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**AB-2143 Net energy metering: construction of renewable electrical generation facilities: prevailing wage.** (2021-2022)

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**Assembly Bill No. 2143**

**CHAPTER 774**

An act to add Sections 769.2 and 913.13 to the Public Utilities Code, relating to energy.

[ Approved by Governor September 29, 2022. Filed with Secretary of State September 29, 2022. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 2143, Carrillo. Net energy metering: construction of renewable electrical generation facilities: prevailing wage.

Existing law vests the Public Utilities Commission with regulatory authority over public utilities, including electrical corporations. Existing law requires every electric utility, defined to include electrical corporations, local publicly owned electric utilities, and electrical cooperatives, to develop a standard contract or tariff for net energy metering, as defined, for generation by a renewable electrical generation facility, as defined, and to make this contract or tariff available to eligible customer-generators, as defined, upon request on a first-come-first-served basis until the time that the total rated generating capacity used by eligible customer generators exceeds 5% of the electric utility's aggregate customer peak demand. For a large electrical corporation, as defined, existing law requires the commission to have developed a 2nd standard contract or tariff to provide net energy metering to additional eligible customer-generators in the electrical corporation's service territory and imposes no limitation on the number of new eligible customer-generators entitled to receive service pursuant to this 2nd standard contract or tariff. Existing law requires the commission to ensure that the 2nd standard contract or tariff made available to eligible customer-generators by large electrical corporations ensures that customer-sited renewable distributed generation continues to grow sustainably. Existing law requires the commission, in developing this standard contract or tariff, to include specific alternatives designed for growth among residential customers in disadvantaged communities.

Existing law imposes various requirements on public works projects, as defined, including a requirement that, at minimum, all workers employed on a public works project be paid the general prevailing rate of per diem wages for work of a similar character in the locality in which a public work is performed, as specified.

This bill would apply those public works project requirements to the construction of any renewable electrical generation facility, and any associated battery storage, after December 31, 2023, that receives service pursuant to the 2nd standard contract or tariff, except (1) a residential facility that will have a maximum generating capacity of 15 kilowatts or less of electricity or that will be installed on a single-family home, (2) a project that is already a public work under existing law, or (3) a facility that serves only a modular home, a modular home community, or multiunit housing that has 2 or fewer stories. The bill would require a contractor who enters into a contract to perform work on the renewable electrical generation facility or associated battery storage to pay each construction worker employed in the execution of the work, at minimum, the general prevailing rate of per diem wages and each apprentice, at minimum, the applicable apprentice prevailing rate, as specified. The bill would authorize specified mechanisms to be used to enforce those wage requirements. The bill would provide that, if a willful violation of the bill's requirements has been enforced against a contractor for the construction of a renewable electrical generation facility using those mechanisms, the facility is not eligible to receive service pursuant to those standard contracts and tariffs.

Existing law requires the commission to submit various reports to the Legislature, as specified.

This bill would require the commission to annually publish on its internet website and submit to the Legislature a report on the progress made to grow the use of distributed energy resources among residential customers in disadvantaged communities and in low-income households, and an aggregated list of all renewable electrical generation facilities that began to receive service pursuant to a net energy metering contract or tariff during the preceding calendar year, as specified.

Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because the above-described provisions of this bill would be a part of the act and a violation of a commission action implementing the bill's requirements would be a crime, the bill would impose a state-mandated local program.

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 Local Program: yes

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## THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

**SECTION 1.** Section 769.2 is added to the Public Utilities Code, to read:

**769.2.** (a) Notwithstanding paragraph (1) of subdivision (a) of Section 1720 of the Labor Code, construction of any renewable electrical generation facility, and any associated battery storage, after December 31, 2023, that receives service pursuant to the standard contract or tariff developed pursuant to Section 2827.1, shall constitute a public works project for purposes of Article 2 (commencing with Section 1770) of Chapter 1 of Part 7 of Division 2 of the Labor Code, except as specified in subdivision (f).

(b) A contractor who enters into a contract to perform work on a renewable electrical generation facility or associated battery storage described in subdivision (a) shall do all of the following:

(1) The contractor shall pay each construction worker employed in the execution of the work, at minimum, the general prevailing rate of per diem wages, except that an apprentice registered in a program approved by the Chief of the Division of Apprenticeship Standards shall be paid, at minimum, the applicable apprentice prevailing rate.

(2) The contractor shall maintain and verify payroll records pursuant to Section 1776 of the Labor Code and make those records available for inspection and copying as provided in that section. Notwithstanding Section 1776 of the Labor Code, the contractor shall not be required to provide copies of certified payroll records to any entity other than the Department of Industrial Relations and the commission.

(3) The contractor shall biannually, on July 1 and December 31 of each year, submit to the commission digital copies of its certified payroll records for projects subject to this section. The commission shall retain these records as public records for five years.

(c) The requirement imposed in paragraph (1) of subdivision (b) may be enforced through any of the following mechanisms:

(1) Within 18 months after completing the renewable electrical generation facility, by the Labor Commissioner through the issuance of a civil wage and penalty assessment pursuant to Section 1741 of the Labor Code, which may be reviewed pursuant to Section 1742 of the Labor Code.

(2) By an underpaid construction worker or apprentice through an administrative complaint or civil action.

(3) By a joint labor-management committee through a civil action pursuant to Section 1771.2 of the Labor Code.

(d) If a willful violation of this section has been enforced against a contractor for the construction of a renewable electrical generation facility pursuant to subdivision (c), that facility shall not be eligible to receive service pursuant to a standard contract or tariff developed pursuant to Section 2827 or 2827.1.

(e) The commission shall require each large electrical corporation to include the requirements of this section in any standard contract or tariff offered pursuant to Section 2827.1.

(f) (1) This section does not apply to a residential renewable electrical generation facility that is eligible to receive service pursuant to the standard contract or tariff developed pursuant to Section 2827.1 and has a maximum generating capacity of 15 kilowatts or less of electricity.

(2) This section does not apply to a residential renewable electrical generation facility that is eligible to receive service pursuant to the standard contract or tariff developed pursuant to Section 2827.1 and that is installed on a single-family home.

(3) This section does not apply to a project that is a public work, as defined in Section 1720 of the Labor Code, and that is subject to Article 2 (commencing with Section 1770) of Chapter 1 of Part 7 of Division 2 of the Labor Code.

(4) This section does not apply to a renewable electrical generation facility that serves only a modular home, a modular home community, or multiunit housing that has two or fewer stories.

**SEC. 2.** Section 913.13 is added to the Public Utilities Code, to read:

**913.13.** The commission shall annually publish on its internet website and submit to the Legislature a report that includes both of the following:

(a) A report on the progress made to grow the use of distributed energy resources among residential customers in disadvantaged communities and in low-income households.

(b) An aggregated list, by census tract and ZIP Code, of all renewable electrical generation facilities, as defined in Section 2827, that began to receive service pursuant to a net energy metering contract or tariff during the preceding calendar year, including, but not limited to, median household income, home ownership, and racial composition, as applicable.

**SEC. 3.** No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.