

AMENDED IN SENATE APRIL 10, 2019

SENATE BILL

No. 386

Introduced by Senator Caballero

February 20, 2019

An act to ~~add Section 399.12.4 to~~ *amend Section 399.30 of the Public Utilities Code*, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

SB 386, as amended, Caballero. California Renewables Portfolio Standard Program: irrigation districts.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations, while local publicly owned electric utilities, including a district formed pursuant to the Irrigation District Law, are under the direction of their governing boards. The California Renewables Portfolio Standard Program requires the commission to establish a renewables portfolio standard requiring all retail sellers, defined as including electrical corporations, electric service providers, and community choice aggregators, to procure a minimum quantity of electricity products from eligible renewable energy resources, as defined, so that the total kilowatthours of those products sold to their retail end-use customers achieves 25% of retail sales by December 31, 2016, 33% by December 31, 2020, 44% by December 31, 2024, 52% by December 31, 2027, and 60% by December 31, 2030. The program additionally requires each local publicly owned electric utility to procure a minimum quantity of electricity products from eligible renewable energy resources to achieve the procurement requirements established by the program. For these purposes, eligible renewable energy resources include ~~small hydroelectric generation facilities of 30 megawatts or less, conduit~~

~~hydroelectric facilities, and the incremental increase in electrical generation resulting from efficiency improvements of existing small hydroelectric facilities. the incremental increase in the amount of electricity generated from a hydroelectric generation facility as a result of efficiency improvements at the facility, without regard to the electrical output of the facility, if specified conditions are met.~~

~~This bill would provide that hydroelectric generation that is owned by one or more irrigation districts is an eligible renewable energy resource for purposes of the program if it has a first point of interconnection with a California balancing authority or has a first point of interconnection with distribution facilities used to serve end users within a California balancing authority area. authorize a local publicly owned electric utility that is an irrigation district to elect to credit its share of the total electricity generated by the Don Pedro Hydroelectric Project or the Merced River Hydroelectric Project, commensurate with its ownership share of those facilities, as meeting its renewables portfolio standard procurement requirements. The bill would require that an election by an irrigation district to apply its proportionate share of the electricity generated by either of the two hydroelectric projects to meet its renewables portfolio standard procurement requirements would be for all of its proportionate share of the generation, including any portion of the electricity that is an eligible renewable energy resource because it results from efficiency improvements at either of the two hydroelectric projects. The bill would prohibit any portion of that electricity to be unbundled from any renewable energy credit associated with the electricity. The bill would require an irrigation district making the election to ensure that there is no double counting for electricity that is an eligible renewable energy resource resulting from efficiency improvements at either of the two hydroelectric projects.~~

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

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

- 1 SECTION 1. Section 399.30 of the Public Utilities Code is
- 2 amended to read:
- 3 399.30. (a) (1) To fulfill unmet long-term generation resource
- 4 needs, each local publicly owned electric utility shall adopt and
- 5 implement a renewable energy resources procurement plan that
- 6 requires the utility to procure a minimum quantity of electricity

1 products from eligible renewable energy resources, including
2 renewable energy credits, as a specified percentage of total
3 kilowatthours sold to the utility's retail end-use customers, each
4 compliance period, to achieve the targets of subdivision (c).

5 (2) Beginning January 1, 2019, a local publicly owned electric
6 utility subject to Section 9621 shall incorporate the renewable
7 energy resources procurement plan required by this section as part
8 of a broader integrated resource plan developed and adopted
9 pursuant to Section 9621.

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

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

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

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

17 (4) January 1, 2021, to December 31, 2024, inclusive.

18 (5) January 1, 2025, to December 31, 2027, inclusive.

19 (6) January 1, 2028, to December 31, 2030, inclusive.

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

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

26 (2) The quantities of eligible renewable energy resources to be
27 procured for all other compliance periods reflect reasonable
28 progress in each of the intervening years sufficient to ensure that
29 the procurement of electricity products from eligible renewable
30 energy resources achieves 25 percent of retail sales by December
31 31, 2016, 33 percent by December 31, 2020, 44 percent by
32 December 31, 2024, 52 percent by December 31, 2027, and 60
33 percent by December 31, 2030. The Energy Commission shall
34 establish appropriate multiyear compliance periods for all
35 subsequent years that require the local publicly owned electric
36 utility to procure not less than 60 percent of retail sales of
37 electricity products from eligible renewable energy resources.

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

1 (4) Beginning January 1, 2014, in calculating the procurement
2 requirements under this article, a local publicly owned electric
3 utility may exclude from its total retail sales the kilowatthours
4 generated by an eligible renewable energy resource that is credited
5 to a participating customer pursuant to a voluntary green pricing
6 or shared renewable generation program. Any exclusion shall be
7 limited to electricity products that do not meet the portfolio content
8 criteria set forth in paragraph (2) or (3) of subdivision (b) of Section
9 399.16. Any renewable energy credits associated with electricity
10 credited to a participating customer shall not be used for
11 compliance with procurement requirements under this article, shall
12 be retired on behalf of the participating customer, and shall not be
13 further sold, transferred, or otherwise monetized for any purpose.
14 To the extent possible for generation that is excluded from retail
15 sales under this subdivision, a local publicly owned electric utility
16 shall seek to procure those eligible renewable energy resources
17 that are located in reasonable proximity to program participants.

18 (5) (A) *A local publicly owned electric utility that is an*
19 *irrigation district formed pursuant to the Irrigation District Law*
20 *(Division 11 (commencing with Section 20500) of the Water Code)*
21 *may elect to credit its share of the total electricity generated by*
22 *the Don Pedro Hydroelectric Project (Federal Energy Regulatory*
23 *Commission Project Number 2299) or the Merced River*
24 *Hydroelectric Project (Federal Energy Regulatory Commission*
25 *Project Number 2179), commensurate with its ownership share*
26 *of those facilities, as meeting its procurement requirements*
27 *pursuant to paragraph (2). The electricity shall be credited as*
28 *meeting the portfolio content requirements of paragraph (1) of*
29 *subdivision (b) of Section 399.16 and no portion of the electricity*
30 *may be unbundled from any renewable energy credit associated*
31 *with the electricity.*

32 (B) *An election by an irrigation district to apply its*
33 *proportionate share of the electricity generated by the Don Pedro*
34 *Hydroelectric Project or the Merced River Hydroelectric Project*
35 *to meet its renewables portfolio standard procurement*
36 *requirements pursuant to this subdivision shall be for all of its*
37 *proportionate share of the generation, including any portion of*
38 *the electricity that is an eligible renewable energy resource by*
39 *operation of subdivision (b) of Section 399.12.5. The irrigation*
40 *district shall ensure that there is no double counting for electricity*

1 *that is an eligible renewable energy resource by operation of*
2 *subdivision (b) of Section 399.12.5.*

3 (d) (1) The governing board of a local publicly owned electric
4 utility shall adopt procurement requirements consistent with
5 subparagraph (B) of paragraph (4) of subdivision (a) of, and
6 subdivision (b) of, Section 399.13.

7 (2) The governing board of a local publicly owned electric utility
8 may adopt the following measures:

9 (A) Conditions that allow for delaying timely compliance
10 consistent with subdivision (b) of Section 399.15.

11 (B) Cost limitations for procurement expenditures consistent
12 with subdivision (c) of Section 399.15.

13 (e) The governing board of the local publicly owned electric
14 utility shall adopt a program for the enforcement of this article.
15 The program shall be adopted at a publicly noticed meeting offering
16 all interested parties an opportunity to comment. Not less than 30
17 days' notice shall be given to the public of any meeting held for
18 purposes of adopting the program. Not less than 10 days' notice
19 shall be given to the public before any meeting is held to make a
20 substantive change to the program.

21 (f) Each local publicly owned electric utility shall annually post
22 notice, in accordance with the Ralph M. Brown Act (Chapter 9
23 commencing with Section 54950) of Part 1 of Division 2 of Title
24 5 of the Government Code), whenever its governing body will
25 deliberate in public on its renewable energy resources procurement
26 plan.

27 (g) A public utility district that receives all of its electricity
28 pursuant to a preference right adopted and authorized by the United
29 States Congress pursuant to Section 4 of the Trinity River Division
30 Act of August 12, 1955 (Public Law 84-386), shall be in
31 compliance with the renewable energy procurement requirements
32 of this article.

33 (h) For a local publicly owned electric utility that was in
34 existence on or before January 1, 2009, that provides retail electric
35 service to 15,000 or fewer customer accounts in California, and is
36 interconnected to a balancing authority located outside this state
37 but within the WECC, an eligible renewable energy resource
38 includes a facility that is located outside California that is
39 connected to the WECC transmission system, if all of the following
40 conditions are met:

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

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

9 (3) The Energy Commission verifies that the electricity
10 generated by the facility is eligible to meet the renewables portfolio
11 standard procurement requirements.

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

26 (j) A local publicly owned electric utility in a city and county
27 that only receives greater than 67 percent of its electricity sources
28 from hydroelectric generation located within the state that it owns
29 and operates, and that does not meet the definition of a "renewable
30 electrical generation facility" pursuant to Section 25741 of the
31 Public Resources Code, shall be required to procure eligible
32 renewable energy resources, including renewable energy credits,
33 to meet only the electricity demands unsatisfied by its hydroelectric
34 generation in any given year, in order to satisfy its renewable
35 energy procurement requirements.

36 (k) (1) For purposes of this subdivision, "large hydroelectric
37 generation" means electricity generated from ~~an existing~~ a
38 hydroelectric facility located within the state that does not qualify
39 as an eligible renewable energy resource and, as of January 1,
40 2018, was owned by a local publicly owned electric utility, the

1 federal government as a part of the federal Central Valley Project,
2 or a joint powers agency formed and created pursuant to the Joint
3 Exercise of Powers Act (Chapter 5 (commencing with Section
4 6500) of Division 7 of Title 1 of the Government Code). *“Large
5 hydroelectric generation” does not include electricity that is
6 subject to the election authorized in paragraph (5) of subdivision
7 (c) upon that election.*

8 (2) If, during a year within a compliance period set forth in
9 subdivision (b), a local publicly owned electric utility receives
10 more than 40 percent of its retail sales from large hydroelectric
11 generation under an ownership agreement or contract in effect as
12 of January 1, 2018, it is not required to procure eligible renewable
13 energy resources that exceed the lesser of the following for that
14 year:

15 (A) The portion of the local publicly owned electric utility’s
16 retail sales unsatisfied by the local publicly owned electric utility’s
17 large hydroelectric generation.

18 (B) The soft target adopted by the Energy Commission for the
19 intervening years of the relevant compliance period.

20 (3) An extension or renewal of a procurement agreement shall
21 not be eligible to count towards the determination that the local
22 publicly owned electric utility receives more than 40 percent of
23 its retail sales from large hydroelectric generation in any year. This
24 paragraph shall not apply to any agreement in effect on January
25 1, 2015, between a local publicly owned electric utility and the
26 Western Area Power Administration or federal government as part
27 of the federal Central Valley Project.

28 (4) The Energy Commission shall adjust the total quantities of
29 eligible renewable energy resources to be procured by a local
30 publicly owned electric utility for a compliance period to reflect
31 any reductions required pursuant to paragraph (2).

32 (5) This subdivision does not modify the compliance obligation
33 of a local publicly owned electric utility to satisfy the requirements
34 of subdivision (c) of Section 399.16.

35 (d) (1) (A) For purposes of this subdivision, “unavoidable
36 long-term contracts and ownership agreements” means
37 commitments for electricity from a coal-fired powerplant, located
38 outside the state, originally entered into by a local publicly owned
39 electric utility before June 1, 2010, that is not subsequently
40 modified to result in an extension of the duration of the agreement

1 or result in an increase in total quantities of energy delivered during
2 any compliance period set forth in subdivision (b).

3 (B) The governing board of a local publicly owned electric
4 utility shall demonstrate in its renewable energy resources
5 procurement plan required pursuant to subdivision (f) that any
6 cancellation or divestment of the commitment would result in
7 significant economic harm to its retail customers that cannot be
8 substantially mitigated through resale, transfer to another entity,
9 early closure of the facility, or other feasible measures.

10 (2) For the compliance period set forth in paragraph (4) of
11 subdivision (b), a local publicly owned electric utility meeting the
12 requirement of subparagraph (B) of paragraph (1) may adjust its
13 renewable energy procurement targets to ensure that the
14 procurement of additional electricity from eligible renewable
15 energy resources, in combination with the procurement of
16 electricity from unavoidable long-term contracts and ownership
17 agreements, does not exceed the total retail sales of the local
18 publicly owned electric utility during that compliance period. The
19 local publicly owned electric utility may limit its procurement of
20 eligible renewable energy resources for that compliance period to
21 no less than an average of 33 percent of its retail sales.

22 (3) The Energy Commission shall approve any reductions in
23 procurement targets proposed by a local publicly owned electric
24 utility if it determines that the requirements of this subdivision are
25 satisfied.

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

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

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

34 (n) The Energy Commission shall adopt regulations specifying
35 procedures for enforcement of this article. The regulations shall
36 include a public process under which the Energy Commission may
37 issue a notice of violation and correction against a local publicly
38 owned electric utility for failure to comply with this article, and
39 for referral of violations to the State Air Resources Board for
40 penalties pursuant to subdivision (o).

1 (o) (1) Upon a determination by the Energy Commission that
2 a local publicly owned electric utility has failed to comply with
3 this article, the Energy Commission shall refer the failure to comply
4 with this article to the State Air Resources Board, which may
5 impose penalties to enforce this article consistent with Part 6
6 (commencing with Section 38580) of Division 25.5 of the Health
7 and Safety Code. Any penalties imposed shall be comparable to
8 those adopted by the commission for noncompliance by retail
9 sellers.

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

16 ~~SECTION 1. Section 399.12.4 is added to the Public Utilities~~
17 ~~Code, to read:~~

18 ~~399.12.4. (a) For purposes of this section, "irrigation district"~~
19 ~~means a district formed pursuant to the Irrigation District Law set~~
20 ~~forth in Division 11 (commencing with Section 20500) of the~~
21 ~~Water Code.~~

22 ~~(b) Notwithstanding Sections 399.12 and 399.12.5, hydroelectric~~
23 ~~generation that is owned by one or more irrigation districts is an~~
24 ~~eligible renewable energy resource for purposes of this article if~~
25 ~~it has a first point of interconnection with a California balancing~~
26 ~~authority or has a first point of interconnection with distribution~~
27 ~~facilities used to serve end users within a California balancing~~
28 ~~authority area.~~