

AMENDED IN SENATE MAY 7, 2003
AMENDED IN SENATE MARCH 27, 2003

SENATE BILL

No. 183

Introduced by Senator Sher

February 12, 2003

An act to *amend Section 25401.6 of, and to add Chapter 8.6 (commencing with Section 25740) to Division 15 of the Public Resources Code, and to repeal Section 383.5 of amend Sections 383.6, 394.25, 399.6, and 399.8 of, and to repeal Sections 383.5, 383.7, 399.6, 399.8, and 445 of, the Public Utilities Code, relating to energy.*

LEGISLATIVE COUNSEL'S DIGEST

SB 183, as amended, Sher. Energy: renewable technologies.

Under the Public Utilities Act, the Public Utilities Commission requires electrical corporations to identify a separate rate component to fund in-state operation and development of existing and new and emerging renewable resources technologies. This rate component is a nonbypassable element of local distribution and collected on the basis of usage. Existing law requires specified electrical corporations to collect specific amounts to support in-state operation and development of existing and new and emerging renewable resources technologies. Existing law also requires the State Energy Resources Conservation and Development Commission (Energy Commission) to transfer funds collected for in-state operation and development of existing and new and emerging renewable resources technologies into the Renewable Resource Trust Fund. Existing law requires that 17.5% of the funds collected to accomplish the funding of in-state operation and development of existing and new and emerging renewable resources

technologies, after deducting certain administrative costs, be used for a multiyear, consumer-based program to foster the development of emerging renewable technologies in distributed generation applications by providing monetary rebates, buydowns, or equivalent incentives. The Emerging Renewable Resources Account is established within the Renewable Resource Trust Fund, to accomplish these purposes.

This bill would recast those provisions in the Public Resources Code , *except for certain provisions authorizing the Energy Commission to determine that a renewable electricity generation technology facility located outside the state is eligible for funding.* The bill would require the Energy Commission, at least once annually, to publish and make available to the public the balance of funds available for emerging renewable energy resources for rebates, buydowns, and other incentives for the purchase of these resources. *The bill would make other conforming changes.*

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

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

- 1 SECTION 1. *Section 25401.6 of the Public Resources Code*
- 2 *is amended to read:*
- 3 25401.6. (a) In its administration of ~~subdivision (e) of~~
- 4 ~~Section 383.5 of the Public Utilities Code~~ *Section 25744*, the
- 5 commission shall establish a separate rebate for eligible
- 6 distributed emerging technologies for affordable housing projects
- 7 including, but not limited to, projects undertaken pursuant to
- 8 Section 50052.5, 50053, or 50199.4 of the Health and Safety
- 9 Code. In establishing the rebate, where the commission
- 10 determines that the occupants of the housing shall have individual
- 11 meters, the commission may adjust the amount of the rebate based
- 12 on the capacity of the system, provided that a system may receive
- 13 a rebate only up to 75 percent of the total installed costs. The
- 14 commission may establish a reasonable limit on the total amount
- 15 of funds dedicated for purposes of this section.
- 16 (b) It is the intent of the Legislature that this section fulfills the
- 17 purpose of ~~subparagraph (E) of paragraph (2) of subdivision (e) of~~
- 18 ~~Section 383.5 of the Public Utilities Code~~ *paragraph (5) of*
- 19 *subdivision (b) of Section 25744.*

SEC. 2. Chapter 8.6 (commencing with Section 25740) is added to Division 15 of the Public Resources Code, to read:

CHAPTER 8.6. RENEWABLE ENERGY RESOURCES PROGRAM

25740. It is the intent of the Legislature in establishing this program, to increase the amount of renewable electricity generated per year, so that it equals at least 17 percent of the total electricity generated for consumption in California per year by 2006.

25741. As used in this chapter, the following terms have the following meaning:

(a) “In-state renewable electricity generation facility” means a facility that meets all of the following criteria:

(1) The facility uses biomass, solar thermal, photovoltaic, wind, geothermal, fuel cells using renewable fuels, small hydroelectric generation of 30 megawatts or less, digester gas, municipal solid waste conversion, landfill gas, ocean wave, ocean thermal, or tidal current, and any additions or enhancements to the facility using that technology.

(2) The facility is located in the state or near the border of the state with the first point of connection to the Western Electricity Coordinating Council (WECC) transmission system located within this state.

(3) For the purposes of this subdivision, “solid waste conversion” means a technology that uses a noncombustion thermal process to convert solid waste to a clean-burning fuel for the purpose of generating electricity, and that meets all of the following criteria:

(A) The technology does not use air or oxygen in the conversion process, except ambient air to maintain temperature control.

(B) The technology produces no discharges of air contaminants or emissions, including greenhouse gases as defined in Section 42801.1 of the Health and Safety Code.

(C) The technology produces no discharges to surface or groundwaters of the state.

(D) The technology produces no hazardous wastes.

(E) To the maximum extent feasible, the technology removes all recyclable materials and marketable green waste compostable

1 materials from the solid waste stream prior to the conversion
2 process and the owner or operator of the facility certifies that those
3 materials will be recycled or composted.

4 (F) The facility at which the technology is used is in
5 compliance with all applicable laws, regulations, and ordinances.

6 (G) The technology meets any other conditions established by
7 the commission.

8 (H) The facility certifies that any local agency sending solid
9 waste to the facility is in compliance with Division 30
10 (commencing with Section 40000), has reduced, recycled, or
11 composted solid waste to the maximum extent feasible, and shall
12 have been found by the California Integrated Waste Management
13 Board to have diverted at least 30 percent of all solid waste through
14 source reduction, recycling, and composting.

15 (b) *“Renewable energy public goods charge” means that*
16 *portion of the nonbypassable system benefits charge authorized to*
17 *be collected and to be transferred to the Renewable Resource Trust*
18 *Fund pursuant to the Reliable Electric Service Investments Act*
19 *(Article 15 (commencing with Section 399) of Chapter 2.3 of Part*
20 *1 of Division 1 of the Public Utilities Code).*

21 (c) “Report” means the report entitled “Investing in
22 Renewable Electricity Generation in California” (June 2001,
23 Publication Number P500-00-022) submitted to the Governor and
24 the Legislature by the commission.

25 25742. (a) Twenty percent of the funds collected pursuant to
26 ~~paragraph (6) of subdivision (c) of Section 381 of the Public~~
27 ~~Utilities Code~~ *the renewable energy public goods charge* shall be
28 used for programs that are designed to improve the
29 competitiveness of existing in-state renewable electricity
30 generation facilities, and to secure for the state the environmental,
31 economic, and reliability benefits that continued operation of
32 those facilities will provide. Eligibility for incentives under this
33 section shall be limited to those technologies found eligible for
34 funds by the commission pursuant to paragraphs (5), (6), and (8)
35 of subdivision (c) of Section 399.6 of the Public Utilities Code.

36 (b) Any funds used to support in-state renewable electricity
37 generation facilities pursuant to this section shall be expended in
38 accordance with the provisions of the report, subject to all of the
39 following requirements:

(1) Of the funding for existing renewable electricity generation facilities available pursuant to this section, 75 percent shall be used to fund first tier technologies, including biomass and solar electric technologies and 25 percent shall be used to fund second tier wind technologies.

(2) The commission shall reexamine the tier structure as proposed in the report and adjust the structure to reflect market and contractual conditions. The commission shall also consider inflation when adjusting the structure.

(3) The commission shall establish a cents per kilowatthour production incentive, not to exceed the payment caps per kilowatthour established in the report, as those payment caps are revised in guidelines adopted by the commission, representing the difference between target prices and the price paid for electricity, if sufficient funds are available. If there are insufficient funds in any payment period to pay either the difference between the target and price paid for electricity or the payment caps, production incentives shall be based on the amount determined by dividing available funds by eligible generation. The price paid for electricity shall be determined by the commission based on the energy prices paid to nonutility power generators as authorized by the Public Utilities Commission, or on otherwise available measures of price. For the first tier technologies, the commission shall establish a time-differentiated incentive structure that encourages plants to run the maximum feasible amount of time and that provides a higher incentive when the plants are receiving the lowest price.

(4) Facilities that are eligible to receive funding pursuant to this section shall be registered in accordance with criteria developed by the commission and those facilities may not receive payments for any electricity produced that has any of the following characteristics:

(A) Is sold at monthly average rates equal to or greater than the applicable target price, as determined by the commission.

(B) Is that portion of electricity generation attributable to the use of qualified agricultural biomass fuel, for a facility that is receiving fuel-based incentives through the Agricultural Biomass-to-Energy Incentive Grant Program established pursuant to Part 3 (commencing with Section 1101) of Division 1 of the Food and Agricultural Code. Notwithstanding subdivision (f) of

1 Section 1104 of the Food and Agricultural Code, facilities that
2 receive funding from the Agricultural Biomass-to-Energy
3 Incentive Grant Program are eligible to receive funding pursuant
4 to this section.

5 (C) Is used onsite or is sold to customers in a manner that
6 excludes competitive transition charge payments, or is otherwise
7 excluded from competitive transition charge payments.

8 25743. (a) Fifty-one and one-half percent of the money
9 collected pursuant to ~~paragraph (6) of subdivision (c) of Section~~
10 ~~381 of the Public Utilities Code~~ *the renewable energy public goods*
11 *charge*, shall be used for programs designed to foster the
12 development of new in-state renewable electricity generation
13 facilities, and to secure for the state the environmental, economic,
14 and reliability benefits that operation of those facilities will
15 provide.

16 (b) Any funds used for new in-state renewable electricity
17 generation facilities pursuant to this section shall be expended in
18 accordance with the report, subject to all of the following
19 requirements:

20 (1) In order to cover the above market costs of renewable
21 resources as approved by the Public Utilities Commission and
22 selected by retail sellers to fulfill their obligations under Article 16
23 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of
24 Division 1 of the Public Utilities Code, the commission shall
25 award funds in the form of supplemental energy payments, subject
26 to the following criteria:

27 (A) The commission may establish caps on supplemental
28 energy payments. The caps shall be designed to provide for a
29 viable energy market capable of achieving the goals of Article 16
30 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of the
31 Public Utilities Code. The commission may waive application of
32 the caps to accommodate a facility, if it is demonstrated to the
33 satisfaction of the commission, that operation of the facility would
34 provide substantial economic and environmental benefits to
35 end-use customers subject to the funding requirements of Section
36 381 of the Public Utilities Code.

37 (B) Supplemental energy payments shall be awarded only to
38 facilities that are eligible for funding under this subdivision.

39 (C) Supplemental energy payments awarded to facilities
40 selected by an electrical corporation pursuant to Article 16

(commencing with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code shall be paid for the lesser of 10 years, or the duration of the contract with the electrical corporation.

(D) The commission shall reduce or terminate supplemental energy payments for projects that fail either to commence and maintain operations consistent with the contractual obligations to an electrical corporation, or that fail to meet eligibility requirements.

(E) Funds shall be managed in an equitable manner in order for retail sellers to meet their obligation under Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code.

~~(2) The commission may determine as part of a solicitation, that a facility that does not meet the definition of “in-state renewable electricity generation technology” facility solely because it is located outside the state, is eligible for funding under this subdivision if it meets both of the following requirements:~~

~~(A) It is located so that it is or will be connected to the Western Electricity Coordinating Council (WECC) transmission system.~~

~~(B) It is developed with guaranteed contracts to sell its generation to end-use customers subject to the funding requirements of Section 381 of the Public Utilities Code, or to marketers that provide this guarantee for resale of the generation, for a period of time at least equal to the amount of time it receives incentive payments under this subdivision.~~

~~(3) Facilities that are eligible to receive funding pursuant to this subdivision shall be registered in accordance with criteria developed by the commission and those facilities may not receive payments for any electricity produced that has any of the following characteristics:~~

~~(A) Is sold under an existing long-term contract with an existing in-state electrical corporation if the contract includes fixed energy or capacity payments, except for that electricity that satisfies subparagraph (C) of paragraph (1) of subdivision (c) of Section 399.6 of the Public Utilities Code.~~

~~(B) Is used onsite or is sold to customers in a manner that excludes competitive transition charge payments, or is otherwise excluded from competitive transition charge payments.~~

1 (C) Is produced by a facility that is owned by an electrical
2 corporation or a local publicly owned electric utility as defined in
3 subdivision (d) of Section 9604 of the Public Utilities Code.

4 (D) Is a hydroelectric generation project that will require a new
5 or increased appropriation of water under Part 2 (commencing
6 with Section 1200) of Division 2 of the Water Code.

7 (4) Eligibility to compete for funds or to receive funds shall be
8 contingent upon having to sell the output of the renewable
9 electricity generation facility to customers subject to the funding
10 requirements of Section 381 of the Public Utilities Code.

11 (5) The commission may require applicants competing for
12 funding to post a forfeitable bid bond or other financial guaranty
13 as an assurance of the applicant's intent to move forward
14 expeditiously with the project proposed. The amount of any bid
15 bond or financial guaranty may not exceed 10 percent of the total
16 amount of the funding requested by the applicant.

17 (6) In awarding funding, the commission may provide
18 preference to projects that provide tangible demonstrable benefits
19 to communities with a plurality of minority or low-income
20 populations.

21 (c) Repowered existing facilities shall be eligible for funding
22 under this subdivision if the capital investment to repower the
23 existing facility equals at least 80 percent of the value of the
24 repowered facility.

25 (d) Facilities engaging in the combustion of municipal solid
26 waste or tires are not eligible for funding under this subdivision.

27 (e) Production incentives awarded under this subdivision prior
28 to January 1, 2002, shall commence on the date that a project
29 begins electricity production, provided that the project was
30 operational prior to January 1, 2002, unless the commission finds
31 that the project will not be operational prior to January 1, 2002, due
32 to circumstances beyond the control of the developer. Upon
33 making a finding that the project will not be operational due to
34 circumstances beyond the control of the developer, the
35 commission shall pay production incentives over a five-year
36 period, commencing on the date of operation, provided that the
37 date that a project begins electricity production may not extend
38 beyond January 1, 2007.

39 (f) Facilities generating electricity from biomass energy shall
40 be considered an in-state renewable electricity generation

technology facility to the extent that they *report to the commission the types and quantities of biomass fuels used and certify to the satisfaction of the commission that fuel utilization is limited to the following:*

(1) Agricultural crops and agricultural wastes and residues.

(2) Solid waste materials such as waste pallets, crates, dunnage, manufacturing, and construction wood wastes, landscape or right-of-way tree trimmings, mill residues that are directly the result of the milling of lumber, and rangeland maintenance residues.

(3) Wood and wood wastes that meet all of the following requirements:

(A) Have been harvested pursuant to an approved timber harvest plan prepared in accordance with the Z'berg-Nejedly Forest Practice Act of 1973 (Chapter 8 (commencing with Sec. 4511) of Part 2 of Division 4).

(B) Have been harvested for the purpose of forest fire fuel reduction or forest stand improvement.

(C) Do not transport or cause the transportation of species known to harbor insect or disease nests outside zones of infestation or current quarantine zones, as identified by the Department of Food and Agriculture or the Department of Forestry and Fire Protection, unless approved by the Department of Food and Agriculture and the Department of Forestry and Fire Protection.

25744. (a) Seventeen and one-half percent of the money collected pursuant to ~~paragraph (6) of subdivision (c) of Section 381 of the Public Utilities Code~~ *the renewable energy public goods charge* shall be used for a multiyear, consumer-based program to foster the development of emerging renewable technologies in distributed generation applications.

(b) Any funds used for emerging technologies pursuant to this section shall be expended in accordance with the report, subject to all of the following requirements:

(1) Funding for emerging technologies shall be provided through a competitive, market-based process that shall be in place for a period of not less than five years, and shall be structured so as to allow eligible emerging technology manufacturers and suppliers to anticipate and plan for increased sale and installation volumes over the life of the program.

1 (2) The program shall provide monetary rebates, buydowns, or
2 equivalent incentives, subject to subparagraph (C), to purchasers,
3 lessees, lessors, or sellers of eligible electricity generating
4 systems. Incentives shall benefit the end-use consumer of
5 renewable generation by directly and exclusively reducing the
6 purchase or lease cost of the eligible system, or the cost of
7 electricity produced by the eligible system. Incentives shall be
8 issued on the basis of the rated electrical generating capacity of the
9 system measured in watts, or the amount of electricity production
10 of the system, measured in kilowatthours. Incentives shall be
11 limited to a maximum percentage of the system price, as
12 determined by the commission.

13 (3) Eligible distributed emerging technologies are
14 photovoltaic, solar thermal electric, fuel cell technologies that
15 utilize renewable fuels, and wind turbines of not more than 50
16 kilowatts rated electrical generating capacity per customer site,
17 and other distributed renewable emerging technologies that meet
18 the emerging technology eligibility criteria established by the
19 commission. Eligible electricity generating systems are intended
20 primarily to offset part or all of the consumer's own electricity
21 demand, and shall not be owned by local publicly owned electric
22 utilities, nor be located at a customer site that is not receiving
23 distribution service from an electrical corporation that is subject
24 to Section 381 of the Public Utilities Code and contributing funds
25 to support programs under this chapter. All eligible electricity
26 generating system components shall be new and unused, shall not
27 have been previously placed in service in any other location or for
28 any other application, and shall have a warranty of not less than
29 five years to protect against defects and undue degradation of
30 electrical generation output. Systems and their fuel resources shall
31 be located on the same premises of the end-use consumer where
32 the consumer's own electricity demand is located, and all eligible
33 electricity generating systems shall be connected to the utility grid
34 in California. The commission may require eligible electricity
35 generating systems to have meters in place to monitor and measure
36 a system's performance and generation. Only systems that will be
37 operated in compliance with applicable law and the rules of the
38 Public Utilities Commission shall be eligible for funding.

39 (4) The commission shall limit the amount of funds available
40 for any system or project of multiple systems and reduce the level

of funding for any system or project of multiple systems that has received, or may be eligible to receive, any government or utility funds, incentives, or credit.

(5) In awarding funding, the commission may provide preference to systems that provide tangible demonstrable benefits to communities with a plurality of minority or low-income populations.

(6) In awarding funding, the commission shall develop and implement eligibility criteria and a system that provides preference to systems based upon system performance, taking into account factors, including, but not limited to, shading, insulation levels, and installation orientation.

(7) At least once annually, the commission shall publish and make available to the public the balance of funds available for emerging renewable energy resources for rebates, buydowns, and other incentives for the purchase of these resources.

25745. (a) Ten percent of the money collected pursuant to paragraph (6) of subdivision (c) of Section 381 of the Public Utilities Code *the renewable energy public goods charge* shall be used to provide customer credits to customers that entered into a direct transaction on or before September 20, 2001, for purchases of electricity produced by registered in-state renewable electricity generating facilities.

(b) Any funds used for customer credits pursuant to this section shall be expended, as provided in the report, subject to all of the following requirements:

(1) Customer credits shall be awarded to California retail customers located in the service territory of an electrical corporation that is subject to Section 381 of the Public Utilities Code that is contributing funds to support programs under this chapter, and that is purchasing qualifying electricity from renewable electricity generating facilities, through transactions traceable to specific generation sources by any auditable contract trail or equivalent that provides commercial verification that the electricity from the claimed renewable electricity generating facilities has been sold once and only once to a retail customer.

(2) Credits awarded pursuant to this paragraph may be paid directly to electric service providers, energy marketers, aggregators, or generators if those persons or entities account for the credits on the recipient customer's bills. Credits may not

1 exceed one and one-half cents (\$0.015) per kilowatthour. Credits
2 awarded to members of the combined class of customers, other
3 than residential and small commercial customers, may not exceed
4 one thousand dollars (\$1,000) per customer per calendar year. In
5 no event may more than 20 percent of the total customer incentive
6 funds be awarded to members of the combined class of customers
7 other than residential and small commercial customers.

8 (3) The commission shall develop criteria and procedures for
9 the identification of energy purchasers and providers that are
10 eligible to receive funds pursuant to this paragraph through a
11 process consistent with this paragraph. These criteria and
12 procedures shall apply only to funding eligibility and may not
13 extend to other renewable marketing claims.

14 (4) Customer credits may not be awarded for the purchase of
15 electricity that is used to meet the obligations of a renewable
16 portfolio standard.

17 (5) The Public Utilities Commission shall notify the
18 commission in writing within 10 days of revoking or suspending
19 the registration of any electric service provider pursuant to
20 paragraph (4) of subdivision (b) of Section 394.25 of the Public
21 Utilities Code.

22 (6) By March 31, 2003, the commission shall report to the
23 Governor and the Legislature on how to most effectively utilize the
24 funds for customer credits, including whether, and under what
25 conditions, the program should be continued. The report shall
26 include an examination of trends in markets for renewable energy,
27 including the trading of nonenergy attributes, and the role of
28 customer credits in these markets. The report will recommend an
29 appropriate funding allocation for the customer credits and how
30 implementation of the customer credits should be structured, if
31 appropriate.

32 25746. One percent of the money collected pursuant to
33 ~~paragraph (6) of subdivision (e) of Section 381 of the Public~~
34 ~~Utilities Code~~ *the renewable energy public goods charge* shall be
35 used in accordance with the report to promote renewable energy
36 and disseminate information on renewable energy technologies,
37 including emerging renewable technologies, and to help develop
38 a consumer market for renewable energy and for small-scale
39 emerging renewable energy technologies.

1 25747. (a) The commission shall adopt guidelines governing
 2 the funding programs authorized under this chapter, at a publicly
 3 noticed meeting offering all interested parties an opportunity to
 4 comment. Substantive changes to the guidelines may not be
 5 adopted without at least 10 days' written notice to the public. The
 6 public notice of meetings required by this subdivision may not be
 7 less than 30 days. Notwithstanding any other provision of law, any
 8 guidelines adopted pursuant to this chapter shall be exempt from
 9 the requirements of Chapter 3.5 (commencing with Section
 10 11340) of Part 1 of Division 3 of Title 2 of the Government Code.
 11 The Legislature declares that the changes made to this subdivision
 12 by the act amending this section during the 2002 portion of the
 13 2001–02 Regular Session are declaratory of, and not a change in
 14 existing law.

15 (b) Funds to further the purposes of this chapter may be
 16 committed for multiple years.

17 (c) Awards made pursuant to this chapter are grants, subject to
 18 appeal to the commission upon a showing that factors other than
 19 those described in the guidelines adopted by the commission were
 20 applied in making the awards and payments. Any actions taken by
 21 an applicant to apply for, or become or remain eligible and
 22 registered to receive, payments or awards, including satisfying
 23 conditions specified by the commission, shall not constitute the
 24 rendering of goods, services, or a direct benefit to the commission.

25 25748. The commission shall report to the Legislature on or
 26 before May 31, 2000, and on or before May 31 of every second
 27 year thereafter, regarding the results of the mechanisms funded
 28 pursuant to this chapter. Reports prepared pursuant to this section
 29 shall include a description of the allocation of funds among
 30 existing, new and emerging technologies; the allocation of funds
 31 among programs, including consumer-side incentives; and the
 32 need for the reallocation of money among those technologies. *The*
 33 *report shall identify the types and quantities of biomass fuels used*
 34 *by facilities receiving funds pursuant to Section 25743 and their*
 35 *impacts on improving air quality.* The reports shall discuss the
 36 progress being made toward achieving the 17 percent target
 37 provided in Section 25740 by each funding category authorized
 38 pursuant to this chapter. The reports shall also address the
 39 allocation of funds from interest on the accounts described in this
 40 chapter, and money in the accounts described in subdivision (e) of



1 Section 381 of the Public Utilities Code. Money may be
2 reallocated without further legislative action among existing, new,
3 and emerging technologies and consumer-side programs in a
4 manner consistent with the report and with the latest report
5 provided to the Legislature pursuant to this section, except that
6 reallocations may not reduce the allocation established in Section
7 25743 nor increase the allocation established in Section 25742.

8 25749. The commission shall, by December 1, 2003, prepare
9 and submit to the Legislature a comprehensive renewable
10 electricity generation resource plan that describes the renewable
11 resource potential available in California, and recommendations
12 for a plan for development to achieve the target of increasing the
13 amount of electricity generated from renewable sources per year,
14 so that it equals 17 percent of the total electricity generated for
15 consumption in California by 2006. The commission shall consult
16 with the Public Utilities Commission, electrical corporations, and
17 the Independent System Operator, in the development and
18 preparation of the plan.

19 25750. The commission shall participate in proceedings at the
20 Public Utilities Commission that relate to or affect efforts to
21 stimulate the development of electricity generated from renewable
22 sources, in order to obtain coordination of the state's efforts to
23 achieve the target of increasing the amount of electricity generated
24 from renewable sources per year, so that it equals 17 percent of the
25 total electricity generated for consumption in California by 2006.

26 ~~SEC. 2.~~—

27 25751. (a) *The Renewable Resource Trust Fund is hereby*
28 *created in the State Treasury.*

29 (b) *The following accounts are hereby established within the*
30 *Renewable Resource Trust Fund:*

31 (1) *The Existing Renewable Resources Account.*

32 (2) *New Renewable Resources Account.*

33 (3) *Emerging Renewable Resources Account.*

34 (4) *Customer-Credit Renewable Resource Purchases Account.*

35 (5) *Renewable Resources Consumer Education Account.*

36 (c) *The money in the fund may be expended for the state's*
37 *administration of this article only upon appropriation by the*
38 *Legislature in the annual Budget Act.*

39 (d) *Notwithstanding Section 383, that portion of revenues*
40 *collected by electrical corporations for the benefit of in-state*

1 operation and development of existing and new and emerging
2 renewable resource technologies, pursuant to Section 399.8 of the
3 Public Utilities Code, shall be transmitted to the commission at
4 least quarterly for deposit in the Renewable Resource Trust Fund
5 pursuant to Section 399.6 of the Public Utilities Code. After setting
6 aside in the fund money that may be needed for expenditures
7 authorized by the annual Budget Act in accordance with
8 subdivision (c), the Treasurer shall immediately deposit money
9 received pursuant to this section into the accounts created
10 pursuant to subdivision (b) in proportions designated by the
11 commission for the current calendar year. Notwithstanding
12 Section 13340 of the Government Code, the money in the fund and
13 the accounts within the fund are hereby continuously appropriated
14 to the commission without regard to fiscal year for the purposes
15 enumerated in this chapter.

16 (e) Upon notification by the commission, the Controller shall
17 pay all awards of the money in the accounts created pursuant to
18 subdivision (b) for purposes enumerated in this chapter. The
19 eligibility of each award shall be determined solely by the
20 commission based on the procedures it adopts under this chapter.
21 Based on the eligibility of each award, the commission shall also
22 establish the need for a multiyear commitment to any particular
23 award and so advise the Department of Finance. Eligible awards
24 submitted by the commission to the Controller shall be
25 accompanied by information specifying the account from which
26 payment should be made and the amount of each payment; a
27 summary description of how payment of the award furthers the
28 purposes enumerated in this chapter; and an accounting of future
29 costs associated with any award or group of awards known to the
30 commission to represent a portion of a multiyear funding
31 commitment.

32 (f) The commission may transfer funds between accounts for
33 cashflow purposes, provided that the balance due each account is
34 restored and the transfer does not adversely affect any of the
35 accounts. The commission shall examine the cashflow in the
36 respective accounts on an annual basis, and shall annually
37 prepare and submit to the Legislature a report that describes the
38 status of account transfers and repayments.

39 (g) The commission shall, on a quarterly basis, report to the
40 Legislature on the implementation of this article. Those quarterly

1 reports shall be submitted to the Legislature not more than 30 days
2 after the close of each quarter and shall include information
3 describing the awards submitted to the Controller for payment
4 pursuant to this article, the cumulative commitment of claims by
5 account, the relative demand for funds by account, a forecast of
6 future awards, and other matters the commission determines may
7 be of importance to the Legislature.

8 (h) The Department of Finance, commencing March 1, 1999,
9 shall conduct an independent audit of the Renewable Resource
10 Trust Fund and its related accounts annually, and provide an audit
11 report to the Legislature not later than March 1 of each year for
12 which this article is operative. The Department of Finance's report
13 shall include information regarding revenues, payment of awards,
14 reserves held for future commitments, unencumbered cash
15 balances, and other matters that the Director of Finance
16 determines may be of importance to the Legislature.

17 SEC. 3. Section 383.5 of the Public Utilities Code is repealed.

18 SEC. 4. Section 383.6 of the Public Utilities Code is amended
19 to read:

20 383.6. The commission shall, by December 1, 2003, prepare
21 and submit to the Legislature, a comprehensive transmission plan
22 for renewable electricity generation facilities, to provide for the
23 rational, orderly, cost-effective expansion of transmission
24 facilities that may be necessary to facilitate the development of
25 renewable electricity generation facilities identified in the
26 renewable electricity generation resource plan prepared pursuant
27 to ~~subdivision (j) of Section 383.5~~ Section 25749 of the Public
28 Resources Code. The commission shall consult with the State
29 Energy Resources Conservation and Development Commission,
30 the Independent System Operator, and electrical corporations in
31 the development of and preparation of the plan.

32 SEC. 5. Section 383.7 of the Public Utilities Code is repealed.

33 ~~383.7. (a) Notwithstanding Provision 1 of Item~~
34 ~~3360-001-0465 of Section 2.00 of the Budget Act of 1998 or~~
35 ~~paragraph (1) of subdivision (e) of Section 383.5, during the~~
36 ~~period beginning April 1, 1998, and ending September 30, 1998,~~
37 ~~customer credits offered pursuant to paragraph (1) of subdivision~~
38 ~~(e) of Section 383.5 shall be available for the purchase and~~
39 ~~delivery of electrical energy and associated customer credits to~~
40 ~~eligible end use customers, in accordance with commission~~

~~guidelines, where the energy was generated by an in-state investor-owned utility that is not required to sell into the Power Exchange, or a facility that is owned by one or more in-state municipal utilities and is not certified under Section 292.2904 of Title 18 of the Code of Federal Regulations as a qualifying small power production facility. After September 30, 1998, customer credits offered pursuant to paragraph (1) of subdivision (c) of Section 383.5 shall be available only for end-user purchase and use of electricity produced by in-state renewable generation technologies, as defined in Section 383.5.~~

~~(b) Nothing in this section is intended to limit the commission's authority to revise its customer credit subaccount guidelines to implement the program changes contained herein.~~

SEC. 6. Section 394.25 of the Public Utilities Code is amended to read:

394.25. (a) The commission may enforce the provisions of Sections 2102, 2103, 2104, 2105, 2107, 2108, and 2114 against electric service providers as if those electric service providers were public utilities as defined in these code sections. Notwithstanding the above, nothing in this section grants the commission jurisdiction to regulate electric service providers other than as specifically set forth in this part. Electric service providers shall continue to be subject to the provisions of Sections 2111 and 2112. Upon a finding by the commission's executive director that there is evidence to support a finding that the electric service provider has committed an act constituting grounds for suspension or revocation of registration as set forth in subdivision (b) of Section 394.25, the commission shall notify the electric service provider in writing and notice an expedited hearing on the suspension or revocation of the electric service provider's registration to be held within 30 days of the notification to the electric service provider of the executive director's finding of evidence to support suspension or revocation of registration. The commission shall, within 45 days after holding the hearing, issue a decision on the suspension or revocation of registration, which shall be based on findings of fact and conclusions of law based on the evidence presented at the hearing. The decision shall include the findings of fact and the conclusions of law relied upon.

(b) An electric service provider may have its registration suspended or revoked, immediately or prospectively, in whole or in part, for any of the following acts:

(1) Making material misrepresentations in the course of soliciting customers, entering into service agreements with those customers, or administering those service agreements.

(2) Dishonesty, fraud, or deceit with the intent to substantially benefit the electric service provider or its employees, agents, or representatives, or to disadvantage retail electric customers.

(3) Where the commission finds that there is evidence that the electric service provider is not financially or operationally capable of providing the offered electric service.

(4) The misrepresentation of a material fact by an applicant in obtaining a registration pursuant to Section 394.

(c) Pursuant to its authority to revoke or suspend registration, the commission may suspend a registration for a specified period or revoke the registration, or in lieu of suspension or revocation, impose a moratorium on adding or soliciting additional customers. Any suspension or revocation of a registration shall require the electric service provider to cease serving customers within the boundaries of investor-owned electric corporations, and the affected customers shall be served by the electrical corporation until the time when they may select service from another service provider. Customers shall not be liable for the payment of any early termination fees or other penalties to any electric service provider under the service agreement if the serving electric service provider's registration is suspended or revoked.

(d) The commission shall require any electric service provider whose registration is revoked pursuant to paragraph (4) of subdivision (b) to refund all of the customer credit funds that the electric service provider received from the State Energy Resources Conservation and Development Commission pursuant to ~~paragraph (1) of subdivision (c) of Section 383.5~~ *subdivision (a) of Section 25744*. The repayment of these funds shall be in addition to all other penalties and fines appropriately assessed the electric service provider for committing those acts under other provisions of law. All customer credit funds refunded under this subdivision shall be deposited in the Renewable Resource Trust Fund for redistribution by the State Energy Resources Conservation and Development Commission pursuant to ~~Section 383.5~~ *Chapter 8.6*

(commencing with Section 25740) of Division 15 of the Public Resources Code. This subdivision may not be construed to apply retroactively.

(e) If a customer of an electric service provider or a community choice aggregator is involuntarily returned to service provided by an electrical corporation, any reentry fee imposed on that customer that the commission deems is necessary to avoid imposing costs on other customers of the electric corporation shall be the obligation of the electric service provider or a community choice aggregator, except in the case of a customer returned due to default in payment or other contractual obligations or because the customer's contract has expired. As a condition of its registration, an electric service provider or a community choice aggregator shall post a bond or demonstrate insurance sufficient to cover those reentry fees. In the event that an electric service provider becomes insolvent and is unable to discharge its obligation to pay reentry fees, the fees shall be allocated to the returning customers.

SEC. 7. Section 399.6 of the Public Utilities Code, as added by Section 4 of Chapter 1050 of the Statutes of 2000, is repealed.

~~399.6.—(a) In order to optimize public investment and ensure that the most cost-effective and efficient investments in renewable resources are vigorously pursued, the Energy Commission shall create an investment plan as set forth in paragraphs (1) to (3), inclusive, to govern the allocation of funds provided pursuant to this article. The Energy Commission's long-term goal shall be a fully competitive and self-sustaining California renewable energy supply. The investment plan shall be in accordance with all of the following:~~

~~(1) The investment plan's objective shall be to increase, in the near term, the quantity of California's electricity generated by in-state renewable energy resources, while protecting system reliability, fostering resource diversity, and obtaining the greatest environmental benefits for California residents.~~

~~(2) An additional objective of the plan shall be to identify and support emerging renewable energy technologies that have the greatest near-term commercial promise and that merit targeted assistance.~~

~~(3) The investment plan shall contain specific numerical targets, reflecting the projected impact of the plan, for both of the following:~~

~~(A) Increased quantity of California electrical generation produced from emerging technologies and from overall renewable resources.~~

~~(B) Increased supply of renewable generation available from facilities other than those selling to investor-owned utilities under contracts entered into prior to 1996 under the federal Public Utilities Regulatory Policies Act of 1978 (P.L. 95-617).~~

~~(b) The Energy Commission shall, on an annual basis, evaluate progress on meeting the targets set forth in subparagraphs (A) and (B) of paragraph (3) of subdivision (a), or any substitute provisions adopted by the Legislature upon review of the investment plan, and assess the impact of the investment plan on reducing the cost to Californians of renewable energy generation.~~

~~(c) In preparing these investment plans, the Energy Commission shall recommend allocations among all of the following:~~

~~(1) (A) Except as provided in subparagraph (B), production incentives for new renewable energy, including repowered or refurbished renewable energy.~~

~~(B) Allocations may not be made for renewable energy that is generated by a project that remains under a power purchase contract with an electrical corporation originally entered into prior to September 24, 1996, whether amended or restated thereafter.~~

~~(C) Notwithstanding subparagraph (B), production incentives for incremental new, repowered or refurbished renewable energy from existing projects under a power purchase contract with an electrical corporation originally entered into prior to September 24, 1996, whether amended or restated thereafter, may be allowed in any month, if all of the following occur:~~

~~(i) The project's power purchase contract provides that all energy delivered and sold under the contract is paid at a price that does not exceed commission approved short-run avoided cost of energy.~~

~~(ii) Either of the following:~~

~~(I) The power purchase contract is amended to provide that the kilowatthours used to determine the capacity payment in any time-of-delivery period in any month under the contract shall be equal to the actual kilowatthour production, but no greater than the five-year average of the kilowatthours delivered for the~~

~~corresponding time-of-delivery period and month, in the years 1994 to 1998, inclusive.~~

~~(H) If a project's installed capacity as of December 31, 1998, is less than 75 percent of the nameplate capacity as stated in the power purchase contract, the power purchase contract is amended to provide that the kilowatthours used to determine the capacity payment in any time-of-delivery period in any month under the contract shall be equal to the actual kilowatthour production, but no greater than the product of the five-year average of the kilowatthours delivered for the corresponding time-of-delivery period and month, in the years 1994 to 1998, inclusive, and the ratio of installed capacity as of December 31 of the previous year, but not to exceed contract nameplate capacity, to the installed capacity as of December 31, 1998.~~

~~(iii) The production incentive is payable only with respect to the kilowatthours delivered in a particular month that exceeds the corresponding five-year average calculated pursuant to clause (ii).~~

~~(2) Rebates, buydowns, or equivalent incentives for emerging renewable technologies.~~

~~(3) Customer credits for renewables not under contract with a utility.~~

~~(4) Customer education.~~

~~(5) Incentives for reducing fuel costs that are confirmed to the satisfaction of the Energy Commission at solid fuel biomass energy facilities in order to provide demonstrable environmental and public benefits, including but not limited to, air quality.~~

~~(6) Solar thermal generating resources that enhance the environmental value or reliability of the electricity system and that require financial assistance to remain economically viable, as determined by the Energy Commission. The Energy Commission may require financial disclosure from applicants for purposes of this paragraph.~~

~~(7) Specified fuel cell technologies, if the Energy Commission makes all of the following findings:~~

~~(A) The specified technologies have similar or better air pollutant characteristics than renewable technologies in the investment plan.~~

~~(B) The specified technologies require financial assistance to become commercially viable by reference to wholesale generation prices.~~

~~(C) The specified technologies could contribute significantly to the infrastructure development or other innovation required to meet the long-term objective of a self-sustaining, competitive supply of renewable energy.~~

~~(8) Existing wind-generating resources, if the Energy Commission finds that the existing wind-generating resources are a cost-effective source of reliability and environmental benefits compared with other eligible sources, and that the existing wind-generating resources require financial assistance to remain economically viable, as determined by the Energy Commission. The Energy Commission may require financial disclosure from applicants for the purposes of this paragraph.~~

~~(d) Commencing on January 1, 2002, public entities are not eligible to receive customer credits for renewables.~~

~~(e) Notwithstanding any other provision of law, moneys collected for renewable energy pursuant to this article shall be transferred to the Renewable Resource Trust Fund of the Energy Commission, to be held until further action by the Legislature. The Energy Commission shall prepare and submit to the Legislature, on or before March 31, 2001, an initial investment plan for these moneys, addressing the application of moneys collected between January 1, 2002, and January 1, 2007. The initial investment plan shall also include an evaluation of and report to the Legislature regarding the appropriateness and structure of a mandatory state purchase of renewable energy. On or before March 31, 2006, the Energy Commission shall prepare an investment plan proposing the application of moneys collected between January 1, 2007, and January 1, 2012. No moneys may be expended in the years covered by these plans without further legislative action.~~

SEC. 8. Section 399.6 of the Public Utilities Code, as amended by Section 192 of Chapter 664 of the Statutes of 2002, is amended to read:

399.6. (a) In order to optimize public investment and ensure that the most cost-effective and efficient investments in renewable resources are vigorously pursued, the Energy Commission shall create an investment plan as set forth in paragraphs (1) to (3), inclusive, to govern the allocation of funds provided pursuant to this article. The Energy Commission's long-term goal shall be a fully competitive and self-sustaining California renewable energy

1 supply. The investment plan shall be in accordance with all of the
2 following:

3 (1) The investment plan's objective shall be to increase, in the
4 near term, the quantity of California's electricity generated by
5 in-state renewable energy resources, while protecting system
6 reliability, fostering resource diversity, and obtaining the greatest
7 environmental benefits for California residents.

8 (2) An additional objective of the plan shall be to identify and
9 support emerging renewable energy technologies that have the
10 greatest near-term commercial promise and that merit targeted
11 assistance.

12 (3) The investment plan shall contain specific numerical
13 targets, reflecting the projected impact of the plan, for both of the
14 following:

15 (A) Increased quantity of California electrical generation
16 produced from emerging technologies and from overall renewable
17 resources.

18 (B) Increased supply of renewable generation available from
19 facilities other than those selling to investor-owned utilities under
20 contracts entered into prior to 1996 under the federal Public
21 Utilities Regulatory Policies Act of 1978 (P.L. 95-617).

22 (b) The Energy Commission shall, on an annual basis, evaluate
23 progress on meeting the targets set forth in subparagraphs (A) and
24 (B) of paragraph (3) of subdivision (a), or any substitute provisions
25 adopted by the Legislature upon review of the investment plan,
26 and assess the impact of the investment plan on reducing the cost
27 to Californians of renewable energy generation.

28 (c) In preparing these investment plans, the Energy
29 Commission shall recommend allocations among all of the
30 following:

31 (1) (A) Except as provided in subparagraph (B), production
32 incentives for new renewable energy, including repowered or
33 refurbished renewable energy.

34 (B) Allocations may not be made for renewable energy that is
35 generated by a project that remains under a power purchase
36 contract with an electrical corporation originally entered into prior
37 to September 24, 1996, whether amended or restated thereafter.

38 (C) Notwithstanding subparagraph (B), production incentives
39 for incremental new, repowered, or refurbished renewable energy
40 from existing projects under a power purchase contract with an

1 electrical corporation originally entered into prior to September
2 24, 1996, whether amended or restated thereafter, may be allowed
3 in any month, if all of the following occur:

4 (i) The project's power purchase contract provides that all
5 energy delivered and sold under the contract is paid at a price that
6 does not exceed commission-approved short-run avoided cost of
7 energy.

8 (ii) Either of the following:

9 (I) The power purchase contract is amended to provide that the
10 kilowatthours used to determine the capacity payment in any
11 time-of-delivery period in any month under the contract shall be
12 equal to the actual kilowatthour production, but no greater than the
13 five-year average of the kilowatthours delivered for the
14 corresponding time-of-delivery period and month, in the years
15 1994 to 1998, inclusive.

16 (II) If a project's installed capacity as of December 31, 1998,
17 is less than 75 percent of the nameplate capacity as stated in the
18 power purchase contract, the power purchase contract is amended
19 to provide that the kilowatthours used to determine the capacity
20 payment in any time-of-delivery period in any month under the
21 contract shall be equal to the actual kilowatthour production, but
22 no greater than the product of the five-year average of the
23 kilowatthours delivered for the corresponding time-of-delivery
24 period and month, in the years 1994 to 1998, inclusive, and the
25 ratio of installed capacity as of December 31 of the previous year,
26 but not to exceed contract nameplate capacity, to the installed
27 capacity as of December 31, 1998.

28 (iii) The production incentive is payable only with respect to
29 the kilowatthours delivered in a particular month that exceeds the
30 corresponding five-year average calculated pursuant to clause (ii).

31 (2) Rebates, buydowns, or equivalent incentives for emerging
32 renewable technologies.

33 (3) Customer credits for renewables not under contract with a
34 utility.

35 (4) Customer education.

36 (5) Incentives for reducing fuel costs that are confirmed to the
37 satisfaction of the Energy Commission at solid fuel biomass
38 energy facilities in order to provide demonstrable environmental
39 and public benefits, including, but not limited to, air quality.

(6) Solar thermal generating resources that enhance the environmental value or reliability of the electrical system and that require financial assistance to remain economically viable, as determined by the Energy Commission. The Energy Commission may require financial disclosure from applicants for purposes of this paragraph.

(7) Specified fuel cell technologies, if the Energy Commission makes all of the following findings:

(A) The specified technologies have similar or better air pollutant characteristics than renewable technologies in the investment plan.

(B) The specified technologies require financial assistance to become commercially viable by reference to wholesale generation prices.

(C) The specified technologies could contribute significantly to the infrastructure development or other innovation required to meet the long-term objective of a self-sustaining, competitive supply of renewable energy.

(8) Existing wind-generating resources, if the Energy Commission finds that the existing wind-generating resources are a cost-effective source of reliable and environmental benefits compared with other eligible sources, and that the existing wind-generating resources require financial assistance to remain economically viable, as determined by the Energy Commission. The Energy Commission may require financial disclosure from applicants for the purposes of this paragraph.

(d) The commission shall establish a cap on the aggregate amount of funds that may be awarded to public entities from the program that provides customer credits for renewables. The intent of the cap is to assure adequate funding of credits for residential and small commercial customers.

(e) Notwithstanding any other provision of law, moneys collected for renewable energy pursuant to this article shall be transferred to the Renewable Resource Trust Fund of the Energy Commission, ~~to be held until further action by the Legislature.~~ The Energy Commission shall prepare and submit to the Legislature, on or before March 31, 2001, an initial investment plan for these moneys, addressing the application of moneys collected between January 1, 2002, and January 1, 2007. The initial investment plan shall also include an evaluation of and report to the Legislature

1 regarding the appropriateness and structure of a mandatory state
2 purchase of renewable energy. On or before March 31, 2006, the
3 Energy Commission shall prepare an investment plan proposing
4 the application of moneys collected between January 1, 2007, and
5 January 1, 2012. ~~No moneys may be expended in the years covered~~
6 ~~by these plans without further legislative action.~~

7 *SEC. 9. Section 399.8 of the Public Utilities Code, as*
8 *amended by Section 1 of Chapter 770 of the Statutes of 2001, is*
9 *repealed.*

10 ~~399.8. (a) In order to ensure that the citizens of this state~~
11 ~~continue to receive safe, reliable, affordable, and environmentally~~
12 ~~sustainable electric service, it is the policy of this state and the~~
13 ~~intent of the Legislature that prudent investments in energy~~
14 ~~efficiency, renewable energy, and research, development and~~
15 ~~demonstration shall continue to be made.~~

16 ~~(b) (1) Every customer of an electrical corporation, shall pay~~
17 ~~a nonbypassable system benefits charge authorized pursuant to~~
18 ~~this article. The system benefits charge shall fund energy~~
19 ~~efficiency, renewable energy, and research, development and~~
20 ~~demonstration.~~

21 ~~(2) Local publicly owned electric utilities shall continue to~~
22 ~~collect and administer system benefits charges pursuant to Section~~
23 ~~385.~~

24 ~~(c) (1) The commission shall require each electrical~~
25 ~~corporation to identify a separate rate component to collect~~
26 ~~revenues to fund energy efficiency, renewable energy, and~~
27 ~~research, development and demonstration programs authorized~~
28 ~~pursuant to this section beginning January 1, 2002, through~~
29 ~~January 1, 2012. The rate component shall be a nonbypassable~~
30 ~~element of the local distribution service and collected on the basis~~
31 ~~of usage.~~

32 ~~(2) This rate component may not exceed, for any tariff~~
33 ~~schedule, the level of the rate component that was used to recover~~
34 ~~funds authorized pursuant to Section 381 on January 1, 2000. If the~~
35 ~~amounts specified in paragraph (1) of subdivision (d) are not~~
36 ~~recovered fully in any year, the commission shall reset the rate~~
37 ~~component to restore the unrecovered balance, provided that the~~
38 ~~rate component may not exceed, for any tariff schedule, the level~~
39 ~~of the rate component that was used to recover funds authorized~~
40 ~~pursuant to Section 381 on January 1, 2000. Pending restoration,~~

1 any annual shortfalls shall be allocated pro rata among the three
2 funding categories in the proportions established in paragraph (1)
3 of subdivision (d).

4 (d) The commission shall order San Diego Gas and Electric
5 Company, Southern California Edison Company, and Pacific Gas
6 and Electric Company to collect these funds commencing on
7 January 1, 2002, as follows:

8 (1) Two hundred twenty-eight million dollars (\$228,000,000)
9 per year in total for energy efficiency and conservation activities;
10 one hundred thirty-five million dollars (\$135,000,000) in total per
11 year for renewable energy, and sixty-two million five hundred
12 thousand dollars (\$62,500,000) in total per year for research,
13 development and demonstration. The funds for energy efficiency
14 and conservation activities shall continue to be allocated in
15 proportions established for the year 2000 as set forth in paragraph
16 (1) of subdivision (c) of Section 381.

17 (2) The amounts shall be adjusted annually at a rate equal to the
18 lesser of the annual growth in electric commodity sales or
19 inflation, as defined by the gross domestic product deflator.

20 (e) The commission and the Energy Commission shall retain
21 and continue their oversight responsibilities as set forth in Sections
22 381, 383, 383.5, and 445, and Chapter 7.1 (commencing with
23 Section 25620) of the Public Resources Code.

24 (f) (1) On or before January 1, 2004, the Governor shall
25 appoint an independent review panel including, but not limited to,
26 members with expertise on the energy service needs of large and
27 small electricity consumers, system reliability issues, and
28 energy-related public policy. On or before January 1, 2005, the
29 panel shall prepare and submit to the Legislature and the Energy
30 Commission a report evaluating the energy efficiency, renewable
31 energy, and research, development and demonstration programs
32 funded under this section. Reasonable costs associated with the
33 review in each of the three program categories, including technical
34 assistance, may be charged to the relevant program category under
35 procedures to be developed by the commission for energy
36 efficiency and by the Energy Commission for renewable energy
37 and research, development and demonstration.

38 (2) The report shall also assess all of the following:

39 (A) Whether ongoing programs are consistent with the
40 statutory goals.

~~(B) Whether potential synergies among the program categories described in paragraph (1) that could provide enhanced public value have been identified and incorporated in the programs.~~

~~(C) If established targets for increased renewable generation are likely to be achieved.~~

~~(D) What changes should be made to result in a more efficient use of public resources.~~

~~(3) The report shall also compare the Energy Commission's programs with efforts undertaken by other states and assess, as an alternative, the relative costs and benefits of adopting a tradable minimum renewable energy requirement in California. The evaluation shall include recommendations intended to optimize renewable resource development at the least cost.~~

~~(4) For energy efficiency programs, the report shall include an evaluation of all of the following:~~

~~(A) The net benefits secured for residential customers, taking into account both public and private costs, including improvements in that customer group's ability to avoid or reduce consumption of relatively costly peak electricity.~~

~~(B) Whether the programs provide a balance of benefits to all sectors that contribute to the funding.~~

~~(C) The extent to which competition in energy markets including, but not limited to, load participation in ancillary services markets, and improvements in technology affect the continuing need for such programs.~~

~~(D) The status and growth of the private, competitive energy services industry that provides energy efficiency services and other energy products to customers.~~

~~(E) The commercial availability of any new technologies that reduce electricity demands during high-priced periods.~~

~~(F) Customers' willingness and ability to reduce consumption or adopt energy efficiency measures without program support.~~

~~(G) The extent to which the programs have delivered cost-effective energy efficiency not adequately provided by markets and as a result have reduced energy demand and consumption.~~

~~(H) The relative cost effectiveness of program expenditures compared to other current or potential expenditures to enhance system reliability.~~

~~(5) The report shall include specific recommendations aimed at assisting the Legislature in determining whether to change or eliminate the collection of the system benefits charge on or after January 1, 2007.~~

~~(6) The panel may update and revise the report as needed.~~

~~(g) Promptly after receiving the panel's report, the commission shall convene a proceeding to address implementation of the panel's energy efficiency recommendations.~~

~~(h) An applicant for the Large Nonresidential Standard Performance Contract Program funded pursuant to paragraph (1) of subdivision (b) and an electrical corporation shall promptly attempt to resolve disputes that arise related to the program's guidelines and parameters prior to entering into a program agreement. The applicant shall provide the electrical corporation with written notice of any dispute. Within 10 business days after the date of receipt of the notice, the parties shall meet to resolve the dispute. If the dispute is not resolved within 10 business days after the meeting, the electrical corporation shall notify the applicant of his or her right to file a complaint with the commission, which complaint shall describe the grounds for the complaint, injury, and relief sought. The commission shall issue its findings in response to a filed complaint within 30 business days of the date of receipt of the complaint. Prior to issuance of its findings, the commission shall provide a copy of the complaint to the electrical corporation, which shall provide a response to the complaint to the commission within five business days of the date of receipt. During the dispute period, the amount of estimated financial incentives shall be held in reserve until the dispute is resolved.~~

SEC. 10. Section 399.8 of the Public Utilities Code, as amended by Section 2 of Chapter 770 of the Statutes of 2001, is amended to read:

399.8. (a) In order to ensure that the citizens of this state continue to receive safe, reliable, affordable, and environmentally sustainable electric service, it is the policy of this state and the intent of the Legislature that prudent investments in energy efficiency, renewable energy, and research, development and demonstration shall continue to be made.

(b) (1) Every customer of an electrical corporation, shall pay a nonbypassable system benefits charge authorized pursuant to

1 this article. The system benefits charge shall fund energy
2 efficiency, renewable energy, and research, development and
3 demonstration.

4 (2) Local publicly owned electric utilities shall continue to
5 collect and administer system benefits charges pursuant to Section
6 385.

7 (c) (1) The commission shall require each electrical
8 corporation to identify a separate rate component to collect
9 revenues to fund energy efficiency, renewable energy, and
10 research, development and demonstration programs authorized
11 pursuant to this section beginning January 1, 2002, through
12 January 1, 2012. The rate component shall be a nonbypassable
13 element of the local distribution service and collected on the basis
14 of usage.

15 (2) This rate component may not exceed, for any tariff
16 schedule, the level of the rate component that was used to recover
17 funds authorized pursuant to Section 381 on January 1, 2000. If the
18 amounts specified in paragraph (1) of subdivision (d) are not
19 recovered fully in any year, the commission shall reset the rate
20 component to restore the unrecovered balance, provided that the
21 rate component may not exceed, for any tariff schedule, the level
22 of the rate component that was used to recover funds authorized
23 pursuant to Section 381 on January 1, 2000. Pending restoration,
24 any annual shortfalls shall be allocated pro rata among the three
25 funding categories in the proportions established in paragraph (1)
26 of subdivision (d).

27 (d) The commission shall order San Diego Gas and Electric
28 Company, Southern California Edison Company, and Pacific Gas
29 and Electric Company to collect these funds commencing on
30 January 1, 2002, as follows:

31 (1) Two hundred twenty-eight million dollars (\$228,000,000)
32 per year in total for energy efficiency and conservation activities,
33 one hundred thirty-five million dollars (\$135,000,000) in total per
34 year for renewable energy, and sixty-two million five hundred
35 thousand dollars (\$62,500,000) in total per year for research,
36 development and demonstration. The funds for energy efficiency
37 and conservation activities shall continue to be allocated in
38 proportions established for the year 2000 as set forth in paragraph
39 (1) of subdivision (c) of Section 381.



(2) The amounts shall be adjusted annually at a rate equal to the lesser of the annual growth in electric commodity sales or inflation, as defined by the gross domestic product deflator.

(e) The commission and the Energy Commission shall retain and continue their oversight responsibilities as set forth in Sections 381, ~~383, 383.5, and 445~~, and 383, and Chapter 7.1 (commencing with Section 25620) *and Chapter 8.6 (commencing with Section 25740)* of Division 15 of the Public Resources Code.

(f) (1) On or before January 1, 2004, the Governor shall appoint an independent review panel including, but not limited to, members with expertise on the energy service needs of large and small electricity consumers, system reliability issues, and energy-related public policy. On or before January 1, 2005, the panel shall prepare and submit to the Legislature and the Energy Commission a report evaluating the energy efficiency, renewable energy, and research, development and demonstration programs funded under this section. Reasonable costs associated with the review in each of the three program categories, including technical assistance, may be charged to the relevant program category under procedures to be developed by the commission for energy efficiency and by the Energy Commission for renewable energy and research development and demonstration.

(2) The report shall also assess all of the following:

(A) Whether ongoing programs are consistent with the statutory goals.

(B) Whether potential synergies among the program categories described in paragraph (1) that could provide enhanced public value have been identified and incorporated in the programs.

(C) If established targets for increased renewable generation are likely to be achieved.

(D) What changes should be made to result in a more efficient use of public resources.

(3) The report shall also compare the Energy Commission's programs with efforts undertaken by other states and assess, as an alternative, the relative costs and benefits of adopting a tradable minimum renewable energy requirement in California. The evaluation shall include recommendations intended to optimize renewable resource development at the least cost.

(4) For energy efficiency programs, the report shall include an evaluation of all of the following:

1 (A) The net benefits secured for residential customers, taking
2 into account both public and private costs, including
3 improvements in that customer group's ability to avoid or reduce
4 consumption of relatively costly peak electricity.

5 (B) Whether the programs provide a balance of benefits to all
6 sectors that contribute to the funding.

7 (C) The extent to which competition in energy markets
8 including, but not limited to, load participation in ancillary
9 services markets, and improvements in technology affect the
10 continuing need for such programs.

11 (D) The status and growth of the private, competitive energy
12 services industry that provides energy efficiency services and
13 other energy products to customers.

14 (E) The commercial availability of any new technologies that
15 reduce electricity demands during high-priced periods.

16 (F) Customers' willingness and ability to reduce consumption
17 or adopt energy efficiency measures without program support.

18 (G) The extent to which the programs have delivered
19 cost-effective energy efficiency not adequately provided by
20 markets and as a result have reduced energy demand and
21 consumption.

22 (H) The relative cost effectiveness of program expenditures
23 compared to other current or potential expenditures to enhance
24 system reliability.

25 (5) The report shall include specific recommendations aimed
26 at assisting the Legislature in determining whether to change or
27 eliminate the collection of the system benefits charge on or after
28 January 1, 2007.

29 (6) The panel may update and revise the report as needed.

30 (g) Promptly after receiving the panel's report, the commission
31 shall convene a proceeding to address implementation of the
32 panel's energy efficiency recommendations.

33 (h) An applicant for the Large Nonresidential Standard
34 Performance Contract Program funded pursuant to paragraph (1)
35 of subdivision (b) and an electrical corporation shall promptly
36 attempt to resolve disputes that arise related to the program's
37 guidelines and parameters prior to entering into a program
38 agreement. The applicant shall provide the electrical corporation
39 with written notice of any dispute. Within 10 business days after
40 receipt of the notice, the parties shall meet to resolve the dispute.



If the dispute is not resolved within 10 business days after the date of the meeting, the electrical corporation shall notify the applicant of his or her right to file a complaint with the commission, which complaint shall describe the grounds for the complaint, injury, and relief sought. The commission shall issue its findings in response to a filed complaint within 30 business days of the date of receipt of the complaint. Prior to issuance of its findings, the commission shall provide a copy of the complaint to the electrical corporation, which shall provide a response to the complaint to the commission within five business days of the date of receipt. During the dispute period, the amount of estimated financial incentives shall be held in reserve until the dispute is resolved.

SEC. 16. Section 445 of the Public Utilities Code is repealed.

~~445. (a) The Renewable Resource Trust Fund is hereby created in the State Treasury.~~

~~(b) The following accounts are hereby created within the Renewable Resource Trust Fund:~~

~~(1) The Existing Renewable Resources Account.~~

~~(2) New Renewable Resources Account.~~

~~(3) Emerging Renewable Resources Account.~~

~~(4) Customer Credit Renewable Resource Purchases Account.~~

~~(5) Renewable Resources Consumer Education Account.~~

~~(c) The money in the fund may be expended for the state's administration of this article only upon appropriation by the Legislature in the annual Budget Act.~~

~~(d) Notwithstanding Section 383, that portion of revenues collected by electrical corporations for the benefit of in-state operation and development of existing and new and emerging renewable resource technologies, pursuant to paragraphs (3) and (6) of subdivision (c) of Section 381, shall be transmitted to the State Energy Resources Conservation and Development Commission (hereafter the Energy Commission) at least quarterly for deposit in the Renewable Resource Trust Fund. After setting aside in the fund money that may be needed for expenditures authorized by the annual Budget Act in accordance with subdivision (c), the Treasurer shall immediately deposit money received pursuant to this section into the accounts created pursuant to subdivision (b) in proportions designated by the Energy Commission for the current calendar year. Notwithstanding Section 13340 of the Government Code, the money in the fund and~~

1 the accounts within the fund are hereby continuously appropriated
2 to the Energy Commission without regard to fiscal year for the
3 purposes enumerated in Section 383.5.

4 (e) Upon notification by the Energy Commission, the
5 Controller shall pay all awards of the money in the accounts
6 created pursuant to subdivision (b) for purposes enumerated in
7 Section 383.5. The eligibility of each award shall be determined
8 solely by the Energy Commission based on the procedures it
9 adopts under subdivision (h) of Section 383.5. Based on the
10 eligibility of each award, the Energy Commission shall also
11 establish the need for a multiyear commitment to any particular
12 award and so advise the Department of Finance. Eligible awards
13 submitted by the Energy Commission to the Controller shall be
14 accompanied by information specifying the account from which
15 payment should be made and the amount of each payment; a
16 summary description of how payment of the award furthers the
17 purposes enumerated in Section 383.5; and an accounting of future
18 costs associated with any award or group of awards known to the
19 Energy Commission to represent a portion of a multiyear funding
20 commitment.

21 (f) The Energy Commission may transfer funds between
22 accounts for cashflow purposes, provided that the balance due
23 each account is restored and the transfer does not adversely affect
24 any of the accounts. The Energy Commission shall examine the
25 cashflow in the respective accounts on an annual basis, and shall
26 annually prepare and submit to the Legislature a report that
27 describes the status of account transfers and repayments.

28 (g) The Energy Commission shall, on a quarterly basis, report
29 to the Legislature on the implementation of this article. Those
30 quarterly reports shall be submitted to the Legislature not more
31 than 30 days after the close of each quarter and shall include
32 information describing the awards submitted to the Controller for
33 payment pursuant to this article, the cumulative commitment of
34 claims by account, the relative demand for funds by account, a
35 forecast of future awards, and other matters the Energy
36 Commission determines may be of importance to the Legislature.

37 (h) The Department of Finance, commencing March 1, 1999,
38 shall conduct an independent audit of the Renewable Resource
39 Trust Fund and its related accounts annually, and provide an audit
40 report to the Legislature not later than March 1 of each year for

1 ~~which this article is operative. The Department of Finance's report~~
2 ~~shall include information regarding revenues, payment of awards,~~
3 ~~reserves held for future commitments, unencumbered cash~~
4 ~~balances, and other matters that the Director of Finance determines~~
5 ~~may be of importance to the Legislature.~~

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