

AMENDED IN ASSEMBLY JULY 7, 2015

AMENDED IN SENATE JUNE 2, 2015

AMENDED IN SENATE APRIL 6, 2015

**SENATE BILL**

**No. 765**

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**Introduced by Senator Wolk**

February 27, 2015

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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. Energy: California Market Transformation Administrator.

The Reliable Electric Service 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, and  
18 demonstration programs not adequately provided by competitive  
19 and regulated markets.

1 (d) It is the intent of the Legislature to reaffirm, without  
2 requiring revision, California’s doctrine, as reflected in regulatory  
3 and judicial decisions, regarding electrical corporations’ reasonable  
4 opportunity to recover costs and investments associated with their  
5 electric distribution grid and the reasonable opportunity to attract  
6 capital for investment on reasonable terms.

7 (e) The Legislature further finds and declares all of the  
8 following:

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

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

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

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

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

1 (6) California has established a long tradition of recovering  
2 system benefits investments through usage-based electricity  
3 charges, which is reflected in at least two decades of electricity  
4 price regulation by the commission, the boards of local publicly  
5 owned electric utilities, and the mandate of the Legislature in  
6 Chapter 854 of the Statutes of 1996 (Assembly Bill 1890 of the  
7 1995–96 Regular Session of the Legislature) and Chapter 905 of  
8 the Statutes of 1997 (Senate Bill 90 of the 1997–98 Regular Session  
9 of the Legislature).

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

14 (f) (1) The Legislature further finds and declares all of the  
15 following:

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

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

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

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

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

1 and to provide efficiencies in the administration and delivery of  
2 ratepayer-funded demand-side energy management programs in  
3 California.

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

6 399.5. (a) For purposes of this section and Section 399.6, the  
7 following terms mean the following:

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

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

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

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

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

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

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

1 (2) ~~The CalMTA shall carry out its marketing, education, and~~  
2 ~~outreach-related energy efficiency outreach plans for the CalMTA's~~  
3 ~~market transformation and the coordination of demand-side energy~~  
4 ~~management programs under initiatives shall be developed and~~  
5 ~~implemented as part of the Energy Upgrade California brand~~  
6 ~~name. statewide marketing, education, and outreach efforts, where~~  
7 ~~practical.~~

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

10 (1) Work in concert with other energy efficiency administrators  
11 carrying out energy efficiency activities under the commission's  
12 oversight to incorporate long-term market transformation strategies  
13 into the state's portfolio.

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

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

21 (4) Submit to the commission quarterly reports detailing  
22 expenditures, *expenditures* and annual reports showing  
23 expenditures and progress towards commission-established interim  
24 and long-term targets.

25 (5) Contribute improved efficiencies in the delivery of  
26 ratepayer-funded energy efficiency activities in California by taking  
27 a statewide approach to defined markets targeted for  
28 transformation.

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

1 (7) Build upon the energy efficiency expertise and capabilities  
2 developed in the state, such as by providing flexibility for other  
3 energy efficiency administrators to carry out some of the market  
4 transformation activities identified by the CalMTA, so as to  
5 minimize confusion and leverage existing relationships between  
6 utilities, community choice aggregators, and other providers of  
7 energy efficiency services, and their customers.

8 ~~Work with the Energy Commission to encourage~~ *Encourage*  
9 local publicly owned electric utilities to participate in the  
10 CalMTA's planning efforts ~~and provide funding for~~ and otherwise  
11 support the market transformation initiatives administered by the  
12 CalMTA to ensure statewide consistency and full market  
13 deployment.

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

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

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

25 (2) Balancing the level of ratepayer investment in market  
26 transformation initiatives against resources acquisition initiatives,  
27 such that:

28 (A) The budget for market transformation initiatives, including  
29 the budget to be managed by the CalMTA and the commission's  
30 costs associated with managing the contract with the CalMTA, is  
31 initially set by the commission at a level not more than 10 percent  
32 of the total budget for energy efficiency activities overseen by the  
33 commission, excluding low-income energy efficiency programs.

34 (B) The reasonableness of the initial funding level for market  
35 transformation initiatives is evaluated by the commission over the  
36 course of the initial contract term with the CalMTA and adjusted  
37 as the commission deems appropriate to support the objectives of  
38 this section.

39 (3) Continuously evaluating the market transformation initiatives  
40 administered by the CalMTA and focusing on whether the targeted

1 markets are evolving in the manner intended, such that the  
2 initiatives can be corrected mid-course or abandoned, as necessary,  
3 to maximize long-term energy savings from the CalMTA's  
4 portfolio of initiatives.

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

10 (g) The commission shall evaluate and adopt, as necessary, new  
11 criteria to support and accurately evaluate the benefits of market  
12 transformation.

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

24 SEC. 3. Section 399.6 is added to the Public Utilities Code, to  
25 read:

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

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



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

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

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