

AMENDED IN SENATE JULY 3, 2019
AMENDED IN SENATE JUNE 25, 2019
AMENDED IN ASSEMBLY MAY 20, 2019
AMENDED IN ASSEMBLY APRIL 30, 2019
AMENDED IN ASSEMBLY APRIL 12, 2019
AMENDED IN ASSEMBLY MARCH 18, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 56

Introduced by Assembly Members Eduardo Garcia and Burke

December 3, 2018

An act to add Chapter 5 (commencing with Section 26100) to Division 16 of the Public Resources Code, relating to electricity.

LEGISLATIVE COUNSEL'S DIGEST

AB 56, as amended, Eduardo Garcia. Electricity: procurement by the California Alternative Energy and Advanced Transportation Financing Authority.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations. The California Renewables Portfolio Standard Program requires the commission to establish a renewables portfolio standard requiring all retail sellers, defined as including electrical corporations, electric service providers, and community choice aggregators, to procure a minimum quantity of electricity products from eligible renewable energy resources, as defined, so that the total kilowatthours of those products sold to their retail end-use customers achieves 25% of retail sales by December 31,

2016, 33% by December 31, 2020, 44% by December 31, 2024, 52% by December 31, 2027, and 60% by December 31, 2030. Existing law establishes a policy of the state that eligible renewable energy resources and zero-carbon resources supply 100% of retail sales of electricity to California end-use customers and 100% of electricity procured to serve all state agencies by December 31, 2045. Existing law requires the commission, in consultation with the Independent System Operator, to establish resource adequacy requirements for all load-serving entities, as defined, and requires each load-serving entity to maintain physical generating capacity and electrical demand response adequate to meet its load requirements, including peak demand and planning and operating reserves, deliverable to locations and at times as may be necessary to provide reliable electric service.

The California Alternative Energy and Advanced Transportation Financing Authority Act establishes the California Alternative Energy and Advanced Transportation Financing Authority to advance the state's goals of reducing emissions of greenhouse gases, increasing the deployment of sustainable and renewable energy sources, implementing measures that increase the efficient use of energy, creating high quality employment opportunities, and lessening the state's dependence on fossil fuels.

This bill would require the ~~commission, if it makes certain findings,~~ *commission* to empower the California Alternative Energy and Advanced Transportation Financing Authority to undertake backstop procurement of electricity that would otherwise be performed by an electrical corporation to meet the state resource ~~planning and reliability adequacy,~~ *integrated resource planning, and renewable portfolio standard* goals not satisfied by *retail sellers or* load-serving entities. The bill would authorize the authority to undertake backstop procurement consistent with specified objectives and to manage the resale of electricity for its contracted resources. The bill would require the commission to periodically review the need for, and the benefits of, continuing to empower the authority to undertake backstop procurement responsibilities. The bill would provide for the reduction in procurement compliance obligations for load-serving entities *and retail sellers* for the electricity procured by the authority. The bill would require the authority to develop and submit annual revenue requirements for review, modification, and approval by the commission to recover specified costs, would provide that the authority is entitled to recover revenue requirements approved by the commission for costs incurred on behalf

of retail customers of a load-serving ~~entity~~, *entity or retail seller*, and would provide that those costs are a direct obligation of the retail end-use customers of load-serving entities *or retail sellers* or a direct obligation of the load-serving entity *or retail seller* on whose behalf the procurement was undertaken. The bill would require the commission to approve a method for recovering revenue requirements from retail end-use customers of load-serving entities *or retail sellers* or from load-serving entities *or retail sellers* themselves, as specified.

Under existing law, a violation of an order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because a violation of an order or decision of the commission implementing the requirements of the bill would be a crime, this bill would impose a state-mandated local program by creating a new crime.

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

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

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

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

1 SECTION 1. Chapter 5 (commencing with Section 26100) is
2 added to Division 16 of the Public Resources Code, to read:

3
4 CHAPTER 5. CLEAN ELECTRICITY PROCUREMENT

5
6 Article 1. General Provisions and Definitions

7
8 26100. In enacting this chapter, it is the intent of the Legislature
9 to do all of the following:

10 (a) Authorize the Public Utilities Commission to empower the
11 California Alternative Energy and Advanced Transportation
12 Financing Authority to undertake backstop procurement of
13 electricity that would otherwise be performed by an electrical
14 corporation, as defined in Section 218 of the Public Utilities Code,
15 to meet the state resource planning and reliability goals not satisfied
16 by individual load-serving entities.

~~(b) Provide jurisdiction to the Public Utilities Commission to identify the procurement the authority should undertake and to approve backstop procurement by the authority that creates cost responsibility for end-use retail customers of load-serving entities.~~

~~(c) Authorize the removal of~~

~~(b) Remove electrical corporations from the role of conducting resource procurement on behalf of customers served by other load-serving entities.~~

~~(d)~~

(c) Authorize backstop procurement by the authority only for the purposes identified in subdivision (a) of Section 26110 to support the achievement of the following objectives:

~~(1) To meet~~

(1) Meeting any system and local resource adequacy requirements required through backstop procurement in a manner that maximizes the reduction in the emissions of greenhouse gases and criteria air pollutants at least cost to ratepayers.

~~(2) To fill~~

(2) Filling unmet needs identified under the integrated resource planning process pursuant to Section 454.51 of the Public Utilities Code.

~~(3) To reduce the cost to ratepayers of procuring new clean energy and new clean distributed energy resources through economies of scale, bulk procurement, and identifying available sources of federal, state, and local incentives.~~

~~(4) To assist~~

(3) Assisting retail sellers to comply with their obligations under the California Renewables Portfolio Standard Program (Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code).

~~(e) Limit backstop procurement responsibilities of the authority to the objectives identified in subdivision (a) of Section 26110.~~

~~(f) Promote~~

(4) Promoting the rapid transition to complete reliance on clean energy resources at the lowest cost consistent with the policy objectives established pursuant to Section 454.53 of the Public Utilities Code.

26101. For purposes of this chapter, the following definitions apply:

(a) “Commission” means the Public Utilities Commission.

(b) “Eligible renewable energy resources” ~~has the same meaning as defined in Section 399.12 of the Public Utilities Code.~~ *means an eligible renewable energy resource pursuant to the California Renewables Portfolio Standard Program (Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code).*

(c) “Load-serving entity” has the same meaning as defined in Section 380 of the Public Utilities Code.

(d) “Retail seller” has the same meaning ~~as set forth~~ *defined* in Section 399.12 of the Public Utilities Code.

Article 2. Electricity Procurement by the Authority

26105. The commission shall authorize the authority to undertake backstop procurement of electricity ~~if the commission makes all of the following findings:~~ *for any of the purposes identified in subdivision (a) of Section 26110.*

~~(a) The empowerment of the authority to engage in backstop procurement of electricity pursuant to this chapter can assist the state with the timely achievement of the state’s clean energy and climate policy objectives.~~

~~(b) The empowerment of the authority to procure electricity would provide a backstop for addressing shortfalls or gaps identified in the integrated resource planning of load-serving entities.~~

~~(c) The authority is capable of serving as a central procurement agent for resource adequacy requirements pursuant to Section 380 of the Public Utilities Code.~~

~~(d) The authority is capable of successfully serving as a voluntary procurement entity for retail sellers pursuant to subdivision (f) of Section 399.13 of the Public Utilities Code.~~

~~(e) The empowerment of the authority to perform backstop procurement would be more efficient and less costly than directing procurement through other methods.~~

(a) The commission shall periodically review the need for, and benefits of, continuing to empower the authority to undertake backstop procurement responsibilities. In performing this periodic review, the commission shall consider all of the following:

(1) The performance of the authority to date with respect to executed contracts, total costs, and emissions of greenhouse gases.

1 (2) *The ongoing need for backstop procurement.*

2 (3) *The ability of load-serving entities and retail sellers to fully*
3 *satisfy systemwide obligations relating to resources adequacy,*
4 *integrated resource planning, and the renewables portfolio*
5 *standard.*

6 **(b) The commission may revoke the delegation of backstop**
7 **procurement functions to the authority if it determines that it is no**
8 **longer reasonable for the authority to serve in this capacity.**

9 ~~26105.5. (a) The commission shall periodically review the~~
10 ~~need for, and benefits of, continuing to empower the authority to~~
11 ~~undertake backstop procurement responsibilities. In performing~~
12 ~~this periodic review, the commission shall consider all of the~~
13 ~~following:~~

14 ~~(1) The performance of the authority to date with respect to~~
15 ~~executed contracts, total costs, and emissions of greenhouse gases.~~

16 ~~(2) The ongoing need for backstop procurement.~~

17 ~~(3) The ability of load-serving entities to fully satisfy~~
18 ~~systemwide obligations relating to resources adequacy, integrated~~
19 ~~resource planning, and the renewables portfolio standard.~~

20 ~~(b) The commission may revoke the delegation of backstop~~
21 ~~procurement functions to the authority if it determines that it is no~~
22 ~~longer reasonable for the authority to serve in this capacity.~~

23 26106. Any member of the commission serving as a member
24 of the authority shall recuse themselves from participating in any
25 commission determinations relating to the authority, including any
26 discussion or vote concerning the authorization of procurement
27 conducted by the authority pursuant to this chapter.

28 26107. (a) The authority shall do all of the following:

29 (1) Solicit public review of any procurement plans submitted
30 to the commission.

31 (2) Create an external advisory group comprising nonmarket
32 participants representing consumer, environmental, environmental
33 justice, labor, and other affected interests. The authority shall
34 consult with the advisory group and the advisory group shall advise
35 the authority on pending procurement decisions.

36 (3) Perform outreach to the public and the disadvantaged
37 communities advisory group established pursuant to Section 400
38 of the Public Utilities Code regarding upcoming resource
39 solicitations to encourage participation by community-based
40 resources.

1 (b) The commission shall establish requirements for the authority
2 to ensure transparency, public accountability, public participation,
3 and effective governance.

4
5 Article 3. Responsibilities of the Authority as a Procurement
6 Entity
7

8 26110. (a) At the direction of the commission, the authority
9 may undertake backstop procurement to support *any of* the
10 following objectives:

11 (1) The efficient and equitable achievement of resource
12 adequacy requirements for customers of load-serving entities
13 pursuant to Section 380 of the Public Utilities Code. The authority
14 may be selected for administration of any centralized resource
15 adequacy mechanism adopted by the commission pursuant to
16 subdivision (i) of Section 380 of the Public Utilities Code.

17 (2) The satisfaction of unmet portfolio needs identified by the
18 commission pursuant to Section 454.51 of the Public Utilities Code
19 that would otherwise be satisfied by procurement by an electrical
20 corporation on behalf of all customers.

21 (3) Serving as a voluntary procurement entity on behalf of one
22 or more retail sellers for purposes of the California Renewables
23 Portfolio Standard Program (Article 16 (commencing with Section
24 399.11) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities
25 Code) pursuant to subdivision (f) of Section 399.13 of the Public
26 Utilities Code.

27 (4) Managing electric generating resources previously under
28 contract with a load-serving entity, including any resources
29 procured pursuant to subdivision (c) of Section 365.1 of the Public
30 Utilities Code. The authority may accept contractual assignments
31 for those resources to the extent authorized by the commission.

32 (b) Nothing in this chapter expands the existing authority of the
33 commission to regulate procurement by load-serving entities
34 relating to resource adequacy pursuant to Section 380 of the Public
35 Utilities ~~Code~~, *Code* or integrated resource planning pursuant to
36 Sections 454.51 and 454.52 of the Public Utilities Code, or *to*
37 *procurement by retail sellers pursuant to* the California Renewables
38 Portfolio Standard Program (Article 16 (commencing with Section
39 399.11) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities
40 Code).

1 26111. (a) The authority shall manage the resale of electricity
2 for its contracted resources in the wholesale markets administered
3 by the Independent System Operator. All resale shall occur
4 pursuant to a procurement plan approved by the commission and
5 shall be subject to all wholesale market tariff rules, including
6 performance obligations associated with resource adequacy and
7 applicable reliability standards.

8 (b) The authority shall participate in the transmission planning
9 process at the Independent System Operator to ensure that future
10 backstop procurement is aligned with minimizing transmission
11 congestion and maximizes clean energy generation integration.

12 26112. (a) Unless otherwise directed by the commission, the
13 authority shall acquire all environmental, renewable energy, and
14 resource adequacy attributes associated with the electricity procured
15 from its contracted resources. ~~Attributes~~

16 (b) *Unless otherwise directed by the commission, attributes*
17 *acquired by the authority shall be retired and shall not be resold*
18 *or transferred.*

19 26113. The authority shall limit the procurement of new eligible
20 renewable energy resources to products that satisfy the
21 requirements of paragraph (1) of subdivision (b) of Section 399.16
22 of the Public Utilities Code.

23 26114. New construction work resulting from the procurement
24 of newly developed resources under this division shall be deemed
25 public works for purposes of Chapter 1 (commencing with Section
26 1720) of Part 7 of Division 2 of the Labor Code.

27 28 Article 4. Adjustment to Compliance Obligations 29

30 26120. (a) (1) The renewable, environmental, or resource
31 adequacy attributes procured by the authority shall result in
32 adjustments to specific compliance obligations for any load-serving
33 entity *or retail seller* whose retail customers are charged for the
34 costs incurred to procure those attributes.

35 (2) The retirement of renewable energy credits associated with
36 electricity procured from eligible renewable energy resources *by*
37 *the authority* shall be used to reduce the obligations of retail sellers
38 pursuant to the California Renewables Portfolio Standard Program
39 (Article 16 (commencing with Section 399.11) of Chapter 2.3 of

Part 1 of Division 1 of the Public Utilities Code). Reduction in compliance obligations shall apply to all of the following:

(A) The procurement quantity requirements established pursuant to subdivision (b) of Section 399.15 of the Public Utilities Code.

(B) The portfolio content category requirements established pursuant to subdivision (b) of Section 399.16 of the Public Utilities Code. Reduction shall be based on the original portfolio content category of the procurement conducted by the authority.

(C) The contract duration requirement pursuant to subdivision (b) of Section 399.13 of the Public Utilities Code. Reduction shall be based on the original contract duration procurement conducted by the authority for newly developed resources.

(3) Any resource adequacy attributes procured by the authority shall be used to reduce the requirements applied to load-serving entities bearing the costs of the procurement pursuant to Section 380 of the Public Utilities Code.

(b) Except for the voluntary procurement of eligible renewable energy resources conducted pursuant to subdivision (f) of Section 399.13 of the Public Utilities Code, the commission shall ensure that procurement by the authority and the adjustment pursuant to this section of a retail seller's compliance obligations do not do any of the following:

(1) Infringe on the flexibility of a load-serving entity *or retail seller* to procure electricity resources to serve end-use customer loads.

(2) Prevent a load-serving entity *or retail seller* from voluntary overcompliance with a state standard or requirement.

(3) Affect the calculation of emissions of greenhouse gases attributable to the procurement of a load-serving ~~entity~~ *entity or retail seller*

(4) Affect reporting by retail suppliers under the power source disclosure program pursuant to Section 398.4 of the Public Utilities Code.

Article 5. Cost Recovery

26125. The authority shall develop and submit annual revenue requirements for review, modification, and approval by the commission to recover the net costs associated with the activities

1 resulting from previously approved procurement plans. The revenue
2 requirements shall include, at a minimum, all of the following:

3 (a) Reasonable administrative, overhead, and transaction costs
4 associated with activities and procurement authorized by the
5 commission pursuant to this chapter.

6 (b) Procurement costs associated with approved contracts.

7 (c) Anticipated revenues from the resale of electricity.

8 (d) Administrative and market costs associated with participating
9 in the transmission planning process at the Independent System
10 Operator.

11 (e) Approved reserves in an amount determined by the
12 commission to be necessary or desirable to support credit and
13 collateral requirements associated with procurement activities.

14 (f) An adjustment to account for prior year over- or
15 under-collections.

16 26126. (a) For costs incurred on behalf of retail customers of
17 a load-serving ~~entity~~, *entity or retail seller*, the authority shall be
18 entitled to recover revenue requirements approved by the
19 commission. Approved requirements for each type of backstop
20 procurement shall be assigned *by the commission* for collection as
21 either of the following:

22 (1) A direct obligation of the retail end-use customers of
23 load-serving entities *or retail sellers* on whose behalf the
24 procurement was undertaken.

25 (2) A direct obligation of the load-serving entity *or retail seller*
26 on whose behalf the procurement was undertaken.

27 (b) (1) For costs to be recovered from retail end-use customers,
28 the commission shall approve a method for recovering and
29 remitting revenue requirements through a nonbypassable rate
30 component that is collected on the basis of usage. The recovery
31 method shall ensure that end-use retail customers benefiting from
32 the procurement pay a fair and reasonable share of the cost
33 obligations and that those obligations cannot be avoided if a
34 customer migrates to another load-serving entity or installs new
35 self-generation resources.

36 (2) For costs to be recovered from load-serving ~~entities~~, *entities*
37 *or retail sellers*, the commission shall approve a method for
38 recovering and remitting revenue requirements to the authority.

39 (3) All cost recovery from end-use ~~customers~~ *or customers*,
40 *retail sellers, or load-serving entities* shall be subject to an annual

1 true up to address overcollections or undercollections and prevent
2 cost shifting. Until the annual true up occurs, any overcollection
3 or undercollection from load-serving entities *or retail sellers* shall
4 be financed or retained by the load-serving ~~entity~~. *entity or retail*
5 *seller*.

6 SEC. 2. No reimbursement is required by this act pursuant to
7 Section 6 of Article XIII B of the California Constitution because
8 the only costs that may be incurred by a local agency or school
9 district will be incurred because this act creates a new crime or
10 infraction, eliminates a crime or infraction, or changes the penalty
11 for a crime or infraction, within the meaning of Section 17556 of
12 the Government Code, or changes the definition of a crime within
13 the meaning of Section 6 of Article XIII B of the California
14 Constitution.