

AMENDED IN ASSEMBLY AUGUST 18, 2015

AMENDED IN ASSEMBLY JULY 7, 2015

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~~ *Section* 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~~ *work* 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 encourage portfolio. The bill would require the PUC to modify the energy efficiency programs that it adopts to incorporate a portfolio of long-term market transformation initiatives on a statewide basis. The bill would require the PUC, as part of the portfolio, to take certain actions, including, among other actions, encouraging local publicly owned electric utilities to voluntarily participate in—the CalMTA’s planning efforts and support the market transformation initiatives administered by the CalMTA adopted by the PUC 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.

1 (4) To achieve a sustainable supply of renewable energy.

2 (5) To advance public interest research, development, and
3 demonstration programs not adequately provided by competitive
4 and regulated markets.

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

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

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

20 (2) Among the most important of these “system benefits”
21 investments categories are energy efficiency, renewable energy,
22 and public interest research, development and demonstration
23 (RD&D).

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

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

38 (5) California’s public interest RD&D investments enhance
39 private and regulated sector investment in electricity system
40 technologies, and are designed specifically to help ensure sustained

1 improvement in the economic and environmental performance of
2 the distribution, transmission, and generation and end-use systems
3 that serve California electricity users.

4 (6) California has established a long tradition of recovering
5 system benefits investments through usage-based electricity
6 charges, which is reflected in at least two decades of electricity
7 price regulation by the commission, the boards of local publicly
8 owned electric utilities, and the mandate of the Legislature in
9 Chapter 854 of the Statutes of 1996 (Assembly Bill 1890 of the
10 1995–96 Regular Session of the Legislature) and Chapter 905 of
11 the Statutes of 1997 (Senate Bill 90 of the 1997–98 Regular Session
12 of the Legislature).

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

17 (f) (1) The Legislature further finds and declares all of the
18 following:

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

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

27 ~~(C) The existing energy efficiency portfolio overseen by the~~
28 ~~commission focuses on energy efficiency resource acquisition.~~

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

39 (2) It is the intent of the Legislature that demand-side energy
40 management programs should be coordinated, to the extent

1 practicable, to support utility customers in making well-informed,
2 cost-effective decisions about investments in onsite energy
3 efficiency, demand response, and renewable distributed generation,
4 and to provide efficiencies in the administration and delivery of
5 ratepayer-funded demand-side energy management programs in
6 California.

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

9 399.5. (a) For purposes of this ~~section and Section 399.6,~~
10 *section*, the following terms mean the following:

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

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

18 (3) “*Energy efficiency*” means *delivering equal or more services*
19 *with less energy input from an energy source.*

20 (3)

21 (4) “Market transformation” means a strategic process to
22 intervene in a market to create lasting change in market behavior
23 by removing identified barriers or exploiting opportunities to
24 accelerate the adoption of all cost-effective energy efficiency as
25 a matter of standard practice. *Targeted intervention strategies that*
26 *induce sustained adoption and market penetration of energy*
27 *efficient technologies and practices through structural changes in*
28 *the market and in behaviors of market actors such that government*
29 *intervention in the form of monetary inducements is no longer*
30 *necessary.*

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

35 (b) (1) In carrying out its responsibilities to ensure that prudent
36 investments in energy efficiency are made and produce
37 cost-effective energy savings, reduce customer demand, and
38 support the state’s greenhouse gas emissions reduction goals, the
39 commission, on or before July 1, 2017, shall contract with an
40 independent entity to serve as the California Market Transformation

1 Administrator that will coordinate the planning and execution of
2 the state's efforts to advance energy efficiency through long-term
3 market transformation strategies, as well as advise on and otherwise
4 assist the commission with the coordination of demand-side energy
5 management programs under the commission's jurisdiction.

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

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

12 (2) The marketing, education, and outreach plans for the
13 CalMTA's market transformation initiatives shall be developed
14 and implemented as part of the Energy Upgrade California
15 statewide marketing, education, and outreach efforts, where
16 practical.

17 (d) The commission shall require the CalMTA, at a minimum,
18 ~~to do all of the following:~~ *work in concert with other energy*
19 *efficiency administrators carrying out energy efficiency activities*
20 *under the commission's oversight to incorporate long-term market*
21 *transformation strategies into the state's portfolio.*

22 ~~(1) Work in concert with other energy efficiency administrators~~
23 ~~carrying out energy efficiency activities under the commission's~~
24 ~~oversight to incorporate long-term market transformation strategies~~
25 ~~into the state's portfolio.~~

26 (e) *The commission shall modify the energy efficiency programs*
27 *that it adopts to incorporate a portfolio of long-term market*
28 *transformation initiatives on a statewide basis, and, as part of the*
29 *portfolio, shall do all of the following, without increasing the*
30 *overall funding for the energy efficiency programs:*

31 ~~(2)~~

32 (1) Create market conditions that will accelerate and sustain the
33 market adoption of emerging energy efficiency products, services,
34 and practices in California.

35 ~~(3)~~

36 (2) Meet interim and long-term targets adopted by the
37 commission related to the transformation of targeted markets, as
38 well as provide a cost-effective portfolio of market transformation
39 ~~initiatives over the life of the contract.~~ *initiatives.*

1 ~~(4) Submit to the commission quarterly reports detailing~~
2 ~~expenditures and annual reports showing expenditures and progress~~
3 ~~towards commission-established interim and long-term targets.~~

4 ~~(5)~~

5 (3) Contribute improved efficiencies in the delivery of
6 ratepayer-funded energy efficiency activities in California by taking
7 a statewide approach to defined markets targeted for
8 transformation.

9 ~~(6)~~

10 (4) Coordinate the planning for and execution of market
11 transformation initiatives, as appropriate, with ~~utility administered~~
12 ~~energy efficiency activities~~, other energy efficiency activities under
13 the commission's jurisdiction, including, but not limited to, energy
14 efficiency activities administered by community choice aggregators
15 pursuant to Section 381.1, and low-income energy efficiency
16 programs in California, including the rate-payer funded program
17 required by Section 2790 and overseen by the commission, as well
18 as the federal Low-Income Home Energy Assistance Program
19 administered by the Department of Community Services and
20 Development.

21 ~~(7) Build upon the energy efficiency expertise and capabilities~~
22 ~~developed in the state, such as by providing flexibility for other~~
23 ~~energy efficiency administrators to carry out some of the market~~
24 ~~transformation activities identified by the CalMTA, so as to~~
25 ~~minimize confusion and leverage existing relationships between~~
26 ~~utilities, community choice aggregators, and other providers of~~
27 ~~energy efficiency services, and their customers.~~

28 ~~(8)~~

29 (5) Encourage local publicly owned electric utilities to
30 *voluntarily* participate in the CalMTA's ~~planning efforts~~ *in*, and
31 otherwise ~~support~~ *support*, the market transformation initiatives
32 ~~administered by the CalMTA~~ *adopted by the commission* to ensure
33 statewide consistency and full market deployment.

34 ~~(9) Collaborate~~

35 (6) *Collaborate, as necessary*, with regional and national energy
36 efficiency entities on market transformation efforts.

37 ~~(e)~~

38 (f) The commission shall protect ratepayers from performance
39 risks inherent in market transformation initiatives by, at a
40 minimum, doing all of the following:

1 (1) Requiring a rigorous upfront vetting process for program
2 concepts, to be conducted either by the commission as part of its
3 oversight function or by the CalMTA. The CalMTA shall make a
4 convincing case that *concepts to ensure* each proposed market
5 intervention would produce lasting energy efficiency benefits that
6 would more than pay for the long-term costs of the market
7 intervention.

8 (2) ~~Balancing the level of ratepayer investment in market~~
9 ~~transformation initiatives against resources acquisition initiatives,~~
10 ~~such that:~~

11 (A) ~~The budget for market transformation initiatives, including~~
12 ~~the budget to be managed by the CalMTA and the commission's~~
13 ~~costs associated with managing the contract with the CalMTA, is~~
14 ~~initially set by the commission at a level not more than 10 percent~~
15 ~~of the total budget for energy efficiency activities overseen by the~~
16 ~~commission, excluding low-income energy efficiency programs.~~

17 (B) ~~The reasonableness of the initial funding level for market~~
18 ~~transformation initiatives is evaluated by the commission over the~~
19 ~~course of the initial contract term with the CalMTA and adjusted~~
20 ~~as the commission deems appropriate to support the objectives of~~
21 ~~this section.~~

22 (3)

23 (2) Continuously evaluating the market transformation initiatives
24 ~~administered by the CalMTA~~ and focusing on whether the targeted
25 markets are evolving in the manner intended, such that the
26 initiatives can be corrected mid-course or abandoned, as necessary,
27 to maximize long-term energy savings from the ~~CalMTA's~~
28 portfolio of initiatives.

29 (f)

30 (g) In implementing this section, the commission shall consult
31 with the Energy Commission to ensure that *market transformation*
32 ~~functions carried out by the CalMTA~~ are appropriately coordinated
33 with the energy efficiency related activities conducted or overseen
34 by the Energy Commission.

35 (g)

36 (h) The commission shall evaluate and adopt, as necessary, new
37 criteria to support and accurately evaluate the benefits of market
38 transformation.

39 ~~The commission, in consultation with the Energy~~
40 ~~Commission and the CalMTA, shall determine when and how to~~

1 ~~reflect potentially achievable cost-effective electricity and natural~~
2 ~~gas savings from energy efficiency market transformation~~
3 ~~initiatives in carrying out its obligations pursuant to Sections~~
4 ~~454.55 and 454.56. In setting energy efficiency targets for electrical~~
5 ~~or gas corporations pursuant to Section 454.55 or 454.56, the~~
6 ~~commission shall consider whether energy savings expected to be~~
7 ~~delivered through market transformation initiatives administered~~
8 ~~by the CalMTA should be excluded from the targets established~~
9 ~~for the electrical or gas corporations.~~

10 ~~SEC. 3.~~ Section 399.6 is added to the Public Utilities Code, to
11 read:

12 ~~399.6. (a) The commission shall consult with the CalMTA on~~
13 ~~how best to integrate demand-side energy management programs~~
14 ~~to support utility customers in making well-informed, cost-effective~~
15 ~~decisions about investment in onsite energy efficiency, demand~~
16 ~~response, and renewable distributed generation, as well as~~
17 ~~customer-sited energy storage systems, and to provide economic~~
18 ~~and organizational efficiencies in the administration and delivery~~
19 ~~of ratepayer-funded demand-side energy management programs~~
20 ~~in California.~~

21 ~~(b) The commission shall consult with the CalMTA on how~~
22 ~~best to design and deploy demand-side energy management~~
23 ~~programs and encourage customer-sited energy storage systems~~
24 ~~so as to provide the most cost-effective environmental and~~
25 ~~economic benefits from an electric system planning and operation~~
26 ~~perspective.~~

27 ~~(c) The commission shall include in the contract executed with~~
28 ~~a CalMTA pursuant to Section 399.5 the advisory functions~~
29 ~~specified in this section related to integrating demand-side energy~~
30 ~~management programs.~~

31 ~~SEC. 4.~~

32 ~~SEC. 3.~~ No reimbursement is required by this act pursuant to
33 Section 6 of Article XIII B of the California Constitution because
34 the only costs that may be incurred by a local agency or school
35 district will be incurred because this act creates a new crime or
36 infraction, eliminates a crime or infraction, or changes the penalty
37 for a crime or infraction, within the meaning of Section 17556 of
38 the Government Code, or changes the definition of a crime within

- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

O