

Introduced by Senator CannellaFebruary 22, 2013

An act to amend Section 399.30 of the Public Utilities Code, relating to renewable energy.

LEGISLATIVE COUNSEL'S DIGEST

SB 591, as introduced, Cannella. Renewable energy: publicly owned electric utility: hydroelectric generation facility.

The California Renewables Portfolio Standard Program (RPS program) requires a retail seller of electricity, as defined, and local publicly owned electric utilities to purchase specified minimum quantities of electricity products from eligible renewable energy resources, as defined, for specified compliance periods, 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, 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 (portfolio content requirements).

This bill would require a local publicly owned electric utility that receives 50% greater of its consumption load demand from hydroelectric generation meeting specified requirements and other renewable energy resources 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 to satisfy its portfolio content requirements.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

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

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

3 399.30. (a) ~~In order to~~ To fulfill unmet long-term generation
4 resource needs, each local publicly owned electric utility shall
5 adopt and implement a renewable energy resources procurement
6 plan that requires the utility to procure a minimum quantity of
7 electricity products from eligible renewable energy resources,
8 including renewable energy credits, as a specified percentage of
9 total kilowatthours sold to the utility's retail end-use customers,
10 each compliance period, to achieve the targets of subdivision (c).

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

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

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

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

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

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

24 (2) The quantities of eligible renewable energy resources to be
25 procured for all other compliance periods reflect reasonable
26 progress in each of the intervening years sufficient to ensure that
27 the procurement of electricity products from eligible renewable
28 energy resources achieves 25 percent of retail sales by December
29 31, 2016, and 33 percent of retail sales by December 31, 2020.
30 The local governing board shall require the local publicly owned
31 electric utilities to procure not less than 33 percent of retail sales
32 of electricity products from eligible renewable energy resources
33 in 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. The program shall be adopted at a
16 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

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

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

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

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

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

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

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

1 of completed years during which the authority has provided electric
2 service.

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

13 (k) (1) *A local publicly owned electric utility that receives 50*
14 *percent or greater of its consumption load demand from*
15 *hydroelectric generation and other renewable energy resources*
16 *shall be required to procure eligible renewable energy resources,*
17 *including renewable energy credits to meet only the electricity*
18 *demands unsatisfied by its hydroelectric generation in any given*
19 *year to satisfy its renewable energy procurement requirements.*

20 (2) *For the purposes of this subdivision, “hydroelectric*
21 *generation facility” means a hydroelectric facility satisfying all*
22 *of the following:*

23 (A) *Is owned solely and operated by the local publicly owned*
24 *electric utility as of 1967.*

25 (B) *Has a distribution system demand of less than 150*
26 *megawatts.*

27 (C) *Involves a contract in which an electrical corporation*
28 *receives the benefit of the electric generation through June of*
29 *2014, at which time the benefit reverts back to the ownership and*
30 *control of the local publicly owned electric utility.*

31 (D) *Has a maximum penstock flow capacity of no more than*
32 *3,000 cubic feet per second and includes a regulating reservoir*
33 *with a small hydroelectric generation facility producing fewer*
34 *than 20 megawatts with a maximum penstock flow capacity of no*
35 *more than 2,700 cubic feet per second.*

36 ~~(k)~~

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

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

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

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

5 ~~(t)~~

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

14 ~~(m)~~

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

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

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

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

1 imposed upon the utility pursuant to the California Global Warming
2 Solutions Act of 2006 (Division 25.5 (commencing with Section
3 38500) of the Health and Safety Code).

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

10 ~~(n)~~

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

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16 **CORRECTIONS:**

17 **Text—Pages 1 and 5.**

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