

AMENDED IN SENATE MAY 28, 2013

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, of the Public Utilities Code, relating to renewable energy resources.

LEGISLATIVE COUNSEL'S DIGEST

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

The California Renewables Portfolio Standard Program—(RPS 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 (portfolio content requirements), referred to as the 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% of its electricity sources from hydroelectric generation meeting specified requirements 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. *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.*~~

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 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.

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

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

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

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

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

21 (1) Rules permitting the utility to apply excess procurement in
22 one compliance period to subsequent compliance periods in the
23 same manner as allowed for retail sellers pursuant to Section
24 399.13.

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

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

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

38 (f) (1) Each local publicly owned electric utility shall annually
39 post notice, in accordance with Chapter 9 (commencing with
40 Section 54950) of Part 1 of Division 2 of Title 5 of the Government

1 Code, whenever its governing body will deliberate in public on its
2 renewable energy resources procurement plan.

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

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

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

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

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

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

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

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

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

31 (k) (1) A local publicly owned electric utility that receives
32 greater than 50 percent of its ~~electricity sources from hydroelectric~~
33 ~~generation that it owns and operates, and that does not meet the~~
34 ~~definition of a renewable electrical generation facility pursuant to~~
35 ~~Section 25741 of the Public Resources Code, shall be required to~~
36 ~~procure eligible renewable energy resources, including renewable~~
37 ~~energy credits, to meet only the electricity demands unsatisfied by~~
38 ~~its hydroelectric generation in any given year, to satisfy its~~
39 ~~renewable energy procurement requirements.~~ *annual retail sales*
40 *from its own hydroelectric generation that is not an eligible*

1 *renewable energy resource shall not be required to procure*
2 *additional eligible renewable energy resources in excess of either*
3 *of the following:*

4 (A) *The portion of its retail sales not supplied by its own*
5 *hydroelectric generation.*

6 (B) *The cost limitation adopted pursuant to this section.*

7 (2) For the purposes of this subdivision, “hydroelectric
8 generation” means electricity generated from a hydroelectric
9 facility that satisfies all of the following:

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

12 (B) ~~Has~~ *Serves a local publicly owned electric utility with a*
13 *distribution system demand of less than 150 megawatts.*

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

18 (D) Has a maximum penstock flow capacity of no more than
19 3,000 cubic feet per second and includes a regulating reservoir
20 with a small hydroelectric generation facility producing fewer than
21 20 megawatts with a maximum penstock flow capacity of no more
22 than 2,700 cubic feet per second.

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

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

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

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

34 (m) On or before July 1, 2011, the Energy Commission shall
35 adopt regulations specifying procedures for enforcement of this
36 article. The regulations shall include a public process under which
37 the Energy Commission may issue a notice of violation and
38 correction against a local publicly owned electric utility for failure
39 to comply with this article, and for referral of violations to the

1 State Air Resources Board for penalties pursuant to subdivision
2 (o).

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

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

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

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

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

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

1 ~~SEC. 2. Section 399.30.5 is added to the Public Utilities Code,~~
2 ~~to read:~~

3 ~~399.30.5. (a) On or before July 1, 2014, the Energy~~
4 ~~Commission, in consultation with the local publicly owned electric~~
5 ~~utilities, shall, pursuant to Section 9795 of the Government Code,~~
6 ~~report to the Legislature on whether regulations it has adopted~~
7 ~~pursuant to subdivision (m) of Section 399.30 result in surplus~~
8 ~~electricity sales and the circumstances under which surplus~~
9 ~~electricity sales have occurred or may occur.~~

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