

AMENDED IN SENATE AUGUST 24, 2005

AMENDED IN SENATE AUGUST 16, 2005

AMENDED IN SENATE JUNE 28, 2005

AMENDED IN ASSEMBLY MAY 2, 2005

AMENDED IN ASSEMBLY APRIL 26, 2005

AMENDED IN ASSEMBLY APRIL 12, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 380**

**Introduced by Assembly Member Nunez**

February 11, 2005

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An act to add 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.

(1) 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 (ISO), to establish resource adequacy requirements for *all* load-serving entities, as defined, in accordance with specified objectives. The bill would require each load-serving entity to maintain physical generating capacity adequate to meet its load requirements, including, but not limited to, peak demand and planning and operating reserves, deliverable to locations and at times as may be necessary to provide reliable electric service ~~at just and reasonable rates~~. The bill would require each load-serving entity to meet, at a minimum, the most recent minimum planning reserve and reliability criteria approved by the Board of Trustees of the Western Systems Coordinating Council or the Western Electricity Coordinating Council. The bill would require the commission to implement and enforce the resource adequacy requirements established pursuant to the bill in a nondiscriminatory manner. The bill would subject each load-serving entity to the same requirements for resource adequacy, ~~cost-effective energy efficiency~~, and the renewables portfolio standard program that are applicable to electrical corporations, or otherwise required by law, or by order or decision of the commission. The bill would require that the costs of an electrical corporation in meeting resource adequacy requirements, as specified, be fully recoverable from those customers taking service from the electrical corporation, at the time the commitment to incur the cost is made or thereafter, on a fully nonbypassable basis, ~~pursuant to rates that are~~ *as* determined by the commission ~~to be just and reasonable~~. The bill would require the commission to determine the most efficient and equitable means for achieving prescribed objectives. The bill would exclude from the definition of a “load-serving entity” a local publicly owned electric utility, as defined, the State Water Resources Development System commonly known as the State Water Project, or ~~certain customer~~ *customer-owned* generation.

(2) 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 ISO.

The existing Warren-Alquist State Energy Resources Conservation and Development Act establishes the State Energy Resources Conservation and Development Commission (Energy Commission) and requires it to undertake a continuing assessment of trends in the consumption of electricity and other forms of energy and to analyze the social, economic, and environmental consequences of those trends and to collect from electric utilities, gas utilities, and fuel producers and wholesalers and other sources, forecasts of future supplies and consumption of all forms of energy. Existing law requires the Energy Commission, beginning November 1, 2003, and every 2 years thereafter, to adopt an integrated energy policy report which includes an assessment and forecast of system reliability and the need for resource additions, efficiency, and conservation.

This bill would require that each local publicly owned electric utility serving end-use customers prudently plan for and procure resources that are adequate to meet its planning reserve margin and peak demand and operating reserves, sufficient to provide reliable electric service to its customers. *The bill would exempt certain customer-owned generation from these requirements.* The bill would require that each local publicly owned electric utility serving end-use customers, at a minimum, meet the most recent minimum planning reserve and reliability criteria approved by the Board of Trustees of the Western Systems Coordinating Council or the Western Electricity Coordinating Council. The bill would require a local publicly owned electric utility serving end-use customers, upon request, to provide the Energy Commission with any information the Energy Commission determines is necessary to evaluate the progress made by the *local publicly owned electric* utility in meeting these requirements, and would require the Energy Commission to report the progress made by each utility to the Legislature, *to be included in the integrated energy policy reports.*

Because this bill would establish various requirements to be met by local publicly owned utilities, this bill would impose 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.

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, and because the bill would make certain violations by a load-serving entity a crime, this bill would thereby impose a state-mandated local program by creating new crimes and by expanding the definition of existing crimes.

(3) 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 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 resource adequacy  
5     requirements for *all* load-serving entities.  
6     (b) In establishing resource adequacy requirements, the  
7     commission shall achieve all of the following objectives:  
8     (1) Facilitate development of new generating capacity and  
9     retention of existing generating capacity that is economic and  
10    needed.  
11    (2) Equitably allocate the cost of generating capacity and  
12    prevent shifting of costs between customer classes.  
13    (3) Minimize enforcement requirements and costs.  
14    (c) Each load-serving entity shall maintain physical generating  
15    capacity adequate to meet its load requirements, including, but  
16    not limited to, peak demand and planning and operating reserves.  
17    The generating capacity shall be deliverable to locations and at  
18    times as may be necessary to provide reliable electric service ~~at~~  
19    ~~just and reasonable rates~~.  
20    (d) Each load-serving entity shall, at a minimum, meet the  
21    most recent minimum planning reserve and reliability criteria  
22    approved by the Board of Trustees of the Western Systems  
23    Coordinating Council or the Western Electricity Coordinating  
24    Council.

(e) The commission shall implement and enforce the resource adequacy requirements established in accordance with this section in a nondiscriminatory manner. Each load-serving entity shall be subject to the same requirements for resource adequacy; ~~cost-effective energy efficiency~~, and the renewables portfolio standard program that are applicable to electrical corporations pursuant to this section, or otherwise required by law, or by order or decision of the commission. The commission shall exercise its enforcement powers to ensure compliance by all load-serving entities.

(f) The commission shall require sufficient information, including, but not limited to, anticipated load, actual load, and measures undertaken by a load-serving entity to ensure resource adequacy, to be reported to enable the commission to determine compliance with the resource adequacy requirements established by the commission.

(g) An electrical corporation's costs of meeting resource adequacy requirements, including, but not limited to, the costs associated with system reliability and local area reliability, that are determined to be reasonable by the commission, or are otherwise recoverable under a procurement plan approved by the commission pursuant to Section 454.5, shall be fully recoverable from those customers taking service from the electrical corporation, at the time the commitment to incur the cost is made or thereafter, on a fully nonbypassable basis ~~pursuant to rates that are just and reasonable~~, as determined by the commission. *The commission shall exclude any amounts authorized to be recovered pursuant to Section 366.2 when authorizing the amount of costs to be recovered from customers of a community choice aggregator pursuant to this subdivision.*

(h) The commission shall determine the most efficient and equitable means for achieving all of the following:

- (1) Meeting the objectives of this section.
- (2) Ensuring that investment is made in new generating capacity.
- (3) Ensuring that existing generating capacity that is economic is retained.
- (4) Ensuring that the cost of generating capacity is allocated equitably.

(i) For purposes of this section, “load-serving entity” means an electrical corporation, electric service provider, or community choice aggregator. “Load-serving entity” does not include any of the following:

(1) A local publicly owned electric utility as defined in Section 9604.

(2) The State Water Resources Development System commonly known as the State Water Project.

(3) Customer-owned generation *located on the customer’s site or providing electric service through arrangements authorized by Section 218*, if the customer-owned generation, *or the load it serves*, meets one of the following criteria:

(A) It takes standby service from the electrical corporation on a commission-approved rate schedule that ~~requires the customer’s load-serving entity to provide~~ *provides* for adequate backup planning and operating reserves for ~~that customer~~ *the customer-owned generation*.

(B) It is not physically interconnected to the ~~transmission electric transmission or distribution~~ grid, so that ~~if the customer generation fails, backup power~~, *if the customer-owned generation fails, backup electricity* is not supplied from the electricity grid.

(C) *There is physical assurance that the load served by the customer-owned generation will be curtailed concurrently and commensurately with an outage of the customer-owned generation.*

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

9620. (a) Each local publicly owned electric utility serving end-use customers, shall prudently plan for and procure resources that are adequate to meet its planning reserve margin and peak demand and operating reserves, sufficient to provide reliable electric service to its customers. *Customer-owned generation located on the customer’s site or providing electric service through arrangements authorized by Section 218, shall not be subject to these requirements if the customer-owned generation, or the load it serves, meets one of the following criteria:*

*(1) It takes standby service from the electrical corporation on a commission-approved rate schedule that provides for adequate backup planning and operating reserves for the standby customer class.*

1    (2) *It is not physically interconnected to the electric*  
2    *transmission or distribution grid, so that, if the customer-owned*  
3    *generation fails, backup power is not supplied from the*  
4    *electricity grid.*

5    (3) *There is physical assurance that the load served by the*  
6    *customer-owned generation will be curtailed concurrently and*  
7    *commensurately with an outage of the customer-owned*  
8    *generation.*

9    (b) Each local publicly owned electric utility serving end-use  
10 customers shall, at a minimum, meet the most recent minimum  
11 planning reserve and reliability criteria approved by the Board of  
12 Trustees of the Western Systems Coordinating Council or the  
13 Western Electricity Coordinating Council.

14 (c) A local publicly owned electric utility serving end-use  
15 customers shall, upon request, provide the State Energy  
16 Resources Conservation and Development Commission with any  
17 information the State Energy Resources Conservation and  
18 Development Commission determines is necessary to evaluate  
19 the progress made by the local publicly owned electric utility in  
20 meeting the requirements of this section.

21 (d) The State Energy Resources Conservation and  
22 Development Commission shall report to the Legislature, *to be*  
23 *included in each integrated energy policy report prepared*  
24 *pursuant to Section 25302 of the Public Resources Code,*  
25 regarding the progress made by each local publicly owned  
26 electric utility serving end-use customers in meeting the  
27 requirements of this section.

28 SEC. 3. No reimbursement is required by this act pursuant to  
29 Section 6 of Article XIII B of the California Constitution because  
30 certain costs that may be incurred by a local agency or school  
31 district will be incurred because this act creates a new crime or  
32 infraction, eliminates a crime or infraction, or changes the  
33 penalty for a crime or infraction, within the meaning of Section  
34 17556 of the Government Code, or changes the definition of a  
35 crime within the meaning of Section 6 of Article XIII B of the  
36 California Constitution.

37 As to certain other costs, no reimbursement is required by this  
38 act pursuant to Section 6 of Article XIII B of the California  
39 Constitution because a local agency or school district has the  
40 authority to levy service charges, fees, or assessments sufficient

- 1 to pay for the program or level of service mandated by this act,
- 2 within the meaning of Section 17556 of the Government Code.

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