

AMENDED IN ASSEMBLY MAY 27, 2005

AMENDED IN ASSEMBLY APRIL 11, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 1362

Introduced by Assembly Member Levine

February 22, 2005

An act to amend Section 25740 of the Public Resources Code, to amend Sections 399.11, 399.12, 399.13, 399.14, ~~and 399.15~~ 399.15, *and 399.16* of, and to add Section 399.17 to, the Public Utilities Code, relating to renewable energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1362, as amended, Levine. Renewable energy: California Renewables Portfolio Standard Program: renewable energy credits.

(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 revise and recast that intent language so that the amount of electricity generated per year from renewable energy resources is increased to an amount that equals at least 20% of the total electricity generated for consumption in California by 2010. The bill would make conforming changes consistent with this goal.

(2) The Public Utilities Act imposes various duties and responsibilities on the Public Utilities Commission (CPUC) with respect to the purchase of electricity, and requires the CPUC 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. The program requires that a retail seller of electricity, including electrical corporations, community choice aggregators, and electric service providers, but not including local publicly owned electric utilities, purchase a specified minimum percentage of electricity generated by eligible renewable energy resources, as defined, in any given year as a specified percentage of total kilowatthours sold to retail end-use customers each calendar year (renewables portfolio standard). The renewables portfolio standard requires each electrical corporation to increase its total procurement of eligible renewable energy resources by at least an additional 1% of retail sales per year so that 20% of its retail sales are procured from eligible renewable energy resources no later than December 31, 2017.

Existing law requires the State Energy Resources Conservation and Development Commission (Energy Commission) to certify eligible renewable energy resources, to design and implement an accounting system to verify compliance with the renewables portfolio standard by retail sellers, and to allocate and award supplemental energy payments to cover above-market costs of renewable energy.

This bill would restate the target of the renewables portfolio standard to increase the amount of electricity procured from eligible renewable energy resources, so that it equals 20% of the total electricity sold to retail customers in California per year by December 31, 2010. The bill would require that the CPUC adopt rules or other appropriate procedures that authorize the use of renewable energy credits, as defined, to satisfy annual procurement targets for renewable energy resources pursuant to the renewables portfolio standard. The bill would require that the CPUC authorize an electrical corporation to meet its procurement obligations under a renewable energy procurement plan either by procuring a minimum quantity of electricity generated by eligible renewable energy resources, or an equivalent quantity of renewable energy credits. The bill would authorize the CPUC, in approving a renewable energy procurement plan, to limit the quantity of renewable energy credits that an electrical corporation is permitted to procure unaccompanied by delivery of the electricity that earned the credit.

This bill would require the Energy Commission to design and implement an accounting system to certify renewable energy credits produced by eligible renewable energy resources and to establish a system for tracking and verifying renewable energy credits. The bill would prohibit the Energy Commission from certifying or awarding

tradeable renewable energy credits for electricity generated pursuant to specified electricity purchase contracts unless certain conditions are met. This bill would provide for the tracking of deliveries under those contracts and for the inclusion of those deliveries in the baseline quantity of eligible renewable energy resources and in satisfaction of renewables portfolio standard obligations.

The bill would make other clarifying changes. *The bill would revise existing criteria for Energy Commission consideration of an out-of-state electricity generation facility as an eligible renewable energy resource.*

(3) *Existing law requires every electric service provider, as defined, to develop a standard contract or tariff providing for net energy metering, and to make this contract available to eligible customer generators, as defined, upon request, on a first-come-first-served basis until the total rated generating capacity used by eligible customer generators exceeds 0.5% of the electric service provider's aggregate customer peak demand.*

This bill would require that electricity generated from an in-state renewable electricity generation facility that participates in net energy metering pursuant to the above described requirement, count toward the renewable energy portfolio standard for the electrical corporation in the service territory in which the eligible customer-generator is located.

(4) Under existing law, a violation of the Public Utilities Act or an order or direction of the CPUC is a crime.

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

~~(4)~~

(5) 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 20 percent of the total
6 electricity generated for consumption in California per year by
7 2010.

8 SEC. 2. Section 399.11 of the Public Utilities Code is
9 amended to read:

10 399.11. The Legislature finds and declares all of the
11 following:

12 (a) In order to attain a target of 20 percent renewable energy
13 for the State of California by 2010, and for the purposes of
14 increasing the diversity, reliability, public health and
15 environmental benefits of the energy mix, it is the intent of the
16 Legislature that the California Public Utilities Commission and
17 the State Energy Resources Conservation and Development
18 Commission implement the California Renewables Portfolio
19 Standard Program described in this article.

20 (b) Increasing California’s reliance on renewable energy
21 resources may promote stable electricity prices, protect public
22 health, improve environmental quality, stimulate sustainable
23 economic development, create new employment opportunities,
24 and reduce reliance on imported fuels.

25 (c) The development of renewable energy resources may
26 ameliorate air quality problems throughout the state and improve
27 public health by reducing the burning of fossil fuels and the
28 associated environmental impacts.

29 (d) The California Renewables Portfolio Standard Program is
30 intended to complement the Renewable Energy Program
31 administered by the State Energy Resources Conservation and
32 Development Commission and established pursuant to Chapter
33 8.6 (commencing with Section 25740) of Division 15 of the
34 Public Resources Code.

35 SEC. 3. Section 399.12 of the Public Utilities Code is
36 amended to read:

37 399.12. For purposes of this article, the following terms have
38 the following meanings:

1 (a) “Eligible renewable energy resource” means an electric
2 generating facility that meets the definition of “in-state
3 renewable electricity generation facility” in Section 25741 of the
4 Public Resources Code, subject to the following limitations:

5 (1) A geothermal generation facility originally commencing
6 operation prior to September 26, 1996, shall be eligible for
7 purposes of adjusting a retail seller’s baseline quantity of eligible
8 renewable energy resources except for output certified as
9 incremental geothermal production by the Energy Commission,
10 provided that the incremental output was not sold to an electrical
11 corporation under contract entered into prior to September 26,
12 1996. For each facility seeking certification, the Energy
13 Commission shall determine historical production trends and
14 establish criteria for measuring incremental geothermal
15 production that recognizes the declining output of existing
16 steamfields and the contribution of capital investments in the
17 facility or wellfield.

18 (2) The electricity generated by a small hydroelectric
19 generation facility of 30 megawatts or less procured or owned by
20 an electrical corporation as of the date of enactment of this article
21 shall be eligible only for purposes of establishing the baseline of
22 an electrical corporation pursuant to paragraph (3) of subdivision
23 (a) of Section 399.15. A new hydroelectric facility is not an
24 eligible renewable energy resource if it will require a new or
25 increased appropriation or diversion of water under Part 2
26 (commencing with Section 1200) of Division 2 of the Water
27 Code.

28 (3) A facility engaged in the combustion of municipal solid
29 waste shall not be considered an eligible renewable resource
30 unless it is located in Stanislaus County and was operational
31 prior to September 26, 1996. Electricity generated by a facility
32 meeting these requirements shall be eligible only for the purpose
33 of adjusting a retail seller’s baseline quantity of eligible
34 renewable energy resources.

35 (b) “Energy Commission” means the State Energy Resources
36 Conservation and Development Commission.

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

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

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

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

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

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

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

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

28 (A) A corporation or person employing cogeneration
29 technology or producing electricity consistent with subdivision
30 (b) of Section 218.

31 (B) The Department of Water Resources acting in its capacity
32 pursuant to Division 27 (commencing with Section 80000) of the
33 Water Code.

34 (C) A local publicly owned electrical utility as defined in
35 subdivision (d) of Section 9604.

36 (d) “Renewable energy credit” means a certificate of proof,
37 issued by the Energy Commission, that one unit of electricity was
38 generated by an eligible renewable energy resource and delivered
39 to a retail seller or the Independent System Operator. The
40 renewable energy credit shall represent all renewable and

1 environmental attributes associated with electricity production by
2 an eligible renewable energy resource, unless the Energy
3 Commission determines that certain environmental benefits
4 unrelated to electricity production should be excluded. Any
5 electricity generated by a renewable energy resource attributable
6 to the use of nonrenewable fuels, beyond a de minimus quantity,
7 as determined by the Energy Commission, shall not result in the
8 creation of any renewable energy credits.

9 (e) “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. 4. Section 399.13 of the Public Utilities Code is
14 amended to read:

15 399.13. (a) The Energy Commission shall do all of the
16 following:

17 (1) Certify eligible renewable energy resources that it
18 determines meet the criteria described in subdivision (a) of
19 Section 399.12.

20 (2) Design and implement an accounting system to do all of
21 the following:

22 (A) Verify compliance with the renewables portfolio standard
23 by retail sellers.

24 (B) Ensure that electricity generated by an eligible renewable
25 energy resource is counted only once for the purpose of meeting
26 the renewables portfolio standard of this state or any other state.

27 (C) Certify renewable energy credits produced by eligible
28 renewable energy resources.

29 (D) Verify retail product claims in this state or any other state.

30 In establishing the guidelines governing this system, the Energy
31 Commission shall collect data from electricity market
32 participants that it deems necessary to verify compliance of retail
33 sellers, in accordance with the requirements of this article and the
34 California Public Records Act (Chapter 3.5 (commencing with
35 Section 6250) of Division 7 of Title 1 of the Government Code).

36 In seeking data from electrical corporations, the Energy
37 Commission shall request data from the commission. The
38 commission shall collect data from electrical corporations and
39 remit the data to the Energy Commission within 90 days of the
40 date of the request.

1 (3) Establish a system for tracking and verifying renewable
2 energy credits. The Energy Commission shall consult with other
3 states in the Western Electricity Coordinating Council
4 transmission system to develop consistent mechanisms and
5 protocols for verifying renewable energy credits and to prevent
6 double counting of the electricity generated from any eligible
7 renewable energy resource.

8 (4) Allocate and award supplemental energy payments
9 pursuant to Chapter 8.6 (commencing with Section 25740) of
10 Division 15 of the Public Resources Code, to eligible renewable
11 energy resources to cover above-market costs of renewable
12 energy.

13 (b) The Energy Commission shall not certify or award
14 tradeable renewable energy credits for electricity generated
15 pursuant to any electricity purchase contract with a retail seller
16 executed before January 1, 2006, unless the contract contains
17 explicit terms and conditions specifying the ownership or
18 disposition of those credits. Deliveries under those contracts shall
19 be tracked through the accounting system described in paragraph
20 (2) of subdivision (a) and included in the baseline quantity of
21 eligible renewable energy resources of the purchasing retail seller
22 pursuant to Section 399.15.

23 (c) The Energy Commission shall not certify or award
24 tradeable renewable energy credits for electricity generated
25 pursuant to any electricity purchase contract executed on or after
26 January 1, 2006, pursuant to the federal Public Utility Regulatory
27 Policies Act of 1978 (Public Law 95-617). Deliveries under the
28 electricity purchase contracts shall be tracked through the
29 accounting system described in paragraph (2) of subdivision (a)
30 and shall count towards the renewables portfolio standard
31 obligations of the purchasing retail seller.

32 SEC. 5. Section 399.14 of the Public Utilities Code is
33 amended to read:

34 399.14. (a) The commission shall direct each electrical
35 corporation to prepare a renewable energy procurement plan as
36 described in paragraph (3) to satisfy its obligations under the
37 renewables portfolio standard. To the extent feasible, this
38 procurement plan shall be proposed, reviewed, and adopted by
39 the commission as part of, and pursuant to, a general
40 procurement plan process. The commission shall require each

1 electrical corporation to review and update its renewable energy
2 procurement plan as it determines to be necessary.

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

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

9 (ii) The electrical corporation is able to procure eligible
10 renewable energy resources on reasonable terms, those resources
11 can be financed if necessary, and the procurement will not impair
12 the restoration of an electrical corporation's creditworthiness.
13 This provision shall not apply before April 1, 2004, for any
14 electrical corporation that on June 30, 2003, is in federal court
15 under Chapter 11 of the federal Bankruptcy Code (11 U.S.C. Sec.
16 1101 et seq.).

17 (B) Within 90 days of the commission's determination as
18 provided in subparagraph (A), an electrical corporation shall
19 conduct solicitations to implement a renewable energy
20 procurement plan. The determination required by this paragraph
21 shall apply only to the requirements established pursuant to this
22 article. The requirements established for an electrical corporation
23 pursuant to Section 454.5 shall be governed by that section.

24 (2) The commission shall adopt, by rule, for all electrical
25 corporations, all of the following:

26 (A) A process for determining market prices pursuant to
27 subdivision (c) of Section 399.15. The commission shall make
28 specific determinations of market prices after the closing date of
29 a competitive solicitation conducted by an electrical corporation
30 for eligible renewable energy resources. In order to ensure that
31 the market price established by the commission pursuant to
32 subdivision (c) of Section 399.15 does not influence the amount
33 of a bid submitted through the competitive solicitation in a
34 manner that would increase the amount ratepayers are obligated
35 to pay for electricity generated by eligible renewable energy
36 resources, and in order to ensure that the bid price does not
37 influence the establishment of the market price, the electrical
38 corporation shall not transmit or share the results of any
39 competitive solicitation for eligible renewable energy resources

1 until the commission has established market prices pursuant to
2 subdivision (c) of Section 399.15.

3 (B) A process that provides criteria for the rank ordering and
4 selection of least-cost and best-fit eligible renewable energy
5 resources to comply with the annual California Renewables
6 Portfolio Standard Program obligations on a total cost basis. This
7 process shall consider estimates of indirect costs associated with
8 needed transmission investments and ongoing utility expenses
9 resulting from integrating and operating eligible renewable
10 energy resources.

11 (C) Flexible rules for compliance including permitting
12 electrical corporations to apply excess procurement in one year to
13 subsequent years or inadequate procurement in one year to no
14 more than the following three years.

15 (D) Standard terms and conditions to be used by all electrical
16 corporations in contracting for eligible renewable energy
17 resources, including performance requirements for renewable
18 generators.

19 (3) Consistent with the goal of procuring the least-cost and
20 best-fit eligible renewable energy resources, the renewable
21 energy procurement plan submitted by an electrical corporation
22 shall include all of the following:

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

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

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

33 (4) In soliciting and procuring eligible renewable energy
34 resources, each electrical corporation shall offer contracts of no
35 less than 10 years in duration, unless the commission approves of
36 a contract of shorter duration.

37 (5) In soliciting and procuring eligible renewable energy
38 resources, each electrical corporation may give preference to
39 projects that provide tangible demonstrable benefits to

1 communities with a plurality of minority or low-income
2 populations.

3 (b) The commission shall review and accept, modify, or reject
4 each electrical corporation’s renewable energy procurement plan
5 90 days prior to the commencement of renewable procurement
6 pursuant to this article by the electrical corporation.

7 (c) The commission shall review the results of a renewable
8 energy resources solicitation submitted for approval by an
9 electrical corporation and accept or reject proposed contracts
10 with eligible renewable energy resources based on consistency
11 with the approved renewable energy procurement plan. If the
12 commission determines that the bid prices are elevated due to a
13 lack of effective competition amongst the bidders, the
14 commission shall direct the electrical corporation to renegotiate
15 ~~such~~ *the* contracts or conduct a new solicitation.

16 (d) If an electrical corporation fails to comply with a
17 commission order adopting a renewable procurement plan, the
18 commission shall exercise its authority pursuant to Section 2113
19 to require compliance.

20 (e) Upon application by an electrical corporation, the
21 commission may authorize another entity to enter into contracts
22 on behalf of customers of the electrical corporation for deliveries
23 of eligible renewable energy resources to satisfy the annual
24 renewables portfolio standard obligations, subject to similar
25 terms and conditions applicable to an electrical corporation. The
26 commission shall allow the procurement entity to recover
27 reasonable costs through retail rates subject to review and
28 approval.

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

35 (g) For purposes of this article, “procure” means that a utility
36 may acquire the electricity generated by an eligible renewable
37 energy resource that it owns or for which it has contracted.
38 Nothing in this article is intended to imply that the purchase of
39 electricity from third parties in a wholesale transaction is the

1 preferred method of fulfilling a retail seller’s obligation to
2 comply with this article.

3 (h) Construction, alteration, demolition, installation, and repair
4 work on an eligible renewable energy resource that receives
5 production incentives or supplemental energy payments pursuant
6 to Sections 25742 and 25743 of the Public Resources Code,
7 including, but not limited to, work performed to qualify, receive,
8 or maintain production incentives or supplemental energy
9 payments is “public works” for the purposes of Chapter 1
10 (commencing with Section 1720) of Part 7 of Division 2 of the
11 Labor Code.

12 SEC. 6. Section 399.15 of the Public Utilities Code is
13 amended to read:

14 399.15. (a) In order to fulfill unmet long-term resource
15 needs, the commission shall establish a renewables portfolio
16 standard requiring all electrical corporations to procure a
17 minimum quantity of electricity generated by eligible renewable
18 energy resources, or an equivalent quantity of renewable energy
19 credits *unbundled from the electricity*, as a specified percentage
20 of total kilowatthours sold to their retail end-use customers each
21 calendar year, if sufficient funds are made available pursuant to
22 paragraph (2), and Section 399.6 and Chapter 8.6 (commencing
23 with Section 25740) of Division 15 of the Public Resources
24 Code, to cover the above-market costs of eligible renewables,
25 and subject to all of the following:

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

30 (2) The Energy Commission shall provide supplemental
31 energy payments from funds in the New Renewable Resources
32 Account in the Renewable Resource Trust Fund to eligible
33 renewable energy resources pursuant to Chapter 8.6
34 (commencing with Section 25740) of Division 15 of the Public
35 Resources Code, consistent with this article, for above-market
36 costs. Indirect costs associated with the purchase of eligible
37 renewable energy resources, such as imbalance energy charges,
38 sale of excess energy, decreased generation from existing
39 resources, or transmission upgrades shall not be eligible for

1 supplemental energy payments, but shall be recoverable by an
2 electrical corporation in rates, as authorized by the commission.

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

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

11 (1) Beginning on January 1, 2003, each electrical corporation
12 shall, pursuant to subdivision (a), increase its total procurement
13 of eligible renewable energy resources by at least an additional 1
14 percent of retail sales per year so that 20 percent of its retail sales
15 are procured from eligible renewable energy resources no later
16 than December 31, 2010. An electrical corporation with 20
17 percent of retail sales procured from eligible renewable energy
18 resources in any year shall not be required to increase its
19 procurement of ~~such~~ *eligible renewable energy* resources in the
20 following year. *The 2010 procurement targets shall be subject to*
21 *the commission's rules for flexible compliance adopted pursuant*
22 *to Section 399.14.*

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

28 (3) In the event that an electrical corporation fails to procure
29 sufficient eligible renewable energy resources in a given year to
30 meet any annual target established pursuant to this subdivision,
31 the electrical corporation shall procure additional eligible
32 renewable energy resources in subsequent years to compensate
33 for the shortfall if sufficient funds are made available pursuant to
34 paragraph (2), and Section 399.6 and Chapter 8.6 (commencing
35 with Section 25740) of Division 15 of the Public Resources
36 Code, to cover the above-market costs of eligible renewable
37 energy resources.

38 (4) If supplemental energy payments from the Energy
39 Commission, in combination with the market prices approved by
40 the commission, are insufficient to cover the above-market costs

1 of eligible renewable energy resources, the commission shall
2 allow an electrical corporation to limit its annual procurement
3 obligation to the quantity of eligible renewable energy resources
4 that can be procured with available supplemental energy
5 payments.

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

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

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

16 (3) The value of different products including baseload,
17 peaking, and as-available electricity.

18 (d) The establishment of a renewables portfolio standard shall
19 not constitute implementation by the commission of the federal
20 Public Utility Regulatory Policies Act of 1978 (Public Law
21 95-617).

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

25 (f) *In order to recognize the financial contribution of electric*
26 *customers to support renewable energy resources and to lower*
27 *the overall cost obligations of those customers, electricity*
28 *generated from an in-state renewable electricity generation*
29 *facility that participates in net energy metering pursuant to*
30 *Section 2827, shall count toward the renewable energy portfolio*
31 *standard for the electrical corporation in the service territory in*
32 *which the eligible customer-generator is located.*

33 *SEC. 7. Section 399.16 of the Public Utilities Code is*
34 *amended to read:*

35 399.16. The Energy Commission ~~may~~ shall consider an
36 electric generating facility that is ~~located outside the state~~ not an
37 "in-state renewable electricity generation facility," as defined in
38 Section 25741 of the Public Resources Code, solely because the
39 generating facility is located outside California, to be an eligible
40 renewable energy resource if it meets ~~the~~ all other criteria

1 described in *Section 25741 of the Public Resources Code and*
2 *Section 399.12 and meets all of the following requirements:*

3 (a) It is located so that it is, or will be, connected to the
4 Western Electricity Coordinating Council (WECC) transmission
5 system.

6 (b) It is developed with guaranteed contracts to sell its
7 generation, and demonstrates delivery of ~~energy~~ *electricity*, to a
8 retail seller *in this state, at the delivery point specified by the*
9 *retail seller*, or to the Independent System Operator.

10 (c) It participates in the accounting system to verify
11 compliance with the renewables portfolio standard by retail
12 sellers, once established by the Energy Commission pursuant to
13 subdivision (b) of Section 399.13.

14 ~~SEC. 7.—~~

15 *SEC. 8.* Section 399.17 is added to the Public Utilities Code,
16 to read:

17 399.17. (a) The commission shall, not later than July 1, 2006,
18 adopt rules or other appropriate procedures, that authorize the use
19 of renewable energy credits *unbundled from the electricity*, to
20 satisfy annual procurement targets for renewable energy
21 resources. The rules shall do all of the following:

22 (1) Prohibit a renewable energy credit from being counted
23 more than once by any retail seller for compliance with the
24 renewables portfolio standard of this state or any other state, or
25 for verifying retail product claims in this state or any other state.

26 (2) Prohibit any renewable energy credit from applying toward
27 a retail seller's renewables portfolio standard program
28 obligations unless the renewable energy credit results from
29 electricity generated by an eligible renewable energy resource.

30 (3) Ensure that any revenues received by an electrical
31 corporation for the sale of renewable energy credits are credited
32 to ratepayers.

33 (4) Require every electrical corporation to demonstrate that all
34 purchased renewable energy credits are certified by the Energy
35 Commission and comply with the requirements of this article,
36 before purchase expenses may be recovered in rates.

37 (5) Ensure that no retail seller shall be obligated to procure
38 renewable energy credits to satisfy annual procurement targets in
39 the event that supplemental energy payments, in combination
40 with the market prices approved by the commission, are

1 insufficient to cover the above-market costs of long-term
2 contracts with eligible renewable energy resources.

3 (6) Prohibit sales of renewable energy credits by an electrical
4 corporation during any year in which the electrical corporation
5 utilizes flexible compliance rules to permit inadequate
6 procurement pursuant to subparagraph (C) of paragraph (2) of
7 subdivision (a) of Section 399.14.

8 (b) In approving a renewable energy procurement plan
9 pursuant to this chapter, the commission may limit the quantity
10 of renewable energy credits that an electrical corporation is
11 permitted to procure unaccompanied by delivery of the electricity
12 that earned the credit.

13 ~~SEC. 8.—~~

14 *SEC. 9.* No reimbursement is required by this act pursuant to
15 Section 6 of Article XIII B of the California Constitution because
16 the only costs that may be incurred by a local agency or school
17 district will be incurred because this act creates a new crime or
18 infraction, eliminates a crime or infraction, or changes the
19 penalty for a crime or infraction, within the meaning of Section
20 17556 of the Government Code, or changes the definition of a
21 crime within the meaning of Section 6 of Article XIII B of the
22 California Constitution.