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AB-1061 Electricity Supply Strategic Reliability Reserve Program. (2023-2024)

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Assembly Bill No. 1061

CHAPTER 558

An act to amend Section 80710 of the Water Code, relating to electricity.

[Approved by Governor October 08, 2023. Filed with Secretary of State October 08, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1061, Rendon. Electricity Supply Strategic Reliability Reserve Program.

Existing law requires the State Energy Resources Conservation and Development Commission to implement and administer the Distributed Electricity Backup Assets Program to incentivize the construction of distributed energy assets that would serve as on-call emergency supply or load reduction for the electrical grid during extreme events. Existing law requires the commission to also implement and administer the Demand Side Grid Support Program to incentivize dispatchable customer load reduction and backup generation operation as on-call emergency supply or load reduction for the electrical grid during extreme events. Existing law requires the Department of Water Resources to implement projects, purchases, and contracts to carry out the purposes of those programs. Existing law authorizes the department to construct, own and operate, or contract for specified types of electrical generation and energy storage facilities for these purposes.

The California Global Warming Solutions Act of 2006 establishes the State Air Resources Board as the state agency responsible for monitoring and regulating sources emitting greenhouse gases. The act requires the state board to adopt regulations to require the reporting and verification of statewide greenhouse gas emissions, as provided. The act also requires the state board to adopt greenhouse gas emissions limits and emissions reduction measures by regulation, including the use of market-based compliance mechanisms.

This bill would expressly require facilities constructed by the department or under a contract with the department for purposes of the Distributed Electricity Backup Assets Program or the Demand Side Grid Support Program to comply with the regulations adopted by the state board.

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

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

SECTION 1. Section 80710 of the Water Code is amended to read:

80710. (a) The department, in consultation with the commission, shall implement projects, purchases, and contracts to carry out the purposes of Chapter 8.9 (commencing with Section 25790) of Division 15 of the Public Resources Code, including, but not limited to, the Distributed Electricity Backup Assets Program and the Demand Side Grid Support Program.

(b) (1) In furtherance of subdivision (a) and notwithstanding any other law, the department may construct, own and operate, or contract for the construction and operation of, contract for the purchase of electricity from, or finance through loans, reimbursement agreements, or other contracts actions to secure resources for summer reliability or to preserve the option to extend the life of only the following facilities:

(A) Extension of the operating life of existing nonnuclear generating facilities planned for retirement.

(B) New emergency and temporary power generators of five megawatts or more. If a generator is operated using diesel fuel, the department shall not operate it after July 31, 2023.

(C) New energy storage systems that are located outside of the coastal zone and the jurisdiction of the San Francisco Bay Conservation and Development Commission, of 20 megawatts or more, that are capable of discharging for at least two hours.

(D) Generation facilities that are located outside of the coastal zone and the jurisdiction of the San Francisco Bay Conservation and Development Commission and use clean, zero-emission fuel technology of any size to produce electricity.

(E) Supporting the development of zero-emission generation capacity with a point of interconnection at a California balancing authority, with the majority of its capacity contracted for by a load-serving entity that has a service area primarily in California, with an operational date no later than December 31, 2024. For purposes of this subparagraph, only a facility with a net qualifying capacity of at least 50 percent of its nameplate capacity, as estimated at 8:00 p.m. on a date in September, shall be eligible.

(2) In furtherance of subdivision (a) of Section 80700, the department may reimburse electrical corporations, as defined in Section 218 of the Public Utilities Code, for the value of imported energy or import capacity products that are (A) delivered or capable of being delivered between July 1, 2022, and on or before October 31, 2023, and (B) are procured at above-market costs or in excess of procurement authorizations set by the Public Utilities Commission and above the requirements needed to serve its bundled customers in support of summer electric service reliability.

(c) Facilities, except those new energy storage systems described in subparagraph (C) of paragraph (1) of subdivision (b) that charge from the electrical grid but do not otherwise use any form of fossil fuel or fuel derived from fossil fuels, constructed by the department or under a contract with the department pursuant to this division that use any form of fossil fuel shall only operate as necessary to respond to extreme events, as defined in subdivision (b) of Section 25790.5 of the Public Resources Code, and shall not operate at any other time.

(d) Facilities constructed by the department or under a contract with the department pursuant to this division shall not constitute State Water Resources Development System facilities under Chapter 8 (commencing with Section 12930) of Part 6 of Division 6.

(e) (1) The department shall consult with the commission, the Public Utilities Commission, the Independent System Operator or other applicable California balancing authorities, and the State Air Resources Board in carrying out the purposes of this division.

(2) Beginning October 1, 2022, and at least every three months thereafter, the department shall provide an update on the investments made and being considered into the strategic reliability reserve at a commission business meeting. The President of the Public Utilities Commission or the president's designee and the President of the Independent System Operator or the president's designee shall attend the presentation.

(3) The department shall prioritize investments that do not compete with generating facilities already planned for development and disclosed by load-serving entities or local publicly owned electric utilities.

(4) In fulfilling the requirements of this division to achieve electricity reliability, the department shall prioritize investments in feasible, cost-effective zero-emission resources, and then feasible, cost-effective conventional resources.

(f) The department shall develop, execute, and implement contracts covering power generation, operation and maintenance, fuel management, site leases, power settlements, invoice verification, billing, and other associated items. The department shall also enter into contracts for external services to provide specialized expertise.

(g) (1) Contracts entered into pursuant to this division, amendments to those contracts during their terms, or contracts for services reasonably related to those contracts, and entered on or before December 31, 2023, shall not be subject to competitive bidding or any other state contracting requirements, shall not require the review, consent, or approval of the Department of General Services or any other state department or agency, and are not subject to the requirements of the State Contracting Manual, the Public Contract Code, or the personal services contracting requirements of Article 4 (commencing with Section 19130) of Chapter 5 of Part 2 of Division 5 of Title 2 of the Government Code.

(2) This subdivision shall not apply to any contract, grant, or loan entered into for purposes of this chapter that does not directly contribute to electrical grid reliability by October 31, 2027.

(3) This subdivision is inoperative December 1, 2026.

(h) For contracts entered into pursuant to this division, amendments to those contracts during their terms, or contracts for services reasonably related to those contracts, and executed after December 31, 2023, Sections 10295, 10297, and 10340 of the Public Contract Code do not apply to a contract that meets the conditions established by the department for those contracts.

(i) For contracts entered into pursuant to this division by the department after October 31, 2022, the department shall notify the commission through an investment plan of the terms, costs, and scope at a commission business meeting and the commission shall consider the investment plan for approval in a meeting held consistent with the terms of Chapter 3 (commencing with Section 25200) of Division 15 of the Public Resources Code. No less than 10 days after the commission approves the investment plan, the executive director of the commission shall give written notice to the Joint Legislative Budget Committee of the action.

(j) A contract entered into, or an approval granted by the department pursuant to this division is not subject to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) and regulations adopted pursuant to that act.

(k) Facilities constructed by the department or under a contract with the department pursuant to this division shall comply with both of the following:

(1) Regulations issued by the State Air Resources Board pursuant to Part 2 (commencing with Section 38530) of Division 25.5 of the Health and Safety Code, including the requirement to disclose emissions of greenhouse gases from facilities.

(2) Regulations issued by the State Air Resources Board pursuant to Part 5 (commencing with Section 38570) of Division 25.5 of the Health and Safety Code, including the requirement to comply with any market-based compliance mechanism established by the State Air Resources Board.

(l) The department may adopt guidelines to implement this division. The Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) does not apply to any regulation or guidelines adopted by the department pursuant to this division.