

AMENDED IN ASSEMBLY MAY 10, 2012

AMENDED IN ASSEMBLY MAY 1, 2012

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1990

Introduced by Assembly Member Fong

February 23, 2012

An act to add Section 399.23 to the Public Utilities Code, relating to electricity.

LEGISLATIVE COUNSEL'S DIGEST

AB 1990, as amended, Fong. Renewable energy resources: small-scale renewable generation program.

Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations, as defined, while local publicly owned electric utilities, as defined, are under the direction of their governing board. Existing law requires every electrical corporation to file with the commission a standard tariff 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 PUC 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 decisions of the PUC implementing these requirements refer to these tariff requirements as a renewable feed-in tariff. Existing law requires a local publicly owned electric utility that sells electricity at retail to 75,000 or more customers to adopt and implement a tariff for electricity purchased from an electric generation facility meeting certain size, deliverability, and interconnection requirements and to consider certain factors.

This bill would establish the small-scale renewable generation program with the goal of installing 375 megawatts of electrical generating capacity from small-scale renewable generation facilities, as defined, in the state's most impacted and disadvantaged communities, as defined. The bill would require the PUC, in consultation with ~~the State Energy Resources Conservation and Development Commission,~~ electrical corporations, ~~the Division of Ratepayer Advocates,~~ and interested stakeholders, to develop program elements, as specified, for the program that are applicable to electrical corporations and that achieve certain environmental justice objectives. The bill would require each electrical corporation to file with the PUC a standard tariff for electricity purchased pursuant to a clean energy contract, as defined, with a small-scale renewable generation facility owner or operator. The bill would require the PUC to establish a schedule of standard tariff rates for electricity that electrical corporations are required to purchase through clean energy contracts with a small-scale renewable generation facility owner or operator. The bill requires each local publicly owned electric utility that sells electricity at retail to establish a schedule of standard tariff rates for electricity purchased through clean energy contracts from small-scale renewable generation facilities pursuant to a small-scale generation program for the utility. The bill would require the PUC to allocate procurement targets for each electrical corporation, *and require the governing board of a local publicly owned electric utility to allocate procurement targets for the utility,* in proportion to each ~~electrical corporation's utility's~~ percentage share of the state's total ~~electricity sales~~ *peak demand* measured in ~~kilowatt hours~~ *megawatts* for the calendar year ending December 31, 2012.

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 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. Because the bill would impose various duties upon local publicly owned electric utilities, the bill would impose a state-mandated local program.

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 specified reasons.

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. It is the intent of the Legislature to support
2 small-scale local clean energy in communities throughout the state
3 in order to increase green jobs and businesses that benefit the
4 communities where electrical utility customers live, especially in
5 the most impacted and disadvantaged communities with high
6 unemployment that bear a disproportionate burden from air
7 pollution, disease, and other impacts from the generation of
8 electricity from the burning of fossil fuels.

9 SEC. 2 Section 399.23 is added to the Public Utilities Code,
10 to read:

11 399.23. (a) It is the goal of this state and the intent of the
12 Legislature to install, by December 31, 2020, 375 megawatts of
13 electrical generation capacity from small-scale renewable
14 generation facilities in the state's most impacted and disadvantaged
15 communities with high unemployment, supported by a program
16 that provides carefully calibrated payments for the electricity
17 generated and that are designed to benefit the state's most impacted
18 and disadvantaged communities.

19 (b) For purposes of this section, the following terms have the
20 following meanings:

21 (1) "Clean energy contract" means a standard offer long-term
22 contract through which an electrical corporation or local publicly
23 owned electric utility is required to purchase electricity generated
24 by a small-scale renewable generation facility according to a

1 preestablished price schedule when the requirements of this section
2 are met.

3 (2) “Most impacted and disadvantaged communities” means
4 those areas within a region having the highest 10 percent air
5 pollution and socioeconomic vulnerability, or those areas within
6 a region having the highest 10 percent vulnerability to direct health
7 or environmental impacts of climate change. The evaluation criteria
8 for air pollution exposure shall include, at a minimum, criteria and
9 toxic air pollution levels, proximity to sources of air pollution, and
10 the presence of sensitive populations. The evaluation criteria for
11 socioeconomic vulnerability, to the extent feasible, shall include
12 multiple indicators, including poverty level, percent home
13 ownership, unemployment level, and educational attainment within
14 an air basin that does not meet one or more national or state
15 ambient air quality standards, or those areas having the highest 10
16 percent socioeconomic vulnerability to direct health, or
17 environmental, impacts of climate change.

18 (3) “Small-scale renewable generation facility” means an
19 electrical generation facility, located within the service territory
20 of, and developed to sell electricity to, an electrical corporation or
21 local publicly owned electric utility, that meets all of the following
22 requirements:

- 23 (A) Has a rated capacity of not more than 500 kilowatts.
- 24 (B) Is interconnected and operates in parallel with the electrical
25 distribution grid.
- 26 (C) Is interconnected to the electrical distribution grid in a
27 manner that optimizes the deliverability of electricity generated
28 at the facility to load centers.
- 29 (D) Is an eligible renewable energy resource.

30 (c) (1) ~~The commission, in consultation with the Energy~~
31 ~~Commission, electrical corporations, the Division of Ratepayer~~
32 ~~Advocates, and interested stakeholders shall develop program~~
33 ~~elements for the small-scale renewable generation program~~
34 ~~applicable to electrical corporations, including eligibility criteria~~
35 ~~and payment rates for clean energy contracts with small-scale~~
36 ~~renewable generation facilities to be located in, and methods to~~
37 ~~accomplish some or all of the following environmental justice~~
38 ~~benefits for, the state’s most impacted and disadvantaged~~
39 ~~communities:~~

- 1 (A) Create quality local green jobs that provide prevailing
2 wages, opportunity for advancement, and benefits.
- 3 (B) Promote the hiring of employees from the state’s most
4 impacted and disadvantaged communities and from high-quality
5 local green job training programs.
- 6 (C) Promote the development of local green businesses.
- 7 (D) Promote local manufacturing in the state’s most impacted
8 and disadvantaged communities.
- 9 (E) Promote environmentally responsible recycling of
10 manufactured renewable energy products.
- 11 (F) Promote local ownership of green businesses and small-scale
12 renewable generation facilities.
- 13 (G) Facilitate efforts to target construction job opportunities to
14 disadvantaged residents, generate tax revenue and other income
15 for the state’s most impacted and disadvantaged communities, and
16 provide lasting remediation for the conditions of poverty and
17 unemployment by providing careers in the skilled construction
18 trades.
- 19 (2) The commission shall allocate procurement targets for each
20 electrical corporation with the goal of procuring 375 megawatts
21 of electrical generating capacity from small-scale renewable
22 generation facilities statewide by December 31, 2020. The targets
23 shall be allocated in proportion to each electrical corporation’s
24 percentage share of the state’s total ~~electricity sales measured in~~
25 ~~kilowatt~~ *hours peak demand, measured in megawatts*, for the
26 calendar year ending December 31, 2012.
- 27 (3) The commission shall determine the capacity of small-scale
28 renewable generation facilities that can be built in the state’s most
29 impacted and disadvantaged communities in order to achieve the
30 environmental justice benefits described in paragraph (1).
- 31 (4) The program shall be designed to support the development
32 of a variety of generating technologies and project sizes so as to
33 achieve a diverse portfolio of eligible renewable energy resources
34 that provides benefits to the distribution grid and achieves the
35 environmental justice benefits described in paragraph (1).
- 36 (5) The commission shall establish a schedule of standard tariff
37 rates for electricity that electrical corporations are required to
38 purchase through clean energy contracts with a small-scale
39 renewable generation facility owner or operator. The tariff payment
40 rates shall be sufficient to stimulate the market for each type of

1 electrical generation sufficiently to meet the program targets.
2 Separate tariff payment rates shall be created for each type of
3 electrical generation service provided, including peaking, base
4 load, and, as available, specific for the size range and the specified
5 benefits of projects included in the program, while maintaining
6 ratepayer indifference for the program as a whole. Tariff rates may
7 be adjusted to account for the availability of tax credits or other
8 subsidies to owners of small-scale renewable electric generation
9 facilities, to the extent necessary to ensure achievement of the
10 benefits of this program.

11 (6) The commission shall establish an annual cost limitation for
12 the small-scale renewable generation program, which shall not
13 exceed 0.375 percent of the total cost of each electrical
14 corporation's forecast retail sales in the calendar year ending
15 December 31, 2020. The commission shall endeavor to design the
16 program so that the program goals can reasonably be expected to
17 be met within the cost containment limitation.

18 (7) Clean energy contracts shall be for a period of 20 or more
19 years, as authorized by the commission. It is the intent of the
20 Legislature that long-term contracts be used to lower the average
21 cost per kilowatthour for small-scale renewable electric generation
22 facilities.

23 (8) The commission may modify or adjust the requirements of
24 this section for any electrical corporation with less than 100,000
25 service connections, as individual circumstances merit.

26 (9) Every electrical corporation shall file with the commission
27 a standard tariff for electricity purchased pursuant to a clean energy
28 contract with a small-scale renewable generation facility owner
29 or operator. The tariff shall provide for payment for every
30 kilowatthour of electricity purchased from a small-scale renewable
31 generation facility pursuant to the clean energy contract.

32 (10) The commission shall open a proceeding or expand the
33 scope of an existing proceeding in order to accomplish the
34 requirements of this subdivision no later than January 31, 2013,
35 and shall ensure that electrical corporations begin offering clean
36 energy contracts pursuant to the program by January 1, 2014.

37 (d) (1) Each local publicly owned electric utility that sells
38 electricity at retail shall establish a schedule of standard tariff rates
39 for electricity purchased through clean energy contracts from
40 small-scale renewable generation facilities pursuant to a small-scale

1 generation program for the utility. The schedule of tariff rates shall
2 provide for payment for every kilowatthour of electricity purchased
3 from a small-scale renewable generation facility. The program
4 shall be designed to support the development of a variety of
5 generating technologies and project sizes so as to achieve a diverse
6 portfolio of eligible renewable energy resources that provides
7 benefits to the distribution grid and achieves the environmental
8 justice benefits described in paragraph (1) of subdivision (c).

9 (2) Clean energy contracts shall be for a period of 20 or more
10 years, as authorized by the local publicly owned electric utility. It
11 is the intent of the Legislature that long-term contracts be used to
12 lower the average cost per kilowatthour for small-scale renewable
13 electric generation facilities.

14 (3) The tariff payment rates shall be sufficient to stimulate the
15 market for each type of electrical generation sufficiently to meet
16 the program targets. Separate tariff payment rates shall be created
17 for each type of electrical generation service provided, including
18 peaking, base load, and, as available, specific for the size range
19 and the specified benefits of projects included in the program,
20 while maintaining ratepayer indifference for the program as a
21 whole. Tariff rates may be adjusted to account for the availability
22 of tax credits or other subsidies to owners of small-scale renewable
23 electric generation facilities, to the extent necessary to ensure
24 achievement of the benefits of this program.

25 (4) Each local publicly owned electric utility shall establish an
26 expedited interconnection procedure for small-scale renewable
27 generation facilities.

28 (5) Each local publicly owned electric utility shall begin to offer
29 clean energy contracts pursuant to its small-scale renewable
30 generation program by January 1, 2014.

31 (6) *Each local publicly owned electric utility shall establish a*
32 *procurement target for the utility with the goal of procuring 375*
33 *megawatts of electrical generating capacity from small-scale*
34 *renewable generation facilities statewide by December 31, 2020,*
35 *to be allocated in proportion to each utility's percentage share of*
36 *the state's total peak demand measured in megawatts for the*
37 *calendar year ending December 31, 2012.*

38 (7) *The governing board of a publicly owned electric utility with*
39 *fewer than 75,000 service connections may modify or adjust the*
40 *requirements of this section to account for demographic*

1 *distribution of population meeting the environmental justice*
 2 *screening method, or as individual circumstances merit. For these*
 3 *purposes, “environmental justice screening methodology” means*
 4 *the environmental justice screening method metrics developed by*
 5 *Professors James L. Sadd, Manuel Pastor, Rachel Morello-Frosch,*
 6 *Justin Scoggins, and Bill Jesdale (Vol. 8, International Journal of*
 7 *Environmental Research and Public Health (May 2011), Playing*
 8 *It Safe: Assessing Cumulative Impact and Social Vulnerability*
 9 *through an Environmental Justice Screening Method in the South*
 10 *Coast Air Basin, California, pages 1441 to 1459).*

11 (8) *The governing board of a publicly owned electric utility with*
 12 *75,000 or more service connections shall ensure that the*
 13 *requirements of this section are met.*

14 (e) The program shall be implemented at a regular annual pace
 15 over a period of six years. Each electrical corporation and local
 16 publicly owned electric utility shall make the clean energy contract
 17 tariff available to the owner or operator of a small-scale renewable
 18 generation facility until the utility reaches that portion of the 375
 19 megawatts of electrical generation capacity allocated to it by the
 20 commission pursuant to paragraph (2) of subdivision (c).

21 (f) Within 10 days of receipt of a request for a clean energy
 22 contract pursuant to this section from an owner or operator of a
 23 small-scale renewable generation facility, the electrical corporation
 24 or local publicly owned electric utility receiving the request shall
 25 post a copy of the request on its Internet Web site. The information
 26 posted on the Internet Web site shall include the name of the city
 27 in which the facility is located, but information that is proprietary
 28 and confidential, including the address information beyond the
 29 name of the city in which the facility is located, shall be redacted.

30 (g) (1) An electrical corporation or local publicly owned electric
 31 utility may deny a request for a clean energy contract pursuant to
 32 this section if the utility determines any of the following to be true:

33 (A) The generation facility does not meet the requirements of
 34 this section.

35 (B) The distribution grid that would serve as the point of
 36 interconnection is inadequate.

37 (C) The small-scale renewable generation facility does not meet
 38 all applicable state and local laws and building standards, and
 39 utility interconnection requirements.

1 (D) The aggregate of all small-scale renewable generating
2 facilities on a distribution circuit would adversely impact utility
3 operation and load restoration efforts of the distribution system.

4 (2) (A) Upon receiving a notice of denial from an electrical
5 corporation, the owner or operator of the electric generation facility
6 denied a clean energy contract shall have the right to appeal that
7 decision to the commission.

8 (B) Upon receiving a notice of denial from a local publicly
9 owned electric utility, the owner or operator of the small-scale
10 renewable generation facility denied a clean energy contract shall
11 have the right to appeal that decision to the governing board of the
12 local publicly owned electric utility.

13 (3) In order to ensure the safety and reliability of small-scale
14 renewable generation facilities, the owner of a facility receiving
15 a clean energy contract pursuant to this section shall provide an
16 inspection and maintenance report to the electrical corporation or
17 local publicly owned electric utility at least once every other year.
18 The inspection and maintenance report shall be prepared at the
19 expense of the owner or operator by a California-licensed
20 contractor who is not the owner or operator of the small-scale
21 renewable generation facility. A California-licensed electrician
22 shall perform the inspection of the electrical portion of the facility.

23 (4) The clean energy contract between the owner or operator of
24 a small-scale renewable generation facility and the electrical
25 corporation or local publicly owned electric utility shall contain
26 provisions that ensure that construction of the facility complies
27 with all applicable state and local laws and building standards, and
28 utility interconnection requirements.

29 (h) (1) All construction and installation of facilities of the
30 electrical corporation or local publicly owned electric utility,
31 including at the point of the output meter or at the transmission or
32 distribution grid, shall only be performed by that utility.

33 (2) All interconnection facilities installed on the utility's side
34 of the transfer point for electricity between the electrical
35 corporation or local publicly owned electric utility and the electrical
36 conductors of the small-scale renewable generation facility shall
37 be owned, operated, and maintained only by the utility. The
38 ownership, installation, operation, reading, and testing of revenue
39 metering equipment for electric generating facilities shall only be
40 performed by the utility.

- 1 (i) The commission shall require electrical corporations to ensure
 2 expedited interconnection of small-scale renewable generation
 3 facilities.
- 4 (j) Every kilowatthour of electricity purchased by an electrical
 5 corporation or local publicly owned electric utility from a
 6 small-scale renewable generation facility through a clean energy
 7 contract shall count toward meeting that utility’s procurement
 8 requirements for electricity products meeting the first priority
 9 portfolio content category requirements of paragraph (1) of
 10 subdivision (b) of Section 399.16, *but shall not count toward the*
 11 *procurement requirements of subdivision (e) of Section 387.6 or*
 12 *subdivision (f) of Section 399.20.*
- 13 (k) The commission shall post on its Internet Web site for
 14 electrical corporations, and ~~the Energy Commission~~ *each local*
 15 *publicly owned electric utility* shall post on its Internet Web site
 16 ~~for local publicly owned electric utilities~~, updated information on
 17 the program, that includes all of the following:
- 18 (1) Maps showing where small-scale renewable electric
 19 generation facilities may best be located on the distribution grid.
 - 20 (2) Current tariffs and available capacity in the program.
 - 21 (3) Local employment and economic development opportunities
 22 provided by the program.
 - 23 (4) Annual reports on the program that show capacity of and
 24 energy generated by each renewable energy technology installed,
 25 progress on meeting program targets and environmental justice
 26 goals, benefits of the program, and any recommendations for
 27 modifications to the program that would help to meet the program
 28 goals.
- 29 (l) The commission, ~~Energy Commission~~, and local publicly
 30 owned electric utilities shall evaluate ways to integrate the
 31 small-scale renewable generation program with energy efficiency
 32 and other demand-side programs, and shall implement measures
 33 that will optimize the benefits and reduce the costs of the programs.
- 34 (m) The commission, ~~the Energy Commission~~, and local publicly
 35 owned electric utilities shall evaluate contract structures, loan
 36 guarantees, arrangements with financial institutions, community
 37 bulk purchase agreements, and other potential program elements,
 38 and shall implement measures that will reduce the cost and ensure
 39 the benefits of the small-scale renewable generation program.

1 SEC. 3. No reimbursement is required by this act pursuant to
2 Section 6 of Article XIII B of the California Constitution because
3 a local agency or school district has the authority to levy service
4 charges, fees, or assessments sufficient to pay for the program or
5 level of service mandated by this act or because costs that may be
6 incurred by a local agency or school district will be incurred
7 because this act creates a new crime or infraction, eliminates a
8 crime or infraction, or changes the penalty for a crime or infraction,
9 within the meaning of Section 17556 of the Government Code, or
10 changes the definition of a crime within the meaning of Section 6
11 of Article XIII B of the California Constitution.

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