

**Introduced by Senator Sher**

February 19, 2004

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An act to amend Sections 25740, 25743, 25744, and 25748 of, and to repeal Sections 25745 and 25749 of, the Public Resources Code, and to amend Sections 399.11, 399.13, 399.14, and 399.15 of, the Public Utilities Code, relating to energy.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 1478, as introduced, Sher. Renewable energy.

(1) Existing law expresses the intent of the Legislature, in establishing the Renewable Energy Resources Program, to increase the amount of renewable electricity generated per year, so that it equals at least 17% of the total electricity generated for consumption in California per year by 2006.

This bill would recast that intent language so that the amount of renewable electricity generated per year is increased to an amount that equals at least 20% of the total electricity generated for consumption in California per year by 2010, rather than 2006, and 33% by the year 2020. The bill would make conforming changes.

(2) Under existing law, 51.5% of the money collected as part of the renewable energy public goods charge is required to be used for programs designed to foster the development of new in-state renewable electricity generation facilities, and to secure for the state the environmental, economic, and reliability benefits that operation of those facilities will provide. Existing law also provides that any of those funds used for new in-state renewable electricity generation facilities are required to be expended in accordance with a specified report of the State Energy Resources Conservation and Development Commission



to the Legislature, subject to certain requirements, including the awarding of supplemental energy payments.

This bill would require that these funds be awarded only to a project that is selected by an electrical corporation in accordance with a competitive solicitation procedure found by the Public Utilities Commission (PUC) to comply with the California Renewables Portfolio Standard Program and that the project participant has entered into a purchase power agreement resulting from that solicitation that is approved by the PUC.

(3) Existing law requires 17.5% of the money collected under the renewable energy public goods charge be used for a multiyear, consumer-based program to foster the development of emerging renewable technologies in distributed generation applications, and that certain of funds be expended in accordance with the above-described report, subject to, among other things, the requirement that funding for emerging technologies be provided through a competitive, market-based process.

This bill would recast the competitive process so that the solicitation process includes provision for expressly notifying all potential bidders that emerging technologies are the subject of the solicitation.

The bill would also prohibit a sum greater than 10% of available energy technology funds from being awarded to a single project.

(4) Existing law requires the PUC to direct each electrical corporation to prepare renewable energy procurement plans, as described, to satisfy its obligations under the renewables portfolio standard.

This bill would require each electrical corporation to commence its renewable energy procurement with a competitive solicitation, as specified, that is held no later than June 1, 2005. This bill would prohibit, after January 1, 2005, bilateral contracts by electrical corporations with renewable energy resource until an electrical corporation has held at least 2 competitive solicitations and power purchase agreements have been entered into with selected projects and approved by the PUC.

(5) Existing law requires the use of standard terms and conditions by all electrical corporations in contracting for eligible renewable energy resources.

This bill would require that those terms and conditions include the requirement that, no later than 6 months after the commission's approval of a purchase power agreement, the following information



about the agreement be disclosed by the PUC: party names, resource type, project location, and project capacity.

(6) This bill would delete certain obsolete and duplicative provisions.

(7) Because a violation of the Public Utilities Act or an order of the PUC is a crime under existing law, the bill would impose a state-mandated local program by creating a new crime.

(8) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. Section 25740 of the Public Resources Code is  
2 amended to read:

3 25740. It is the intent of the Legislature in establishing this  
4 program, to increase the amount of renewable electricity  
5 generated per year, so that it equals at least ~~17~~ 20 percent of the  
6 total electricity generated for consumption in California per year  
7 by ~~2006~~ the year 2010 and at least 33 percent by the year 2020.

8 SEC. 2. Section 25743 of the Public Resources Code is  
9 amended to read:

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

(commencing with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code, the commission shall award funds in the form of supplemental energy payments, subject to the following criteria:

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

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

(C) Supplemental energy payments awarded to facilities 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.

(F) *Funds described in subdivision (a) and in this paragraph may only be awarded to a project that is selected by an electric corporation pursuant to a competitive solicitation that is found by the Public Utilities Commission to comply with the California Renewables Portfolio Standard Program under Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code and that has entered a purchase power agreement resulting from that solicitation that is approved by the Public Utilities Commission.*

(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 all 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.

(C) It will not cause or contribute to any violation of a California environmental quality standard or requirement.

(D) If the facility is outside of the United States, it is developed and operated in a manner that is as protective of the environment as a similar facility located in the state.

(E) It meets any other condition established by the commission.

(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.

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

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

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

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

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

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

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

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

1 date that a project begins electricity production may not extend  
2 beyond January 1, 2007.

3 (f) Facilities generating electricity from biomass energy shall  
4 be considered an in-state renewable electricity generation  
5 technology facility to the extent that they report to the commission  
6 the types and quantities of biomass fuels used and certify to the  
7 satisfaction of the commission that fuel utilization is limited to the  
8 following:

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

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

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

17 (A) Have been harvested pursuant to an approved timber  
18 harvest plan prepared in accordance with the Z'berg-Nejedly  
19 Forest Practice Act of 1973 (Chapter 8 (commencing with Sec.  
20 4511) of Part 2 of Division 4).

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

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

29 SEC. 3. Section 25744 of the Public Resources Code is  
30 amended to read:

31 25744. (a) Seventeen and one-half percent of the money  
32 collected pursuant to the renewable energy public goods charge  
33 shall be used for a multiyear, consumer-based program to foster  
34 the development of emerging renewable technologies in  
35 distributed generation applications.

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

39 (1) Funding for emerging technologies shall be provided  
40 ~~through a competitive, market-based process that shall be in place~~



1 ~~for a period of not less than five years, and shall be~~ *to projects that*  
2 *are chosen through a competitive solicitation process that*  
3 *expressly notifies all potential bidders that emerging technologies*  
4 *are the subject of the solicitation and that is structured so as to*  
5 allow eligible emerging technology manufacturers and suppliers  
6 to anticipate and plan for increased sale and installation volumes  
7 over the life of the program.

8 (2) The program shall provide monetary rebates, buydowns, or  
9 equivalent incentives, subject to ~~subparagraph (C)~~ *paragraph (3)*,  
10 to purchasers, lessees, lessors, or sellers of eligible electricity  
11 generating systems. Incentives shall benefit the end-use consumer  
12 of renewable generation by directly and exclusively reducing the  
13 purchase or lease cost of the eligible system, or the cost of  
14 electricity produced by the eligible system. Incentives shall be  
15 issued on the basis of the rated electrical generating capacity of the  
16 system measured in watts, or the amount of electricity production  
17 of the system, measured in kilowatthours. Incentives shall be  
18 limited to a maximum percentage of the system price, as  
19 determined by the commission. *The commission shall not award*  
20 *any single project sum that exceeds 10 percent of available*  
21 *emerging technology funds.*

22 (3) Eligible distributed emerging technologies are  
23 photovoltaic, solar thermal electric, fuel cell technologies that  
24 utilize renewable fuels, and wind turbines of not more than 50  
25 kilowatts rated electrical generating capacity per customer site,  
26 and other distributed renewable emerging technologies that meet  
27 the emerging technology eligibility criteria established by the  
28 commission. Eligible electricity generating systems are intended  
29 primarily to offset part or all of the consumer's own electricity  
30 demand, and shall not be owned by local publicly owned electric  
31 utilities, nor be located at a customer site that is not receiving  
32 distribution service from an electrical corporation that is subject  
33 to the renewable energy public goods charge and contributing  
34 funds to support programs under this chapter. All eligible  
35 electricity generating system components shall be new and  
36 unused, shall not have been previously placed in service in any  
37 other location or for any other application, and shall have a  
38 warranty of not less than five years to protect against defects and  
39 undue degradation of electrical generation output. Systems and  
40 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.

SEC. 4. Section 25745 of the Public Resources Code is repealed.

~~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~~

~~1 charge that is contributing funds to support programs under this  
2 chapter, and that is purchasing qualifying electricity from  
3 renewable electricity generating facilities, through transactions  
4 traceable to specific generation sources by any auditable contract  
5 trail or equivalent that provides commercial verification that the  
6 electricity from the claimed renewable electricity generating  
7 facilities has been sold once and only once to a retail customer.~~

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

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

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

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

~~33 SEC. 5. Section 25748 of the Public Resources Code is  
34 amended to read:~~

~~35 25748. The commission shall report to the Legislature on or  
36 before May 31, 2000, and on or before May 31 of every second  
37 year thereafter, regarding the results of the mechanisms funded  
38 pursuant to this chapter. Reports prepared pursuant to this section  
39 shall include a description of the allocation of funds among  
40 existing, new and emerging technologies; the allocation of funds~~

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

18 SEC. 6. Section 25749 of the Public Resources Code is  
 19 repealed.

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

31 SEC. 7. Section 399.11 of the Public Utilities Code is  
 32 amended to read:

33 399.11. The Legislature finds and declares all of the  
 34 following:

35 (a) In order to attain a target of 20 percent *by the year 2010 and*  
 36 *33 percent by the year 2020* renewable energy for the State of  
 37 California and for the purposes of increasing the diversity,  
 38 reliability, public health and environmental benefits of the energy  
 39 mix, it is the intent of the Legislature that the California Public  
 40 Utilities Commission and the State Energy Resources

1 Conservation and Development Commission implement the  
2 California Renewables Portfolio Standard Program described in  
3 this article.

4 (b) Increasing California's reliance on renewable energy  
5 resources may promote stable electricity prices, protect public  
6 health, improve environmental quality, stimulate sustainable  
7 economic development, create new employment opportunities,  
8 and reduce reliance on imported fuels.

9 (c) The development of renewable energy resources may  
10 ameliorate air quality problems throughout the state and improve  
11 public health by reducing the burning of fossil fuels and the  
12 associated environmental impacts.

13 (d) The California Renewables Portfolio Standard Program is  
14 intended to complement the Renewable Energy Program  
15 administered by the State Energy Resources Conservation and  
16 Development Commission and established pursuant to Sections  
17 383.5 and 445.

18 SEC. 8. Section 399.13 of the Public Utilities Code is  
19 amended to read:

20 399.13. The Energy Commission shall do all of the following:

21 (a) Certify eligible renewable energy resources that it  
22 determines meet the criteria described in subdivision (a) of Section  
23 399.12.

24 (b) Design and implement an accounting system to verify  
25 compliance with the renewables portfolio standard by retail  
26 sellers, to ensure that renewable energy output is counted only  
27 once for the purpose of meeting the renewables portfolio standard  
28 of this state or any other state, and for verifying retail product  
29 claims in this state or any other state. In establishing the guidelines  
30 governing this system, the Energy Commission shall collect data  
31 from electricity market participants that it deems necessary to  
32 verify compliance of retail sellers, in accordance with the  
33 requirements of this article and the California Public Records Act  
34 (Chapter 3.5 (commencing with Section 6250) of Division 7 of  
35 Title 1 of the Government Code). In seeking data from electrical  
36 corporations, the Energy Commission shall request data from the  
37 commission. The commission shall collect data from electrical  
38 corporations and remit the data to the Energy Commission within  
39 90 days of the request.



(c) Allocate and award supplemental energy payments pursuant to Section 383.5 to eligible renewable energy resources to cover above-market costs of renewable energy. *These supplemental energy payments may only be awarded to a project that is selected by an electric corporation pursuant to a competitive solicitation that is found by the commission to comply with the California Renewables Portfolio Standard Program under this article and that has entered a purchase power agreement resulting from that solicitation that is approved by the commission.*

SEC. 9. Section 399.14 of the Public Utilities Code is amended to read:

399.14. (a) The commission shall direct each electrical corporation to prepare renewable energy procurement plans as described in paragraph (3) to satisfy its obligations under the renewables portfolio standard. To the extent feasible, this procurement plan shall be proposed, reviewed, and adopted by the commission as part of, and pursuant to, a general procurement plan process. The commission shall require each electrical corporation to review and update its renewable energy procurement plan as it determines to be necessary. *Each electrical corporation shall commence its renewable energy procurement under this article with a competitive solicitation that complies with this article and is held no later than June 1, 2005. After January 1, 2005, bilateral contracts by electrical corporations with renewable energy resources are prohibited until the electrical corporation has held at least two competitive solicitations in compliance with this article and power purchase agreements are entered into with selected projects and approved by the commission.*

(1) (A) The commission shall not require an electrical corporation to conduct procurement to fulfill the renewables portfolio standard until the commission determines either of the following:

(i) The electrical corporation has attained an investment grade credit rating as determined by at least two major rating agencies.

(ii) The electrical corporation is able to procure eligible renewable energy resources on reasonable terms, those resources can be financed if necessary, and the procurement will not impair the restoration of an electrical corporation's creditworthiness. This provision shall not apply before April 1, 2004, for any electrical

1 corporation that on June 30, 2003, is in federal court under Chapter  
2 11 of the federal bankruptcy law.

3 (B) Within 90 days of the commission's determination as  
4 provided in subparagraph (A), an electrical corporation shall  
5 conduct solicitations to implement a renewable energy  
6 procurement plan. The determination required by this paragraph  
7 shall apply only to the requirements established pursuant to this  
8 article. The requirements established for an electrical corporation  
9 pursuant to Section 454.5 shall be governed by that section.

10 (2) Not later than six months after the effective date of this  
11 section, the commission shall adopt, by rule, for all electrical  
12 corporations, all of the following:

13 (A) A process for determining market prices pursuant to  
14 subdivision (c) of Section 399.15. The commission shall make  
15 specific determinations of market prices after the closing date of  
16 a competitive solicitation conducted by an electrical corporation  
17 for eligible renewable energy resources. In order to ensure that the  
18 market price established by the commission pursuant to  
19 subdivision (c) of Section 399.15 does not influence the amount  
20 of a bid submitted through the competitive solicitation in a manner  
21 that would increase the amount ratepayers are obligated to pay for  
22 renewable energy, and in order to ensure that the bid price does not  
23 influence the establishment of the market price, the electrical  
24 corporation shall not transmit or share the results of any  
25 competitive solicitation for eligible renewable energy resources  
26 until the commission has established market prices pursuant to  
27 subdivision (c) of Section 399.15.

28 (B) A process that provides criteria for the rank ordering and  
29 selection of least-cost and best-fit renewable resources to comply  
30 with the annual California Renewables Portfolio Standard  
31 Program obligations on a total cost basis. This process shall  
32 consider estimates of indirect costs associated with needed  
33 transmission investments and ongoing utility expenses resulting  
34 from integrating and operating eligible renewable energy  
35 resources.

36 (C) Flexible rules for compliance including, but not limited to,  
37 permitting electrical corporations to apply excess procurement in  
38 one year to subsequent years or inadequate procurement in one  
39 year to no more than the following three years.





(D) Standard terms and conditions to be used by all electrical corporations in contracting for eligible renewable energy resources, including performance requirements for renewable generators. *Those standard terms and conditions shall include the requirement that, no later than six months after the commission's approval of a purchase power agreement entered under this article, the following information about the agreement shall be disclosed by the commission: party names, resource type, project location, and project capacity.*

(3) Consistent with the goal of procuring the least-cost and best-fit eligible renewable energy resources, the renewable energy procurement plan submitted by an electrical corporation shall include, but is not limited to, all of the following:

(A) An assessment of annual or multiyear portfolio supplies and demand to determine the optimal mix of renewable generation resources with deliverability characteristics that may include peaking, dispatchable, baseload, firm, and as-available capacity.

(B) Provisions for employing available compliance flexibility mechanisms established by the commission.

(C) A bid solicitation setting forth the need for renewable generation of each deliverability characteristic, required online dates, and locational preferences, if any.

(4) In soliciting and procuring eligible renewable energy resources, each electrical corporation shall offer contracts of no less than 10 years in duration, unless the commission approves of a contract of shorter duration. *Any bid solicitation or contract of less than 10 years in duration shall be considered nonconforming and shall not represent more than 10 percent of the total amount solicited or purchased by a utility in any single solicitation.*

(5) In soliciting and procuring eligible renewable energy resources, each electrical corporation may give preference to projects that provide tangible demonstrable benefits to communities with a plurality of minority or low-income populations.

(b) The commission shall review and accept, modify, or reject each electrical corporation's renewable procurement plan 90 days prior to the commencement of renewable procurement pursuant to this article by the electrical corporation.

(c) The commission shall review the results of a renewable energy resources solicitation submitted for approval by an



1 electrical corporation and accept or reject proposed contracts with  
2 eligible renewable energy resources based on consistency with the  
3 approved renewable procurement plan. If the commission  
4 determines that the bid prices are elevated due to a lack of effective  
5 competition amongst the bidders, the commission shall direct the  
6 electrical corporation to renegotiate such contracts or conduct a  
7 new solicitation.

8 (d) If an electrical corporation fails to comply with a  
9 commission order adopting a renewable procurement plan, the  
10 commission shall exercise its authority pursuant to Section 2113  
11 to require compliance.

12 (e) Upon application by an electrical corporation, the  
13 commission may authorize another entity to enter into contracts on  
14 behalf of customers of the electrical corporation for deliveries of  
15 eligible renewable energy resources to satisfy the annual portfolio  
16 standard obligations, subject to similar terms and conditions  
17 applicable to an electrical corporation. The commission shall  
18 allow the procurement entity to recover reasonable costs through  
19 retail rates subject to review and approval.

20 (f) Procurement and administrative costs associated with  
21 long-term contracts entered into by an electrical corporation for  
22 eligible renewable energy resources pursuant to this article, at or  
23 below the market price determined by the commission pursuant to  
24 subdivision (c) of Section 399.15, shall be deemed reasonable per  
25 se, and shall be recoverable in rates.

26 (g) For purposes of this article, “procure” means that a utility  
27 may acquire the renewable output of electric generation facilities  
28 that it owns or for which it has contracted. Nothing in this article  
29 is intended to imply that the purchase of electricity from third  
30 parties in a wholesale transaction is the preferred method of  
31 fulfilling a retail seller’s obligation to comply with this article.

32 (h) Construction, alteration, demolition, installation, and  
33 repair work on an eligible renewable energy resource that receives  
34 production incentives or supplemental energy payments pursuant  
35 to Section 383.5, including, but not limited to, work performed to  
36 qualify, receive, or maintain production incentives or  
37 supplemental energy payments is “public works” for the purposes  
38 of Chapter 1 (commencing with Section 1720) of Part 7 of  
39 Division 2 of the Labor Code.



SEC. 10. Section 399.15 of the Public Utilities Code is amended to read:

399.15. (a) In order to fulfill unmet long-term resource needs, the commission shall establish a renewables portfolio standard requiring all electrical corporations to procure a minimum quantity of output from eligible renewable energy resources as a specified percentage of total kilowatthours sold to their retail end-use customers each calendar year, if sufficient funds are made available pursuant to paragraph (2), and Sections 399.6 and 383.5 to cover the above-market costs of eligible renewables, and subject to all of the following:

(1) An electric corporation shall not be required to enter into long-term contracts with eligible renewable energy resources that exceed the market prices established pursuant to subdivision (c) of this section.

(2) The Energy Commission shall provide supplemental energy payments from funds in the New Renewable Resources Account in the Renewable Resource Trust Fund to eligible renewable energy resources pursuant to Section 383.5., consistent with this article, for above-market costs. *Funds may be provided or awarded by the Energy Commission only to a project that is selected by an electric corporation under a competitive solicitation that is found by the commission to comply with the California Renewables Portfolio Standard Program under this article and that has entered a purchase power agreement resulting from that solicitation that is approved by the commission.* Indirect costs associated with the purchase of eligible renewable energy resources, such as imbalance energy charges, sale of excess energy, decreased generation from existing resources, or transmission upgrades shall not be eligible for supplemental energy payments, but shall be recoverable by an electrical corporation in rates, as authorized by the commission.

(3) For purposes of setting annual procurement targets, the commission shall establish an initial baseline for each electrical corporation based on the actual percentage of retail sales procured from eligible renewable energy resources in 2001, and, to the extent applicable, adjusted going forward pursuant to subdivision (a) of Section 399.12.

(b) The commission shall implement annual procurement targets for each electrical corporation as follows:

(1) Beginning on January 1, 2003, each electrical corporation shall, pursuant to subdivision (a), increase its total procurement of eligible renewable energy resources by at least an additional 1 percent of retail sales per year so that 20 percent of its retail sales are procured from eligible renewable energy resources no later than December 31, 2017. An electrical corporation with 20 percent of retail sales procured from eligible renewable energy resources in any year shall not be required to increase its procurement of such resources in the following year.

(2) Only for purposes of establishing these targets, the commission shall include all power sold to retail customers by the Department of Water Resources pursuant to Section 80100 of the Water Code in the calculation of retail sales by an electrical corporation.

(3) In the event that an electrical corporation fails to procure sufficient eligible renewable energy resources in a given year to meet any annual target established pursuant to this subdivision, the electrical corporation shall procure additional eligible renewable energy resources in subsequent years to compensate for the shortfall if sufficient funds are made available pursuant to paragraph (2), and Sections 399.6 and 383.5 to cover the above-market costs of eligible renewables.

(4) If supplemental energy payments from the Energy Commission, in combination with the market prices approved by the commission, are insufficient to cover the above-market costs of eligible renewable energy resources, the commission shall allow an electrical corporation to limit its annual procurement obligation to the quantity of eligible renewable energy resources that can be procured with available supplemental energy payments.

(c) The commission shall establish a methodology to determine the market price of electricity for terms corresponding to the length of contracts with renewable generators, in consideration of the following:

(1) The long-term market price of electricity for fixed price contracts, determined pursuant to the electrical corporation's general procurement activities as authorized by the commission.

(2) The long-term ownership, operating, and fixed-price fuel costs associated with fixed-price electricity from new generating facilities.

1 (3) The value of different products including baseload,  
2 peaking, and as-available output.

3 (d) The establishment of a renewables portfolio standard shall  
4 not constitute implementation by the commission of the federal  
5 Public Utility Regulatory Policies Act of 1978 (Public Law  
6 95-617).

7 (e) The commission shall consult with the Energy Commission  
8 in calculating market prices under subdivision (c) and establishing  
9 other renewables portfolio standard policies.

10 SEC. 11. No reimbursement is required by this act pursuant  
11 to Section 6 of Article XIII B of the California Constitution  
12 because the only costs that may be incurred by a local agency or  
13 school district will be incurred because this act creates a new crime  
14 or infraction, eliminates a crime or infraction, or changes the  
15 penalty for a crime or infraction, within the meaning of Section  
16 17556 of the Government Code, or changes the definition of a  
17 crime within the meaning of Section 6 of Article XIII B of the  
18 California Constitution.

