

AMENDED IN ASSEMBLY APRIL 10, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1284**

**Introduced by Assembly Member Leslie**

February 21, 2003

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~~An act to amend Section 353.1 of the Public Utilities Code, relating to energy resources.~~  
*An act to add and repeal Section 80110.2 of the Water Code, relating to energy resources.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1284, as amended, Leslie. ~~Distributed energy resources~~ *Direct transactions: cost responsibility surcharges.*

*Under existing law, the Public Utilities Commission regulates electrical corporations. The Public Utilities Act requires the commission to authorize direct transactions between electricity suppliers and retail end-use customers. However, other existing law suspends the right of retail end-use customers to acquire service from certain electricity suppliers after a period of time to be determined by the commission until the Department of Water Resources no longer supplies electricity under that law. Under existing law, the commission has imposed certain surcharges on retail end-use customers that continue to receive service in a direct transaction.*

*This bill, until January 1, 2009, would exempt from those surcharges an entity whose sole source of raw fiber material is recycled or reclaimed wood waste used in a manufacturing process that does not permit flexible energy consumption.*

~~(1) Existing law requires the Public Utilities Commission to require each electrical corporation under the operational control of the~~

~~Independent System Operator as of January 1, 2001, to modify its tariffs so that all customers installing new distributed energy resources are served under rates, rules, and requirements identical to those of a customer within the same rate schedule that does not use distributed energy resources, and to withdraw any provisions in otherwise applicable tariffs that activate other tariffs, rates, or rules if a customer uses distributed energy resources. Existing law subjects customers with distributed energy resources to a real-time pricing program adopted by the commission. Existing law defines “distributed energy resources” to mean any electric generation technology that meets certain criteria, including having commenced initial operation between May 1, 2001, and June 1, 2003.~~

~~This bill would modify that initial operation criterion to include any electric generation technology having commenced initial operation between May 1, 2001, and June 1, 2005. Because a violation of a rule or order of the commission is a crime under existing law, this bill, by expanding the scope of commission regulation, would change the definition of a crime, thereby imposing a state-mandated local program.~~

~~(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

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

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

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

- 1     ~~SECTION 1.—Section 353.1 of the Public Utilities Code is~~
- 2     ~~SECTION 1. The Legislature finds and declares all of the~~
- 3     ~~following:~~
- 4     ~~(a) SierraPine is the only company remaining in California~~
- 5     ~~that manufactures fiberboard and is one of two companies~~
- 6     ~~producing particleboard.~~
- 7     ~~(b) The sole source of raw fiber material is recycled or~~
- 8     ~~reclaimed wood waste. SierraPine takes in 371,000 dry tons per~~
- 9     ~~year of wood residuals from sawmills, millworks, furniture~~
- 10    ~~companies, and other woodworks companies, and 31,000 dry tons~~
- 11    ~~per year of urban wood waste from discarded or dismantled sites.~~



1 (c) *These wood waste products are made into particleboard*  
2 *and fiberboard. SierraPine provides this state with 29 percent of*  
3 *its particleboard and 35 percent of its fiberboard. About 85 percent*  
4 *of the boards are used to manufacture retail products, such as*  
5 *furniture, shelving, cabinets, countertops, molding, and flooring,*  
6 *which can be found in nearly every home and office in this state.*  
7 *The remaining 15 percent is used in actual housing construction*  
8 *in the state.*

9 (d) *Few alternatives exist for disposal of these wood wastes:*

10 (1) *Burning, which has serious air quality implications.*

11 (2) *Landfill, which overburdens county landfill sites, and*  
12 *should be used only as a last resort. Recycling is favored.*

13 (3) *Use in other industries, although no other industry can use*  
14 *this large volume of waste on a continuous basis.*

15 (e) *All SierraPine production in this state is certified to be from*  
16 *100 percent recovered and recycled fiber content.*

17 (f) *SierraPine is a 2001 and 2002 recipient of the California*  
18 *Waste Reduction Award Program (WRAP), which recognizes*  
19 *businesses that develop innovative and aggressive programs to*  
20 *reduce the amount of waste sent to landfills.*

21 (g) *Ongoing research by SierraPine will enable greater use of*  
22 *material currently being disposed of in different ways.*

23 (h) *The manufacturing processes use large amounts of*  
24 *electricity to operate equipment.*

25 (i) *As a volume-driven business with plants that require lengthy*  
26 *shut down and startup times, these process lines must operate*  
27 *continuously; 24 hours per day, 7 days per week, all year, which*  
28 *does not allow for electric load shaping or flexible operating*  
29 *schedules.*

30 (j) *Historically, SierraPine averages a single digit earning*  
31 *margin (about 5 percent) with a double digit electric cost*  
32 *component (nearly 10 percent).*

33 (k) *Due to this extreme sensitivity to electricity costs, an*  
34 *increase in that cost component significantly affects the earning*  
35 *margin and the ability to remain competitive. Competitors are*  
36 *outside of California where electricity costs are significantly*  
37 *lower. The addition of surcharges on top of higher market prices*  
38 *for electricity has caused the plants to curtail operations due to*  
39 *high costs. In the worst case, these costs have made the fiberboard*



1 *plant unable to compete in California, even though it is the only*  
2 *such plant in the state.*

3 *(l) SierraPine has taken significant steps in attempting to*  
4 *control its electrical cost structure: it has been an interruptible end*  
5 *user for over eight years with full compliance, has participated in*  
6 *demand response programs during critical energy periods for*  
7 *California, has installed energy efficient motors and equipment in*  
8 *facilities, and has elected to use direct transactions from the*  
9 *beginning of electrical restructuring. SierraPine was involuntarily*  
10 *returned to bundled utility service but moved back to direct access*  
11 *before July 1, 2001.*

12 *(m) For every job created by SierraPine, 2.2*  
13 *nonmanufacturing jobs are created in this state. For every dollar*  
14 *earned by a SierraPine employee, two dollars and 30 cents (\$2.30)*  
15 *are added to the total pool of income earned by the employees in*  
16 *other employment sectors throughout the state. Based on the above*  
17 *factor, SierraPine's California facilities are providing a labor*  
18 *earnings impact of forty-seven million five hundred thousand*  
19 *dollars (\$47,500,000) annually.*

20 *(n) SierraPine provides excellent pay and benefits, which fills*  
21 *the critical gap between service and high-tech jobs. The*  
22 *least-skilled job pays thirteen dollars and seventy-nine cents*  
23 *(\$13.79) per hour. Employees receive full healthcare benefits,*  
24 *including medical, dental, and vision which cost the company an*  
25 *average of between five hundred fifty dollars (\$550) per employee*  
26 *per month. Employees have retirement plans that include company*  
27 *contributions through 401(k) and defined benefit plans. Other*  
28 *benefits such as life insurance, short-term and long-term*  
29 *disability, and Section 125 plans are also provided. Unskilled*  
30 *workers can hold year-round steady employment.*

31 *(o) The SierraPine particleboard plant is one of the largest*  
32 *employers in Amador County with 150 employees and an annual*  
33 *payroll of six million dollars (\$6,000,000). It has complete*  
34 *emissions compliance, spends about forty million dollars*  
35 *(\$40,000,000) annually on the cost of their product, pays about*  
36 *two hundred fifty thousand dollars (\$250,000) annually in*  
37 *property taxes, and has operated at its present location for 31*  
38 *years.*

39 *(p) The SierraPine fiberboard plant has over 200 employees at*  
40 *its Placer County facility, with an annual payroll of eight million*



1 four hundred thousand dollars (\$8,400,000). It has  
2 state-of-the-art emissions control providing for full compliance in  
3 a residential neighborhood, it spends about sixty million dollars  
4 (\$60,000,000) annually on the cost of their product, pays about  
5 five hundred seventy-five thousand dollars (\$575,000) annually in  
6 property taxes, and has operated at its present location for 29  
7 years.

8 SEC. 2. Section 80110.2 is added to the Water Code, to read:

9 80110.2. (a) Notwithstanding Section 80110, an entity whose  
10 sole source of raw fiber material is recycled or reclaimed wood  
11 waste used in a manufacturing process that does not permit flexible  
12 energy consumption shall be exempt from cost recovery surcharges  
13 under commission Decision 02-11-022, or any subsequent  
14 commission decision, order, or regulation.

15 (b) This section shall remain in effect only until January 1,  
16 2009, and as of that date is repealed, unless a later enacted statute,  
17 that is enacted before January 1, 2009, deletes or extends that date.  
18 amended to read:

19 353.1.—As used in this article, “distributed energy resources”  
20 means any electric generation technology that meets all of the  
21 following criteria:

22 (a) Commences initial operation between May 1, 2001, and  
23 June 1, 2005, except that gas fired distributed energy resources  
24 that are not operated in a combined heat and power application  
25 must commence operation no later than September 1, 2002.

26 (b) Is located within a single facility.

27 (c) Is five megawatts or smaller in aggregate capacity.

28 (d) Serves onsite loads or over the fence transactions allowed  
29 under Sections 216 and 218.

30 (e) Is powered by any fuel other than diesel.

31 (f) Complies with emission standards and guidance adopted by  
32 the State Air Resources Board pursuant to Sections 41514.9 and  
33 41514.10 of the Health and Safety Code. Prior to the adoption of  
34 those standards and guidance, for the purpose of this article,  
35 distributed energy resources shall meet emissions levels  
36 equivalent to nine parts per million oxides of nitrogen, or the  
37 equivalent standard taking into account efficiency as determined  
38 by the State Air Resources Board, averaged over a three-hour  
39 period, or best available control technology for the applicable air  
40 district, whichever is lower, except for distributed generation units



1 ~~that displace and therefore significantly reduce emissions from~~  
2 ~~natural gas flares or reinjection compressors, as determined by the~~  
3 ~~State Air Resources Board. These units shall comply with the~~  
4 ~~applicable best available control technology as determined by the~~  
5 ~~air pollution control district or air quality management district in~~  
6 ~~which they are located.~~

7 ~~SEC. 2.—No reimbursement is required by this act pursuant to~~  
8 ~~Section 6 of Article XIII B of the California Constitution because~~  
9 ~~the only costs that may be incurred by a local agency or school~~  
10 ~~district will be incurred because this act creates a new crime or~~  
11 ~~infraction, eliminates a crime or infraction, or changes the penalty~~  
12 ~~for a crime or infraction, within the meaning of Section 17556 of~~  
13 ~~the Government Code, or changes the definition of a crime within~~  
14 ~~the meaning of Section 6 of Article XIII B of the California~~  
15 ~~Constitution.~~

