

AMENDED IN SENATE APRIL 27, 2015

SENATE BILL

No. 728

**Introduced by Senator Morrell
(Coauthor: Senator Fuller)**

February 27, 2015

An act to amend Section 399.15 of the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

SB 728, as amended, Morrell. California Renewables Portfolio Standard Program.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations, as defined. The Public Utilities Act imposes various duties and responsibilities on the commission with respect to the purchase of electricity and requires the commission to review and adopt a procurement plan and a renewable energy procurement plan for each electrical corporation pursuant to the California Renewables Portfolio Standard Program (RPS program). The RPS program requires the commission to establish a renewables portfolio standard requiring all retail sellers, as defined, to procure a minimum quantity of electricity products from eligible renewable energy resources, as defined, at specified percentages of the total kilowatthours sold to their retail end-customers during specified compliance periods. Existing law authorizes the commission to require a retail seller to procure eligible renewable energy resources in excess of the specified quantities.

This bill would require that the commission evaluate the ~~economic impacts~~ *benefits and costs to the California economy, including upon low- and middle-income individuals and families and disadvantaged*

communities, before exercise of its authority to increase the procurement of eligible renewable energy resources in excess of the specified quantities. The bill would require the commission, in performing its evaluation, to conduct duly noticed public workshops throughout the state to allow for public comment and consideration of the economic findings.

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

The people of the State of California do enact as follows:

1 SECTION 1. Section 399.15 of the Public Utilities Code is
2 amended to read:

3 399.15. (a) In order to fulfill unmet long-term resource needs,
4 the commission shall establish a renewables portfolio standard
5 requiring all retail sellers to procure a minimum quantity of
6 electricity products from eligible renewable energy resources as
7 a specified percentage of total kilowatthours sold to their retail
8 end-use customers each compliance period to achieve the targets
9 established under this article. For any retail seller procuring at least
10 14 percent of retail sales from eligible renewable energy resources
11 in 2010, the deficits associated with any previous renewables
12 portfolio standard shall not be added to any procurement
13 requirement pursuant to this article.

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

16 (1) Each retail seller shall procure a minimum quantity of
17 eligible renewable energy resources for each of the following
18 compliance periods:

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

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

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

22 (2) (A) No later than January 1, 2012, the commission shall
23 establish the quantity of electricity products from eligible
24 renewable energy resources to be procured by the retail seller for
25 each compliance period. These quantities shall be established in
26 the same manner for all retail sellers and result in the same
27 percentages used to establish compliance period quantities for all
28 retail sellers.

1 (B) In establishing quantities for the compliance period from
2 January 1, 2011, to December 31, 2013, inclusive, the commission
3 shall require procurement for each retail seller equal to an average
4 of 20 percent of retail sales. For the following compliance periods,
5 the quantities shall reflect reasonable progress in each of the
6 intervening years sufficient to ensure that the procurement of
7 electricity products from eligible renewable energy resources
8 achieves 25 percent of retail sales by December 31, 2016, and 33
9 percent of retail sales by December 31, 2020. The commission
10 shall require retail sellers to procure not less than 33 percent of
11 retail sales of electricity products from eligible renewable energy
12 resources in all subsequent years.

13 (C) Retail sellers shall be obligated to procure no less than the
14 quantities associated with all intervening years by the end of each
15 compliance period. Retail sellers shall not be required to
16 demonstrate a specific quantity of procurement for any individual
17 intervening year.

18 (3) The commission may require the procurement of eligible
19 renewable energy resources in excess of the quantities specified
20 in paragraph (2). The commission shall evaluate the ~~economic~~
21 ~~impacts~~ *benefits and costs to the California economy, including*
22 *upon low- and middle-income individuals and families and*
23 *disadvantaged communities*, before exercise of its authority
24 pursuant to this paragraph to increase the procurement of eligible
25 renewable energy resources. In performing its evaluation, the
26 commission shall conduct duly noticed public workshops
27 throughout the state to allow for public comment and consideration
28 of the economic findings. These workshops shall be completed
29 not less than 60 days prior to consideration by the commission of
30 a rule that would require procurement of eligible renewable energy
31 resources in excess of the quantities specified in paragraph (2).

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

39 (5) The commission shall waive enforcement of this section if
40 it finds that the retail seller has demonstrated any of the following

1 conditions are beyond the control of the retail seller and will
2 prevent compliance:

3 (A) There is inadequate transmission capacity to allow for
4 sufficient electricity to be delivered from proposed eligible
5 renewable energy resource projects using the current operational
6 protocols of the Independent System Operator. In making its
7 findings relative to the existence of this condition with respect to
8 a retail seller that owns transmission lines, the commission shall
9 consider both of the following:

10 (i) Whether the retail seller has undertaken, in a timely fashion,
11 reasonable measures under its control and consistent with its
12 obligations under local, state, and federal laws and regulations, to
13 develop and construct new transmission lines or upgrades to
14 existing lines intended to transmit electricity generated by eligible
15 renewable energy resources. In determining the reasonableness of
16 a retail seller's actions, the commission shall consider the retail
17 seller's expectations for full-cost recovery for these transmission
18 lines and upgrades.

19 (ii) Whether the retail seller has taken all reasonable operational
20 measures to maximize cost-effective deliveries of electricity from
21 eligible renewable energy resources in advance of transmission
22 availability.

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

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

31 (ii) Sought to develop one of the following: its own eligible
32 renewable energy resources, transmission to interconnect to eligible
33 renewable energy resources, or energy storage used to integrate
34 eligible renewable energy resources. This clause shall not require
35 an electrical corporation to pursue development of eligible
36 renewable energy resources pursuant to Section 399.14.

37 (iii) Procured an appropriate minimum margin of procurement
38 above the minimum procurement level necessary to comply with
39 the renewables portfolio standard to compensate for foreseeable
40 delays or insufficient supply.

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

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

6 (6) If the commission waives the compliance requirements of
7 this section, the commission shall establish additional reporting
8 requirements on the retail seller to demonstrate that all reasonable
9 actions under the control of the retail seller are taken in each of
10 the intervening years sufficient to satisfy future procurement
11 requirements.

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

16 (8) If a retail seller fails to procure sufficient eligible renewable
17 energy resources to comply with a procurement requirement
18 pursuant to paragraphs (1) and (2) and fails to obtain an order from
19 the commission waiving enforcement pursuant to paragraph (5),
20 the commission shall exercise its authority pursuant to Section
21 2113.

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

24 (c) The commission shall establish a limitation for each electrical
25 corporation on the procurement expenditures for all eligible
26 renewable energy resources used to comply with the renewables
27 portfolio standard. In establishing this limitation, the commission
28 shall rely on the following:

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

30 (2) Procurement expenditures that approximate the expected
31 cost of building, owning, and operating eligible renewable energy
32 resources.

33 (3) The potential that some planned resource additions may be
34 delayed or canceled.

35 (d) In developing the limitation pursuant to subdivision (c), the
36 commission shall ensure all of the following:

37 (1) The limitation is set at a level that prevents disproportionate
38 rate impacts.

39 (2) The costs of all procurement credited toward achieving the
40 renewables portfolio standard are counted towards the limitation.

1 (3) Procurement expenditures do not include any indirect
2 expenses, including imbalance energy charges, sale of excess
3 energy, decreased generation from existing resources, transmission
4 upgrades, or the costs associated with relicensing any utility-owned
5 hydroelectric facilities.

6 (e) (1) No later than January 1, 2016, the commission shall
7 prepare a report to the Legislature assessing whether each electrical
8 corporation can achieve a 33-percent renewables portfolio standard
9 by December 31, 2020, and maintain that level thereafter, within
10 the adopted cost limitations. If the commission determines that it
11 is necessary to change the limitation for procurement costs incurred
12 by any electrical corporation after that date, it may propose a
13 revised cap consistent with the criteria in subdivisions (c) and (d).
14 The proposed modifications shall take effect no earlier than January
15 1, 2017.

16 (2) Notwithstanding Section 10231.5 of the Government Code,
17 the requirement for submitting a report imposed under paragraph
18 (1) is inoperative on January 1, 2021.

19 (3) A report to be submitted pursuant to paragraph (1) shall be
20 submitted in compliance with Section 9795 of the Government
21 Code.

22 (f) If the cost limitation for an electrical corporation is
23 insufficient to support the projected costs of meeting the
24 renewables portfolio standard procurement requirements, the
25 electrical corporation may refrain from entering into new contracts
26 or constructing facilities beyond the quantity that can be procured
27 within the limitation, unless eligible renewable energy resources
28 can be procured without exceeding a de minimis increase in rates,
29 consistent with the long-term procurement plan established for the
30 electrical corporation pursuant to Section 454.5.

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

34 (2) If the commission determines that an electrical corporation
35 may exceed its cost limitation prior to achieving the renewables
36 portfolio standard procurement requirements, the commission shall
37 do both of the following within 60 days of making that
38 determination:

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

1 (B) Notify the appropriate policy and fiscal committees of the
2 Legislature that the electrical corporation may exceed its cost
3 limitation, and include the reasons why the electrical corporation
4 may exceed its cost limitation.

5 (h) The establishment of a renewables portfolio standard shall
6 not constitute implementation by the commission of the federal
7 Public Utility Regulatory Policies Act of 1978 (Public Law
8 95-617).

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