

**Introduced by Senators De León and Leno
(Coauthors: Senators Hancock and Monning)**

February 24, 2015

An act to amend Section 43013 of the Health and Safety Code, to amend Sections 25000.5 and 25943 of the Public Resources Code, and to amend Sections 399.11, 399.12, 399.13, 399.15, 399.16, 399.18, 399.21, and 399.30 of, to add Section 454.51 to, and to add Article 17 (commencing with Section 400) to Chapter 2.3 of Part 1 of Division 1 of, the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

SB 350, as introduced, De León. Clean Energy and Pollution Reduction Act of 2015.

(1) Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations, as defined, while local publicly owned electric utilities, as defined, are under the direction of their governing boards.

Existing law establishes the California Renewables Portfolio Standard (RPS) program, which expresses the intent of the Legislature that the amount of electricity generated per year from eligible renewable energy resources be increased to an amount that equals at least 33% of the total electricity sold to retail customers in California per year by December 31, 2020. Existing law requires the PUC, by January 1, 2012, to establish the quantity of electricity products from eligible renewable energy resources to be procured by each retail seller for specified compliance periods, sufficient to ensure that the procurement of electricity products from eligible renewable energy resources achieves 25% of retail sales by December 31, 2016, and 33% of retail sales by December 31, 2020, and that retail sellers procure not less than 33% of retail sales in all

subsequent years. Existing law includes as an eligible renewable energy resources a specified facility engaged in the combustion of municipal solid waste.

Existing law makes the requirements of the RPS program applicable to local publicly owned electric utilities, except that the utility's governing board is responsible for implementation of those requirements, instead of the PUC, and certain enforcement authority with respect to local publicly owned electric utilities is given to the State Energy Resources Conservation and Development Commission (Energy Commission) and State Air Resources Board, instead of the PUC.

This bill would additionally express the intent of the Legislature for the purposes of the RPS program that the amount of electricity generated per year from eligible renewable energy resources be increased to an amount equal to at least 50% by December 31, 2030, and would require the PUC, by January 1, 2017, to establish the quantity of electricity products from eligible renewable energy resources be procured by each retail seller for specified compliance periods sufficient to ensure that the procurement of electricity products from eligible renewable energy resources achieves 50% of retail sales by December 31, 2030. The bill would require the governing boards of local publicly owned electric utilities to ensure that specified quantities of electricity products from eligible renewable energy resources to be procured for specified compliance periods to ensure that the procurement of electricity products from eligible renewable energy resources achieve 50% of retail sales by December 31, 2030. The bill would exclude all facilities engaged in the combustion of municipal solid waste from being eligible renewable energy resources. The bill would require community choice aggregators and electric service providers to prepare and submit renewable energy procurement plans. The bill would revise other aspects of the RPS program, including, among other things, the enforcement provisions and would require penalties collected for noncompliance to be deposited in the Electric Program Investment Charge Fund. The bill would require the PUC to direct electrical corporations to include in their proposed procurement plans a strategy for procuring a diverse portfolio of resources that provide a reliable electricity supply. The bill would require the PUC and the Energy Commission to take certain actions in furtherance of meeting the state's clean energy and pollution reduction objectives.

(2) Under existing law, a violation of the RPS program is a crime.

Because the provisions of this bill would expand the RPS program, a violation of these provisions would impose a state-mandated local program by expanding the definition of a crime.

(3) By placing additional requirements upon local publicly owned electric utilities, this bill would impose a state-mandated local program.

(4) Existing law requires the State Air Resources Board to adopt and implement various standards related to emissions from motor vehicles.

This bill would require those standards to be in furtherance of achieving a reduction in petroleum use in motor vehicles by 50% by January 1, 2030.

(5) Existing law states the policy of the state to exploit all practicable and cost-effective conservation and improvements in the efficiency of energy use and distribution, and to achieve energy security, diversity of supply sources, and competitiveness of transportation energy markets based on the least environmental and economic costs.

This bill would additionally state the policy of the state to exploit those conservation and improvements in furtherance of reducing petroleum use in the transportation sector by 50% by January 1, 2030.

(6) Existing law requires the Energy Commission to establish a regulatory proceeding to develop and implement a comprehensive program to achieve greater energy savings in California's existing residential and nonresidential building stock and to periodically update criteria for the program.

This bill would require the Energy Commission, by January 1, 2017, and at least once every 3 years thereafter, to adopt an update to the program in furtherance of achieving a doubling of energy efficiency in buildings by January 1, 2030.

(7) 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 reasons.

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. This act shall be known and may be cited as the
2 Clean Energy and Pollution Reduction Act of 2015.

1 SEC. 2. (a) The Legislature finds and declares that the
2 Governor has called for a new set of objectives in clean energy,
3 clean air, and pollution reduction for 2030 and beyond. Those
4 objectives consist of the following:

5 (1) To increase from 33 percent to 50 percent, the procurement
6 of our electricity from renewable sources.

7 (2) To reduce today's petroleum use in cars and trucks by up
8 to 50 percent.

9 (3) To double the efficiency of existing buildings.

10 (b) It is the intent of the Legislature in enacting this act to codify
11 the targets described under subdivision (a) to ensure they are
12 permanent, enforceable, and quantifiable.

13 SEC. 3. Section 43013 of the Health and Safety Code is
14 amended to read:

15 43013. (a) The state board shall adopt and implement motor
16 vehicle emission standards, in-use performance standards, and
17 motor vehicle fuel specifications for the control of air contaminants
18 and sources of air pollution which the state board has found to be
19 necessary, cost effective, and technologically feasible, to carry out
20 the purposes of this ~~division~~, *division and in furtherance of*
21 *achieving a reduction in petroleum use in motor vehicles by 50*
22 *percent by January 1, 2030*, unless preempted by federal law.

23 (b) The state board shall, consistent with subdivision (a), adopt
24 standards and regulations for light-duty and heavy-duty motor
25 vehicles, medium-duty motor vehicles, as determined and specified
26 by the state board, portable fuel containers and spouts, and off-road
27 or nonvehicle engine categories, including, but not limited to,
28 off-highway motorcycles, off-highway vehicles, construction
29 equipment, farm equipment, utility engines, locomotives, and, to
30 the extent permitted by federal law, marine vessels.

31 (c) Prior to adopting standards and regulations for farm
32 equipment, the state board shall hold a public hearing and find and
33 determine that the standards and regulations are necessary, cost
34 effective, and technologically feasible. The state board shall also
35 consider the technological effects of emission control standards
36 on the cost, fuel consumption, and performance characteristics of
37 mobile farm equipment.

38 (d) Notwithstanding subdivision (b), the state board shall not
39 adopt any standard or regulation affecting locomotives until the
40 final study required under Section 5 of Chapter 1326 of the Statutes

1 of 1987 has been completed and submitted to the Governor and
2 Legislature.

3 (e) Prior to adopting or amending any standard or regulation
4 relating to motor vehicle fuel specifications pursuant to this section,
5 the state board shall, after consultation with public or private
6 entities that would be significantly impacted as described in
7 paragraph (2) of subdivision (f), do both of the following:

8 (1) Determine the cost-effectiveness of the adoption or
9 amendment of the standard or regulation. The cost-effectiveness
10 shall be compared on an incremental basis with other mobile source
11 control methods and options.

12 (2) Based on a preponderance of scientific and engineering data
13 in the record, determine the technological feasibility of the adoption
14 or amendment of the standard or regulation. That determination
15 shall include, but is not limited to, the availability, effectiveness,
16 reliability, and safety expected of the proposed technology in an
17 application that is representative of the proposed use.

18 (f) Prior to adopting or amending any motor vehicle fuel
19 specification pursuant to this section, the state board shall do both
20 of the following:

21 (1) To the extent feasible, quantitatively document the
22 significant impacts of the proposed standard or specification on
23 affected segments of the state's economy. The economic analysis
24 shall include, but is not limited to, the significant impacts of any
25 change on motor vehicle fuel efficiency, the existing motor vehicle
26 fuel distribution system, the competitive position of the affected
27 segment relative to border states, and the cost to consumers.

28 (2) Consult with public or private entities that would be
29 significantly impacted to identify those investigative or preventive
30 actions that may be necessary to ensure consumer acceptance,
31 product availability, acceptable performance, and equipment
32 reliability. The significantly impacted parties shall include, but are
33 not limited to, fuel manufacturers, fuel distributors, independent
34 marketers, vehicle manufacturers, and fuel users.

35 (g) To the extent that there is any conflict between the
36 information required to be prepared by the state board pursuant to
37 subdivision (f) and information required to be prepared by the state
38 board pursuant to Chapter 3.5 (commencing with Section 11340)
39 of Part 1 of Division 3 of Title 2 of the Government Code, the
40 requirements established under subdivision (f) shall prevail.

1 (h) It is the intent of the Legislature that the state board act as
2 expeditiously as is feasible to reduce nitrogen oxide emissions
3 from diesel vehicles, marine vessels, and other categories of
4 vehicular and mobile sources which significantly contribute to air
5 pollution problems.

6 SEC. 4. Section 25000.5 of the Public Resources Code is
7 amended to read:

8 25000.5. (a) The Legislature finds and declares that
9 overdependence on the production, marketing, and consumption
10 of petroleum based fuels as an energy resource in the transportation
11 sector is a threat to the energy security of the state due to
12 continuing market and supply uncertainties. In addition, petroleum
13 use as an energy resource contributes substantially to the following
14 public health and environmental problems: air pollution, acid rain,
15 global warming, and the degradation of California's marine
16 environment and fisheries.

17 (b) Therefore, it is the policy of this state to fully evaluate the
18 economic and environmental costs of petroleum use, and the
19 economic and environmental costs of other transportation ~~fuels~~;
20 *fuels and options*, including the costs and values of environmental
21 impacts, and to establish a state transportation energy policy that
22 results in the least environmental and economic cost to the state.
23 In pursuing the "least environmental and economic cost" strategy,
24 it is the policy of the state to exploit all practicable and
25 cost-effective conservation and improvements in the efficiency of
26 energy use and distribution, and to achieve energy security,
27 diversity of supply sources, and competitiveness of transportation
28 energy markets based on the least environmental and economic
29 ~~cost~~. *cost, and in furtherance of reducing petroleum use in the*
30 *transportation sector by 50 percent by January 1, 2030.*

31 (c) It is also the policy of this state to minimize the economic
32 and environmental costs due to the use of petroleum-based and
33 other transportation fuels by state agencies. In implementing a
34 least-cost economic and environmental strategy for state fleets, it
35 is the policy of the state to implement practicable and cost-effective
36 measures, including, but not necessarily limited to, the purchase
37 of the cleanest and most efficient automobiles and replacement
38 tires, the use of alternative fuels in its fleets, and other conservation
39 measures.

1 (d) For the purposes of this section, “petroleum based fuels”
2 means fuels derived from liquid unrefined crude oil, including
3 natural gas liquids, liquefied petroleum gas, or the energy fraction
4 of methyl tertiary-butyl ether (MTBE) or other ethers that is not
5 attributed to natural gas.

6 SEC. 5. Section 25943 of the Public Resources Code is
7 amended to read:

8 25943. (a) (1) By March 1, 2010, the commission shall
9 establish a regulatory proceeding to develop and implement a
10 comprehensive program to achieve greater energy savings in
11 California’s existing residential and nonresidential building stock.
12 This program shall comprise a complementary portfolio of
13 techniques, applications, and practices that will achieve greater
14 energy efficiency in existing residential and nonresidential
15 structures that fall significantly below the current standards in Title
16 24 of the California Code of Regulations, as determined by the
17 commission.

18 (2) The comprehensive program may include, but need not be
19 limited to, a broad range of energy assessments, building
20 benchmarking, energy rating, cost-effective energy efficiency
21 improvements, public and private sector energy efficiency
22 financing options, public outreach and education efforts, and green
23 workforce training.

24 (b) To develop and implement the program specified in
25 subdivision (a), the commission shall do both of the following:

26 (1) Coordinate with the Public Utilities Commission and consult
27 with representatives from the Bureau of Real Estate, the
28 Department of Housing and Community Development,
29 investor-owned and publicly owned utilities, local governments,
30 real estate licensees, commercial and homebuilders, commercial
31 property owners, small businesses, mortgage lenders, financial
32 institutions, home appraisers, inspectors, energy rating
33 organizations, consumer groups, environmental and environmental
34 justice groups, and other entities the commission deems
35 appropriate.

36 (2) Hold at least three public hearings in geographically diverse
37 locations throughout the state.

38 (c) In developing the requirements for the program specified in
39 subdivision (a), the commission shall consider all of the following:

1 (1) The amount of annual and peak energy savings, greenhouse
2 gas emission reductions, and projected customer utility bill savings
3 that will accrue from the program.

4 (2) The most cost-effective means and reasonable timeframes
5 to achieve the goals of the program.

6 (3) The various climatic zones within the state.

7 (4) An appropriate method to inform and educate the public
8 about the need for, benefits of, and environmental impacts of, the
9 comprehensive energy efficiency program.

10 (5) The most effective way to report the energy assessment
11 results and the corresponding energy efficiency improvements to
12 the owner of the residential or nonresidential building, including,
13 among other things, the following:

14 (A) Prioritizing the identified energy efficiency improvements.

15 (B) The payback period or cost-effectiveness of each
16 improvement identified.

17 (C) The various incentives, loans, grants, and rebates offered
18 to finance the improvements.

19 (D) Available financing options including all of the following:

20 (i) Mortgages or sales agreement components.

21 (ii) On-bill financing.

22 (iii) Contractual property tax assessments.

23 (iv) Home warranties.

24 (6) Existing statutory and regulatory requirements to achieve
25 energy efficiency savings and greenhouse gas emission reductions.

26 (7) A broad range of implementation approaches, including both
27 utility and nonutility administration of energy efficiency programs.

28 (8) Any other considerations deemed appropriate by the
29 commission.

30 (d) The program developed pursuant to this section shall do all
31 of the following:

32 (1) Minimize the overall costs of establishing and implementing
33 the comprehensive energy efficiency program requirements.

34 (2) Ensure, for residential buildings, that the energy efficiency
35 assessments, ratings, or improvements do not unreasonably or
36 unnecessarily affect the home purchasing process or the ability of
37 individuals to rent housing. A transfer of property subject to the
38 program implemented pursuant to this section shall not be
39 invalidated solely because of the failure of a person to comply
40 with a provision of the program.

1 (3) Ensure, for nonresidential buildings, that the energy
2 improvements do not have an undue economic impact on California
3 businesses.

4 (4) Determine, for residential buildings, the appropriateness of
5 the Home Energy Rating System (HERS) program to support the
6 goals of this section and whether there are a sufficient number of
7 HERS-certified raters available to meet the program requirements.

8 (5) Determine, for nonresidential structures, the availability of
9 an appropriate cost-effective energy efficiency assessment system
10 and whether there are a sufficient number of certified raters or
11 auditors available to meet the program requirements.

12 (6) Coordinate with the California Workforce Investment Board,
13 the Employment Training Panel, the California Community
14 Colleges, and other entities to ensure a qualified, well-trained
15 workforce is available to implement the program requirements.

16 (7) Coordinate with, and avoid duplication of, existing
17 proceedings of the Public Utilities Commission and programs
18 administered by utilities.

19 (e) A home energy rating or energy assessment service does not
20 meet the requirements of this section unless the service has been
21 certified by the commission to be in compliance with the program
22 criteria developed pursuant to this section and is in conformity
23 with other applicable elements of the program.

24 (f) (1) The commission shall periodically update the criteria
25 and adopt any revision that, in its judgment, is necessary to improve
26 or refine program requirements after receiving public input.

27 (2) *On or before January 1, 2017, and at least once every three*
28 *years thereafter, the commission shall adopt an update to the*
29 *program in furtherance of achieving a doubling of the energy*
30 *efficiency of buildings by January 1, 2030.*

31 (g) Before implementing an element of the program developed
32 pursuant to subdivision (a) that requires the expansion of statutory
33 authority of the commission or the Public Utilities Commission,
34 the commission and the Public Utilities Commission shall obtain
35 legislative approval for the expansion of their authorities.

36 (h) The commission shall report on the status of the program in
37 the integrated energy policy report pursuant to Section 25302.

38 (i) The commission shall fund activities undertaken pursuant
39 to this section from the Federal Trust Fund consistent with the
40 federal American Recovery and Reinvestment Act of 2009 (Public

1 Law 111-5) or other sources of nonstate funds available to the
2 commission for the purposes of this section.

3 (j) For purposes of this section, “energy assessment” means a
4 determination of an energy user’s energy consumption level,
5 relative efficiency compared to other users, and opportunities to
6 achieve greater efficiency or improve energy resource utilization.

7 SEC. 6. Section 399.11 of the Public Utilities Code is amended
8 to read:

9 399.11. The Legislature finds and declares all of the following:

10 (a) In order to attain a target of generating 20 percent of total
11 retail sales of electricity in California from eligible renewable
12 energy resources by December 31, 2013,~~and~~ 33 percent by
13 December 31, 2020, *and 50 percent by December 31, 2030*, it is
14 the intent of the Legislature that the commission and the Energy
15 Commission implement the California Renewables Portfolio
16 Standard Program described in this article.

17 (b) Achieving the renewables portfolio standard through the
18 procurement of various electricity products from eligible renewable
19 energy resources is intended to provide unique benefits to
20 California, including all of the following, each of which
21 independently justifies the program:

22 (1) Displacing fossil fuel consumption within the state.

23 (2) Adding new electrical generating facilities in the
24 transmission network within the Western Electricity Coordinating
25 Council service area.

26 (3) Reducing air pollution in the state.

27 (4) Meeting the state’s climate change goals by reducing
28 emissions of greenhouse gases associated with electrical generation.

29 (5) Promoting stable retail rates for electric service.

30 (6) Meeting the state’s need for a diversified and balanced
31 energy generation portfolio.

32 (7) Assistance with meeting the state’s resource adequacy
33 requirements.

34 (8) Contributing to the safe and reliable operation of the
35 electrical grid, including providing predictable electrical supply,
36 voltage support, lower line losses, and congestion relief.

37 (9) Implementing the state’s transmission and land use planning
38 activities related to development of eligible renewable energy
39 resources.

1 (c) The California Renewables Portfolio Standard Program is
2 intended to complement the Renewable Energy Resources Program
3 administered by the Energy Commission and established pursuant
4 to Chapter 8.6 (commencing with Section 25740) of Division 15
5 of the Public Resources Code.

6 (d) New and modified electric transmission facilities may be
7 necessary to facilitate the state achieving its renewables portfolio
8 standard targets.

9 (e) (1) Supplying electricity to California end-use customers
10 that is generated by eligible renewable energy resources is
11 necessary to improve California's air quality and public health,
12 and the commission shall ensure rates are just and reasonable, and
13 are not significantly affected by the procurement requirements of
14 this article. This electricity may be generated anywhere in the
15 interconnected grid that includes many states, and areas of both
16 Canada and Mexico.

17 (2) This article requires generating resources located outside of
18 California that are able to supply that electricity to California
19 end-use customers to be treated identically to generating resources
20 located within the state, without discrimination.

21 (3) California electrical corporations have already executed,
22 and the commission has approved, power purchase agreements
23 with eligible renewable energy resources located outside of
24 California that will supply electricity to California end-use
25 customers. These resources will fully count toward meeting the
26 renewables portfolio standard procurement requirements. ~~In~~
27 ~~addition, there are nearly 7,000 megawatts of additional proposed~~
28 ~~renewable energy resources located outside of California that are~~
29 ~~awaiting interconnection approval from the Independent System~~
30 ~~Operator. All of these resources, if procured, will count as eligible~~
31 ~~renewable energy resources that satisfy the portfolio content~~
32 ~~requirements of paragraph (1) of subdivision (c) of Section 399.16.~~

33 SEC. 7. Section 399.12 of the Public Utilities Code is amended
34 to read:

35 399.12. For purposes of this article, the following terms have
36 the following meanings:

37 (a) "Conduit hydroelectric facility" means a facility for the
38 generation of electricity that uses only the hydroelectric potential
39 of an existing pipe, ditch, flume, siphon, tunnel, canal, or other

1 manmade conduit that is operated to distribute water for a
2 beneficial use.

3 (b) “Balancing authority” means the responsible entity that
4 integrates resource plans ahead of time, maintains load-interchange
5 generation balance within a balancing authority area, and supports
6 interconnection frequency in real time.

7 (c) “Balancing authority area” means the collection of
8 generation, transmission, and loads within the metered boundaries
9 of the area within which the balancing authority maintains the
10 electrical load-resource balance.

11 (d) “California balancing authority” is a balancing authority
12 with control over a balancing authority area primarily located in
13 this state and operating for retail sellers and local publicly owned
14 electric utilities subject to the requirements of this article and
15 includes the Independent System Operator (ISO) and a local
16 publicly owned electric utility operating a transmission grid that
17 is not under the operational control of the ISO. A California
18 balancing authority is responsible for the operation of the
19 transmission grid within its metered boundaries which may not be
20 limited by the political boundaries of the State of California.

21 (e) “Eligible renewable energy resource” means an electrical
22 generating facility that meets the definition of a “renewable
23 electrical generation facility” in Section 25741 of the Public
24 Resources Code, subject to the following:

25 (1) (A) An existing small hydroelectric generation facility of
26 30 megawatts or less shall be eligible only if a retail seller or local
27 publicly owned electric utility procured the electricity from the
28 facility as of December 31, 2005. A new hydroelectric facility that
29 commences generation of electricity after December 31, 2005, is
30 not an eligible renewable energy resource if it will cause an adverse
31 impact on instream beneficial uses or cause a change in the volume
32 or timing of streamflow.

33 (B) Notwithstanding subparagraph (A), a conduit hydroelectric
34 facility of 30 megawatts or less that commenced operation before
35 January 1, 2006, is an eligible renewable energy resource. A
36 conduit hydroelectric facility of 30 megawatts or less that
37 commences operation after December 31, 2005, is an eligible
38 renewable energy resource so long as it does not cause an adverse
39 impact on instream beneficial uses or cause a change in the volume
40 or timing of streamflow.

(C) A facility approved by the governing board of a local publicly owned electric utility prior to June 1, 2010, for procurement to satisfy renewable energy procurement obligations adopted pursuant to former Section 387, shall be certified as an eligible renewable energy resource by the Energy Commission pursuant to this article, if the facility is a “renewable electrical generation facility” as defined in Section 25741 of the Public Resources Code.

(D) (i) A small hydroelectric generation unit with a nameplate capacity not exceeding 40 megawatts that is operated as part of a water supply or conveyance system is an eligible renewable energy resource only for the retail seller or local publicly owned electric utility that procured the electricity from the unit as of December 31, 2005. No unit shall be eligible pursuant to this subparagraph if an application for certification is submitted to the Energy Commission after January 1, 2013. Only one retail seller or local publicly owned electric utility shall be deemed to have procured electricity from a given unit as of December 31, 2005.

(ii) Notwithstanding clause (i), a local publicly owned electric utility that meets the criteria of subdivision (j) of Section 399.30 may sell to another local publicly owned electric utility electricity from small hydroelectric generation units that qualify as eligible renewable energy resources under clause (i), and that electricity may be used by the local publicly owned electric utility that purchased the electricity to meet its renewables portfolio standard procurement requirements. The total of all those sales from the utility shall be no greater than 100,000 megawatthours of electricity.

(iii) The amendments made to this subdivision by the act adding this subparagraph are intended to clarify existing law and apply from December 10, 2011.

(2) (A) A facility engaged in the combustion of municipal solid waste shall not be considered an eligible renewable energy resource unless it is located in Stanislaus County and was operational prior to September 26, 1996. resource.

(B) Subparagraph (A) does not apply to contracts entered into before January 1, 2016, for the procurement of renewable energy resources from a facility located in Stanislaus County that was operational prior to September 26, 1996.

(f) “Procure” means to acquire through ownership or contract.

1 (g) “Procurement entity” means any person or corporation
2 authorized by the commission to enter into contracts to procure
3 eligible renewable energy resources on behalf of customers of a
4 retail seller pursuant to subdivision (f) of Section 399.13.

5 (h) (1) “Renewable energy credit” means a certificate of proof
6 associated with the generation of electricity from an eligible
7 renewable energy resource, issued through the accounting system
8 established by the Energy Commission pursuant to Section 399.25,
9 that one unit of electricity was generated and delivered by an
10 eligible renewable energy resource.

11 (2) “Renewable energy credit” includes all renewable and
12 environmental attributes associated with the production of
13 electricity from the eligible renewable energy resource, except for
14 an emissions reduction credit issued pursuant to Section 40709 of
15 the Health and Safety Code and any credits or payments associated
16 with the reduction of solid waste and treatment benefits created
17 by the utilization of biomass or biogas fuels.

18 (3) (A) Electricity generated by an eligible renewable energy
19 resource attributable to the use of nonrenewable fuels, beyond a
20 de minimis quantity used to generate electricity in the same process
21 through which the facility converts renewable fuel to electricity,
22 shall not result in the creation of a renewable energy credit. The
23 Energy Commission shall set the de minimis quantity of
24 nonrenewable fuels for each renewable energy technology at a
25 level of no more than 2 percent of the total quantity of fuel used
26 by the technology to generate electricity. The Energy Commission
27 may adjust the de minimis quantity for an individual facility, up
28 to a maximum of 5 percent, if it finds that all of the following
29 conditions are met:

30 (i) The facility demonstrates that the higher quantity of
31 nonrenewable fuel will lead to an increase in generation from the
32 eligible renewable energy facility that is significantly greater than
33 generation from the nonrenewable fuel alone.

34 (ii) The facility demonstrates that the higher quantity of
35 nonrenewable fuels will reduce the variability of its electrical
36 output in a manner that results in net environmental benefits to the
37 state.

38 (iii) The higher quantity of nonrenewable fuel is limited to either
39 natural gas or hydrogen derived by reformation of a fossil fuel.

(B) Electricity generated by a small hydroelectric generation facility shall not result in the creation of a renewable energy credit unless the facility meets the requirements of subparagraph (A) or (D) of paragraph (1) of subdivision (e).

(C) Electricity generated by a conduit hydroelectric generation facility shall not result in the creation of a renewable energy credit unless the facility meets the requirements of subparagraph (B) of paragraph (1) of subdivision (e).

(D) Electricity generated by a facility engaged in the combustion of municipal solid waste shall not result in the creation of a renewable energy credit unless the facility meets the requirements of paragraph (2) of subdivision (e). *credit. This subparagraph does not apply to renewable energy credits that were generated before January 1, 2016, by a facility engaged in the combustion of municipal solid waste located in Stanislaus County that was operational prior to September 26, 1996, and sold pursuant to contacts entered into before January 1, 2016.*

(i) “Renewables portfolio standard” means the specified percentage of electricity generated by eligible renewable energy resources that a retail seller or a local publicly owned electric utility is required to procure pursuant to this article.

(j) “Retail seller” means an entity engaged in the retail sale of electricity to end-use customers located within the state, including any of the following:

(1) An electrical corporation, as defined in Section 218.

(2) A community choice aggregator. ~~The commission shall institute a rulemaking to determine the manner in which a A~~ community choice aggregator ~~will~~ *shall* participate in the renewables portfolio standard program subject to the same terms and conditions applicable to an electrical corporation.

(3) An electric service provider, as defined in Section ~~218.3;~~ ~~for all sales of electricity to customers beginning January 1, 2006.~~ ~~The commission shall institute a rulemaking to determine the manner in which electric service providers will participate in the renewables portfolio standard program.~~ *218.3.* The electric service provider shall be subject to the same terms and conditions applicable to an electrical corporation pursuant to this article. This paragraph does not impair a contract entered into between an electric service provider and a retail customer prior to the

1 suspension of direct access by the commission pursuant to Section
2 80110 of the Water Code.

3 (4) “Retail seller” does not include any of the following:

4 (A) A corporation or person employing cogeneration technology
5 or producing electricity consistent with subdivision (b) of Section
6 218.

7 (B) The Department of Water Resources acting in its capacity
8 pursuant to Division 27 (commencing with Section 80000) of the
9 Water Code.

10 (C) A local publicly owned electric utility.

11 (k) “WECC” means the Western Electricity Coordinating
12 Council of the North American Electric Reliability Corporation,
13 or a successor to the corporation.

14 SEC. 8. Section 399.13 of the Public Utilities Code is amended
15 to read:

16 399.13. (a) (1) The commission shall direct each electrical
17 corporation to annually prepare a renewable energy procurement
18 plan that includes the matter in paragraph (5), to satisfy its
19 obligations under the renewables portfolio standard. To the extent
20 feasible, this procurement plan shall be proposed, reviewed, and
21 adopted by the commission as part of, and pursuant to, a general
22 procurement plan process. The commission shall require each
23 electrical corporation to review and update its renewable energy
24 procurement plan as it determines to be necessary. *The commission*
25 *shall require all other retail sellers to prepare and submit*
26 *renewable energy procurement plans that address the requirements*
27 *identified in paragraph (5).*

28 (2) Every electrical corporation that owns electrical transmission
29 facilities shall annually prepare, as part of the Federal Energy
30 Regulatory Commission Order 890 process, and submit to the
31 commission, a report identifying any electrical transmission
32 facility, upgrade, or enhancement that is reasonably necessary to
33 achieve the renewables portfolio standard procurement
34 requirements of this article. Each report shall look forward at least
35 five years and, to ensure that adequate investments are made in a
36 timely manner, shall include a preliminary schedule when an
37 application for a certificate of public convenience and necessity
38 will be made, pursuant to Chapter 5 (commencing with Section
39 1001), for any electrical transmission facility identified as being
40 reasonably necessary to achieve the renewable energy resources

1 procurement requirements of this article. Each electrical
2 corporation that owns electrical transmission facilities shall ensure
3 that project-specific interconnection studies are completed in a
4 timely manner.

5 (3) The commission shall direct each retail seller to prepare and
6 submit an annual compliance report that includes all of the
7 following:

8 (A) The current status and progress made during the prior year
9 toward procurement of eligible renewable energy resources as a
10 percentage of retail sales, including, if applicable, the status of any
11 necessary siting and permitting approvals from federal, state, and
12 local agencies for those eligible renewable energy resources
13 procured by the retail seller, and the current status of compliance
14 with the portfolio content requirements of subdivision (c) of
15 Section 399.16, including procurement of eligible renewable energy
16 resources located outside the state and within the WECC and
17 unbundled renewable energy credits.

18 (B) If the retail seller is an electrical corporation, the current
19 status and progress made during the prior year toward construction
20 of, and upgrades to, transmission and distribution facilities and
21 other electrical system components it owns to interconnect eligible
22 renewable energy resources and to supply the electricity generated
23 by those resources to load, including the status of planning, siting,
24 and permitting transmission facilities by federal, state, and local
25 agencies.

26 (C) Recommendations to remove impediments to making
27 progress toward achieving the renewable energy resources
28 procurement requirements established pursuant to this article.

29 (4) The commission shall adopt, by rulemaking, all of the
30 following:

31 (A) A process that provides criteria for the rank ordering and
32 selection of least-cost and best-fit eligible renewable energy
33 resources to comply with the California Renewables Portfolio
34 Standard Program obligations on a total cost basis. This process
35 shall take into account all of the following:

36 (i) Estimates of indirect costs associated with needed
37 transmission investments.

38 (ii) The cost impact of procuring the eligible renewable energy
39 resources on the electrical corporation's electricity portfolio.

1 (iii) The viability of the project to construct and reliably operate
2 the eligible renewable energy resource, including the developer's
3 experience, the feasibility of the technology used to generate
4 electricity, and the risk that the facility will not be built, or that
5 construction will be delayed, with the result that electricity will
6 not be supplied as required by the contract.

7 (iv) Workforce recruitment, training, and retention efforts,
8 including the employment growth associated with the construction
9 and operation of eligible renewable energy resources and goals
10 for recruitment and training of women, minorities, and disabled
11 veterans.

12 (v) (I) Estimates of electrical corporation expenses resulting
13 from integrating and operating eligible renewable energy resources,
14 including, but not limited to, any additional wholesale energy and
15 capacity costs associated with integrating each eligible renewable
16 resource.

17 (II) No later than December 31, 2015, the commission shall
18 approve a methodology for determining the integration costs
19 described in subclause (I).

20 (B) Rules permitting retail sellers to accumulate, beginning
21 January 1, 2011, excess procurement in one compliance period to
22 be applied to any subsequent compliance period. The rules shall
23 apply equally to all retail sellers. In determining the quantity of
24 excess procurement for the applicable compliance period, the
25 commission shall deduct from actual procurement quantities the
26 total amount of procurement associated with contracts of less than
27 10 years in ~~duration. In no event shall~~ *duration and* electricity
28 products meeting the portfolio content of paragraph (3) of
29 subdivision (b) of Section ~~399.16 be counted as excess~~
30 ~~procurement.~~ 399.16.

31 (C) Standard terms and conditions to be used by all electrical
32 corporations in contracting for eligible renewable energy resources,
33 including performance requirements for renewable generators. A
34 contract for the purchase of electricity generated by an eligible
35 renewable energy resource, at a minimum, shall include the
36 renewable energy credits associated with all electricity generation
37 specified under the contract. The standard terms and conditions
38 shall include the requirement that, no later than six months after
39 the commission's approval of an electricity purchase agreement
40 entered into pursuant to this article, the following information

1 about the agreement shall be disclosed by the commission: party
2 names, resource type, project location, and project capacity.

3 (D) An appropriate minimum margin of procurement above the
4 minimum procurement level necessary to comply with the
5 renewables portfolio standard to mitigate the risk that renewable
6 projects planned or under contract are delayed or canceled. This
7 paragraph does not preclude an electrical corporation from
8 voluntarily proposing a margin of procurement above the
9 appropriate minimum margin established by the commission.

10 (5) Consistent with the goal of increasing California's reliance
11 on eligible renewable energy resources, the renewable energy
12 procurement plan ~~submitted by an electrical corporation~~ shall
13 include all of the following:

14 (A) An assessment of annual or multiyear portfolio supplies
15 and demand to determine the optimal mix of eligible renewable
16 energy resources with deliverability characteristics that may include
17 peaking, dispatchable, baseload, firm, and as-available capacity.

18 (B) Potential compliance delays related to the conditions
19 described in paragraph (5) of subdivision (b) of Section 399.15.

20 (C) A bid solicitation setting forth the need for eligible
21 renewable energy resources of each deliverability characteristic,
22 required online dates, and locational preferences, if any.

23 (D) A status update on the development schedule of all eligible
24 renewable energy resources currently under contract.

25 (E) Consideration of mechanisms for price adjustments
26 associated with the costs of key components for eligible renewable
27 energy resource projects with online dates more than 24 months
28 after the date of contract execution.

29 (F) An assessment of the risk that an eligible renewable energy
30 resource will not be built, or that construction will be delayed,
31 with the result that electricity will not be delivered as required by
32 the contract.

33 (6) In soliciting and procuring eligible renewable energy
34 resources, each electrical corporation shall offer contracts of no
35 less than 10 years duration, unless the commission approves of a
36 contract of shorter duration.

37 (7) In soliciting and procuring eligible renewable energy
38 resources for California-based projects, each electrical corporation
39 shall give preference to renewable energy projects that provide
40 environmental and economic benefits to communities afflicted

1 with poverty or high unemployment, or that suffer from high
2 emission levels of toxic air contaminants, criteria air pollutants,
3 and greenhouse gases.

4 (b) A retail seller may enter into a combination of long- and
5 short-term contracts for electricity and associated renewable energy
6 credits. The commission may authorize a retail seller to enter into
7 a contract of less than 10 years' duration with an eligible renewable
8 energy resource, if the commission has established, for each retail
9 seller, minimum quantities of eligible renewable energy resources
10 to be procured through contracts of at least 10 years' duration.

11 (c) The commission shall review and accept, modify, or reject
12 each electrical corporation's renewable energy resource
13 procurement plan prior to the commencement of renewable energy
14 procurement pursuant to this article by an electrical corporation.

15 (d) Unless previously preapproved by the commission, an
16 electrical corporation shall submit a contract for the generation of
17 an eligible renewable energy resource to the commission for review
18 and approval consistent with an approved renewable energy
19 resource procurement plan. If the commission determines that the
20 bid prices are elevated due to a lack of effective competition among
21 the bidders, the commission shall direct the electrical corporation
22 to renegotiate the contracts or conduct a new solicitation.

23 (e) If an electrical corporation fails to comply with a commission
24 order adopting a renewable energy resource procurement plan, the
25 commission shall exercise its authority pursuant to Section 2113
26 to require compliance. ~~The commission shall enforce comparable~~
27 ~~penalties on any retail seller that is not an electrical corporation~~
28 ~~that fails to meet the procurement targets established pursuant to~~
29 ~~Section 399.15.~~

30 (f) (1) The commission may authorize a procurement entity to
31 enter into contracts on behalf of customers of a retail seller for
32 electricity products from eligible renewable energy resources to
33 satisfy the retail seller's renewables portfolio standard procurement
34 requirements. The commission shall not require any person or
35 corporation to act as a procurement entity or require any party to
36 purchase eligible renewable energy resources from a procurement
37 entity.

38 (2) Subject to review and approval by the commission, the
39 procurement entity shall be permitted to recover reasonable
40 administrative and procurement costs through the retail rates of

end-use customers that are served by the procurement entity and are directly benefiting from the procurement of eligible renewable energy resources.

(g) Procurement and administrative costs associated with contracts entered into by an electrical corporation for eligible renewable energy resources pursuant to this article and approved by the commission are reasonable and prudent and shall be recoverable in rates.

(h) Construction, alteration, demolition, installation, and repair work on an eligible renewable energy resource that receives production incentives pursuant to Section 25742 of the Public Resources Code, including work performed to qualify, receive, or maintain production incentives, are “public works” for the purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

SEC. 9. Section 399.15 of the Public Utilities Code is amended to read:

399.15. (a) In order to fulfill unmet long-term resource needs, the commission shall establish a renewables portfolio standard requiring all retail sellers to procure a minimum quantity of electricity products from eligible renewable energy resources as a specified percentage of total kilowatthours sold to their retail end-use customers each compliance period to achieve the targets established under this article. For any retail seller procuring at least 14 percent of retail sales from eligible renewable energy resources in 2010, the deficits associated with any previous renewables portfolio standard shall not be added to any procurement requirement pursuant to this article.

(b) The commission shall implement renewables portfolio standard procurement requirements only as follows:

(1) Each retail seller shall procure a minimum quantity of eligible renewable energy resources for each of the following compliance periods:

(A) January 1, 2011, to December 31, 2013, inclusive.

(B) January 1, 2014, to December 31, 2016, inclusive.

(C) January 1, 2017, to December 31, 2020, inclusive.

(D) *January 1, 2021, to December 31, 2024, inclusive.*

(E) *January 1, 2025, to December 31, 2027, inclusive.*

(D) *January 1, 2028, to December 31, 2030, inclusive.*

1 (2) (A) No later than January 1, ~~2012~~, 2017, the commission
2 shall establish the quantity of electricity products from eligible
3 renewable energy resources to be procured by the retail seller for
4 each compliance period. These quantities shall be established in
5 the same manner for all retail sellers and result in the same
6 percentages used to establish compliance period quantities for all
7 retail sellers.

8 (B) In establishing quantities for the compliance period from
9 January 1, 2011, to December 31, 2013, inclusive, the commission
10 shall require procurement for each retail seller equal to an average
11 of 20 percent of retail sales. For the following compliance periods,
12 the quantities shall reflect reasonable progress in each of the
13 intervening years sufficient to ensure that the procurement of
14 electricity products from eligible renewable energy resources
15 achieves 25 percent of retail sales by December 31, 2016, ~~and 33~~
16 ~~percent of retail sales by December 31, 2020: 2020, 40 percent by~~
17 *December 31, 2024, 45 percent by December 31, 2027, and 50*
18 *percent by December 31, 2030.* The commission shall *establish*
19 *appropriate multiyear compliance periods for all subsequent years*
20 *that require retail sellers to procure not less than 33 50 percent of*
21 *retail sales of electricity products from eligible renewable energy*
22 ~~resources in all subsequent years: resources.~~

23 (C) Retail sellers shall be obligated to procure no less than the
24 quantities associated with all intervening years by the end of each
25 compliance period. Retail sellers shall not be required to
26 demonstrate a specific quantity of procurement for any individual
27 intervening year.

28 (3) The commission may require the procurement of eligible
29 renewable energy resources in excess of the quantities specified
30 in paragraph (2).

31 (4) Only for purposes of establishing the renewables portfolio
32 standard procurement requirements of paragraph (1) and
33 determining the quantities pursuant to paragraph (2), the
34 commission shall include all electricity sold to retail customers by
35 the Department of Water Resources pursuant to Division 27
36 (commencing with Section 80000) of the Water Code in the
37 calculation of retail sales by an electrical corporation.

38 (5) The commission shall waive enforcement of this section if
39 it finds that the retail seller has demonstrated any of the following

1 conditions are beyond the control of the retail seller and will
2 prevent compliance:

3 (A) There is inadequate transmission capacity to allow for
4 sufficient electricity to be delivered from proposed eligible
5 renewable energy resource projects using the current operational
6 protocols of the Independent System Operator. In making its
7 findings relative to the existence of this condition with respect to
8 a retail seller that owns transmission lines, the commission shall
9 consider both of the following:

10 (i) Whether the retail seller has undertaken, in a timely fashion,
11 reasonable measures under its control and consistent with its
12 obligations under local, state, and federal laws and regulations, to
13 develop and construct new transmission lines or upgrades to
14 existing lines intended to transmit electricity generated by eligible
15 renewable energy resources. In determining the reasonableness of
16 a retail seller's actions, the commission shall consider the retail
17 seller's expectations for full-cost recovery for these transmission
18 lines and upgrades.

19 (ii) Whether the retail seller has taken all reasonable operational
20 measures to maximize cost-effective deliveries of electricity from
21 eligible renewable energy resources in advance of transmission
22 availability.

23 (B) Permitting, interconnection, or other circumstances that
24 delay procured eligible renewable energy resource projects, or
25 there is an insufficient supply of eligible renewable energy
26 resources available to the retail seller. In making a finding that this
27 condition prevents timely compliance, the commission shall
28 consider whether the retail seller has done all of the following:

29 (i) Prudently managed portfolio risks, including relying on a
30 sufficient number of viable projects.

31 (ii) Sought to develop one of the following: its own eligible
32 renewable energy resources, transmission to interconnect to eligible
33 renewable energy resources, or energy storage used to integrate
34 eligible renewable energy resources. This clause shall not require
35 an electrical corporation to pursue development of eligible
36 renewable energy resources pursuant to Section 399.14.

37 (iii) Procured an appropriate minimum margin of procurement
38 above the minimum procurement level necessary to comply with
39 the renewables portfolio standard to compensate for foreseeable
40 delays or insufficient supply.

1 (iv) Taken reasonable measures, under the control of the retail
2 seller, to procure cost-effective distributed generation and allowable
3 unbundled renewable energy credits.

4 (C) Unanticipated curtailment of eligible renewable energy
5 resources necessary to address the needs of a balancing authority.

6 (6) If the commission waives the compliance requirements of
7 this section, the commission shall establish additional reporting
8 requirements on the retail seller to demonstrate that all reasonable
9 actions under the control of the retail seller are taken in each of
10 the intervening years sufficient to satisfy future procurement
11 requirements.

12 (7) The commission shall not waive enforcement pursuant to
13 this section, unless the retail seller demonstrates that it has taken
14 all reasonable actions under its control, as set forth in paragraph
15 (5), to achieve full compliance.

16 (8) If a retail seller fails to procure sufficient eligible renewable
17 energy resources to comply with a procurement requirement
18 pursuant to paragraphs (1) and (2) and fails to obtain an order from
19 the commission waiving enforcement pursuant to paragraph (5),
20 the commission shall ~~exercise its authority pursuant to Section~~
21 ~~24113~~ *assess penalties for noncompliance. A schedule of penalties*
22 *shall be adopted by the commission that shall be comparable for*
23 *electrical corporations and other retail sellers. For electrical*
24 *corporations, the cost of any penalties shall not be collected in*
25 *rates. Any penalties collected under this article shall be deposited*
26 *into the Electric Program Investment Charge Fund and used for*
27 *the purposes described in Chapter 8.1 (commencing with Section*
28 *25710) of Division 15 of the Public Resources Code.*

29 (9) Deficits associated with the compliance period shall not be
30 added to a future compliance period.

31 (c) The commission shall establish a limitation for each electrical
32 corporation on the procurement expenditures for all eligible
33 renewable energy resources used to comply with the renewables
34 portfolio standard. ~~In establishing this limitation, the commission~~
35 ~~shall rely on the following: This limitation shall be set at a level~~
36 ~~that prevents disproportionate rate impacts.~~

37 ~~(1) The most recent renewable energy procurement plan.~~

38 ~~(2) Procurement expenditures that approximate the expected~~
39 ~~cost of building, owning, and operating eligible renewable energy~~
40 ~~resources.~~

1 ~~(3) The potential that some planned resource additions may be~~
2 ~~delayed or canceled.~~

3 ~~(d) In developing the limitation pursuant to subdivision (c), the~~
4 ~~commission shall ensure all of the following:~~

5 ~~(1) The limitation is set at a level that prevents disproportionate~~
6 ~~rate impacts.~~

7 ~~(2) The costs of all procurement credited toward achieving the~~
8 ~~renewables portfolio standard are counted towards the limitation.~~

9 ~~(3) Procurement expenditures do not include any indirect~~
10 ~~expenses, including imbalance energy charges, sale of excess~~
11 ~~energy, decreased generation from existing resources, transmission~~
12 ~~upgrades, or the costs associated with relicensing any utility-owned~~
13 ~~hydroelectric facilities.~~

14 ~~(e) (1) No later than January 1, 2016, the commission shall~~
15 ~~prepare a report to the Legislature assessing whether each electrical~~
16 ~~corporation can achieve a 33-percent renewables portfolio standard~~
17 ~~by December 31, 2020, and maintain that level thereafter, within~~
18 ~~the adopted cost limitations. If the commission determines that it~~
19 ~~is necessary to change the limitation for procurement costs incurred~~
20 ~~by any electrical corporation after that date, it may propose a~~
21 ~~revised cap consistent with the criteria in subdivisions (c) and (d).~~
22 ~~The proposed modifications shall take effect no earlier than January~~
23 ~~1, 2017.~~

24 ~~(2) Notwithstanding Section 10231.5 of the Government Code,~~
25 ~~the requirement for submitting a report imposed under paragraph~~
26 ~~(1) is inoperative on January 1, 2021.~~

27 ~~(3) A report to be submitted pursuant to paragraph (1) shall be~~
28 ~~submitted in compliance with Section 9795 of the Government~~
29 ~~Code.~~

30 ~~(f)~~

31 ~~(d) If the cost limitation for an electrical corporation is~~
32 ~~insufficient to support the projected costs of meeting the~~
33 ~~renewables portfolio standard procurement requirements, the~~
34 ~~electrical corporation may refrain from entering into new contracts~~
35 ~~or constructing facilities beyond the quantity that can be procured~~
36 ~~within the limitation, unless eligible renewable energy resources~~
37 ~~can be procured without exceeding a de minimis increase in rates,~~
38 ~~consistent with the long-term procurement plan established for the~~
39 ~~electrical corporation pursuant to Section 454.5.~~

40 ~~(g)~~

(e) (1) The commission shall monitor the status of the cost limitation for each electrical corporation in order to ensure compliance with this article.

(2) If the commission determines that an electrical corporation may exceed its cost limitation prior to achieving the renewables portfolio standard procurement requirements, the commission shall do both of the following within 60 days of making that determination:

(A) Investigate and identify the reasons why the electrical corporation may exceed its annual cost limitation.

(B) Notify the appropriate policy and fiscal committees of the Legislature that the electrical corporation may exceed its cost limitation, and include the reasons why the electrical corporation may exceed its cost limitation.

~~(h)~~

(f) The establishment of a renewables portfolio standard shall not constitute implementation by the commission of the federal Public Utility Regulatory Policies Act of 1978 (Public Law 95-617).

SEC. 10. Section 399.16 of the Public Utilities Code is amended to read:

399.16. (a) Various electricity products from eligible renewable energy resources located within the WECC transmission network service area shall be eligible to comply with the renewables portfolio standard procurement requirements in Section 399.15. These electricity products may be differentiated by their impacts on the operation of the grid in supplying electricity, as well as, meeting the requirements of this article.

(b) Consistent with the goals of procuring the least-cost and best-fit electricity products from eligible renewable energy resources that meet project viability principles adopted by the commission pursuant to paragraph (4) of subdivision (a) of Section 399.13 and that provide the benefits set forth in Section 399.11, a balanced portfolio of eligible renewable energy resources shall be procured consisting of the following portfolio content categories:

(1) Eligible renewable energy resource electricity products that meet either of the following criteria:

(A) Have a first point of interconnection with a California balancing authority, have a first point of interconnection with distribution facilities used to serve end users within a California

balancing authority area, or are scheduled from the eligible renewable energy resource into a California balancing authority without substituting electricity from another source. The use of another source to provide real-time ancillary services required to maintain an hourly or subhourly import schedule into a California balancing authority shall be permitted, but only the fraction of the schedule actually generated by the eligible renewable energy resource shall count toward this portfolio content category.

(B) Have an agreement to dynamically transfer electricity to a California balancing authority.

(2) Firmed and shaped eligible renewable energy resource electricity products providing incremental electricity and scheduled into a California balancing authority.

(3) Eligible renewable energy resource electricity products, or any fraction of the electricity generated, including unbundled renewable energy credits, that do not qualify under the criteria of paragraph (1) or (2).

(c) In order to achieve a balanced portfolio, all retail sellers shall meet the following requirements for all procurement credited toward each compliance period:

(1) Not less than 50 percent for the compliance period ending December 31, 2013, 65 percent for the compliance period ending December 31, 2016, and 75 percent ~~thereafter~~ *for the compliance period ending December 31, 2020*, of the eligible renewable energy resource electricity products associated with contracts executed after June 1, 2010, shall meet the product content requirements of paragraph (1) of subdivision (b). *Each retail seller shall continue to satisfy the product content requirements applicable to procurement quantities associated with the compliance period ending December 31, 2020, and ensure that, for compliance periods ending after December 31, 2020, not less than 75 percent of the incremental renewable procurement requirements in each compliance period shall be satisfied with eligible renewable energy resource electricity products meeting the requirements of paragraph (1) of subdivision (b).*

(2) Not more than 25 percent for the compliance period ending December 31, 2013, 15 percent for the compliance period ending December 31, 2016, and 10 percent ~~thereafter~~ *for compliance period ending December 31, 2020*, of the eligible renewable energy resource electricity products associated with contracts executed

1 after June 1, 2010, shall meet the product content requirements of
2 paragraph (3) of subdivision (b). *For the compliance periods*
3 *ending after December 31, 2020, not more than 10 percent of the*
4 *incremental renewable procurement requirements in each*
5 *compliance period shall be satisfied with eligible renewable energy*
6 *resource electricity products meeting the requirements of*
7 *paragraph (3) of subdivision (b).*

8 (3) Any renewable energy resources contracts executed on or
9 after June 1, 2010, not subject to the limitations of paragraph (1)
10 or (2), shall meet the product content requirements of paragraph
11 (2) of subdivision (b).

12 (4) For purposes of electric service providers only, the
13 restrictions in this subdivision on crediting eligible renewable
14 energy resource electricity products to each compliance period
15 shall apply to contracts executed after January 13, 2011.

16 (d) Any contract or ownership agreement originally executed
17 prior to June 1, 2010, shall count in full toward the procurement
18 requirements established pursuant to this article, if all of the
19 following conditions are met:

20 (1) The renewable energy resource was eligible under the rules
21 in place as of the date when the contract was executed.

22 (2) For an electrical corporation, the contract has been approved
23 by the commission, even if that approval occurs after June 1, 2010.

24 (3) Any contract amendments or modifications occurring after
25 June 1, 2010, do not increase the nameplate capacity or expected
26 quantities of annual generation, or substitute a different renewable
27 energy resource. The duration of the contract may be extended if
28 the original contract specified a procurement commitment of 15
29 or more years.

30 (e) A retail seller may apply to the commission for a reduction
31 of a procurement content requirement of subdivision (c). The
32 commission may reduce a procurement content requirement of
33 subdivision (c) to the extent the retail seller demonstrates that it
34 cannot comply with that subdivision because of conditions beyond
35 the control of the retail seller as provided in paragraph (5) of
36 subdivision (b) of Section 399.15. The commission shall not, under
37 any circumstance, reduce the obligation specified in paragraph (1)
38 of subdivision (c) below 65 percent for any compliance *period*
39 obligation after December 31, 2016.

1 SEC. 11. Section 399.18 of the Public Utilities Code is
2 amended to read:

3 399.18. (a) This section applies to an electrical corporation
4 that as of January 1, 2010, met either of the following conditions:

5 (1) Served 30,000 or fewer customer accounts in California and
6 had issued at least four solicitations for eligible renewable energy
7 resources prior to June 1, 2010.

8 (2) Had 1,000 or fewer customer accounts in California and was
9 not connected to any transmission system or to the Independent
10 System Operator.

11 (b) For an electrical corporation or its successor, electricity
12 products from eligible renewable energy resources may be used
13 for compliance with this article, notwithstanding any procurement
14 content limitation in Section 399.16, provided that ~~both~~ *all* of the
15 following conditions are met:

16 (1) The electrical corporation or its successor participates in,
17 and complies with, the accounting system administered by the
18 Energy Commission pursuant to subdivision (b) of Section 399.25.

19 (2) The Energy Commission verifies that the electricity
20 generated by the facility is eligible to meet the requirements of
21 Section 399.15.

22 (3) *The electrical corporation continues to satisfy either of the*
23 *conditions described in subdivision (a).*

24 SEC. 12. Section 399.21 of the Public Utilities Code is
25 amended to read:

26 399.21. (a) The commission, by rule, shall authorize the use
27 of renewable energy credits to satisfy the renewables portfolio
28 standard procurement requirements established pursuant to this
29 article, subject to the following conditions:

30 ~~(1) Prior to authorizing any renewable energy credit to be used~~
31 ~~toward satisfying the renewables portfolio standard procurement~~
32 ~~requirements, the~~ *The* commission and the Energy Commission
33 ~~shall conclude~~ *ensure* that the tracking system established pursuant
34 to subdivision (c) of Section 399.25, is operational, is capable of
35 independently verifying that electricity earning the credit is
36 generated by an eligible renewable energy resource, and can ensure
37 that renewable energy credits shall not be double counted by any
38 seller of electricity within the service territory of the WECC.

39 (2) Each renewable energy credit shall be counted only once
40 for compliance with the renewables portfolio standard of this state

1 or any other state, or for verifying retail product claims in this state
2 or any other state.

3 (3) All revenues received by an electrical corporation for the
4 sale of a renewable energy credit shall be credited to the benefit
5 of ratepayers.

6 (4) Renewable energy credits shall not be created for electricity
7 generated pursuant to any electricity purchase contract with a retail
8 seller or a local publicly owned electric utility executed before
9 January 1, 2005, unless the contract contains explicit terms and
10 conditions specifying the ownership or disposition of those credits.
11 Procurement under those contracts shall be tracked through the
12 accounting system described in subdivision (b) of Section 399.25
13 and included in the quantity of eligible renewable energy resources
14 of the purchasing retail seller pursuant to Section 399.15.

15 (5) Renewable energy credits shall not be created for electricity
16 generated under any electricity purchase contract executed after
17 January 1, 2005, pursuant to the federal Public Utility Regulatory
18 Policies Act of 1978 (16 U.S.C. Sec. 2601 et seq.). Procurement
19 under the electricity purchase contracts shall be tracked through
20 the accounting system implemented by the Energy Commission
21 pursuant to subdivision (b) of Section 399.25 and count toward
22 the renewables portfolio standard procurement requirements of
23 the purchasing retail seller.

24 (6) A renewable energy credit shall not be eligible for
25 compliance with a renewables portfolio standard procurement
26 requirement unless it is retired in the tracking system established
27 pursuant to subdivision (c) of Section 399.25 by the retail seller
28 or local publicly owned electric utility within 36 months from the
29 initial date of generation of the associated electricity.

30 (b) The commission shall allow an electrical corporation to
31 recover the reasonable costs of purchasing, selling, and
32 administering renewable energy credit contracts in rates.

33 SEC. 13. Section 399.30 of the Public Utilities Code is
34 amended to read:

35 399.30. (a) To fulfill unmet long-term generation resource
36 needs, each local publicly owned electric utility shall adopt and
37 implement a renewable energy resources procurement plan that
38 requires the utility to procure a minimum quantity of electricity
39 products from eligible renewable energy resources, including
40 renewable energy credits, as a specified percentage of total

1 kilowatthours sold to the utility's retail end-use customers, each
2 compliance period, to achieve the targets of subdivision (c).

3 (b) The governing board shall implement procurement targets
4 for a local publicly owned electric utility that require the utility to
5 procure a minimum quantity of eligible renewable energy resources
6 for each of the following compliance periods:

7 (1) January 1, 2011, to December 31, 2013, inclusive.

8 (2) January 1, 2014, to December 31, 2016, inclusive.

9 (3) January 1, 2017, to December 31, 2020, inclusive.

10 (D) *January 1, 2021, to December 31, 2024, inclusive.*

11 (E) *January 1, 2025, to December 31, 2027, inclusive.*

12 (D) *January 1, 2028, to December 31, 2030, inclusive.*

13 (c) The governing board of a local publicly owned electric utility
14 shall ensure all of the following:

15 (1) The quantities of eligible renewable energy resources to be
16 procured for the compliance period from January 1, 2011, to
17 December 31, 2013, inclusive, are equal to an average of 20 percent
18 of retail sales.

19 (2) The quantities of eligible renewable energy resources to be
20 procured for all other compliance periods reflect reasonable
21 progress in each of the intervening years sufficient to ensure that
22 the procurement of electricity products from eligible renewable
23 energy resources achieves 25 percent of retail sales by December
24 31, 2016, ~~and 33 percent of retail sales by December 31, 2020.~~
25 *2020, 40 percent by December 31, 2024, 45 percent by December*
26 *31, 2027, and 50 percent by December 31, 2030. The local*
27 ~~governing board shall~~ *Energy Commission shall establish*
28 *appropriate multiyear compliance periods for all subsequent years*
29 *that require the local publicly owned electric-utilities utility to*
30 *procure not less than 33 50 percent of retail sales of electricity*
31 *products from eligible renewable energy resources in all subsequent*
32 ~~years.~~ *resources.*

33 (3) A local publicly owned electric utility shall adopt
34 procurement requirements consistent with Section 399.16.

35 (d) The governing board of a local publicly owned electric utility
36 may adopt the following measures:

37 (1) Rules permitting the utility to apply excess procurement in
38 one compliance period to subsequent compliance periods in the
39 same manner as allowed for retail sellers pursuant to Section
40 399.13.

1 (2) Conditions that allow for delaying timely compliance
2 consistent with subdivision (b) of Section 399.15.

3 (3) Cost limitations for procurement expenditures consistent
4 with subdivision (c) of Section 399.15.

5 (e) The governing board of the local publicly owned electric
6 utility shall adopt a program for the enforcement of this ~~article on~~
7 ~~or before January 1, 2012.~~ *article*. The program shall be adopted
8 at a publicly noticed meeting offering all interested parties an
9 opportunity to comment. Not less than 30 days' notice shall be
10 given to the public of any meeting held for purposes of adopting
11 the program. Not less than 10 days' notice shall be given to the
12 public before any meeting is held to make a substantive change to
13 the program.

14 (f) (1) Each local publicly owned electric utility shall annually
15 post notice, in accordance with Chapter 9 (commencing with
16 Section 54950) of Part 1 of Division 2 of Title 5 of the Government
17 Code, whenever its governing body will deliberate in public on its
18 renewable energy resources procurement plan.

19 (2) Contemporaneous with the posting of the notice of a public
20 meeting to consider the renewable energy resources procurement
21 plan, the local publicly owned electric utility shall notify the
22 Energy Commission of the date, time, and location of the meeting
23 in order to enable the Energy Commission to post the information
24 on its Internet Web site. This requirement is satisfied if the local
25 publicly owned electric utility provides the uniform resource
26 locator (URL) that links to this information.

27 (3) Upon distribution to its governing body of information
28 related to its renewable energy resources procurement status and
29 future plans, for its consideration at a noticed public meeting, the
30 local publicly owned electric utility shall make that information
31 available to the public and shall provide the Energy Commission
32 with an electronic copy of the documents for posting on the Energy
33 Commission's Internet Web site. This requirement is satisfied if
34 the local publicly owned electric utility provides the uniform
35 resource locator (URL) that links to the documents or information
36 regarding other manners of access to the documents.

37 (g) A public utility district that receives all of its electricity
38 pursuant to a preference right adopted and authorized by the United
39 States Congress pursuant to Section 4 of the Trinity River Division

1 Act of August 12, 1955 (Public Law 84-386) shall be in compliance
2 with the renewable energy procurement requirements of this article.

3 (h) For a local publicly owned electric utility that was in
4 existence on or before January 1, 2009, that provides retail electric
5 service to 15,000 or fewer customer accounts in California, and is
6 interconnected to a balancing authority located outside this state
7 but within the WECC, an eligible renewable energy resource
8 includes a facility that is located outside California that is
9 connected to the WECC transmission system, if all of the following
10 conditions are met:

11 (1) The electricity generated by the facility is procured by the
12 local publicly owned electric utility, is delivered to the balancing
13 authority area in which the local publicly owned electric utility is
14 located, and is not used to fulfill renewable energy procurement
15 requirements of other states.

16 (2) The local publicly owned electric utility participates in, and
17 complies with, the accounting system administered by the Energy
18 Commission pursuant to this article.

19 (3) The Energy Commission verifies that the electricity
20 generated by the facility is eligible to meet the renewables portfolio
21 standard procurement requirements.

22 (i) Notwithstanding subdivision (a), for a local publicly owned
23 electric utility that is a joint powers authority of districts established
24 pursuant to state law on or before January 1, 2005, that furnish
25 electric services other than to residential customers, and is formed
26 pursuant to the Irrigation District Law (Division 11 (commencing
27 with Section 20500) of the Water Code), the percentage of total
28 kilowatthours sold to the district's retail end-use customers, upon
29 which the renewables portfolio standard procurement requirements
30 in subdivision (b) are calculated, shall be based on the authority's
31 average retail sales over the previous seven years. If the authority
32 has not furnished electric service for seven years, then the
33 calculation shall be based on average retail sales over the number
34 of completed years during which the authority has provided electric
35 service.

36 (j) A local publicly owned electric utility in a city and county
37 that only receives greater than 67 percent of its electricity sources
38 from hydroelectric generation located within the state that it owns
39 and operates, and that does not meet the definition of a "renewable
40 electrical generation facility" pursuant to Section 25741 of the

1 Public Resources Code, shall be required to procure eligible
2 renewable energy resources, including renewable energy credits,
3 to meet only the electricity demands unsatisfied by its hydroelectric
4 generation in any given year, in order to satisfy its renewable
5 energy procurement requirements.

6 (k) (1) A local publicly owned electric utility that receives
7 greater than 50 percent of its annual retail sales from its own
8 hydroelectric generation that is not an eligible renewable energy
9 resource shall not be required to procure additional eligible
10 renewable energy resources in excess of either of the following:

11 (A) The portion of its retail sales not supplied by its own
12 hydroelectric generation. For these purposes, retail sales supplied
13 by an increase in hydroelectric generation resulting from an
14 increase in the amount of water stored by a dam because the dam
15 is enlarged or otherwise modified after December 31, 2012, shall
16 not count as being retail sales supplied by the utility's own
17 hydroelectric generation.

18 (B) The cost limitation adopted pursuant to this section.

19 (2) For the purposes of this subdivision, "hydroelectric
20 generation" means electricity generated from a hydroelectric
21 facility that satisfies all of the following:

22 (A) Is owned solely and operated by the local publicly owned
23 electric utility as of 1967.

24 (B) Serves a local publicly owned electric utility with a
25 distribution system demand of less than 150 megawatts.

26 (C) Involves a contract in which an electrical corporation
27 receives the benefit of the electric generation through June of 2014,
28 at which time the benefit reverts back to the ownership and control
29 of the local publicly owned electric utility.

30 (D) Has a maximum penstock flow capacity of no more than
31 3,200 cubic feet per second and includes a regulating reservoir
32 with a small hydroelectric generation facility producing fewer than
33 20 megawatts with a maximum penstock flow capacity of no more
34 than 3,000 cubic feet per second.

35 (3) This subdivision does not reduce or eliminate any renewable
36 procurement requirement for any compliance period ending prior
37 to January 1, 2014.

38 (4) This subdivision does not require a local publicly owned
39 electric utility to purchase additional eligible renewable energy

resources in excess of the procurement requirements of subdivision (c).

(l) A local publicly owned electric utility shall retain discretion over both of the following:

(1) The mix of eligible renewable energy resources procured by the utility and those additional generation resources procured by the utility for purposes of ensuring resource adequacy and reliability.

(2) The reasonable costs incurred by the utility for eligible renewable energy resources owned by the utility.

~~(m) On or before July 1, 2011, the The Energy Commission shall adopt regulations specifying the requirements under this article and require local governing boards to adopt timely requirements consistent with this article. The Energy Commission shall adopt regulations specifying procedures for enforcement of this article: these requirements, including the adoption of a schedule of penalties to be imposed pursuant to subdivision (n). The regulations shall include a public process under which the Energy Commission may issue a notice of violation and correction against a local publicly owned electric utility for failure to comply with this article, and for referral of violations to the State Air Resources Board for penalties pursuant to subdivision (o): article and assess penalties pursuant to subdivision (n).~~

~~(n) (1) Upon a determination by the Energy Commission that a local publicly owned electric utility has failed to comply with this article, the Energy Commission shall refer the failure to comply with this article to the State Air Resources Board, which may impose penalties to enforce this article consistent with Part 6 (commencing with Section 38580) of Division 25.5 of the Health and Safety Code. Any penalties imposed shall be comparable to those adopted by the commission for noncompliance by retail sellers. Any penalties collected under this article shall be deposited into the Electric Program Investment Charge Fund and used for the purposes described in Chapter 8.1 (commencing with Section 25710) of Division 15 of the Public Resources Code.~~

~~(2) If Division 25.5 (commencing with Section 38500) of the Health and Safety Code is suspended or repealed, the State Air Resources Board may take action to enforce this article on local publicly owned electric utilities consistent with Section 41513 of the Health and Safety Code, and impose penalties on a local~~

publicly owned electric utility consistent with Article 3 (commencing with Section 42400) of Chapter 4 of Part 4 of, and Chapter 1.5 (commencing with Section 43025) of Part 5 of, Division 26 of the Health and Safety Code.

(3) For the purpose of this subdivision, this section is an emissions reduction measure pursuant to Section 38580 of the Health and Safety Code.

(4) If the State Air Resources Board has imposed a penalty upon a local publicly owned electric utility for the utility's failure to comply with this article, the State Air Resources Board shall not impose an additional penalty for the same infraction, or the same failure to comply, with any renewables procurement requirement imposed upon the utility pursuant to the California Global Warming Solutions Act of 2006 (Division 25.5 (commencing with Section 38500) of the Health and Safety Code).

(5) Any penalties collected by the State Air Resources Board pursuant to this article shall be deposited in the Air Pollution Control Fund and, upon appropriation by the Legislature, shall be expended for reducing emissions of air pollution or greenhouse gases within the same geographic area as the local publicly owned electric utility.

(e) The commission has no authority or jurisdiction to enforce any of the requirements of this article on a local publicly owned electric utility.

SEC. 14. Article 17 (commencing with Section 400) is added to Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code, to read:

Article 17. Clean Energy and Pollution Reduction

400. The commission and the Energy Commission shall do all of the following in furtherance of meeting the state's clean energy and pollution reduction objectives:

(a) Take into account the benefits of distributed generation and promote the use of distributed generation where it provides economic and environmental benefits, particularly in disadvantaged communities as identified pursuant to Section 39711 of the Health and Safety Code.

(b) Allow for consideration of costs and benefits of grid integration in proceedings associated with meeting the objectives.

1 (c) Where feasible, adopt rules for integrating renewable energy
2 that minimize system power and fossil fuel purchases and, where
3 feasible and consistent with other state policy objectives, increase
4 the use of energy storage, demand response, and other
5 low-emission or zero- technologies to protect system reliability.

6 (d) Review technology incentive programs overseen by the
7 commission and the Energy Commission and make
8 recommendations for adjustments that more effectively and
9 consistently align with state clean energy and pollution reduction
10 objectives, and that provide benefits to disadvantaged communities
11 as identified pursuant to Section 39711 of the Health and Safety
12 Code.

13 (e) To the extent feasible, give first priority to the manufacture
14 and deployment of clean energy and pollution reduction
15 technologies that create employment opportunities, including high
16 wage, highly skilled employment opportunities, and increased
17 investment in the state.

18 SEC. 15. Section 454.51 is added to the Public Utilities Code,
19 to read:

20 454.51. The commission shall direct each electrical corporation
21 to include in its proposed procurement plan a strategy for procuring
22 a diverse portfolio of resources that provide a reliable electricity
23 supply, including renewable energy integration needs, using zero
24 carbon-emitting resources to the maximum extent reasonable. The
25 net capacity costs of those resources shall be allocated on a fully
26 nonbypassable basis consistent with the treatment of costs
27 identified in paragraph (2) of subdivision (c) of Section 365.1.

28 SEC. 16. No reimbursement is required by this act pursuant to
29 Section 6 of Article XIII B of the California Constitution because
30 a local agency or school district has the authority to levy service
31 charges, fees, or assessments sufficient to pay for the program or
32 level of service mandated by this act or because costs that may be
33 incurred by a local agency or school district will be incurred
34 because this act creates a new crime or infraction, eliminates a
35 crime or infraction, or changes the penalty for a crime or infraction,
36 within the meaning of Section 17556 of the Government Code, or
37 changes the definition of a crime within the meaning of Section 6
38 of Article XIII B of the California Constitution.

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