

AMENDED IN ASSEMBLY AUGUST 18, 2000

AMENDED IN ASSEMBLY AUGUST 7, 2000

AMENDED IN ASSEMBLY JUNE 26, 2000

AMENDED IN SENATE MAY 28, 1999

AMENDED IN SENATE APRIL 5, 1999

SENATE BILL

No. 1298

Introduced by Senators Bowen and Peace

March 1, 1999

An act to add ~~Section 41514.9~~ *Sections 41514.9 and 41514.10* to the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

SB 1298, as amended, Bowen. Air emissions: distributed generation.

(1) Existing law requires the State Air Resources Board to consider and adopt specified findings before adopting rules or regulations that would affect the operation of existing powerplants. Under existing law, except as specified, any person who violates any statute, rule, regulation, permit, or order of the state board or of an air pollution control strict or an air quality management district relating to air quality, as provided, is guilty of a misdemeanor and is subject to a fine, imprisonment, or both.

This bill would require the state board, *on or before January 1, 2003*, to adopt *a certification program and uniform emission performance standards reflecting standards for electrical*

generation that are exempt from district permitting requirements, and would require that those standards reflect the best available control technology for distributed generation technologies, as defined, for which the state board, in cooperation with the State Energy Resources Conservation and Development Commission, makes a specified determination performance achieved in practice by existing electrical generation technologies. The bill would prohibit a district from authorizing the siting or operation of any electrical generation technology for which state emission standards exist unless that technology complies with the applicable standards.

The bill would require the state board to develop a certification program for verifying that distributed generators meet the applicable emission performance standards established by the state board, and would require the program, at minimum, to apply to distributed generators that are exempt from district permitting requirements. The bill would authorize the state board to establish lower emission standards for a distributed generation technology, if the state board makes specified determinations. The bill would authorize the state board to establish fees, to be assessed on persons seeking certification as a distributed generator, for purposes of administering the bill's provisions, on or before January 3, 2003, to issue guidance to districts on the permitting or certification of electrical generation technologies under their regulatory jurisdiction, as prescribed.

Since a violation of the regulations adopted pursuant to the bill would be a crime, the bill would impose a state-mandated local program.

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

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

SECTION 1. The Legislature finds and declares all of the following:

(a) Distributed generation can contribute to helping California meet the energy requirements of its citizens and businesses.

(b) Certain distributed generation technologies can create significant air emissions.

(c) A clear set of rules and regulations regarding the air quality impacts of distributed generation will facilitate the deployment of distributed generation.

(d) The absence of clear rules and regulations creates uncertainty that may hinder the deployment of distributed generation.

(e) It is in the public interest to encourage the deployment of distributed generation technology in a way that has a positive effect on air quality.

(f) It is the intent of the Legislature to create a streamlined and seamless regulatory program that promotes the development of a clean and robust market for distributed generation technologies deployed in this state, whereby each distributed generation unit is either certified by the State Air Resources Board for use or subject to the permitting authority of a district.

SEC. 2. Section 41514.9 is added to the Health and Safety Code, to read:

~~41514.9. (a) (1) On or before January 1, 2003, the state board shall adopt emission control performance standards reflecting the best available control technology for distributed generation technologies that the state board, in cooperation with the State Energy Resources Conservation and Development Commission, determines will have a significant potential for market penetration in the state.~~

~~(2) The state board may update the emission standards adopted pursuant to paragraph (1) as needed to reflect evolving emission control technologies and may establish emission standards for additional distributed generation technologies as the state board deems appropriate.~~

~~(3) In adopting emission standards pursuant to this subdivision, the state board shall, to the extent practicable, adopt standards for distributed generation technologies at the level determined by the state board to be the best available control technology for permitted central station powerplants in the state. In adopting these standards, the state board shall compare the expected actual emissions per unit of electricity provided to the consumer from each permitted central powerplant to those from each distributed generation technology.~~

~~(4) The state board may establish emission standards lower than the standard required by paragraph (3) for a distributed generation technology if the state board determines all of the following are true:~~

~~(A) An alternative emission standard is the highest standard feasible for that distributed generation technology.~~

~~(B) Compelling reasons exist related to electric system peak load reliability for allowing the distributed generation technology.~~

~~(C) The air quality impacts of increased emissions associated with the distributed generation technology are minor.~~

~~(5) No district shall authorize the siting or operation of any distributed generation technology for which emission performance standards exist unless that distributed generation technology complies with those standards.~~

~~(6) This section does not preclude districts from establishing higher emission standards than those established by the state board pursuant to this section.~~

~~(b) The state board shall develop a certification program for verifying that each distributed generator meets the applicable emission performance standards established by the state board. The program shall, at a minimum, apply to distributed generators that are exempt from district permitting requirements.~~

~~(e) All distributed generation technologies shall be certified by the state board or permitted by a district prior to use or operation in the state.~~

1 41514.9. (a) On or before January 1, 2003, the state
2 board shall adopt a certification program and uniform
3 emission standards for electrical generation technologies
4 that are exempt from district permitting requirements.

5 (b) The emission standards for electrical generation
6 technologies shall reflect the best performance achieved
7 in practice by existing electrical generation technologies
8 for the electrical generation technologies referenced in
9 subdivision (a) and, by the earliest practicable date, shall
10 be made equivalent to the level determined by the state
11 board to be the best available control technology for
12 permitted central station powerplants in California. The
13 emission standards for state certified electrical
14 generation technology shall be expressed in pounds per
15 megawatt hour to reflect the expected actual emissions
16 per unit of electricity and heat provided to the consumer
17 from each permitted central powerplant as compared to
18 each state certified electrical generation technology.

19 (c) Commencing on January 1, 2003, all electrical
20 generation technologies shall be certified by the state
21 board or permitted by a district prior to use or operation
22 in the state. No district shall authorize the siting or
23 operation of any electrical generation technology for
24 which state emission standards exist unless that
25 technology complies with the applicable standards. This
26 section does not preclude a district from establishing
27 more stringent emission standards for electrical
28 generation technologies than those adopted by the state
29 board.

30 (d) The state board may establish a schedule of fees for
31 purposes of this section to be assessed on persons seeking
32 certification as a distributed generator. The fees charged,
33 in the aggregate, shall not exceed the reasonable cost to
34 the state board of administering the certification
35 program and adopting the regulations required by this
36 section.

37 (e) As used in this section, the following definitions
38 shall apply:

39 (1) "Best available control technology" has the same
40 meaning as defined in Section 40405.

1 (2) “Distributed generation” means electric
2 generation located near the place of use.

3 SEC. 3. *Section 41514.10 is added to the Health and*
4 *Safety Code, to read:*

5 *41514.10. On or before January 1, 2003, the state board*
6 *shall issue guidance to districts on the permitting or*
7 *certification of electrical generation technologies under*
8 *the districts regulatory jurisdiction. The guidance shall*
9 *address best available control technology determinations,*
10 *as defined by Section 40405, for electrical generation*
11 *technologies and, by the earliest practicable date, shall*
12 *make those equivalent to the level determined by the*
13 *state board to be the best available control technology for*
14 *permitted central station powerplants in California. The*
15 *guidance shall also address methods for streamlining the*
16 *permitting and approval of electrical generation units,*
17 *including the potential for precertification of one or more*
18 *types of electrical generation technologies.*

19 SEC. 4. No reimbursement is required by this act
20 pursuant to Section 6 of Article XIII B of the California
21 Constitution because the only costs that may be incurred
22 by a local agency or school district will be incurred
23 because this act creates a new crime or infraction,
24 eliminates a crime or infraction, or changes the penalty
25 for a crime or infraction, within the meaning of Section
26 17556 of the Government Code, or changes the definition
27 of a crime within the meaning of Section 6 of Article
28 XIII B of the California Constitution.