

AMENDED IN ASSEMBLY MAY 15, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2196**

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**Introduced by Assembly Member ~~Members~~ Chesbro and Gatto  
(Coauthor: Assembly Member Skinner)**

February 23, 2012

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An act to amend Section 25741 of the Public Resources Code, and to add Section 399.12.6 to the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 2196, as amended, Chesbro. Renewable energy resources.

Under existing law, the Public Utilities Commission 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. The existing *California Renewables Portfolio Standard Program* (RPS program) requires a retail seller of electricity, as defined, and local publicly owned electric utilities to purchase specified minimum quantities of electricity products from eligible renewable energy resources, as defined, for specified compliance periods. The specified minimum quantities of electricity products are based upon a percentage of the utility's total retail sales of electricity in California.

*Existing law requires the State Energy Resources Conservation and Development Commission (Energy Commission) to (1) certify eligible renewable energy resources, (2) design and implement an accounting system to verify compliance with the renewables portfolio standard by retail sellers, (3) establish a system for tracking and verifying renewable energy credits (RECs) that verifies the generation and delivery of electricity associated with RECs, and (4) certify the eligibility of RECs*

*associated with deliveries of electricity to a local publicly owned electric utility.*

*Under existing law the Energy Commission administers the Renewable Energy Resources Program (RER program) with the near-term objective of increasing the quantity of electricity generated by renewable electrical generation facilities, as defined, while protecting system reliability, fostering resource diversity, and obtaining the greatest environmental benefits for California residents, and with the long-term goal of obtaining a fully competitive and self-sustaining supply of electricity generated from renewable resources.*

*Under existing law, the RPS program's definition of an eligible renewable energy resource incorporates, by reference, the RER program's definition of a renewable electrical generation facility.*

*This bill would amend the RER program's definition of a renewable electrical generation facility to provide that if the RPS program eligibility of a facility is based on the use of landfill gas, digester gas, or another renewable fuel delivered to the facility through a common carrier pipeline, the transaction for the procurement of that fuel, including the source of the fuel and delivery method, shall meet certain conditions, as specified.*

*This bill would impose certain requirements with respect to the eligibility of biomethane under the RPS program. The bill would specify that biomethane procurement contracts executed prior to January 1, 2012, and not subsequently modified, as specified, count in full toward the RPS program's procurement requirements. The bill would, with respect to contracts executed prior to January 1, 2012, but subsequently modified, as specified, and contracts executed after that date, impose certain requirements with respect to the capture, transportation, and use of biomethane, as specified. With respect to biomethane that is used by an onsite generating facility, and biomethane that is used offsite and delivered to the generating facility through a dedicated pipeline, the bill would specify that the use of that biomethane counts towards the RPS program's procurement requirements if that use satisfies all applicable requirements established by the Energy Commission. With respect to biomethane that is delivered to a generating facility through a common carrier pipeline, the bill would, among other things, require: (1) the biomethane to be injected into a common carrier pipeline that physically flows toward the generating facility that contracted for the biomethane; (2) all environmental attributes of biomethane production and capture to be transferred to the retail seller or local publicly owned*

*utility that uses that biomethane to count toward the RPS program's procurement requirements, and that those attributes be subsequently retired; and (3) the source of biomethane to demonstrate that the capture and injection of biomethane causes a direct reduction of air or water pollution in California or alleviates a local nuisance within California that is associated with the emission of odors or volatile organic compounds.*

*This bill would become operative only if this bill and AB 1900 of the 2011–12 Regular Session are both enacted and become effective on or before January 1, 2013.*

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 25741 of the Public Resources Code is  
2 amended to read:

3 25741. As used in this chapter, the following terms have the  
4 following meaning:

5 (a) "Renewable electrical generation facility" means a facility  
6 that meets all of the following criteria:

7 (1) The facility uses biomass, solar thermal, photovoltaic, wind,  
8 geothermal, fuel cells using renewable fuels, small hydroelectric  
9 generation of 30 megawatts or less, digester gas, municipal solid  
10 waste conversion, landfill gas, ocean wave, ocean thermal, or tidal  
11 current, and any additions or enhancements to the facility using  
12 that technology.

13 (2) The facility satisfies one of the following requirements:

14 (A) The facility is located in the state or near the border of the  
15 state with the first point of connection to the transmission network  
16 of a balancing authority area primarily located within the state.  
17 For purposes of this subparagraph, "balancing authority area" has  
18 the same meaning as defined in Section 399.12 of the Public  
19 Utilities Code.

20 (B) The facility has its first point of interconnection to the  
21 transmission network outside the state, within the Western  
22 Electricity Coordinating Council (WECC) service area, and  
23 satisfies all of the following requirements:

24 (i) It commences initial commercial operation after January 1,  
25 2005.

1 (ii) It will not cause or contribute to any violation of a California  
2 environmental quality standard or requirement.

3 (iii) It participates in the accounting system to verify compliance  
4 with the renewables portfolio standard once established by the  
5 commission pursuant to subdivision (b) of Section 399.25 of the  
6 Public Utilities Code.

7 (C) The facility meets the requirements of clauses (ii) and (iii)  
8 in subparagraph (B), but does not meet the requirements of clause  
9 (i) of subparagraph (B) because it commenced initial operation  
10 prior to January 1, 2005, if the facility satisfies either of the  
11 following requirements:

12 (i) The electricity is from incremental generation resulting from  
13 expansion or repowering of the facility.

14 (ii) Electricity generated by the facility was procured by a retail  
15 seller or local publicly owned electric utility as of January 1, 2010.

16 (3) If the facility is outside the United States, it is developed  
17 and operated in a manner that is as protective of the environment  
18 as a similar facility located in the state.

19 (4) If eligibility of the facility is based on the use of landfill gas,  
20 digester gas, or another renewable fuel delivered to the facility  
21 through a common carrier pipeline, the transaction *for the*  
22 *procurement of that fuel*, including the source of the fuel and  
23 delivery method, meets conditions comparable to Section 399.16  
24 of the Public Utilities Code and is verified pursuant to the  
25 accounting system established by the commission pursuant to  
26 399.25 of the Public Utilities Code, or a comparable system, as  
27 determined by the commission.

28 (b) “Municipal solid waste conversion,” as used in subdivision  
29 (a), means a technology that uses a noncombustion thermal process  
30 to convert solid waste to a clean-burning fuel for the purpose of  
31 generating electricity, and that meets all of the following criteria:

32 (1) The technology does not use air or oxygen in the conversion  
33 process, except ambient air to maintain temperature control.

34 (2) The technology produces no discharges of air contaminants  
35 or emissions, including greenhouse gases as defined in Section  
36 38505 of the Health and Safety Code.

37 (3) The technology produces no discharges to surface or  
38 groundwaters of the state.

39 (4) The technology produces no hazardous wastes.

1 (5) To the maximum extent feasible, the technology removes  
2 all recyclable materials and marketable green waste compostable  
3 materials from the solid waste stream prior to the conversion  
4 process and the owner or operator of the facility certifies that those  
5 materials will be recycled or composted.

6 (6) The facility at which the technology is used is in compliance  
7 with all applicable laws, regulations, and ordinances.

8 (7) The technology meets any other conditions established by  
9 the commission.

10 (8) The facility certifies that any local agency sending solid  
11 waste to the facility diverted at least 30 percent of all solid waste  
12 it collects through solid waste reduction, recycling, and  
13 composting. For purposes of this paragraph, “local agency” means  
14 any city, county, or special district, or subdivision thereof, which  
15 is authorized to provide solid waste handling services.

16 (c) “Renewable energy public goods charge” means that portion  
17 of the nonbypassable system benefits charge required to be  
18 collected to fund renewable energy pursuant to the Reliable Electric  
19 Service Investments Act (Article 15 (commencing with Section  
20 399) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities  
21 Code).

22 (d) “Report” means the report entitled “Investing in Renewable  
23 Electricity Generation in California” (June 2001, Publication  
24 Number P500-00-022) submitted to the Governor and the  
25 Legislature by the commission.

26 (e) “Retail seller” means a “retail seller” as defined in Section  
27 399.12 of the Public Utilities Code.

28 *SEC. 2. Section 399.12.6 is added to the Public Utilities Code,*  
29 *to read:*

30 *399.12.6. (a) Any procurement of biomethane delivered*  
31 *through a common carrier pipeline under a contract executed*  
32 *prior to January 1, 2012, and otherwise eligible under the rules*  
33 *in place as of the date of contract execution shall be subject to*  
34 *both of the following:*

35 *(1) All quantities of biomethane delivered under the terms of*  
36 *the original contract shall count in full towards the procurement*  
37 *requirements established in this article.*

38 *(2) Any quantities of biomethane delivered under the terms of*  
39 *a procurement contract that are associated with an extension of*  
40 *the term of the contract, an increased quantity of biomethane, or*

1 any change in the source or sources of biomethane specifically  
2 identified in the original contract shall count toward the  
3 procurement requirements established in this article only as  
4 provided in paragraph (b).

5 (b) On or after January 1, 2012, the use of biomethane shall  
6 count towards the procurement requirements established in this  
7 article if that use satisfies all applicable requirements established  
8 by the Energy Commission and meets any of the following  
9 requirements:

10 (1) The biomethane is used by an onsite generating facility.

11 (2) The biomethane is used by an offsite generating facility and  
12 delivered to the generating facility through a dedicated pipeline.

13 (3) The biomethane is delivered to a generating facility through  
14 a common carrier pipeline and meets all of the following  
15 requirements:

16 (A) The source of biomethane injects the biomethane into a  
17 common carrier pipeline that physically flows toward the  
18 generating facility that contracted for the biomethane, and that  
19 facility meets the requirements of Section 25741 of the Public  
20 Resources Code.

21 (B) The source of biomethane did not inject biomethane into a  
22 common carrier pipeline prior to April 12, 2011, or the source  
23 commenced injection of sufficient incremental quantities of  
24 biomethane after April 12, 2011, to satisfy the contract  
25 requirements.

26 (C) All environmental attributes of biomethane production and  
27 capture are transferred to the retail seller or local publicly owned  
28 electric utility that uses that biomethane to count toward the  
29 procurement requirements of this article, and the environmental  
30 attributes are subsequently retired.

31 (D) All sellers and purchasers of biomethane comply with a  
32 system for tracking and verifying the use of biomethane, as  
33 established by the Energy Commission, that is equivalent to the  
34 system provided in subdivision (c) of Section 399.25.

35 (E) The source of biomethane demonstrates that the capture  
36 and injection of biomethane causes a direct reduction of air or  
37 water pollution in California or alleviates a local nuisance within  
38 California that is associated with the emission of odors or volatile  
39 organic compounds.

1    (c) For the purposes of this section, “biomethane” means  
2    landfill gas or digester gas, consistent with Section 25741 of the  
3    Public Resources Code.

4    SEC. 3. This act shall become operative only if this act and  
5    Assembly Bill 1900 of the 2011–12 Regular Session are both  
6    enacted and become effective before January 1, 2013.

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