

AMENDED IN SENATE MARCH 23, 2011

SENATE BILL

No. 669

Introduced by Senator Rubio

February 18, 2011

An act to add Section 25228 to the Public Resources Code, and to amend Section 8341 of the Public Utilities Code, relating to greenhouse gas reduction.

LEGISLATIVE COUNSEL'S DIGEST

SB 669, as amended, Rubio. Greenhouse gas reduction: carbon sequestration.

The

(1) *The California Global Warming Solutions Act of 2006 requires the State Air Resources Board to identify opportunities for greenhouse gas emission reduction measures, including carbon sequestration.*

~~This bill would state the intent of the Legislature to enact legislation establishing a regulatory framework for the permitting and operation of~~ *require the State Energy Resources Conservation and Development Commission to coordinate the development of performance standards and other operational measures for carbon capture and geologic storage projects sites that are consistent with the goals of protecting groundwater and preventing the emission of carbon dioxide to the atmosphere. The bill would require the State Air Resources Board to establish an accounting protocol for sequestered carbon dioxide.*

(2) *The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report (EIR) on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds*

that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. CEQA requires a lead agency to consult with a responsible agency, which is a public agency, other than the lead agency, that has responsibilities in carrying out or approving a project, in conducting the lead agency's environmental review.

This bill would designate the commission as the lead agency and specified state agencies as responsible agencies for carbon capture and storage projects under CEQA.

(3) Existing law prohibits a load-serving entity or local publicly owned electric utility from entering into a long-term financial commitment unless any baseload generation complies with a greenhouse gas emission performance standard. Existing law provides for the recovery in rates of long-term financial commitments entered into through a contract approved by the Public Utilities Commission, for electricity generated by zero- or low-carbon generating resources that are contracted for, on behalf of consumers on a cost-of-service basis.

This bill would additionally provide for the full recovery in rates of long-term commitments entered into through a contract approved by the commission for electricity generated by zero- or low-carbon generating resources demonstrating new technology, if the commission determines that the commitment would benefit the state's ratepayers, economy, and the environment. The bill would cap the recovery at 600 megawatts of electric generating capacity in the combined electrical corporation service territories.

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

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

- 1 *SECTION 1. Section 25228 is added to the Public Resources*
- 2 *Code, to read:*
- 3 *25228. (a) For the environmental review of a carbon capture*
- 4 *and storage project pursuant to the California Environmental*
- 5 *Quality Act (Division 13 (commencing with Section 21000)) all of*
- 6 *the following apply:*
- 7 *(1) The commission is the lead agency.*

1 (2) *The responsible agency is as follows:*

2 (A) *The Division of Oil, Gas and Geothermal Resources for*
3 *activities related to the subsurface.*

4 (B) *The State Fire Marshal for carbon dioxide pipelines.*

5 (C) *The State Water Resources Control Board for impacts to*
6 *water quality.*

7 (D) *The State Air Resources Board for air-related aspects of*
8 *carbon dioxide monitoring, reporting, and verification*
9 *requirements.*

10 (b) *The State Air Resources Board shall establish an accounting*
11 *protocol for sequestered carbon dioxide.*

12 (c) *The commission shall coordinate the development of*
13 *performance standards for carbon capture and storage sites that*
14 *would include design requirements and other operational measures*
15 *consistent with the goals of protecting the groundwater and*
16 *preventing the emission of carbon dioxide to the atmosphere.*

17 (d) *The standards and regulations developed pursuant to*
18 *subdivision (c) shall be applicable to the injection of carbon*
19 *dioxide and other injectants in allowable geologic formations for*
20 *the purposes of greenhouse gas emission reduction or limitation*
21 *through long-term sequestration and shall not be applicable to*
22 *the use of Class II injection wells for conventional enhanced*
23 *hydrocarbon recovery.*

24 *SEC. 2. Section 8341 of the Public Utilities Code is amended*
25 *to read:*

26 8341. (a) ~~No~~A load-serving entity or local publicly owned
27 electric utility ~~may~~ *shall not* enter into a long-term financial
28 commitment unless any baseload generation supplied under the
29 long-term financial commitment complies with the greenhouse
30 gases emission performance standard established by the
31 commission, pursuant to subdivision (d), for a load-serving entity,
32 or by the Energy Commission, pursuant to subdivision (e), for a
33 local publicly owned electric utility.

34 (b) (1) The commission shall not approve a long-term financial
35 commitment by an electrical corporation unless any baseload
36 generation supplied under the long-term financial commitment
37 complies with the greenhouse gases emission performance standard
38 established by the commission pursuant to subdivision (d).

1 (2) The commission may, in order to enforce this section, review
2 any long-term financial commitment proposed to be entered into
3 by an electric service provider or a community choice aggregator.

4 (3) The commission shall adopt rules to enforce the requirements
5 of this section, for load-serving entities. The commission shall
6 adopt procedures, for all load-serving entities, to verify the
7 emissions of greenhouse gases from any baseload generation
8 supplied under a contract subject to the greenhouse gases emission
9 performance standard to ensure compliance with the standard.

10 (4) In determining whether a long-term financial commitment
11 is for baseload generation, the commission shall consider the design
12 of the powerplant and the intended use of the powerplant, as
13 determined by the commission based upon the electricity purchase
14 contract, any certification received from the Energy Commission,
15 any other permit or certificate necessary for the operation of the
16 powerplant, including a certificate of public convenience and
17 necessity, any procurement approval decision for the load-serving
18 entity, and any other matter the commission determines is relevant
19 under the circumstances.

20 (5) Costs incurred by an electrical corporation to comply with
21 this section, including those costs incurred for electricity purchase
22 agreements that are approved by the commission that comply with
23 the greenhouse gases emission performance standard, are to be
24 treated as procurement costs incurred pursuant to an approved
25 procurement plan and the commission shall ensure timely cost
26 recovery of those costs pursuant to paragraph (3) of subdivision
27 (d) of Section 454.5.

28 (6) A long-term financial commitment entered into through a
29 contract approved by the commission, for electricity generated by
30 a zero- or low-carbon generating resource that is contracted for,
31 on behalf of consumers of this state on a cost-of-service basis,
32 shall be recoverable in rates, in a manner determined by the
33 commission consistent with Section 380. The commission may,
34 after a hearing, approve an increase from one-half to 1 percent in
35 the return on investment by the third party entering into the contract
36 with an electrical corporation with respect to investment in zero-
37 or low-carbon generation resources authorized pursuant to this
38 subdivision.

39 (7) *A long-term financial commitment entered into through a*
40 *contract approved by the commission for electricity generated by*

1 zero- or low-carbon generating resources demonstrating new
2 technology shall be fully recoverable in rates for the term of the
3 commitments, in a manner determined by the commission consistent
4 with Section 380 and up to a cap of 600 megawatts of electric
5 generating capacity in the combined electrical corporation service
6 territories, if the commission finds that the commitment will benefit
7 the state's ratepayers, economy, and environment.

8 (c) (1) The Energy Commission shall adopt regulations for the
9 enforcement of this chapter with respect to a local publicly owned
10 electric utility.

11 (2) The Energy Commission may, in order to ensure compliance
12 with the greenhouse gases emission performance standard by local
13 publicly owned electric utilities, apply the procedures adopted by
14 the commission to verify the emissions of greenhouse gases from
15 baseload generation pursuant to subdivision (b).

16 (3) In determining whether a long-term financial commitment
17 is for baseload generation, the Energy Commission shall consider
18 the design of the powerplant and the intended use of the
19 powerplant, as determined by the Energy Commission based upon
20 the electricity purchase contract, any certification received from
21 the Energy Commission, any other permit for the operation of the
22 powerplant, any procurement approval decision for the load-serving
23 entity, and any other matter the Energy Commission determines
24 is relevant under the circumstances.

25 (d) (1) On or before February 1, 2007, the commission, through
26 a rulemaking proceeding, and in consultation with the Energy
27 Commission and the State Air Resources Board, shall establish a
28 greenhouse gases emission performance standard for all baseload
29 generation of load-serving entities, at a rate of emissions of
30 greenhouse gases that is no higher than the rate of emissions of
31 greenhouse gases for combined-cycle natural gas baseload
32 generation. Enforcement of the greenhouse gases emission
33 performance standard shall begin immediately upon the
34 establishment of the standard. All combined-cycle natural gas
35 powerplants that are in operation, or that have an Energy
36 Commission final permit decision to operate as of June 30, 2007,
37 shall be deemed to be in compliance with the greenhouse gases
38 emission performance standard.

39 (2) In determining the rate of emissions of greenhouse gases
40 for baseload generation, the commission shall include the net

1 emissions resulting from the production of electricity by the
2 baseload generation.

3 (3) The commission shall establish an output-based methodology
4 to ensure that the calculation of emissions of greenhouse gases for
5 cogeneration recognizes the total usable energy output of the
6 process, and includes all greenhouse gases emitted by the facility
7 in the production of both electrical and thermal energy.

8 (4) In calculating the emissions of greenhouse gases by facilities
9 generating electricity from biomass, biogas, or landfill gas energy,
10 the commission shall consider net emissions from the process of
11 growing, processing, and generating the electricity from the fuel
12 source.

13 (5) Carbon dioxide that is injected in geological formations, so
14 as to prevent releases into the atmosphere, in compliance with
15 applicable laws and regulations shall not be counted as emissions
16 of the powerplant in determining compliance with the greenhouse
17 gases emissions performance standard.

18 (6) In adopting and implementing the greenhouse gases emission
19 performance standard, the commission, in consultation with the
20 Independent System Operator shall consider the effects of the
21 standard on system reliability and overall costs to electricity
22 customers.

23 (7) In developing and implementing the greenhouse gases
24 emission performance standard, the commission shall address
25 long-term purchases of electricity from unspecified sources in a
26 manner consistent with this chapter.

27 (8) In developing and implementing the greenhouse gases
28 emission performance standard, the commission shall consider
29 and act in a manner consistent with any rules adopted pursuant to
30 Section 824a-3 of Title 16 of the United States Code.

31 (9) An electrical corporation that provides electric service to
32 75,000 or fewer retail end-use customers in California may file
33 with the commission a proposal for alternative compliance with
34 this section, which the commission may accept upon a showing
35 by the electrical corporation of both of the following:

36 (A) A majority of the electrical corporation's retail end-use
37 customers for electric service are located outside of California.

38 (B) The emissions of greenhouse gases to generate electricity
39 for the retail end-use customers of the electrical corporation are
40 subject to a review by the utility regulatory commission of at least

1 one other state in which the electrical corporation provides
2 regulated retail electric service.

3 (e) (1) On or before June 30, 2007, the Energy Commission,
4 at a duly noticed public hearing and in consultation with the
5 commission and the State Air Resources Board, shall establish a
6 greenhouse gases emission performance standard for all baseload
7 generation of local publicly owned electric utilities at a rate of
8 emissions of greenhouse gases that is no higher than the rate of
9 emissions of greenhouse gases for combined-cycle natural gas
10 baseload generation. The greenhouse gases emission performance
11 standard established by the Energy Commission for local publicly
12 owned electric utilities shall be consistent with the standard adopted
13 by the commission for load-serving entities. Enforcement of the
14 greenhouse gases emission performance standard shall begin
15 immediately upon the establishment of the standard. All
16 combined-cycle natural gas powerplants that are in operation, or
17 that have an Energy Commission final permit decision to operate
18 as of June 30, 2007, shall be deemed to be in compliance with the
19 greenhouse gases emission performance standard.

20 (2) The greenhouse gases emission performance standard shall
21 be adopted by regulation pursuant to the Administrative Procedure
22 Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of
23 Division 3 of Title 2 of the Government Code).

24 (3) In determining the rate of emissions of greenhouse gases
25 for baseload generation, the Energy Commission shall include the
26 net emissions resulting from the production of electricity by the
27 baseload generation.

28 (4) The Energy Commission shall establish an output-based
29 methodology to ensure that the calculation of emissions of
30 greenhouse gases for cogeneration recognizes the total usable
31 energy output of the process, and includes all greenhouse gases
32 emitted by the facility in the production of both electrical and
33 thermal energy.

34 (5) In calculating the emissions of greenhouse gases by facilities
35 generating electricity from biomass, biogas, or landfill gas energy,
36 the Energy Commission shall consider net emissions from the
37 process of growing, processing, and generating the electricity from
38 the fuel source.

39 (6) Carbon dioxide that is captured from the emissions of a
40 powerplant and that is permanently disposed of in geological

1 formations in compliance with applicable laws and regulations,
2 shall not be counted as emissions from the powerplant.

3 (7) In adopting and implementing the greenhouse gases emission
4 performance standard, the Energy Commission, in consultation
5 with the Independent System Operator, shall consider the effects
6 of the standard on system reliability and overall costs to electricity
7 customers.

8 (8) In developing and implementing the greenhouse gases
9 emission performance standard, the Energy Commission shall
10 address long-term purchases of electricity from unspecified sources
11 in a manner consistent with this chapter.

12 (9) In developing and implementing the greenhouse gases
13 emission performance standard, the Energy Commission shall
14 consider and act in a manner consistent with any rules adopted
15 pursuant to Section 824a-3 of Title 16 of the United States Code.

16 (f) The Energy Commission, in a duly noticed public hearing
17 and in consultation with the commission and the State Air
18 Resources Board, shall reevaluate and continue, modify, or replace
19 the greenhouse gases emission performance standard when an
20 enforceable greenhouse gases emissions limit is established and
21 in operation, that is applicable to local publicly owned electric
22 utilities.

23 (g) The commission, through a rulemaking proceeding and in
24 consultation with the Energy Commission and the State Air
25 Resources Board, shall reevaluate and continue, modify, or replace
26 the greenhouse gases emission performance standard when an
27 enforceable greenhouse gases emissions limit is established and
28 in operation, that is applicable to load-serving entities.

29 ~~SECTION 1. It is the intent of the Legislature to enact~~
30 ~~legislation establishing a regulatory framework for the permitting~~
31 ~~and operation of carbon capture and geologic storage projects.~~