30 Legislature that the ~~California Public Utilities Commission~~
31 *commission* and the State Energy Resources Conservation and
32 Development Commission implement the California Renewables
33 Portfolio Standard Program described in this article.

34 (b) Increasing California's reliance on renewable energy
35 resources may promote stable electricity prices, protect public
36 health, improve environmental quality, stimulate sustainable
37 economic development, create new employment opportunities,
38 and reduce reliance on imported fuels.

39 (c) The development of renewable energy resources and the
40 delivery of the electricity generated by those resources to

1 customers in California may ameliorate air quality problems
2 throughout the state and improve public health by reducing the
3 burning of fossil fuels and the associated environmental impacts
4 and by reducing in-state fossil fuel extraction.

5 (d) The California Renewables Portfolio Standard Program is
6 intended to complement the Renewable Energy Resources
7 Program administered by the State Energy Resources
8 Conservation and Development Commission and established
9 pursuant to Chapter 8.6 (commencing with Section 25740) of
10 Division 15 of the Public Resources Code.

11 (e) New and modified electric transmission facilities may be
12 necessary to facilitate the state achieving its renewables portfolio
13 standard targets.

14 SEC. 10. Section 399.12 of the Public Utilities Code is
15 amended to read:

16 399.12. For purposes of this article, the following terms have
17 the following meanings:

18 (a) “Eligible renewable energy resource” means an electric
19 generating facility that meets the definition of “in-state
20 renewable electricity generation facility” in Section 25741 of the
21 Public Resources Code, subject to the following limitations:

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

36 (2) (A) An existing small hydroelectric generation facility of
37 30 megawatts or less shall be eligible only if a retail seller owned
38 or procured the electricity from the facility as of December 31,
39 2003, and that electricity shall be eligible only for purposes of
40 establishing the ~~baseline~~ *retail seller’s baseline quantity of*

1 *eligible renewable energy resources*. A new hydroelectric facility
2 is not an eligible renewable energy resource if it will require a
3 new or increased appropriation or diversion of water under Part 2
4 (commencing with Section 1200) of Division 2 of the Water
5 Code.

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

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. Electricity generated by a facility
21 meeting these requirements shall be eligible only for the purpose
22 of adjusting a retail seller's baseline quantity of eligible
23 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. This paragraph shall
29 become inoperative on January 1, 2010, unless a later enacted
30 statute deletes or extends that date.

31 (b) "Energy Commission" means the State Energy Resources
32 Conservation and Development Commission.

33 (c) "Retail seller" means an entity engaged in the retail sale of
34 electricity to end-use customers located within the state *and*
35 *subject to the renewable energy public goods charge, as defined*
36 *in Section 25741 of the Public Resources Code*, including any of
37 the following:

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

39 (2) A community choice aggregator. The commission shall
40 institute a rulemaking to determine the manner in which a

1 community choice aggregator will participate in the renewables
2 portfolio standard *program* subject to the same terms and
3 conditions applicable to an electrical corporation.

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

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

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

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

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

26 (A) A corporation or person employing cogeneration
27 technology or producing electricity consistent with subdivision
28 (b) of Section 218.

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

32 (C) A local publicly owned electric utility as defined in
33 ~~subdivision (d) of Section 9604.~~

34 (d) “Renewables portfolio standard” means the specified
35 percentage of electricity generated by eligible renewable energy
36 resources that a retail seller is required to procure pursuant to this
37 article.

38 (e) (1) “Renewable energy credit” means a certificate of proof,
39 issued through the accounting system established by the Energy
40 Commission pursuant to Section 399.13, that one unit of

1 electricity was generated by an eligible renewable energy
2 resource.

3 (2) “Renewable energy credit” includes all renewable and
4 environmental attributes associated with the production of
5 electricity from the eligible renewable energy resource, except
6 for an emissions reduction credit issued pursuant to Section
7 40709 of the Health and Safety Code.

8 (3) No 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 result in the creation of a renewable energy credit.

12 (4) A renewable energy credit shall not be eligible to satisfy
13 annual procurement targets established pursuant to this article,
14 ~~unless the original unit of electricity was~~ *it is bundled with*
15 *electricity* delivered to a retail seller, the Independent System
16 Operator, or to a local publicly owned electric utility in
17 compliance with subdivision (e) of Section 399.13.

18 SEC. 11. Section 399.13 of the Public Utilities Code is
19 amended to read:

20 399.13. The Energy Commission shall do all of the following:

21 (a) Certify eligible renewable energy resources that it
22 determines meet the criteria described in subdivision (a) of
23 Section 399.12.

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

1 remit the data to the Energy Commission within 90 days of the
2 request.

3 (c) Establish a system for tracking and verifying renewable
4 energy credits that, through the use of independently audited
5 data, verifies the generation of electricity associated with each
6 renewable energy credit and protects against multiple counting of
7 the same renewable energy credit. The Energy Commission shall
8 consult with other western states and with the Western Electricity
9 Coordinating Council in the development of this system.

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

31 (e) Certify, for purposes of compliance with the renewables
32 portfolio standard by a retail seller, the eligibility of ~~renewable~~
33 ~~energy credits associated with~~ deliveries of electricity by an
34 eligible renewable energy resource to a local publicly owned
35 electric utility if the Energy Commission determines that the
36 following conditions have been satisfied:

37 (1) The local publicly owned electric utility procuring the
38 electricity complies with the requirements of Section 387.

39 (2) The local publicly owned electric utility has established
40 annual procurement targets comparable to those applicable to an

1 electrical corporation; *and* is procuring sufficient eligible
2 renewable energy resources to satisfy the targets; ~~and will not fail~~
3 ~~to satisfy the targets in the event that the renewable energy credit~~
4 ~~is sold to another retail seller.~~

5 ~~(f) The Energy Commission shall not certify or award~~
6 ~~tradeable renewable energy credits for electricity generated~~
7 ~~pursuant to any electricity purchase contract with a retail seller~~
8 ~~executed before January 1, 2005, unless the contract contains~~
9 ~~explicit terms and conditions specifying the ownership or~~
10 ~~disposition of those credits. Deliveries under those contracts shall~~
11 ~~be tracked through the accounting system described in~~
12 ~~subdivision (b) and included in the baseline quantity of eligible~~
13 ~~renewable energy resources of the purchasing retail seller~~
14 ~~pursuant to Section 399.15.~~

15 ~~(g) The Energy Commission shall not certify or award~~
16 ~~tradeable renewable energy credits for electricity generated under~~
17 ~~any electricity purchase contract executed after January 1, 2005,~~
18 ~~pursuant to the federal Public Utility Regulatory Policies Act of~~
19 ~~1978 (16 U.S.C. Sec. 2601 et seq.). Deliveries under the~~
20 ~~electricity purchase contracts shall be tracked through the~~
21 ~~accounting system described in subdivision (b) and count~~
22 ~~towards the renewables portfolio standard obligations of the~~
23 ~~purchasing retail seller.~~

24 *(f) Deliveries of electricity from an eligible renewable energy*
25 *resource under an electricity purchase contract with a retail*
26 *seller executed before January 1, 2006, shall be tracked through*
27 *the accounting system described in subdivision (b) and included*
28 *in the baseline quantity of eligible renewable energy resources of*
29 *the purchasing retail seller pursuant to Section 399.15.*

30 *(g) Deliveries of electricity from an eligible renewable energy*
31 *resource under an electricity purchase contract with a retail*
32 *seller executed after January 1, 2006, pursuant to the federal*
33 *Public Utility Regulatory Policies Act of 1978 (16 U.S.C. Sec.*
34 *2601 et seq.), shall be tracked through the accounting system*
35 *described in subdivision (b) and count towards the renewables*
36 *portfolio standard obligations of the purchasing retail seller.*

37 SEC. 12. Section 399.14 of the Public Utilities Code is
38 amended to read:

39 399.14. (a) (1) The commission shall direct each electrical
40 corporation to prepare a renewable energy procurement plan as

1 described in paragraph (3) to satisfy its obligations under the
2 renewables portfolio standard. To the extent feasible, this
3 procurement plan shall be proposed, reviewed, and adopted by
4 the commission as part of, and pursuant to, a general
5 procurement plan process. The commission shall require each
6 electrical corporation to review and update its renewable energy
7 procurement plan as it determines to be necessary.

8 (2) The commission shall adopt, by ~~rule~~ *rulemaking*, for all
9 electrical corporations, all of the following:

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

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

34 (C) Flexible rules for compliance, including ~~both of the~~
35 ~~following~~:

36 (i) ~~Rules~~ *rules* permitting electrical corporations to apply
37 excess procurement in one year to subsequent years or
38 inadequate procurement in one year to no more than the
39 following three years.

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

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

22 (3) Consistent with the goal of procuring the least-cost and
23 best-fit eligible renewable energy resources, the renewable
24 energy procurement plan submitted by an electrical corporation
25 shall include all of the following:

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

31 (B) Provisions for employing available compliance flexibility
32 mechanisms established by the commission.

33 (C) A bid solicitation setting forth the need for *eligible*
34 ~~renewable-generation energy resources~~ of each deliverability
35 characteristic, required online dates, and locational preferences,
36 if any.

37 (4) In soliciting and procuring eligible renewable energy
38 resources, each electrical corporation shall offer contracts of no
39 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 nonconforming.

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

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

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

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

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

37 (f) Procurement and administrative costs associated with
38 long-term contracts entered into by an electrical corporation for
39 eligible renewable energy resources pursuant to this article, at or
40 below the market price determined by the commission pursuant

1 to subdivision (c) of Section 399.15, shall be deemed reasonable
2 per se, and shall be recoverable in rates.

3 ~~(g) The commission shall prohibit a retail seller from using
4 renewable energy credits to satisfy annual renewable energy
5 procurement targets until the Energy Commission certifies that
6 the tracking and verification system established pursuant to
7 subdivision (c) of Section 399.13 is in operation and capable of
8 tracking renewable energy credits.~~

9 (h)

10 (g) For purposes of this article, “procure” means that a retail
11 seller may acquire the electricity generated by an eligible
12 renewable energy resource that it owns or for which it has
13 contracted. Nothing in this article is intended to imply that the
14 purchase of electricity from third parties in a wholesale
15 transaction is the preferred method of fulfilling a retail seller’s
16 obligation to comply with this article.

17 (i)

18 (h) Construction, alteration, demolition, installation, and repair
19 work on an eligible renewable energy resource that receives
20 production incentives or supplemental energy payments pursuant
21 to Sections 25742 and 25743 of the Public Resources Code,
22 including work performed to qualify, receive, or maintain
23 production incentives or supplemental energy payments is
24 “public works” for the purposes of Chapter 1 (commencing with
25 Section 1720) of Part 7 of Division 2 of the Labor Code.

26 SEC. 13. Section 399.15 of the Public Utilities Code is
27 amended to read:

28 399.15. (a) In order to fulfill unmet long-term resource
29 needs, the commission shall establish a renewables portfolio
30 standard requiring all electrical corporations to procure a
31 minimum quantity of electricity generated by eligible renewable
32 energy resources, ~~or an equivalent quantity of renewable energy
33 credits~~, as a specified percentage of total kilowatthours sold to
34 their retail end-use customers each calendar year, if sufficient
35 funds are made available pursuant to Section 399.6 and Chapter
36 8.6 (commencing with Section 25740) of Division 15 of the
37 Public Resources Code, to cover the above-market costs of
38 eligible ~~renewables~~ *renewable energy resources*.

39 (b) The commission shall implement annual procurement
40 targets for each retail seller as follows:

1 (1) Beginning on January 1, 2003, each retail seller shall,
2 pursuant to subdivision (a), increase its total procurement of
3 eligible renewable energy resources by at least an additional 1
4 percent of retail sales per year so that 20 percent of its retail sales
5 are procured from eligible renewable energy resources no later
6 than December 31, 2010.

7 (2) For purposes of setting annual procurement targets, the
8 commission shall establish an initial baseline for each electrical
9 corporation based on the actual percentage of retail sales
10 procured from eligible renewable energy resources in 2001, and,
11 to the extent applicable, adjusted going forward pursuant to
12 subdivision (a) of Section 399.12. The commission shall
13 establish baselines and set annual procurement targets for other
14 retail sellers that ensure that the departure of customer loads from
15 bundled service ~~by~~ *of* an electrical corporation ~~do~~ *does* not cause
16 any reduction in the quantity of eligible renewable energy
17 resources that would have otherwise been procured by the
18 electrical corporation to serve those customers.

19 (3) Only for purposes of establishing these targets, the
20 commission shall include all electricity sold to retail customers
21 by the Department of Water Resources pursuant to Section 80100
22 of the Water Code in the calculation of retail sales by an
23 electrical corporation.

24 (4) In the event that a retail seller fails to procure sufficient
25 eligible renewable energy resources in a given year to meet any
26 annual target established pursuant to this subdivision, the retail
27 seller shall procure additional eligible renewable energy
28 resources in subsequent years to compensate for the shortfall if
29 sufficient funds are made available pursuant to Section 399.6 and
30 Chapter 8.6 (commencing with Section 25740) of Division 15 of
31 the Public Resources Code, to cover ~~the~~ *any* above-market costs
32 of eligible renewable energy resources.

33 (5) If supplemental energy payments from the Energy
34 Commission, in combination with the market prices approved by
35 the commission, are insufficient to cover ~~the~~ *any* above-market
36 costs of eligible renewable energy resources, the commission
37 shall allow a retail seller to limit its annual procurement
38 obligation to the quantity of eligible renewable energy resources
39 that can be procured with available supplemental energy
40 payments. A retail seller shall not be required to enter into

1 long-term contracts with operators of eligible renewable energy
2 resources that exceed the market prices established pursuant to
3 subdivision (c).

4 (c) The commission shall establish a methodology to
5 determine the market price of electricity for terms corresponding
6 to the length of contracts with ~~renewable generators~~ *eligible*
7 *renewable energy resources*, in consideration of the following:

8 (1) The long-term market price of electricity for fixed price
9 contracts, determined pursuant to ~~the~~ *an* electrical corporation's
10 general procurement activities as authorized by the commission.

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

14 (3) The value of different products including baseload,
15 peaking, and as-available electricity.

16 (d) The Energy Commission shall provide supplemental
17 energy payments from funds in the New Renewable Resources
18 Account of the Renewable Resource Trust Fund to eligible
19 renewable energy resources pursuant to Chapter 8.6
20 (commencing with Section 25740) of Division 15 of the Public
21 Resources Code, consistent with this article, for *any*
22 above-market costs. Indirect costs associated with the purchase
23 of eligible renewable energy resources by an electrical
24 corporation, including imbalance energy charges, sale of excess
25 energy, decreased generation from existing resources, or
26 transmission upgrades, shall not be eligible for supplemental
27 energy payments, but are recoverable in rates, as authorized by
28 the commission. The Energy Commission shall not award
29 supplemental energy payments ~~for the sale or purchase of~~
30 ~~renewable energy credits~~ or to service load that is not subject to
31 the renewable energy public goods charge.

32 (e) The establishment of a renewables portfolio standard shall
33 not constitute implementation by the commission of the federal
34 Public Utility Regulatory Policies Act of 1978 (Public Law
35 95-617).

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

1 ~~(g) The commission shall establish rules that authorize the use~~
2 ~~of renewable energy credits to satisfy annual procurement~~
3 ~~targets. At a minimum, the rules shall do all of the following:~~

4 ~~(1) Prohibit a renewable energy credit from being counted~~
5 ~~more than once by any retail seller for compliance with the~~
6 ~~renewables portfolio standard of this state or any other state, or~~
7 ~~for verifying retail product claims in this state or any other state.~~

8 ~~(2) Ensure that any revenues received by an electrical~~
9 ~~corporation for the sale of renewable energy credits are credited~~
10 ~~to ratepayers.~~

11 ~~(3) Limit the quantity of renewable energy credits that can be~~
12 ~~procured unbundled from electricity generation to meet the~~
13 ~~annual procurement targets of a retail seller.~~

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

17 ~~(5) Ensure that no retail seller shall be obligated to procure~~
18 ~~renewable energy credits to satisfy annual procurement targets in~~
19 ~~the event that supplemental energy payments, in combination~~
20 ~~with the market prices approved by the commission, are~~
21 ~~insufficient to cover the above-market costs of long-term~~
22 ~~contracts with eligible renewable energy resources.~~

23 ~~(6) Prohibit an electrical corporation from selling renewable~~
24 ~~energy credits associated with eligible renewable energy~~
25 ~~resources included in that electrical corporation's baseline~~
26 ~~quantity on January 1, 2004.~~

27 ~~(7) Prohibit sales of renewable energy credits by an electrical~~
28 ~~corporation during any year in which the electrical corporation~~
29 ~~utilizes flexible compliance rules to permit inadequate~~
30 ~~procurement pursuant to subparagraph (C) of paragraph (2) of~~
31 ~~subdivision (a) of Section 399.14.~~

32 SEC. 14. Section 399.16 of the Public Utilities Code is
33 amended to read:

34 399.16. The Energy Commission may consider an electric
35 generating facility that is ~~located outside the state~~ *not an*
36 *"in-state renewable electricity generation facility," as defined in*
37 *Section 25741 of the Public Resources Code*, to be an eligible
38 renewable energy resource if the facility meets ~~the~~ *all other*
39 criteria described in Section 399.12 and all of the following
40 requirements:

1 (a) It is connected to the transmission network within the
2 Western Electricity Coordinating Council (WECC) service
3 territory.

4 (b) It commences initial commercial operation after January 1,
5 ~~2005~~ 2006, supplies electricity under a guaranteed contract with
6 a retail seller *in this state*, and demonstrates delivery of the
7 contracted amount of electricity to that retail seller.

8 (c) It participates in the accounting system to verify
9 compliance with the renewables portfolio standard by retail
10 sellers, once established by the Energy Commission pursuant to
11 subdivision (b) of Section 399.13.

12 SEC. 15. Section 399.17 is added to the Public Utilities Code,
13 to read:

14 399.17. (a) Subject to the provisions of this section, the
15 requirements of this article apply to an electrical corporation with
16 60,000 or fewer customer accounts in California that serves retail
17 end-use customers outside California.

18 (b) For an electrical corporation with 60,000 or fewer
19 customer accounts in California that serves retail end-use
20 customers outside California, an eligible renewable energy
21 resource includes a facility that is located outside California, if
22 the facility is connected to *the transmission network within the*
23 ~~Western Electricity Coordinating Council (WECC) transmission~~
24 ~~system service territory~~, provided all of the following conditions
25 are met:

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

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

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

36 (c) The commission shall determine the annual procurement
37 targets for an electrical corporation with 60,000 or fewer
38 customer accounts in California that serves retail end-use
39 customers outside California, as a specified percentage of total

1 kilowatthours sold by the electrical corporation to its retail
2 end-use customers in California in a calendar year.

3 (d) An electrical corporation with 60,000 or fewer customer
4 accounts in California that serves retail end-use customers
5 outside California, may use an integrated resource plan prepared
6 in compliance with the requirements of another state utility
7 regulatory commission, to fulfill the requirement to prepare a
8 renewable energy procurement plan pursuant to this article,
9 provided the plan meets the requirements of Sections 399.11,
10 399.12, 399.13, and 399.14, as modified by this section.

11 (e) Procurement and administrative costs associated with
12 long-term contracts entered into by an electrical corporation with
13 60,000 or fewer customer accounts in California that serves retail
14 end-use customers outside California, for eligible renewable
15 energy resources pursuant to this article, at or below the market
16 price determined by the commission pursuant to subdivision (c)
17 of Section 399.15, shall be deemed reasonable per se, and shall
18 be recoverable in rates of the electrical corporation's California
19 customers, provided the costs are not recoverable in rates in other
20 states served by the electrical corporation.

21 SEC. 16. Article 9 (commencing with Section 635) is added
22 to Chapter 3 of Part 1 of Division 1 of the Public Utilities Code,
23 to read:

24
25 Article 9. Long-Term Plans and Procurement Plans

26
27 635. In a long-term plan adopted by an electrical corporation
28 or in a procurement plan implemented by a local publicly owned
29 electric utility, the electrical corporation or local publicly owned
30 electric utility shall adopt a strategy applicable both to newly
31 constructed or repowered generation owned and procured by the
32 electrical corporation or local publicly owned electric utility to
33 achieve efficiency in the use of fossil fuels and to address carbon
34 ~~emissions consistent with the loading order approved by the~~
35 ~~commission, or for a local publicly owned electric utility, a~~
36 ~~functionally equivalent order by its governing body, the State~~
37 ~~Energy Resources Conservation and Development Commission,~~
38 ~~and the California Consumer Power and Conservation Financing~~
39 ~~Authority. emissions.~~

1 ~~SEC. 17. The State Energy Resources Conservation and~~
2 ~~Development Commission shall, on or before January 1, 2007,~~
3 ~~report to the Governor and the Legislature with recommendations~~
4 ~~for how to incentivize each local publicly owned electric utility,~~
5 ~~as defined in Section 9604 of the Public Utilities Code, to~~
6 ~~implement and enforce a renewables portfolio standard program~~
7 ~~meeting the requirements of Section 399.15 of the Public~~
8 ~~Utilities Code, utilizing eligible renewable energy resources, as~~
9 ~~defined in Section 399.12. The commission may include the~~
10 ~~report as a component of the 2005 Integrated Energy Policy or~~
11 ~~the next renewable energy report required pursuant to Section~~
12 ~~25758 of the Public Resources Code. The commission shall use~~
13 ~~existing resources to comply with this section.~~

14 ~~SEC. 18:~~

15 ~~SEC. 17.~~ No reimbursement is required by this act pursuant to
16 Section 6 of Article XIII B of the California Constitution for
17 certain costs that may be incurred by a local agency or school
18 district because, in that regard, this act creates a new crime or
19 infraction, eliminates a crime or infraction, or changes the
20 penalty for a crime or infraction, within the meaning of Section
21 17556 of the Government Code, or changes the definition of a
22 crime within the meaning of Section 6 of Article XIII B of the
23 California Constitution.

24 However, if the Commission on State Mandates determines
25 that this act contains other costs mandated by the state,
26 reimbursement to local agencies and school districts for those
27 costs shall be made pursuant to Part 7 (commencing with Section
28 17500) of Division 4 of Title 2 of the Government Code.