

AMENDED IN SENATE JUNE 14, 2004
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 Sections 25142, 25308, 25309, and 25310 to the Public ~~Resources Code, and to add Section 378.5 to the Public Utilities Code,~~ *Resources Code*, relating to energy resources.

LEGISLATIVE COUNSEL'S DIGEST

AB 2499, as amended, Jerome Horton. Energy Commission: new publicly owned electric utilities: 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~~ *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 electricity to new retail end-use customers on or after January 1, 2006, to obtain ~~Energy Commission~~ *commission* approval of a resource plan, and to update the plan in conformance with regulations adopted by the ~~Energy Commission~~ *commission*. The bill would require the governing body of a new publicly owned electric utility to adopt findings, as specified, before providing ~~electric service~~ *electricity* 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 *the* provision of service from this prohibition. *By imposing new requirements on new local publicly owned electrical utilities, this bill would impose a state-mandated local program.*

~~(2) Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations. 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 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 specified 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.~~

(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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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



1 evaluate the resource plans, provide assistance in the preparation
2 of these plans, and certify that the plans conform to resource
3 adequacy requirements. Customers of a newly formed publicly
4 owned electric utility should be allowed to review and comment
5 on the resource plan.

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

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

12 25142. “New publicly owned electric utility” means a local
13 publicly owned electric utility, as defined in subdivision (d) of
14 Section 9604 of the Public Utilities Code, ~~that took legal action to~~
15 ~~establish a~~ *commenced operations and provided electricity and*
16 *distribution service to retail customers within its jurisdiction as an*
17 *operating* publicly owned electric utility on or after January 1,
18 2001, and that provides ~~electric service~~ *electricity* to new retail
19 customers on or after January 1, 2006.

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

22 25308. (a) In order to provide reliable and sustainable
23 ~~electric commodity service~~ *electricity* to retail end-use customers
24 of new publicly owned electric utilities, new publicly owned
25 electric utilities shall meet equivalent requirements for resource
26 adequacy as applicable to an electrical corporation, including
27 reserve requirements.

28 (b) Before commencing operation and providing ~~electric~~
29 ~~energy~~ *electricity* to any retail end-use customer on or after
30 January 1, 2006, a new publicly owned electric utility shall obtain
31 certification from the commission that its resource plan meets the
32 requirements for resource adequacy pursuant to subdivision (a).

33 (c) The resource plan of a new publicly owned electric utility
34 shall conform to any information submission or filing
35 requirements specified by the commission pursuant to Section
36 25301.

37 (d) After receiving approval of its initial resource plan, a new
38 publicly owned electric utility shall submit updates to its resource
39 plan to the commission, in conformance with regulations adopted
40 by the commission.



1 SEC. 4. Section 25309 is added to the Public Resources Code,
2 to read:

3 25309. Before providing ~~electric service~~ *electricity* or
4 expending funds or incurring any risk or liability, contractual,
5 contingent, or otherwise, except for expenditures for the
6 preparation of plans related to the provision of that service, to
7 provide that service, the governing body of a new publicly owned
8 electric utility shall adopt, in a public hearing that allows for public
9 participation, both of the following findings, supported by a
10 written record:

11 (a) The commission has certified the new publicly owned
12 electric utility's resource plan pursuant to Section 25308.

13 (b) The public interest and necessity require that the new
14 publicly owned electric utility provide retail ~~electric service~~
15 *electricity* and the anticipated public good outweighs the
16 reasonably identified risks.

17 SEC. 5. Section 25310 is added to the Public Resources Code,
18 to read:

19 25310. Nothing in this chapter limits any obligation of a local
20 publicly owned electric utility, as defined in subdivision (d) of
21 Section 9604 of the Public Utilities Code, and not subject to this
22 chapter, to satisfy the resource adequacy requirements of their
23 electric load.

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

26 ~~378.5. The commission shall adopt requirements for former
27 customers of a new publicly owned electric utility, as defined in
28 Section 25142 of the Public Resources Code, that commence
29 taking electric service from an electrical corporation to prevent the
30 subsidization of those former new publicly owned electric utility
31 customers by the other customers of the electrical corporation.~~

32 ~~SEC. 4. No reimbursement is required by this act pursuant to
33 Section 6 of Article XIII B of the California Constitution because
34 certain costs that may be incurred by a local agency or school
35 district will be incurred because this act creates a new crime or
36 infraction, eliminates a crime or infraction, or changes the penalty
37 for a crime or infraction, within the meaning of Section 17556 of
38 the Government Code, or changes the definition of a crime within
39 the meaning of Section 6 of Article XIII B of the California
40 Constitution and because as to certain other costs, a local agency~~



1 ~~or school district has the authority to levy service charges, fees, or~~
2 ~~assessments sufficient to pay for the program or level of service~~
3 ~~mandated by this act, within the meaning of Section 17556 of the~~
4 ~~Government Code.~~

5 ~~However, notwithstanding Section 17610 of the Government~~
6 ~~Code, if the Commission on State Mandates determines that this~~
7 ~~act contains other costs mandated by the state, reimbursement to~~
8 ~~local agencies and school districts for those costs shall be made~~
9 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
10 ~~4 of Title 2 of the Government Code. If the statewide cost of the~~
11 ~~claim for reimbursement does not exceed one million dollars~~
12 ~~(\$1,000,000), reimbursement shall be made from the State~~
13 ~~Mandates Claims Fund.~~

14 *SEC. 6. Notwithstanding Section 17610 of the Government*
15 *Code, if the Commission on State Mandates determines that this*
16 *act contains costs mandated by the state, reimbursement to local*
17 *agencies and school districts for those costs shall be made*
18 *pursuant to Part 7 (commencing with Section 17500) of Division*
19 *4 of Title 2 of the Government Code. If the statewide cost of the*
20 *claim for reimbursement does not exceed one million dollars*
21 *(\$1,000,000), reimbursement shall be made from the State*
22 *Mandates Claims Fund.*

