AMENDED IN ASSEMBLY MARCH 26, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL No. 2499

Introduced by Assembly Member Jerome Horton

February 19, 2004

An act to add ~~Section 366.8~~ *Chapter 5.5 (commencing with Section 25450) to Division 15 of the Public Resources Code, and to add Section 378.5* to the Public Utilities Code, relating to ~~public utilities.~~ *energy resources.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2499, as amended, Jerome Horton. ~~Electrical service: reliability~~ *Energy Commission: publicly owned electric utilities: long-term resource plans.*

(1) The Warren-Alquist State Energy Resources Conservation and Development Act establishes the State Energy Resources Conservation and Development Commission (Energy Commission) and requires it to certify sufficient sites and related facilities that are required to provide a supply of electricity sufficient to accommodate projected demand for power statewide. The act also requires the Energy Commission to undertake a continuing assessment of trends in the consumption of electricity and other forms of energy and to analyze the social, economic, and environmental consequences of those trends and to collect from electric utilities, gas utilities, and fuel producers and wholesalers and other sources, forecasts of future supplies and consumption of all forms of energy.

This bill would require publicly owned electric utilities, as defined, to meet certain resource adequacy requirements. The bill would require *a publicly owned electric utility, before commencing operation or providing electric energy to an additional retail end-use customer on or after July 1, 2005, to obtain Energy Commission approval of a long-term resource plan, and to update the plan at least every 3 years. The bill would require the Energy Commission, on or before July 1, 2005, to develop and adopt the requirements that a publicly owned electric utility is required to meet in its long-term resource plan. The bill would require the governing body of a publicly owned electric utility to adopt findings, as specified, before providing electric service or expending funds or incurring any risk or liability, contractual, contingent or otherwise, to provide that service.*

(2) Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations, and authorizes the Public Utilities Commission to establish rules for all public utilities, subject to control by the Legislature.

The bill would require the Public Utilities Commission to impose a nonbypassable charge on former customers of an electrical corporation that take electric commodity service from a publicly owned electric utility to prevent the subsidization of those customers by the existing customers of the electrical corporation.

(3) Existing law makes a violation of an order or requirement of the Public Utilities Commission a crime.

This bill, by requiring the Public Utilities Commission to impose a new charge, would make a failure to collect or pay the charge a new crime, thereby imposing a state-mandated local program.

(4) 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.

~~Existing law, the Public Utilities Act, states that it is the policy of the state and the intent of the Legislature, to reaffirm that each electrical corporation continue to operate its electric distribution grid in its service territory and do so in a safe, reliable, efficient, and cost-effective manner.~~

~~This bill would state that it is the intent of the Legislature to enact legislation to ensure that all customers who receive electrical service from a newly created entity are provided with reliable service.~~

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

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

~~SECTION 1. Section 366.8 is added to the Public Utilities~~

SECTION 1. The Legislature finds and declares all of the following:

(a) The reliable supply of electricity is essential to the health, safety, and economic well-being of all state consumers.

(b) Due to the interconnected nature of the electric transmission and distribution systems, all California customers have vested interest in ensuring that all state utilities provide reliable electric service.

(c) Since the California electricity crisis, there has been a renewed interest in creating publicly owned utilities. Before the crisis, the last publicly owned utility was established in the late 1940s.

(d) It is in the interest of all state consumers to ensure that newly formed publicly owned utilities provide reliable service.

(e) To ensure that customers of newly formed publicly owned electric utilities receive reliable service, each such entity should adopt a resource plan to ensure reliable service for their customers.

(f) The State Energy Resources Conservation and Development Commission should use its technical expertise to evaluate, certify, and enforce those resource plans and provide assistance in the preparation of these plans. Customers of a newly formed publicly owned electric utility should be allowed to review and comment on the resource plan.

(g) The Public Utilities Commission should establish rules to ensure that there is no cost-shifting between customers that remain with their existing utility and customers that receive service from newly created publicly owned electric utilities.

SEC. 2. Chapter 5.5 (commencing with Section 25450) is added to Division 15 of the Public Resources Code, to read:

CHAPTER 5.5. RESOURCE ADEQUACY FOR PUBLICLY OWNED ELECTRIC UTILITIES

25450. As used in this chapter, "publicly owned electric utility" means a local publicly owned electrical utility, as defined in subdivision (d) of Section 9604 of the Public Utilities Code, that declared its intention to establish a publicly owned electric utility on or after January 1, 2001 and that provides electric energy commodity service to new or additional retail customers on or after July 1, 2005.

25451. (a) In order to provide reliable and sustainable electric commodity service to end-use retail customers of publicly owned electric utilities, publicly owned electric utilities shall meet the same requirements for resource adequacy as applicable to an electrical corporation, including reserve requirements.

(b) Before commencing operation or providing electric energy to any additional retail end-use customer on or after July 1, 2005, a publicly owned electric utility shall obtain approval of a long-term resource plan from the commission.

(c) On or before July 1, 2005, the commission shall develop and adopt the requirements that a publicly owned electric utility is required to meet in its long-term resource plan to ensure compliance with subdivision (a).

(d) After receiving approval of its initial long-term resource plan, a publicly owned electric utility shall submit updates to its long-term resource plan to the energy commission at least once every three years.

(e) The long-term resource plans submitted to the commission under this section shall be made available for public inspection, subject to the confidentiality requirements of Section 25322.

(f) Any person or entity may challenge the adequacy of a publicly owned electric utility's long-term resource plan submitted under this section in accordance with rules adopted by the commission.

25452. Before providing electric service or expending funds or incurring any risk or liability, contractual, contingent, or otherwise, to provide that service, the governing body of a publicly owned electric utility shall adopt, in a public hearing that allows for public participation, both of the following findings, supported by a written record:

(a) The commission has approved the publicly owned electric utility's long-term resource plan pursuant to Section 25451.

(b) The public interest and necessity requires that the publicly owned electric utility provides retail electric service and the anticipated public good outweighs the reasonably identified risks.

SEC. 3. Section 378.5 is added to the Public Utilities Code to read:

378.5. The commission shall impose a nonbypassable charge on former customers of an electrical corporation that take electric commodity service from a publicly owned electric utility, as defined in Section 25450 of the Public Resources Code, to prevent the subsidization of those customers by the existing customers of the electrical corporation.

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

~~Code, to read:~~

~~366.8. It is the intent of the Legislature to enact legislation to ensure that all customers who receive electrical service from a newly created entity are provided with reliable service.~~

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