

AMENDED IN SENATE APRIL 8, 2013

SENATE BILL

No. 715

Introduced by Senator Lara

February 22, 2013

An act to amend Section ~~10001~~ of the Public Utilities Code, relating to public utilities. *399.12 of the Public Utilities Code, relating to energy.*

LEGISLATIVE COUNSEL'S DIGEST

SB 715, as amended, Lara. ~~Public utilities: acquisition and operation. Renewable energy resources: municipal solid waste combustion.~~

Existing law establishes the California Renewables Portfolio Standard Program, which requires the Public Utilities Commission to implement annual procurement targets for the procurement of eligible renewable energy resources, as defined, for all retail sellers, as defined, to achieve the targets and goals of the program. Existing law provides that a facility engaged in the combustion of municipal solid waste shall not be considered an eligible renewable energy resource unless it is located in the County of Stanislaus and was operational prior to September 26, 1996.

This bill would additionally provide that a facility engaged in the combustion of municipal solid waste shall not be considered an eligible renewable energy resource unless it is located in the County of Los Angeles and was operational prior to September 26, 1996. This bill would, with respect to a facility located in the County of Los Angeles as previously described, provide that it shall not be considered an eligible renewable energy resource on or after January 1, 2045, unless it has converted into a system that does not perform traditional direct combustion of municipal solid waste, and the facility diverts an amount

of waste from landfills that equals or exceeds its capability as it existed prior to the conversion of the facility.

This bill would make legislative findings and declarations as to the necessity of a special statute for the County of Los Angeles.

~~Under existing law, the Public Utilities Commission has regulatory authority over public utilities. Existing law also provides various provisions regulating the acquisition, operation, and sale of utilities. Existing law further defines the term “public utility” as the supply of a municipal corporation, alone or together with its inhabitants, or any portion thereof, with water, light, heat, power, sewage collection, treatment, or disposal for sanitary or drainage purposes, transportation of persons or property, means of communication, or means of promoting the public convenience.~~

~~This bill would make a technical, nonsubstantive change to the latter provision.~~

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. The Legislature finds and declares all of the*
- 2 *following:*
- 3 *(a) California leads the nation in waste reduction and recycling.*
- 4 *(b) California diverts over 50 percent of municipal solid waste*
- 5 *from landfills.*
- 6 *(c) However, California continues to send nearly 45 million*
- 7 *tons of waste to landfills each year.*
- 8 *(d) Currently, there are three waste-to-energy facilities in*
- 9 *California that support recycling efforts by diverting waste from*
- 10 *landfills.*
- 11 *(e) The United States Environmental Protection Agency*
- 12 *recognizes that waste-to-energy facilities are a renewable energy*
- 13 *source, collectively producing 2,800 megawatts of electricity with*
- 14 *less environmental impact than almost any other source of*
- 15 *electricity.*
- 16 *(f) California currently has waste-to-energy facilities that use*
- 17 *clean technology. Some of these facilities are classified as*
- 18 *renewable energy resources and some are not.*
- 19 *(g) By classifying waste-to-energy facilities in the County of*
- 20 *Los Angeles as renewable energy resources, the state continues*

1 *its support for reduced landfilling, reduced greenhouse gas*
2 *emissions, and reduced methane gas production. This outcome is*
3 *consistent with the goals of the California Global Warming*
4 *Solutions Act of 2006.*

5 *SEC. 2. Section 399.12 of the Public Utilities Code is amended*
6 *to read:*

7 399.12. For purposes of this article, the following terms have
8 the following meanings:

9 (a) “Conduit hydroelectric facility” means a facility for the
10 generation of electricity that uses only the hydroelectric potential
11 of an existing pipe, ditch, flume, siphon, tunnel, canal, or other
12 manmade conduit that is operated to distribute water for a
13 beneficial use.

14 (b) “Balancing authority” means the responsible entity that
15 integrates resource plans ahead of time, maintains load-interchange
16 generation balance within a balancing authority area, and supports
17 interconnection frequency in real time.

18 (c) “Balancing authority area” means the collection of
19 generation, transmission, and loads within the metered boundaries
20 of the area within which the balancing authority maintains the
21 electrical load-resource balance.

22 (d) “California balancing authority” is a balancing authority
23 with control over a balancing authority area primarily located in
24 this state and operating for retail sellers and local publicly owned
25 electric utilities subject to the requirements of this article and
26 includes the Independent System Operator (ISO) and a local
27 publicly owned electric utility operating a transmission grid that
28 is not under the operational control of the ISO. A California
29 balancing authority is responsible for the operation of the
30 transmission grid within its metered boundaries which may not be
31 limited by the political boundaries of the State of California.

32 (e) “Eligible renewable energy resource” means an electrical
33 generating facility that meets the definition of a “renewable
34 electrical generation facility” in Section 25741 of the Public
35 Resources Code, subject to the following:

36 (1) (A) An existing small hydroelectric generation facility of
37 30 megawatts or less shall be eligible only if a retail seller or local
38 publicly owned electric utility procured the electricity from the
39 facility as of December 31, 2005. A small hydroelectric generation
40 unit with a nameplate capacity not exceeding 40 megawatts that

1 is operated as part of a water supply or conveyance system is an
2 eligible renewable energy resource if the retail seller or local
3 publicly owned electric utility procured the electricity from the
4 facility as of December 31, 2005. A new hydroelectric facility that
5 commences generation of electricity after December 31, 2005, is
6 not an eligible renewable energy resource if it will cause an adverse
7 impact on instream beneficial uses or cause a change in the volume
8 or timing of streamflow.

9 (B) Notwithstanding subparagraph (A), a conduit hydroelectric
10 facility of 30 megawatts or less that commenced operation before
11 January 1, 2006, is an eligible renewable energy resource. A
12 conduit hydroelectric facility of 30 megawatts or less that
13 commences operation after December 31, 2005, is an eligible
14 renewable energy resource so long as it does not cause an adverse
15 impact on instream beneficial uses or cause a change in the volume
16 or timing of streamflow.

17 (C) A facility approved by the governing board of a local
18 publicly owned electric utility prior to June 1, 2010, for
19 procurement to satisfy renewable energy procurement obligations
20 adopted pursuant to former Section 387, shall be certified as an
21 eligible renewable energy resource by the Energy Commission
22 pursuant to this article, if the facility is a “renewable electrical
23 generation facility” as defined in Section 25741 of the Public
24 Resources Code.

25 (2) (A) A facility engaged in the combustion of municipal solid
26 waste shall not be considered an eligible renewable energy resource
27 unless it is located in *either the County of Stanislaus-County or*
28 *the County of Los Angeles* and was operational prior to September
29 26, 1996.

30 (B) *A facility that is located in the County of Los Angeles shall*
31 *not be considered an eligible renewable resource on or after*
32 *January 1, 2045, unless that facility, in addition to the requirements*
33 *under subparagraph (A), has converted into a system that does*
34 *not perform traditional direct combustion of municipal solid waste,*
35 *and the facility diverts an amount of waste from landfills that*
36 *equals or exceeds its capability as it existed prior to the conversion*
37 *of the facility.*

38 (f) “Procure” means to acquire through ownership or contract.

39 (g) “Procurement entity” means any person or corporation
40 authorized by the commission to enter into contracts to procure

1 eligible renewable energy resources on behalf of customers of a
2 retail seller pursuant to subdivision (f) of Section 399.13.

3 (h) (1) “Renewable energy credit” means a certificate of proof
4 associated with the generation of electricity from an eligible
5 renewable energy resource, issued through the accounting system
6 established by the Energy Commission pursuant to Section 399.25,
7 that one unit of electricity was generated and delivered by an
8 eligible renewable energy resource.

9 (2) “Renewable energy credit” includes all renewable and
10 environmental attributes associated with the production of
11 electricity from the eligible renewable energy resource, except for
12 an emissions reduction credit issued pursuant to Section 40709 of
13 the Health and Safety Code and any credits or payments associated
14 with the reduction of solid waste and treatment benefits created
15 by the utilization of biomass or biogas fuels.

16 (3) (A) Electricity generated by an eligible renewable energy
17 resource attributable to the use of nonrenewable fuels, beyond a
18 de minimis quantity used to generate electricity in the same process
19 through which the facility converts renewable fuel to electricity,
20 shall not result in the creation of a renewable energy credit. The
21 Energy Commission shall set the de minimis quantity of
22 nonrenewable fuels for each renewable energy technology at a
23 level of no more than 2 percent of the total quantity of fuel used
24 by the technology to generate electricity. The Energy Commission
25 may adjust the de minimis quantity for an individual facility, up
26 to a maximum of 5 percent, if it finds that all of the following
27 conditions are met:

28 (i) The facility demonstrates that the higher quantity of
29 nonrenewable fuel will lead to an increase in generation from the
30 eligible renewable energy facility that is significantly greater than
31 generation from the nonrenewable fuel alone.

32 (ii) The facility demonstrates that the higher quantity of
33 nonrenewable fuels will reduce the variability of its electrical
34 output in a manner that results in net environmental benefits to the
35 state.

36 (iii) The higher quantity of nonrenewable fuel is limited to either
37 natural gas or hydrogen derived by reformation of a fossil fuel.

38 (B) Electricity generated by a small hydroelectric generation
39 facility shall not result in the creation of a renewable energy credit

1 unless the facility meets the requirements of subparagraph (A) of
2 paragraph (1) of subdivision (e).

3 (C) Electricity generated by a conduit hydroelectric generation
4 facility shall not result in the creation of a renewable energy credit
5 unless the facility meets the requirements of subparagraph (B) of
6 paragraph (1) of subdivision (e).

7 (D) Electricity generated by a facility engaged in the combustion
8 of municipal solid waste shall not result in the creation of a
9 renewable energy credit unless the facility meets the requirements
10 of paragraph (2) of subdivision (e).

11 (i) “Renewables portfolio standard” means the specified
12 percentage of electricity generated by eligible renewable energy
13 resources that a retail seller or a local publicly owned electric utility
14 is required to procure pursuant to this article.

15 (j) “Retail seller” means an entity engaged in the retail sale of
16 electricity to end-use customers located within the state, including
17 any of the following:

18 (1) An electrical corporation, as defined in Section 218.

19 (2) A community choice aggregator. The commission shall
20 institute a rulemaking to determine the manner in which a
21 community choice aggregator will participate in the renewables
22 portfolio standard program subject to the same terms and conditions
23 applicable to an electrical corporation.

24 (3) An electric service provider, as defined in Section 218.3,
25 for all sales of electricity to customers beginning January 1, 2006.
26 The commission shall institute a rulemaking to determine the
27 manner in which electric service providers will participate in the
28 renewables portfolio standard program. The electric service
29 provider shall be subject to the same terms and conditions
30 applicable to an electrical corporation pursuant to this article. This
31 paragraph does not impair a contract entered into between an
32 electric service provider and a retail customer prior to the
33 suspension of direct access by the commission pursuant to Section
34 80110 of the Water Code.

35 (4) “Retail seller” does not include any of the following:

36 (A) A corporation or person employing cogeneration technology
37 or producing electricity consistent with subdivision (b) of Section
38 218.

1 (B) The Department of Water Resources acting in its capacity
2 pursuant to Division 27 (commencing with Section 80000) of the
3 Water Code.

4 (C) A local publicly owned electric utility.

5 (k) “WECC” means the Western Electricity Coordinating
6 Council of the North American Electric Reliability Corporation,
7 or a successor to the corporation.

8 *SEC. 3. The Legislature finds and declares that a special law*
9 *is necessary and that a general law cannot be made applicable*
10 *within the meaning of Section 16 of Article IV of the California*
11 *Constitution because of the unique circumstances of facilities*
12 *engaged in the combustion of municipal solid waste in Los Angeles*
13 *County.*

14 ~~SECTION 1. Section 10001 of the Public Utilities Code is~~
15 ~~amended to read:~~

16 ~~10001. “Public utility” as used in this article, means the supply~~
17 ~~of a municipal corporation alone or together with its inhabitants,~~
18 ~~or a portion thereof, with water, light, heat, power, sewage~~
19 ~~collection, treatment, or disposal for sanitary or drainage purposes,~~
20 ~~transportation of persons or property, means of communication,~~
21 ~~or means of promoting the public convenience.~~