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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, 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 consumers and potential end-use 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 *offering* from “specified sources,” as defined, ~~offering~~ for the previous calendar-year. *year and authorizes the Energy Commission to verify environmental claims made by retail suppliers.*

This bill ~~would~~ *would, among other things,* require the Energy Commission to calculate the greenhouse gas emissions intensity for each purchase of electricity from “specified sources,” as defined, and, *Commission,* in consultation with the State Air Resources Board, to ~~establish~~ *adopt a methodology for the calculation of* greenhouse gas emissions intensity factors for electricity from “unspecified sources.” *for each purchase of electricity by a retail supplier to serve its retail customers.* The bill would require a retail supplier, including an electrical corporation, local publicly owned electric utility, electric service provider, and community choice aggregator, to also disclose *both* the greenhouse gases emissions intensity 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 greenhouse gas emissions intensity through the application of unbundled renewable energy credits, carbon offset credits, 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. *year and would authorize the Energy Commission to verify procurement claims, in addition to environmental claims, made by retail suppliers.* The bill would require the Energy Commission, on or before January 1, 2018, to ~~adopt guidelines~~ *guidelines, through an open process, subject to public comment, and adopted by a vote of the Energy Commission,* for the reporting and disclosure of greenhouse gas emissions ~~intensity,~~ *intensity.* ~~subject to public hearing.~~ The bill would require retail suppliers, beginning June 1, 2020, to report to the Energy Commission data on greenhouse gas emissions intensity associated with retail sales occurring after December 31, 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 (b) “Retail supplier” means an entity that offers an electricity
21 product for sale to retail consumers in California, including an
22 electrical corporation, local publicly owned electric utility, electric
23 service provider, and community choice aggregator.

24 (c) “System operator” means the Independent System Operator
25 with responsibility for the efficient use and reliable operation of
26 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 (d) “Purchases of electricity from specified sources” or
4 “purchases from specified sources” means electricity transactions
5 that are traceable to specific generation sources by any auditable
6 contract trail or equivalent, such as a tradable commodity system,
7 that provides commercial verification that the electricity source
8 claimed has been sold once and only once to a retail consumer.
9 Retail suppliers may rely on annual data to determine whether a
10 transaction meets this definition, rather than hour-by-hour matching
11 of loads and resources.

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

17 SEC. 3. Section 398.4 of the Public Utilities Code is amended
18 to read:

19 398.4. (a) Every retail supplier that makes an offering to sell
20 electricity that is consumed in California shall disclose its
21 electricity sources and the associated greenhouse gases emissions
22 intensity for the previous calendar year.

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

29 (c) The disclosures required by this section shall be made
30 annually to end-use consumers of the offered electricity. The annual
31 disclosure shall be made by the end of the first complete billing
32 cycle for the third quarter of the year, and shall be consistent with
33 information provided to the Energy Commission pursuant to
34 Section 398.5. *A retail supplier may distribute the disclosures*
35 *required by this section via email to any end-use consumer that*
36 *has consented to receive email in lieu of printed materials.*

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) Electricity from unspecified sources.

11 (B) Purchases of electricity from specified sources.

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

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

20 (1) Coal.

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

22 (3) Natural gas.

23 (4) Nuclear.

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

28 (A) Biomass and biowaste.

29 (B) Geothermal.

30 (C) Eligible hydroelectric.

31 (D) Solar.

32 (E) Wind.

33 ~~(F) Unbundled renewable energy credits.~~

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

35 (7) *The portion of annual sales derived from unbundled*
36 *renewable energy credits shall be included in the disclosures in a*
37 *format determined by the Energy Commission. A retail supplier*
38 *may include additional information related to the sources of the*
39 *unbundled renewable energy credits.*

1 (i) All electricity sources disclosed as purchases of electricity
2 from specified sources shall meet the requirements of subdivision
3 (d) of Section 398.2.

4 (j) Purchases of electricity from specified sources identified
5 pursuant to this section shall be from sources connected to the
6 Western Electricity Coordinating Council interconnected grid.

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

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

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

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

26 *(A) Adopt a methodology, in consultation with the State Air*
27 *Resources Board, for the calculation of greenhouse gas emissions*
28 *intensity for each purchase of electricity by a retail supplier to*
29 *serve its retail customers.*

30 ~~(C)~~

31 *(B) Calculate the greenhouse gas emissions intensity associated*
32 *with statewide retail electricity sales based on the greenhouse gas*
33 *emissions for total California system electricity.*

34 ~~(D)~~

35 *(C) Rely on the most recent verified greenhouse gas emissions*
36 *data while ensuring that greenhouse gas emissions intensity factors*
37 *for electricity from specified and unspecified sources are available*
38 *to retail suppliers with sufficient advance notice to permit timely*
39 *reporting.*

1 ~~(E) Retain the right to verify any procurement claims made by~~
2 ~~a retail supplier, including the right to review any underlying~~
3 ~~procurement contracts, the associated electronic tags demonstrating~~
4 ~~that the claimed electricity was delivered to the retail supplier, and~~
5 ~~all related financial settlements.~~

6 ~~(3) The Energy Commission shall not authorize a retail seller~~
7 ~~to make any adjustments to the calculation of greenhouse gas~~
8 ~~emissions intensity beyond those permitted under the market-based~~
9 ~~compliance mechanism adopted by the State Air Resources Board.~~
10 ~~A retail seller shall not make adjustments due to the use of offset~~
11 ~~credits, credits associated with any greenhouse gas reductions~~
12 ~~unrelated to the production of electricity, or unbundled renewable~~
13 ~~energy credits.~~

14 ~~(4) The Energy Commission may authorize an adjustment~~
15 ~~(D) Establish guidelines for adjustments to a greenhouse gas~~
16 ~~emissions intensity factor for a reporting year for any local publicly~~
17 ~~owned electric utility demonstrating procurement generation of~~
18 ~~quantities of electricity in a single year previous years in excess~~
19 ~~of its total retail sales from purchases and wholesale sales from~~
20 ~~specified sources that do not emit any greenhouse gases. Any~~
21 ~~request for adjustments by an eligible local publicly owned electric~~
22 ~~utility shall be considered in an open process, subject to public~~
23 ~~comment, and adopted through a vote of the full Energy~~
24 ~~Commission. An adjustment Adjustments authorized by the~~
25 ~~guidelines established by the Energy Commission shall not permit~~
26 ~~excess generation procured in a single year to be counted more~~
27 ~~than once or to be resold to another retail supplier as a purchase~~
28 ~~from a specified source.~~

29 ~~(5) The Energy Commission shall ensure~~
30 ~~(E) Ensure that there is no double-counting double-counting of~~
31 ~~the greenhouse gas emissions or emissions attributes associated~~
32 ~~with any unit of electricity production reported by a retail supplier~~
33 ~~for any specific generating facility or unspecified source located~~
34 ~~within the Western Electricity Coordinating Council when~~
35 ~~calculating greenhouse gas emissions intensity.~~

36 ~~(6) (A)~~
37 ~~(F) (i) On or before January 1, 2018, the Energy Commission~~
38 ~~shall adopt guidelines adopt guidelines, through an open process,~~
39 ~~subject to public comment, and adopted by a vote of the Energy~~
40 ~~Commission, for the reporting and disclosure of greenhouse gas~~

1 emissions intensity associated with retail sales based on the
 2 requirements of this ~~subdivision and subject to public hearing.~~
 3 ~~subdivision.~~ Beginning June 1, 2020, retail suppliers shall be
 4 required to report data on greenhouse gas emissions intensity
 5 associated with retail sales occurring after December 31, 2018.

6 ~~(B)~~
 7 (ii) Any new community choice aggregator formed after January
 8 1, 2016, shall not be required to report data on greenhouse gas
 9 emissions intensity associated with retail sales until at least 24
 10 months, but *shall be required to report that data* no later than 36
 11 months, after serving its first retail customer.

12 ~~(7)~~
 13 (3) Any marketing or retail product claims relating to the
 14 greenhouse gas emissions intensity of the electric supply portfolio
 15 of a retail supplier shall be consistent with the methodology
 16 ~~required under adopted by the Energy Commission pursuant to~~
 17 this section. Retail suppliers may provide additional information
 18 to customers describing other actions relating to greenhouse gases
 19 that are unrelated to the electric supply portfolio.

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

24 SEC. 4. Section 398.5 of the Public Utilities Code is amended
 25 to read:

26 398.5. (a) Retail suppliers shall annually report to the Energy
 27 Commission, for each electricity offering for the previous calendar
 28 year, each of the following:

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

32 (2) The kilowatthours purchased from unspecified sources in
 33 California and from unspecified sources imported into California
 34 from other subregions within the Western Electricity Coordinating
 35 Council.

36 ~~(3) Any kilowatthours supplied to the retail seller directly or~~
 37 ~~indirectly by a first deliverer of electricity into the state.~~

38 ~~(4)~~
 39 (3) For each electricity ~~offering~~ *offering*, the kilowatthours sold
 40 at retail.

1 ~~(5)~~
 2 (4) For each electricity ~~offering~~ *offering*, the disclosures made
 3 to consumers pursuant to Section 398.4.

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

8 (c) The Energy Commission shall specify guidelines and
 9 standard formats, based on the requirements of this article and
 10 subject to public hearing, for the submittal of information pursuant
 11 to this article.

12 (d) In developing the rules and procedures specified in this
 13 section, the Energy Commission shall seek to minimize the
 14 reporting burden and cost of reporting that it imposes on retail
 15 suppliers.

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

20 (f) The Energy Commission may verify environmental *and*
 21 *procurement* claims made by retail suppliers.

22 SEC. 5. No reimbursement is required by this act pursuant to
 23 Section 6 of Article XIII B of the California Constitution because
 24 a local agency or school district has the authority to levy service
 25 charges, fees, or assessments sufficient to pay for the program or
 26 level of service mandated by this act or because costs that may be
 27 incurred by a local agency or school district will be incurred
 28 because this act creates a new crime or infraction, eliminates a
 29 crime or infraction, or changes the penalty for a crime or infraction,
 30 within the meaning of Section 17556 of the Government Code, or
 31 changes the definition of a crime within the meaning of Section 6
 32 of Article XIII B of the California Constitution.