

AMENDED IN SENATE APRIL 26, 2011

SENATE BILL

No. 23

**Introduced by ~~Senators Simitian, Kehoe, and Steinberg~~ Senator
Simitian**

December 6, 2010

~~An act to add Section 705 to the Fish and Game Code, to amend Sections 25740, 25740.5, 25741, 25742, 25746, 25747, and 25751 of, to add Section 25519.5 to, and to add and repeal Section 25741.5 of, the Public Resources Code, and to amend Sections 399.11, 399.12, 399.20, and 454.5 of, to amend, renumber, and add Sections 399.13 and 399.16 of, to add Sections 399.18, 399.19, 399.26, 399.30, 399.31, and 1005.1 to, to add Article 11 (commencing with Section 910) to Chapter 4 of Part 1 of Division 1 of, to repeal Section 387 of, and to repeal and add Sections 399.14, 399.15, and 399.17 of, the Public Utilities Code, relating to energy, and making an appropriation therefor. An act to amend Section 25741.5 of the Public Resources Code, and to amend Sections 399.26 and 399.30 of the Public Utilities Code, relating to energy.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 23, as amended, Simitian. Energy: renewable energy resources.

Existing law creates the California renewables portfolio standard program (RPS program) and the Renewable Energy Resources Program to increase the amount of electricity generated per year from eligible renewable energy resources, as defined.

Existing law, effective on _____, requires the State Energy Resources Conservation and Development Commission (Energy Commission), by June 30, 2011, to study and provide a report to the Legislature that analyzes run-of-river hydroelectric generating facilities, as defined, in

British Columbia, including whether these facilities are, or should be, included as renewable electrical generation facilities for purposes of the Renewable Energy Resources Program administered by the Energy Commission or eligible renewable energy resources for purposes of the RPS program.

Existing law, effective on ____, requires the Energy Commission, among other things, to adopt regulations specifying procedures for enforcement of the RPS requirements by July 1, 2011.

Existing law, effective on ____, requires the Public Utilities Commission, by July 1, 2011, to determine the effective load carrying capacity of wind and solar energy resources on the electrical grid.

This bill would extend the compliance date for these requirements by one year.

~~(1) Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations, as defined. Existing law requires the PUC to require the state's 3 largest electrical corporations, Pacific Gas and Electric Company, San Diego Gas and Electric, and Southern California Edison, to identify a separate electrical rate component to fund programs that enhance system reliability and provide in-state benefits. This rate component is a nonbypassable element of local distribution and collected on the basis of usage. Existing PUC resolutions refer to the nonbypassable rate component as a "public goods charge." The public goods charge moneys are collected to support cost-effective energy efficiency and conservation activities, public interest research and development not adequately provided by competitive and regulated markets, and renewable energy resources.~~

~~The existing Warren-Alquist State Energy Resources Conservation and Development Act establishes the State Energy Resources Conservation and Development Commission (Energy Commission). The act requires the commission to certify sufficient sites and related facilities that are required to provide a supply of electric power sufficient to accommodate projected demand for power statewide. The act requires the commission to transmit a copy of an application for certification of a site and related facility to, among other entities, each federal and state agency having jurisdiction or special interest in matters pertinent to the proposed site and related facilities and to the Attorney General.~~

~~This bill would require an applicant to inform the United States Department of Defense of a proposed project and that an application will be filed with the commission if the site and related facility specified~~

~~in the application are proposed to be located within 1,000 feet of a military installation, or lie within special use airspace or beneath a low-level flight path, as defined.~~

~~Existing law establishes the Renewable Resource Trust Fund as a fund that is continuously appropriated, with certain exceptions for administrative expenses, in the State Treasury, and requires that certain moneys collected to support renewable energy resources through the public goods charge are deposited into the fund and authorizes the Energy Commission to expend the moneys pursuant to the Renewable Energy Resources Program. The program states the intent of the Legislature to increase the amount of electricity generated from eligible renewable energy resources per year so that amount equals at least 20% of total retail sales of electricity in California per year by December 31, 2010.~~

~~This bill would revise the Renewable Energy Resources Program to state the intent of the Legislature to increase the amount of electricity generated from eligible renewable energy resources per year, so that amount equals at least 33% of total retail sales of electricity in California per year by December 31, 2020. The bill would revise certain terms used in the program, and revise certain eligibility criteria for a renewable electrical generation facility, as defined, pursuant to the program.~~

~~(2) Existing law expresses the intent of the Legislature, in establishing the California Renewables Portfolio Standard Program (RPS program), to increase the amount of electricity generated per year from eligible renewable energy resources, as defined, to an amount that equals at least 20% of the total electricity sold to retail customers in California per year by December 31, 2010. The RPS program requires that a retail seller of electricity, including electrical corporations, community choice aggregators, and electric service providers, 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. The RPS program requires the PUC to implement annual procurement targets for each retail seller to increase its total procurement of electricity generated by eligible renewable energy resources by at least an additional 1% of retail sales per year so that 20% of its retail sales of electricity are procured from eligible renewable energy resources no later than December 31, 2010. Existing law requires the PUC to make a determination of the existing market cost for electricity, which PUC decisions call the market price referent, and to limit an electrical~~

corporation's obligation to procure electricity from eligible renewable energy resources, that exceeds the market price referent, by a specified amount.

This bill would express the intent that the amount of electricity generated per year from eligible renewable energy resources be increased to an amount that equals at least 20% of the total electricity sold to retail customers in California per year by December 31, 2013, and 33% by December 31, 2020. The bill would require the PUC, by January 1, 2012, to establish the quantity of electricity products from eligible renewable energy resources to be procured by each retail seller for specified compliance periods, sufficient to ensure that the procurement of electricity products from eligible renewable energy resources achieves 25% of retail sales by December 31, 2016, and 33% of retail sales by December 31, 2020, and that retail sellers procure not less than 33% of retail sales in all subsequent years. The bill, consistent with the goals of procuring the least-cost and best-fit eligible renewable energy resources that meet project viability principles, would require that all retail sellers procure a balanced portfolio of electricity products from eligible renewable energy resources, as specified. The bill would require the PUC to waive enforcement of the renewables portfolio standard procurement requirement if the PUC finds that the retail seller has demonstrated certain conditions exist that are beyond the control of the retail seller and will prevent compliance, and has taken all reasonable actions under its control to achieve compliance. The bill would require the PUC to direct each electrical corporation to annually prepare a renewable energy procurement plan containing specified matters and require, to the extent feasible, that the plan be proposed, reviewed, and adopted by the PUC as part of, and pursuant to, a general procurement plan process. The bill would require the PUC to direct all retail sellers to prepare and submit an annual compliance report. The bill would delete the existing market price referent provisions, and instead require the PUC to establish a limitation for each electrical corporation on the procurement expenditures for all eligible renewable energy resources used to comply with the renewables portfolio standard. The bill would require that by January 1, 2016, the PUC report to the Legislature assessing whether each electrical corporation can achieve a 33% renewables portfolio standard by December 31, 2020, and maintain that level thereafter, within the cost limitations. The bill would provide that, if the cost limitation for an electrical corporation is insufficient to support the projected costs of meeting the renewables

~~portfolio standard procurement requirements, the electrical corporation is authorized to refrain from entering into new contracts or constructing facilities beyond the quantity that can be procured within the limitation, unless eligible renewable energy resources can be procured without exceeding a de minimis increase in rates, consistent with the electrical corporation's general procurement plan. The bill would delete an existing requirement that the PUC adopt flexible rules for compliance for retail sellers. The bill would revise the definitions of certain terms for purposes of the RPS program, would recast certain provisions applicable only to an electrical corporation with 60,000 or fewer customer accounts in California that serves retail end-use customers outside of California, and would add provisions applicable to certain smaller electrical corporations. The bill would authorize an electrical corporation to apply to the PUC for approval to construct, own, and operate an eligible renewable energy resource, and would require the PUC to approve the application if certain conditions are met, until electrical corporation owned and operated resources provide 8.25% of the corporation's anticipated retail sales.~~

~~Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the PUC is a crime.~~

~~Because the provisions of this bill are within the act and require action by the PUC to implement its requirements, a violation of these provisions would impose a state-mandated local program by expanding the definition of a crime.~~

~~(3) Under existing law, the governing board of a local publicly owned electric utility is responsible for implementing and enforcing a renewables portfolio standard for the utility that recognizes the intent of the Legislature to encourage renewable resources, while taking into consideration the effect of the standard on rates, reliability, and financial resources and the goal of environmental improvement.~~

~~This bill would repeal this provision, and instead generally make the requirements of the RPS program applicable to local publicly owned electric utilities, except that the utility's governing board would be responsible for implementation of those requirements, instead of the PUC, and certain enforcement authority with respect to local publicly owned electric utilities would be given to the Energy Commission and State Air Resources Board, instead of the PUC. By placing additional requirements upon local publicly owned electric utilities, the bill would impose a state-mandated local program.~~

~~(4) Existing law requires the Energy Commission to certify eligible renewable energy resources, to design and implement an accounting system to verify compliance with the RPS requirements by retail sellers, and to develop tracking, accounting, verification, and enforcement mechanisms for renewable energy credits, as defined.~~

~~This bill would require the Energy Commission to design and implement an accounting system to verify compliance with the RPS requirements by retail sellers and local publicly owned electric utilities. The bill would require the Energy Commission, among other things, to adopt regulations specifying procedures for enforcement of the RPS requirements that include a public process under which the Energy Commission is authorized to issue a notice of violation and correction with respect to a local publicly owned electric utility and for referral to the State Air Resources Board for penalties imposed pursuant to the California Global Warming Solutions Act of 2006 or other laws if that act is suspended or repealed. This bill would revise the definition of renewable energy credit. The bill would require the Energy Commission, by June 30, 2011, to study and provide a report to the Legislature that analyzes run-of-river hydroelectric generating facilities, as defined, in British Columbia, including whether these facilities are, or should be, included as renewable electrical generation facilities for purposes of the Renewable Energy Resources Program administered by the Energy Commission or eligible renewable energy resources for purposes of the RPS program.~~

~~(5) Existing law requires the PUC, by February 1 of each year, to prepare and submit to the Governor and the Legislature a written report on the costs of programs and activities conducted by an electrical corporation or gas corporation that have more than a specified number of customers in California.~~

~~This bill would require the PUC, by February 1 of each year, to prepare and submit to the policy and fiscal committees of the Legislature a report on (A) all electrical corporation revenue requirement increases associated with meeting the renewables portfolio standard, (B) all cost savings experienced, or costs avoided, by electrical corporations as a result of meeting the renewables portfolio standard, (C) all costs incurred by electrical corporations for incentives for distributed and renewable generation, (D) all cost savings experienced, or costs avoided, by electrical corporations as a result of incentives for distributed generation and renewable generation, (E) specified costs for which an electrical corporation is seeking recovery in rates that are pending determination~~

or approval by the PUC, (F) the decision number of each PUC decision in the prior year authorizing an electrical corporation to recover costs incurred in rates, (G) any changes in the prior year in load serviced by an electrical corporation, and (H) the efforts each electrical corporation is taking to recruit and train employees to ensure an adequately trained and available workforce.

~~(6) The bill would require the PUC, by July 1, 2011, to determine the effective load carrying capacity of wind and solar energy resources on the electrical grid. The bill would require the PUC to use those values in establishing the contribution of those resources toward meeting specified resource adequacy requirements.~~

~~(7) The Public Utilities Act prohibits any electrical corporation from beginning the construction of, among other things, a line, plant, or system, or of any extension thereof, without having first obtained from the PUC a certificate that the present or future public convenience and necessity require or will require that construction, termed a certificate of public convenience and necessity.~~

~~This bill would require the PUC to issue a decision on an application for a certificate of public convenience and necessity within 18 months of the filing of a completed application under specified circumstances.~~

~~(8) Existing law establishes the Department of Fish and Game in the Natural Resources Agency, and generally charges the department with the administration and enforcement of the Fish and Game Code.~~

~~This bill would require the department to establish an internal division with the primary purpose of performing comprehensive planning and environmental compliance services with priority given to projects involving the building of eligible renewable energy resources.~~

~~(9) The existing restructuring of the electrical industry within the Public Utilities Act provides for the establishment of an Independent System Operator (ISO). Existing law requires the ISO to ensure efficient use and reliable operation of the transmission grid consistent with achieving planning and operating reserve criteria no less stringent than those established by the Western Electricity Coordinating Council and the American Electric Reliability Council. Pursuant to existing law, the ISO's tariffs are required to be approved by the FERC.~~

~~This bill would require the ISO and other California balancing authorities to work cooperatively to integrate and interconnect eligible renewable energy resources to the transmission grid by the most efficient means possible with the goal of minimizing the impact and cost of new transmission facilities needed to meet both reliability needs and the~~

renewables portfolio standard procurement requirements, and to accomplish this in a manner that respects the ownership, business, and dispatch models for transmission facilities owned by electrical corporations, local publicly owned electric utilities, joint power agencies, and independent transmission companies.

~~(10) This bill would appropriate \$322,000 from the Public Utilities Commission Utilities Reimbursement Account to the PUC for additional staffing to identify, review, and approve transmission lines reasonably necessary or appropriate to facilitate achievement of the renewables portfolio standard.~~

~~(11) 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: ~~yes-no~~. Fiscal committee: yes. State-mandated local program: ~~yes-no~~.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 25741.5 of the Public Resources Code,
- 2 as added by Chapter 1 of the First Extraordinary Session of the
- 3 Statutes of 2011, is amended to read:
- 4 25741.5. (a) By June 30, ~~2011~~ 2012, after providing public
- 5 notice and an opportunity for public comment, including holding
- 6 at least one public workshop, and following consultation with
- 7 interested governmental entities, the commission shall study and
- 8 provide a report to the Legislature that analyzes run-of-river
- 9 hydroelectric generating facilities in British Columbia, including
- 10 whether these facilities are, or should be, included as renewable
- 11 electrical generation facilities pursuant to Section 25741 or eligible
- 12 renewable energy resources pursuant to Article 16 (commencing
- 13 with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the
- 14 Public Utilities Code.
- 15 (b) By completing the study and making recommendations, the
- 16 commission shall consider the effect that inclusion would have
- 17 upon all of the following:
- 18 (1) Emissions of carbon dioxide and other greenhouse gases.
- 19 (2) Emissions of air pollutants.
- 20 (3) Water quality, recreation, and fisheries.

1 (4) Any other environmental impact caused by run-of-river
2 hydroelectric generating facilities.

3 (c) The report submitted pursuant to this section shall be
4 submitted in compliance with Section 9795 of the Government
5 Code.

6 (d) Pursuant to Section 10231.5 of the Government Code, this
7 section is repealed on January 1, ~~2015~~ 2016.

8 *SEC. 2. Section 399.26 of the Public Utilities Code, as added*
9 *by Chapter 1 of the First Extraordinary Session of the Statutes of*
10 *2011, is amended to read:*

11 399.26. (a) In order for the state to meet the requirements of
12 the California ~~Renewables Portfolio Standard Program~~ *renewables*
13 *portfolio standard program*, substantially increased amounts of
14 electricity generated by eligible renewable energy resources must
15 be integrated with, and interconnected to, the transmission grid
16 that is either owned by, or under the operational control of, the
17 local publicly owned electric utilities and the transmission grid
18 that is under the operational control of the Independent System
19 Operator.

20 (b) The Independent System Operator and the balancing
21 authority of each area in California shall do both of the following:

22 (1) Work cooperatively to integrate and interconnect eligible
23 renewable energy resources to the transmission grid by the most
24 efficient means possible with the goal of minimizing the impact
25 and cost of new transmission needed to meet both reliability needs
26 and the renewables portfolio standard procurement requirements.

27 (2) Accomplish the requirements of paragraph (1) in a manner
28 that respects the ownership, business, and dispatch models for
29 transmission facilities owned by electrical corporations, local
30 publicly owned electric utilities, joint powers agencies, and
31 independent transmission companies.

32 (c) The Independent System Operator shall seek any approvals
33 from the Federal Energy Regulatory Commission that are necessary
34 to accomplish the goals and requirements of this article.

35 (d) In order to maintain electric service reliability and to
36 minimize the construction of fossil fuel electrical generation
37 capacity to support the integration of intermittent renewable
38 electrical generation into the electrical grid, by July 1, ~~2011~~ 2012,
39 the commission shall determine the effective load carrying capacity
40 of wind and solar energy resources on the California electrical

1 grid. The commission shall use those effective load carrying
2 capacity values in establishing the contribution of wind and solar
3 energy resources toward meeting the resource adequacy
4 requirements established pursuant to Section 380.

5 *SEC. 3. Section 399.30 of the Public Utilities Code, as added*
6 *by Chapter 1 of the First Extraordinary Session of the Statutes of*
7 *2011, is amended to read:*

8 399.30. (a) In order to fulfill unmet long-term generation
9 resource needs, each local publicly owned electric utility shall
10 adopt and implement a renewable energy resources procurement
11 plan that requires the utility to procure a minimum quantity of
12 electricity products from eligible renewable energy resources,
13 including renewable energy credits, as a specified percentage of
14 total kilowatthours sold to the utility's retail end-use customers,
15 each compliance period, to achieve the targets of subdivision (c).

16 (b) The governing board shall implement procurement targets
17 for a local publicly owned electric utility that require the utility to
18 procure a minimum quantity of eligible renewable energy resources
19 for each of the following compliance periods:

20 (1) January 1, 2011, to December 31, 2013, inclusive.

21 (2) January 1, 2014, to December 31, 2016, inclusive.

22 (3) January 1, 2017, to December 31, 2020, inclusive.

23 (c) The governing board of a local publicly owned electric utility
24 shall ensure all of the following:

25 (1) The quantities of eligible renewable energy resources to be
26 procured for the compliance period from January 1, 2011, to
27 December 31, 2013, inclusive, are equal to an average of 20 percent
28 of retail sales.

29 (2) The quantities of eligible renewable energy resources to be
30 procured for all other compliance periods reflect reasonable
31 progress in each of the intervening years sufficient to ensure that
32 the procurement of electricity products from eligible renewable
33 energy resources achieves 25 percent of retail sales by December
34 31, 2016, and 33 percent of retail sales by December 31, 2020.
35 The local governing board shall require the local publicly owned
36 utilities to procure not less than 33 percent of retail sales of
37 electricity products from eligible renewable energy resources in
38 all subsequent years.

39 (3) A local publicly owned electric utility shall adopt
40 procurement requirements consistent with Section 399.16.

1 (d) The governing board of a local publicly owned electric utility
2 may adopt the following measures:

3 (1) Rules permitting the utility to apply excess procurement in
4 one compliance period to subsequent compliance periods in the
5 same manner as allowed for retail sellers pursuant to Section
6 399.13.

7 (2) Conditions that allow for delaying timely compliance
8 consistent with subdivision (b) of Section 399.15.

9 (3) Cost limitations for procurement expenditures consistent
10 with subdivision (c) of Section 399.15.

11 (e) The governing board of the local publicly owned electric
12 utility shall adopt a program for the enforcement of this article on
13 or before January 1, 2012. The program shall be adopted at a
14 publicly noticed meeting offering all interested parties an
15 opportunity to comment. Not less than 30 days' notice shall be
16 given to the public of any meeting held for purposes of adopting
17 the program. Not less than 10 days' notice shall be given to the
18 public before any meeting is held to make a substantive change to
19 the program.

20 (f) (1) Each local publicly owned electric utility shall annually
21 post notice, in accordance with Chapter 9 (commencing with
22 Section 54950) of Part 1 of Division 2 of Title 5 of the Government
23 Code, whenever its governing body will deliberate in public on its
24 renewable energy resources procurement plan.

25 (2) Contemporaneous with the posting of the notice of a public
26 meeting to consider the renewable energy resources procurement
27 plan, the local publicly owned electric utility shall notify the
28 Energy Commission of the date, time, and location of the meeting
29 in order to enable the Energy Commission to post the information
30 on its Internet Web site. This requirement is satisfied if the local
31 publicly owned electric utility provides the uniform resource
32 locator (URL) that links to this information.

33 (3) Upon distribution to its governing body of information
34 related to its renewable energy resources procurement status and
35 future plans, for its consideration at a noticed public meeting, the
36 local publicly owned electric utility shall make that information
37 available to the public and shall provide the Energy Commission
38 with an electronic copy of the documents for posting on the Energy
39 Commission's Internet Web site. This requirement is satisfied if
40 the local publicly owned electric utility provides the uniform

1 resource locator (URL) that links to the documents or information
2 regarding other manners of access to the documents.

3 (g) A local publicly owned electric utility shall annually submit
4 to the Energy Commission documentation regarding eligible
5 renewable energy resources procurement contracts that it executed
6 during the prior year, as follows:

7 (1) A description of the eligible renewable energy resource,
8 including the duration of the contract or electricity purchase
9 agreement.

10 (2) A description and identification of the electrical generating
11 facility providing the eligible renewable energy resource under
12 the contract.

13 (3) An estimate of the percentage increase in the utility's total
14 retail sales of electricity from eligible renewable energy resources
15 that will result from the contract.

16 (h) A public utility district that receives all of its electricity
17 pursuant to a preference right adopted and authorized by the United
18 States Congress pursuant to Section 4 of the Trinity River Division
19 Act of August 12, 1955 (Public Law 84-386) shall be in compliance
20 with the renewable energy procurement requirements of this article.

21 (i) For a local publicly owned electric utility that was in
22 existence on or before January 1, 2009, that provides retail electric
23 service to 15,000 or fewer customer accounts in California, and is
24 interconnected to a balancing authority located outside this state
25 but within the WECC, an eligible renewable energy resource
26 includes a facility that is located outside California that is
27 connected to the WECC transmission system, if all of the following
28 conditions are met:

29 (1) The electricity generated by the facility is procured by the
30 local publicly owned electric utility, is delivered to the balancing
31 authority area in which the local publicly owned electric utility is
32 located, and is not used to fulfill renewable energy procurement
33 requirements of other states.

34 (2) The local publicly owned electric utility participates in, and
35 complies with, the accounting system administered by the Energy
36 Commission pursuant to this article.

37 (3) The Energy Commission verifies that the electricity
38 generated by the facility is eligible to meet the renewables portfolio
39 standard procurement requirements.

1 (j) Notwithstanding subdivision (a), for a local publicly owned
2 electric utility that is a joint powers authority of districts established
3 pursuant to state law on or before January 1, 2005, that furnish
4 electric services other than to residential customers, and is formed
5 pursuant to the Irrigation District Law (Division 11 (commencing
6 with Section 20500) of the Water Code), the percentage of total
7 kilowatthours sold to the district’s retail end-use customers, upon
8 which the renewables portfolio standard procurement requirements
9 in subdivision (b) are calculated, shall be based on the authority’s
10 average retail sales over the previous seven years. If the authority
11 has not furnished electric service for seven years, then the
12 calculation shall be based on average retail sales over the number
13 of completed years during which the authority has provided electric
14 service.

15 (k) A local publicly owned electric utility in a city and county
16 that only receives greater than 67 percent of its electricity sources
17 from hydroelectric generation located within the state that it owns
18 and operates, and that does not meet the definition of a “renewable
19 electrical generation facility” pursuant to Section 25741 of the
20 Public Resources Code, shall be required to procure eligible
21 renewable energy resources, including renewable energy credits,
22 to meet only the electricity demands unsatisfied by its hydroelectric
23 generation in any given year, in order to satisfy its renewable
24 energy procurement requirements.

25 (l) Each local publicly owned electric utility shall report, on an
26 annual basis, to its customers and to the Energy Commission, all
27 of the following:

28 (1) Expenditures of public goods funds collected pursuant to
29 Section 385 for eligible renewable energy resource development.
30 Reports shall contain a description of programs, expenditures, and
31 expected or actual results.

32 (2) The resource mix used to serve its customers by energy
33 source.

34 (3) The utility’s status in implementing a renewables portfolio
35 standard pursuant to subdivision (a) and the utility’s progress
36 toward attaining the standard following implementation.

37 (m) A local publicly owned electric utility shall retain discretion
38 over both of the following:

39 (1) The mix of eligible renewable energy resources procured
40 by the utility and those additional generation resources procured

1 by the utility for purposes of ensuring resource adequacy and
2 reliability.

3 (2) The reasonable costs incurred by the utility for eligible
4 renewable energy resources owned by the utility.

5 (n) On or before July 1, ~~2011~~ 2012, the Energy Commission
6 shall adopt regulations specifying procedures for enforcement of
7 this article. The regulations shall include a public process under
8 which the Energy Commission may issue a notice of violation and
9 correction against a local publicly owned electric utility for failure
10 to comply with this article, and for referral of violations to the
11 State Air Resources Board for penalties pursuant to subdivision
12 (o).

13 (o) (1) Upon a determination by the Energy Commission that
14 a local publicly owned electric utility has failed to comply with
15 this article, the Energy Commission shall refer the failure to comply
16 with this article to the State Air Resources Board, which may
17 impose penalties to enforce this article consistent with Part 6
18 (commencing with Section 38580) of Division 25.5 of the Health
19 and Safety Code. Any penalties imposed shall be comparable to
20 those adopted by the commission for noncompliance by retail
21 sellers.

22 (2) If Division 25.5 (commencing with Section 38500) of the
23 Health and Safety Code is suspended or repealed, the State Air
24 Resources Board may take action to enforce this article on local
25 publicly owned electric utilities consistent with Section 41513 of
26 the Health and Safety Code, and impose penalties on a local
27 publicly owned electric utility consistent with Article 3
28 (commencing with Section 42400) of Chapter 4 of Part 4 of, and
29 Chapter 1.5 (commencing with Section 43025) of Part 5 of,
30 Division 26 of the Health and Safety Code.

31 (3) For the purpose of this subdivision, this section is an
32 emissions reduction measure pursuant to Section 38580 of the
33 Health and Safety Code.

34 (4) If the State Air Resources Board has imposed a penalty upon
35 a local publicly owned electric utility for the utility's failure to
36 comply with this article, the State Air Resources Board shall not
37 impose an additional penalty for the same infraction, or the same
38 failure to comply, with any renewables procurement requirement
39 imposed upon the utility pursuant to the California Global Warming

1 Solutions Act of 2006 (Division 25.5 (commencing with Section
2 38500) of the Health and Safety Code).

3 (5) Any penalties collected by the State Air Resources Board
4 pursuant to this article shall be deposited in the Air Pollution
5 Control Fund and, upon appropriation by the Legislature, shall be
6 expended for reducing emissions of air pollution or greenhouse
7 gases within the same geographic area as the local publicly owned
8 electric utility.

9 (p) The commission has no authority or jurisdiction to enforce
10 any of the requirements of this article on a local publicly owned
11 electric utility.

12
13
14
15
16
17

**All matter omitted in this version of the bill
appears in the bill as introduced in the
Senate, December 6, 2010. (JR11)**