

AMENDED IN ASSEMBLY SEPTEMBER 9, 2011

AMENDED IN ASSEMBLY SEPTEMBER 2, 2011

AMENDED IN SENATE APRIL 26, 2011

SENATE BILL

No. 23

Introduced by Senator Simitian

December 6, 2010

An act to add Section 38566 to the Health and Safety Code, to amend Section 25741.5 of the Public Resources Code, and to amend Sections 399.12, 399.13, 399.15, 399.19, 399.26, 399.30, and 910 of the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

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

(1) 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~~

Effective on the 91st day after the adjournment of the 2011–12 First Extraordinary Session, the State Energy Resources Conservation and Development Commission (Energy Commission), by June 30, 2011, is required 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~~

Effective on the 91st day after the adjournment of the 2011–12 First Extraordinary Session, the Energy Commission, among other things, is required to adopt regulations specifying procedures for enforcement of the RPS requirements by July 1, 2011.

~~Existing law, effective on _____, requires~~

Effective on the 91st day after the adjournment of the 2011–12 First Extraordinary Session, the Public Utilities Commission (PUC), by July 1, 2011, is required 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 corresponding reporting and regulatory requirements ~~by one year, until 2012, as provided.~~

(2) ~~Existing law, effective on _____, requires~~ *Effective on the 91st day after the adjournment of the 2011–12 First Extraordinary Session, the PUC, in consultation with the Energy Commission, is required to report to the Legislature by January 1 of every even-numbered year on (A) the progress and status of procurement activities by each retail seller, (B) the status of permitting and siting eligible renewable energy resources and transmission facilities necessary to supply electricity generated to load, (C) the projected ability of electrical corporations to meet the RPS program procurement requirements under a cost limitation established by the PUC and any recommendations for revisions to those cost limitations, and (D) barriers to, and policy recommendations for, achieving the renewables portfolio standard established pursuant to the RPS program.*

This bill would delete the requirement that the PUC report on the projected ability of electrical corporations to meet the RPS program procurement requirements under a cost limitation established by the PUC and any recommendations for revisions to those cost limitations, and would require that the first report be made on January 1, 2014.

(3) ~~Existing law, effective on _____, requires~~ *Effective on the 91st day after the adjournment of the First Extraordinary Session of the 2011–12 Session, the PUC is required to establish the quantity of electricity products from eligible renewable energy resources, as defined, to be procured by each retail seller, as defined, for specified compliance periods, sufficient to ensure that the procurement of electricity products from eligible renewable energy resources achieves 20% of retail sales for the period January 1, 2011, to December 31, 2013, 25% of retail sales by December 31, 2016, and 33% of retail sales by December 31,*

2020, and in all subsequent years. *The PUC is required to establish the quantity of electricity products to be procured by the retail seller for each compliance period by January 1, 2012.* The RPS program, consistent with the goals of procuring the least-cost and best-fit eligible renewable energy resources that meet project viability principles, requires that all retail sellers procure a balanced portfolio of electricity products from eligible renewable energy resources, as specified. The RPS program requires the PUC to direct each electrical corporation to annually prepare a renewable energy procurement plan containing specified matter *and an annual compliance report.*

This bill would require the PUC to ~~instead direct each electrical corporation to prepare and regularly update a renewable energy procurement plan~~ *establish the quantity of electricity products to be procured by the retail seller for each compliance period by June 1, 2012, and require that the compliance report be submitted at least annually.*

(4) ~~Existing law, effective on _____, defines~~ *Effective on the 91st day after the adjournment of the First Extraordinary Session of the 2011–12 Session,* an eligible renewable energy resource *is defined* for the purposes of the RPS program to include a small hydroelectric generation unit with a nameplate capacity not exceeding 40 megawatts that is operated as part of a water supply or conveyance system, if the retail seller or local publicly owned electric utility procured the electricity from the facility as of December 31, 2005.

This bill would instead make a small hydroelectric generation unit with a nameplate capacity not exceeding 40 megawatts an eligible renewable energy resource if a retail seller or local publicly owned electric utility operates the facility to supply or convey water to its customers and procured the electricity from the facility as of December 31, 2005.

(5) ~~Existing law, effective on _____, requires~~ *Effective on the 91st day after the adjournment of the First Extraordinary Session of the 2011–12 Session,* the governing board of a local publicly owned electric utility, as defined, *is required* to adopt a program for the enforcement of the RPS program on or before January 1, 2012.

This bill would extend this deadline until January 1, 2013.

(6) The California Global Warming Solutions Act of 2006 (the act), establishes the State Air Resources Board (state board) as the state agency responsible for monitoring and regulating sources emitting greenhouse gases. The act requires the state board to adopt regulations

to require the reporting and verification of statewide greenhouse gas emissions and to monitor and enforce compliance with this program. The act requires the state board to adopt a statewide greenhouse gas emissions limit, as defined, to be achieved by 2020, equivalent to the statewide greenhouse gas emissions levels in 1990. The state board is required to adopt rules and regulations in an open public process to achieve the maximum technologically feasible and cost-effective greenhouse gas emission reductions.

This bill would prohibit the state board from adopting any requirement for the procurement of eligible renewable energy resources by a retail seller or local publicly owned electric utility.

(7) *This bill would incorporate additional changes in Section 399.30 of the Public Utilities Code, proposed by AB 1391, to be operative only if AB 1391 and this bill are both chaptered and become effective on or before January 1, 2012, and this bill is chaptered last.*

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 38566 is added to the Health and Safety
2 Code, to read:

3 38566. The state board shall not adopt any requirement for the
4 procurement of eligible renewable energy resources by a retail
5 seller or local publicly owned electric utility. For purposes of this
6 section, “eligible renewable energy resource” and “retail seller”
7 have the same meaning as defined in Section 399.12 of the Public
8 Utilities Code, and “local publicly owned electric utility” has the
9 same meaning as defined in Section 224.3 of the Public Utilities
10 Code.

11 SEC. 2. Section 25741.5 of the Public Resources Code, as
12 added by Chapter 1 of the First Extraordinary Session of the
13 Statutes of 2011, is amended to read:

14 25741.5. (a) By June 30, 2012, after providing public notice
15 and an opportunity for public comment, including holding at least
16 one public workshop, and following consultation with interested
17 governmental entities, the commission shall study and provide a
18 report to the Legislature that analyzes run-of-river hydroelectric
19 generating facilities in British Columbia, including whether these
20 facilities are, or should be, included as renewable electrical

1 generation facilities pursuant to Section 25741 or eligible
2 renewable energy resources pursuant to Article 16 (commencing
3 with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the
4 Public Utilities Code.

5 (b) By completing the study and making recommendations, the
6 commission shall consider the effect that inclusion would have
7 upon all of the following:

8 (1) Emissions of carbon dioxide and other greenhouse gases.

9 (2) Emissions of air pollutants.

10 (3) Water quality, recreation, and fisheries.

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

13 (c) The report submitted pursuant to this section shall be
14 submitted in compliance with Section 9795 of the Government
15 Code.

16 (d) Pursuant to Section 10231.5 of the Government Code, this
17 section is repealed on January 1, 2016.

18 SEC. 3. Section 399.12 of the Public Utilities Code, as added
19 by Chapter 1 of the First Extraordinary Session of the Statutes of
20 2011, is amended to read:

21 399.12. For purposes of this article, the following terms have
22 the following meanings:

23 (a) “Conduit hydroelectric facility” means a facility for the
24 generation of electricity that uses only the hydroelectric potential
25 of an existing pipe, ditch, flume, siphon, tunnel, canal, or other
26 manmade conduit that is operated to distribute water for a
27 beneficial use.

28 (b) “Balancing authority” means the responsible entity that
29 integrates resource plans ahead of time, maintains load-interchange
30 generation balance within a balancing authority area, and supports
31 interconnection frequency in real time.

32 (c) “Balancing authority area” means the collection of
33 generation, transmission, and loads within the metered boundaries
34 of the area within which the balancing authority maintains the
35 electrical load-resource balance.

36 (d) “California balancing authority” is a balancing authority
37 with control over a balancing authority area primarily located in
38 this state and operating for retail sellers and local publicly owned
39 electric utilities subject to the requirements of this article and
40 includes the Independent System Operator (ISO) and a local

1 publicly owned electric utility operating a transmission grid that
2 is not under the operational control of the ISO. A California
3 balancing authority is responsible for the operation of the
4 transmission grid within its metered boundaries which may not be
5 limited by the political boundaries of the State of California.

6 (e) “Eligible renewable energy resource” means an electrical
7 generating facility that meets the definition of a “renewable
8 electrical generation facility” in Section 25741 of the Public
9 Resources Code, subject to the following:

10 (1) (A) An existing small hydroelectric generation facility of
11 30 megawatts or less shall be eligible only if a retail seller or local
12 publicly owned electric utility procured the electricity from the
13 facility as of December 31, 2005. A small hydroelectric generation
14 unit with a nameplate capacity not exceeding 40 megawatts is an
15 eligible renewable energy resource if a retail seller or local publicly
16 owned electric utility operates the facility to supply or convey
17 water to its customers and procured the electricity from the facility
18 as of December 31, 2005. A new hydroelectric facility that
19 commences generation of electricity after December 31, 2005, is
20 not an eligible renewable energy resource if it will cause an adverse
21 impact on instream beneficial uses or cause a change in the volume
22 or timing of streamflow.

23 (B) Notwithstanding subparagraph (A), a conduit hydroelectric
24 facility of 30 megawatts or less that commenced operation before
25 January 1, 2006, is an eligible renewable energy resource. A
26 conduit hydroelectric facility of 30 megawatts or less that
27 commences operation after December 31, 2005, is an eligible
28 renewable energy resource so long as it does not cause an adverse
29 impact on instream beneficial uses or cause a change in the volume
30 or timing of streamflow.

31 (C) A facility approved by the governing board of a local
32 publicly owned electric utility prior to June 1, 2010, for
33 procurement to satisfy renewable energy procurement obligations
34 adopted pursuant to former Section 387, shall be certified as an
35 eligible renewable energy resource by the Energy Commission
36 pursuant to this article, if the facility is a “renewable electrical
37 generation facility” as defined in Section 25741 of the Public
38 Resources Code.

39 (2) A facility engaged in the combustion of municipal solid
40 waste shall not be considered an eligible renewable energy resource

1 unless it is located in Stanislaus County and was operational prior
2 to September 26, 1996.

3 (f) “Procure” means to acquire through ownership or contract.

4 (g) “Procurement entity” means any person or corporation
5 authorized by the commission to enter into contracts to procure
6 eligible renewable energy resources on behalf of customers of a
7 retail seller pursuant to subdivision (f) of Section 399.13.

8 (h) (1) “Renewable energy credit” means a certificate of proof
9 associated with the generation of electricity from an eligible
10 renewable energy resource, issued through the accounting system
11 established by the Energy Commission pursuant to Section 399.25,
12 that one unit of electricity was generated and delivered by an
13 eligible renewable energy resource.

14 (2) “Renewable energy credit” includes all renewable and
15 environmental attributes associated with the production of
16 electricity from the eligible renewable energy resource, except for
17 an emissions reduction credit issued pursuant to Section 40709 of
18 the Health and Safety Code and any credits or payments associated
19 with the reduction of solid waste and treatment benefits created
20 by the utilization of biomass or biogas fuels.

21 (3) (A) An electricity generated by an eligible renewable energy
22 resource attributable to the use of nonrenewable fuels, beyond a
23 de minimis quantity used to generate electricity in the same process
24 through which the facility converts renewable fuel to electricity,
25 shall not result in the creation of a renewable energy credit. The
26 Energy Commission shall set the de minimis quantity of
27 nonrenewable fuels for each renewable energy technology at a
28 level of no more than 2 percent of the total quantity of fuel used
29 by the technology to generate electricity. The Energy Commission
30 may adjust the de minimis quantity for an individual facility, up
31 to a maximum of 5 percent, if it finds that all of the following
32 conditions are met:

33 (i) The facility demonstrates that the higher quantity of
34 nonrenewable fuel will lead to an increase in generation from the
35 eligible renewable energy facility that is significantly greater than
36 generation from the nonrenewable fuel alone.

37 (ii) The facility demonstrates that the higher quantity of
38 nonrenewable fuels will reduce the variability of its electrical
39 output in a manner that results in net environmental benefits to the
40 state.

1 (iii) The higher quantity of nonrenewable fuel is limited to either
2 natural gas or hydrogen derived by reformation of a fossil fuel.

3 (B) Electricity generated by a small hydroelectric generation
4 facility shall not result in the creation of a renewable energy credit
5 unless the facility meets the requirements of subparagraph (A) of
6 paragraph (1) of subdivision (e).

7 (C) Electricity generated by a conduit hydroelectric generation
8 facility shall not result in the creation of a renewable energy credit
9 unless the facility meets the requirements of subparagraph (B) of
10 paragraph (1) of subdivision (e).

11 (D) Electricity generated by a facility engaged in the combustion
12 of municipal solid waste shall not result in the creation of a
13 renewable energy credit unless the facility meets the requirements
14 of paragraph (2) of subdivision (e).

15 (i) “Renewables portfolio standard” means the specified
16 percentage of electricity generated by eligible renewable energy
17 resources that a retail seller or a local publicly owned electric utility
18 is required to procure pursuant to this article.

19 (j) “Retail seller” means an entity engaged in the retail sale of
20 electricity to end-use customers located within the state, including
21 any of the following:

22 (1) An electrical corporation, as defined in Section 218.

23 (2) A community choice aggregator. The commission shall
24 institute a rulemaking to determine the manner in which a
25 community choice aggregator will participate in the renewables
26 portfolio standard program subject to the same terms and conditions
27 applicable to an electrical corporation.

28 (3) An electric service provider, as defined in Section 218.3,
29 for all sales of electricity to customers beginning January 1, 2006.
30 The commission shall institute a rulemaking to determine the
31 manner in which electric service providers will participate in the
32 renewables portfolio standard program. The electric service
33 provider shall be subject to the same terms and conditions
34 applicable to an electrical corporation pursuant to this article. This
35 paragraph does not impair a contract entered into between an
36 electric service provider and a retail customer prior to the
37 suspension of direct access by the commission pursuant to Section
38 80110 of the Water Code.

39 (4) “Retail seller” does not include any of the following:

1 (A) A corporation or person employing cogeneration technology
2 or producing electricity consistent with subdivision (b) of Section
3 218.

4 (B) The Department of Water Resources acting in its capacity
5 pursuant to Division 27 (commencing with Section 80000) of the
6 Water Code.

7 (C) A local publicly owned electric utility.

8 (k) “WECC” means the Western Electricity Coordinating
9 Council of the North American Electric Reliability Corporation,
10 or a successor to either corporation.

11 SEC. 4. Section 399.13 of the Public Utilities Code, as added
12 by Chapter 1 of the First Extraordinary Session of the Statutes of
13 2011, is amended to read:

14 399.13. (a) (1) The commission shall direct each electrical
15 corporation to prepare and regularly update a renewable energy
16 procurement plan that includes the matter in paragraph-(4) (5), to
17 satisfy its obligations under the renewables portfolio standard. To
18 the extent feasible, this procurement plan shall be proposed,
19 reviewed, and adopted by the commission as part of, and pursuant
20 to, a general procurement plan process. The commission shall
21 require each electrical corporation to review and update its
22 renewable energy procurement plan as it determines to be
23 necessary.

24 ~~(2) The commission shall direct each retail seller to prepare and~~
25 ~~submit regular compliance reports that include any information~~
26 ~~the commission determines is relevant to tracking the ability of~~
27 ~~the retail seller to meet the requirements of this article.~~

28 *(2) Every electrical corporation that owns electrical*
29 *transmission facilities shall annually prepare, as part of the*
30 *Federal Energy Regulatory Commission Order 890 process, and*
31 *submit to the commission, a report identifying any electrical*
32 *transmission facility, upgrade, or enhancement that is reasonably*
33 *necessary to achieve the renewables portfolio standard*
34 *procurement requirements of this article. Each report shall look*
35 *forward at least five years and, to ensure that adequate investments*
36 *are made in a timely manner, shall include a preliminary schedule*
37 *when an application for a certificate of public convenience and*
38 *necessity will be made, pursuant to Chapter 5 (commencing with*
39 *Section 1001), for any electrical transmission facility identified*
40 *as being reasonably necessary to achieve the renewable energy*

1 *resources procurement requirements of this article. Each electrical*
2 *corporation that owns electrical transmission facilities shall ensure*
3 *that project-specific interconnection studies are completed in a*
4 *timely manner.*

5 *(3) The commission shall direct each retail seller to prepare*
6 *and submit at least an annual compliance report that includes all*
7 *of the following:*

8 *(A) The current status and progress made during the prior year*
9 *toward procurement of eligible renewable energy resources as a*
10 *percentage of retail sales, including, if applicable, the status of*
11 *any necessary siting and permitting approvals from federal, state,*
12 *and local agencies for those eligible renewable energy resources*
13 *procured by the retail seller, and the current status of compliance*
14 *with the portfolio content requirements of subdivision (c) of Section*
15 *399.16, including procurement of eligible renewable energy*
16 *resources located outside the state and within the WECC and*
17 *unbundled renewable energy credits.*

18 *(B) If the retail seller is an electrical corporation, the current*
19 *status and progress made during the prior year toward*
20 *construction of, and upgrades to, transmission and distribution*
21 *facilities and other electrical system components it owns to*
22 *interconnect eligible renewable energy resources and to supply*
23 *the electricity generated by those resources to load, including the*
24 *status of planning, siting, and permitting transmission facilities*
25 *by federal, state, and local agencies.*

26 *(C) Recommendations to remove impediments to making*
27 *progress toward achieving the renewable energy resources*
28 *procurement requirements established pursuant to this article.*

29 ~~(3)~~

30 *(4) The commission shall adopt, by rulemaking, all of the*
31 *following:*

32 *(A) A process that provides criteria for the rank ordering and*
33 *selection of least-cost and best-fit eligible renewable energy*
34 *resources to comply with the California Renewables Portfolio*
35 *Standard Program obligations on a total cost basis. This process*
36 *shall take into account all of the following:*

37 *(i) Estimates of indirect costs associated with needed*
38 *transmission investments and ongoing electrical corporation*
39 *expenses resulting from integrating and operating eligible*
40 *renewable energy resources.*

1 (ii) The cost impact of procuring the eligible renewable energy
2 resources on the electrical corporation's electricity portfolio.

3 (iii) The viability of the project to construct and reliably operate
4 the eligible renewable energy resource, including the developer's
5 experience, the feasibility of the technology used to generate
6 electricity, and the risk that the facility will not be built, or that
7 construction will be delayed, with the result that electricity will
8 not be supplied as required by the contract.

9 (iv) Workforce recruitment, training, and retention efforts,
10 including the employment growth associated with the construction
11 and operation of eligible renewable energy resources and goals
12 for recruitment and training of women, minorities, and disabled
13 veterans.

14 (B) Rules permitting retail sellers to accumulate, beginning
15 January 1, 2011, excess procurement in one compliance period to
16 be applied to any subsequent compliance period. The rules shall
17 apply equally to all retail sellers. In determining the quantity of
18 excess procurement for the applicable compliance period, the
19 commission shall deduct from actual procurement quantities, the
20 total amount of procurement associated with contracts of less than
21 10 years in duration. In no event shall electricity products meeting
22 the portfolio content of paragraph (3) of subdivision (b) of Section
23 399.16 be counted as excess procurement.

24 (C) Standard terms and conditions to be used by all electrical
25 corporations in contracting for eligible renewable energy resources,
26 including performance requirements for renewable generators. A
27 contract for the purchase of electricity generated by an eligible
28 renewable energy resource, at a minimum, shall include the
29 renewable energy credits associated with all electricity generation
30 specified under the contract. The standard terms and conditions
31 shall include the requirement that, no later than six months after
32 the commission's approval of an electricity purchase agreement
33 entered into pursuant to this article, the following information
34 about the agreement shall be disclosed by the commission: party
35 names, resource type, project location, and project capacity.

36 (D) An appropriate minimum margin of procurement above the
37 minimum procurement level necessary to comply with the
38 renewables portfolio standard to mitigate the risk that renewable
39 projects planned or under contract are delayed or canceled. This
40 paragraph does not preclude an electrical corporation from

1 voluntarily proposing a margin of procurement above the
2 appropriate minimum margin established by the commission.

3 ~~(4)~~

4 (5) Consistent with the goal of increasing California's reliance
5 on eligible renewable energy resources, the renewable energy
6 procurement plan submitted by an electrical corporation shall
7 include all of the following:

8 (A) An assessment of annual or multiyear portfolio supplies
9 and demand to determine the optimal mix of eligible renewable
10 energy resources with deliverability characteristics that may include
11 peaking, dispatchable, baseload, firm, and as-available capacity.

12 (B) Potential compliance delays related to the conditions
13 described in paragraph (5) of subdivision (b) of Section 399.15.

14 (C) A bid solicitation setting forth the need for eligible
15 renewable energy resources of each deliverability characteristic,
16 required online dates, and locational preferences, if any.

17 (D) A status update on the development schedule of all eligible
18 renewable energy resources currently under contract.

19 (E) Consideration of mechanisms for price adjustments
20 associated with the costs of key components for eligible renewable
21 energy resource projects with online dates more than 24 months
22 after the date of contract execution.

23 (F) An assessment of the risk that an eligible renewable energy
24 resource will not be built, or that construction will be delayed,
25 with the result that electricity will not be delivered as required by
26 the contract.

27 ~~(5)~~

28 (6) In soliciting and procuring eligible renewable energy
29 resources, each electrical corporation shall offer contracts of no
30 less than 10 years duration, unless the commission approves of a
31 contract of shorter duration.

32 ~~(6)~~

33 (7) In soliciting and procuring eligible renewable energy
34 resources for projects located in California, each electrical
35 corporation shall give preference to renewable energy projects that
36 provide environmental and economic benefits to communities
37 afflicted with poverty or high unemployment, or that suffer from
38 high emission levels of toxic air contaminants, criteria air
39 pollutants, and greenhouse gases.

1 ***(b) A retail seller may enter into a combination of long- and***
2 ***short-term contracts for electricity and associated renewable***
3 ***energy credits. The commission may authorize a retail seller to***
4 ***enter into a contract of less than 10 years' duration with an eligible***
5 ***renewable energy resource, if the commission has established, for***
6 ***each retail seller, minimum quantities of eligible renewable energy***
7 ***resources to be procured through contracts of at least 10 years'***
8 ***duration.***

9 ~~(b)~~

10 ***(c) The commission shall review and accept, modify, or reject***
11 ***each electrical corporation's renewable energy resource***
12 ***procurement plan prior to the commencement of renewable energy***
13 ***procurement pursuant to this article by an electrical corporation.***

14 ~~(c)~~

15 ***(d) Unless previously preapproved by the commission, an***
16 ***electrical corporation shall submit a contract for the generation of***
17 ***an eligible renewable energy resource to the commission for review***
18 ***and approval consistent with an approved renewable energy***
19 ***resource procurement plan. If the commission determines that the***
20 ***bid prices are elevated due to a lack of effective competition among***
21 ***the bidders, the commission shall direct the electrical corporation***
22 ***to renegotiate the contracts or conduct a new solicitation.***

23 ~~(d)~~

24 ***(e) If an electrical corporation fails to comply with a commission***
25 ***order adopting a renewable energy resource procurement plan, the***
26 ***commission shall exercise its authority pursuant to Section 2113***
27 ***to require compliance. The commission shall enforce comparable***
28 ***penalties on any retail seller that is not an electrical corporation***
29 ***that fails to meet the procurement targets established pursuant to***
30 ***Section 399.15.***

31 ~~(e)~~

32 ***(f) (1) The commission may authorize a procurement entity to***
33 ***enter into contracts on behalf of customers of a retail seller for***
34 ***electricity products from eligible renewable energy resources to***
35 ***satisfy the retail seller's renewables portfolio standard procurement***
36 ***requirements. The commission shall not require any person or***
37 ***corporation to act as a procurement entity or require any party to***
38 ***purchase eligible renewable energy resources from a procurement***
39 ***entity.***

(2) Subject to review and approval by the commission, the procurement entity shall be permitted to recover reasonable administrative and procurement costs through the retail rates of end-use customers that are served by the procurement entity and are directly benefiting from the procurement of eligible renewable energy resources.

(f)

(g) Procurement and administrative costs associated with contracts entered into by an electrical corporation for eligible renewable energy resources pursuant to this article and approved by the commission are reasonable and prudent and shall be recoverable in rates.

(g)

(h) Construction, alteration, demolition, installation, and repair work on an eligible renewable energy resource that receives production incentives pursuant to Section 25742 of the Public Resources Code, including work performed to qualify, receive, or maintain production incentives, are “public works” for the purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

SEC. 5. Section 399.15 of the Public Utilities Code, as added by Section 20 of Chapter 1 of the First Extraordinary Session of the Statutes of 2011, is amended to read:

399.15. (a) In order to fulfill unmet long-term resource needs, the commission shall establish a renewables portfolio standard requiring all retail sellers to procure a minimum quantity of electricity products from eligible renewable energy resources as a specified percentage of total kilowatthours sold to their retail end-use customers each compliance period to achieve the targets established under this article. ~~Deficits For any retail seller procuring at least 14 percent of retail sales from eligible renewable energy resources in 2010, the deficits associated with any previous renewables portfolio standard obligation through December 31, 2010,~~ shall not be added to any procurement requirement pursuant to this article.

(b) The commission shall implement renewables portfolio standard procurement requirements only as follows:

(1) Each retail seller shall procure a minimum quantity of eligible renewable energy resources for each of the following compliance periods:

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

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

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

4 (2) (A) No later than ~~January 1, 2013~~ *June 1, 2012*, the
5 commission shall establish the quantity of electricity products from
6 eligible renewable energy resources to be procured by the retail
7 seller for each compliance period. These quantities shall be
8 established in the same manner for all retail sellers and result in
9 the same percentages used to establish compliance period quantities
10 for all retail sellers.

11 (B) In establishing quantities for the compliance period from
12 January 1, 2011, to December 31, 2013, inclusive, the commission
13 shall require procurement for each retail seller equal to an average
14 of 20 percent of retail sales. For the following compliance periods,
15 the quantities shall reflect reasonable progress in each of the
16 intervening years sufficient to ensure that the procurement of
17 electricity products from eligible renewable energy resources
18 achieves 25 percent of retail sales by December 31, 2016, and 33
19 percent of retail sales by December 31, 2020. The commission
20 shall require retail sellers to procure not less than 33 percent of
21 retail sales of electricity products from eligible renewable energy
22 resources in all subsequent years.

23 (C) Retail sellers shall be obligated to procure no less than the
24 quantities associated with all intervening years by the end of each
25 compliance period. Retail sellers shall not be required to
26 demonstrate a specific quantity of procurement for any individual
27 intervening year.

28 (3) The commission shall not require the procurement of eligible
29 renewable energy resources in excess of the quantities identified
30 in paragraph (2). A retail seller may voluntarily increase its
31 procurement of eligible renewable energy resources beyond the
32 renewables portfolio standard procurement requirements.

33 (4) Only for purposes of establishing the renewables portfolio
34 standard procurement requirements of paragraph (1) and
35 determining the quantities pursuant to paragraph (2), the
36 commission shall include all electricity sold to retail customers by
37 the Department of Water Resources pursuant to Division 27
38 (commencing with Section 80000) of the Water Code in the
39 calculation of retail sales by an electrical corporation.

(5) The commission shall waive enforcement of this section if it finds that the retail seller has demonstrated any of the following conditions were beyond the control of the retail seller and have prevented compliance:

(A) There is inadequate transmission capacity to allow for sufficient electricity to be delivered from proposed eligible renewable energy resource projects using the current operational protocols of the Independent System Operator. In making its findings relative to the existence of this condition with respect to a retail seller that owns transmission lines, the commission shall consider both of the following:

(i) Whether the retail seller has undertaken, in a timely fashion, reasonable measures under its control and consistent with its obligations under local, state, and federal laws and regulations, to develop and construct new transmission lines or upgrades to existing lines intended to transmit electricity generated by eligible renewable energy resources. In determining the reasonableness of a retail seller's actions, the commission shall consider the retail seller's expectations for full-cost recovery for these transmission lines and upgrades.

(ii) Whether the retail seller has taken all reasonable operational measures to maximize cost-effective deliveries of electricity from eligible renewable energy resources in advance of transmission availability.

(B) Permitting, interconnection, or other circumstances that delay procured eligible renewable energy resource projects, or there is an insufficient supply of eligible renewable energy resources available to the retail seller. In making a finding that this condition prevents timely compliance, the commission shall consider whether the retail seller has done all of the following:

(i) Prudently managed portfolio risks, including relying on a sufficient number of viable projects.

(ii) Sought to develop one of the following: its own eligible renewable energy resources, transmission to interconnect to eligible renewable energy resources, or energy storage used to integrate eligible renewable energy resources. This clause shall not require an electrical corporation to pursue development of eligible renewable energy resources pursuant to Section 399.14.

(iii) Procured an appropriate minimum margin of procurement above the minimum procurement level necessary to comply with

1 the renewables portfolio standard to compensate for foreseeable
2 delays or insufficient supply.

3 (iv) Taken reasonable measures, under the control of the retail
4 seller, to procure cost-effective distributed generation and allowable
5 unbundled renewable energy credits.

6 (C) Unanticipated curtailment of eligible renewable energy
7 resources necessary to address the needs of a balancing authority.

8 (6) If the commission waives the compliance requirements of
9 this section, the commission shall establish additional reporting
10 requirements on the retail seller to demonstrate that all reasonable
11 actions under the control of the retail seller are taken in each of
12 the intervening years sufficient to satisfy future procurement
13 requirements.

14 (7) The commission shall not waive enforcement pursuant to
15 this section, unless the retail seller demonstrates that it has taken
16 all reasonable actions under its control, as set forth in paragraph
17 (5), to achieve full compliance.

18 (8) If a retail seller fails to procure sufficient eligible renewable
19 energy resources to comply with a procurement requirement
20 pursuant to paragraphs (1) and (2) and fails to obtain an order from
21 the commission waiving enforcement pursuant to paragraph (5),
22 the commission shall exercise its authority pursuant to Section
23 2113.

24 (9) Deficits associated with the compliance period shall not be
25 added to a future compliance period.

26 (c) The commission shall establish a limitation for each electrical
27 corporation on the procurement expenditures for all eligible
28 renewable energy resources used to comply with the renewables
29 portfolio standard. In establishing this limitation, the commission
30 shall, ~~at a minimum,~~ rely on the following:

31 (1) The most recent renewable energy procurement plan.

32 (2) Procurement expenditures that approximate the expected
33 cost of building, owning, and operating eligible renewable energy
34 resources.

35 (3) The potential that some planned resource additions may be
36 delayed or canceled.

37 (d) In developing the limitation pursuant to subdivision (c), the
38 commission shall ensure all of the following:

39 (1) The limitation is set at a level that prevents disproportionate
40 rate impacts.

(2) The costs of all procurement credited toward achieving the renewables portfolio standard are counted towards the limitation.

(3) Procurement expenditures do not include any indirect expenses, including imbalance energy charges, sale of excess energy, decreased generation from existing resources, transmission upgrades, or the costs associated with relicensing any utility-owned hydroelectric facilities.

(e) (1) No later than January 1, 2016, the commission shall prepare a report to the Legislature assessing whether each electrical corporation can achieve a 33-percent renewables portfolio standard by December 31, 2020, and maintain that level thereafter, within the adopted cost limitations. If the commission determines that it is necessary to change the limitation for procurement costs incurred by any electrical corporation after that date, it may propose a revised cap consistent with the criteria in subdivisions (c) and (d). The proposed modifications shall take effect no earlier than January 1, 2017.

(2) Notwithstanding Section 10231.5 of the Government Code, the requirement for submitting a report imposed under paragraph (1) is inoperative on January 1, 2021.

(3) A report to be submitted pursuant to paragraph (1) shall be submitted in compliance with Section 9795 of the Government Code.

(f) 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 may 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 long-term procurement plan established for the electrical corporation pursuant to Section 454.5.

(g) (1) The commission shall monitor the status of the cost limitation for each electrical corporation in order to ensure compliance with this article.

(2) If the commission determines that an electrical corporation may exceed its cost limitation prior to achieving the renewables portfolio standard procurement requirements, the commission shall do both of the following within 60 days of making that determination:

1 (A) Investigate and identify the reasons why the electrical
2 corporation may exceed its cost limitation.

3 (B) Notify the appropriate policy and fiscal committees of the
4 Legislature that the electrical corporation may exceed its cost
5 limitation, and include the reasons why the electrical corporation
6 may exceed its cost limitation.

7 (h) The establishment of a renewables portfolio standard shall
8 not constitute implementation by the commission of the federal
9 Public Utility Regulatory Policies Act of 1978 (Public Law
10 95-617).

11 SEC. 6. Section 399.19 of the Public Utilities Code, as added
12 by Section 26 of Chapter 1 of the First Extraordinary Session of
13 the Statutes of 2011, is amended to read:

14 399.19. Beginning January 1, 2014, the commission, in
15 consultation with the Energy Commission, shall report to the
16 Legislature by January 1 of every even-numbered year on all of
17 the following:

18 (a) The progress and status of procurement activities by each
19 retail seller.

20 (b) The status of permitting and siting eligible renewable energy
21 resources and transmission facilities necessary to supply electricity
22 generated to load, including the time taken to permit each eligible
23 renewable energy resource and transmission line or upgrade,
24 explanations of failures to meet permitting milestones, and
25 recommendations for improvements to expedite permitting and
26 siting processes.

27 (c) Any barriers to, and policy recommendations for, achieving
28 the renewables portfolio standard pursuant to this article.

29 SEC. 7. Section 399.26 of the Public Utilities Code, as added
30 by Chapter 1 of the First Extraordinary Session of the Statutes of
31 2011, is amended to read:

32 399.26. (a) In order for the state to meet the requirements of
33 the California renewables portfolio standard program, substantially
34 increased amounts of electricity generated by eligible renewable
35 energy resources must be integrated with, and interconnected to,
36 the transmission grid that is either owned by, or under the
37 operational control of, the local publicly owned electric utilities
38 and the transmission grid that is under the operational control of
39 the Independent System Operator.

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

(1) 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 needed to meet both reliability needs and the renewables portfolio standard procurement requirements.

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

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

(d) In order to maintain electric service reliability and to minimize the construction of fossil fuel electrical generation capacity to support the integration of intermittent renewable electrical generation into the electrical grid, by January 1, 2013, the commission shall determine the effective load carrying capacity of wind and solar energy resources on the California electrical grid. The commission shall use those effective load carrying capacity values in establishing the contribution of wind and solar energy resources toward meeting the resource adequacy requirements established pursuant to Section 380.

SEC. 8. Section 399.30 of the Public Utilities Code, as added by Chapter 1 of the First Extraordinary Session of the Statutes of 2011, is amended to read:

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

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

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

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

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

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

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

10 (2) The quantities of eligible renewable energy resources to be
11 procured for all other compliance periods reflect reasonable
12 progress in each of the intervening years sufficient to ensure that
13 the procurement of electricity products from eligible renewable
14 energy resources achieves 25 percent of retail sales by December
15 31, 2016, and 33 percent of retail sales by December 31, 2020.
16 The local governing board shall require the local publicly owned
17 utilities to procure not less than 33 percent of retail sales of
18 electricity products from eligible renewable energy resources in
19 all subsequent years.

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

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

24 (1) ~~Rules permitting the utility to apply excess procurement of~~
25 ~~eligible renewable energy resources accumulated through~~
26 ~~December 31, 2010, or from one compliance period to subsequent~~
27 ~~compliance periods, in the same manner as allowed for retail~~
28 ~~sellers. Those rules shall ensure that excess procurement~~
29 ~~accumulated through December 31, 2010, is calculated based on~~
30 ~~annual eligible renewable energy resource procurement targets in~~
31 ~~effect since 2006, provided that the procurement targets, as~~
32 ~~amended, specified the achievement of not less than a 20 percent~~
33 ~~renewables portfolio standard by no later than December 31, 2010,~~
34 ~~and included increasing procurement targets for each intervening~~
35 ~~year. in one compliance period to subsequent compliance periods~~
36 ~~in the same manner as allowed for retail sellers pursuant to Section~~
37 ~~399.13.~~

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

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

3 (e) The governing board of the local publicly owned electric
4 utility shall adopt a program for the enforcement of this article on
5 or before January 1, 2013. The program shall be adopted at a
6 publicly noticed meeting offering all interested parties an
7 opportunity to comment. Not less than 30 days' notice shall be
8 given to the public of any meeting held for purposes of adopting
9 the program. Not less than 10 days' notice shall be given to the
10 public before any meeting is held to make a substantive change to
11 the program.

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

17 (2) Contemporaneous with the posting of the notice of a public
18 meeting to consider the renewable energy resources procurement
19 plan, the local publicly owned electric utility shall notify the
20 Energy Commission of the date, time, and location of the meeting
21 in order to enable the Energy Commission to post the information
22 on its Internet Web site. This requirement is satisfied if the local
23 publicly owned electric utility provides the uniform resource
24 locator (URL) that links to this information.

25 (3) Upon distribution to its governing body of information
26 related to its renewable energy resources procurement status and
27 future plans, for its consideration at a noticed public meeting, the
28 local publicly owned electric utility shall make that information
29 available to the public and shall provide the Energy Commission
30 with an electronic copy of the documents for posting on the Energy
31 Commission's Internet Web site. This requirement is satisfied if
32 the local publicly owned electric utility provides the uniform
33 resource locator (URL) that links to the documents or information
34 regarding other manners of access to the documents.

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

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

4 (2) A description and identification of the electrical generating
5 facility providing the eligible renewable energy resource under
6 the contract.

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

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

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

23 (1) The electricity generated by the facility is procured by the
24 local publicly owned electric utility, is delivered to the balancing
25 authority area in which the local publicly owned electric utility is
26 located, and is not used to fulfill renewable energy procurement
27 requirements of other states.

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

31 (3) The Energy Commission verifies that the electricity
32 generated by the facility is eligible to meet the renewables portfolio
33 standard procurement requirements.

34 (j) Notwithstanding subdivision (a), for a local publicly owned
35 electric utility that is a joint powers authority of districts established
36 pursuant to state law on or before January 1, 2005, that furnish
37 electric services other than to residential customers, and is formed
38 pursuant to the Irrigation District Law (Division 11 (commencing
39 with Section 20500) of the Water Code), the percentage of total
40 kilowatthours sold to the district's retail end-use customers, upon

1 which the renewables portfolio standard procurement requirements
2 in subdivision (b) are calculated, shall be based on the authority's
3 average retail sales over the previous seven years. If the authority
4 has not furnished electric service for seven years, then the
5 calculation shall be based on average retail sales over the number
6 of completed years during which the authority has provided electric
7 service.

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

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

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

25 (2) The resource mix used to serve its customers by energy
26 source.

27 (3) The utility's status in implementing a renewables portfolio
28 standard pursuant to subdivision (a) and the utility's progress
29 toward attaining the standard following implementation, including
30 information that demonstrates the conditions, if any, delaying the
31 utility's timely compliance with the renewables portfolio standard
32 consistent with paragraph (5) of subdivision (b) of Section 399.15.

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

35 (1) The mix of eligible renewable energy resources procured
36 by the utility and those additional generation resources procured
37 by the utility for purposes of ensuring resource adequacy and
38 reliability.

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

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

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

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

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

30 (4) If the State Air Resources Board has imposed a penalty upon
31 a local publicly owned electric utility for the utility's failure to
32 comply with this article, the State Air Resources Board shall not
33 impose an additional penalty for the same infraction, or the same
34 failure to comply, with any renewables procurement requirement
35 imposed upon the utility pursuant to the California Global Warming
36 Solutions Act of 2006 (Division 25.5 (commencing with Section
37 38500) of the Health and Safety Code).

38 (5) Any penalties collected by the State Air Resources Board
39 pursuant to this article shall be deposited in the Air Pollution
40 Control Fund and, upon appropriation by the Legislature, shall be

1 expended for reducing emissions of air pollution or greenhouse
2 gases within the same geographic area as the local publicly owned
3 electric utility.

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

7 *SEC. 8.5. Section 399.30 of the Public Utilities Code, as added*
8 *by Section 29 of Chapter 1 of the First Extraordinary Session of*
9 *the Statutes of 2011, is amended to read:*

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

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

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

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

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

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

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

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

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

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

5 (1) Rules permitting the utility to apply excess procurement in
6 one compliance period to subsequent compliance periods in the
7 same manner as allowed for retail sellers pursuant to Section
8 399.13.

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

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

13 (e) The governing board of the local publicly owned electric
14 utility shall adopt a program for the enforcement of this article on
15 or before January 1, ~~2012~~ 2013. The program shall be adopted at
16 a publicly noticed meeting offering all interested parties an
17 opportunity to comment. Not less than 30 days' notice shall be
18 given to the public of any meeting held for purposes of adopting
19 the program. Not less than 10 days' notice shall be given to the
20 public before any meeting is held to make a substantive change to
21 the program.

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

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

35 (3) Upon distribution to its governing body of information
36 related to its renewable energy resources procurement status and
37 future plans, for its consideration at a noticed public meeting, the
38 local publicly owned electric utility shall make that information
39 available to the public and shall provide the Energy Commission
40 with an electronic copy of the documents for posting on the Energy

Commission's Internet Web site. This requirement is satisfied if the local publicly owned electric utility provides the uniform resource locator (URL) that links to the documents or information regarding other manners of access to the documents.

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

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

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

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

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

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

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

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

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

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

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

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

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

35 (2) The resource mix used to serve its customers by energy
36 source.

37 (3) The utility's status in implementing a renewables portfolio
38 standard pursuant to subdivision (a) and the utility's progress
39 toward attaining the standard following implementation, *including*
40 *information that demonstrates the conditions, if any, delaying the*

1 *utility's timely compliance with the renewables portfolio standard*
2 *consistent with paragraph (5) of subdivision (b) of Section 399.15.*

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

5 (1) The mix of eligible renewable energy resources procured
6 by the utility and those additional generation resources procured
7 by the utility for purposes of ensuring resource adequacy and
8 reliability.

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

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

19 (o) (1) Upon a determination by the Energy Commission that
20 a local publicly owned electric utility has failed to comply with
21 this article, the Energy Commission ~~shall refer the failure to comply~~
22 ~~with this article to the State Air Resources Board, which may~~
23 ~~impose penalties to enforce this article, consistent with Part 6~~
24 ~~(commencing with Section 38580) of Division 25.5 of the Health~~
25 ~~and Safety Code. Any penalties imposed shall be comparable to~~
26 ~~those adopted by the commission for noncompliance by retail~~
27 ~~sellers; this section. Any penalty imposed upon a local publicly~~
28 ~~owned electric utility pursuant to this section shall parallel those~~
29 ~~adopted by the commission for noncompliance with the~~
30 ~~requirements of this article by a retail seller. The Energy~~
31 ~~Commission has exclusive authority to assess penalties upon a~~
32 ~~local publicly owned electric utility for a failure to comply with~~
33 ~~this article.~~

34 (2) ~~If Division 25.5 (commencing with Section 38500) of the~~
35 ~~Health and Safety Code is suspended or repealed, the State Air~~
36 ~~Resources Board may take action to enforce this article on local~~
37 ~~publicly owned electric utilities consistent with Section 41513 of~~
38 ~~the Health and Safety Code, and impose penalties on a local~~
39 ~~publicly owned electric utility consistent with Article 3~~
40 ~~(commencing with Section 42400) of Chapter 4 of Part 4 of, and~~

Chapter 1.5 (commencing with Section 43025) of Part 5 of, Division 26 of the Health and Safety Code.

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

(4) If the State Air Resources Board has imposed a penalty upon a local publicly owned electric utility for the utility's failure to comply with this article, the State Air Resources Board shall not impose an additional penalty for the same infraction, or the same failure to comply, with any renewables procurement requirement imposed upon the utility pursuant to the California Global Warming Solutions Act of 2006 (Division 25.5 (commencing with Section 38500) of the Health and Safety Code).

(2) A local publicly owned electric utility that violates any order, rule, or regulation of the Energy Commission issued or adopted pursuant to this article, may be assessed a civil penalty in accordance with the procedures described in Section 25534.1 of the Public Resources Code. In lieu of the penalty structure set forth in Section 25534 of the Public Resources Code, the Energy Commission shall establish the penalty structure by regulation, which shall consider, in addition to other relevant factors, the penalty structure adopted by the commission for noncompliance by retail sellers.

(3) Any order of the Energy Commission that imposes penalties pursuant to this section shall be subject to judicial review and enforcement as specified in subdivisions (a) and (b) of Section 25534.2 of the Public Resources Code.

(5)

(4) Any civil penalties collected by the State Air Resources Board Energy Commission from a local publicly owned electric utility pursuant to this article shall be deposited in the Air Pollution Control Fund Energy Resources Programs Account and, upon appropriation by the Legislature, shall be expended for reducing emissions of air pollution or greenhouse gases within the same geographic area as the local publicly owned electric utility the purposes of meeting the goals of this article. Those penalty revenues may be used by the Energy Commission for the administration of this article.

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

4 SEC. 9. Section 910 of the Public Utilities Code, as added by
5 Chapter 1 of the First Extraordinary Session of the Statutes of
6 2011, is amended to read:

7 910. (a) By April 1 of each year, the commission shall prepare
8 and submit to the policy and fiscal committees of the Legislature
9 a written report summarizing the following information:

10 (1) All electrical corporation revenue requirement increases
11 associated with meeting the renewables portfolio standard, as
12 defined in Section 399.12, including direct procurement costs for
13 eligible renewable energy resources and renewable energy credits,
14 administrative expenses for procurement, expenses incurred to
15 ensure a reliable supply of electricity, and expenses for upgrades
16 to the electrical transmission and distribution grid necessary to the
17 delivery of electricity from eligible renewable energy resources
18 to load.

19 (2) All cost savings experienced, or costs avoided, by electrical
20 corporations as a result of meeting the renewables portfolio
21 standard.

22 (3) All costs incurred by electrical corporations for incentives
23 for distributed and renewable generation, including the
24 self-generation incentive program, the California Solar Initiative,
25 and net energy metering.

26 (4) All cost savings experienced, or costs avoided, by electrical
27 corporations as a result of incentives for distributed and renewable
28 generation.

29 (5) All renewable, fossil fuel, and nuclear procurement costs,
30 research, study, or pilot program costs, or other program costs for
31 which an electrical corporation is seeking recovery in rates, that
32 is pending determination or approval by the commission.

33 (6) The decision number for each decision of the commission
34 of recovery in rates of costs incurred by an electrical corporation
35 since the preceding report.

36 (7) Any change in the electrical load serviced by an electrical
37 corporation since the preceding report.

38 (8) The efforts each electrical corporation is taking to recruit
39 and train employees to ensure an adequately trained and available
40 workforce, including the number of new employees hired by the

1 electrical corporation for purposes of implementing the
2 requirements of Article 16 (commencing with Section 399.11) of
3 Chapter 2.3, the goals adopted by the electrical corporation for
4 increasing women, minority, and disabled veterans trained or hired
5 for purposes of implementing the requirements of Article 16
6 (commencing with Section 399.11) of Chapter 2.3, and, to the
7 extent information is available, the number of new employees
8 hired and the number of women, minority, and disabled veterans
9 trained or hired by persons or corporations owning or operating
10 eligible renewable energy resources under contract with an
11 electrical corporation. This paragraph does not provide the
12 commission with authority to engage in, regulate, or expand its
13 authority to include, workforce recruitment or training.

14 (b) The commission may combine the information required by
15 this section with the reports prepared pursuant to Article 16
16 (commencing with Section 399.11) of Chapter 2.3.

17 (c) (1) The requirement for submitting a report under
18 subdivision (a) is inoperative on January 1, 2016, pursuant to
19 Section 10231.5 of the Government Code.

20 (2) A report made pursuant to subdivision (a) shall be submitted
21 in compliance with Section 9795 of the Government Code.

22 *SEC. 10. Section 8.5 of this bill incorporates amendments to*
23 *Section 399.30 of the Public Utilities Code proposed by both this*
24 *bill and Assembly Bill 1391. It shall only become operative if (1)*
25 *both bills are enacted and become effective on or before January*
26 *1, 2012, (2) each bill amends Section 399.30 of the Public Utilities*
27 *Code, and (3) this bill is enacted after Assembly Bill 1391, in which*
28 *case Section 8 of this bill shall not become operative.*