

AMENDED IN ASSEMBLY APRIL 3, 2008

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2267**

---

---

**Introduced by Assembly Member Fuentes**  
**(Coauthor: Assembly Member Blakeslee)**

February 21, 2008

---

---

~~An act to add Section 39618.5 to the Health and Safety Code, relating to air pollution.~~ *An act to amend Sections 38565, 44270.3, and 44271 of, and to add Section 39618.5 to, the Health and Safety Code, to amend Sections 25008, 25410.6, 25620, 25620.5, and 25740.5 of, and to add Sections 25102.5 and 25427 to, the Public Resources Code, and to amend Section 379.6 of, and to add Section 383 to, the Public Utilities Code, relating to California-based entities.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2267, as amended, Fuentes. Greenhouse gas emissions: energy efficiency.

**Existing**

(1) *Existing* law gives the State Air Resources Board (*state board*), the State Energy Resources Conservation and Development Commission (*Energy Commission*), and the Public Utilities Commission (*PUC*) responsibilities relating to reducing greenhouse gas emissions and increasing energy efficiency.

This bill would require these 3 agencies to provide additional consideration, priority, or preference to projects that result in job creation and economic benefits in California in administering incentive programs for energy efficiency, including renewable energy, or the reduction of greenhouse gas emissions.

(2) Existing law, the California Global Warming Solutions Act of 2006, requires the state board to adopt a statewide greenhouse gas emissions limit equivalent to the statewide greenhouse gas emission level in 1990 to be achieved by 2020, and to adopt rules and regulations in an open public process to achieve the maximum technologically feasible and cost-effective greenhouse gas emission reductions. The act requires the state board to ensure that the greenhouse gas emission reduction rules, regulations, programs, mechanisms, and incentives under its jurisdiction, where applicable and to the extent feasible, direct public and private investment toward the most disadvantaged communities in California and provide an opportunity for small businesses, schools, affordable housing associations, and other community institutions to participate in and benefit from statewide efforts to reduce greenhouse gas emissions.

The existing Enterprise Zone Act and Local Agency Military Base Recovery Area Act require the state to award a 5% preference to a California-based company that demonstrates that it meets certain requirements of those acts.

This bill would require the state board to ensure that the greenhouse gas emission reduction rules, regulations, programs, mechanisms, and incentives under its jurisdiction, where applicable and to the extent feasible, give priority to California-based entities, as defined, in competing for providing goods and services that are funded by taxpayers or ratepayers, and would authorize the state board to award a percentage preference on the price submitted by a California-based entity pursuant to a contract.

(3) Existing law creates the Alternative and Renewable Fuel and Vehicle Technology Program that is administered by the Energy Commission to provide, upon appropriation by the Legislature, grants, loans, loan guarantees, revolving loans, and other appropriate measures, to specified entities to develop and deploy innovative technologies that transform California's fuel and vehicle types to help attain the state's climate change policies. The Energy Commission is required to provide preference to specified projects based on specified criteria, including that the project provides economic benefits for California by promoting California-based technology firms, jobs, and business. Existing law also creates the Air Quality Improvement Program that is administered by the state board, to fund air quality improvement projects, upon appropriation by the Legislature, relating to fuel and vehicle technologies. Existing law provides that the Energy

*Commission and state board achieve certain common objectives pursuant to their respective programs.*

*This bill would provide that the Energy Commission and state board, in carrying their respective programs, give priority to California-based entities in competing for providing goods and services.*

*(4) The existing Warren-Alquist State Energy Resources Conservation and Development Act sets forth certain state policies to guide the Energy Commission in performing its duties, including the policy of the state to promote all feasible means of energy and water conservation and all feasible uses of alternative energy and water supply sources.*

*This bill would provide that it is the policy of the state to promote all feasible means of energy and water conservation and all feasible uses of alternative energy and water supply sources while providing economic benefits for California by promoting California-based technology firms, jobs, and business. The bill would define what is a California-based entity for purposes of the act.*

*(5) The existing Energy Conservation Assistance Act of 1979 requires the Energy Commission, among other things, to administer the Energy Conservation Assistance Account to provide grants and loans to local governments and public institutions to maximize energy use savings.*

*This bill would state the intent of the Legislature that the Energy Commission give priority to California-based entities in competing for providing goods and services pursuant to the act.*

*(6) The existing Energy Conservation Act of 2001 states the intent of the Legislature to establish incentives in the form of grants and loans to low-income residents, small businesses, and residential property owners for constructing and retrofitting buildings to be more energy efficient. The act requires the Energy Commission, in consultation with the PUC, to undertake certain actions for the purpose of full or partial funding of an eligible construction or retrofit project.*

*This bill would state the intent of the Legislature that the Energy Commission give priority to California-based entities when competing for providing goods and services to be procured through grants and loans awarded pursuant to the act.*

*(7) Existing law requires the PUC to require the state's 3 largest electrical corporations, Pacific Gas and Electric Company, San Diego Gas and Electric, and Southern California Edison, to identify a separate electrical 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. Existing PUC resolutions refer to the nonbypassable rate component as a “public goods charge.” The public goods charge moneys 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.

This bill would require the PUC to ensure that California-based entities, as defined, have priority in competing for providing goods and services for programs funded through the public goods charge. The bill would authorize the PUC to require that an electrical corporation award a percentage preference on the price paid to a California-based entity for goods and services provided pursuant to a program funded by the public goods charge.

(8) Existing law establishes the Public Interest Research, Development, and Demonstration Fund in the State Treasury, and provides that the money collected by the public goods charge to support cost-effective energy efficiency and conservation activities, public interest research and development not adequately provided by competitive and regulated markets, be deposited in the fund for use by the Energy Commission to develop, implement, and administer the Public Interest Research, Development, and Demonstration Program to develop technologies to improve environmental quality, enhance electrical system reliability, increase efficiency of energy-using technologies, lower electrical system costs, or provide other tangible benefits.

This bill would state that public interest energy research, demonstration, and development projects should provide economic benefits for California by promoting California-based technology firms, jobs, and businesses. The bill would require the Energy Commission to give priority to California-based entities in making awards pursuant to the program, and would authorize the Energy Commission to provide a percentage preference on an award to a California-based entity.

(9) Existing law establishes the Renewable Resource Trust Fund as a continuously appropriated fund in the State Treasury, and provides that the money collected by the public goods charge for renewable energy resources, after deducting certain administrative expenses, be deposited in the fund, for use by the Energy Commission for the renewable energy resources program. Existing law requires the commission, pursuant to the program, to optimize public investment

*and ensure that the most cost-effective and efficient investments in renewable energy resources are vigorously pursued.*

*This bill would require the commission, pursuant to the program, to optimize public investment and ensure that the most cost-effective and efficient investments in renewable energy resources are vigorously pursued while providing economic benefits for California by promoting California-based technology firms, jobs, and businesses. The bill would require the commission to give priority to California-based entities in competing for providing goods and services that are funded by taxpayers or ratepayers pursuant to the program, and would authorize the commission to award a percentage preference on the price submitted by a California-based entity pursuant to a contract.*

*(10) Existing law requires the PUC, in consultation with the Energy Commission, to administer, until January 1, 2012, a self-generation incentive program for distributed generation resources. The program applies to fuel cells and wind distributed generation technologies that meet or exceed emissions standards adopted by the state board, but authorizes the PUC to adjust the amount of rebates and to include in the program other ultraclean and low-emission distributed generation technologies, as defined, and to evaluate other public policy interests.*

*This bill would require the PUC, in administering the program, to provide an additional 25% rebate or incentive for installation of qualifying technologies that are manufactured in California by a California-based entity.*

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

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

1 SECTION 1. It is the intent of the Legislature that California's  
2 leadership in energy efficiency and greenhouse gas emission  
3 reductions translate into economic benefits for California through  
4 job creation, workforce training and retraining, manufacturing  
5 retention and development, and the development of a green  
6 technology industry in the state by using the state's existing  
7 investments, incentives, and support for clean and greenhouse gas  
8 emission reducing technologies and applications that assist the  
9 state in meeting its greenhouse gas emission reduction targets.

10 SEC. 2. Section 38565 of the Health and Safety Code is  
11 amended to read:

1 38565. (a) The state board shall ensure that the greenhouse  
2 gas emission reduction rules, regulations, programs, mechanisms,  
3 and incentives under its jurisdiction, where applicable and to the  
4 extent feasible, direct public and private investment toward the  
5 most disadvantaged communities in California and provide an  
6 opportunity for small businesses, schools, affordable housing  
7 associations, and other community institutions to participate in  
8 and benefit from statewide efforts to reduce greenhouse gas  
9 emissions.

10 (b) *The state board shall ensure that the greenhouse gas*  
11 *emission reduction rules, regulations, programs, mechanisms, and*  
12 *incentives under its jurisdiction, where applicable and to the extent*  
13 *feasible, give priority to California-based entities in competing*  
14 *for providing goods and services that are funded by taxpayers or*  
15 *ratepayers, and may award a percentage preference on the price*  
16 *submitted by a California-based entity pursuant to a contract. For*  
17 *purposes of this subdivision, "California-based entity" means a*  
18 *corporation or other business form organized for the transaction*  
19 *of business that has its principal office for the transaction of*  
20 *business located in this state and has officers who are domiciled*  
21 *in this state, or is a post-secondary educational institution that is*  
22 *a part of the California State University, University of California,*  
23 *or California Community Colleges, or a private post-secondary*  
24 *education facility that has its principal campus located in this state*  
25 *and has officers who are domiciled in the state. An entity may be*  
26 *determined to be a California-based entity at the time of making*  
27 *an award, grant, or loan, or entering into a contract, if it has*  
28 *definite plans to become a California-based entity and the award,*  
29 *grant, loan, or contract is contingent upon it becoming a*  
30 *California-based entity.*

31 ~~SEC. 2.~~

32 SEC. 3. Section 39618.5 is added to the Health and Safety  
33 Code, to read:

34 39618.5. The state board, the State Energy Resources  
35 Conservation and Development Commission, and the Public  
36 Utilities Commission shall provide additional consideration,  
37 priority, or preference to projects that result in job creation and  
38 economic benefits in California in administering incentive  
39 programs for energy efficiency, including renewable energy, and  
40 the reduction of greenhouse gas emissions, to the maximum extent

1 feasible and consistent with the provisions of law governing these  
2 incentive programs.

3 *SEC. 4. Section 44270.3 of the Health and Safety Code is*  
4 *amended to read:*

5 44270.3. For the purposes of this chapter, the following terms  
6 have the following meanings:

7 (a) “California-based entity” means a corporation or other  
8 business form organized for the transaction of business that has  
9 its principal office for the transaction of business located in this  
10 state and has officers who are domiciled in this state, or is a  
11 post-secondary educational institution that is a part of the  
12 California State University, University of California, or California  
13 Community Colleges, or a private post-secondary education facility  
14 that has its principal campus located in this state and has officers  
15 who are domiciled in the state. An entity may be determined to be  
16 a California-based entity at the time of making an award, grant,  
17 or loan, or entering into a contract, if it has definite plans to  
18 become a California-based entity and the award, grant, loan, or  
19 contract is contingent upon it becoming a California-based entity.

20 (a)

21 (b) “Commission” means the State Energy Resources  
22 Conservation and Development Commission.

23 (b)

24 (c) “Full fuel-cycle assessment” or “life-cycle assessment”  
25 means evaluating and comparing the full environmental and health  
26 impacts of each step in the life cycle of a fuel, including, but not  
27 limited to, all of the following:

28 (1) Feedstock production, extraction, transport, and storage.

29 (2) Fuel production, distribution, transport, and storage.

30 (3) Vehicle operation, including refueling, combustion,  
31 conversion, permeation, and evaporation.

32 (e)

33 (d) “Vehicle technology” means any vehicle, boat, off-road  
34 equipment, or locomotive, or component thereof, including its  
35 engine, propulsion system, transmission, or construction materials.

36 *SEC. 5. Section 44271 of the Health and Safety Code is*  
37 *amended to read:*

38 44271. (a) This chapter creates the Alternative and Renewable  
39 Fuel and Vehicle Technology Program, pursuant to Section 44272,  
40 to be administered by the commission, and the Air Quality

1 Improvement Program, pursuant to Section 44274, to be  
2 administered by the state board. The commission and the state  
3 board shall do all of the following in fulfilling their responsibilities  
4 pursuant to their respective programs:

5 (1) Determine definitions of terms used in the provisions of this  
6 chapter.

7 (2) Establish sustainability goals to ensure that alternative and  
8 renewable fuel and vehicle deployment projects, on a full fuel-cycle  
9 assessment basis, will not adversely impact the state natural  
10 resources, especially state and federal lands.

11 (3) Identify revenue streams for the programs created pursuant  
12 to this chapter.

13 (4) Ensure that the results of the reductions in emissions or  
14 benefits can be measured and quantified.

15 (5) *Give priority to California-based entities in competing for*  
16 *providing goods and services.*

17 (b) The state board shall develop guidelines for both the  
18 Alternative and Renewable Fuel and Vehicle Technology Program  
19 and the Air Quality Improvement Program to ensure that programs  
20 meet both of the following requirements:

21 (1) Activities undertaken pursuant to the programs complement,  
22 and do not interfere with, efforts to achieve and maintain federal  
23 and state ambient air quality standards and to reduce toxic air  
24 contaminant emissions.

25 (2) Activities undertaken pursuant to the programs maintain or  
26 improve upon emission reductions and air quality benefits in the  
27 State Implementation Plan for Ozone, California Phase 2  
28 Reformulated Gasoline standards, and diesel fuel regulations.

29 (c) For the purposes of both of the programs created by this  
30 chapter, eligible projects do not include those required to be  
31 undertaken pursuant to state or federal law or district rules or  
32 regulations.

33 *SEC. 6. Section 25008 of the Public Resources Code is*  
34 *amended to read:*

35 25008. It is further the policy of the state and the intent of the  
36 Legislature to promote all feasible means of energy and water  
37 conservation and all feasible uses of alternative energy and water  
38 supply sources *while providing economic benefits for California*  
39 *by promoting California-based technology firms, jobs, and*  
40 *businesses.*

1 The Legislature finds and declares that the State of California  
2 has extensive physical and natural resources available to it at  
3 state-owned sites and facilities which can be substituted for  
4 traditional energy supplies or which lend themselves readily to the  
5 production of electricity or water. Due to increases in energy and  
6 water costs, the state's expenditures for energy and water have  
7 also increased, adding to the burden on California taxpayers and  
8 reducing the amount of funds available for other public purposes.

9 It is in the best interest of the state to use these resources when  
10 it can be demonstrated that long-term cost, water, and energy use  
11 reduction will result, and where increased independence from other  
12 fuel and water sources and development of additional revenues  
13 for the state may be obtained.

14 Therefore, in recognition of recent and projected increases in  
15 the cost of energy and water from traditional sources, it is the  
16 policy of the state to use available resources at state facilities which  
17 can substitute for traditional energy and water supplies or produce  
18 electricity or water at its facilities when use or production will  
19 reduce long-term energy or water expenditures. Criteria used in  
20 analysis of proposed actions shall include lifecycle cost evaluation,  
21 benefit to taxpayers, reduced fossil fuel or reduced water  
22 consumption depending on the application, and improved  
23 efficiency. Energy or water facilities at state-owned sites shall be  
24 scaled to produce optimal system efficiency and best economic  
25 advantage to the state. Energy or water produced may be reserved  
26 by the state to meet state facility needs or may be sold to state or  
27 nonstate purchasers.

28 Resources and processes which may be used to substitute for  
29 traditional energy and water supplies and for the purpose of  
30 electrical generation at state facilities include, but are not limited  
31 to, cogeneration, biomass, wind, geothermal, vapor compression,  
32 water reclamation, and solar technologies.

33 It is the intent of the Legislature that no policy in this section,  
34 expressed or implied, be in conflict with existing state or federal  
35 regulations regarding the production or sale of electricity or water,  
36 and that this policy be just and reasonable to utility ratepayers.

37 *SEC. 7. Section 25102.5 is added to the Public Resources Code,*  
38 *to read:*

39 *25102.5. "California-based entity" means a corporation or*  
40 *other business form organized for the transaction of business that*

1 *has its principal office for the transaction of business located in*  
2 *this state and has officers who are domiciled in this state, or is a*  
3 *post-secondary educational institution that is a part of the*  
4 *California State University, University of California, or California*  
5 *Community Colleges, or a private post-secondary education facility*  
6 *that has its principal campus located in this state and has officers*  
7 *who are domiciled in the state. An entity may be determined to be*  
8 *a California-based entity at the time of making an award, grant,*  
9 *or loan, or entering into a contract, if it has definite plans to*  
10 *become a California-based entity and the award, grant, loan, or*  
11 *contract is contingent upon it becoming a California-based entity.*

12 *SEC. 8. Section 25410.6 of the Public Resources Code is*  
13 *amended to read:*

14 25410.6. (a) It is the intent of the Legislature that the  
15 commission shall administer the State Energy Conservation  
16 Assistance Account to provide grants and loans to local  
17 governments and public institutions to maximize energy use  
18 savings, including, but not limited to, technical assistance,  
19 demonstrations, and identification and implementation of  
20 cost-effective energy efficiency measures and programs in existing  
21 and planned buildings or facilities.

22 (b) It is further the intent of the Legislature that the commission  
23 seek the assistance of utility companies in providing energy audits  
24 for local governments and public institutions and in publicizing  
25 the availability of State Energy Conservation Assistance Account  
26 funds to qualified entities.

27 (c) *It is further the intent of the Legislature that the commission*  
28 *give priority to California-based entities in competing for providing*  
29 *goods and services pursuant to the Energy Conservation Assistance*  
30 *Act of 1979.*

31 *SEC. 9. Section 25427 is added to the Public Resources Code,*  
32 *to read:*

33 25427. *It is the intent of the Legislature that the commission,*  
34 *in carrying out its duties pursuant to the Energy Conservation Act*  
35 *of 2001, give priority to California-based entities when competing*  
36 *for providing goods and services to be procured through grants*  
37 *and loans awarded pursuant to the act.*

38 *SEC. 10. Section 25620 of the Public Resources Code is*  
39 *amended to read:*

1 25620. The Legislature hereby finds and declares all of the  
2 following:

3 (a) It is in the best interests of the people of this state that the  
4 quality of life of its citizens be improved by providing  
5 environmentally sound, safe, reliable, and affordable energy  
6 services and products.

7 (b) To improve the quality of life of this state's citizens, it is  
8 proper and appropriate for the state to undertake public interest  
9 energy research, development, and demonstration projects that are  
10 not adequately provided for by competitive and regulated energy  
11 markets.

12 (c) Public interest energy research, demonstration, and  
13 development projects should advance energy science or  
14 technologies of value to California citizens—and, should be  
15 consistent with the policies of this chapter, *and should provide*  
16 *economic benefits for California by promoting California-based*  
17 *technology firms, jobs, and businesses.*

18 *SEC. 11. Section 25620.5 of the Public Resources Code is*  
19 *amended to read:*

20 25620.5. (a) The commission may solicit applications for  
21 awards, using a sealed competitive bid, competitive negotiation  
22 process, commission-issued intradepartmental master agreement,  
23 the methods for selection of professional services firms set forth  
24 in Chapter 10 (commencing with Section 4525) of Division 5 of  
25 Title 1 of the Government Code, interagency agreement, single  
26 source, or sole source method. When scoring teams are convened  
27 to review and score proposals, the scoring teams may include  
28 persons not employed by the commission, as long as employees  
29 of the state constitute no less than 50 percent of the membership  
30 of the scoring team. A person participating on a scoring team may  
31 not have any conflict of interest with respect to the proposal before  
32 the scoring team.

33 (b) A sealed bid method may be used when goods and services  
34 to be acquired can be described with sufficient specificity so that  
35 bids can be evaluated against specifications and criteria set forth  
36 in the solicitation for bids.

37 (c) The commission may use a competitive negotiation process  
38 in any of the following circumstances:

39 (1) Whenever the desired award is not for a fixed price.

- 1 (2) Whenever project specifications cannot be drafted in
- 2 sufficient detail so as to be applicable to a sealed competitive bid.
- 3 (3) Whenever there is a need to compare the different price,
- 4 quality, and structural factors of the bids submitted.
- 5 (4) Whenever there is a need to afford bidders an opportunity
- 6 to revise their proposals.
- 7 (5) Whenever oral or written discussions with bidders
- 8 concerning the technical and price aspects of their proposals will
- 9 provide better results to the state.
- 10 (6) Whenever the price of the award is not the determining
- 11 factor.
- 12 (d) The commission may establish interagency agreements.
- 13 (e) The commission may provide awards on a single source
- 14 basis by choosing from among two or more parties or by soliciting
- 15 multiple applications from parties capable of supplying or
- 16 providing similar goods or services. The cost to the state shall be
- 17 reasonable and the commission may only enter into a single source
- 18 agreement with a particular party if the commission determines
- 19 that it is in the state's best interests.
- 20 (f) The commission, in accordance with subdivision (g) and in
- 21 consultation with the Department of General Services, may provide
- 22 awards on a sole source basis when the cost to the state is
- 23 reasonable and the commission makes any of the following
- 24 determinations:
- 25 (1) The proposal was unsolicited and meets the evaluation
- 26 criteria of this chapter.
- 27 (2) The expertise, service, or product is unique.
- 28 (3) A competitive solicitation would frustrate obtaining
- 29 necessary information, goods, or services in a timely manner.
- 30 (4) The award funds the next phase of a multiphased proposal
- 31 and the existing agreement is being satisfactorily performed.
- 32 (5) When it is determined by the commission to be in the best
- 33 interests of the state.
- 34 (g) The commission may not use a sole source basis for an award
- 35 pursuant to subdivision (f), unless both of the following conditions
- 36 are met:
- 37 (1) The commission, at least 60 days prior to taking an action
- 38 pursuant to subdivision (f), notifies the Joint Legislative Budget
- 39 Committee and the relevant policy committees in both houses of
- 40 the Legislature, in writing, of its intent to take the proposed action.

1 (2) The Joint Legislative Budget Committee either approves or  
2 does not disapprove the proposed action within 60 days from the  
3 date of notification required by paragraph (1).

4 (h) *The commission shall give priority to California-based*  
5 *entities in making awards pursuant to this chapter, and may*  
6 *provide a percentage preference on an award to a California-based*  
7 *entity.*

8 ~~(h)~~

9 (i) The provisions of this section are severable. If any provision  
10 of this section or its application is held to be invalid, that invalidity  
11 does not affect other provisions or applications that can be given  
12 effect without the invalid provision or application.

13 *SEC. 12. Section 25740.5 of the Public Resources Code is*  
14 *amended to read:*

15 25740.5. (a) The commission shall optimize public investment  
16 and ensure that the most cost-effective and efficient investments  
17 in renewable energy resources are vigorously pursued *while*  
18 *providing economic benefits for California by promoting*  
19 *California-based technology firms, jobs, and businesses. The*  
20 *commission shall give priority to California-based entities in*  
21 *competing for providing goods and services that are funded by*  
22 *taxpayers or ratepayers, and may award a percentage preference*  
23 *on the price submitted by a California-based entity pursuant to a*  
24 *contract.*

25 (b) The commission's long-term goal shall be a fully competitive  
26 and self-sustaining supply of electricity generated from renewable  
27 sources.

28 (c) The program objective shall be to increase, in the near term,  
29 the quantity of California's electricity generated by in-state  
30 renewable electricity generation facilities, while protecting system  
31 reliability, fostering resource diversity, and obtaining the greatest  
32 environmental benefits for California residents.

33 (d) An additional objective of the program shall be to identify  
34 and support emerging renewable technologies in distributed  
35 generation applications that have the greatest near-term commercial  
36 promise and that merit targeted assistance.

37 (e) The Legislature recommends allocations among all of the  
38 following:

39 (1) Rebates, buydowns, or equivalent incentives for emerging  
40 renewable technologies.

1 (2) Customer education.

2 (3) Production incentives for reducing fuel costs, that are  
3 confirmed to the satisfaction of the commission, at solid fuel  
4 biomass energy facilities in order to provide demonstrable  
5 environmental and public benefits, including improved air quality.

6 (4) Solar thermal generating resources that enhance the  
7 environmental value or reliability of the electrical system and that  
8 require financial assistance to remain economically viable, as  
9 determined by the commission. The commission may require  
10 financial disclosure from applicants for purposes of this paragraph.

11 (5) Specified fuel cell technologies, if the commission makes  
12 all of the following findings:

13 (A) The specified technologies have similar or better air  
14 pollutant characteristics than renewable technologies in the report  
15 made pursuant to Section 25748.

16 (B) The specified technologies require financial assistance to  
17 become commercially viable by reference to wholesale generation  
18 prices.

19 (C) The specified technologies could contribute significantly  
20 to the infrastructure development or other innovation required to  
21 meet the long-term objective of a self-sustaining, competitive  
22 supply of electricity generated from renewable sources.

23 (6) Existing wind-generating resources, if the commission finds  
24 that the existing wind-generating resources are a cost-effective  
25 source of reliable energy and environmental benefits compared  
26 with other in-state renewable electricity generation facilities, and  
27 that the existing wind-generating resources require financial  
28 assistance to remain economically viable. The commission may  
29 require financial disclosure from applicants for the purposes of  
30 this paragraph.

31 (f) Notwithstanding any other provision of law, moneys  
32 collected for renewable energy pursuant to Article 15 (commencing  
33 with Section 399) of Chapter 2.3 of Part 1 of Division 1 of the  
34 Public Utilities Code shall be transferred to the Renewable  
35 Resource Trust Fund. Moneys collected between January 1, 2007,  
36 and January 1, 2012, shall be used for the purposes specified in  
37 this chapter.

38 *SEC. 13. Section 379.6 of the Public Utilities Code is amended*  
39 *to read:*

1 379.6. (a) (1) The commission, in consultation with the State  
2 Energy Resources Conservation and Development Commission,  
3 shall administer, until January 1, 2012, the self-generation incentive  
4 program for distributed generation resources originally established  
5 pursuant to Chapter 329 of the Statutes of 2000.

6 (2) Except as provided in paragraph (3), the extension of the  
7 program pursuant to Chapter 894 of the Statutes of 2003, as  
8 amended by Chapter 675 of the Statutes of 2004 and Chapter 22  
9 of the Statutes of 2005, shall apply to all eligible technologies, as  
10 determined by the commission, until January 1, 2008.

11 (3) The commission shall administer solar technologies  
12 separately, after January 1, 2007, pursuant to the California Solar  
13 Initiative adopted by the commission in Decision 06-01-024.

14 (b) Commencing January 1, 2008, until January 1, 2012,  
15 eligibility for the program pursuant to paragraphs (1) and (2) of  
16 subdivision (a) shall be limited to fuel cells and wind distributed  
17 generation technologies that meet or exceed the emissions standards  
18 required under the distributed generation certification program  
19 requirements of Article 3 (commencing with Section 94200) of  
20 Subchapter 8 of Chapter 1 of Division 3 of Title 17 of the  
21 California Code of Regulations.

22 (c) Eligibility for the self-generation incentive program's level  
23 incentive category shall be subject to the following conditions:

24 (1) Commencing January 1, 2007, all combustion-operated  
25 distributed generation projects using fossil fuel shall meet an oxides  
26 of nitrogen (NO<sub>x</sub>) emissions rate standard of 0.07 pounds per  
27 megawatthour and a minimum efficiency of 60 percent. A  
28 minimum efficiency of 60 percent shall be measured as useful  
29 energy output divided by fuel input. The efficiency determination  
30 shall be based on 100 percent load.

31 (2) Combined heat and power units that meet the 60-percent  
32 efficiency standard may take a credit to meet the applicable NO<sub>x</sub>  
33 emissions standard of 0.07 pounds per megawatthour. Credit shall  
34 be at the rate of one megawatthour for each 3.4 million British  
35 thermal units (Btus) of heat recovered.

36 (3) Notwithstanding paragraph (1), a project that does not meet  
37 the applicable NO<sub>x</sub> emissions standard is eligible if it meets both  
38 of the following requirements:

39 (A) The project operates solely on waste gas. The commission  
40 shall require a customer that applies for an incentive pursuant to

1 this paragraph to provide an affidavit or other form of proof, that  
2 specifies that the project shall be operated solely on waste gas.  
3 Incentives awarded pursuant to this paragraph shall be subject to  
4 refund and shall be refunded by the recipient to the extent the  
5 project does not operate on waste gas. As used in this paragraph,  
6 “waste gas” means natural gas that is generated as a byproduct of  
7 petroleum production operations and is not eligible for delivery  
8 to the utility pipeline system.

9 (B) The air quality management district or air pollution control  
10 district, in issuing a permit to operate the project, determines that  
11 operation of the project will produce an onsite net air emissions  
12 benefit, compared to permitted onsite emissions if the project does  
13 not operate. The commission shall require the customer to secure  
14 the permit prior to receiving incentives.

15 (d) In determining the eligibility for the self-generation incentive  
16 program, minimum system efficiency shall be determined either  
17 by calculating electrical and process heat efficiency as set forth in  
18 Section 218.5, or by calculating overall electrical efficiency.

19 (e) (1) In administering the self-generation incentive program,  
20 the commission may adjust the amount of rebates, include other  
21 ultraclean and low-emission distributed generation technologies,  
22 as defined in Section 353.2, and evaluate other public policy  
23 interests, including, but not limited to, ratepayers, and energy  
24 efficiency and environmental interests.

25 (2) *In administering the self-generation incentive program, the*  
26 *commission shall provide an additional 25 percent rebate or*  
27 *incentive for installation of qualifying technologies that are*  
28 *manufactured in California by a California-based entity. For*  
29 *purposes of this paragraph, “California-based entity” has the*  
30 *same meaning as in Section 383.*

31 (f) On or before November 1, 2008, the State Energy Resources  
32 Conservation and Development Commission, in consultation with  
33 the commission and the State Air Resources Board, shall evaluate  
34 the costs and benefits, including air pollution, efficiency, and  
35 transmission and distribution system improvements, of providing  
36 ratepayer subsidies for renewable and fossil fuel “ultraclean and  
37 low-emission distributed generation,” as defined in Section 353.2,  
38 as part of the integrated energy policy report adopted pursuant to  
39 Chapter 4 (commencing with Section 25300) of Division 15 of the  
40 Public Resources Code. The State Energy Resources Conservation

1 and Development Commission shall include recommendations for  
2 changes in the eligibility of technologies and fuels under the  
3 program, and whether the level of subsidy should be adjusted, after  
4 considering its conclusions on costs and benefits pursuant to this  
5 subdivision.

6 *SEC. 14. Section 383 is added to the Public Utilities Code, to*  
7 *read:*

8 *383. (a) For purposes of this section, "California-based entity"*  
9 *means a corporation or other business form organized for the*  
10 *transaction of business that has its principal office for the*  
11 *transaction of business located in this state and has officers who*  
12 *are domiciled in this state, or is a post-secondary educational*  
13 *institution that is a part of the California State University,*  
14 *University of California, or California Community Colleges, or a*  
15 *private post-secondary education facility that has its principal*  
16 *campus located in this state and has officers who are domiciled*  
17 *in the state. An entity may be determined to be a California-based*  
18 *entity at the time of making an award, grant, or loan, or entering*  
19 *into a contract, if it has definite plans to become a California-based*  
20 *entity and the award, grant, loan, or contract is contingent upon*  
21 *it becoming a California-based entity.*

22 *(b) The commission shall ensure that California-based entities*  
23 *have priority in competing for providing goods and services*  
24 *pursuant to Sections 381 and 382, and in competing for providing*  
25 *goods and services pursuant to Article 16 (commencing with*  
26 *Section 399.11).*

27 *(c) The commission may require an electrical corporation award*  
28 *a percentage preference on the price paid to a California-based*  
29 *entity for goods and services provided pursuant to a ratepayer*  
30 *funded program under this article.*

O