AN ACT TO AMEND SECTION 399.30 OF THE PUBLIC UTILITIES CODE, RELATING TO RENEWABLE ENERGY.

LEGISLATIVE COUNSEL'S DIGEST

AB 793, as amended, Gray. Renewable energy: publicly owned electric utility: hydroelectric generation facility.

The California Renewables Portfolio Standard Program, referred to as the RPS program, requires a retail seller of electricity, as defined, and local publicly owned electric utilities to purchase specified minimum quantities of electricity products from eligible renewable energy resources, as defined, for specified compliance periods, sufficient to ensure that the procurement of electricity products from eligible renewable energy resources achieves 20% of retail sales for the period from January 1, 2011, to December 31, 2013, inclusive, 25% of retail sales by December 31, 2016, and 33% of retail sales by December 31,
2020, and in all subsequent years. 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, referred to as portfolio
content requirements.

This bill would provide that a local publicly owned electric utility is
not required to procure additional eligible renewable energy resources
in excess of specified levels, if it receives 50% or greater of its annual
retail sales from its own hydroelectric generation meeting specified
requirements.


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

SECTION 1. Section 399.30 of the Public Utilities Code is amended to read:

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

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

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

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

(1) The quantities of eligible renewable energy resources to be
procured for the compliance period from January 1, 2011, to
December 31, 2013, inclusive, are equal to an average of 20 percent
of retail sales.
(2) The quantities of eligible renewable energy resources to be procured for all other compliance periods reflect reasonable progress in each of the intervening years sufficient to ensure that the procurement of electricity products from eligible renewable energy resources achieves 25 percent of retail sales by December 31, 2016, and 33 percent of retail sales by December 31, 2020. The local governing board shall require the local publicly owned electric utilities to procure not less than 33 percent of retail sales of electricity products from eligible renewable energy resources in all subsequent years.

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

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

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

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

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

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

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

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

(3) Upon distribution to its governing body of information
related to its renewable energy resources procurement status and
future plans, for its consideration at a noticed public meeting, the
local publicly owned electric utility shall make that information
available to the public and shall provide the Energy Commission
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 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.

(h) 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.

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

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

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

(k) (1) A local publicly owned electric utility that receives
greater than 50 percent of its annual retail sales from its own
hydroelectric generation that is not an eligible renewable energy
resource shall not be required to procure additional eligible
renewable energy resources in excess of either of the following:
(A) The portion of its retail sales not supplied by its own
hydroelectric generation. For these purposes, retail sales supplied
by increased hydroelectric generation resulting from an increase
in the amount of water stored by a dam because the dam is
enlarged or otherwise modified after December 31, 2012, shall
not count as being retail sales supplied by the utility’s own
hydroelectric generation.
(B) The cost limitation adopted pursuant to this section.
(2) For the purposes of this subdivision, “hydroelectric
generation” means electricity generated from a hydroelectric
facility satisfying all of the following:
(A) Is owned solely and operated by the local publicly owned
electric utility as of 1967.
(B) Serves a local publicly owned electric utility with a distribution system demand of less than 150 megawatts.

(C) Involves a contract in which an electrical corporation receives the benefit of the electric generation through June of 2014, at which time the benefit reverts back to the ownership and control of the local publicly owned electric utility.

(D) Has a maximum penstock flow capacity of no more than 3,200 cubic feet per second and includes a regulating reservoir with a small hydroelectric generation facility producing fewer than 20 megawatts with a maximum penstock flow capacity of no more than 3,000 cubic feet per second.

(3) This subdivision does not reduce or eliminate any renewable procurement requirement for any compliance period ending prior to January 1, 2014.

(4) This subdivision does not require a local publicly owned electric utility to purchase additional renewable energy resources in excess of the renewable procurement requirements set forth in subdivision (c).

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

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

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

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

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

(2) If Division 25.5 (commencing with Section 38500) of the Health and Safety Code is suspended or repealed, the State Air Resources Board may take action to enforce this article on local publicly owned electric utilities consistent with Section 41513 of the Health and Safety Code, and impose penalties on a local publicly owned electric utility consistent with Article 3 (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).

(5) Any penalties collected by the State Air Resources Board pursuant to this article shall be deposited in the Air Pollution Control Fund 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.

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