

AMENDED IN ASSEMBLY APRIL 5, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2132**

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**Introduced by Assembly Member Carter**

February 18, 2010

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~~An act to amend Section 399.12 of the Public Utilities Code, relating~~  
*An act to amend Sections 25620.2, 25620.15, 25740.5, 25742, 25744, and 25751 of the Public Resources Code, and to amend Section 399.8 of the Public Utilities Code, relating to energy, and making an appropriation therefor to energy.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2132, as amended, Carter. ~~Renewable Energy: renewable energy resources.~~ *resources and energy improvements.*

*(1) Under the Public Utilities Act, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations. Existing law requires the PUC, until January 1, 2012, to require 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. The moneys collected by the public goods charge for renewable energy are required to be transferred to the State Energy Resources*

*Conservation and Development Commission (Energy Commission), for deposit in the Renewable Resource Trust Fund, for use for the renewable energy resources program. Some of the money in the fund, and in the accounts in the fund, is continuously appropriated to the Energy Commission for specified purposes related to renewable energy resources. The moneys collected by the public goods charge for public interest research and development are required to be transferred to the Energy Commission, for deposit in the Public Interest Research, Development, and Demonstration Fund, for use for specified purposes, including the public interest energy research, demonstration, and development program.*

*This bill would extend the collection of the public goods charge to January 1, 2017. Because a violation of the Public Utilities Act is a crime, this bill would impose a state-mandated local program. The bill would extend to January 1, 2017, the period in which revenues generated from the public goods charge would be deposited into the Renewable Resource Trust Fund and would additionally authorize the use of those revenues generated from the public goods charge for energy improvements in existing buildings built prior to July 1, 1978, thereby making an appropriation. The bill would also extend to January 1, 2017, the period in which revenue generated from the public goods charge would be deposited into the Public Interest Research, Development, and Demonstration Fund.*

*This bill would result in a change in state taxes for the purposes of increasing state revenues within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of  $\frac{2}{3}$  of the membership of each house of the Legislature.*

*(2) Existing law requires, until January 1, 2012, the Energy Commission to adopt regulations implementing the public interest research, demonstration, and development program and proscribe procedures for the adoption of those regulations.*

*This bill would extend this requirement to January 1, 2017.*

*(3) Existing law establishes the Emerging Renewable Resources Account in the Renewable Resource Trust Fund.*

*This bill would rename that account the Emerging Renewable Resources and Existing Building Efficiency Account.*

*(4) This bill would make conforming changes.*

*(5) 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 no reimbursement is required by this act for a specified reason.*

~~The Public Utilities Act imposes various duties and responsibilities on the Public Utilities Commission with respect to the purchase of electricity and requires the commission 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. Existing law defines various terms for purposes of the program.~~

~~This bill would make a technical, nonsubstantive change to those provisions:~~

Vote: ~~majority~~<sup>2/3</sup>. Appropriation: ~~no~~<sup>yes</sup>. Fiscal committee: ~~no~~<sup>yes</sup>. State-mandated local program: ~~no~~<sup>yes</sup>.

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

1     SECTION 1. Section 25620.2 of the Public Resources Code is  
2 amended to read:

3     25620.2. (a) To ensure the efficient implementation and  
4 administration of the Public Interest Research, Development, and  
5 Demonstration Program, the commission shall do both of the  
6 following:

7         (1) Develop procedures for the solicitation of award applications  
8 for project or program funding, and to ensure efficient program  
9 management.

10        (2) Evaluate and select programs and projects, based on merit,  
11 that will be funded under the program.

12        (b) The commission shall adopt regulations to implement the  
13 program, in accordance with the following procedures:

14           (1) Prepare a preliminary text of the proposed regulation and  
15 provide a copy of the preliminary text to any person requesting a  
16 copy.

17           (2) Provide public notice of the proposed regulation to any  
18 person who has requested notice of the regulations prepared by  
19 the commission. The notice shall contain all of the following:

20                (A) A clear overview explaining the proposed regulation.

21                (B) Instructions on how to obtain a copy of the proposed  
22 regulations.

- 1 (C) A statement that if a public hearing is not scheduled for the  
2 purpose of reviewing a proposed regulation, any person may  
3 request, not later than 15 days prior to the close of the written  
4 comment period, a public hearing conducted in accordance with  
5 commission procedures.
- 6 (3) Accept written public comments for 30 calendar days after  
7 providing the notice required in paragraph (2).
- 8 (4) Certify that all written comments were read and considered  
9 by the commission.
- 10 (5) Place all written comments in a record that includes copies  
11 of any written factual support used in developing the proposed  
12 regulation, including written reports and copies of any transcripts  
13 or minutes in connection with any public hearings on the adoption  
14 of the regulation. The record shall be open to public inspection  
15 and available to the courts.
- 16 (6) Provide public notice of any substantial revision of the  
17 proposed regulation at least 15 days prior to the expiration of the  
18 deadline for public comments and comment period using the  
19 procedures provided in paragraph (2).
- 20 (7) Conduct public hearings, if a hearing is requested by an  
21 interested party, that shall be conducted in accordance with  
22 commission procedures.
- 23 (8) Adopt any proposed regulation at a regularly scheduled and  
24 noticed meeting of the commission. The regulation shall become  
25 effective immediately unless otherwise provided by the  
26 commission.
- 27 (9) Publish any adopted regulation in a manner that makes copies  
28 of the regulation easily available to the public. Any adopted  
29 regulation shall also be made available on the Internet. The  
30 commission shall transmit a copy of an adopted regulation to the  
31 Office of Administrative Law for publication, or, if the commission  
32 determines that printing the regulation is impractical, an appropriate  
33 reference as to where a copy of the regulation may be obtained.
- 34 (10) Notwithstanding any other provision of law, this  
35 subdivision provides an interim exception from the requirements  
36 of Chapter 3.5 (commencing with Section 11340) of Part 1 of  
37 Division 3 of Title 2 of the Government Code for regulations  
38 required to implement Sections 25620.1 and 25620.2 that are  
39 adopted under the procedures specified in this subdivision.

1 (11) This subdivision shall become inoperative on January 1,  
2 ~~2012~~ 2017, unless a later enacted statute deletes or extends that  
3 date. However, after January 1, ~~2012~~ 2017, the commission is not  
4 required to repeat any procedural step in adopting a regulation that  
5 has been completed before January 1, ~~2012~~ 2017, using the  
6 procedures specified in this subdivision.

7 *SEC. 2. Section 25620.15 of the Public Resources Code is*  
8 *amended to read:*

9 25620.15. (a) In order to ensure that prudent investments in  
10 research, development, and demonstration of energy efficient  
11 technologies continue to produce substantial economic,  
12 environmental, public health, and reliability benefits, it is the policy  
13 of the state and the intent of the Legislature that funds made  
14 available, upon appropriation, for energy related public interest  
15 research, development, and demonstration programs shall be used  
16 to advance science or technology that is not adequately provided  
17 by competitive and regulated markets.

18 (b) Notwithstanding any other provision of law, money collected  
19 for public interest research, development, and demonstration  
20 pursuant to Section 399.8 of the Public Utilities Code shall be  
21 transferred to the Public Interest Research, Development, and  
22 Demonstration Fund. Money collected between January 1, 2007,  
23 and January 1, ~~2012~~ 2017, shall be used for the purposes specified  
24 in this chapter.

25 (c) In lieu of the Public Utilities Commission retaining funds  
26 authorized pursuant to Section 381 of the Public Utilities Code for  
27 investments made by electrical corporations in public interest  
28 research, development, and demonstration projects for transmission  
29 and distribution functions, up to 10 percent of the funds transferred  
30 to the commission pursuant to subdivision (b) shall be awarded to  
31 electrical corporations for public interest research, development,  
32 and demonstration projects for transmission and distribution  
33 functions consistent with the policies and subject to the  
34 requirements of this chapter.

35 *SEC. 3. Section 25740.5 of the Public Resources Code is*  
36 *amended to read:*

37 25740.5. (a) The commission shall optimize public investment  
38 and ensure that the most cost-effective and efficient investments  
39 in renewable energy resources are vigorously pursued.

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

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

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

13 (e) The Legislature recommends allocations among all of the  
14 following:

15 (1) Rebates, buydowns, or equivalent incentives for emerging  
16 renewable technologies.

17 (2) Customer education.

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

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

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

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

32 (B) The specified technologies require financial assistance to  
33 become commercially viable by reference to wholesale generation  
34 prices.

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

39 (6) Existing wind-generating resources, if the commission finds  
40 that the existing wind-generating resources are a cost-effective

1 source of reliable energy and environmental benefits compared  
2 with other in-state renewable electricity generation facilities, and  
3 that the existing wind-generating resources require financial  
4 assistance to remain economically viable. The commission may  
5 require financial disclosure from applicants for the purposes of  
6 this paragraph.

7 (f) Notwithstanding any other provision of law, moneys  
8 collected for renewable energy pursuant to Article 15 (commencing  
9 with Section 399) of Chapter 2.3 of Part 1 of Division 1 of the  
10 Public Utilities Code shall be transferred to the Renewable  
11 Resource Trust Fund. Moneys collected between January 1, 2007,  
12 and January 1, ~~2012~~ 2017, shall be used for the purposes specified  
13 in this chapter.

14 *SEC. 4. Section 25742 of the Public Resources Code is*  
15 *amended to read:*

16 25742. (a) Twenty percent of the funds collected pursuant to  
17 the renewable energy public goods charge shall be used for  
18 programs that are designed to achieve fully competitive and  
19 self-sustaining existing in-state renewable electricity generation  
20 facilities, and to secure for the state the environmental, economic,  
21 and reliability benefits that continued operation of those facilities  
22 will provide during the ~~2007–2011~~ 2007–2016 investment cycle.  
23 Eligibility for production incentives under this section shall be  
24 limited to those technologies found eligible for funds by the  
25 commission pursuant to paragraphs (3), (4), and (6) of subdivision  
26 (e) of Section 25740.5.

27 (b) Any funds used to support in-state renewable electricity  
28 generation facilities pursuant to this section shall be expended in  
29 accordance with the provisions of this chapter.

30 (c) Facilities that are eligible to receive funding pursuant to this  
31 section shall be registered in accordance with criteria developed  
32 by the commission and those facilities shall not receive payments  
33 for any electricity produced that has any of the following  
34 characteristics:

35 (1) Is sold at monthly average rates equal to, or greater than,  
36 the applicable target price, as determined by the commission.

37 (2) Is used onsite.

38 (d) (1) Existing facilities generating electricity from biomass  
39 energy shall be eligible for funding and otherwise considered an

1 in-state renewable electricity generation facility only if they report  
 2 to the commission the types and quantities of biomass fuels used.

3 (2) The commission shall report the types and quantities of  
 4 biomass fuels used by each facility to the Legislature in the reports  
 5 prepared pursuant to Section 25748.

6 (e) Each existing facility seeking an award pursuant to this  
 7 section shall be evaluated by the commission to determine the  
 8 amount of the funds being sought, the cumulative amount of funds  
 9 the facility has received previously from the commission and other  
 10 state sources, the value of any past and current federal or state tax  
 11 credits, the facility’s contract price for energy and capacity, the  
 12 prices received by similar facilities, the market value of the facility,  
 13 and the likelihood that the award will make the facility competitive  
 14 and self-sustaining within the ~~2007–2011~~ 2007–2016 investment  
 15 cycle. The commission shall use this evaluation to determine the  
 16 value of an award to the public relative to other renewable energy  
 17 investment alternatives. The commission shall compile its findings  
 18 and report them to the Legislature in the reports prepared pursuant  
 19 to Section 25748.

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

22 25744. (a) Seventy-nine percent of the money collected  
 23 pursuant to the renewable energy public goods charge shall be  
 24 used for a multiyear, consumer-based program to foster the  
 25 development of emerging renewable technologies in distributed  
 26 generation applications *and energy efficiency improvements in*  
 27 *existing buildings built before January 1, 1978.*

28 (b) Any funds used for emerging technologies pursuant to this  
 29 section shall be expended in accordance with this chapter, subject  
 30 to all of the following requirements:

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

37 (2) The program shall provide monetary rebates, buydowns, or  
 38 equivalent incentives, subject to ~~paragraph~~ *paragraphs (3) and*  
 39 *(4), to purchasers, lessees, lessors, or sellers of eligible electricity*  
 40 *generating systems. Incentives shall benefit the end-use consumer*



1 of renewable generation by directly and exclusively reducing the  
2 purchase or lease cost of the eligible system *and cost-effective*  
3 *energy efficiency improvements or applications*, or the cost of  
4 electricity produced by the eligible system. Incentives shall be  
5 issued on the basis of the rated electrical generating capacity of  
6 the system *or energy efficiency application* measured in watts, or  
7 the amount of electricity production of the system, measured in  
8 kilowatthours. Incentives shall be limited to a maximum percentage  
9 of the system price, as determined by the commission. The  
10 commission may establish different incentive levels for systems  
11 based on technology type and system size, and may provide  
12 different incentive levels for systems used in conjunction with  
13 energy-efficiency measures.

14 (3) Eligible distributed emerging technologies are fuel cell  
15 technologies that utilize renewable fuels, including fuel cell  
16 technologies with an emission profile equivalent or better than the  
17 State Air Resources Board 2007 standard, and that serve as backup  
18 generation for emergency, safety, or telecommunications systems.  
19 Eligible renewable fuels may include wind turbines of not more  
20 than 50 kilowatts rated electrical generating capacity per customer  
21 site and other distributed renewable emerging technologies that  
22 meet the emerging technology eligibility criteria established by  
23 the commission and are not eligible for rebates, buydowns, or  
24 similar incentives from any other commission or Public Utilities  
25 Commission program. Eligible electricity generating systems are  
26 intended primarily to offset part or all of the consumer's own  
27 electricity demand, including systems that are used as backup  
28 power for emergency, safety, or telecommunications, and shall  
29 not be owned by local publicly owned electric utilities, nor be  
30 located at a customer site that is not receiving distribution service  
31 from an electrical corporation that is subject to the renewable  
32 energy public goods charge and contributing funds to support  
33 programs under this chapter. All eligible electricity generating  
34 system components shall be new and unused, shall not have been  
35 previously placed in service in any other location or for any other  
36 application, and shall have a warranty of not less than five years  
37 to protect against defects and undue degradation of electrical  
38 generation output. Systems and their fuel resources shall be located  
39 on the same premises of the end-use consumer where the  
40 consumer's own electricity demand is located, and all eligible

1 electricity generating systems shall be connected to the utility grid,  
2 unless the system purpose is for backup generation used in  
3 emergency, safety, or telecommunications in California. The  
4 commission may require eligible electricity generating systems to  
5 have meters in place to monitor and measure a system's  
6 performance and generation. Only systems that will be operated  
7 in compliance with applicable law and the rules of the Public  
8 Utilities Commission shall be eligible for funding.

9 *(4) Eligible energy efficiency investments include those that*  
10 *reduce energy consumption in residential and commercial*  
11 *buildings built before July 1, 1978, including multifamily housing*  
12 *units. Funds spent on energy efficiency shall be proven to be cost*  
13 *effective and benefits shall be fairly allocated among building*  
14 *owners and renters, as applicable, as determined by the*  
15 *commission.*

16 ~~(4)~~

17 (5) The commission shall limit the amount of funds available  
18 for a system or project of multiple systems and reduce the level  
19 of funding for a system or project of multiple systems that has  
20 received, or may be eligible to receive, any government or utility  
21 funds, incentives, or credit.

22 ~~(5)~~

23 (6) In awarding funding, the commission may provide preference  
24 to systems that provide tangible demonstrable benefits to  
25 communities with a plurality of minority or low-income  
26 populations.

27 ~~(6)~~

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

33 ~~(7)~~

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

38 (c) Notwithstanding Section 27540.5, the commission may  
39 expend, until December 31, 2008, up to sixty million dollars  
40 (\$60,000,000) of the funding allocated to the Renewable Resources

1 Trust Fund for the program established in this section, subject to  
2 the repayment requirements of subdivision (f) of Section 25751.

3 (d) Any funds for photovoltaic or solar thermal electric  
4 technologies shall be awarded in compliance with Chapter 8.8  
5 (commencing with Section 25780), and not with this section.

6 *SEC. 6. Section 25751 of the Public Resources Code is*  
7 *amended to read:*

8 25751. (a) The Renewable Resource Trust Fund is hereby  
9 created in the State Treasury.

10 (b) The following accounts are hereby established within the  
11 Renewable Resource Trust Fund:

12 (1) Existing Renewable Resources Account.

13 (2) Emerging Renewable Resources *and Existing Building*  
14 *Energy Efficiency* Account.

15 (3) Renewable Resources Consumer Education Account.

16 (c) The money in the fund may be expended, only upon  
17 appropriation by the Legislature in the annual Budget Act, for the  
18 following purposes:

19 (1) The administration of this article by the state.

20 (2) The state's expenditures associated with the accounting  
21 system established by the commission pursuant to subdivision (b)  
22 of Section 399.13 of the Public Utilities Code.

23 (d) That portion of revenues collected by electrical corporations  
24 for the benefit of in-state operation and development of existing  
25 and new and emerging renewable resource technologies, pursuant  
26 to Section 399.8 of the Public Utilities Code, shall be transmitted  
27 to the commission at least quarterly for deposit in the Renewable  
28 Resource Trust Fund pursuant to Section 25740.5. After setting  
29 aside in the fund money that may be needed for expenditures  
30 authorized by the annual Budget Act in accordance with  
31 subdivision (c), the Treasurer shall immediately deposit money  
32 received pursuant to this section into the accounts created pursuant  
33 to subdivision (b) in proportions designated by the commission  
34 for the current calendar year. Notwithstanding Section 13340 of  
35 the Government Code, the money in the fund and the accounts  
36 within the fund are hereby continuously appropriated to the  
37 commission without regard to fiscal year for the purposes  
38 enumerated in this chapter.

39 (e) Upon notification by the commission, the Controller shall  
40 pay all awards of the money in the accounts created pursuant to

1 subdivision (b) for purposes enumerated in this chapter. The  
2 eligibility of each award shall be determined solely by the  
3 commission based on the procedures it adopts under this chapter.  
4 Based on the eligibility of each award, the commission shall also  
5 establish the need for a multiyear commitment to any particular  
6 award and so advise the Department of Finance. Eligible awards  
7 submitted by the commission to the Controller shall be  
8 accompanied by information specifying the account from which  
9 payment should be made and the amount of each payment; a  
10 summary description of how payment of the award furthers the  
11 purposes enumerated in this chapter; and an accounting of future  
12 costs associated with any award or group of awards known to the  
13 commission to represent a portion of a multiyear funding  
14 commitment.

15 (f) The commission may transfer funds between accounts for  
16 cashflow purposes, provided that the balance due each account is  
17 restored and the transfer does not adversely affect any of the  
18 accounts.

19 (g) The Department of Finance shall conduct an independent  
20 audit of the Renewable Resource Trust Fund and its related  
21 accounts annually, and provide an audit report to the Legislature  
22 not later than March 1 of each year for which this article is  
23 operative. The Department of Finance's report shall include  
24 information regarding revenues, payment of awards, reserves held  
25 for future commitments, unencumbered cash balances, and other  
26 matters that the Director of Finance determines may be of  
27 importance to the Legislature.

28 *SEC. 7. Section 399.8 of the Public Utilities Code is amended*  
29 *to read:*

30 399.8. (a) In order to ensure that the citizens of this state  
31 continue to receive safe, reliable, affordable, and environmentally  
32 sustainable electric service, it is the policy of this state and the  
33 intent of the Legislature that prudent investments in energy  
34 efficiency, renewable energy, and research, development and  
35 demonstration shall continue to be made.

36 (b) (1) Every customer of an electrical corporation shall pay a  
37 nonbypassable system benefits charge authorized pursuant to this  
38 article. The system benefits charge shall fund energy efficiency,  
39 renewable energy, and research, development and demonstration.

1 (2) Local publicly owned electric utilities shall continue to  
2 collect and administer system benefits charges pursuant to Section  
3 385.

4 (c) (1) The commission shall require each electrical corporation  
5 to identify a separate rate component to collect revenues to fund  
6 energy efficiency, renewable energy, and research, development  
7 and demonstration programs authorized pursuant to this section  
8 beginning January 1, 2002, and ending January 1, ~~2012~~ 2017. The  
9 rate component shall be a nonbypassable element of the local  
10 distribution service and collected on the basis of usage.

11 (2) This rate component may not exceed, for any tariff schedule,  
12 the level of the rate component that was used to recover funds  
13 authorized pursuant to Section 381 on January 1, 2000. If the  
14 amounts specified in paragraph (1) of subdivision (d) are not  
15 recovered fully in any year, the commission shall reset the rate  
16 component to restore the unrecovered balance, provided that the  
17 rate component may not exceed, for any tariff schedule, the level  
18 of the rate component that was used to recover funds authorized  
19 pursuant to Section 381 on January 1, 2000. Pending restoration,  
20 any annual shortfalls shall be allocated pro rata among the three  
21 funding categories in the proportions established in paragraph (1)  
22 of subdivision (d).

23 (d) The commission shall order San Diego Gas and Electric  
24 Company, Southern California Edison Company, and Pacific Gas  
25 and Electric Company to collect these funds commencing on  
26 January 1, 2002, as follows:

27 (1) Two hundred twenty-eight million dollars (\$228,000,000)  
28 per year in total for energy efficiency and conservation activities,  
29 sixty-five million five hundred thousand dollars (\$65,500,000) in  
30 total per year for renewable energy, and sixty-two million five  
31 hundred thousand dollars (\$62,500,000) in total per year for  
32 research, development and demonstration. The funds for energy  
33 efficiency and conservation activities shall continue to be allocated  
34 in proportions established for the year 2000 as set forth in  
35 paragraph (1) of subdivision (c) of Section 381.

36 (2) The amounts shall be adjusted annually at a rate equal to  
37 the lesser of the annual growth in electric commodity sales or  
38 inflation, as defined by the gross domestic product deflator.

39 (e) The commission shall ensure that each electrical corporation  
40 allocates funds transferred by the Energy Commission pursuant

1 to subdivision (b) of Section 25743 in a manner that maximizes  
2 the economic benefit to all customer classes that funded the New  
3 Renewable Resources Account.

4 (f) The commission and the Energy Commission shall retain  
5 and continue their oversight responsibilities as set forth in Sections  
6 381 and 383, and Chapter 7.1 (commencing with Section 25620)  
7 and Chapter 8.6 (commencing with Section 25740) of Division 15  
8 of the Public Resources Code.

9 (g) An applicant for the Large Nonresidential Standard  
10 Performance Contract Program funded pursuant to paragraph (1)  
11 of subdivision (b) and an electrical corporation shall promptly  
12 attempt to resolve disputes that arise related to the program’s  
13 guidelines and parameters prior to entering into a program  
14 agreement. The applicant shall provide the electrical corporation  
15 with written notice of any dispute. Within 10 business days after  
16 receipt of the notice, the parties shall meet to resolve the dispute.  
17 If the dispute is not resolved within 10 business days after the date  
18 of the meeting, the electrical corporation shall notify the applicant  
19 of his or her right to file a complaint with the commission, which  
20 complaint shall describe the grounds for the complaint, injury, and  
21 relief sought. The commission shall issue its findings in response  
22 to a filed complaint within 30 business days of the date of receipt  
23 of the complaint. Prior to issuance of its findings, the commission  
24 shall provide a copy of the complaint to the electrical corporation,  
25 which shall provide a response to the complaint to the commission  
26 within five business days of the date of receipt. During the dispute  
27 period, the amount of estimated financial incentives shall be held  
28 in reserve until the dispute is resolved.

29 *SEC. 8. No reimbursement is required by this act pursuant to*  
30 *Section 6 of Article XIII B of the California Constitution because*  
31 *the only costs that may be incurred by a local agency or school*  
32 *district will be incurred because this act creates a new crime or*  
33 *infraction, eliminates a crime or infraction, or changes the penalty*  
34 *for a crime or infraction, within the meaning of Section 17556 of*  
35 *the Government Code, or changes the definition of a crime within*  
36 *the meaning of Section 6 of Article XIII B of the California*  
37 *Constitution.*

38 ~~SECTION 1. Section 399.12 of the Public Utilities Code is~~  
39 ~~amended to read:~~

1 399.12. For purposes of this article, the following terms have  
2 the following meanings:

3 (a) ~~“Conduit hydroelectric facility” means a facility for the~~  
4 ~~generation of electricity that uses only the hydroelectric potential~~  
5 ~~of an existing pipe, ditch, flume, siphon, tunnel, canal, or other~~  
6 ~~manmade conduit that is operated to distribute water for a~~  
7 ~~beneficial use.~~

8 (b) ~~“Delivered” and “delivery” have the same meaning as~~  
9 ~~provided in subdivision (a) of Section 25741 of the Public~~  
10 ~~Resources Code.~~

11 (c) ~~“Eligible renewable energy resource” means an electric~~  
12 ~~generating facility that meets the definition of “in-state renewable~~  
13 ~~electricity generation facility” in Section 25741 of the Public~~  
14 ~~Resources Code, subject to the following limitations:~~

15 (1) (A) ~~An existing small hydroelectric generation facility of~~  
16 ~~30 megawatts or less shall be eligible only if a retail seller or local~~  
17 ~~publicly owned electric utility owned or procured the electricity~~  
18 ~~from the facility as of December 31, 2005. A new hydroelectric~~  
19 ~~facility is not an eligible renewable energy resource if it will cause~~  
20 ~~an adverse impact on instream beneficial uses or cause a change~~  
21 ~~in the volume or timing of streamflow.~~

22 (B) ~~Notwithstanding subparagraph (A), a conduit hydroelectric~~  
23 ~~facility of 30 megawatts or less that commenced operation before~~  
24 ~~January 1, 2006, is an eligible renewable energy resource. A~~  
25 ~~conduit hydroelectric facility of 30 megawatts or less that~~  
26 ~~commences operation after December 31, 2005, is an eligible~~  
27 ~~renewable energy resource so long as it does not cause an adverse~~  
28 ~~impact on instream beneficial uses or cause a change in the volume~~  
29 ~~or timing of streamflow.~~

30 (2) ~~A facility engaged in the combustion of municipal solid~~  
31 ~~waste shall not be considered an eligible renewable resource unless~~  
32 ~~it is located in Stanislaus County and was operational prior to~~  
33 ~~September 26, 1996.~~

34 (d) ~~“Procure” means that a retail seller or local publicly owned~~  
35 ~~electric utility receives delivered electricity generated by an eligible~~  
36 ~~renewable energy resource that it owns or for which it has entered~~  
37 ~~into an electricity purchase agreement. Nothing in this article is~~  
38 ~~intended to imply that the purchase of electricity from third parties~~  
39 ~~in a wholesale transaction is the preferred method of fulfilling a~~  
40 ~~retail seller’s obligation to comply with this article or the obligation~~

1 of a local publicly owned electric utility to meet its renewables  
2 portfolio standard implemented pursuant to Section 387.

3 (e) “Renewables portfolio standard” means the specified  
4 percentage of electricity generated by eligible renewable energy  
5 resources that a retail seller is required to procure pursuant to this  
6 article or the obligation of a local publicly owned electric utility  
7 to meet its renewables portfolio standard implemented pursuant  
8 to Section 387.

9 (f) (1) “Renewable energy credit” means a certificate of proof,  
10 issued through the accounting system established by the Energy  
11 Commission pursuant to Section 399.13, that one unit of electricity  
12 has been generated and delivered by an eligible renewable energy  
13 resource.

14 (2) “Renewable energy credit” includes all renewable and  
15 environmental attributes associated with the production of  
16 electricity from the eligible renewable energy resource, except for  
17 an emissions reduction credit issued pursuant to Section 40709 of  
18 the Health and Safety Code and any credits or payments associated  
19 with the reduction of solid waste and treatment benefits created  
20 by the utilization of biomass or biogas fuels.

21 (3) No electricity generated by an eligible renewable energy  
22 resource attributable to the use of nonrenewable fuels, beyond a  
23 de minimis quantity, as determined by the Energy Commission,  
24 shall result in the creation of a renewable energy credit.

25 (g) “Retail seller” means an entity engaged in the retail sale of  
26 electricity to end-use customers located within the state, including  
27 any of the following:

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

29 (2) A community choice aggregator. The commission shall  
30 institute a rulemaking to determine the manner in which a  
31 community choice aggregator will participate in the renewables  
32 portfolio standard program subject to the same terms and conditions  
33 applicable to an electrical corporation.

34 (3) An electric service provider, as defined in Section 218.3,  
35 for all sales of electricity to customers beginning January 1, 2006.  
36 The commission shall institute a rulemaking to determine the  
37 manner in which electric service providers will participate in the  
38 renewables portfolio standard program. The electric service  
39 provider shall be subject to the same terms and conditions  
40 applicable to an electrical corporation pursuant to this article.



- 1 ~~Nothing in this paragraph shall impair a contract entered into~~  
2 ~~between an electric service provider and a retail customer prior to~~  
3 ~~the suspension of direct access by the commission pursuant to~~  
4 ~~Section 80110 of the Water Code.~~  
5 ~~(4) “Retail seller” does not include any of the following:~~  
6 ~~(A) A corporation or person employing cogeneration technology~~  
7 ~~or producing electricity consistent with subdivision (b) of Section~~  
8 ~~218.~~  
9 ~~(B) The Department of Water Resources acting in its capacity~~  
10 ~~pursuant to Division 27 (commencing with Section 80000) of the~~  
11 ~~Water Code.~~  
12 ~~(C) A local publicly owned electric utility.~~