

ASSEMBLY BILL

No. 1585

Introduced by Assembly Member Blakeslee

February 22, 2005

An act to amend Sections 25740, 25746, 25747, and 25750 of, to add Section 25752 to, and to repeal Section 25749 of, the Public Resources Code, to amend Sections 385, 387, 399.6, 399.12, 399.13, 399.14, and 399.15 of, and to add Section 399.17 to, the Public Utilities Code, relating to renewable energy resources, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1585, as introduced, Blakeslee. Renewable energy resources: California Renewables Portfolio Standard.

(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 declare the additional intent of the Legislature to increase the amount of electricity generated per year from renewable sources, so that it equals 20% of the total electricity sold to retail customers in California per year by the year 2010.

(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 revise the target of the renewables portfolio standard to achieve an increase in 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 the year 2010. The Energy Commission would be required to review the feasibility of increasing the target to 33% by the year 2020, and to report the results of the review to the Governor and Legislature by July 1, 2007. The bill would authorize the CPUC to set procurement targets for any year beginning 2011, in excess of 20% and to vary procurement targets among electrical corporations. The bill would require the CPUC to adopt flexible rules that permit an electrical corporation to purchase tradeable renewable energy certificates, as defined, from an eligible renewable energy resource. The bill would authorize the CPUC, in consultation with the Energy Commission, to limit the quantity of tradeable renewable energy certificates that an electrical corporation is authorized to procure in meeting its annual renewable energy procurement targets. The bill would authorize an electric service provider or community choice aggregator to meet its obligations under the renewables portfolio standard program through procurement of tradeable renewable energy certificates. The bill would authorize the Energy Commission, notwithstanding any other law, to contract for services to develop and implement an accounting system to verify compliance with the renewables portfolio standard. The bill would make an electric service provider or community choice

aggregator ineligible to receive supplemental energy payments unless it is in compliance with its obligations under the renewables portfolio standard program.

(3) Under the Public Utilities Act, the CPUC requires electrical corporations to identify a separate rate component to fund programs that enhance system reliability and provide in-state benefits. This rate component is a nonbypassable element of local distribution and collected on the basis of usage. The funds are collected to support cost-effective energy efficiency and conservation activities, public interest research and development not adequately provided by competitive and regulated markets, and renewable energy resources (renewable energy public goods charge). Existing law requires the Energy Commission to transfer funds collected by electrical corporations for in-state operation and development of existing and new and emerging renewable resources technologies into the Renewable Resource Trust Fund, to fund specified programs.

Under the Reliable Electric Service Investments Act, the Energy Commission was required to hold moneys collected for renewable energy and deposited in the Renewable Resource Trust Fund until further action by the Legislature. The act requires the Energy Commission to create an initial investment plan, in accordance with specified objectives, to govern the allocation of funds in the Renewable Resource Trust Fund collected between January 1, 2002, and January 1, 2007, in order to ensure a fully competitive and self sustaining California renewable energy supply. Existing law requires the Energy Commission, on or before March 31, 2006, to prepare an investment plan proposing the application of moneys collected between January 1, 2007, and January 1, 2012.

This bill would delete the requirement that moneys collected for renewable energy and deposit in the Renewal Resource Trust fund be held until further action by the Legislature. The bill would require the Energy Commission, on or before March 31, 2006, to prepare a report, rather than an investment plan, describing the application of moneys collected between January 1, 2007, and January 1, 2012, and to describe the use of any funds applied toward program activities during the period January 1, 2002, through the date of the report.

(4) Under existing law, 1% of the money collected as part of the renewable energy public goods charge is required to be deposited into the Renewable Resource Consumer Education Account, which is continuously appropriated to support dissemination of information on

renewable energy technologies and to help develop a consumer market for renewable energy and for small-scale emerging renewable energy technologies.

This bill would additionally authorize that moneys in the account be used to verify compliance with the renewables portfolio standard program. By expanding the purposes for which moneys in a continuously appropriated fund may be spent, the bill would make an appropriation.

(5) Under existing law, the governing board of a local publicly owned electric utility is responsible for implementing and enforcing a renewables portfolio standard that recognizes the intent of the Legislature to encourage renewable energy resources, while taking into consideration the effect of the standard on rates, reliability, and financial resources and the goal of environmental improvement. Existing law requires the governing board of a local publicly owned electric utility to annually report certain information relative to renewable energy resources to its customers. Existing law requires each local publicly owned electric utility to establish a nonbypassable usage based charge to fund investments in specified public purpose programs, including energy efficiency and conservation, investment in renewable energy resources, research, development and demonstration programs, and providing services for low-income electricity customers. The charge is required to be not less than the lowest expenditure of the 3 largest electrical corporations in California based on a percentage of revenue.

This bill would require that a local publicly owned electric utility increase its total procurement of eligible renewable energy resources by at least 1% per year from 2004 procurement levels, so that at least 20% of the utility's retail sales of electricity are procured from eligible renewable energy resources by the year 2017. The bill would authorize a local publicly owned electric utility to meet its annual procurement target through the procurement of tradeable renewable energy certificates. The bill would require the governing board of a local publicly owned electric utility to report annually to the Energy Commission, the information relative to renewable energy resources that is annually reported to the utility's customers. By placing additional requirements upon local publicly owned electric utilities, the bill would impose a state-mandated local program. The bill would require that the nonbypassable usage based charge established by a local publicly owned electric utility be set in an amount sufficient to

ensure compliance by the utility with the renewables portfolio standard.

(6) Under existing law, the Energy Commission was required to prepare and submit to the Legislature by December 1, 2003, a comprehensive renewable electricity generation resource plan.

This bill would delete that requirement.

(7) 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 implementing order or action of the CPUC would be a crime, this bill would impose a state-mandated local program by creating new crimes.

(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 specified reasons.

Vote: 2/3. Appropriation: yes. 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 *from eligible renewable energy resources*, so
6 that it equals at least 17 percent of the total electricity generated
7 for consumption in California per year by 2006, *and equals 20*
8 *percent of the total electricity sold to retail customers in*
9 *California per year by the year 2010.*

10 SEC. 2. Section 25746 of the Public Resources Code is
11 amended to read:

12 25746. One percent of the money collected pursuant to the
13 renewable energy public goods charge shall be used in
14 accordance with the report to promote renewable energy and
15 disseminate information on renewable energy technologies,
16 including emerging renewable technologies, and to help develop

1 a consumer market for renewable energy and for small-scale
2 emerging renewable energy technologies, *and to verify*
3 *compliance with the renewables portfolio standard program.*

4 SEC. 3. Section 25747 of the Public Resources Code is
5 amended to read:

6 25747. (a) The commission shall adopt guidelines governing
7 the funding programs authorized under this chapter, at a publicly
8 noticed meeting offering all interested parties an opportunity to
9 comment. Substantive changes to the guidelines may not be
10 adopted without at least 10 days' written notice to the public. The
11 public notice of meetings required by this subdivision may not be
12 less than 30 days. Notwithstanding any other provision of law,
13 any guidelines adopted pursuant to this chapter or Section 399.13
14 of the Public Utilities Code, shall be exempt from the
15 requirements of Chapter 3.5 (commencing with Section 11340)
16 of Part 1 of Division 3 of Title 2 of the Government Code. The
17 Legislature declares that the changes made to this subdivision by
18 the act amending this section during the 2002 portion of the
19 2001–02 Regular Session are declaratory of, and not a change in
20 existing law.

21 (b) Funds to further the purposes of this chapter may be
22 committed for multiple years.

23 (c) Awards made pursuant to this chapter are grants, subject to
24 appeal to the commission upon a showing that factors other than
25 those described in the guidelines adopted by the commission
26 were applied in making the awards and payments. Any actions
27 taken by an applicant to apply for, or become or remain eligible
28 and registered to receive, payments or awards, including
29 satisfying conditions specified by the commission, shall not
30 constitute the rendering of goods, services, or a direct benefit to
31 the commission.

32 *(d) Notwithstanding subdivision (c), the commission may*
33 *contract for services to develop and implement an accounting*
34 *system to verify compliance with the renewables portfolio*
35 *standard program pursuant to Section 399.13 of the Public*
36 *Utilities Code.*

37 SEC. 4. Section 25749 of the Public Resources Code is
38 repealed.

39 ~~25749. The commission shall, by December 1, 2003, prepare~~
40 ~~and submit to the Legislature a comprehensive renewable~~

1 ~~electricity generation resource plan that describes the renewable~~
2 ~~resource potential available in California, and recommendations~~
3 ~~for a plan for development to achieve the target of increasing the~~
4 ~~amount of electricity generated from renewable sources per year,~~
5 ~~so that it equals 17 percent of the total electricity generated for~~
6 ~~consumption in California by 2006. The commission shall~~
7 ~~consult with the Public Utilities Commission, electrical~~
8 ~~corporations, and the Independent System Operator, in the~~
9 ~~development and preparation of the plan.~~

10 SEC. 5. Section 25750 of the Public Resources Code is
11 amended to read:

12 25750. (a) The commission shall participate in proceedings at
13 the Public Utilities Commission that relate to or affect efforts to
14 stimulate the development of electricity generated from
15 renewable sources, in order to obtain coordination of the state's
16 efforts to achieve the target of increasing the amount of
17 ~~electricity generated procured from renewable sources per year~~
18 *eligible renewable energy resources*, so that it equals ~~17~~ 20
19 percent of the total electricity ~~generated for consumption~~ sold to
20 *retail customers in California by 2006 per year by the year 2010.*

21 (b) *For purposes of this section, "procured" means that a*
22 *retail seller may acquire the electricity generated by an eligible*
23 *renewable energy resource that it owns or with which it has*
24 *contracted or may acquire tradeable renewable energy*
25 *certificates. Nothing in this section is intended to imply that the*
26 *purchase of electricity from third parties in a wholesale*
27 *transaction is the preferred method of fulfilling a retail seller's*
28 *obligation to comply with this section.*

29 SEC. 6. Section 25752 is added to the Public Resources Code,
30 to read:

31 25752. The commission shall review the feasibility of
32 increasing the target for electricity to be procured from eligible
33 renewable energy resources to 33 percent by the year 2020, and
34 to report to the Governor and the Legislature by July 1, 2007,
35 with the results of the review. The review shall consider and
36 report on all of the following:

37 (a) Deliverability of electricity from eligible renewable energy
38 resources to end users and any needed additions or upgrades to
39 the transmission grid system.

1 (b) Dispatchability of electricity from eligible renewable
2 energy resources and the consequences for the reliability of the
3 electrical system.

4 (c) Long-term planning requirements identified in the 2006
5 procurement plans for electrical corporations approved by the
6 Public Utilities Commission pursuant to Section 454.5 of the
7 Public Utilities Code.

8 (d) Potential impacts upon the rates of electrical corporations
9 and whether or not a renewable energy public goods charge is
10 necessary to fund the above-market costs of electricity generated
11 from eligible renewable energy resources.

12 (e) The progress made by electrical corporations toward
13 meeting the goal of procuring 20 percent of the electricity sold to
14 retail customers per year by the year 2010, and the results of
15 electrical corporation bid solicitations pursuant to a renewable
16 energy procurement plan approved by the Public Utilities
17 Commission pursuant to Section 399.14 of the Public Utilities
18 Code.

19 (f) The progress made by all load serving entities other than
20 electrical corporations, including the progress made by local
21 publicly owned electric utilities as defined in subdivision (d) of
22 Section 9604 of the Public Utilities Code, toward meeting the
23 goal of procuring 20 percent of the electricity sold to retail
24 customers per year by the year 2010.

25 SEC. 7. Section 385 of the Public Utilities Code is amended
26 to read:

27 385. (a) Each local publicly owned electric utility shall
28 establish a nonbypassable, usage based charge on local
29 distribution service of not less than the lowest expenditure level
30 of the three largest electrical corporations in California on a
31 percent of revenue basis, calculated from each utility's total
32 revenue requirement for the year ended December 31, 1994, and
33 each utility's total annual expenditure under paragraphs (1), (2),
34 and (3) of subdivision (c) of Section 381 and Section 382, to fund
35 investments by the utility and other parties in any or all of the
36 following:

37 (1) Cost-effective demand-side management services to
38 promote energy efficiency and energy conservation.

39 (2) New investment in renewable energy resources and
40 technologies consistent with existing statutes and regulations

1 which promote those resources and technologies, *and in an*
2 *amount sufficient to ensure compliance with the California*
3 *Renewables Portfolio Standard* program.

4 (3) Research, development and demonstration programs for
5 the public interest to advance science or technology which is not
6 adequately provided by competitive and regulated markets.

7 (4) Services provided for low-income electricity customers,
8 including, but not limited to, energy efficiency services,
9 education, weatherization, and rate discounts.

10 (b) Each local publicly owned electric utility that has not
11 implemented programs for low-income electricity customers
12 including targeted energy efficiency services and rate discounts
13 based upon the income level of the customer, or completed an
14 assessment of need for those programs, on or before December
15 31, 2000, shall perform a needs assessment for the programs
16 described in paragraph (4) of subdivision (a) and shall hold one
17 or more public meetings, after notice, to review the findings of
18 the needs assessment. Following the public meetings, the
19 governing body of the local publicly owned electric utility shall
20 determine the amount of the total funds collected pursuant to this
21 section to be allocated to low-income programs, including, but
22 not limited to, targeted energy efficiency services, education,
23 weatherization, and rate discounts. In making its decision on the
24 need for the programs, the governing body shall consider all of
25 the following:

26 (1) The number and income level of low-income customers
27 that reside in the service area of the utility.

28 (2) The availability of home weatherization services to
29 low-income customers pursuant to Section 2790.

30 (3) The availability of in-home energy efficiency education in
31 the utility's service area.

32 (4) Other factors that may indicate a need for low-income
33 services.

34 (c) Following a determination pursuant to subdivision (b) that
35 low-income services are needed, the local publicly owned utility
36 shall promptly implement or expand those programs. The local
37 publicly owned electric utility shall work with existing
38 weatherization providers to implement energy efficiency,
39 education, and weatherization programs.

1 SEC. 8. Section 387 of the Public Utilities Code is amended
2 to read:

3 387. (a) Each governing body of a local publicly owned
4 electric utility, as defined in Section 9604, shall be responsible
5 for implementing and enforcing a renewables portfolio standard
6 ~~that recognizes the intent of the Legislature to encourage~~
7 ~~renewable resources, while taking into consideration the effect of~~
8 ~~the standard on rates, reliability, and financial resources and the~~
9 ~~goal of environmental improvement.~~ *A local publicly owned*
10 *electric utility shall increase its total procurement of eligible*
11 *renewable energy resources by at least 1 percent per year from*
12 *2004 procurement levels, so that at least 20 percent of the*
13 *utility's retail sales of electricity are procured from eligible*
14 *renewable energy resources by the year 2017.*

15 (b) *A local publicly owned electric utility may meet its annual*
16 *procurement target through the procurement of tradeable*
17 *renewable energy certificates.*

18 ~~(b)~~

19 (c) Each local publicly owned electric utility shall report, on
20 an annual basis, to *the State Energy Resources Conservation and*
21 *Development Commission* and its customers, the following:

22 (1) Expenditures of public goods funds collected pursuant to
23 Section 385 for renewable energy resource development. Reports
24 shall contain a description of programs, expenditures, and
25 expected or actual results.

26 (2) The resource mix used to serve its customers by fuel type.
27 Reports shall contain the contribution of each type of renewable
28 energy resource with separate categories for those fuels
29 considered eligible renewable energy resources as defined by
30 Section 399.12.

31 (d) *The State Energy Resources Conservation and*
32 *Development Commission shall use the data supplied pursuant to*
33 *subdivision (c) to calculate the total retail electrical load served*
34 *by all local publicly owned electric utilities and the baseline*
35 *amount of electricity delivered to retail end-use customers by*
36 *local publicly owned electric utilities that was generated by*
37 *eligible renewable energy resources during the 2004 calendar*
38 *year. The commission shall determine a collective annual*
39 *procurement target for electricity to be procured from eligible*
40 *renewable energy resources by local publicly owned electric*

1 *utilities. Each local publicly owned electric utility shall be*
2 *responsible for meeting the annual procurement target for*
3 *electricity to be procured from eligible renewable energy*
4 *resources for that portion of the collective annual procurement*
5 *target equal to the utility's share of overall electrical load*
6 *collectively served by all local publicly owned electric utilities.*
7 *For purposes of this section, “procure” and “procurement”*
8 *means that a local publicly owned electric utility may acquire the*
9 *electricity generated by an eligible renewable energy resource*
10 *that it owns or with which it has contracted or may acquire*
11 *tradeable renewable energy certificates. Nothing in this section*
12 *is intended to imply that the purchase of electricity from third*
13 *parties in a wholesale transaction is the preferred method of*
14 *fulfilling the utility's renewables portfolio standard procurement*
15 *targets.*

16 *(e) For purposes of this section, the following terms have the*
17 *following meanings:*

18 *(1) “Eligible renewable energy resource” means an eligible*
19 *renewable energy resource as defined in Section 399.12.*

20 *(2) “Tradeable renewable energy certificate” means a*
21 *tradeable renewable energy certificate as defined in Section*
22 *399.12.*

23 SEC. 9. Section 399.6 of the Public Utilities Code is amended
24 to read:

25 399.6. (a) In order to optimize public investment and ensure
26 that the most cost-effective and efficient investments in
27 renewable resources are vigorously pursued, the Energy
28 Commission shall create an investment plan as set forth in
29 paragraphs (1) to (3), inclusive, to govern the allocation of funds
30 provided pursuant to this article. The Energy Commission’s
31 long-term goal shall be a fully competitive and self-sustaining
32 California renewable energy supply. The investment plan shall be
33 in accordance with all of the following:

34 (1) The investment plan’s objective shall be to increase, in the
35 near term, the quantity of California’s electricity generated by
36 in-state renewable energy resources, while protecting system
37 reliability, fostering resource diversity, and obtaining the greatest
38 environmental benefits for California residents.

39 (2) An additional objective of the plan shall be to identify and
40 support emerging renewable energy technologies that have the

1 greatest near-term commercial promise and that merit targeted
2 assistance.

3 (3) The investment plan shall contain specific numerical
4 targets, reflecting the projected impact of the plan, for both of the
5 following:

6 (A) Increased quantity of California electrical generation
7 produced from emerging technologies and from overall
8 renewable resources.

9 (B) Increased supply of renewable generation available from
10 facilities other than those selling to investor-owned utilities under
11 contracts entered into prior to 1996 under the federal Public
12 Utilities Regulatory Policies Act of 1978 (P.L. 95-617).

13 (b) The Energy Commission shall, on an annual basis,
14 evaluate progress on meeting the targets set forth in
15 subparagraphs (A) and (B) of paragraph (3) of subdivision (a), or
16 any substitute provisions adopted by the Legislature upon review
17 of the investment plan, and assess the impact of the investment
18 plan on reducing the cost to Californians of renewable energy
19 generation.

20 (c) In preparing these investment plans, the Energy
21 Commission shall recommend allocations among all of the
22 following:

23 (1) (A) Except as provided in subparagraph (B), production
24 incentives for new renewable energy, including repowered or
25 refurbished renewable energy.

26 (B) Allocations may not be made for renewable energy that is
27 generated by a project that remains under a power purchase
28 contract with an electrical corporation originally entered into
29 prior to September 24, 1996, whether amended or restated
30 thereafter.

31 (C) Notwithstanding subparagraph (B), production incentives
32 for incremental new, repowered, or refurbished renewable energy
33 from existing projects under a power purchase contract with an
34 electrical corporation originally entered into prior to September
35 24, 1996, whether amended or restated thereafter, may be
36 allowed in any month, if all of the following occur:

37 (i) The project's power purchase contract provides that all
38 energy delivered and sold under the contract is paid at a price
39 that does not exceed commission-approved short-run avoided
40 cost of energy.

1 (ii) Either of the following:

2 (I) The power purchase contract is amended to provide that the
3 kilowatthours used to determine the capacity payment in any
4 time-of-delivery period in any month under the contract shall be
5 equal to the actual kilowatthour production, but no greater than
6 the five-year average of the kilowatthours delivered for the
7 corresponding time-of-delivery period and month, in the years
8 1994 to 1998, inclusive.

9 (II) If a project's installed capacity as of December 31, 1998,
10 is less than 75 percent of the nameplate capacity as stated in the
11 power purchase contract, the power purchase contract is amended
12 to provide that the kilowatthours used to determine the capacity
13 payment in any time-of-delivery period in any month under the
14 contract shall be equal to the actual kilowatthour production, but
15 no greater than the product of the five-year average of the
16 kilowatthours delivered for the corresponding time-of-delivery
17 period and month, in the years 1994 to 1998, inclusive, and the
18 ratio of installed capacity as of December 31 of the previous
19 year, but not to exceed contract nameplate capacity, to the
20 installed capacity as of December 31, 1998.

21 (iii) The production incentive is payable only with respect to
22 the kilowatthours delivered in a particular month that exceeds the
23 corresponding five-year average calculated pursuant to clause
24 (ii).

25 (2) Rebates, buydowns, or equivalent incentives for emerging
26 renewable technologies.

27 (3) Customer credits for renewables not under contract with a
28 utility.

29 (4) Customer education.

30 (5) Incentives for reducing fuel costs that are confirmed to the
31 satisfaction of the Energy Commission at solid fuel biomass
32 energy facilities in order to provide demonstrable environmental
33 and public benefits, including, but not limited to, air quality.

34 (6) Solar thermal generating resources that enhance the
35 environmental value or reliability of the electrical system and
36 that require financial assistance to remain economically viable, as
37 determined by the Energy Commission. The Energy Commission
38 may require financial disclosure from applicants for purposes of
39 this paragraph.

1 (7) Specified fuel cell technologies, if the Energy Commission
2 makes all of the following findings:

3 (A) The specified technologies have similar or better air
4 pollutant characteristics than renewable technologies in the
5 investment plan.

6 (B) The specified technologies require financial assistance to
7 become commercially viable by reference to wholesale
8 generation prices.

9 (C) The specified technologies could contribute significantly
10 to the infrastructure development or other innovation required to
11 meet the long-term objective of a self-sustaining, competitive
12 supply of renewable energy.

13 (8) Existing wind-generating resources, if the Energy
14 Commission finds that the existing wind-generating resources are
15 a cost-effective source of reliable and environmental benefits
16 compared with other eligible sources, and that the existing
17 wind-generating resources require financial assistance to remain
18 economically viable, as determined by the Energy Commission.
19 The Energy Commission may require financial disclosure from
20 applicants for the purposes of this paragraph.

21 (d) The commission shall establish a cap on the aggregate
22 amount of funds that may be awarded to public entities from the
23 program that provides customer credits for renewables. The
24 intent of the cap is to assure adequate funding of credits for
25 residential and small commercial customers.

26 (e) ~~Notwithstanding any other provision of law, moneys~~
27 *Moneys* collected for renewable energy pursuant to this article
28 shall be transferred to the Renewable Resource Trust Fund of the
29 Energy Commission, ~~to be held until further action by the~~
30 ~~Legislature~~. The Energy Commission shall prepare and submit to
31 the Legislature, on or before March 31, 2001, an initial
32 investment plan for these moneys, addressing the application of
33 moneys collected between January 1, 2002, and January 1, 2007.
34 The initial investment plan shall also include an evaluation of
35 and report to the Legislature regarding the appropriateness and
36 structure of a mandatory state purchase of renewable energy. On
37 or before March 31, 2006, the Energy Commission shall prepare
38 ~~an investment plan proposing a report to the Legislature~~
39 ~~describing~~ the application of moneys collected between January
40 1, 2007, and January 1, 2012. ~~No moneys may be expended in~~

1 ~~the years covered by these plans without further legislative~~
2 ~~action. The report shall describe the use of moneys applied~~
3 ~~toward program activities during the period commencing~~
4 ~~January 1, 2002, through the date of the report.~~

5 SEC. 10. Section 399.12 of the Public Utilities Code is
6 amended to read:

7 399.12. For purposes of this article, the following terms have
8 the following meanings:

9 (a) “Eligible renewable energy resource” means an electric
10 generating facility that is one of the following:

11 (1) The facility meets the definition of “in-state renewable
12 electricity generation facility” in Section 25741 of the Public
13 Resources Code.

14 (2) A geothermal generation facility originally commencing
15 operation prior to September 26, 1996, shall be eligible for
16 purposes of adjusting a retail seller’s baseline quantity of eligible
17 renewable energy resources except for ~~output~~ *electricity* certified
18 as incremental geothermal production by the Energy
19 Commission, provided that the incremental ~~output~~ *geothermal*
20 *production* was not sold to an electrical corporation under
21 contract entered into prior to September 26, 1996. For each
22 facility seeking certification, the Energy Commission shall
23 determine historical production trends and establish criteria for
24 measuring incremental geothermal production that recognizes the
25 declining output of existing steamfields and the contribution of
26 capital investments in the facility or wellfield.

27 (3) ~~The output of~~ *electricity generated by* a small hydroelectric
28 generation facility of 30 megawatts or less procured or owned by
29 an electrical corporation as of the date of enactment of this article
30 shall be eligible only for purposes of establishing the baseline of
31 an electrical corporation pursuant to paragraph (3) of subdivision
32 (a) of Section 399.15. A new hydroelectric facility is not an
33 eligible renewable energy resource if it will require a new or
34 increased appropriation or diversion of water under Part 2
35 (commencing with Section 1200) of Division 2 of the Water
36 Code.

37 (4) A facility engaged in the combustion of municipal solid
38 waste shall not be considered an eligible renewable resource
39 unless it is located in Stanislaus County and was operational
40 prior to September 26, 1996. ~~Output from such facilities~~

1 *Electricity generated by a facility meeting these requirements*
2 shall be eligible only for the purpose of adjusting a retail seller's
3 baseline quantity of eligible renewable energy resources.

4 (b) "Energy Commission" means the State Energy Resources
5 Conservation and Development Commission.

6 (c) "Retail seller" means an entity engaged in the retail sale of
7 electricity to end-use customers, including any of the following:

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

9 (2) A community choice aggregator. The commission shall
10 institute a rulemaking to determine the manner in which a
11 community choice aggregator will participate in the renewables
12 portfolio standard subject to the same terms and conditions
13 applicable to an electrical corporation.

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

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

19 (B) An electric service provider shall be considered a retail
20 seller under this article for sales to all its customers beginning on
21 the earlier of January 1, 2006, or the date on which a contract
22 between an electric service provider and a retail customer
23 expires. Nothing in this subdivision may require an electric
24 service provider to disclose the terms of the contract to the
25 commission.

26 (C) The commission shall institute a rulemaking to determine
27 the manner in which electric service providers will participate in
28 the renewables portfolio standard. The electric service provider
29 shall be subject to the same terms and conditions applicable to an
30 electrical corporation pursuant to this article. Nothing in this
31 paragraph shall impair a contract entered into between an electric
32 service provider and a retail customer prior to the suspension of
33 direct access by the commission pursuant to Section 80110 of the
34 Water Code.

35 (4) "Retail seller" does not include any of the following:

36 (A) A corporation or person employing cogeneration
37 technology or producing ~~power~~ *electricity* consistent with
38 subdivision (b) of Section 218.

1 (B) The Department of Water Resources acting in its capacity
2 pursuant to Division 27 (commencing with Section 80000) of the
3 Water Code.

4 (C) A local publicly owned ~~electrical~~ *electric* utility as defined
5 in subdivision (d) of Section 9604.

6 (d) “Renewables portfolio standard” means the specified
7 percentage of electricity generated by eligible renewable energy
8 resources that a retail seller is required to procure pursuant to
9 Sections 399.13 and 399.15.

10 (e) “Tradeable renewable energy certificate” means a
11 certificate of proof, issued through the accounting system
12 established by the Energy Commission pursuant to Section
13 399.13, that one unit of electricity was generated by an eligible
14 renewable energy resource. The Energy Commission shall
15 ensure that the tradeable renewable energy certificate includes
16 all renewable and environmental attributes associated with the
17 production of electricity from the eligible renewable energy
18 resource.

19 SEC. 11. Section 399.13 of the Public Utilities Code is
20 amended to read:

21 399.13. The Energy Commission shall do all of the following:

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

25 (b) Design and implement an accounting system to verify
26 compliance with the renewables portfolio standard by retail
27 sellers, to ensure that *electricity generated by an eligible*
28 *renewable energy* ~~output~~ *resource* is counted only once for the
29 purpose of meeting the renewables portfolio standard of this state
30 or any other state, and for verifying retail product claims in this
31 state or any other state. *The cost to design and implement the*
32 *accounting system shall be funded through the Renewable*
33 *Resources Consumer Education Account of the Renewable*
34 *Resource Trust Fund, established pursuant to Section 25751 of*
35 *the Public Resources Code. In establishing the guidelines*
36 *governing this accounting system, the Energy Commission shall*
37 *collect data from electricity market participants that it deems*
38 *necessary to verify compliance of retail sellers, in accordance*
39 *with the requirements of this article and the California Public*
40 *Records Act (Chapter 3.5 (commencing with Section 6250) of*

1 Division 7 of Title 1 of the Government Code). In seeking data
2 from electrical corporations, the Energy Commission shall
3 request data from the commission. The commission shall collect
4 data from electrical corporations and remit the data to the Energy
5 Commission within 90 days of the request.

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

11 SEC. 12. Section 399.14 of the Public Utilities Code is
12 amended to read:

13 399.14. (a) The commission shall direct each electrical
14 corporation to prepare *a* renewable energy procurement ~~plans~~
15 *plan* as described in paragraph (3) to satisfy its obligations under
16 the renewables portfolio standard. To the extent feasible, this
17 procurement plan shall be proposed, reviewed, and adopted by
18 the commission as part of, and pursuant to, a general
19 procurement plan process. The commission shall require each
20 electrical corporation to review and update its renewable energy
21 procurement plan as it determines to be necessary.

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

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

28 (ii) The electrical corporation is able to procure eligible
29 renewable energy resources on reasonable terms, those resources
30 can be financed if necessary, and the procurement will not impair
31 the restoration of an electrical corporation's creditworthiness.
32 This provision shall not apply before April 1, 2004, for any
33 electrical corporation that on June 30, 2003, is in federal court
34 under Chapter 11 of the federal ~~bankruptcy law~~ *Bankruptcy Code*
35 (*11 U.S.C. Sec. 1101 et seq.*).

36 (B) Within 90 days of the commission's determination as
37 provided in subparagraph (A), an electrical corporation shall
38 conduct solicitations to implement a renewable energy
39 procurement plan. The determination required by this paragraph
40 shall apply only to the requirements established pursuant to this

1 article. The requirements established for an electrical corporation
2 pursuant to Section 454.5 shall be governed by that section.

3 (2) ~~Not later than six months after the effective date of this~~
4 ~~section, the~~The commission shall adopt, by rule, for all electrical
5 corporations, all of the following:

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

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

30 (C) Flexible rules for compliance including, ~~but not limited to,~~
31 *both of the following:*

32 (i) Rules permitting electrical corporations to apply excess
33 procurement in one year to subsequent years or inadequate
34 procurement in one year to no more than the following three
35 years.

36 (ii) Rules permitting electrical corporations to purchase
37 tradeable renewable energy certificates from an eligible
38 renewable energy resource.

39 (D) Standard terms and conditions to be used by all electrical
40 corporations in contracting for eligible renewable energy

1 resources, including performance requirements for renewable
2 generators.

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

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

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

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

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

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

26 (b) The commission shall review and accept, modify, or reject
27 each electrical corporation's renewable *energy* procurement plan
28 90 days prior to the commencement of renewable procurement
29 pursuant to this article by the electrical corporation.

30 (c) The commission shall review the results of a renewable
31 energy resources solicitation submitted for approval by an
32 electrical corporation and accept or reject proposed contracts
33 with eligible renewable energy resources based on consistency
34 with the approved renewable *energy* procurement plan. If the
35 commission determines that the bid prices are elevated due to a
36 lack of effective competition amongst the bidders, the
37 commission shall direct the electrical corporation to renegotiate
38 ~~such~~ *the* contracts or conduct a new solicitation.

39 (d) If an electrical corporation fails to comply with a
40 commission order adopting a renewable *energy* procurement

1 plan, the commission shall exercise its authority pursuant to
2 Section 2113 to require compliance.

3 (e) Upon application by an electrical corporation, the
4 commission may authorize another entity to enter into contracts
5 on behalf of customers of the electrical corporation for deliveries
6 of eligible renewable energy resources to satisfy the annual
7 *renewables* portfolio standard obligations, subject to similar
8 terms and conditions applicable to an electrical corporation. The
9 commission shall allow the procurement entity to recover
10 reasonable costs through retail rates subject to review and
11 approval.

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

18 (g) For purposes of this article, “procure” means that ~~a utility~~
19 ~~an electrical corporation~~ may acquire the ~~renewable output of~~
20 ~~electric generation facilities~~ *electricity generated by an eligible*
21 *renewable energy resource* that it owns or for which it has
22 contracted. Nothing in this article is intended to imply that the
23 purchase of electricity from third parties in a wholesale
24 transaction is the preferred method of fulfilling a retail seller’s
25 obligation to comply with this article.

26 (h) Construction, alteration, demolition, installation, and repair
27 work on an eligible renewable energy resource that receives
28 production incentives or supplemental energy payments pursuant
29 to Sections 25742 and 25743 of the Public Resources Code,
30 including, ~~but not limited to,~~ work performed to qualify, receive,
31 or maintain production incentives or supplemental energy
32 payments is “public works” for the purposes of Chapter 1
33 (commencing with Section 1720) of Part 7 of Division 2 of the
34 Labor Code.

35 SEC. 13. Section 399.15 of the Public Utilities Code is
36 amended to read:

37 399.15. (a) In order to fulfill unmet long-term resource needs,
38 the commission shall establish a renewables portfolio standard
39 requiring all electrical corporations to procure a minimum
40 quantity of ~~output from~~ *electricity generated by* eligible

1 renewable energy resources, *or an equivalent quantity of*
2 *tradeable renewable energy certificates*, as a specified
3 percentage of total kilowatthours sold to their retail end-use
4 customers each calendar year, if sufficient funds are made
5 available pursuant to paragraph (2), and Section 399.6 and
6 Chapter 8.6 (commencing with Section 25740) of Division 15 of
7 the Public Resources Code, to cover the above-market costs of
8 eligible renewables, and subject to all of the following:

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

13 (2) The Energy Commission shall provide supplemental
14 energy payments from funds in the New Renewable Resources
15 Account in the Renewable Resource Trust Fund to eligible
16 renewable energy resources pursuant to Chapter 8.6
17 (commencing with Section 25740) of Division 15 of the Public
18 Resources Code, consistent with this article, for above-market
19 costs. Indirect costs associated with the purchase of eligible
20 renewable energy resources, such as imbalance energy charges,
21 sale of excess energy, decreased generation from existing
22 resources, or transmission upgrades shall not be eligible for
23 supplemental energy payments, but shall be recoverable by an
24 electrical corporation in rates, as authorized by the commission.

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

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

33 (1) Beginning on January 1, 2003, each electrical corporation
34 shall, pursuant to subdivision (a), increase its total procurement
35 of eligible renewable energy resources by at least an additional 1
36 percent of retail sales per year so that 20 percent of its retail sales
37 are procured from eligible renewable energy resources no later
38 than December 31, ~~2017~~ 2010. An electrical corporation with 20
39 percent of retail sales procured from eligible renewable energy
40 resources in any year *prior to 2010* shall not be required to

1 increase its procurement of such resources in the following year.
2 *The commission, in consultation with the Energy Commission,*
3 *may set procurement targets for any year beginning 2011, in*
4 *excess of 20 percent. The commission may vary procurement*
5 *targets among electrical corporations.*

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

11 (3) In the event that an electrical corporation fails to procure
12 sufficient eligible renewable energy resources in a given year to
13 meet any annual target established pursuant to this subdivision,
14 the electrical corporation shall procure additional eligible
15 renewable energy resources in subsequent years to compensate
16 for the shortfall if sufficient funds are made available pursuant to
17 paragraph (2), and Section 399.6 and Chapter 8.6 (commencing
18 with Section 25740) of Division 15 of the Public Resources
19 Code, to cover the above-market costs of eligible ~~renewables~~
20 *renewable energy resources.*

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

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

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

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

39 (3) The value of different products including baseload,
40 peaking, and as-available ~~output~~ *electricity.*

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

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

8 *(f) In approving an electrical corporation's renewable energy*
9 *procurement plan, the commission, in consultation with the*
10 *Energy Commission, may limit the quantity of tradeable*
11 *renewable energy certificates that the electrical corporation is*
12 *authorized to procure in meeting annual renewable energy*
13 *procurement targets.*

14 *(g) The commission, in consultation with the Energy*
15 *Commission, shall evaluate regional trading of renewable energy*
16 *certificates to determine if trading of renewable energy*
17 *certificates is creating any barriers to the goal of the California*
18 *Renewables Portfolio Standard program to incentivize the*
19 *generation of electricity from eligible renewable energy*
20 *resources.*

21 SEC. 14. Section 399.17 is added to the Public Utilities Code,
22 to read:

23 399.17. (a) An electric service provider or community choice
24 aggregator may meet its obligations under the renewables
25 portfolio standard program through procurement of tradeable
26 renewable energy certificates.

27 (b) An electric service provider or community choice
28 aggregator shall not be eligible to receive supplemental energy
29 payments pursuant to Chapter 8.6 (commencing with Section
30 25740) of Division 15 of the Public Resources Code, unless it is
31 in compliance with its obligations under the renewables portfolio
32 standard program.

33 SEC. 15. No reimbursement is required by this act pursuant to
34 Section 6 of Article XIII B of the California Constitution because
35 certain costs that may be incurred by a local agency or school
36 district will be incurred because this act creates a new crime or
37 infraction, eliminates a crime or infraction, or changes the
38 penalty for a crime or infraction, within the meaning of Section
39 17556 of the Government Code, or changes the definition of a

1 crime within the meaning of Section 6 of Article XIII B of the
2 California Constitution.

3 With regard to any other mandates, no reimbursement is
4 required by this act pursuant to Section 6 of Article XIII B of the
5 California Constitution because a local agency or school district
6 has the authority to levy service charges, fees, or assessments
7 sufficient to pay for the program or level of service mandated by
8 this act, within the meaning of Section 17556 of the Government
9 Code.

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