

AMENDED IN ASSEMBLY JULY 13, 2005

AMENDED IN ASSEMBLY JUNE 21, 2005

AMENDED IN SENATE MAY 4, 2005

AMENDED IN SENATE APRIL 19, 2005

SENATE BILL**No. 107**

Introduced by Senators Simitian and Perata*(Principal coauthor: Assembly Member Levine)**(Coauthor: Assembly Member Blakeslee)*

January 20, 2005

An act to amend Sections 25740, 25741, 25743, and 25744 of, ~~to add and repeal Section 25305.1 of,~~ and to repeal Sections 25745 and 25749 of, the Public Resources Code, and to amend Sections 387, 399.11, 399.12, 399.13, 399.14, and 399.15 of, ~~to add Section 399.17 to,~~ and to add Article 9 (commencing with Section 635) to Chapter 3 of Part 1 of Division 1 of, *and to repeal Section 399.16 of,* the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

SB 107, as amended, Simitian. Renewable energy.

(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 eligible renewable energy resources is increased to an amount that equals at least 20% of the total electricity sold to retail customers in California per year by

December 31, 2010. The bill would make conforming changes related to this provision.

(2) The Public Utilities Act imposes various duties and responsibilities on the California 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 instead require that each retail seller, as defined, 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, 2010.

(3) 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 require the Energy Commission to develop tracking, accounting, verification, and enforcement mechanisms for renewable energy credits, as defined. *The bill would specify that facilities located out of state shall not be eligible for supplemental energy payments unless certain requirements are met.* The bill would require that deliveries of electricity from an eligible renewable energy resource under any electricity purchase contract with a retail seller executed before January 1, ~~2003~~ 2002, be tracked and included in the baseline quantity of eligible renewable energy resources of the purchasing

retail seller. The bill would require that electricity generated pursuant to a prescribed federal act and pursuant to a ~~purchased~~ *purchase* contract executed on or after January 1, ~~2003~~ *2002*, count towards the renewables portfolio standard requirements of the retail seller. The bill would provide for the tracking of deliveries under these purchase contracts through a prescribed accounting system. ~~The bill would require the Energy Commission to certify, and would specify criteria for, the eligibility of electricity delivered to a local publicly owned electric utility by an eligible renewable energy resource, for purposes of compliance with the renewables portfolio standard by a retail seller. The bill would make other technical and conforming changes.~~

(4) Existing law ~~requires the State Energy Resources Conservation and Development Commission to prepare an integrated energy policy report every 2 years. Existing law requires the report to contain an overview of major energy trends and issues facing the state, including, but not limited to, supply, demand, pricing, reliability, efficiency, and impacts on public health and safety, the economy, resources, and the environment. permits the Energy Commission to consider an electric generating facility that is located outside the state to be an eligible renewable energy resource if it meets specific criteria.~~

This bill would ~~require the Energy Commission to include in the integrated energy policy report to be adopted November 1, 2007, an assessment of the feasibility of increasing the target for the amount of electricity to be procured from eligible renewable energy resources to 33% by the year 2020, and to recommend how to induce local publicly owned electric utilities to implement and enforce a renewables portfolio standard utilizing eligible renewable energy resources delete that provision.~~

(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.

This bill would additionally require that the governing board of a local publicly owned electric utility annually report the utility's status in implementing a renewables portfolio standard and progress toward

attaining the standard to its customers and to report to the Energy Commission the information that the governing board is required to annually report to their customers. These additional reporting requirements would thereby impose a state-mandated local program.

(6) 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). Under existing law, 51.5% of the money collected as part of the renewable energy public goods charge is required to be used for programs designed to foster the development of new in-state renewable electricity generation facilities, and to secure for the state the environmental, economic, and reliability benefits that operation of those facilities will provide. Existing law also provides that any of those funds used for new in-state renewable electricity generation facilities are required to be expended in accordance with a specified report of the Energy Commission to the Legislature, subject to certain requirements, including the awarding of supplemental energy payments.

This bill would require that these funds be awarded only to a project that is selected by an electrical corporation pursuant to a competitive solicitation procedure found by the CPUC to comply with the California Renewables Portfolio Standard Program and that the project participant has entered into an electricity purchase agreement resulting from that solicitation that is approved by the CPUC. The bill would authorize certain projects supplying electricity to retail sellers, as defined, to the extent the retail seller is servicing load that is within the distribution area of an electrical corporation and subject to the renewable energy public goods charge, to receive supplemental energy payments under certain circumstances. The bill would prohibit the Energy Commission from awarding supplemental energy payments for the sale or purchase of renewable energy credits or to service load that is not subject to the renewable energy public goods charge. The bill would revise existing criteria for Energy Commission consideration of an out-of-state electrical generation facility as an eligible renewable energy resource.

(7) Existing law requires that 17.5% of the money collected under the renewable energy public goods charge be used for a multiyear, consumer-based program to foster the development of emerging renewable technologies in distributed generation applications, and that certain funds be expended in accordance with the above-described report, subject to, among other things, the requirement that funding for emerging technologies be provided through a competitive, market-based process.

This bill would make technical and nonsubstantive changes to these provisions.

(8) Existing law requires that 10% of the money collected under the renewable energy public goods charge be used for ~~customer~~ credits to customers that entered into a direct transaction on or before September 20, 2001, for purchases of electricity produced by registered in-state renewable electricity generating facilities.

This bill would delete this provision.

(9) Existing law requires the use of standard terms and conditions by all electrical corporations in contracting for eligible renewable energy resources.

This bill would require that those terms and conditions include the requirement that, no later than 6 months after the CPUC's approval of an electricity purchase agreement, the following information about the agreement be disclosed by the CPUC: party names, resource type, project location, and project capacity.

~~(10) The existing Public Utilities Act prohibits any electrical corporation from beginning the construction of, among other things, a line, plant, or system, or of any extension thereof, without having first obtained from the CPUC a certificate that the present or future public convenience and necessity require or will require that construction (certificate of public convenience and necessity). The act requires that the CPUC consider certain factors in determining whether to issue a certificate of public convenience and necessity. Existing law provides that, if the CPUC finds that new transmission facilities are necessary to facilitate achievement of the renewable power goals established under the renewables portfolio standard, the CPUC is required to deem the new transmission facilities necessary to the provision of electric service in acting upon an application by an electrical corporation for a certificate of public convenience and necessity.~~

~~This bill would provide that if the CPUC finds that new transmission facilities, including certain facilities that Federal Energy~~

~~Regulatory Commission precedent would define as generation-tie facilities, due to certain factors, will facilitate achievement of the renewable power goals established in the renewables portfolio standard, the CPUC is required to deem the new transmission facilities necessary to the provision of electric service in acting upon an application by an electrical corporation for a certificate of public convenience and necessity.~~

~~(11)–~~

(10) This bill would require an electrical corporation or local publicly owned electric utility to adopt certain strategies in a long-term plan or a procurement plan, as applicable, to achieve efficiency in the use of fossil fuels and to address carbon emissions, as specified.

~~(12)–~~

(11) This bill would delete certain obsolete and duplicative provisions and make technical and conforming changes.

~~(13)–~~

(12) Existing law makes a violation of the Public Utilities Act or a violation of an order of the CPUC a crime.

Certain of the provisions of this bill are a part of the act and an order of the CPUC would be required to implement these provisions. Because a violation of the provisions of the bill that are part of the act or of any CPUC order implementing these provisions would be a crime, this bill would impose a state-mandated local program by creating new crimes.

~~(14)–~~

(13) 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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

SECTION 1. ~~Section 25305.1 is added to the Public Resources Code, to read:~~

~~25305.1. (a) In addition to the assessments required by Section 25305, the public interest energy strategies portion of the integrated energy policy report to be adopted November 1, 2007, shall include the following additional assessments:~~

~~(1) A review of the feasibility of increasing the target for electricity to be procured from eligible renewable energy resources, as defined in Section 399.12 of the Public Utilities Code, to 33 percent by the year 2020. The review shall consider and report on all of the following:~~

~~(A) The deliverability of electricity from eligible renewable energy resources to end users and any needed additions or upgrades to the transmission grid system.~~

~~(B) The potential impacts upon the rates of electrical corporations and whether or not a renewable energy public goods charge is necessary to fund the above-market costs of electricity generated from eligible renewable energy resources.~~

~~(C) The progress made by electrical corporations and all other retail sellers, as defined in Section 399.12 of the Public Utilities Code, and local publicly owned electric utilities, as defined in Section 9604 of the Public Utilities Code, toward meeting the goal of procuring from eligible renewable energy resources 20 percent of the electricity sold to retail customers per year by December 31, 2010.~~

~~(2) Recommendations for how to induce each local publicly owned electric utility, as defined in Section 9604 of the Public Utilities Code, to implement and enforce a renewables portfolio standard meeting the requirements of Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code, utilizing eligible renewable energy resources, as defined in Section 399.12 of the Public Utilities Code.~~

~~(b) The commission shall use existing resources to comply with this section.~~

~~(c) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted~~

1 ~~statute, that is enacted before January 1, 2008, deletes or extends~~
2 ~~that date.~~

3 ~~SEC. 2.—~~

4 *SECTION 1.* Section 25740 of the Public Resources Code is
5 amended to read:

6 25740. It is the intent of the Legislature in establishing this
7 program, to increase the amount of electricity generated from
8 eligible renewable energy resources per year, so that it equals at
9 least 20 percent of total retail sales of electricity in California per
10 year by December 31, 2010.

11 ~~SEC. 3.—~~

12 *SEC. 2.* Section 25741 of the Public Resources Code is
13 amended to read:

14 25741. As used in this chapter, the following terms have the
15 following meaning:

16 (a) “In-state renewable electricity generation facility” means a
17 facility that meets all of the following criteria:

18 (1) The facility uses biomass, solar thermal, photovoltaic,
19 wind, geothermal, fuel cells using renewable fuels, small
20 hydroelectric generation of 30 megawatts or less, digester gas,
21 municipal solid waste conversion, landfill gas, ocean wave,
22 ocean thermal, or tidal current, and any additions or
23 enhancements to the facility using that technology.

24 (2) The facility satisfies either of the following requirements:

25 (A) The facility is located in the state or near the border of the
26 state with the first point of connection to the transmission
27 network within the Western Electricity Coordinating Council
28 (WECC) service territory located within this state and electricity
29 produced by the facility is delivered to an in-state location.

30 (B) The facility has its first point of interconnection to the
31 transmission network outside the state and satisfies all of the
32 following requirements:

33 (i) It is connected to the transmission network within the
34 Western Electricity Coordinating Council (WECC) service
35 territory.

36 (ii) It commences initial commercial operation after January 1,
37 2005.

38 (iii) Electricity produced by the facility is delivered to an
39 in-state location.

1 (iv) It will not cause or contribute to any violation of a
2 California environmental quality standard or requirement.

3 (v) If the facility is outside of the United States, it is developed
4 and operated in a manner that is as protective of the environment
5 as a similar facility located in the state.

6 (vi) It participates in the accounting system to verify
7 compliance with the renewables portfolio standard by retail
8 sellers, once established by the Energy Commission pursuant to
9 subdivision (b) of Section 399.13 of the Public Utilities Code.

10 (3) For the purposes of this subdivision, “solid waste
11 conversion” means a technology that uses a noncombustion
12 thermal process to convert solid waste to a clean-burning fuel for
13 the purpose of generating electricity, and that meets all of the
14 following criteria:

15 (A) The technology does not use air or oxygen in the
16 conversion process, except ambient air to maintain temperature
17 control.

18 (B) The technology produces no discharges of air
19 contaminants or emissions, including greenhouse gases as
20 defined in Section 42801.1 of the Health and Safety Code.

21 (C) The technology produces no discharges to surface or
22 groundwaters of the state.

23 (D) The technology produces no hazardous wastes.

24 (E) To the maximum extent feasible, the technology removes
25 all recyclable materials and marketable green waste compostable
26 materials from the solid waste stream prior to the conversion
27 process and the owner or operator of the facility certifies that
28 those materials will be recycled or composted.

29 (F) The facility at which the technology is used is in
30 compliance with all applicable laws, regulations, and ordinances.

31 (G) The technology meets any other conditions established by
32 the commission.

33 (H) The facility certifies that any local agency sending solid
34 waste to the facility diverted at least 30 percent of all solid waste
35 it collects through solid waste reduction, recycling, and
36 composting. For purposes of this paragraph “local agency”
37 means any city, county, or special district, or subdivision thereof,
38 which is authorized to provide solid waste handling services.

39 (b) “Renewable energy public goods charge” means that
40 portion of the nonbypassable system benefits charge authorized

1 to be collected and to be transferred to the Renewable Resource
2 Trust Fund pursuant to the Reliable Electric Service Investments
3 Act (Article 15 (commencing with Section 399) of Chapter 2.3 of
4 Part 1 of Division 1 of the Public Utilities Code).

5 (c) “Report” means the report entitled “Investing in
6 Renewable Electricity Generation in California” (June 2001,
7 Publication Number P500-00-022) submitted to the Governor
8 and the Legislature by the commission.

9 (d) “Retail seller” means a “retail seller” as defined in Section
10 399.12 of the Public Utilities Code.

11 (e) ~~“Delivered” means the electrical output of an in-state~~
12 ~~renewable electricity generation facility that serves retail end-use~~
13 ~~customers located within the state. Subject to verification~~
14 ~~pursuant to the accounting system established by the commission~~
15 ~~pursuant to subdivision (b) of Section 399.13 of the Public~~
16 ~~Utilities Code, an in-state renewable electricity generation~~
17 ~~facility must meet the following conditions:~~

18 ~~(1) The electricity is either provided to a retail seller at an~~
19 ~~in-state location or, if provided at a location adjacent to the state,~~
20 ~~the electricity subsequently arrives at an in-state location.~~

21 ~~(2) An in-state location is one that is within the control area of~~
22 ~~the Independent System Operator, the Imperial Irrigation District,~~
23 ~~the Sacramento Municipal Utility District, the Turlock Irrigation~~
24 ~~District, the Los Angeles Department of Water and Power, or any~~
25 ~~other control area subsequently established within the state. and~~
26 ~~“delivery” mean the electricity output of an in-state renewable~~
27 ~~electric generation facility that is used to serve end-use retail~~
28 ~~customers located within the state. Subject to verification by the~~
29 ~~accounting system established by the commission pursuant to~~
30 ~~subdivision (b) of Section 399.13 of the Public Utilities Code,~~
31 ~~electricity shall be deemed delivered if it is either provided at a~~
32 ~~location within the state, or, if provided at a location adjacent to~~
33 ~~the state, the electricity is subsequently metered and settled at a~~
34 ~~location within the state.~~

35 ~~SEC. 4.—~~

36 *SEC. 3.* Section 25743 of the Public Resources Code is
37 amended to read:

38 25743. (a) Fifty-one and one-half percent of the money
39 collected pursuant to the renewable energy public goods charge
40 shall be used for programs designed to foster the development of

1 new in-state renewable electricity generation facilities, and to
2 secure for the state the environmental, economic, and reliability
3 benefits that operation of those facilities will provide.

4 (b) Any funds used for new in-state renewable electricity
5 generation facilities pursuant to this section shall be expended in
6 accordance with the report, subject to all of the following
7 requirements:

8 (1) In order to cover the above market costs of eligible
9 renewable energy resources as approved by the Public Utilities
10 Commission and selected by retail sellers to fulfill their
11 obligations under Article 16 (commencing with Section 399.11)
12 of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities
13 Code, the commission shall award funds in the form of
14 supplemental energy payments, subject to the following criteria:

15 (A) The commission may establish caps on supplemental
16 energy payments. The caps shall be designed to provide for a
17 viable energy market capable of achieving the goals of Article 16
18 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of
19 Division 1 of the Public Utilities Code. The commission may
20 waive application of the caps to accommodate a facility if it is
21 demonstrated to the satisfaction of the commission that operation
22 of the facility would provide substantial economic and
23 environmental benefits to end-use customers subject to the
24 renewable energy public goods charge.

25 (B) Supplemental energy payments shall be awarded only to
26 facilities that are eligible for funding under this section.

27 (C) Supplemental energy payments awarded to facilities
28 selected by an electrical corporation pursuant to Article 16
29 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of
30 Division 1 of the Public Utilities Code shall be paid for no longer
31 than 10 years, but shall, subject to the payment caps in
32 subparagraph (A), be equal to the cumulative above-market costs
33 relative to the applicable market price referent at the time of
34 initial contracting, over the duration of the contract with the
35 electrical corporation.

36 (D) The commission shall reduce or terminate supplemental
37 energy payments for projects that fail either to commence and
38 maintain operations consistent with the contractual obligations to
39 an electrical corporation, or that fail to meet eligibility
40 requirements.

1 (E) Funds shall be managed in an equitable manner in order
2 for retail sellers to meet their obligation under Article 16
3 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of
4 Division 1 of the Public Utilities Code.

5 (F) A project selected by an electrical corporation may receive
6 supplemental energy payments only if it results from a
7 competitive solicitation that is found by the Public Utilities
8 Commission to comply with the California Renewables Portfolio
9 Standard Program under Article 16 (commencing with Section
10 399.11) of Chapter 2.3 of Part 1 of Division 1 of the Public
11 Utilities Code, and the project has entered into an electricity
12 purchase agreement resulting from that solicitation, that is
13 approved by the Public Utilities Commission. ~~An in-state
14 renewable electricity generation facility owned by an electrical
15 corporation shall be eligible to receive supplemental energy
16 payments if selected by an electrical corporation pursuant to a
17 competitive solicitation process approved by the Public Utilities
18 Commission and operated on a cost-of-service basis.~~ A project
19 selected for an electricity purchase agreement by another retail
20 seller may receive supplemental energy payments only if the
21 retail seller demonstrates to the Public Utilities Commission that
22 the selection of the project is consistent with the results of a
23 least-cost and best-fit process, and the supplemental energy
24 payments are reasonable in comparison to those paid under
25 similar contracts with other retail sellers. The commission may
26 not award supplemental energy payments to service load that is
27 not subject to the renewable energy public goods charge.

28 (2) *A facility that is located outside of California shall not be*
29 *eligible for funding under this section unless it meets all of the*
30 *following requirements:*

31 (A) *It is located near the border of the state with its first point*
32 *of interconnection to the Western Electricity Coordinating*
33 *Council (WECC) transmission system located within the state.*

34 (B) *It is developed with guaranteed contracts to sell its*
35 *generation to end-use customers subject to the funding*
36 *requirements of Sections 381, 399.7, and 399.8, or to marketers*
37 *that provide this guarantee for resale of the generation, for a*
38 *period of time at least equal to the amount of time it receives*
39 *incentive payments under this subdivision.*

1 (C) *It will not cause or contribute to any violation of a state*
2 *environmental quality standard or requirement.*

3 (D) *If the facility is outside of the United States, it is developed*
4 *and operated in a manner that is as protective of the environment*
5 *as a similar facility located in the state.*

6 (E) *It meets any other condition established by the*
7 *commission.*

8 ~~(2)~~

9 (3) Facilities that are eligible to receive funding pursuant to
10 this section shall be registered in accordance with criteria
11 developed by the commission and those facilities may not receive
12 payments for any electricity produced that has any of the
13 following characteristics:

14 (A) Is sold under an existing long-term contract with an
15 existing in-state electrical corporation if the contract includes
16 fixed energy or capacity payments, except for that electricity that
17 satisfies subparagraph (C) of paragraph (1) of subdivision (c) of
18 Section 399.6 of the Public Utilities Code.

19 (B) Is used onsite or is sold to customers in a manner that
20 excludes competition transition charge payments, or is otherwise
21 excluded from competition transition charge payments.

22 (C) Is a hydroelectric generation project that will require a
23 new or increased appropriation of water under Part 2
24 (commencing with Section 1200) of Division 2 of the Water
25 Code.

26 (D) Is a solid waste conversion facility, unless the facility
27 meets the criteria established in paragraph (3) of subdivision (a)
28 of Section 25741 and the facility certifies that any local agency
29 sending solid waste to the facility is in compliance with Division
30 30 (commencing with Section 40000), has reduced, recycled, or
31 composted solid waste to the maximum extent feasible, and shall
32 have been found by the California Integrated Waste Management
33 Board to have diverted at least 30 percent of all solid waste
34 through source reduction, recycling, and composting.

35 ~~(3)~~

36 (4) Eligibility to compete for funds or to receive funds shall
37 be contingent upon having to sell the electricity generated by the
38 renewable electricity generation facility to customers subject to
39 the renewable energy public goods charge.

40 ~~(4)~~

1 (5) The commission may require applicants competing for
2 funding to post a forfeitable bid bond or other financial guaranty
3 as an assurance of the applicant's intent to move forward
4 expeditiously with the project proposed. The amount of any bid
5 bond or financial guaranty may not exceed 10 percent of the total
6 amount of the funding requested by the applicant.

7 ~~(5)~~

8 (6) In awarding funding, the commission may provide
9 preference to projects that provide tangible demonstrable benefits
10 to communities with a plurality of minority or low-income
11 populations.

12 (c) Repowered existing facilities shall be eligible for funding
13 under this subdivision if the capital investment to repower the
14 existing facility equals at least 80 percent of the value of the
15 repowered facility.

16 (d) Facilities engaging in the direct combustion of municipal
17 solid waste or tires are not eligible for funding under this
18 subdivision.

19 (e) Production incentives awarded under this subdivision prior
20 to January 1, 2002, shall commence on the date that a project
21 begins electricity production, provided that the project was
22 operational prior to January 1, 2002, unless the commission finds
23 that the project will not be operational prior to January 1, 2002,
24 due to circumstances beyond the control of the developer. Upon
25 making a finding that the project will not be operational due to
26 circumstances beyond the control of the developer, the
27 commission shall pay production incentives over a five-year
28 period, commencing on the date of operation, provided that the
29 date that a project begins electricity production may not extend
30 beyond January 1, 2007.

31 (f) Facilities generating electricity from biomass energy shall
32 be considered an in-state renewable electricity generation facility
33 to the extent that they report to the commission the types and
34 quantities of biomass fuels used and certify to the satisfaction of
35 the commission that fuel utilization is limited to the following:

36 (1) Agricultural crops and agricultural wastes and residues.

37 (2) Solid waste materials such as waste pallets, crates,
38 dunnage, manufacturing, and construction wood wastes,
39 landscape or right-of-way tree trimmings, mill residues that are

1 directly the result of the milling of lumber, and rangeland
2 maintenance residues.

3 (3) Wood and wood wastes that meet all of the following
4 requirements:

5 (A) Have been harvested pursuant to an approved timber
6 harvest plan prepared in accordance with the Z'berg-Nejedly
7 Forest Practice Act of 1973 (Chapter 8 (commencing with
8 Section 4511) of Part 2 of Division 4).

9 (B) Have been harvested for the purpose of forest fire fuel
10 reduction or forest stand improvement.

11 (C) Do not transport or cause the transportation of species
12 known to harbor insect or disease nests outside zones of
13 infestation or current quarantine zones, as identified by the
14 Department of Food and Agriculture or the Department of
15 Forestry and Fire Protection, unless approved by the Department
16 of Food and Agriculture and the Department of Forestry and Fire
17 Protection.

18 ~~SEC. 5.—~~

19 *SEC. 4.* Section 25744 of the Public Resources Code is
20 amended to read:

21 25744. (a) Seventeen and one-half percent of the money
22 collected pursuant to the renewable energy public goods charge
23 shall be used for a multiyear, consumer-based program to foster
24 the development of emerging renewable technologies in
25 distributed generation applications.

26 (b) Any funds used for emerging technologies pursuant to this
27 section shall be expended in accordance with the report, subject
28 to all of the following requirements:

29 (1) Funding for emerging technologies shall be provided
30 through a competitive, market-based process that is in place for a
31 period of not less than five years, and is structured to allow
32 eligible emerging technology manufacturers and suppliers to
33 anticipate and plan for increased sale and installation volumes
34 over the life of the program.

35 (2) The program shall provide monetary rebates, buydowns, or
36 equivalent incentives, subject to paragraph (3), to purchasers,
37 lessees, lessors, or sellers of eligible electricity generating
38 systems. Incentives shall benefit the end-use consumer of
39 renewable generation by directly and exclusively reducing the
40 purchase or lease cost of the eligible system, or the cost of

1 electricity produced by the eligible system. Incentives shall be
2 issued on the basis of the rated electrical generating capacity of
3 the system measured in watts, or the amount of electricity
4 production of the system, measured in kilowatthours. Incentives
5 shall be limited to a maximum percentage of the system price, as
6 determined by the commission.

7 (3) Eligible distributed emerging technologies are
8 photovoltaic, solar thermal electric, fuel cell technologies that
9 utilize renewable fuels, and wind turbines of not more than 50
10 kilowatts rated electrical generating capacity per customer site,
11 and other distributed renewable emerging technologies that meet
12 the emerging technology eligibility criteria established by the
13 commission. Eligible electricity generating systems are intended
14 primarily to offset part or all of the consumer's own electricity
15 demand, and shall not be owned by local publicly owned electric
16 utilities, nor be located at a customer site that is not receiving
17 distribution service from an electrical corporation that is subject
18 to the renewable energy public goods charge and contributing
19 funds to support programs under this chapter. All eligible
20 electricity generating system components shall be new and
21 unused, shall not have been previously placed in service in any
22 other location or for any other application, and shall have a
23 warranty of not less than five years to protect against defects and
24 undue degradation of electrical generation output. Systems and
25 their fuel resources shall be located on the same premises of the
26 end-use consumer where the consumer's own electricity demand
27 is located, and all eligible electricity generating systems shall be
28 connected to the utility grid in California. The commission may
29 require eligible electricity generating systems to have meters in
30 place to monitor and measure a system's performance and
31 generation. Only systems that will be operated in compliance
32 with applicable law and the rules of the Public Utilities
33 Commission shall be eligible for funding.

34 (4) The commission shall limit the amount of funds available
35 for any system or project of multiple systems and reduce the
36 level of funding for any system or project of multiple systems
37 that has received, or may be eligible to receive, any government
38 or utility funds, incentives, or credit.

39 (5) In awarding funding, the commission may provide
40 preference to systems that provide tangible demonstrable benefits

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

3 (6) In awarding funding, the commission shall develop and
4 implement eligibility criteria and a system that provides
5 preference to systems based upon system performance, taking
6 into account factors, including shading, insulation levels, and
7 installation orientation.

8 (7) At least once annually, the commission shall publish and
9 make available to the public the balance of funds available for
10 emerging renewable energy resources for rebates, buydowns, and
11 other incentives for the purchase of these resources.

12 (c) Notwithstanding Section 399.6 of the Public Utilities Code,
13 the commission may expend, until December 31, 2008, up to
14 sixty million dollars (\$60,000,000) of the funding allocated to the
15 Renewable Resources Trust Fund for the program established in
16 this section, subject to the repayment requirements of subdivision
17 (f) of Section 25751.

18 ~~SEC. 6.—~~

19 *SEC. 5.* Section 25745 of the Public Resources Code is
20 repealed.

21 ~~SEC. 7.—~~

22 *SEC. 6.* Section 25749 of the Public Resources Code is
23 repealed.

24 ~~SEC. 8.—~~

25 *SEC. 7.* Section 387 of the Public Utilities Code is amended
26 to read:

27 387. (a) Each governing body of a local publicly owned
28 electric utility, as defined in Section 9604, shall be responsible
29 for implementing and enforcing a renewables portfolio standard
30 that recognizes the intent of the Legislature to encourage
31 renewable resources, while taking into consideration the effect of
32 the standard on rates, reliability, and financial resources and the
33 goal of environmental improvement.

34 (b) Each local publicly owned electric utility shall report, on
35 an annual basis, to its customers and to the State Energy
36 Resources Conservation and Development Commission, the
37 following:

38 (1) Expenditures of public goods funds collected pursuant to
39 Section 385 for eligible renewable energy resource development.

1 Reports shall contain a description of programs, expenditures,
2 and expected or actual results.

3 (2) The resource mix used to serve its customers by fuel type.
4 Reports shall contain the contribution of each type of eligible
5 renewable energy resource with separate categories for those
6 fuels considered eligible renewable energy resources as defined
7 in Section 399.12.

8 (3) The utility's status in implementing a renewables portfolio
9 standard pursuant to subdivision (a) and the utility's progress
10 toward attaining the standard following implementation.

11 ~~SEC. 9.—~~

12 *SEC. 8* Section 399.11 of the Public Utilities Code is
13 amended to read:

14 399.11. The Legislature finds and declares all of the
15 following:

16 (a) In order to attain a target of generating 20 percent of total
17 retail sales of electricity in California from eligible renewable
18 energy resources by December 31, 2010, and for the purposes of
19 increasing the diversity, reliability, public health and
20 environmental benefits of the energy mix, it is the intent of the
21 Legislature that the commission and the State Energy Resources
22 Conservation and Development Commission implement the
23 California Renewables Portfolio Standard Program described in
24 this article.

25 (b) Increasing California's reliance on eligible renewable
26 energy resources may promote stable electricity prices, protect
27 public health, improve environmental quality, stimulate
28 sustainable economic development, create new employment
29 opportunities, and reduce reliance on imported fuels.

30 (c) The development of eligible renewable energy resources
31 and the delivery of the electricity generated by those resources to
32 customers in California may ameliorate air quality problems
33 throughout the state and improve public health by reducing the
34 burning of fossil fuels and the associated environmental impacts
35 and by reducing in-state fossil fuel consumption.

36 (d) The California Renewables Portfolio Standard Program is
37 intended to complement the Renewable Energy Resources
38 Program administered by the State Energy Resources
39 Conservation and Development Commission and established

1 pursuant to Chapter 8.6 (commencing with Section 25740) of
2 Division 15 of the Public Resources Code.

3 (e) New and modified electric transmission facilities may be
4 necessary to facilitate the state achieving its renewables portfolio
5 standard targets.

6 ~~SEC. 10.—~~

7 *SEC. 9.* Section 399.12 of the Public Utilities Code is
8 amended to read:

9 399.12. For purposes of this article, the following terms have
10 the following meanings:

11 (a) ~~“Deliver,” “delivery,” “delivered,” and “deliveries,” when~~
12 ~~used in reference to electricity, means the electrical output of an~~
13 ~~in-state renewable electricity generation facility that satisfies the~~
14 ~~following conditions:~~

15 ~~(1) The electricity is either provided to a retail seller at an~~
16 ~~in-state substation or, if provided to a retail seller at a location~~
17 ~~adjacent to the state that directly connects to any in-state~~
18 ~~substation, the electricity subsequently arrives at an in-state~~
19 ~~substation.~~

20 ~~(2) An in-state substation is located within the control area of~~
21 ~~the Independent System Operator, the Imperial Irrigation District,~~
22 ~~the Sacramento Municipal Utility District, or the Los Angeles~~
23 ~~Department of Water and Power.~~

24 ~~Fulfillment of the conditions in paragraphs (1) and (2) shall be~~
25 ~~verified by the accounting system established by the commission~~
26 ~~pursuant to subdivision (b) of Section 399.13. “Delivered” and~~
27 ~~“delivery” have the same meaning as provided in subdivision (e)~~
28 ~~of Section 25741 of the Public Resources Code.~~

29 (b) “Eligible renewable energy resource” means an electric
30 generating facility that meets the definition of “in-state
31 renewable electricity generation facility” in Section 25741 of the
32 Public Resources Code, subject to the following limitations:

33 (1) A geothermal generation facility originally commencing
34 operation prior to September 26, 1996, shall be eligible for
35 purposes of adjusting a retail seller’s baseline quantity of eligible
36 renewable energy resources except for electricity certified as
37 incremental geothermal production by the Energy Commission,
38 provided that the incremental electricity was not sold to an
39 electrical corporation under contract entered into prior to
40 September 26, 1996. For each facility seeking certification, the

1 Energy Commission shall determine historical production trends
2 and establish criteria for measuring incremental geothermal
3 production that recognizes the declining geothermal output of
4 existing steamfields and the contribution of capital investments
5 in the facility or wellfield. This paragraph shall remain operative
6 only until January 1, 2010.

7 (2) (A) An existing small hydroelectric generation facility of
8 30 megawatts or less shall be eligible only if a retail seller owned
9 or procured the electricity from the facility as of December 31,
10 2003, and that electricity shall be eligible only for purposes of
11 adjusting the retail seller's baseline quantity of eligible
12 renewable energy resources. A new hydroelectric facility is not
13 an eligible renewable energy resource if it will require a new or
14 increased appropriation or diversion of water under Part 2
15 (commencing with Section 1200) of Division 2 of the Water
16 Code.

17 (B) Notwithstanding subparagraph (A), an existing conduit
18 hydroelectric facility, as defined by Section 823a of Title 16 of
19 the United States Code, of 30 megawatts or less, shall be eligible
20 for the purposes of adjusting a retail seller's baseline quantity of
21 eligible renewable energy resources. A new conduit hydroelectric
22 facility, as defined by Section 823a of Title 16 of the United
23 States Code, of 30 megawatts or less, shall be an eligible
24 renewable energy resource so long as it does not 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 (4) Notwithstanding paragraph (1), any geothermal electricity
36 included in the baseline of a retail seller from a facility under a
37 long-term contract executed before January 1, 2004, shall be
38 eligible to satisfy the annual procurement targets of any retail
39 seller upon the expiration of that contract. This paragraph shall

1 become inoperative on January 1, 2010, unless a later enacted
2 statute deletes or extends that date.

3 (c) “Energy Commission” means the State Energy Resources
4 Conservation and Development Commission.

5 (d) “Procure” means that a retail seller receives delivered
6 electricity generated by an eligible renewable energy resource
7 that it owns or for which it has entered into an electricity
8 purchase contract. Nothing in this article is intended to imply that
9 the purchase of electricity from third parties in a wholesale
10 transaction is the preferred method of fulfilling a retail seller’s
11 obligation to comply with this article.

12 (e) “Retail seller” means an entity engaged in the retail sale of
13 electricity to end-use customers located within the state ,
14 including any of the following:

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

16 (2) A community choice aggregator. The commission shall
17 institute a rulemaking to determine the manner in which a
18 community choice aggregator will participate in the renewables
19 portfolio standard program subject to the same terms and
20 conditions applicable to an electrical corporation.

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

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

26 (B) An electric service provider shall be considered a retail
27 seller under this article for sales to all its customers beginning on
28 the earlier of January 1, 2006, or the date on which a contract
29 between an electric service provider and a retail customer
30 expires. Nothing in this subdivision may require an electric
31 service provider to disclose the terms of the contract to the
32 commission.

33 (C) The commission shall institute a rulemaking to determine
34 the manner in which electric service providers will participate in
35 the renewables portfolio standard program. The electric service
36 provider shall be subject to the same terms and conditions
37 applicable to an electrical corporation pursuant to this article.
38 Nothing in this paragraph shall impair a contract entered into
39 between an electric service provider and a retail customer prior to

1 the suspension of direct access by the commission pursuant to
2 Section 80110 of the Water Code.

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

4 (A) A corporation or person employing cogeneration
5 technology or producing electricity consistent with subdivision
6 (b) of Section 218.

7 (B) The Department of Water Resources acting in its capacity
8 pursuant to Division 27 (commencing with Section 80000) of the
9 Water Code.

10 (C) A local publicly owned electric utility as defined in
11 Section 9604.

12 (f) “Renewables portfolio standard” means the specified
13 percentage of electricity generated by eligible renewable energy
14 resources that a retail seller is required to procure pursuant to this
15 article.

16 (g) (1) “Renewable energy credit” means a certificate of proof,
17 issued through the accounting system established by the Energy
18 Commission pursuant to Section 399.13, that one unit of
19 electricity was generated by an eligible renewable energy
20 resource.

21 (2) “Renewable energy credit” includes all renewable and
22 environmental attributes associated with the production of
23 electricity from the eligible renewable energy resource, except
24 for an emissions reduction credit issued pursuant to Section
25 40709 of the Health and Safety Code.

26 (3) No electricity generated by an eligible renewable energy
27 resource attributable to the use of nonrenewable fuels, beyond a
28 de minimus quantity, as determined by the Energy Commission,
29 shall result in the creation of a renewable energy credit.

30 (4) A renewable energy credit shall not be eligible to satisfy
31 annual procurement targets established pursuant to this article,
32 unless it is bundled with electricity delivered to a retail seller, the
33 Independent System Operator, or to a local publicly owned
34 electric utility in compliance with subdivision (e) of Section
35 399.13, *delivered electricity*.

36 ~~SEC. 11.—~~

37 *SEC. 10.* Section 399.13 of the Public Utilities Code is
38 amended to read:

39 399.13. The Energy Commission shall do all of the following:

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

(b) Design and implement an accounting system to verify compliance with the renewables portfolio standard by retail sellers, to ensure that electricity generated by an eligible renewable energy resource is counted only once for the purpose of meeting the renewables portfolio standard of this state or any other state, to certify renewable energy credits produced by eligible renewable energy resources, and to verify retail product claims in this state or any other state. In establishing the guidelines governing this accounting system, the Energy Commission shall collect data from electricity market participants that it deems necessary to verify compliance of retail sellers, in accordance with the requirements of this article and the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code). In seeking data from electrical corporations, the Energy Commission shall request data from the commission. The commission shall collect data from electrical corporations and remit the data to the Energy Commission within 90 days of the request.

(c) Establish a system for tracking and verifying renewable energy credits that, through the use of independently audited data, verifies the generation and delivery of electricity associated with each renewable energy credit and protects against multiple counting of the same renewable energy credit. The Energy Commission shall consult with other western states and with the Western Electricity Coordinating Council in the development of this system.

(d) Allocate and award supplemental energy payments pursuant to Chapter 8.6 (commencing with Section 25740) of Division 15 of the Public Resources Code, to eligible renewable energy resources to cover above-market costs of renewable energy. A project selected by an electrical corporation may receive supplemental energy payments only if it results from a competitive solicitation that is found by the commission to comply with the California Renewables Portfolio Standard Program under this article and the project has entered into an electricity purchase agreement resulting from that solicitation

1 that is approved by the commission. A project selected for an
2 electricity purchase agreement by another retail seller may
3 receive supplemental energy payments only if the retail seller
4 demonstrates to the commission that the selection of the project
5 is consistent with the results of a least-cost and best-fit process,
6 and that the supplemental energy payments are reasonable in
7 comparison to those paid under similar contracts with other retail
8 sellers.

9 ~~(e) Certify, for purposes of compliance with the renewables~~
10 ~~portfolio standard by a retail seller, the eligibility of deliveries of~~
11 ~~electricity by an eligible renewable energy resource to a local~~
12 ~~publicly owned electric utility if the Energy Commission~~
13 ~~determines that the following conditions have been satisfied:~~

14 ~~(1) The local publicly owned electric utility procuring the~~
15 ~~electricity complies with the requirements of Section 387.~~

16 ~~(2) The local publicly owned electric utility has established~~
17 ~~annual procurement targets comparable to those applicable to an~~
18 ~~electrical corporation and is procuring sufficient eligible~~
19 ~~renewable energy resources to satisfy the targets.~~

20 ~~(f)–~~

21 ~~(e)~~ Deliveries of electricity from an eligible renewable energy
22 resource under an electricity purchase contract with a retail seller
23 executed before January 1, ~~2003~~ 2002, shall be tracked through
24 the accounting system described in subdivision (b) and included
25 in the baseline quantity of eligible renewable energy resources of
26 the purchasing retail seller pursuant to Section 399.15.

27 ~~(g)–~~

28 ~~(f)~~ Deliveries of electricity from an eligible renewable energy
29 resource under an electricity purchase contract with a retail seller
30 executed after January 1, ~~2003~~ 2002, pursuant to the federal
31 Public Utility Regulatory Policies Act of 1978 (16 U.S.C. Sec.
32 2601 et seq.), shall be tracked through the accounting system
33 described in subdivision (b) and count towards the renewables
34 portfolio standard obligations of the purchasing retail seller.

35 ~~SEC. 12.—~~

36 *SEC. 11.* Section 399.14 of the Public Utilities Code is
37 amended to read:

38 399.14. (a) (1) The commission shall direct each electrical
39 corporation to prepare a renewable energy procurement plan as
40 described in paragraph (3) to satisfy its obligations under the

1 renewables portfolio standard. To the extent feasible, this
2 procurement plan shall be proposed, reviewed, and adopted by
3 the commission as part of, and pursuant to, a general
4 procurement plan process. The commission shall require each
5 electrical corporation to review and update its renewable energy
6 procurement plan as it determines to be necessary.

7 (2) The commission shall adopt, by rulemaking for all
8 electrical corporations, all of the following:

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

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

33 (C) Flexible rules for compliance, including rules permitting
34 electrical corporations to apply excess procurement in one year to
35 subsequent years or inadequate procurement in one year to no
36 more than the following three years.

37 (D) Standard terms and conditions to be used by all electrical
38 corporations in contracting for eligible renewable energy
39 resources, including performance requirements for renewable
40 generators. A contract for the purchase of electricity generated by

1 an eligible renewable energy resource shall, at a minimum,
2 include the renewable energy credits associated with all
3 electricity generation specified under the contract. The standard
4 terms and conditions shall include the requirement that, no later
5 than six months after the commission's approval of an electricity
6 purchase agreement entered into pursuant to this article, the
7 following information about the agreement shall be disclosed by
8 the commission: party names, resource type, project location, and
9 project capacity.

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

14 (A) An assessment of annual or multiyear portfolio supplies
15 and demand to determine the optimal mix of eligible renewable
16 energy resources with deliverability characteristics that may
17 include peaking, dispatchable, baseload, firm, and as-available
18 capacity.

19 (B) Provisions for employing available compliance flexibility
20 mechanisms established by the commission.

21 (C) A bid solicitation setting forth the need for eligible
22 renewable energy resources of each deliverability characteristic,
23 required online dates, and locational preferences, if any.

24 (4) In soliciting and procuring eligible renewable energy
25 resources, each electrical corporation shall offer contracts of no
26 less than 10 years in duration, unless the commission approves of
27 a contract of shorter duration. Any bid solicitation or contract of
28 less than 10 years in duration shall be considered nonconforming.

29 (5) In soliciting and procuring eligible renewable energy
30 resources, each electrical corporation may give preference to
31 projects that provide tangible demonstrable benefits to
32 communities with a plurality of minority or low-income
33 populations.

34 (b) The commission shall review and accept, modify, or reject
35 each electrical corporation's renewable energy procurement plan
36 prior to the commencement of renewable procurement pursuant
37 to this article by an electrical corporation.

38 (c) The commission shall review the results of an eligible
39 renewable energy resources solicitation submitted for approval
40 by an electrical corporation and accept or reject proposed

1 contracts with eligible renewable energy resources based on
2 consistency with the approved renewable energy procurement
3 plan. If the commission determines that the bid prices are
4 elevated due to a lack of effective competition amongst the
5 bidders, the commission shall direct the electrical corporation to
6 renegotiate the contracts or conduct a new solicitation.

7 (d) If an electrical corporation fails to comply with a
8 commission order adopting a renewable energy procurement
9 plan, the commission shall exercise its authority pursuant to
10 Section 2113 to require compliance. The commission shall
11 enforce comparable penalties on any other retail seller that fails
12 to meet annual procurement targets established pursuant to
13 Section 399.15.

14 (e) Upon application by a retail seller, the commission may
15 authorize a procurement entity to enter into contracts on behalf of
16 customers of the retail seller for deliveries of eligible renewable
17 energy resources to satisfy the annual renewables portfolio
18 standard obligations, subject to similar terms and conditions
19 applicable to a retail seller. If the rates of the procurement entity
20 are regulated by the commission, the commission shall allow the
21 procurement entity to recover reasonable costs through retail
22 rates subject to review and approval.

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

29 (g) Construction, alteration, demolition, installation, and repair
30 work on an eligible renewable energy resource that receives
31 production incentives or supplemental energy payments pursuant
32 to Sections 25742 and 25743 of the Public Resources Code,
33 including work performed to qualify, receive, or maintain
34 production incentives or supplemental energy payments is
35 “public works” for the purposes of Chapter 1 (commencing with
36 Section 1720) of Part 7 of Division 2 of the Labor Code.

37 ~~SEC. 13.—~~

38 *SEC. 12.* Section 399.15 of the Public Utilities Code is
39 amended to read:

1 399.15. (a) In order to fulfill unmet long-term resource
2 needs, the commission shall establish a renewables portfolio
3 standard requiring all electrical corporations to procure a
4 minimum quantity of electricity generated by eligible renewable
5 energy resources as a specified percentage of total kilowatthours
6 sold to their retail end-use customers each calendar year, if
7 sufficient funds are made available pursuant to Section 399.6 and
8 Chapter 8.6 (commencing with Section 25740) of Division 15 of
9 the Public Resources Code, to cover the above-market costs of
10 eligible renewable energy resources.

11 (b) The commission shall implement annual procurement
12 targets for each retail seller as follows:

13 (1) Beginning on January 1, 2003, each retail seller shall,
14 pursuant to subdivision (a), increase its total procurement of
15 eligible renewable energy resources by at least an additional 1
16 percent of retail sales per year so that 20 percent of its retail sales
17 are procured from eligible renewable energy resources no later
18 than December 31, 2010. ~~Achievement of these targets is subject~~
19 ~~to the rules for flexible compliance adopted pursuant to~~
20 ~~subparagraph (C) of paragraph (1) of subdivision (a) of Section~~
21 ~~399.14.~~

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

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

33 (4) In the event that a retail seller fails to procure sufficient
34 eligible renewable energy resources in a given year to meet any
35 annual target established pursuant to this subdivision, the retail
36 seller shall procure additional eligible renewable energy
37 resources in subsequent years to compensate for the shortfall if
38 sufficient funds are made available pursuant to Section 399.6 and
39 Chapter 8.6 (commencing with Section 25740) of Division 15 of

1 the Public Resources Code, to cover any above-market costs of
2 eligible renewable energy resources.

3 (5) If supplemental energy payments from the Energy
4 Commission, in combination with the market prices approved by
5 the commission, are insufficient to cover any above-market costs
6 of eligible renewable energy resources, the commission shall
7 allow a retail seller to limit its annual procurement obligation to
8 the quantity of eligible renewable energy resources that can be
9 procured with available supplemental energy payments. A retail
10 seller shall not be required to enter into long-term contracts with
11 operators of eligible renewable energy resources that exceed the
12 market prices established pursuant to subdivision (c).

13 (c) The commission shall establish a methodology to
14 determine the market price of electricity for terms corresponding
15 to the length of contracts with eligible renewable energy
16 resources, in consideration of the following:

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

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

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

25 (d) The Energy Commission shall provide supplemental
26 energy payments from funds in the New Renewable Resources
27 Account of the Renewable Resource Trust Fund to eligible
28 renewable energy resources pursuant to Chapter 8.6
29 (commencing with Section 25740) of Division 15 of the Public
30 Resources Code, consistent with this article, for any
31 above-market costs. Indirect costs associated with the purchase
32 of eligible renewable energy resources by an electrical
33 corporation, including imbalance energy charges, sale of excess
34 energy, decreased generation from existing resources, or
35 transmission upgrades, shall not be eligible for supplemental
36 energy payments, but are recoverable in rates, as authorized by
37 the commission. The Energy Commission shall not award
38 supplemental energy payments to service load that is not subject
39 to the renewable energy public goods charge.

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

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

SEC. 13. Section 399.16 of the Public Utilities Code is repealed.

~~399.16—The Energy Commission may consider an electric generating facility that is located outside the state to be an eligible renewable energy resource if it meets the criteria described in Section 399.12 and all of the following requirements:~~

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

~~(b) It is developed with guaranteed contracts to sell its generation, and demonstrates delivery of energy, to a retail seller or the Independent System Operator.~~

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

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

~~399.17. (a) Subject to the provisions of this section, the requirements of this article apply to an electrical corporation with 60,000 or fewer customer accounts in California that serves retail end-use customers outside California.~~

~~(b) For an electrical corporation with 60,000 or fewer customer accounts in California that serves retail end-use customers outside California, an eligible renewable energy resource includes a facility that is located outside California, if the facility is connected to the transmission network within the Western Electricity Coordinating Council (WECC) service territory, provided all of the following conditions are met:~~

~~(1) The electricity generated by the facility is procured by the electrical corporation on behalf of its California customers, and is~~

1 not used to fulfill renewable energy procurement requirements in
2 other states.

3 (2) The electrical corporation participates in, and complies
4 with, the accounting system administered by the Energy
5 Commission pursuant to subdivision (b) of Section 399.13.

6 (3) The Energy Commission verifies that the electricity
7 generated by the facility is eligible to meet the annual
8 procurement targets of this article.

9 (c) The commission shall determine the annual procurement
10 targets for an electrical corporation with 60,000 or fewer
11 customer accounts in California that serves retail end-use
12 customers outside California, as a specified percentage of total
13 kilowatthours sold by the electrical corporation to its retail
14 end-use customers in California in a calendar year.

15 (d) An electrical corporation with 60,000 or fewer customer
16 accounts in California that serves retail end-use customers
17 outside California, may use an integrated resource plan prepared
18 in compliance with the requirements of another state utility
19 regulatory commission, to fulfill the requirement to prepare a
20 renewable energy procurement plan pursuant to this article,
21 provided the plan meets the requirements of Sections 399.11,
22 399.12, 399.13, and 399.14, as modified by this section.

23 (e) Procurement and administrative costs associated with
24 long-term contracts entered into by an electrical corporation with
25 60,000 or fewer customer accounts in California that serves retail
26 end-use customers outside California, for eligible renewable
27 energy resources pursuant to this article, at or below the market
28 price determined by the commission pursuant to subdivision (c)
29 of Section 399.15, shall be deemed reasonable per se, and shall
30 be recoverable in rates of the electrical corporation's California
31 customers, provided the costs are not recoverable in rates in other
32 states served by the electrical corporation.

33 SEC. 15. Section 399.25 of the Public Utilities Code is
34 amended to read:

35 399.25. (a) Notwithstanding any other provision in Sections
36 1001 to 1013, inclusive, an application of an electrical
37 corporation for a certificate authorizing the construction of new
38 transmission facilities, including high-voltage, bulk-transfer
39 transmission facilities that interconnect with areas of large
40 concentrations of potential eligible renewable energy resources

1 that Federal Energy Regulatory Commission precedent would
2 define as generation-tie facilities, shall be deemed to be
3 necessary to the provision of electric service for purposes of any
4 determination made under Section 1003 if the commission finds
5 that the new transmission facility, due to the location, magnitude,
6 and expected cost of eligible renewable energy resource
7 development, will facilitate achievement of the renewable power
8 goals established in this article.

9 (b) With respect to a transmission facility described in
10 subdivision (a), the commission shall take all feasible actions to
11 ensure that the transmission rates established by the Federal
12 Energy Regulatory Commission are fully reflected in any retail
13 rates established by the commission. These actions shall include,
14 but are not limited to:

15 (1) Making findings, where supported by an evidentiary
16 record, that those transmission facilities provide benefit to the
17 transmission network and are necessary to facilitate the
18 achievement of the renewables portfolio standard established in
19 Article 16 (commencing with Section 399.11).

20 (2) Directing the utility to which the generator will be
21 interconnected, where the direction is not preempted by federal
22 law, to seek the recovery through general transmission rates of
23 the costs associated with the transmission facilities.

24 (3) Asserting the positions described in paragraphs (1) and (2)
25 to the Federal Energy Regulatory Commission in appropriate
26 proceedings.

27 (4) Allowing recovery in retail rates of any increase in
28 transmission costs incurred by an electrical corporation resulting
29 from the construction of the transmission facilities that are not
30 approved for recovery in transmission rates by the Federal
31 Energy Regulatory Commission after the commission determines
32 that the costs were prudently incurred in accordance with
33 subdivision (a) of Section 454.

34 SEC. 16.—

35 SEC. 14. Article 9 (commencing with Section 635) is added
36 to Chapter 3 of Part 1 of Division 1 of the Public Utilities Code,
37 to read:

Article 9. Long-Term Plans and Procurement Plans

635. In a long-term plan adopted by an electrical corporation or in a procurement plan implemented by a local publicly owned electric utility, the electrical corporation or local publicly owned electric utility shall adopt a strategy applicable both to newly constructed or repowered generation owned and procured by the electrical corporation or local publicly owned electric utility to achieve efficiency in the use of fossil fuels and to address carbon emissions.

~~SEC. 17.—~~

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

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.