

AMENDED IN ASSEMBLY JUNE 25, 2013

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 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.

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 the 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.

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.

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

1 electric utilities to procure not less than 33 percent of retail sales
2 of electricity products from eligible renewable energy resources
3 in all subsequent years.

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

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

8 (1) Rules permitting the utility to apply excess procurement in
9 one compliance period to subsequent compliance periods in the
10 same manner as allowed for retail sellers pursuant to Section
11 399.13.

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

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

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

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

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

38 (3) Upon distribution to its governing body of information
39 related to its renewable energy resources procurement status and
40 future plans, for its consideration at a noticed public meeting, the

1 local publicly owned electric utility shall make that information
2 available to the public and shall provide the Energy Commission
3 with an electronic copy of the documents for posting on the Energy
4 Commission’s Internet Web site. This requirement is satisfied if
5 the local publicly owned electric utility provides the uniform
6 resource locator (URL) that links to the documents or information
7 regarding other manners of access to the documents.

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

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

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

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

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

32 (i) Notwithstanding subdivision (a), for a local publicly owned
33 electric utility that is a joint powers authority of districts established
34 pursuant to state law on or before January 1, 2005, that furnish
35 electric services other than to residential customers, and is formed
36 pursuant to the Irrigation District Law (Division 11 (commencing
37 with Section 20500) of the Water Code), the percentage of total
38 kilowatthours sold to the district’s retail end-use customers, upon
39 which the renewables portfolio standard procurement requirements
40 in subdivision (b) are calculated, shall be based on the authority’s

1 average retail sales over the previous seven years. If the authority
2 has not furnished electric service for seven years, then the
3 calculation shall be based on average retail sales over the number
4 of completed years during which the authority has provided electric
5 service.

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

16 (k) (1) A local publicly owned electric utility that receives
17 greater than 50 percent of its annual retail sales from its own
18 hydroelectric generation that is not an eligible renewable energy
19 resource shall not be required to procure additional eligible
20 renewable energy resources in excess of either of the following:

21 (A) The portion of its retail sales not supplied by its own
22 hydroelectric generation.

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

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

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

29 (B) Serves a local publicly owned electric utility with a
30 distribution system demand of less than 150 megawatts.

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

35 ~~(D) Has a maximum penstock flow capacity of no more than~~
36 ~~3,000 cubic feet per second and includes a regulating reservoir~~
37 ~~with a small hydroelectric generation facility producing fewer than~~
38 ~~20 megawatts with a maximum penstock flow capacity of no more~~
39 ~~than 2,700 cubic feet per second.~~

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

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

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

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

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

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

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

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

1 (4) If the State Air Resources Board has imposed a penalty upon
2 a local publicly owned electric utility for the utility's failure to
3 comply with this article, the State Air Resources Board shall not
4 impose an additional penalty for the same infraction, or the same
5 failure to comply, with any renewables procurement requirement
6 imposed upon the utility pursuant to the California Global Warming
7 Solutions Act of 2006 (Division 25.5 (commencing with Section
8 38500) of the Health and Safety Code).

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

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