

AMENDED IN SENATE MAY 4, 2009  
AMENDED IN SENATE APRIL 14, 2009

**SENATE BILL**

**No. 805**

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**Introduced by Senator Wright  
(Coauthors: Senators Calderon and Strickland)**

February 27, 2009

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An act to add Section 25741.5 to the Public Resources Code, and to amend Sections 399.11, 399.13, 399.14, 399.15, ~~399.16, and 399.17~~ and 399.16 of, to add Sections 399.10, 399.15.5, and 399.19 to, to add the heading of Article 16 (commencing with Section 399.10) to Chapter 2.3 of Part 1 of Division 1 of, to repeal the heading of Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of, and to repeal and add Section 387 of, the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

SB 805, as amended, Wright. Energy: renewable energy resources: procurement.

(1) The *existing* California Renewables Portfolio Standard Program (RPS program) requires that a retail seller of electricity, including electrical corporations, community choice aggregators, and electric service providers, but not including local publicly owned electric utilities, in order to fulfill unmet long-term resource needs, purchase a specified minimum percentage of electricity generated by eligible renewable energy resources, as defined, in any given year as a specified percentage of total kilowatthours sold to retail end-use customers each calendar year (renewables portfolio standard). The renewables portfolio standard requires each retail seller to increase its total procurement of eligible renewable energy resources by at least an additional 1% of

retail sales per year so that 20% of its retail sales are procured from eligible renewable energy resources no later than December 31, 2010. The RPS program requires the Public Utilities Commission (PUC) to review and adopt a renewable energy procurement plan for each electrical corporation. The RPS program requires the PUC, by rulemaking, to adopt a process that provides criteria for the rank ordering and selection of least-cost and best-fit eligible renewable energy resources to comply with the renewables portfolio standard on a total cost basis.

This bill would revise the renewables portfolio standard to require each retail seller, in order to fulfill the unmet long-term resource needs of the retail seller, to increase its total procurement of eligible renewable energy resources so that 20% of its retail sales are procured from eligible renewable energy resources no later than December 31, 2010, and 33% by December 31, 2020. The bill would require that the procurement plan adopted for an electrical corporation include a renewables portfolio standard requiring the electrical corporation to procure a minimum quantity of electricity generated by eligible renewable energy resources so that ~~33%~~ 20% of its retail sales are procured from eligible renewable energy resources by *December 31, 2010, and 33%* by December 31, 2020, and would delete the requirement that the plan require the electrical corporation to increase its total procurement of eligible renewable energy resources by at least an additional 1% of retail sales per year until it reaches the renewables portfolio standard.

Under existing law, 51.5% of the renewable energy public goods charge is retained by the state's 3 largest electrical corporations for use in paying the above-market costs of electricity from eligible renewable energy resources procured pursuant to the RPS program. Existing law authorizes the collection of the renewable energy public goods charge until January 1, 2012. Existing law requires the PUC, as part of the renewables portfolio standard procurement solicitation process, to establish a methodology to determine the market price of electricity for terms corresponding to the length of contracts with eligible renewable energy resources, in consideration of certain matters. Existing law requires the PUC to establish a limitation on the total costs expended by electrical corporations above the market price determined by the PUC pursuant to this methodology. The cost limitation is required to be equal to the amount of renewable energy public goods charge moneys retained by the state's 3 largest electrical corporations.

This bill would require that, beginning January 1, 2012, the cost limitation established by the PUC for electrical corporations be 3% of the annual revenue requirement for the previous calendar year, including all direct and indirect costs associated with achieving a 33% renewables portfolio standard, *except for costs of new or expanded electrical transmission facilities or upgrades, which would be excluded from the 3% cost limitation.*

The RPS program requires the PUC, by rulemaking to adopt flexible rules for compliance that apply to all years, including years before and after the retail supplier procures at least 20% of total retail sales of electricity from eligible renewable energy resources.

This bill would require the commission, by rulemaking, to adopt flexible rules for compliance that apply to all years before and after a retail seller procures at least 20% by December 31, 2010, and 33% by December 31, 2020, of total retail sales of electricity from eligible renewable energy resources. The bill would require that if, despite good faith efforts to procure eligible renewable energy resources, the procurement options available to retail sellers are insufficient to meet targets due to insufficient supply or uncompetitive prices, a retail seller will not be deemed out of compliance by the PUC. The bill would require that the RPS program allow electricity from eligible renewable energy resources and unbundled renewable energy credits, as defined, from eligible renewable energy resources located in states within the WECC, as defined, to count towards the renewables portfolio standard targets, provided that eligible renewable energy resources providing benefits within the state, in accordance with certain purposes, be preferred. The bill would authorize a retail seller to meet no more than 25% of its *total* renewables portfolio standard procurement requirements, *at any given time*, with unbundled renewable energy credits from eligible renewable energy resources located outside the state, but within the region of the WECC.

~~The existing RPS program includes provisions that are applicable to an electrical corporation with 60,000 or fewer customer accounts in California that serves retail end-use customers outside California, and authorizes the commission to adopt procurement requirements for the electrical corporation as a specified percentage of total kilowatthours sold by the electrical corporation to its retail end-use customers in California in a calendar year.~~

~~This bill would extend these provisions to an electrical cooperative, as defined, that serves 25,000 or fewer customer accounts in California that serves retail end-use customers outside of California.~~

Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because certain of the provisions of this bill would be a part of the act and because a violation of an order or decision of the commission implementing its requirements would be a crime, the bill would impose a state-mandated local program by creating a new crime.

(2) Under existing law, the governing board of a local publicly owned electric utility is responsible for implementing and enforcing a renewables portfolio standard for the utility that recognizes the intent of the Legislature to encourage renewable resources, while taking into consideration the effect of the standard on rates, reliability, and financial resources and the goal of environmental improvement. Existing law requires the governing board of a local publicly owned electric utility to report certain information relative to renewable energy resources to its customers.

This bill would require the governing board of a local publicly owned electric utility, in order to meet long-term unmet resource needs, to adopt and implement a renewables portfolio standard that requires the utility to increase its procurement of eligible renewable energy resources so that 33% of its retail sales are procured from eligible renewable energy resources no later than December 31, 2020. The bill would require the governing board to formally adopt a renewables portfolio standard program meeting these procurement requirements at a duly noticed public hearing on or before January 31, 2011. The bill would require that the renewables portfolio standard program of a local publicly owned electric utility utilize the accounting system adopted by the State Energy Resources Conservation and Development Commission (Energy Commission) for retail sellers. The bill would authorize the renewables portfolio standard program of a local publicly owned electric utility to use renewable energy credits to the same extent authorized by the commission for retail sellers. The bill would require a local publicly owned electric utility to annually report to its customers and the Energy Commission the utility's progress toward meeting the 33% renewables portfolio standard procurement requirement, including information about the location and sources of electricity and use of renewable energy credits. By placing additional requirements upon local publicly owned

electric utilities, which are entities of local government, the bill would impose a state-mandated local program.

(3) The existing RPS program requires the Energy Commission to ~~(1)~~ (a) certify eligible renewable energy resources, ~~(2)~~ (b) design and implement an accounting system to verify compliance with the renewables portfolio standard by retail sellers, ~~(3)~~ (c) establish a system for tracking and verifying renewable energy credits (RECs) that verifies the generation and delivery of electricity associated with RECs, and ~~(4)~~ (d) certify, for purposes of compliance with the renewables portfolio standard by a retail seller, the eligibility of RECs associated with deliveries of electricity to a local publicly owned electric utility. Existing law requires that for an REC to be certified that is associated with deliveries of electricity to a local publicly owned electric utility, the local publicly owned electric utility must be in compliance with an RPS program adopted for the utility by its governing board, and that the RPS program adopted by the utility establishes an annual renewables portfolio standard target comparable to those applicable to an electrical corporation, is procuring sufficient eligible renewable energy resources to satisfy the targets, and will not fail to satisfy the targets in the event that the REC is sold to another retail seller.

This bill would require that for an REC to be certified that is associated with deliveries of electricity to a local publicly owned electric utility, the local publicly owned electric utility must be in compliance with an RPS program adopted for the utility by its governing board, and that the RPS program adopted by the utility establishes a renewables portfolio standard target equivalent to those applicable to an electrical corporation, is procuring sufficient eligible renewable energy resources to meet the targets, and will not fail to meet the targets in the event that the REC is sold to a retail seller.

(4) 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.

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. Section 25741.5 is added to the Public Resources  
2 Code, to read:

3 25741.5. For a local publicly owned utility that was in existence  
4 on or before January 1, 2009, that provides retail electric service  
5 to 15,000 or fewer customer accounts in California, and is  
6 interconnected to a control area located outside this state within  
7 the Western Electricity Coordinating Council (WECC) an eligible  
8 renewable energy resource includes a facility that is located outside  
9 California if the facility is connected to the WECC transmission  
10 system, if all of the following conditions are met:

11 (a) The electricity generated by the facility is procured by the  
12 local publicly owned utility and is not used to fulfill renewable  
13 energy procurement requirements in other states.

14 (b) The local publicly owned utility participates in, and complies  
15 with, the accounting system administered by the commission  
16 pursuant to subdivision (b) of Section 399.13 of the Public Utilities  
17 Code.

18 (c) The commission verifies that the electricity generated by  
19 the facility is eligible to meet procurement targets.

20 SEC. 2. Section 387 of the Public Utilities Code is repealed.

21 SEC. 3. Section 387 is added to the Public Utilities Code, to  
22 read:

23 387. (a) In order to meet long-term unmet resource needs, the  
24 governing body of each local publicly owned electric utility shall  
25 adopt and implement a renewables portfolio standard that requires  
26 the utility to increase its procurement of eligible renewable energy  
27 resources so that 33 percent of its retail sales are procured from  
28 eligible renewable energy resources no later than December 31,  
29 2020. For purposes of this section, “*delivered*,” “eligible renewable  
30 energy resource,” “procure,” “renewables portfolio standard,” and  
31 “renewable energy credit” have the same meanings as defined in  
32 Article 16 (commencing with Section 399.10).

33 (b) The governing body of each publicly owned electric utility  
34 shall, on or before January 31, 2011, and at a duly noticed public  
35 hearing, formally adopt a renewables portfolio standard program  
36 meeting the procurement requirements of subdivision (a). Prior to  
37 adoption of the program, the governing body of the local publicly

1 owned electric utility shall provide opportunities for public  
2 participation.

3 (c) (1) The renewables portfolio standard program adopted by  
4 a governing body of a local publicly owned utility may authorize  
5 the use of renewable energy credits to the same extent authorized  
6 by the commission pursuant to Section 399.16 for retail sellers.

7 (2) The renewables portfolio standard program adopted by a  
8 governing body of a local publicly owned utility shall utilize the  
9 accounting system adopted by the Energy Commission pursuant  
10 to Section 399.13 for retail sellers.

11 (d) The governing board of each publicly owned electric utility  
12 shall annually report to its customers and the Energy Commission  
13 on the utility's progress toward meeting the 33 percent renewables  
14 portfolio standard procurement requirement of subdivision (a),  
15 including all of the following:

16 (1) The amount of electricity procured from eligible renewable  
17 energy resources located in this state, by source.

18 (2) The amount of electricity procured from eligible renewable  
19 energy resources located outside the state, generated within the  
20 WECC, by source.

21 (3) The amount of renewable energy credits procured from  
22 eligible renewable energy resources located in this state.

23 (4) The amount of renewable energy credits procured from  
24 eligible renewable energy resources located outside this state, for  
25 electricity generated within the WECC.

26 (e) Upon distribution of information related to its renewable  
27 energy resource procurement status and future plans to its  
28 governing body, for its consideration at a noticed public meeting,  
29 the local publicly owned electric utility shall make that information  
30 available to the public and shall provide the Energy Commission  
31 with an electronic copy of the documents for posting on the Energy  
32 Commission's Internet Web site. This requirement is satisfied if  
33 the local publicly owned electric utility provides the uniform  
34 resource locator (URL) that links to the documents or information  
35 regarding other manners of access to the documents.

36 SEC. 4. The heading of Article 16 (commencing with Section  
37 399.10) is added to Chapter 2.3 of Part 1 of Division 1 of the Public  
38 Utilities Code, to read:

39

40 Article 16. California Renewables Portfolio Standard Program

1 SEC. 5. Section 399.10 is added to the Public Utilities Code,  
2 to read:

3 399.10. The Legislature finds and declares all of the following:  
4 (a) Reliable, reasonably priced, and environmentally responsible  
5 electrical service is essential to the economic well-being of  
6 California consumers and businesses.

7 (b) The State Air Resources Board has identified a statewide  
8 target of generating 33 percent of the state’s electricity from  
9 renewable energy resources as a key measure to comply with the  
10 requirements of the California Global Warming Solutions Act of  
11 2006 to achieve cost-effective reductions in emissions of  
12 greenhouse gases consistent with maintaining reliability of the  
13 electrical system.

14 (c) The State Air Resources Board has identified the need for  
15 sufficient transmission and the ability to integrate large quantities  
16 of intermittent renewable energy resources, such as wind and solar  
17 generation, as a key prerequisite to reaching the target of generating  
18 33 percent of the state’s electricity from renewable energy  
19 resources, so that the state’s electrical system continues to operate  
20 in an efficient and reliable manner.

21 SEC. 6. The heading of Article 16 (commencing with Section  
22 399.11) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities  
23 Code is repealed.

24 SEC. 7. Section 399.11 of the Public Utilities Code is amended  
25 to read:

26 399.11. The Legislature finds and declares all of the following:

27 (a) In order to attain a target of generating 20 percent of total  
28 retail sales of electricity in California from eligible renewable  
29 energy resources by December 31, 2010, and 33 percent by  
30 December 31, 2020, and for the purposes of increasing the  
31 diversity, reliability, public health and environmental benefits of  
32 the energy mix, reducing emissions of greenhouse gases, and  
33 promoting economic development, it is the intent of the Legislature  
34 that the commission and the Energy Commission implement the  
35 California Renewables Portfolio Standard Program described in  
36 this article.

37 (b) Increasing California’s reliance on eligible renewable energy  
38 resources may promote stable electricity prices, protect public  
39 health, improve environmental quality, stimulate sustainable

1 economic development, create new employment opportunities,  
2 and reduce reliance on imported fuels.

3 (c) The development of eligible renewable energy resources  
4 and the delivery of the electricity generated by those resources to  
5 customers in California may ameliorate air quality problems  
6 throughout the state and improve public health by reducing the  
7 burning of fossil fuels and the associated environmental impacts  
8 and by reducing in-state fossil fuel consumption.

9 (d) The California Renewables Portfolio Standard Program is  
10 intended to complement the Renewable Energy Resources Program  
11 administered by the Energy Commission and established pursuant  
12 to Chapter 8.6 (commencing with Section 25740) of Division 15  
13 of the Public Resources Code.

14 (e) New and modified electric transmission facilities, *and*  
15 *utilization of smart grid and storage technologies*, may be  
16 necessary to facilitate the state achieving its renewables portfolio  
17 standard targets.

18 SEC. 8. Section 399.13 of the Public Utilities Code is amended  
19 to read:

20 399.13. The Energy Commission shall do all of the following:

21 (a) Certify eligible renewable energy resources that it determines  
22 meet the criteria described in subdivision (b) of Section 399.12 or  
23 Section 399.12.5.

24 (b) Design and implement an accounting system to verify  
25 compliance with the renewables portfolio standard by retail sellers,  
26 to ensure that electricity generated by an eligible renewable energy  
27 resource is counted only once for the purpose of meeting the  
28 renewables portfolio standard of this state or any other state, to  
29 certify renewable energy credits produced by eligible renewable  
30 energy resources, and to verify retail product claims in this state  
31 or any other state. In establishing the guidelines governing this  
32 accounting system, the Energy Commission shall collect data from  
33 electricity market participants that it deems necessary to verify  
34 compliance of retail sellers, in accordance with the requirements  
35 of this article and the California Public Records Act (Chapter 3.5  
36 (commencing with Section 6250) of Division 7 of Title 1 of the  
37 Government Code). In seeking data from electrical corporations,  
38 the Energy Commission shall request data from the commission.  
39 The commission shall collect data from electrical corporations and

1 remit the data to the Energy Commission within 90 days of the  
2 request.

3 (c) Establish a system for tracking and verifying renewable  
4 energy credits that, through the use of independently audited data,  
5 verifies the generation and delivery of electricity associated with  
6 each renewable energy credit and protects against multiple counting  
7 of the same renewable energy credit. The Energy Commission  
8 shall consult with other western states and with the WECC in the  
9 development of this system.

10 (d) Certify, for purposes of compliance with the renewables  
11 portfolio standard requirements by a retail seller, the eligibility of  
12 renewable energy credits associated with deliveries of electricity  
13 by an eligible renewable energy resource to a local publicly owned  
14 electric utility, if the Energy Commission determines that the  
15 following conditions have been satisfied:

16 (1) The local publicly owned electric utility that is procuring  
17 the electricity is in compliance with the requirements of Section  
18 387.

19 (2) The local publicly owned electric utility has established a  
20 renewables portfolio standard target equivalent to those applicable  
21 to an electrical corporation, is procuring sufficient eligible  
22 renewable energy resources to meet the targets, and will not fail  
23 to meet the targets in the event that the renewable energy credit is  
24 sold to a retail seller.

25 SEC. 9. Section 399.14 of the Public Utilities Code is amended  
26 to read:

27 399.14. (a) (1) The commission shall direct each electrical  
28 corporation to prepare a renewable energy procurement plan that  
29 includes the matter in paragraph (3), to satisfy its obligations under  
30 the renewables portfolio standard. To the extent feasible, this  
31 procurement plan shall be proposed, reviewed, and adopted by the  
32 commission as part of, and pursuant to, a general procurement  
33 plan process. The commission shall require each electrical  
34 corporation to review and update its renewable energy procurement  
35 plan as it determines to be necessary.

36 (2) The commission shall adopt, by rulemaking, all of the  
37 following:

38 (A) A process for determining market prices pursuant to  
39 subdivision (c) of Section 399.15. The commission shall make  
40 specific determinations of market prices after the closing date of

1 a competitive solicitation conducted by an electrical corporation  
2 for eligible renewable energy resources.

3 (B) A process that provides criteria for the rank ordering and  
4 selection of least-cost and best-fit eligible renewable energy  
5 resources to comply with the California Renewables Portfolio  
6 Standard Program obligations on a total cost basis. This process  
7 shall consider estimates of indirect costs associated with needed  
8 transmission investments and ongoing utility expenses resulting  
9 from integrating and operating eligible renewable energy resources.

10 (C) (i) Flexible rules for compliance, including rules permitting  
11 retail sellers to apply excess procurement in one year to subsequent  
12 years or inadequate procurement in one year to no more than the  
13 following three years. The flexible rules for compliance shall apply  
14 to all years, including years before and after a retail seller procures  
15 at least 20 percent, by December 31, 2010, and 33 percent, by  
16 December 31, 2020, of total retail sales of electricity from eligible  
17 renewable energy resources. If, despite good faith efforts to procure  
18 eligible renewable energy resources, the procurement options in  
19 Section 399.15.5 are insufficient to meet targets due to insufficient  
20 supply or uncompetitive offers, a retail seller shall not be deemed  
21 out of compliance.

22 (ii) The flexible rules for compliance shall address situations  
23 where, as a result of insufficient transmission, a retail seller is  
24 unable to procure eligible renewable energy resources sufficient  
25 to satisfy the requirements of this article. Any rules addressing  
26 insufficient transmission shall require a finding by the commission  
27 that the retail seller has undertaken all reasonable efforts to do all  
28 of the following:

29 (I) Utilize flexible delivery points.

30 (II) Ensure the availability of any needed transmission capacity.

31 (III) If the retail seller is an electric corporation, to construct  
32 needed transmission facilities.

33 (IV) Nothing in this subparagraph shall be construed to revise  
34 any portion of Section 454.5.

35 (D) Standard terms and conditions to be used by all electrical  
36 corporations in contracting for eligible renewable energy resources,  
37 including performance requirements for renewable generators. A  
38 contract for the purchase of electricity generated by an eligible  
39 renewable energy resource shall, at a minimum, include the  
40 renewable energy credits associated with all electricity generation

1 specified under the contract. The standard terms and conditions  
2 shall include the requirement that, no later than six months after  
3 the commission's approval of an electricity purchase agreement  
4 entered into pursuant to this article, the following information  
5 about the agreement shall be disclosed by the commission: party  
6 names, resource type, project location, and project capacity.

7 (3) Consistent with the goal of procuring the least-cost and  
8 best-fit eligible renewable energy resources, the renewable energy  
9 procurement plan submitted by an electrical corporation shall  
10 include all of the following:

11 (A) An assessment of annual or multiyear portfolio supplies  
12 and demand to determine the optimal mix of eligible renewable  
13 energy resources with deliverability characteristics that may include  
14 peaking, dispatchable, baseload, firm, and as-available capacity.

15 (B) Provisions for employing available compliance flexibility  
16 mechanisms established by the commission.

17 (C) A bid solicitation setting forth the need for eligible  
18 renewable energy resources of each deliverability characteristic,  
19 required online dates, and locational preferences, if any.

20 (4) In soliciting and procuring eligible renewable energy  
21 resources, each electrical corporation shall offer contracts of no  
22 less than 10 years in duration, unless the commission approves of  
23 a contract of shorter duration.

24 (5) In soliciting and procuring eligible renewable energy  
25 resources, each electrical corporation may give preference to  
26 projects that provide tangible demonstrable benefits to communities  
27 with a plurality of minority or low-income populations.

28 (b) The commission may authorize a retail seller to enter into  
29 a contract of less than 10 years' duration with an eligible renewable  
30 energy resource, if the commission has established, for each retail  
31 seller, minimum quantities of eligible renewable energy resources  
32 to be procured either through contracts of at least 10 years' duration  
33 or from new facilities commencing commercial operations on or  
34 after January 1, 2005.

35 (c) The commission shall review and accept, modify, or reject  
36 each electrical corporation's renewable energy procurement plan  
37 prior to the commencement of renewable procurement pursuant  
38 to this article by an electrical corporation.

39 (d) The commission shall review the results of an eligible  
40 renewable energy resources solicitation submitted for approval by

1 an electrical corporation and accept or reject proposed contracts  
2 with eligible renewable energy resources based on consistency  
3 with the approved renewable energy procurement plan. If the  
4 commission determines that the bid prices are elevated due to a  
5 lack of effective competition among the bidders, the commission  
6 shall direct the electrical corporation to renegotiate the contracts  
7 or conduct a new solicitation.

8 (e) If an electrical corporation fails to comply with a commission  
9 order adopting a renewable energy procurement plan, the  
10 commission shall exercise its authority pursuant to Section 2113  
11 to require compliance. The commission shall enforce comparable  
12 penalties on any other retail seller that fails to meet procurement  
13 targets established pursuant to Section 399.15.

14 (f) (1) The commission may authorize a procurement entity to  
15 enter into contracts on behalf of customers of a retail seller for  
16 deliveries of eligible renewable energy resources to satisfy  
17 renewables portfolio standard obligations. The commission may  
18 not require any person or corporation to act as a procurement entity  
19 or require any party to purchase eligible renewable energy  
20 resources from a procurement entity.

21 (2) Subject to review and approval by the commission, the  
22 procurement entity shall be permitted to recover reasonable  
23 administrative and procurement costs through the retail rates of  
24 end-use customers that are served by the procurement entity and  
25 are directly benefiting from the procurement of eligible renewable  
26 energy resources.

27 (g) Procurement and administrative costs associated with  
28 long-term contracts entered into by an electrical corporation for  
29 eligible renewable energy resources pursuant to this article and  
30 approved by the commission shall be deemed reasonable per se,  
31 and shall be recoverable in rates.

32 (h) Construction, alteration, demolition, installation, and repair  
33 work on an eligible renewable energy resource that receives  
34 production incentives pursuant to Section 25742 of the Public  
35 Resources Code, including work performed to qualify, receive, or  
36 maintain production incentives is “public works” for the purposes  
37 of Chapter 1 (commencing with Section 1720) of Part 7 of Division  
38 2 of the Labor Code.

39 SEC. 10. Section 399.15 of the Public Utilities Code is  
40 amended to read:

1 399.15. (a) In order to fulfill the unmet long-term resource  
2 needs of each retail seller, the commission shall establish a  
3 renewables portfolio standard requiring all electrical corporations  
4 to procure a minimum quantity of electricity generated by eligible  
5 renewable energy resources as a specified percentage of total  
6 kilowatthours sold to their retail end-use customers each calendar  
7 year, subject to limits on the total amount of costs expended above  
8 the market prices determined in subdivision (c), to achieve the  
9 targets established under this article.

10 (b) The commission shall implement procurement targets for  
11 each retail seller as follows:

12 (1) Each retail seller shall, pursuant to subdivision (a), increase  
13 its total procurement of eligible renewable energy resources so  
14 that ~~33~~ 20 percent of its retail sales are procured from eligible  
15 renewable energy resources no later than December 31, ~~2020~~ 2010,  
16 *and 33 percent no later than December 31, 2020*. A retail seller  
17 with 33 percent of retail sales procured from eligible renewable  
18 energy resources in any year shall not be required to increase its  
19 procurement of renewable energy resources in the following year.

20 (2) For purposes of setting procurement targets, the commission  
21 shall establish an initial baseline for each retail seller based on the  
22 actual percentage of retail sales procured from eligible renewable  
23 energy resources in 2001, and to the extent applicable, adjusted  
24 going forward pursuant to Section 399.12.

25 (3) Only for purposes of establishing these targets, the  
26 commission shall include all electricity sold to retail customers by  
27 the Department of Water Resources pursuant to Section 80100 of  
28 the Water Code in the calculation of retail sales by an electrical  
29 corporation.

30 (c) The commission shall establish a methodology to determine  
31 the market price of electricity for terms corresponding to the length  
32 of contracts with eligible renewable energy resources, in  
33 consideration of the following:

34 (1) The long-term market price of electricity for fixed price  
35 contracts, determined pursuant to an electrical corporation's general  
36 procurement activities as authorized by the commission.

37 (2) The long-term ownership, operating, and fixed-price fuel  
38 costs associated with fixed-price electricity from new generating  
39 facilities.

1 (3) The value of different products including baseload, peaking,  
2 and as-available electricity.

3 (d) The commission shall establish, for each electrical  
4 corporation, a limitation on the total costs expended above the  
5 market prices determined in subdivision (c) for the procurement  
6 of eligible renewable energy resources to achieve the procurement  
7 targets established under this article.

8 (1) The cost limitation shall be equal to the amount of funds  
9 transferred to each electrical corporation by the Energy  
10 Commission pursuant to subdivision (b) of Section 25743 of the  
11 Public Resources Code and the 51.5 percent of the funds which  
12 would have been collected through December 31, 2011, from the  
13 customers of the electrical corporation based on the renewable  
14 energy public goods charge in effect as of January 1, 2007.  
15 Commencing January 1, 2012, the cost limitation shall be 3 percent  
16 of the annual revenue for the previous calendar year, including all  
17 direct and indirect costs associated with achieving a 33 percent  
18 renewables portfolio standard, *except for costs of new or expanded*  
19 *electrical transmission facilities or upgrades, which shall be*  
20 *excluded from the 3 percent cost limitation.*

21 (2) The above-market costs of a contract selected by an electrical  
22 corporation may be counted toward the cost limitation if all of the  
23 following conditions are satisfied:

24 (A) The contract has been approved by the commission or  
25 approved by the commission and selected through a competitive  
26 solicitation pursuant to the requirements of subdivision (d) of  
27 Section 399.14.

28 (B) The contract covers a duration of no less than 10 years.

29 (C) The contracted project is a new or repowered facility  
30 commencing commercial operations on or after January 1, 2005.

31 (D) No purchases of renewable energy credits may be eligible  
32 for consideration as an above-market cost.

33 (E) The above-market costs of a contract do not include any  
34 indirect expenses including imbalance energy charges, sale of  
35 excess energy, decreased generation from existing resources, or  
36 transmission upgrades.

37 (3) If the cost limitation for an electrical corporation is  
38 insufficient to support the total costs expended above the market  
39 prices determined in subdivision (c) for the procurement of eligible  
40 renewable energy resources satisfying the conditions of paragraph

1 (2), the commission shall allow the electrical corporation to limit  
2 its procurement to the quantity of eligible renewable energy  
3 resources that can be procured at or below the market prices  
4 established in subdivision (c).

5 (4) Nothing in this section prevents an electrical corporation  
6 from voluntarily proposing to procure eligible renewable energy  
7 resources at above-market prices that are counted toward the total  
8 cost limitation. Any voluntary procurement involving above-market  
9 costs shall be subject to commission approval prior to the expense  
10 being recovered in rates.

11 (e) The establishment of a renewables portfolio standard shall  
12 not constitute implementation by the commission of the federal  
13 Public Utility Regulatory Policies Act of 1978 (Public Law  
14 95-617).

15 (f) The commission shall consult with the Energy Commission  
16 in calculating market prices under subdivision (c) and establishing  
17 other renewables portfolio standard policies.

18 SEC. 11. Section 399.15.5 is added to the Public Utilities Code,  
19 to read:

20 399.15.5. (a) The renewables portfolio standard program  
21 authorized pursuant to this article shall allow electricity from  
22 eligible renewable energy resources and unbundled renewable  
23 energy credits from eligible renewable energy resources located  
24 in states within the WECC to count towards the renewables  
25 portfolio standards targets. However, eligible renewable energy  
26 resources providing benefits within this state in accordance with  
27 the purposes set forth in subdivisions (a), (b), and (c) of Section  
28 399.11 shall be preferred. The preferred means of procuring eligible  
29 renewable resources shall be to do any of the following:

30 (1) Procure electricity and associated renewable energy credits  
31 from eligible renewable resources located in this state.

32 (2) Procure *delivered* electricity and associated renewable energy  
33 credits from eligible renewable energy resources located outside  
34 this state and within the WECC.

35 (3) Procure unbundled renewable energy credits, provided,  
36 however, that no more than 25 percent of a renewables portfolio  
37 standard requirement shall be met with unbundled renewable  
38 energy credits from eligible renewable resources located outside  
39 this state and within the WECC.

1 (b) The commission may require an electrical corporation to  
2 own and operate eligible renewable energy resources in furtherance  
3 of the renewables portfolio standard program.

4 SEC. 12. Section 399.16 of the Public Utilities Code is  
5 amended to read:

6 399.16. (a) The commission, by rule, may authorize the use  
7 of renewable energy credits to satisfy the requirements of the  
8 renewables portfolio standard established pursuant to this article,  
9 subject to the following conditions:

10 (1) Prior to authorizing any renewable energy credit to be used  
11 toward satisfying procurement targets, the commission and the  
12 Energy Commission shall conclude that the tracking system  
13 established pursuant to subdivision (c) of Section 399.13, is  
14 operational, is capable of independently verifying the electricity  
15 generated by an eligible renewable energy resource and delivered  
16 to the retail seller, and can ensure that renewable energy credits  
17 shall not be double counted by any seller of electricity within the  
18 service territory of the Western Electricity Coordinating Council  
19 (WECC).

20 (2) A renewable energy credit shall be counted only once for  
21 compliance with the renewables portfolio standard of this state or  
22 any other state, or for verifying retail product claims in this state  
23 or any other state.

24 (3) The electricity is delivered to a retail seller, the Independent  
25 System Operator, or a local publicly owned electric utility.

26 (4) All revenues received by an electrical corporation for the  
27 sale of a renewable energy credit shall be credited to the benefit  
28 of ratepayers.

29 (5) No renewable energy credits shall be created for electricity  
30 generated pursuant to any electricity purchase contract with a retail  
31 seller or a local publicly owned electric utility executed before  
32 January 1, 2005, unless the contract contains explicit terms and  
33 conditions specifying the ownership or disposition of those credits.  
34 Deliveries under those contracts shall be tracked through the  
35 accounting system described in subdivision (b) of Section 399.13  
36 and included in the baseline quantity of eligible renewable energy  
37 resources of the purchasing retail seller pursuant to Section 399.15.

38 (6) No renewable energy credits shall be created for electricity  
39 generated under any electricity purchase contract executed after  
40 January 1, 2005, pursuant to the federal Public Utility Regulatory

1 Policies Act of 1978 (16 U.S.C. Sec. 2601 et seq.). Deliveries  
2 under the electricity purchase contracts shall be tracked through  
3 the accounting system described in subdivision (b) of Section  
4 399.12 and count toward the renewables portfolio standard  
5 obligations of the purchasing retail seller.

6 (7) The commission may limit the quantity of renewable energy  
7 credits that may be procured unbundled from electricity generation  
8 by any retail seller, to meet the requirements of this article.  
9 However, a retail seller shall be permitted to meet up to 25 percent  
10 of its *total* renewables portfolio standard procurement requirements,  
11 *at any given time*, with unbundled renewable energy credits from  
12 eligible renewable energy resources located outside the state, but  
13 within the WECC.

14 (8) No electrical corporation shall be obligated to procure  
15 renewable energy credits to satisfy the requirements of this article  
16 in the event that the total costs expended above the applicable  
17 market prices for the procurement of eligible renewable energy  
18 resources exceeds the cost limitation established pursuant to  
19 subdivision (d) of Section 399.15.

20 (9) Any additional condition that the commission determines  
21 is reasonable.

22 (b) The commission shall allow an electrical corporation to  
23 recover the reasonable costs of purchasing renewable energy credits  
24 in rates.

25 ~~SEC. 13. Section 399.17 of the Public Utilities Code is~~  
26 ~~amended to read:~~

27 ~~399.17. (a) Subject to the provisions of this section, the~~  
28 ~~requirements of this article apply to an electrical corporation with~~  
29 ~~60,000 or fewer customer accounts in California that serves retail~~  
30 ~~end-use customers outside California or an electrical cooperative,~~  
31 ~~as defined in Section 2776, serving 25,000 or fewer customer~~  
32 ~~accounts in California that serves retail end-use customers outside~~  
33 ~~of California.~~

34 ~~(b) For an electrical corporation with 60,000 or fewer customer~~  
35 ~~accounts in California that serves retail end-use customers outside~~  
36 ~~California or an electrical cooperative serving 25,000 or fewer~~  
37 ~~customer accounts in California that serves retail end-use customers~~  
38 ~~outside of California, an eligible renewable energy resource~~  
39 ~~includes a facility that is located outside California, if the facility~~

1 is connected to the WECC transmission system, provided all of  
2 the following conditions are met:

3 (1) ~~The electricity generated by the facility is procured by the~~  
4 ~~electrical corporation or cooperative on behalf of its California~~  
5 ~~customers, and is not used to fulfill renewable energy procurement~~  
6 ~~requirements in other states.~~

7 (2) ~~The electrical corporation or cooperative participates in, and~~  
8 ~~complies with, the accounting system administered by the Energy~~  
9 ~~Commission pursuant to subdivision (b) of Section 399.13.~~

10 (3) ~~The Energy Commission verifies that the electricity~~  
11 ~~generated by the facility is eligible to meet the procurement targets~~  
12 ~~of this article.~~

13 (e) ~~The commission shall determine the procurement targets for~~  
14 ~~an electrical corporation with 60,000 or fewer customer accounts~~  
15 ~~in California that serves retail end-use customers outside California~~  
16 ~~or an electrical cooperative serving 25,000 or fewer customer~~  
17 ~~accounts in California that serves retail end-use customers outside~~  
18 ~~of California, as a specified percentage of total kilowatthours sold~~  
19 ~~by the electrical corporation or cooperative to its retail end-use~~  
20 ~~customers in California.~~

21 (d) ~~An electrical corporation with 60,000 or fewer customer~~  
22 ~~accounts in California that serves retail end-use customers outside~~  
23 ~~California or an electrical cooperative serving 25,000 or fewer~~  
24 ~~customer accounts in California that serves retail end-use customers~~  
25 ~~outside of California, may use an integrated resource plan prepared~~  
26 ~~in compliance with the requirements of another state utility~~  
27 ~~regulatory commission, to fulfill the requirement to prepare a~~  
28 ~~renewable energy procurement plan pursuant to this article,~~  
29 ~~provided the plan meets the requirements of Sections 399.11,~~  
30 ~~399.12, 399.13, and 399.14, as modified by this section.~~

31 (e) ~~Procurement and administrative costs associated with~~  
32 ~~long-term contracts entered into by an electrical corporation with~~  
33 ~~60,000 or fewer customer accounts in California that serves retail~~  
34 ~~end-use customers outside California or an electrical cooperative~~  
35 ~~serving 25,000 or fewer customer accounts in California that serves~~  
36 ~~retail end-use customers outside of California, for eligible~~  
37 ~~renewable energy resources pursuant to this article, at or below~~  
38 ~~the market price determined by the commission pursuant to~~  
39 ~~subdivision (e) of Section 399.15, shall be deemed reasonable per~~  
40 ~~se, and shall be recoverable in rates of the electrical corporation's~~

1 ~~or electrical cooperative's California customers, provided the costs~~  
2 ~~are not recoverable in rates in other states served by the electrical~~  
3 ~~corporation or cooperative.~~

4 ~~SEC. 14.~~

5 *SEC. 13.* Section 399.19 is added to the Public Utilities Code,  
6 to read:

7 399.19. (a) The commission, in consultation with the Energy  
8 Commission and the Independent System Operator, shall report  
9 to the Governor and the Legislature by January 1, 2012, and by  
10 January 1 of each even year thereafter, on the state's progress  
11 toward achieving a statewide 33 percent renewables portfolio  
12 standard. The report shall include all of the following:

13 (1) The current status and progress made during the prior two  
14 years toward procurement of eligible renewable energy resources  
15 located in the state *as a percentage of retail sales*, including the  
16 status of siting and permitting eligible renewable resources by  
17 federal, state, and local agencies, procurement of eligible renewable  
18 energy resources located outside the state and within the WECC,  
19 and procurement of unbundled renewable energy credits.

20 (2) The current status and progress made during the prior two  
21 years toward construction of, and upgrades to, transmission and  
22 distribution facilities and other electrical system components to  
23 interconnect eligible renewable energy resources and to deliver  
24 the electricity generated by those resources to load, including the  
25 status of planning, siting, and permitting transmission facilities by  
26 federal, state, and local agencies.

27 (3) The current status and progress made during the prior two  
28 years in integrating intermittent eligible renewable energy resources  
29 into the total electricity supply mix, including frequency control,  
30 balancing load and generation, ramping, utilization of smart grid  
31 and storage technologies, and the status of siting and permitting  
32 load following resources by federal, state, and local agencies.

33 (4) The total costs of achieving progress toward a statewide 33  
34 percent renewables portfolio standard, including indirect costs,  
35 including, but not limited to, integrating and delivering eligible  
36 renewable resources, and the cost per ton of reductions in  
37 greenhouse gas emissions and the amount and rate of reductions  
38 achieved.

39 (5) Recommendations to remove impediments to making  
40 progress toward achieving a statewide 33 percent renewables

1 portfolio standard, including adjustments to total cost limitations;  
2 recommendations to achieve greater cost-effective reductions in  
3 emissions of greenhouse gases through energy efficiency and  
4 demand response, including use of efficient combined heat and  
5 power systems, or other strategies.

6 (b) The commission, consistent with the report prepared pursuant  
7 to subdivision (a), shall revise the procurement targets established  
8 for electrical corporations pursuant to Section 399.15, to reflect  
9 the cost and implementation determinations identified in the  
10 long-term procurement plan proceeding, as needed, to ensure that  
11 California consumers and businesses continue to receive reliable,  
12 reasonably priced electrical service.

13 (c) *The commission may include the information required by*  
14 *this section with the report prepared pursuant to Section 747.*

15 ~~SEC. 15.~~

16 *SEC. 14.* No reimbursement is required by this act pursuant to  
17 Section 6 of Article XIII B of the California Constitution because  
18 certain costs that may be incurred by a local agency or school  
19 district will be incurred because this act creates a new crime or  
20 infraction, eliminates a crime or infraction, or changes the penalty  
21 for a crime or infraction, within the meaning of Section 17556 of  
22 the Government Code, or changes the definition of a crime within  
23 the meaning of Section 6 of Article XIII B of the California  
24 Constitution.

25 With respect to certain other costs, no reimbursement is required  
26 by this act pursuant to Section 6 of Article XIII B of the California  
27 Constitution because a local agency or school district has the  
28 authority to levy service charges, fees, or assessments sufficient  
29 to pay for the program or level of service mandated by this act,  
30 within the meaning of Section 17556 of the Government Code.