

AMENDED IN ASSEMBLY MARCH 24, 2009

AMENDED IN ASSEMBLY MARCH 18, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 64

Introduced by Assembly Members Krekorian and Bass

December 9, 2008

An act to amend ~~Section 25500~~ *Sections 25500, 25740, 25740.5, 25741, and 25742* of, and to repeal Chapter 4.3 (commencing with Section 25330) of Division 15 of, the Public Resources Code, and to amend Section 454.5 of, to amend and repeal Section 387 of, to add Section 399.23 to, to add Chapter 4.5 (commencing with Section 950) to Part 1 of Division 1 of, and to repeal Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of, the Public Utilities Code, relating to energy, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 64, as amended, Krekorian. Energy: renewable energy resources: generation and transmission.

(1) The Public Utilities Act imposes various duties and responsibilities on the Public Utilities Commission (*PUC*) with respect to the purchase of electricity and requires ~~the commission~~ *PUC* 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. The program requires that a retail seller of electricity, including electrical corporations, community choice aggregators, and electric service providers, but not including local publicly owned electric utilities, purchase a specified minimum percentage of electricity generated by eligible renewable energy

resources, as defined, in any given year as a specified percentage of total kilowatthours sold to retail end-use customers each calendar year (renewables portfolio standard). The renewables portfolio standard requires *the PUC to implement annual procurement targets for* each retail seller to increase its total procurement of eligible renewable energy resources by at least an additional 1% of retail sales per year so that 20% of its retail sales are procured from eligible renewable energy resources no later than December 31, 2010. Existing law requires the State Energy Resources Conservation and Development Commission (Energy Commission) to certify eligible renewable energy resources and to design and implement an accounting system to verify compliance with the renewables portfolio standard by retail sellers. Under existing law the governing board of a local publicly owned electric utility is responsible for implementing and enforcing a renewables portfolio standard for the utility that recognizes the intent of the Legislature to encourage renewable resources, while taking into consideration the effect of the standard on rates, reliability, and financial resources and the goal of environmental improvement.

This bill would recast the renewables portfolio standard program, to be operative on January 1, 2011, to require that a retail seller and a local publicly owned electric utility: (1) procure at least 20% of the electricity delivered to its retail customers from eligible renewable energy resources by December 31, 2010, (2) procure at least 25% of the electricity delivered to its retail customers from eligible renewable energy resources by December 31, 2015, *and* (3) procure at least ~~35%~~ 33% of the electricity delivered to its retail customers from eligible renewable energy resources by December 31, 2020, ~~and (4) have a goal of procuring at least 50% of the electricity delivered to its retail customers from eligible renewable energy resources by December 31, 2035.~~ The ~~commission~~ PUC would be responsible for implementing these requirements for retail sellers, while the governing board would be responsible for implementing these requirements for a local publicly owned electric utility. The bill would require the ~~commission~~ PUC to establish annual procurement targets for retail sellers that are sufficient to reach the above-stated requirements. The bill would require that an electrical corporation's renewable energy procurement plan include a process that provides criteria for the rank ordering and selection of eligible renewable energy resources to comply with the above-stated procurement requirements so that each corporation's total renewables portfolio benefits ratepayers. The bill would require the ~~commission~~

PUC to annually establish and adopt a benchmark price for electricity generated by an eligible renewable energy resource, for terms corresponding to the length of contracts, in consideration of specified matter, and for each electrical corporation, to establish a limitation on the total costs expended above the benchmark prices for procurement of electricity pursuant to the renewables portfolio standard. The bill would require the ~~commission~~ PUC to allow an electrical corporation or other retail seller to limit its procurement to the quantity of eligible renewable energy resources that can be purchased at or below the cost limitation if insufficient to support the total costs expended above the benchmark price. The bill would revise existing law with respect to the use of renewable energy credits to meet the renewables portfolio standard procurement requirements ~~to~~ and would allow retail sellers and local publicly owned electric utilities to ~~utilize a declining percentage of credits earned on electricity that is not delivered, as defined, to the state~~ meet up to 10% of its renewables portfolio standard procurement requirements from nondeliverable renewable energy resources, as defined.

(2) Existing law requires the PUC to require the state's 3 largest electrical corporations, Pacific Gas and Electric Company, San Diego Gas and Electric, and Southern California Edison, to identify a separate electrical rate component to fund programs that enhance system reliability and provide in-state benefits. This rate component is a nonbypassable element of local distribution and collected on the basis of usage. Existing PUC resolutions refer to the nonbypassable rate component as a "public goods charge." The public goods charge moneys are collected to support cost-effective energy efficiency and conservation activities, public interest research and development not adequately provided by competitive and regulated markets, and renewable energy resources. Existing law establishes the Renewable Resource Trust Fund in the State Treasury and requires that certain moneys collected to support renewable energy resources through the public goods charge are deposited into the fund and authorizes the Energy Commission to expend the moneys pursuant to the Renewable Energy Resources Program. The program states the intent of the Legislature to increase the amount of electricity generated from eligible renewable energy resources per year so that amount equals at least 20% of total retail sales of electricity in California per year by December 31, 2010.

This bill would revise the Renewable Energy Resources Program to state the intent of the Legislature to increase the amount of electricity generated from eligible renewable energy resources per year, so that it equals at least 20% of total retail sales of electricity in California per year by December 31, 2010, 25% of total retail sales of electricity in California per year by December 31, 2015, and 33% of total retail sales of electricity in California per year by December 31, 2020. The bill would revise the definitions applicable to the Renewable Energy Resources Program to incorporate the definition of an eligible renewable energy resource from the renewables portfolio standard program, would define what is a “new” and “existing” eligible renewable energy resource, would delete certain unneeded defined terms, and would make other conforming changes.

Existing

(3) Existing law requires every electrical corporation to file with the ~~commission~~ PUC a standard tariff for electricity generated by an electric generation facility, as defined, that is owned and operated by a retail customer of the electrical corporation. Existing law requires that the electric generation facility: (1) have an effective capacity of not more than 1.5 megawatts and be located on property owned or under the control of the customer, (2) be interconnected and operate in parallel with the electric transmission and distribution grid, (3) be strategically located and interconnected to the electric transmission system in a manner that optimizes the deliverability of electricity generated at the facility to load centers, and (4) meet the definition of an eligible renewable energy resource under the California Renewables Portfolio Standard Program. Existing law requires that the tariff provide for payment for every kilowatthour of electricity generated by an electric generation facility at a market price referent established by the ~~commission~~ PUC pursuant to the program. Existing law requires the electrical corporation to make this tariff available to customers that own and operate an electric generation facility within the service territory of the electrical corporation, upon request, on a first-come-first-served basis, until the combined statewide cumulative rated generating capacity of those electric generation facilities equals 500 megawatts, or the electrical corporation meets its proportionate share of the 500 megawatt limit based upon the ratio of its peak demand to total statewide peak demand of all electrical corporations. Existing law authorizes the ~~commission~~ PUC to modify or adjust the above-described requirements for any electrical corporation with less than 100,000 service connections,

as individual circumstances merit. Existing law provides that the electricity generated by an electric generation facility counts toward the electrical corporation's renewables portfolio standard and provides that the physical generating capacity counts toward meeting the electrical corporation's resource adequacy requirements.

This bill would instead require an electrical corporation to file with the ~~commission~~ *PUC* a standard tariff for the electricity purchased from a small-scale renewable distributed generation facility, as defined, that is owned, leased, or rented by a retail customer of the electrical corporation. The bill would revise the first requirement, discussed above, to instead require that the small-scale renewable distributed generation facility have an effective capacity of not more than 5 megawatts, subject to the authority of the ~~commission~~ *PUC* to reduce this megawatt limitation, discussed below. The bill would require that the tariff provide for a base payment rate for every kilowatthour of electricity purchased from a small-scale renewable distributed generation facility at the benchmark price established by the ~~commission~~ *PUC* pursuant to the California Renewables Portfolio Standard Program, for a period of 10, 15, or 20 years, as authorized by the ~~commission~~ *PUC*. The bill would authorize the ~~commission~~ *PUC* to adjust the payment rate to reflect the value of the electricity on a time-of-delivery basis and any other attributes of renewable generation and require, with respect to rates and charges, that ratepayers that do not receive service pursuant to the tariff are indifferent, with respect to rates and charges, to whether other ratepayers receive service pursuant to the tariff. The bill would require the electrical corporation to make the tariff available to any customer that owns, leases, or rents a small-scale renewable distributed generation facility within the service territory of the electrical corporation, upon request, on a first-come-first-served basis, until the combined statewide cumulative rated generating capacity of those facilities subject to tariffs with electrical corporations reaches 500 megawatts, or its proportionate share of that limit. The bill would provide that the electricity purchased from a small-scale renewable distributed generation facility count toward meeting the electrical corporation's renewables portfolio standard and that electricity generated by the small-scale renewable distributed generation facility count toward meeting the electrical corporation's resource adequacy requirements. The bill would require the ~~commission~~ *PUC*, in consultation with the ISO, to monitor and examine the impact on the transmission and distribution grid and any effects upon ratepayers resulting from small-scale renewable distributed generation facilities

operating pursuant to the bill's provisions, would require the ~~commission~~ PUC to establish performance standards for any small-scale renewable distributed generation facility that has a capacity greater than one megawatt to ensure that those facilities are constructed, operated, and maintained to generate the expected annual net production of electricity and do not impact system reliability, and would authorize the ~~commission~~ PUC to reduce the 5 megawatt capacity limitation if the ~~commission~~ PUC finds that a reduced capacity limitation is necessary to maintain system reliability within that electrical corporation's service territory. The bill would recast the existing authority of the ~~commission~~ PUC to modify or adjust the above-described requirements for any electrical corporation with less than 100,000 service connections, as individual circumstances merit.

This bill would require a local publicly owned electric utility that sells electricity at retail to 75,000 or more customers to adopt and implement a tariff for electricity purchased from a small-scale renewable distributed generation facility meeting certain size, deliverability, and interconnection requirements and to consider certain factors. The bill would require the local publicly owned electric utility to make the tariff available to customers that own and operate a small-scale renewable distributed generation facility within the service territory of the utility, upon request, on a first-come-first-served basis, until the combined statewide cumulative rated generating capacity of those small-scale renewable distributed generation facilities, subject to tariffs with local publicly owned electric utilities, reaches 250 megawatts. The bill would provide that the electricity purchased from a small-scale renewable distributed generation facility count toward meeting the local publicly owned electric utility's renewables portfolio standard annual procurement targets.

(2)

(4) Existing law creates the California Consumer Power and Conservation Financing Authority, with powers and responsibilities as prescribed, including the issuance of revenue bonds, for the purposes of augmenting electric generating facilities and to ensure a sufficient and reliable supply of electricity, financing incentives for investment in cost-effective energy-efficient appliances and energy demand reduction, achieving a specified energy capacity reserve level, providing financing for the retrofit of inefficient electric powerplants, and renewable energy and conservation. Existing law creates in the State Treasury the California Consumer Power and Conservation Financing

Authority Fund, and continuously appropriates all money in the fund, except as specified, for the support of the authority. Existing law prohibits the authority from approving any new program, enterprise, or project, on or after January 1, 2007, unless authority to approve such an activity is granted by statute enacted on or before January 1, 2007.

This bill would establish the Renewables Infrastructure Authority, with powers and responsibilities as prescribed, including the issuance of revenue bonds of up to \$6,400,000,000, for the purposes of financing projects and programs, as defined, to build eligible renewable energy resources and electric transmission lines, as defined, to deliver the electricity generated to retail customers. The authority would have a 9-member governing board, as prescribed. The bill would establish the Renewables Infrastructure Authority Fund and continuously appropriate moneys in the fund, except as specified, for the authority's purposes.

The bill would authorize the authority to designate an area as a renewable energy designation zone, as defined. Each city or county would be required to consider the designated zone when making a determination regarding a land use change within or adjacent to the zone that could affect its continuing viability to accommodate energy generation facilities, related transmission lines, transmission corridor zones, or other facilities appurtenant to the designated zone. Notwithstanding provisions of law that give the Energy Commission authority to certify certain thermal powerplants and related facilities, the authority would have the authority to certify all sites and related facilities in a designated renewable energy designation zone, including new sites and related facilities and changes or additions to an existing facility.

The bill would authorize the authority to certify all electric transmission lines, remote resource interconnection lines, electric transmission facilities and facilities appurtenant thereto, and related facilities in the state, except any electric transmission lines or facilities appurtenant thereto for which the ~~commission~~ PUC has issued a certificate of public convenience and necessity, or which any municipal utility has approved, before January 1, 2010, and electric transmission lines that connect generation facilities to the high-voltage transmission grid that are under the certification authority of the Energy Commission.

(3)

(5) Existing law authorizes the Energy Commission to designate a transmission corridor zone on its own motion or by application of a person who plans to construct a high-voltage electric transmission line

within the state. Existing law provides that the designation of a transmission corridor shall serve to identify a feasible corridor where a future transmission line can be built that is consistent with the state's needs and objectives as set forth in the strategic plan adopted by the ~~commission~~ PUC. Existing law prescribes procedures for the designation of a transmission corridor zone, including publication of the request for designation and request for comments, coordination with federal agencies and California Native American tribes, informational hearings, and requirements for a proposed decision.

This bill would repeal these provisions of law, and would give to the Renewables Infrastructure Authority the authority to designate transmission corridor zones.

(4)

(6) Under existing law, a violation of the Public Utilities Act or an order or direction of the ~~commission~~ PUC is a crime. Because some of the provisions of this bill would require an order or other action of the ~~commission~~ PUC to implement its provisions, and a violation of that order or action would be a crime, the bill would impose a state-mandated local program by creating a new crime. By placing additional requirements upon local publicly owned electric utilities, which are entities of local government, and new requirements upon city and county governments, the bill would impose a state-mandated local program.

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 specified reasons.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes.

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

- 1 SECTION 1. Chapter 4.3 (commencing with Section 25330)
- 2 of Division 15 of the Public Resources Code is repealed.
- 3 SEC. 2. Section 25500 of the Public Resources Code is
- 4 amended to read:
- 5 25500. (a) In accordance with the provisions of this division,
- 6 and except as otherwise provided in Article 7 (commencing with
- 7 Section 990) of Chapter 4.5 of Part 1 of Division 1 of the Public
- 8 Utilities Code, the commission shall have the exclusive power to

1 certify all sites and related facilities in the state, whether a new
2 site and related facility or a change or addition to an existing
3 facility. The issuance of a certificate by the commission shall be
4 in lieu of any permit, certificate, or similar document required by
5 any state, local or regional agency, or federal agency to the extent
6 permitted by federal law, for such use of the site and related
7 facilities, and shall supersede any applicable statute, ordinance, or
8 regulation of any state, local, or regional agency, or federal agency
9 to the extent permitted by federal law.

10 (b) After the effective date of this division, no construction of
11 any facility or modification of any existing facility shall be
12 commenced without first obtaining certification for any such site
13 and related facility by the commission, as prescribed in this
14 division.

15 *SEC. 3. Section 25740 of the Public Resources Code is*
16 *amended to read:*

17 25740. It is the intent of the Legislature in establishing this
18 program, to increase the amount of electricity generated from
19 eligible renewable energy resources per year, so that it equals at
20 least 20 percent of total retail sales of electricity in California per
21 year by December 31, 2010, 25 percent of total retail sales of
22 electricity in California per year by December 31, 2015, and 33
23 percent of total retail sales of electricity in California per year by
24 December 31, 2020.

25 *SEC. 4. Section 25740.5 of the Public Resources Code is*
26 *amended to read:*

27 25740.5. (a) The commission shall optimize public investment
28 and ensure that the most cost-effective and efficient investments
29 in renewable energy resources are vigorously pursued.

30 (b) The commission's long-term goal shall be a fully competitive
31 and self-sustaining supply of electricity generated from renewable
32 sources.

33 (c) The program objective shall be to increase, in the near term,
34 the quantity of California's electricity generated by ~~in-state~~
35 ~~renewable electricity generation facilities~~ *eligible renewable energy*
36 *resources*, while protecting system reliability, fostering resource
37 diversity, and obtaining the greatest environmental benefits for
38 California residents.

39 (d) An additional objective of the program shall be to identify
40 and support emerging renewable technologies in distributed

1 generation applications that have the greatest near-term commercial
2 promise and that merit targeted assistance.

3 (e) The Legislature recommends allocations among all of the
4 following:

5 (1) Rebates, buydowns, or equivalent incentives for emerging
6 renewable technologies.

7 (2) Customer education.

8 (3) Production incentives for reducing fuel costs, that are
9 confirmed to the satisfaction of the commission, at solid fuel
10 biomass energy facilities in order to provide demonstrable
11 environmental and public benefits, including improved air quality.

12 (4) Solar thermal generating resources that enhance the
13 environmental value or reliability of the electrical system and that
14 require financial assistance to remain economically viable, as
15 determined by the commission. The commission may require
16 financial disclosure from applicants for purposes of this paragraph.

17 (5) Specified fuel cell technologies, if the commission makes
18 all of the following findings:

19 (A) The specified technologies have similar or better air
20 pollutant characteristics than renewable technologies in the report
21 made pursuant to Section 25748.

22 (B) The specified technologies require financial assistance to
23 become commercially viable by reference to wholesale generation
24 prices.

25 (C) The specified technologies could contribute significantly
26 to the infrastructure development or other innovation required to
27 meet the long-term objective of a self-sustaining, competitive
28 supply of electricity generated from renewable sources.

29 (6) Existing wind-generating resources, if the commission finds
30 that the existing wind-generating resources are a cost-effective
31 source of reliable energy and environmental benefits compared
32 with other ~~in-state renewable electricity generation facilities~~
33 *eligible renewable energy resources*, and that the existing
34 wind-generating resources require financial assistance to remain
35 economically viable. The commission may require financial
36 disclosure from applicants for the purposes of this paragraph.

37 (f) Notwithstanding any other provision of law, moneys
38 collected for renewable energy pursuant to Article 15 (commencing
39 with Section 399) of Chapter 2.3 of Part 1 of Division 1 of the
40 Public Utilities Code shall be transferred to the Renewable

Resource Trust Fund. Moneys collected between January 1, 2007, and January 1, 2012, shall be used for the purposes specified in this chapter.

SEC. 5. Section 25741 of the Public Resources Code is amended to read:

25741. As used in this chapter, the following terms have the following meaning:

(a) ~~“Delivered” and “delivery” mean the electricity output of an in-state renewable electricity generation facility that is used to serve end-use retail customers located within the state. Subject to verification by the accounting system established by the commission pursuant to subdivision (b) of Section 399.13 of the Public Utilities Code, electricity shall be deemed delivered if it is either generated at a location within the state, or is scheduled for consumption by California end-use retail customers. Subject to criteria adopted by the commission, electricity generated by an eligible renewable energy resource may be considered “delivered” regardless of whether the electricity is generated at a different time from consumption by a California end-use customer.~~

(b) ~~“In-state renewable electricity generation facility” means a facility that meets all of the following criteria:~~

~~(1) The facility uses biomass, solar thermal, photovoltaic, wind, geothermal, fuel cells using renewable fuels, small hydroelectric generation of 30 megawatts or less, digester gas, municipal solid waste conversion, landfill gas, ocean wave, ocean thermal, or tidal current, and any additions or enhancements to the facility using that technology.~~

~~(2) The facility satisfies one of the following requirements:~~

~~(A) The facility is located in the state or near the border of the state with the first point of connection to the transmission network within this state and electricity produced by the facility is delivered to an in-state location.~~

~~(B) The facility has its first point of interconnection to the transmission network outside the state and satisfies all of the following requirements:~~

~~(i) It is connected to the transmission network within the Western Electricity Coordinating Council (WECC) service territory.~~

~~(ii) It commences initial commercial operation after January 1, 2005.~~

1 (iii) Electricity produced by the facility is delivered to an in-state
2 location.

3 (iv) It will not cause or contribute to any violation of a California
4 environmental quality standard or requirement.

5 (v) If the facility is outside of the United States, it is developed
6 and operated in a manner that is as protective of the environment
7 as a similar facility located in the state.

8 (vi) It participates in the accounting system to verify compliance
9 with the renewables portfolio standard by retail sellers, once
10 established by the Energy Commission pursuant to subdivision
11 (b) of Section 399.13 of the Public Utilities Code.

12 (C) The facility meets the requirements of clauses (i), (iii), (iv),
13 (v), and (vi) in subparagraph (B), but does not meet the
14 requirements of clause (ii) because it commences initial operation
15 prior to January 1, 2005, if the facility satisfies either of the
16 following requirements:

17 (i) The electricity is from incremental generation resulting from
18 expansion or repowering of the facility.

19 (ii) The facility has been part of the existing baseline of eligible
20 renewable energy resources of a retail seller established pursuant
21 to paragraph (2) of subdivision (b) of Section 399.15 of the Public
22 Utilities Code or has been part of the existing baseline of eligible
23 renewable energy resources of a local publicly owned electric
24 utility established pursuant to Section 387 of the Public Utilities
25 Code.

26 (3) For the purposes of this subdivision, “solid waste
27 conversion” means a technology that uses a noncombustion thermal
28 process to convert solid waste to a clean-burning fuel for the
29 purpose of generating electricity, and that meets all of the following
30 criteria:

31 (A) The technology does not use air or oxygen in the conversion
32 process, except ambient air to maintain temperature control.

33 (B) The technology produces no discharges of air contaminants
34 or emissions, including greenhouse gases as defined in Section
35 38505 of the Health and Safety Code.

36 (C) The technology produces no discharges to surface or
37 groundwaters of the state.

38 (D) The technology produces no hazardous wastes.

39 (E) To the maximum extent feasible, the technology removes
40 all recyclable materials and marketable green waste compostable

1 ~~materials from the solid waste stream prior to the conversion~~
2 ~~process and the owner or operator of the facility certifies that those~~
3 ~~materials will be recycled or composted.~~

4 ~~(F) The facility at which the technology is used is in compliance~~
5 ~~with all applicable laws, regulations, and ordinances.~~

6 ~~(G) The technology meets any other conditions established by~~
7 ~~the commission.~~

8 ~~(H) The facility certifies that any local agency sending solid~~
9 ~~waste to the facility diverted at least 30 percent of all solid waste~~
10 ~~it collects through solid waste reduction, recycling, and~~
11 ~~composting. For purposes of this paragraph, "local agency" means~~
12 ~~any city, county, or special district, or subdivision thereof, which~~
13 ~~is authorized to provide solid waste handling services.~~

14 ~~(c) "Procurement entity" means any person or corporation that~~
15 ~~enters into an agreement with a retail seller to procure eligible~~
16 ~~renewable energy resources pursuant to subdivision (f) of Section~~
17 ~~399.14 of the Public Utilities Code.~~

18 ~~(a) "Eligible renewable energy resource" means an eligible~~
19 ~~renewable energy resource as defined in Section 399.12 of the~~
20 ~~Public Utilities Code.~~

21 ~~(b) "Existing" in reference to an eligible renewable energy~~
22 ~~resource means a facility that had obtained any necessary permits~~
23 ~~to operate and was able to generate electricity prior to January~~
24 ~~1, 2005.~~

25 ~~(c) "New" in reference to an eligible renewable energy resource~~
26 ~~means a facility that either had not obtained all of the necessary~~
27 ~~permits to operate or was not able to generate electricity prior to~~
28 ~~January 1, 2005.~~

29 ~~(d) "Renewable energy public goods charge" means that portion~~
30 ~~of the nonbypassable system benefits charge authorized to be~~
31 ~~collected and to be transferred to the Renewable Resource Trust~~
32 ~~Fund pursuant to the Reliable Electric Service Investments Act~~
33 ~~(Article 15 (commencing with Section 399) of Chapter 2.3 of Part~~
34 ~~1 of Division 1 of the Public Utilities Code).~~

35 ~~(e) "Report" means the report entitled "Investing in Renewable~~
36 ~~Electricity Generation in California" (June 2001, Publication~~
37 ~~Number P500-00-022) submitted to the Governor and the~~
38 ~~Legislature by the commission.~~

39 ~~(f)~~

1 (e) “Retail seller” means a “retail seller” as defined in Section
2 399.12 of the Public Utilities Code.

3 *SEC. 6. Section 25742 of the Public Resources Code is*
4 *amended to read:*

5 25742. (a) Twenty percent of the funds collected pursuant to
6 the renewable energy public goods charge shall be used for
7 programs that are designed to achieve fully competitive and
8 self-sustaining ~~existing in-state renewable electricity generation~~
9 ~~facilities~~ *eligible renewable energy resources*, and to secure for
10 the state the environmental, economic, and reliability benefits that
11 continued operation of those facilities will provide during the
12 2007–2011 investment cycle. Eligibility for production incentives
13 under this section shall be limited to those technologies found
14 eligible for funds by the commission pursuant to paragraphs (3),
15 (4), and (6) of subdivision (e) of Section 25740.5.

16 (b) Any funds used to support ~~in-state renewable electricity~~
17 ~~generation facilities~~ *eligible renewable energy resources* pursuant
18 to this section shall be expended in accordance with the provisions
19 of this chapter.

20 (c) Facilities that are eligible to receive funding pursuant to this
21 section shall be registered in accordance with criteria developed
22 by the commission and those facilities shall not receive payments
23 for any electricity produced that has any of the following
24 characteristics:

25 (1) Is sold at monthly average rates equal to, or greater than,
26 the applicable target price, as determined by the commission.

27 (2) Is used onsite.

28 (d) (1) Existing facilities generating electricity from biomass
29 energy shall be eligible for funding and otherwise considered an
30 ~~in-state renewable electricity generation facility~~ *eligible renewable*
31 *energy resource* only if they report to the commission the types
32 and quantities of biomass fuels used.

33 (2) The commission shall report the types and quantities of
34 biomass fuels used by each facility to the Legislature in the reports
35 prepared pursuant to Section 25748.

36 (e) Each existing facility seeking an award pursuant to this
37 section shall be evaluated by the commission to determine the
38 amount of the funds being sought, the cumulative amount of funds
39 the facility has received previously from the commission and other
40 state sources, the value of any past and current federal or state tax

credits, the facility's contract price for energy and capacity, the prices received by similar facilities, the market value of the facility, and the likelihood that the award will make the facility competitive and self-sustaining within the 2007–2011 investment cycle. The commission shall use this evaluation to determine the value of an award to the public relative to other renewable energy investment alternatives. The commission shall compile its findings and report them to the Legislature in the reports prepared pursuant to Section 25748.

~~SEC. 3.~~

SEC. 7. Section 387 of the Public Utilities Code is amended to read:

387. (a) Each governing body of a local publicly owned electric utility shall be responsible for implementing and enforcing a renewables portfolio standard that accomplishes all of the following:

(1) Procures at least 20 percent of the electricity delivered to its retail customers from eligible renewable energy resources, as defined in Section 952, by December 31, 2010.

(2) Procures at least 25 percent of the electricity delivered to its retail customers from eligible renewable energy resources, as defined in Section 952, by December 31, 2015.

(3) Procures at least ~~35~~ 33 percent of the electricity delivered to its retail customers from eligible renewable energy resources, as defined in Section 952, by December 31, 2020.

~~(4) Establishes a goal of procuring at least 50 percent of the electricity delivered to its retail customers from eligible renewable energy resources, as defined in Section 952, by December 31, 2035.~~

(b) Each local publicly owned electric utility shall report, on an annual basis, to its customers and to the State Energy Resources Conservation and Development Commission, all of the following:

(1) Expenditures of public goods funds collected pursuant to Section 385 for eligible renewable energy resource development. Reports shall contain a description of programs, expenditures, and expected or actual results.

(2) The resource mix used to serve its customers by fuel type. Reports shall contain the contribution of each type of renewable energy resource with separate categories for those fuels that are eligible renewable energy resources as defined in Section 399.12,

1 except that the electricity is delivered to the local publicly owned
2 electric utility and not a retail seller. Electricity shall be reported
3 as having been delivered to the local publicly owned electric utility
4 from an eligible renewable energy resource when the electricity
5 would qualify for compliance with the renewables portfolio
6 standard if it were delivered to a retail seller.

7 (3) The utility's status in implementing a renewables portfolio
8 standard pursuant to subdivision (a) and the utility's progress
9 toward attaining the standard following implementation.

10 (c) This section shall remain in effect only until January 1, 2011,
11 and as of that date is repealed, unless a later enacted statute, that
12 is enacted before January 1, 2011, deletes or extends that date.

13 ~~SEC. 4.~~

14 *SEC. 8.* Section 399.23 is added to the Public Utilities Code,
15 to read:

16 399.23. This article shall remain in effect only until January
17 1, 2011, and as of that date is repealed, unless a later enacted
18 statute, that is enacted before January 1, 2011, deletes or extends
19 that date.

20 ~~SEC. 5.~~

21 *SEC. 9.* Section 454.5 of the Public Utilities Code is amended
22 to read:

23 454.5. (a) The commission shall specify the allocation of
24 electricity, including quantity, characteristics, and duration of
25 electricity delivery, that the Department of Water Resources shall
26 provide under its power purchase agreements to the customers of
27 each electrical corporation, which shall be reflected in the electrical
28 corporation's proposed procurement plan. Each electrical
29 corporation shall file a proposed procurement plan with the
30 commission not later than 60 days after the commission specifies
31 the allocation of electricity. The proposed procurement plan shall
32 specify the date that the electrical corporation intends to resume
33 procurement of electricity for its retail customers, consistent with
34 its obligation to serve. After the commission's adoption of a
35 procurement plan, the commission shall allow not less than 60
36 days before the electrical corporation resumes procurement
37 pursuant to this section.

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

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

8 (2) A definition of each electricity product, electricity-related
9 product, and procurement related financial product, including
10 support and justification for the product type and amount to be
11 procured under the plan.

12 (3) The duration of the plan.

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

15 (5) A competitive procurement process under which the
16 electrical corporation may request bids for procurement-related
17 services, including the format and criteria of that procurement
18 process.

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

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

31 (8) Procedures for updating the procurement plan.

32 (9) A showing that the procurement plan will achieve the
33 following:

34 (A) The electrical corporation will, in order to fulfill its unmet
35 resource needs, procure resources from eligible renewable energy
36 resources in an amount sufficient to meet its procurement
37 requirements and goals pursuant to the renewables portfolio
38 standard.

39 (B) The electrical corporation will create or maintain a
40 diversified procurement portfolio consisting of both short-term

1 and long-term electricity and electricity-related and demand
2 reduction products.

3 (C) The electrical corporation will first meet its unmet resource
4 needs through all available energy efficiency and demand reduction
5 resources that are cost effective, reliable, and feasible.

6 (10) The electrical corporation's risk management policy,
7 strategy, and practices, including specific measures of price
8 stability.

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

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

14 (c) The commission shall review and accept, modify, or reject
15 each electrical corporation's procurement plan. The commission's
16 review shall consider each electrical corporation's individual
17 procurement situation, and shall give strong consideration to that
18 situation in determining which one or more of the features set forth
19 in this subdivision shall apply to that electrical corporation. A
20 procurement plan approved by the commission shall contain one
21 or more of the following features, provided that the commission
22 may not approve a feature or mechanism for an electrical
23 corporation if it finds that the feature or mechanism would impair
24 the restoration of an electrical corporation's creditworthiness or
25 would lead to a deterioration of an electrical corporation's
26 creditworthiness:

27 (1) A competitive procurement process under which the
28 electrical corporation may request bids for procurement-related
29 services. The commission shall specify the format of that
30 procurement process, as well as criteria to ensure that the auction
31 process is open and adequately subscribed. Any purchases made
32 in compliance with the commission-authorized process shall be
33 recovered in the generation component of rates.

34 (2) An incentive mechanism that establishes a procurement
35 benchmark or benchmarks and authorizes the electrical corporation
36 to procure from the market, subject to comparing the electrical
37 corporation's performance to the commission-authorized
38 benchmark or benchmarks. The incentive mechanism shall be
39 clear, achievable, and contain quantifiable objectives and standards.

1 The incentive mechanism shall contain balanced risk and reward
2 incentives that limit the risk and reward of an electrical corporation.

3 (3) Upfront achievable standards and criteria by which the
4 acceptability and eligibility for rate recovery of a proposed
5 procurement transaction will be known by the electrical corporation
6 prior to the execution of the bilateral contract for the transaction.

7 The commission shall provide for expedited review and either
8 approve or reject the individual contracts submitted by the electrical
9 corporation to ensure compliance with its procurement plan. To
10 the extent the commission rejects a proposed contract pursuant to
11 this criteria, the commission shall designate alternative procurement
12 choices obtained in the procurement plan that will be recoverable
13 for ratemaking purposes.

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

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

18 (2) Eliminate the need for after-the-fact reasonableness reviews
19 of an electrical corporation's actions in compliance with an
20 approved procurement plan, including resulting electricity
21 procurement contracts, practices, and related expenses. However,
22 the commission may establish a regulatory process to verify and
23 assure that each contract was administered in accordance with the
24 terms of the contract, and contract disputes which may arise are
25 reasonably resolved.

26 (3) Ensure timely recovery of prospective procurement costs
27 incurred pursuant to an approved procurement plan. The
28 commission shall establish rates based on forecasts of procurement
29 costs adopted by the commission, actual procurement costs
30 incurred, or combination thereof, as determined by the commission.
31 The commission shall establish power procurement balancing
32 accounts to track the differences between recorded revenues and
33 costs incurred pursuant to an approved procurement plan. The
34 commission shall review the power procurement balancing
35 accounts, not less than semiannually, and shall adjust rates or order
36 refunds, as necessary, to promptly amortize a balancing account,
37 according to a schedule determined by the commission. Until
38 January 1, 2006, the commission shall ensure that any
39 overcollection or undercollection in the power procurement
40 balancing account does not exceed 5 percent of the electrical

1 corporation's actual recorded generation revenues for the prior
2 calendar year excluding revenues collected for the Department of
3 Water Resources. The commission shall determine the schedule
4 for amortizing the overcollection or undercollection in the
5 balancing account to ensure that the 5 percent threshold is not
6 exceeded. After January 1, 2006, this adjustment shall occur when
7 deemed appropriate by the commission consistent with the
8 objectives of this section.

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

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

16 (e) The commission shall provide for the periodic review and
17 prospective modification of an electrical corporation's procurement
18 plan.

19 (f) The commission may engage an independent consultant or
20 advisory service to evaluate risk management and strategy. The
21 reasonable costs of any consultant or advisory service is a
22 reimbursable expense and eligible for funding pursuant to Section
23 631.

24 (g) The commission shall adopt appropriate procedures to ensure
25 the confidentiality of any market sensitive information submitted
26 in an electrical corporation's proposed procurement plan or
27 resulting from or related to its approved procurement plan,
28 including, but not limited to, proposed or executed power purchase
29 agreements, data request responses, or consultant reports, or any
30 combination, provided that the Division of Ratepayer Advocates
31 and other consumer groups that are nonmarket participants shall
32 be provided access to this information under confidentiality
33 procedures authorized by the commission.

34 (h) Nothing in this section alters, modifies, or amends the
35 commission's oversight of affiliate transactions under its rules and
36 decisions or the commission's existing authority to investigate and
37 penalize an electrical corporation's alleged fraudulent activities,
38 or to disallow costs incurred as a result of gross incompetence,
39 fraud, abuse, or similar grounds. Nothing in this section expands,
40 modifies, or limits the State Energy Resources Conservation and

Development Commission's existing authority and responsibilities as set forth in Sections 25216, 25216.5, and 25323 of the Public Resources Code.

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

(j) (1) Prior to its approval pursuant to Section 851 of any divestiture of generation assets owned by an electrical corporation on or after September 24, 2002, the commission shall determine the impact of the proposed divestiture on the electrical corporation's procurement rates and shall approve a divestiture only to the extent it finds, taking into account the effect of the divestiture on procurement rates, that the divestiture is in the public interest and will result in net ratepayer benefits.

(2) Any electrical corporation's procurement necessitated as a result of the divestiture of generation assets on or after September 24, 2002, shall be subject to the mechanisms and procedures set forth in this section only if its actual cost is less than the recent historical cost of the divested generation assets.

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

~~SEC. 6.~~

SEC. 10. Chapter 4.5 (commencing with Section 950) is added to Part 1 of Division 1 of the Public Utilities Code, to read:

CHAPTER 4.5. CALIFORNIA RENEWABLES PORTFOLIO STANDARD PROGRAM

Article 1. General Provisions and Definitions

950. The Legislature finds and declares all of the following:

~~(a) In order to attain a target of generating 35 percent of total retail sales of electricity in California from eligible renewable energy resources by December 31, 2020, and the goal of generating 50 percent by December 31, 2035, and for the purposes of the Legislative goals of the renewables portfolios standard, the commission, the Energy Commission, and each local publicly~~

~~owned electric utility shall implement the California Renewables Portfolio Standard Program described in this chapter.~~

~~(b) A renewables portfolio standard that requires each retail supplier of electricity in California to meet at least 35 percent of its retail sales of electricity in California from eligible renewable resources is necessary to:~~

~~(1) Reduce emissions of greenhouse gases and California's contribution to global warming.~~

~~(2) Reduce the in-state consumption of nonrenewable fuels in order to improve the public health and air quality throughout the state.~~

~~(3) Stimulate sustainable economic development, encourage innovation in energy technologies, and create new employment opportunities.~~

~~(4) Increase fuel diversity and promote greater stability and predictability in electricity prices for consumers.~~

~~(c) Additional investments in electrical transmission infrastructure may be necessary to ensure reliability, relieve transmission congestion, and meet future growth in load and energy resources, including renewable energy resources.~~

~~(d) It is the policy of this state and the intent of the Legislature that adequate investments are made in a timely manner to facilitate the attainment of the renewable portfolio standard and to ensure that the state's electrical transmission system continues to operate in an efficient and reliable manner.~~

(a) California has plentiful and robust natural resources that it has yet to utilize and from which it can derive a sustainable way of life. At the same time, California faces challenges unlike those that it has ever faced. At present, pollution in California's cities threatens human health and despoils the natural beauty of the state. Recent environmental trends portend a future of dramatic change to the state's landscape, with effects on the state's species, habitats, and population centers that are not yet fully understood.

(b) The California Renewables Portfolio Standard Program is established to address those challenges and, with the instruments of policy set forth in this chapter, seeks to accomplish the following statewide policy objectives:

(1) Reducing emissions of greenhouse gases and California's contribution to global warming.

1 (2) *Reducing in-state consumption of nonrenewable fuels in*
2 *order to improve the public health and air quality throughout the*
3 *state.*

4 (3) *Stimulating sustainable economic development, encouraging*
5 *innovation in energy technologies, and creating new employment*
6 *opportunities.*

7 (4) *Decreasing California's reliance on imported sources of*
8 *energy.*

9 (5) *Increasing fuel diversity and promoting greater stability*
10 *and predictability in electricity prices for consumers.*

11 (c) *In order to achieve the ambitious targets set forth in this*
12 *chapter, it will be necessary to facilitate investments in California's*
13 *electrical transmission infrastructure to ensure system reliability,*
14 *relieve transmission congestion, and meet future growth in load*
15 *with eligible renewable energy resources.*

16 (d) *California must meet its renewable energy goals while*
17 *simultaneously ensuring that no interruptions in electrical service*
18 *occur because of intermittent renewable energy procurement and*
19 *that future growth in load can be met by procuring renewables*
20 *long after the goals of this renewables portfolio standard are met.*

21 (e) *It is the policy of this state and the intent of the Legislature*
22 *that the California Renewables Portfolio Standard Program not*
23 *adversely impact the ability of an electrical corporation to pursue*
24 *other measures recognized by the State Air Resources Board as*
25 *necessary to achieve the greenhouse gases emissions reduction*
26 *targets established by the California Global Warming Solutions*
27 *Act of 2006.*

28 952. For purposes of this chapter, the following terms have the
29 following meanings:

30 (a) "Conduit hydroelectric facility" means a facility for the
31 generation of electricity that uses only the hydroelectric potential
32 of an existing pipe, ditch, flume, siphon, tunnel, canal, or other
33 manmade conduit that is operated to distribute water for a
34 beneficial use.

35 (b) "Delivered" and "delivery" ~~have the same meaning as~~
36 ~~provided in subdivision (a) of Section 25741 of the Public~~
37 ~~Resources Code.~~ "delivery," in reference to the electricity
38 generated by an eligible renewable energy resource, mean that
39 the electricity is used to serve end-use retail customers located

1 *within the state or is simultaneously scheduled to meet anticipated*
2 *in-state load.*

3 (c) “Eligible renewable energy resource” means an electric
4 generating facility that uses biomass, solar energy, wind,
5 geothermal, fuel cells using renewable fuels, small hydroelectric
6 generation of 30 megawatts or less, digester gas, landfill gas, ocean
7 wave, ocean thermal, or tidal current, and any additions or
8 enhancements to the facility using that technology, and that meets
9 the general eligibility requirements of Section 953 and, when
10 applicable, the requirements for specific renewable energy sources
11 of Section 954.

12 (d) “Nondeliverable renewable energy resource” means an
13 electric generating facility that uses biomass, solar energy, wind,
14 geothermal, fuel cells using renewable fuels, small hydroelectric
15 generation of 30 megawatts or less, digester gas, landfill gas,
16 ocean wave, ocean thermal, or tidal current, and any additions or
17 enhancements to the facility using that technology, and that meets
18 the eligibility requirements of paragraphs (1), (3), (4), (5), and
19 (6) of, but does not meet the deliverability requirement of
20 paragraph (2) of, subdivision (b) of Section 953 and, when
21 applicable, meets the requirements for specific renewable energy
22 sources of Section 954.

23 ~~(d)~~

24 (e) “Procure” means that a retail seller receives delivered
25 electricity generated by an eligible renewable energy resource that
26 it owns or for which it has entered into an electricity purchase
27 agreement. Nothing in this chapter is intended to imply that the
28 purchase of electricity from third parties in a wholesale transaction
29 is the preferred method of fulfilling a retail seller’s obligation to
30 comply with this chapter.

31 ~~(e)~~

32 (f) (1) “Renewable energy credit” means a certificate of proof,
33 issued through the accounting system established by the Energy
34 Commission pursuant to Section ~~970~~, ~~that~~ 975, *that either one unit*
35 *of electricity was generated and delivered by an eligible renewable*
36 *energy resource or, subject to the limits established in Section 980,*
37 *one unit of electricity was generated by a nondeliverable renewable*
38 *energy resource.*

39 (2) “Renewable energy credit” includes all renewable and
40 environmental attributes associated with the production of

1 electricity from the eligible renewable energy resource *or*
2 *nondeliverable renewable energy resource*, except for an emissions
3 reduction credit issued pursuant to Section 40709 of the Health
4 and Safety Code and any credits or payments associated with the
5 reduction of solid waste and treatment benefits created by the
6 utilization of biomass or biogas fuels.

7 ~~(f)~~

8 (g) “Renewable generator” means the owner or operator of an
9 eligible renewable energy resource with the authority to contract
10 for the electricity generated by the facility.

11 ~~(g)~~

12 (h) “Renewables portfolio standard” means the specified
13 percentage of electricity generated by eligible renewable energy
14 resources that a retail seller or local publicly owned electric utility
15 is required to procure pursuant to this chapter.

16 ~~(h)~~

17 (i) (1) “Retail seller” means an entity engaged in the retail sale
18 of electricity to end-use customers located within the state,
19 including any of the following:

20 (A) An electrical corporation.

21 (B) A community choice aggregator. The commission shall
22 institute a rulemaking to determine the manner in which a
23 community choice aggregator will participate in the renewables
24 portfolio standard program subject to the same terms and conditions
25 applicable to an electrical corporation.

26 (C) An electric service provider, as defined in Section 218.3.
27 The commission shall determine the manner in which electric
28 service providers will participate in the renewables portfolio
29 standard program. The electric service provider shall be subject
30 to the same terms and conditions applicable to an electrical
31 corporation pursuant to this chapter. Nothing in this paragraph
32 shall impair a contract entered into between an electric service
33 provider and a retail customer prior to the suspension of direct
34 access by the commission pursuant to Section 80110 of the Water
35 Code.

36 (2) “Retail seller” does not include any of the following:

37 (A) A corporation or person employing cogeneration technology
38 or producing electricity consistent with subdivision (b) of Section
39 218.

1 (B) The Department of Water Resources acting in its capacity
2 pursuant to Division 27 (commencing with Section 80000) of the
3 Water Code.

4 (C) A local publicly owned electric utility.

5 (i)

6 (j) "WECC" means the Western Electricity Coordinating
7 Council of the North American Electric Reliability Council, or a
8 successor entity to either council.

9 953. To be eligible for meeting the renewables portfolio
10 standard, an eligible renewable energy resource shall satisfy one
11 of the following requirements:

12 (a) The facility is located in the state, or near the border of the
13 state with ~~the~~ its first point of connection to the transmission
14 network within this state, and electricity produced by the facility
15 is delivered to an in-state location.

16 (b) The facility has its first point of interconnection to the
17 transmission network outside the state and satisfies all of the
18 following requirements:

19 (1) It is connected to the transmission network within the WECC
20 service territory.

21 (2) Electricity produced by the facility is delivered to an in-state
22 location.

23 (3) It will not cause or contribute to any violation of a California
24 environmental quality standard or requirement.

25 (4) If the facility is outside of the United States, it is developed
26 and operated in a manner that is as protective of the environment
27 as a similar facility located in the state.

28 (5) It participates in the accounting system to verify compliance
29 with the renewables portfolio standard by retail sellers, once
30 established by the Energy Commission pursuant to subdivision
31 (a) of Section 975.

32 (6) It commences initial commercial operation after January 1,
33 2005.

34 (c) The facility meets the requirements of paragraphs (1), (2),
35 (3), (4), and (5) in subdivision (b), but does not meet the
36 requirements of paragraph (6) because it commences initial
37 operation prior to January 1, 2005, if the facility satisfies either of
38 the following requirements:

39 (1) The electricity is from incremental generation resulting from
40 expansion or repowering of the facility.

1 (2) The facility has been part of the existing baseline of eligible
2 renewable energy resources of the retail seller or local publicly
3 owned electric utility.

4 954. (a) (1) Except as provided in paragraph (2), a
5 hydroelectric generation facility that is larger than 30 megawatts
6 is not an eligible renewable energy resource.

7 (2) The incremental increase in the amount of electricity
8 generated from a hydroelectric generation facility as a result of
9 efficiency improvements at the facility, is electricity from an
10 eligible renewable energy resource, without regard to the electrical
11 output of the facility, if all of the following conditions are met:

12 (A) The incremental increase is the result of efficiency
13 improvements from a retrofit that do not result in an adverse impact
14 on instream beneficial uses or cause a change in the volume or
15 timing of streamflow.

16 (B) The hydroelectric generation facility has, within the
17 immediately preceding 15 years, received certification from the
18 State Water Resources Control Board pursuant to Section 401 of
19 the Clean Water Act (33 U.S.C. Sec. 1341), or has received
20 certification from a regional board to which the state board has
21 delegated authority to issue certification, unless the facility is
22 exempt from certification because there is no potential for discharge
23 into waters of the United States.

24 (C) The hydroelectric generation facility was operational prior
25 to January 1, 2007, the efficiency improvements are initiated on
26 or after January 1, 2008, the efficiency improvements are not the
27 result of routine maintenance activities, as determined by the
28 Energy Commission, and the efficiency improvements were not
29 included in any resource plan sponsored by the facility owner prior
30 to January 1, 2008.

31 (D) All of the incremental increase in electricity resulting from
32 the efficiency improvements are demonstrated to result from a
33 long-term financial commitment by the retail seller or local publicly
34 owned electric utility. For purposes of this paragraph, "long-term
35 financial commitment" means either new ownership investment
36 in the facility by the retail seller or local publicly owned electric
37 utility, or a new or renewed contract with a term of 10 or more
38 years, which includes procurement of the incremental generation.

39 (b) (1) Except for a conduit hydroelectric generation facility
40 operating pursuant to subdivision (c), a hydroelectric generation

1 facility of 30 megawatts or less that was in operation prior to
2 January 1, 2006, shall be eligible only if a retail seller or local
3 publicly owned electric utility procured the electricity from the
4 facility as of December 31, 2005.

5 (2) A hydroelectric generation facility of 30 megawatts or less
6 that becomes operational on or after January 1, 2006, is not eligible
7 if it will cause an adverse impact on instream beneficial uses or
8 cause a change in the volume or timing of streamflow.

9 (3) A small hydroelectric generation facility that satisfies the
10 criteria for an eligible renewable energy resource pursuant to this
11 subdivision shall not lose its eligibility if efficiency improvements
12 undertaken after January 1, 2008, cause the generating capacity
13 of the facility to exceed 30 megawatts, and the efficiency
14 improvements do not result in an adverse impact on instream
15 beneficial uses or cause a change in the volume or timing of
16 streamflow. The entire generating capacity of the facility shall be
17 eligible.

18 (c) (1) A conduit hydroelectric facility of 30 megawatts or less
19 that commenced operation before January 1, 2006, is an eligible
20 renewable energy resource.

21 (2) A conduit hydroelectric generation facility of 30 megawatts
22 or less that becomes operational on or after January 1, 2006, is an
23 eligible renewable energy resource unless it will cause an adverse
24 impact on instream beneficial uses or cause a change in the volume
25 or timing of streamflow.

26 (d) A facility engaged in the combustion of municipal solid
27 waste using a noncombustion thermal process to convert solid
28 waste to a clean-burning fuel for the purpose of generating
29 electricity is an eligible renewable energy resource ~~only if it meets~~
30 *if either it is located in Stanislaus County and was operational*
31 *prior to September 26, 1996, or it meets all of the following*
32 *conditions:*

33 ~~(1) It is located in Stanislaus County and was operational prior~~
34 ~~to September 26, 1996.~~

35 ~~(2)~~

36 (1) The technology does not use air or oxygen in the conversion
37 process, except ambient air to maintain temperature control.

38 ~~(3)~~

(2) The technology produces no discharges of air contaminants or emissions, including greenhouse gases as defined in Section 42801.1 of the Health and Safety Code.

(4)

(3) The technology produces no discharges to surface or groundwaters of the state.

(5)

(4) The technology produces no hazardous wastes.

(6)

(5) The technology removes all recyclable materials and marketable green waste compostable materials from the solid waste stream prior to the conversion process, to the maximum extent feasible, and the owner or operator of the facility certifies that those materials will be recycled or composted.

(7)

(6) The facility is in compliance with all applicable laws, regulations, and ordinances.

(8)

(7) The technology meets any other conditions established by the commission.

(9)

(8) The facility certifies that any local agency sending solid waste to the facility diverted at least 30 percent of all solid waste it collects through solid waste reduction, recycling, and composting. For purposes of this paragraph, "local agency" means any city, county, or special district, or subdivision thereof, which is authorized to provide solid waste handling services.

955. This chapter shall become operative on January 1, 2011.

Article 2. Implementation of the Renewables Portfolio Standard for Retail Sellers of Electricity Regulated by, or Registered with, the Commission

960. In order to fulfill unmet long-term resource needs, the commission shall establish a renewables portfolio standard requiring each retail seller to increase its procurement of eligible renewable energy resources to accomplish all of the following:

(a) Procure at least 20 percent of the electricity delivered to its retail customers from eligible renewable energy resources.

1 (b) Procure at least 25 percent of the electricity delivered to its
2 retail customers from eligible renewable energy resources by
3 December 31, 2015.

4 (c) Procure at least ~~35~~ 33 percent of the electricity delivered to
5 its retail customers from eligible renewable energy resources by
6 December 31, 2020.

7 ~~(d) Establish a goal of procuring at least 50 percent of the~~
8 ~~electricity delivered to its retail customers from eligible renewable~~
9 ~~energy resources by December 31, 2035.~~

10 962. (a) The commission shall direct each electrical corporation
11 to prepare a renewable energy procurement plan to satisfy its
12 procurement requirements under the renewables portfolio standard.
13 The renewable energy procurement plan shall, to the extent
14 feasible, be proposed, reviewed, and adopted by the commission
15 as part of, and pursuant to, a general procurement plan process
16 pursuant to Section 454.5. The commission shall require each
17 electrical corporation to review and update its renewable energy
18 procurement plan as it determines to be necessary.

19 (b) (1) The renewable energy procurement plan shall include
20 a process that provides criteria for the rank ordering and selection
21 of eligible renewable energy resources to comply with the
22 renewables portfolio standard procurement requirement so that
23 each electrical corporation's total renewables portfolio benefits
24 ratepayers. This process shall consider estimates of indirect costs
25 associated with needed transmission investments and ongoing
26 utility expenses resulting from integrating and operating eligible
27 renewable energy resources. *This process shall also consider the*
28 *viability of the eligible renewable energy resource, including the*
29 *developer's experience, the feasibility of the technology used to*
30 *generate electricity, and the risk that the facility will not be built,*
31 *or construction will be delayed, with the result that electricity will*
32 *not be delivered as required by the contract.*

33 (2) The renewable energy procurement plan submitted by an
34 electrical corporation shall include all of the following:

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

39 (B) Provisions for employing available compliance flexibility
40 mechanisms established by the commission.

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

4 (D) *An analysis of the risk that the eligible renewable energy*
5 *resource will not be built, or that construction will be delayed,*
6 *with the result that electricity will not be delivered as required by*
7 *the contract.*

8 (c) As part of its procurement plan bid solicitation, each
9 electrical corporation shall offer standard terms and conditions to
10 be used in contracting with renewable generators for eligible
11 renewable energy resources, including performance requirements
12 for renewable generators. A contract for the purchase of electricity
13 generated by an eligible renewable energy resource shall, at a
14 minimum, include the renewable energy credits associated with
15 all electricity generation specified under the contract. The standard
16 terms and conditions of the contract shall include the requirement
17 that, no later than six months after the commission's approval of
18 an electricity purchase agreement entered into pursuant to this
19 chapter, the following information about the agreement shall be
20 disclosed by the commission: the names of the contracting parties,
21 the renewable energy resource type, the project location, and the
22 generating capacity of the project.

23 (d) (1) In soliciting and procuring eligible renewable energy
24 resources, each electrical corporation shall offer contracts of no
25 less than 10 years' duration, unless the commission approves of a
26 contract of shorter duration.

27 (2) The commission may authorize a retail seller to enter into
28 a contract of less than 10 years' duration with a renewable
29 generator for the electricity generated by an eligible renewable
30 energy resource, if the commission has established, for each retail
31 seller, minimum quantities of eligible renewable energy resources
32 to be procured either through contracts of at least 10 years' duration
33 or from new facilities commencing commercial operations on or
34 after January 1, 2005.

35 (e) The commission shall review and accept, modify, or reject
36 each electrical corporation's renewable energy procurement plan
37 prior to the commencement of renewable procurement pursuant
38 to this chapter by an electrical corporation.

39 (f) The commission shall review the results of a solicitation for
40 eligible renewable energy resources submitted for approval by an

1 electrical corporation and accept or reject proposed contracts with
2 the renewable generator based on consistency with the approved
3 renewable energy procurement plan. If the commission determines
4 that the bid prices are elevated due to a lack of effective
5 competition among the bidders, the commission shall direct the
6 electrical corporation to renegotiate the contracts or conduct a new
7 solicitation.

8 (g) (1) The commission shall provide preference to contracts
9 for renewable energy resources that are from a California supplier.

10 (2) For purposes of this paragraph, “California supplier” means
11 any sole proprietorship, partnership, joint venture, corporation, or
12 other business entity that manufactures eligible renewable energy
13 resources in California that are supplied to the renewable generator
14 and that meets either of the following criteria:

15 (A) The owners or policymaking officers are domiciled in
16 California and the permanent principal office, or place of business
17 from which the supplier’s trade is directed or managed, is located
18 in California.

19 (B) A business or corporation, including those owned by, or
20 under common control of, a corporation, that meets all of the
21 following criteria continuously during the five years prior to
22 providing eligible renewable energy resources to a renewable
23 generator:

24 (i) Owns and operates a manufacturing facility located in
25 California that builds or manufactures eligible renewable energy
26 resources.

27 (ii) Is licensed by the state to conduct business within the state.

28 (iii) Employs California residents for work within the state.

29 (3) For purposes of qualifying as a California supplier, a
30 distribution or sales management office or facility does not qualify
31 as a manufacturing facility.

32 (h) Procurement and administrative costs associated with
33 long-term contracts entered into by an electrical corporation for
34 eligible renewable energy resources pursuant to this chapter and
35 approved by the commission shall be deemed reasonable per se
36 by the commission, and shall be recoverable in rates.

37 (i) (1) If an electrical corporation fails to comply with a
38 commission order adopting a renewable energy procurement plan,
39 the commission shall exercise its authority pursuant to Section
40 2113 to require compliance. The commission shall enforce

1 comparable penalties on any retail seller that is not an electrical
2 corporation that fails to meet renewables procurement requirements
3 pursuant to Section 960.

4 *(2) Notwithstanding paragraph (1), if the commission determines*
5 *that a retail seller has made a commercially reasonable effort to*
6 *procure eligible renewable energy resources in an amount*
7 *sufficient to meet its renewables portfolio standard procurement*
8 *requirements, the commission may waive penalties for the retail*
9 *seller's failure to procure at least 20 percent of the electricity*
10 *delivered to its retail customers from eligible renewable energy*
11 *resources by December 31, 2010.*

12 963. (a) (1) The commission shall, by January 1, 2011, and
13 annually thereafter, establish and adopt a benchmark price for
14 electricity generated by an eligible renewable energy resource, for
15 terms corresponding to the length of contracts with renewable
16 generators, in consideration of the following:

17 (A) The long-term market price of electricity for all fixed-price
18 contracts determined pursuant to an electrical corporation's general
19 procurement activities as authorized by the commission.

20 (B) The value of different deliverability characteristics for
21 electricity, including baseload, peaking, dispatchable, firm, and
22 as-available electricity.

23 (C) The value of the carbon reductions from the eligible
24 renewable energy resources and the value of any other emissions
25 reductions that are not already accounted for pursuant to Section
26 40709 of the Health and Safety Code.

27 (2) The benchmark price shall not include any indirect expenses,
28 including imbalance energy charges, sale of excess energy,
29 decreased generation from existing resources, or transmission
30 upgrades.

31 (b) The commission shall, by January 1, 2011, for each electrical
32 corporation, establish a limitation on the total costs expended above
33 the benchmark prices determined in subdivision (a) for the
34 procurement of eligible renewable energy resources to achieve the
35 annual procurement targets established pursuant to this article.
36 The cost limitation shall not exceed ____ percent of the electrical
37 corporation's revenue requirement.

38 (c) If the cost limitation established by the commission for an
39 electrical corporation pursuant to subdivision (b) is insufficient to
40 support the total costs expended above the benchmark prices

1 determined pursuant to subdivision (a) for the procurement of
2 eligible renewable energy resources, the commission shall allow
3 the electrical corporation and other retail sellers to limit their
4 procurement to the quantity of eligible renewable energy resources
5 that can be procured at or below the benchmark prices.

6 (d) An electrical corporation may voluntarily propose to procure
7 eligible renewable energy resources at above the benchmark price
8 that are not counted toward the cost limitation. Any voluntary
9 procurement above the benchmark price shall be subject to
10 commission approval prior to the expense being recovered in rates.

11 964. (a) The commission may authorize a procurement entity
12 to enter into contracts on behalf of customers of a retail seller for
13 electricity generated by eligible renewable energy resources to
14 meet the retail seller's renewables portfolio standard procurement
15 requirements. The commission may not require any person or
16 corporation to act as a procurement entity or require any party to
17 purchase electricity generated by eligible renewable energy
18 resources from a procurement entity.

19 (b) The procurement entity shall, subject to review and approval
20 by the commission, recover reasonable administrative and
21 procurement costs through the retail rates of end-use customers
22 that are served by the procurement entity and are directly benefiting
23 from the procurement of electricity generated by eligible renewable
24 energy resources.

25 965. Construction, alteration, demolition, installation, and
26 repair work on an eligible renewable energy resource that receives
27 production incentives pursuant to Section 25742 of the Public
28 Resources Code, including work performed to qualify, receive, or
29 maintain production incentives is "public works" for the purposes
30 of Chapter 1 (commencing with Section 1720) of Part 7 of Division
31 2 of the Labor Code.

32
33 Article 3. Implementation of the Renewables Portfolio Standard
34 for Local Publicly Owned Electric Utilities
35

36 970. (a) In order to fulfill unmet long-term resource needs,
37 each governing body of a local publicly owned electric utility shall
38 be responsible for implementing and enforcing a renewables
39 portfolio standard that accomplishes all of the following:

1 (1) Procures at least 20 percent of the electricity delivered to
2 its retail customers from eligible renewable energy resources.

3 (2) Procures at least 25 percent of the electricity delivered to
4 its retail customers from eligible renewable energy resources by
5 December 31, 2015.

6 (3) Procures at least ~~35~~ 33 percent of the electricity delivered
7 to its retail customers from eligible renewable energy resources
8 by December 31, 2020.

9 ~~(4) Establishes a goal of procuring at least 50 percent of the~~
10 ~~electricity delivered to its retail customers from eligible renewable~~
11 ~~energy resources by December 31, 2035.~~

12 (b) *The governing board of the local publicly owned electric*
13 *utility shall adopt a program for the enforcement of this article on*
14 *or before January 1, 2011. The program shall be adopted at a*
15 *publicly noticed meeting offering all interested parties an*
16 *opportunity to comment. Not less than 30 days' notice shall be*
17 *given to the public of any meeting held for purposes of adopting*
18 *the program. Not less than 10 days' notice shall be given to the*
19 *public before any meeting is held to make a substantive change to*
20 *the program.*

21 (c) *A local publicly owned electric utility shall retain discretion*
22 *over the manner employed by the utility to meet the renewables*
23 *portfolio standard established pursuant to this section. The*
24 *discretionary authority of a local publicly owned electric utility*
25 *includes, but is not limited to, all of the following:*

26 (1) *The mix of eligible renewable energy resources procured*
27 *or owned by the utility and those additional generation resources*
28 *procured or owned by the utility for purposes of ensuring resource*
29 *adequacy and reliability.*

30 (2) *The prices paid by the utility for electricity generated by*
31 *eligible renewable energy resources.*

32 (3) *The reasonable costs incurred by the utility for renewable*
33 *energy resources owned by the utility.*

34 (d) (1) *Each local publicly owned electric utility shall annually*
35 *post notice, in accordance with Chapter 9 (commencing with*
36 *Section 54950) of Part 1 of Division 2 of Title 5 of the Government*
37 *Code, whenever its governing body will deliberate in public on its*
38 *renewable energy resources procurement plan.*

39 (2) *Contemporaneous with the posting of the notice of a public*
40 *meeting to consider the renewable energy resources procurement*

1 plan, the local publicly owned electric utility shall notify the Energy
2 Commission of the date, time, and location of the meeting in order
3 to enable the Energy Commission to post the information on its
4 Internet Web site. This requirement is satisfied if the local publicly
5 owned electric utility provides the uniform resource locator (URL)
6 that links to this information.

7 (3) Upon distribution to its governing body of information
8 related to its renewable energy resources procurement status and
9 future plans, for its consideration at a noticed public meeting, the
10 local publicly owned electric utility shall make that information
11 available to the public and shall provide the Energy Commission
12 with an electronic copy of the documents for posting on the Energy
13 Commission's Internet Web site. This requirement is satisfied if
14 the local publicly owned electric utility provides the uniform
15 resource locator (URL) that links to the documents or information
16 regarding other manners of access to the documents.

17 (e) Within 30 business days after a local publicly owned electric
18 utility executes a renewable energy resources procurement
19 contract, the local publicly owned electric utility shall submit, to
20 the Energy Commission, documentation that includes all of the
21 following:

22 (1) A description of the eligible renewable energy resource,
23 including the duration of the contract or electricity purchase
24 agreement.

25 (2) A description and identification of the electric generating
26 facility providing the eligible renewable energy resource under
27 the contract.

28 (3) An estimate of the percentage increase in the utility's total
29 retail sales of electricity from eligible renewable energy resources
30 that will result from the contract.

31 (f) A local publicly owned electric utility may use renewable
32 energy credits to meet its renewables portfolio standard
33 procurement requirements to the same extent and under the same
34 circumstances as a retail seller is authorized to use renewable
35 energy credits to meet the retail seller's renewables portfolio
36 standard procurement requirements.

37 ~~(b)~~

38 (g) Each local publicly owned electric utility shall report, on an
39 annual basis, to its customers and to the Energy Commission, the
40 following:

(1) Expenditures of public goods funds collected pursuant to Section 385 for eligible renewable energy resource development. Reports shall contain a description of programs, expenditures, and expected or actual results.

(2) The resource mix used to serve its customers by energy source.

(3) The utility's status in implementing a renewables portfolio standard pursuant to subdivision (a) and the utility's progress toward attaining the standard following implementation.

(h) Upon a determination by the Energy Commission that a local publicly owned electric utility has failed to comply with this article, the State Air Resources Board may impose penalties pursuant to Part 6 (commencing with Section 38580) of Division 25.5 of the Health and Safety Code.

Article 4. Duties of the Energy Commission in Implementing the Renewables Portfolio Standard

975. (a) The Energy Commission shall do all of the following:

(1) Design and implement an accounting system to verify compliance with the renewables portfolio standard by retail sellers, to ensure that electricity generated by an eligible renewable energy resource is counted only once for the purpose of compliance with regulatory or legal requirements of this state or any other state, for verifying retail product claims in this state or any other state or to certify renewable energy credits ~~produced by eligible renewable energy resources~~. In establishing the guidelines governing this accounting system, the Energy Commission shall collect data from electricity market participants that it deems necessary to verify compliance of retail sellers, in accordance with the requirements of this article and the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code). In seeking data from electrical corporations, the Energy Commission shall request data from the commission. The commission shall collect data from electrical corporations and remit the data to the Energy Commission within 90 days of the request.

(2) Certify eligible renewable energy resources that it determines meet the criteria described in subdivision (c) of Section 952, the

requirements of Section 953, and when applicable, the requirements of Section 954.

(3) Establish a system for tracking and verifying renewable energy credits that, through the use of independently audited data, verifies the generation and delivery of electricity associated with each renewable energy credit and protects against multiple counting of the same renewable energy credit. The Energy Commission shall consult with other western states and with the WECC in the development of this system. No electricity generated by an eligible renewable energy resource attributable to the use of nonrenewable fuels, beyond a de minimus quantity, as determined by the Energy Commission, shall result in the creation of a renewable energy credit.

(b) The Energy Commission may, as part of the integrated energy policy report adopted pursuant to Chapter 4 (commencing with Section 25300) of Division 15 of the Public Resources Code, recommend additional technologies and resources to be included in the definition of an eligible renewable energy resource for purposes of this chapter.

Article 5. Renewable Energy Credits

980. (a) Subject to the conditions of this article, a retail seller or local publicly owned electric utility may use renewable energy credits from eligible renewable energy resources *or nondeliverable renewable energy resources*, that are certified by the Energy Commission pursuant to Article 4, to comply with the renewables portfolio standard procurement requirements.

~~(b) (1) Subject to the conditions of this article and the limits of paragraphs (2), (3), and (4), a retail seller or local publicly owned electric utility may use renewable energy credits from renewable energy resources that meet all the criteria for eligibility except the deliverability requirement of paragraph (2) of subdivision (b) of Section 953, that are certified by the Energy Commission pursuant to Article 4, to comply with the renewables portfolio standard procurement requirements.~~

~~(2) From January 1, 2011, until the commission establishes a reduced amount pursuant to paragraph (4), a retail seller or local publicly owned electric utility may meet up to 50 percent of its renewables portfolio standard procurement requirements with~~

~~renewable energy credits that do not meet the deliverability requirement of paragraph (2) of subdivision (b) of Section 953.~~

~~(3) On and after January 1, 2018, a retail seller or local publicly owned electric utility may meet up to 10 percent of its renewables portfolio standard procurement requirements with renewable energy credits that do not meet the deliverability requirement of paragraph (2) of subdivision (b) of Section 953.~~

~~(4) The commission shall identify interim targets to gradually decrease the use of renewable energy credits from the levels authorized in paragraph (2) to those authorized in paragraph (3).~~

(b) A retail seller or local publicly owned electric utility may meet up to 10 percent of its renewables portfolio standard procurement requirements with renewable energy credits from nondeliverable renewable energy resources that are certified by the Energy Commission pursuant to Article 4.

(c) No retail seller or local publicly owned electric utility shall use renewable energy credits to comply with the renewables portfolio standard procurement requirements pursuant to subdivision (a) or (b) until the commission and the Energy Commission find that the tracking system established pursuant to paragraph (3) of subdivision ~~(b) of Section 970~~ *(a) of Section 975*, is operational, is capable of independently verifying the electricity generated by an eligible renewable energy resource and delivered ~~to the retail seller or local publicly owned electric utility~~, and can ensure that renewable energy credits shall not be double counted for the purposes of compliance with regulatory or legal requirements of this state or any other state, or for verifying retail product claims in this state or any other state.

(d) A renewable energy credit shall be counted only once for the purposes of compliance with regulatory or legal requirements of this state or any other state, or for verifying retail product claims in this state or any other state, except that a renewable energy credit may be used by a retail seller or local publicly owned electric utility for both compliance with any federal renewable energy portfolio requirement and for compliance with the renewables portfolio standard pursuant to this chapter.

(e) A renewable energy credit shall either be used for purposes of compliance with regulatory or legal requirements of this state or any other state, or shall expire within 18 months of the date of purchase by the retail seller or local publicly owned utility.

(f) No renewable energy credits shall be created for electricity generated pursuant to any electricity purchase contract with a retail seller or a local publicly owned electric utility executed before January 1, 2005, unless the contract contains explicit terms and conditions specifying the ownership or disposition of those credits. Deliveries under those contracts shall be tracked through the accounting system described in paragraph (3) of subdivision ~~(b) of Section 970~~ *(a) of Section 975* and included in the baseline quantity of eligible renewable energy resources of a purchasing retail seller pursuant to ~~subdivision (b) of Section 960~~ *to Article 2, or a local publicly owned electric utility pursuant to Article 3.*

(g) No renewable energy credits shall be created for electricity generated under any electricity purchase contract with a qualifying facility executed after January 1, 2005, pursuant to the federal Public Utility Regulatory Policies Act of 1978 (Public Law 95-617). Deliveries under the electricity purchase contracts shall be tracked through the accounting system described in paragraph (3) of subdivision ~~(b) of Section 970~~ *(a) of Section 975* and count toward the renewables portfolio standard procurement requirements of the purchasing retail seller or local publicly owned electric utility.

(h) The commission shall allow an electrical corporation to recover in rates the reasonable costs of purchasing renewable energy credits to meet its renewables portfolio standard procurement requirements.

(i) All revenues received by an electrical corporation for the sale of a renewable energy credit shall be credited to the benefit of ratepayers.

Article 6. Small-Scale Renewable Distributed Generation Facilities

985. The Legislature finds and declares all of the following:

(a) The state should encourage the reduction of electricity demand at customer sites and increase generating capacity in order to meet the demand for electricity.

(b) Some tariff structures and regulatory structures are presenting a barrier to meeting the requirements and goals of this chapter.

(c) Small projects of less than five megawatts that are otherwise eligible renewable energy resources may face difficulties in

1 participating in competitive solicitations under the California
2 Renewables Portfolio Standard Program (Chapter 8.6 (commencing
3 with Section 25740) of Division 15 of the Public Resources Code).

4 (d) A tariff that allows customers of electrical corporations and
5 local publicly owned electric utilities to sell electricity generated
6 by renewable technologies would address these barriers and could
7 assist in the achievement of the renewables portfolio standard and
8 the state's goals for reducing emissions of greenhouse gases
9 pursuant to the California Global Warming Solutions Act of 2006
10 (Division 25.5 (commencing with Section 38500) of the Health
11 and Safety Code).

12 (e) A tariff for electricity generated by renewable technologies
13 should recognize the environmental attributes of the renewable
14 technology, the characteristics that contribute to peak electricity
15 demand reduction, reduced transmission congestion, avoided
16 transmission and distribution improvements, and in a manner that
17 accelerates the deployment of renewable energy resources.

18 (f) It is the policy of this state and the intent of the Legislature
19 to encourage the distributed generation of electricity from
20 small-scale eligible renewable energy resources at the sites where
21 the electricity will be utilized.

22 986. As used in this article, "small-scale renewable distributed
23 generation facility" means an electric generation facility, owned,
24 leased, or rented by a retail customer of a retail seller or local
25 publicly owned electric utility, that meets all of the following
26 criteria:

27 (a) Has an effective capacity of not more than five megawatts
28 and is located on property owned or under the control of the
29 customer. Premises that are leased by the customer are under the
30 control of the customer for purposes of this requirement. It is not
31 required that the customer own the electric generation facility.

32 (b) Is interconnected and operates in parallel with the electric
33 transmission and distribution grid.

34 (c) Is strategically located and interconnected to the electric
35 transmission system in a manner that optimizes the deliverability
36 of electricity generated at the facility to load centers.

37 (d) Is an eligible renewable energy resource.

38 987. (a) Every electrical corporation shall file with the
39 commission a standard tariff for electricity purchased from an
40 electric generation facility.

(b) The tariff shall provide for a base payment rate for every kilowatthour of electricity purchased from a small-scale renewable distributed generation facility at the benchmark price as determined by the commission pursuant to Section 963 for a period of 10, 15, or 20 years, as authorized by the commission. The commission may adjust the payment rate to reflect the value of every kilowatthour of electricity generated on a time-of-delivery basis and any other attributes of renewable generation. The commission shall ensure that ratepayers that do not receive service pursuant to the tariff are indifferent, with respect to rates and charges, to whether a ratepayer with a small-scale renewable distributed generation facility receives service pursuant to the tariff.

(c) Every electrical corporation shall make this tariff available to customers that own, lease, or rent a small-scale renewable distributed generation facility within the service territory of the electrical corporation, upon request, on a first-come-first-served basis, until the combined statewide cumulative rated generating capacity of those facilities reaches 500 megawatts. An electrical corporation may make the terms of the tariff available to customers in the form of a standard contract subject to commission approval. Each electrical corporation shall only be required to offer service or contracts under this section until that electrical corporation meets its proportionate share of the 500 megawatts based on the ratio of its peak demand to the total statewide peak demand.

(d) Every kilowatthour of electricity purchased from the electric generation facility shall count toward the electrical corporation's renewables portfolio standard annual procurement targets for purposes of this chapter.

(e) The electricity generated by a small-scale renewable distributed generation facility, consistent with Section 380, shall count toward the electrical corporation's resource adequacy requirement.

(f) (1) The commission, in consultation with the Independent System Operator, shall monitor and examine the impact on the transmission and distribution grid and any effects upon ratepayers resulting from small-scale renewable distributed generation facilities operating pursuant to a tariff or contract approved by the commission pursuant to this section.

(2) The commission shall establish performance standards for any small-scale renewable distributed generation facility that has

1 a capacity greater than one megawatt to ensure that those facilities
2 are constructed, operated, and maintained to generate the expected
3 annual net production of electricity and do not impact system
4 reliability.

5 (g) (1) The commission may modify or adjust the requirements
6 of this section for any electrical corporation with less than 100,000
7 service connections, as individual circumstances merit.

8 (2) The commission may reduce the five megawatt capacity
9 limitation of subdivision (a) of Section 986, if the commission
10 finds that a reduced capacity limitation is necessary to maintain
11 system reliability within that electrical corporation's service
12 territory.

13 (h) (1) A customer electing to receive service under a tariff or
14 contract approved by the commission shall continue to receive
15 service under the tariff or contract until either of the following
16 occurs:

17 (A) The customer no longer meets the eligibility requirements
18 for receiving service pursuant to the tariff or contract.

19 (B) The period of service established by the commission
20 pursuant to subdivision (b) is completed.

21 (2) Upon completion of the period of service established by the
22 commission pursuant to subdivision (b), the customer may elect
23 to renew receiving service pursuant to the tariff or contract
24 approved by the commission for the period of time then established
25 by the commission, or may elect to receive service under another
26 then applicable tariff.

27 988. (a) A local publicly owned electric utility that sells
28 electricity at retail to 75,000 or more customers shall adopt a
29 standard tariff for electricity purchased from a small-scale
30 renewable distributed generation facility.

31 (b) The governing board of the local publicly owned electric
32 utility shall ensure that the tariff adopted pursuant to subdivision
33 (b) reflects the value of every kilowatthour of electricity generated
34 on a time-of-delivery basis. The governing board may adjust this
35 value based on the other attributes of renewable generation. The
36 governing board shall ensure that ratepayers that do not receive
37 service pursuant to the tariff are indifferent, with respect to rates
38 and charges, to whether a ratepayer with a small-scale renewable
39 distributed generation facility receives service pursuant to the
40 tariff.

(c) A local publicly owned electric utility that sells electricity at retail to 75,000 or more customers shall make the tariff available to customers that own, lease, or rent a small-scale renewable distributed generation facility within the service territory of the utility, upon request, on a first-come-first-served basis, until the combined statewide cumulative rated generating capacity of those facilities reaches 250 megawatts. A local publicly owned electric utility may make the terms of the tariff available to customers in the form of a standard contract. A local publicly owned electric utility is only required to offer service or contracts under this section until the utility meets its proportionate share of the 250 megawatts based on the ratio of its peak demand to the total statewide peak demand.

(d) Every kilowatthour of electricity purchased from ~~the~~ a small-scale renewable distributed generation facility shall count toward the local publicly owned electric utility's renewables portfolio standard procurement requirements for purposes of this chapter.

(e) A local publicly owned electric utility may establish performance standards for any small-scale renewable distributed generation facility that has a capacity greater than one megawatt to ensure that those facilities are constructed, operated, and maintained to generate the expected annual net production of electricity and do not impact system reliability.

(f) A local publicly owned electric utility may reduce the five megawatt capacity limitation of subdivision (a) of Section 986, if the utility finds that a reduced capacity limitation is necessary.

Article 7. Renewables Infrastructure Authority

990. (a) The Legislature finds and declares that in order to furnish the citizens of California with a reliable and affordable supply of electricity that integrates electricity generated from eligible renewable energy resources consistent with the renewables portfolio standard, and to protect the public health, welfare, and safety, the state needs to finance, purchase, lease, own, operate, acquire, or otherwise provide financial assistance for public and private facilities for the generation and transmission of electricity generated from eligible renewable energy resources.

(b) As used in this article, the following terms have the following meanings:

(1) “Authority” means the Renewables Infrastructure Authority established pursuant to Section 991 and any board, commission, department, or officer succeeding to the functions thereof, or to whom the powers conferred upon the authority by this article shall be given by law.

(2) “Board” means the Board of Directors of the Renewables Infrastructure Authority.

(3) “Bond purchase agreement” means a contractual agreement executed between the authority and an underwriter or underwriters and, where appropriate, a participating party, whereby the authority agrees to sell bonds issued pursuant to this article.

(4) “Bonds” means bonds, including structured, senior, and subordinated bonds or other securities; loans; notes, including bond revenue or grant anticipation notes; certificates of indebtedness; commercial paper; floating rate and variable maturity securities; and any other evidences of indebtedness or ownership, including certificates of participation or beneficial interest, asset backed certificates, or lease-purchase or installment purchase agreements, whether taxable or excludable from gross income for state and federal income taxation purposes.

(5) “Cost,” as applied to a program, project, or portion thereof financed under this article, means all or any part of the cost of construction, improvement, repair, reconstruction, renovation, and acquisition of all lands, structures, improved or unimproved real or personal property, rights, rights-of-way, franchises, licenses, easements, and interests acquired or used for a project; the cost of demolishing or removing or relocating any buildings or structures on land so acquired, including the cost of acquiring any lands to which the buildings or structures may be moved; the cost of all machinery and equipment; financing charges; the costs of any environmental mitigation; the costs of issuance of bonds or other indebtedness; interest prior to, during, and for a period after, completion of the project, as determined by the authority; provisions for working capital; reserves for principal and interest; reserves for reduction of costs for loans or other financial assistance; reserves for maintenance, extension, enlargements, additions, replacements, renovations, and improvements; and the cost of architectural, engineering, financial, appraisal, and legal

1 services, plans, specifications, estimates, administrative expenses,
2 and other expenses necessary or incidental to determining the
3 feasibility of any project, enterprise, or program or incidental to
4 the completion or financing of any project or program.

5 (6) “Electric transmission line” means any electrical powerline
6 carrying electricity from a powerplant or renewable energy
7 designation zone located within the state to a point of junction
8 with any interconnected transmission system. Electric transmission
9 line may include any high-voltage electric transmission line
10 pursuant to Section 25330 of the Public Resources Code, and any
11 replacement on the site of existing electrical powerlines with
12 electrical powerlines equivalent to those existing electrical
13 powerlines or the placement of new or additional conductors,
14 insulators, or accessories related to those electrical powerlines on
15 supporting structures in existence on January 1, 2010, or certified
16 pursuant to this article. Electric transmission line may also include
17 a remote resource interconnection line to accommodate proposed
18 location-constrained generation in a designated renewable energy
19 designation zone.

20 (7) “Enterprise” means a revenue-producing improvement,
21 building, system, plant, works, facilities, or undertaking used for
22 or useful for the generation or production of electricity for lighting,
23 heating, and power for public or private uses. Enterprise includes,
24 but is not limited to, all parts of the enterprise, all appurtenances
25 to it, lands, easements, rights in land, water rights, contract rights,
26 franchises, buildings, structures, improvements, equipment, and
27 facilities appurtenant or relating to the enterprise.

28 (8) “Feasible” means capable of being accomplished in a
29 successful manner within a reasonable period of time, taking into
30 account economic, environmental, social, and technological factors.

31 (9) “Financial assistance” in connection with a project, enterprise
32 or program, includes, but is not limited to, any combination of
33 grants, loans, the proceeds of bonds issued by the authority,
34 insurance, guarantees or other credit enhancements or liquidity
35 facilities, and contributions of money, property, labor, or other
36 things of value, as may be approved by resolution of the board;
37 the purchase or retention of authority bonds, the bonds of a
38 participating party for their retention or for sale by the authority,
39 or the issuance of authority bonds or the bonds of a special purpose
40 trust used to fund the cost of a project or program for which a

1 participating party is directly or indirectly liable, including, but
2 not limited to, bonds, the security for which is provided in whole
3 or in part pursuant to the powers granted by this division; bonds
4 for which the authority has provided a guarantee or enhancement;
5 or any other type of assistance determined to be appropriate by
6 the authority.

7 (10) "Fund" means the Renewables Infrastructure Authority
8 Fund created pursuant to Section 995.

9 (11) "Loan agreement" means a contractual agreement executed
10 between the authority and a participating party that provides that
11 the authority will loan funds to the participating party and that the
12 participating party will repay the principal and pay the interest and
13 redemption premium, if any, on the loan.

14 (12) "Participating party" means either of the following:

15 (A) Any person, company, corporation, partnership, firm,
16 federally recognized California Indian tribe, or other entity or
17 group of entities, whether organized for profit or not for profit,
18 engaged in business or operations within the state and that applies
19 for financial assistance from the authority for the purpose of
20 implementing a project or program in a manner prescribed by the
21 authority.

22 (B) Any subdivision of the state or local government, including,
23 but not limited to, departments, agencies, commissions, cities,
24 counties, nonprofit corporations, special districts, assessment
25 districts, and joint powers authorities within the state or any
26 combination of these subdivisions, that has, or proposes to acquire,
27 an interest in a project, or that operates or proposes to operate a
28 program and that makes application to the authority for financial
29 assistance in a manner prescribed by the authority.

30 (13) "Program" means a loan program that provides financial
31 assistance to a participating party to use for the purchase or lease
32 of eligible renewable energy resources.

33 (14) "Project" means plants, facilities, equipment, appliances,
34 structures, expansions, and improvements within the state that
35 serve the purposes of this article as approved by the authority, and
36 all activities and expenses necessary to initiate and complete those
37 projects.

38 (15) "Renewable energy designation zone" means the
39 geographic area necessary to accommodate the construction and
40 operation of one or more powerplants or other form of generation

1 that operate using an “eligible renewable energy resource” as
2 defined in Section 952 and where the backup fuel, such as oil and
3 natural gas, does not, in the aggregate, exceed 10 percent of the
4 total energy output of the facility during any calendar year period.
5 A renewable energy designation zone shall accommodate existing
6 land uses and land uses identified in local, general, or specific
7 plans, and avoid environmental constraints or mitigate potential
8 environmental impacts.

9 (16) “Revenues” means all receipts, purchase payments, loan
10 repayments, lease payments, rents, fees and charges, and all other
11 income or receipts derived by the authority from an enterprise, or
12 by the authority or a participating party from any other financing
13 arrangement undertaken by the authority or a participating party,
14 including, but not limited to, all receipts from a bond purchase
15 agreement, and any income or revenue derived from the investment
16 of any money in any fund or account of the authority or a
17 participating party.

18 (17) “State” means the State of California.

19 (18) “Transmission corridor zone” means the geographic area
20 necessary to accommodate the construction and operation of one
21 or more high-voltage electric transmission lines. A transmission
22 corridor zone shall not be more than 1,500 feet in width unless
23 required to accommodate existing land uses and land uses identified
24 in local, general, or specific plans, or to avoid environmental
25 constraints or mitigate potential environmental impacts.

26 (c) Any action taken pursuant to this division is exempt from
27 the Administrative Procedure Act, as defined in Section 11370 of
28 the Government Code.

29 991. (a) There is hereby created in the state government the
30 Renewables Infrastructure Authority, which shall be responsible
31 for administering this article. The authority shall implement the
32 purposes of this chapter and to that end, finance projects and
33 programs in pursuant to this article, all to the mutual benefit of the
34 people of the state and to protect their health, welfare, and safety.

35 (b) The authority shall be governed by a nine-member board of
36 directors that shall consist of the following persons:

- 37 (1) The Secretary for Resources.
- 38 (2) Secretary for Environmental Protection.
- 39 (3) Chair of the Energy Commission.
- 40 (4) President of the commission.

1 (5) A member of the public appointed by the Governor and
2 subject to confirmation by the Senate. This member shall have
3 considerable experience in power generation, natural gas
4 transportation or storage, energy conservation, financing, or
5 ratepayer advocacy.

6 (6) The State Treasurer.

7 (7) The president of the Independent System Operator governing
8 board.

9 (8) A designee of the Senate Pro Tem, who shall be a nonvoting
10 member.

11 (9) A designee of the Speaker of the Assembly, who shall be a
12 nonvoting member.

13 (c) A quorum is necessary for any action to be taken by the
14 board. Five of the members shall constitute a quorum, and the
15 affirmative vote of four board members shall be necessary for any
16 action to be taken by the board.

17 (d) (1) The chairperson of the board shall be appointed by the
18 Governor.

19 (2) Except as provided in this subdivision, the members of the
20 board shall serve without compensation, but shall be reimbursed
21 for actual and necessary expenses incurred in the performance of
22 their duties to the extent that reimbursement for these expenses is
23 not otherwise provided or payable by another public agency, and
24 shall receive one hundred dollars (\$100) for each full day of
25 attending meetings of the authority.

26 991.1. (a) The authority is authorized and empowered to do
27 any of the following:

28 (1) Adopt an official seal.

29 (2) Sue and be sued in its own name.

30 (3) Employ or contract with officers and employees to
31 administer the authority. The authority may contract for the services
32 of a chief executive officer, who shall serve at the pleasure of the
33 board. If the chief executive officer contracts for the services of
34 any other officer or employee, the contract shall be subject to the
35 approval of the board.

36 (4) Exercise the power of eminent domain.

37 (5) Adopt rules and regulations for the regulation of its affairs
38 and the conduct of its business.

39 (6) Do all things generally necessary or convenient to carry out
40 its powers and purposes under this article.

(b) The chief executive officer shall manage and conduct the business and affairs of the authority and the fund subject to the direction of the board. Except as otherwise provided in this section, the board may assign to the executive director, by resolution, those duties generally necessary or convenient to carry out its powers and purposes under this article. The chief executive office may designate a liaison to the federal government to facilitate, when necessary, the implementation of its powers and duties. Any action involving final approval of any bonds, notes, loans, or other financial assistance shall require the approval of a majority of the members of the board.

991.2. (a) The authority's operating budget shall be subject to review and appropriation in the annual Budget Act. For purposes of this section, the authority's operating budget shall include the costs of personnel, administration, and overhead.

(b) The authority shall, on or before January 1 of each year, prepare and submit to the Governor, the Chairperson of the Joint Legislative Budget Committee, and the chairperson of the committee in each house that considers appropriations, a report regarding its activities and expenditures pursuant to this article.

(c) The Bureau of State Audits shall perform an evaluation of the effectiveness of the authority's efforts in achieving its purposes as described in Section 991.3. The evaluation shall include recommendations as to whether there is a continued need for the authority beyond January 1, 2016. The evaluation shall be submitted to the Governor and the Legislature on or before January 1, 2014.

991.3. The authority may only exercise its powers pursuant to this article for the following purposes:

(a) Establish, finance, purchase, lease, own, operate, acquire, or construct generating facilities that are eligible renewable energy resources and other projects and enterprises to facilitate the state's renewable energy goals, on its own or through agreements with public and private third parties or joint ventures with public or private entities, or provide financial assistance for projects or programs by participating parties, to supplement private and public sector supplies of electricity, taking into account generation facilities in operation or under development as of the effective date of this section, and to ensure a sufficient and reliable supply of electricity for California's consumers at just and reasonable rates.

1 (b) Finance programs, administered by the Energy Commission,
2 the commission, and other approved participating parties for
3 consumers and businesses to invest in cost-effective energy
4 efficient appliances, eligible renewable energy resources, and other
5 programs that will reduce the demand for energy in California or
6 meet that demand through generation from eligible renewable
7 energy resources.

8 (c) Achieve an adequate energy reserve capacity in California.

9 (d) Provide financing for owners of aged, inefficient, eligible
10 renewable energy resources to perform necessary retrofits to
11 improve the efficiency and environmental performance of those
12 resources.

13 991.4. The authority may enter into any agreement or contract,
14 execute any instrument, and perform any act or thing necessary or
15 convenient to, directly or indirectly, secure the authority's bonds
16 or a participating party's obligations to the authority, including,
17 but not limited to, bonds of a participating party purchased by the
18 authority for retention or sale, with funds or moneys that are legally
19 available and that are due or payable to the participating party by
20 reason of any grant, allocation, apportionment, or appropriation
21 of the state or agencies thereof, to the extent that the Controller
22 shall be the custodian at any time of these funds or moneys, or
23 with funds or moneys that are or will be legally available to the
24 participating party, the authority, or the state or any agencies
25 thereof by reason of any grant, allocation, apportionment, or
26 appropriation of the federal government or agencies thereof; and
27 in the event of written notice that the participating party has not
28 paid or is in default on its obligations to the authority, direct the
29 Controller to withhold payment of those funds or moneys from
30 the participating party over which it is or will be custodian and to
31 pay the same to the authority or its assignee, or direct the state or
32 any agencies thereof to which any grant, allocation, apportionment,
33 or appropriation of the federal government or agencies thereof is
34 or will be legally available to pay the same upon receipt to the
35 authority or its assignee, until the default has been cured and the
36 amounts then due and unpaid have been paid to the authority or
37 its assignee, or until arrangements satisfactory to the authority
38 have been made to cure the default.

39 991.5. (a) The fiscal powers granted to the authority by this
40 article may be exercised without regard or reference to any other

1 department, division, or agency of the state, except the Legislature
2 or as otherwise stated in this article. This article shall be deemed
3 to provide an alternative method of doing the things authorized by
4 this article, and shall be regarded as supplemental and additional
5 to powers conferred by other laws.

6 (b) No member of the board or any person executing bonds of
7 the authority pursuant to this article shall be personally liable on
8 the bonds or subject to any personal liability or accountability by
9 reason of the issuance thereof.

10 (c) All expenses incurred in connection with any enterprise or
11 project in carrying out this article shall be payable solely from
12 funds provided under the authority of this article and no liability
13 or obligation shall be imposed upon the State of California and,
14 none shall be incurred by the authority beyond the extent to which
15 moneys shall have been provided under this article. Under no
16 circumstances shall the authority create any debt, liability, or
17 obligation on the part of the State of California in connection with
18 any enterprise or project payable from any source whatsoever other
19 than the moneys provided under this article.

20 991.6. In connection with an enterprise, the authority may do
21 any or all of the following:

22 (a) Acquire any enterprise by gift, purchase, or eminent domain
23 as necessary to achieve the purposes of the authority pursuant to
24 Sections 991.3 and 992.1.

25 (b) Construct or improve any enterprise. By gift, lease, purchase,
26 eminent domain, or otherwise, it may acquire any real or personal
27 property, for an enterprise, except that no property of a state public
28 body may be acquired without its consent. The authority may sell,
29 lease, exchange, transfer, assign, or otherwise dispose of any real
30 or personal property or any interest in such property. It may lay
31 out, open, extend, widen, straighten, establish, or change the grade
32 of any real property or public rights-of-way necessary or convenient
33 for any enterprise.

34 (c) Operate, maintain, repair, or manage all or any part of any
35 enterprise, including the leasing for commercial purposes of surplus
36 space or other space that is not economic to use for such enterprise.

37 (d) Adopt reasonable rules or regulations for the conduct of the
38 enterprise.

39 (e) Prescribe, revise, and collect charges for the services,
40 facilities, or energy furnished by the enterprise. The charges shall

1 be established and adjusted so as to provide funds sufficient with
2 other revenues and moneys available therefor, if any, to (1) pay
3 the principal of, and interest on, outstanding bonds of the authority
4 financing such enterprise as the same shall become due and
5 payable, (2) create and maintain reserves, including, without
6 limitation, operating and maintenance reserves and reserves
7 required or provided for in any resolution authorizing, or trust
8 agreement securing such bonds, and (3) pay operating and
9 administrative costs of the authority.

10 (f) Execute all instruments, perform all acts, and do all things
11 necessary or convenient in the exercise of the powers granted by
12 this article.

13 991.7. In connection with a project, the authority may do any
14 or all of the following:

15 (a) Determine the location and character of any project to be
16 financed under this article.

17 (b) Acquire, construct, enlarge, remodel, renovate, alter,
18 improve, furnish, equip, own, maintain, manage, repair, operate,
19 lease as lessee or lessor, or regulate any project to be financed
20 under this article.

21 (c) Contract with any participating party for the construction of
22 a project by such participating party.

23 (d) Enter into leases and agreements, as lessor or lessee, with
24 any participating party relating to the acquisition, construction,
25 and installation of any project, including real property, buildings,
26 equipment, and facilities of any kind or character.

27 (e) Establish, revise, charge and collect rates, rents, fees, and
28 charges for a project. The rates, rents, fees, and charges shall be
29 established and adjusted in respect to the aggregate rates, rents,
30 fees, and charges from all projects so as to provide funds sufficient
31 with other revenues and moneys available therefor, if any, to (1)
32 pay the principal of and interest on outstanding bonds of the
33 authority financing the project as the same shall become due and
34 payable, (2) create and maintain reserves, including, without
35 limitation, operating and maintenance reserves and reserves
36 required or provided for in any resolution authorizing, or trust
37 agreement securing the bonds, and (3) pay operating and
38 administrative costs of the authority.

39 (f) Enter into contracts of sale with any participating party
40 covering any project financed by the authority.

1 (g) As an alternative to leasing or selling a project to a
2 participating party, finance the acquisition, construction, or
3 installation of a project by means of a loan to the participating
4 party.

5 (h) Execute all instruments, perform all acts, and do all things
6 necessary or convenient in the exercise of the powers granted by
7 this article.

8 991.8. In connection with the purposes of this article, the
9 authority may charge and equitably apportion among participating
10 parties or other public or private entities the authority's
11 administrative costs and expenses, including operating and
12 financing-related costs incurred in connection with an enterprise
13 or a project. The authority shall recover those costs that are related
14 to one of the authority's own enterprises or projects, in which case
15 costs shall be included in the cost of generating and transmitting
16 that electricity.

17 992. (a) All generation-related projects and enterprises financed
18 pursuant to this article shall provide electricity to the consumers
19 of this state at the cost of generating that electricity, including the
20 costs of financing those projects or enterprises. To the extent that
21 electricity is not needed in the state, or that it is financially
22 advantageous to California consumers, the electricity may be sold
23 outside the state at just and reasonable rates.

24 (b) If a participating party is an electrical corporation, the
25 commission shall determine the cost of generating electricity and
26 to which entities the electricity is sold.

27 (c) If a participating party is a local publicly owned electric
28 utility seeking to provide electricity to consumers in its service
29 territory, the governing board of that utility shall determine the
30 cost of generating electricity and to which entities the electricity
31 is sold.

32 (d) If neither subdivision (b) nor subdivision (c) applies, the
33 authority shall determine the cost of generating electricity and to
34 which entities the electricity is sold, consistent with subdivision
35 (a).

36 992.1. In addition to the other powers provided in this article,
37 the activities of the authority under this article are intended to
38 supplement private and public sector supplies of electricity
39 generated from eligible renewable energy resources, taking into
40 account generation facilities in operation or under development

1 as of January 1, 2010, consistent with achieving reasonable energy
2 capacity reserves.

3 992.2. The authority shall have the authority to receive and act
4 on applications for financial assistance from renewable generators
5 who commit to undertake capacity expansion through facility
6 retrofits, new construction, or both, that will improve the efficiency
7 and environmental performance of generation facilities that are
8 eligible renewable energy resources.

9 992.4. (a) The authority may not invest in any nuclear facilities
10 or develop additional hydroelectric facilities without first receiving
11 specific statutory authorization to do so on a project-by-project
12 basis.

13 (b) All generation facilities constructed or improved pursuant
14 to this article shall comply with Chapter 1 (commencing with
15 Section 1720) of Part 7 of Division 2 of the Labor Code.

16 992.5. (a) If the authority determines that additional electric
17 generation supply is required to meet the purposes of this chapter,
18 the authority may undertake the following activities to ensure that
19 the authority, or any participating party, is able to build, own, and
20 operate generation facilities as part of a least cost electric supply
21 policy:

22 (1) (A) Identify suitable sites or renewable energy designation
23 zones for the construction of generation facilities, taking into
24 account fuel supply, interconnection, community, feasibility, and
25 environmental factors.

26 (B) The authority may designate a renewable energy designation
27 zone on its own motion, by a motion by the Energy Commission,
28 or by an application of a person who plans to construct an eligible
29 renewable energy resource within the state. The designation of a
30 renewable energy designation zone shall serve to identify a feasible
31 region where one or more generation facilities that are eligible
32 renewable energy resources may be built that are consistent with
33 the state's needs and objectives as set forth in the Renewables
34 Investment Plan adopted pursuant to Section 994.

35 (C) In addition to designating zones, the authority may rank
36 renewable energy designation zones based on the following criteria:

37 (i) Total capacity of generation projects that are in the
38 Independent System Operator generation queue for each of the
39 renewable energy designation zones.

40 (ii) Fuel diversity.

- 1 (iii) Distance to the nearest possible Independent System
- 2 Operator transmission bulk facility.
- 3 (iv) Potential viable transmission route.
- 4 (v) Order of magnitude of transmission cost per megawatt for
- 5 the designated renewable energy designation zone to deliver
- 6 electricity from renewable generators to the load centers.
- 7 (vi) Realistic commercial operating dates for
- 8 location-constrained projects and the transmission interconnection
- 9 facilities.
- 10 (vii) Potential impact on the transmission access charge.
- 11 (viii) Potential operational, congestion, and reliability benefits
- 12 of the facility.
- 13 (ix) Stranded cost risk and potential impact.
- 14 (x) Alternative means of transmission access from the renewable
- 15 energy designation zone to the Independent System Operator grid.
- 16 (D) The authority shall arrange for the publication of a summary
- 17 of any application made for designation in a newspaper of general
- 18 circulation in each county where the proposed renewable energy
- 19 designation zone would be located, and shall notify all property
- 20 owners within, or adjacent to, the renewable energy designation
- 21 zone. The authority shall transmit a copy of the application for
- 22 designation to all cities, counties, and state and federal agencies
- 23 having an interest in the proposed renewable energy designation
- 24 zone. The authority shall publish the application for designation
- 25 on its Internet Web site, and notify members of the public that the
- 26 application is available on the authority's Internet Web site.
- 27 (E) As soon as practicable after the authority designates a
- 28 renewable energy designation zone, it shall do both of the
- 29 following:
- 30 (i) Post a copy of its decision on its Internet Web site and cause
- 31 a summary of the notice to be published in a newspaper of general
- 32 circulation in each county in which the renewable energy
- 33 designation zone and related facilities, or any part thereof,
- 34 designated in the notice are proposed to be located.
- 35 (ii) Send a copy of its decision, including a description of the
- 36 renewable energy designation zone to each affected city, county,
- 37 state agency, and federal agency, and notify property owners within
- 38 or adjacent to the renewable energy designation zone of the
- 39 availability of the decision on the authority's Internet Web site.

1 (F) After receiving notice from the authority regarding the
2 designation or revision of a renewable energy designation zone
3 within its jurisdiction, each city or county shall consider the
4 designated zone when making a determination regarding a land
5 use change within or adjacent to the zone that could affect its
6 continuing viability to accommodate generation facilities, related
7 transmission lines, transmission corridor zones, or other facilities
8 appurtenant to the designated zone. Upon receiving the authority's
9 notification of a proposed renewable energy designation zone, a
10 city or county may request a fee from the authority to cover the
11 actual added costs of this review and the authority shall pay this
12 amount to the city or county.

13 (G) After the authority designates a renewable energy
14 designation zone, it shall identify that zone in its subsequent
15 Renewables Investment Plans adopted pursuant to Section 994.
16 The Energy Commission shall display the renewable energy
17 designation zone in the strategic plans adopted pursuant to Section
18 25324 of the Public Resources Code.

19 (H) If, upon regular review or at any other time, the authority
20 finds that a renewable energy designation zone designation is no
21 longer needed, the authority shall revise or repeal the designation
22 and, as soon as practicable, notify the affected cities, counties,
23 state and federal agencies, and property owners within, or adjacent
24 to, the renewable energy designation zone.

25 (2) (A) Notwithstanding Chapter 6 (commencing with Section
26 25500) of Division 15 of the Public Resources Code, certify all
27 sites and related facilities for all generation facilities that are
28 eligible renewable energy resources, and facilities appurtenant
29 thereto, that are within the state that have a minimum generating
30 capacity of 5 megawatts, including, but not limited to, all
31 generation facilities in a designated renewable energy designation
32 zone, including new sites and related facilities and changes or
33 additions to an existing facility.

34 (B) The issuance of a certificate by the authority shall be in lieu
35 of any permit, certificate, or similar document required by any
36 state, local, or regional agency or federal agency to the extent
37 permitted by federal law, for use of the site and related facilities,
38 and shall supersede any applicable statute, ordinance, or regulation
39 of any state, local, or regional agency, or federal agency to the
40 extent permitted by federal law.

1 (C) The authority shall determine within 30 days of the
2 application to construct a generation facility within a designated
3 renewable energy designation zone whether the application is
4 complete.

5 (D) If the notice or application is determined to be complete,
6 the authority shall conduct all applicable public and community
7 involvement processes. After the conclusion of hearings, and no
8 later than 180 days after the date of determination of whether the
9 application is complete, the authority shall issue a proposed
10 decision that contains its findings and conclusions regarding all
11 of the following matters:

12 (i) Conformity of the proposed generation facility and related
13 facilities with the Renewables Investment Plan adopted pursuant
14 to Section 994.

15 (ii) Suitability of the proposed generation facility and related
16 facilities with respect to environmental, public health and safety,
17 land use, economic, and transmission-system impacts.

18 (iii) Mitigation measures and alternatives as may be needed to
19 protect environmental quality, public health and safety, the state's
20 electrical transmission grid, or any other relevant matter.

21 (iv) Other factors that the authority considers relevant.

22 (E) The authority shall issue its final decision on certification
23 within six months of the date the authority determined that the
24 application was complete.

25 (3) Secure rights to the sites or renewable energy designation
26 zones identified, including, but not limited to, fee simple
27 acquisition, leaseholds, or options.

28 (4) Conduct any studies that may be necessary to construct and
29 operate generation facilities at the site that are eligible renewable
30 energy resources, including, but not limited to, environmental,
31 engineering, or feasibility studies. The designation of a renewable
32 energy designation zone is subject to the California Environmental
33 Quality Act (Division 13 (commencing with Section 21000) of
34 the Public Resources Code). The authority shall be the lead agency
35 for all generation projects proposed in the designated zone. When
36 deemed feasible, the authority shall prepare a master environmental
37 impact report for a designated zone.

38 (5) Conduct, in coordination with the Energy Commission, all
39 applicable public and community involvement processes.

1 (6) Apply for permits, licenses, or other local, state, or federal
2 approvals, including, but not limited to, compliance with the
3 applicable procedures of the Energy Commission.

4 (b) The authority may request proposals from qualified
5 participating parties to purchase, lease, or otherwise acquire sites
6 for the purpose of developing generation facilities that are eligible
7 renewable energy resources and that will provide the lowest cost
8 electricity to consumers over the life of the facilities, consistent
9 with Section 992. If after 45 days following a request for proposals,
10 or 45 days after notification pursuant to subparagraph (E) of
11 paragraph (1) of subdivision (a), if the authority determines it is
12 necessary and feasible, the authority shall exercise its authority to
13 build, own, and operate generation facilities as part of a least cost
14 electrical supply policy.

15 (c) The authority shall comply with all applicable air quality
16 laws and all environmental regulations.

17 993. (a) In accordance with the provisions of this article and
18 notwithstanding any other provision of law, the authority shall,
19 except as provided in subdivision (e), have the exclusive power
20 to certify all electric transmission lines, remote resource
21 interconnection lines, electric transmission facilities and facilities
22 appurtenant thereto, and related facilities in the state, including
23 new electric transmission lines or transmission corridor zones and
24 related facilities or changes or additions to existing electric
25 transmission lines.

26 (b) The issuance of a certificate by the authority shall be in lieu
27 of any permit, certificate, or similar document required by any
28 state, local or regional agency, or federal agency to the extent
29 permitted by federal law, for such use of the site and related
30 facilities, and shall supersede any applicable statute, ordinance, or
31 regulation of any state, local, or regional agency, or federal agency
32 to the extent permitted by federal law.

33 (c) On or after January 1, 2011, no facility or line described in
34 subdivision (a) shall commence without first obtaining certification
35 for that site and related facility by the authority.

36 (d) The authority shall certify sufficient sites and related
37 facilities which are required for the transmission of electricity
38 sufficient to accommodate the generation projected in the most
39 recent designation of a renewable energy designation zone, adopted
40 pursuant to Section 992.5.

(e) (1) This section does not apply to any electric transmission lines or facilities appurtenant thereto for which the commission has issued a certificate of public convenience and necessity, or which any local publicly owned electric utility has approved, before January 1, 2011.

(2) This section does not apply to electric transmission lines that connect generation facilities to the high-voltage transmission grid that are under the siting authority of the Energy Commission, pursuant to Section 25500 of the Public Resources Code.

993.4. (a) The authority may not invest in any electric transmission lines without first receiving specific statutory authorization to do so on a project-by-project basis.

(b) All electric transmission lines constructed or improved pursuant to this division shall comply with Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

993.5. (a) If the authority determines that an additional electric transmission line is required to meet the purposes of this chapter, the authority may undertake the following activities to ensure that the authority, or any participating party, is able to build, own, and operate transmission lines as part of a least cost electric supply policy:

(1) Identify suitable sites for the construction of electric transmission lines, taking into account the designation of a renewable energy designation zone, interconnection, community, feasibility, and environmental factors.

(2) Identify the site for an electric transmission line or a transmission corridor zone on its own motion, by a motion by the Energy Commission, or by application of a person who plans to construct an electric transmission line within the state. The designation of a site for an electric transmission line or a transmission corridor zone shall serve to identify a feasible corridor where one or more future electric transmission lines can be built that are consistent with the state's needs and objectives as set forth in the Renewables Investment Plan adopted pursuant to Section 994.

(3) Require an application to site the electric transmission line be submitted to the authority. The application shall be in the form prescribed by the authority, shall be supported by any information that the authority may require, and shall require a showing that the

1 site being applied for is consistent with the Renewables Investment
2 Plan adopted pursuant to Section 994.

3 (4) Secure rights to the sites identified, including, but not limited
4 to, fee simple acquisition, leaseholds, or options.

5 (5) Conduct any studies that may be necessary to construct and
6 operate electric transmission lines and transmission corridor zones,
7 including, but not limited to, environmental, engineering, or
8 feasibility studies. The designation of the site for an electric
9 transmission line and facilities appurtenant thereto or transmission
10 corridor zones is subject to the California Environmental Quality
11 Act (Division 13 (commencing with Section 21000) of the Public
12 Resources Code). The authority shall be the lead agency for all
13 electric transmission lines and facilities appurtenant thereto and
14 transmission corridor zones pursuant to this chapter. The authority
15 shall conduct a programmatic environmental impact report, for
16 each designated electric transmission line.

17 (6) Conduct, in coordination with the Energy Commission, all
18 applicable public and community involvement processes.

19 (7) Apply for permits, licenses, or other local, state, or federal
20 approvals, including, but not limited to, compliance with the
21 applicable procedures of the Energy Commission.

22 (8) (A) Utilize the bond authority provided in this division,
23 under terms and conditions approved by the authority, to acquire,
24 construct, enlarge, remodel, renovate, alter, improve, furnish,
25 equip, own, maintain, manage, repair, operate, lease as lessee or
26 lessor, or regulate electric transmission lines.

27 (B) The rates, rents, fees, and charges associated with the
28 investment in electric transmission lines shall be established and
29 adjusted to ensure compliance with subdivision (e) of Section
30 991.7.

31 (9) Request proposals from qualified participating parties to
32 purchase, lease, or otherwise acquire sites for the purpose of
33 developing electric transmission facilities that will provide the
34 lowest cost power to consumers over the life of the facilities,
35 consistent with Section 992.

36 (b) When considering whether to designate a site for an electric
37 transmission line and facilities appurtenant thereto or transmission
38 corridor zones pursuant to this section, the authority shall confer
39 with cities and counties, federal agencies, and California Native
40 American tribes to identify appropriate areas within their

1 jurisdictions that may be suitable for designation. The authority
2 shall, to the extent feasible, coordinate efforts to identify long-term
3 transmission needs of the state with the land use plans of cities,
4 counties, federal agencies, and California Native American tribes.
5 The authority shall not propose any facility within the jurisdiction
6 of a California Native American tribe without the approval of the
7 California Native American tribe.

8 994. (a) By January 1, 2011, and annually thereafter, the
9 authority shall, in consultation with the Energy Commission and
10 the Independent System Operator, develop a Renewables
11 Investment Plan and submit that plan to the Governor and the Joint
12 Legislative Budget Committee and the chairs of the policy
13 committees with jurisdiction over energy policy in the State of
14 California.

15 (b) The Renewables Investment Plan shall take into account
16 California's anticipated needs, over the next decade, for electricity
17 generated by eligible renewable energy resources and the need for
18 transmission to deliver the electricity generated to retail customers.
19 The plan shall address issues regarding adequacy of supply,
20 storage, reliability of service, grid congestion, and environmental
21 quality. In developing the investment plan, the authority shall
22 compare the costs of various energy resources, including a
23 comparison of the costs and benefits of demand reduction strategies
24 with the costs and benefits of additional generation supply. The
25 plan shall acknowledge the potential volatility of fossil fuel prices
26 and the value of resources that avoid that price risk.

27 (c) The plan shall outline a strategy for cost-effective
28 investments, using the financing powers provided to the authority
29 by this article. The plan may recommend changes to the specific
30 expenditure authority granted in this article in order to carry out
31 the investment strategy contained in the plan.

32 (d) The plan shall be developed with input from interested
33 parties at scheduled public hearings of the authority. The authority
34 shall adopt the plan by majority vote of the board at a public
35 meeting. The authority shall update the plan on a regular basis as
36 determined by the authority.

37 (e) All investments made by the authority under this article shall
38 be consistent with the strategy outlined in the Renewables
39 Investment Plan. Nothing in this section shall preclude the authority

1 from exercising its powers prior to the adoption of the initial
2 Renewables Investment Plan.

3 (f) The authority shall be the agency responsible for ensuring
4 that the investment strategy outlined in the Renewables Investment
5 Plan is implemented. To that end, the authority may, on its own
6 or through a partnership with a participating party, make those
7 investments necessary to ensure that the plan is implemented.

8 994.5. Nothing in this article shall be construed to obviate the
9 need to review the roles, functions, and duties of other state energy
10 oversight agencies and, where appropriate, change or consolidate
11 those roles, functions, and duties. To achieve that efficiency, the
12 Governor may propose to the Legislature a Governmental
13 Reorganization Plan, pursuant to Section 8523 of the Government
14 Code and Section 6 of Article V of the Constitution.

15 995. (a) There is hereby created in the State Treasury the
16 Renewables Infrastructure Authority Fund for expenditure by the
17 authority for the purpose of implementing the objectives and
18 provisions of this article. For the purposes of subdivision (e), or
19 as necessary or convenient to the accomplishment of any other
20 purpose of the authority, the authority may establish within the
21 fund additional and separate accounts and subaccounts.

22 (b) Except as provided in subdivision (a) of Section 991.2, all
23 moneys in the fund that are not General Fund moneys are
24 continuously appropriated to the authority and may be used for
25 any reasonable costs that may be incurred by the authority in the
26 exercise of its powers under this article.

27 (c) The fund, on behalf of the authority, may borrow or receive
28 moneys from the authority, or from any federal, state, or local
29 agency or private entity, to create reserves in the fund as provided
30 in this article and as authorized by the board.

31 (d) The authority may pledge any or all of the moneys in the
32 fund (including in any account or subaccount) as security for
33 payment of the principal of, and interest on, any particular issuance
34 of bonds issued pursuant to this article.

35 (e) The authority, may, from time to time, direct the Treasurer
36 to invest moneys in the fund that are not required for the authority's
37 current needs, including proceeds from the sale of any bonds, in
38 any securities permitted by law as the authority shall designate.
39 The authority also may direct the Treasurer to deposit moneys in
40 interest-bearing accounts in state or national banks or other

1 financial institutions having principal offices in this state. The
2 authority may alternatively require the transfer of moneys in the
3 fund to the Surplus Money Investment Fund for investment
4 pursuant to Article 4 (commencing with Section 16470) of Chapter
5 3 of Part 2 of Division 4 of the Government Code. All interest or
6 other increment resulting from an investment or deposit shall be
7 deposited in the fund, notwithstanding Section 16305.7 of the
8 Government Code. Moneys in the fund shall not be subject to
9 transfer to any other fund pursuant to any provision of Part 2
10 (commencing with Section 16300) of Division 4 of the Government
11 Code, excepting the Surplus Money Investment Fund.

12 996. For the purposes provided in this division, the authority
13 is authorized to incur indebtedness and to issue securities of any
14 kind or class, at public or private sale by the Treasurer, and to
15 renew the same, provided that all such indebtedness, howsoever
16 evidenced, shall be payable solely from revenues. The authority
17 may issue bonds for the purposes of this division in an amount not
18 to exceed six billion, four hundred million dollars
19 (\$6,400,000,000), exclusive of any refundings.

20 996.1. In addition to the powers otherwise provided in this
21 article, the authority may, in connection with the issuance of bonds,
22 do all of the following:

23 (a) Issue, from time to time, bonds payable from and secured
24 by a pledge of all or any part of the revenues in order to finance
25 the activities authorized by this article, including, without
26 limitation, an enterprise or multiple enterprises, a single project
27 for a single participating party, a series of projects for a single
28 participating party, a single project for several participating parties,
29 or several projects for several participating parties, and to sell those
30 bonds at public or private sale by the Treasurer, in the form and
31 on those terms and conditions as the Treasurer, as agent for sale,
32 shall approve.

33 (b) Pledge all or any part of the revenues to secure bonds and
34 any repayment or reimbursement obligations of the authority to
35 any provider of insurance or a guarantee of liquidity or credit
36 facility entered into to provide for the payment or debt service on
37 any bond.

38 (c) Employ and compensate bond counsel, financial consultants,
39 underwriters, and other advisers determined necessary and

1 appointed by the Treasurer in connection with the issuance and
2 sale of any bond.

3 (d) Issue bonds to refund or purchase or otherwise acquire bonds
4 on terms and conditions as the Treasurer, as agent for sale, shall
5 approve.

6 (e) Perform all acts that relate to the function and purpose of
7 the authority under this article, whether or not specifically
8 designated.

9 996.2. Bonds issued under this article shall not be deemed to
10 constitute a debt or liability of the state or of any political
11 subdivision thereof, other than the authority, or a pledge of the
12 faith and credit of the state or of any political subdivision, other
13 than the authority, but shall be payable solely from the funds herein
14 provided therefor. All bonds issued under this division shall contain
15 on the face thereof a statement to the following effect: "Neither
16 the faith and credit nor the taxing power of the State of California
17 or any local agency is pledged to the payment of the principal of
18 or interest on this bond." The issuance of bonds under this article
19 shall not directly or indirectly or contingently obligate the state or
20 any political subdivision thereof to levy or to pledge any form of
21 taxation whatever therefor or to make any appropriation for their
22 payment. Nothing in this section shall prevent nor be construed to
23 prevent the authority from pledging its full faith and credit to the
24 payment of bonds or issue of bonds authorized pursuant to this
25 article.

26 996.5. The authority is authorized to obtain loans from the
27 Pooled Money Investment Account pursuant to Sections 16312
28 and 16313 of the Government Code. These loans shall be subject
29 to the terms negotiated with the Pooled Money Investment Board,
30 including, but not limited to, a pledge of authority bond proceeds
31 or revenues.

32 997. The authority may not finance or approve any new
33 program, enterprise, or project on or after December 31, 2020,
34 unless authority to approve such an activity is granted by statute
35 enacted on or before January 1, 2021.

36 ~~SEC. 7.~~

37 *SEC. 11.* No reimbursement is required by this act pursuant to
38 Section 6 of Article XIII B of the California Constitution because
39 certain costs that may be incurred by a local agency or school
40 district will be incurred because this act creates a new crime or

1 infraction, eliminates a crime or infraction, or changes the penalty
2 for a crime or infraction, within the meaning of Section 17556 of
3 the Government Code, or changes the definition of a crime within
4 the meaning of Section 6 of Article XIII B of the California
5 Constitution.

6 With respect to certain other costs, no reimbursement is required
7 by this act pursuant to Section 6 of Article XIII B of the California
8 Constitution because a local agency or school district has the
9 authority to levy service charges, fees, or assessments sufficient
10 to pay for the program or level of service mandated by this act,
11 within the meaning of Section 17556 of the Government Code.

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