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SB-1109 California Renewables Portfolio Standard Program: bioenergy projects. (2021-2022)

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Senate Bill No. 1109

CHAPTER 364

An act to amend Sections 399.20.3 and 8388 of the Public Utilities Code, relating to energy.

[Approved by Governor September 16, 2022. Filed with Secretary of State September 16, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1109, Caballero. California Renewables Portfolio Standard Program: bioenergy projects.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations, while local publicly owned electric utilities are under the direction of their governing boards. Existing law requires electrical corporations, by December 1, 2016, to collectively procure, through financial commitments of 5 years, their proportionate share of 125 megawatts of cumulative rated generating capacity from bioenergy projects commencing operation before June 1, 2013, and requires a local publicly owned electric utility serving more than 100,000 customers to procure its proportionate share of 125 megawatts of cumulative rated generating capacity from bioenergy projects subject to terms of at least 5 years.

This bill would extend to December 31, 2023, the electrical corporations' obligation to collectively procure their proportionate share of 125 megawatts of cumulative rated generating capacity from existing bioenergy projects commencing operation before June 1, 2013, through financial commitments of 5 to 15 years, inclusive. The bill would exempt from these requirements a local publicly owned electric utility that previously entered into a 5-year financial commitment under existing law under certain conditions. The bill would require any incremental procurement of electricity products from bioenergy resources by a new contract or contract extension of 5 years or longer in duration to be from a resource that meets emission limits equivalent to, or more stringent than, the applicable best available retrofit control technology, as specified.

Existing law requires an electrical corporation, local publicly owned electric utility, or community choice aggregator with a contract to procure electricity generated from biomass that is operative at any time in 2018, and expires or expired on or before December 31, 2023, to seek to amend the contract to include, or seek approval for a new contract that includes, an expiration date 5 years later than the expiration date in the contract that was operative in 2018, except as specified.

This bill would require those entities with a contract to procure electricity generated from biomass that expires or expired on or before December 31, 2028, to seek to amend the contract to include, or seek approval for a new contract that includes, an expiration date 5 years later than the expiration date in the contract that was operative in 2022. By imposing additional duties on community choice aggregators and local publicly owned electric utilities, the bill would impose a state-mandated local program.

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

Because certain provisions of this bill would be a part of the act and because a violation of an order or decision of the commission implementing its 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 specified reasons.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

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

SECTION 1. Section 399.20.3 of the Public Utilities Code is amended to read:

399.20.3. (a) For purposes of this section, the following definitions apply:

(1) "Bioenergy" has the same meaning as set forth in paragraph (6) of subdivision (f) of Section 399.20.

(2) "Tier 1 high hazard zone" includes areas where wildlife and falling trees threaten electrical transmission and distribution lines, roads, and other evacuation corridors, critical community infrastructure, or other existing structures, as designated by the Department of Forestry and Fire Protection pursuant to the Proclamation of a State of Emergency on Tree Mortality declared by the Governor on October 30, 2015.

(3) "Tier 2 high hazard zone" includes watersheds that have significant tree mortality combined with community and natural resource assets, as designated by the Department of Forestry and Fire Protection pursuant to the Proclamation of a State of Emergency on Tree Mortality declared by the Governor on October 30, 2015.

(b) (1) In addition to the requirements of subdivision (f) of Section 399.20, by December 1, 2023, electrical corporations shall collectively procure, through financial commitments of 5 to 15 years, inclusive, their proportionate share of 125 megawatts of cumulative rated generating capacity from existing bioenergy projects that commenced operations before June 1, 2013. At least 80 percent of the feedstock of an eligible facility, on an annual basis, shall be a byproduct of sustainable forestry management, which includes removal of dead and dying trees from Tier 1 and Tier 2 high hazard zones and is not that from lands that have been clear cut. At least 60 percent of this feedstock shall be from Tier 1 and Tier 2 high hazard zones.

(2) Paragraph (1) shall not apply to a utility subject to subdivision (g) if both of the following apply:

(A) The utility, either directly or through a joint powers authority, entered into five-year financial commitments for its proportionate share of 125 megawatts of cumulative rated generating capacity from existing bioenergy projects pursuant to this section as it was enacted by Chapter 368 of the Statutes of 2016.

(B) The utility's financial commitments referenced in subparagraph (A) include, (1) a contract with a facility operator that was, on June 1, 2022, in a bankruptcy or other insolvency proceeding, or (2) a contract for a project that does not deliver energy to the utility.

(c) For the purpose of contracts entered into pursuant to subdivision (b), commission Resolution E-4770 (March 17, 2016), and commission Resolution E-4805 (October 13, 2016), Tier 1 and Tier 2 high hazard zone fuel or feedstock shall also include biomass fuels removed from fuel reduction operations exempt from timber harvesting plan requirements pursuant to subdivisions (a), (f), (j), and (k) of Section 4584 of the Public Resources Code.

(d) The commission shall require an electrical corporation that has entered into a contract pursuant to subdivision (b), commission Resolution E-4770 (March 17, 2016), or commission Resolution E-4805 (October 13, 2016) to allow fuel or feedstock reporting requirements to be based on a monthly or annual basis, and a bioenergy facility providing generation pursuant to that contract shall have the right to opt out of the mandated fuel or feedstock usage levels in any particular month upon providing written notice to the electrical corporation in the month of operation. For months in which a bioenergy facility opts out of the mandated fuel or feedstock usage levels or misses the mandated fuel or feedstock targets, that facility shall be paid the alternate price adopted by the commission in commission Resolution E-4770 for all megawatthours generated during that month. Contracts shall continue in force through the end of the contracted term without creating an event of default for missing mandated fuel or feedstock usage levels and without giving rise to a termination right in favor of the electrical corporation.

(e) (1) For each electrical corporation, the commission shall allocate its proportionate share of the 125 megawatts based on the ratio of the electrical corporation's peak demand to the total statewide peak demand.

(2) Procurement by an electrical corporation of generation capacity pursuant to a contract under the commission's Resolution E-4770 (March 17, 2016) that is in excess of the requirement of that electrical corporation under that resolution shall count towards meeting the electrical corporation's proportionate share allocated pursuant to paragraph (1).

(f) The commission may direct each electrical corporation to develop standard contract terms and conditions that reflect the operational characteristics of the bioenergy projects and to provide a streamlined contracting process or may require the electrical corporations to use the mechanism established pursuant to the commission's Resolution E-4770 (March 17, 2016) to meet the requirements of subdivision (e). The procurement pursuant to the developed standard contract shall occur on an expedited basis due to the Proclamation of a State of Emergency on Tree Mortality declared by the Governor on October 30, 2015.

(g) A local publicly owned electric utility serving more than 100,000 customers shall procure its proportionate share, based on the ratio of the utility's peak demand to the total statewide peak demand, of 125 megawatts of cumulative rated capacity from existing bioenergy projects described in subdivision (b) subject to terms of at least five years.

(h) The commission shall ensure that the costs of any contract procured by an electrical corporation to satisfy the requirements of this section are recoverable from all customers on a nonbypassable basis.

(i) The Procurement Review Group within the commission shall advise the commission on the cost of the generation procured pursuant to this section and its impact on ratepayers.

(j) For purposes of this section, any incremental procurement of electricity products from bioenergy resources by a new contract or contract extension of five years or longer in duration shall be from a resource that meets emission limits equivalent to, or more stringent than, the applicable best available retrofit control technology, as determined by the local air pollution control district or air quality management district. The determination shall be made before the start of the operating period under the new contract or contract extension.

SEC. 2. Section 8388 of the Public Utilities Code is amended to read:

8388. An electrical corporation, local publicly owned electric utility, or community choice aggregator with a contract to procure electricity generated from biomass pursuant to Section 399.20.3, commission Resolution E-4770 (March 17, 2016), or commission Resolution E-4805 (October 13, 2016), and expires or expired on or before December 31, 2028, shall seek to amend the contract to include, or seek approval for a new contract that includes, an expiration date five years later than the expiration date in the contract that was operative in 2022, so long as the contract extension follows the feedstock requirement of subdivision (b) of Section 399.20.3. This section shall not apply to facilities located in federal severe or extreme nonattainment areas for particulate matter or ozone.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act or because costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.