

**ASSEMBLY BILL**

**No. 721**

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**Introduced by Assembly Member Bradford**

February 17, 2011

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An act to amend Section 399.12 of the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 721, as introduced, Bradford. Renewable energy resources: solar energy systems.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations, as defined. The Public Utilities Act imposes various duties and responsibilities on the 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. The renewables portfolio standard program requires that a retail seller of electricity 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. Existing law defines "renewable energy credit" to mean a certificate of proof associated with the generation of electricity from an eligible renewable energy resource, issued through a specified accounting system, that one unit of electricity was generated and delivered by an eligible renewable energy resource.

This bill would expand the definition of an eligible renewable energy resource to include a facility that generates, or a renewable energy credit

associated with the generation of, electricity from an eligible solar energy system that receives monetary incentives pursuant to specified law.

Vote: majority. 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 of the Public Utilities Code is  
2 amended to read:

3 399.12. For purposes of this article, the following terms have  
4 the following meanings:

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

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

13 (c) “Eligible renewable energy resource” means ~~an~~ *either of the*  
14 *following:*

15 (1) *An electrical generating facility that meets the definition of*  
16 *an “in-state renewable electricity generation facility” in Section*  
17 *25741 of the Public Resources Code, subject to the following*  
18 *limitations:*

19 ~~(1) (A)~~

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

27 ~~(B)~~

28 (ii) Notwithstanding ~~subparagraph (A)~~ *clause (i)*, a conduit  
29 hydroelectric facility of 30 megawatts or less that commenced  
30 operation before January 1, 2006, is an eligible renewable energy  
31 resource. A conduit hydroelectric facility of 30 megawatts or less  
32 that commences operation after December 31, 2005, is an eligible

1 renewable energy resource so long as it does not cause an adverse  
2 impact on instream beneficial uses or cause a change in the volume  
3 or timing of streamflow.

4 (2)

5 (B) A facility engaged in the combustion of municipal solid  
6 waste shall not be considered an eligible renewable energy resource  
7 unless it is located in Stanislaus County and was operational prior  
8 to September 26, 1996.

9 (2) *A facility that generates, or a renewable energy credit*  
10 *associated with the generation of, electricity from an eligible solar*  
11 *energy system that receives monetary incentives pursuant to Article*  
12 *1 (commencing with Section 2851) of Chapter 9 of Part 2.*

13 (d) “Procure” means to acquire through ownership or contract.  
14 For purposes of meeting the renewables portfolio standard  
15 procurement requirements, a retail seller or local publicly owned  
16 electric utility may procure either delivered electricity generated  
17 by an eligible renewable energy resource that it owns or for which  
18 it has entered into an electricity purchase agreement. Nothing in  
19 this article is intended to imply that the purchase of electricity from  
20 third parties in a wholesale transaction is the preferred method of  
21 fulfilling a retail seller’s obligation to comply with this article or  
22 the obligation of a local publicly owned electric utility to meet its  
23 renewables portfolio standard implemented pursuant to Section  
24 387.

25 (e) (1) “Renewable energy credit” means a certificate of proof  
26 associated with the generation of electricity from an eligible  
27 renewable energy resource, issued through the accounting system  
28 established by the Energy Commission pursuant to Section 399.13,  
29 that one unit of electricity was generated and delivered by an  
30 eligible renewable energy resource.

31 (2) “Renewable energy credit” includes all renewable and  
32 environmental attributes associated with the production of  
33 electricity from the eligible renewable energy resource, except for  
34 an emissions reduction credit issued pursuant to Section 40709 of  
35 the Health and Safety Code and any credits or payments associated  
36 with the reduction of solid waste and treatment benefits created  
37 by the utilization of biomass or biogas fuels.

38 (3) ~~No electricity~~ *Electricity* generated by an eligible renewable  
39 energy resource attributable to the use of nonrenewable fuels,  
40 beyond a de minimis quantity used to generate electricity in the

1 same process through which the facility converts renewable fuel  
2 to electricity, shall *not* result in the creation of a renewable energy  
3 credit. The Energy Commission shall set the de minimis quantity  
4 of nonrenewable fuels for each renewable energy technology at a  
5 level of no more than 2 percent of the total quantity of fuel used  
6 by the technology to generate electricity. The Energy Commission  
7 may adjust the de minimis quantity for an individual facility, up  
8 to a maximum of 5 percent, if it finds that all of the following  
9 conditions are met:

10 (A) The facility demonstrates that the higher quantity of  
11 nonrenewable fuel will lead to an increase in generation from the  
12 eligible renewable energy facility that is significantly greater than  
13 generation from the nonrenewable fuel alone.

14 (B) The facility demonstrates that the higher quantity of  
15 nonrenewable fuels will reduce the variability of its electrical  
16 output in a manner that results in net environmental benefits to the  
17 state.

18 (C) The higher quantity of nonrenewable fuel is limited to either  
19 natural gas or hydrogen derived by reformation of a fossil fuel.

20 (f) “Renewables portfolio standard” means the specified  
21 percentage of electricity generated by eligible renewable energy  
22 resources that a retail seller is required to procure pursuant to this  
23 article or the obligation of a local publicly owned electric utility  
24 to meet its renewables portfolio standard implemented pursuant  
25 to Section 387.

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

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

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

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

1 applicable to an electrical corporation pursuant to this article.  
2 Nothing in this paragraph shall impair a contract entered into  
3 between an electric service provider and a retail customer prior to  
4 the suspension of direct access by the commission pursuant to  
5 Section 80110 of the Water Code.

6 (4) “Retail seller” does not include any of the following:

7 (A) A corporation or person employing cogeneration technology  
8 or producing electricity consistent with subdivision (b) of Section  
9 218.

10 (B) The Department of Water Resources acting in its capacity  
11 pursuant to Division 27 (commencing with Section 80000) of the  
12 Water Code.

13 (C) A local publicly owned electric utility.

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