

AMENDED IN ASSEMBLY APRIL 12, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 380

Introduced by Assembly Member Nunez

February 11, 2005

An act to add ~~Section 380~~ *Sections 380 and 9620* to the Public Utilities Code, relating to electricity.

LEGISLATIVE COUNSEL'S DIGEST

AB 380, as amended, Nunez. Electricity: electrical restructuring: resource adequacy.

The California Constitution establishes the Public Utilities Commission, and provides it with jurisdiction over all public utilities. The Constitution grants the commission certain general powers over all public utilities, subject to control by the Legislature, and authorizes the Legislature, unlimited by the other provisions of the Constitution, to confer additional authority and jurisdiction upon the commission, that is cognate and germane to the regulation of public utilities.

The existing Public Utilities Act imposes various duties and responsibilities on the commission with respect to the purchase of electricity and requires the commission to review and adopt a procurement plan and a renewable energy procurement plan for each electrical corporation pursuant to the California Renewables Portfolio Standard Program. Existing law relative to electrical restructuring, authorizes electrical service to be provided, in certain circumstances, by electric service providers, as defined, and community choice aggregators, as defined.

This bill would require the commission, in consultation with the Independent System Operator, to establish resource adequacy requirements to ensure that adequate physical generating capacity,

dedicated to serving all load requirements, is available to meet peak demand plus requisite planning and operating reserves, and would require the commission to implement and enforce these resource adequacy requirements in a nondiscriminatory manner on all load serving entities, *with certain exceptions*. The bill would require that the cost of meeting resource adequacy requirements, including the costs associated with system reliability and local area reliability found reasonable by the commission, be fully recoverable from all customers taking service from an electrical corporation on a nonbypassable basis at the time the commitment to incur the cost is made or thereafter. The bill would require that all load serving entities, including electric service providers and community choice aggregators, are subject to the same requirements for resource adequacy, resource diversity, cost-effective energy efficiency, and the renewables portfolio standard, as are applicable to ~~an electrical corporation~~ *electrical corporations*.

Existing law relative to electrical restructuring states the intent of the Legislature that the state's local publicly owned electric utilities, as defined, and electrical corporations should commit control of their transmission facilities to the Independent System Operator.

This bill would require that every local publicly owned electric utility serving end-use customers ensure that adequate physical generating capacity dedicated to serving all of its load requirements is available to meet peak demand and planning and operating reserves, at or deliverable to locations and at times as may be necessary to ensure local area reliability and system reliability, at just and reasonable rates. The bill would require that every local publicly owned electric utility report to the State Energy Resources Conservation and Development Commission that information required by the commission relative to the utility's resource plan and status in meeting its resource plan, thereby imposing a state-mandated local program.

Under existing law, a violation of the Public Utilities Act or an order or direction of the commission is a crime.

~~Because the~~

Certain provisions of this bill would be part of the act and an order or other action of the commission would be required to implement certain of the provisions;. Because a violation of those provisions or an order or other action of the commission implementing those provisions would be a crime, this bill would thereby impose a state-mandated local program by creating new crimes.

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~~ *specified reasons*.

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 380 is added to the Public Utilities
2 Code, to read:

3 380. (a) The commission, in consultation with the
4 Independent System Operator, shall establish *a* resource
5 adequacy requirements *mechanism* to ensure that adequate
6 physical generating capacity dedicated to serving all load
7 requirements is available to meet peak demand and planning and
8 operating reserves, at or deliverable to locations and at times as
9 may be necessary to ensure local area reliability and system
10 reliability, at just and reasonable rates.

11 (b) All electrical load serving entities, including nonutility
12 electric service providers and community choice aggregators,
13 shall be subject to the same requirements for resource adequacy,
14 resource diversity, cost-effective energy efficiency, and the
15 renewables portfolio standard program, that are applicable to
16 electrical corporations pursuant to this section, or otherwise as
17 required by law, or by order or decision of the commission. *The*
18 *resource adequacy requirements mechanism shall be designed to*
19 *minimize enforcement requirements and costs, to prevent shifting*
20 *of costs between utility service areas and between customer*
21 *classes within load serving entities under the ratesetting*
22 *authority of the commission, and to ensure that adequate*
23 *generating capacity exists or is brought online to timely meet*
24 *identified resource adequacy needs.*

25 (c) The commission, *in consultation with the Independent*
26 *System Operator*, shall implement and enforce these resource
27 adequacy requirements in a nondiscriminatory manner as to all
28 load serving entities. The electrical corporation's costs of
29 meeting those resource adequacy requirements, including the

1 costs associated with system reliability and local area reliability,
2 that are found reasonable by the commission, shall be fully
3 recoverable from those customers taking service from the
4 electrical corporation, at the time the commitment to incur the
5 cost is made or thereafter, on a fully nonbypassable basis
6 pursuant to rates that are just and reasonable, as determined by
7 the commission. *The commission shall develop mechanisms that*
8 *ensure cost recovery by electrical corporations for costs incurred*
9 *in providing resource adequacy, that avoid shifting of costs*
10 *between utility service areas and between customer classes, that*
11 *avoid stranded costs, and that avoid cost responsibility*
12 *surcharges.*

13 *(d) For purposes of this section, "load serving entity" does not*
14 *include a local publicly owned electric utility as defined in*
15 *Section 9604, the State Water Resources Development System*
16 *commonly known as the State Water Project, or customer*
17 *generation, if the customer generation (1) takes standby service*
18 *from the electrical corporation on a commission-approved rate*
19 *schedule that requires the customer's load serving entity to*
20 *provide for adequate backup planning and operating reserves for*
21 *that customer generation or (2) is not physically interconnected*
22 *to the transmission grid, so that if the customer generation fails,*
23 *backup power is not supplied from the electricity grid.*

24 *SEC. 2. Section 9620 is added to the Public Utilities Code, to*
25 *read:*

26 *9620. (a) Every local publicly owned electric utility serving*
27 *end-use customers, shall ensure that adequate physical*
28 *generating capacity dedicated to serving all of its load*
29 *requirements is available to meet peak demand and planning and*
30 *operating reserves, at or deliverable to locations and at times as*
31 *may be necessary to ensure local area reliability and system*
32 *reliability, at just and reasonable rates.*

33 *(b) Every local publicly owned electric utility shall report to*
34 *the State Energy Resources Conservation and Development*
35 *Commission, that information required by the commission*
36 *relative to the utility's resource plan and status in meeting its*
37 *resource plan.*

38 ~~SEC. 2.~~

39 *SEC. 3. No reimbursement is required by this act pursuant to*
40 *Section 6 of Article XIII B of the California Constitution because*

1 ~~the only~~ *certain* costs that may be incurred by a local agency or
2 school district will be incurred because this act creates a new
3 crime or infraction, eliminates a crime or infraction, or changes
4 the penalty for a crime or infraction, within the meaning of
5 Section 17556 of the Government Code, or changes the
6 definition of a crime within the meaning of Section 6 of Article
7 XIII B of the California Constitution.

8 *As to certain other costs, no reimbursement is required by this*
9 *act pursuant to Section 6 of Article XIII B of the California*
10 *Constitution because a local agency or school district has the*
11 *authority to levy service charges, fees, or assessments sufficient*
12 *to pay for the program or level of service mandated by this act,*
13 *within the meaning of Section 17556 of the Government Code.*