

AMENDED IN SENATE AUGUST 28, 2006

AMENDED IN SENATE JULY 12, 2005

AMENDED IN ASSEMBLY MAY 27, 2005

AMENDED IN ASSEMBLY APRIL 11, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1362**

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**Introduced by Assembly Member Levine**

February 22, 2005

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~~An act to amend Section 25740 of the Public Resources Code, and to amend Sections 399.11 and 399.15 of the Public Utilities Code, relating to renewable energy relating to energy resources, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

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

(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.

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 2010.

The bill would make other clarifying changes.

(3) The bill would provide that it shall only become operative if SB 107 of the 2005–06 Regular Session is also enacted and becomes operative on or before January 1, 2006.

(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.

(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.

*Existing law appropriated \$10,000,000 to the State Energy Resources Conservation and Development Commission in 2001 to provide grants for the purpose of encouraging the development of manure methane power production projects on California dairies.*

*This bill would provide that specified restrictions on encumbrance of funds would not apply to the balances of those funds and would make those funds available for liquidation of encumbrances until December 31, 2008.*

*This bill would declare that it is to take effect immediately as an urgency statute.*

Vote: ~~majority~~<sup>2/3</sup>. Appropriation: ~~no~~-yes. Fiscal committee: yes. State-mandated local program: ~~yes~~-no.

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

1     *SECTION 1. The balances of the funds appropriated in*  
2 *clause (i) of subparagraph (C) of paragraph (5) of subdivision*  
3 *(b) of Section 5 of Chapter 7 of the 2001–02 First Extraordinary*  
4 *Session shall not be subject to the restrictions of Section 16304.1*  
5 *of the Government Code and shall be available for liquidation of*  
6 *encumbrances until December 31, 2008, for the same programs*  
7 *and purposes for which the appropriation was originally made.*

8     *SEC. 2. This act is an urgency statute necessary for the*  
9 *immediate preservation of the public peace, health, or safety*  
10 *within the meaning of Article IV of the Constitution and shall go*  
11 *into immediate effect. The facts constituting the necessity are:*

12 *In order for the expenditure of funds to accomplish the*  
13 *objectives of the appropriation in this bill, it is necessary that*  
14 *this bill go into immediate effect.*

15     ~~SECTION 1. Section 25740 of the Public Resources Code is~~  
16 ~~amended to read:~~

17     ~~25740. It is the intent of the Legislature in establishing this~~  
18 ~~program, to increase the amount of renewable electricity~~  
19 ~~generated per year, so that it equals at least 20 percent of the total~~  
20 ~~electricity generated for consumption in California per year by~~  
21 ~~2010.~~

22     ~~SEC. 2. Section 399.11 of the Public Utilities Code is~~  
23 ~~amended to read:~~

24     ~~399.11. The Legislature finds and declares all of the~~  
25 ~~following:~~

1 ~~(a) In order to attain a target of 20 percent renewable energy~~  
2 ~~for the State of California by 2010, and for the purposes of~~  
3 ~~increasing the diversity, reliability, public health and~~  
4 ~~environmental benefits of the energy mix, it is the intent of the~~  
5 ~~Legislature that the California Public Utilities Commission and~~  
6 ~~the State Energy Resources Conservation and Development~~  
7 ~~Commission implement the California Renewables Portfolio~~  
8 ~~Standard Program described in this article.~~

9 ~~(b) Increasing California's reliance on renewable energy~~  
10 ~~resources may promote stable electricity prices, protect public~~  
11 ~~health, improve environmental quality, stimulate sustainable~~  
12 ~~economic development, create new employment opportunities,~~  
13 ~~and reduce reliance on imported fuels.~~

14 ~~(c) The development of renewable energy resources may~~  
15 ~~ameliorate air quality problems throughout the state and improve~~  
16 ~~public health by reducing the burning of fossil fuels and the~~  
17 ~~associated environmental impacts.~~

18 ~~(d) The California Renewables Portfolio Standard Program is~~  
19 ~~intended to complement the Renewable Energy Program~~  
20 ~~administered by the State Energy Resources Conservation and~~  
21 ~~Development Commission and established pursuant to Chapter~~  
22 ~~8.6 (commencing with Section 25740) of Division 15 of the~~  
23 ~~Public Resources Code.~~

24 ~~SEC. 3. Section 399.15 of the Public Utilities Code is~~  
25 ~~amended to read:~~

26 ~~399.15. (a) In order to fulfill unmet long-term resource~~  
27 ~~needs, the commission shall establish a renewables portfolio~~  
28 ~~standard requiring all electrical corporations to procure a~~  
29 ~~minimum quantity of electricity generated by eligible renewable~~  
30 ~~energy resources as a specified percentage of total kilowatthours~~  
31 ~~sold to their retail end-use customers each calendar year, if~~  
32 ~~sufficient funds are made available pursuant to paragraph (2);~~  
33 ~~and Section 399.6 and Chapter 8.6 (commencing with Section~~  
34 ~~25740) of Division 15 of the Public Resources Code, to cover the~~  
35 ~~above-market costs of eligible renewables, and subject to all of~~  
36 ~~the following:~~

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

1     ~~(2) The Energy Commission shall provide supplemental~~  
2 ~~energy payments from funds in the New Renewable Resources~~  
3 ~~Account in the Renewable Resource Trust Fund to eligible~~  
4 ~~renewable energy resources pursuant to Chapter 8.6~~  
5 ~~(commencing with Section 25740) of Division 15 of the Public~~  
6 ~~Resources Code, consistent with this article, for above-market~~  
7 ~~costs. Indirect costs associated with the purchase of eligible~~  
8 ~~renewable energy resources, such as imbalance energy charges,~~  
9 ~~sale of excess energy, decreased generation from existing~~  
10 ~~resources, or transmission upgrades shall not be eligible for~~  
11 ~~supplemental energy payments, but shall be recoverable by an~~  
12 ~~electrical corporation in rates, as authorized by the commission.~~

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

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

21     ~~(1) Beginning on January 1, 2003, each electrical corporation~~  
22 ~~shall, pursuant to subdivision (a), increase its total procurement~~  
23 ~~of eligible renewable energy resources by at least an additional 1~~  
24 ~~percent of retail sales per year so that 20 percent of its retail sales~~  
25 ~~are procured from eligible renewable energy resources no later~~  
26 ~~than December 31, 2010. An electrical corporation with 20~~  
27 ~~percent of retail sales procured from eligible renewable energy~~  
28 ~~resources in any year shall not be required to increase its~~  
29 ~~procurement of eligible renewable energy resources in the~~  
30 ~~following year.~~

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

36     ~~(3) In the event that an electrical corporation fails to procure~~  
37 ~~sufficient eligible renewable energy resources in a given year to~~  
38 ~~meet any annual target established pursuant to this subdivision,~~  
39 ~~the electrical corporation shall procure additional eligible~~  
40 ~~renewable energy resources in subsequent years to compensate~~

1 for the shortfall if sufficient funds are made available pursuant to  
2 paragraph (2), and Section 399.6 and Chapter 8.6 (commencing  
3 with Section 25740) of Division 15 of the Public Resources  
4 Code, to cover the above-market costs of eligible renewable  
5 energy resources.

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

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

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

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

24 ~~(3) The value of different products, including baseload,~~  
25 ~~peaking, and as-available electricity.~~

26 ~~(d) The establishment of a renewables portfolio standard shall~~  
27 ~~not constitute implementation by the commission of the federal~~  
28 ~~Public Utility Regulatory Policies Act of 1978 (Public Law~~  
29 ~~95-617).~~

30 ~~(e) The commission shall consult with the Energy Commission~~  
31 ~~in calculating market prices under subdivision (c) and~~  
32 ~~establishing other renewables portfolio standard policies.~~

33 ~~SEC. 4. This act shall only become operative if Senate Bill~~  
34 ~~107 of the 2005-06 Regular Session is also enacted and becomes~~  
35 ~~operative on or before January 1, 2006.~~

36 ~~SEC. 5. No reimbursement is required by this act pursuant to~~  
37 ~~Section 6 of Article XIII B of the California Constitution because~~  
38 ~~the only costs that may be incurred by a local agency or school~~  
39 ~~district will be incurred because this act creates a new crime or~~  
40 ~~infraction, eliminates a crime or infraction, or changes the~~

1 ~~penalty for a crime or infraction, within the meaning of Section~~  
2 ~~17556 of the Government Code, or changes the definition of a~~  
3 ~~crime within the meaning of Section 6 of Article XIII B of the~~  
4 ~~California Constitution.~~

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