

AMENDED IN ASSEMBLY JULY 3, 2003

AMENDED IN ASSEMBLY JUNE 27, 2003

AMENDED IN SENATE MAY 7, 2003

AMENDED IN SENATE MARCH 27, 2003

**SENATE BILL**

**No. 183**

**Introduced by Senator Sher**

February 12, 2003

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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 amend Sections 383.6, 394.25, ~~399.6, 399.8, and 399.12~~ 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 Section 25744, the
- 4 commission shall establish a separate rebate for eligible
- 5 distributed emerging technologies for affordable housing projects
- 6 including, but not limited to, projects undertaken pursuant to
- 7 Section 50052.5, 50053, or 50199.4 of the Health and Safety
- 8 Code. In establishing the rebate, where the commission
- 9 determines that the occupants of the housing shall have individual
- 10 meters, the commission may adjust the amount of the rebate based
- 11 on the capacity of the system, provided that a system may receive
- 12 a rebate only up to 75 percent of the total installed costs. The
- 13 commission may establish a reasonable limit on the total amount
- 14 of funds dedicated for purposes of this section.
- 15 (b) It is the intent of the Legislature that this section fulfills the
- 16 purpose of paragraph (5) of 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 diverted at least 30 percent of all solid waste  
10 it collects through solid waste reduction, recycling, and  
11 composting. For purposes of this paragraph “local agency” means  
12 any city, county, or special district, or subdivision thereof, which  
13 is authorized to provide solid waste handling services.

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

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

24 25742. (a) Twenty percent of the funds collected pursuant to  
25 the renewable energy public goods charge shall be used for  
26 programs that are designed to improve the competitiveness of  
27 existing in-state renewable electricity generation facilities, and to  
28 secure for the state the environmental, economic, and reliability  
29 benefits that continued operation of those facilities will provide.  
30 Eligibility for incentives under this section shall be limited to those  
31 technologies found eligible for funds by the commission pursuant  
32 to paragraphs (5), (6), and (8) of subdivision (c) of Section 399.6  
33 of the Public Utilities Code.

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

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



1 technologies and 25 percent shall be used to fund second tier wind  
2 technologies.

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

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

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

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

32 (B) Is that portion of electricity generation attributable to the  
33 use of qualified agricultural biomass fuel, for a facility that is  
34 receiving fuel-based incentives through the Agricultural  
35 Biomass-to-Energy Incentive Grant Program established pursuant  
36 to Part 3 (commencing with Section 1101) of Division 1 of the  
37 Food and Agricultural Code. Notwithstanding subdivision (f) of  
38 Section 1104 of the Food and Agricultural Code, facilities that  
39 receive funding from the Agricultural Biomass-to-Energy



1 Incentive Grant Program are eligible to receive funding pursuant  
2 to this section.

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

6 25743. (a) Fifty-one and one-half percent of the money  
7 collected pursuant to the renewable energy public goods charge,  
8 shall be used for programs designed to foster the development of  
9 new in-state renewable electricity generation facilities, and to  
10 secure for the state the environmental, economic, and reliability  
11 benefits that operation of those facilities will provide.

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

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

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

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

35 (C) Supplemental energy payments awarded to facilities  
36 selected by an electrical corporation pursuant to Article 16  
37 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of  
38 Division 1 of the Public Utilities Code shall be paid for the lesser  
39 of 10 years, or the duration of the contract with the electrical  
40 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 an “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, 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.

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

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

4 (E) Is a solid waste conversion facility, unless the facility meets  
5 the criteria established in paragraph (3) of subdivision (a) of  
6 Section 25741 and the facility certifies that any local agency  
7 sending solid waste to the facility is in compliance with Division  
8 30 (commencing with Section 40000), has reduced, recycled, or  
9 composted solid waste to the maximum extent feasible, and shall  
10 have been found by the California Integrated Waste Management  
11 Board to have diverted at least 30 percent of all solid waste through  
12 source reduction, recycling, and composting.

13 ~~(3)–~~

14 (4) Eligibility to compete for funds or to receive funds shall be  
15 contingent upon having to sell the output of the renewable  
16 electricity generation facility to customers subject to the funding  
17 requirements of the renewable energy public goods charge.

18 ~~(4)–~~

19 (5) The commission may require applicants competing for  
20 funding to post a forfeitable bid bond or other financial guaranty  
21 as an assurance of the applicant's intent to move forward  
22 expeditiously with the project proposed. The amount of any bid  
23 bond or financial guaranty may not exceed 10 percent of the total  
24 amount of the funding requested by the applicant.

25 ~~(5)–~~

26 (6) In awarding funding, the commission may provide  
27 preference to projects that provide tangible demonstrable benefits  
28 to communities with a plurality of minority or low-income  
29 populations.

30 (c) Repowered existing facilities shall be eligible for funding  
31 under this subdivision if the capital investment to repower the  
32 existing facility equals at least 80 percent of the value of the  
33 repowered facility.

34 (d) Facilities engaging in the direct combustion of municipal  
35 solid waste or tires are not eligible for funding under this  
36 subdivision.

37 (e) Production incentives awarded under this subdivision prior  
38 to January 1, 2002, shall commence on the date that a project  
39 begins electricity production, provided that the project was  
40 operational prior to January 1, 2002, unless the commission finds



1 that the project will not be operational prior to January 1, 2002, due  
2 to circumstances beyond the control of the developer. Upon  
3 making a finding that the project will not be operational due to  
4 circumstances beyond the control of the developer, the  
5 commission shall pay production incentives over a five-year  
6 period, commencing on the date of operation, provided that the  
7 date that a project begins electricity production may not extend  
8 beyond January 1, 2007.

9 (f) Facilities generating electricity from biomass energy shall  
10 be considered an in-state renewable electricity generation  
11 technology facility to the extent that they report to the commission  
12 the types and quantities of biomass fuels used and certify to the  
13 satisfaction of the commission that fuel utilization is limited to the  
14 following:

15 (1) Agricultural crops and agricultural wastes and residues.

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

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

23 (A) Have been harvested pursuant to an approved timber  
24 harvest plan prepared in accordance with the Z'berg-Nejedly  
25 Forest Practice Act of 1973 (Chapter 8 (commencing with Sec.  
26 4511) of Part 2 of Division 4).

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

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

35 25744. (a) Seventeen and one-half percent of the money  
36 collected pursuant to the renewable energy public goods charge  
37 shall be used for a multiyear, consumer-based program to foster  
38 the development of emerging renewable technologies in  
39 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.

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

(3) Eligible distributed emerging technologies are photovoltaic, solar thermal electric, fuel cell technologies that utilize renewable fuels, and wind turbines of not more than 50 kilowatts rated electrical generating capacity per customer site, and other distributed renewable emerging technologies that meet the emerging technology eligibility criteria established by the commission. Eligible electricity generating systems are intended primarily to offset part or all of the consumer's own electricity demand, and shall not be owned by local publicly owned electric utilities, nor be located at a customer site that is not receiving distribution service from an electrical corporation that is subject to the renewable energy public goods charge and contributing funds to support programs under this chapter. All eligible electricity generating system components shall be new and unused, shall not have been previously placed in service in any other location or for any other application, and shall have a warranty of not less than five years to protect against defects and undue degradation of electrical generation output. Systems and their fuel resources shall be located on the same premises of the

end-use consumer where the consumer's own electricity demand is located, and all eligible electricity generating systems shall be connected to the utility grid in California. The commission may require eligible electricity generating systems to have meters in place to monitor and measure a system's performance and generation. Only systems that will be operated in compliance with applicable law and the rules of the Public Utilities Commission shall be eligible for funding.

(4) The commission shall limit the amount of funds available 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 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 the renewable energy public goods charge that is contributing funds to support programs under this chapter, and that is purchasing qualifying electricity from

1 renewable electricity generating facilities, through transactions  
2 traceable to specific generation sources by any auditable contract  
3 trail or equivalent that provides commercial verification that the  
4 electricity from the claimed renewable electricity generating  
5 facilities has been sold once and only once to a retail customer.

6 (2) Credits awarded pursuant to this paragraph may be paid  
7 directly to electric service providers, energy marketers,  
8 aggregators, or generators if those persons or entities account for  
9 the credits on the recipient customer's bills. Credits may not  
10 exceed one and one-half cents (\$0.015) per kilowatthour. Credits  
11 awarded to members of the combined class of customers, other  
12 than residential and small commercial customers, may not exceed  
13 one thousand dollars (\$1,000) per customer per calendar year. In  
14 no event may more than 20 percent of the total customer incentive  
15 funds be awarded to members of the combined class of customers  
16 other than residential and small commercial customers.

17 (3) The commission shall develop criteria and procedures for  
18 the identification of energy purchasers and providers that are  
19 eligible to receive funds pursuant to this paragraph through a  
20 process consistent with this paragraph. These criteria and  
21 procedures shall apply only to funding eligibility and may not  
22 extend to other renewable marketing claims.

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

26 (5) The Public Utilities Commission shall notify the  
27 commission in writing within 10 days of revoking or suspending  
28 the registration of any electric service provider pursuant to  
29 paragraph (4) of subdivision (b) of Section 394.25 of the Public  
30 Utilities Code.

31 ~~(6) By March 31, 2003, the commission shall report to the~~  
32 ~~Governor and the Legislature on how to most effectively utilize the~~  
33 ~~funds for customer credits, including whether, and under what~~  
34 ~~conditions, the program should be continued. The report shall~~  
35 ~~include an examination of trends in markets for renewable energy,~~  
36 ~~including the trading of nonenergy attributes, and the role of~~  
37 ~~customer credits in these markets. The report will recommend an~~  
38 ~~appropriate funding allocation for the customer credits and how~~  
39 ~~implementation of the customer credits should be structured, if~~  
40 ~~appropriate.~~

25746. One percent of the money collected pursuant to the renewable energy public goods charge shall be used in accordance with the report to promote renewable energy and disseminate information on renewable energy technologies, including emerging renewable technologies, and to help develop a consumer market for renewable energy and for small-scale emerging renewable energy technologies.

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

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

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

25748. The commission shall report to the Legislature on or before May 31, 2000, and on or before May 31 of every second year thereafter, regarding the results of the mechanisms funded pursuant to this chapter. Reports prepared pursuant to this section shall include a description of the allocation of funds among existing, new and emerging technologies; the allocation of funds among programs, including consumer-side incentives; and the need for the reallocation of money among those technologies. The report shall identify the types and quantities of biomass fuels used

1 by facilities receiving funds pursuant to Section 25743 and their  
2 impacts on improving air quality. The reports shall discuss the  
3 progress being made toward achieving the 17-percent target  
4 provided in Section 25740 by each funding category authorized  
5 pursuant to this chapter. The reports shall also address the  
6 allocation of funds from interest on the accounts described in this  
7 chapter, and money in the accounts described in subdivision (b) of  
8 Section 25751. Money may be reallocated without further  
9 legislative action among existing, new, and emerging technologies  
10 and consumer-side programs in a manner consistent with the  
11 report and with the latest report provided to the Legislature  
12 pursuant to this section, except that reallocations may not reduce  
13 the allocation established in Section 25743 nor increase the  
14 allocation established in Section 25742.

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

26 25750. The commission shall participate in proceedings at the  
27 Public Utilities Commission that relate to or affect efforts to  
28 stimulate the development of electricity generated from renewable  
29 sources, in order to obtain coordination of the state's efforts to  
30 achieve the target of increasing the amount of electricity generated  
31 from renewable sources per year, so that it equals 17 percent of the  
32 total electricity generated for consumption in California by 2006.

33 25751. (a) The Renewable Resource Trust Fund is hereby  
34 created in the State Treasury.

35 (b) The following accounts are hereby established within the  
36 Renewable Resource Trust Fund:

- 37 (1) The Existing Renewable Resources Account.
- 38 (2) New Renewable Resources Account.
- 39 (3) Emerging Renewable Resources Account.
- 40 (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 Section 399.8 of the Public Utilities Code, shall be transmitted to the commission at least quarterly for deposit in the Renewable Resource Trust Fund pursuant to Section 399.6 of the Public Utilities Code. 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 commission for the current calendar year. Notwithstanding Section 13340 of the Government Code, the money in the fund and the accounts within the fund are hereby continuously appropriated to the commission without regard to fiscal year for the purposes enumerated in this chapter.

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

(f) The commission may transfer funds between accounts for cashflow purposes, provided that the balance due each account is restored and the transfer does not adversely affect any of the

1 accounts. The commission shall examine the cashflow in the  
2 respective accounts on an annual basis, and shall annually prepare  
3 and submit to the Legislature a report that describes the status of  
4 account transfers and repayments.

5 (g) The commission shall, on a quarterly basis, report to the  
6 Legislature on the implementation of this article. Those quarterly  
7 reports shall be submitted to the Legislature not more than 30 days  
8 after the close of each quarter and shall include information  
9 describing the awards submitted to the Controller for payment  
10 pursuant to this article, the cumulative commitment of claims by  
11 account, the relative demand for funds by account, a forecast of  
12 future awards, and other matters the commission determines may  
13 be of importance to the Legislature.

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

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

24 SEC. 4. Section 383.6 of the Public Utilities Code is amended  
25 to read:

26 383.6. The commission shall, by December 1, 2003, prepare  
27 and submit to the Legislature, a comprehensive transmission plan  
28 for renewable electricity generation facilities, to provide for the  
29 rational, orderly, cost-effective expansion of transmission  
30 facilities that may be necessary to facilitate the development of  
31 renewable electricity generation facilities identified in the  
32 renewable electricity generation resource plan prepared pursuant  
33 to Section 25749 of the Public Resources Code. The commission  
34 shall consult with the State Energy Resources Conservation and  
35 Development Commission, the Independent System Operator, and  
36 electrical corporations in the development of and preparation of  
37 the plan.

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

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

1 394.25. (a) The commission may enforce the provisions of  
2 Sections 2102, 2103, 2104, 2105, 2107, 2108, and 2114 against  
3 electric service providers as if those electric service providers were  
4 public utilities as defined in these code sections. Notwithstanding  
5 the above, nothing in this section grants the commission  
6 jurisdiction to regulate electric service providers other than as  
7 specifically set forth in this part. Electric service providers shall  
8 continue to be subject to the provisions of Sections 2111 and 2112.  
9 Upon a finding by the commission's executive director that there  
10 is evidence to support a finding that the electric service provider  
11 has committed an act constituting grounds for suspension or  
12 revocation of registration as set forth in subdivision (b) of Section  
13 394.25, the commission shall notify the electric service provider  
14 in writing and notice an expedited hearing on the suspension or  
15 revocation of the electric service provider's registration to be held  
16 within 30 days of the notification to the electric service provider  
17 of the executive director's finding of evidence to support  
18 suspension or revocation of registration. The commission shall,  
19 within 45 days after holding the hearing, issue a decision on the  
20 suspension or revocation of registration, which shall be based on  
21 findings of fact and conclusions of law based on the evidence  
22 presented at the hearing. The decision shall include the findings of  
23 fact and the conclusions of law relied upon.

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

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

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

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

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

38 (c) Pursuant to its authority to revoke or suspend registration,  
39 the commission may suspend a registration for a specified period  
40 or revoke the registration, or in lieu of suspension or revocation,

1 impose a moratorium on adding or soliciting additional customers.  
2 Any suspension or revocation of a registration shall require the  
3 electric service provider to cease serving customers within the  
4 boundaries of investor-owned electric corporations, and the  
5 affected customers shall be served by the electrical corporation  
6 until the time when they may select service from another service  
7 provider. Customers shall not be liable for the payment of any  
8 early termination fees or other penalties to any electric service  
9 provider under the service agreement if the serving electric service  
10 provider's registration is suspended or revoked.

11 (d) The commission shall require any electric service provider  
12 whose registration is revoked pursuant to paragraph (4) of  
13 subdivision (b) to refund all of the customer credit funds that the  
14 electric service provider received from the State Energy Resources  
15 Conservation and Development Commission pursuant to  
16 subdivision (a) of Section 25744 of the Public Resources Code.  
17 The repayment of these funds shall be in addition to all other  
18 penalties and fines appropriately assessed the electric service  
19 provider for committing those acts under other provisions of law.  
20 All customer credit funds refunded under this subdivision shall be  
21 deposited in the Renewable Resource Trust Fund for redistribution  
22 by the State Energy Resources Conservation and Development  
23 Commission pursuant to Chapter 8.6 (commencing with Section  
24 25740) of Division 15 of the Public Resources Code. This  
25 subdivision may not be construed to apply retroactively.

26 (e) If a customer of an electric service provider or a community  
27 choice aggregator is involuntarily returned to service provided by  
28 an electrical corporation, any reentry fee imposed on that customer  
29 that the commission deems is necessary to avoid imposing costs on  
30 other customers of the electric corporation shall be the obligation  
31 of the electric service provider or a community choice aggregator,  
32 except in the case of a customer returned due to default in payment  
33 or other contractual obligations or because the customer's contract  
34 has expired. As a condition of its registration, an electric service  
35 provider or a community choice aggregator shall post a bond or  
36 demonstrate insurance sufficient to cover those reentry fees. In the  
37 event that an electric service provider becomes insolvent and is  
38 unable to discharge its obligation to pay reentry fees, the fees shall  
39 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.

~~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 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.~~

~~(II) 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 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~~

1 ~~program that provides customer credits for renewables. The intent~~  
2 ~~of the cap is to assure adequate funding of credits for residential~~  
3 ~~and small commercial customers.~~

4 ~~(e) Notwithstanding any other provision of law, moneys~~  
5 ~~collected for renewable energy pursuant to this article shall be~~  
6 ~~transferred to the Renewable Resource Trust Fund of the Energy~~  
7 ~~Commission. The Energy Commission shall prepare and submit to~~  
8 ~~the Legislature, on or before March 31, 2001, an initial investment~~  
9 ~~plan for these moneys, addressing the application of moneys~~  
10 ~~collected between January 1, 2002, and January 1, 2007. The~~  
11 ~~initial investment plan shall also include an evaluation of and~~  
12 ~~report to the Legislature regarding the appropriateness and~~  
13 ~~structure of a mandatory state purchase of renewable energy. On~~  
14 ~~or before March 31, 2006, the Energy Commission shall prepare~~  
15 ~~an investment plan proposing the application of moneys collected~~  
16 ~~between January 1, 2007, and January 1, 2012.~~

17 ~~SEC. 9.—~~

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

21 ~~SEC. 10.—~~

22 *SEC. 9.* Section 399.8 of the Public Utilities Code, as  
23 amended by Section 2 of Chapter 770 of the Statutes of 2001, is  
24 amended to read:

25 399.8. (a) In order to ensure that the citizens of this state  
26 continue to receive safe, reliable, affordable, and environmentally  
27 sustainable electric service, it is the policy of this state and the  
28 intent of the Legislature that prudent investments in energy  
29 efficiency, renewable energy, and research, development and  
30 demonstration shall continue to be made.

31 (b) (1) Every customer of an electrical corporation, shall pay  
32 a nonbypassable system benefits charge authorized pursuant to  
33 this article. The system benefits charge shall fund energy  
34 efficiency, renewable energy, and research, development and  
35 demonstration.

36 (2) Local publicly owned electric utilities shall continue to  
37 collect and administer system benefits charges pursuant to Section  
38 385.

39 (c) (1) The commission shall require each electrical  
40 corporation to identify a separate rate component to collect

revenues to fund energy efficiency, renewable energy, and research, development and demonstration programs authorized pursuant to this section beginning January 1, 2002, through January 1, 2012. The rate component shall be a nonbypassable element of the local distribution service and collected on the basis of usage.

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

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

(1) Two hundred twenty-eight million dollars (\$228,000,000) per year in total for energy efficiency and conservation activities, one hundred thirty-five million dollars (\$135,000,000) in total per year for renewable energy, and sixty-two million five hundred thousand dollars (\$62,500,000) in total per year for research, development and demonstration. The funds for energy efficiency and conservation activities shall continue to be allocated in proportions established for the year 2000 as set forth in paragraph (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 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:

(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

1 services markets, and improvements in technology affect the  
2 continuing need for such programs.

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

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

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

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

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

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

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

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

25 (h) An applicant for the Large Nonresidential Standard  
26 Performance Contract Program funded pursuant to paragraph (1)  
27 of subdivision (b) and an electrical corporation shall promptly  
28 attempt to resolve disputes that arise related to the program's  
29 guidelines and parameters prior to entering into a program  
30 agreement. The applicant shall provide the electrical corporation  
31 with written notice of any dispute. Within 10 business days after  
32 receipt of the notice, the parties shall meet to resolve the dispute.  
33 If the dispute is not resolved within 10 business days after the date  
34 of the meeting, the electrical corporation shall notify the applicant  
35 of his or her right to file a complaint with the commission, which  
36 complaint shall describe the grounds for the complaint, injury, and  
37 relief sought. The commission shall issue its findings in response  
38 to a filed complaint within 30 business days of the date of receipt  
39 of the complaint. Prior to issuance of its findings, the commission  
40 shall provide a copy of the complaint to the electrical corporation,

1 which shall provide a response to the complaint to the commission  
2 within five business days of the date of receipt. During the dispute  
3 period, the amount of estimated financial incentives shall be held  
4 in reserve until the dispute is resolved.

5 ~~SEC. 11. Section 399.12 of the Public Utilities Code is~~  
6 ~~amended to read:~~

7 ~~399.12. For purposes of this article, the following terms have~~  
8 ~~the following meanings:~~

9 ~~(a) (1) “Eligible renewable energy resource” means an~~  
10 ~~electric generating facility that meets the definition of “in-state~~  
11 ~~renewable electricity generation facility” in Section 25741 of the~~  
12 ~~Public Resources Code, with the following exceptions:~~

13 ~~(A) A geothermal generation facility originally commencing~~  
14 ~~operation prior to September 26, 1996, shall be eligible for~~  
15 ~~purposes of adjusting a retail seller’s baseline quantity of eligible~~  
16 ~~renewable energy resources except for output certified as~~  
17 ~~incremental geothermal production by the Energy Commission,~~  
18 ~~provided that the incremental output was not sold to an electrical~~  
19 ~~corporation under contract entered into prior to September 26,~~  
20 ~~1996. For each facility seeking certification, the Energy~~  
21 ~~Commission shall determine historical production trends and~~  
22 ~~establish criteria for measuring incremental geothermal~~  
23 ~~production that recognizes the declining output of existing~~  
24 ~~steamfields and the contribution of capital investments in the~~  
25 ~~facility or wellfield.~~

26 ~~(B) The output of a small hydroelectric generation facility of~~  
27 ~~30 megawatts or less procured or owned by an electrical~~  
28 ~~corporation as of the date of enactment of this article shall be~~  
29 ~~eligible only for purposes of establishing the baseline of an~~  
30 ~~electrical corporation pursuant to paragraph (3) of subdivision (a)~~  
31 ~~of Section 399.15. A new hydroelectric facility is not an eligible~~  
32 ~~renewable energy resource if it will require a new or increased~~  
33 ~~appropriation or diversion of water under Part 2 (commencing~~  
34 ~~with Section 1200) of Division 2 of the Water Code.~~

35 ~~(C) A facility engaged in the direct combustion of municipal~~  
36 ~~solid waste shall not be considered an eligible renewable resource~~  
37 ~~unless it is located in Stanislaus County and was operational prior~~  
38 ~~to September 26, 1996. Output from such facilities shall be eligible~~  
39 ~~only for the purpose of adjusting a retail seller’s baseline quantity~~  
40 ~~of eligible renewable energy resources.~~

~~(2) A facility that does not meet the definition of “in-state renewable electricity generation facility” in Section 25741 of the Public Resources Code, solely because it is located out of state, is still an “Eligible renewable energy resource” 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 participates in a renewable energy certificate-based tracking system to be developed by the Energy Commission pursuant to this subdivision.~~

~~(b) “Retail seller” means an entity engaged in the retail sale of electricity to end-use customers, including any of the following:~~

~~(1) An electrical corporation, as defined in Section 218.~~

~~(2) A community choice aggregator. The commission shall institute a rulemaking to determine the manner in which a community choice aggregator will participate in the renewables portfolio standard subject to the same terms and conditions applicable to an electrical corporation.~~

~~(3) An electric service provider, as defined in Section 218.3 subject to the following conditions:~~

~~(A) An electric service provider shall be considered a retail seller under this article for sales to any customer acquiring service after January 1, 2003.~~

~~(B) An electric service provider shall be considered a retail seller under this article for sales to all its customers beginning on the earlier of January 1, 2006, or the date on which a contract between an electric service provider and a retail customer expires. Nothing on this subdivision may require an electric service provider to disclose the terms of the contract to the commission.~~

~~(C) The commission shall institute a rulemaking to determine the manner in which electric service providers will participate in the renewables portfolio standard. The electric service provider shall be subject to the same terms and conditions applicable to an electrical corporation pursuant to this article. Nothing in this paragraph shall impair a contract entered into between an electric service provider and a retail customer prior to the suspension of direct access by the commission pursuant to Section 80110 of the Water Code.~~

~~(4) “Retail seller” does not include any of the following:~~

1     ~~(A) A corporation or person employing cogeneration~~  
2     ~~technology or producing power consistent with subdivision (b) of~~  
3     ~~Section 218.~~

4     ~~(B) The Department of Water Resources acting in its capacity~~  
5     ~~pursuant to Division 27 (commencing with Section 80000) of the~~  
6     ~~Water Code.~~

7     ~~(C) A local publicly owned electrical utility as defined in~~  
8     ~~subdivision (d) of Section 9604.~~

9     ~~(c) “Renewables portfolio standard” means the specified~~  
10    ~~percentage of electricity generated by eligible renewable energy~~  
11    ~~resources that a retail seller is required to procure pursuant to~~  
12    ~~Sections 399.13 and 399.15.~~

13    ~~SEC. 12.—~~

14    ~~SEC. 10.~~ Section 445 of the Public Utilities Code is repealed.

