

ASSEMBLY BILL

No. 2037

Introduced by Assembly Members V. Manuel Perez and Salas

February 17, 2010

An act to add Chapter 3.5 (commencing with Section 8350) to Division 4.1 of the Public Utilities Code, relating to electricity.

LEGISLATIVE COUNSEL'S DIGEST

AB 2037, as introduced, V. Manuel Perez. Electricity: air pollution.

(1) Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations, as defined. The existing Public Utilities Act requires the PUC to review and approve, modify, or reject a procurement plan for each electrical corporation in accordance with specified elements, incentive mechanisms, and objectives. Existing law prohibits any load-serving entity, and any local publicly owned electric utility, from entering into a long-term financial commitment for baseload generation, unless that baseload generation complies with a greenhouse gases emission performance standard. Existing law requires the PUC, by February 1, 2007, through a rulemaking proceeding and in consultation with the State Energy Resources Conservation and Development Commission (Energy Commission) and the State Air Resources Board (state board), to establish a greenhouse gases emission performance standard for all baseload generation of load-serving entities. Existing law requires the Energy Commission, by June 30, 2007, at a duly noticed public hearing and in consultation with the PUC and the state board, to establish a greenhouse gases emission performance standard for all baseload generation of local publicly owned electric utilities.

This bill would prohibit a load-serving entity or local publicly owned electric utility from entering into, and would prohibit the PUC from approving for an electrical corporation, a long-term financial commitment with or for a new electrical generation facility that meets specified criteria, as determined by local air pollution control districts and air quality management districts. By imposing additional requirements on local air pollution control districts and air quality management districts, the bill would impose a state-mandated local program.

(2) 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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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. Chapter 3.5 (commencing with Section 8350) is
2 added to Division 4.1 of the Public Utilities Code, to read:

3
4 CHAPTER 3.5. AIR POLLUTION PERFORMANCE STANDARD FOR
5 NEW GENERATION
6

7 8350. (a) For purposes of this section, the following terms
8 have the following meanings:

9 (1) "Load-serving entity" has the same meaning as that term is
10 defined in Section 8340.

11 (2) "Long-term financial commitment" has the same meaning
12 as that term is defined in Section 8340.

13 (3) "New electrical generating facility" means an electrical
14 generating unit constructed after January 1, 2011. If an electrical
15 generating unit is added to an existing powerplant after January
16 1, 2011, only the incremental capacity added after January 1, 2011,
17 is a new electrical generating facility.

18 (b) A load-serving entity or local publicly owned electric utility
19 shall not enter into, and the commission shall not approve for an

1 electrical corporation, a long-term financial commitment with or
2 for a new electrical generating facility that meets all of the criteria
3 in subdivision (c), as determined by the local air pollution control
4 district or air quality management district with jurisdiction over
5 the air basin described in paragraph (3) of subdivision (c).

6 (c) (1) The new electrical generating facility is to be or was
7 constructed without receiving certification from the Energy
8 Commission.

9 (2) The new electrical generating facility is to be or was
10 constructed without meeting all applicable California air pollution
11 regulations and standards, including, but not limited to, best
12 available control technology (BACT) and any offsets required
13 under state law to mitigate any additional pollution, or the
14 equivalent of California air pollution regulations and standards.

15 (3) The new electrical generating facility will cause or
16 contribute, or causes or contributes, to nonattainment with state
17 or federal ambient air quality standards due to emissions of air
18 pollution within, or transported to, an air basin within this state.

19 SEC. 2. If the Commission on State Mandates determines that
20 this act contains costs mandated by the state, reimbursement to
21 local agencies and school districts for those costs shall be made
22 pursuant to Part 7 (commencing with Section 17500) of Division
23 4 of Title 2 of the Government Code.