

Introduced by Senator PadillaDecember 6, 2010

An act to amend Sections 25620.2 and 25620.15 of the Public Resources Code, and to amend Section 399.8 of the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

SB 35, as introduced, Padilla. Energy: Public Interest Energy Research, Demonstration, and Development Program.

(1) Under the Public Utilities Act, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations. The act requires the PUC to require, until January 1, 2012, an electrical corporation to identify a separate electrical rate component to fund energy efficiency, renewable energy, and research, development and demonstration programs that enhance system reliability and provide in-state benefits. A violation of the act is a crime.

This bill would extend this requirement to January 1, 2013. Because a violation of the act is a crime, this bill would impose a state-mandated local program.

(2) Existing law establishes the Public Interest Energy Research, Demonstration, and Development Program for the purpose of making awards for public interest energy research, development, and demonstration projects or programs that are not provided for by competitive regulated markets. Existing law proscribes, until January 1, 2012, procedures that the State Energy Resources Conservation and Development Commission (Energy Commission) is required to follow in adopting regulations to implement the program.

This bill would require the Energy Commission to follow the proscribed procedures until January 1, 2013.

(3) Existing law requires that the moneys collected between January 1, 2007, and January 1, 2012, from the electrical corporations for public interest research, development, and demonstration and deposited in the Public Interest Research, Development, and Demonstration Fund be used for the purposes of the Public Interest Energy Research, Demonstration, and Development Program.

The bill would extend the use of those moneys collected until January 1, 2013 for the purposes of the Public Interest Energy Research, Demonstration, and Development Program to January 1, 2013.

(4) 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 a specified reason.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: yes.

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

- 1 SECTION 1. Section 25620.2 of the Public Resources Code
- 2 is amended to read:
- 3 25620.2. (a) To ensure the efficient implementation and
- 4 administration of the Public Interest Research, Development, and
- 5 Demonstration Program, the commission shall do both of the
- 6 following:
- 7 (1) Develop procedures for the solicitation of award applications
- 8 for project or program funding, and to ensure efficient program
- 9 management.
- 10 (2) Evaluate and select programs and projects, based on merit,
- 11 that will be funded under the program.
- 12 (b) The commission shall adopt regulations to implement the
- 13 program, in accordance with the following procedures:
- 14 (1) Prepare a preliminary text of the proposed regulation and
- 15 provide a copy of the preliminary text to any person requesting a
- 16 copy.
- 17 (2) Provide public notice of the proposed regulation to any
- 18 person who has requested notice of the regulations prepared by
- 19 the commission. The notice shall contain all of the following:
- 20 (A) A clear overview explaining the proposed regulation.

1 (B) Instructions on how to obtain a copy of the proposed
2 regulations.

3 (C) A statement that if a public hearing is not scheduled for the
4 purpose of reviewing a proposed regulation, any person may
5 request, not later than 15 days prior to the close of the written
6 comment period, a public hearing conducted in accordance with
7 commission procedures.

8 (3) Accept written public comments for 30 calendar days after
9 providing the notice required in paragraph (2).

10 (4) Certify that all written comments were read and considered
11 by the commission.

12 (5) Place all written comments in a record that includes copies
13 of any written factual support used in developing the proposed
14 regulation, including written reports and copies of any transcripts
15 or minutes in connection with any public hearings on the adoption
16 of the regulation. The record shall be open to public inspection
17 and available to the courts.

18 (6) Provide public notice of any substantial revision of the
19 proposed regulation at least 15 days prior to the expiration of the
20 deadline for public comments and comment period using the
21 procedures provided in paragraph (2).

22 (7) Conduct public hearings, if a hearing is requested by an
23 interested party, that shall be conducted in accordance with
24 commission procedures.

25 (8) Adopt any proposed regulation at a regularly scheduled and
26 noticed meeting of the commission. The regulation shall become
27 effective immediately unless otherwise provided by the
28 commission.

29 (9) Publish any adopted regulation in a manner that makes copies
30 of the regulation easily available to the public. Any adopted
31 regulation shall also be made available on the Internet. The
32 commission shall transmit a copy of an adopted regulation to the
33 Office of Administrative Law for publication, or, if the commission
34 determines that printing the regulation is impractical, an appropriate
35 reference as to where a copy of the regulation may be obtained.

36 (10) Notwithstanding any other provision of law, this
37 subdivision provides an interim exception from the requirements
38 of Chapter 3.5 (commencing with Section 11340) of Part 1 of
39 Division 3 of Title 2 of the Government Code for regulations

1 required to implement Sections 25620.1 and 25620.2 that are
2 adopted under the procedures specified in this subdivision.

3 (11) This subdivision shall become inoperative on January 1,
4 ~~2012~~, 2013, unless a later enacted statute deletes or extends that
5 date. However, after January 1, ~~2012~~, 2013, the commission is not
6 required to repeat any procedural step in adopting a regulation that
7 has been completed before January 1, ~~2012~~, 2013, using the
8 procedures specified in this subdivision.

9 SEC. 2. Section 25620.15 of the Public Resources Code is
10 amended to read:

11 25620.15. (a) In order to ensure that prudent investments in
12 research, development, and demonstration of energy efficient
13 technologies continue to produce substantial economic,
14 environmental, public health, and reliability benefits, it is the policy
15 of the state and the intent of the Legislature that funds made
16 available, upon appropriation, for energy related public interest
17 research, development, and demonstration programs shall be used
18 to advance science or technology that is not adequately provided
19 by competitive and regulated markets.

20 (b) Notwithstanding any other provision of law, money collected
21 for public interest research, development, and demonstration
22 pursuant to Section 399.8 of the Public Utilities Code shall be
23 transferred to the Public Interest Research, Development, and
24 Demonstration Fund. Money collected between January 1, 2007,
25 and January 1, ~~2012~~, 2013, shall be used for the purposes specified
26 in this chapter.

27 (c) In lieu of the Public Utilities Commission retaining funds
28 authorized pursuant to Section 381 of the Public Utilities Code for
29 investments made by electrical corporations in public interest
30 research, development, and demonstration projects for transmission
31 and distribution functions, up to 10 percent of the funds transferred
32 to the commission pursuant to subdivision (b) shall be awarded to
33 electrical corporations for public interest research, development,
34 and demonstration projects for transmission and distribution
35 functions consistent with the policies and subject to the
36 requirements of this chapter.

37 SEC. 3. Section 399.8 of the Public Utilities Code is amended
38 to read:

39 399.8. (a) In order to ensure that the citizens of this state
40 continue to receive safe, reliable, affordable, and environmentally

1 sustainable electric service, it is the policy of this state and the
2 intent of the Legislature that prudent investments in energy
3 efficiency, renewable energy, and research, development and
4 demonstration shall continue to be made.

5 (b) (1) Every customer of an electrical corporation shall pay a
6 nonbypassable system benefits charge authorized pursuant to this
7 article. The system benefits charge shall fund energy efficiency,
8 renewable energy, and research, development and demonstration.

9 (2) Local publicly owned electric utilities shall continue to
10 collect and administer system benefits charges pursuant to Section
11 385.

12 (c) (1) The commission shall require each electrical corporation
13 to identify a separate rate component to collect revenues to fund
14 energy efficiency, renewable energy, and research, development
15 and demonstration programs authorized pursuant to this section
16 beginning January 1, 2002, and ending January 1, ~~2012~~ 2013. The
17 rate component shall be a nonbypassable element of the local
18 distribution service and collected on the basis of usage.

19 (2) This rate component may not exceed, for any tariff schedule,
20 the level of the rate component that was used to recover funds
21 authorized pursuant to Section 381 on January 1, 2000. If the
22 amounts specified in paragraph (1) of subdivision (d) are not
23 recovered fully in any year, the commission shall reset the rate
24 component to restore the unrecovered balance, provided that the
25 rate component may not exceed, for any tariff schedule, the level
26 of the rate component that was used to recover funds authorized
27 pursuant to Section 381 on January 1, 2000. Pending restoration,
28 any annual shortfalls shall be allocated pro rata among the three
29 funding categories in the proportions established in paragraph (1)
30 of subdivision (d).

31 (d) The commission shall order San Diego Gas and Electric
32 Company, Southern California Edison Company, and Pacific Gas
33 and Electric Company to collect these funds commencing on
34 January 1, 2002, as follows:

35 (1) Two hundred twenty-eight million dollars (\$228,000,000)
36 per year in total for energy efficiency and conservation activities,
37 sixty-five million five hundred thousand dollars (\$65,500,000) in
38 total per year for renewable energy, and sixty-two million five
39 hundred thousand dollars (\$62,500,000) in total per year for
40 research, development and demonstration. The funds for energy

1 efficiency and conservation activities shall continue to be allocated
2 in proportions established for the year 2000 as set forth in
3 paragraph (1) of subdivision (c) of Section 381.

4 (2) The amounts shall be adjusted annually at a rate equal to
5 the lesser of the annual growth in electric commodity sales or
6 inflation, as defined by the gross domestic product deflator.

7 (e) The commission shall ensure that each electrical corporation
8 allocates funds transferred by the Energy Commission pursuant
9 to subdivision (b) of Section 25743 in a manner that maximizes
10 the economic benefit to all customer classes that funded the New
11 Renewable Resources Account.

12 (f) The commission and the Energy Commission shall retain
13 and continue their oversight responsibilities as set forth in Sections
14 381 and 383, and Chapter 7.1 (commencing with Section 25620)
15 and Chapter 8.6 (commencing with Section 25740) of Division 15
16 of the Public Resources Code.

17 (g) An applicant for the Large Nonresidential Standard
18 Performance Contract Program funded pursuant to paragraph (1)
19 of subdivision (b) and an electrical corporation shall promptly
20 attempt to resolve disputes that arise related to the program's
21 guidelines and parameters prior to entering into a program
22 agreement. The applicant shall provide the electrical corporation
23 with written notice of any dispute. Within 10 business days after
24 receipt of the notice, the parties shall meet to resolve the dispute.
25 If the dispute is not resolved within 10 business days after the date
26 of the meeting, the electrical corporation shall notify the applicant
27 of his or her right to file a complaint with the commission, which
28 complaint shall describe the grounds for the complaint, injury, and
29 relief sought. The commission shall issue its findings in response
30 to a filed complaint within 30 business days of the date of receipt
31 of the complaint. Prior to issuance of its findings, the commission
32 shall provide a copy of the complaint to the electrical corporation,
33 which shall provide a response to the complaint to the commission
34 within five business days of the date of receipt. During the dispute
35 period, the amount of estimated financial incentives shall be held
36 in reserve until the dispute is resolved.

37 SEC. 4. No reimbursement is required by this act pursuant to
38 Section 6 of Article XIII B of the California Constitution because
39 the only costs that may be incurred by a local agency or school
40 district will be incurred because this act creates a new crime or

1 infraction, eliminates a crime or infraction, or changes the penalty
2 for a crime or infraction, within the meaning of Section 17556 of
3 the Government Code, or changes the definition of a crime within
4 the meaning of Section 6 of Article XIII B of the California
5 Constitution.

O