

AMENDED IN SENATE MAY 6, 2014  
AMENDED IN SENATE APRIL 21, 2014  
AMENDED IN SENATE APRIL 2, 2014

**SENATE BILL**

**No. 1139**

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**Introduced by Senator Hueso**  
(Principal coauthor: Assembly Member V. Manuel Pérez)

February 20, 2014

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An act to add Section 399.35 to the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1139, as amended, Hueso. California Renewables Portfolio Standard Program.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations, as defined, while local publicly owned electric utilities, as defined, are under the direction of their governing boards. The Public Utilities Act imposes various duties and responsibilities on the commission with respect to the purchase of electricity and requires the commission to review and adopt a renewable energy procurement plan for each electrical corporation pursuant to the California Renewables Portfolio Standard Program. The California Renewables Portfolio Standard Program requires a retail seller, 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. Existing law requires the State Energy Resources Conservation and Development Commission (Energy Commission) to certify eligible renewable energy resources that it

determines meet specified statutory criteria. A violation of the Public Utilities Act is a crime.

This bill would require, no later than December ~~24~~, 31, 2024, each retail seller of electricity and local publicly owned electric utility to procure a proportionate share, as determined by the Energy Commission, of a statewide total of 500 megawatts of electricity generated by specified baseload geothermal powerplants. The bill would exempt a local publicly owned electric utility serving fewer than 75,000 customers from the procurement requirement. *The bill would provide that the obligation of a local publicly owned electric utility to procure its proportionate share is deemed satisfied if one or more local publicly owned electric utilities procures in the aggregate generation capacity in an amount to satisfy the entire proportionate share of all the local publicly owned electric utilities.* The bill would require, no later than January 1, 2016, each retail seller to file with the Public Utilities Commission, and each local publicly owned electric utility to file with the Energy Commission, a plan for complying with the procurement requirement. The bill would provide that the electricity procured by retail sellers and local publicly owned electric utilities from these baseload geothermal powerplants does not count towards meeting their obligations under the California Renewables Portfolio Standard Program to purchase specified minimum quantities of electricity products from eligible renewable energy resources. Because a violation of these provisions would be a crime under the Public Utilities Act, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

*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) The California Global Warming Solutions Act of 2006 (AB
- 4 32) established a policy to reduce emissions of greenhouse gases

1 to 1990 levels by 2020 and to continue reductions of emissions of  
2 greenhouse gases beyond 2020.

3 (b) Executive Order S-3-05 set a policy to reduce emissions of  
4 greenhouse gases by 80 percent from 1990 levels by 2050.  
5 Decarbonizing the electrical generation sector is a key part of  
6 achieving California’s policy goals for reducing emissions of  
7 greenhouse gases.

8 (c) California’s electrical supply portfolio must move from  
9 merely increasing the proportion of generation from eligible  
10 renewable energy resources to a portfolio of resources that supply  
11 all types of needed generation, including baseload generation,  
12 ramping generation, and peaking generation.

13 (d) Recent shortages in the supply of natural gas and the historic  
14 price volatility of natural gas provide additional confirmation of  
15 the need to reduce reliance on natural gas for electrical generation.

16 (e) California and the western United States have unique,  
17 high-quality solar and geothermal resources. California utilities  
18 are dramatically increasing their utilization of solar resources to  
19 generate electricity, but not effectively increasing *the* utilization  
20 of geothermal resources. California’s long-term electrical supply  
21 portfolio should include much greater reliance on geothermal  
22 resources.

23 (f) Only a fraction of the geothermal resources that could be  
24 supplying California consumers are currently being utilized, and  
25 there has been very little increase in geothermal generation capacity  
26 during the past decade.

27 (g) The current process used to procure new energy resources  
28 eligible under the California Renewables Portfolio Standard  
29 Program does not adequately value the diverse types of renewable  
30 resources needed to supply California with mostly carbon-free  
31 electricity after 2020 while maintaining reliability. Almost no new  
32 baseload eligible renewable energy resources have been procured  
33 during the past decade.

34 (h) To maintain electrical system reliability relying on generation  
35 that, for the most part, emits no greenhouse gases, that generation  
36 must be deliverable to retail customers in real time.

37 (i) California’s ~~electrical corporations~~ *retail sellers and local*  
38 *publicly owned electric utilities* should add at least 500 megawatts  
39 of electricity from new baseload geothermal generation by the end  
40 of 2024.

1 (j) Many geothermal resources have the additional benefit of  
2 supplying lithium and other strategic minerals. Currently, the  
3 United States is dependent on foreign supplies for these minerals.  
4 Lithium is needed for electric vehicle batteries. The State Air  
5 Resources Board has identified increasing electric vehicles as a  
6 California and national priority as part of implementing AB 32  
7 and reaching goals for reducing emissions of greenhouse gases.  
8 Thus, increasing production of lithium and other strategic minerals  
9 as a ~~co-benefit~~ *cobenefit* of increased production of baseload  
10 geothermal power is in the national interest of the United States.

11 ~~(k) To provide for just and reasonable rates, contracts to procure~~  
12 ~~electricity generated from baseload geothermal power pursuant to~~  
13 ~~Section 399.35 of the Public Utilities Code should be based on the~~  
14 ~~cost of generating the electricity, including environmental~~  
15 ~~mitigation costs, a reasonable rate of return on investment, and the~~  
16 ~~costs of financing the powerplant.~~

17 SEC. 2. Section 399.35 is added to the Public Utilities Code,  
18 to read:

19 399.35. (a) No later than December 31, 2024, each retail seller  
20 and local publicly owned electric utility shall procure a  
21 proportionate share of a statewide total of 500 megawatts of  
22 electricity generated by baseload geothermal powerplants that  
23 began being constructed after January 1, 2015, and that meet the  
24 requirements of paragraph (1) of subdivision (b) of Section 399.16.  
25 A local publicly owned electric utility serving fewer than 75,000  
26 customers shall not be required to procure a proportionate share.

27 (b) (1) No later than June 30, 2015, the Energy Commission  
28 shall determine the proportionate share of the 500 megawatts of  
29 electricity that each retail seller and local publicly owned electric  
30 utility is required to procure pursuant to subdivision (a). For  
31 purposes of this section, “proportionate share” shall be based on  
32 the forecast retail sales for the year 2018.

33 (2) *The obligation for a local publicly owned electric utility to*  
34 *procure its proportionate share of a statewide total of 500*  
35 *megawatts of electricity generated by baseload geothermal*  
36 *powerplants pursuant to this section is deemed satisfied if one or*  
37 *more local publicly owned electric utilities procures in the*  
38 *aggregate generation capacity from baseload geothermal*  
39 *powerplants in an amount sufficient to satisfy the total*

1 *proportionate share of all local publicly owned electric utilities*  
2 *under this section.*

3 (c) No later than January 1, 2016, each retail seller shall file  
4 with the commission, and each local publicly owned electric utility  
5 shall file with the Energy Commission, a plan for complying with  
6 subdivision (a). Those plans shall require each retail seller and  
7 local publicly owned electric utility to procure at least one-half of  
8 its proportionate share by December 31, 2019. Those plans may  
9 authorize a retail seller or local publicly owned electric utility to  
10 aggregate its proportionate share with the proportionate share of  
11 another retail seller or local publicly owned electric utility in order  
12 to minimize administrative and contracting costs. The commission  
13 shall review and approve, modify, or reject plans filed by retail  
14 sellers. ~~The Energy Commission shall review and approve, modify,~~  
15 ~~or reject plans filed by local publicly owned electric utilities.~~

16 (d) The electricity procured pursuant to this section shall not  
17 count towards meeting the requirements specified in subparagraph  
18 (B) of paragraph (2) of subdivision (b) of Section 399.15 or  
19 paragraph (2) of subdivision (c) of Section 399.30.

20 (e) The electricity procured pursuant to this section shall be  
21 procured to reasonably minimize costs. ~~A contract entered into~~  
22 ~~pursuant to subdivision (a) by a retail seller or local publicly owned~~  
23 ~~electric utility for the electricity generated by a baseload geothermal~~  
24 ~~powerplant that meets the requirements of this section shall take~~  
25 ~~into account the costs of generating the electricity, including~~  
26 ~~environmental mitigation costs, a reasonable rate of return on~~  
27 ~~investment, and the costs of financing the powerplant, and the~~  
28 ~~costs of the contract shall be recoverable in rates. Subdivision (c)~~  
29 ~~of Section 399.15 shall not apply to electricity procured pursuant~~  
30 ~~to this section.~~

31 SEC. 3. No reimbursement is required by this act pursuant to  
32 Section 6 of Article XIII B of the California Constitution because  
33 the only costs that may be incurred by a local agency or school  
34 district will be incurred because this act creates a new crime or  
35 infraction, eliminates a crime or infraction, or changes the penalty  
36 for a crime or infraction, within the meaning of Section 17556 of  
37 the Government Code, or changes the definition of a crime within

- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

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