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AMENDED IN SENATE SEPTEMBER 3, 2015
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AMENDED IN SENATE JUNE 19, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1110

Introduced by Assembly Member Ting

February 27, 2015

An act to amend Sections 398.1, 398.2, ~~and 398.4~~ 398.4, and 398.5 of the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1110, as amended, Ting. Greenhouse gases emissions intensity reporting: retail electricity suppliers.

Under existing law, entities offering electric services in California are required to disclose information on the sources of energy that are used to provide electric services. Existing law requires every retail supplier, as defined, that makes an offer to sell electricity that is consumed in California to disclose its electricity sources for the previous calendar year. These disclosures are required to be made to end-use ~~customers~~ *consumers* and potential end-use ~~customers~~ *consumers*. Existing law requires a retail supplier to disclose its electricity sources as a percentage of annual sales that is derived from specified sources of energy, including eligible renewable energy resources. *Existing law requires that retail suppliers annually report to the Energy Commission certain information for each electricity from "specified sources," as defined, offering for the previous calendar year.*

This bill would require *the Energy Commission to calculate the greenhouse gas emissions intensity for each purchase of electricity from “specified sources,” as defined, and, in consultation with the State Air Resources Board, to establish greenhouse gas emissions intensity factors for electricity from “unspecified sources.”* The bill would require a retail supplier, including an electrical corporation, local publicly owned electric utility, electric service provider, and community choice aggregator ~~aggregator~~, to also disclose the greenhouse gases emissions intensity ~~associated with its electricity sources.~~ *of any electricity portfolio offered to its retail customers, as specified, and the Energy Commission’s calculation of the greenhouse gas emissions intensity associated with all statewide retail electricity sales.* The bill would prohibit an adjustment in the calculation of ~~emissions of greenhouse gases~~ *gas emissions intensity* through the application of *unbundled* renewable energy credits, carbon offset credits, ~~or other environmental attributes acquired from any facility not generating the electricity procured by the retail supplier and delivered to the balancing authority in which the customers of the retail supplier are located.~~ *or credits associated with any greenhouse gas reductions unrelated to the production of electricity.* The bill would require a retail supplier to annually report to the Energy Commission certain additional information for each electricity offering for the previous calendar year. The bill would require the Energy Commission, on or before January 1, ~~2017, to specify 2018,~~ *to adopt* guidelines for the reporting and disclosure of greenhouse gas emissions intensity, subject to public hearing. The bill would require retail suppliers, beginning June 1, ~~2019,~~ *2020,* to report to the Energy Commission data on ~~annual emissions of greenhouse gases~~ *greenhouse gas emissions intensity associated with retail sales* occurring after December 31, ~~2017,~~ *2018,* except as provided.

The Public Utilities Act makes any public utility and any corporation other than a public utility, if the public utility or corporation violates the act or fails to comply with any part of any order, decision, rule, direction, demand, or requirement of the commission, guilty of a crime.

Because the provisions of this bill would be a part of the act and because a violation of an order or decision of the commission implementing its requirements by an electrical corporation or electric service provider would be a crime, the bill would impose a state-mandated local program by expanding what is a crime. By placing

additional reporting duties upon local publicly owned electric utilities, 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 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 398.1 of the Public Utilities Code is
2 amended to read:

3 398.1. (a) The Legislature finds and declares that there is a
4 need for reliable, accurate, timely, and consistent information
5 regarding fuel sources for electric generation offered for retail sale
6 in California.

7 (b) The purpose of this article is to establish a program under
8 which entities offering electric services in California disclose
9 accurate, reliable, and simple to understand information on the
10 sources of energy, and the associated emissions of greenhouse
11 gases, that are used to provide electric services.

12 SEC. 2. Section 398.2 of the Public Utilities Code is amended
13 to read:

14 398.2. The definitions set forth in this section shall govern the
15 construction of this article.

16 (a) *“Greenhouse gas emissions intensity” means the sum of all*
17 *annual emissions of greenhouse gases associated with a generation*
18 *source divided by the annual production of electricity from the*
19 *generation source.*

20 (a)

21 (b) *“Retail supplier” means an entity that offers an electricity*
22 *product for sale to retail consumers in California, including an*
23 *electrical corporation, local publicly owned electric utility, electric*
24 *service provider, and community choice aggregator.*

25 (b)

26 (c) *“System operator” means the Independent System Operator*
27 *with responsibility for the efficient use and reliable operation of*
28 *the transmission grid, as provided by Section 345, or a local*

1 publicly owned electric utility that does not utilize the Independent
2 System Operator.

3 ~~(e) “Specific purchases”~~

4 (d) “*Purchases of electricity from specified sources*” or
5 “*purchases from specified sources*” means electricity transactions
6 that are traceable to specific generation sources by any auditable
7 contract trail or equivalent, such as a tradable commodity system,
8 that provides commercial verification that the electricity source
9 claimed has been sold once and only once to a retail consumer.
10 Retail suppliers may rely on annual data to ~~meet this requirement,~~
11 *determine whether a transaction meets this definition*, rather than
12 hour-by-hour matching of loads and resources.

13 ~~(d) “Unspecified sources of power”~~

14 (e) “*Electricity from unspecified sources*” means electricity
15 that is not traceable to specific generation sources by any auditable
16 contract trail or equivalent, including a tradable commodity system,
17 that provides commercial verification that the electricity source
18 claimed has been sold once, and only once, to a retail consumer.

19 SEC. 3. Section 398.4 of the Public Utilities Code is amended
20 to read:

21 398.4. (a) Every retail supplier that makes an offering to sell
22 electricity that is consumed in California shall disclose its
23 electricity sources and the associated greenhouse gases emissions
24 intensity for the previous calendar year.

25 (b) The disclosures required by this section shall be made to
26 potential end-use consumers in all product-specific written
27 promotional materials that are distributed to consumers by either
28 printed or electronic means, including the retail supplier’s Internet
29 Web site, if one exists, except that advertisements and notices in
30 general circulation media shall not be subject to this requirement.

31 (c) The disclosures required by this section shall be made
32 annually to end-use consumers of the offered electricity. The annual
33 disclosure shall be made by the end of the first complete billing
34 cycle for the third quarter of the year, and shall be consistent with
35 information provided to the Energy Commission pursuant to
36 Section 398.5.

37 (d) The disclosures required by this section shall be made
38 separately for each *portfolio* offering made by the retail supplier.

39 (e) On or before January 1, 1998, the Energy Commission shall
40 specify guidelines for the format and means for disclosure required

1 by Section 398.3 and this section, based on the requirements of
2 this article and subject to public hearing.

3 (f) The costs of making the disclosures required by this section
4 shall be considered to be generation related.

5 (g) The disclosures required by this section shall comply with
6 the following:

7 (1) A retail supplier's disclosure of its electricity sources shall
8 be expressed as a percentage of annual sales derived from each of
9 the following categories:

10 (A) ~~Unspecified sources of electricity.~~ *Electricity from*
11 *unspecified sources.*

12 (B) ~~Specific purchases.~~ *Purchases of electricity from specified*
13 *sources.*

14 (2) A retail supplier's disclosure of its electricity sources shall
15 also separately identify total California system electricity, which
16 is the sum of all in-state generation and net electricity imports by
17 fuel type.

18 (h) Each of the categories specified in subdivision (g) shall be
19 additionally identified as a percentage of annual sales that is
20 derived from the following ~~fuels or fuels~~, sources of ~~energy~~: *energy,*
21 *or electricity products:*

22 (1) Coal.

23 (2) Large hydroelectric (greater than 30 megawatts).

24 (3) Natural gas.

25 (4) Nuclear.

26 (5) Eligible renewable energy resources pursuant to the
27 California Renewables Portfolio Standard Program (Article 16
28 (commencing with Section 399.11)), including any of the
29 following:

30 (A) Biomass and biowaste.

31 (B) Geothermal.

32 (C) Eligible hydroelectric.

33 (D) Solar.

34 (E) Wind.

35 (F) *Unbundled renewable energy credits.*

36 (6) Other categories as determined by the Energy Commission.

37 (i) All electricity sources disclosed as ~~specific purchases of~~
38 *electricity from specified sources* shall meet the requirements of
39 subdivision ~~(e)~~ (d) of Section 398.2.

1 (j) ~~Specific purchases~~ *Purchases of electricity from specified*
2 *sources* identified pursuant to this section shall be from sources
3 connected to the Western Electricity Coordinating Council
4 interconnected grid.

5 (k) (1) ~~The greenhouse gases emissions intensity associated~~
6 ~~with a retail supplier's electricity sources shall be reported by the~~
7 ~~retail supplier to the customer as the sum of all annual emissions~~
8 ~~of greenhouse gases divided by annual retail electric sales.~~
9 ~~Emissions of greenhouse gases shall be calculated using the~~
10 ~~emissions reported for electricity supplied by entities required to~~
11 ~~report emissions of greenhouse gases pursuant to Article 2~~
12 ~~(commencing with Section 95100) of Subchapter 10 of Chapter 1~~
13 ~~of Division 3 of Title 17 of the California Code of Regulations.~~
14 ~~Emissions of greenhouse gases shall include any emissions~~
15 ~~otherwise attributable to any first deliverer, as defined in paragraph~~
16 ~~(178) of subdivision (a) of Section 95102 of Title 17 of the~~
17 ~~California Code of Regulations, supplying electricity directly or~~
18 ~~indirectly to the retail supplier.~~

19 (2) ~~For purposes of this subdivision, no adjustment shall be~~
20 ~~made to the calculation of emissions of greenhouse gases assigned~~
21 ~~to any retail supplier through the application of the following:~~

22 (A) ~~Renewable energy credits, as defined in subdivision (h) of~~
23 ~~Section 399.12.~~

24 (B) ~~Offset credits issued pursuant to Article 5 (commencing~~
25 ~~with Section 95801) of Subchapter 10 of Chapter 1 of Division 3~~
26 ~~of Title 17 of the California Code of Regulations.~~

27 (C) ~~Other environmental attributes acquired from any facility~~
28 ~~not generating the electricity procured by the retail supplier and~~
29 ~~delivered to the balancing authority in which the customers of the~~
30 ~~retail supplier are located.~~

31 (3) ~~The Energy Commission shall ensure that the calculation~~
32 ~~of greenhouse gas emissions attributed to a retail supplier is~~
33 ~~consistent with treatment under the market-based compliance~~
34 ~~mechanism adopted by the State Air Resources Board for the~~
35 ~~following:~~

36 (A) ~~Procurement from electric generation without a compliance~~
37 ~~obligation pursuant to Section 95852.2 of Title 17 of the California~~
38 ~~Code of Regulations.~~

1 ~~(B) Procurement satisfying the requirements of paragraph (4)~~
2 ~~of subdivision (b) of Section 95852 of Title 17 of the California~~
3 ~~Code of Regulations.~~

4 ~~(4) For purposes of determining greenhouse gas intensity~~
5 ~~pursuant to this section, the Energy Commission shall determine~~
6 ~~the appropriate treatment for production from any electricity source~~
7 ~~located behind the meter of a customer served by a retail supplier.~~
8 ~~At a minimum, any reported electricity production shall be verified~~
9 ~~using a revenue grade meter and added to the calculation of the~~
10 ~~retail electric sales for the retail supplier.~~

11 ~~(5) The calculation of greenhouse gas emissions intensity shall~~
12 ~~not be determined based upon whether the procurement is either~~
13 ~~assigned to any particular portfolio content category under~~
14 ~~subdivision (b) of Section 399.16 or classified as counting in full~~
15 ~~pursuant to subdivision (d) of Section 399.16.~~

16 ~~(6) The Energy Commission shall, in consultation with the State~~
17 ~~Air Resources Board and consistent with the requirements of this~~
18 ~~subdivision, establish emissions intensity factors for electricity~~
19 ~~sources reported by retail suppliers.~~

20 ~~(7) Each retail supplier shall separately identify the greenhouse~~
21 ~~gases emissions intensity associated with statewide retail electricity~~
22 ~~sales in the same year. The Energy Commission, in consultation~~
23 ~~with the State Air Resources Board, shall calculate the greenhouse~~
24 ~~gases emissions intensity associated with statewide retail electricity~~
25 ~~sales based on the emissions of greenhouse gases for total~~
26 ~~California system electricity.~~

27 ~~(8) (A) On or before January 1, 2017, the Energy Commission~~
28 ~~shall specify guidelines for the reporting and disclosure of~~
29 ~~greenhouse gas emissions intensity, based on the requirements of~~
30 ~~this subdivision and subject to public hearing. Beginning June 1,~~
31 ~~2019, retail suppliers shall be required to report to the Energy~~
32 ~~Commission data on annual emissions of greenhouse gases~~
33 ~~occurring after December 31, 2017.~~

34 ~~(B) Any new community choice aggregator formed after January~~
35 ~~1, 2016, shall not be required to report to the Energy Commission~~
36 ~~data on annual emissions of greenhouse gases occurring until at~~
37 ~~least 24 months, but no later than 36 months, after serving its first~~
38 ~~retail customer.~~

39 ~~(9) Any marketing or retail product claims relating to the~~
40 ~~greenhouse gas emissions intensity of the electricity sources of a~~

1 ~~retail supplier shall be consistent with the methodology required~~
2 ~~under this section. Retail suppliers may provide additional~~
3 ~~information to customers describing other actions relating to~~
4 ~~greenhouse gas emissions.~~

5 *(k) (1) Each retail supplier shall disclose the greenhouse gas*
6 *emissions intensity of any electricity portfolio offered to its retail*
7 *customers and the Energy Commission's calculation of greenhouse*
8 *gas emissions intensity associated with all statewide retail*
9 *electricity sales, consistent with the requirements of this*
10 *subdivision.*

11 *(2) The Energy Commission shall do all of the following:*

12 *(A) Calculate the greenhouse gas emissions intensity for each*
13 *purchase of electricity from a specified source using data reported*
14 *to the State Air Resources Board under the regulations for the*
15 *Mandatory Greenhouse Gas Reporting program or a successor*
16 *program. If emissions data is unavailable or restricted due to*
17 *confidentiality, the Energy Commission may establish default*
18 *emissions intensity factors for purchases from specified sources.*

19 *(B) Establish, in consultation with the State Air Resources*
20 *Board, default emissions intensity factors for electricity from*
21 *unspecified sources located in California, electricity from*
22 *unspecified sources imported into the state from other regions,*
23 *and electricity from sources without a reporting obligation.*

24 *(C) Calculate the greenhouse gas emissions intensity associated*
25 *with statewide retail electricity sales based on the greenhouse gas*
26 *emissions for total California system electricity.*

27 *(D) Rely on the most recent verified greenhouse gas emissions*
28 *data while ensuring that greenhouse gas emissions intensity factors*
29 *for electricity from specified and unspecified sources are available*
30 *to retail suppliers with sufficient advance notice to permit timely*
31 *reporting.*

32 *(E) Retain the right to verify any procurement claims made by*
33 *a retail supplier, including the right to review any underlying*
34 *procurement contracts, the associated electronic tags*
35 *demonstrating that the claimed electricity was delivered to the*
36 *retail supplier, and all related financial settlements.*

37 *(3) The Energy Commission shall not authorize a retail seller*
38 *to make any adjustments to the calculation of greenhouse gas*
39 *emissions intensity beyond those permitted under the market-based*
40 *compliance mechanism adopted by the State Air Resources Board.*

1 *A retail seller shall not make adjustments due to the use of offset*
2 *credits, credits associated with any greenhouse gas reductions*
3 *unrelated to the production of electricity, or unbundled renewable*
4 *energy credits.*

5 *(4) The Energy Commission may authorize an adjustment to a*
6 *greenhouse gas emissions intensity factor for any local publicly*
7 *owned electric utility demonstrating procurement of quantities of*
8 *electricity in a single year in excess of its total retail sales from*
9 *purchases from specified sources that do not emit any greenhouse*
10 *gases. Any request for adjustments by an eligible local publicly*
11 *owned electric utility shall be considered in an open process,*
12 *subject to public comment, and adopted through a vote of the full*
13 *Energy Commission. An adjustment authorized by the Energy*
14 *Commission shall not permit excess generation procured in a*
15 *single year to be counted more than once or to be resold to another*
16 *retail supplier as a purchase from a specified source.*

17 *(5) The Energy Commission shall ensure that there is no double*
18 *counting of the greenhouse gas emissions or emissions attributes*
19 *associated with any unit of electricity production reported by a*
20 *retail supplier for any specific generating facility located within*
21 *the Western Electricity Coordinating Council when calculating*
22 *greenhouse gas emissions intensity.*

23 *(6) (A) On or before January 1, 2018, the Energy Commission*
24 *shall adopt guidelines for the reporting and disclosure of*
25 *greenhouse gas emissions intensity associated with retail sales*
26 *based on the requirements of this subdivision and subject to public*
27 *hearing. Beginning June 1, 2020, retail suppliers shall be required*
28 *to report data on greenhouse gas emissions intensity associated*
29 *with retail sales occurring after December 31, 2018.*

30 *(B) Any new community choice aggregator formed after January*
31 *1, 2016, shall not be required to report data on greenhouse gas*
32 *emissions intensity associated with retail sales until at least 24*
33 *months, but no later than 36 months, after serving its first retail*
34 *customer.*

35 *(7) Any marketing or retail product claims relating to the*
36 *greenhouse gas emissions intensity of the electric supply portfolio*
37 *of a retail supplier shall be consistent with the methodology*
38 *required under this section. Retail suppliers may provide additional*
39 *information to customers describing other actions relating to*
40 *greenhouse gases that are unrelated to the electric supply portfolio.*

1 (l) The provisions of this section shall not apply to generators
2 providing electric service onsite, under an over-the-fence
3 transaction as described in Section 218, or to an affiliate or
4 affiliates, as defined in subdivision (a) of Section 372.

5 *SEC. 4. Section 398.5 of the Public Utilities Code is amended*
6 *to read:*

7 398.5. (a) Retail suppliers ~~that disclose specific purchases~~
8 ~~pursuant to Section 398.4~~ shall annually report to the Energy
9 Commission, for each electricity offering for the previous calendar
10 year, each of the following:

11 (1) The kilowatthours purchased, by generator and fuel type
12 during the previous calendar year, consistent with the meter data,
13 including losses, reported to the system operator.

14 (2) *The kilowatthours purchased from unspecified sources in*
15 *California and from unspecified sources imported into California*
16 *from other subregions within the Western Electricity Coordinating*
17 *Council.*

18 (3) *Any kilowatthours supplied to the retail seller directly or*
19 *indirectly by a first deliverer of electricity into the state.*

20 ~~(2)~~

21 (4) For each electricity offering the kilowatthours sold at retail.

22 ~~(3)~~

23 (5) For each electricity offering the disclosures made to
24 consumers pursuant to Section 398.4.

25 (b) Information submitted to the Energy Commission pursuant
26 to this section that is a trade secret as defined in subdivision (d)
27 of Section 3426.1 of the Civil Code shall not be released except
28 in an aggregated form such that trade secrets cannot be discerned.

29 (c) The Energy Commission shall specify guidelines and
30 standard formats, based on the requirements of this article and
31 subject to public hearing, for the submittal of information pursuant
32 to this article.

33 (d) In developing the rules and procedures specified in this
34 section, the Energy Commission shall seek to minimize the
35 reporting burden and cost of reporting that it imposes on retail
36 suppliers.

37 (e) The provisions of this section shall not apply to generators
38 providing electric service onsite, under an over-the-fence
39 transaction as described in Section 218, or to an affiliate or
40 affiliates, as defined in subdivision (a) of Section 372.

1 (f) The Energy Commission may verify environmental claims
2 made by retail suppliers.

3 ~~SEC. 4.~~

4 *SEC. 5.* 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.