

AMENDED IN ASSEMBLY APRIL 25, 2011

AMENDED IN ASSEMBLY MARCH 29, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1150

Introduced by Assembly Member V. Manuel Pérez

February 18, 2011

An act to amend Section 379.6 of the Public Utilities Code, relating to electricity.

LEGISLATIVE COUNSEL'S DIGEST

AB 1150, as amended, V. Manuel Pérez. Self-generation incentive program.

Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations, as defined. Existing law requires the PUC, in consultation with the State Energy Resources Conservation and Development Commission (Energy Commission), to administer, until January 1, 2016, a self-generation incentive program (SGIP) for distributed generation resources and to separately administer solar technologies pursuant to the California Solar Initiative. The PUC may authorize electrical corporations to annually collect not more than the amount authorized for the SGIP in the 2008 calendar year through December 31, 2011.

This bill would ~~extend~~ *expand* the authority of the PUC to authorize electrical corporations to continue making the annual collections ~~through December 31, 2016, as provided,~~ and would ~~authorize~~ *require* the PUC; ~~in consultation with the Energy Commission,~~ to continue to administer the program until January 1, 2018.

Existing law limits eligibility for incentives to distributed energy resources that the PUC, in consultation with the State Air Resources Board (state board), determines will achieve reductions in emissions of greenhouse gases pursuant to the California Global Warming Solutions Act of 2006.

~~This bill would require that not less than 50% of the available incentives be awarded to “Category A” projects, as defined, and require that not more than 50% of the available incentive be awarded to “Category B” projects, as defined. The bill would require the commission to restrict biogas and landfill gas project eligibility to those projects in which the gas is captured, treated, and converted to electricity onsite, as defined. The bill would, absent an order of the commission, prohibit an electrical corporation or ~~third-party~~ *3rd-party* administrator from accepting an application or reservation for incentive funding submitted by any single distributed energy technology provider, ~~any distributed energy resource owner, or affiliates of an owner~~ *the technology provider*, for an amount in excess of \$25,000,000 ~~in any calendar year~~ *25% of the amount collected from ratepayers in any calendar year pursuant to the SGIP*. The bill would, absent an order of the commission, prohibit an electrical corporation or ~~third-party~~ *3rd-party* administrator from making incentive payments on account of any distributed energy resource in an amount greater than \$2.50 per watt.~~

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 the program that is extended under the provisions of this bill are within the act and a decision or order of the commission implements the program requirements, a violation of these provisions would impose a state-mandated local program by expanding the definition of a crime.

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 379.6 of the Public Utilities Code is
2 amended to read:

3 379.6. (a) (1) It is the intent of the Legislature that the
4 self-generation incentive program should increase deployment of
5 ~~distributed-renewable-generation and~~ *generation and distributed*
6 storage systems to facilitate integration of those resources into the
7 electrical grid, ~~improve efficiency and reliability of the distribution~~
8 ~~and transmission system, and reduce emissions of greenhouse~~
9 ~~gases, peak demand, and ratepayer costs.~~ *and reduce ratepayer*
10 *costs.*

11 (2) The commission, in consultation with the Energy
12 Commission, may authorize the annual collection of not more than
13 the greater of (A) the amount authorized for the self-generation
14 incentive program in the 2008 calendar year, through December
15 31, 2016, or (B) eighty-three million dollars (\$83,000,000) in each
16 calendar year, which the commission may increase on an annual
17 basis in an appropriate amount consistent with, but not limited to,
18 the annual rate of inflation. The commission shall require the
19 administration of the program for distributed energy resources
20 originally established pursuant to Chapter 329 of the Statutes of
21 2000 until January 1, 2018. On January 1, 2018, the commission
22 shall provide repayment of all unallocated funds collected pursuant
23 to this section to reduce ratepayer costs.

24 (3) The commission shall administer solar technologies
25 separately, pursuant to the California Solar Initiative adopted by
26 the commission in Decisions 05-12-044 and 06-01-024, as modified
27 by Article 1 (commencing with Section 2851) of Chapter 9 of Part
28 2 of this code, and Chapter 8.8 (commencing with Section 25780)
29 of Division 15 of the Public Resources Code.

30 (b) Eligibility for incentives under the program shall be limited
31 to distributed energy resources that the commission, in consultation
32 with the State Air Resources Board, determines will achieve ~~overall~~
33 ~~system~~ reductions in emissions of greenhouse gases pursuant to
34 the California Global Warming Solutions Act of 2006 (Division
35 25.5 (commencing with Section 38500) of the Health and Safety
36 Code). ~~The moneys collected and made available for incentives~~
37 ~~pursuant to the program shall be allocated as follows:~~ *Code).*

1 (1) ~~Not less than 50 percent of the moneys made available for~~
2 ~~incentives shall be awarded to “Category A” projects. A “Category~~
3 ~~A” project is either (A) onsite distributed energy storage systems,~~
4 ~~or (B) onsite distributed generation projects that meet the~~
5 ~~requirements to be an eligible renewable energy resource pursuant~~
6 ~~to Article 16 (commencing with Section 399.11), that generate~~
7 ~~zero emissions onsite when generating electricity, including wind~~
8 ~~energy systems.~~

9 (2) ~~(A) Not more than 50 percent of the moneys made available~~
10 ~~for incentives may be awarded to “Category B” projects. A~~
11 ~~“Category B” project includes all distributed generation~~
12 ~~technologies that the commission determines are eligible for~~
13 ~~funding pursuant to the self-generation incentive program,~~
14 ~~including a standalone distributed energy storage system not~~
15 ~~included at a “Category A” project.~~

16 (B) ~~To the extent “Category B” funds are made available for~~
17 ~~incentives for fuel cell projects, the commission shall restrict biogas~~
18 ~~and landfill gas project eligibility to those projects in which the~~
19 ~~gas is captured, treated, and converted to electricity onsite. For~~
20 ~~purposes of this subparagraph, “onsite” means those projects where~~
21 ~~biogas collection, treatment, and conversion to electricity occur~~
22 ~~on the same or contiguous land parcels.~~

23 (3) ~~Moneys from “Category A” and “Category B” projects shall~~
24 ~~not be transferred from one category to the other.~~

25 (c) Eligibility for the funding of any combustion-operated
26 distributed generation projects using fossil fuel is subject to all of
27 the following conditions:

28 (1) An oxides of nitrogen (NO_x) emissions rate standard of 0.07
29 pounds per megawatthour and a minimum efficiency of 60 percent,
30 or any other NO_x emissions rate and minimum efficiency standard
31 adopted by the State Air Resources Board. A minimum efficiency
32 of 60 percent shall be measured as useful energy output divided
33 by fuel input. The efficiency determination shall be based on 100
34 percent load.

35 (2) Combined heat and power units that meet the 60-percent
36 efficiency standard may take a credit to meet the applicable NO_x
37 emissions standard of 0.07 pounds per megawatthour. Credit shall
38 be at the rate of one megawatthour for each 3.4 million British
39 thermal units (Btus) of heat recovered.

1 (3) The customer receiving incentives shall adequately maintain
2 and service the combined heat and power units so that during
3 operation, the system continues to meet or exceed the efficiency
4 and emissions standards established pursuant to paragraphs (1)
5 and (2).

6 (4) Notwithstanding paragraph (1), a project that does not meet
7 the applicable NO_x emissions standard is eligible if it meets both
8 of the following requirements:

9 (A) The project operates solely on waste gas. The commission
10 shall require a customer that applies for an incentive pursuant to
11 this paragraph to provide an affidavit or other form of proof, that
12 specifies that the project shall be operated solely on waste gas.
13 Incentives awarded pursuant to this paragraph shall be subject to
14 refund and shall be refunded by the recipient to the extent the
15 project does not operate on waste gas. As used in this paragraph,
16 “waste gas” means natural gas that is generated as a byproduct of
17 petroleum production operations and is not eligible for delivery
18 to the utility pipeline system.

19 (B) The air quality management district or air pollution control
20 district, in issuing a permit to operate the project, determines that
21 operation of the project will produce an onsite net air emissions
22 benefit, compared to permitted onsite emissions if the project does
23 not operate. The commission shall require the customer to secure
24 the permit prior to receiving incentives.

25 (d) In determining the eligibility for the self-generation incentive
26 program, minimum system efficiency shall be determined either
27 by calculating electrical and process heat efficiency as set forth in
28 Section 216.6, or by calculating overall electrical efficiency.

29 (e) (1) ~~Except as herein provided in this subdivision, in~~*In*
30 administering the self-generation incentive program, the
31 commission may adjust the amount of rebates and evaluate other
32 public policy interests, including, but not limited to, *job*
33 *development, technology competitiveness, maximizing fund*
34 *development across all technologies, localized energy generation*
35 *deployment, protection of ratepayers,* and energy efficiency, peak
36 load reduction, load management, and environmental interests.

37 (2) ~~Absent an express order of the commission, an electrical~~
38 ~~corporation or third-party administrator shall not accept an~~
39 ~~application or reservation for incentive funding submitted by any~~
40 ~~single distributed energy technology provider, any distributed~~

1 energy resource owner, or affiliates of an owner, for an amount in
 2 excess of twenty-five million dollars (\$25,000,000) in any calendar
 3 year. Except in the case of fraud, applications or reservations for
 4 funds submitted by a single distributed energy technology provider,
 5 a distributed energy resource owner, or affiliates of the owner, that
 6 have been withdrawn, rejected, or expired shall not be counted in
 7 calculating whether the twenty-five-million-dollar (\$25,000,000)
 8 limit has been exceeded.

9 (2) Absent an express order of the commission, an electrical
 10 corporation or third-party administrator shall not accept
 11 applications or reservations for incentive funding submitted by a
 12 single distributed energy technology provider or affiliates of the
 13 technology provider that in the aggregate exceed 25 percent of
 14 the amount collected from ratepayers in any calendar year
 15 pursuant to the self-generation incentive program. Except in the
 16 case of fraud, applications or reservations for funds submitted by
 17 a single distributed energy technology provider or affiliates of the
 18 technology provider that have been withdrawn, rejected, or expired
 19 in the same calendar year shall not be counted in determining
 20 whether the limit imposed by this paragraph has been exceeded.

21 (3) Absent an express order of the commission, an electrical
 22 corporation or third-party administrator shall not make incentive
 23 payments on account of any distributed energy resource, including
 24 any biogas fuel cell and California supplier added incentive, in an
 25 amount greater than two dollars and fifty cents (\$2.50) per watt.

26 (f) The commission shall ensure that distributed generation
 27 resources are made available in the program for all ratepayers.

28 (g) (1) In administering the self-generation incentive program,
 29 the commission shall provide an additional incentive of 20 percent
 30 from existing program funds for the installation of eligible
 31 distributed generation resources from a California supplier.

32 (2) “California supplier” as used in this subdivision means any
 33 sole proprietorship, partnership, joint venture, corporation, or other
 34 business entity that manufactures eligible distributed generation
 35 resources in California and that meets either of the following
 36 criteria:

37 (A) The owners or policymaking officers are domiciled in
 38 California and the permanent principal office, or place of business
 39 from which the supplier’s trade is directed or managed, is located
 40 in California.

1 (B) A business or corporation, including those owned by, or
2 under common control of, a corporation, that meets all of the
3 following criteria continuously during the five years prior to
4 providing eligible distributed generation resources to a
5 self-generation incentive program recipient:

6 (i) Owns and operates a manufacturing facility located in
7 California that builds or manufactures eligible distributed
8 generation resources.

9 (ii) Is licensed by the state to conduct business within the state.

10 (iii) Employs California residents for work within the state.

11 (3) For purposes of qualifying as a California supplier, a
12 distribution or sales management office or facility does not qualify
13 as a manufacturing facility.

14 (h) The costs of the program adopted and implemented pursuant
15 to this section shall not be recovered from customers participating
16 in the California Alternate Rates for Energy (CARE) program.

17 SEC. 2. No reimbursement is required by this act pursuant to
18 Section 6 of Article XIII B of the California Constitution because
19 the only costs that may be incurred by a local agency or school
20 district will be incurred because this act creates a new crime or
21 infraction, eliminates a crime or infraction, or changes the penalty
22 for a crime or infraction, within the meaning of Section 17556 of
23 the Government Code, or changes the definition of a crime within
24 the meaning of Section 6 of Article XIII B of the California
25 Constitution.