

AMENDED IN SENATE MARCH 3, 2004

AMENDED IN ASSEMBLY MARCH 24, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 594

Introduced by Assembly Member Leno

February 18, 2003

An act to add Section ~~21080.31 to the Public Resources Code, relating to environmental protection.~~ 2828 to the Public Utilities Code, relating to solar energy systems, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 594, as amended, Leno. ~~California Environmental Quality Act: bicycle lanes~~ Solar energy systems: Hetch Hetchy Water and Power solar generation.

Under existing law, the Public Utilities Commission is vested with regulatory authority over public utilities and is required to establish requirements for the administration of power purchase contracts between electrical corporations and private energy producers. Existing law authorizes the City of Davis to receive a bill credit, as defined, to a benefiting account, as defined, for electricity supplied to the electrical grid by a photovoltaic facility located within and partially owned by the city and requires the commission to adopt a rate tariff for the benefiting account.

This bill would authorize the City and County of San Francisco to elect to designate specific photovoltaic generation facilities meeting specified conditions as Hetch Hetchy Water and Power (HHWP) solar

generation facilities and upon election and the filing and acceptance of an advice letter with the commission establishing rates, Pacific Gas and Electric Company would be required on a monthly basis, to pay the City and County of San Francisco for the electricity generated and delivered to the electric grid at the established time-of-use rate.

Under existing law, a violation of the Public Utilities Act, a filed tariff, or an order of the commission is a crime.

Because the provisions of the bill would be a part of the act and would require an order or other action of the commission to implement those provisions, the bill would impose a state-mandated local program by creating a new crime.

The bill would declare that, due to the special circumstances applicable only to HHWP solar generation facilities, a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution, and the enactment of a special statute is therefore necessary.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The bill would declare that it is to take effect immediately as an urgency statute.

~~The existing California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment, or to adopt a negative declaration if it finds that the project will not have that effect. Existing law requires the Office of Planning and Research to prepare and develop guidelines for the implementation of CEQA by public agencies, and requires those guidelines to include a list of classes of projects that have been determined not to have a significant effect on the environment. Existing regulations adopted by the office include in that list projects known as “Class 4” projects that consist of minor public or private alterations in the condition of land, water, and vegetation that do not involve the removal of healthy, mature, or scenic trees, except as specified, and specifically include the creation of a bicycle lane on an existing right-of-way as an example of a “Class 4” project.~~



~~This bill would exempt from CEQA a project that consists of restriping an existing paved right of way for bicycle lanes, under specified conditions.~~

Vote: ~~majority~~ ²/₃. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

- 1 SECTION 1. ~~Section 21080.31 is added to the Public~~ The
- 2 *Legislature finds and declares each of the following:*
- 3 (a) *Increasing California's use of solar generated electricity*
- 4 *promotes stable electricity prices, protects public health, improves*
- 5 *environmental quality, stimulates sustainable economic*
- 6 *development, creates new employment opportunities, and reduces*
- 7 *reliance on fossil fuels.*
- 8 (b) *Electricity for municipal facilities of the City and County of*
- 9 *San Francisco is provided by Hetch Hetchy Water and Power*
- 10 *through electric transmission and distribution lines owned by*
- 11 *Pacific Gas and Electric Company. This situation is unique to the*
- 12 *City and County of San Francisco. Because of this situation solar*
- 13 *electric generation on municipal facilities are prevented from*
- 14 *exporting electricity to the grid. For all other cities and counties*
- 15 *that have electricity distributed by Pacific Gas and Electric*
- 16 *Company, solar electric facilities on municipal facilities are*
- 17 *permitted to export electricity to the grid under net metering.*
- 18 (c) *San Francisco is among the most vulnerable areas of*
- 19 *California for electricity blackouts because of transmission*
- 20 *constraints that prevent electricity from coming into the city and*
- 21 *aging powerplants located in the city. Development of solar*
- 22 *electric facilities in San Francisco can improve electric service*
- 23 *reliability and contribute to the retirement of the aging fossil fuel*
- 24 *generating facilities.*
- 25 (d) *Payments for the electricity produced from Hetch Hetchy*
- 26 *Water and Power solar generation facilities are in the public*
- 27 *interest in order to value the production of a unique, wholly*
- 28 *renewable resource for electricity generation located in, and*
- 29 *owned by, the City and County of San Francisco.*
- 30 SEC. 2. *Section 2828 is added to Chapter 9 of Part 1 of*
- 31 *Division 1 of the Public Utilities Code, to read:*

1 2828. (a) As used in this section, the following terms have the
2 following meanings:

3 (1) “Environmental attributes” associated with the Hetch
4 Hetchy Water and Power (HHWP) solar generation include, but
5 are not limited to, the credits, benefits, emissions reductions,
6 environmental air quality credits, and emissions reduction credits,
7 offsets, and allowances, however entitled, resulting from the
8 avoidance of the emission of any gas, chemical, or other substance
9 attributable to the Hetch Hetchy Water and Power photovoltaic
10 electricity generation facility owned by the City and County of San
11 Francisco.

12 (2) “HHWP solar generation” means the electricity generated
13 by Hetch Hetchy Water and Power photovoltaic electricity
14 generation facilities owned by the City and County of San
15 Francisco, not to exceed five megawatts of peak generation
16 capacity in total.

17 (b) The City and County of San Francisco may elect to
18 designate specific photovoltaic electricity generation facilities as
19 HHWP solar generation, if all of the following conditions are met:

20 (1) No single photovoltaic generation project exceeds one
21 megawatt of peak generation capacity.

22 (2) The electricity generated by the photovoltaic facility is
23 metered for time of use.

24 (3) All costs associated with equipping the facility with time of
25 use metering pursuant to paragraph (2) are the responsibility of
26 the City and County of San Francisco.

27 (4) All electricity delivered to the electric grid by the HHWP
28 solar generation is the property of Pacific Gas and Electric
29 Company.

30 (5) The City and County of San Francisco does not sell
31 electricity delivered to the electric grid from HHWP solar
32 generation to a third party.

33 (6) The right, title, and interest in the environmental attributes
34 associated with the electricity delivered to the electric grid by the
35 HHWP solar generation are the property of the City and County
36 of San Francisco.

37 (c) Pacific Gas and Electric Company shall pay the City and
38 County of San Francisco, on a monthly basis, an amount equal to
39 the applicable time-of-use rate for the electricity generated by the
40 HHWP solar generation that is delivered to the electric grid.



1 (d) Pacific Gas and Electric Company shall file an advice letter
2 with the commission, that complies with this section, not later than
3 10 days after the City and County of San Francisco first designates
4 the specific generation facilities that will comprise HHWP solar
5 generation, proposing a rate for the purchase of the electricity
6 generated by the HHWP solar generation. The commission, within
7 30 days of the date of filing of the advice letter, shall approve the
8 proposed rate or specify conforming changes to be made by Pacific
9 Gas and Electric Company to be filed in a new advice letter within
10 30 days.

11 (e) The City and County of San Francisco may terminate its
12 election pursuant to subdivision (b), upon providing Pacific Gas
13 and Electric Company with a minimum of 60 days' notice.

14 (f) Pacific Gas and Electric Company and the City and County
15 of San Francisco shall, no later than January 1, 2010, report to the
16 commission on the costs and benefits to Pacific Gas and Electric
17 Company ratepayers of the installed HHWP solar generation.

18 SEC. 3. The Legislature finds and declares that, because of the
19 unique circumstances applicable only to Hetch Hetchy Water and
20 Power solar generation of electricity, a statute of general
21 applicability cannot be enacted within the meaning of subdivision
22 (b) of Section 16 of Article IV of the California Constitution.
23 Therefore, this special statute is necessary.

24 SEC. 4. No reimbursement is required by this act pursuant to
25 Section 6 of Article XIII B of the California Constitution because
26 the only costs that may be incurred by a local agency or school
27 district will be incurred because this act creates a new crime or
28 infraction, eliminates a crime or infraction, or changes the penalty
29 for a crime or infraction, within the meaning of Section 17556 of
30 the Government Code, or changes the definition of a crime within
31 the meaning of Section 6 of Article XIII B of the California
32 Constitution.

33 SEC. 5. This act is an urgency statute necessary for the
34 immediate preservation of the public peace, health, or safety
35 within the meaning of Article IV of the Constitution and shall go
36 into immediate effect. The facts constituting the necessity are:

37 The San Francisco Public Utilities Commission (SFPUC) has
38 several opportunities to develop large-scale solar generation
39 facilities in San Francisco in the near future if the issue of
40 exporting some of the electricity to the Pacific Gas and Electric

1 Company grid can be resolved. These sites include the covered
2 University Mound Reservoir, which could accommodate a 1
3 megawatt project, and the new Moscone West Convention Center,
4 which could also support a 1 megawatt project. Because the City
5 of San Francisco is not currently eligible for net metering at these
6 sites, it is difficult to begin planning for project development at
7 these sites. Development of a large-scale solar generation facility
8 at either site would be one of the premier solar electricity
9 generation installations in the United States, providing impetus for
10 additional solar energy development in California. It is necessary
11 that this act take effect immediately to enable SFPUC to prepare
12 bid documents and to select a project developer on an expedited
13 basis in order to obtain the environmental and public health
14 advantages that these projects achieve. Resources Code, to read:
15 21080.31. — This division does not apply to a project consisting
16 of restriping an existing paved right-of-way for bicycle lanes
17 provided that all of the following conditions are met:
18 (a) The project is consistent with an applicable general plan,
19 including, but not limited to, the transportation element of the
20 general plan, specific plan, or local coastal program, and the
21 mitigation measures required by the plan or program.
22 (b) The director of public works of the local agency in which
23 the project is proposed to be located makes a written finding,
24 supported by substantial evidence, that the project will not create
25 a significant risk to either vehicle or pedestrian safety.
26 (c) The project does not affect wetlands or wildlife habitat. For
27 the purposes of this subdivision, “wetlands” has the same
28 meaning as in Section 328.3 of Title 33 of the Code of Federal
29 Regulations and “wildlife habitat” means the ecological
30 communities upon which wild animals, birds, plants, fish,
31 amphibians, and invertebrates depend for their conservation and
32 protection.
33 (d) The project does not harm a species protected by the federal
34 Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the
35 Native Plant Protection Act (Chapter 10 (commencing with
36 Section 1900) of Division 2 of the Fish and Game Code), the
37 California Endangered Species Act (Chapter 1.5 (commencing
38 with Section 2050) of Division 3 of the Fish and Game Code), or
39 a species protected by a local ordinance.

1 ~~(e) The site of the project is not included on a list of facilities~~
2 ~~or sites compiled pursuant to Section 65962.5 of the Government~~
3 ~~Code.~~

4 ~~(f) (1) The site of the project is subject to a preliminary~~
5 ~~endangerment assessment prepared by a registered environmental~~
6 ~~assessor to determine if there has been a release of a hazardous~~
7 ~~substance on the site and whether there is a potential for exposure~~
8 ~~to a significant health hazard from a surrounding property or~~
9 ~~activity.~~

10 ~~(2) If a release of a hazardous substance is found to exist on the~~
11 ~~site, the release is removed or the significant effects of the release~~
12 ~~are mitigated to a level of insignificance in compliance with state~~
13 ~~and federal requirements.~~

14 ~~(3) If a potential for exposure to a significant hazard from a~~
15 ~~surrounding property or activity is found to exist, the effect of the~~
16 ~~potential exposure shall be mitigated to a level of insignificance in~~
17 ~~compliance with state and federal requirements.~~

18 ~~(g) The project does not have a significant effect on historical~~
19 ~~resources.~~

20 ~~(h) The project will not create a risk of a public health exposure~~
21 ~~at a level that would exceed the standards established by a state or~~
22 ~~federal agency.~~

23 ~~(i) The project is not exposed to a landslide hazard or located~~
24 ~~within a flood plain, flood way, or restriction zone, unless the~~
25 ~~applicable general plan or zoning ordinance contains provisions to~~
26 ~~mitigate the risk of a landslide or flood.~~

27 ~~(j) The project is not located within the boundaries of a state~~
28 ~~conservancy or a state or local park.~~

