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SENATE BILL

No. 107

Introduced by Senators Simitian and Perata
(Principal coauthor: Assembly Member Levine)
(Coauthors: Assembly Members Blakeslee and Cohn)

January 20, 2005

An act to amend Sections ~~25740, 25741, and 25743~~ of, 25620.1, 25740, 25741, 25742, 25743, 25746, and 25751 of, to add Sections 25470.5 and 25744.5 to, and to repeal Sections 25745 and 25749 of, the Public Resources Code, and to amend Sections 387, 399.11, 399.12, 399.13, 399.14, and 399.15 of, to add Article 9 (commencing with Section 635) to Chapter 3 of Part 1 of Division 1 of, to add and repeal Section 2854 of, and to repeal and add Section 399.16 of, the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

SB 107, as amended, Simitian. Renewable energy: *Public Interest Energy Research, Demonstration, and Development Program.*

(1) Existing law expresses the intent of the Legislature, in establishing the Renewable Energy Resources Program, to increase the amount of renewable electricity generated per year, so that it equals at least 17% of the total electricity generated for consumption in California per year by 2006.

This bill would revise and recast that intent language so that the amount of electricity generated per year from eligible renewable energy resources is increased to an amount that equals at least 20% of the total electricity sold to retail customers in California per year by December 31, 2010. The bill would make conforming changes related to this provision.

(2) The Public Utilities Act imposes various duties and responsibilities on the California Public Utilities Commission (CPUC) with respect to the purchase of electricity and requires the CPUC to review and adopt a procurement plan and a renewable energy procurement plan for each electrical corporation pursuant to the California Renewables Portfolio Standard Program. The program requires that a retail seller of electricity, including electrical corporations, community choice aggregators, and electric service providers, but not including local publicly owned electric utilities, purchase a specified minimum percentage of electricity generated by eligible renewable energy resources, as defined, in any given year as a specified percentage of total kilowatthours sold to retail end-use customers each calendar year (renewables portfolio standard). The renewables portfolio standard requires each electrical corporation to increase its total procurement of eligible renewable energy resources by at least an additional 1% of retail sales per year so that 20% of its retail sales are procured from eligible renewable energy resources no later than December 31, 2017.

This bill would instead require that each retail seller, as defined, increase its total procurement of eligible renewable energy resources by at least an additional 1% of retail sales per year so that 20% of its retail sales are procured from eligible renewable energy resources no later than December 31, 2010.

(3) Existing law requires the State Energy Resources Conservation and Development Commission (Energy Commission) to certify eligible renewable energy resources, to design and implement an accounting system to verify compliance with the renewables portfolio standard by retail sellers, and to allocate and award supplemental energy payments to cover above-market costs of renewable energy.

This bill would require *the Energy Commission, if it provides funding for a regional accounting system to verify compliance with the renewables portfolio standard by retail sellers, to recover all costs from user fees. The bill would require the Energy Commission to develop tracking, accounting, verification, and enforcement mechanisms for renewable energy credits, as defined. The bill would specify that facilities located out of state shall not be eligible for supplemental energy payments unless certain requirements are met, and would limit awards to those facilities to 10% of funds available.* The bill would require that deliveries of electricity from an eligible renewable energy resource under any electricity purchase agreement with a retail seller executed before January 1, 2002, be tracked and included in the baseline quantity of eligible renewable energy resources of the purchasing retail seller. The bill would require that electricity generated pursuant to a prescribed federal act and pursuant to a purchase contract executed on or after January 1, 2002, count towards the renewables portfolio standard requirements of the retail seller. The bill would provide for the tracking of deliveries under these purchase contracts through a prescribed accounting system. The bill would make other technical and conforming changes.

Existing law provides that if supplemental energy payments from the Energy Commission, in combination with the market prices approved by the CPUC, are insufficient to cover any above-market costs of eligible renewable energy resources, the CPUC is required to allow a retail seller to limit its annual procurement obligation to the quantity of eligible renewable energy resources that can be procured with available supplemental energy payments.

This bill would require the CPUC to adopt flexible rules allowing a retail seller to limit its annual procurement obligation to the quantity of eligible renewable energy resources that can be delivered by existing transmission if the CPUC finds that the retail seller has undertaken all reasonable efforts to utilize flexible delivery points ~~and has undertaken all reasonable efforts to~~, ensure the availability of any needed transmission capacity, *and, if an electric corporation, to construct needed transmission facilities.*

(4) The Public Utilities Act permits the Energy Commission to consider an electric generating facility that is located outside the state to be an eligible renewable energy resource if it meets specific criteria.

This bill would delete that provision within the act and would amend the definition of an “in-state renewable electricity generation

facility” within related provisions prescribing duties of the Energy Commission to encompass certain facilities located outside the state.

(5) Under existing law, the governing board of a local publicly owned electric utility is responsible for implementing and enforcing a renewables portfolio standard that recognizes the intent of the Legislature to encourage renewable energy resources, while taking into consideration the effect of the standard on rates, reliability, and financial resources and the goal of environmental improvement. Existing law requires the governing board of a local publicly owned electric utility to annually report certain information relative to renewable energy resources to its customers.

This bill would additionally require that the governing board of a local publicly owned electric utility annually report the utility’s status in implementing a renewables portfolio standard and progress toward attaining the standard to its customers and to report to the Energy Commission the information that the governing board is required to annually report to their customers. These additional reporting requirements would thereby impose a state-mandated local program.

(6) Under the Public Utilities Act, the CPUC requires electrical corporations to identify a separate rate component to fund programs that enhance system reliability and provide in-state benefits. This rate component is a nonbypassable element of local distribution and collected on the basis of usage. The funds are collected to support cost-effective energy efficiency and conservation activities, public interest research and development not adequately provided by competitive and regulated markets, and renewable energy resources (renewable energy public goods charge). ~~Under Existing law requires the Energy Commission to transfer funds collected from the renewable energy public goods charge into the Renewable Resource Trust Fund and establishes certain accounts in the fund to carry out certain renewable energy purposes.~~

This bill would require the Energy Commission, in carrying out the renewable energy resources program, to optimize public investment and ensure that the most cost-effective and efficient investments in renewable energy resources are vigorously pursued with a long-term goal of achieving a fully competitive and self-sustaining supply of electricity generated from renewable sources. The bill would state that a near term objective of the program is to increase the quantity of electricity generated by in-state renewable electricity generation facilities, while protecting system reliability, fostering resource

diversity, and obtaining the greatest environmental benefits for California residents with an additional objective to identify and support emerging renewable energy technologies that have the greatest near-term commercial promise and that merit targeted assistance. The bill would make legislative recommendations for allocations among specified renewable energy resources.

(7) Under existing law, 51.5% of the money collected as part of the renewable energy public goods charge is required to be used for programs designed to foster the development of new in-state renewable electricity generation facilities, and to secure for the state the environmental, economic, and reliability benefits that operation of those facilities will provide. Existing law also provides that any of those funds used for new in-state renewable electricity generation facilities are required to be expended in accordance with a specified report of the Energy Commission to the Legislature, subject to certain requirements, including the awarding of supplemental energy payments.

This bill would require that these funds be awarded only to a project that is selected by an electrical corporation pursuant to a competitive solicitation procedure found by the CPUC to comply with the California Renewables Portfolio Standard Program and that the project participant has entered into an electricity purchase agreement resulting from that solicitation that is approved by the CPUC. The bill would authorize certain projects supplying electricity to retail sellers, as defined, to the extent the retail seller is servicing load that is within the distribution area of an electrical corporation and subject to the renewable energy public goods charge, to receive supplemental energy payments under certain circumstances. The bill would prohibit the Energy Commission from awarding supplemental energy payments for the sale or purchase of renewable energy credits or to service load that is not subject to the renewable energy public goods charge. The bill would incorporate the modified definition of an “in-state renewable electricity generation facility.”

(8) Existing law requires that 20% of the funds collected as part of the renewable energy public goods charge be used for a program designed to improve the competitiveness of existing in-state renewable electricity generation facilities and to secure for the state specified benefits.

This bill would reduce that amount to 10% of the funds collected and specify conditions under which certain facilities would be eligible for funding.

(9) Existing law requires that 17 1/2% of the funds collected as part of the renewable energy public goods charge be deposited into the Emerging Renewables Resources Account, and be used for a multiyear, consumer-based program to foster the development of emerging renewable technologies in distributed generation applications.

Existing law requires the Energy Commission, by January 1, 2008, and in consultation with the CPUC, local publicly owned electric utilities, and interested members of the public, to establish and thereafter revise eligibility criteria for solar energy systems, as defined, and to establish conditions for ratepayer funded incentives that are applicable to the California Solar Initiative, as defined.

This bill would require that the Energy Commission, in allocating and using moneys in the Emerging Renewables Resources Account and the Renewable Resource Trust Fund to fund photovoltaic and solar thermal electric technologies, to utilize the eligibility criteria and conditions for solar energy systems that are applicable to the California Solar Initiative.

~~(7)~~

(10) Existing law establishes the Customer-Credit Renewable Resource Purchases Account in the Renewable Resource Trust Fund, requires that 10% of the money collected under the renewable energy public goods charge be deposited into the account and be used for credits to customers that entered into a direct transaction on or before September 20, 2001, for purchases of electricity produced by registered in-state renewable electricity generating facilities.

This bill would delete this provision these provisions.

~~(8)~~

(11) Existing law requires the use of standard terms and conditions by all electrical corporations in contracting for eligible renewable energy resources.

This bill would require that those terms and conditions include the requirement that, no later than 6 months after the CPUC's approval of an electricity purchase agreement, the following information about the agreement be disclosed by the CPUC: party names, resource type, project location, and project capacity.

~~(9)~~

(12) This bill would require an electrical corporation or local publicly owned electric utility to adopt certain strategies in a long-term plan or a procurement plan, as applicable, to achieve efficiency in the use of fossil fuels and to address carbon emissions, as specified.

~~(10)~~

(13) This bill would delete certain obsolete and duplicative provisions and make technical and conforming changes.

~~(11)~~

(14) This bill would require the CPUC, in consultation with the Energy Commission, to review the impact of allowing supplemental energy payments to be applied toward contracts for the procurement of eligible renewable energy resources that are of a duration of less than 10 years, and, by June 30, 2007, to report to the Legislature with the results of the review, including certain matters. *The bill would require the PUC to report to the Legislature, on or before January 1, 2008, on the feasibility, desirability, and design of performance-based incentives for solar energy systems of less than 30 kilowatts.*

(15) Existing law establishes the Public Interest Research, Development, and Demonstration Fund in the State Treasury, and provides that the money collected by the public goods charge to support public interest research and development not adequately provided by competitive and regulated markets, be deposited in the fund for use by the Energy Commission to develop, implement, and administer the Public Interest Research, Development, and Demonstration Program to develop technologies which will improve environmental quality, enhance electrical system reliability, increase efficiency of energy-using technologies, lower electrical system costs, or provide other tangible benefits. The Energy Commission is required to adopt a portfolio approach for the program that accomplishes specified objectives.

This bill would state that the general goal of the program is to develop, and help bring to market, energy technologies that provide increased environmental benefits, greater system reliability, and lower system costs, and that provide tangible benefits to electrical utility customers through specified investments. The bill would require that the portfolio approach used by the Energy Commission additionally ensure an open project selection process, encourage the awarding of research funding for a diverse type of research as well as a diverse award recipient base, equally considers research proposals

from the public and private sectors, and be coordinated with other related research programs.

~~(12)~~

(16) Existing law makes a violation of the Public Utilities Act or a violation of an order of the CPUC a crime.

Certain of the provisions of this bill are a part of the act and an order of the CPUC would be required to implement these provisions. Because a violation of the provisions of the bill that are part of the act or of any CPUC order implementing these provisions would be a crime, this bill would impose a state-mandated local program by creating new crimes.

~~(13)~~

(17) 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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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. Section 25620.1 of the Public Resources Code is
- 2 amended to read:
- 3 25620.1. (a) The commission shall develop, implement, and
- 4 administer the Public Interest Research, Development, and
- 5 Demonstration Program that is hereby created. The program shall
- 6 include a full range of research, development, and demonstration
- 7 activities that, as determined by the commission, are not
- 8 adequately provided for by competitive and regulated markets.
- 9 The commission shall administer the program consistent with the
- 10 policies of ~~Section 399.7 of the Public Utilities Code~~ *this*
- 11 *chapter.*
- 12 (b) The *general* goal of the program is to ~~provide public value~~
- 13 ~~for the benefit of California and its citizens through the~~

1 ~~development of~~ *develop, and help bring to market, energy*
2 ~~technologies which will improve that provide increased~~
3 ~~environmental quality, enhance benefits, greater system~~
4 ~~reliability, increase efficiency of energy-using technologies, and~~
5 ~~lower system costs, or and that provide other tangible benefits:~~ *to*
6 *electrical utility customers through investments in the following:*

7 *(1) Advanced electricity and natural gas transportation*
8 *technologies that reduce air pollution and emissions of*
9 *greenhouse gases beyond applicable standards, and that benefit*
10 *electricity and natural gas ratepayers.*

11 *(2) Increased energy efficiency in buildings, appliances,*
12 *lighting, and other applications beyond applicable standards,*
13 *and that benefit electrical utility customers.*

14 *(3) Advanced electricity generation technologies that exceed*
15 *applicable standards to increase reductions in emissions of*
16 *greenhouse gases from electricity generation, and that benefit*
17 *electric utility customers.*

18 *(4) Advanced electricity technologies that reduce or eliminate*
19 *consumption of water or other finite resources, increase use of*
20 *renewable energy resources, or improve transmission or*
21 *distribution of electricity generated from renewable energy*
22 *resources.*

23 ~~(c) To achieve the goal~~ *goals* established in subdivision (b),
24 the commission shall adopt a portfolio approach for the program
25 that does all of the following:

26 *(1) Effectively balances the risks, benefits, and time horizons*
27 *for various activities and investments that will provide tangible*
28 *energy or environmental benefits for California electricity*
29 *ratepayers customers.*

30 *(2) Emphasizes innovative energy supply and end use*
31 *technologies, focusing on their reliability, affordability, and*
32 *environmental attributes.*

33 *(3) Includes projects that have the potential to enhance*
34 *transmission and distribution capabilities.*

35 *(4) Includes projects that have the potential to enhance the*
36 *reliability, peaking power, and storage capabilities of renewable*
37 *energy.*

38 *(5) Demonstrates a balance of benefits to all sectors that*
39 *contribute to the funding under Section 399.8 of the Public*
40 *Utilities Code.*

- 1 (6) Addresses key technical and scientific barriers.
 2 (7) Demonstrates a balance between short-term, mid-term, and
 3 long-term potential.
 4 (8) Ensures that prior, current, and future research not be
 5 unnecessarily duplicated.
 6 (9) Provides for the future market utilization of projects
 7 funded through the program.
 8 *(10) Ensures an open project selection process and*
 9 *encourages the awarding of research funding for a diverse type*
 10 *of research as well as a diverse award recipient base and equally*
 11 *considers research proposals from the public and private sectors.*
 12 *(11) Coordinates with other related research programs.*
 13 ~~(d) The commission shall review the portfolio adopted~~
 14 ~~pursuant to subdivision (c) in accordance with the “Five-Year~~
 15 ~~Investment Plan, 2002 Through 2006 for the Public Interest~~
 16 ~~Energy Research (PIER) Program (Volume 1)” (P600-01-004a,~~
 17 ~~March 1, 2001):~~
 18 ~~(e)–~~
 19 (d) The term “award,” as used in this chapter, may include, but
 20 is not limited to, contracts, grants, interagency agreements, loans,
 21 and other financial agreements designed to fund public interest
 22 research, demonstration, and development projects or programs.

23 **SECTION 1.**

24 **SEC. 2.** Section 25740 of the Public Resources Code is
 25 amended to read:

26 25740. It is the intent of the Legislature in establishing this
 27 program, to increase the amount of electricity generated from
 28 eligible renewable energy resources per year, so that it equals at
 29 least 20 percent of total retail sales of electricity in California per
 30 year by December 31, 2010.

31 ~~SEC. 2.~~

32 **SEC. 3.** Section 25741 of the Public Resources Code is
 33 amended to read:

34 25741. As used in this chapter, the following terms have the
 35 following meaning:

- 36 (a) “Delivered” and “delivery” mean the electricity output of
 37 an in-state renewable electricity generation facility that is used to
 38 serve end-use retail customers located within the state. Subject to
 39 verification by the accounting system established by the
 40 commission pursuant to subdivision (b) of Section 399.13 of the

1 Public Utilities Code, electricity shall be deemed delivered if it is
2 either provided at a location within the state, or the electricity is
3 scheduled and settled for delivery within the state. *it is either*
4 *generated at a location within the state, or is scheduled for*
5 *consumption by California end-use retail customers.* Subject to
6 criteria adopted by the commission, electricity generated by an
7 eligible renewable energy resource ~~that generates electricity on~~
8 ~~an intermittent basis may be considered “delivered” even if the~~
9 ~~scheduling and settlement occurs at a time subsequent to~~
10 ~~generation.~~ *may be considered “delivered” regardless of whether*
11 *the electricity is generated at a different time from consumption*
12 *by a California end-use customer.*

13 (b) “In-state renewable electricity generation facility” means a
14 facility that meets all of the following criteria:

15 (1) The facility uses biomass, solar thermal, photovoltaic,
16 wind, geothermal, fuel cells using renewable fuels, small
17 hydroelectric generation of 30 megawatts or less, digester gas,
18 municipal solid waste conversion, landfill gas, ocean wave,
19 ocean thermal, or tidal current, and any additions or
20 enhancements to the facility using that technology.

21 (2) The facility satisfies one of the following requirements:

22 (A) The facility is located in the state or near the border of the
23 state with the first point of connection to the transmission
24 network within this state and electricity produced by the facility
25 is delivered to an in-state location.

26 (B) The facility has its first point of interconnection to the
27 transmission network outside the state and satisfies all of the
28 following requirements:

29 (i) It is connected to the transmission network within the
30 Western Electricity Coordinating Council (WECC) service
31 territory.

32 (ii) It commences initial commercial operation after January 1,
33 2005.

34 (iii) Electricity produced by the facility is delivered to an
35 in-state location.

36 (iv) It will not cause or contribute to any violation of a
37 California environmental quality standard or requirement.

38 (v) If the facility is outside of the United States, it is developed
39 and operated in a manner that is as protective of the environment
40 as a similar facility located in the state.

1 (vi) It participates in the accounting system to verify
2 compliance with the renewables portfolio standard by retail
3 sellers, once established by the Energy Commission pursuant to
4 subdivision (b) of Section 399.13 of the Public Utilities Code.

5 (C) The facility meets the requirements of clauses (i), (iii),
6 (iv), (v), and (vi) in subparagraph (B), but does not meet the
7 requirements of clause (ii) because it commences initial
8 operation prior to January 1, 2005, if the facility satisfies either
9 of the following requirements:

10 (i) The electricity is from incremental generation resulting
11 from expansion or repowering of the facility.

12 (ii) The facility has been part of the existing baseline of
13 eligible renewable energy resources of a retail seller established
14 pursuant to paragraph (2) of subdivision (b) of Section 399.15 of
15 the Public Utilities Code.

16 (3) For the purposes of this subdivision, “solid waste
17 conversion” means a technology that uses a noncombustion
18 thermal process to convert solid waste to a clean-burning fuel for
19 the purpose of generating electricity, and that meets all of the
20 following criteria:

21 (A) The technology does not use air or oxygen in the
22 conversion process, except ambient air to maintain temperature
23 control.

24 (B) The technology produces no discharges of air
25 contaminants or emissions, including greenhouse gases as
26 defined in Section 42801.1 of the Health and Safety Code.

27 (C) The technology produces no discharges to surface or
28 groundwaters of the state.

29 (D) The technology produces no hazardous wastes.

30 (E) To the maximum extent feasible, the technology removes
31 all recyclable materials and marketable green waste compostable
32 materials from the solid waste stream prior to the conversion
33 process and the owner or operator of the facility certifies that
34 those materials will be recycled or composted.

35 (F) The facility at which the technology is used is in
36 compliance with all applicable laws, regulations, and ordinances.

37 (G) The technology meets any other conditions established by
38 the commission.

39 (H) The facility certifies that any local agency sending solid
40 waste to the facility diverted at least 30 percent of all solid waste

1 it collects through solid waste reduction, recycling, and
2 composting. For purposes of this paragraph, “local agency”
3 means any city, county, or special district, or subdivision thereof,
4 which is authorized to provide solid waste handling services.

5 (c) “Procurement entity” means any person or corporation that
6 enters into an agreement with a retail seller to procure eligible
7 renewable energy resources pursuant to subdivision (f) of Section
8 399.14 of the Public Utilities Code.

9 (d) “Renewable energy public goods charge” means that
10 portion of the nonbypassable system benefits charge authorized
11 to be collected and to be transferred to the Renewable Resource
12 Trust Fund pursuant to the Reliable Electric Service Investments
13 Act (Article 15 (commencing with Section 399) of Chapter 2.3 of
14 Part 1 of Division 1 of the Public Utilities Code).

15 (e) “Report” means the report entitled “Investing in
16 Renewable Electricity Generation in California” (June 2001,
17 Publication Number P500-00-022) submitted to the Governor
18 and the Legislature by the commission.

19 (f) “Retail seller” means a “retail seller” as defined in Section
20 399.12 of the Public Utilities Code.

21 *SEC. 4. Section 25740.5 is added to the Public Resources*
22 *Code, to read:*

23 *25740.5. (a) The commission shall optimize public*
24 *investment and ensure that the most cost-effective and efficient*
25 *investments in renewable energy resources are vigorously*
26 *pursued.*

27 *(b) The commission’s long-term goal shall be a fully*
28 *competitive and self-sustaining supply of electricity generated*
29 *from renewable sources.*

30 *(c) The program objective shall be to increase, in the near*
31 *term, the quantity of California’s electricity generated by in-state*
32 *renewable electricity generation facilities, while protecting*
33 *system reliability, fostering resource diversity, and obtaining the*
34 *greatest environmental benefits for California residents.*

35 *(d) An additional objective of the program shall be to identify*
36 *and support emerging renewable technologies in distributed*
37 *generation applications that have the greatest near-term*
38 *commercial promise and that merit targeted assistance.*

39 *(e) The Legislature recommends allocations among all of the*
40 *following:*

1 (I) (A) Except as provided in subparagraph (B), production
2 incentives for new in-state renewable electricity generation
3 facilities, including repowered or refurbished facilities.

4 (B) Allocations shall not be made for electricity that is
5 generated by an in-state renewable electricity generation facility
6 that remains under an electricity purchase contract with an
7 electrical corporation originally entered into prior to September
8 24, 1996, whether amended or restated thereafter.

9 (C) Notwithstanding subparagraph (B), production incentives
10 may be allowed in any month for incremental new electricity
11 generated by an in-state renewable electricity generation facility
12 that is repowered or refurbished, where the electricity is
13 delivered under an electricity purchase contract with an
14 electrical corporation originally entered into prior to September
15 24, 1996, whether amended or restated thereafter, if all of the
16 following occur:

17 (i) The facility's electricity purchase contract provides that all
18 electricity delivered and sold under the contract is paid at a price
19 that does not exceed the Public Utilities Commission approved
20 short-run avoided cost of energy.

21 (ii) Either of the following is true:

22 (I) The electricity purchase contract is amended to provide
23 that the kilowatthours used to determine the capacity payment in
24 any time-of-delivery period in any month under the contract shall
25 be equal to the actual kilowatthour production, but no greater
26 than the five-year average of the kilowatthours delivered for the
27 corresponding time-of-delivery period and month, in the years
28 1994 to 1998, inclusive.

29 (II) The facility's installed capacity as of December 31, 1998,
30 is less than 75 percent of the nameplate capacity as stated in the
31 electricity purchase contract, the electricity purchase contract is
32 amended to provide that the kilowatthours used to determine the
33 capacity payment in any time-of-delivery period in any month
34 under the contract shall be equal to the actual kilowatthour
35 production, but no greater than the product of the five-year
36 average of the kilowatthours delivered for the corresponding
37 time-of-delivery period and month, in the years 1994 to 1998,
38 inclusive, and the ratio of installed capacity as of December 31
39 of the previous year, but not to exceed contract nameplate
40 capacity, to the installed capacity as of December 31, 1998.

1 (iii) *The production incentive is payable only with respect to*
2 *the kilowatthours delivered in a particular month that exceeds*
3 *the corresponding five-year average calculated pursuant to*
4 *clause (ii).*

5 (2) *Rebates, buydowns, or equivalent incentives for emerging*
6 *renewable technologies.*

7 (3) *Customer education.*

8 (4) *Incentives for reducing fuel costs, that are confirmed to the*
9 *satisfaction of the commission, at solid fuel biomass energy*
10 *facilities in order to provide demonstrable environmental and*
11 *public benefits, including improved air quality.*

12 (5) *Solar thermal generating resources that enhance the*
13 *environmental value or reliability of the electrical system and*
14 *that require financial assistance to remain economically viable,*
15 *as determined by the commission. The commission may require*
16 *financial disclosure from applicants for purposes of this*
17 *paragraph.*

18 (6) *Specified fuel cell technologies, if the commission makes*
19 *all of the following findings:*

20 (A) *The specified technologies have similar or better air*
21 *pollutant characteristics than renewable technologies in the*
22 *report made pursuant to Section 25748.*

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

26 (C) *The specified technologies could contribute significantly*
27 *to the infrastructure development or other innovation required to*
28 *meet the long-term objective of a self-sustaining, competitive*
29 *supply of electricity generated from renewable sources.*

30 (7) *Existing wind-generating resources, if the commission*
31 *finds that the existing wind-generating resources are a*
32 *cost-effective source of reliable energy and environmental*
33 *benefits compared with other in-state renewable electricity*
34 *generation facilities, and that the existing wind-generating*
35 *resources require financial assistance to remain economically*
36 *viable. The commission may require financial disclosure from*
37 *applicants for the purposes of this paragraph.*

38 (f) *Notwithstanding any other provision of law, moneys*
39 *collected for renewable energy pursuant to Article 15*
40 *(commencing with Section 399) of Chapter 2.3 of Part 1 of*

1 *Division 1 of the Public Utilities Code shall be transferred to the*
2 *Renewable Resource Trust Fund. Moneys collected between*
3 *January 1, 2007, and January 1, 2012, shall be used for the*
4 *purposes specified in this chapter.*

5 *SEC. 5. Section 25742 of the Public Resources Code is*
6 *amended to read:*

7 25742. (a) ~~Twenty-Ten~~ percent of the funds collected
8 pursuant to the renewable energy public goods charge shall be
9 used for programs that are designed to ~~improve the~~
10 ~~competitiveness of~~ *achieve fully competitive and self-sustaining*
11 *existing in-state renewable electricity generation facilities, and to*
12 *secure for the state the environmental, economic, and reliability*
13 *benefits that continued operation of those facilities will provide*
14 *during the 2007–2011 investment cycle. Eligibility for incentives*
15 *under this section shall be limited to those technologies found*
16 *eligible for funds by the commission pursuant to paragraphs (4),*
17 *(5), ~~(6)~~, and ~~(8)~~ (7) of subdivision ~~(e)~~ (e) of Section ~~399.6~~ of the*
18 ~~Public Utilities Code 25740.5.~~

19 (b) Any funds used to support in-state renewable electricity
20 generation facilities pursuant to this section shall be expended in
21 accordance with the provisions of ~~the report, subject to all of the~~
22 ~~following requirements~~ *this chapter, including the following*
23 *conditions:*

24 (1) *The commission shall establish a production incentive,*
25 *which shall not exceed payment caps established by the*
26 *commission, representing the difference between target prices*
27 *and the price paid for electricity, if sufficient funds are available.*
28 *If there are insufficient funds in any payment period to pay either*
29 *the difference between the target and price paid for electricity or*
30 *the payment caps, production incentives shall be based on the*
31 *amount determined by dividing available funds by eligible*
32 *generation.*

33 (2) *The commission may establish a time-differentiated*
34 *incentive structure that encourages plants to run the maximum*
35 *feasible amount of time and that provides a higher incentive*
36 *when the plants are receiving the lowest price.*

37 (3) *The commission may consider inflation and production*
38 *costs.*

39 (c) Facilities that are eligible to receive funding pursuant to
40 this section shall be registered in accordance with criteria

1 developed by the commission and those facilities ~~may shall~~ not
2 receive payments for any electricity produced that *is used on site*.
3 has any of the following characteristics:

4 (C) Is used onsite or is sold to customers in a manner that
5 excludes competitive transition charge payments, or is otherwise
6 excluded from competitive transition charge payments.

7 (1) ~~Of the funding for existing renewable electricity generation~~
8 ~~facilities available pursuant to this section, 75 percent shall be~~
9 ~~used to fund first tier technologies, including biomass and solar~~
10 ~~electric technologies and 25 percent shall be used to fund second~~
11 ~~tier wind technologies.~~

12 (2) ~~The commission shall reexamine the tier structure as~~
13 ~~proposed in the report and adjust the structure to reflect market~~
14 ~~and contractual conditions. The commission shall also consider~~
15 ~~inflation when adjusting the structure.~~

16 (3) ~~The commission shall establish a cents per kilowatthour~~
17 ~~production incentive, not to exceed the payment caps per~~
18 ~~kilowatthour established in the report, as those payment caps are~~
19 ~~revised in guidelines adopted by the commission, representing~~
20 ~~the difference between target prices and the price paid for~~
21 ~~electricity, if sufficient funds are available. If there are~~
22 ~~insufficient funds in any payment period to pay either the~~
23 ~~difference between the target and price paid for electricity or the~~
24 ~~payment caps, production incentives shall be based on the~~
25 ~~amount determined by dividing available funds by eligible~~
26 ~~generation. The price paid for electricity shall be determined by~~
27 ~~the commission based on the energy prices paid to nonutility~~
28 ~~power generators as authorized by the Public Utilities~~
29 ~~Commission, or on otherwise available measures of price. For the~~
30 ~~first tier technologies, the commission shall establish a~~
31 ~~time-differentiated incentive structure that encourages plants to~~
32 ~~run the maximum feasible amount of time and that provides a~~
33 ~~higher incentive when the plants are receiving the lowest price.~~

34 (4)

35 (A) ~~Is sold at monthly average rates equal to or greater than~~
36 ~~the applicable target price, as determined by the commission.~~

37 (B) ~~Is that portion of electricity generation attributable to the~~
38 ~~use of qualified agricultural biomass fuel, for a facility that is~~
39 ~~receiving fuel-based incentives through the Agricultural~~
40 ~~Biomass-to-Energy Incentive Grant Program established~~

1 pursuant to Part 3 (commencing with Section 1101) of Division 1
 2 of the Food and Agricultural Code. Notwithstanding subdivision
 3 (f) of Section 1104 of the Food and Agricultural Code, facilities
 4 that receive funding from the Agricultural Biomass-to-Energy
 5 Incentive Grant Program are eligible to receive funding pursuant
 6 to this section.

7 (d) (1) The commission shall award funding to eligible
 8 facilities based on a facility's individual need. In assessing a
 9 facility's individual need, the commission shall, to the extent
 10 feasible, consider all of the following:

11 (A) The amount of the funds being considered for an award to
 12 the facility.

13 (B) The cumulative amount of funds the facility has received
 14 previously from the commission and other state sources.

15 (C) The value of any current federal or state tax credits.

16 (D) The facility's contract price for energy and capacity.

17 (E) The likelihood that the award will make the facility
 18 competitive and self-sustaining within the 2007–2011 investment
 19 cycle.

20 (F) Any other criteria as determined by the commission.

21 (2) The assessment shall also consider the public benefits
 22 provided by the operation of the facility.

23 (3) The commission shall use its assessment of the facility's
 24 individual need to determine the value of an award to the public
 25 relative to other renewable energy investment alternatives.

26 (4) The commission shall compile its findings and report them
 27 to the Legislature in the reports prepared pursuant to Section
 28 25748.

29 ~~SEC. 3.~~

30 SEC. 6. Section 25743 of the Public Resources Code is
 31 amended to read:

32 25743. (a) Fifty-one and one-half percent of the money
 33 collected pursuant to the renewable energy public goods charge
 34 shall be used for programs designed to foster the development of
 35 new in-state renewable electricity generation facilities, and to
 36 secure for the state the environmental, economic, and reliability
 37 benefits that operation of those facilities will provide.

38 (b) Any funds used for new in-state renewable electricity
 39 generation facilities pursuant to this section shall be expended in

1 accordance with the report, subject to all of the following
2 requirements:

3 (1) In order to cover the above market costs of eligible
4 renewable energy resources as approved by the Public Utilities
5 Commission and selected by retail sellers to fulfill their
6 obligations under Article 16 (commencing with Section 399.11)
7 of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities
8 Code, the commission shall award funds in the form of
9 supplemental energy payments, subject to the following criteria:

10 (A) The commission may establish caps on supplemental
11 energy payments. The caps shall be designed to provide for a
12 viable energy market capable of achieving the goals of Article 16
13 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of
14 Division 1 of the Public Utilities Code. The commission may
15 waive application of the caps to accommodate a facility if it is
16 demonstrated to the satisfaction of the commission that operation
17 of the facility would provide substantial economic and
18 environmental benefits to end-use customers subject to the
19 renewable energy public goods charge.

20 (B) Supplemental energy payments shall be awarded only to
21 facilities that are eligible for funding under this section.

22 (C) Supplemental energy payments awarded to facilities
23 selected by a retail seller or procurement entity pursuant to
24 Article 16 (commencing with Section 399.11) of Chapter 2.3 of
25 Part 1 of Division 1 of the Public Utilities Code shall be paid for
26 no longer than 10 years, but shall, subject to the payment caps in
27 subparagraph (A), be equal to the cumulative above-market costs
28 relative to the applicable market price referent at the time of
29 initial contracting, over the duration of the contract with the retail
30 seller or procurement entity.

31 (D) The commission shall reduce or terminate supplemental
32 energy payments for projects that fail either to commence and
33 maintain operations consistent with the contractual obligations to
34 an electrical corporation, or that fail to meet eligibility
35 requirements.

36 (E) Funds shall be managed in an equitable manner in order
37 for retail sellers to meet their obligation under Article 16
38 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of
39 Division 1 of the Public Utilities Code.

1 (F) A project selected by an electrical corporation may receive
2 supplemental energy payments only if it results from a
3 competitive solicitation that is found by the Public Utilities
4 Commission to comply with the California Renewables Portfolio
5 Standard Program under Article 16 (commencing with Section
6 399.11) of Chapter 2.3 of Part 1 of Division 1 of the Public
7 Utilities Code, and the project has entered into an electricity
8 purchase agreement resulting from that solicitation, that is
9 approved by the Public Utilities Commission. A project selected
10 for an electricity purchase agreement by another retail seller or
11 procurement entity may receive supplemental energy payments
12 only if the Public Utilities Commission determines that the
13 selection of the project is consistent with the results of a
14 least-cost and best-fit process, and the supplemental energy
15 payments are reasonable in comparison to those paid under
16 similar contracts with other retail sellers. The commission may
17 not award supplemental energy payments to service load that is
18 not subject to the renewable energy public goods charge.

19 (G) (i) Supplemental energy payments shall not be awarded
20 for any purchases of renewable energy credits.

21 (ii) Supplemental energy payments shall not be awarded for
22 electricity purchase agreements that have a duration of less than
23 10 years. The ineligibility of agreements of less than 10 years
24 duration for supplemental energy payments does not constitute
25 an insufficiency in supplemental energy payments pursuant to
26 paragraph (4) or (5) of subdivision (b) of Section 399.15.

27 (2) (A) A facility that is located outside of California shall not
28 be eligible for funding under this section unless it satisfies the
29 requirements of this subdivision and the criteria of subparagraph
30 (B) of paragraph (2) of subdivision (b) of Section 25741.

31 (B) *No more than 10 percent of the funds available under this*
32 *section shall be awarded to facilities located outside of*
33 *California.*

34 (3) Facilities that are eligible to receive funding pursuant to
35 this section shall be registered in accordance with criteria
36 developed by the commission and those facilities may not receive
37 payments for any electricity produced that has any of the
38 following characteristics:

39 (A) Is sold under an existing long-term contract with an
40 existing in-state electrical corporation if the contract includes

1 fixed energy or capacity payments, except for that electricity that
2 satisfies subparagraph (C) of paragraph (1) of subdivision (c) of
3 Section 399.6 of the Public Utilities Code.

4 (B) Is used onsite or is sold to customers in a manner that
5 excludes competition transition charge payments, or is otherwise
6 excluded from competition transition charge payments.

7 (C) Is a hydroelectric generation project that will require a
8 new or increased appropriation of water under Part 2
9 (commencing with Section 1200) of Division 2 of the Water
10 Code, or any other provision authorizing an appropriation of
11 water.

12 (D) Is a solid waste conversion facility, unless the facility
13 meets the criteria established in paragraph (3) of subdivision (b)
14 of Section 25741 and the facility certifies that any local agency
15 sending solid waste to the facility is in compliance with Division
16 30 (commencing with Section 40000), has reduced, recycled, or
17 composted solid waste to the maximum extent feasible, and shall
18 have been found by the California Integrated Waste Management
19 Board to have diverted at least 30 percent of all solid waste
20 through source reduction, recycling, and composting.

21 (4) Eligibility to compete for funds or to receive funds shall be
22 contingent upon having to sell the electricity generated by the
23 renewable electricity generation facility to customers subject to
24 the renewable energy public goods charge.

25 (5) The commission may require applicants competing for
26 funding to post a forfeitable bid bond or other financial guaranty
27 as an assurance of the applicant's intent to move forward
28 expeditiously with the project proposed. The amount of any bid
29 bond or financial guaranty may not exceed 10 percent of the total
30 amount of the funding requested by the applicant.

31 (6) In awarding funding, the commission may provide
32 preference to projects that provide tangible demonstrable benefits
33 to communities with a plurality of minority or low-income
34 populations.

35 (c) Repowered existing facilities shall be eligible for funding
36 under this subdivision if the capital investment to repower the
37 existing facility equals at least 80 percent of the value of the
38 repowered facility.

1 (d) Facilities engaging in the direct combustion of municipal
2 solid waste or tires are not eligible for funding under this
3 subdivision.

4 (e) Production incentives awarded under this subdivision prior
5 to January 1, 2002, shall commence on the date that a project
6 begins electricity production, provided that the project was
7 operational prior to January 1, 2002, unless the commission finds
8 that the project will not be operational prior to January 1, 2002,
9 due to circumstances beyond the control of the developer. Upon
10 making a finding that the project will not be operational due to
11 circumstances beyond the control of the developer, the
12 commission shall pay production incentives over a five-year
13 period, commencing on the date of operation, provided that the
14 date that a project begins electricity production may not extend
15 beyond January 1, 2007.

16 (f) Facilities generating electricity from biomass energy shall
17 be considered an in-state renewable electricity generation facility
18 to the extent that they report to the commission the types and
19 quantities of biomass fuels used and certify to the satisfaction of
20 the commission that fuel utilization is limited to the following:

21 (1) Agricultural crops and agricultural wastes and residues.

22 (2) Solid waste materials such as waste pallets, crates,
23 dunnage, manufacturing, and construction wood wastes,
24 landscape or right-of-way tree trimmings, mill residues that are
25 directly the result of the milling of lumber, and rangeland
26 maintenance residues.

27 (3) Wood and wood wastes that meet all of the following
28 requirements:

29 (A) Have been harvested pursuant to an approved timber
30 harvest plan prepared in accordance with the Z'berg-Nejedly
31 Forest Practice Act of 1973 (Chapter 8 (commencing with
32 Section 4511) of Part 2 of Division 4).

33 (B) Have been harvested for the purpose of forest fire fuel
34 reduction or forest stand improvement.

35 (C) Do not transport or cause the transportation of species
36 known to harbor insect or disease nests outside zones of
37 infestation or current quarantine zones, as identified by the
38 Department of Food and Agriculture or the Department of
39 Forestry and Fire Protection, unless approved by the Department

1 of Food and Agriculture and the Department of Forestry and Fire
2 Protection.

3 *SEC. 7. Section 25744.5 is added to the Public Resources*
4 *Code, to read:*

5 *25744.5. The commission shall allocate and use funding*
6 *available for emerging renewable technologies pursuant to*
7 *Section 25744 and Section 25751 to fund photovoltaic and solar*
8 *thermal electric technologies in accordance with eligibility*
9 *criteria and conditions established pursuant to Chapter 8.8*
10 *(commencing with Section 25780).*

11 ~~SEC. 4.~~

12 *SEC. 8. Section 25745 of the Public Resources Code is*
13 *repealed.*

14 *SEC. 9. Section 25746 of the Public Resources Code is*
15 *amended to read:*

16 *25746. (a) One percent of the money collected pursuant to*
17 *the renewable energy public goods charge shall be used in*
18 *accordance with the report this chapter to promote renewable*
19 *energy and disseminate information on renewable energy*
20 *technologies, including emerging renewable technologies, and to*
21 *help develop a consumer market for renewable energy and for*
22 *small-scale emerging renewable energy technologies.*

23 *(b) If the commission provides funding for a regional*
24 *accounting system to verify compliance with the renewable*
25 *portfolio standard by retail sellers, pursuant to subdivision (b) of*
26 *Section 399.13 of the Public Utilities Code, the commission shall*
27 *recover all costs from user fees.*

28 ~~SEC. 5.~~

29 *SEC. 10. Section 25749 of the Public Resources Code is*
30 *repealed.*

31 *SEC. 11. Section 25751 of the Public Resources Code is*
32 *amended to read:*

33 *25751. (a) The Renewable Resource Trust Fund is hereby*
34 *created in the State Treasury.*

35 *(b) The following accounts are hereby established within the*
36 *Renewable Resource Trust Fund:*

37 *(1) The Existing Renewable Resources Account.*

38 *(2) New Renewable Resources Account.*

39 *(3) Emerging Renewable Resources Account.*

40 ~~*(4) Customer-Credit Renewable Resource Purchases Account.*~~

1 ~~(5)~~

2 (4) Renewable Resources Consumer Education Account.

3 (c) The money in the fund may be expended ~~for the state's~~
4 ~~administration of this article~~, only upon appropriation by the
5 Legislature in the annual Budget Act, *for the following*
6 *purposes:*

7 (1) *The administration of this article by the state.*

8 (2) *The state's expenditures associated with the accounting*
9 *system established by the commission pursuant to subdivision (b)*
10 *of Section 399.13 of the Public Utilities Code.*

11 ~~(d) Notwithstanding Section 383, that~~ That portion of revenues
12 collected by electrical corporations for the benefit of in-state
13 operation and development of existing and new and emerging
14 renewable resource technologies, pursuant to Section ~~399.8 of~~
15 ~~the Public Utilities Code 25740.5~~, shall be transmitted to the
16 commission at least quarterly for deposit in the Renewable
17 Resource Trust Fund pursuant to Section 399.6 of the Public
18 Utilities Code. After setting aside in the fund money that may be
19 needed for expenditures authorized by the annual Budget Act in
20 accordance with subdivision (c), the Treasurer shall immediately
21 deposit money received pursuant to this section into the accounts
22 created pursuant to subdivision (b) in proportions designated by
23 the commission for the current calendar year. Notwithstanding
24 Section 13340 of the Government Code, the money in the fund
25 and the accounts within the fund are hereby continuously
26 appropriated to the commission without regard to fiscal year for
27 the purposes enumerated in this chapter.

28 (e) Upon notification by the commission, the Controller shall
29 pay all awards of the money in the accounts created pursuant to
30 subdivision (b) for purposes enumerated in this chapter. The
31 eligibility of each award shall be determined solely by the
32 commission based on the procedures it adopts under this chapter.
33 Based on the eligibility of each award, the commission shall also
34 establish the need for a multiyear commitment to any particular
35 award and so advise the Department of Finance. Eligible awards
36 submitted by the commission to the Controller shall be
37 accompanied by information specifying the account from which
38 payment should be made and the amount of each payment; a
39 summary description of how payment of the award furthers the
40 purposes enumerated in this chapter; and an accounting of future

1 costs associated with any award or group of awards known to the
2 commission to represent a portion of a multiyear funding
3 commitment.

4 (f) The commission may transfer funds between accounts for
5 cashflow purposes, provided that the balance due each account is
6 restored and the transfer does not adversely affect any of the
7 accounts.

8 (g) The Department of Finance, ~~commencing March 1, 1999,~~
9 shall conduct an independent audit of the Renewable Resource
10 Trust Fund and its related accounts annually, and provide an
11 audit report to the Legislature not later than March 1 of each year
12 for which this article is operative. The Department of Finance's
13 report shall include information regarding revenues, payment of
14 awards, reserves held for future commitments, unencumbered
15 cash balances, and other matters that the Director of Finance
16 determines may be of importance to the Legislature.

17 ~~SEC. 6.~~

18 *SEC. 12.* Section 387 of the Public Utilities Code is amended
19 to read:

20 387. (a) Each governing body of a local publicly owned
21 electric utility, as defined in Section 9604, shall be responsible
22 for implementing and enforcing a renewables portfolio standard
23 that recognizes the intent of the Legislature to encourage
24 renewable resources, while taking into consideration the effect of
25 the standard on rates, reliability, and financial resources and the
26 goal of environmental improvement.

27 (b) Each local publicly owned electric utility shall report, on
28 an annual basis, to its customers and to the State Energy
29 Resources Conservation and Development Commission, the
30 following:

31 (1) Expenditures of public goods funds collected pursuant to
32 Section 385 for eligible renewable energy resource development.
33 Reports shall contain a description of programs, expenditures,
34 and expected or actual results.

35 (2) The resource mix used to serve its customers by fuel type.
36 Reports shall contain the contribution of each type of renewable
37 energy resource with separate categories for those fuels that are
38 eligible renewable energy resources as defined in Section 399.12,
39 except that the electricity is delivered to the local publicly owned
40 electric utility and not a retail seller. Electricity shall be reported

1 as having been delivered to the local publicly owned electric
2 utility from an eligible renewable energy resource when the
3 electricity would qualify for compliance with the renewables
4 portfolio standard if it were delivered to a retail seller.

5 (3) The utility's status in implementing a renewables portfolio
6 standard pursuant to subdivision (a) and the utility's progress
7 toward attaining the standard following implementation.

8 ~~SEC. 7.~~

9 *SEC. 13.* Section 399.11 of the Public Utilities Code is
10 amended to read:

11 399.11. The Legislature finds and declares all of the
12 following:

13 (a) In order to attain a target of generating 20 percent of total
14 retail sales of electricity in California from eligible renewable
15 energy resources by December 31, 2010, and for the purposes of
16 increasing the diversity, reliability, public health and
17 environmental benefits of the energy mix, it is the intent of the
18 Legislature that the commission and the State Energy Resources
19 Conservation and Development Commission implement the
20 California Renewables Portfolio Standard Program described in
21 this article.

22 (b) Increasing California's reliance on eligible renewable
23 energy resources may promote stable electricity prices, protect
24 public health, improve environmental quality, stimulate
25 sustainable economic development, create new employment
26 opportunities, and reduce reliance on imported fuels.

27 (c) The development of eligible renewable energy resources
28 and the delivery of the electricity generated by those resources to
29 customers in California may ameliorate air quality problems
30 throughout the state and improve public health by reducing the
31 burning of fossil fuels and the associated environmental impacts
32 and by reducing in-state fossil fuel consumption.

33 (d) The California Renewables Portfolio Standard Program is
34 intended to complement the Renewable Energy Resources
35 Program administered by the State Energy Resources
36 Conservation and Development Commission and established
37 pursuant to Chapter 8.6 (commencing with Section 25740) of
38 Division 15 of the Public Resources Code.

1 (e) New and modified electric transmission facilities may be
2 necessary to facilitate the state achieving its renewables portfolio
3 standard targets.

4 ~~SEC. 8.~~

5 *SEC. 14.* Section 399.12 of the Public Utilities Code is
6 amended to read:

7 399.12. For purposes of this article, the following terms have
8 the following meanings:

9 (a) “Delivered” and “delivery” have the same meaning as
10 provided in subdivision (a) of Section 25741 of the Public
11 Resources Code.

12 (b) “Eligible renewable energy resource” means an electric
13 generating facility that meets the definition of “in-state
14 renewable electricity generation facility” in Section 25741 of the
15 Public Resources Code, subject to the following limitations:

16 (1) (A) An existing small hydroelectric generation facility of
17 30 megawatts or less shall be eligible only if a retail seller owned
18 or procured the electricity from the facility as of December 31,
19 2005. A new hydroelectric facility is not an eligible renewable
20 energy resource if it will require a new or increased appropriation
21 or diversion of water ~~under Part 2 (commencing with Section~~
22 ~~1200) of Division 2 of the Water Code, or any other provision~~
23 ~~authorizing an appropriation of water from a watercourse.~~

24 (B) Notwithstanding subparagraph (A), an existing conduit
25 hydroelectric facility, as defined by Section 823a of Title 16 of
26 the United States Code, of 30 megawatts or less, shall be an
27 eligible renewable energy resource. A new conduit hydroelectric
28 facility, as defined by Section 823a of Title 16 of the United
29 States Code, of 30 megawatts or less, shall be an eligible
30 renewable energy resource so long as it does not require a new or
31 increased appropriation or diversion of water ~~under Part 2~~
32 ~~(commencing with Section 1200) of Division 2 of the Water~~
33 ~~Code, or any other provision authorizing an appropriation of~~
34 ~~water from a watercourse.~~

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

39 (c) “Energy Commission” means the State Energy Resources
40 Conservation and Development Commission.

1 (d) “Local publicly owned electric utility” has the same
2 meaning as provided in subdivision (d) of Section 9604.

3 (e) “Procure” means that a retail seller receives delivered
4 electricity generated by an eligible renewable energy resource
5 that it owns or for which it has entered into an electricity
6 purchase agreement. Nothing in this article is intended to imply
7 that the purchase of electricity from third parties in a wholesale
8 transaction is the preferred method of fulfilling a retail seller’s
9 obligation to comply with this article.

10 (f) “Renewables portfolio standard” means the specified
11 percentage of electricity generated by eligible renewable energy
12 resources that a retail seller is required to procure pursuant to this
13 article.

14 (g) (1) “Renewable energy credit” means a certificate of
15 proof, issued through the accounting system established by the
16 Energy Commission pursuant to Section 399.13, that one unit of
17 electricity was generated and delivered by an eligible renewable
18 energy resource.

19 (2) “Renewable energy credit” includes all renewable and
20 environmental attributes associated with the production of
21 electricity from the eligible renewable energy resource, except
22 for an emissions reduction credit issued pursuant to Section
23 40709 of the Health and Safety Code and any credits or payments
24 associated with the reduction of solid waste and treatment
25 benefits created by the utilization of biomass or biogas fuels.

26 (3) No electricity generated by an eligible renewable energy
27 resource attributable to the use of nonrenewable fuels, beyond a
28 de minimus quantity, as determined by the Energy Commission,
29 shall result in the creation of a renewable energy credit.

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

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

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

39 (3) An electric service provider, as defined in Section 218.3,
40 for all sales of electricity to customers beginning January 1,

1 2006. The commission shall institute a rulemaking to determine
2 the manner in which electric service providers will participate in
3 the renewables portfolio standard program. The electric service
4 provider shall be subject to the same terms and conditions
5 applicable to an electrical corporation pursuant to this article.
6 Nothing in this paragraph shall impair a contract entered into
7 between an electric service provider and a retail customer prior to
8 the suspension of direct access by the commission pursuant to
9 Section 80110 of the Water Code.

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

11 (A) A corporation or person employing cogeneration
12 technology or producing electricity consistent with subdivision
13 (b) of Section 218.

14 (B) The Department of Water Resources acting in its capacity
15 pursuant to Division 27 (commencing with Section 80000) of the
16 Water Code.

17 (C) A local publicly owned electric utility.

18 ~~SEC. 9.~~

19 *SEC. 15.* Section 399.13 of the Public Utilities Code is
20 amended to read:

21 399.13. The Energy Commission shall do all of the following:

22 (a) Certify eligible renewable energy resources that it
23 determines meet the criteria described in subdivision (b) of
24 Section 399.12.

25 (b) Design and implement an accounting system to verify
26 compliance with the renewables portfolio standard by retail
27 sellers, to ensure that electricity generated by an eligible
28 renewable energy resource is counted only once for the purpose
29 of meeting the renewables portfolio standard of this state or any
30 other state, to certify renewable energy credits produced by
31 eligible renewable energy resources, and to verify retail product
32 claims in this state or any other state. In establishing the
33 guidelines governing this accounting system, the Energy
34 Commission shall collect data from electricity market
35 participants that it deems necessary to verify compliance of retail
36 sellers, in accordance with the requirements of this article and the
37 California Public Records Act (Chapter 3.5 (commencing with
38 Section 6250) of Division 7 of Title 1 of the Government Code).
39 In seeking data from electrical corporations, the Energy
40 Commission shall request data from the commission. The

1 commission shall collect data from electrical corporations and
2 remit the data to the Energy Commission within 90 days of the
3 request.

4 (c) Establish a system for tracking and verifying renewable
5 energy credits that, through the use of independently audited
6 data, verifies the generation and delivery of electricity associated
7 with each renewable energy credit and protects against multiple
8 counting of the same renewable energy credit. The Energy
9 Commission shall consult with other western states and with the
10 Western Electricity Coordinating Council in the development of
11 this system.

12 (d) Certify, for purposes of compliance with the renewable
13 portfolio standard requirements by a retail seller, the eligibility of
14 renewable energy credits associated with deliveries of electricity
15 by an eligible renewable energy resource to a local publicly
16 owned electric utility, if the Energy Commission determines that
17 the following conditions have been satisfied:

18 (1) The local publicly owned electric utility that is procuring
19 the electricity is in compliance with the requirements of Section
20 387.

21 (2) The local publicly owned electric utility has established an
22 annual renewables portfolio standard target comparable to those
23 applicable to an electrical corporation, is procuring sufficient
24 eligible renewable energy resources to satisfy the targets, and
25 will not fail to satisfy the targets in the event that the renewable
26 energy credit is sold to another retail seller.

27 (e) Allocate and award supplemental energy payments
28 pursuant to Chapter 8.6 (commencing with Section 25740) of
29 Division 15 of the Public Resources Code, to eligible renewable
30 energy resources to cover above-market costs of renewable
31 energy. A project selected by an electrical corporation may
32 receive supplemental energy payments only if it results from a
33 competitive solicitation that is found by the commission to
34 comply with the California Renewables Portfolio Standard
35 Program under this article and the project has entered into an
36 electricity purchase agreement resulting from that solicitation
37 that is approved by the commission. A project selected for an
38 electricity purchase agreement by another retail seller may
39 receive supplemental energy payments only if the retail seller
40 demonstrates to the commission that the selection of the project

1 is consistent with the results of a least-cost and best-fit process,
2 and that the supplemental energy payments are reasonable in
3 comparison to those paid under similar contracts with other retail
4 sellers.

5 ~~(f) Deliveries of electricity from an eligible renewable energy~~
6 ~~resource under an electricity purchase agreement with a retail~~
7 ~~seller executed before January 1, 2002, shall be tracked through~~
8 ~~the accounting system described in subdivision (b) and credited~~
9 ~~toward the annual procurement targets of the purchasing retail~~
10 ~~seller pursuant to Section 399.15.~~

11 ~~(g) Deliveries of electricity from an eligible renewable energy~~
12 ~~resource under an electricity purchase agreement with a retail~~
13 ~~seller executed after January 1, 2002, pursuant to the federal~~
14 ~~Public Utility Regulatory Policies Act of 1978 (16 U.S.C. Sec.~~
15 ~~2601 et seq.), shall be tracked through the accounting system~~
16 ~~described in subdivision (b) and count towards the renewables~~
17 ~~portfolio standard obligations of the purchasing retail seller.~~

18 ~~SEC. 10.~~

19 *SEC. 16.* Section 399.14 of the Public Utilities Code is
20 amended to read:

21 399.14. (a) (1) The commission shall direct each electrical
22 corporation to prepare a renewable energy procurement plan that
23 includes the matter in paragraph (3), to satisfy its obligations
24 under the renewables portfolio standard. To the extent feasible,
25 this procurement plan shall be proposed, reviewed, and adopted
26 by the commission as part of, and pursuant to, a general
27 procurement plan process. The commission shall require each
28 electrical corporation to review and update its renewable energy
29 procurement plan as it determines to be necessary.

30 (2) The commission shall adopt, by rulemaking, all of the
31 following:

32 (A) A process for determining market prices pursuant to
33 subdivision (c) of Section 399.15. The commission shall make
34 specific determinations of market prices after the closing date of
35 a competitive solicitation conducted by an electrical corporation
36 for eligible renewable energy resources.

37 (B) A process that provides criteria for the rank ordering and
38 selection of least-cost and best-fit eligible renewable energy
39 resources to comply with the annual California Renewables
40 Portfolio Standard Program obligations on a total cost basis. This

1 process shall consider estimates of indirect costs associated with
2 needed transmission investments and ongoing utility expenses
3 resulting from integrating and operating eligible renewable
4 energy resources.

5 (C) (i) Flexible rules for compliance, including rules
6 permitting retail sellers to apply excess procurement in one year
7 to subsequent years or inadequate procurement in one year to no
8 more than the following three years. The flexible rules for
9 compliance shall apply to all years, including years before and
10 after a retail seller procures at least 20 percent of total retail sales
11 of electricity from eligible renewable energy resources. ~~The~~

12 (ii) ~~The~~ flexible rules for compliance shall address situations
13 where, as a result of ~~transmission constraints~~ *insufficient*
14 *transmission*, a retail seller is unable to procure eligible
15 renewable energy resources sufficient to satisfy the requirements
16 of this article. Any rules addressing ~~transmission constraints~~
17 *insufficient transmission* shall require a finding by the
18 commission that the retail seller has undertaken all reasonable
19 ~~efforts to utilize flexible delivery points and has undertaken all~~
20 ~~reasonable efforts to ensure~~ *efforts to do all of the following:*

21 (I) *Utilize flexible delivery points.*

22 (II) *Ensure* the availability of any needed transmission
23 capacity.

24 (III) *If the retail seller is an electric corporation, to construct*
25 *needed transmission facilities.*

26 (IV) *Nothing in this subparagraph shall be construed to revise*
27 *any portion of Section 454.5.*

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

1 (3) Consistent with the goal of procuring the least-cost and
2 best-fit eligible renewable energy resources, the renewable
3 energy procurement plan submitted by an electrical corporation
4 shall include all of the following:

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

10 (B) Provisions for employing available compliance flexibility
11 mechanisms established by the commission.

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

15 (4) In soliciting and procuring eligible renewable energy
16 resources, each electrical corporation shall offer contracts of no
17 less than 10 years in duration, unless the commission approves of
18 a contract of shorter duration.

19 (5) In soliciting and procuring eligible renewable energy
20 resources, each electrical corporation may give preference to
21 projects that provide tangible demonstrable benefits to
22 communities with a plurality of minority or low-income
23 populations.

24 (b) The commission may authorize a retail seller to enter into
25 a contract of less than 10 years' duration with an eligible
26 renewable energy resource, subject to the following conditions:

27 (1) No supplemental energy payments shall be awarded for a
28 contract of less than 10 years' duration. The ineligibility of
29 contracts of less than 10 years' duration for supplemental energy
30 payments pursuant to this paragraph does not constitute an
31 insufficiency in supplemental energy payments pursuant to
32 paragraph (4) or (5) of subdivision (b) of Section 399.15.

33 (2) The commission has established, *for each retail seller,*
34 minimum quantities of eligible renewable energy resources to be
35 ~~procured by the retail seller through contracts of at least 10 years'~~
36 ~~duration.~~ *either through contracts of at least 10 years' duration*
37 *or from new facilities commencing commercial operations on or*
38 *after January 1, 2005.*

39 (c) The commission shall review and accept, modify, or reject
40 each electrical corporation's renewable energy procurement plan

1 prior to the commencement of renewable procurement pursuant
2 to this article by an electrical corporation.

3 (d) The commission shall review the results of an eligible
4 renewable energy resources solicitation submitted for approval
5 by an electrical corporation and accept or reject proposed
6 contracts with eligible renewable energy resources based on
7 consistency with the approved renewable energy procurement
8 plan. If the commission determines that the bid prices are
9 elevated due to a lack of effective competition amongst the
10 bidders, the commission shall direct the electrical corporation to
11 renegotiate the contracts or conduct a new solicitation.

12 (e) If an electrical corporation fails to comply with a
13 commission order adopting a renewable energy procurement
14 plan, the commission shall exercise its authority pursuant to
15 Section 2113 to require compliance. The commission shall
16 enforce comparable penalties on any other retail seller that fails
17 to meet annual procurement targets established pursuant to
18 Section 399.15.

19 (f) (1) The commission may authorize a procurement entity to
20 enter into contracts on behalf of customers of a retail seller for
21 deliveries of eligible renewable energy resources to satisfy
22 annual renewables portfolio standard obligations. The
23 commission may not require any person or corporation to act as a
24 procurement entity or require any party to purchase eligible
25 renewable energy resources from a procurement entity.

26 (2) Subject to review and approval by the commission, the
27 procurement entity shall be permitted to recover reasonable
28 administrative and procurement costs through the retail rates of
29 end-use customers that are served by the procurement entity and
30 are directly benefiting from the procurement of eligible
31 renewable energy resources.

32 (3) A project selected for a long-term electricity purchase
33 contract of more than 10 years' duration by a procurement entity
34 through a competitive solicitation, and approved by the
35 commission, may receive supplemental energy payments from
36 the Energy Commission if the transaction satisfies the
37 requirements of subdivision (b) of Section 25743 of the Public
38 Resources Code.

39 (g) Procurement and administrative costs associated with
40 long-term contracts entered into by an electrical corporation for

1 eligible renewable energy resources pursuant to this article, at or
2 below the market price determined by the commission pursuant
3 to subdivision (c) of Section 399.15, shall be deemed reasonable
4 per se, and shall be recoverable in rates.

5 (h) Construction, alteration, demolition, installation, and repair
6 work on an eligible renewable energy resource that receives
7 production incentives or supplemental energy payments pursuant
8 to Sections 25742 and 25743 of the Public Resources Code,
9 including work performed to qualify, receive, or maintain
10 production incentives or supplemental energy payments is
11 “public works” for the purposes of Chapter 1 (commencing with
12 Section 1720) of Part 7 of Division 2 of the Labor Code.

13 ~~SEC. 11.~~

14 *SEC. 17.* Section 399.15 of the Public Utilities Code is
15 amended to read:

16 399.15. (a) In order to fulfill unmet long-term resource
17 needs, the commission shall establish a renewables portfolio
18 standard requiring all electrical corporations to procure a
19 minimum quantity of electricity generated by eligible renewable
20 energy resources as a specified percentage of total kilowatthours
21 sold to their retail end-use customers each calendar year, if
22 sufficient funds are made available pursuant to Section 399.6 and
23 Chapter 8.6 (commencing with Section 25740) of Division 15 of
24 the Public Resources Code, to cover the above-market costs of
25 eligible renewable energy resources.

26 (b) The commission shall implement annual procurement
27 targets for each retail seller as follows:

28 (1) ~~Beginning on January 1, 2003, each~~ *Each* retail seller shall,
29 pursuant to subdivision (a), increase its total procurement of
30 eligible renewable energy resources by at least an additional 1
31 percent of retail sales per year so that 20 percent of its retail sales
32 are procured from eligible renewable energy resources no later
33 than December 31, 2010. A retail seller with 20 percent of retail
34 sales procured from eligible renewable energy resources in any
35 year shall not be required to increase its procurement of
36 renewable energy resources in the following year.

37 (2) For purposes of setting annual procurement targets, the
38 commission shall establish an initial baseline for each retail seller
39 based on the actual percentage of retail sales procured from

1 eligible renewable energy resources in 2001, *and to the extent*
2 *applicable, adjusted going forward pursuant to Section 399.12.*

3 (3) Only for purposes of establishing these targets, the
4 commission shall include all electricity sold to retail customers
5 by the Department of Water Resources pursuant to Section 80100
6 of the Water Code in the calculation of retail sales by an
7 electrical corporation.

8 (4) In the event that a retail seller fails to procure sufficient
9 eligible renewable energy resources in a given year to meet any
10 annual target established pursuant to this subdivision, the retail
11 seller shall procure additional eligible renewable energy
12 resources in subsequent years to compensate for the shortfall if
13 sufficient funds are made available pursuant to Section 399.6 and
14 Chapter 8.6 (commencing with Section 25740) of Division 15 of
15 the Public Resources Code, to cover any above-market costs of
16 eligible renewable energy resources.

17 (5) If supplemental energy payments from the Energy
18 Commission, in combination with the market prices approved by
19 the commission, are insufficient to cover any above-market costs
20 of electricity procured from eligible renewable energy resources
21 through an electricity purchase agreement of at least 10 years'
22 duration, the commission shall allow a retail seller to limit its
23 annual procurement obligation to the quantity of eligible
24 renewable energy resources that can be procured with available
25 supplemental energy payments. A retail seller shall not be
26 required to enter into long-term contracts with operators of
27 eligible renewable energy resources that exceed the market prices
28 established pursuant to subdivision (c).

29 (c) The commission shall establish a methodology to
30 determine the market price of electricity for terms corresponding
31 to the length of contracts with eligible renewable energy
32 resources, in consideration of the following:

33 (1) The long-term market price of electricity for fixed price
34 contracts, determined pursuant to an electrical corporation's
35 general procurement activities as authorized by the commission.

36 (2) The long-term ownership, operating, and fixed-price fuel
37 costs associated with fixed-price electricity from new generating
38 facilities.

39 (3) The value of different products including baseload,
40 peaking, and as-available electricity.

1 (d) The Energy Commission shall provide supplemental
2 energy payments from funds in the New Renewable Resources
3 Account of the Renewable Resource Trust Fund to eligible
4 renewable energy resources pursuant to Chapter 8.6
5 (commencing with Section 25740) of Division 15 of the Public
6 Resources Code, consistent with this article, for any
7 above-market costs. Indirect costs associated with the purchase
8 of eligible renewable energy resources by an electrical
9 corporation, including imbalance energy charges, sale of excess
10 energy, decreased generation from existing resources, or
11 transmission upgrades, shall not be eligible for supplemental
12 energy payments, but are recoverable in rates, as authorized by
13 the commission. The Energy Commission shall not award
14 supplemental energy payments to service load that is not subject
15 to the renewable energy public goods charge.

16 (e) The establishment of a renewables portfolio standard shall
17 not constitute implementation by the commission of the federal
18 Public Utility Regulatory Policies Act of 1978 (Public Law
19 95-617).

20 (f) The commission shall consult with the Energy Commission
21 in calculating market prices under subdivision (c) and
22 establishing other renewables portfolio standard policies.

23 ~~SEC. 12.~~

24 *SEC. 18.* Section 399.16 of the Public Utilities Code is
25 repealed.

26 ~~SEC. 13.~~

27 *SEC. 19.* Section 399.16 is added to the Public Utilities Code,
28 to read:

29 399.16. (a) The commission, by rule, may authorize the use
30 of renewable energy credits to satisfy the requirements of the
31 renewables portfolio standard established pursuant to this article,
32 subject to the following conditions:

33 (1) Prior to authorizing any renewable energy credit to be used
34 toward satisfying annual procurement targets, the commission
35 and the Energy Commission shall conclude that the tracking
36 system established pursuant to subdivision (c) of Section 399.13,
37 is operational, is capable of independently verifying the
38 electricity generated by an eligible renewable energy resource
39 and delivered to the retail seller, and can ensure that renewable
40 energy credits shall not be double counted by any seller of

1 electricity within the service territory of the Western Electricity
2 Coordinating Council (WECC).

3 (2) A renewable energy credit shall be counted only once for
4 compliance with the renewables portfolio standard of this state or
5 any other state, or for verifying retail product claims in this state
6 or any other state.

7 (3) The electricity is delivered to a retail seller, the
8 Independent System Operator, or a local publicly owned electric
9 utility.

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

13 (5) No renewable energy credits shall be created for electricity
14 generated pursuant to any electricity purchase contract with a
15 retail seller *or a local publicly owned electric utility* executed
16 before January 1, 2005, unless the contract contains explicit
17 terms and conditions specifying the ownership or disposition of
18 those credits. Deliveries under those contracts shall be tracked
19 through the accounting system described in subdivision (b) of
20 Section 399.13 and included in the baseline quantity of eligible
21 renewable energy resources of the purchasing retail seller
22 pursuant to Section 399.15.

23 (6) No renewable energy credits shall be created for electricity
24 generated under any electricity purchase contract executed after
25 January 1, 2005, pursuant to the federal Public Utility Regulatory
26 Policies Act of 1978 (16 U.S.C. Sec. 2601 et seq.). Deliveries
27 under the electricity purchase contracts shall be tracked through
28 the accounting system described in subdivision (b) of Section
29 399.12 and count towards the renewables portfolio standard
30 obligations of the purchasing retail seller.

31 (7) The commission may limit the quantity of renewable
32 energy credits that may be procured unbundled from electricity
33 generation by any retail seller, to meet the ~~annual procurement~~
34 ~~targets~~ *requirements of this article*.

35 (8) No retail seller shall be obligated to procure renewable
36 energy credits to satisfy ~~annual procurement targets~~ *the*
37 *requirements of this article* in the event that supplemental energy
38 payments, in combination with the market prices approved by the
39 commission, are insufficient to cover the above-market costs of

1 long-term contracts, of more than 10 years' duration, with
2 eligible renewable energy resources.

3 (9) Any additional condition that the commission determines
4 is reasonable.

5 (b) The commission shall allow an electrical corporation to
6 recover the reasonable costs of purchasing renewable energy
7 credits in rates.

8 ~~SEC. 14.~~

9 *SEC. 20.* Article 9 (commencing with Section 635) is added
10 to Chapter 3 of Part 1 of Division 1 of the Public Utilities Code,
11 to read:

12

13 Article 9. Long-Term Plans and Procurement Plans

14

15 635. In a long-term plan adopted by an electrical corporation
16 or in a procurement plan implemented by a local publicly owned
17 electric utility, the electrical corporation or local publicly owned
18 electric utility shall adopt a strategy applicable both to newly
19 constructed or repowered generation owned and procured by the
20 electrical corporation or local publicly owned electric utility to
21 achieve efficiency in the use of fossil fuels and to address carbon
22 emissions.

23 *SEC. 21.* Section 2854 is added to Chapter 9 of Part 2 of
24 Division 1 of the Public Utilities Code, to read:

25 2854. (a) *Notwithstanding Section 7550.5 of the Government*
26 *Code, on or before January 1, 2008, the commission shall report*
27 *to the Legislature on the feasibility, desirability, and design of*
28 *performance-based incentives for solar energy systems of less*
29 *than 30 kilowatt.*

30 (b) *This section shall remain in effect only until January 1,*
31 *2009, and as of that date is repealed, unless a later enacted*
32 *statute, that is enacted before January 1, 2009, deletes or extends*
33 *that date.*

34 ~~SEC. 15.~~

35 *SEC. 22.* By June 30, 2007, the Public Utilities Commission,
36 in consultation with the State Energy Resources Conservation
37 and Development Commission, shall review the impact of
38 allowing supplemental energy payments to be applied toward
39 contracts for the procurement of eligible renewable energy
40 resources that are of a duration of less than 10 years, and to

1 report to the Legislature with the results of the review, including
2 both of the following:

3 (a) The impact that higher priced short-term contracts may
4 have on the allocation of supplemental energy payments.

5 (b) Recommended methods to fairly allocate supplemental
6 energy payments for the above-market costs of short-term
7 contracts that ensure that no more supplemental energy payments
8 are paid for those contracts than would have been allocated for an
9 equivalent long-term contract.

10 ~~SEC. 16.~~

11 *SEC. 23.* No reimbursement is required by this act pursuant to
12 Section 6 of Article XIII B of the California Constitution for
13 certain costs that may be incurred by a local agency or school
14 district because, in that regard, this act creates a new crime or
15 infraction, eliminates a crime or infraction, or changes the
16 penalty for a crime or infraction, within the meaning of Section
17 17556 of the Government Code, or changes the definition of a
18 crime within the meaning of Section 6 of Article XIII B of the
19 California Constitution.

20 However, if the Commission on State Mandates determines
21 that this act contains other costs mandated by the state,
22 reimbursement to local agencies and school districts for those
23 costs shall be made pursuant to Part 7 (commencing with Section
24 17500) of Division 4 of Title 2 of the Government Code.