

AMENDED IN SENATE JUNE 14, 2016

AMENDED IN ASSEMBLY APRIL 25, 2016

AMENDED IN ASSEMBLY APRIL 4, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1937

Introduced by Assembly Members Gomez and Williams
(Coauthor: Senator Pavley)

February 12, 2016

An act to amend Sections 399.13 and 454.5 of the Public Utilities Code, relating to electricity.

LEGISLATIVE COUNSEL'S DIGEST

AB 1937, as amended, Gomez. Electricity: procurement.

The Public Utilities Act requires the Public Utilities Commission to review and accept, modify, or reject a procurement plan for each electrical corporation in accordance with specified procedures, considerations, and objectives. The act requires that electrical corporations' proposed procurement plans include certain elements, including a showing that the electrical corporations will first meet their unmet needs through all available energy efficiency and demand reduction resources that are cost effective, reliable, and feasible.

This bill would require electrical corporations' proposed procurement plans to also include a showing that the electrical corporations (1), in soliciting bids for gas-fired generation resources from new ~~or repowered~~ facilities, actively seek bids for resources that are not gas-fired generation resources located in ~~or adjacent to~~ communities that suffer from cumulative pollution burdens ~~and other environmental impacts~~ and (2), in considering bids for, or negotiating bilateral contracts for,

~~new or repowered gas-fired generation resources, give priority preference to generation resources that are not gas-fired generation resources located in or adjacent to those communities. The bill would require the commission, before approving a contract for any new or repowered gas-fired generation resource, to require the electrical corporation to demonstrate that it has undertaken all feasible efforts to meet any identified resource need through alternative means.~~ *complied with its approved procurement plan.* Because this requirement would be a part of the Public Utilities Act and because a violation of an order or decision of the commission implementing its requirements would be a crime, the bill would impose a state-mandated local program by creating a new crime.

Existing law requires electrical corporations, in soliciting and procuring of eligible renewable energy resources for California-based projects, to give preference to renewable energy projects that provide environmental and economic benefits to communities afflicted with poverty or high unemployment or those suffering from high emission levels of toxic air contaminants, criteria air pollutants, and greenhouse gases.

This bill would specify that the above requirements apply to all procurement of eligible renewable energy resources for California-based projects whether the procurement occurs through all-source requests for offers, eligible renewable energy resources only requests for offers, or other procurement mechanisms.

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. Section 399.13 of the Public Utilities Code is
- 2 amended to read:
- 3 399.13. (a) (1) The commission shall direct each electrical
- 4 corporation to annually prepare a renewable energy procurement
- 5 plan that includes the matter in paragraph (5), to satisfy its
- 6 obligations under the renewables portfolio standard. To the extent

1 feasible, this procurement plan shall be proposed, reviewed, and
2 adopted by the commission as part of, and pursuant to, a general
3 procurement plan process. The commission shall require each
4 electrical corporation to review and update its renewable energy
5 procurement plan as it determines to be necessary. The commission
6 shall require all other retail sellers to prepare and submit renewable
7 energy procurement plans that address the requirements identified
8 in paragraph (5).

9 (2) Every electrical corporation that owns electrical transmission
10 facilities shall annually prepare, as part of the Federal Energy
11 Regulatory Commission Order 890 process, and submit to the
12 commission, a report identifying any electrical transmission
13 facility, upgrade, or enhancement that is reasonably necessary to
14 achieve the renewables portfolio standard procurement
15 requirements of this article. Each report shall look forward at least
16 five years and, to ensure that adequate investments are made in a
17 timely manner, shall include a preliminary schedule when an
18 application for a certificate of public convenience and necessity
19 will be made, pursuant to Chapter 5 (commencing with Section
20 1001), for any electrical transmission facility identified as being
21 reasonably necessary to achieve the renewable energy resources
22 procurement requirements of this article. Each electrical
23 corporation that owns electrical transmission facilities shall ensure
24 that project-specific interconnection studies are completed in a
25 timely manner.

26 (3) The commission shall direct each retail seller to prepare and
27 submit an annual compliance report that includes all of the
28 following:

29 (A) The current status and progress made during the prior year
30 toward procurement of eligible renewable energy resources as a
31 percentage of retail sales, including, if applicable, the status of any
32 necessary siting and permitting approvals from federal, state, and
33 local agencies for those eligible renewable energy resources
34 procured by the retail seller, and the current status of compliance
35 with the portfolio content requirements of subdivision (c) of
36 Section 399.16, including procurement of eligible renewable energy
37 resources located outside the state and within the WECC and
38 unbundled renewable energy credits.

39 (B) If the retail seller is an electrical corporation, the current
40 status and progress made during the prior year toward construction

1 of, and upgrades to, transmission and distribution facilities and
2 other electrical system components it owns to interconnect eligible
3 renewable energy resources and to supply the electricity generated
4 by those resources to load, including the status of planning, siting,
5 and permitting transmission facilities by federal, state, and local
6 agencies.

7 (C) Recommendations to remove impediments to making
8 progress toward achieving the renewable energy resources
9 procurement requirements established pursuant to this article.

10 (4) The commission shall adopt, by rulemaking, all of the
11 following:

12 (A) A process that provides criteria for the rank ordering and
13 selection of least-cost and best-fit eligible renewable energy
14 resources to comply with the California Renewables Portfolio
15 Standard Program obligations on a total cost and best-fit basis.
16 This process shall take into account all of the following:

17 (i) Estimates of indirect costs associated with needed
18 transmission investments.

19 (ii) The cost impact of procuring the eligible renewable energy
20 resources on the electrical corporation's electricity portfolio.

21 (iii) The viability of the project to construct and reliably operate
22 the eligible renewable energy resource, including the developer's
23 experience, the feasibility of the technology used to generate
24 electricity, and the risk that the facility will not be built, or that
25 construction will be delayed, with the result that electricity will
26 not be supplied as required by the contract.

27 (iv) Workforce recruitment, training, and retention efforts,
28 including the employment growth associated with the construction
29 and operation of eligible renewable energy resources and goals
30 for recruitment and training of women, minorities, and disabled
31 veterans.

32 (v) (I) Estimates of electrical corporation expenses resulting
33 from integrating and operating eligible renewable energy resources,
34 including, but not limited to, any additional wholesale energy and
35 capacity costs associated with integrating each eligible renewable
36 resource.

37 (II) No later than December 31, 2015, the commission shall
38 approve a methodology for determining the integration costs
39 described in subclause (I).

1 (vi) Consideration of any statewide greenhouse gas emissions
2 limit established pursuant to the California Global Warming
3 Solutions Act of 2006 (Division 25.5 (commencing with Section
4 38500) of the Health and Safety Code).

5 (vii) Consideration of capacity and system reliability of the
6 eligible renewable energy resource to ensure grid reliability.

7 (B) Rules permitting retail sellers to accumulate, beginning
8 January 1, 2011, excess procurement in one compliance period to
9 be applied to any subsequent compliance period. The rules shall
10 apply equally to all retail sellers. In determining the quantity of
11 excess procurement for the applicable compliance period, the
12 commission shall retain the rules adopted by the commission and
13 in effect as of January 1, 2015, for the compliance period specified
14 in subparagraphs (A) to (C), inclusive, of paragraph (1) of
15 subdivision (b) of Section 399.15. For any subsequent compliance
16 period, the rules shall allow the following:

17 (i) For electricity products meeting the portfolio content
18 requirements of paragraph (1) of subdivision (b) of Section 399.16,
19 contracts of any duration may count as excess procurement.

20 (ii) Electricity products meeting the portfolio content
21 requirements of paragraph (2) or (3) of subdivision (b) of Section
22 399.16 shall not be counted as excess procurement. Contracts of
23 any duration for electricity products meeting the portfolio content
24 requirements of paragraph (2) or (3) of subdivision (b) of Section
25 399.16 that are credited towards a compliance period shall not be
26 deducted from a retail seller's procurement for purposes of
27 calculating excess procurement.

28 (iii) If a retail seller notifies the commission that it will comply
29 with the provisions of subdivision (b) for the compliance period
30 beginning January 1, 2017, the provisions of clauses (i) and (ii)
31 shall take effect for that retail seller for that compliance period.

32 (C) Standard terms and conditions to be used by all electrical
33 corporations in contracting for eligible renewable energy resources,
34 including performance requirements for renewable generators. A
35 contract for the purchase of electricity generated by an eligible
36 renewable energy resource, at a minimum, shall include the
37 renewable energy credits associated with all electricity generation
38 specified under the contract. The standard terms and conditions
39 shall include the requirement that, no later than six months after
40 the commission's approval of an electricity purchase agreement

1 entered into pursuant to this article, the following information
2 about the agreement shall be disclosed by the commission: party
3 names, resource type, project location, and project capacity.

4 (D) An appropriate minimum margin of procurement above the
5 minimum procurement level necessary to comply with the
6 renewables portfolio standard to mitigate the risk that renewable
7 projects planned or under contract are delayed or canceled. This
8 paragraph does not preclude an electrical corporation from
9 voluntarily proposing a margin of procurement above the
10 appropriate minimum margin established by the commission.

11 (5) Consistent with the goal of increasing California's reliance
12 on eligible renewable energy resources, the renewable energy
13 procurement plan shall include all of the following:

14 (A) An assessment of annual or multiyear portfolio supplies
15 and demand to determine the optimal mix of eligible renewable
16 energy resources with deliverability characteristics that may include
17 peaking, dispatchable, baseload, firm, and as-available capacity.

18 (B) Potential compliance delays related to the conditions
19 described in paragraph (5) of subdivision (b) of Section 399.15.

20 (C) A bid solicitation setting forth the need for eligible
21 renewable energy resources of each deliverability characteristic,
22 required online dates, and locational preferences, if any.

23 (D) A status update on the development schedule of all eligible
24 renewable energy resources currently under contract.

25 (E) Consideration of mechanisms for price adjustments
26 associated with the costs of key components for eligible renewable
27 energy resource projects with online dates more than 24 months
28 after the date of contract execution.

29 (F) An assessment of the risk that an eligible renewable energy
30 resource will not be built, or that construction will be delayed,
31 with the result that electricity will not be delivered as required by
32 the contract.

33 (6) In soliciting and procuring eligible renewable energy
34 resources, each electrical corporation shall offer contracts of no
35 less than 10 years duration, unless the commission approves of a
36 contract of shorter duration.

37 (7) (A) In soliciting and procuring eligible renewable energy
38 resources for California-based projects, each electrical corporation
39 shall give preference to renewable energy projects that provide
40 environmental and economic benefits to communities afflicted

1 with poverty or high unemployment, or that suffer from high
2 emission levels of toxic air contaminants, criteria air pollutants,
3 and greenhouse gases.

4 (B) Subparagraph (A) applies to all procurement of eligible
5 renewable energy resources for California-based projects, whether
6 the procurement occur through all-source requests for offers,
7 eligible renewable resources only requests for offers, or other
8 procurement mechanisms. This subparagraph is declaratory of
9 existing law.

10 (8) In soliciting and procuring eligible renewable energy
11 resources, each retail seller shall consider the best-fit attributes of
12 resource types that ensure a balanced resource mix to maintain the
13 reliability of the electrical grid.

14 (b) A retail seller may enter into a combination of long- and
15 short-term contracts for electricity and associated renewable energy
16 credits. Beginning January 1, 2021, at least 65 percent of the
17 procurement a retail seller counts toward the renewables portfolio
18 standard requirement of each compliance period shall be from its
19 contracts of 10 years or more in duration or in its ownership or
20 ownership agreements for eligible renewable energy resources.

21 (c) The commission shall review and accept, modify, or reject
22 each electrical corporation's renewable energy resource
23 procurement plan prior to the commencement of renewable energy
24 procurement pursuant to this article by an electrical corporation.
25 The commission shall assess adherence to the approved renewable
26 energy resource procurement plans in determining compliance
27 with the obligations of this article.

28 (d) Unless previously preapproved by the commission, an
29 electrical corporation shall submit a contract for the generation of
30 an eligible renewable energy resource to the commission for review
31 and approval consistent with an approved renewable energy
32 resource procurement plan. If the commission determines that the
33 bid prices are elevated due to a lack of effective competition among
34 the bidders, the commission shall direct the electrical corporation
35 to renegotiate the contracts or conduct a new solicitation.

36 (e) If an electrical corporation fails to comply with a commission
37 order adopting a renewable energy resource procurement plan, the
38 commission shall exercise its authority to require compliance.

39 (f) (1) The commission may authorize a procurement entity to
40 enter into contracts on behalf of customers of a retail seller for

1 electricity products from eligible renewable energy resources to
2 satisfy the retail seller’s renewables portfolio standard procurement
3 requirements. The commission shall not require any person or
4 corporation to act as a procurement entity or require any party to
5 purchase eligible renewable energy resources from a procurement
6 entity.

7 (2) Subject to review and approval by the commission, the
8 procurement entity shall be permitted to recover reasonable
9 administrative and procurement costs through the retail rates of
10 end-use customers that are served by the procurement entity and
11 are directly benefiting from the procurement of eligible renewable
12 energy resources.

13 (g) Procurement and administrative costs associated with
14 contracts entered into by an electrical corporation for eligible
15 renewable energy resources pursuant to this article and approved
16 by the commission are reasonable and prudent and shall be
17 recoverable in rates.

18 (h) Construction, alteration, demolition, installation, and repair
19 work on an eligible renewable energy resource that receives
20 production incentives pursuant to Section 25742 of the Public
21 Resources Code, including work performed to qualify, receive, or
22 maintain production incentives, are “public works” for the purposes
23 of Chapter 1 (commencing with Section 1720) of Part 7 of Division
24 2 of the Labor Code.

25 SEC. 2. Section 454.5 of the Public Utilities Code is amended
26 to read:

27 454.5. (a) The commission shall specify the allocation of
28 electricity, including quantity, characteristics, and duration of
29 electricity delivery, that the Department of Water Resources shall
30 provide under its power purchase agreements to the customers of
31 each electrical corporation, which shall be reflected in the electrical
32 corporation’s proposed procurement plan. Each electrical
33 corporation shall file a proposed procurement plan with the
34 commission not later than 60 days after the commission specifies
35 the allocation of electricity. The proposed procurement plan shall
36 specify the date that the electrical corporation intends to resume
37 procurement of electricity for its retail customers, consistent with
38 its obligation to serve. After the commission’s adoption of a
39 procurement plan, the commission shall allow not less than 60

1 days before the electrical corporation resumes procurement
2 pursuant to this section.

3 (b) An electrical corporation's proposed procurement plan shall
4 include, but not be limited to, all of the following:

5 (1) An assessment of the price risk associated with the electrical
6 corporation's portfolio, including any utility-retained generation,
7 existing power purchase and exchange contracts, and proposed
8 contracts or purchases under which an electrical corporation will
9 procure electricity, electricity demand reductions, and
10 electricity-related products and the remaining open position to be
11 served by spot market transactions.

12 (2) A definition of each electricity product, electricity-related
13 product, and procurement related financial product, including
14 support and justification for the product type and amount to be
15 procured under the plan.

16 (3) The duration of the plan.

17 (4) The duration, timing, and range of quantities of each product
18 to be procured.

19 (5) A competitive procurement process under which the
20 electrical corporation may request bids for procurement-related
21 services, including the format and criteria of that procurement
22 process.

23 (6) An incentive mechanism, if any incentive mechanism is
24 proposed, including the type of transactions to be covered by that
25 mechanism, their respective procurement benchmarks, and other
26 parameters needed to determine the sharing of risks and benefits.

27 (7) The upfront standards and criteria by which the acceptability
28 and eligibility for rate recovery of a proposed procurement
29 transaction will be known by the electrical corporation prior to
30 execution of the transaction. This shall include an expedited
31 approval process for the commission's review of proposed contracts
32 and subsequent approval or rejection thereof. The electrical
33 corporation shall propose alternative procurement choices in the
34 event a contract is rejected.

35 (8) Procedures for updating the procurement plan.

36 (9) A showing that the procurement plan will achieve the
37 following:

38 (A) The electrical corporation, in order to fulfill its unmet
39 resource needs, shall procure resources from eligible renewable
40 energy resources in an amount sufficient to meet its procurement

1 requirements pursuant to the California Renewables Portfolio
2 Standard Program (Article 16 (commencing with Section 399.11)
3 of Chapter 2.3).

4 (B) The electrical corporation shall create or maintain a
5 diversified procurement portfolio consisting of both short-term
6 and long-term electricity and electricity-related and demand
7 reduction products.

8 (C) The electrical corporation shall first meet its unmet resource
9 needs through all available energy efficiency and demand reduction
10 resources that are cost effective, reliable, and feasible.

11 (D) (i) The electrical corporation, in soliciting bids for gas-fired
12 generation resources from ~~new-or-repowered~~ facilities, shall
13 actively seek bids for resources that are not gas-fired generation
14 resources located in ~~or adjacent to~~ communities that suffer from
15 cumulative pollution ~~burdens and other environmental impacts,~~
16 *burdens*, including, but not limited to, high emission levels of toxic
17 air contaminants, criteria air pollutants, and greenhouse gases.

18 (ii) In considering bids for, or negotiating contracts for, ~~new-or-~~
19 ~~repowered~~ gas-fired generation resources, the electrical corporation
20 shall provide greater *priority preference* to resources that are not
21 gas-fired generation resources located in ~~or adjacent to~~
22 communities that suffer from cumulative pollution ~~burdens and~~
23 ~~other environmental impacts,~~ *burdens*, including, but not limited
24 to, high emission levels of toxic air contaminants, criteria air
25 pollutants, and greenhouse gases.

26 (E) (i) The electrical corporation shall undertake all feasible
27 efforts to meet any identified resource need through available
28 renewable energy, energy storage, energy efficiency, and demand
29 reduction resources that are cost effective, reliable, and feasible.

30 (ii) Prior to approving a contract for any ~~new-or-repowered~~
31 gas-fired generation resource, the commission shall require the
32 electrical corporation to demonstrate ~~its satisfaction of clause (i).~~
33 *it has complied with its approved procurement plan.*

34 (10) The electrical corporation's risk management policy,
35 strategy, and practices, including specific measures of price
36 stability.

37 (11) A plan to achieve appropriate increases in diversity of
38 ownership and diversity of fuel supply of nonutility electrical
39 generation.

1 (12) A mechanism for recovery of reasonable administrative
2 costs related to procurement in the generation component of rates.

3 (c) The commission shall review and accept, modify, or reject
4 each electrical corporation's procurement plan and any amendments
5 or updates to the plan. The commission shall ensure that the plan
6 contains the elements required pursuant to this section, including
7 the elements described in subparagraphs (D) and (E) of paragraph
8 (9) of subdivision (b). The commission's review shall consider
9 each electrical corporation's individual procurement situation, and
10 shall give strong consideration to that situation in determining
11 which one or more of the features set forth in this subdivision shall
12 apply to that electrical corporation. A procurement plan approved
13 by the commission shall contain one or more of the following
14 features, provided that the commission may not approve a feature
15 or mechanism for an electrical corporation if it finds that the feature
16 or mechanism would impair the restoration of an electrical
17 corporation's creditworthiness or would lead to a deterioration of
18 an electrical corporation's creditworthiness:

19 (1) A competitive procurement process under which the
20 electrical corporation may request bids for procurement-related
21 services. The commission shall specify the format of that
22 procurement process, as well as criteria to ensure that the auction
23 process is open and adequately subscribed. Any purchases made
24 in compliance with the commission-authorized process shall be
25 recovered in the generation component of rates.

26 (2) An incentive mechanism that establishes a procurement
27 benchmark or benchmarks and authorizes the electrical corporation
28 to procure from the market, subject to comparing the electrical
29 corporation's performance to the commission-authorized
30 benchmark or benchmarks. The incentive mechanism shall be
31 clear, achievable, and contain quantifiable objectives and standards.
32 The incentive mechanism shall contain balanced risk and reward
33 incentives that limit the risk and reward of an electrical corporation.

34 (3) Upfront achievable standards and criteria by which the
35 acceptability and eligibility for rate recovery of a proposed
36 procurement transaction will be known by the electrical corporation
37 prior to the execution of the bilateral contract for the transaction.
38 The commission shall provide for expedited review and either
39 approve or reject the individual contracts submitted by the electrical
40 corporation to ensure compliance with its procurement plan. To

1 the extent the commission rejects a proposed contract pursuant to
2 this criteria, the commission shall designate alternative procurement
3 choices obtained in the procurement plan that will be recoverable
4 for ratemaking purposes.

5 (d) A procurement plan approved by the commission shall
6 accomplish each of the following objectives:

7 (1) Enable the electrical corporation to fulfill its obligation to
8 serve its customers at just and reasonable rates.

9 (2) Eliminate the need for after-the-fact reasonableness reviews
10 of an electrical corporation's actions in compliance with an
11 approved procurement plan, including resulting electricity
12 procurement contracts, practices, and related expenses. However,
13 the commission may establish a regulatory process to verify and
14 ensure that each contract was administered in accordance with the
15 terms of the contract, and contract disputes that may arise are
16 reasonably resolved.

17 (3) Ensure timely recovery of prospective procurement costs
18 incurred pursuant to an approved procurement plan. The
19 commission shall establish rates based on forecasts of procurement
20 costs adopted by the commission, actual procurement costs
21 incurred, or combination thereof, as determined by the commission.
22 The commission shall establish power procurement balancing
23 accounts to track the differences between recorded revenues and
24 costs incurred pursuant to an approved procurement plan. The
25 commission shall review the power procurement balancing
26 accounts, not less than semiannually, and shall adjust rates or order
27 refunds, as necessary, to promptly amortize a balancing account,
28 according to a schedule determined by the commission. Until
29 January 1, 2006, the commission shall ensure that any
30 overcollection or undercollection in the power procurement
31 balancing account does not exceed 5 percent of the electrical
32 corporation's actual recorded generation revenues for the prior
33 calendar year excluding revenues collected for the Department of
34 Water Resources. The commission shall determine the schedule
35 for amortizing the overcollection or undercollection in the
36 balancing account to ensure that the ~~5 percent~~ *5-percent* threshold
37 is not exceeded. After January 1, 2006, this adjustment shall occur
38 when deemed appropriate by the commission consistent with the
39 objectives of this section.

1 (4) Moderate the price risk associated with serving its retail
2 customers, including the price risk embedded in its long-term
3 supply contracts, by authorizing an electrical corporation to enter
4 into financial and other electricity-related product contracts.

5 (5) Provide for just and reasonable rates, with an appropriate
6 balancing of price stability and price level in the electrical
7 corporation's procurement plan.

8 (e) The commission shall provide for the periodic review and
9 prospective modification of an electrical corporation's procurement
10 plan.

11 (f) The commission may engage an independent consultant or
12 advisory service to evaluate risk management and strategy. The
13 reasonable costs of any consultant or advisory service is a
14 reimbursable expense and eligible for funding pursuant to Section
15 631.

16 (g) The commission shall adopt appropriate procedures to ensure
17 the confidentiality of any market sensitive information submitted
18 in an electrical corporation's proposed procurement plan or
19 resulting from or related to its approved procurement plan,
20 including, but not limited to, proposed or executed power purchase
21 agreements, data request responses, or consultant reports, or any
22 combination, provided that the Office of Ratepayer Advocates and
23 other consumer groups that are nonmarket participants shall be
24 provided access to this information under confidentiality
25 procedures authorized by the commission.

26 (h) Nothing in this section alters, modifies, or amends the
27 commission's oversight of affiliate transactions under its rules and
28 decisions or the commission's existing authority to investigate and
29 penalize an electrical corporation's alleged fraudulent activities,
30 or to disallow costs incurred as a result of gross incompetence,
31 fraud, abuse, or similar grounds. Nothing in this section expands,
32 modifies, or limits the State Energy Resources Conservation and
33 Development Commission's existing authority and responsibilities
34 as set forth in Sections 25216, 25216.5, and 25323 of the Public
35 Resources Code.

36 (i) An electrical corporation that serves less than 500,000 electric
37 retail customers within the state may file with the commission a
38 request for exemption from this section, which the commission
39 shall grant upon a showing of good cause.

1 (j) (1) Prior to its approval pursuant to Section 851 of any
2 divestiture of generation assets owned by an electrical corporation
3 on or after the date of enactment of the act adding this section, the
4 commission shall determine the impact of the proposed divestiture
5 on the electrical corporation’s procurement rates and shall approve
6 a divestiture only to the extent it finds, taking into account the
7 effect of the divestiture on procurement rates, that the divestiture
8 is in the public interest and will result in net ratepayer benefits.

9 (2) Any electrical corporation’s procurement necessitated as a
10 result of the divestiture of generation assets on or after the effective
11 date of the act adding this subdivision shall be subject to the
12 mechanisms and procedures set forth in this section only if its
13 actual cost is less than the recent historical cost of the divested
14 generation assets.

15 (3) Notwithstanding paragraph (2), the commission may deem
16 proposed procurement eligible to use the procedures in this section
17 upon its approval of asset divestiture pursuant to Section 851.

18 (k) The commission shall direct electrical corporations to include
19 in their proposed procurement plans the integration costs described
20 and determined pursuant to clause (v) of subparagraph (A) of
21 paragraph (4) of subdivision (a) of Section 399.13.

22 SEC. 3. No reimbursement is required by this act pursuant to
23 Section 6 of Article XIII B of the California Constitution because
24 the only costs that may be incurred by a local agency or school
25 district will be incurred because this act creates a new crime or
26 infraction, eliminates a crime or infraction, or changes the penalty
27 for a crime or infraction, within the meaning of Section 17556 of
28 the Government Code, or changes the definition of a crime within
29 the meaning of Section 6 of Article XIII B of the California
30 Constitution.

O