

BOARD MEETING DATE: April 3, 2015

AGENDA NO. 21

REPORT: Legislative Committee

SYNOPSIS: The Legislative Committee met on Friday, March 13, 2015. The next Legislative Committee meeting is scheduled for Friday, April 10, 2015 at 9 a.m. in Conference Room CC8.

The Committee deliberated on agenda items for Board consideration and recommended the following actions:

Agenda Item	Recommendation
AB 335 (Patterson) Air Quality: Minor Violations	OPPOSE
AB 678 (O'Donnell) Greenhouse Gases: Energy Efficient Ports Program	SUPPORT WITH AMENDMENTS

RECOMMENDED ACTION:

Receive, file this report, and approve agenda items as specified in this letter.

Judith Mitchell
Chair
Legislative Committee

LBS:GSA:PFC:jf

Attendance [Attachment 1]

The Legislative Committee met on March 13, 2015. Committee Member Janice Rutherford, was present at SCAQMD's Diamond Bar headquarters. Committee Chair Judith Mitchell and Committee Members Michael Antonovich, Joe Buscaino, and Dr.

Clark Parker attended via videoconference. Dr. William A. Burke, who was appointed to the Legislative Committee for this meeting, also attended via videoconference.

Update on Federal Legislative Issues

SCAQMD federal legislative consultant, Mark Kadesh of Kadesh & Associates, reported on various key Washington, D.C. issues.

Mr. Kadesh reported that the current MAP-21 law expires on May 31, 2015, and the Highway Trust Fund will be exhausted by this summer.

The U.S. Senate Environment and Public Works (EPW) Committee has been holding hearings to discuss issues related to the MAP-21 reauthorization legislation. Similar activities in the U.S. House of Representatives (U.S. House) have also taken place. The fundamental issue continues to be how to fully fund the reauthorization legislation, with no clear revenue source identified at this time. However, a short-term extension of MAP-21 is expected.

Mr. Kadesh reported that SCAQMD has been working with various U.S. House Representatives from California (Reps. Grace Napolitano, Janice Hahn, Julia Brownley and Jared Huffman) who are members of the U.S. House Transportation and Infrastructure (T&I) Committee regarding SCAQMD's freight policy priorities. The U.S. House T&I Committee is currently considering freight policy issues and legislation.

Rep. Napolitano is considering drafting a letter to the House T&I Committee leadership regarding her ideas for freight policy, along with ideas from other committee members. SCAQMD has approached her office about including SCAQMD policy priorities in that letter as well.

Mr. Kadesh informed the Committee that the U.S. House Appropriations Energy and Water Subcommittee will hold a hearing on the FY 2016 U.S. Department of Energy (DoE) Budget, which includes a \$10 million grant for zero-emission goods movement, from which SCAQMD previously received funding.

SCAQMD federal legislative consultant, Warren Weinstein of Kadesh & Associates, reported that the Senate EPW Committee recently held a hearing on the U.S. Environmental Protection Agency's (U.S. EPA) proposed new climate rules for existing power plants. California Air Resources Board (CARB) Chairwoman Mary Nichols testified during this hearing.

Mr. Weinstein also reported that Senators Rob Portman and Jeanne Shaheen recently reintroduced their energy efficiency bill. The legislation, which SCAQMD has supported in the past, focuses on various issues including, building, industrial, and

manufacturing efficiencies. The bill has numerous recent amendments that SCAQMD staff is still reviewing.

SCAQMD federal legislative consultant, Mia O'Connell of the Carmen Group, also reported on key Washington, D.C. issues.

Ms. O'Connell reported that SCAQMD continues to work with U.S. House and Senate committee staffs to promote SCAQMD's legislative proposals in the developing MAP-21 reauthorization bill. Separate bills in the House and Senate are now in the final stages of drafting with committee markups expected sometime in April. On March 17, the U.S. House T&I Committee will hold a hearing on the MAP-21 reauthorization.

As a follow-up to a SCAQMD staff meeting with U.S. Senate EPW Committee staff in January, SCAQMD provided information on the agency's Alternative Fuel Technology Projects and continued discussions regarding incorporating SCAQMD's legislative proposals within the MAP-21 reauthorization.

Ms. O'Connell also stated that the Carmen Group arranged a conference call requested by EPW Committee staff with SCAQMD staff to discuss other air quality issues in the MAP-21 bill.

Finally, Ms. O'Connell reported that the U.S. House voted to pass a new rail reauthorization bill, which would provide mostly status quo money for Amtrak and related passenger rail infrastructure. No similar bill is moving in the Senate, so nothing is expected to happen on further rail legislation before Congress takes up the MAP-21 bill. Meanwhile, other avenues are being explored to promote cleaner locomotive technologies, possibility through the transit section of the MAP-21 bill dealing with commuter rail.

Update on State Legislative Issues

SCAQMD state legislative consultant, Will Gonzalez of Gonzalez, Quintana & Hunter, briefed the Committee on key Sacramento issues.

Mr. Gonzalez informed the committee that although it is early in the year, the full package of state bills has been introduced and committee hearings will be starting up soon. The two following energy-related issues will be major topics of consideration in Sacramento this year:

- 1) The effort proposed by Governor Jerry Brown to increase renewable power levels to 50%, to reduce petroleum usage by 50% and to double energy efficiency has been incorporated into SB 350 (De León and Leno), and is the leading legislative vehicle in the Senate regarding this larger effort. Also of note is AB 197 (Garcia), which also deals with the 50% renewable power standard;

Assemblymember Garcia has a specific interest in developing geothermal energy in the Imperial Valley and funding improvements for the Salton Sea. Lastly, AB 645 (Williams) is potentially the State Assembly vehicle to coordinate with SB 350.

- 2) Nearly a dozen bills have been introduced regarding electric vehicles (EV), including those addressing possible changes to current incentives. Also, there are numerous bills regarding EV charging stations. There is a rush right now between private industry and the utilities to determine who is going to build, own and operate the many upcoming EV charging stations. Some of the related issues in these bills include open competition and permit streamlining. Finally, a significant budget allocation is being discussed and is likely for EV vehicles, including a possible \$250 million for passenger EVs and \$150 million for zero- and near-zero emission medium- and heavy-duty trucks.

SCAQMD state legislative consultant, Paul Gonsalves of Joe A. Gonsalves & Son, also briefed the Committee on key Sacramento issues.

Mr. Gonsalves stated that February 27 was the bill introduction deadline. The Senate introduced 793 bills, which is the lowest total in a first-year session since 1989. The Assembly introduced 1,504 bills, which is about 130 bills more than it introduced last legislative session. A majority of the introduced bills will be eligible to be heard in committee at the end of March. However, March 26 to April 6 is the legislative spring recess, which will delay hearings of these bills. Overall, about 75% of the introduced bills are “spot” bills, meaning that their content has very little substance or details.

Mr. Gonsalves reported on the state’s fiscal outlook. State Controller Betty Yee indicated that February’s tax revenues were about \$1 billion over the Governor’s projections and that General Fund revenue for the fiscal year is about 1.5% higher than that projected by the Governor in January. This is important because the Legislature is preparing its budget proposal and will likely push the Governor to agree to restoration of recession-era cuts to health and service programs. The Governor’s revised proposed budget will be released in May and the Legislature will need to adopt their budget proposal by June 15.

Mr. Gonsalves also reported that CARB held its first cap and trade auction of 2015 in February and sold all of their 73 million 2015 allowances at a price over the reserve price and sold over 10 million of their 2018 future allowances at a significantly higher price than the 2017 future allowances, netting the state about \$1 billion in revenue for the cap and trade program, which is about 50% more than previous auctions. This increase is being attributed by some to the addition of transportation fuels to the cap and trade program. The Legislative Analyst’s Office produced a report on cap and trade revenues stating that these projected revenues are grossly underestimated by at least \$1

billion, meaning that there may be additional funding available for programs that reduce not only greenhouse gases but also criteria pollutant emissions.

Recommend Position on State Bills [Attachment 2]

Guillermo Sanchez, Senior Public Affairs Manager presented on:

AB 335 (Patterson) Air Quality: Minor Violations

This bill would require CARB and the local air districts to adopt regulations limiting their actions to issuing a Notice to Comply for violations deemed to be minor in terms of the dangers they pose to human health, safety, welfare, or the environment.

Recommended Position: Oppose

Supervisor Rutherford inquired as to whether the author's concerns were focused on the enforcement procedures in the Central Valley rather than in the South Coast region. Mr. Sanchez responded that he did not know about concerns with the Central Valley, but that the author's staff stated that it was attempting to address how violations are handled in the various air districts, including South Coast. When the author's staff was asked to further explain, they were unable to explain further or give any examples. Supervisor Rutherford further inquired about the meaning of a Notice to Comply. Mr. Sanchez explained that it was merely a warning requesting compliance prior to any further action being taken. Supervisor Antonovich asked about the motivation behind the legislation. Dr. Wallerstein and Lisha B. Smith, Deputy Executive Officer of Legislative & Public Affairs, explained that the bill did not have any known purpose nor was it addressing any existing problem. Councilmember Mitchell inquired as to whether this bill might encourage more disputes involving whether a violation should be classified as minor. Dr. Wallerstein responded in the affirmative.

The Legislative Committee approved staff's recommendation to OPPOSE AB 335 (Patterson).

AYES: Antonovich, Burke, Buscaino, Mitchell, Parker, and Rutherford

NOES: None

Philip Crabbe, Community Relations Manager, presented on the following two bills:

AB 678 (O'Donnell) Greenhouse Gases: Energy Efficient Ports Program

This bill would require CARB, in conjunction with the State Energy Resources Conservation and Development Commission to develop and implement the Energy Efficient Ports Program to fund energy efficiency upgrades and investments at public ports.

To maximize the benefit of the state investment, the following amendments are suggested to prioritize co-benefits and identify additional types of projects eligible for investment:

- Page 2 Line 6: “and investments at public ports that help reduce criteria pollutant, toxic, and greenhouse gas emissions.”
- Page 2 Line 13: “(3) Installation of cold ironing/shorepower infrastructure at the ports, beyond actions currently required by existing regulations, to facilitate reduced emissions from diesel auxiliary engines on container, passenger, and refrigerated cargo ships while berthing at a California port.
(4) Deployment of zero and near-zero emission vehicle and infrastructure technologies, including, but not limited to: stationary fuel cells, energy storage and battery electric trucks.”

Recommended Position: Support with Amendments

Dr. Wallerstein commented that the Governing Board received a presentation recently regarding projects currently worked on at the Ports of Long Beach and Los Angeles. He continued that this bill would provide funding for the projects included in that presentation and that some of these projects were viewed during a recent tour of the Long Beach container terminal.

Councilmember Buscaino applauded the efforts of the author on this legislation. Councilmember Mitchell commented that she is supportive of the suggested amendment that would include a reference to co-benefit emission reductions of criteria pollutants along with greenhouse gases because of the funding that will be available through the cap and trade auctions.

The Legislative Committee approved staff’s recommendation to SUPPORT WITH AMENDMENTS AB 678 (O’Donnell).

AYES: Antonovich, Burke, Buscaino, Mitchell, Parker, and Rutherford
NOES: None

SB 350 (DeLeón and Leno) Clean Energy and Pollution Reduction Act of 2015

This bill would implement new “50-50-50” benchmark standards by raising California’s Renewable Portfolio Standard from 33% to 50%, striving for a 50% reduction in petroleum use, and doubling energy efficiency in buildings by the year 2030.

Recommended Position: Support

Dr. Wallerstein commented that this bill contains a proposal the Governor mentioned during his inaugural address. He continued that from a technology perspective, the goals in this bill are definitely possible; however the requirements of the South Coast Air Quality Management Plan actually require additional emission reductions beyond this proposal. Dr. Wallerstein also explained that the way the bill proposes to alter the language of current statute appears to set goals rather than create mandates. He also stated that SCAQMD staff believes that natural gas could be utilized as part of efforts to achieve the bill’s goals.

Dr. Parker commented that the bill is setting forth goals of achievement and that CARB should be taking more action regarding mobile sources of pollution that SCAQMD does not have jurisdiction over.

Supervisor Antonovich commented that SCAQMD should continue to strive to push for market incentives and strategies.

Dr. Burke asked for clarification as to whether this bill includes mandates or goals. Dr. Wallerstein responded that he believes the bill sets goals and cited specific examples of language in the bill. He added that a request for amendments to the bill to include incentives could be considered.

Dr. Parker inquired as to whether this bill would cut out current programs like the Carl Moyer Program and stated that the bill should include a reference that incentive programs would not be cut, but rather would be enhanced.

Supervisor Rutherford stated that she believes that the bill is not developed enough to be ready for support by the SCAQMD. She continued that language in the bill appears to include natural gas as part of the definition of petroleum. She also has concerns about the requirements on buildings, among other things.

The Legislative Committee approved a motion to actively monitor SB 350 (DeLeón and Leno).

***AYES: Antonovich, Burke, Buscaino, and Rutherford
NOES: Mitchell and Parker***

Report from SCAQMD Home Rule Advisory Group [Attachment 3]

Please refer to Attachment 3 for written report.

Other Business:

None

Public Comment Period:

No public comment.

Attachments

1. Attendance Record
2. Bill and Bill Analyses
3. SCAQMD Home Rule Advisory Group Report

ATTACHMENT 1

ATTENDANCE RECORD –March 13, 2014

DISTRICT BOARD MEMBERS:

Dr. William A. Burke (Videoconference)
Councilmember Judy Mitchell, Chair (Videoconference)
Supervisor Michael Antonovich (Videoconference)
Councilmember Joe Buscaino (Videoconference)
Dr. Clark E. Parker, Sr. (Videoconference)
Supervisor Janice Rutherford

STAFF TO COMMITTEE:

Lisha B. Smith, Deputy Executive Officer
Derrick Alatorre, Assistant Deputy Executive Officer/Public Advisor
Guillermo Sanchez, Senior Public Affairs Manager
Julie Franco, Senior Administrative Secretary

DISTRICT STAFF:

Barry R. Wallerstein, Executive Officer
Kurt R. Wiese, General Counsel
Barbara Baird, Chief Deputy Counsel
Chris Marlia, Assistant Deputy Executive Officer
Matt Miyasato, Deputy Executive Officer
Mohsen Nazemi, Deputy Executive Officer
Laki Tisopulos, Assistant Deputy Executive Officer
William Wong, Principal Deputy District Counsel,
Leeor Alpern, Senior Public Information Specialist (Videoconference)
Marc Carrel, Program Supervisor
Philip Crabbe, Community Relations Manager
Tina Cox, Senior Public Information Specialist
Nancy Feldman, Principal Deputy District Counsel
Mark Henninger, Technology Implementation Manager
Stan Myles, Senior Public Information Specialist (Videoconference)
Jean Ospital, Health Effects Officer
Robert Paud, Telecommunications Technician II
Barbara Radlein, AQ Specialist
Kim White, Public Affairs Specialist
Patti Whiting, Staff Specialist
Rainbow Yeung, Senior Public Information Specialist (Videoconference)

OTHERS PRESENT:

Mark Abramowitz, Governing Board Member Consultant (Lyou)
Josh Candelaria, County of San Bernardino
Kris Flaig, City of Los Angeles Sanitation Department
Jason Gonsalves, Joe A. Gonsalves & Son (teleconference)
Paul A. Gonsalves, Joe A. Gonsalves & Son (teleconference)
Will Gonzalez, Gonzalez, Quintana & Hunter, LLC (teleconference)
Sue Gornick, WSPA
Tom Gross, SCE

Stewart Harris, Carmen Group (teleconference)
Gary Hoitsma, Carmen Group (teleconference)
Mark Kadesh, Kadesh & Associates (teleconference)
Chris Kierig, Kadesh & Associates (teleconference)
Bill LaMarr, California Small Business Alliance
Chung Liu, Governing Board Member Consultant (Mitchell)
Rita Loof, RadTech
Debra Mendelsohn, Governing Board Assistant (Antonovich)
Mia O'Connell, Carmen Group (teleconference)
Peter Okurowski, AAR
David Rothbart, Los Angeles County Sanitation District
Andy Silva, Governing Board Assistant (Gonzales)
Susan Stark, Tesoro
Andy Takata, County of San Bernardino
Warren Weinstein, Kadesh & Associates (teleconference)
Peter Whittingham, CP & A

ATTACHMENT 2a

AB 335 (Patterson) Air Quality: Minor Violations

Summary: AB 335 requires the California Air Resources Board (CARB) and the local air districts to adopt regulations limiting their actions to issuing a Notice to Comply for violations deemed to be minor in terms of the dangers they pose to human health, safety, welfare, or the environment.

Background: AB 335 would reinstate the Air Resources Board’s Minor Violation Program. Pursuant to the Program’s requirements, SCAQMD adopted SCAQMD Rule 112 in 1998. The rule language was the culmination of a California Air Pollution Control Officers Association (CAPCOA) task force convened in 1996 to draft core rule language for adoption by all districts statewide, subject to minor local modifications as required. Following numerous CAPCOA public consultation meetings held throughout the state in 1997 and local SCAQMD workshops, comments were evaluated and rule language modified as necessary. Rule 112- Definition of Minor Violation and Guidelines for Issuance of Notice to Comply represented the culmination of this effort to meet the Program’s requirements.

Status: 2/23/15 - Referred to Assembly Committee on Natural Resources

Specific Provisions: Specifically, this bill would:

- Require CARB and the local air districts to adopt regulations classifying minor violations, taking a variety of factors into account, including:
 - The magnitude, scope and severity of the violation
 - The degree to which a violation puts human health, safety, or welfare or the environment into jeopardy.
- Minor violations would exclude:
 - Any knowing, willful, or intentional violation.
 - Any violation that enables the violator to benefit economically from noncompliance, either by realizing reduced costs or by gaining a competitive advantage.
 - Any violation that is a chronic violation or that is committed by a recalcitrant violator.
- Except as otherwise provided, a notice to comply shall be the only means by which the state board or local air district shall cite a minor violation.

Impacts on SCAQMD’s mission, operations or initiatives: The author’s intent is to ensure a “more resource-efficient enforcement mechanism, faster compliance times, and the

creation of a productive and cooperative working relationship between the state board, the districts, and the regulated community” by allowing a violator the automatic right to cure. Though well intended, the bill is unnecessary, creates a disincentive for compliance, and, as borne out by the Agency’s prior experience, creates further legal complications and delays.

South Coast AQMD already has a robust Notice to Comply program as evidenced by the over 5,000 Notices to Comply that were issued in the last year. These were issued pursuant to the Agency’s enforcement policy under a variety of circumstances for various purposes. However, if the Agency were limited to issuing Notices to Comply for “minor violations”, the regulated community would have little incentive to comply if there is no consequence other than to correct a violation if discovered. In turn, the agency would have to step up its enforcement and monitoring efforts to maintain the same level of compliance that is realized today.

When Rule 112 was in effect at South Coast AQMD, legal costs only increased as violators argued that their violation was only minor and, thus, they were entitled to a Notice to Comply prior to any other enforcement action. This added significant time to the resolution of Notices of Violation. As the determination of whether a violation was major or minor was based on the balancing of a variety of factors, this became a subject of protracted negotiations and added to the costs of investigations. If AB 335 is enacted, enforcement costs will increase as all enforcement actions other than Notices to Comply would require further documented justification. Ultimately, these increased legal and enforcement costs would be borne by the regulated community.

Moreover, the bill establishes a statewide standard that does not acknowledge the current enforcement discretion exercised by each of the air districts. Very different economic sectors and air quality challenges exist in each of the 35 air districts that are best responded to by their respective local Air Pollution Control Officer and Governing Board.

Recommended Position: OPPOSE

ASSEMBLY BILL

No. 335

Introduced by Assembly Member Patterson
(Coauthors: Assembly Members Brough, Chávez, Lackey, Steinorth,
and Waldron)
(Coauthor: Senator Anderson)

February 13, 2015

An act to add Chapter 3 (commencing with Section 39150) to Part 1 of Division 26 of the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 335, as introduced, Patterson. Air quality: minor violations.

(1) Existing law authorizes the State Air Resources Board and air pollution control and air quality management districts to enforce air quality laws.

This bill would require the State Air Resources Board and air pollution control and air quality management districts to adopt regulations classifying minor violations. The bill would define the term “notice to comply” and would require a representative of those agencies, who in the course of conducting an inspection detects a minor violation, to issue a notice to comply, as specified.

The bill would require the State Air Resources Board to report to the Legislature by January 1, 2020, regarding implementation of the bill.

Because the bill would make a false statement of compliance submitted under those procedures a crime pursuant to specified provisions, the bill would impose a state-mandated local program by creating a new crime. In addition, the bill would impose a state-mandated local program by imposing new requirements on air pollution control and air quality management districts.

(2)The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

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

1 SECTION 1. Chapter 3 (commencing with Section 39150) is
2 added to Part 1 of Division 26 of the Health and Safety Code, to
3 read:

4
5 CHAPTER 3. MINOR VIOLATIONS
6

7 39150. (a) The Legislature hereby finds and declares that the
8 purpose of this chapter is to establish an enforcement policy for
9 violations of this division that the enforcement agency finds are
10 minor when the danger they pose to, or the potential that they have
11 for endangering, human health, safety, or welfare or the
12 environment is taken into account.

13 (b) It is the intent of the Legislature in enacting this chapter to
14 provide a more resource-efficient enforcement mechanism, faster
15 compliance times, and the creation of a productive and cooperative
16 working relationship between the state board, the districts, and the
17 regulated community while maintaining protection of human health
18 and safety and the environment.

19 (c) The state board and each district shall, for their respective
20 jurisdictions, implement this chapter by adopting a regulation or
21 a rule that classifies the types of violations of this division, or of
22 the regulations, rules, standards, orders, permit conditions, or other
23 requirements adopted pursuant to this division, that the state board
24 or the district finds are minor violations in accordance with
25 subdivision (d).

26 (d) In classifying the types of violations that are minor
27 violations, the state board or the district shall consider all of the
28 following factors:

- 29 (1) The magnitude of the violation.
- 30 (2) The scope of the violation.

1 (3) The severity of the violation.

2 (4) The degree to which a violation puts human health, safety,
3 or welfare or the environment into jeopardy.

4 (5) The degree to which a violation could contribute to the
5 failure to accomplish an important goal or program objective as
6 established by this division.

7 (6) The degree to which a violation may make it difficult to
8 determine if the violator is in compliance with other requirements
9 of this division.

10 (e) For purposes of this chapter, a minor violation of this division
11 shall not include any of the following:

12 (1) Any knowing, willful, or intentional violation of this
13 division.

14 (2) Any violation of this division that enables the violator to
15 benefit economically from noncompliance, either by realizing
16 reduced costs or by gaining a competitive advantage.

17 (3) Any violation that is a chronic violation or that is committed
18 by a recalcitrant violator.

19 (f) In determining whether a violation is chronic or a violator
20 is recalcitrant, for purposes of paragraph (3) of subdivision (e),
21 the state board or district or an authorized or designated officer
22 shall consider whether there is evidence indicating that the violator
23 has engaged in a pattern of neglect or disregard with respect to the
24 requirements of this division or the requirements adopted pursuant
25 to this division.

26 39151. For purposes of this chapter, “notice to comply” means
27 a written method of alleging a minor violation that is in compliance
28 with all of the following requirements:

29 (a) The notice to comply is written in the course of conducting
30 an inspection by an authorized representative of the state board or
31 district or an authorized or designated officer. If testing is required
32 by the state board or district or an authorized or designated officer
33 to determine compliance, and the testing cannot be conducted
34 during the course of the inspection, the representative of the state
35 board or the district or an authorized or designated officer shall
36 have a reasonable period of time to conduct the required testing.
37 If, after the test results are available, the representative of the state
38 board or district or an authorized or designated officer determines
39 that the issuance of a notice to comply is warranted, the

1 representative or officer shall immediately notify the facility owner
2 or operator in writing.

3 (b) A copy of the notice to comply is presented to a person who
4 is an owner, operator, employee, or representative of the facility
5 being inspected at the time that the notice to comply is written. If
6 offsite testing is required pursuant to subdivision (a), a copy of the
7 notice to comply may be mailed to the owner or operator of the
8 facility.

9 (c) The notice to comply clearly states the nature of the alleged
10 minor violation, a means by which compliance with the
11 requirement cited by the state board's or district's representative
12 or an authorized or designated officer may be achieved, and a time
13 limit in which to comply, which shall not exceed 30 days.

14 (d) The notice to comply shall contain the information specified
15 in subdivision (h) of Section 39152 with regard to the possible
16 reinspection of the facility.

17 39152. (a) An authorized representative of the state board or
18 district or an authorized or designated officer, who, in the course
19 of conducting an inspection, detects a minor violation shall issue
20 a notice to comply before leaving the site at which the minor
21 violation is alleged to have occurred if the authorized representative
22 finds that a notice to comply is warranted.

23 (b) A person who receives a notice to comply pursuant to
24 subdivision (a) shall have the period specified in the notice to
25 comply from the date of receipt of the notice to comply in which
26 to achieve compliance with the requirement cited on the notice to
27 comply. Within five working days of achieving compliance, the
28 person who received the notice to comply shall sign the notice to
29 comply and return it to the state board's or district's representative
30 or an authorized or designated officer, stating that the person has
31 complied with the notice to comply. A false statement that
32 compliance has been achieved is a violation of this division
33 pursuant to Section 42400.2 or 42402.2.

34 (c) A single notice to comply shall be issued for all minor
35 violations cited during the same inspection and the notice to comply
36 shall separately list each cited minor violation and the manner in
37 which each minor violation may be brought into compliance.

38 (d) A notice to comply shall not be issued for any minor
39 violation that is corrected immediately in the presence of the
40 inspector. Immediate compliance in that manner may be noted in

1 the inspection report, but the person shall not be subject to any
2 further action by the state board's or district's representative or an
3 authorized or designated officer.

4 (e) Except as otherwise provided in subdivision (g), a notice to
5 comply shall be the only means by which the state board's or
6 district's representative or an authorized or designated officer shall
7 cite a minor violation. The state board's or district's representative
8 or an authorized or designated officer shall not take any other
9 enforcement action specified in this division to enforce the minor
10 violation against a person who has received a notice to comply if
11 the person is in compliance with this section.

12 (f) If a person who receives a notice to comply pursuant to
13 subdivision (a) disagrees with one or more of the alleged violations
14 cited in the notice to comply, the person shall give written notice
15 of appeal to the state board or district, which shall develop a
16 process for reviewing and determining the disposition of the appeal.

17 (g) Notwithstanding any other provision of this section, if a
18 person fails to comply with a notice to comply within the
19 prescribed period, or if the state board or district or an authorized
20 or designated officer determines that the circumstances surrounding
21 a particular minor violation are such that immediate enforcement
22 is warranted to prevent harm to the public health or safety or to
23 the environment, the state board or district or an authorized or
24 designated officer may take any needed enforcement action
25 authorized by this division.

26 (h) A notice to comply issued to a person pursuant to this section
27 shall contain a statement that the inspected facility may be subject
28 to reinspection at any time. Nothing in this section shall be
29 construed as preventing the reinspection of a facility to ensure
30 compliance or to ensure that minor violations cited in a notice to
31 comply have been corrected.

32 (i) Nothing in this section shall be construed as preventing the
33 state board or district or an authorized or designated officer, on a
34 case-by-case basis, from requiring a person subject to a notice to
35 comply to submit reasonable and necessary documentation to
36 support a claim of compliance by the person.

37 (j) Nothing in this section restricts the power of a city attorney,
38 district attorney, county counsel, or the Attorney General to bring,
39 in the name of the people of California, any criminal proceeding
40 otherwise authorized by law. Furthermore, nothing in this section

1 prevents the state board or district, or any representative of the
2 state board or district, from cooperating with, or participating in,
3 such a proceeding.

4 (k) Notwithstanding any other provision of this section, if the
5 state board or district or an authorized or designated officer
6 determines that the circumstances surrounding a particular minor
7 violation are such that the assessment of a civil penalty pursuant
8 to this division is warranted or required by federal law, in addition
9 to issuance of a notice to comply, the state board or district or an
10 authorized or designated officer shall assess a civil penalty in
11 accordance with this division, if the state board or district or an
12 authorized or designated officer makes written findings that set
13 forth the basis for the determination of the state board or district.

14 39153. On or before January 1, 2020, the state board shall
15 report to the Legislature on actions taken by the state board and
16 the districts to implement this chapter and the results of that
17 implementation. Each district shall provide the state board with
18 the information that the state board requests to determine the degree
19 to which the purposes described in subdivision (a) of Section 39150
20 have been achieved. The report shall be submitted consistent with
21 Section 9795 of the Government Code.

22 SEC. 2. No reimbursement is required by this act pursuant to
23 Section 6 of Article XIII B of the California Constitution because
24 a local agency or school district has the authority to levy service
25 charges, fees, or assessments sufficient to pay for the program or
26 level of service mandated by this act or because costs that may be
27 incurred by a local agency or school district will be incurred
28 because this act creates a new crime or infraction, eliminates a
29 crime or infraction, or changes the penalty for a crime or infraction,
30 within the meaning of Section 17556 of the Government Code, or
31 changes the definition of a crime within the meaning of Section 6
32 of Article XIII B of the California Constitution.

ATTACHMENT 2b

AB 678 (O'Donnell)

Greenhouse Gases: Energy Efficient Ports Program

Summary: This bill would require the California Air Resources Board (CARB), in conjunction with the State Energy Resources Conservation and Development Commission (Commission), to develop and implement the Energy Efficient Ports Program (Ports Program) to fund energy efficiency upgrades and investments at public ports.

Background: Existing law establishes various programs to provide financial assistance for energy efficiency upgrades and investments. Under existing law, CARB has issued regulations to reduce emissions from diesel auxiliary engines on container ships, passenger ships, and refrigerated cargo ships while berthing at a California port.

Status: 2/26/15 - From printer. May be heard in committee March 28.

Specific Provisions: Specifically, this bill would:

1. Require CARB, in conjunction with the Commission, to develop and implement the Ports Program to fund energy efficiency upgrades and investments at public ports;
2. Specify that projects eligible for funding in the Ports Program include the following: (1) Installation of solar technologies at marine terminals, and warehouses and other freight facilities at the ports; and (2) Replacement of conventional lighting with light emitting diodes (LED) lighting at the ports; and
3. Require CARB, in consultation with the Commission, to develop guidelines through the funding plan process for the Air Quality Improvement Program, consistent with AB 32.

Impacts on SCAQMD's mission, operations or initiatives: The bill's intent is to fund energy efficiency upgrades and investments at public ports. These investments would provide co-benefit reductions in criteria pollutant and toxic air contaminant emissions within the South Coast region. Such potential reductions would help protect the health of South Coast residents and assist in attaining state and federal ambient air quality standards. In addition, the bill is consistent with SCAQMD's priority to facilitate the deployment of clean technology that reduces emissions.

To maximize the benefit of the state investment, the following amendments are suggested to prioritize cobenefits and identify additional types of projects eligible for investment:

- Page 2 Line 6: "and investments at public ports that help reduce criteria pollutant, toxic, and greenhouse gas emissions."

- Page 2 Line 13: “(3) Installation of cold ironing/shorepower infrastructure at the ports, beyond actions currently required by existing regulations, to facilitate reduced emissions from diesel auxiliary engines on container ships, passenger ships, and refrigerated cargo ships while berthing at a California port.
(4) Deployment of zero and near-zero emission vehicle and infrastructure technologies, including, but not limited to: stationary fuel cells, energy storage and battery electric trucks.”

Recommended Position: SUPPORT WITH AMENDMENTS

ASSEMBLY BILL

No. 678

Introduced by Assembly Member O'Donnell

February 25, 2015

An act to add Chapter 4.3 (commencing with Section 39735) to Part 2 of Division 26 of the Health and Safety Code, relating to greenhouse gases.

LEGISLATIVE COUNSEL'S DIGEST

AB 678, as introduced, O'Donnell. Greenhouse gases: Energy Efficient Ports Program.

Existing law establishes various programs to provide financial assistance for energy efficiency upgrades and investments. Under existing law, the State Air Resources Board has issued regulations to reduce emissions from diesel auxiliary engines on container ships, passenger ships, and refrigerated cargo ships while berthing at a California port.

This bill would require the state board, in conjunction with the State Energy Resources Conservation and Development Commission, to develop and implement the Energy Efficient Ports Program to fund energy efficiency upgrades and investments at public ports.

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 4.3 (commencing with Section 39735)
- 2 is added to Part 2 of Division 26 of the Health and Safety Code,
- 3 to read:

1 CHAPTER 4.3. ENERGY EFFICIENT PORTS PROGRAM

2
3 39735. (a) The state board, in conjunction with the State
4 Energy Resources Conservation and Development Commission,
5 shall develop and implement the Energy Efficient Ports Program
6 to fund energy efficiency upgrades and investments at public ports.

7 (b) Projects eligible for funding in the program shall include,
8 but are not limited to, the following:

9 (1) Installation of solar technologies at marine terminals, and
10 warehouses and other freight facilities at the ports.

11 (2) Replacement of conventional lighting with light emitting
12 diodes (LED) lighting at the ports.

13 (c) The state board, in consultation with the State Energy
14 Resources Conservation and Development Commission, shall
15 develop guidelines through the funding plan process for the Air
16 Quality Improvement Program established pursuant to Article 3
17 (commencing with Section 44274) of Chapter 8.9 of Part 5 for the
18 implementation of this chapter that are consistent with the
19 California Global Warming Solutions Act of 2006 (Division 25.5
20 (commencing with Section 38500) and Chapter 4.1 (commencing
21 with Section 39710)).

ATTACHMENT 2c

SB 350 (De León and Leno)

Clean Energy and Pollution Reduction Act of 2015

Summary: This bill would implement new “50-50-50” benchmark standards by raising California’s Renewable Portfolio Standard (RPS) from 33% to 50%, striving for a 50% reduction in petroleum use, and doubling energy efficiency in buildings by the year 2030.

Background:

Renewable Portfolio Standard - Existing law establishes the California RPS, which calls for the amount of electricity generated per year from renewable energy resources to be increased to at least 33% of the total electricity sold to retail customers in California by December 31, 2020. The bill’s authors argue that renewable energy is as cost-effective as fossil fuels and produces much less pollution. According to the International Renewable Energy Agency, renewable power generation costs in 2014 were either equal to or less than the cost of coal, oil, and gas-fired power plants.

In 2011, Governor Jerry Brown signed legislation to increase the RPS to 33% by the year 2020. The bill’s authors claim that currently, most energy utilities have bought or have built enough energy resources to meet the 33% RPS before the target year. Also, according to numerous studies, California’s RPS standard has created hundreds of thousands of new jobs, millions of new investment and tax dollars, and significant clean air and climate benefits.

Reduction in Petroleum Use - The authors explain that according to the California Air Resources Board (CARB), production, refining, and the use of petroleum accounts for nearly half of greenhouse gas (GHG) emissions, 80% of smog-forming pollution, and over 95% of cancer-causing diesel particulate matter. CARB also notes that oil dependence costs the state \$33-55 billion annually, and that reducing petroleum use and improving vehicle efficiency will cut costs and improve California’s economic productivity and competitiveness.

In the effort to improve air quality over the last two decades, California has made cars significantly more efficient and less consuming of petroleum fuels. The bill’s authors argue that using less petroleum in transportation fuels saves money, creates jobs, and reduces pollution. For example, over 100,000 miles, a 40 mpg car saves \$16,668 in fuel costs compared to a 15 mpg car over 100,000 miles (assuming \$4/gallon fuel costs).

Energy Efficiency in Buildings - The authors point out that energy efficient buildings save money and reduce pollution from electricity. According to the California Energy Commission (Energy Commission), efficiency standards return an average of \$6,200 in

energy savings per household over 30 years on heating, cooling, and lighting bills. These same standards save 200 million gallons of water per year and avoid 170,500 tons of GHG emissions per year. Since 1978, the state’s standards have saved Californians \$66 billion in electricity and natural gas savings.

State energy agencies allocate over \$1.5 billion per year on energy efficiency programs. Roughly \$1 billion is spent by the California Public Utilities Commission (PUC) and utilities via utility-sponsored programs such as rebates for high-efficiency appliances, heating and A/C systems, and insulation. In addition, Proposition 39—The California Clean Energy Jobs Act—has generated approximately \$500 million annually to assist schools in switching to clean energy and reducing energy use, which creates jobs and saves money that can be reinvested into classrooms. Under current law, although California has energy efficiency standards for new buildings and appliances, implementation challenges include the lack of enforcement mechanisms and accountability.

Status: 2/25/15 - From printer. May be acted upon on or after March 27.

Specific Provisions: Specifically, this bill would:

1. Express the intent of the Legislature, with respect to the RPS program, that the amount of electricity generated per year from renewable energy resources be increased to at least 50% by December 31, 2030;
2. Require standards created by CARB related to emissions from motor vehicles to be developed in furtherance of achieving a reduction in petroleum use in motor vehicles by 50% by January 1, 2030;
3. State the policy of the state is to exploit all practicable and cost-effective conservation and improvements in the efficiency of energy use and distribution, in furtherance of reducing petroleum use in the transportation sector by 50% by January 1, 2030; and
4. Require the Energy Commission, by January 1, 2017, and at least once every three years thereafter, to adopt an update to the program in furtherance of achieving a doubling of energy efficiency in buildings by January 1, 2030.

Impacts on SCAQMD’s mission, operations or initiatives: The authors state that the purpose of this legislation is to create jobs, grow the state’s economy, and to improve public health by setting new standards for California’s RPS, reducing petroleum use, and increasing energy efficiency in existing buildings. The authors also state that SB 350 makes these standards permanent, trackable, and enforceable by enacting them into law. The authors argue that each of these new standards would be added to existing clean air, clean energy, and climate related statutes that have been implemented for years. For example, under current law, CARB must reduce pollution to achieve state and federal ambient air standards. Current law (Health and Safety Code Section 42013) requires CARB to adopt standards for vehicles and fuels to achieve clean air. This measure ensures that those actions will achieve a 50% reduction in petroleum by 2030.

This bill is in line with SCAQMD’s priorities regarding reducing GHG, criteria pollutant and toxic emissions within the South Coast region. Through this bill’s multi-faceted efforts, there will be co-benefit reductions in criteria and toxic emissions that will help protect the health of South Coast residents and meet state and federal ambient air quality standards. The bill is also consistent with SCAQMD’s priority to facilitate the development and deployment of clean transportation technology and to promote the usage of cleaner alternative fuels.

Recommended Position: SUPPORT

March 13, 2014 Legislative Committee Action:

Legislative Committee did not take a position on the bill and instead requested staff to actively monitor it.

**Introduced by Senators De León and Leno
(Coauthors: Senators Hancock and Monning)**

February 24, 2015

An act to amend Section 43013 of the Health and Safety Code, to amend Sections 25000.5 and 25943 of the Public Resources Code, and to amend Sections 399.11, 399.12, 399.13, 399.15, 399.16, 399.18, 399.21, and 399.30 of, to add Section 454.51 to, and to add Article 17 (commencing with Section 400) to Chapter 2.3 of Part 1 of Division 1 of, the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

SB 350, as introduced, De León. Clean Energy and Pollution Reduction Act of 2015.

(1) Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations, as defined, while local publicly owned electric utilities, as defined, are under the direction of their governing boards.

Existing law establishes the California Renewables Portfolio Standard (RPS) program, which expresses the intent of the Legislature that the amount of electricity generated per year from eligible renewable energy resources be increased to an amount that equals at least 33% of the total electricity sold to retail customers in California per year by December 31, 2020. Existing law requires the PUC, by January 1, 2012, to establish the quantity of electricity products from eligible renewable energy resources to be procured by each retail seller for specified compliance periods, sufficient to ensure that the procurement of electricity products from eligible renewable energy resources achieves 25% of retail sales by December 31, 2016, and 33% of retail sales by December 31, 2020, and that retail sellers procure not less than 33% of retail sales in all

subsequent years. Existing law includes as an eligible renewable energy resources a specified facility engaged in the combustion of municipal solid waste.

Existing law makes the requirements of the RPS program applicable to local publicly owned electric utilities, except that the utility's governing board is responsible for implementation of those requirements, instead of the PUC, and certain enforcement authority with respect to local publicly owned electric utilities is given to the State Energy Resources Conservation and Development Commission (Energy Commission) and State Air Resources Board, instead of the PUC.

This bill would additionally express the intent of the Legislature for the purposes of the RPS program that the amount of electricity generated per year from eligible renewable energy resources be increased to an amount equal to at least 50% by December 31, 2030, and would require the PUC, by January 1, 2017, to establish the quantity of electricity products from eligible renewable energy resources be procured by each retail seller for specified compliance periods sufficient to ensure that the procurement of electricity products from eligible renewable energy resources achieves 50% of retail sales by December 31, 2030. The bill would require the governing boards of local publicly owned electric utilities to ensure that specified quantities of electricity products from eligible renewable energy resources to be procured for specified compliance periods to ensure that the procurement of electricity products from eligible renewable energy resources achieve 50% of retail sales by December 31, 2030. The bill would exclude all facilities engaged in the combustion of municipal solid waste from being eligible renewable energy resources. The bill would require community choice aggregators and electric service providers to prepare and submit renewable energy procurement plans. The bill would revise other aspects of the RPS program, including, among other things, the enforcement provisions and would require penalties collected for noncompliance to be deposited in the Electric Program Investment Charge Fund. The bill would require the PUC to direct electrical corporations to include in their proposed procurement plans a strategy for procuring a diverse portfolio of resources that provide a reliable electricity supply. The bill would require the PUC and the Energy Commission to take certain actions in furtherance of meeting the state's clean energy and pollution reduction objectives.

(2) Under existing law, a violation of the RPS program is a crime.

Because the provisions of this bill would expand the RPS program, a violation of these provisions would impose a state-mandated local program by expanding the definition of a crime.

(3) By placing additional requirements upon local publicly owned electric utilities, this bill would impose a state-mandated local program.

(4) Existing law requires the State Air Resources Board to adopt and implement various standards related to emissions from motor vehicles.

This bill would require those standards to be in furtherance of achieving a reduction in petroleum use in motor vehicles by 50% by January 1, 2030.

(5) Existing law states the policy of the state to exploit all practicable and cost-effective conservation and improvements in the efficiency of energy use and distribution, and to achieve energy security, diversity of supply sources, and competitiveness of transportation energy markets based on the least environmental and economic costs.

This bill would additionally state the policy of the state to exploit those conservation and improvements in furtherance of reducing petroleum use in the transportation sector by 50% by January 1, 2030.

(6) Existing law requires the Energy Commission to establish a regulatory proceeding to develop and implement a comprehensive program to achieve greater energy savings in California's existing residential and nonresidential building stock and to periodically update criteria for the program.

This bill would require the Energy Commission, by January 1, 2017, and at least once every 3 years thereafter, to adopt an update to the program in furtherance of achieving a doubling of energy efficiency in buildings by January 1, 2030.

(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reasons.

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

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

1 SECTION 1. This act shall be known and may be cited as the
2 Clean Energy and Pollution Reduction Act of 2015.

1 SEC. 2. (a) The Legislature finds and declares that the
2 Governor has called for a new set of objectives in clean energy,
3 clean air, and pollution reduction for 2030 and beyond. Those
4 objectives consist of the following:

5 (1) To increase from 33 percent to 50 percent, the procurement
6 of our electricity from renewable sources.

7 (2) To reduce today's petroleum use in cars and trucks by up
8 to 50 percent.

9 (3) To double the efficiency of existing buildings.

10 (b) It is the intent of the Legislature in enacting this act to codify
11 the targets described under subdivision (a) to ensure they are
12 permanent, enforceable, and quantifiable.

13 SEC. 3. Section 43013 of the Health and Safety Code is
14 amended to read:

15 43013. (a) The state board shall adopt and implement motor
16 vehicle emission standards, in-use performance standards, and
17 motor vehicle fuel specifications for the control of air contaminants
18 and sources of air pollution which the state board has found to be
19 necessary, cost effective, and technologically feasible, to carry out
20 the purposes of this ~~division~~, *division and in furtherance of*
21 *achieving a reduction in petroleum use in motor vehicles by 50*
22 *percent by January 1, 2030*, unless preempted by federal law.

23 (b) The state board shall, consistent with subdivision (a), adopt
24 standards and regulations for light-duty and heavy-duty motor
25 vehicles, medium-duty motor vehicles, as determined and specified
26 by the state board, portable fuel containers and spouts, and off-road
27 or nonvehicle engine categories, including, but not limited to,
28 off-highway motorcycles, off-highway vehicles, construction
29 equipment, farm equipment, utility engines, locomotives, and, to
30 the extent permitted by federal law, marine vessels.

31 (c) Prior to adopting standards and regulations for farm
32 equipment, the state board shall hold a public hearing and find and
33 determine that the standards and regulations are necessary, cost
34 effective, and technologically feasible. The state board shall also
35 consider the technological effects of emission control standards
36 on the cost, fuel consumption, and performance characteristics of
37 mobile farm equipment.

38 (d) Notwithstanding subdivision (b), the state board shall not
39 adopt any standard or regulation affecting locomotives until the
40 final study required under Section 5 of Chapter 1326 of the Statutes

1 of 1987 has been completed and submitted to the Governor and
2 Legislature.

3 (e) Prior to adopting or amending any standard or regulation
4 relating to motor vehicle fuel specifications pursuant to this section,
5 the state board shall, after consultation with public or private
6 entities that would be significantly impacted as described in
7 paragraph (2) of subdivision (f), do both of the following:

8 (1) Determine the cost-effectiveness of the adoption or
9 amendment of the standard or regulation. The cost-effectiveness
10 shall be compared on an incremental basis with other mobile source
11 control methods and options.

12 (2) Based on a preponderance of scientific and engineering data
13 in the record, determine the technological feasibility of the adoption
14 or amendment of the standard or regulation. That determination
15 shall include, but is not limited to, the availability, effectiveness,
16 reliability, and safety expected of the proposed technology in an
17 application that is representative of the proposed use.

18 (f) Prior to adopting or amending any motor vehicle fuel
19 specification pursuant to this section, the state board shall do both
20 of the following:

21 (1) To the extent feasible, quantitatively document the
22 significant impacts of the proposed standard or specification on
23 affected segments of the state's economy. The economic analysis
24 shall include, but is not limited to, the significant impacts of any
25 change on motor vehicle fuel efficiency, the existing motor vehicle
26 fuel distribution system, the competitive position of the affected
27 segment relative to border states, and the cost to consumers.

28 (2) Consult with public or private entities that would be
29 significantly impacted to identify those investigative or preventive
30 actions that may be necessary to ensure consumer acceptance,
31 product availability, acceptable performance, and equipment
32 reliability. The significantly impacted parties shall include, but are
33 not limited to, fuel manufacturers, fuel distributors, independent
34 marketers, vehicle manufacturers, and fuel users.

35 (g) To the extent that there is any conflict between the
36 information required to be prepared by the state board pursuant to
37 subdivision (f) and information required to be prepared by the state
38 board pursuant to Chapter 3.5 (commencing with Section 11340)
39 of Part 1 of Division 3 of Title 2 of the Government Code, the
40 requirements established under subdivision (f) shall prevail.

1 (h) It is the intent of the Legislature that the state board act as
2 expeditiously as is feasible to reduce nitrogen oxide emissions
3 from diesel vehicles, marine vessels, and other categories of
4 vehicular and mobile sources which significantly contribute to air
5 pollution problems.

6 SEC. 4. Section 25000.5 of the Public Resources Code is
7 amended to read:

8 25000.5. (a) The Legislature finds and declares that
9 overdependence on the production, marketing, and consumption
10 of petroleum based fuels as an energy resource in the transportation
11 sector is a threat to the energy security of the state due to
12 continuing market and supply uncertainties. In addition, petroleum
13 use as an energy resource contributes substantially to the following
14 public health and environmental problems: air pollution, acid rain,
15 global warming, and the degradation of California's marine
16 environment and fisheries.

17 (b) Therefore, it is the policy of this state to fully evaluate the
18 economic and environmental costs of petroleum use, and the
19 economic and environmental costs of other transportation ~~fuels,~~
20 *fuels and options*, including the costs and values of environmental
21 impacts, and to establish a state transportation energy policy that
22 results in the least environmental and economic cost to the state.
23 In pursuing the "least environmental and economic cost" strategy,
24 it is the policy of the state to exploit all practicable and
25 cost-effective conservation and improvements in the efficiency of
26 energy use and distribution, and to achieve energy security,
27 diversity of supply sources, and competitiveness of transportation
28 energy markets based on the least environmental and economic
29 ~~cost. cost, and in furtherance of reducing petroleum use in the~~
30 *transportation sector by 50 percent by January 1, 2030.*

31 (c) It is also the policy of this state to minimize the economic
32 and environmental costs due to the use of petroleum-based and
33 other transportation fuels by state agencies. In implementing a
34 least-cost economic and environmental strategy for state fleets, it
35 is the policy of the state to implement practicable and cost-effective
36 measures, including, but not necessarily limited to, the purchase
37 of the cleanest and most efficient automobiles and replacement
38 tires, the use of alternative fuels in its fleets, and other conservation
39 measures.

1 (d) For the purposes of this section, “petroleum based fuels”
2 means fuels derived from liquid unrefined crude oil, including
3 natural gas liquids, liquefied petroleum gas, or the energy fraction
4 of methyl tertiary-butyl ether (MTBE) or other ethers that is not
5 attributed to natural gas.

6 SEC. 5. Section 25943 of the Public Resources Code is
7 amended to read:

8 25943. (a) (1) By March 1, 2010, the commission shall
9 establish a regulatory proceeding to develop and implement a
10 comprehensive program to achieve greater energy savings in
11 California’s existing residential and nonresidential building stock.
12 This program shall comprise a complementary portfolio of
13 techniques, applications, and practices that will achieve greater
14 energy efficiency in existing residential and nonresidential
15 structures that fall significantly below the current standards in Title
16 24 of the California Code of Regulations, as determined by the
17 commission.

18 (2) The comprehensive program may include, but need not be
19 limited to, a broad range of energy assessments, building
20 benchmarking, energy rating, cost-effective energy efficiency
21 improvements, public and private sector energy efficiency
22 financing options, public outreach and education efforts, and green
23 workforce training.

24 (b) To develop and implement the program specified in
25 subdivision (a), the commission shall do both of the following:

26 (1) Coordinate with the Public Utilities Commission and consult
27 with representatives from the Bureau of Real Estate, the
28 Department of Housing and Community Development,
29 investor-owned and publicly owned utilities, local governments,
30 real estate licensees, commercial and homebuilders, commercial
31 property owners, small businesses, mortgage lenders, financial
32 institutions, home appraisers, inspectors, energy rating
33 organizations, consumer groups, environmental and environmental
34 justice groups, and other entities the commission deems
35 appropriate.

36 (2) Hold at least three public hearings in geographically diverse
37 locations throughout the state.

38 (c) In developing the requirements for the program specified in
39 subdivision (a), the commission shall consider all of the following:

- 1 (1) The amount of annual and peak energy savings, greenhouse
2 gas emission reductions, and projected customer utility bill savings
3 that will accrue from the program.
- 4 (2) The most cost-effective means and reasonable timeframes
5 to achieve the goals of the program.
- 6 (3) The various climatic zones within the state.
- 7 (4) An appropriate method to inform and educate the public
8 about the need for, benefits of, and environmental impacts of, the
9 comprehensive energy efficiency program.
- 10 (5) The most effective way to report the energy assessment
11 results and the corresponding energy efficiency improvements to
12 the owner of the residential or nonresidential building, including,
13 among other things, the following:
- 14 (A) Prioritizing the identified energy efficiency improvements.
- 15 (B) The payback period or cost-effectiveness of each
16 improvement identified.
- 17 (C) The various incentives, loans, grants, and rebates offered
18 to finance the improvements.
- 19 (D) Available financing options including all of the following:
- 20 (i) Mortgages or sales agreement components.
- 21 (ii) On-bill financing.
- 22 (iii) Contractual property tax assessments.
- 23 (iv) Home warranties.
- 24 (6) Existing statutory and regulatory requirements to achieve
25 energy efficiency savings and greenhouse gas emission reductions.
- 26 (7) A broad range of implementation approaches, including both
27 utility and nonutility administration of energy efficiency programs.
- 28 (8) Any other considerations deemed appropriate by the
29 commission.
- 30 (d) The program developed pursuant to this section shall do all
31 of the following:
- 32 (1) Minimize the overall costs of establishing and implementing
33 the comprehensive energy efficiency program requirements.
- 34 (2) Ensure, for residential buildings, that the energy efficiency
35 assessments, ratings, or improvements do not unreasonably or
36 unnecessarily affect the home purchasing process or the ability of
37 individuals to rent housing. A transfer of property subject to the
38 program implemented pursuant to this section shall not be
39 invalidated solely because of the failure of a person to comply
40 with a provision of the program.

1 (3) Ensure, for nonresidential buildings, that the energy
2 improvements do not have an undue economic impact on California
3 businesses.

4 (4) Determine, for residential buildings, the appropriateness of
5 the Home Energy Rating System (HERS) program to support the
6 goals of this section and whether there are a sufficient number of
7 HERS-certified raters available to meet the program requirements.

8 (5) Determine, for nonresidential structures, the availability of
9 an appropriate cost-effective energy efficiency assessment system
10 and whether there are a sufficient number of certified raters or
11 auditors available to meet the program requirements.

12 (6) Coordinate with the California Workforce Investment Board,
13 the Employment Training Panel, the California Community
14 Colleges, and other entities to ensure a qualified, well-trained
15 workforce is available to implement the program requirements.

16 (7) Coordinate with, and avoid duplication of, existing
17 proceedings of the Public Utilities Commission and programs
18 administered by utilities.

19 (e) A home energy rating or energy assessment service does not
20 meet the requirements of this section unless the service has been
21 certified by the commission to be in compliance with the program
22 criteria developed pursuant to this section and is in conformity
23 with other applicable elements of the program.

24 (f) (1) The commission shall periodically update the criteria
25 and adopt any revision that, in its judgment, is necessary to improve
26 or refine program requirements after receiving public input.

27 (2) *On or before January 1, 2017, and at least once every three*
28 *years thereafter, the commission shall adopt an update to the*
29 *program in furtherance of achieving a doubling of the energy*
30 *efficiency of buildings by January 1, 2030.*

31 (g) Before implementing an element of the program developed
32 pursuant to subdivision (a) that requires the expansion of statutory
33 authority of the commission or the Public Utilities Commission,
34 the commission and the Public Utilities Commission shall obtain
35 legislative approval for the expansion of their authorities.

36 (h) The commission shall report on the status of the program in
37 the integrated energy policy report pursuant to Section 25302.

38 (i) The commission shall fund activities undertaken pursuant
39 to this section from the Federal Trust Fund consistent with the
40 federal American Recovery and Reinvestment Act of 2009 (Public

1 Law 111-5) or other sources of nonstate funds available to the
2 commission for the purposes of this section.

3 (j) For purposes of this section, “energy assessment” means a
4 determination of an energy user’s energy consumption level,
5 relative efficiency compared to other users, and opportunities to
6 achieve greater efficiency or improve energy resource utilization.

7 SEC. 6. Section 399.11 of the Public Utilities Code is amended
8 to read:

9 399.11. The Legislature finds and declares all of the following:

10 (a) In order to attain a target of generating 20 percent of total
11 retail sales of electricity in California from eligible renewable
12 energy resources by December 31, 2013,~~and~~ 33 percent by
13 December 31, 2020, *and 50 percent by December 31, 2030*, it is
14 the intent of the Legislature that the commission and the Energy
15 Commission implement the California Renewables Portfolio
16 Standard Program described in this article.

17 (b) Achieving the renewables portfolio standard through the
18 procurement of various electricity products from eligible renewable
19 energy resources is intended to provide unique benefits to
20 California, including all of the following, each of which
21 independently justifies the program:

22 (1) Displacing fossil fuel consumption within the state.

23 (2) Adding new electrical generating facilities in the
24 transmission network within the Western Electricity Coordinating
25 Council service area.

26 (3) Reducing air pollution in the state.

27 (4) Meeting the state’s climate change goals by reducing
28 emissions of greenhouse gases associated with electrical generation.

29 (5) Promoting stable retail rates for electric service.

30 (6) Meeting the state’s need for a diversified and balanced
31 energy generation portfolio.

32 (7) Assistance with meeting the state’s resource adequacy
33 requirements.

34 (8) Contributing to the safe and reliable operation of the
35 electrical grid, including providing predictable electrical supply,
36 voltage support, lower line losses, and congestion relief.

37 (9) Implementing the state’s transmission and land use planning
38 activities related to development of eligible renewable energy
39 resources.

1 (c) The California Renewables Portfolio Standard Program is
2 intended to complement the Renewable Energy Resources Program
3 administered by the Energy Commission and established pursuant
4 to Chapter 8.6 (commencing with Section 25740) of Division 15
5 of the Public Resources Code.

6 (d) New and modified electric transmission facilities may be
7 necessary to facilitate the state achieving its renewables portfolio
8 standard targets.

9 (e) (1) Supplying electricity to California end-use customers
10 that is generated by eligible renewable energy resources is
11 necessary to improve California’s air quality and public health,
12 and the commission shall ensure rates are just and reasonable, and
13 are not significantly affected by the procurement requirements of
14 this article. This electricity may be generated anywhere in the
15 interconnected grid that includes many states, and areas of both
16 Canada and Mexico.

17 (2) This article requires generating resources located outside of
18 California that are able to supply that electricity to California
19 end-use customers to be treated identically to generating resources
20 located within the state, without discrimination.

21 (3) California electrical corporations have already executed,
22 and the commission has approved, power purchase agreements
23 with eligible renewable energy resources located outside of
24 California that will supply electricity to California end-use
25 customers. These resources will fully count toward meeting the
26 renewables portfolio standard procurement requirements. ~~In
27 addition, there are nearly 7,000 megawatts of additional proposed
28 renewable energy resources located outside of California that are
29 awaiting interconnection approval from the Independent System
30 Operator. All of these resources, if procured, will count as eligible
31 renewable energy resources that satisfy the portfolio content
32 requirements of paragraph (1) of subdivision (c) of Section 399.16.~~

33 SEC. 7. Section 399.12 of the Public Utilities Code is amended
34 to read:

35 399.12. For purposes of this article, the following terms have
36 the following meanings:

37 (a) “Conduit hydroelectric facility” means a facility for the
38 generation of electricity that uses only the hydroelectric potential
39 of an existing pipe, ditch, flume, siphon, tunnel, canal, or other

1 manmade conduit that is operated to distribute water for a
2 beneficial use.

3 (b) “Balancing authority” means the responsible entity that
4 integrates resource plans ahead of time, maintains load-interchange
5 generation balance within a balancing authority area, and supports
6 interconnection frequency in real time.

7 (c) “Balancing authority area” means the collection of
8 generation, transmission, and loads within the metered boundaries
9 of the area within which the balancing authority maintains the
10 electrical load-resource balance.

11 (d) “California balancing authority” is a balancing authority
12 with control over a balancing authority area primarily located in
13 this state and operating for retail sellers and local publicly owned
14 electric utilities subject to the requirements of this article and
15 includes the Independent System Operator (ISO) and a local
16 publicly owned electric utility operating a transmission grid that
17 is not under the operational control of the ISO. A California
18 balancing authority is responsible for the operation of the
19 transmission grid within its metered boundaries which may not be
20 limited by the political boundaries of the State of California.

21 (e) “Eligible renewable energy resource” means an electrical
22 generating facility that meets the definition of a “renewable
23 electrical generation facility” in Section 25741 of the Public
24 Resources Code, subject to the following:

25 (1) (A) An existing small hydroelectric generation facility of
26 30 megawatts or less shall be eligible only if a retail seller or local
27 publicly owned electric utility procured the electricity from the
28 facility as of December 31, 2005. A new hydroelectric facility that
29 commences generation of electricity after December 31, 2005, is
30 not an eligible renewable energy resource if it will cause an adverse
31 impact on instream beneficial uses or cause a change in the volume
32 or timing of streamflow.

33 (B) Notwithstanding subparagraph (A), a conduit hydroelectric
34 facility of 30 megawatts or less that commenced operation before
35 January 1, 2006, is an eligible renewable energy resource. A
36 conduit hydroelectric facility of 30 megawatts or less that
37 commences operation after December 31, 2005, is an eligible
38 renewable energy resource so long as it does not cause an adverse
39 impact on instream beneficial uses or cause a change in the volume
40 or timing of streamflow.

1 (C) A facility approved by the governing board of a local
2 publicly owned electric utility prior to June 1, 2010, for
3 procurement to satisfy renewable energy procurement obligations
4 adopted pursuant to former Section 387, shall be certified as an
5 eligible renewable energy resource by the Energy Commission
6 pursuant to this article, if the facility is a “renewable electrical
7 generation facility” as defined in Section 25741 of the Public
8 Resources Code.

9 (D) (i) A small hydroelectric generation unit with a nameplate
10 capacity not exceeding 40 megawatts that is operated as part of a
11 water supply or conveyance system is an eligible renewable energy
12 resource only for the retail seller or local publicly owned electric
13 utility that procured the electricity from the unit as of December
14 31, 2005. No unit shall be eligible pursuant to this subparagraph
15 if an application for certification is submitted to the Energy
16 Commission after January 1, 2013. Only one retail seller or local
17 publicly owned electric utility shall be deemed to have procured
18 electricity from a given unit as of December 31, 2005.

19 (ii) Notwithstanding clause (i), a local publicly owned electric
20 utility that meets the criteria of subdivision (j) of Section 399.30
21 may sell to another local publicly owned electric utility electricity
22 from small hydroelectric generation units that qualify as eligible
23 renewable energy resources under clause (i), and that electricity
24 may be used by the local publicly owned electric utility that
25 purchased the electricity to meet its renewables portfolio standard
26 procurement requirements. The total of all those sales from the
27 utility shall be no greater than 100,000 megawatthours of
28 electricity.

29 (iii) The amendments made to this subdivision by the act adding
30 this subparagraph are intended to clarify existing law and apply
31 from December 10, 2011.

32 (2) (A) A facility engaged in the combustion of municipal solid
33 waste shall not be considered an eligible renewable energy resource
34 ~~unless it is located in Stanislaus County and was operational prior~~
35 ~~to September 26, 1996.~~ *resource.*

36 (B) *Subparagraph (A) does not apply to contracts entered into*
37 *before January 1, 2016, for the procurement of renewable energy*
38 *resources from a facility located in Stanislaus County that was*
39 *operational prior to September 26, 1996.*

40 (f) “Procure” means to acquire through ownership or contract.

1 (g) “Procurement entity” means any person or corporation
2 authorized by the commission to enter into contracts to procure
3 eligible renewable energy resources on behalf of customers of a
4 retail seller pursuant to subdivision (f) of Section 399.13.

5 (h) (1) “Renewable energy credit” means a certificate of proof
6 associated with the generation of electricity from an eligible
7 renewable energy resource, issued through the accounting system
8 established by the Energy Commission pursuant to Section 399.25,
9 that one unit of electricity was generated and delivered by an
10 eligible renewable energy resource.

11 (2) “Renewable energy credit” includes all renewable and
12 environmental attributes associated with the production of
13 electricity from the eligible renewable energy resource, except for
14 an emissions reduction credit issued pursuant to Section 40709 of
15 the Health and Safety Code and any credits or payments associated
16 with the reduction of solid waste and treatment benefits created
17 by the utilization of biomass or biogas fuels.

18 (3) (A) Electricity generated by an eligible renewable energy
19 resource attributable to the use of nonrenewable fuels, beyond a
20 de minimis quantity used to generate electricity in the same process
21 through which the facility converts renewable fuel to electricity,
22 shall not result in the creation of a renewable energy credit. The
23 Energy Commission shall set the de minimis quantity of
24 nonrenewable fuels for each renewable energy technology at a
25 level of no more than 2 percent of the total quantity of fuel used
26 by the technology to generate electricity. The Energy Commission
27 may adjust the de minimis quantity for an individual facility, up
28 to a maximum of 5 percent, if it finds that all of the following
29 conditions are met:

30 (i) The facility demonstrates that the higher quantity of
31 nonrenewable fuel will lead to an increase in generation from the
32 eligible renewable energy facility that is significantly greater than
33 generation from the nonrenewable fuel alone.

34 (ii) The facility demonstrates that the higher quantity of
35 nonrenewable fuels will reduce the variability of its electrical
36 output in a manner that results in net environmental benefits to the
37 state.

38 (iii) The higher quantity of nonrenewable fuel is limited to either
39 natural gas or hydrogen derived by reformation of a fossil fuel.

1 (B) Electricity generated by a small hydroelectric generation
2 facility shall not result in the creation of a renewable energy credit
3 unless the facility meets the requirements of subparagraph (A) or
4 (D) of paragraph (1) of subdivision (e).

5 (C) Electricity generated by a conduit hydroelectric generation
6 facility shall not result in the creation of a renewable energy credit
7 unless the facility meets the requirements of subparagraph (B) of
8 paragraph (1) of subdivision (e).

9 (D) Electricity generated by a facility engaged in the combustion
10 of municipal solid waste shall not result in the creation of a
11 renewable energy credit unless the facility meets the requirements
12 of paragraph (2) of subdivision (e). *credit. This subparagraph does*
13 *not apply to renewable energy credits that were generated before*
14 *January 1, 2016, by a facility engaged in the combustion of*
15 *municipal solid waste located in Stanislaus County that was*
16 *operational prior to September 26, 1996, and sold pursuant to*
17 *contacts entered into before January 1, 2016.*

18 (i) “Renewables portfolio standard” means the specified
19 percentage of electricity generated by eligible renewable energy
20 resources that a retail seller or a local publicly owned electric utility
21 is required to procure pursuant to this article.

22 (j) “Retail seller” means an entity engaged in the retail sale of
23 electricity to end-use customers located within the state, including
24 any of the following:

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

26 (2) A community choice aggregator. ~~The commission shall~~
27 ~~institute a rulemaking to determine the manner in which a A~~
28 ~~community choice aggregator will shall~~ participate in the
29 renewables portfolio standard program subject to the same terms
30 and conditions applicable to an electrical corporation.

31 (3) An electric service provider, as defined in Section ~~218.3,~~
32 ~~for all sales of electricity to customers beginning January 1, 2006.~~
33 ~~The commission shall institute a rulemaking to determine the~~
34 ~~manner in which electric service providers will participate in the~~
35 ~~renewables portfolio standard program. 218.3.~~ The electric service
36 provider shall be subject to the same terms and conditions
37 applicable to an electrical corporation pursuant to this article. This
38 paragraph does not impair a contract entered into between an
39 electric service provider and a retail customer prior to the

1 suspension of direct access by the commission pursuant to Section
2 80110 of the Water Code.

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

4 (A) A corporation or person employing cogeneration technology
5 or producing electricity consistent with subdivision (b) of Section
6 218.

7 (B) The Department of Water Resources acting in its capacity
8 pursuant to Division 27 (commencing with Section 80000) of the
9 Water Code.

10 (C) A local publicly owned electric utility.

11 (k) “WECC” means the Western Electricity Coordinating
12 Council of the North American Electric Reliability Corporation,
13 or a successor to the corporation.

14 SEC. 8. Section 399.13 of the Public Utilities Code is amended
15 to read:

16 399.13. (a) (1) The commission shall direct each electrical
17 corporation to annually prepare a renewable energy procurement
18 plan that includes the matter in paragraph (5), to satisfy its
19 obligations under the renewables portfolio standard. To the extent
20 feasible, this procurement plan shall be proposed, reviewed, and
21 adopted by the commission as part of, and pursuant to, a general
22 procurement plan process. The commission shall require each
23 electrical corporation to review and update its renewable energy
24 procurement plan as it determines to be necessary. *The commission*
25 *shall require all other retail sellers to prepare and submit*
26 *renewable energy procurement plans that address the requirements*
27 *identified in paragraph (5).*

28 (2) Every electrical corporation that owns electrical transmission
29 facilities shall annually prepare, as part of the Federal Energy
30 Regulatory Commission Order 890 process, and submit to the
31 commission, a report identifying any electrical transmission
32 facility, upgrade, or enhancement that is reasonably necessary to
33 achieve the renewables portfolio standard procurement
34 requirements of this article. Each report shall look forward at least
35 five years and, to ensure that adequate investments are made in a
36 timely manner, shall include a preliminary schedule when an
37 application for a certificate of public convenience and necessity
38 will be made, pursuant to Chapter 5 (commencing with Section
39 1001), for any electrical transmission facility identified as being
40 reasonably necessary to achieve the renewable energy resources

1 procurement requirements of this article. Each electrical
2 corporation that owns electrical transmission facilities shall ensure
3 that project-specific interconnection studies are completed in a
4 timely manner.

5 (3) The commission shall direct each retail seller to prepare and
6 submit an annual compliance report that includes all of the
7 following:

8 (A) The current status and progress made during the prior year
9 toward procurement of eligible renewable energy resources as a
10 percentage of retail sales, including, if applicable, the status of any
11 necessary siting and permitting approvals from federal, state, and
12 local agencies for those eligible renewable energy resources
13 procured by the retail seller, and the current status of compliance
14 with the portfolio content requirements of subdivision (c) of
15 Section 399.16, including procurement of eligible renewable energy
16 resources located outside the state and within the WECC and
17 unbundled renewable energy credits.

18 (B) If the retail seller is an electrical corporation, the current
19 status and progress made during the prior year toward construction
20 of, and upgrades to, transmission and distribution facilities and
21 other electrical system components it owns to interconnect eligible
22 renewable energy resources and to supply the electricity generated
23 by those resources to load, including the status of planning, siting,
24 and permitting transmission facilities by federal, state, and local
25 agencies.

26 (C) Recommendations to remove impediments to making
27 progress toward achieving the renewable energy resources
28 procurement requirements established pursuant to this article.

29 (4) The commission shall adopt, by rulemaking, all of the
30 following:

31 (A) A process that provides criteria for the rank ordering and
32 selection of least-cost and best-fit eligible renewable energy
33 resources to comply with the California Renewables Portfolio
34 Standard Program obligations on a total cost basis. This process
35 shall take into account all of the following:

36 (i) Estimates of indirect costs associated with needed
37 transmission investments.

38 (ii) The cost impact of procuring the eligible renewable energy
39 resources on the electrical corporation's electricity portfolio.

1 (iii) The viability of the project to construct and reliably operate
2 the eligible renewable energy resource, including the developer's
3 experience, the feasibility of the technology used to generate
4 electricity, and the risk that the facility will not be built, or that
5 construction will be delayed, with the result that electricity will
6 not be supplied as required by the contract.

7 (iv) Workforce recruitment, training, and retention efforts,
8 including the employment growth associated with the construction
9 and operation of eligible renewable energy resources and goals
10 for recruitment and training of women, minorities, and disabled
11 veterans.

12 (v) (I) Estimates of electrical corporation expenses resulting
13 from integrating and operating eligible renewable energy resources,
14 including, but not limited to, any additional wholesale energy and
15 capacity costs associated with integrating each eligible renewable
16 resource.

17 (II) No later than December 31, 2015, the commission shall
18 approve a methodology for determining the integration costs
19 described in subclause (I).

20 (B) Rules permitting retail sellers to accumulate, beginning
21 January 1, 2011, excess procurement in one compliance period to
22 be applied to any subsequent compliance period. The rules shall
23 apply equally to all retail sellers. In determining the quantity of
24 excess procurement for the applicable compliance period, the
25 commission shall deduct from actual procurement quantities the
26 total amount of procurement associated with contracts of less than
27 10 years in ~~duration. In no event shall~~ *duration and* electricity
28 products meeting the portfolio content of paragraph (3) of
29 subdivision (b) of Section ~~399.16 be counted as excess~~
30 ~~procurement.~~ *399.16.*

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

1 about the agreement shall be disclosed by the commission: party
2 names, resource type, project location, and project capacity.

3 (D) An appropriate minimum margin of procurement above the
4 minimum procurement level necessary to comply with the
5 renewables portfolio standard to mitigate the risk that renewable
6 projects planned or under contract are delayed or canceled. This
7 paragraph does not preclude an electrical corporation from
8 voluntarily proposing a margin of procurement above the
9 appropriate minimum margin established by the commission.

10 (5) Consistent with the goal of increasing California's reliance
11 on eligible renewable energy resources, the renewable energy
12 procurement plan ~~submitted by an electrical corporation~~ shall
13 include all of the following:

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

18 (B) Potential compliance delays related to the conditions
19 described in paragraph (5) of subdivision (b) of Section 399.15.

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

23 (D) A status update on the development schedule of all eligible
24 renewable energy resources currently under contract.

25 (E) Consideration of mechanisms for price adjustments
26 associated with the costs of key components for eligible renewable
27 energy resource projects with online dates more than 24 months
28 after the date of contract execution.

29 (F) An assessment of the risk that an eligible renewable energy
30 resource will not be built, or that construction will be delayed,
31 with the result that electricity will not be delivered as required by
32 the contract.

33 (6) In soliciting and procuring eligible renewable energy
34 resources, each electrical corporation shall offer contracts of no
35 less than 10 years duration, unless the commission approves of a
36 contract of shorter duration.

37 (7) In soliciting and procuring eligible renewable energy
38 resources for California-based projects, each electrical corporation
39 shall give preference to renewable energy projects that provide
40 environmental and economic benefits to communities afflicted

1 with poverty or high unemployment, or that suffer from high
2 emission levels of toxic air contaminants, criteria air pollutants,
3 and greenhouse gases.

4 (b) A retail seller may enter into a combination of long- and
5 short-term contracts for electricity and associated renewable energy
6 credits. The commission may authorize a retail seller to enter into
7 a contract of less than 10 years' duration with an eligible renewable
8 energy resource, if the commission has established, for each retail
9 seller, minimum quantities of eligible renewable energy resources
10 to be procured through contracts of at least 10 years' duration.

11 (c) The commission shall review and accept, modify, or reject
12 each electrical corporation's renewable energy resource
13 procurement plan prior to the commencement of renewable energy
14 procurement pursuant to this article by an electrical corporation.

15 (d) Unless previously preapproved by the commission, an
16 electrical corporation shall submit a contract for the generation of
17 an eligible renewable energy resource to the commission for review
18 and approval consistent with an approved renewable energy
19 resource procurement plan. If the commission determines that the
20 bid prices are elevated due to a lack of effective competition among
21 the bidders, the commission shall direct the electrical corporation
22 to renegotiate the contracts or conduct a new solicitation.

23 (e) If an electrical corporation fails to comply with a commission
24 order adopting a renewable energy resource procurement plan, the
25 commission shall exercise its authority pursuant to ~~Section 2113~~
26 to require compliance. ~~The commission shall enforce comparable~~
27 ~~penalties on any retail seller that is not an electrical corporation~~
28 ~~that fails to meet the procurement targets established pursuant to~~
29 ~~Section 399.15.~~

30 (f) (1) The commission may authorize a procurement entity to
31 enter into contracts on behalf of customers of a retail seller for
32 electricity products from eligible renewable energy resources to
33 satisfy the retail seller's renewables portfolio standard procurement
34 requirements. The commission shall not require any person or
35 corporation to act as a procurement entity or require any party to
36 purchase eligible renewable energy resources from a procurement
37 entity.

38 (2) Subject to review and approval by the commission, the
39 procurement entity shall be permitted to recover reasonable
40 administrative and procurement costs through the retail rates of

1 end-use customers that are served by the procurement entity and
2 are directly benefiting from the procurement of eligible renewable
3 energy resources.

4 (g) Procurement and administrative costs associated with
5 contracts entered into by an electrical corporation for eligible
6 renewable energy resources pursuant to this article and approved
7 by the commission are reasonable and prudent and shall be
8 recoverable in rates.

9 (h) Construction, alteration, demolition, installation, and repair
10 work on an eligible renewable energy resource that receives
11 production incentives pursuant to Section 25742 of the Public
12 Resources Code, including work performed to qualify, receive, or
13 maintain production incentives, are “public works” for the purposes
14 of Chapter 1 (commencing with Section 1720) of Part 7 of Division
15 2 of the Labor Code.

16 SEC. 9. Section 399.15 of the Public Utilities Code is amended
17 to read:

18 399.15. (a) In order to fulfill unmet long-term resource needs,
19 the commission shall establish a renewables portfolio standard
20 requiring all retail sellers to procure a minimum quantity of
21 electricity products from eligible renewable energy resources as
22 a specified percentage of total kilowatthours sold to their retail
23 end-use customers each compliance period to achieve the targets
24 established under this article. For any retail seller procuring at least
25 14 percent of retail sales from eligible renewable energy resources
26 in 2010, the deficits associated with any previous renewables
27 portfolio standard shall not be added to any procurement
28 requirement pursuant to this article.

29 (b) The commission shall implement renewables portfolio
30 standard procurement requirements only as follows:

31 (1) Each retail seller shall procure a minimum quantity of
32 eligible renewable energy resources for each of the following
33 compliance periods:

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

35 (B) January 1, 2014, to December 31, 2016, inclusive.

36 (C) January 1, 2017, to December 31, 2020, inclusive.

37 (D) *January 1, 2021, to December 31, 2024, inclusive.*

38 (E) *January 1, 2025, to December 31, 2027, inclusive.*

39 (D) *January 1, 2028, to December 31, 2030, inclusive.*

1 (2) (A) No later than January 1, ~~2012~~, 2017, the commission
2 shall establish the quantity of electricity products from eligible
3 renewable energy resources to be procured by the retail seller for
4 each compliance period. These quantities shall be established in
5 the same manner for all retail sellers and result in the same
6 percentages used to establish compliance period quantities for all
7 retail sellers.

8 (B) In establishing quantities for the compliance period from
9 January 1, 2011, to December 31, 2013, inclusive, the commission
10 shall require procurement for each retail seller equal to an average
11 of 20 percent of retail sales. For the following compliance periods,
12 the quantities shall reflect reasonable progress in each of the
13 intervening years sufficient to ensure that the procurement of
14 electricity products from eligible renewable energy resources
15 achieves 25 percent of retail sales by December 31, 2016, ~~and 33~~
16 ~~percent of retail sales by December 31, 2020. 2020, 40 percent by~~
17 *December 31, 2024, 45 percent by December 31, 2027, and 50*
18 *percent by December 31, 2030.* The commission shall *establish*
19 *appropriate multiyear compliance periods for all subsequent years*
20 *that require retail sellers to procure not less than 33 50 percent of*
21 *retail sales of electricity products from eligible renewable energy*
22 ~~resources in all subsequent years.~~ *resources.*

23 (C) Retail sellers shall be obligated to procure no less than the
24 quantities associated with all intervening years by the end of each
25 compliance period. Retail sellers shall not be required to
26 demonstrate a specific quantity of procurement for any individual
27 intervening year.

28 (3) The commission may require the procurement of eligible
29 renewable energy resources in excess of the quantities specified
30 in paragraph (2).

31 (4) Only for purposes of establishing the renewables portfolio
32 standard procurement requirements of paragraph (1) and
33 determining the quantities pursuant to paragraph (2), the
34 commission shall include all electricity sold to retail customers by
35 the Department of Water Resources pursuant to Division 27
36 (commencing with Section 80000) of the Water Code in the
37 calculation of retail sales by an electrical corporation.

38 (5) The commission shall waive enforcement of this section if
39 it finds that the retail seller has demonstrated any of the following

1 conditions are beyond the control of the retail seller and will
2 prevent compliance:

3 (A) There is inadequate transmission capacity to allow for
4 sufficient electricity to be delivered from proposed eligible
5 renewable energy resource projects using the current operational
6 protocols of the Independent System Operator. In making its
7 findings relative to the existence of this condition with respect to
8 a retail seller that owns transmission lines, the commission shall
9 consider both of the following:

10 (i) Whether the retail seller has undertaken, in a timely fashion,
11 reasonable measures under its control and consistent with its
12 obligations under local, state, and federal laws and regulations, to
13 develop and construct new transmission lines or upgrades to
14 existing lines intended to transmit electricity generated by eligible
15 renewable energy resources. In determining the reasonableness of
16 a retail seller's actions, the commission shall consider the retail
17 seller's expectations for full-cost recovery for these transmission
18 lines and upgrades.

19 (ii) Whether the retail seller has taken all reasonable operational
20 measures to maximize cost-effective deliveries of electricity from
21 eligible renewable energy resources in advance of transmission
22 availability.

23 (B) Permitting, interconnection, or other circumstances that
24 delay procured eligible renewable energy resource projects, or
25 there is an insufficient supply of eligible renewable energy
26 resources available to the retail seller. In making a finding that this
27 condition prevents timely compliance, the commission shall
28 consider whether the retail seller has done all of the following:

29 (i) Prudently managed portfolio risks, including relying on a
30 sufficient number of viable projects.

31 (ii) Sought to develop one of the following: its own eligible
32 renewable energy resources, transmission to interconnect to eligible
33 renewable energy resources, or energy storage used to integrate
34 eligible renewable energy resources. This clause shall not require
35 an electrical corporation to pursue development of eligible
36 renewable energy resources pursuant to Section 399.14.

37 (iii) Procured an appropriate minimum margin of procurement
38 above the minimum procurement level necessary to comply with
39 the renewables portfolio standard to compensate for foreseeable
40 delays or insufficient supply.

1 (iv) Taken reasonable measures, under the control of the retail
2 seller, to procure cost-effective distributed generation and allowable
3 unbundled renewable energy credits.

4 (C) Unanticipated curtailment of eligible renewable energy
5 resources necessary to address the needs of a balancing authority.

6 (6) If the commission waives the compliance requirements of
7 this section, the commission shall establish additional reporting
8 requirements on the retail seller to demonstrate that all reasonable
9 actions under the control of the retail seller are taken in each of
10 the intervening years sufficient to satisfy future procurement
11 requirements.

12 (7) The commission shall not waive enforcement pursuant to
13 this section, unless the retail seller demonstrates that it has taken
14 all reasonable actions under its control, as set forth in paragraph
15 (5), to achieve full compliance.

16 (8) If a retail seller fails to procure sufficient eligible renewable
17 energy resources to comply with a procurement requirement
18 pursuant to paragraphs (1) and (2) and fails to obtain an order from
19 the commission waiving enforcement pursuant to paragraph (5),
20 the commission shall ~~exercise its authority pursuant to Section~~
21 ~~2413~~ *assess penalties for noncompliance. A schedule of penalties*
22 *shall be adopted by the commission that shall be comparable for*
23 *electrical corporations and other retail sellers. For electrical*
24 *corporations, the cost of any penalties shall not be collected in*
25 *rates. Any penalties collected under this article shall be deposited*
26 *into the Electric Program Investment Charge Fund and used for*
27 *the purposes described in Chapter 8.1 (commencing with Section*
28 *25710) of Division 15 of the Public Resources Code.*

29 (9) Deficits associated with the compliance period shall not be
30 added to a future compliance period.

31 (c) The commission shall establish a limitation for each electrical
32 corporation on the procurement expenditures for all eligible
33 renewable energy resources used to comply with the renewables
34 portfolio standard. ~~In establishing this limitation, the commission~~
35 ~~shall rely on the following:~~ *This limitation shall be set at a level*
36 *that prevents disproportionate rate impacts.*

37 ~~(1) The most recent renewable energy procurement plan.~~

38 ~~(2) Procurement expenditures that approximate the expected~~
39 ~~cost of building, owning, and operating eligible renewable energy~~
40 ~~resources.~~

1 ~~(3) The potential that some planned resource additions may be~~
2 ~~delayed or canceled.~~

3 ~~(d) In developing the limitation pursuant to subdivision (c), the~~
4 ~~commission shall ensure all of the following:~~

5 ~~(1) The limitation is set at a level that prevents disproportionate~~
6 ~~rate impacts.~~

7 ~~(2) The costs of all procurement credited toward achieving the~~
8 ~~renewables portfolio standard are counted towards the limitation.~~

9 ~~(3) Procurement expenditures do not include any indirect~~
10 ~~expenses, including imbalance energy charges, sale of excess~~
11 ~~energy, decreased generation from existing resources, transmission~~
12 ~~upgrades, or the costs associated with relicensing any utility-owned~~
13 ~~hydroelectric facilities.~~

14 ~~(e) (1) No later than January 1, 2016, the commission shall~~
15 ~~prepare a report to the Legislature assessing whether each electrical~~
16 ~~corporation can achieve a 33-percent renewables portfolio standard~~
17 ~~by December 31, 2020, and maintain that level thereafter, within~~
18 ~~the adopted cost limitations. If the commission determines that it~~
19 ~~is necessary to change the limitation for procurement costs incurred~~
20 ~~by any electrical corporation after that date, it may propose a~~
21 ~~revised cap consistent with the criteria in subdivisions (c) and (d).~~
22 ~~The proposed modifications shall take effect no earlier than January~~
23 ~~1, 2017.~~

24 ~~(2) Notwithstanding Section 10231.5 of the Government Code,~~
25 ~~the requirement for submitting a report imposed under paragraph~~
26 ~~(1) is inoperative on January 1, 2021.~~

27 ~~(3) A report to be submitted pursuant to paragraph (1) shall be~~
28 ~~submitted in compliance with Section 9795 of the Government~~
29 ~~Code.~~

30 ~~(f)~~

31 ~~(d) If the cost limitation for an electrical corporation is~~
32 ~~insufficient to support the projected costs of meeting the~~
33 ~~renewables portfolio standard procurement requirements, the~~
34 ~~electrical corporation may refrain from entering into new contracts~~
35 ~~or constructing facilities beyond the quantity that can be procured~~
36 ~~within the limitation, unless eligible renewable energy resources~~
37 ~~can be procured without exceeding a de minimis increase in rates,~~
38 ~~consistent with the long-term procurement plan established for the~~
39 ~~electrical corporation pursuant to Section 454.5.~~

40 ~~(g)~~

1 (e) (1) The commission shall monitor the status of the cost
2 limitation for each electrical corporation in order to ensure
3 compliance with this article.

4 (2) If the commission determines that an electrical corporation
5 may exceed its cost limitation prior to achieving the renewables
6 portfolio standard procurement requirements, the commission shall
7 do both of the following within 60 days of making that
8 determination:

9 (A) Investigate and identify the reasons why the electrical
10 corporation may exceed its annual cost limitation.

11 (B) Notify the appropriate policy and fiscal committees of the
12 Legislature that the electrical corporation may exceed its cost
13 limitation, and include the reasons why the electrical corporation
14 may exceed its cost limitation.

15 ~~(h)~~

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

20 SEC. 10. Section 399.16 of the Public Utilities Code is
21 amended to read:

22 399.16. (a) Various electricity products from eligible renewable
23 energy resources located within the WECC transmission network
24 service area shall be eligible to comply with the renewables
25 portfolio standard procurement requirements in Section 399.15.
26 These electricity products may be differentiated by their impacts
27 on the operation of the grid in supplying electricity, as well as,
28 meeting the requirements of this article.

29 (b) Consistent with the goals of procuring the least-cost and
30 best-fit electricity products from eligible renewable energy
31 resources that meet project viability principles adopted by the
32 commission pursuant to paragraph (4) of subdivision (a) of Section
33 399.13 and that provide the benefits set forth in Section 399.11, a
34 balanced portfolio of eligible renewable energy resources shall be
35 procured consisting of the following portfolio content categories:

36 (1) Eligible renewable energy resource electricity products that
37 meet either of the following criteria:

38 (A) Have a first point of interconnection with a California
39 balancing authority, have a first point of interconnection with
40 distribution facilities used to serve end users within a California

1 balancing authority area, or are scheduled from the eligible
2 renewable energy resource into a California balancing authority
3 without substituting electricity from another source. The use of
4 another source to provide real-time ancillary services required to
5 maintain an hourly or subhourly import schedule into a California
6 balancing authority shall be permitted, but only the fraction of the
7 schedule actually generated by the eligible renewable energy
8 resource shall count toward this portfolio content category.

9 (B) Have an agreement to dynamically transfer electricity to a
10 California balancing authority.

11 (2) Firmed and shaped eligible renewable energy resource
12 electricity products providing incremental electricity and scheduled
13 into a California balancing authority.

14 (3) Eligible renewable energy resource electricity products, or
15 any fraction of the electricity generated, including unbundled
16 renewable energy credits, that do not qualify under the criteria of
17 paragraph (1) or (2).

18 (c) In order to achieve a balanced portfolio, all retail sellers
19 shall meet the following requirements for all procurement credited
20 toward each compliance period:

21 (1) Not less than 50 percent for the compliance period ending
22 December 31, 2013, 65 percent for the compliance period ending
23 December 31, 2016, and 75 percent ~~thereafter~~ *for the compliance*
24 *period ending December 31, 2020*, of the eligible renewable energy
25 resource electricity products associated with contracts executed
26 after June 1, 2010, shall meet the product content requirements of
27 paragraph (1) of subdivision (b). *Each retail seller shall continue*
28 *to satisfy the product content requirements applicable to*
29 *procurement quantities associated with the compliance period*
30 *ending December 31, 2020, and ensure that, for compliance*
31 *periods ending after December 31, 2020, not less than 75 percent*
32 *of the incremental renewable procurement requirements in each*
33 *compliance period shall be satisfied with eligible renewable energy*
34 *resource electricity products meeting the requirements of*
35 *paragraph (1) of subdivision (b).*

36 (2) Not more than 25 percent for the compliance period ending
37 December 31, 2013, 15 percent for the compliance period ending
38 December 31, 2016, and 10 percent ~~thereafter~~ *for compliance*
39 *period ending December 31, 2020*, of the eligible renewable energy
40 resource electricity products associated with contracts executed

1 after June 1, 2010, shall meet the product content requirements of
2 paragraph (3) of subdivision (b). *For the compliance periods*
3 *ending after December 31, 2020, not more than 10 percent of the*
4 *incremental renewable procurement requirements in each*
5 *compliance period shall be satisfied with eligible renewable energy*
6 *resource electricity products meeting the requirements of*
7 *paragraph (3) of subdivision (b).*

8 (3) Any renewable energy resources contracts executed on or
9 after June 1, 2010, not subject to the limitations of paragraph (1)
10 or (2), shall meet the product content requirements of paragraph
11 (2) of subdivision (b).

12 (4) For purposes of electric service providers only, the
13 restrictions in this subdivision on crediting eligible renewable
14 energy resource electricity products to each compliance period
15 shall apply to contracts executed after January 13, 2011.

16 (d) Any contract or ownership agreement originally executed
17 prior to June 1, 2010, shall count in full toward the procurement
18 requirements established pursuant to this article, if all of the
19 following conditions are met:

20 (1) The renewable energy resource was eligible under the rules
21 in place as of the date when the contract was executed.

22 (2) For an electrical corporation, the contract has been approved
23 by the commission, even if that approval occurs after June 1, 2010.

24 (3) Any contract amendments or modifications occurring after
25 June 1, 2010, do not increase the nameplate capacity or expected
26 quantities of annual generation, or substitute a different renewable
27 energy resource. The duration of the contract may be extended if
28 the original contract specified a procurement commitment of 15
29 or more years.

30 (e) A retail seller may apply to the commission for a reduction
31 of a procurement content requirement of subdivision (c). The
32 commission may reduce a procurement content requirement of
33 subdivision (c) to the extent the retail seller demonstrates that it
34 cannot comply with that subdivision because of conditions beyond
35 the control of the retail seller as provided in paragraph (5) of
36 subdivision (b) of Section 399.15. The commission shall not, under
37 any circumstance, reduce the obligation specified in paragraph (1)
38 of subdivision (c) below 65 percent for any compliance *period*
39 obligation after December 31, 2016.

1 SEC. 11. Section 399.18 of the Public Utilities Code is
2 amended to read:

3 399.18. (a) This section applies to an electrical corporation
4 that as of January 1, 2010, met either of the following conditions:

5 (1) Served 30,000 or fewer customer accounts in California and
6 had issued at least four solicitations for eligible renewable energy
7 resources prior to June 1, 2010.

8 (2) Had 1,000 or fewer customer accounts in California and was
9 not connected to any transmission system or to the Independent
10 System Operator.

11 (b) For an electrical corporation or its successor, electricity
12 products from eligible renewable energy resources may be used
13 for compliance with this article, notwithstanding any procurement
14 content limitation in Section 399.16, provided that ~~both~~ *all* of the
15 following conditions are met:

16 (1) The electrical corporation or its successor participates in,
17 and complies with, the accounting system administered by the
18 Energy Commission pursuant to subdivision (b) of Section 399.25.

19 (2) The Energy Commission verifies that the electricity
20 generated by the facility is eligible to meet the requirements of
21 Section 399.15.

22 (3) *The electrical corporation continues to satisfy either of the*
23 *conditions described in subdivision (a).*

24 SEC. 12. Section 399.21 of the Public Utilities Code is
25 amended to read:

26 399.21. (a) The commission, by rule, shall authorize the use
27 of renewable energy credits to satisfy the renewables portfolio
28 standard procurement requirements established pursuant to this
29 article, subject to the following conditions:

30 ~~(1) Prior to authorizing any renewable energy credit to be used~~
31 ~~toward satisfying the renewables portfolio standard procurement~~
32 ~~requirements, the~~ *The* commission and the Energy Commission
33 shall ~~conclude~~ *ensure* that the tracking system established pursuant
34 to subdivision (c) of Section 399.25, is operational, is capable of
35 independently verifying that electricity earning the credit is
36 generated by an eligible renewable energy resource, and can ensure
37 that renewable energy credits shall not be double counted by any
38 seller of electricity within the service territory of the WECC.

39 (2) Each renewable energy credit shall be counted only once
40 for compliance with the renewables portfolio standard of this state

1 or any other state, or for verifying retail product claims in this state
2 or any other state.

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

6 (4) Renewable energy credits shall not be created for electricity
7 generated pursuant to any electricity purchase contract with a retail
8 seller or a local publicly owned electric utility executed before
9 January 1, 2005, unless the contract contains explicit terms and
10 conditions specifying the ownership or disposition of those credits.
11 Procurement under those contracts shall be tracked through the
12 accounting system described in subdivision (b) of Section 399.25
13 and included in the quantity of eligible renewable energy resources
14 of the purchasing retail seller pursuant to Section 399.15.

15 (5) Renewable energy credits shall not be created for electricity
16 generated under any electricity purchase contract executed after
17 January 1, 2005, pursuant to the federal Public Utility Regulatory
18 Policies Act of 1978 (16 U.S.C. Sec. 2601 et seq.). Procurement
19 under the electricity purchase contracts shall be tracked through
20 the accounting system implemented by the Energy Commission
21 pursuant to subdivision (b) of Section 399.25 and count toward
22 the renewables portfolio standard procurement requirements of
23 the purchasing retail seller.

24 (6) A renewable energy credit shall not be eligible for
25 compliance with a renewables portfolio standard procurement
26 requirement unless it is retired in the tracking system established
27 pursuant to subdivision (c) of Section 399.25 by the retail seller
28 or local publicly owned electric utility within 36 months from the
29 initial date of generation of the associated electricity.

30 (b) The commission shall allow an electrical corporation to
31 recover the reasonable costs of purchasing, selling, and
32 administering renewable energy credit contracts in rates.

33 SEC. 13. Section 399.30 of the Public Utilities Code is
34 amended to read:

35 399.30. (a) To fulfill unmet long-term generation resource
36 needs, each local publicly owned electric utility shall adopt and
37 implement a renewable energy resources procurement plan that
38 requires the utility to procure a minimum quantity of electricity
39 products from eligible renewable energy resources, including
40 renewable energy credits, as a specified percentage of total

1 kilowatthours sold to the utility’s retail end-use customers, each
2 compliance period, to achieve the targets of subdivision (c).

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

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

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

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

10 (D) *January 1, 2021, to December 31, 2024, inclusive.*

11 (E) *January 1, 2025, to December 31, 2027, inclusive.*

12 (D) *January 1, 2028, to December 31, 2030, inclusive.*

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

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

19 (2) The quantities of eligible renewable energy resources to be
20 procured for all other compliance periods reflect reasonable
21 progress in each of the intervening years sufficient to ensure that
22 the procurement of electricity products from eligible renewable
23 energy resources achieves 25 percent of retail sales by December
24 31, 2016, ~~and 33 percent of retail sales by December 31, 2020.~~
25 *2020, 40 percent by December 31, 2024, 45 percent by December*
26 *31, 2027, and 50 percent by December 31, 2030. The local*
27 ~~governing board shall~~ *Energy Commission shall establish*
28 *appropriate multiyear compliance periods for all subsequent years*
29 *that require the local publicly owned electric utilities utility to*
30 *procure not less than* ~~33~~ *50 percent of retail sales of electricity*
31 *products from eligible renewable energy resources in all subsequent*
32 ~~years.~~ *resources.*

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

35 (d) The governing board of a local publicly owned electric utility
36 may adopt the following measures:

37 (1) Rules permitting the utility to apply excess procurement in
38 one compliance period to subsequent compliance periods in the
39 same manner as allowed for retail sellers pursuant to Section
40 399.13.

1 (2) Conditions that allow for delaying timely compliance
2 consistent with subdivision (b) of Section 399.15.

3 (3) Cost limitations for procurement expenditures consistent
4 with subdivision (c) of Section 399.15.

5 (e) The governing board of the local publicly owned electric
6 utility shall adopt a program for the enforcement of this ~~article on~~
7 ~~or before January 1, 2012.~~ *article*. The program shall be adopted
8 at a publicly noticed meeting offering all interested parties an
9 opportunity to comment. Not less than 30 days' notice shall be
10 given to the public of any meeting held for purposes of adopting
11 the program. Not less than 10 days' notice shall be given to the
12 public before any meeting is held to make a substantive change to
13 the program.

14 (f) (1) Each local publicly owned electric utility shall annually
15 post notice, in accordance with Chapter 9 (commencing with
16 Section 54950) of Part 1 of Division 2 of Title 5 of the Government
17 Code, whenever its governing body will deliberate in public on its
18 renewable energy resources procurement plan.

19 (2) Contemporaneous with the posting of the notice of a public
20 meeting to consider the renewable energy resources procurement
21 plan, the local publicly owned electric utility shall notify the
22 Energy Commission of the date, time, and location of the meeting
23 in order to enable the Energy Commission to post the information
24 on its Internet Web site. This requirement is satisfied if the local
25 publicly owned electric utility provides the uniform resource
26 locator (URL) that links to this information.

27 (3) Upon distribution to its governing body of information
28 related to its renewable energy resources procurement status and
29 future plans, for its consideration at a noticed public meeting, the
30 local publicly owned electric utility shall make that information
31 available to the public and shall provide the Energy Commission
32 with an electronic copy of the documents for posting on the Energy
33 Commission's Internet Web site. This requirement is satisfied if
34 the local publicly owned electric utility provides the uniform
35 resource locator (URL) that links to the documents or information
36 regarding other manners of access to the documents.

37 (g) A public utility district that receives all of its electricity
38 pursuant to a preference right adopted and authorized by the United
39 States Congress pursuant to Section 4 of the Trinity River Division

1 Act of August 12, 1955 (Public Law 84-386) shall be in compliance
2 with the renewable energy procurement requirements of this article.

3 (h) For a local publicly owned electric utility that was in
4 existence on or before January 1, 2009, that provides retail electric
5 service to 15,000 or fewer customer accounts in California, and is
6 interconnected to a balancing authority located outside this state
7 but within the WECC, an eligible renewable energy resource
8 includes a facility that is located outside California that is
9 connected to the WECC transmission system, if all of the following
10 conditions are met:

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

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

19 (3) The Energy Commission verifies that the electricity
20 generated by the facility is eligible to meet the renewables portfolio
21 standard procurement requirements.

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

36 (j) A local publicly owned electric utility in a city and county
37 that only receives greater than 67 percent of its electricity sources
38 from hydroelectric generation located within the state that it owns
39 and operates, and that does not meet the definition of a "renewable
40 electrical generation facility" pursuant to Section 25741 of the

1 Public Resources Code, shall be required to procure eligible
2 renewable energy resources, including renewable energy credits,
3 to meet only the electricity demands unsatisfied by its hydroelectric
4 generation in any given year, in order to satisfy its renewable
5 energy procurement requirements.

6 (k) (1) A local publicly owned electric utility that receives
7 greater than 50 percent of its annual retail sales from its own
8 hydroelectric generation that is not an eligible renewable energy
9 resource shall not be required to procure additional eligible
10 renewable energy resources in excess of either of the following:

11 (A) The portion of its retail sales not supplied by its own
12 hydroelectric generation. For these purposes, retail sales supplied
13 by an increase in hydroelectric generation resulting from an
14 increase in the amount of water stored by a dam because the dam
15 is enlarged or otherwise modified after December 31, 2012, shall
16 not count as being retail sales supplied by the utility's own
17 hydroelectric generation.

18 (B) The cost limitation adopted pursuant to this section.

19 (2) For the purposes of this subdivision, "hydroelectric
20 generation" means electricity generated from a hydroelectric
21 facility that satisfies all of the following:

22 (A) Is owned solely and operated by the local publicly owned
23 electric utility as of 1967.

24 (B) Serves a local publicly owned electric utility with a
25 distribution system demand of less than 150 megawatts.

26 (C) Involves a contract in which an electrical corporation
27 receives the benefit of the electric generation through June of 2014,
28 at which time the benefit reverts back to the ownership and control
29 of the local publicly owned electric utility.

30 (D) Has a maximum penstock flow capacity of no more than
31 3,200 cubic feet per second and includes a regulating reservoir
32 with a small hydroelectric generation facility producing fewer than
33 20 megawatts with a maximum penstock flow capacity of no more
34 than 3,000 cubic feet per second.

35 (3) This subdivision does not reduce or eliminate any renewable
36 procurement requirement for any compliance period ending prior
37 to January 1, 2014.

38 (4) This subdivision does not require a local publicly owned
39 electric utility to purchase additional eligible renewable energy

1 resources in excess of the procurement requirements of subdivision
2 (c).

3 (l) A local publicly owned electric utility shall retain discretion
4 over both of the following:

5 (1) The mix of eligible renewable energy resources procured
6 by the utility and those additional generation resources procured
7 by the utility for purposes of ensuring resource adequacy and
8 reliability.

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

11 (m) ~~On or before July 1, 2011, the~~ *The Energy Commission*
12 *shall adopt regulations specifying the requirements under this*
13 *article and require local governing boards to adopt timely*
14 *requirements consistent with this article. The Energy Commission*
15 *shall adopt regulations specifying procedures for enforcement of*
16 ~~this article. these requirements, including the adoption of a~~
17 ~~schedule of penalties to be imposed pursuant to subdivision (n).~~
18 The regulations shall include a public process under which the
19 Energy Commission may issue a notice of violation and correction
20 against a local publicly owned electric utility for failure to comply
21 with this ~~article, and for referral of violations to the State Air~~
22 ~~Resources Board for penalties pursuant to subdivision (o).~~ *article*
23 *and assess penalties pursuant to subdivision (n).*

24 (n) ~~(1)~~ Upon a determination by the Energy Commission that
25 a local publicly owned electric utility has failed to comply with
26 this article, the Energy Commission shall ~~refer the failure to comply~~
27 ~~with this article to the State Air Resources Board, which may~~
28 ~~impose penalties to enforce this article consistent with Part 6~~
29 ~~(commencing with Section 38580) of Division 25.5 of the Health~~
30 ~~and Safety Code. Any penalties imposed shall be comparable to~~
31 those adopted by the commission for noncompliance by retail
32 sellers. *Any penalties collected under this article shall be deposited*
33 *into the Electric Program Investment Charge Fund and used for*
34 *the purposes described in Chapter 8.1 (commencing with Section*
35 *25710) of Division 15 of the Public Resources Code.*

36 ~~(2) If Division 25.5 (commencing with Section 38500) of the~~
37 ~~Health and Safety Code is suspended or repealed, the State Air~~
38 ~~Resources Board may take action to enforce this article on local~~
39 ~~publicly owned electric utilities consistent with Section 41513 of~~
40 ~~the Health and Safety Code, and impose penalties on a local~~

1 ~~publicly owned electric utility consistent with Article 3~~
2 ~~(commencing with Section 42400) of Chapter 4 of Part 4 of, and~~
3 ~~Chapter 1.5 (commencing with Section 43025) of Part 5 of,~~
4 ~~Division 26 of the Health and Safety Code.~~

5 ~~(3) For the purpose of this subdivision, this section is an~~
6 ~~emissions reduction measure pursuant to Section 38580 of the~~
7 ~~Health and Safety Code.~~

8 ~~(4) If the State Air Resources Board has imposed a penalty upon~~
9 ~~a local publicly owned electric utility for the utility's failure to~~
10 ~~comply with this article, the State Air Resources Board shall not~~
11 ~~impose an additional penalty for the same infraction, or the same~~
12 ~~failure to comply, with any renewables procurement requirement~~
13 ~~imposed upon the utility pursuant to the California Global Warming~~
14 ~~Solutions Act of 2006 (Division 25.5 (commencing with Section~~
15 ~~38500) of the Health and Safety Code).~~

16 ~~(5) Any penalties collected by the State Air Resources Board~~
17 ~~pursuant to this article shall be deposited in the Air Pollution~~
18 ~~Control Fund and, upon appropriation by the Legislature, shall be~~
19 ~~expended for reducing emissions of air pollution or greenhouse~~
20 ~~gases within the same geographic area as the local publicly owned~~
21 ~~electric utility.~~

22 ~~(6) The commission has no authority or jurisdiction to enforce~~
23 ~~any of the requirements of this article on a local publicly owned~~
24 ~~electric utility.~~

25 SEC. 14. Article 17 (commencing with Section 400) is added
26 to Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code,
27 to read:

28

29 Article 17. Clean Energy and Pollution Reduction

30

31 400. The commission and the Energy Commission shall do all
32 of the following in furtherance of meeting the state's clean energy
33 and pollution reduction objectives:

34 (a) Take into account the benefits of distributed generation and
35 promote the use of distributed generation where it provides
36 economic and environmental benefits, particularly in disadvantaged
37 communities as identified pursuant to Section 39711 of the Health
38 and Safety Code.

39 (b) Allow for consideration of costs and benefits of grid
40 integration in proceedings associated with meeting the objectives.

1 (c) Where feasible, adopt rules for integrating renewable energy
2 that minimize system power and fossil fuel purchases and, where
3 feasible and consistent with other state policy objectives, increase
4 the use of energy storage, demand response, and other
5 low-emission or zero- technologies to protect system reliability.

6 (d) Review technology incentive programs overseen by the
7 commission and the Energy Commission and make
8 recommendations for adjustments that more effectively and
9 consistently align with state clean energy and pollution reduction
10 objectives, and that provide benefits to disadvantaged communities
11 as identified pursuant to Section 39711 of the Health and Safety
12 Code.

13 (e) To the extent feasible, give first priority to the manufacture
14 and deployment of clean energy and pollution reduction
15 technologies that create employment opportunities, including high
16 wage, highly skilled employment opportunities, and increased
17 investment in the state.

18 SEC. 15. Section 454.51 is added to the Public Utilities Code,
19 to read:

20 454.51. The commission shall direct each electrical corporation
21 to include in its proposed procurement plan a strategy for procuring
22 a diverse portfolio of resources that provide a reliable electricity
23 supply, including renewable energy integration needs, using zero
24 carbon-emitting resources to the maximum extent reasonable. The
25 net capacity costs of those resources shall be allocated on a fully
26 nonbypassable basis consistent with the treatment of costs
27 identified in paragraph (2) of subdivision (c) of Section 365.1.

28 SEC. 16. No reimbursement is required by this act pursuant to
29 Section 6 of Article XIII B of the California Constitution because
30 a local agency or school district has the authority to levy service
31 charges, fees, or assessments sufficient to pay for the program or
32 level of service mandated by this act or because costs that may be
33 incurred by a local agency or school district will be incurred
34 because this act creates a new crime or infraction, eliminates a
35 crime or infraction, or changes the penalty for a crime or infraction,
36 within the meaning of Section 17556 of the Government Code, or
37 changes the definition of a crime within the meaning of Section 6
38 of Article XIII B of the California Constitution.

O

ATTACHMENT 3

SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT

LEGISLATIVE REPORT FROM HOME RULE ADVISORY GROUP MEETING OF FEBRUARY 18, 2015

HRAG members present:

Dr. Joseph Lyou, Chairman

Elaine Chang, SCAQMD

Elizabeth Adams, EPA

Mike Carroll, Latham & Watkins on behalf of the Regulatory Flexibility Group

Curt Coleman, Southern California Air Quality Alliance

Chris Gallenstein, CARB (participated by phone)

Bill LaMarr, California Small Business Alliance

Art Montez, AMA International

Diane Moss, Renewables 100 Policy Institute

Rongsheng Luo, SCAG (participated by phone)

Bill Quinn, CCEEB (participated by phone)

Terry Roberts, American Lung Association of California (participated by phone)

David Rothbart, Los Angeles County Sanitation Districts

Larry Rubio, Riverside Transit Agency (participated by phone)

Larry Smith, Riverside Cement

TyRon Turner, We Care About You

Lee Wallace, So Cal Gas and SDG&E

Mike Wang, WSPA

Others: Mark Abramowitz (Board Consultant to Dr. Lyou); Earl Elrod (Board Consultant to Mayor Yates); Daniel McGivney (SoCalGas/SDG&E); Rita Loof (RadTech); Susan Stark (Tesoro)

AQMD Staff: Guillermo Sanchez, Laki Tisopulos, Jill Whynot, Bill Wong, and Marilyn Traynor

LEGISLATIVE UPDATE

Guillermo Sanchez reported on the following items that were discussed at the Legislative Committee meeting on February 13, 2015:

Federal

The consultants reported as follows:

In general, progress continues to proceed at a glacial pace; however, there is a commitment to move quickly on MAP-21 reauthorization; and the relevant committees from both chambers will be coordinating their activities. Funds to continue the program still need to be identified.

State

The consultants reported as follows:

As of February 13, 2015, only 576 bills had been introduced, which is approximately 1/3 of the typical rate for this time of year. The decline has been attributed to the members now having 12 years instead of six years to make their legislative mark. As of February 17, 2015, an additional 118 bills were introduced, and a large spike is expected before the introduction deadline at the end of February. Senate pro tem de León and his colleagues unveiled the “Powering a New Clean-Energy Economy” legislative package. Consistent with the Governor’s vision, the package includes the following bills aimed to tackle climate change:

SB 350 (de León)

In line with the Governor’s vision, SB 350 would require by 2030 a 50% reduction in petroleum use, a 50% increase in the renewables portfolio standard, and a 50% increase in energy efficiency on existing public buildings. The debate continues on whether to limit the 50% increase in energy efficiency to only public buildings.

SB 32 (Pavley)

SB 32 establishes a GHG emissions reduction target of 80% below 1990 levels by 2050. SB 32 will allow CARB to establish interim targets for 2030 and 2040.

SB 189 (Hueso)

SB 189 creates a committee that will advise agencies on the most effective ways to spend money collected in clean energy and greenhouse gas reduction funds.

SB 185 (de León)

SB 185 would require retirement boards to divest public employee retirement funds of any investments in a thermal coal company,

Additionally, the Legislative Committee discussed the following bills:

Bills	Description	Legislative Committee’s Recommended Action
2015 Legislative Goals & Objectives	SCAQMD’s 2015 legislative workplan	Approve
AB 32 (Pavley)	California Global Warming Solution Act of 2006: Emissions Limit	Support
AB 156 (Perea)	California Global Warming Solution Act of 2006: Investment Plan (focuses GHG funding in disadvantaged communities)	Support

The following bills were discussed but were tabled for now:

Bills	Description
AB 14 (Waldron)	Unmanned Aircraft: Task Force
AB 37 (Campos)	Unmanned Aircraft Systems
AB 56 (Quirk)	Unmanned Aircraft Systems

AB 14, AB 37, and AB 56 are all related to unmanned drones. The Federal Aviation Administration is preparing guidelines on the use of unmanned drones. The preliminary draft primarily focuses on safety issues and includes the requirement that the unmanned drones must be operated within line of sight of the operator (<http://www.cnn.com/2015/02/15/politics/drones-new-rules/>). On the one hand, unmanned drones may be helpful for safer and more efficient environmental inspection, fence-line monitoring, and compliance purposes. On the other hand, 4th Amendment requirements, including the right to privacy, still need to be addressed. The Legislative Committee requested that staff return with a memo that outlines the relevant and specific uses of unmanned drones for the SCAQMD.

Discussion

Mr. LaMarr asked what constitutes the difference between surveillance and a search. Mr. Wong responded that a search involves the required process of acquiring a search warrant from the court. Mr. Coleman added that he has read of cases involving low flying aircraft and the use of binoculars that could be cited. Mr. Sanchez noted that, in typical criminal investigations, you need probable cause; however, there are exceptions such as the plain view doctrine. He added that, under state law, air districts and CARB have right of entry, upon notice, without probable cause.

Mr. Smith was interested in the public's reaction as the drone bills move forward and stressed the importance of open lines of communication with the public to allay their fears. Mr. Sanchez responded that a bill was introduced [SB 142 (Jackson)] that clarifies the use of drones for private purposes and addresses invasion of privacy issues. Mr. Smith hoped that the current procedures for fence line monitoring, etc., will apply to the drone technology, and he stressed the importance of the notification process. Mr. Sanchez responded that SCAQMD staff's initial recommendation is that representatives from law enforcement, regulatory agencies, academia, and constitutional authorities be appointed to the task force created under AB 14 to address the wide array of issues that the public is concerned with.

Mr. Wallace asked if SCAQMD plans to sponsor any bills this year. Mr. Sanchez responded that SCAQMD does not currently plan to sponsor any bills. He added that the goals and objectives are consistent with existing Board policy directives, and the only new bill that the SCAQMD may be supporting at this time, as part of a wider coalition, would be one seeking further refinements to the Carl Moyer Program to improve program efficiencies and outcomes. Mr. Wallace asked about the status of the bill being introduced by Congressman Lowenthal. Mr. Sanchez will check with the federal consultants and report back.

Mr. Montez asked if there are any new bills that will provide funding for clean vehicles/green buildings for public agencies. Mr. Sanchez responded that the state's revised procurement

guidelines now allow the state to purchase clean vehicles. Mr. Sanchez added that a bill was passed last year that allows public agencies to purchase clean vehicles more easily because of cheaper lifespan costs, and there is a directive from the Governor's office that addresses the issue.

Ms. Moss asked if there are any new bills that will provide funding for electric charging infrastructure. Mr. Sanchez responded that there were a variety of bills from the last legislative term making funds available for alternative fuel infrastructure and to facilitate the installation of electric charging stations in commercial and public facility parking lots. Mr. Wong added that SCAQMD is proposing for the Board's consideration a protocol to allow Rule 2202 credits to be created from installing electric vehicle charging infrastructure.

Mr. Wang asked if SCAQMD has recommended a position on the de León bills. Mr. Sanchez responded that the package of bills was just announced the prior week and staff had not yet recommended a position on the bills. He added that, theoretically, the bills would be consistent with SCAQMD's efforts insofar as they continue to prioritize co-benefits and simultaneous attainment of the National Ambient Air Quality Standard (NAAQS). Staff will review the bill and monitor the related discussions and proposed amendments prior to making a recommendation to the Legislative Committee.