

AMENDED IN SENATE APRIL 10, 2013

SENATE BILL

No. 591

Introduced by Senator Cannella
(Coauthor: Assembly Member Gray)

February 22, 2013

An act to amend Section 399.30 of, *and to add and repeal Section 399.30.5 of*, the Public Utilities Code, relating to renewable energy.

LEGISLATIVE COUNSEL'S DIGEST

SB 591, as amended, Cannella. Renewable energy: publicly owned electric utility: hydroelectric generation facility *and enforcement*.

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 *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 (portfolio content requirements). *Existing law requires the State Energy Resources Conservation and Development Commission to adopt regulations specifying procedures for enforcement of the above requirements for local publicly owned electric utilities.*

This bill would require a local publicly owned electric utility that receives *greater than 50%*—~~greater of its consumption load demand~~ *electricity sources* 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. *The bill would require the commission, by July 1, 2014, to report to the Legislature on whether the regulations specifying procedures for enforcement result in surplus electricity sales and under what circumstances surplus electricity sales have occurred or may occur.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
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) To fulfill unmet long-term generation resource
4 needs, each local publicly owned electric utility shall adopt and
5 implement a renewable energy resources procurement plan that
6 requires the utility to procure a minimum quantity of electricity
7 products from eligible renewable energy resources, including
8 renewable energy credits, as a specified percentage of total
9 kilowatthours sold to the utility's retail end-use customers, each
10 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.

1 (2) The quantities of eligible renewable energy resources to be
2 procured for all other compliance periods reflect reasonable
3 progress in each of the intervening years sufficient to ensure that
4 the procurement of electricity products from eligible renewable
5 energy resources achieves 25 percent of retail sales by December
6 31, 2016, and 33 percent of retail sales by December 31, 2020.
7 The local governing board shall require the local publicly owned
8 electric utilities to procure not less than 33 percent of retail sales
9 of electricity products from eligible renewable energy resources
10 in all subsequent years.

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

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

15 (1) Rules permitting the utility to apply excess procurement in
16 one compliance period to subsequent compliance periods in the
17 same manner as allowed for retail sellers pursuant to Section
18 399.13.

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

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

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

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

37 (2) Contemporaneous with the posting of the notice of a public
38 meeting to consider the renewable energy resources procurement
39 plan, the local publicly owned electric utility shall notify the
40 Energy Commission of the date, time, and location of the meeting

1 in order to enable the Energy Commission to post the information
2 on its Internet Web site. This requirement is satisfied if the local
3 publicly owned electric utility provides the uniform resource
4 locator (URL) that links to this information.

5 (3) Upon distribution to its governing body of information
6 related to its renewable energy resources procurement status and
7 future plans, for its consideration at a noticed public meeting, the
8 local publicly owned electric utility shall make that information
9 available to the public and shall provide the Energy Commission
10 with an electronic copy of the documents for posting on the Energy
11 Commission's Internet Web site. This requirement is satisfied if
12 the local publicly owned electric utility provides the uniform
13 resource locator (URL) that links to the documents or information
14 regarding other manners of access to the documents.

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

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

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

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

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

39 (i) Notwithstanding subdivision (a), for a local publicly owned
40 electric utility that is a joint powers authority of districts established

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

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

23 (k) (1) ~~A local publicly owned electric utility that receives 50~~
24 ~~percent or greater of its consumption load demand from~~
25 ~~hydroelectric generation and other renewable energy resources~~
26 *greater than 50 percent of its electricity sources from hydroelectric*
27 *generation that it owns and operates, and that does not meet the*
28 *definition of a renewable electrical generation facility pursuant*
29 *to Section 25741 of the Public Resources Code, shall be required*
30 *to procure eligible renewable energy resources, including*
31 *renewable energy credits, to meet only the electricity demands*
32 *unsatisfied by its hydroelectric generation in any given year, to*
33 *satisfy its renewable energy procurement requirements.*

34 (2) For the purposes of this subdivision, ~~“hydroelectric~~
35 ~~generation facility” means a hydroelectric facility satisfying all~~
36 ~~generation” means electricity generated from a hydroelectric~~
37 *facility that satisfies all* of the following:

38 (A) Is owned solely and operated by the local publicly owned
39 electric utility as of 1967.

1 (B) Has a distribution system demand of less than 150
2 megawatts.

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

7 (D) Has a maximum penstock flow capacity of no more than
8 3,000 cubic feet per second and includes a regulating reservoir
9 with a small hydroelectric generation facility producing fewer than
10 20 megawatts with a maximum penstock flow capacity of no more
11 than 2,700 cubic feet per second.

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

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

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

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

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

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

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

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

13 (4) If the State Air Resources Board has imposed a penalty upon
14 a local publicly owned electric utility for the utility's failure to
15 comply with this article, the State Air Resources Board shall not
16 impose an additional penalty for the same infraction, or the same
17 failure to comply, with any renewables procurement requirement
18 imposed upon the utility pursuant to the California Global Warming
19 Solutions Act of 2006 (Division 25.5 (commencing with Section
20 38500) of the Health and Safety Code).

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

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

30 *SEC. 2. Section 399.30.5 is added to the Public Utilities Code,*
31 *to read:*

32 *399.30.5. (a) On or before July 1, 2014, the Energy*
33 *Commission, in consultation with the local publicly owned electric*
34 *utilities, shall, pursuant to Section 9795 of the Government Code,*
35 *report to the Legislature on whether regulations it has adopted*
36 *pursuant to subdivision (m) of Section 399.30 result in surplus*
37 *electricity sales and the circumstances under which surplus*
38 *electricity sales have occurred or may occur.*

1 ***(b) This section shall remain in effect only until January 1, 2019,***
2 ***and as of that date is repealed, unless a later enacted statute, that***
3 ***is enacted before January 1, 2019, deletes or extends that date.***

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