

AMENDED IN ASSEMBLY JUNE 15, 2000

AMENDED IN ASSEMBLY JUNE 8, 2000

AMENDED IN ASSEMBLY MAY 25, 2000

AMENDED IN SENATE APRIL 20, 1999

SENATE BILL

No. 1194

Introduced by Senator Sher

(Principal coauthors: Assembly Members Pescetti and
Wright)

(Coauthors: Senators Alarcon, Murray, and Solis)

(Coauthors: Assembly Members Battin, Calderon, Cardenas,
Dickerson, Lempert, Maddox, Maldonado, Mazzoni, Papan,
Strickland, Thomson, Vincent, Wesson, and Zettel)

February 26, 1999

An act to amend Sections 381 and 383.5 of, and to add Article 15 (commencing with Section 399) to Chapter 2.3 of Part 1 of Division 1 of, the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 1194, as amended, Sher. Electrical restructuring: public benefit programs.

(1) Under the Public Utilities Act, the Public Utilities Commission, until December 31, 2001, and in certain instances until March 31, 2002, requires electrical corporations to identify a separate rate component to fund cost-effective energy efficiency and conservation activities, public interest research and development, and development of renewable

resources technology. This rate component is a nonbypassable element of local distribution and collected on the basis of usage. Existing law requires specified electrical corporations to collect specific amounts to support each of these programs. Existing law also requires the State Energy Resources Conservation and Development Commission (Energy Commission) to transfer funds collected for these programs to specified funds. Existing law also provides that funds expended for production incentives for new in-state renewable electricity generation technology facilities are limited to facilities that are operational prior to January 1, 2002.

This bill would extend the production incentives for renewable electricity to January 1, 2007, if the Energy Commission makes specified findings. This bill would restate the policy of the state that each electrical corporation operate its electric distribution grid in a safe, reliable, efficient, and cost-effective manner and that electric corporations continue to make prudent investments in their distribution grids. The bill would also require the Public Utilities Commission and the Energy Commission to continue to administer energy efficiency programs, as defined, following prescribed guidelines.

This bill would extend the collection of this nonbypassable system benefit charge to support these programs through January 1, 2012, and would require the funds to be deposited in specified accounts until appropriation by the Legislature. The bill would require named electrical corporations to collect specific dollar amounts for each of the programs beginning on January 1, 2002. The bill would also require the Governor, on or before January 1, 2004, to appoint an independent review panel that, on or before January 1, 2005, would be required to report to the Legislature and the Energy Commission on, among other things, the benefits secured for residential customers. The bill would also require the Energy Commission to report to the Legislature on renewable energy and research and development ~~and~~, develop and submit to the Legislature investment plans, *and recommend allocations among specified projects*. The bill would make related findings and declarations. Because a violation of the act is a



crime, this bill would impose a state-mandated local program by expanding an existing crime.

This bill would result in a change in state taxes for the purpose of increasing state revenues within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.

(2) 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: $\frac{2}{3}$. 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 381 of the Public Utilities Code
2 is amended to read:

3 381. (a) To ensure that the funding for the programs
4 described in subdivision (b) and Section 382 are not
5 commingled with other revenues, the commission shall
6 require each electrical corporation to identify a separate
7 rate component to collect the revenues used to fund these
8 programs. The rate component shall be a nonbypassable
9 element of the local distribution service and collected on
10 the basis of usage. This rate component shall fall within
11 the rate levels identified in subdivision (a) of Section 368.

12 (b) The commission shall allocate funds collected
13 pursuant to subdivision (a), and any interest earned on
14 collected funds, to programs which enhance system
15 reliability and provide in-state benefits as follows:

16 (1) Cost-effective energy efficiency and conservation
17 activities.

18 (2) Public interest research and development not
19 adequately provided by competitive and regulated
20 markets.

21 (3) In-state operation and development of existing
22 and new and emerging renewable resource technologies

1 defined as electricity produced from other than a
2 conventional power source within the meaning of Section
3 2805, provided that a power source utilizing more than 25
4 percent fossil fuel may not be included.

5 (c) The Public Utilities Commission shall order the
6 respective electrical corporations to collect and spend
7 these funds, as follows:

8 (1) Cost-effective energy efficiency and conservation
9 activities shall be funded at not less than the following
10 levels commencing January 1, 1998, through December
11 31, 2001: for San Diego Gas and Electric Company a level
12 of thirty-two million dollars (\$32,000,000) per year; for
13 Southern California Edison Company a level of ninety
14 million dollars (\$90,000,000) for each of the years 1998,
15 1999, and 2000; fifty million dollars (\$50,000,000) for the
16 year 2001; and for Pacific Gas and Electric Company a
17 level of one hundred six million dollars (\$106,000,000) per
18 year.

19 (2) Research, development, and demonstration
20 programs to advance science or technology that are not
21 adequately provided by competitive and regulated
22 markets shall be funded at not less than the following
23 levels commencing January 1, 1998, through December
24 31, 2001: for San Diego Gas and Electric Company a level
25 of four million dollars (\$4,000,000) per year; for Southern
26 California Edison Company a level of twenty-eight
27 million five hundred thousand dollars (\$28,500,000) per
28 year; and for Pacific Gas and Electric Company a level of
29 thirty million dollars (\$30,000,000) per year.

30 (3) In-state operation and development of existing
31 and new and emerging renewable resource technologies
32 shall be funded at not less than the following levels on a
33 statewide basis: one hundred nine million five hundred
34 thousand dollars (\$109,500,000) per year for each of the
35 years 1998, 1999, and 2000, and one hundred thirty-six
36 million five hundred thousand dollars (\$136,500,000) for
37 the year 2001. To accomplish these funding levels over
38 the period described herein the San Diego Gas and
39 Electric Company shall spend twelve million dollars
40 (\$12,000,000) per year, the Southern California Edison

1 Company shall expend no less than forty-nine million five
2 hundred thousand dollars (\$49,500,000) for the years
3 1998, 1999, and 2000, and no less than seventy-six million
4 five hundred thousand dollars (\$76,500,000) for the year
5 2001, and the Pacific Gas and Electric Company shall
6 expend no less than forty-eight million dollars
7 (\$48,000,000) per year through the year 2001. Additional
8 funding not to exceed seventy-five million dollars
9 (\$75,000,000) shall be allocated from moneys collected
10 pursuant to subdivision (d) in order to provide a level of
11 funding totaling five hundred forty million dollars
12 (\$540,000,000).

13 (4) Up to fifty million dollars (\$50,000,000) of the
14 amount collected pursuant to subdivision (d) may be
15 used to resolve outstanding issues related to
16 implementation of subdivision (a) of Section 374. Moneys
17 remaining after fully funding the provisions of this
18 paragraph shall be reallocated for purposes of paragraph
19 (3).

20 (5) Up to ninety million dollars (\$90,000,000) of the
21 amount collected pursuant to subdivision (d) may be
22 used to resolve outstanding issues related to contractual
23 arrangements in the Southern California Edison service
24 territory stemming from the Biennial Resource Planning
25 Update auction. Moneys remaining after fully funding
26 the provisions of this paragraph shall be reallocated for
27 purposes of paragraph (3).

28 (d) Notwithstanding any other provisions of this
29 chapter, entities subject to the jurisdiction of the Public
30 Utilities Commission shall extend the period for
31 competition transition charge collection up to three
32 months beyond its otherwise applicable termination of
33 December 31, 2001, so as to ensure that the aggregate
34 portion of the research, environmental, and low-income
35 funds allocated to renewable resources shall equal five
36 hundred forty million dollars (\$540,000,000) and that the
37 costs specified in paragraphs (3), (4), and (5) of
38 subdivision (c) are collected.

39 (e) Each electrical corporation shall allow customers
40 to make voluntary contributions through their utility bill

1 payments as either a fixed amount or a variable amount
2 to support programs established pursuant to paragraph
3 (3) of subdivision (b). Funds collected by electrical
4 corporations for these purposes shall be forwarded in a
5 timely manner to the appropriate fund as specified by the
6 commission.

7 (f) The commission's authority to collect funds
8 pursuant to this section for purposes of paragraph (3) of
9 subdivision (b) shall become inoperative on March 31,
10 2002.

11 (g) For purposes of this article, "emerging renewable
12 technology" means a new renewable technology,
13 including, but not limited to, photovoltaic technology,
14 that is determined by the California Energy Resources
15 Conservation and Development Commission to be
16 emerging from research and development and that has
17 significant commercial potential.

18 SEC. 2. Section 383.5 of the Public Utilities Code is
19 amended to read:

20 383.5. (a) As used in this section, the following terms
21 have the following meaning:

22 (1) "In-state renewable electricity generation
23 technology" means biomass, solar thermal, photovoltaic,
24 wind, geothermal, small hydropower of 30 megawatts or
25 less, waste tire, digester gas, landfill gas, and municipal
26 solid waste generation technologies, as described in the
27 report, defined in paragraph (2), including any additions
28 or enhancements thereto, that are produced in facilities
29 located in this state and placed in operation after
30 September 26, 1996, or that were operational prior to that
31 date, and that are also certified under Section 292.2904 of
32 Title 18 of the Code of Federal Regulations as a qualifying
33 small power production facility either located in
34 California, or that began selling electricity to a California
35 electrical corporation prior to September 26, 1996, under
36 a Standard Offer Power Purchase Agreement authorized
37 by the California Public Utilities Commission.

38 (2) "Report" means the Policy Report on AB 1890
39 Renewables Funding (March 1997, Publication Number
40 P500-97-002) submitted to the Legislature by the State

1 Energy Resources Conservation and Development
2 Commission.

3 (b) (1) Forty-five percent of the money collected
4 pursuant to paragraph (3) of subdivision (c) of Section
5 381, up to two hundred forty-three million dollars
6 (\$243,000,000), shall be used for programs that are
7 designed to improve the competitiveness of existing
8 in-state renewable electricity generation technology
9 facilities, and to secure for the state the environmental,
10 economic, and reliability benefits that continued
11 operation of those facilities will provide.

12 (2) Any funds used to support in-state renewable
13 electricity generation technology facilities pursuant to
14 this subdivision shall be expended in accordance with the
15 provisions of the report, subject to all of the following
16 requirements:

17 (A) Funding for existing renewable electricity
18 generation technologies shall be grouped into three
19 technology tiers, as follows:

20 (i) Twenty-five percent of the money, up to one
21 hundred thirty-five million dollars (\$135,000,000), shall be
22 used to fund first tier technologies, including biomass,
23 solar thermal, and whole waste tire technologies.

24 (ii) Thirteen percent of the money, up to seventy
25 million two hundred thousand dollars (\$70,200,000) shall
26 be used to fund second tier wind technologies.

27 (iii) Seven percent of the money, up to thirty-seven
28 million eight hundred thousand dollars (\$37,800,000),
29 shall be used to fund third tier technologies, including
30 geothermal, small hydropower, digester gas, landfill gas,
31 and municipal solid waste technologies.

32 (B) The State Energy Resources Conservation and
33 Development Commission shall establish a cents per
34 kilowatt hour production incentive, not to exceed the
35 payment caps per kilowatthour established in the report
36 representing the difference between target prices and
37 the market clearing price for electricity, if sufficient
38 funds are available. If there are insufficient funds in any
39 payment period to pay either the difference between the
40 target and market price or the payment caps, production

1 incentives shall be based on the amount determined by
2 dividing available funds by eligible generation. The
3 target price for Tier 1 technologies shall not be based on
4 less than four cents (\$0.04) per kilowatthour. The market
5 clearing price for electricity shall be the energy prices
6 paid to nonutility power generators as provided in
7 Section 390.

8 (C) Funding for each type of existing in-state
9 renewable electricity generation technology shall be
10 reduced each year during the period from January 1,
11 1998, to January 1, 2002, to encourage the development of
12 increasingly competitive technologies.

13 (D) Facilities that are eligible to receive funding
14 pursuant to this section shall be certified in accordance
15 with the requirements set forth in the report and may not
16 receive payments for any electricity produced that has
17 any of the following characteristics:

18 (i) Is sold under a fixed energy price payment under
19 a long-term contract with an existing in-state electrical
20 corporation.

21 (ii) Derives from utility-owned facility that is
22 receiving, or is eligible to receive, recovery of
23 above-market facility costs through a competitive
24 transition charge.

25 (iii) Is used onsite, sold to customers in a manner that
26 excludes competitive transition charge payments, or is
27 otherwise excluded from competitive transition charge
28 payments.

29 (c) (1) Thirty percent of the money, up to one
30 hundred sixty-two million dollars (\$162,000,000),
31 collected pursuant to paragraph (3) of subdivision (c) of
32 Section 381, shall be used for programs designed to foster
33 the development of new in-state renewable electricity
34 generation technology facilities, and to secure for the
35 state the environmental, economic, and reliability
36 benefits that continued operation of those facilities will
37 provide. Funds to further the purposes of this subdivision
38 may be committed for multiple years.

39 (2) Any funds used for new in-state renewable
40 electricity generation technology facilities pursuant to

1 this subdivision shall be expended in accordance with the
2 report, subject to all of the following requirements:

3 (A) Funds shall be allocated for proposed projects
4 based on a competitive solicitation process whereby
5 production incentives, not to exceed one and one-half
6 cents (\$.015) per kilowatthour, are awarded to the lowest
7 bidders, provided that not more than 25 percent of the
8 funds allocated pursuant to paragraph (1) may be
9 awarded to a single project.

10 (B) Funds expended for production incentives shall
11 be paid over a five-year period commencing on the date
12 that a project begins electricity production, provided that
13 the project shall be operational prior to January 1, 2002,
14 unless the State Energy Resources Conservation and
15 Development Commission finds that the project will not
16 be operational prior to January 1, 2002, due to
17 circumstances beyond the control of the developer. Upon
18 making this finding, the State Energy Resources
19 Conservation and Development Commission shall pay
20 production incentives over a five-year period,
21 commencing on the date of operation, provided that the
22 date that a project begins electricity production may not
23 extend beyond January 1, 2007.

24 (C) The amount of funds expended shall be increased
25 for each successive year during the period from January
26 1, 1998, to January 1, 2002, as fewer projects are expected
27 to be funded during the first few years after funding
28 becomes available.

29 (D) Facilities that are eligible to receive payments
30 from the New Renewable Resources Account created
31 pursuant to paragraph (2) of subdivision (a) of Section
32 445 of the Public Utilities Code shall be certified as
33 specified in the report and may not receive payments for
34 any electricity produced that has any of the following
35 characteristics:

36 (i) Is sold under an existing long-term contract with an
37 existing in-state electrical corporation if the contract
38 includes fixed energy or capacity payments.

39 (ii) Is used onsite and is sold to customers in a manner
40 that excludes competitive transition charge payments, or

1 is otherwise excluded from competitive transition charge
2 payments.

3 (iii) Is produced by a facility that is owned by
4 customer-owned electricity generating systems.

5 (E) Eligibility to compete for funds or to receive funds
6 shall not be contingent upon the location or nature of the
7 power purchaser.

8 (3) Repowered wind projects shall be eligible for
9 funding under this subdivision if the new investment is at
10 least 80 percent of the value of the repowered facility.

11 (d) (1) Ten percent of the money collected pursuant
12 to paragraph (3) of subdivision (c) of Section 381, up to
13 fifty-four million dollars (\$54,000,000), shall be used for a
14 multiyear, consumer-based program to foster the
15 development of emerging renewable technologies in
16 distributed generation applications. Funds to further the
17 purposes of this subdivision may be committed for
18 multiple years.

19 (2) Any funds used for emerging technologies
20 pursuant to this subdivision shall be expended in
21 accordance with all of the following requirements:

22 (A) Funding for emerging technologies shall be
23 provided through a competitive, market-based process
24 that shall be in place for a period of not less than four
25 years, and shall be structured so as to allow eligible
26 emerging technology manufacturers and suppliers to
27 anticipate and plan for increased sale and installation
28 volumes over the life of the program.

29 (B) The program shall provide monetary rebates,
30 buydowns, or equivalent incentives, subject to
31 subparagraph (C) of paragraph (2) of subdivision (d), to
32 purchasers, lessees, lessors, or sellers of eligible electricity
33 generating systems. Incentives shall benefit the end-use
34 consumer of renewable generation by directly and
35 exclusively reducing the cost of the eligible system, or the
36 cost of electricity produced by the eligible system.
37 Incentives shall be issued on the basis of the rated
38 electrical capacity of the system measured in watts. The
39 amount of the per-watt incentive shall decline over the
40 term of the program, with a corresponding increase in the

1 amount of total electrical capacity eligible for the
2 incentive, thereby encouraging the manufacturers and
3 suppliers of eligible systems to reduce system costs.
4 Incentives shall be limited to a maximum percentage of
5 the system price, as defined by the State Energy
6 Resources Conservation and Development Commission,
7 and the maximum incentive percentage shall decline
8 over the term of the program, as shall the per-watt
9 incentive, in amounts to be determined by the State
10 Energy Resources Conservation and Development
11 Commission.

12 (C) Eligible distributed emerging technologies are
13 photovoltaic, solar thermal electric, fuel cell technologies
14 that utilize renewable fuels, and wind turbines of not
15 more than ten kilowatts rated electrical capacity per
16 customer site, provided that the technologies meet the
17 emerging technology eligibility criteria contained in the
18 report prepared by State Energy Resources Conservation
19 and Development Commission. Eligible electricity
20 generating systems are intended primarily to offset part
21 or all of the consumer's own electrical energy demand,
22 and shall not be owned by electrical corporations or
23 publicly owned utilities, be located at a customer site that
24 is not receiving distribution service from existing in-state
25 electrical corporations. Not less than 60 percent of the
26 available incentive funds shall be reserved for systems of
27 10 kilowatts rated electrical capacity or smaller, and not
28 less than 15 percent of the funds shall be reserved for
29 systems of 100 kilowatts rated electrical capacity or
30 smaller. All eligible electricity generating system
31 components shall be new and unused, and shall not have
32 been previously placed in service in any other location or
33 for any other application. Systems and their fuel resource
34 shall be located on the premises of the end-use consumer
35 of the electricity produced, and all eligible electricity
36 generating systems shall be connected to the utility grid
37 in California.

38 (D) The State Energy Resources Conservation and
39 Development Commission shall also determine, in
40 collaboration with industry and consumer interests, if a

1 program provision limiting the amount of funds available
2 for any single project is warranted, and determine how
3 federal, state, or other funds or incentives not related to
4 this section that are already available, or that may become
5 available for eligible electricity generating systems, may
6 impact the availability of funds allocated under this
7 section, if at all. The emerging renewable technologies
8 program shall be implemented not later than March 31,
9 1998, and incentives shall be available for eligible
10 electricity generating systems that are placed in service
11 after January 1, 1998, in accordance with the program
12 provisions developed by the State Energy Resources
13 Conservation and Development Commission. However,
14 projects placed in service after January 1, 1998, and prior
15 to September 1, 1998, shall not be subject to limits, if any,
16 that may be determined by the commission, pursuant to
17 this subparagraph.

18 (e) Fifteen percent of the money collected pursuant
19 to paragraph (3) of subdivision (c) of Section 381, up to
20 eighty-one million dollars (\$81,000,000), shall be used for
21 programs designed to provide customer credits for
22 purchases of renewable energy produced by certified
23 energy providers, to disseminate information regarding
24 renewable energy technologies, to promote purchases of
25 renewable energy, to help develop a consumer market
26 for renewable energy, and to help develop a consumer
27 market for renewable energy technologies, as provided
28 in the report, subject to the following requirements:

29 (1) (A) Fourteen percent of the money, up to
30 seventy-five million six hundred thousand dollars
31 (\$75,600,000), shall be expended to provide customer
32 credits for purchases of renewable energy produced by
33 certified energy providers. Customer credits shall be
34 awarded to California retail customers located in the
35 service territory of an investor-owned utility that is
36 subject to Section 381 who purchase qualifying renewable
37 electric power through transactions traceable to specific
38 generation sources by any auditable contract trail or
39 equivalent that provides commercial verification that the
40 electricity source claimed has been sold not more than

1 once to a retail customer. Credits may be given without
2 regard to whether the power supplier is also receiving
3 funds under any other subdivision of this section.

4 (B) Credits awarded pursuant to this paragraph may
5 be paid directly to energy marketers, aggregators, or
6 generators if those persons or entities account for the
7 credits on the recipient customer's utility bills. Credits
8 shall not exceed one and one-half cents (\$.015) per
9 kilowatthour. Credits awarded to members of the
10 combined class of customers, other than residential and
11 small commercial customers, shall not exceed one
12 thousand dollars (\$1,000) per customer in 1998 and 1999.
13 Thereafter, the State Energy Resources Conservation
14 and Development Commission shall determine by
15 January 10 of each year the average customer incentive
16 rebate level paid over the preceding calendar year. In the
17 event that the payments have remained at the one and
18 one-half cents (\$.015) per kilowatthour cap over the
19 preceding calendar year, the one thousand dollars
20 (\$1,000) per customer cap shall be removed for that
21 calendar year, except that in no event shall more than
22 fifteen million dollars (\$15,000,000) of the total customer
23 incentive funds be awarded to members of the combined
24 class of customers other than residential and small
25 commercial customers.

26 (C) Funding for credits pursuant to this paragraph
27 shall be increased for each successive year during the
28 period from January 1, 1998, to January 1, 2002, to
29 encourage the increasing use of those credits.

30 (D) The State Energy Resources Conservation and
31 Development Commission shall develop interim criteria
32 and procedures for the certification of energy providers
33 and for the identification of energy purchasers who are
34 eligible to receive funds pursuant to this paragraph
35 through a process consistent with this paragraph. Such
36 criteria and procedures shall apply only to funding
37 eligibility and shall not extend to other renewable
38 marketing claims.

39 (2) One percent of the money, up to five million four
40 hundred thousand dollars (\$5,400,000), shall be expended

1 to promote renewable energy and to disseminate
2 information on renewable energy technologies,
3 including emerging renewable technologies, and to help
4 develop a consumer market for renewable energy and for
5 small-scale emerging renewable energy technologies.

6 (f) (1) The State Energy Resources Conservation and
7 Development Commission shall adopt guidelines
8 governing the funding programs authorized under this
9 section, at a publicly noticed meeting offering all
10 interested parties an opportunity to comment.
11 Substantive changes to the guidelines shall not be
12 adopted without at least 10 days' written notice to the
13 public. The public notice of meetings required by this
14 paragraph shall not be less than 30 days. Notwithstanding
15 any other provision of law, any guidelines adopted
16 pursuant to this section shall be deemed to satisfy the
17 requirements of Chapter 3.5 (commencing with Section
18 11340) of Division 3 of Title 2 of the Government Code.

19 (2) The State Energy Resources Conservation and
20 Development Commission shall, in collaboration with
21 eligible emerging technology industry stakeholders and
22 consumer interests, complete the emerging technology
23 program design, as outlined in subdivision (d), and
24 implement its provisions.

25 (3) Awards made pursuant to this section are grants,
26 subject to appeal to the State Energy Resources
27 Conservation and Development Commission upon a
28 showing that factors other than those described in the
29 guidelines adopted by the State Energy Resources
30 Conservation and Development Commission were
31 applied in making the awards and payments. Any actions
32 taken by an applicant to apply for, or become or remain
33 eligible and certified to receive, payments or awards,
34 including satisfying conditions specified by the State
35 Energy Resources Conservation and Development
36 Commission, shall not constitute the rendering of goods,
37 services, or a direct benefit to the State Energy Resources
38 Conservation and Development Commission.

39 (g) The State Energy Resources Conservation and
40 Development Commission shall report to the Legislature

on or before May 31, 2000, and on or before May 31 of every second year thereafter, regarding the results of the mechanisms funded pursuant to this section. Reports prepared pursuant to this section shall include a description of the allocation of funds among existing, new and emerging technologies; the allocation of funds among programs, including consumer-side incentives; and the need for the reallocation of money among those technologies. The reports shall also address the allocation of funds from interest on the accounts described in this section, money in the accounts described in subdivision (e) of Section 381, and money included in the accounts pursuant to Section 385. Notwithstanding paragraph (4) of subdivision (b) of Section 383 or subdivisions (b), (c), (d), and (e) of Section 383.5, money may be reallocated without further legislative action among existing, new, and emerging technologies and consumer-side programs in a manner consistent with the report.

SEC. 3. Article 15 (commencing with Section 399) is added to Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code, to read:

Article 15. Reliable Electric Service Investments Act

399. (a) This article shall be known, and may be cited, as the Reliable Electric Service Investments Act.

(b) The Legislature finds and declares that safe, reliable electric service is of utmost importance to the citizens of this state, and its economy.

(c) The Legislature further finds and declares that in order to ensure that the citizens of this state continue to receive safe, reliable, affordable, and environmentally sustainable electric service, it is essential that prudent investments continue to be made in all of the following areas:

(1) To protect the integrity of the electric distribution grid.

(2) To ensure an adequately sized and trained utility workforce.

1 (3) To ensure cost-effective energy efficiency
2 improvements.

3 (4) To achieve a sustainable supply of renewable
4 energy.

5 (5) To advance public interest research, development
6 and demonstration programs not adequately provided by
7 competitive and regulated markets.

8 (d) It is the intent of the Legislature to reaffirm,
9 without requiring revision, California's doctrine, as
10 reflected in regulatory and judicial decisions, regarding
11 electrical corporations' reasonable opportunity to
12 recover costs and investments associated with their
13 electric distribution grid and the reasonable opportunity
14 to attract capital for investment on reasonable terms.

15 (e) The Legislature further finds and declares all of
16 the following:

17 (1) Acting under applicable constitutional and
18 statutory authorities, the Public Utilities Commission and
19 the boards of local publicly owned electric utilities have
20 included in regulated electricity prices, investments that
21 are essential to maintaining system reliability, reducing
22 California electricity users' bills, and mitigating
23 environmental costs of California users' electricity
24 consumption.

25 (2) Among the most important of these "system
26 benefits" investments categories are energy efficiency,
27 renewable energy, and public interest research,
28 development and demonstration (RD&D).

29 (3) Energy efficiency investments funded from
30 California's usage-based charges on electricity
31 distribution help improve systemwide reliability by
32 reducing demand in times and areas of system
33 congestion, and at the same time reduce all California
34 electricity users' costs. These investments also
35 significantly reduce environmental costs associated with
36 California's electricity consumption, including, but not
37 limited to, degradation of the state's air, water, and land
38 resources.

39 (4) California's in-state renewable energy resources
40 help alleviate supply deficits that could threaten electric

1 system reliability, reduce environmental costs associated
2 with California's electricity consumption, and increase
3 the diversity of the electricity system's fuel mix, reducing
4 electricity users' exposure to fossil-fuel price volatility.

5 (5) California's public-interest research, development
6 and demonstration (RD&D) investments enhance
7 private and regulated sector investment in electricity
8 system technologies, and are designed specifically to help
9 ensure sustained improvement in the economic and
10 environmental performance of the distribution,
11 transmission, and generation and end-use systems that
12 serve California electricity users.

13 (6) California has established a long tradition of
14 recovering system benefits investments through
15 usage-based electricity charges, which is reflected in at
16 least two decades of electricity price regulation by the
17 commission, the boards of local publicly owned electric
18 utilities, and the mandate of the Legislature in Chapter
19 854 of the Statutes of 1996 (Assembly Bill 1890 of the
20 1995-96 Regular Session of the Legislature) and Chapter
21 905 of the Statutes of 1997 (Senate Bill 90 of the 1995-96
22 Regular Session of the Legislature).

23 (7) Unless the Legislature acts to extend the mandate
24 of Chapter 854 of the Statutes of 1996 for minimum levels
25 of usage based system benefits charges, California
26 electricity users are at substantial risk of higher economic
27 and environmental costs and degraded reliability.

28 399.1. (a) As used in this article, the term "Energy
29 Commission" means the State Energy Resources
30 Conservation and Development Commission.

31 (b) As used in this article, the term "local publicly
32 owned electric utility" has the same meaning as set forth
33 in subdivision (d) of Section 9604.

34 399.2. (a) (1) It is the policy of this state, and the
35 intent of the Legislature, to reaffirm that each electrical
36 corporation shall continue to operate its electric
37 distribution grid in its service territory and shall do so in
38 a safe, reliable, efficient, and cost-effective manner.

39 (2) In furtherance of this policy, it is the intent of the
40 Legislature that each electrical corporation shall

1 continue to be responsible for operating its own electric
2 distribution grid including, but not limited to, owning,
3 controlling, operating, managing, maintaining, planning,
4 engineering, designing, and constructing its own electric
5 distribution grid, emergency response and restoration,
6 service connections, service turnons and turnoffs, and
7 service inquiries relating to the operation of its electric
8 distribution grid, subject to the commission's authority.

9 (b) In order to ensure the continued efficient use, and
10 cost-effective, safe, and reliable operation of the electric
11 distribution grid, each electrical corporation shall
12 continue to operate its electric distribution grid in its
13 service territory consistent with Section 330.

14 (c) In carrying out the purposes of this section, each
15 electrical corporation shall continue to make reasonable
16 investments in its electric distribution grid. Each
17 electrical corporation shall continue to have a reasonable
18 opportunity to fully recover from all customers of the
19 electrical corporation, in a manner determined by the
20 commission pursuant to this code, all of the following:

21 (1) Reasonable investments in its electric distribution
22 grid.

23 (2) A reasonable return on the investments in its
24 electric distribution grid.

25 (3) Reasonable costs to operate its electric distribution
26 grid.

27 (d) For purposes of this section, the term "electric
28 distribution grid" means those facilities owned or
29 operated by an electrical corporation that are not under
30 the control of the Independent System Operator and that
31 are used to transmit, deliver, or furnish electricity for
32 light, heat, or power.

33 (e) Nothing in this section shall be construed to alter
34 or to affect any of the following:

35 (1) Section 216, 218, or 2827.

36 (2) The authority of the commission to establish and
37 enforce standards and tariff conditions for the
38 interconnection of customer-owned facilities to the
39 electric distribution grid.

(3) The ratemaking authority of the commission under this code.

(4) The authority of the commission to establish rules governing the extension of service to new customers.

(f) Nothing in this section shall be construed to alter or affect any authority or lack of authority of the commission regarding the ownership and operation of new electric generation used in whole, or in part, for the purpose of maintaining or enhancing the reliability of the electric distribution grid.

(g) Nothing in this section shall be construed to preclude any of California's local publicly owned electric utilities from exercising its authority to operate its electric distribution grid as provided under relevant state law.

(h) Nothing in this section diminishes or expands any existing authority of a local governmental entity.

(i) The commission shall require every electrical corporation operating an electric distribution grid to inform all customers who request residential service connections via telephone of the availability of the California Alternative Rates for Energy (CARE) program and how they may qualify for and obtain these services and shall accept applications for the CARE program according to procedures specified by the commission. Electrical corporations shall recover the reasonable costs of implementing this subdivision.

399.4. (a) (1) In order to ensure that prudent investments in energy efficiency continue to be made that produce cost-effective energy savings, reduce customer demand, and contribute to the safe and reliable operation of the electric distribution grid, it is the policy of this state and the intent of the Legislature that the commission shall continue to administer cost-effective energy efficiency programs authorized pursuant to existing statutory authority.

(2) As used in this section, the term "energy efficiency" includes, but is not limited to, cost-effective activities to achieve peak load reduction that improve end-use efficiency, lower customers' bills, and reduce system needs.

1 (b) The commission, in evaluating energy efficiency
2 investments under its existing statutory authorities, shall
3 also ensure both of the following:

4 (1) That local and regional interests, multifamily
5 dwellings, and energy service industry capabilities are
6 incorporated into program portfolio design and that local
7 governments, community-based organizations, and
8 energy efficiency service providers are encouraged to
9 participate in program implementation where
10 appropriate.

11 (2) That no energy efficiency funds are used to
12 provide incentives for the purchase of new
13 energy-efficient refrigerators.

14 399.6. (a) In order to optimize public investment and
15 ensure that the most cost-effective and efficient
16 investments in renewable resources are vigorously
17 pursued, the Energy Commission shall create an
18 investment plan as set forth in paragraphs (1) to (3),
19 inclusive, to govern the allocation of funds provided
20 pursuant to this article. The Energy Commission's
21 long-term goal shall be a fully competitive and
22 self-sustaining California renewable energy supply. The
23 investment plan shall be in accordance with all of the
24 following:

25 (1) The investment plan's objective shall be to
26 increase, in the near term, the quantity of California's
27 electricity generated by in-state renewable energy
28 resources, while protecting system reliability, fostering
29 resource diversity, and obtaining the greatest
30 environmental benefits for California residents.

31 (2) An additional objective of the plan shall be to
32 identify and support emerging renewable energy
33 technologies that have the greatest near-term
34 commercial promise and that merit targeted assistance.

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

38 (A) Increased quantity of California electrical
39 generation produced from emerging technologies and
40 from overall renewable resources.

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

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

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

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

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

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

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

~~(ii) The power purchase contract is amended to~~

(ii) Either of the following:

(I) The power purchase contract is amended to provide that the kilowatt-hour hours used to determine the capacity payment in any time-of-delivery period in any month under the contract shall be equal to the actual

1 kilowatt hour production, but no greater than the
2 five-year average of the kilowatt-hour hours delivered for
3 the corresponding time-of-delivery period and month, in
4 the years 1995 to 1999, inclusive.

5 (II) If a project's installed capacity as of December 31,
6 1998, is less than 75 percent of the nameplate capacity as
7 stated in the power purchase contract, the power
8 purchase contract is amended to provide that the
9 kilowatt hours used to determine the capacity payment
10 in any time-of-delivery period in any month under the
11 contract shall be equal to the actual kilowatt hour
12 production, but no greater than the product of the
13 five-year average of the kilowatt hours delivered for the
14 corresponding time-of-delivery period and month, in the
15 years 1994 to 1998, inclusive, and the ratio of installed
16 capacity as of December 31 of the previous year, but not
17 to exceed contract nameplate capacity, to the installed
18 capacity as of December 31, 1998.

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

23 (2) Rebates, buydowns, or equivalent incentives for
24 emerging renewable technologies.

25 (3) Customer credits for renewables not under
26 contract with a utility.

27 (4) Customer education.

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

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

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

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

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

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

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

(d) Commencing on January 1, 2002, public entities are not eligible to receive customer credits for renewables.

(e) Notwithstanding any other provision of law, moneys collected for renewable energy pursuant to this article shall be transferred to the Renewable Resource Trust Fund of the Energy Commission, to be held until further action by the Legislature. The Energy Commission shall prepare and submit to the Legislature, on or before March 31, 2001, an initial investment plan for these moneys, addressing the application of moneys collected between January 1, 2002, and January 1, 2007. The initial investment plan shall also include an evaluation of and report to the Legislature regarding the appropriateness and structure of a mandatory state purchase of renewable energy. On or before March 31, 2006, the Energy Commission shall prepare an investment plan proposing the application of moneys collected between January 1, 2007, and January 1, 2012.

1 No moneys may be expended in the years covered by
2 these plans without further legislative action.

3 399.7. (a) In order to ensure that prudent
4 investments in research, development and
5 demonstration of energy efficient technologies continue
6 to produce substantial economic, environmental, public
7 health, and reliability benefits, it is the policy of this state
8 and the intent of the Legislature that funds made
9 available, upon appropriation, for energy-related public
10 interest research, development and demonstration
11 programs shall be used to advance science or technology
12 that are not adequately provided by competitive and
13 regulated markets.

14 (b) Notwithstanding any other provision of law,
15 moneys collected for public-interest research,
16 development and demonstration pursuant to this section
17 shall be transferred to the Public Interest Research,
18 Development, and Demonstration Fund of the Energy
19 Commission to be held until further action by the
20 Legislature. The Energy Commission shall prepare and
21 submit to the Legislature, on or before March 1, 2001, an
22 initial investment plan for these moneys, addressing the
23 application of moneys collected between January 1, 2002,
24 and January 1, 2007. The initial investment plan shall
25 address the recommendations of the PIER Independent
26 Review Panel Report, dated March 2000, to either
27 transform the RD&D program within the Energy
28 Commission, or to administer it through, or in
29 cooperation with, an external organization. The initial
30 investment plan shall include criteria that will be used to
31 determine that a project provides public benefits to
32 California that are not adequately provided by
33 competitive and regulated markets. On or before March
34 31, 2006, the Energy Commission shall prepare an
35 investment plan addressing the application of moneys
36 collected between January 1, 2007, and January 1, 2012.
37 No moneys may be expended in the years covered by
38 these plans without further legislative action.

39 399.8. (a) In order to ensure that the citizens of this
40 state continue to receive safe, reliable, affordable, and

1 environmentally sustainable electric service, it is the
2 policy of this state and the intent of the Legislature that
3 prudent investments in energy efficiency, renewable
4 energy, and research, development and demonstration
5 shall continue to be made.

6 (b) (1) Every customer of an electrical corporation,
7 shall pay a nonbypassable systems benefit charge
8 authorized pursuant to this article. The systems benefit
9 charge shall fund energy efficiency, renewable energy,
10 and research, development and demonstration.

11 (2) Local publicly owned electric utilities shall
12 continue to collect and administer system benefits
13 charges pursuant to Section 385.

14 (c) (1) The commission shall require each electrical
15 corporation to identify a separate rate component to
16 collect revenues to fund energy efficiency, renewable
17 energy, and research, development and demonstration
18 programs authorized pursuant to this section beginning
19 January 1, 2002, through January 1, 2012. The rate
20 component shall be a nonbypassable element of the local
21 distribution service and collected on the basis of usage.

22 (2) This rate component may not exceed, for any tariff
23 schedule, the level of the rate component that was used
24 to recover funds authorized pursuant to Section 381 on
25 January 1, 2000. If the amounts specified in paragraph (1)
26 of subdivision (d) are not recovered fully in any year, the
27 commission shall reset the rate component to restore the
28 unrecovered balance, provided that the rate component
29 may not exceed, for any tariff schedule, the level of the
30 rate component that was used to recover funds
31 authorized pursuant to Section 381 on January 1, 2000.
32 Pending restoration, any annual shortfalls shall be
33 allocated pro rata among the three funding categories in
34 the proportions established in paragraph (1) of
35 subdivision (d).

36 (d) The commission shall order San Diego Gas and
37 Electric Company, Southern California Edison
38 Company, and Pacific Gas and Electric Company to
39 collect these funds commencing on January 1, 2002, as
40 follows:

1 (1) Two hundred twenty-eight million dollars
2 (\$228,000,000) per year in total for energy efficiency and
3 conservation activities, one hundred thirty-five million
4 dollars (\$135,000,000) in total per year for renewable
5 energy, and sixty-two million five hundred thousand
6 dollars (\$62,500,000) in total per year for research,
7 development and demonstration. The funds for energy
8 efficiency and conservation activities shall continue to be
9 allocated in proportions established for the year 2000 as
10 set forth in paragraph (1) of subdivision (c) of Section
11 381.

12 (2) The amounts shall be adjusted annually at a rate
13 equal to the lesser of the annual growth in electric
14 commodity sales or inflation, as defined by the gross
15 domestic product deflator.

16 (e) The commission and the Energy Commission shall
17 retain and continue their oversight responsibilities as set
18 forth in Sections 381, 383, 383.5, and 445, and Chapter 7.1
19 (commencing with Section 25620) of the Public
20 Resources Code.

21 (f) (1) On or before January 1, 2004, the Governor
22 shall appoint an independent review panel including, but
23 not limited to, members with expertise on the energy
24 service needs of large and small electricity consumers,
25 system reliability issues, and energy-related public policy.
26 On or before January 1, 2005, the panel shall prepare and
27 submit to the Legislature and the Energy Commission a
28 report evaluating the energy efficiency, renewable
29 energy, and research, development and demonstration
30 programs funded under this section. Reasonable costs
31 associated with the review in each of the three program
32 categories, including technical assistance, may be
33 charged to the relevant program category under
34 procedures to be developed by the commission for
35 energy efficiency and by the Energy Commission for
36 renewable energy and research development and
37 demonstration.

38 (2) The report shall also assess all of the following:

39 (A) Whether ongoing programs are consistent with
40 the statutory goals.

(B) Whether potential synergies among the program categories described in paragraph (1) that could provide enhanced public value have been identified and incorporated in the programs.

(C) If established targets for increased renewable generation are likely to be achieved.

(D) What changes should be made to result in a more efficient use of public resources.

(3) The report shall also compare the Energy Commission's programs with efforts undertaken by other states and assess, as an alternative, the relative costs and benefits of adopting a tradeable minimum renewable energy requirement in California. The evaluation shall include recommendations intended to optimize renewable resource development at the least cost.

(4) For energy efficiency programs, the report shall include an evaluation of all of the following:

(A) The net benefits secured for residential customers, taking into account both public and private costs, including improvements in that customer group's ability to avoid or reduce consumption of relatively costly peak electricity.

(B) Whether the programs provide a balance of benefits to all sectors that contribute to the funding.

(C) The extent to which competition in energy markets including, but not limited to, load participation in ancillary services markets, and improvements in technology affect the continuing need for such programs.

(D) The status and growth of the private, competitive energy services industry that provides energy efficiency services and other energy products to customers.

(E) The commercial availability of any new technologies that reduce electricity demands during high-priced periods.

(F) Customers' willingness and ability to reduce consumption or adopt energy efficiency measures without program support.

(G) The extent to which the programs have delivered cost-effective energy efficiency not adequately provided

1 by markets and as a result have reduced energy demand
2 and consumption.

3 (H) The relative cost-effectiveness of program
4 expenditures compared to other current or potential
5 expenditures to enhance system reliability.

6 (5) The report shall include specific recommendations
7 aimed at assisting the Legislature in determining
8 whether to change or eliminate the collection of the
9 system benefits charge on or after January 1, 2007.

10 (6) The panel may update and revise the report as
11 needed.

12 (g) Promptly after receiving the panel's report, the
13 commission shall convene a proceeding to address
14 implementation of the panel's energy efficiency
15 recommendations.

16 399.9. (a) No part of this article shall be construed to
17 alter or affect the low-income funding provisions set forth
18 in Section 382. Programs provided to low-income
19 electricity customers, including but not limited to,
20 targeted energy efficiency services and the California
21 Alternative Rates for Energy Program shall continue to
22 be funded as set forth in Section 382.

23 (b) Nothing in this article shall be construed to affect
24 the jurisdiction of the commission over electric
25 distribution service.

26 SEC. 4. No reimbursement is required by this act
27 pursuant to Section 6 of Article XIII B of the California
28 Constitution because the only costs that may be incurred
29 by a local agency or school district will be incurred
30 because this act creates a new crime or infraction,
31 eliminates a crime or infraction, or changes the penalty
32 for a crime or infraction, within the meaning of Section
33 17556 of the Government Code, or changes the definition
34 of a crime within the meaning of Section 6 of Article
35 XIII B of the California Constitution.

