

AMENDED IN ASSEMBLY APRIL 22, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 427

Introduced by Assembly Member Mullin

February 15, 2013

~~An act to amend Section 33459 of the Health and Safety Code, relating to local government. An act to amend Section 371 of the Public Utilities Code, relating to electrical corporations.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 427, as amended, Mullin. ~~Local government: Polanco Redevelopment Act. Electrical corporations: uneconomic cost recovery: bottoming cycle waste heat recovery.~~

Existing law specifies that, in recognition of statutory authority and past investments existing as of December 20, 1995, and subject to a specified fire wall, the uneconomic costs of specified energy-generation-related assets and obligations are applied to each customer based on the amount of electricity purchased by the customer from an electrical corporation, subject to changes in usage occurring in the normal course of business. Existing law specifies those changes that constitute "changes in usage occurring in the normal course of business" to include, among others, changes in fuel switching.

This bill would additionally include the production of electricity using bottom cycle waste heat recovery, as defined, as changes in fuel switching. The bill would exempt from all nonbypassable charges approved by the Public Utilities Commission changes in usage occurring in the normal course of business.

~~Existing law, the Polanco Redevelopment Act, authorizes a redevelopment agency to take any action that the agency determines is~~

necessary and consistent with state and federal laws to remedy or remove a release of hazardous substances on, under, or from property within a project area, whether the agency owns that property or not, subject to specified conditions. Existing law dissolved redevelopment agencies and provides for the winding down of the affairs of a redevelopment agency by a successor agency. Existing law provides that any existing cleanup plans and liability limits authorized under the Polanco Redevelopment Act shall be transferred to the successor agency and may be transferred to the successor housing entity at that entity's request.

This bill would specify that a successor agency or successor housing entity may implement hazardous cleanup pursuant to the Polanco Redevelopment Act, with regard to enforceable obligations, including brownfield cleanup.

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

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

1 SECTION 1. Section 371 of the Public Utilities Code is
2 amended to read:

3 371. (a) Except as provided in Sections 372 and 374, the
4 uneconomic costs provided in Sections 367, 368, 375, and 376
5 shall be applied to each customer based on the amount of electricity
6 purchased by the customer from an electrical corporation or
7 alternate supplier of electricity, subject to changes in usage
8 occurring in the normal course of business.

9 (b) (1) Changes in usage occurring in the normal course of
10 business are those resulting from changes in business cycles,
11 termination of operations, departure from the utility service
12 territory, weather, reduced production, modifications to production
13 equipment or operations, changes in production or manufacturing
14 processes, fuel switching, including installation of fuel cells
15 pending a contrary determination by the California Energy
16 Resources Conservation and Development Commission in Section
17 383, enhancement or increased efficiency of equipment or
18 performance of existing self-cogeneration equipment, *the*
19 *production of electricity using bottoming cycle waste heat recovery,*
20 replacement of existing cogeneration equipment with new power
21 generation equipment of similar size as described in paragraph (1)
22 of subdivision (a) of Section 372, installation of demand-side

1 management equipment or facilities, energy conservation efforts,
2 or other similar factors.

3 (2) *For the purposes of this subdivision, “bottoming cycle waste*
4 *heat recovery” means a form of energy efficiency by which waste*
5 *heat from a commercial or industrial process is used to produce*
6 *electricity, excluding any electricity produced as a result of*
7 *combusting fossil fuels to supplement the waste heat.*

8 (c) *Changes in usage occurring in the normal course of business*
9 *as described in subdivision (b) are exempt from all nonbypassable*
10 *charges approved by the commission.*

11 ~~(e) Nothing in this~~

12 ~~(d) This section shall be interpreted to does not exempt or alter~~
13 ~~the obligation of a customer to comply with Chapter 5~~
14 ~~(commencing with Section 119075) of Part 15 of Division 104 of~~
15 ~~the Health and Safety Code. Nothing in this section shall be~~
16 ~~construed as a limitation on the ability of residential customers to~~
17 ~~alter their pattern of electricity purchases by activities on the~~
18 ~~customer side of the meter.~~

19 ~~SECTION 1. Section 33459 of the Health and Safety Code is~~
20 ~~amended to read:~~

21 ~~33459. For purposes of this article, the following terms shall~~
22 ~~have the following meanings:~~

23 ~~(a) “Department” means the Department of Toxic Substances~~
24 ~~Control.~~

25 ~~(b) “Director” means the Director of Toxic Substances Control.~~

26 ~~(c) “Hazardous substance” means any hazardous substance as~~
27 ~~defined in subdivision (h) of Section 25281, and any reference to~~
28 ~~hazardous substance in the definitions referenced in this section~~
29 ~~shall be deemed to refer to hazardous substance, as defined in this~~
30 ~~subdivision.~~

31 ~~(d) “Local agency” means a single local agency that is one of~~
32 ~~the following:~~

33 ~~(1) A local agency authorized pursuant to Section 25283 to~~
34 ~~implement Chapter 6.7 (commencing with Section 25280) of, and~~
35 ~~Chapter 6.75 (commencing with Section 25299.10) of, Division~~
36 ~~20.~~

37 ~~(2) A local officer who is authorized pursuant to Section 101087~~
38 ~~to supervise a remedial action.~~

- 1 ~~(3) A successor agency or successor housing entity pursuant to~~
- 2 ~~subdivision (f) of Section 34173, with regard to enforceable~~
- 3 ~~obligations, including brownfield cleanup.~~
- 4 ~~(e) “Qualified independent contractor” means an independent~~
- 5 ~~contractor who is any of the following:~~
- 6 ~~(1) An engineering geologist who is certified pursuant to~~
- 7 ~~Section 7842 of the Business and Professions Code.~~
- 8 ~~(2) A geologist who is registered pursuant to Section 7850 of~~
- 9 ~~the Business and Professions Code.~~
- 10 ~~(3) A civil engineer who is registered pursuant to Section 6762~~
- 11 ~~of the Business and Professions Code.~~
- 12 ~~(f) “Release” means any release, as defined in Section 25320.~~
- 13 ~~(g) “Remedy” or “remove” means any action to assess, evaluate,~~
- 14 ~~investigate, monitor, remove, correct, clean up, or abate a release~~
- 15 ~~of a hazardous substance or to develop plans for those actions.~~
- 16 ~~“Remedy” includes any action set forth in Section 25322 and~~
- 17 ~~“remove” includes any action set forth in Section 25323.~~
- 18 ~~(h) “Responsible party” means any person described in~~
- 19 ~~subdivision (a) of Section 25323.5 of this code or subdivision (a)~~
- 20 ~~of Section 13304 of the Water Code.~~