

AMENDED IN SENATE JUNE 2, 2015

AMENDED IN SENATE APRIL 6, 2015

SENATE BILL

No. 765

Introduced by Senator Wolk

February 27, 2015

An act to amend Section 399 of, and to add Sections 399.5 and 399.6 to, the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

SB 765, as amended, Wolk. ~~Net energy metering: eligible customer generators.~~ *Energy: California Market Transformation Administrator.*

The Reliable Electric Service ~~Investment~~ *Investments* Act requires the Public Utilities Commission (PUC), in evaluating energy efficiency investments, to ensure that local and regional interests, multifamily dwellings, and energy service industry capabilities are incorporated into program portfolio design and that local governments, community-based organizations, and energy efficiency service providers are encouraged to participate in program implementation where appropriate.

This bill would require the PUC, in ensuring that prudent investments in energy efficiency are made and produce cost-effective energy savings, reduce customer demand, and support the state's greenhouse gas emissions reduction goals, to contract with an independent entity to serve as the California Market Transformation Administrator (CalMTA). The bill would require the PUC to require the CalMTA to take certain actions, including, among other actions, working in concert with other energy efficiency administrators that are carrying out energy efficiency activities under the PUC's oversight to incorporate long-term market transformation strategies into the state's energy efficiency portfolio and

to work with the State Energy Resources Conservation and Development Commission to encourage local publicly owned electric utilities to participate in the CalMTA's planning efforts and provide funding for and support the market transformation initiatives administered by the CalMTA to ensure statewide consistency and full market deployment. Because a violation of these requirements would be a crime, this bill would impose a state-mandated local program. The bill would require the PUC to consult with the CalMTA regarding demand-side energy management programs.

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 of the Public Utilities Code is
- 2 amended to read:
- 3 399. (a) This article shall be known, and may be cited, as the
- 4 Reliable Electric Service Investments Act.
- 5 (b) The Legislature finds and declares that safe, reliable electric
- 6 service is of utmost importance to the citizens of this state, and its
- 7 economy.
- 8 (c) The Legislature further finds and declares that in order to
- 9 ensure that the citizens of this state continue to receive safe,
- 10 reliable, affordable, and environmentally sustainable electric
- 11 service, it is essential that prudent investments continue to be made
- 12 in all of the following areas:
- 13 (1) To protect the integrity of the electric distribution grid.
- 14 (2) To ensure an adequately sized and trained utility workforce.
- 15 (3) To ensure cost-effective energy efficiency improvements.
- 16 (4) To achieve a sustainable supply of renewable energy.
- 17 (5) To advance public interest research, ~~development~~
- 18 *development*, and demonstration programs not adequately provided
- 19 by competitive and regulated markets.
- 20 (d) It is the intent of the Legislature to reaffirm, without
- 21 requiring revision, California's doctrine, as reflected in regulatory

1 and judicial decisions, regarding electrical corporations' reasonable
2 opportunity to recover costs and investments associated with their
3 electric distribution grid and the reasonable opportunity to attract
4 capital for investment on reasonable terms.

5 (e) The Legislature further finds and declares all of the
6 following:

7 (1) Acting under applicable constitutional and statutory
8 authorities, the Public Utilities Commission and the boards of local
9 publicly owned electric utilities have included in regulated
10 electricity prices, investments that are essential to maintaining
11 system reliability, reducing California electricity users' bills, and
12 mitigating environmental costs of California users' electricity
13 consumption.

14 (2) Among the most important of these "system benefits"
15 investments categories are energy efficiency, renewable energy,
16 and public interest research, development and demonstration
17 (RD&D).

18 (3) Energy efficiency investments funded from California's
19 usage-based charges on electricity distribution help improve
20 systemwide reliability by reducing demand in times and areas of
21 system congestion, and at the same time reduce all California
22 electricity users' costs. These investments also significantly reduce
23 environmental costs associated with California's electricity
24 consumption, including, but not limited to, degradation of the
25 state's air, water, and land resources.

26 (4) California's in-state renewable energy resources help
27 alleviate supply deficits that could threaten electric system
28 reliability, reduce environmental costs associated with California's
29 electricity consumption, and increase the diversity of the electricity
30 system's fuel mix, reducing electricity users' exposure to ~~fossil-fuel~~
31 *fossil fuel* price volatility.

32 (5) California's public interest RD&D investments enhance
33 private and regulated sector investment in electricity system
34 technologies, and are designed specifically to help ensure sustained
35 improvement in the economic and environmental performance of
36 the distribution, transmission, and generation and end-use systems
37 that serve California electricity users.

38 (6) California has established a long tradition of recovering
39 system benefits investments through usage-based electricity
40 charges, which is reflected in at least two decades of electricity

1 price regulation by the commission, the boards of local publicly
2 owned electric utilities, and the mandate of the Legislature in
3 Chapter 854 of the Statutes of 1996 (Assembly Bill 1890 of the
4 1995–96 Regular Session of the Legislature) and Chapter 905 of
5 the Statutes of 1997 (Senate Bill 90 of the 1997–98 Regular Session
6 of the Legislature).

7 (7) Unless the Legislature acts to extend the mandate of this
8 article for minimum levels of usage based system benefits charges,
9 California electricity users are at substantial risk of higher
10 economic and environmental costs and degraded reliability.

11 (f) (1) The Legislature further finds and declares all of the
12 following:

13 (A) Targeted energy efficiency market transformation initiatives
14 aimed at long-term transformation of defined markets are a
15 necessary component of a comprehensive, balanced, and
16 cost-effective energy efficiency portfolio.

17 (B) Because tensions can exist between market transformation
18 initiatives and energy efficiency resource acquisition strategies, it
19 is important to recognize the differences between what each of
20 these strategies can accomplish and to pursue both in California.

21 (C) The existing energy efficiency portfolio overseen by the
22 commission focuses on energy efficiency resource acquisition.

23 (D) The creation of a single entity with responsibility for
24 planning, coordinating, and managing the execution of statewide
25 energy efficiency market transformation initiatives in concert with
26 other state energy efficiency activities, subject to the commission's
27 oversight and that carries out its duties in consultation with the
28 Energy Commission and all interested local publicly owned electric
29 utilities, would assist the state in advancing its energy efficiency
30 and greenhouse gas reduction ~~goals~~. *goals without increasing the*
31 *overall funding for the energy efficiency portfolio overseen by the*
32 *commission.*

33 (2) It is the intent of the Legislature that demand-side energy
34 management programs should be coordinated, to the extent
35 practicable, to support utility customers in making well-informed,
36 cost-effective decisions about investments in onsite energy
37 efficiency, demand response, and renewable distributed generation,
38 and to provide efficiencies in the administration and delivery of
39 ratepayer-funded demand-side energy management programs in
40 California.

1 SEC. 2. Section 399.5 is added to the Public Utilities Code, to
2 read:

3 399.5. (a) For purposes of this section and Section 399.6, the
4 following terms mean the following:

5 (1) “Demand-side energy management programs” has the same
6 meaning as set forth in Section 323.5.

7 (2) “California Market Transformation Administrator” or
8 “CalMTA” means a private contractor selected by the commission
9 to coordinate the planning and execution of the state’s efforts to
10 advance electricity and natural gas energy efficiency through
11 long-term market transformation strategies.

12 (3) “Market transformation” means a strategic process to
13 intervene in a market to create lasting change in market behavior
14 by removing identified barriers or exploiting opportunities to
15 accelerate the adoption of all cost-effective energy efficiency as
16 a matter of standard practice.

17 (4) “Resources acquisition” means the generation of electricity
18 or natural gas savings that are sufficiently reliable, predictable,
19 and measurable to replace electricity or natural gas supplies in the
20 utility energy resource planning process.

21 (b) (1) In carrying out its responsibilities to ensure that prudent
22 investments in energy efficiency are made and produce
23 cost-effective energy savings, reduce customer demand, and
24 support the state’s greenhouse gas emissions reduction goals, the
25 commission, on or before July 1, 2017, shall contract with an
26 independent entity to serve as the California Market Transformation
27 Administrator that will coordinate the planning and execution of
28 the state’s efforts to advance energy efficiency through long-term
29 market transformation strategies, as well as advise on and otherwise
30 assist the commission with the coordination of demand-side energy
31 management programs under the commission’s jurisdiction.

32 (2) The initial CalMTA contract shall be for a period of not less
33 than five years and may be terminated if the CalMTA fails to meet
34 the performance benchmarks established in the contract.

35 (c) (1) An entity eligible to be a CalMTA shall have a mission
36 that is fully aligned with promoting energy efficiency and
37 conservation, including market transformation.

38 (2) The CalMTA shall carry out its marketing, education, and
39 outreach-related energy efficiency market transformation and the

1 coordination of demand-side energy management programs under
2 the Energy Upgrade California brand name.

3 (d) The commission shall require the CalMTA, at a minimum,
4 to do all of the following:

5 (1) Work in concert with other energy efficiency administrators
6 carrying out energy efficiency activities under the commission’s
7 oversight to incorporate long-term market transformation strategies
8 into the state’s portfolio.

9 (2) Create market conditions that will accelerate and sustain the
10 market adoption of emerging energy efficiency products, services,
11 and practices in California.

12 (3) Meet interim and long-term targets adopted by the
13 commission related to the transformation of targeted markets, as
14 well as provide a cost-effective portfolio of market transformation
15 initiatives over the life of the contract.

16 (4) Submit to the commission quarterly reports detailing
17 expenditures, and annual reports showing expenditures and
18 progress towards commission-established interim and long-term
19 targets.

20 (5) Contribute improved efficiencies in the delivery of
21 ratepayer-funded energy efficiency activities in California by taking
22 a statewide approach to defined markets targeted for
23 transformation.

24 (6) Coordinate the planning for and execution of market
25 transformation initiatives, as appropriate, with utility administered
26 energy efficiency activities, other energy efficiency activities under
27 the commission’s jurisdiction, including, but not limited to, energy
28 efficiency activities administered by community choice aggregators
29 pursuant to Section 381.1, and low-income energy efficiency
30 programs in California, including the rate-payer funded program
31 required by Section 2790 and overseen by the commission, as well
32 as the federal Low-Income Home Energy Assistance Program
33 administered by the Department of Community Services and
34 Development.

35 (7) Build upon the energy efficiency expertise and capabilities
36 developed in the state, such as by providing flexibility for other
37 energy efficiency administrators to carry out some of the market
38 transformation activities identified by the CalMTA, so as to
39 minimize confusion and leverage existing relationships between

1 utilities, community choice aggregators, and other providers of
2 energy efficiency services, and their customers.

3 (8) Work with the Energy Commission to encourage local
4 publicly owned electric utilities to participate in the CalMTA's
5 planning efforts and provide funding for and otherwise support
6 the market transformation initiatives administered by the CalMTA
7 to ensure statewide consistency and full market deployment.

8 (9) Collaborate with regional and national energy efficiency
9 entities on market transformation efforts.

10 (e) The commission shall protect ratepayers from performance
11 risks inherent in market transformation initiatives by, at a
12 minimum, doing all of the following:

13 (1) Requiring a rigorous upfront vetting process for program
14 concepts, to be conducted either by the commission as part of its
15 oversight function or by the CalMTA. The CalMTA shall make a
16 convincing case that each proposed market intervention would
17 produce lasting energy efficiency benefits that would more than
18 pay for the long-term costs of the market intervention.

19 (2) Balancing the level of ratepayer investment in market
20 transformation initiatives against resources acquisition initiatives,
21 such that:

22 (A) The budget for market transformation initiatives, including
23 the budget to be managed by the CalMTA and the commission's
24 costs associated with managing the contract with the CalMTA, is
25 initially set by the commission at a level ~~between 5 percent and~~
26 *not more than* 10 percent of the total budget for energy efficiency
27 activities overseen by the commission, excluding low-income
28 energy efficiency programs.

29 (B) The reasonableness of the initial funding level for market
30 transformation initiatives is evaluated by the commission over the
31 course of the initial contract term with the CalMTA and adjusted
32 as the commission deems appropriate to support the objectives of
33 this section.

34 (3) Continuously evaluating the market transformation initiatives
35 administered by the CalMTA and focusing on whether the targeted
36 markets are evolving in the manner intended, such that the
37 initiatives can be corrected mid-course or abandoned, as necessary,
38 to maximize long-term energy savings from the CalMTA's
39 portfolio of initiatives.

1 (f) In implementing this section, the commission shall consult
2 with the Energy Commission to ensure that functions carried out
3 by the CalMTA are appropriately coordinated with the energy
4 efficiency related activities conducted or overseen by the Energy
5 Commission.

6 (g) The commission shall evaluate and adopt, as necessary, new
7 criteria to support and accurately evaluate the benefits of market
8 transformation.

9 (h) The commission, in consultation with the Energy
10 Commission and the CalMTA, shall determine when and how to
11 reflect potentially achievable cost-effective electricity and natural
12 gas savings from energy efficiency market transformation
13 initiatives in carrying out its obligations pursuant to Sections
14 454.55 and 454.56. In setting energy efficiency targets for electrical
15 or gas corporations pursuant to Section 454.55 or 454.56, the
16 commission shall consider whether energy savings expected to be
17 delivered through market transformation initiatives administered
18 by the CalMTA should be excluded from the targets established
19 for the electrical or gas corporations.

20 SEC. 3. Section 399.6 is added to the Public Utilities Code, to
21 read:

22 399.6. (a) The commission shall consult with the CalMTA on
23 how best to integrate demand-side energy management programs
24 to support utility customers in making well-informed, cost-effective
25 decisions about investment in onsite energy efficiency, demand
26 response, and renewable distributed generation, as well as
27 customer-sited energy storage systems, and to provide economic
28 and organizational efficiencies in the administration and delivery
29 of ratepayer-funded demand-side energy management programs
30 in California.

31 (b) The commission shall consult with the CalMTA on how
32 best to design and deploy demand-side energy management
33 programs and encourage customer-sited energy storage systems
34 so as to provide the most cost-effective environmental and
35 economic benefits from an electric system planning and operation
36 perspective.

37 (c) The commission shall include in the contract executed with
38 a CalMTA pursuant to Section 399.5 the advisory functions
39 specified in this section related to integrating demand-side energy
40 management programs.

1 SEC. 4. No reimbursement is required by this act pursuant to
2 Section 6 of Article XIII B of the California Constitution because
3 the only costs that may be incurred by a local agency or school
4 district will be incurred because this act creates a new crime or
5 infraction, eliminates a crime or infraction, or changes the penalty
6 for a crime or infraction, within the meaning of Section 17556 of
7 the Government Code, or changes the definition of a crime within
8 the meaning of Section 6 of Article XIII B of the California
9 Constitution.

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