

AMENDED IN SENATE JUNE 16, 2004

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, 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 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 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 or~~ providing electricity to ~~new retail end-use customers~~ *any new or additional electrical service area* on or after January 1, 2006, to ~~obtain commission approval of a resource plan, and submit its resources plan to the commission and would require the commission to determine if the plan meets the requirements for resource adequacy.~~ *The bill would require a new publicly owned electric utility to update the plan in conformance with regulations adopted by the commission. The bill would require the governing body of a new publicly owned electric utility to adopt findings, as specified, before commencing operation or providing 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 to any new or additional electrical service area, on or after January 1, 2006.* By imposing new requirements on new local publicly owned electrical utilities, this bill would impose 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, 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:



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

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

7 (c) Since the California electricity crisis, there has been a
8 renewed interest in creating publicly owned utilities. Before the
9 crisis, almost all of the publicly owned utilities were established
10 before 1990, the preponderance of them being established before
11 1950.

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

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

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

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

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

30 25142. “New publicly owned electric utility” means a local
31 publicly owned electric utility, as defined in subdivision (d) of
32 Section 9604 of the Public Utilities Code, that commenced
33 operations and provided electricity and distribution service to
34 retail customers within its jurisdiction as an operating publicly
35 owned electric utility on or after January 1, 2001, ~~and that provides~~
36 ~~electricity to new retail customers on or after January 1, 2006.~~

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

39 25308. (a) In order to provide reliable and sustainable
40 electricity to retail end-use customers of new publicly owned



1 electric utilities, new publicly owned electric utilities shall meet
2 equivalent requirements for resource adequacy as *those*
3 *requirements that are* applicable to an electrical corporation,
4 including reserve requirements.

5 (b) Before commencing operation ~~and~~ or providing electricity
6 to any ~~retail end-use customer~~ *new or additional electrical service*
7 *area* on or after January 1, 2006, a new publicly owned electric
8 utility shall ~~obtain certification from the commission that its~~
9 ~~resource plan~~ *submit its resource plan to the commission and the*
10 *commission shall determine if the plan* meets the requirements for
11 resource adequacy pursuant to subdivision (a).

12 (c) The resource plan of a new publicly owned electric utility
13 shall conform to any information submission or filing
14 requirements specified by the commission pursuant to Section
15 25301.

16 ~~(d) After receiving approval of its initial resource plan, a new~~
17 *(d) A new* publicly owned electric utility shall submit updates
18 to its resource plan to the commission, in conformance with
19 regulations adopted by the commission.

20 SEC. 4. Section 25309 is added to the Public Resources Code,
21 to read:

22 25309. Before ~~providing electricity or expending funds or~~
23 ~~incurring any risk or liability, contractual, contingent, or~~
24 ~~otherwise, except for expenditures for the preparation of plans~~
25 ~~related to the provision of that service, to provide that service, the~~
26 ~~governing body of~~ *commencing operation or providing electricity*
27 *to any new or additional electrical service area on or after January*
28 *1, 2006*, a new publicly owned electric utility shall adopt, in a
29 public hearing that allows for public participation, both of the
30 following findings, supported by a written record:

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

33 *(a) That the resource plan of the new publicly owned electric*
34 *utility meets the adequacy requirements of subdivision (a) of*
35 *Section 25308. In adopting this finding, a new publicly owned*
36 *electric utility shall include a discussion of the determination*
37 *made by the commission pursuant to subdivision (b) of Section*
38 *25308, whether the plan meets the requirements for resource*
39 *adequacy.*



1 (b) The public interest and necessity require that the new
2 publicly owned electric utility provide retail electricity and the
3 anticipated public good outweighs the reasonably identified risks.

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

6 25310. Nothing in this chapter limits any obligation of a local
7 publicly owned electric utility, as defined in subdivision (d) of
8 Section 9604 of the Public Utilities Code, and not subject to this
9 chapter, to satisfy the resource adequacy requirements of their
10 electric load.

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

