

AMENDED IN ASSEMBLY MARCH 25, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 347**

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**Introduced by Assembly Member Galgiani**

February 10, 2011

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~~An act to amend Section 399.20 of the Public Utilities Code, relating to energy.~~ *An act to amend Section 38562 of the Health and Safety Code, relating to air pollution.*

LEGISLATIVE COUNSEL'S DIGEST

AB 347, as amended, Galgiani. ~~Renewable energy resources.~~ *California Global Warming Solutions Act of 2006: early actions.*

*The California Global Warming Solutions Act of 2006 designates the State Air Resources Board as the state agency charged with monitoring and regulating sources of emissions of greenhouse gases. The state board is required to adopt a statewide greenhouse gas emissions limit equivalent to the statewide greenhouse gas emissions level in 1990 to be achieved by 2020, and to adopt by January 1, 2011, greenhouse gas emission limits and emission reduction measures to achieve the maximum technologically feasible and cost-effective greenhouse gas emission reductions.*

*Existing law requires the state board to ensure that entities that have voluntarily reduced their greenhouse gas emissions prior to the implementation of the regulations receive appropriate credit for early voluntary reductions.*

*This bill would require the state board to ensure that the cement manufacturing, glass manufacturing, soda ash manufacturing, and steel production sectors receive appropriate credit for taking early action*

*through energy efficiency or energy reduction improvements. The bill would also make specified legislative findings.*

~~Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations, as defined. Existing law requires every electrical corporation to file a standard tariff with the commission for electricity generated by an electric generation facility, as defined, that qualifies for the tariff, is owned and operated by a retail customer of the electrical corporation, and is located within the service territory of, and developed to sell electricity to, the electrical corporation. Existing law requires that, in order to qualify for the tariff, the electric generation facility: (1) have an effective capacity of not more than 3 megawatts, subject to the authority of the commission to reduce this megawatt limitation, (2) be interconnected and operate in parallel with the electric transmission and distribution grid, (3) be strategically located and interconnected to the electric transmission system in a manner that optimizes the deliverability of electricity generated at the facility to load centers, and (4) meet the definition of an eligible renewable energy resource under the California Renewables Portfolio Standard Program. Existing law requires that the owner of an electric generation facility provide an inspection and maintenance report to the electrical corporation at least once every year that is prepared by a California licensed contractor who is not the owner or operator of the facility.~~

~~This bill would make technical, nonsubstantive changes to this requirement.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: no.

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

1     SECTION 1. *The Legislature finds and declares that it is in*  
2 *the state's interest to prepare for the aggregate and construction*  
3 *material needs associated with the construction of high-speed rail.*  
4 *It is in the state's interest to ensure these materials are*  
5 *manufactured in California, in order to create additional jobs and*  
6 *prevent "leakage" of greenhouse gas emissions that might occur*  
7 *if these materials were imported from outside of California.*  
8 *Therefore, it is in the state's interest to encourage growth in the*  
9 *cement manufacturing, glass manufacturing, soda ash*  
10 *manufacturing, and steel production sectors, while providing*

1 *incentives for these industries to reach compliance with the*  
2 *California Global Warming Solutions Act of 2006.*

3 *SEC. 2. Section 38562 of the Health and Safety Code is*  
4 *amended to read:*

5 38562. (a) On or before January 1, 2011, the state board shall  
6 adopt greenhouse gas emission limits and emission reduction  
7 measures by regulation to achieve the maximum technologically  
8 feasible and cost-effective reductions in greenhouse gas emissions  
9 in furtherance of achieving the statewide greenhouse gas emissions  
10 limit, to become operative beginning on January 1, 2012.

11 (b) In adopting regulations pursuant to this section and Part 5  
12 (commencing with Section 38570), to the extent feasible and in  
13 furtherance of achieving the statewide greenhouse gas emissions  
14 limit, the state board shall do all of the following:

15 (1) Design the regulations, including distribution of emissions  
16 allowances where appropriate, in a manner that is equitable, seeks  
17 to minimize costs and maximize the total benefits to California,  
18 and encourages early action to reduce greenhouse gas emissions.

19 (2) Ensure that activities undertaken to comply with the  
20 regulations do not disproportionately impact low-income  
21 communities.

22 (3) Ensure that entities that have voluntarily reduced their  
23 greenhouse gas emissions prior to the implementation of this  
24 section receive appropriate credit for early voluntary reductions.  
25 *In implementing this paragraph, the state board shall ensure that*  
26 *the cement manufacturing, glass manufacturing, soda ash*  
27 *manufacturing, and steel production sectors receive appropriate*  
28 *credit for taking early action through energy efficiency or energy*  
29 *reduction improvements.*

30 (4) Ensure that activities undertaken pursuant to the regulations  
31 complement, and do not interfere with, efforts to achieve and  
32 maintain federal and state ambient air quality standards and to  
33 reduce toxic air contaminant emissions.

34 (5) Consider cost-effectiveness of these regulations.

35 (6) Consider overall societal benefits, including reductions in  
36 other air pollutants, diversification of energy sources, and other  
37 benefits to the economy, environment, and public health.

38 (7) Minimize the administrative burden of implementing and  
39 complying with these regulations.

40 (8) Minimize leakage.

1 (9) Consider the significance of the contribution of each source  
2 or category of sources to statewide emissions of greenhouse gases.

3 (c) In furtherance of achieving the statewide greenhouse gas  
4 emissions limit, by January 1, 2011, the state board may adopt a  
5 regulation that establishes a system of market-based declining  
6 annual aggregate emission limits for sources or categories of  
7 sources that emit greenhouse gas emissions, applicable from  
8 January 1, 2012, to December 31, 2020, inclusive, that the state  
9 board determines will achieve the maximum technologically  
10 feasible and cost-effective reductions in greenhouse gas emissions,  
11 in the aggregate, from those sources or categories of sources.

12 (d) Any regulation adopted by the state board pursuant to this  
13 part or Part 5 (commencing with Section 38570) shall ensure all  
14 of the following:

15 (1) The greenhouse gas emission reductions achieved are real,  
16 permanent, quantifiable, verifiable, and enforceable by the state  
17 board.

18 (2) For regulations pursuant to Part 5 (commencing with Section  
19 38570), the reduction is in addition to any greenhouse gas emission  
20 reduction otherwise required by law or regulation, and any other  
21 greenhouse gas emission reduction that otherwise would occur.

22 (3) If applicable, the greenhouse gas emission reduction occurs  
23 over the same time period and is equivalent in amount to any direct  
24 emission reduction required pursuant to this division.

25 (e) The state board shall rely upon the best available economic  
26 and scientific information and its assessment of existing and  
27 projected technological capabilities when adopting the regulations  
28 required by this section.

29 (f) The state board shall consult with the Public Utilities  
30 Commission in the development of the regulations as they affect  
31 electricity and natural gas providers in order to minimize  
32 duplicative or inconsistent regulatory requirements.

33 (g) After January 1, 2011, the state board may revise regulations  
34 adopted pursuant to this section and adopt additional regulations  
35 to further the provisions of this division.

36 ~~SECTION 1. Section 399.20 of the Public Utilities Code is~~  
37 ~~amended to read:~~

38 ~~399.20. (a) It is the policy of this state and the intent of the~~  
39 ~~Legislature to encourage electrical generation from eligible~~  
40 ~~renewable energy resources.~~

1     ~~(b) As used in this section, “electric generation facility” means~~  
2 ~~an electric generation facility located within the service territory~~  
3 ~~of, and developed to sell electricity to, an electrical corporation~~  
4 ~~that meets all of the following criteria:~~

5     ~~(1) Has an effective capacity of not more than three megawatts.~~

6     ~~(2) Is interconnected and operates in parallel with the electrical~~  
7 ~~transmission and distribution grid.~~

8     ~~(3) Is strategically located and interconnected to the electrical~~  
9 ~~transmission and distribution grid in a manner that optimizes the~~  
10 ~~deliverability of electricity generated at the facility to load centers.~~

11     ~~(4) Is an eligible renewable energy resource.~~

12     ~~(e) Every electrical corporation shall file with the commission~~  
13 ~~a standard tariff for electricity purchased from an electric~~  
14 ~~generation facility. The commission may modify or adjust the~~  
15 ~~requirements of this section for any electrical corporation with less~~  
16 ~~than 100,000 service connections, as individual circumstances~~  
17 ~~merit.~~

18     ~~(d) (1) The tariff shall provide for payment for every~~  
19 ~~kilowatthour of electricity purchased from an electric generation~~  
20 ~~facility for a period of 10, 15, or 20 years, as authorized by the~~  
21 ~~commission. The payment shall be the market price determined~~  
22 ~~by the commission pursuant to Section 399.15 and shall include~~  
23 ~~all current and anticipated environmental compliance costs,~~  
24 ~~including, but not limited to, mitigation of emissions of greenhouse~~  
25 ~~gases and air pollution offsets associated with the operation of new~~  
26 ~~generating facilities in the local air pollution control or air quality~~  
27 ~~management district where the electric generation facility is~~  
28 ~~located.~~

29     ~~(2) The commission may adjust the payment rate to reflect the~~  
30 ~~value of every kilowatthour of electricity generated on a~~  
31 ~~time-of-delivery basis.~~

32     ~~(3) The commission shall ensure, with respect to rates and~~  
33 ~~charges, that ratepayers that do not receive service pursuant to the~~  
34 ~~tariff are indifferent to whether a ratepayer with an electric~~  
35 ~~generation facility receives service pursuant to the tariff.~~

36     ~~(e) An electrical corporation shall provide expedited~~  
37 ~~interconnection procedures to an electric generation facility located~~  
38 ~~on a distribution circuit that generates electricity at a time and in~~  
39 ~~a manner so as to offset the peak demand on the distribution circuit,~~  
40 ~~if the electrical corporation determines that the electric generation~~

1 facility will not adversely affect the distribution grid. The  
2 commission shall consider and may establish a value for an electric  
3 generation facility located on a distribution circuit that generates  
4 electricity at a time and in a manner so as to offset the peak demand  
5 on the distribution circuit.

6 ~~(f) An electrical corporation shall make the tariff available to~~  
7 ~~the owner or operator of an electric generation facility within the~~  
8 ~~service territory of the electrical corporation, upon request, on a~~  
9 ~~first-come-first-served basis, until the electrical corporation meets~~  
10 ~~its proportionate share of a statewide cap of 750 megawatts~~  
11 ~~cumulative rated generation capacity served under this section and~~  
12 ~~Section 387.6. The proportionate share shall be calculated based~~  
13 ~~on the ratio of the electrical corporation's peak demand compared~~  
14 ~~to the total statewide peak demand.~~

15 ~~(g) The electrical corporation may make the terms of the tariff~~  
16 ~~available to owners and operators of an electric generation facility~~  
17 ~~in the form of a standard contract subject to commission approval.~~

18 ~~(h) Every kilowatthour of electricity purchased from an electric~~  
19 ~~generation facility shall count toward meeting the electrical~~  
20 ~~corporation's renewables portfolio standard annual procurement~~  
21 ~~targets for purposes of paragraph (1) of subdivision (b) of Section~~  
22 ~~399.15.~~

23 ~~(i) The physical generating capacity of an electric generation~~  
24 ~~facility shall count toward the electrical corporation's resource~~  
25 ~~adequacy requirement for purposes of Section 380.~~

26 ~~(j) (1) The commission shall establish performance standards~~  
27 ~~for any electric generation facility that has a capacity greater than~~  
28 ~~one megawatt to ensure that those facilities are constructed,~~  
29 ~~operated, and maintained to generate the expected annual net~~  
30 ~~production of electricity and do not impact system reliability.~~

31 ~~(2) The commission may reduce the three megawatt capacity~~  
32 ~~limitation of paragraph (1) of subdivision (b) if the commission~~  
33 ~~finds that a reduced capacity limitation is necessary to maintain~~  
34 ~~system reliability within that electrical corporation's service~~  
35 ~~territory.~~

36 ~~(k) (1) Any owner or operator of an electric generation facility~~  
37 ~~that received ratepayer-funded incentives in accordance with~~  
38 ~~Section 379.6 of this code, or with Section 25782 of the Public~~  
39 ~~Resources Code, and participated in a net metering program~~  
40 ~~pursuant to Sections 2827, 2827.9, and 2827.10 of this code prior~~

1 to January 1, 2010, shall be eligible for a tariff or standard contract  
2 filed by an electrical corporation pursuant to this section.

3 ~~(2) In establishing the tariffs or standard contracts pursuant to~~  
4 ~~this section, the commission shall consider ratepayer-funded~~  
5 ~~incentive payments previously received by the generation facility~~  
6 ~~pursuant to Section 379.6 of this code or Section 25782 of the~~  
7 ~~Public Resources Code. The commission shall require~~  
8 ~~reimbursement of any funds received from these incentive~~  
9 ~~programs to an electric generation facility, in order for that facility~~  
10 ~~to be eligible for a tariff or standard contract filed by an electrical~~  
11 ~~corporation pursuant to this section, unless the commission~~  
12 ~~determines ratepayers have received sufficient value from the~~  
13 ~~incentives provided to the facility based on how long the project~~  
14 ~~has been in operation and the amount of renewable electricity~~  
15 ~~previously generated by the facility.~~

16 ~~(3) A customer that receives service under a tariff or contract~~  
17 ~~approved by the commission pursuant to this section is not eligible~~  
18 ~~to participate in any net metering program.~~

19 ~~(l) An owner or operator of an electric generation facility~~  
20 ~~electing to receive service under a tariff or contract approved by~~  
21 ~~the commission shall continue to receive service under the tariff~~  
22 ~~or contract until either of the following occurs:~~

23 ~~(1) The owner or operator of an electric generation facility no~~  
24 ~~longer meets the eligibility requirements for receiving service~~  
25 ~~pursuant to the tariff or contract.~~

26 ~~(2) The period of service established by the commission pursuant~~  
27 ~~to subdivision (d) is completed.~~

28 ~~(m) Within 10 days of receipt of a request for a tariff pursuant~~  
29 ~~to this section from an owner or operator of an electric generation~~  
30 ~~facility, the electrical corporation that receives the request shall~~  
31 ~~post a copy of the request on its Internet Web site. The information~~  
32 ~~posted on the Internet Web site shall include the name of the city~~  
33 ~~in which the facility is located, but information that is proprietary~~  
34 ~~and confidential, including, but not limited to, address information~~  
35 ~~beyond the name of the city in which the facility is located, shall~~  
36 ~~be redacted.~~

37 ~~(n) An electrical corporation may deny a tariff request pursuant~~  
38 ~~to this section if the electrical corporation makes any of the~~  
39 ~~following findings:~~

- 1     ~~(1) The electric generation facility does not meet the~~  
2     ~~requirements of this section.~~
- 3     ~~(2) The transmission or distribution grid that would serve as the~~  
4     ~~point of interconnection is inadequate.~~
- 5     ~~(3) The electric generation facility does not meet all applicable~~  
6     ~~state and local laws and building standards, and utility~~  
7     ~~interconnection requirements.~~
- 8     ~~(4) The aggregate of all electric generating facilities on a~~  
9     ~~distribution circuit would adversely impact utility operation and~~  
10    ~~load restoration efforts of the distribution system.~~
- 11    ~~(o) Upon receiving a notice of denial from an electrical~~  
12    ~~corporation, the owner or operator of the electric generation facility~~  
13    ~~denied a tariff pursuant to this section shall have the right to appeal~~  
14    ~~that decision to the commission.~~
- 15    ~~(p) In order to ensure the safety and reliability of electric~~  
16    ~~generation facilities, the owner of an electric generation facility~~  
17    ~~receiving a tariff pursuant to this section shall provide an inspection~~  
18    ~~and maintenance report to the electrical corporation at least once~~  
19    ~~every other year. The inspection and maintenance report shall be~~  
20    ~~prepared at the owner's or operator's expense by a California~~  
21    ~~licensed contractor who is not the owner or operator of the electric~~  
22    ~~generation facility. A California licensed electrician shall perform~~  
23    ~~the inspection of the electrical portion of the generation facility.~~
- 24    ~~(q) The contract between the electric generation facility~~  
25    ~~receiving the tariff and the electrical corporation shall contain~~  
26    ~~provisions that ensure that construction of the electric generating~~  
27    ~~facility complies with all applicable state and local laws and~~  
28    ~~building standards, and utility interconnection requirements.~~
- 29    ~~(r) (1) All construction and installation of facilities of the~~  
30    ~~electrical corporation, including at the point of the output meter~~  
31    ~~or at the transmission or distribution grid, shall be performed only~~  
32    ~~by that electrical corporation.~~
- 33    ~~(2) All interconnection facilities installed on the electrical~~  
34    ~~corporation's side of the transfer point for electricity between the~~  
35    ~~electrical corporation and the electrical conductors of the electric~~  
36    ~~generation facility shall be owned, operated, and maintained only~~  
37    ~~by the electrical corporation. The ownership, installation, operation,~~  
38    ~~reading, and testing of revenue metering equipment for electric~~

- 1 ~~generating facilities shall only be performed by the electrical~~
- 2 ~~corporation.~~

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