

AMENDED IN SENATE JUNE 20, 2012

AMENDED IN ASSEMBLY MAY 15, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2196**

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**Introduced by Assembly 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~~ boards. 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) ~~at sufficient renewable and~~ 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~~ ensure that any electric generation using the biomethane is carbon neutral, and that those attributes be retired, and not sold, as specified; and (3) the source of biomethane to demonstrate that the reduction in emissions through 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~~.

*The bill would also prohibit specified parties to a biomethane procurement contract from making representations asserting that the procurement contract results in greenhouse gas reductions, as specified, unless the environmental attributes associated with the biomethane are transferred to the purchaser, as specified.*

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

1 of a balancing authority area primarily located within the state.  
2 For purposes of this subparagraph, “balancing authority area” has  
3 the same meaning as defined in Section 399.12 of the Public  
4 Utilities Code.

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

9 (i) It commences initial commercial operation after January 1,  
10 2005.

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

13 (iii) It participates in the accounting system to verify compliance  
14 with the renewables portfolio standard once established by the  
15 commission pursuant to subdivision (b) of Section 399.25 of the  
16 Public Utilities Code.

17 (C) The facility meets the requirements of clauses (ii) and (iii)  
18 in subparagraph (B), but does not meet the requirements of clause  
19 (i) of subparagraph (B) because it commenced initial operation  
20 prior to January 1, 2005, if the facility satisfies either of the  
21 following requirements:

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

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

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

29 (4) If eligibility of the facility is based on the use of landfill gas,  
30 digester gas, or another renewable fuel delivered to the facility  
31 through a common carrier pipeline, the transaction for the  
32 procurement of that fuel, including the source of the fuel and  
33 delivery method, ~~meets conditions comparable to Section 399.16~~  
34 ~~of the Public Utilities Code~~ *satisfies the requirements of Section*  
35 *399.12.6 of the Public Utilities Code* and is verified pursuant to  
36 the accounting system established by the commission pursuant to  
37 399.25 of the Public Utilities Code, or a comparable system, as  
38 determined by the commission.

39 (b) “Municipal solid waste conversion,” as used in subdivision  
40 (a), means a technology that uses a noncombustion thermal process

1 to convert solid waste to a clean-burning fuel for the purpose of  
2 generating electricity, and that meets all of the following criteria:

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

5 (2) The technology produces no discharges of air contaminants  
6 or emissions, including greenhouse gases as defined in Section  
7 38505 of the Health and Safety Code.

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

10 (4) The technology produces no hazardous wastes.

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

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

18 (7) The technology meets any other conditions established by  
19 the commission.

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

26 (c) “Renewable energy public goods charge” means that portion  
27 of the nonbypassable system benefits charge required to be  
28 collected to fund renewable energy pursuant to the Reliable Electric  
29 Service Investments Act (Article 15 (commencing with Section  
30 399) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities  
31 Code).

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

36 (e) “Retail seller” means a “retail seller” as defined in Section  
37 399.12 of the Public Utilities Code.

38 SEC. 2. Section 399.12.6 is added to the Public Utilities Code,  
39 to read:

1 399.12.6. (a) Any procurement of biomethane delivered  
 2 through a common carrier pipeline under a contract executed prior  
 3 to January 1, 2012, and otherwise eligible under the rules in place  
 4 as of the date of contract execution shall be subject to both of the  
 5 following:

6 (1) All quantities of biomethane delivered under the terms of  
 7 the original contract shall count in full ~~towards~~ toward the  
 8 procurement requirements established in this article.

9 (2) Any quantities of biomethane delivered under the terms of  
 10 a procurement contract that are associated with an extension of  
 11 the term of the contract, an increased quantity of biomethane, or  
 12 any change in the source or sources of biomethane specifically  
 13 identified in the original contract shall count toward the  
 14 procurement requirements established in this article only as  
 15 provided in paragraph (b).

16 (b) ~~On~~ *For contracts initially executed on or after January 1,*  
 17 *2012, or for quantities of biomethane associated with contract*  
 18 *amendments executed after January 1, 2012, the use of biomethane*  
 19 *shall count towards the procurement requirements established in*  
 20 *this article if that use not qualify as an eligible renewable energy*  
 21 *resource unless it satisfies all applicable requirements established*  
 22 *by the Energy Commission and meets any of the following*  
 23 *requirements:*

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

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

27 (3) The biomethane is delivered to a generating facility through  
 28 a common carrier pipeline and meets all of the following  
 29 requirements:

30 (A) The source of biomethane injects the biomethane into a  
 31 common carrier pipeline that physically flows toward the  
 32 generating facility that contracted for the biomethane, and that  
 33 facility meets the requirements of Section 25741 of the Public  
 34 Resources Code.

35 (B) The source of biomethane did not inject biomethane into a  
 36 common carrier pipeline prior to ~~April 12, 2011~~ *January 1, 2012,*  
 37 *or the source commenced injection of sufficient incremental*  
 38 *quantities of biomethane after* ~~April 12, 2011~~ *January 1, 2012,* to  
 39 satisfy the contract requirements.

1 (C) ~~All~~ *Sufficient renewable and* environmental attributes of  
2 biomethane production and capture are transferred to the retail  
3 seller or local publicly owned electric utility that uses that  
4 biomethane to count toward the procurement requirements of this  
5 article, and the environmental attributes are subsequently retired  
6 to ensure that any electric generation using the biomethane is  
7 carbon neutral. For any biomethane credited towards the  
8 renewable portfolio standard obligations established pursuant to  
9 this article, these attributes shall be retired and shall not be resold.

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

14 (E) The source of biomethane demonstrates that the *reduction*  
15 *in emissions through* capture and injection of biomethane causes  
16 a direct reduction of air or water pollution in California or alleviates  
17 a local nuisance within California that is associated with the  
18 emission of odors or volatile organic compounds.

19 (c) *For contracts initially executed on or after January 1, 2012,*  
20 *or for quantities associated with contract amendments executed*  
21 *after January 1, 2012, the use of biomethane shall be assigned to*  
22 *the appropriate portfolio content category based on the application*  
23 *of the criteria in subdivision (b) of Section 399.16 to the*  
24 *procurement of electricity by the retail seller or local publicly*  
25 *owned electric utility from the electric generating facility*  
26 *consuming the biomethane.*

27 (d) *A retail seller, local publicly owned electric utility, or an*  
28 *intermediary party to a biomethane procurement contract shall*  
29 *not make a marketing, regulatory, or retail claim that asserts that*  
30 *a biomethane procurement contract to which that entity was a*  
31 *party resulted, or will result, in greenhouse gas reductions, unless*  
32 *the environmental attributes associated with the production and*  
33 *capture of the biomethane pursuant to that contract are transferred*  
34 *to the retail seller or publicly owned electric utility that purchased*  
35 *that biomethane and retired on behalf of the retail customers*  
36 *consuming the electricity associated with the use of that*  
37 *biomethane.*

38 (e)

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

4 (f) *If any provision of this section or the application of any*  
5 *provision of this section is held invalid, biomethane delivered*  
6 *through a common carrier pipeline pursuant to a contract executed*  
7 *within 180 days of, or at any time subsequent to, the invalidation*  
8 *of that provision shall not qualify as an eligible renewable energy*  
9 *resource.*

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