

AMENDED IN ASSEMBLY APRIL 12, 2004

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 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 energy resources.

LEGISLATIVE COUNSEL'S DIGEST

AB 2499, as amended, Jerome Horton. 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 *new* publicly owned electric utilities, as defined, to meet certain resource adequacy requirements. The bill



would require a *new* publicly owned electric utility, before commencing operation ~~or~~ *and* providing electric energy to ~~an additional new~~ retail end-use ~~customer~~ *customers* 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~~ *May* 1, 2005, to develop and adopt the requirements that a *new* publicly owned electric utility is required to meet in its long-term resource plan. The bill would require the governing body of a *new* 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~~ *adopt requirements for former customers of a new publicly owned electric utility that commence taking electric commodity service from an electrical corporation* to prevent the subsidization of those *former new publicly owned electric utility* customers by the ~~existing~~ *other* 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~~ *adopt requirements*, would make a failure to ~~collect or pay the charge~~ *meet those requirements* 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.

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



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

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

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

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

9 (c) Since the California electricity crisis, there has been a
10 renewed interest in creating publicly owned utilities. Before the
11 ~~crisis, the last publicly owned utility was established in the late~~
12 ~~1940s.~~ *crisis, almost all of the publicly owned utilities were*
13 *established before 1990, the preponderance of them being*
14 *established before 1950.*

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

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

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

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

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

33

34 CHAPTER 5.5. RESOURCE ADEQUACY FOR *NEW* PUBLICLY
35 OWNED ELECTRIC UTILITIES

36

37 25450. As used in this chapter, ~~“publicly~~ *“new publicly*
38 *owned electric utility”* means a local publicly owned electrical



1 utility, as defined in subdivision (d) of Section 9604 of the Public
2 Utilities Code, that ~~declared its intention~~ *took legal action* to
3 establish a publicly owned electric utility on or after January 1,
4 2001, and that provides electric energy commodity service to new
5 ~~or additional~~ retail customers on or after July 1, 2005.

6 25451. (a) In order to provide reliable and sustainable
7 electric commodity service to end-use retail customers of *new*
8 publicly owned electric utilities, *new* publicly owned electric
9 utilities shall meet the same requirements for resource adequacy
10 as applicable to an electrical corporation, including reserve
11 requirements.

12 (b) Before commencing operation ~~or~~ *and* providing electric
13 energy to any ~~additional~~ retail end-use customer on or after July
14 1, 2005, a *new* publicly owned electric utility shall obtain approval
15 of a long-term resource plan from the commission.

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

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

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

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

31 25452. Before providing electric service or expending funds
32 or incurring any risk or liability, contractual, contingent, or
33 otherwise, to provide that service, the governing body of a *new*
34 publicly owned electric utility shall adopt, in a public hearing that
35 allows for public participation, both of the following findings,
36 supported by a written record:

37 (a) The commission has approved the *new* publicly owned
38 electric utility's long-term resource plan pursuant to Section
39 25451.



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

5 25453. *Nothing in this chapter limits any obligation of a*
6 *publicly owned electric utility, as defined in subdivision (d) of*
7 *Section 9604 of the Public Utilities Code, and not subject to this*
8 *chapter, to satisfy the resource adequacy requirements of their*
9 *electric load.*

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

12 ~~378.5.—The commission shall impose a nonbypassable charge~~
13 ~~on former customers of an electrical corporation that take electric~~
14 ~~commodity service from a publicly owned electric utility, as~~
15 ~~defined in Section 25450 of the Public Resources Code, to prevent~~
16 ~~the subsidization of those customers by the existing customers of~~
17 ~~the electrical corporation.~~

18 378.5. *The commission shall adopt requirements for former*
19 *customers of a new publicly owned electric utility, as defined in*
20 *Section 25450 of the Public Resources Code, that commence*
21 *taking electric commodity service from an electrical corporation*
22 *to prevent the subsidization of those former new publicly owned*
23 *electric utility customers by the other customers of the electrical*
24 *corporation.*

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



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2	CORRECTIONS	
3	Digest — Page 2.	
4	Text — Pages 3,4 and 5.	
5		_____
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