

AMENDED IN ASSEMBLY SEPTEMBER 7, 2007

AMENDED IN ASSEMBLY JULY 2, 2007

AMENDED IN ASSEMBLY JUNE 19, 2007

AMENDED IN SENATE MAY 2, 2007

AMENDED IN SENATE APRIL 11, 2007

SENATE BILL

No. 1012

Introduced by Senator Dutton Kehoe
(Principal coauthor: Assembly Member Salas)

February 23, 2007

~~An act to amend Sections 216, 330, 331, 335, 339, 340, 341, 341.2, 341.5, 359, 361, 365, 367, 373, and 376 of, to add Section 341.6 to, to repeal Sections 336, 338, and 367.7 of, and to repeal Article 4 (commencing with Section 355) of Chapter 2.3 of Part 1 of Division 1 of, the Public Utilities Code, relating to public utilities.~~
An act to amend Section 379.6 of the Public Utilities Code, relating to electricity.

LEGISLATIVE COUNSEL'S DIGEST

SB 1012, as amended, ~~Dutton Kehoe. Electrical restructuring; oversight board; power exchange.~~
Electricity: self-generation incentive program.

Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations. Existing law requires the commission, in consultation with the State Energy Resources Conservation and Development Commission (Energy Commission), to administer, until January 1, 2012, a self-generation incentive program for distributed generation resources. The program is applicable to all eligible technologies, as determined

by the commission and subject to certain air emissions and efficiency standards, until January 1, 2008, except for solar technologies, which the commission is required to administer separately, after January 1, 2007, pursuant to the California Solar Initiative. Commencing January 1, 2008, until January 1, 2012, existing law limits eligibility for nonsolar technologies to fuel cells and wind distributed generation technologies that meet or exceed emissions standards adopted by the State Air Resources Board.

This bill would extend until January 1, 2012, the self-generation incentive program for nonsolar distributed generation resources that applies to all eligible technologies, as determined by the commission. The bill would require that combined heat and power units meet certain efficiency and emissions requirements to receive incentives. The bill would require a customer receiving incentives for a combined heat and power unit to adequately maintain and service the unit so that during operation, the unit continues to meet or exceed the efficiency and emissions requirements. The bill would require the commission to ensure that beginning January 1, 2008, no costs of the self-generation incentive program for distributed generation resources are recovered from residential customers. The bill would require the commission to provide an additional incentive of \$0.50 per kilo watt hours from existing program funds for the installation of qualifying technologies that are manufactured in California by companies that maintain their principal place of business in California.

~~The existing restructuring of the electrical services industry provides for the authorization of direct transactions between electricity suppliers and end-use customers and for the creation of the Independent System Operator and the Power Exchange, an incorporated public benefit nonprofit corporation. An Electricity Oversight Board governed by 5 members is also created to, among other things, oversee the Independent System Operator and the Power Exchange, and to determine the composition and terms of service and to appoint the members of the governing boards of the Independent System Operator and the Power Exchange.~~

~~This bill would delete the governing board of the Electricity Oversight Board and the Power Exchange. The bill would provide that on and after January 1, 2008, the Oversight Board is directly accountable to the Secretary of the Resources Agency, or his or her designee. The bill would repeal provisions pertaining to the prescribed functions of the~~

~~Power Exchange. The bill would make conforming changes to existing law by deleting certain references to the Power Exchange.~~

~~The bill would declare that its provisions do not preclude a reorganized Power Exchange from winding up its operations pursuant to its bankruptcy plan and Federal Energy Regulatory Commission orders.~~

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. Section 379.6 of the Public Utilities Code is
2 amended to read:

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

8 (2) Except as provided in paragraph (3), the extension of the
9 program pursuant to Chapter 894 of the Statutes of 2003, as
10 amended by Chapter 675 of the Statutes of 2004 and Chapter 22
11 of the Statutes of 2005, shall apply to all eligible technologies, as
12 determined by the commission, until January 1, ~~2008~~ 2012.

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

16 (b) Commencing January 1, 2008, until January 1, 2012,
17 eligibility for the program pursuant to paragraphs (1) and (2) of
18 subdivision (a) shall ~~be limited to~~ include fuel cells and wind
19 distributed generation technologies that meet or exceed the
20 emissions standards required under the distributed generation
21 certification program requirements of Article 3 (commencing with
22 Section 94200) of Subchapter 8 of Chapter 1 of Division 3 of Title
23 17 of the California Code of Regulations.

24 (c) Eligibility for the self-generation incentive program’s level
25 3 incentive category shall be subject to the following conditions:

26 (1) Commencing January 1, 2007, all combustion-operated
27 distributed generation projects using fossil fuel shall meet an oxides
28 of nitrogen (NO_x) emissions rate standard of 0.07 pounds per
29 megawatthour and a minimum efficiency of 60 percent. A
30 minimum efficiency of 60 percent shall be measured as useful

1 energy output divided by fuel input. The efficiency determination
2 shall be based on 100 percent load.

3 (2) Combined heat and power units that meet the 60-percent
4 efficiency standard may take a credit to meet the applicable NO_x
5 emissions standard of 0.07 pounds per megawatthour. Credit shall
6 be at the rate of one megawatthour for each 3.4 million British
7 thermal units (Btus) of heat recovered.

8 (3) *Combined heat and power units shall meet the greenhouse
9 gases emissions performance standard established by the
10 commission for a load-serving entity pursuant to Section 8341.*

11 (4) *The customer receiving incentives shall adequately maintain
12 and service the combined heat and power units so that during
13 operation, the system continues to meet or exceed the efficiency
14 and emissions standards established pursuant to paragraphs (1),
15 (2), and (3).*

16 ~~(3)~~

17 (5) Notwithstanding paragraph (1), a project that does not meet
18 the applicable NO_x emissions standard is eligible if it meets both
19 of the following requirements:

20 (A) The project operates solely on waste gas. The commission
21 shall require a customer that applies for an incentive pursuant to
22 this paragraph to provide an affidavit or other form of proof, that
23 specifies that the project shall be operated solely on waste gas.
24 Incentives awarded pursuant to this paragraph shall be subject to
25 refund and shall be refunded by the recipient to the extent the
26 project does not operate on waste gas. As used in this paragraph,
27 “waste gas” means natural gas that is generated as a byproduct of
28 petroleum production operations and is not eligible for delivery
29 to the utility pipeline system.

30 (B) The air quality management district or air pollution control
31 district, in issuing a permit to operate the project, determines that
32 operation of the project will produce an onsite net air emissions
33 benefit, compared to permitted onsite emissions if the project does
34 not operate. The commission shall require the customer to secure
35 the permit prior to receiving incentives.

36 (d) In determining the eligibility for the self-generation incentive
37 program, minimum system efficiency shall be determined either
38 by calculating electrical and process heat efficiency as set forth in
39 Section ~~218.5~~ 216.6, or by calculating overall electrical efficiency.

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

7 (f) *The commission shall ensure that beginning January 1, 2008,*
 8 *no costs of the self-generation incentive program for distributed*
 9 *generation resources are recovered from residential customers.*

10 (f)
 11 (g) On or before November 1, 2008, the State Energy Resources
 12 Conservation and Development Commission, in consultation with
 13 the commission and the State Air Resources Board, shall evaluate
 14 the costs and benefits, including air pollution, efficiency, and
 15 transmission and distribution system improvements, of providing
 16 ratepayer subsidies for renewable and fossil fuel “ultraclean and
 17 low-emission distributed generation,” as defined in Section 353.2,
 18 as part of the integrated energy policy report adopted pursuant to
 19 Chapter 4 (commencing with Section 25300) of Division 15 of the
 20 Public Resources Code. The State Energy Resources Conservation
 21 and Development Commission shall include recommendations for
 22 changes in the eligibility of technologies and fuels under the
 23 program, and whether the level of subsidy should be adjusted, after
 24 considering its conclusions on costs and benefits pursuant to this
 25 subdivision.

26 (h) *In administering the self-generation incentive program, the*
 27 *commission shall provide an additional incentive of fifty cents*
 28 *(\$0.50) per watt from existing program funds for the installation*
 29 *of qualifying technologies that are manufactured in California by*
 30 *companies that have their principal place of business in California.*

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 33 **All matter omitted in this version of the bill**
 34 **appears in the bill as amended in Assembly**
 35 **July 2, 2007 (JR11)**
 36