

AMENDED IN ASSEMBLY SEPTEMBER 4, 2001

AMENDED IN ASSEMBLY AUGUST 27, 2001

AMENDED IN ASSEMBLY JULY 23, 2001

AMENDED IN SENATE MAY 15, 2001

AMENDED IN SENATE APRIL 19, 2001

SENATE BILL

No. 532

Introduced by Senator Sher

(Principal coauthor: Assembly Member Jackson)

February 22, 2001

An act to amend Sections 25620, 25620.1, 25620.2, 25620.3, 25620.5, 25620.7, 25620.9, 25648, 25648.4, and 25684 of, to add Chapter 5.6 (commencing with Section 25465) to Division 15 of the Public Resources Code, and to amend Sections 381, 383.5, 383.7, 390, 394.25, and 445 of, and to add Section 332.4 to, the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

SB 532, as amended, Sher. Electrical services: California Renewables Portfolio Standard Program.

(1) Existing law requires the State Energy Resources Conservation and Development Commission (Energy Commission) to develop, implement, and administer the Public Interest Research, Development, and Demonstration Program. Existing law requires the program to consist of a balanced portfolio that addresses California's energy and environmental needs, technology opportunities, and system reliability. Existing law, until January 1, 2000, required the Energy Commission

to adopt regulations to ensure the success of electricity industry restructuring in the transition to a new market structure and to implement the program. Existing law authorizes the Energy Commission to solicit applications for awards, using a sealed competitive bid, competitive negotiation process, multiparty agreement, single source, or sole source method. Existing law required the Energy Commission, by January 1, 1999, to designate a panel of independent experts with special expertise in public interest research, development, and demonstration programs to conduct an evaluation of the program and to submit a preliminary report to the Governor and the Legislature by March 31, 2000, and a final report by March 31, 2001.

This bill would authorize the Energy Commission to additionally use interagency agreements to solicit applications for awards and would specify priority for funding projects under the program and criteria for award recipients. The bill would authorize, rather than require, the Energy Commission to adopt regulations, until January 1, 2007. The bill would require the Energy Commission, by July 1, 2002, to designate a panel of independent experts with special expertise in public interest research, development, and demonstration programs to conduct an evaluation of the program and to submit a preliminary report to the Governor and the Legislature by June 30, 2003, and a final report by June 30, 2004.

The bill would make technical and conforming changes.

(2) The Public Utilities Act requires retail suppliers of electric services to disclose sources of electrical generation, as prescribed, and requires that those retail suppliers report specified information to the Energy Commission.

This bill would create the California Renewables Portfolio Standard Program, which would require the Energy Commission, in consultation with the Public Utilities Commission and the Independent System Operator or any successor entity, to certify eligible renewable energy resources for the generation of electricity by an eligible renewable energy resource and to design and implement a system of tradable renewable energy credits. The bill would establish a portfolio standard of electricity from eligible renewable energy resources that a retail seller would be required to purchase and these purchases would be evidenced by eligible renewable credits. The bill would require the commission to commence proceedings for implementing the California Renewables Portfolio Standard Program on or before 90 days after the



effective date of the bill and to adopt final implementing regulations on or before June 1, 2002.

The bill would require the Public Utilities Commission to direct each electrical corporation to prepare an annual renewable procurement plan to satisfy its obligations under the California Renewables Portfolio Standard Program, as specified.

(3) Existing law requires the Public Utilities Commission (commission) to order specified electrical corporations to collect and spend certain funds for cost-effective energy efficiency and conservation activities, public interest research and development, and development of renewable resources technology. Existing law provides that the commission's authority to collect funds for in-state operation and development of existing and new and emerging renewable resource technologies becomes inoperative on March 31, 2002.

This bill would require the San Diego Gas and Electric Company to spend no less than \$13,900,000 per year, the Southern California Edison Company to spend no less than \$65,300,000 per year, and the Pacific Gas and Electric Company to spend no less than \$55,800,000 per year, for the years 2002 to 2011, inclusive, to accomplish the funding of in-state operation and development of existing and new and emerging renewable resources technologies. The bill would delete the provision making the commission's authority to collect funds for these purposes inoperative on March 31, 2002. The bill would make additional technical, nonsubstantive changes.

(4) Existing law defines "in-state renewable electricity generation technology" for the purposes of these provisions. Existing law defines, for the purposes of these provisions, "report" as the Policy Report on AB 1890 Renewables Funding (March 1997, Publication Number P500-97-002) submitted to the Legislature by the Energy Commission.

This bill would define "in-state renewable electricity generation facility" instead of "in-state renewable electricity generation technology" and would modify the existing definition to no longer only include facilities that were placed in operation after September 26, 1996. The bill would include within the definition of "in-state renewable electricity generation facility" a facility using ocean thermal, tidal current, and wave energy generation technologies, located within the state's territorial boundaries. The bill would provide that on and after January 1, 2002, "report," for the purposes of these provisions, means the report entitled "Investing in Renewable Electricity Generation in California" (June 2001, Publication Number



P500-00-022) submitted to the Governor and the Legislature by the Energy Commission.

(5) Existing law requires 45% of the money collected for in-state operation and development of existing and new and emerging renewable resources technologies, up to \$243,000,000, to be used for programs that are designed to improve the competitiveness of existing in-state renewable electricity generation technology facilities. Existing law requires 30% of the money collected for in-state operation and development of existing and new and emerging renewable resources technologies, up to \$162,000,000, to be used for programs that are designed to foster the development of new in-state renewable electricity generation technology facilities. Existing law requires 10% of the money collected for in-state operation and development of existing and new and emerging renewable resources technologies, up to \$54,000,000, to be used for a multiyear, consumer-based program to foster the development of emerging renewable technologies in distributed generation applications. Existing law requires 15% of the money collected for in-state operation and development of existing and new and emerging renewable resources technologies, up to \$81,000,000, to be used for programs designed to provide customer credits for purchases of renewable energy produced by certified energy providers, to disseminate information regarding renewable energy technologies, to promote purchases of renewable energy, to help develop a consumer market for renewable energy, and to help develop a consumer market for renewable energy technologies.

This bill would instead require 20% of the funds collected to accomplish the funding of in-state operation and development of existing and new and emerging renewable resources technologies, to be spent by the San Diego Gas and Electric Company and the Pacific Gas and Electric Company, to be used for programs that are designed to improve the competitiveness of existing in-state renewable electricity generation facilities. The bill would instead require 50% of the funds collected to accomplish the funding of in-state operation and development of existing and new and emerging renewable resources technologies, to be spent by the San Diego Gas and Electric Company and the Pacific Gas and Electric Company, to be used for programs that are designed to foster the development of new in-state renewable electricity generation facilities. The bill would instead require ~~15%~~ 17.5% of the funds collected to accomplish the funding of in-state operation and development of existing and new and emerging



renewable resources technologies, to be spent by the San Diego Gas and Electric Company and the Pacific Gas and Electric Company, to be used for a multiyear, consumer-based program to foster the development of emerging renewable technologies in distributed generation applications. The bill would instead require 10% of the funds collected to accomplish the funding of in-state operation and development of existing and new and emerging renewable resources technologies, to be spent by the San Diego Gas and Electric Company and the Pacific Gas and Electric Company, to be used to provide customer credits for purchases of renewable energy produced by certified generating facilities. The bill would require ~~5%~~ 2.5% of the funds collected to accomplish the funding of in-state operation and development of existing and new and emerging renewable resources technologies, to be spent by the San Diego Gas and Electric Company and the Pacific Gas and Electric Company, to be used to promote renewable energy and to disseminate information on renewable energy technologies, and to help develop a consumer market for renewable energy and for small-scale emerging renewable energy technologies.

(6) Existing law provides for the Renewable Resource Trust Fund in the State Treasury and establishes certain accounts in the Renewable Resource Trust Fund, including the Customer-Side Renewable Resource Purchases Account. Existing law provides that the money in the fund and the accounts are continuously appropriated to the Energy Commission. Existing law provides that unallocated funds in any account shall remain in the respective account until December 31, 2001.

This bill would instead establish the Customer-Credit Renewable Resources Account and the Renewable Resources Consumer Education Account. The bill would require that unallocated funds in any account remain in the respective account until the Energy Commission submits a specified report.

(7) Existing law specifies that subject to applicable contractual terms, energy prices paid to nonutility power generators by a public utility electrical corporation based on the commission's "short run avoided cost energy methodology" are required to be determined by specified law.

This bill would authorize any nonutility power generator using renewable fuels that has entered into a contract with an electrical corporation specifying fixed energy prices for output through December 31, 2005, to elect an additional five years of fixed energy payments at a level to be determined by the commission.



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

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

1 SECTION 1. Chapter 5.6 (commencing with Section 25465)
2 is added to Division 15 of the Public Resources Code, to read:

3
4 CHAPTER 5.6. CALIFORNIA RENEWABLES PORTFOLIO STANDARD
5 PROGRAM
6

7 25465. For purposes of this chapter, the following terms have
8 the following meanings.

9 (a) “Eligible renewable energy resource” means an electric
10 generating facility that meets all of the following criteria:

11 (1) Uses wind, solar, geothermal, or biomass as its primary
12 fuel.

13 (A) A solar thermal energy system that reduces the
14 consumption of electricity may be considered an eligible
15 renewable energy resource.

16 (B) Fuel cells using renewable fuels are an eligible renewable
17 energy resource.

18 (2) Improves the resource diversity in the electricity market
19 that serves the state, and increases the reliability of the state’s
20 electricity system. The commission shall deem an electric
21 generating facility or solar thermal energy system to satisfy this
22 requirement if it meets any one of the following criteria:

23 (A) It is located within the control area of the Independent
24 System Operator, the Los Angeles Department of Water and
25 Power, or the Imperial Irrigation District.

26 (B) Its power is sold under a direct bilateral contract to a retail
27 seller and its energy is delivered to end-use customers within the
28 state.

29 (b) “Eligible existing renewable energy resource” means an
30 electric generating facility that satisfies all criteria in subdivision
31 (a) and is in existence before September 26, 1996. Any facility that
32 sells its output to an electrical corporation under a contract entered
33 into prior to 1996 under the federal Public Utilities Regulatory
34 Policies Act of 1978 (P.L. 95-617) shall be considered an eligible
35 existing resource.



1 (c) “Eligible new renewable energy resource” means output
2 from an electric generating facility that satisfies all criteria in
3 subdivision (a) and meets at least one of the following criteria:

4 (1) The facility commenced initial operation on or after
5 September 26, 1996.

6 (2) The output represents incremental production from
7 repowered or refurbished existing facilities and project additions
8 completed on or after September 26, 1996, as measured by the
9 production of kilowatthours above the five-year average of the
10 kilowatthours previously delivered from the project. Incremental
11 output from repowered or refurbished facilities sold to an
12 electrical corporation under a contract entered into prior to January
13 1, 2001, that specifies fixed capacity payments for the incremental
14 output may not be considered an eligible new renewable energy
15 resource.

16 (3) The output represents incremental output above levels
17 specified in contracts for facilities defined in subdivision (b).

18 (4) The output represents incremental output above a five-year
19 historical average for existing facilities not under a contract
20 entered into prior to 1996 under the federal Public Utilities
21 Regulatory Policies Act of 1978 (P.L. 95-617).

22 (d) “Renewable energy credit” means a tradable certificate of
23 proof, certified by the commission, that one kilowatthour of
24 electricity was generated by an eligible new renewable energy
25 resource. That portion of electricity generated by an eligible new
26 nonrenewable energy resource attributable to the use of
27 nonrenewable fuels is not eligible for renewable energy credits.

28 (e) “Biomass” means any of the following:

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

30 (2) Landfill and digester gas.

31 (3) Solid wood waste materials including waste pallets, crates,
32 dunnage, manufacturing and construction wood wastes (other than
33 pressure-treated, chemically treated or lead-painted wood wastes),
34 and landscape or right-of-way tree trimmings.

35 (4) Wood and wood wastes and residues that meet all of the
36 following requirements:

37 (A) Have been harvested pursuant to an approved timber
38 harvest plan prepared in accordance with the Z’berg-Nejedly
39 Forest Practice Act of 1973 (Chapter 8 (commencing with Section
40 4511) of Part 2 of Division 4).



1 (B) Have been harvested for purposes of forest fire fuel
2 reduction or forest stand improvement.

3 (C) Do not transport or cause the transportation of species
4 known to harbor insect or disease pests outside zones of infestation
5 or current quarantine zones, as identified by the Department of
6 Food and Agriculture or the State Board of Forestry and Fire
7 Protection.

8 (f) “Retail seller” means an entity engaged in the retail sale or
9 provision of electricity to end-use customers, including, but not
10 limited to, any of the following:

11 (1) An electrical corporation, as defined in Section 218 of the
12 Public Utilities Code.

13 (2) A local publicly owned electric utility, as defined in
14 subdivision (d) of Section 9604 of the Public Utilities Code.

15 (3) An electric service provider, as defined in Section 218.3 of
16 the Public Utilities Code.

17 (4) An irrigation district furnishing electric services formed
18 pursuant to Division 11 (commencing with Section 20500) of the
19 Water Code.

20 (5) The Department of Water Resources is not a retail seller
21 under this section. All eligible new renewable resources procured
22 by the Department of Water Resources shall be allocated, on a pro
23 rata basis, to electrical corporations whose customers receive
24 electricity from the Department of Water Resources pursuant to
25 Section 80100 of the Water Code.

26 (g) “Portfolio standard” means the specified percentage of
27 electricity generated by eligible renewable energy resources that
28 a retail seller is required to purchase in any given year, as
29 established by the commission pursuant to Section 25465.5.

30 (h) “Public utility” means an electrical corporation subject to
31 regulation by the Public Utilities Commission under Section 216
32 of the Public Utilities Code.

33 (i) “Commission” means the State Energy Resources
34 Conservation and Development Commission.

35 25465.3. The commission, in consultation with the Public
36 Utilities Commission and the Independent System Operator or any
37 successor entity, shall do all of the following:

38 (a) Certify eligible new and existing renewable energy
39 resources that it determines meet the criteria described in
40 subdivisions (a) and (b) of Section 25465.



1 (b) Establish a single, central, electronic credit-accounting
2 system to verify compliance with the portfolio standard by retail
3 sellers and to ensure that renewable energy output is counted only
4 once for the purpose of meeting the portfolio standard of this state
5 or any other state or for verifying retail product claims in this state
6 or any other state. In establishing the rules governing this system,
7 the commission shall do all of the following:

8 (1) Impose or authorize a fee on all users of the credit system
9 in an amount equal to the reasonable costs of administering the
10 portfolio standard program.

11 (2) Upon the request of a retail seller, allow the exchange of
12 renewable energy credits certified under this section to promote
13 flexibility in compliance with the portfolio standard.

14 (3) Establish banking rules that authorize retail sellers to apply
15 any overcompliance with the portfolio standard within a given
16 year to the following year.

17 (c) Allocate and administer funds from the Renewable
18 Resource Trust Fund ~~established under paragraph (8) of~~
19 ~~subdivision (f) of Section 840 of the Public Utilities Code to~~
20 ~~complement this chapter,~~ to preserve historical output from
21 existing renewable resources, to support a diversity of renewable
22 resources and technologies, and to promote emerging renewable
23 technologies.

24 25465.5. (a) The commission shall establish a portfolio
25 standard requiring all retail sellers to procure a minimum quantity
26 of output from eligible new renewable energy resources as a
27 specified percentage of total kilowatthours sold to its retail end-use
28 customers each calendar year. The commission shall establish the
29 minimum uniform percentage of eligible new renewable energy
30 resources to be procured by retail sellers according to the
31 following schedule:

32 (1) At least 1 percent by June 1, 2003.

33 (2) At least 2 percent by January 1, 2005.

34 (3) At least 5 percent by January 1, 2007.

35 (4) At least 8 percent by January 1, 2009.

36 (5) At least 10 percent beginning on January 1, 2010, and
37 continuing until January 1, 2020.

38 (6) (A) The commission shall increase the percentage of retail
39 sales required from eligible new resources if an increase is
40 necessary, in combination with the statewide contribution of



1 eligible existing resources, to produce the minimum percentages
2 of total statewide retail sales from all eligible renewable resources
3 according to the following schedule:

- 4 (i) Ten percent by June 1, 2003.
- 5 (ii) Twelve percent by January 1, 2005.
- 6 (iii) Fifteen percent by January 1, 2007.
- 7 (iv) Eighteen percent by January 1, 2009.
- 8 (v) Twenty percent by January 1, 2010.

9 (B) The commission shall notify all retail providers at least one
10 year prior to increasing the requirement for procuring eligible new
11 resources.

12 (b) Notwithstanding any other requirement of this section, the
13 commission may allow retail sellers to comply with the portfolio
14 standard by making a proxy payment to the commission of one and
15 one-half cents (\$0.015) in 2001 dollars for each kilowatthour of
16 eligible new renewable resources required to satisfy annual
17 procurement obligations. The commission shall allow retail sellers
18 to make these payments in lieu of actual procurement if it
19 determines that the cost of renewable energy credits needed to
20 demonstrate compliance by retail sellers would otherwise exceed
21 the proxy payment.

22 (c) Any retail seller that fails to meet its obligations under this
23 chapter shall pay a penalty of at least twice the cost of compliance
24 as determined by the commission. A retail seller making proxy
25 payments to comply with the portfolio standard subject to the
26 terms of _____ is not liable for penalty payments.

27 (d) All proxy payments and penalties received by the
28 commission shall be deposited into the Renewable Resource Trust
29 Fund and may be used for any of the following purposes:

- 30 (1) Conducting auctions for the purchase of renewable energy
31 credits from eligible new renewable resources.
- 32 (2) Purchasing renewable energy credits from customers using
33 distributed photovoltaic generation or eligible solar thermal
34 energy systems that are not separately metered.
- 35 (3) Supporting program activities defined in Section 383.5 of
36 the Public Utilities Code.
- 37 (4) All proxy payments collected from a local publicly owned
38 electric utility as defined in subdivision (d) of Section 9604 of the
39 Public Utilities Code shall be used to support commission
40 programs that benefit their customers.



1 25465.7. The commission shall commence proceedings for
2 implementing the California Renewables Portfolio Standard
3 Program on or before 90 days after the effective date of the act that
4 enacts this section during the 2001 portion of the 2001–02 Regular
5 Session. The commission shall adopt final implementing
6 regulations on or before June 1, 2002.

7 25465.9. The Department of Water Resources shall procure
8 sufficient eligible renewable energy resources as necessary to
9 satisfy the portfolio standard of any affected public utility if the
10 public utility is unable to fulfill its obligations under this section
11 for any length of time due to severe financial hardship or
12 insolvency. This section is not intended to alter the schedule for
13 resumption of electric procurement of any public utility whose
14 customers are currently being served by the Department of Water
15 Resources.

16 SEC. 2. Section 25620 of the Public Resources Code is
17 amended to read:

18 25620. The Legislature hereby finds and declares all of the
19 following:

20 (a) It is in the best interests of the people of this state that the
21 quality of life of its citizens be improved by providing
22 environmentally sound, safe, reliable, and affordable energy
23 services and products.

24 (b) To improve the quality of life of this state’s citizens, it is
25 proper and appropriate for the state to undertake public interest
26 energy research, development, and demonstration projects that are
27 not adequately provided for by competitive and regulated energy
28 markets.

29 (c) Public interest energy research, demonstration, and
30 development projects should advance energy science or
31 technologies of value to California citizens and should be
32 consistent with the policies of Chapter 854 of the Statutes of 1996.

33 (d) The commission should use its adopted “Five-Year
34 Investment Plan, 2002 Through 2006 for the Public Interest
35 Energy Research (PIER) Program (Volume 1)” (P600-01-004a,
36 March 1, 2001) to ensure compliance with policies and provisions
37 of Chapter 854 of the Statutes of 1996 in the administration of
38 public interest energy research, demonstration, and development
39 programs.



1 SEC. 3. 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, which is hereby created. The program
6 shall include a full range of research, development, and
7 demonstration activities that, as determined by the commission,
8 are not adequately provided for by competitive and regulated
9 markets.

10 (b) The goal of the program is to provide California and its
11 citizens with a clean, affordable, reliable, and resilient supply of
12 energy, where customers have energy choices that can meet their
13 individual needs, California's industries can grow and prosper, and
14 California is established as the world leader in energy efficiency
15 and clean, advanced energy technologies and systems. To meet this
16 goal, the commission shall adopt a portfolio approach for the
17 program to effectively balance the risks, benefits, and time
18 horizons for various activities and investments that will provide
19 tangible benefits for California electricity ratepayers. The
20 portfolio shall emphasize innovative energy supply and end-use
21 technologies, focusing on their reliability, affordability, and
22 environmental attributes. The priorities for funding projects under
23 the program shall be based upon at least one of the following:

24 (1) The potential for exploiting emerging opportunities.
25 (2) The potential for mitigating important energy system
26 problems.
27 (3) The potential for expanding upon the benefits derived from
28 prior projects funded by the program.

29 (c) The commission shall review the portfolio adopted
30 pursuant to subdivision (b) in accordance with the "Five-Year
31 Investment Plan, 2002 Through 2006 for the Public Interest
32 Energy Research (PIER) Program (Volume 1)" (P600-01-004a,
33 March 1, 2001).

34 (d) The term "award," as used in this chapter, may include, but
35 is not limited to, contracts, grants, loans, purchase orders, and
36 other financial agreements designed to fund and support public
37 interest research, demonstration, and development projects or
38 programs.

39 SEC. 4. Section 25620.2 of the Public Resources Code is
40 amended to read:



1 25620.2. (a) The commission shall administer the program in
2 a manner that is consistent with the purposes of Chapter 854 of the
3 Statutes of 1996, and shall ensure that the program meets all of the
4 following criteria:

5 (1) Demonstrates a balance of benefits to all sectors that
6 contribute to the funding under Section 381 of the Public Utilities
7 Code.

8 (2) Addresses key technical and scientific barriers.

9 (3) Demonstrates a balance between short-term, mid-term, and
10 long-term potential.

11 (4) Ensures that research currently, previously, or about to be
12 undertaken by research organizations is not unnecessarily
13 duplicated.

14 (b) To ensure the efficient implementation and administration
15 of the program, the commission shall do both of the following:

16 (1) Develop procedures for the solicitation of award
17 applications for project or program funding, and to ensure efficient
18 program management.

19 (2) Evaluate and select programs and projects, based on merit,
20 that will be funded under the program.

21 (c) To ensure the success of electric industry restructuring in
22 the transition to a new market structure and to implement the
23 program, the commission may adopt regulations, as defined in
24 Section 11342.600 of the Government Code, in accordance with
25 the following procedures:

26 (1) Prepare a preliminary text of the proposed regulation and
27 provide a copy of the preliminary text to any person requesting a
28 copy.

29 (2) Provide public notice of the proposed regulation to any
30 person who has requested notice of the regulations prepared by the
31 commission. The notice shall contain all of the following:

32 (A) A clear overview explaining the proposed regulation.

33 (B) Instructions on how to obtain a copy of the proposed
34 regulations.

35 (C) A statement that if a public hearing is not scheduled for the
36 purpose of reviewing a proposed regulation, any person may
37 request, not later than 15 days prior to the close of the written
38 comment period, a public hearing conducted in accordance with
39 the procedures set forth in Section 11346.8 of the Government
40 Code.



1 (D) A deadline for the submission of written comments.

2 (3) Accept written public comments for 30 calendar days after
3 providing the notice required in paragraph (2).

4 (4) Certify that all written comments were read and considered
5 by the commission.

6 (5) Place all written comments in a record that includes copies
7 of any written factual support used in developing the proposed
8 regulation, including written reports and copies of any transcripts
9 or minutes in connection with any public hearings on the adoption
10 of the regulation. The record shall be open to public inspection and
11 available to the courts.

12 (6) Provide public notice of any substantial revision of the
13 proposed regulation at least 15 days prior to the expiration of the
14 deadline for public comments and comment period using the
15 procedures provided in paragraph (2).

16 (7) Conduct public hearings, if a hearing is requested by an
17 interested party, that shall be conducted in accordance with the
18 procedures set forth in Section 11346.8 of the Government Code.

19 (8) Adopt any proposed regulation at a regularly scheduled and
20 noticed meeting of the commission. The regulation shall become
21 effective immediately unless otherwise provided by the
22 commission.

23 (9) Publish any adopted regulation in a manner that makes
24 copies of the regulation easily available to the public. Any adopted
25 regulation shall also be made available on the Internet. The
26 commission shall transmit a copy of an adopted regulation to the
27 Office of Administrative Law for publication, or, if the
28 commission determines that printing the regulation is impractical,
29 an appropriate reference as to where a copy of the regulation may
30 be obtained.

31 (10) Notwithstanding any other provision of law, this
32 subdivision provides an interim exception from the requirements
33 of Chapter 3.5 (commencing with Section 11340) of Part 1 of
34 Division 3 of Title 2 of the Government Code for regulations
35 required to implement Sections 25620.1 and 25620.2 that are
36 adopted under the procedures specified in this subdivision.

37 (11) This subdivision shall become inoperative on January 1,
38 2007, unless a later enacted statute deletes or extends that date.
39 However, after January 1, 2007, the commission is not required to
40 repeat any procedural step in adopting a regulation that has been



1 completed before January 1, 2007, using the procedures specified
2 in this subdivision.

3 SEC. 5. Section 25620.3 of the Public Resources Code is
4 amended to read:

5 25620.3. (a) The commission may, consistent with the
6 requirements of Section 25620.2, provide awards to any
7 individual or entity proposing to participate in any or all of the
8 planning, developing, executing, implementing, administering,
9 evaluating, and supporting of public interest research,
10 development, and demonstration.

11 (b) The commission may provide an award to a project or
12 program that includes a group of related projects, or to a party who
13 aggregates projects that directly benefit from the award. An award
14 does not constitute the rendering of goods or services or a direct
15 benefit to the commission.

16 (c) The commission may provide an award to develop,
17 implement, or administer a portion of the program, which includes
18 agency delegation of the authority to develop, implement, or
19 administer the program.

20 SEC. 6. Section 25620.5 of the Public Resources Code is
21 amended to read:

22 25620.5. (a) The commission may solicit applications for
23 awards, using a sealed competitive bid, competitive negotiation
24 process, multiparty agreement, interagency agreement, single
25 source, or sole source method.

26 (b) A sealed bid method may be used when goods and services
27 to be acquired can be described with sufficient specificity so that
28 bids can be evaluated against specifications and criteria set forth
29 in the solicitation for bids.

30 (c) The commission may use a competitive negotiation process
31 in any of the following circumstances:

32 (1) Whenever the desired award is not for a fixed price.

33 (2) Whenever the specifications cannot be drafted in sufficient
34 detail so as to be applicable to a sealed competitive bid.

35 (3) Whenever there is a need to compare the different price,
36 quality, and structural factors of the bids submitted.

37 (4) Whenever there is a need to afford bidders an opportunity
38 to revise their proposals.



1 (5) Whenever oral or written discussions with bidders
2 concerning the technical and price aspects of their proposals will
3 provide better results to the state.

4 (6) Whenever the price of the award is not the determining
5 factor.

6 (d) The commission may establish multiparty and interagency
7 agreements with other entities for the same program or project, or
8 to provide support to the program. The commission shall be a party
9 to those agreements and shall share in the roles, responsibilities,
10 risks, investments, and results of the agreement.

11 (e) The commission may provide awards on a single source
12 basis by choosing from among two or more parties or by soliciting
13 multiple applications from parties capable of supplying or
14 providing similar goods or services. The cost to the state may be
15 reasonable and the commission shall only enter into a single source
16 agreement with a particular entity if the commission determines
17 that it is in the state's best interests.

18 (f) The commission, in accordance with subdivision (g), may
19 provide awards on a sole source basis when the cost to the state is
20 reasonable and when, in consultation with the Department of
21 General Services, the commission makes any of the following
22 determinations:

23 (1) The proposal was unsolicited and meets the evaluation
24 criteria of this chapter.

25 (2) The expertise, service, or product is unique.

26 (3) The urgency of the need for the information or deliverable
27 is such that a competitive solicitation would frustrate timely
28 performance.

29 (4) The award funds the next phase of a multiphased proposal
30 and the existing agreement is being satisfactorily performed.

31 (5) When it is determined by the commission to be in the best
32 interests of the state.

33 (g) The commission may not use a sole source basis for an
34 award pursuant to subdivision (f), unless both of the following
35 conditions are met:

36 (1) The commission, at least 30 days prior to taking an action
37 pursuant to subdivision (f), notifies the Joint Legislative Budget
38 Committee, in writing, of its intent to take the proposed action.



1 (2) The Joint Legislative Budget Committee either approves or
2 does not disapprove the proposed action within 30 days from the
3 date of notification required by paragraph (1).

4 (h) The commission shall submit semiannual reports to the
5 Legislative Analyst and to the appropriate fiscal and policy
6 committees of the Legislature that review bills relating to energy
7 and public utilities. The reports shall contain an evaluation of the
8 progress and status of the implementation of this section.

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

13 SEC. 7. Section 25620.7 of the Public Resources Code is
14 amended to read:

15 25620.7. The commission may contract for, or through
16 interagency agreement obtain, technical, scientific, or
17 administrative services support from one or more entities, to
18 reduce the overhead and administrative costs of implementing the
19 program. If the commission has provided awards to multiple
20 entities bidding on the same solicitation, the commission may
21 select from among the awardees the particular expertise needed to
22 meet the requirements of the tasks described in a work
23 authorization. Funding for this purpose shall be made from money
24 in the Public Interest Research, Development, and Demonstration
25 Fund.

26 SEC. 8. Section 25620.9 of the Public Resources Code is
27 amended to read:

28 25620.9. (a) Not later than July 1, 2002, the commission
29 shall designate a panel of independent experts with special
30 expertise in public interest research, development, and
31 demonstration programs. The panel shall conduct a
32 comprehensive evaluation of the program established pursuant to
33 this chapter. The evaluation shall include a review of the public
34 value of programs established pursuant to this chapter, and shall
35 evaluate factors including, but not limited to, the monetary and
36 nonmonetary benefits to public health and the environment of
37 those programs, and the benefits of those programs in providing
38 funds for technology development that would otherwise not be
39 funded.



1 (b) Not later than June 30, 2003, the panel designated pursuant
2 to subdivision (a) shall submit a preliminary report to the
3 Governor and to the Legislature on its findings and
4 recommendations on the implementation of the program
5 established pursuant to this chapter. The panel, not later than June
6 30, 2004, shall submit a final report to the Governor and to the
7 Legislature, including any additional findings and
8 recommendations regarding implementation of the program.

9 (c) This section shall remain in effect only until July 1, 2005,
10 and as of January 1, 2006, is repealed, unless a later enacted statute,
11 that is enacted before January 1, 2006, deletes or extends that date.

12 SEC. 9. Section 25648 of the Public Resources Code is
13 amended to read:

14 25648. (a) The commission shall make loans, and research
15 contract and grant awards, for purposes of making existing energy
16 technologies more efficient, cost-effective, and environmentally
17 acceptable, and to research, develop, demonstrate, and
18 commercialize new, cost-effective alternative sources of energy,
19 technologies which displace conventional fuels, and energy
20 efficiency and conservation devices.

21 (b) In selecting projects, the commission shall consider, but is
22 not limited to, the list of opportunity technologies developed in the
23 most current energy development report produced pursuant to
24 Section 25604, or a subset of those opportunity technologies.

25 (c) The commission shall select the projects through
26 competitive bid procedures, such as invitations for bids, requests
27 for proposals, program opportunity notices, and multistep bids
28 using preapplications, by demonstrating the need for sole source
29 awards, or by evaluating small business grant and loan
30 applications.

31 (d) The criteria for the selection of projects shall include, but
32 not be limited to, all of the following factors:

33 (1) The potential of the project to reduce energy consumption
34 or provide an alternative source of energy.

35 (2) The financial, technical, and management strength of the
36 project applicant.

37 (3) The near-term and long-term feasibility of the project.

38 (4) The ability of the project technology to be used throughout
39 California.



1 (5) The potential of the project for promoting diverse, secure,
2 and resilient energy supplies.

3 (6) The potential of the project to displace petroleum.

4 (7) The potential of the project for reducing adverse
5 environmental impacts.

6 (8) The potential of the project to stimulate economic
7 development, employment, and tax revenues for California.

8 (9) The potential of the project for reducing short-term and
9 long-term energy costs for the ratepayers of California.

10 (10) The need of the project for state financing.

11 (11) The ability of the project to attract private and other public
12 investment.

13 (12) The investment payback period for the project.

14 (13) The probability of success in overcoming the risk of the
15 project.

16 (14) The potential for stimulating small business competition
17 in the field of alternative energy development.

18 (15) The ability of the project to generate needed community
19 economic development for participating local jurisdictions.

20 (16) The extent of the applicant's financial participation.

21 (17) The degree of innovation of the project.

22 (18) Whether the project is, in general, consistent with the
23 energy policies of California regarding the energy technologies
24 and priorities as set forth in the biennial report of the commission.

25 (19) The cost of the project.

26 (e) The commission shall apply the criteria specified in
27 subdivision (d) consistently within each competitive bid
28 solicitation.

29 (f) Awards provided pursuant to this chapter are not subject to
30 Article 4 (commencing with Section 10335) of Chapter 2 of Part
31 2 of Division 2 of the Public Contract Code.

32 SEC. 10. Section 25648.4 of the Public Resources Code is
33 amended to read:

34 25648.4. The commission shall apply this chapter to research,
35 development, demonstration, and commercialization projects that
36 are not subject to Chapter 6 (commencing with Section 3800) of
37 Division 3 and Chapter 7.1 (commencing with Section 25620),
38 and Chapter 7.8 (commencing with Section 25680).

39 SEC. 11. Section 25684 of the Public Resources Code is
40 amended to read:



1 25684. (a) The commission shall make loans and repayable
2 research contracts, and may provide primary research contracts
3 funding from the account for the purposes of making energy
4 technologies more efficient and cost-effective, and to develop new
5 cost-effective alternative sources of energy. The commission shall
6 select recipients through a procedure using an invitation for bids
7 or a request for proposals. Each invitation for bids and request for
8 proposals shall specify the criteria to be used in selecting projects
9 for financing. The criteria shall include, but not be limited to, all
10 of the following factors:

11 (1) The potential of the project to reduce consumption and
12 increase the efficiency of nonrenewable energy sources and
13 systems.

14 (2) The financial, technical, and management strength of the
15 project applicant.

16 (3) The near-term and long-term feasibility of the project.

17 (4) The ability of the project technology to be used on other
18 applications throughout California.

19 (5) The potential of the project for promoting diverse, secure,
20 and resilient energy supplies.

21 (6) The potential of the project for reducing adverse
22 environmental impacts.

23 (7) The potential of the project to stimulate economic
24 development, employment, and tax revenues for California.

25 (8) The potential of the project for reducing short-term and
26 long-term energy costs for the ratepayers of California.

27 (9) The need of the project for state financing.

28 (10) The ability of the project to garner private investment.

29 (11) The investment payback period for the project.

30 (12) The probability of success in overcoming the risk of the
31 project.

32 (13) The potential for stimulating small business competition
33 in the field of alternative energy development.

34 (14) The ability of the project to generate needed community
35 economic development for participating local jurisdictions.

36 (15) The extent of the applicant's financial participation.

37 (16) The degree of innovation of the project.

38 (17) Whether the project is in general agreement with the
39 energy policies of California regarding the energy technologies
40 and priorities as set forth in the biennial report of the commission.



1 (b) Awards provided pursuant to this chapter are not subject to
2 Article 4 (commencing with Section 10335) of Chapter 2 of Part
3 2 of Division 2 of the Public Contract Code.

4 SEC. 12. Section 332.4 is added to the Public Utilities Code,
5 to read:

6 332.4. (a) The commission shall direct each electrical
7 corporation to prepare an annual renewable procurement plan to
8 satisfy its obligations under the California Renewables Portfolio
9 Standard Program, as established in Chapter 5.6 (commencing
10 with Section 25465) of Division 15 of the Public Resources Code.
11 Consistent with the goal of procuring the least-cost eligible new
12 renewable energy resources, the electrical corporation shall file an
13 initial renewable energy procurement plan with the commission
14 prior to resuming general procurement responsibilities.

15 (1) The renewable procurement plan shall include, but is not
16 limited to, all of the following:

17 (A) Criteria for choosing between short-term and long-term
18 purchases.

19 (B) Provisions for the sale and banking of excess renewable
20 energy credits.

21 (C) A process and methodology for determining whether
22 proposed procurement would exceed the cost cap under the
23 portfolio standard.

24 (2) The renewable procurement plan shall be submitted by the
25 electrical corporation and considered by the commission as part of
26 a general procurement plan.

27 (3) The proposed commencement date for renewable
28 procurement may not precede the date established for resumption
29 of procurement as specified in statute or in any agreement the
30 electrical corporation may have with the Department of Water
31 Resources.

32 (b) The commission shall review and accept, modify, or reject
33 each electrical corporation's renewable procurement plan within
34 a reasonable time period. The commission shall ensure that, if the
35 electrical corporation submits a procurement plan within the
36 required time period, the electrical corporation will be able to
37 procure sufficient renewable resources to comply with the terms
38 of the California Renewables Portfolio Standard Program without
39 incurring any penalty.



1 (c) The commission shall allow an electrical corporation to
2 recover in rates reasonable procurement and administrative costs
3 incurred to satisfy the California Renewables Portfolio Standard
4 Program so long as the electrical corporation has incurred the costs
5 consistent with a renewable procurement plan incurred by the
6 commission.

7 SEC. 13. Section 381 of the Public Utilities Code is amended
8 to read:

9 381. (a) To ensure that the funding for the programs
10 described in subdivision (b) and Section 382 are not commingled
11 with other revenues, the commission shall require each electrical
12 corporation to identify a separate rate component to collect the
13 revenues used to fund these programs. The rate component shall
14 be a nonbypassable element of the local distribution service and
15 collected on the basis of usage. This rate component shall fall
16 within the rate levels identified in subdivision (a) of Section 368.

17 (b) The commission shall allocate funds collected pursuant to
18 subdivision (a), and any interest earned on collected funds, to
19 programs that enhance system reliability and provide in-state
20 benefits as follows:

21 (1) Cost-effective energy efficiency and conservation
22 activities.

23 (2) Public interest research and development not adequately
24 provided by competitive and regulated markets.

25 (3) In-state operation and development of existing and new and
26 emerging renewable resource technologies defined as electricity
27 produced from other than a conventional power source within the
28 meaning of Section 2805, provided that a power source utilizing
29 more than 25 percent fossil fuel may not be included.

30 (c) The Public Utilities Commission shall order the respective
31 electrical corporations to collect and spend these funds, as follows:

32 (1) Cost-effective energy efficiency and conservation activities
33 shall be funded at not less than the following levels commencing
34 January 1, 1998, through December 31, 2001: for San Diego Gas
35 and Electric Company a level of thirty-two million dollars
36 (\$32,000,000) per year; for Southern California Edison Company
37 a level of ninety million dollars (\$90,000,000) for each of the years
38 1998, 1999, and 2000; fifty million dollars (\$50,000,000) for the
39 year 2001; and for Pacific Gas and Electric Company a level of one
40 hundred six million dollars (\$106,000,000) per year.



1 (2) Research, development, and demonstration programs to
2 advance science or technology that are not adequately provided by
3 competitive and regulated markets shall be funded at not less than
4 the following levels commencing January 1, 1998, through
5 December 31, 2011: for San Diego Gas and Electric Company a
6 level of four million dollars (\$4,000,000) per year; for Southern
7 California Edison Company a level of twenty-eight million five
8 hundred thousand dollars (\$28,500,000) per year; and for Pacific
9 Gas and Electric Company a level of thirty million dollars
10 (\$30,000,000) per year.

11 (3) In-state operation and development of existing and new and
12 emerging renewable resource technologies shall be funded at not
13 less than the following levels on a statewide basis: one hundred
14 nine million five hundred thousand dollars (\$109,500,000) per
15 year for each of the years 1998, 1999, and 2000, and one hundred
16 thirty-six million five hundred thousand dollars (\$136,500,000)
17 for the year 2001. To accomplish these funding levels over the
18 period described herein the San Diego Gas and Electric Company
19 shall spend twelve million dollars (\$12,000,000) per year, the
20 Southern California Edison Company shall expend no less than
21 forty-nine million five hundred thousand dollars (\$49,500,000)
22 for the years 1998, 1999, and 2000, and no less than seventy-six
23 million five hundred thousand dollars (\$76,500,000) for the year
24 2001, and the Pacific Gas and Electric Company shall expend no
25 less than forty-eight million dollars (\$48,000,000) per year
26 through the year 2001. Additional funding not to exceed
27 seventy-five million dollars (\$75,000,000) shall be allocated from
28 moneys collected pursuant to subdivision (d) in order to provide
29 a level of funding totaling five hundred forty million dollars
30 (\$540,000,000).

31 (4) Up to fifty million dollars (\$50,000,000) of the amount
32 collected pursuant to subdivision (d) may be used to resolve
33 outstanding issues related to implementation of subdivision (a) of
34 Section 374. Moneys remaining after fully funding the provisions
35 of this paragraph shall be reallocated for purposes of paragraph
36 (3).

37 (5) Up to ninety million dollars (\$90,000,000) of the amount
38 collected pursuant to subdivision (d) may be used to resolve
39 outstanding issues related to contractual arrangements in the
40 Southern California Edison service territory stemming from the



1 Biennial Resource Planning Update auction. Moneys remaining
2 after fully funding the provisions of this paragraph shall be
3 reallocated for purposes of paragraph (3).

4 (6) To accomplish the funding of in-state operation and
5 development of existing and new and emerging renewable
6 resources technologies in accordance with the intent of Section
7 399, the San Diego Gas and Electric Company shall spend no less
8 than thirteen million nine hundred thousand dollars (\$13,900,000)
9 per year from January 1, 2002 to December 31, 2011, inclusive, the
10 Southern California Edison Company shall spend no less than
11 sixty-five million three hundred thousand dollars (\$65,300,000)
12 per year from January 1, 2002 to December 31, 2011, inclusive,
13 and the Pacific Gas and Electric Company shall spend no less than
14 fifty-five million eight hundred thousand dollars (\$55,800,000)
15 per year from January 1, 2002 to December 31, 2011, inclusive.

16 (d) Notwithstanding any other provisions of this chapter, the
17 commission may allow entities subject to its jurisdiction to extend
18 the period for competition transition charge collection up to three
19 months beyond its otherwise applicable termination of December
20 31, 2001, or to allow these entities to impose an alternative
21 nonbypassable system benefits charge, so as to ensure that the
22 aggregate portion of the research, environmental, and low-income
23 funds allocated to renewable resources shall equal five hundred
24 forty million dollars (\$540,000,000) and that the costs specified in
25 paragraphs (3), (4), and (5) of subdivision (c) are collected.

26 (e) Each electrical corporation shall allow customers to make
27 voluntary contributions through their utility bill payments as
28 either a fixed amount or a variable amount to support programs
29 established pursuant to paragraph (3) of subdivision (b). Funds
30 collected by electrical corporations for these purposes shall be
31 forwarded in a timely manner to the appropriate fund as specified
32 by the commission.

33 (f) For purposes of this article, “emerging renewable
34 technology” means a new renewable technology, including, but
35 not limited to, fuel cells using renewable fuels and photovoltaic
36 technology, that is determined by the State Energy Resources
37 Conservation and Development Commission to be emerging from
38 research and development and that has significant commercial
39 potential.



1 SEC. 14. Section 383.5 of the Public Utilities Code is
2 amended to read:

3 383.5. (a) It is the intent of the Legislature in establishing the
4 California Renewables Portfolio Standard Program in Chapter 5.6
5 (commencing with Section 25465) of Division 15 of the Public
6 Resources Code, to increase the amount of renewable electricity
7 generated per year so that it equals at least 17 percent of the total
8 electricity generated for consumption in California per year by
9 2006.

10 (b) As used in this section, the following terms have the
11 following meaning:

12 (1) “In-state renewable electricity generation facility” means
13 a facility using biomass, solar thermal, photovoltaic, wind,
14 geothermal, fuel cells using renewable fuels, small ~~hydropower~~
15 *hydroelectric generation facility* of 30 megawatts or less, waste
16 tire, digester gas, landfill gas, and municipal solid waste
17 generation technologies, as described in the report, defined in
18 paragraph (2), including any additions or enhancements thereto,
19 that are located in this state or located near the border of this state
20 and with the first point of connection to the Western States
21 Coordinating Council (WSCC) transmission system located
22 within this state. “In-state renewable electricity generation
23 facility” also includes a facility using ocean thermal, tidal current,
24 and wave energy generation technologies, located within the
25 state’s territorial boundaries.

26 (2) Before January 1, 2002, “report” means the Policy Report
27 on AB 1890 Renewables Funding (March 1997, Publication
28 Number P500-97-002) submitted to the Legislature by the State
29 Energy Resources Conservation and Development Commission.
30 On and after January 1, 2002, “report” means the report entitled
31 “Investing in Renewable Electricity Generation in California”
32 (June 2001, Publication Number P500-00-022) submitted to the
33 Governor and the Legislature by the State Energy Resources
34 Conservation and Development Commission.

35 (c) (1) Twenty percent of the funds collected pursuant to
36 paragraph (6) of subdivision (c) of Section 381 shall be used for
37 programs that are designed to improve the competitiveness of
38 existing in-state renewable electricity generation facilities, and to
39 secure for the state the environmental, economic, and reliability
40 benefits that continued operation of those facilities will provide.



1 (2) Any funds used to support in-state renewable electricity
2 generation facilities pursuant to this subdivision shall be expended
3 in accordance with the provisions of the report, subject to all of the
4 following requirements:

5 (A) Funding for existing renewable electricity generation
6 facilities shall be grouped into two technology tiers, as follows:

7 (i) Fifteen percent of the money shall be used to fund first tier
8 technologies, including biomass and solar thermal.

9 (ii) Five percent of the money shall be used to fund second tier
10 wind technologies.

11 (iii) Sufficient funds may be made available from unallocated
12 program expenditures as necessary to support existing geothermal
13 technologies demonstrating financial need. The State Energy
14 Resources Conservation and Development Commission shall
15 reexamine the tier structure as proposed in the report and adjust the
16 structure to reflect market conditions.

17 (B) The State Energy Resources Conservation and
18 Development Commission shall establish a cents per kilowatthour
19 production incentive, not to exceed the payment caps per
20 kilowatthour established in the report representing the difference
21 between target prices and the market clearing price for electricity,
22 if sufficient funds are available. If there are insufficient funds in
23 any payment period to pay either the difference between the target
24 and market price or the payment caps, production incentives shall
25 be based on the amount determined by dividing available funds by
26 eligible generation. The market clearing price for electricity shall
27 be determined by the State Energy Resources Conservation and
28 Development Commission based on the energy prices paid to
29 nonutility power generators as provided in Section 390, or on
30 otherwise available measures of market clearing price.

31 (C) Facilities that are eligible to receive funding pursuant to
32 this subdivision shall be certified in accordance with the
33 requirements set forth in the report and may not receive payments
34 for any electricity produced that has any of the following
35 characteristics:

36 (i) Is sold at rates equal to or greater than the applicable target
37 price, as determined by the State Energy Resources Conservation
38 and Development Commission.

39 (ii) Derives from a facility that is receiving fuel-based
40 incentives through the Agricultural Biomass-to-Energy Incentive



1 Grant Program (Part 3 (commencing with Section 1101) of
2 Division 1 of the Food and Agricultural Code.

3 (iii) Is used onsite.

4 (d) (1) Fifty percent of the money collected pursuant to
5 paragraph (6) of subdivision (c) of Section 381 shall be used for
6 programs designed to foster the development of new in-state
7 renewable electricity generation facilities, and to secure for the
8 state the environmental, economic, and reliability benefits that
9 continued operation of those facilities will provide.

10 (2) Any funds used for new in-state renewable electricity
11 generation facilities pursuant to this subdivision shall be expended
12 in accordance with the report, subject to all of the following
13 requirements:

14 (A) Funds shall be allocated for proposed projects based on a
15 competitive solicitation process whereby production incentives,
16 not to exceed a maximum amount, as specified by the State Energy
17 Resources Conservation and Development Commission, are
18 awarded to the lowest bidders, provided that not more than 25
19 percent of the funds allocated in any competitive solicitation
20 pursuant to paragraph (1) may be awarded to a single project.

21 (B) Funds expended for production incentives shall be paid
22 over a five-year period commencing on or after the date that a
23 project begins electricity production, provided that the project
24 shall be operational within four years after the date of the
25 competitive solicitation in which the project was allocated
26 funding. A project that becomes operational later than four years
27 after the date of the competitive solicitation in which the project
28 was allocated funding may not receive payments except upon the
29 extension and reapproval of its award by the State Energy
30 Resources Conservation and Development Commission, and may
31 not receive any payments for energy generated beyond the date
32 nine years after the date of the competitive solicitation. The State
33 Energy Resources Conservation and Development Commission
34 may extend and reapprove a project award if it finds that the
35 project will not be operational within the expected four-year
36 period, due to circumstances specific to the project and beyond the
37 control of the project developer. Upon making this finding, the
38 State Energy Resources Conservation and Development
39 Commission shall pay production incentives over a five-year
40 period, commencing on the date of operation, provided that the



1 date that a project begins electricity production may not extend
2 beyond six years after the date of the applicable competitive
3 solicitation.

4 (C) A facility that does not meet the definition of “in-state
5 renewable generation facility” solely because it is located outside
6 the state is eligible for funding from this subdivision if it satisfies
7 both of the following requirements:

8 (i) It is located so that it is or will be connected to the WSCC
9 grid.

10 (ii) It is developed with guaranteed contracts to sell its
11 generation to end-use customers within California, or to marketers
12 that provide this guarantee for resale of the generation, for a period
13 at least equal to the amount of time it receives incentive payments
14 pursuant to this subdivision.

15 (D) Facilities that are eligible to receive funding pursuant to
16 this subdivision shall be certified as specified in the report and may
17 not receive payments for any electricity produced that has any of
18 the following characteristics:

19 (i) Is sold under an existing long-term contract with an existing
20 in-state electrical corporation if the contract includes fixed energy
21 or capacity payments, except for that electricity that satisfies the
22 provisions of subparagraph (C) of paragraph (1) of subdivision (c)
23 of Section 399.6.

24 (ii) Is used onsite or is sold to customers in a manner that does
25 not include independent metering of the electricity generated,
26 upon which production incentives may be based.

27 (iii) Is produced by a facility that is owned by an electrical
28 corporation or a local publicly owned electric utility as defined in
29 subdivision (d) of Section 9604.

30 (iv) *Is a hydroelectric generation project that will require a new
31 or increased appropriation of water under Part 2 (commencing
32 with Section 1200) of Division 2 of the Water Code.*

33 (E) Eligibility to compete for funds or to receive funds shall not
34 be contingent upon the location or nature of the power purchaser.

35 (F) The State Energy Resources Conservation and
36 Development Commission may require applicants competing for
37 funding to post a forfeitable bid bond or other financial guaranty
38 as an assurance of the applicant’s intent to move forward
39 expeditiously with the project proposed. The amount of any bid



1 bond or financial guaranty may not exceed 10 percent of the total
2 amount of the funding requested by the applicant.

3 (3) Repowered existing facilities shall be eligible for funding
4 under this subdivision if the capital investment to repower the
5 existing facility equals at least 80 percent of the value of the
6 repowered facility.

7 (e) (1) ~~Fifteen~~ *Seventeen and one-half* percent of the money
8 collected pursuant to paragraph (3) of subdivision (c) of Section
9 381 shall be used for a multiyear, consumer-based program to
10 foster the development of emerging renewable technologies in
11 distributed generation applications.

12 (2) Any funds used for emerging technologies pursuant to this
13 subdivision shall be expended in accordance with the report,
14 subject to all of the following requirements:

15 (A) Funding for emerging technologies shall be provided
16 through a competitive, market-based process that shall be in place
17 for a period of not less than five years, and shall be structured so
18 as to allow eligible emerging technology manufacturers and
19 suppliers to anticipate and plan for increased sale and installation
20 volumes over the life of the program. Notwithstanding
21 subparagraphs (B), (C), and (D), up to 15 percent of the funds
22 allocated in this subdivision may be used by the State Energy
23 Resources Conservation and Development Commission to
24 establish programs with alternative program structures, as long as
25 the programs have goals consistent with this subparagraph.

26 (B) The program shall provide monetary rebates, buydowns, or
27 equivalent incentives, subject to subparagraph (C), to purchasers,
28 lessees, lessors, or sellers of eligible electricity generating
29 systems. Incentives shall benefit the end-use consumer of
30 renewable generation by directly and exclusively reducing the
31 purchase or lease cost of the eligible system, or the cost of
32 electricity produced by the eligible system. Incentives shall be
33 issued on the basis of the rated electrical capacity of the system
34 measured in watts, or the amount of electricity production of the
35 system, measured in kilowatthours. Incentives shall be limited to
36 a maximum percentage of the system price, as determined by the
37 State Energy Resources Conservation and Development
38 Commission.

39 (C) Eligible distributed emerging technologies are
40 photovoltaic, solar thermal electric, fuel cell technologies that



1 utilize renewable fuels, and wind turbines of not more than 50
2 kilowatts rated electrical capacity per customer site, and other
3 distributed renewable emerging technologies that meet the
4 emerging technology eligibility criteria established by the State
5 Energy Resources Conservation and Development Commission.
6 Eligible electricity generating systems are intended primarily to
7 offset part or all of the consumer's own electrical energy demand,
8 and shall not be owned by electrical corporations or local publicly
9 owned electric utilities, nor be located at a customer site that is not
10 receiving distribution service from an electrical corporation that
11 is subject to Section 381 and contributing funds to support
12 programs under this section. All eligible electricity generating
13 system components shall be new and unused, and shall not have
14 been previously placed in service in any other location or for any
15 other application. Systems and their fuel resource shall be located
16 on the same premises of the end-use consumer where the
17 consumer's own electricity demand is located, and all eligible
18 electricity generating systems shall be connected to the utility grid
19 in California. The State Energy Resources Conservation and
20 Development Commission may require eligible electricity
21 generating systems to have meters in place to monitor and measure
22 a system's performance and generation.

23 (D) The State Energy Resources Conservation and
24 Development Commission shall also determine, in collaboration
25 with industry and consumer interests, if a program provision
26 limiting the amount of funds available for any single project is
27 warranted, and determine how federal, state, or other funds or
28 incentives not related to this section that are already available, or
29 that may become available for eligible electricity generating
30 systems, may impact the availability of funds allocated under this
31 section, if at all.

32 (f) (1) Ten percent of the money collected pursuant to
33 paragraph (6) of subdivision (c) of Section 381 shall be used to
34 provide customer credits for purchases of renewable energy
35 produced by certified generating facilities.

36 (2) Any funds used for customer credits pursuant to this
37 subdivision shall be expended as provided in the report, subject to
38 all of the following requirements:

39 (A) Customer credits shall be awarded to California retail
40 customers located in the service territory of an electrical



1 corporation that is subject to Section 381 that is contributing funds
2 to support programs under this section, and that is purchasing
3 qualifying renewable electric power through transactions
4 traceable to specific generation sources by any auditable contract
5 trail or equivalent that provides commercial verification that the
6 renewable aspect of the electricity source claimed has been sold
7 once and only once to a retail customer. Credits may be given
8 without regard to whether the power supplier is also receiving
9 funds under any other subdivision of this section.

10 (B) Credits awarded pursuant to this paragraph may be paid
11 directly to electric service providers, energy marketers,
12 aggregators, or generators if those persons or entities account for
13 the credits on the recipient customer's utility bills. Credits shall not
14 exceed one and one-half cents (\$0.015) per kilowatthour. Credits
15 awarded to members of the combined class of customers, other
16 than residential and small commercial customers, shall not exceed
17 one thousand dollars (\$1,000) per customer per calendar year. In
18 no event shall more than thirteen million five hundred thousand
19 dollars (\$13,500,000) of the total customer incentive funds be
20 awarded to members of the combined class of customers other than
21 residential and small commercial customers.

22 (C) The State Energy Resources Conservation and
23 Development Commission shall develop interim criteria and
24 procedures for the certification of energy providers and for the
25 identification of energy purchasers who are eligible to receive
26 funds pursuant to this paragraph through a process consistent with
27 this paragraph. These criteria and procedures shall apply only to
28 funding eligibility and shall not extend to other renewable
29 marketing claims.

30 (D) The Public Utilities Commission shall notify the State
31 Energy Resources Conservation and Development Commission in
32 writing within 10 days of revoking or suspending the registration
33 of any electric service provider pursuant to paragraph (4) of
34 subdivision (b) of Section 394.25.

35 (g) ~~Five~~ *Two and one-half* percent of the money collected
36 pursuant to paragraph (6) of subdivision (c) of Section 381 shall
37 be used in accordance with the report to promote renewable energy
38 and to disseminate information on renewable energy technologies,
39 including emerging renewable technologies, and to help develop



1 a consumer market for renewable energy and for small-scale
2 emerging renewable energy technologies.

3 (h) (1) The State Energy Resources Conservation and
4 Development Commission shall adopt guidelines governing the
5 funding programs authorized under this section, at a publicly
6 noticed meeting offering all interested parties an opportunity to
7 comment. Substantive changes to the guidelines shall not be
8 adopted without at least 10 days' written notice to the public. The
9 public notice of meetings required by this paragraph shall not be
10 less than 30 days. Notwithstanding any other provision of law, any
11 guidelines adopted pursuant to this section shall be deemed to
12 satisfy the requirements of Chapter 3.5 (commencing with Section
13 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

14 (2) Funds to further the purposes of this section may be
15 committed for multiple years.

16 (3) Awards made pursuant to this section are grants, subject to
17 appeal to the State Energy Resources Conservation and
18 Development Commission upon a showing that factors other than
19 those described in the guidelines adopted by the State Energy
20 Resources Conservation and Development Commission were
21 applied in making the awards and payments. Any actions taken by
22 an applicant to apply for, or become or remain eligible and
23 certified to receive, payments or awards, including satisfying
24 conditions specified by the State Energy Resources Conservation
25 and Development Commission, shall not constitute the rendering
26 of goods, services, or a direct benefit to the State Energy Resources
27 Conservation and Development Commission.

28 (i) The State Energy Resources Conservation and
29 Development Commission shall report to the Legislature on or
30 before May 31, 2000, and on or before May 31 of every second
31 year thereafter, regarding the results of the mechanisms funded
32 pursuant to this section. Reports prepared pursuant to this
33 subdivision shall include a description of the allocation of funds
34 among existing, new and emerging technologies; the allocation of
35 funds among programs, including consumer-side incentives; and
36 the need for the reallocation of money among those technologies.
37 The reports shall also address the allocation of funds from interest
38 on the accounts described in this section, money in the accounts
39 described in subdivision (e) of Section 381, and money included
40 in the accounts pursuant to Section 385. Notwithstanding



1 paragraph (4) of subdivision (b) of Section 383 or subdivisions (c),
2 (d), (e), (f), and (g) of this section, money may be reallocated
3 without further legislative action among existing, new, and
4 emerging technologies and consumer-side programs in a manner
5 consistent with the report and with the latest report provided to the
6 Legislature pursuant to this subdivision.

7 SEC. 15. Section 383.7 of the Public Utilities Code is
8 amended to read:

9 383.7. (a) Notwithstanding Provision 1 of Item
10 3360-001-0465 of Section 2.00 of the Budget Act of 1998 or
11 paragraph (1) of subdivision (f) of Section 383.5, during the period
12 beginning April 1, 1998, and ending September 30, 1998,
13 customer credits offered pursuant to paragraph (1) of subdivision
14 (f) of Section 383.5 shall be available for the purchase and delivery
15 of electrical energy and associated customer credits to eligible
16 end-use customers, in accordance with commission guidelines,
17 where the energy was generated by an in-state investor-owned
18 utility that is not required to sell into the Power Exchange, or a
19 facility that is owned by one or more in-state municipal utilities
20 and is not certified under Section 292.2904 of Title 18 of the Code
21 of Federal Regulations as a qualifying small power production
22 facility. After September 30, 1998, customer credits offered
23 pursuant to paragraph (1) of subdivision (f) of Section 383.5 shall
24 be available only for end user purchase and use of electricity
25 produced by in-state renewable generation technologies, as
26 defined in Section 383.5.

27 (b) Nothing in this section is intended to limit the commission's
28 authority to revise its customer credit subaccount guidelines to
29 implement the program changes contained herein.

30 SEC. 16. Section 390 of the Public Utilities Code is amended
31 to read:

32 390. (a) Subject to applicable contractual terms, energy
33 prices paid to nonutility power generators by a public utility
34 electrical corporation based upon the commission's prescribed
35 "short run avoided cost energy methodology" shall be determined
36 as set forth in subdivisions (b) and (c).

37 (b) Until the requirements of subdivision (c) have been
38 satisfied, short run avoided cost energy payments paid to
39 nonutility power generators by an electrical corporation shall be
40 based on a formula that reflects a starting energy price, adjusted



1 monthly to reflect changes in a starting gas index price in relation
2 to an average of current California natural gas border price indices.
3 The starting energy price shall be based on 12-month averages of
4 recent, pre-January 1, 1996, short-run avoided energy prices paid
5 by each public utility electrical corporation to nonutility power
6 generators. The starting gas index price shall be established as an
7 average of index gas prices for the same annual periods.

8 (c) The short run avoided cost energy payments paid to
9 nonutility power generators by electrical corporations shall be
10 based on the clearing price paid by the independent Power
11 Exchange if (1) the commission has issued an order determining
12 that the independent Power Exchange is functioning properly for
13 the purposes of determining the short run avoided cost energy
14 payments to be made to nonutility power generators, and either (2)
15 the fossil-fired generation units owned, directly or indirectly, by
16 the public utility electrical corporation are authorized to charge
17 market-based rates and the “going forward” costs of those units
18 are being recovered solely through the clearing prices paid by the
19 independent Power Exchange or from contracts with the
20 Independent System Operator, whether those contracts are
21 market-based or based on operating costs for particular
22 utility-owned powerplant units and at particular times when
23 reactive power/voltage support is not yet procurable at
24 market-based rates at locations where it is needed, and are not
25 being recovered directly or indirectly through any other source, or
26 (3) the public utility electrical corporation has divested 90 percent
27 of its gas-fired generation facilities that were operated to meet load
28 in 1994 and 1995. However, nonutility power generators subject
29 to this section may, upon appropriate notice to the public utility
30 electrical corporation, exercise a one-time option to elect to
31 thereafter receive energy payments based upon the clearing price
32 from the independent Power Exchange.

33 (d) If a nonutility power generator is being paid short run
34 avoided costs energy payments by an electrical corporation by a
35 firm capacity contract, a forecast as-available capacity contract, or
36 a forecast as-delivered capacity contract on the basis of the
37 clearing price paid by the independent Power Exchange as
38 described in subdivision (c) above, the value of capacity in the
39 clearing price, if any, shall not be paid to the nonutility power
40 generator. The value of capacity in the clearing price, if any, equals



1 the difference between the market clearing customer demand bid
2 at the level of generation dispatched by the independent Power
3 Exchange and the highest supplier bid dispatched.

4 (e) Short run avoided energy cost payments made pursuant to
5 this section are in addition to contractually specified capacity
6 payments. Nothing in this section shall be construed to affect,
7 modify or amend the terms and conditions of existing nonutility
8 power generators' contracts with respect to the sale of energy or
9 capacity or otherwise.

10 (f) Nothing in this section shall be construed to limit the level
11 of transition cost recovery provided to utilities under electric
12 industry restructuring policies established by the commission.

13 (g) The term "going forward costs" shall include, but not be
14 limited to, all costs associated with fuel transportation and fuel
15 supply, administrative and general, and operation and
16 maintenance; provided that, for purposes of this section, the
17 following shall not be considered "going forward costs": (1)
18 commission-approved capital costs for capital additions to
19 fossil-fueled powerplants, provided that ~~such~~ *the* additions are
20 necessary for the continued operation of the powerplants utilized
21 to meet load and ~~such~~ *the* additions are not undertaken primarily
22 to expand, repower or enhance the efficiency of plant operations;
23 or, (2) commission-approved operating costs for particular
24 utility-owned powerplant units and at particular times when
25 reactive power/voltage support is not yet procurable at
26 market-based rates in locations where it is needed, provided that
27 the recovery shall end on December 31, 2001.

28 (h) Any nonutility power generator using renewable fuels that
29 has entered into a contract with an electrical corporation
30 specifying fixed energy prices for output through December 31,
31 2005, may elect an additional five years of fixed energy payments
32 at a level to be determined by the commission.

33 SEC. 17. Section 394.25 of the Public Utilities Code is
34 amended to read:

35 394.25. (a) The commission may enforce the provisions of
36 Sections 2102, 2103, 2104, 2105, 2107, 2108, and 2114 against
37 electric service providers as if those electric service providers were
38 public utilities as defined in these code sections. Notwithstanding
39 the above, nothing in this section grants the commission
40 jurisdiction to regulate electric service providers other than as



1 specifically set forth in this part. Electric service providers shall
2 continue to be subject to the provisions of Sections 2111 and 2112.
3 Upon a finding by the commission's executive director that there
4 is evidence to support a finding that the electric service provider
5 has committed an act constituting grounds for suspension or
6 revocation of registration as set forth in subdivision (b) of Section
7 394.25, the commission shall notify the electric service provider
8 in writing and notice an expedited hearing on the suspension or
9 revocation of the electric service provider's registration to be held
10 within 30 days of the notification to the electric service provider
11 of the executive director's finding of evidence to support
12 suspension or revocation of registration. The commission shall,
13 within 45 days after holding the hearing, issue a decision on the
14 suspension or revocation of registration, which shall be based on
15 findings of fact and conclusions of law based on the evidence
16 presented at the hearing. The decision shall include the findings of
17 fact and the conclusions of law relied upon.

18 (b) An electric service provider may have its registration
19 suspended or revoked, immediately or prospectively, in whole or
20 in part, for any of the following acts:

21 (1) Making material misrepresentations in the course of
22 soliciting customers, entering into service agreements with those
23 customers, or administering those service agreements.

24 (2) Dishonesty, fraud, or deceit with the intent to substantially
25 benefit the electric service provider or its employees, agents, or
26 representatives, or to disadvantage retail electric customers.

27 (3) Where the commission finds that there is evidence that the
28 electric service provider is not financially or operationally capable
29 of providing the offered electric service.

30 (4) The misrepresentation of a material fact by an applicant in
31 obtaining a registration pursuant to Section 394.

32 (c) Pursuant to its authority to revoke or suspend registration,
33 the commission may suspend a registration for a specified period
34 or revoke the registration, or in lieu of suspension or revocation,
35 impose a moratorium on adding or soliciting additional customers.
36 Any suspension or revocation of a registration shall require the
37 electric service provider to cease serving customers within the
38 boundaries of investor-owned electric corporations, and the
39 affected customers shall be served by the electrical corporation
40 until the time when they may select service from another service



1 provider. Customers shall not be liable for the payment of any
2 early termination fees or other penalties to any electric service
3 provider under the service agreement if the serving electric service
4 provider's registration is suspended or revoked.

5 (d) The commission shall require any electric service provider
6 whose registration is revoked pursuant to paragraph (4) of
7 subdivision (b) to refund all of the customer credit funds that the
8 electric service provider received from the State Energy Resources
9 Conservation and Development Commission pursuant to
10 paragraph (1) of subdivision (f) of Section 383.5. The repayment
11 of these funds shall be in addition to all other penalties and fines
12 appropriately assessed the electric service provider for committing
13 those acts under other provisions of law. All customer credit funds
14 refunded under this subdivision shall be deposited in the
15 Renewable Resource Trust Fund for redistribution by the State
16 Energy Resources Conservation and Development Commission
17 pursuant to Section 383.5. This subdivision may not be construed
18 to apply retroactively.

19 SEC. 18. Section 445 of the Public Utilities Code is amended
20 to read:

21 445. (a) The Renewable Resource Trust Fund is hereby
22 created in the State Treasury.

23 (b) The following accounts are hereby created within the
24 Renewable Resource Trust Fund:

- 25 (1) Existing Renewable Resources Account.
- 26 (2) New Renewable Resources Account.
- 27 (3) Emerging Renewable Resources Account.
- 28 (4) Customer-Credit Renewable Resources Account.
- 29 (5) Renewable Resources Consumer Education Account.

30 (c) The money in the fund may be expended for the state's
31 administration of this article only upon appropriation by the
32 Legislature in the annual Budget Act.

33 (d) Notwithstanding Section 383, that portion of revenues
34 collected by electrical corporations for the benefit of in-state
35 operation and development of existing and new and emerging
36 renewable resource technologies, pursuant to paragraph (3) of
37 subdivision (c) of Section 381, shall be transmitted to the State
38 Energy Resources Conservation and Development Commission at
39 least quarterly for deposit in the Renewable Resource Trust Fund.
40 After setting aside in the fund money that may be needed for



1 expenditures authorized by the annual Budget Act in accordance
2 with subdivision (c), the Treasurer shall immediately deposit
3 money received pursuant to this section into the accounts created
4 pursuant to subdivision (b) in proportions designated by the State
5 Energy Resources Conservation and Development Commission
6 for the current calendar year. Notwithstanding Section 13340 of
7 the Government Code, the money in the fund and the accounts
8 within the fund are hereby continuously appropriated to the State
9 Energy Resources Conservation and Development Commission
10 without regard to fiscal year for the purposes enumerated in
11 Section 383.5.

12 (e) Upon notification by the State Energy Resources
13 Conservation and Development Commission, the Controller shall
14 pay all awards of the money in the accounts created pursuant to
15 subdivision (b) for purposes of furthering Section 383.5. The
16 eligibility of each award shall be determined solely by the State
17 Energy Resources Conservation and Development Commission
18 based on the procedures it adopts under subdivision (h) of Section
19 383.5. Based on the eligibility of each award, the State Energy
20 Resources Conservation and Development Commission shall also
21 establish the need for a multiyear commitment to any particular
22 award and so advise the Department of Finance. Eligible awards
23 submitted by the State Energy Resources Conservation and
24 Development Commission to the Controller shall be accompanied
25 by information specifying the account from which payment should
26 be made and the amount of each payment; a summary description
27 of how payment of the award furthers the purposes of Section
28 383.5; and an accounting of future costs associated with any award
29 or group of awards known to the State Energy Resources
30 Conservation and Development Commission to represent a
31 portion of a multiyear funding commitment.

32 (f) The State Energy Resources Conservation and
33 Development Commission may transfer funds between accounts
34 for cash-flow purposes, provided that the balance due each
35 account is restored and the transfer does not adversely affect any
36 of the accounts. The State Energy Resources Conservation and
37 Development Commission shall examine the cash-flow in the
38 respective accounts on an annual basis, and shall annually prepare
39 and submit to the Legislature a report that describes the status of
40 account transfers and repayments. Any other unallocated funds in



1 any account shall remain in the respective account, and be
2 available for the purposes of this section until the State Energy
3 Resources Conservation and Development Commission submits
4 a report pursuant to subdivision (i) of Section 383.5. Money may
5 be reallocated without further legislative action among existing,
6 new, and emerging technologies and consumer-side programs in
7 a manner consistent with the most recent report described in
8 subdivision (i) of Section 383.5 and the report described in
9 paragraph (2) of subdivision (b) of Section 383.5.

10 (g) The State Energy Resources Conservation and
11 Development Commission shall, on a quarterly basis, report to the
12 Legislature on the implementation of this article. Those quarterly
13 reports shall be submitted to the Legislature not more than 15 days
14 after the close of each quarter and shall include information
15 describing the awards submitted to the Controller pursuant to this
16 article, the cumulative commitment of claims by account, the
17 relative demand for funds by account, a forecast of future awards,
18 and other matters the State Energy Resources Conservation and
19 Development Commission determines may be of importance to
20 the Legislature.

21 (h) The Department of Finance, commencing March 1, 1999,
22 shall conduct an independent audit of the Renewable Resource
23 Trust Fund and its related accounts annually, and provide an audit
24 report to the Legislature not later than March 1 of each year for
25 which this article is operative. The Department of Finance's report
26 shall include information regarding revenues, payment of awards,
27 reserves held for future commitments, unencumbered cash
28 balances, and other matters that the Department of Finance
29 determines may be of importance to the Legislature.

