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AMENDED IN SENATE JUNE 20, 2018
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CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 893

Introduced by Assembly Member Eduardo Garcia
(Principal coauthors: Senators Hueso and Stern)

February 16, 2017

An act to add Section 399.35 to, and to add and repeal Section 400.5 of, the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 893, as amended, Eduardo Garcia. California Renewables Portfolio Standard Program.

Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations. The Public Utilities Act imposes various duties and responsibilities on the commission with respect to the purchase of electricity and requires the PUC to review and adopt a renewable energy procurement plan for each electrical corporation pursuant to the

California Renewables Portfolio Standard Program. The California Renewables Portfolio Standard Program requires a retail seller, as defined, to purchase specified minimum quantities of electricity products from eligible renewable energy resources, as defined, for specified compliance periods. A violation of the Public Utilities Act is a crime.

This bill would require each retail seller of electricity and each local publicly owned electric utility to procure a proportionate share of electricity products from a statewide total of ~~5,000~~ 4,250 megawatts of qualified renewable energy resources, defined by the bill as a subset of eligible renewable energy resources that consists of certain ~~bioenergy~~ and geothermal energy resources with high performance relative to capacity, and certain solar and wind energy resources that are eligible for specified federal tax credits. The bill would require portions of that ~~5,000~~ 4,250 megawatts to be procured from specified qualified renewable energy resources. The bill would require, no later than May 31, 2019, each retail seller to file with the PUC a plan for complying with this procurement requirement, as specified. If a community choice aggregator or electric service provider, by ~~June~~ August 1, 2019, fails to demonstrate it has secured sufficient enforceable and financeable procurement commitments to meet its proportionate share, the bill would require the applicable electrical corporation to procure the amount of any shortfall on behalf of the end-use customers of the community choice aggregator or direct access provider. The bill would require, no later than June 30, 2019, each local publicly owned electric utility to adopt a plan for complying with this procurement requirement, as specified. Under the bill, the electricity procured by retail sellers and local publicly owned electric utilities from these qualified renewable energy resources would count toward meeting their obligations under the California Renewables Portfolio Standard Program to purchase specified minimum quantities of electricity products from eligible renewable energy resources. Because a violation of these provisions would be a crime under the Public Utilities Act, the bill would impose a state-mandated local program. By imposing a new procurement requirement on local publicly owned electric utilities, this bill would impose a state-mandated local program.

Existing law requires the PUC and the State Energy Resources Conservation and Development Commission (Energy Commission) to undertake various actions in furtherance of meeting the state's clean energy and pollution reduction objectives.

This bill would require the PUC and the Energy Commission to provide the Legislature, by March 31, 2019, with a joint assessment, as specified, of options for establishing a central statewide entity to procure electricity for all end-use retail customers in the state.

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 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 measure shall be known and may be cited
2 as the “Building Resilience by Integrating Dynamic Green Energy
3 Act of 2018,” or “Bridge Act of 2018.”

4 SEC. 2. (a) The Legislature finds and declares the following:

5 (1) The California Global Warming Solutions Act of 2006
6 (Division 25.5 (commencing with Section 38500) of the Health
7 and Safety Code) required the State Air Resources Board to adopt
8 a statewide greenhouse gas emissions limit to be achieved by 2020,
9 equivalent to the statewide greenhouse gas emissions levels in
10 1990.

11 (2) Amendments to the California Global Warming Solutions
12 Act of 2006 require the state board to ensure that statewide
13 emissions of greenhouse gases are reduced to at least 40 percent
14 below the statewide greenhouse gas emissions levels in 1990 no
15 later than December 31, 2030.

16 (3) Decarbonizing the electrical generation sector is a key part
17 of achieving California’s policy goals for reducing emissions of
18 greenhouse gases.

19 (4) The California Renewables Portfolio Standard Program
20 (Article 16 (commencing with Section 399.11) of Chapter 2.3 of
21 Part 1 of Division 1 of the Public Utilities Code) is intended to
22 complement the Renewable Energy Resources Program
23 administered by the Energy Commission and established pursuant
24 to Chapter 8.6 (commencing with Section 25740) of Division 15
25 of the Public Resources Code.

1 (5) The procurement of renewable energy provides unique
2 benefits to California, including, but not limited to, the reduction
3 of fossil fuel consumption, improved air quality, stable electricity
4 rates, and the development of a safe, reliable, and resilient electrical
5 grid.

6 (6) The Clean Energy and Pollution Reduction Act of 2015
7 (Chapter 547 of the Statutes of 2015) established a 50 percent
8 renewables portfolio standard by 2030, but the state's three largest
9 electrical corporations can meet that target by 2020, and have not
10 procured new generation from renewable energy resources since
11 2015.

12 (7) In July 2018, the State Air Resources Board, in consultation
13 with the Public Utilities Commission and the State Energy
14 Resources Conservation and Development Commission, adopted
15 a goal to limit greenhouse gas emissions from the electricity sector
16 to between 35 and 52 million metric tons of carbon dioxide in
17 2030.

18 (8) In Rulemaking 16-02-007 (filed February 11, 2016), Order
19 Instituting Rulemaking to Develop an Electricity Integrated
20 Resource Planning Framework and to Coordinate and Refine
21 Long-Term Procurement Planning Requirements, the Public
22 Utilities Commission established a target for reducing emissions
23 of greenhouse gases for load-serving entities to an amount not to
24 exceed 42 million metric tons by 2030 (Decision 18-02-018
25 (February 8, 2018) Decision Setting Requirements for Load
26 Serving Entities Filing Integrated Resource Plans, at pages 52 to
27 59). Modeling results showed that load-serving entities must
28 procure at least 10,300 megawatts of electricity from new eligible
29 renewable energy resources, in addition to keeping existing
30 renewable power projects online, in order to meet this target.

31 (9) Preliminary modeling results in the Public Utilities
32 Commission's Rulemaking 16-02-007 have identified a potential
33 ratepayer savings of \$143,000,000 a year statewide, in levelized
34 2016 dollars, resulting from the procurement of tax-credit-eligible
35 renewable resources.

36 ~~(10) In May of 2018, Governor Brown issued an executive order~~
37 ~~to establish a task force to address the state's ongoing wildfire~~
38 ~~emergency, and the California Forest Carbon Plan, issued jointly~~
39 ~~by the Natural Resources Agency, the Department of Forestry and~~
40 ~~Fire Protection, and the California Environmental Protection~~

1 ~~Agency, was also released indicating a need to utilize~~
2 ~~biomass-to-energy and development of grid and resource resiliency~~
3 ~~as part of the multifaceted plan to reduce wildfire risk and mitigate~~
4 ~~the significant carbon and black carbon emissions from the state's~~
5 ~~largely climate driven and increasingly severe fires.~~

6 ~~(11)~~

7 (10) Achieving the state's climate change and renewable energy
8 goals, while maintaining the reliability of the electricity grid and
9 avoiding undue cost impacts on consumers, will require that the
10 state maintain a balanced portfolio of eligible renewable energy
11 resources, including biomass and geothermal resources that can
12 operate flexibly and at high capacity factors to complement variable
13 renewable energy resources, such as wind and solar.

14 ~~(12) A number of biomass and geothermal projects are operating~~
15 ~~pursuant to contracts that are scheduled to expire by 2023, which~~
16 ~~have not been renewed or extended because electrical corporations~~
17 ~~are unwilling to procure additional renewable resources due to~~
18 ~~uncertainty about how much load they will continue to serve within~~
19 ~~their service territories and how much load will depart to~~
20 ~~community choice aggregators or electric service providers in~~
21 ~~coming years.~~

22 ~~(13)~~

23 (11) Updated modeling performed by the Public Utilities
24 Commission as part of its Integrated Resource Plan (IRP)
25 proceeding supports the view that, in order to achieve greenhouse
26 gas reduction targets for the electricity sector at the least cost to
27 ratepayers, load-serving entities should plan to procure a total of
28 3,500 megawatts of new and existing geothermal generation
29 capacity, including 1,700 megawatts of new geothermal generation
30 capacity.

31 ~~(14)~~

32 (12) California must continue to build on the important
33 environmental achievements attained to date by acting now to
34 ensure 100 percent of total retail sales of electricity in California
35 comes from renewable energy resources and zero-carbon resources
36 by December 31, 2045.

37 (b) It is the intent of the Legislature to direct near-term
38 procurement in a way that ensures a diverse and innovative
39 portfolio, stable retail rates for electric service, and the safe and
40 reliable operation of the electrical grid.

1 (c) It is the intent of the Legislature to ensure that existing
 2 renewable energy resources stay online and that new or repowered
 3 renewable energy resources are contracted by 2019 to ensure
 4 California stays on track to meet the 2030 greenhouse gas
 5 emissions target.

6 (d) It is the intent of the Legislature to examine the efficacy of
 7 developing a centralized procurement entity responsible for
 8 purchasing power and distribution resources on behalf of all
 9 ratepayers, to do all of the following:

10 (1) Reduce the cost of financing new and existing renewable
 11 energy projects in the state, including, but not limited to, new
 12 ~~geothermal, bioenergy,~~ *geothermal* and flexible energy projects.

13 (2) Help achieve the climate and air quality goals established
 14 in law.

15 (3) Stabilize the electric grid while reducing dependence on
 16 natural gas power plants to meet short-term electricity demand.

17 SEC. 3. Section 399.35 is added to the Public Utilities Code,
 18 to read:

19 399.35. (a) (1) Each retail seller and local publicly owned
 20 electric utility shall procure, through contracts with a service term
 21 of at least 10 years in duration, a proportionate share of electricity
 22 products from a statewide total of ~~5,000~~ 4,250 megawatts of
 23 cumulative-rated generating capacity of qualified renewable energy
 24 resources that meet the requirements of paragraph (1) of
 25 subdivision (b) of Section 399.16. For purposes of this section,
 26 “proportionate share” shall be based on the forecast of retail sales
 27 for the year 2020.

28 (2) Of the total amount of electricity products procured from
 29 geothermal projects pursuant to paragraph (1):

30 (A) Not less than 500 megawatts of cumulative-rated generation
 31 capacity shall be procured from geothermal projects in existence
 32 as of January 1, 2018, and operated pursuant to contracts otherwise
 33 scheduled to expire between ~~December 31, 2020,~~ *January 1, 2019,*
 34 and December 31, 2022.

35 (B) Not less than an additional 500 megawatts of
 36 cumulative-rated generation capacity shall be procured from
 37 geothermal projects in existence as of January 1, 2018, and
 38 operated pursuant to contracts otherwise scheduled to expire
 39 between December 31, ~~2026,~~ *2025,* and December 31, 2028.

1 (C) Not less than an additional 750 megawatts of
2 cumulative-rated generation capacity shall be procured from
3 geothermal resources that began construction on or after January
4 1, 2019, with early priority on projects in disadvantaged
5 communities with deliveries of electricity products scheduled to
6 commence no later than January 1, 2028.

7 ~~(3) Of the total amount of electricity products procured from
8 bioenergy projects pursuant to paragraph (1):~~

9 ~~(A) Not less than 325 megawatts of cumulative-rated generation
10 capacity shall be procured from bioenergy projects in existence as
11 of January 1, 2018, and operated pursuant to contracts otherwise
12 scheduled to expire between December 31, 2020, and December
13 31, 2022.~~

14 ~~(B) (i) Not less than 200 megawatts of cumulative-rated
15 generation capacity shall be procured from bioenergy projects that
16 began construction on or after January 1, 2019, in addition to the
17 procurement required pursuant to paragraph (2) of subdivision (f)
18 of Section 399.20.~~

19 ~~(ii) Renewable bioenergy projects procured under this
20 subparagraph shall be limited to facilities constructed for the
21 purpose of healthy forest management with a nameplate generation
22 capacity of less than five megawatts.~~

23 ~~(4)~~
24 ~~(3) Of the total amount of electricity products procured from
25 geothermal projects pursuant to paragraph (1), not less than 2,500
26 megawatts shall be procured from tax-advantaged renewable energy
27 resources.~~

28 (b) (1) No later than March 31, 2019, the commission shall
29 determine the proportionate share of electricity products from the
30 ~~5,000~~ 4,250 megawatts of electricity that each retail seller is
31 required to procure pursuant to subdivision (a), including a mix
32 of at least 1,675 megawatts of tax-advantaged renewable resources
33 that promotes the achievement of a diverse overall resource
34 portfolio, as determined by the commission in its Decision
35 18-02-018 to achieve a greenhouse gas emissions target at or below
36 the 42-million-metric-ton goal for 2030 identified in Rulemaking
37 16-02-007.

38 (2) The commission shall direct retail sellers to procure
39 sufficient eligible renewable energy resources in consideration of

1 the integrated resource plan requirements adopted by the
2 commission in its Decision 18-02-018.

3 (A) Contracts executed by an electrical corporation for
4 tax-advantaged renewable resources shall be submitted to the
5 commission for review by no later than September 1, 2019.

6 (B) Procurement of tax-advantaged renewable resources
7 pursuant to this subdivision shall be on behalf of retail end-use
8 customers of all retail sellers. The commission shall act on all
9 submitted contracts by December 31, 2019.

10 (c) (1) No later than May 31, 2019, each retail seller shall file
11 with the commission a plan for complying with subdivision (a).
12 Those plans may authorize a retail seller to aggregate its
13 proportionate share with the proportionate share of another retail
14 seller or local publicly owned electric utility in order to minimize
15 administrative and contracting costs. The commission shall, no
16 later than June 30, 2019, review and approve, modify, or reject
17 plans filed by retail sellers.

18 (2) (A) If a community choice aggregator or electric service
19 provider fails to demonstrate, by ~~June~~ *August* 1, 2019, that it has
20 secured sufficient enforceable and financeable procurement
21 commitments to meet its procurement requirements, the
22 commission shall order the applicable electrical corporation to
23 procure any shortfall on behalf of the retail end-use customers of
24 the community choice aggregator or electric service provider and
25 shall allow the recovery of any costs associated with the
26 procurement from those end-use customers pursuant to paragraph
27 (3).

28 (B) If a community choice aggregator or electric service provider
29 elects not to procure the proportionate share of resources
30 determined by the commission, it shall notify the commission by
31 May 31, 2019.

32 (3) The commission shall allow for recovery of an electrical
33 corporation's costs associated with the procurement required by
34 this section from all benefiting consumers on a nonbypassable
35 basis.

36 (d) (1) No later than June 30, 2019, each local publicly owned
37 electric utility shall adopt, as part of the renewable energy resources
38 procurement plan required by subdivision (f) of Section 399.30,
39 a plan for complying with subdivision (a), including a mix of at
40 least 825 megawatts of tax-advantaged renewable resources that

1 promote achievement of a diverse overall resource portfolio. A
2 local publicly owned electric utility may aggregate its proportionate
3 share with the proportionate share of another local publicly owned
4 electric utility or retail seller in order to minimize administrative
5 and contracting costs.

6 (2) Contracts executed by a local publicly owned electric utility
7 for tax-advantaged renewable resources shall be executed no later
8 than December 31, 2019.

9 (e) Electricity procured by a retail seller or local publicly owned
10 electric utility pursuant to this section shall count toward meeting
11 the requirements specified in subparagraph (B) of paragraph (2)
12 of subdivision (b) of Section 399.15 or subdivision (c) of Section
13 399.30, as applicable.

14 (f) The procurement expenditure limitations described in
15 subdivision (c) of Section 399.15 shall apply to procurement by
16 electrical corporations pursuant to this section.

17 (g) Any cost limitations adopted by the governing board of a
18 local publicly owned electric utility pursuant to subparagraph (B)
19 of paragraph (2) of subdivision (d) of Section 399.30 shall apply
20 to procurement by the local publicly owned utility pursuant to this
21 section.

22 (h) For purposes of this section, the following definitions apply:

23 (1) "Disadvantaged communities" mean communities identified
24 as disadvantaged pursuant to Section 39711 of the Health and
25 Safety Code.

26 (2) "Qualified renewable energy resources" means either of the
27 following:

28 (A) Renewable geothermal or bioenergy generation.

29 (B) Tax-advantaged renewable energy resources.

30 ~~(3) (A) "Renewable geothermal or bioenergy generation" means~~
31 ~~generation from a renewable bioenergy or geothermal energy~~
32 ~~resource that is capable of generating electricity at a capacity factor~~
33 ~~greater than, or equal to, 80 percent, relative to its capacity, on an~~
34 ~~annual average basis.~~

35 ~~(B) Renewable bioenergy generation facilities contracted~~
36 ~~pursuant to this section shall adopt best available control~~
37 ~~technology, as defined in Section 40405 of the Health and Safety~~
38 ~~Code, and best available control technology for toxic air~~
39 ~~contaminants, as defined in Section 39666 of the Health and Safety~~
40 ~~Code. This required technology shall be installed in a generation~~

1 facility before the facility begins delivery of electricity to the entity
2 that procured that electricity pursuant to this section.

3 ~~(C) Renewable bioenergy generation shall be sited in a~~
4 ~~disadvantaged community only if it is consistent with priorities~~
5 ~~identified by the affected community in a transparent, meaningful~~
6 ~~public process. The input from the affected community shall be~~
7 ~~reflected in written documentation submitted to the commission.~~

8 ~~(4)~~

9 (3) (A) “Tax-advantaged renewable energy resource” means a
10 new or repowered renewable solar or wind energy resource that
11 satisfies all of the following:

12 (i) Achieves initial commercial operation or initial operation
13 for a repowered resource after January 1, 2019.

14 (ii) Is eligible for a federal investment tax credit pursuant to
15 Section 48 of Title 26 of the United States Code of at least 22
16 percent or the federal production tax credit pursuant to Section 45
17 of Title 26 of the United States Code of at least 60 percent and
18 passes the savings associated with these credits through to retail
19 sellers and their customers.

20 (iii) Provides an electricity product meeting the product content
21 category requirements of paragraph (1) of subdivision (b) of
22 Section 399.16 pursuant to contracts of 10 years or more in
23 duration, or in its ownership or ownership agreements, for eligible
24 renewable energy resources.

25 (iv) Was not delivering electricity under contract to an entity
26 providing electricity to customers inside or outside the state, and
27 was not a part of a request for proposals shortlist of projects
28 approved by the commission, or a similar public entity of another
29 state, as of September 1, 2018, except as set forth in subparagraph
30 (B).

31 (B) Wind projects under contract before September 1, 2018, to
32 an entity providing electricity inside or outside the state qualify
33 as a tax-advantaged renewable resource if at least half of the project
34 capacity is repowered and the repowered portion satisfies clause
35 (ii) of subparagraph (A). Only the portion of the resource that is
36 repowered shall count towards the total tax-advantaged renewable
37 energy resources to be procured pursuant to this section.

38 (i) Failure to comply with this section shall be subject to
39 noncompliance penalties as specified in paragraph (8) of
40 subdivision (b) of Section 399.15.

1 (j) The provisions of this section are severable. If any provision
2 of this section or its application is held invalid, that invalidity shall
3 not affect other provisions or applications that can be given effect
4 without the invalid provision or application.

5 SEC. 4. Section 400.5 is added to the Public Utilities Code, to
6 read:

7 400.5. (a) By March 31, 2019, the commission and the Energy
8 Commission shall provide the Legislature, in compliance with
9 Section 9795 of the Government Code, with a joint assessment of
10 options for establishing a statewide central procurement entity on
11 behalf of retail sellers in the state. This assessment shall consider
12 the role of any proposed central procurement entity in doing all of
13 the following:

14 (1) Entering into long-term contracts for newly developed
15 renewable energy resources, energy storage, and other preferred
16 resources. For these purposes, “preferred resources” means those
17 resources described in the state’s Energy Action Plan II,
18 Implementation Roadmap for Energy Policies, a joint document
19 adopted by the Energy Commission and the commission
20 (September 21, 2005), as that description of preferred resources
21 may be modified by the commission.

22 (2) Contracting for renewable energy resources when they are
23 at risk of retirement, if they provide demonstrated environmental
24 and public health benefits to the state, including, but not limited
25 to, benefit from a reduction of toxic and criteria air emissions.

26 (3) Developing financing tools to minimize the cost of new
27 generation projects.

28 (b) In conducting the assessment pursuant to subdivision (a),
29 the commission and the Energy Commission shall consider the
30 benefits, costs, and risks of assigning the procurement entity
31 function to any of the following:

32 (1) A state agency or state power authority.

33 (2) A person or corporation, whether for-profit or nonprofit.

34 (3) An existing retail supplier, electrical corporation, or local
35 publicly owned electric utility.

36 (c) The assessment shall evaluate the need for, and appropriate
37 design of, the following features of a central procurement structure:

38 (1) The recovery of reasonable and prudent administrative and
39 procurement costs through the retail rates of end-use customers in
40 a fair and equitable manner.

1 (2) The process for advance review and up-front approval of
2 any procurement commitments.

3 (3) Methods of assigning specific responsibilities to the
4 procurement entity based on the outcome of state resource planning
5 processes and other need determinations.

6 (4) Options for voluntary participation or self-provision of
7 required resources by a retail seller, as defined in Section 399.12.

8 (5) A reasonable and legally defensible approach to evaluating
9 the local environmental, reliability, air quality, and public health
10 benefits of various resources solicited by the procurement entity.
11 This approach shall include consideration of ways to minimize
12 emissions of criteria pollutants, toxic air contaminants, and
13 greenhouse gases, protect public health, and reduce environmental
14 impacts of resources to the maximum extent feasible.

15 (d) The commission and the Energy Commission shall conduct
16 a joint public process for completing the assessment and shall
17 solicit comments from interested stakeholders.

18 (e) Pursuant to Section 10231.5 of the Government Code, this
19 section becomes inoperative on March 31, 2023, and is repealed
20 on January 1, 2024.

21 SEC. 5. No reimbursement is required by this act pursuant to
22 Section 6 of Article XIII B of the California Constitution because
23 a local agency or school district has the authority to levy service
24 charges, fees, or assessments sufficient to pay for the program or
25 level of service mandated by this act or because costs that may be
26 incurred by a local agency or school district will be incurred
27 because this act creates a new crime or infraction, eliminates a
28 crime or infraction, or changes the penalty for a crime or infraction,
29 within the meaning of Section 17556 of the Government Code, or
30 changes the definition of a crime within the meaning of Section 6
31 of Article XIII B of the California Constitution.