

AMENDED IN ASSEMBLY APRIL 19, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1771

Introduced by Assembly Member Valadao

February 17, 2012

An act to amend Section 399.12 of, and to repeal Section 399.12.5 of, the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL’S DIGEST

AB 1771, as amended, Valadao. Renewable energy resources: hydroelectric generation.

Existing law establishes the California renewables portfolio standard program, which requires the Public Utilities Commission to implement annual procurement targets for the procurement of eligible renewable energy resources, as defined, for all retail sellers, as defined, to achieve the targets and goals of the program. The existing definition of an eligible renewable energy resource includes small hydroelectric generation facilities of 30 megawatts or less that meet specified criteria.

This bill would revise the definition of an eligible renewable energy resource for the purposes of the California renewables portfolio standard program to include a hydroelectric generation facility of any size, as specified. ~~The bill would also specified, and make conforming changes. These provisions would become operative 6 months after the date that a certain report is submitted by the State Energy Resources Conservation and Development Commission to the Legislature.~~

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

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

SECTION 1. Section 399.12 of the Public Utilities Code is amended to read:

399.12. For purposes of this article, the following terms have the following meanings:

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

(b) “Balancing authority” means the responsible entity that integrates resource plans ahead of time, maintains load-interchange generation balance within a balancing authority area, and supports interconnection frequency in real time.

(c) “Balancing authority area” means the collection of generation, transmission, and loads within the metered boundaries of the area within which the balancing authority maintains the electrical load-resource balance.

(d) “California balancing authority” is a balancing authority with control over a balancing authority area primarily located in this state and operating for retail sellers and local publicly owned electric utilities subject to the requirements of this article and includes the Independent System Operator (ISO) and a local publicly owned electric utility operating a transmission grid that is not under the operational control of the ISO. A California balancing authority is responsible for the operation of the transmission grid within its metered boundaries which may not be limited by the political boundaries of the State of California.

(e) (1) Except as otherwise provided in paragraph (3) or (4), “eligible renewable energy resource” means an electrical generating facility that meets the definition of an a “renewable electrical generation facility” in Section 25741 of the Public Resources Code.

(2) A facility approved by the governing board of a local publicly owned electric utility prior to June 1, 2010, for procurement to satisfy renewable energy procurement obligations adopted pursuant to former Section 387, shall be certified as an eligible renewable energy resource by the Energy Commission pursuant to this article, if the facility is a “renewable electrical

1 generation facility” as defined in Section 25741 of the Public
2 Resources Code.

3 (3) A hydroelectric generation facility of any size is an eligible
4 renewable energy resource if the facility satisfies one of the
5 requirements in paragraph (2) of subdivision ~~(b)~~ (a) of Section
6 25741 of the Public Resources Code.

7 (4) A facility engaged in the combustion of municipal solid
8 waste shall not be considered an eligible renewable energy resource
9 unless it is located in Stanislaus County and was operational prior
10 to September 26, 1996.

11 (f) “Procure” means to acquire through ownership or contract.

12 (g) “Procurement entity” means any person or corporation
13 authorized by the commission to enter into contracts to procure
14 eligible renewable energy resources on behalf of customers of a
15 retail seller pursuant to subdivision (f) of Section 399.13.

16 (h) (1) “Renewable energy credit” means a certificate of proof
17 associated with the generation of electricity from an eligible
18 renewable energy resource, issued through the accounting system
19 established by the Energy Commission pursuant to Section 399.25,
20 that one unit of electricity was generated and delivered by an
21 eligible renewable energy resource.

22 (2) “Renewable energy credit” includes all renewable and
23 environmental attributes associated with the production of
24 electricity from the eligible renewable energy resource, except for
25 an emissions reduction credit issued pursuant to Section 40709 of
26 the Health and Safety Code and any credits or payments associated
27 with the reduction of solid waste and treatment benefits created
28 by the utilization of biomass or biogas fuels.

29 (3) (A) An electricity generated by an eligible renewable energy
30 resource attributable to the use of nonrenewable fuels, beyond a
31 de minimis quantity used to generate electricity in the same process
32 through which the facility converts renewable fuel to electricity,
33 shall not result in the creation of a renewable energy credit. The
34 Energy Commission shall set the de minimis quantity of
35 nonrenewable fuels for each renewable energy technology at a
36 level of no more than 2 percent of the total quantity of fuel used
37 by the technology to generate electricity. The Energy Commission
38 may adjust the de minimis quantity for an individual facility, up
39 to a maximum of 5 percent, if it finds that all of the following
40 conditions are met:

1 (i) The facility demonstrates that the higher quantity of
2 nonrenewable fuel will lead to an increase in generation from the
3 eligible renewable energy facility that is significantly greater than
4 generation from the nonrenewable fuel alone.

5 (ii) The facility demonstrates that the higher quantity of
6 nonrenewable fuels will reduce the variability of its electrical
7 output in a manner that results in net environmental benefits to the
8 state.

9 (iii) The higher quantity of nonrenewable fuel is limited to either
10 natural gas or hydrogen derived by reformation of a fossil fuel.

11 (B) (i) Electricity generated by a small hydroelectric generation
12 facility shall not result in the creation of a renewable energy credit
13 unless the facility meets the requirements of clause (ii).

14 (ii) An existing small hydroelectric generation facility of 30
15 megawatts or less shall be eligible only if a retail seller or local
16 publicly owned electric utility procured the electricity from the
17 facility as of December 31, 2005. A small hydroelectric generation
18 unit with a nameplate capacity not exceeding 40 megawatts that
19 is operated as part of a water supply or conveyance system is an
20 eligible renewable energy resource if the retail seller or local
21 publicly owned electric utility procured the electricity from the
22 facility as of December 31, 2005. A new hydroelectric facility that
23 commences generation of electricity after December 31, 2005, is
24 not an eligible renewable energy resource if it will cause an adverse
25 impact on instream beneficial uses or cause a change in the volume
26 or timing of streamflow.

27 (C) (i) Electricity generated by a conduit hydroelectric
28 generation facility shall not result in the creation of a renewable
29 energy credit unless the facility meets the requirements of clause
30 (ii).

31 (ii) Notwithstanding clause (ii) of subparagraph (B), a conduit
32 hydroelectric facility of 30 megawatts or less that commenced
33 operation before January 1, 2006, is an eligible renewable energy
34 resource. A conduit hydroelectric facility of 30 megawatts or less
35 that commences operation after December 31, 2005, is an eligible
36 renewable energy resource so long as it does not cause an adverse
37 impact on instream beneficial uses or cause a change in the volume
38 or timing of streamflow.

39 (D) Electricity generated by a facility engaged in the combustion
40 of municipal solid waste shall not result in the creation of a

1 renewable energy credit unless the facility meets the requirements
2 of paragraph (4) of subdivision (e).

3 (i) “Renewables portfolio standard” means the specified
4 percentage of electricity generated by eligible renewable energy
5 resources that a retail seller or a local publicly owned electric utility
6 is required to procure pursuant to this article.

7 (j) “Retail seller” means an entity engaged in the retail sale of
8 electricity to end-use customers located within the state, including
9 any of the following:

10 (1) An electrical corporation, as defined in Section 218.

11 (2) A community choice aggregator. The commission shall
12 institute a rulemaking to determine the manner in which a
13 community choice aggregator will participate in the renewables
14 portfolio standard program subject to the same terms and conditions
15 applicable to an electrical corporation.

16 (3) An electric service provider, as defined in Section 218.3,
17 for all sales of electricity to customers beginning January 1, 2006.
18 The commission shall institute a rulemaking to determine the
19 manner in which electric service providers will participate in the
20 renewables portfolio standard program. The electric service
21 provider shall be subject to the same terms and conditions
22 applicable to an electrical corporation pursuant to this article. This
23 paragraph does not impair a contract entered into between an
24 electric service provider and a retail customer prior to the
25 suspension of direct access by the commission pursuant to Section
26 80110 of the Water Code.

27 (4) “Retail seller” does not include any of the following:

28 (A) A corporation or person employing cogeneration technology
29 or producing electricity consistent with subdivision (b) of Section
30 218.

31 (B) The Department of Water Resources acting in its capacity
32 pursuant to Division 27 (commencing with Section 80000) of the
33 Water Code.

34 (C) A local publicly owned electric utility.

35 (k) “WECC” means the Western Electricity Coordinating
36 Council of the North American Electric Reliability Corporation,
37 or a successor to either corporation.

38 SEC. 2. Section 399.12.5 of the Public Utilities Code is
39 repealed.

1 *SEC. 3. The provisions of this act shall become operative six*
2 *months after the date that a report is submitted by the State Energy*
3 *Resources Conservation and Development Commission to the*
4 *Legislature pursuant to Section 25741.5 of the Public Resources*
5 *Code.*