

AMENDED IN ASSEMBLY JUNE 5, 2013

AMENDED IN ASSEMBLY APRIL 9, 2013

AMENDED IN ASSEMBLY MARCH 21, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 177**

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**Introduced by Assembly Members ~~Member V. Manuel Pérez and~~  
Bradford**

January 24, 2013

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An act to amend Sections 345.5 and 454.55 of, and to add ~~Section~~  
*Sections 399.23 and 636* to, the Public Utilities Code, relating to  
renewable energy resources.

LEGISLATIVE COUNSEL'S DIGEST

AB 177, as amended, V. Manuel Pérez. Renewable resources.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations, as defined. The Public Utilities Act requires the Public Utilities Commission, in consultation with the Independent System Operator, to establish resource adequacy requirements for all load-serving entities, as defined, in accordance with specified objectives. The definition of a "load-serving entity" includes an electrical corporation. That law further requires each load-serving entity to maintain physical generating capacity adequate to meet its load requirements, including peak demand and planning and operating reserves, deliverable to locations and at times as may be necessary to provide reliable electric service.

The California Renewables Portfolio Standard Program, also known as the RPS program, requires a retail seller of electricity, as defined, and local publicly owned electric utilities to purchase specified minimum

quantities of electricity products from eligible renewable energy resources, as defined, for specified compliance periods, sufficient to ensure that the procurement of electricity products from eligible renewable energy resources achieves 20% of retail sales for the period January 1, 2011, to December 31, 2013, inclusive, 25% of retail sales by December 31, 2016, and 33% of retail sales by December 31, 2020, and in all subsequent years. The RPS program, consistent with the goals of procuring the least-cost and best-fit eligible renewable energy resources that meet project viability principles, requires that all retail sellers procure a balanced portfolio of electricity products from eligible renewable energy resources, as specified, referred to as the portfolio content requirements. The RPS program requires the Public Utilities Commission to direct each electrical corporation, which are included within the definition of a retail seller, to annually prepare a renewable energy procurement plan containing specified matter and an annual compliance report. The RPS program requires the Public Utilities Commission to adopt, by rulemaking, a process that provides criteria for the rank ordering and selection of least-cost and best-fit eligible renewable energy resources by electrical corporations to comply with the RPS program procurement obligations, on a total cost basis, that take specified matter into account.

This bill would state the policy of the state to require all retail sellers of electricity, including investor-owned electrical corporations and local publicly owned electric utilities, to procure all available cost-effective energy efficiency, demand response, and renewable resources, so as to achieve renewable, reliability, and greenhouse gases emission reduction simultaneously, in the most cost-effective and affordable manner practicable. The bill would require that procurement not be limited by any targets established for these resources by statute or regulatory decision.

*The existing restructuring of the electrical industry within the Public Utilities Act provides for the establishment of an Independent System Operator as a nonprofit public benefit corporation. Existing law requires the Independent System Operator to manage the transmission grid and related energy markets in a manner that is consistent with (1) making the most efficient use of available energy resources, (2) reducing, to the extent possible, overall economic cost to the state's consumers, (3) applicable state law intended to protect the public's health and the environment, and (4) maximizing the availability of existing electric*

*generation resources necessary to meet the needs of the state's electricity consumers.*

*This bill would add a requirement that in managing the transmission grid and related energy markets, the Independent System Operator do so consistent with achieving a continuous reduction in emissions of greenhouse gases associated with California's electrical system sufficient to achieve the state policy goal for 2050 adopted by the State Air Resources Board. The bill would revise the 4th requirement described above to require that in managing the transmission grid and related energy markets, the Independent System Operator do so consistent with maximizing utilization of existing electrical resources, including all cost-effective demand-side and clean renewable energy resources, that are connected to the distribution or transmission grid, as are necessary for reliable operation of the grid and sufficient to meet the needs of the state's electricity consumers. The bill would require the Independent System Operator, in its annual transmission planning process, to identify the maximum amount of preferred resources capable, in conjunction with installation of nongenerating electrical equipment, of meeting local resource adequacy and system operating needs.*

The Public Utilities Act requires the Public Utilities Commission to review and adopt a procurement plan for each electrical corporation in accordance with specified elements, incentive mechanisms, and objectives. The act requires that an electrical corporation's proposed procurement plan include certain elements, including a showing that the electrical corporation will first meet its unmet needs through all available energy efficiency and demand reduction resources that are cost effective, reliable, and feasible. The act requires the Public Utilities Commission, in consultation with the State Energy Resources Conservation and Development Commission, to identify all potentially achievable cost-effective electricity efficiency savings and to establish efficiency targets for electrical corporations to achieve pursuant to their procurement plan.

*Existing law requires that each local publicly owned electric utility, as defined, serving end-use customers prudently plan for and procure resources that are adequate to meet its planning reserve margin and peak demand and operating reserves, sufficient to provide reliable electric service to its customers. Existing law additionally requires the local publicly owned electric utility, upon request, to provide the State Energy Resources Conservation and Development Commission with any information the State Energy Resources Conservation and*

*Development Commission determines is necessary to evaluate the progress made by the local publicly owned electric utility in meeting those planning requirements, and requires the State Energy Resources Conservation and Development Commission to report the progress made by each local publicly owned electric utility to the Legislature, to be included in an integrated energy policy report, as specified. Existing law requires an electrical corporation or local publicly owned electric utility, as defined, 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.*

This bill would require electrical corporations to procure all available cost-effective energy efficiency, demand response, and renewable energy resources so as to simultaneously achieve the goals of renewable resource development, reductions in emissions of greenhouse gases, and sustain system reliability in the most cost-effective and affordable manner and would provide that this procurement is not limited by any targets established for these resources by statute or regulatory decision. The bill would require the Public Utilities Commission to continue to establish efficiency targets for an electrical corporation pursuant to the utility's procurement plan. *The bill would require an electrical corporation, in a long-term plan, or local publicly owned electric utility, in a procurement plan, to adopt a long-term procurement strategy to achieve a target of procuring 51% of its electricity products from eligible renewable energy resources by December 31, 2030, and to achieve the 2050 goal for reducing emissions of greenhouse gases adopted by the State Air Resources Board, consistent with the potentially achievable cost-effective electricity efficiency savings and efficiency targets established for an electrical corporation by the Public Utilities Commission. The bill would require that each long-term plan adopted by an electrical corporation or procurement plan implemented by a local publicly owned electric utility be updated not less than every 3 years and released to the public, the Governor, and the Legislature and would require that each plan update include estimated emissions of greenhouse gases that are expected to result from implementation of the procurement plan for each 5-year period through December 31, 2050.*

Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the Public Utilities Commission is a crime.

Because the provisions of this bill are within the act, a violation of above requirement would impose a state-mandated local program by expanding the definition of a crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. Section 345.5 of the Public Utilities Code is  
2 amended to read:

3 345.5. (a) The Independent System Operator, as a nonprofit,  
4 public benefit corporation, shall conduct its operations consistent  
5 with applicable state and federal laws and consistent with the  
6 interests of the people of the state.

7 (b) To ensure the reliability of electric service and the health  
8 and safety of the public, the Independent System Operator shall  
9 manage the transmission grid and related energy markets in a  
10 manner that is consistent with all of the following:

11 (1) *Achieving a continuous reduction in emissions of greenhouse*  
12 *gases associated with California’s electrical system sufficient to*  
13 *achieve the state policy goal for 2050 adopted by the State Air*  
14 *Resources Board.*

15 ~~(1)~~

16 (2) Making the most efficient use of available energy resources.  
17 For purposes of this section, “available energy resources” include  
18 *energy efficiency savings*, capacity, ancillary services, and demand  
19 *response and flexibility services* bid into markets administered by  
20 the Independent System Operator. “Available energy resources”  
21 do not include a schedule submitted to the Independent System  
22 Operator by an electrical corporation or a local publicly owned  
23 electric utility to meet its own customer load.

24 ~~(2)~~

25 (3) Reducing, to the extent possible, overall economic cost to  
26 the state’s consumers.

27 ~~(3)~~

1 (4) Applicable state law intended to protect the public's health  
2 and the environment.

3 ~~(4)~~

4 (5) Maximizing ~~availability~~ *utilization* of existing ~~electric~~  
5 ~~generation~~ *electrical* resources, including all ~~available demand~~  
6 ~~side cost-effective demand-side~~ and ~~clean, eligible~~ *clean* renewable  
7 energy resources, *that are connected to the distribution or*  
8 *transmission grid, as are necessary for reliable operation of the*  
9 *grid and sufficient to meet the needs of the state's electricity*  
10 *consumers.*

11 ~~(5)~~

12 (6) Conducting internal operations in a manner that minimizes  
13 cost impact on ratepayers to the extent practicable and consistent  
14 with the provisions of this chapter.

15 ~~(6) Communicating~~

16 (7) *Coordinating operations and sharing operating data and*  
17 *resources with all balancing area authorities in California in a*  
18 *manner that supports reduces the cost of maintaining or improving*  
19 *electrical reliability.*

20 (c) The Independent System Operator shall do all of the  
21 following:

22 ~~(1) Consult and coordinate with appropriate state and local~~  
23 ~~agencies to ensure that the Independent System Operator operates~~  
24 ~~in furtherance of state law regarding consumer and environmental~~  
25 ~~protection.~~

26 (1) *In its annual transmission planning process, identify the*  
27 *maximum amount of preferred resources capable, in conjunction*  
28 *with installation of nongenerating electrical equipment, of meeting*  
29 *local resource adequacy and system operating needs. For these*  
30 *purposes, "nongenerating electrical equipment" includes, but is*  
31 *not limited to, synchronous condensers or similar devices and*  
32 *transmission grid additions or upgrades, and "referred resources"*  
33 *include, but are not limited to, location-specific energy efficiency,*  
34 *demand resources, location-specific renewable generation, and*  
35 *geographically dispersed generation. The Independent System*  
36 *Operator shall publish and communicate these estimates to the*  
37 *commission, the Energy Commission, and the State Air Resources*  
38 *Board to facilitate joint consideration of amounts of preferred*  
39 *resources available to be included in the commission's*  
40 *establishment of procurement targets.*

1 (2) Ensure that the purposes and functions of the Independent  
2 System Operator are consistent with the purposes and functions  
3 of nonprofit, public benefit corporations in the state, including  
4 duties of care and conflict-of-interest standards for officers and  
5 directors of a corporation.

6 (3) Maintain open meeting standards and meeting notice  
7 requirements consistent with the general policies of the  
8 Bagley-Keene Open Meeting Act (Article 9 (commencing with  
9 Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of  
10 the Government Code) and affording the public the greatest  
11 possible access, consistent with other duties of the corporation.  
12 The Independent System Operator's Open Meeting Policy, as  
13 adopted on April 23, 1998, and in effect as of May 1, 2002, meets  
14 the requirements of this paragraph. The Independent System  
15 Operator shall maintain a policy that is no less consistent with the  
16 Bagley-Keene Open Meeting Act than its policy in effect as of  
17 May 1, 2002.

18 (4) Provide public access to corporate records consistent with  
19 the general policies of the California Public Records Act (Chapter  
20 3.5 (commencing with Section 6250) of Division 7 of Title 1 of  
21 the Government Code) and affording the public the greatest  
22 possible access, consistent with the other duties of the corporation.  
23 The Independent System Operator's Information Availability  
24 Policy, as adopted on October 22, 1998, and in effect as of May  
25 1, 2002, meets the requirements of this paragraph. The Independent  
26 System Operator shall maintain a policy that is no less consistent  
27 with the California Public Records Act than its policy in effect as  
28 of May 1, 2002.

29 SEC. 2. Section 399.23 is added to the Public Utilities Code,  
30 to read:

31 399.23. (a) The Legislature finds and declares all of the  
32 following:

33 (1) There is increasing uncertainty with regard to the availability  
34 of California's fleet of older powerplants, creating the need for  
35 increased reduction in demand for electricity through energy  
36 efficiency, demand response, and adding new sources of clean  
37 energy generation.

38 (2) It is in the best interest of the electricity consumers of this  
39 state that sufficient clean energy generation supply and  
40 demand-side resources are procured to meet electricity demand

1 that provide the highest value, including providing safe, reliable,  
2 and affordable electricity supplies and minimizing air quality  
3 impacts to consumers in the most cost-effective manner practicable.

4 (3) Clean energy generation with flexible delivery characteristics  
5 are essential to maintaining reliable electricity deliveries.

6 (4) There are substantial high-quality renewable resources in  
7 the County of Imperial near the Salton Sea, which can help provide  
8 cost-effective renewable resources that can reduce greenhouse gas  
9 emissions while simultaneously contributing to resources adequacy  
10 and reliability needs and providing significant local and regional  
11 environmental and economic development benefits.

12 (b) Consistent with the loading order adopted by the Energy  
13 Commission and the commission which sets forth state policy for  
14 preferred resources to meet electrical load needs, it is the intent of  
15 the Legislature, and the policy of the state, that all retail sellers of  
16 electricity, including investor-owned electrical corporations and  
17 local publicly owned electric utilities, shall procure all available  
18 cost-effective energy efficiency, demand response, and renewable  
19 resources, so as to achieve renewable, reliability, and greenhouse  
20 gases emission reduction simultaneously, in the most cost-effective  
21 and affordable manner practicable. Procurement shall not be limited  
22 by any targets established for these resources by statute or  
23 regulatory decision.

24 SEC. 3. Section 454.55 of the Public Utilities Code is amended  
25 to read:

26 454.55. Electrical corporations shall procure all available  
27 cost-effective energy efficiency, demand response, and renewable  
28 energy resources so as to simultaneously achieve the goals of  
29 renewable resource development, reductions in emissions of  
30 greenhouse gases, and sustain system reliability in the most  
31 cost-effective and affordable manner. This procurement shall not  
32 be limited by any targets established for these resources by statute  
33 or regulatory decision. However, the commission shall continue  
34 to establish efficiency targets for an electrical corporation to  
35 achieve pursuant to Section 454.5.

36 SEC. 4. Section 636 is added to the Public Utilities Code, to  
37 read:

38 636. (a) *In a long-term plan adopted by an electrical*  
39 *corporation or in a procurement plan implemented by a local*  
40 *publicly owned electric utility, the electrical corporation or local*

1 *publicly owned electric utility shall adopt a long-term procurement*  
2 *strategy to achieve a target of procuring 51 percent of its electricity*  
3 *products from eligible renewable energy resources by December*  
4 *31, 2030, and to achieve the 2050 goal for reducing emissions of*  
5 *greenhouse gases adopted by the State Air Resources Board,*  
6 *consistent with Section 454.55.*

7 *(b) Each long-term plan adopted by an electrical corporation*  
8 *or procurement plan implemented by a local publicly owned*  
9 *electric utility shall be updated not less than every three years and*  
10 *released to the public, the Governor, and the Legislature. Each*  
11 *procurement plan update shall include estimated emissions of*  
12 *greenhouse gases that are expected to result from implementation*  
13 *of the procurement plan for each five-year period through*  
14 *December 31, 2050.*

15 ~~SEC. 4.~~

16 *SEC. 5.* No reimbursement is required by this act pursuant to  
17 Section 6 of Article XIII B of the California Constitution because  
18 the only costs that may be incurred by a local agency or school  
19 district will be incurred because this act creates a new crime or  
20 infraction, eliminates a crime or infraction, or changes the penalty  
21 for a crime or infraction, within the meaning of Section 17556 of  
22 the Government Code, or changes the definition of a crime within  
23 the meaning of Section 6 of Article XIII B of the California  
24 Constitution.