

AMENDED IN SENATE JUNE 30, 2010
AMENDED IN SENATE JUNE 21, 2010
AMENDED IN SENATE MAY 25, 2010
AMENDED IN SENATE MARCH 22, 2010

SENATE BILL

No. 1247

**Introduced by Senator Dutton
(Coauthors: Senators Aanestad and Cox)**

February 19, 2010

An act to amend Section 399.12.5 of the Public Utilities Code, relating to energy, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1247, as amended, Dutton. Renewable energy resources: hydroelectric generation facilities.

The existing California Renewables Portfolio Standard Program (RPS program) requires the Public Utilities Commission to implement annual procurement targets for the procurement of eligible renewable energy resources for all retail sellers, as defined, to achieve the targets and goals of the program. Pursuant to the RPS program, the incremental increase in the amount of electricity generated from a hydroelectric generation facility as a result of efficiency improvements at the facility is electricity from an eligible renewable energy resource if certain requirements are met. One of these requirements is that the hydroelectric generation facility has been certified within the immediately preceding 15 years by the State Water Resources Control Board pursuant to the federal Clean Water Act or by a California regional water quality control board to which the state board has delegated authority.

This bill would adopt an alternative to that requirement for the Rock Creek Powerhouse hydroelectric generation facility.

The bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: no.

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

1 SECTION 1. Section 399.12.5 of the Public Utilities Code is
 2 amended to read:

3 399.12.5. (a) Notwithstanding subdivision (c) of Section
 4 399.12, a small hydroelectric generation facility that satisfies the
 5 criteria for an eligible renewable energy resource pursuant to
 6 Section 399.12 shall not lose its eligibility if efficiency
 7 improvements undertaken after January 1, 2008, cause the
 8 generating capacity of the facility to exceed 30 megawatts, and
 9 the efficiency improvements do not result in an adverse impact on
 10 instream beneficial uses or cause a change in the volume or timing
 11 of streamflow. The entire generating capacity of the facility shall
 12 be eligible.

13 (b) Notwithstanding subdivision (c) of Section 399.12, the
 14 incremental increase in the amount of electricity generated from
 15 a hydroelectric generation facility as a result of efficiency
 16 improvements at the facility, is electricity from an eligible
 17 renewable energy resource, without regard to the electrical output
 18 of the facility, if all of the following conditions are met:

19 (1) The incremental increase is the result of efficiency
 20 improvements from a retrofit that do not result in an adverse impact
 21 on instream beneficial uses or cause a change in the volume or
 22 timing of streamflow.

23 (2) ~~(A)~~ *The hydroelectric generation facility meets one of the*
 24 *following certification mechanisms:*

25 (A) The hydroelectric generation facility has, within the
 26 immediately preceding 15 years, received certification from the
 27 State Water Resources Control Board pursuant to Section 401 of
 28 the federal Clean Water Act (33 U.S.C. Sec. 1341), or has received
 29 certification from a regional board to which the state board has
 30 delegated authority to issue certification, unless the facility is not

1 subject to certification because there is no potential for discharge
2 into waters of the United States.

3 (B) If the hydroelectric facility is not located in California, the
4 certification pursuant to Section 401 of the federal Clean Water
5 Act (33 U.S.C. Sec. 1341) may be received from the applicable
6 state board or agency or from a regional board to which the state
7 board has delegated authority to issue the certification.

8 (C) If the hydroelectric generation facility is the Rock Creek
9 Powerhouse, Federal Energy Regulatory Commission Project
10 Number 1962, the efficiency improvements have received any
11 necessary incremental certification from the State Water Resources
12 Control Board.

13 (3) The hydroelectric generation facility is owned by a retail
14 seller or a local publicly owned electric utility, was operational
15 prior to January 1, 2007, the efficiency improvements are initiated
16 on or after January 1, 2008, the efficiency improvements are not
17 the result of routine maintenance activities, as determined by the
18 Energy Commission, and the efficiency improvements were not
19 included in any resource plan sponsored by the facility owner prior
20 to January 1, 2008.

21 (4) All of the incremental increase in electricity resulting from
22 the efficiency improvements are demonstrated to result from a
23 long-term financial commitment by the retail seller or local publicly
24 owned electric utility. For purposes of this paragraph, “long-term
25 financial commitment” means either new ownership investment
26 in the facility by the retail seller or local publicly owned electric
27 utility or a new or renewed contract with a term of 10 or more
28 years, which includes procurement of the incremental generation.

29 (c) The incremental increase in the amount of electricity
30 generated from a hydroelectric generation facility as a result of
31 efficiency improvements at the facility are not eligible for
32 supplemental energy payments pursuant to the Renewable Energy
33 Resources Program (Chapter 8.6 (commencing with Section 25740)
34 of Division 15 of the Public Resources Code), or a successor
35 program.

36 SEC. 2. This act is an urgency statute necessary for the
37 immediate preservation of the public peace, health, or safety within
38 the meaning of Article IV of the Constitution and shall go into
39 immediate effect. The facts constituting the necessity are:

- 1 In order to address, as soon as possible, rising electricity rates
- 2 that will slow the economic recovery of this state, it is necessary
- 3 that this act take effect immediately.

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