

AMENDED IN SENATE JUNE 23, 2009

AMENDED IN ASSEMBLY MAY 6, 2009

AMENDED IN ASSEMBLY APRIL 14, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1536

Introduced by Assembly Member Blakeslee

February 27, 2009

An act to amend Section 379.6 of the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1536, as amended, Blakeslee. ~~Clean technology~~ *Distributed energy resources* incentive program.

Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations, as defined. Existing law requires the PUC, 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.

This bill would instead require the PUC, in consultation with the Energy Commission, to administer the ~~clean technology~~ *distributed energy resources* incentive program for distributed generation until January 1, 2012, for the purposes of deploying distributed generation technologies that the ~~commission determines require ratepayer incentives to achieve commercialization and~~ *PUC determines* produce benefits for ratepayers commensurate with their contribution to the costs of the program. The bill would additionally authorize incentives to be provided pursuant to the program for energy storage ~~facilities~~ *systems* meeting

certain requirements, would specify that hydroelectric facilities are not eligible for the program, and would delete certain combustion-operated distributed generation projects from eligibility. The bill would delete the commission’s existing authority to include other ultraclean and low-emission distributed generation technologies, as defined, in the program. The bill would limit program costs to no more than ~~\$75,000,000~~ \$83,000,000 per year.

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 Energy
 4 Resources Conservation and Development Commission, shall
 5 administer, until January 1, 2012, the ~~self-generation incentive~~
 6 ~~program for distributed generation resources~~ *distributed energy*
 7 *resources incentive program*, originally established pursuant to
 8 Chapter 329 of the Statutes of 2000. *The distributed energy*
 9 *resources eligible for program incentives are those specified in*
 10 *subdivision (b). The purpose of the program is to deploy distributed*
 11 *energy resources that the commission determines produce benefits*
 12 *for ratepayers commensurate with their contribution to the costs*
 13 *of the program.*
 14 (2) ~~Except as provided in paragraph (3), the extension of the~~
 15 ~~program pursuant to Chapter 894 of the Statutes of 2003, as~~
 16 ~~amended by Chapter 675 of the Statutes of 2004 and Chapter 22~~
 17 ~~of the Statutes of 2005, shall apply to all eligible technologies, as~~
 18 ~~determined by the commission, until January 1, 2008.~~
 19 (3)
 20 (2) The commission shall administer solar technologies
 21 separately, ~~after January 1, 2007,~~ pursuant to the California Solar
 22 Initiative adopted by the commission in Decision 06-01-024, *as*
 23 *modified by Chapter 8.8 (commencing with Section 25780) of*
 24 *Division 15 of the Public Resources Code and Article 1*
 25 *(commencing with Section 2851) of Chapter 9 of Part 2.*
 26 (2) ~~Commencing January 1, 2008, until January 1, 2012,~~
 27 ~~eligibility for the program pursuant to paragraphs (1) and (2) of~~
 28 ~~subdivision (a) shall be limited to fuel~~

1 (b) Distributed energy resources that are eligible for the
2 program shall be limited to the following:

3 (1) Fuel cells and wind distributed generation technologies that
4 meet or exceed the emissions standards required under the
5 distributed generation certification program requirements of Article
6 3 (commencing with Section 94200) of Subchapter 8 of Chapter
7 1 of Division 3 of Title 17 of the California Code of Regulations.

8 (e) ~~Eligibility for the self-generation incentive program's level
9 3 incentive category shall be subject to the following conditions:~~

10 (1) ~~Commencing January 1, 2007, all combustion-operated
11 distributed generation projects using fossil fuel shall meet an oxides
12 of nitrogen (NO_x) emissions rate standard of 0.07 pounds per
13 megawatthour and a minimum efficiency of 60 percent. A
14 minimum efficiency of 60 percent shall be measured as useful
15 energy output divided by fuel input. The efficiency determination
16 shall be based on 100 percent load.~~

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

22 (3) ~~Notwithstanding paragraph (1), a project that does not meet
23 the applicable NO_x emissions standard is eligible if it meets both
24 of the following requirements:~~

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

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

1 ~~(d) In determining the eligibility for the self-generation incentive~~
2 ~~program, minimum system efficiency shall be determined either~~
3 ~~by calculating electrical and process heat efficiency as set forth in~~
4 ~~Section 218.5, or by calculating overall electrical efficiency.~~
5 *(2) Energy storage systems with a storage capacity of 10*
6 *megawatts or less that meet any of the following requirements:*
7 *(A) The energy storage system supports the integration of an*
8 *eligible renewable energy resource pursuant to Article 16*
9 *(commencing with Section 399.11) of Chapter 2.3.*
10 *(B) The energy storage system is capable of responding to*
11 *dispatch and market protocols for grid reliability and stability.*
12 *(C) The energy storage system is capable of providing frequency*
13 *or area control error regulation required to integrate intermittent*
14 *eligible renewable energy resources and maintain reliable*
15 *operation of the electrical grid.*
16 *(D) The energy storage system stores energy to be dispatched*
17 *at a later time.*
18 *(c) Energy storage systems that have a storage capacity of more*
19 *than 10 megawatts are not eligible for the program.*
20 ~~(e)~~
21 ~~(d) (1) In administering the self-generation distributed energy~~
22 ~~resources incentive program, the commission may adjust the~~
23 ~~amount of rebates, include other ultraclean and low-emission~~
24 ~~distributed generation technologies, as defined in Section 353.2,~~
25 ~~and evaluate other public policy interests, including, but not limited~~
26 ~~to, ratepayers, and energy efficiency and environmental interests.~~
27 ~~(f) On or before November 1, 2008, the State Energy Resources~~
28 ~~Conservation and Development Commission, in consultation with~~
29 ~~the commission and the State Air Resources Board, shall evaluate~~
30 ~~the costs and benefits, including air pollution, efficiency, and~~
31 ~~transmission and distribution system improvements, of providing~~
32 ~~ratepayer subsidies for renewable and fossil fuel “ultraclean and~~
33 ~~low-emission distributed generation,” as defined in Section 353.2,~~
34 ~~as part of the integrated energy policy report adopted pursuant to~~
35 ~~Chapter 4 (commencing with Section 25300) of Division 15 of the~~
36 ~~Public Resources Code. The State Energy Resources Conservation~~
37 ~~and Development Commission shall include recommendations for~~
38 ~~changes in the eligibility of technologies and fuels under the~~
39 ~~program, and whether the level of subsidy should be adjusted, after~~

1 ~~considering its conclusions on costs and benefits pursuant to this~~
2 ~~subdivision.~~

3 (2) *Notwithstanding paragraph (1), the commission may*
4 *authorize the expenditure of not more than eighty-three million*
5 *dollars (\$83,000,000) per year for the program, including incentive*
6 *payments and program administrative costs.*

7 ~~(g)~~

8 (e) (1) In administering the ~~self-generation distributed energy~~
9 *resources* incentive program, the commission shall provide an
10 additional incentive of 20 percent from existing program funds for
11 the installation of ~~eligible distributed generation distributed energy~~
12 *resources* from a California supplier.

13 (2) “California supplier” as used in this subdivision means any
14 sole proprietorship, partnership, joint venture, corporation, or other
15 business entity that manufactures ~~eligible distributed generation~~
16 *distributed energy* resources in California and that meets either of
17 the following criteria:

18 (A) The owners or policymaking officers are domiciled in
19 California and the permanent principal office, or place of business
20 from which the supplier’s trade is directed or managed, is located
21 in California.

22 (B) A business or corporation, including those owned by, or
23 under common control of, a corporation, that meets all of the
24 following criteria continuously during the five years prior to
25 providing ~~eligible distributed generation distributed energy~~
26 *resources* to a ~~self-generation distributed energy resources~~
27 incentive program recipient:

28 (i) Owns and operates a manufacturing facility located in
29 California that builds or manufactures ~~eligible distributed~~
30 ~~generation distributed energy~~ resources.

31 (ii) Is licensed by the state to conduct business within the state.

32 (iii) Employs California residents for work within the state.

33 (3) For purposes of qualifying as a California supplier, a
34 distribution or sales management office or facility does not qualify
35 as a manufacturing facility.

36 ~~SECTION 1. Section 379.6 of the Public Utilities Code is~~
37 ~~amended to read:~~

38 ~~379.6. (a) (1) The commission, in consultation with the Energy~~
39 ~~Commission, shall administer, until January 1, 2012, the clean~~
40 ~~technology incentive program for distributed energy resources~~

1 specified in subdivision (b). The purposes of the program are to
2 deploy distributed generation technologies that the commission
3 determines require ratepayer incentives to achieve
4 commercialization and produce benefits for ratepayers
5 commensurate with their contribution to the costs of the program.
6 ~~(2) The commission shall administer solar technologies~~
7 ~~separately pursuant to the California Solar Initiative adopted by~~
8 ~~the commission in Decision 06-01-024, as modified by Chapter~~
9 ~~8.8 (commencing with Section 25780) of Division 15 of the Public~~
10 ~~Resources Code and Article 1 (commencing with Section 2851)~~
11 ~~of Chapter 9 of Part 2.~~
12 ~~(b) Distributed generation technologies that are eligible for the~~
13 ~~program shall be limited to the following:~~
14 ~~(1) Fuel cells and wind distributed generation technologies that~~
15 ~~meet or exceed the emissions standards required under the~~
16 ~~distributed generation certification program requirements of Article~~
17 ~~3 (commencing with Section 94200) of Subchapter 8 of Chapter~~
18 ~~1 of Division 3 of Title 17 of the California Code of Regulations.~~
19 ~~(2) Energy storage facilities that use emerging technologies not~~
20 ~~in commercial use and meet any of the following requirements:~~
21 ~~(A) The facility stores energy generated from an eligible~~
22 ~~renewable energy resource pursuant to Article 16 (commencing~~
23 ~~with Section 399.11).~~
24 ~~(B) The facility is capable of responding to Independent System~~
25 ~~Operator commands to either absorb or dispatch electricity from~~
26 ~~the electrical grid and is capable of storing the electricity for a~~
27 ~~minimum of two hours.~~
28 ~~(C) The facility is capable of providing frequency or area control~~
29 ~~error regulation required to integrate intermittent eligible renewable~~
30 ~~energy resources and maintain reliable operation of the electrical~~
31 ~~grid.~~
32 ~~(D) The facility stores energy during off-peak periods and~~
33 ~~dispatches electricity during peak periods.~~
34 ~~(e) Hydroelectric facilities are not eligible for the program~~
35 ~~described in this section.~~
36 ~~(d) In administering the clean technology incentive program,~~
37 ~~the commission may adjust the amount of rebates and evaluate~~
38 ~~other public policy interests, including, but not limited to,~~
39 ~~ratepayers, and energy efficiency and environmental interests.~~

- 1 ~~(e) (1) In administering the clean technology incentive program,~~
2 ~~the commission shall provide an additional incentive of 20 percent~~
3 ~~from existing program funds for the installation of eligible~~
4 ~~distributed generation resources from a California supplier.~~
5 ~~(2) “California supplier” as used in this subdivision means any~~
6 ~~sole proprietorship, partnership, joint venture, corporation, or other~~
7 ~~business entity that manufactures eligible distributed generation~~
8 ~~resources in California and that meets either of the following~~
9 ~~criteria:~~
10 ~~(A) The owners or policymaking officers are domiciled in~~
11 ~~California and the permanent principal office, or place of business~~
12 ~~from which the supplier’s trade is directed or managed, is located~~
13 ~~in California.~~
14 ~~(B) A business or corporation, including those owned by, or~~
15 ~~under common control of, a corporation, that meets all of the~~
16 ~~following criteria continuously during the five years prior to~~
17 ~~providing eligible distributed generation resources to a~~
18 ~~self-generation incentive program recipient:~~
19 ~~(i) Owns and operates a manufacturing facility located in~~
20 ~~California that builds or manufactures eligible distributed~~
21 ~~generation resources.~~
22 ~~(ii) Is licensed by the state to conduct business within the state.~~
23 ~~(iii) Employs California residents for work within the state.~~
24 ~~(3) For purposes of qualifying as a California supplier, a~~
25 ~~distribution or sales management office or facility does not qualify~~
26 ~~as a manufacturing facility.~~
27 ~~(f) The commission may authorize the expenditure of no more~~
28 ~~than seventy-five million dollars (\$75,000,000) per year for the~~
29 ~~program, including incentive payments and program administrative~~
30 ~~costs.~~