

ASSEMBLY BILL

No. 645

Introduced by Assembly Members Williams and Rendon

February 24, 2015

An act to amend Sections 399.11, 399.15, and 399.30 of the Public Utilities Code, relating to electricity.

LEGISLATIVE COUNSEL'S DIGEST

AB 645, as introduced, Williams. Electricity: California Renewables Portfolio Standard.

(1) Under existing law, the Public Utilities Commission (PUC) 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.

Existing law establishes the California Renewables Portfolio Standard (RPS) program, which expresses the intent of the Legislature that the amount of electricity generated per year from eligible renewable energy resources be increased to an amount that equals at least 33% of the total electricity sold to retail customers in California per year by December 31, 2020. Existing law requires the PUC, by January 1, 2012, to establish the quantity of electricity products from eligible renewable energy resources to be procured by each retail seller for specified compliance periods, sufficient to ensure that the procurement of electricity products from eligible renewable energy resources achieves 25% of retail sales by December 31, 2016, and 33% of retail sales by December 31, 2020, and that retail sellers procure not less than 33% of retail sales in all subsequent years.

Existing law makes the requirements of the RPS program applicable to local publicly owned electric utilities, except that the utility's

governing board is responsible for implementation of those requirements, instead of the PUC, and certain enforcement authority with respect to local publicly owned electric utilities is given to the State Energy Resources Conservation and Development Commission and State Air Resources Board, instead of the PUC.

This bill would additionally express the intent of the Legislature for the purposes of the RPS program that the amount of electricity generated per year from eligible renewable energy resources be increased to an amount equal to at least 50% by December 31, 2030, and would require the PUC, by January 1, 2017, to establish the quantity of electricity products from eligible renewable energy resources to be procured by each retail seller for specified compliance periods sufficient to ensure that the procurement of electricity products from eligible renewable energy resources achieves 50% of retail sales by December 31, 2030, and that retail sellers procure not less than 50% of retail sales in all subsequent years. The bill would require the governing boards of local publicly owned electric utilities to ensure that specified quantities of electricity products from eligible renewable energy resources to be procured for specified compliance periods to ensure that the procurement of electricity products from eligible renewable energy resources achieve 50% of retail sales by December 31, 2030, and that the local publicly owned electric utilities procure not less than 50% of retail sales in all subsequent years.

(2) Under existing law, a violation of the RPS program is a crime.

Because the provisions of this bill would expand the RPS program, a violation of these provisions would impose a state-mandated local program by expanding the definition of a crime.

(3) By placing additional requirements upon local publicly owned electric utilities, this bill would impose a state-mandated local program.

(4) 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 reasons.

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. Section 399.11 of the Public Utilities Code is
2 amended to read:

3 399.11. The Legislature finds and declares all of the following:

4 (a) In order to attain a target of generating 20 percent of total
5 retail sales of electricity in California from eligible renewable
6 energy resources by December 31, 2013,~~and~~ 33 percent by
7 December 31, 2020, *and 50 percent by December 31, 2030*, it is
8 the intent of the Legislature that the commission and the Energy
9 Commission implement the California Renewables Portfolio
10 Standard Program described in this article.

11 (b) Achieving the renewables portfolio standard through the
12 procurement of various electricity products from eligible renewable
13 energy resources is intended to provide unique benefits to
14 California, including all of the following, each of which
15 independently justifies the program:

16 (1) Displacing fossil fuel consumption within the state.

17 (2) Adding new electrical generating facilities in the
18 transmission network within the Western Electricity Coordinating
19 Council service area.

20 (3) Reducing air pollution in the state.

21 (4) Meeting the state's climate change goals by reducing
22 emissions of greenhouse gases associated with electrical generation.

23 (5) Promoting stable retail rates for electric service.

24 (6) Meeting the state's need for a diversified and balanced
25 energy generation portfolio.

26 (7) Assistance with meeting the state's resource adequacy
27 requirements.

28 (8) Contributing to the safe and reliable operation of the
29 electrical grid, including providing predictable electrical supply,
30 voltage support, lower line losses, and congestion relief.

31 (9) Implementing the state's transmission and land use planning
32 activities related to development of eligible renewable energy
33 resources.

34 (c) The California Renewables Portfolio Standard Program is
35 intended to complement the Renewable Energy Resources Program
36 administered by the Energy Commission and established pursuant
37 to Chapter 8.6 (commencing with Section 25740) of Division 15
38 of the Public Resources Code.

1 (d) New and modified electric transmission facilities may be
2 necessary to facilitate the state achieving its renewables portfolio
3 standard targets.

4 (e) (1) Supplying electricity to California end-use customers
5 that is generated by eligible renewable energy resources is
6 necessary to improve California's air quality and public health,
7 and the commission shall ensure rates are just and reasonable, and
8 are not significantly affected by the procurement requirements of
9 this article. This electricity may be generated anywhere in the
10 interconnected grid that includes many states, and areas of both
11 Canada and Mexico.

12 (2) This article requires generating resources located outside of
13 California that are able to supply that electricity to California
14 end-use customers to be treated identically to generating resources
15 located within the state, without discrimination.

16 (3) California electrical corporations have already executed,
17 and the commission has approved, power purchase agreements
18 with eligible renewable energy resources located outside of
19 California that will supply electricity to California end-use
20 customers. These resources will fully count toward meeting the
21 renewables portfolio standard procurement requirements. In
22 addition, there are nearly 7,000 megawatts of additional proposed
23 renewable energy resources located outside of California that are
24 awaiting interconnection approval from the Independent System
25 Operator. All of these resources, if procured, will count as eligible
26 renewable energy resources that satisfy the portfolio content
27 requirements of paragraph (1) of subdivision (c) of Section 399.16.

28 SEC. 2. Section 399.15 of the Public Utilities Code is amended
29 to read:

30 399.15. (a) In order to fulfill unmet long-term resource needs,
31 the commission shall establish a renewables portfolio standard
32 requiring all retail sellers to procure a minimum quantity of
33 electricity products from eligible renewable energy resources as
34 a specified percentage of total kilowatthours sold to their retail
35 end-use customers each compliance period to achieve the targets
36 established under this article. For any retail seller procuring at least
37 14 percent of retail sales from eligible renewable energy resources
38 in 2010, the deficits associated with any previous renewables
39 portfolio standard shall not be added to any procurement
40 requirement pursuant to this article.

1 (b) The commission shall implement renewables portfolio
2 standard procurement requirements only as follows:

3 (1) Each retail seller shall procure a minimum quantity of
4 eligible renewable energy resources for each of the following
5 compliance periods:

6 (A) January 1, 2011, to December 31, 2013, inclusive.

7 (B) January 1, 2014, to December 31, 2016, inclusive.

8 (C) January 1, 2017, to December 31, 2020, inclusive.

9 (D) *January 1, 2021, to December 31, 2023, inclusive.*

10 (E) *January 1, 2024, to December 31, 2026, inclusive.*

11 (D) *January 1, 2027, to December 31, 2030, inclusive.*

12 (2) (A) No later than January 1, ~~2012~~, 2017, the commission
13 shall establish the quantity of electricity products from eligible
14 renewable energy resources to be procured by the retail seller for
15 each compliance period. These quantities shall be established in
16 the same manner for all retail sellers and result in the same
17 percentages used to establish compliance period quantities for all
18 retail sellers.

19 (B) In establishing quantities for the compliance period from
20 January 1, 2011, to December 31, 2013, inclusive, the commission
21 shall require procurement for each retail seller equal to an average
22 of 20 percent of retail sales. For the following compliance periods,
23 the quantities shall reflect reasonable progress in each of the
24 intervening years sufficient to ensure that the procurement of
25 electricity products from eligible renewable energy resources
26 achieves 25 percent of retail sales by December 31, 2016, ~~and 33~~
27 ~~percent of retail sales by December 31, 2020. 2020, 38 percent by~~
28 *December 31, 2023, 44 percent by December 31, 2026, and 50*
29 *percent by December 31, 2030.* The commission shall require retail
30 sellers to procure not less than ~~33~~ 50 percent of retail sales of
31 electricity products from eligible renewable energy resources in
32 all subsequent years.

33 (C) Retail sellers shall be obligated to procure no less than the
34 quantities associated with all intervening years by the end of each
35 compliance period. Retail sellers shall not be required to
36 demonstrate a specific quantity of procurement for any individual
37 intervening year.

38 (3) The commission may require the procurement of eligible
39 renewable energy resources in excess of the quantities specified
40 in paragraph (2).

1 (4) Only for purposes of establishing the renewables portfolio
2 standard procurement requirements of paragraph (1) and
3 determining the quantities pursuant to paragraph (2), the
4 commission shall include all electricity sold to retail customers by
5 the Department of Water Resources pursuant to Division 27
6 (commencing with Section 80000) of the Water Code in the
7 calculation of retail sales by an electrical corporation.

8 (5) The commission shall waive enforcement of this section if
9 it finds that the retail seller has demonstrated any of the following
10 conditions are beyond the control of the retail seller and will
11 prevent compliance:

12 (A) There is inadequate transmission capacity to allow for
13 sufficient electricity to be delivered from proposed eligible
14 renewable energy resource projects using the current operational
15 protocols of the Independent System Operator. In making its
16 findings relative to the existence of this condition with respect to
17 a retail seller that owns transmission lines, the commission shall
18 consider both of the following:

19 (i) Whether the retail seller has undertaken, in a timely fashion,
20 reasonable measures under its control and consistent with its
21 obligations under local, state, and federal laws and regulations, to
22 develop and construct new transmission lines or upgrades to
23 existing lines intended to transmit electricity generated by eligible
24 renewable energy resources. In determining the reasonableness of
25 a retail seller's actions, the commission shall consider the retail
26 seller's expectations for full-cost recovery for these transmission
27 lines and upgrades.

28 (ii) Whether the retail seller has taken all reasonable operational
29 measures to maximize cost-effective deliveries of electricity from
30 eligible renewable energy resources in advance of transmission
31 availability.

32 (B) Permitting, interconnection, or other circumstances that
33 delay procured eligible renewable energy resource projects, or
34 there is an insufficient supply of eligible renewable energy
35 resources available to the retail seller. In making a finding that this
36 condition prevents timely compliance, the commission shall
37 consider whether the retail seller has done all of the following:

38 (i) Prudently managed portfolio risks, including relying on a
39 sufficient number of viable projects.

1 (ii) Sought to develop one of the following: its own eligible
2 renewable energy resources, transmission to interconnect to eligible
3 renewable energy resources, or energy storage used to integrate
4 eligible renewable energy resources. This clause shall not require
5 an electrical corporation to pursue development of eligible
6 renewable energy resources pursuant to Section 399.14.

7 (iii) Procured an appropriate minimum margin of procurement
8 above the minimum procurement level necessary to comply with
9 the renewables portfolio standard to compensate for foreseeable
10 delays or insufficient supply.

11 (iv) Taken reasonable measures, under the control of the retail
12 seller, to procure cost-effective distributed generation and allowable
13 unbundled renewable energy credits.

14 (C) Unanticipated curtailment of eligible renewable energy
15 resources necessary to address the needs of a balancing authority.

16 (6) If the commission waives the compliance requirements of
17 this section, the commission shall establish additional reporting
18 requirements on the retail seller to demonstrate that all reasonable
19 actions under the control of the retail seller are taken in each of
20 the intervening years sufficient to satisfy future procurement
21 requirements.

22 (7) The commission shall not waive enforcement pursuant to
23 this section, unless the retail seller demonstrates that it has taken
24 all reasonable actions under its control, as set forth in paragraph
25 (5), to achieve full compliance.

26 (8) If a retail seller fails to procure sufficient eligible renewable
27 energy resources to comply with a procurement requirement
28 pursuant to paragraphs (1) and (2) and fails to obtain an order from
29 the commission waiving enforcement pursuant to paragraph (5),
30 the commission shall exercise its authority pursuant to Section
31 2113.

32 (9) Deficits associated with the compliance period shall not be
33 added to a future compliance period.

34 (c) The commission shall establish a limitation for each electrical
35 corporation on the procurement expenditures for all eligible
36 renewable energy resources used to comply with the renewables
37 portfolio standard. In establishing this limitation, the commission
38 shall rely on the following:

39 (1) The most recent renewable energy procurement plan.

- 1 (2) Procurement expenditures that approximate the expected
2 cost of building, owning, and operating eligible renewable energy
3 resources.
- 4 (3) The potential that some planned resource additions may be
5 delayed or canceled.
- 6 (d) In developing the limitation pursuant to subdivision (c), the
7 commission shall ensure all of the following:
- 8 (1) The limitation is set at a level that prevents disproportionate
9 rate impacts.
- 10 (2) The costs of all procurement credited toward achieving the
11 renewables portfolio standard are counted towards the limitation.
- 12 (3) Procurement expenditures do not include any indirect
13 expenses, including imbalance energy charges, sale of excess
14 energy, decreased generation from existing resources, transmission
15 upgrades, or the costs associated with relicensing any utility-owned
16 hydroelectric facilities.
- 17 (e) (1) No later than January 1, 2016, the commission shall
18 prepare a report to the Legislature assessing whether each electrical
19 corporation can achieve a 33-percent renewables portfolio standard
20 by December 31, 2020, and maintain that level thereafter, within
21 the adopted cost limitations. If the commission determines that it
22 is necessary to change the limitation for procurement costs incurred
23 by any electrical corporation after that date, it may propose a
24 revised cap consistent with the criteria in subdivisions (c) and (d).
25 The proposed modifications shall take effect no earlier than January
26 1, 2017.
- 27 (2) Notwithstanding Section 10231.5 of the Government Code,
28 the requirement for submitting a report imposed under paragraph
29 (1) is inoperative on January 1, 2021.
- 30 (3) A report to be submitted pursuant to paragraph (1) shall be
31 submitted in compliance with Section 9795 of the Government
32 Code.
- 33 (f) If the cost limitation for an electrical corporation is
34 insufficient to support the projected costs of meeting the
35 renewables portfolio standard procurement requirements, the
36 electrical corporation may refrain from entering into new contracts
37 or constructing facilities beyond the quantity that can be procured
38 within the limitation, unless eligible renewable energy resources
39 can be procured without exceeding a de minimis increase in rates,

1 consistent with the long-term procurement plan established for the
2 electrical corporation pursuant to Section 454.5.

3 (g) (1) The commission shall monitor the status of the cost
4 limitation for each electrical corporation in order to ensure
5 compliance with this article.

6 (2) If the commission determines that an electrical corporation
7 may exceed its cost limitation prior to achieving the renewables
8 portfolio standard procurement requirements, the commission shall
9 do both of the following within 60 days of making that
10 determination:

11 (A) Investigate and identify the reasons why the electrical
12 corporation may exceed its annual cost limitation.

13 (B) Notify the appropriate policy and fiscal committees of the
14 Legislature that the electrical corporation may exceed its cost
15 limitation, and include the reasons why the electrical corporation
16 may exceed its cost limitation.

17 (h) The establishment of a renewables portfolio standard shall
18 not constitute implementation by the commission of the federal
19 Public Utility Regulatory Policies Act of 1978 (Public Law
20 95-617).

21 SEC. 3. Section 399.30 of the Public Utilities Code is amended
22 to read:

23 399.30. (a) To fulfill unmet long-term generation resource
24 needs, each local publicly owned electric utility shall adopt and
25 implement a renewable energy resources procurement plan that
26 requires the utility to procure a minimum quantity of electricity
27 products from eligible renewable energy resources, including
28 renewable energy credits, as a specified percentage of total
29 kilowatthours sold to the utility's retail end-use customers, each
30 compliance period, to achieve the targets of subdivision (c).

31 (b) The governing board shall implement procurement targets
32 for a local publicly owned electric utility that require the utility to
33 procure a minimum quantity of eligible renewable energy resources
34 for each of the following compliance periods:

35 (1) January 1, 2011, to December 31, 2013, inclusive.

36 (2) January 1, 2014, to December 31, 2016, inclusive.

37 (3) January 1, 2017, to December 31, 2020, inclusive.

38 (D) *January 1, 2021, to December 31, 2023, inclusive.*

39 (E) *January 1, 2024, to December 31, 2026, inclusive.*

40 (D) *January 1, 2027, to December 31, 2030, 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 *2020, 38 percent by December 31, 2023, 44 percent by December*
14 *31, 2026, and 50 percent by December 31, 2030.* The local
15 governing board shall require the local publicly owned electric
16 ~~utilities~~ utility to procure not less than ~~33~~ 50 percent of retail sales
17 of electricity products from eligible renewable energy resources
18 in all subsequent years.

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

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

23 (1) Rules permitting the utility to apply excess procurement in
24 one compliance period to subsequent compliance periods in the
25 same manner as allowed for retail sellers pursuant to Section
26 399.13.

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

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

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

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

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

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

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

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

37 (1) The electricity generated by the facility is procured by the
38 local publicly owned electric utility, is delivered to the balancing
39 authority area in which the local publicly owned electric utility is

1 located, and is not used to fulfill renewable energy procurement
2 requirements of other states.

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

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

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

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

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

38 (A) The portion of its retail sales not supplied by its own
39 hydroelectric generation. For these purposes, retail sales supplied
40 by an increase in hydroelectric generation resulting from an

1 increase in the amount of water stored by a dam because the dam
2 is enlarged or otherwise modified after December 31, 2012, shall
3 not count as being retail sales supplied by the utility's own
4 hydroelectric generation.

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

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

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

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

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

17 (D) Has a maximum penstock flow capacity of no more than
18 3,200 cubic feet per second and includes a regulating reservoir
19 with a small hydroelectric generation facility producing fewer than
20 20 megawatts with a maximum penstock flow capacity of no more
21 than 3,000 cubic feet per second.

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

25 (4) This subdivision does not require a local publicly owned
26 electric utility to purchase additional eligible renewable energy
27 resources in excess of the procurement requirements of subdivision
28 (c).

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

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

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

37 (m) On or before July 1, 2011, the Energy Commission shall
38 adopt regulations specifying procedures for enforcement of this
39 article. The regulations shall include a public process under which
40 the Energy Commission may issue a notice of violation and

1 correction against a local publicly owned electric utility for failure
2 to comply with this article, and for referral of violations to the
3 State Air Resources Board for penalties pursuant to subdivision
4 (o).

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

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

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

26 (4) If the State Air Resources Board has imposed a penalty upon
27 a local publicly owned electric utility for the utility's failure to
28 comply with this article, the State Air Resources Board shall not
29 impose an additional penalty for the same infraction, or the same
30 failure to comply, with any renewables procurement requirement
31 imposed upon the utility pursuant to the California Global Warming
32 Solutions Act of 2006 (Division 25.5 (commencing with Section
33 38500) of the Health and Safety Code).

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

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

4 SEC. 4. No reimbursement is required by this act pursuant to
5 Section 6 of Article XIII B of the California Constitution because
6 a local agency or school district has the authority to levy service
7 charges, fees, or assessments sufficient to pay for the program or
8 level of service mandated by this act or because costs that may be
9 incurred by a local agency or school district will be incurred
10 because this act creates a new crime or infraction, eliminates a
11 crime or infraction, or changes the penalty for a crime or infraction,
12 within the meaning of Section 17556 of the Government Code, or
13 changes the definition of a crime within the meaning of Section 6
14 of Article XIII B of the California Constitution.

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