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CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL No. 893

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

February 16, 2017

An act to add Section 399.35 ~~to~~ *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, as determined by the PUC, in consultation with the State Energy Resources Conservation and Development Commission,~~ *share* of electricity products from a statewide total of ~~3,000~~ *5,000* megawatts of ~~geothermal generation capacity, as specified.~~ *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 megawatts to be procured from specified qualified renewable energy resources.* The bill would require, no later than ~~December 31, 2020,~~ *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 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 ~~December 31, 2020,~~ *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 ~~geothermal powerplants~~ *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. ~~The bill would require projects generating electricity procured pursuant to the bill's requirements for which construction began on or after January 1, 2019, to demonstrate an environmental benefit and an economic benefit to disadvantaged communities, as defined.~~ 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:

SECTION 1. This measure shall be known and may be cited as the "Building Resilience by Integrating Dynamic Green Energy Act of 2018," or "Bridge Act of 2018."

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

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

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

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

(4) The California Renewables Portfolio Standard Program (Article 16 (commencing with Section 399.11) of Chapter 2.3 of

Part 1 of Division 1 of the Public Utilities Code) is intended to complement the Renewable Energy Resources Program administered by the Energy Commission and established pursuant to Chapter 8.6 (commencing with Section 25740) of Division 15 of the Public Resources Code.

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

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

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

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

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

(10) In May of 2018, Governor Brown issued an executive order to establish a task force to address the state's ongoing wildfire emergency, and the California Forest Carbon Plan, issued jointly by the Natural Resources Agency, the Department of Forestry and Fire Protection, and the California Environmental Protection Agency, was also released indicating a need to utilize biomass-to-energy and development of grid and resource resiliency as part of the multifaceted plan to reduce wildfire risk and mitigate the significant carbon and black carbon emissions from the state's largely climate driven and increasingly severe fires.

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

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

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

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

(b) It is the intent of the Legislature to direct near-term procurement in a way that ensures a diverse and innovative

portfolio, stable retail rates for electric service, and the safe and reliable operation of the electrical grid.

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

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

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

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

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

~~SECTION 1.~~

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

399.35. (a) *(1)* Each retail seller and local publicly owned electric utility shall ~~procure~~ *procure, through contracts with a service term of at least 10 years in duration,* a proportionate share of electricity products from a statewide total of ~~3,000 megawatts of geothermal generation capacity from projects for which construction began before, on, or after January 1, 2019,~~ *5,000 megawatts of cumulative-rated generating capacity of qualified renewable energy resources* that meet the requirements of paragraph (1) of subdivision (b) of Section 399.16. *For purposes of this section, "proportionate share" shall be based on the forecast of retail sales for the year 2020.*

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

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

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

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

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

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

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

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

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

(b) *(1)* No later than ~~June 30, 2020, the commission, in consultation with the Energy Commission,~~ *March 31, 2019, the commission* shall determine the proportionate share of electricity products from the ~~3,000~~ *5,000* megawatts of electricity that each retail seller ~~and local publicly owned electric utility~~ is required to procure pursuant to subdivision ~~(a). For purposes of this section, "proportionate share" shall be based on the forecast of retail sales for the year 2021.~~ *(a), including a mix of at least 1,675 megawatts of tax-advantaged renewable resources that promotes the*

achievement of a diverse overall resource portfolio, as determined by the commission in its Decision 18-02-018 to achieve a greenhouse gas emissions target at or below the 42-million-metric-ton goal for 2030 identified in Rulemaking 16-02-007.

(2) The commission shall direct retail sellers to procure sufficient eligible renewable energy resources in consideration of the integrated resource plan requirements adopted by the commission in its Decision 18-02-018.

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

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

(c) *(1)* No later than ~~December 31, 2020,~~ *May 31, 2019,* each retail seller shall file with the commission a plan for complying with subdivision (a). ~~Those plans shall require each retail seller to procure at least one-half of its proportionate share by December 31, 2021, with deliveries of electricity products from that half of its proportionate share scheduled to commence no later than January 1, 2022, and shall require the other half of its proportionate share to be procured pursuant to contract with deliveries of electricity products scheduled to commence no later than January 1, 2030.~~ Those plans may authorize a retail seller to aggregate its proportionate share with the proportionate share of another retail seller or local publicly owned electric utility in order to minimize administrative and contracting costs. ~~A retail seller may procure its proportionate share by executing new contracts or by maintaining, extending, or renewing existing contracts for the purchase of electricity products from geothermal powerplants, so long as the retail seller continues to procure its share of these electricity products through the conclusion of the compliance periods set forth in paragraph (1) of subdivision (b) of Section 399.15.~~ The commission shall, no later than June 30, ~~2021,~~ *2019,* review and approve, modify, or reject plans filed by retail sellers. ~~A retail seller shall not be deemed out of compliance with the requirement of subdivision (a) if, after the commission's approval of the plan filed pursuant to this subdivision, a counterparty to a~~

~~contract providing for deliveries of electricity products scheduled to commence no later than January 1, 2022, fails to commence delivery of the contracted electricity products by that date without fault of the retail seller.~~

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

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

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

(d) *(1)* No later than ~~December 31, 2020,~~ *June 30, 2019,* each local publicly owned electric utility shall adopt, as part of the renewable energy resources procurement plan required by subdivision (f) of Section 399.30, a plan for complying with subdivision ~~(a) by procuring at least one-half of its proportionate share by December 31, 2021, with deliveries of electricity products from that half of its proportionate share scheduled to commence no later than January 1, 2022, and by procuring the other half of its proportionate share through contracts with deliveries of electricity products scheduled to commence no later than January 1, 2030.~~ *(a), including a mix of at least 825 megawatts of tax-advantaged renewable resources that promote achievement of a diverse overall resource portfolio.* A local publicly owned electric utility may aggregate its proportionate share with the proportionate share of another local publicly owned electric utility or retail seller in order to minimize administrative and contracting ~~costs and may procure its proportionate share by executing new contracts or by maintaining, extending, or renewing existing contracts for the purchase of electricity products from geothermal~~

~~power plants, so long as the local publicly owned electric utility continues to procure its share of these electricity products through the conclusion of the compliance periods set forth by subdivision (b) of Section 399.30. A local publicly owned electric utility shall not be deemed out of compliance with the requirements of subdivision (a) if, after adoption of a plan pursuant to this subdivision, a counterparty to a contract providing for deliveries of electricity products scheduled to commence no later than January 1, 2022, fails to commence delivery of the contracted electricity products by that date without fault of the local publicly owned electric utility.~~ *costs.*

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

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

~~(f) Projects generating electricity procured under this section for which construction began on or after January 1, 2019, shall demonstrate an environmental benefit and an economic benefit to California communities located within the boundaries of, and an environmental and an economic benefit to individuals living in, disadvantaged communities described in Section 39711 of the Health and Safety Code. Environmental benefits may include, but are not limited to, reducing air pollution from oxides of nitrogen, particulate matter 2.5 microns and smaller in size, or fugitive dust, or enabling the production of lithium. Economic benefits may include, but are not limited to, creating high-quality jobs.~~

~~(g) (1)~~

(f) The procurement expenditure limitations described in subdivision (c) of Section 399.15 shall apply to procurement by ~~retail sellers~~ *electrical corporations* pursuant to this section.

~~(2) The commission shall allow for recovery of the costs of the procurement required by this section by retail sellers from all benefiting consumers.~~

~~(h)~~

(g) Any cost limitations adopted by the governing board of a local publicly owned electric utility pursuant to subparagraph (B)

of paragraph (2) of subdivision (d) of Section 399.30 shall apply to procurement by the local publicly owned utility pursuant to this section.

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

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

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

(A) Renewable geothermal or bioenergy generation.

(B) Tax-advantaged renewable energy resources.

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

(B) Renewable bioenergy generation facilities contracted pursuant to this section shall adopt best available control technology, as defined in Section 40405 of the Health and Safety Code, and best available control technology for toxic air contaminants, as defined in Section 39666 of the Health and Safety Code. This required technology shall be installed in a generation facility before the facility begins delivery of electricity to the entity that procured that electricity pursuant to this section.

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

(4) (A) "Tax-advantaged renewable energy resource" means a new or repowered renewable solar or wind energy resource that satisfies all of the following:

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

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

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

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

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

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

~~(i)~~

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

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

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

(1) Entering into long-term contracts for newly developed renewable energy resources, energy storage, and other preferred resources. For these purposes, "preferred resources" means those resources described in the state's Energy Action Plan II, Implementation Roadmap for Energy Policies, a joint document

adopted by the Energy Commission and the commission (September 21, 2005), as that description of preferred resources may be modified by the commission.

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

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

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

(1) A state agency or state power authority.

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

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

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

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

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

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

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

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

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

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

~~SEC. 2.~~

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

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