

AMENDED IN ASSEMBLY MAY 20, 2004
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 Sections 25142, 25308, 25309, and 25310~~ to 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: *new* 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 and providing ~~electric energy~~ *electricity* to new retail end-use customers on or after ~~July 1, 2005~~ *January 1, 2006*, 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 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 in conformance with regulations adopted by the Energy Commission.~~ 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. *The bill would exclude expenditures for the preparation of plans related to provision of service from this prohibition.*

(2) Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations, ~~and~~. *Existing law* 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 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 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 adopt requirements, would make a failure to 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 *with regard to certain mandates* no reimbursement is required by this act for ~~a specified reason~~ *reasons*.



With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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, almost all of the publicly owned utilities were established
12 before 1990, the preponderance of them being established before
13 1950.

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

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

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

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

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



~~CHAPTER 5.5. RESOURCE ADEQUACY FOR NEW PUBLICLY OWNED ELECTRIC UTILITIES~~

~~25450. As used in this chapter, “new~~

~~SEC. 2. Section 25142 is added to the Public Resources Code, to read:~~

~~25142. “New publicly owned electric utility” means a local publicly owned electrical electric utility, as defined in subdivision (d) of Section 9604 of the Public Utilities Code, that took legal action to establish a publicly owned electric utility on or after January 1, 2001, and that provides electric energy commodity service to new retail customers on or after July 1, 2005 January 1, 2006.~~

~~25451.—~~

~~SEC. 3. Section 25308 is added to the Public Resources Code, to read:~~

~~25308. (a) In order to provide reliable and sustainable electric commodity service to end-use retail retail end-use customers of new publicly owned electric utilities, new publicly owned electric utilities shall meet the same equivalent requirements for resource adequacy as applicable to an electrical corporation, including reserve requirements.~~

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

~~(c) On or before May 1, 2005, the commission shall develop and adopt the requirements that a new publicly owned electric utility is required to meet in its long-term resource plan to ensure compliance with subdivision (a). January 1, 2006, a new publicly owned electric utility shall obtain certification from the commission that its resource plan meets the requirements for resource adequacy pursuant to subdivision (a).~~

~~(c) The resource plan of a new publicly owned electric utility shall conform to any information submission or filing requirements specified by the commission pursuant to Section 25301.~~

~~(d) After receiving approval of its initial long-term resource plan, a new publicly owned electric utility shall submit updates to~~



1 ~~its long-term resource plan to the energy commission at least once~~
2 ~~every three years.~~

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

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

10 ~~25452.— its resource plan to the commission, in conformance~~
11 ~~with regulations adopted by the commission.~~

12 ~~SEC. 4. Section 25309 is added to the Public Resources Code,~~
13 ~~to read:~~

14 ~~25309. Before providing electric service or expending funds~~
15 ~~or incurring any risk or liability, contractual, contingent, or~~
16 ~~otherwise, except for expenditures for the preparation of plans~~
17 ~~related to the provision of that service, to provide that service, the~~
18 ~~governing body of a new publicly owned electric utility shall~~
19 ~~adopt, in a public hearing that allows for public participation, both~~
20 ~~of the following findings, supported by a written record:~~

21 ~~(a) The commission has approved certified the new publicly~~
22 ~~owned electric utility's long-term resource plan pursuant to~~
23 ~~Section 25451. 25308.~~

24 ~~(b) The public interest and necessity requires require that the~~
25 ~~new publicly owned electric utility provides provide retail electric~~
26 ~~service and the anticipated public good outweighs the reasonably~~
27 ~~identified risks.~~

28 ~~25453.—~~

29 ~~SEC. 5. Section 25310 is added to the Public Resources Code,~~
30 ~~to read:~~

31 ~~25310. Nothing in this chapter limits any obligation of a local~~
32 ~~publicly owned electric utility, as defined in subdivision (d) of~~
33 ~~Section 9604 of the Public Utilities Code, and not subject to this~~
34 ~~chapter, to satisfy the resource adequacy requirements of their~~
35 ~~electric load.~~

36 ~~SEC. 3. Section 378.5 is added to the Public Utilities Code, to~~
37 ~~read:~~

38 ~~378.5. The commission shall adopt requirements for former~~
39 ~~customers of a new publicly owned electric utility, as defined in~~
40 ~~Section 25450 25142 of the Public Resources Code, that~~



1 commence taking electric ~~commodity~~ service from an electrical
2 corporation to prevent the subsidization of those former new
3 publicly owned electric utility customers by the other customers
4 of the electrical corporation.

5 SEC. 4. No reimbursement is required by this act pursuant to
6 Section 6 of Article XIII B of the California Constitution because
7 ~~the only~~ *certain* costs that may be incurred by a local agency or
8 school district will be incurred because this act creates a new crime
9 or infraction, eliminates a crime or infraction, or changes the
10 penalty for a crime or infraction, within the meaning of Section
11 17556 of the Government Code, or changes the definition of a
12 crime within the meaning of Section 6 of Article XIII B of the
13 California Constitution *and because as to certain other costs, a*
14 *local agency or school district has the authority to levy service*
15 *charges, fees, or assessments sufficient to pay for the program or*
16 *level of service mandated by this act, within the meaning of Section*
17 *17556 of the Government Code.*

18 *However, notwithstanding Section 17610 of the Government*
19 *Code, if the Commission on State Mandates determines that this*
20 *act contains other costs mandated by the state, reimbursement to*
21 *local agencies and school districts for those costs shall be made*
22 *pursuant to Part 7 (commencing with Section 17500) of Division*
23 *4 of Title 2 of the Government Code. If the statewide cost of the*
24 *claim for reimbursement does not exceed one million dollars*
25 *(\$1,000,000), reimbursement shall be made from the State*
26 *Mandates Claims Fund.*

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28 CORRECTIONS
29 Title — Line 2.
30 Text — Page 5.

31 _____

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