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**SB-1177 Public utilities: women, minority, disabled veteran, and LGBT business enterprises.** (2023-2024)

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**Senate Bill No. 1177**

**CHAPTER 784**

An act to amend Sections 366.2, 910.3, 8281, 8283, and 8284 of, and to add Article 6 (commencing with Section 8290) to Chapter 7 of Division 4 of, the Public Utilities Code, relating to public utilities.

[ Approved by Governor September 27, 2024. Filed with Secretary of State September 27, 2024. ]

**LEGISLATIVE COUNSEL'S DIGEST**

SB 1177, Bradford. Public utilities: women, minority, disabled veteran, and LGBT business enterprises.

(1) Existing law requires the Public Utilities Commission to require every electrical corporation, gas corporation, water corporation, wireless telecommunications service provider, electric service provider, and telephone corporation with annual gross California revenues exceeding \$25,000,000 to annually submit a detailed and verifiable plan for increasing procurement from women, minority, disabled veteran, and LGBT business enterprises (WMDVLGBT business enterprises) and an annual report to the commission regarding the implementation of programs related to procurement from WMDVLGBT business enterprises, as specified. Existing law requires the commission to require each of the above-described entities with gross annual California revenues exceeding \$15,000,000, but not more than \$25,000,000, to annually submit data in a simplified form to the commission on its procurement from WMDVLGBT business enterprises, as specified. Existing law requires the commission, by rule or order, to adopt criteria for verifying and determining the eligibility of women, minority, and LGBT business enterprises for procurement contracts, and to adopt the Department of General Services' disabled veteran business enterprise certification eligibility requirements.

This bill would require the above-described entities with annual gross California revenues exceeding \$25,000,000, and would require the above-described entities with annual gross California revenues exceeding \$15,000,000, but not more than \$25,000,000, to include certain information in the aggregate as part of each annual report or data submission described above, including, among other information, data regarding the diversity of contractor or subcontractor workforces and the total dollar amounts expended with in-state subcontractors, as provided.

This bill would require the above-described entities with annual gross California revenues exceeding \$25,000,000, and their commission-regulated subsidiaries and affiliates, to submit annually to the commission a report describing the employment of women, minority, disabled veteran, and LGBT individuals at all levels of employment within their organizations and describing the diversity, equity, and inclusion policies or activities that promote equitable recruitment and hiring, and would require those entities to furnish an annual report to the commission regarding the implementation of related programs.

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

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

(2) Existing law requires the commission to require each community choice aggregator with gross annual revenues exceeding \$15,000,000 to annually submit a report to the commission regarding its procurement from WMDVLGBT business enterprises in all categories, including, but not limited to, renewable energy, energy storage system, and smart grid projects.

This bill would require community choice aggregators to provide certain information in the aggregate as part of the above-described annual report, including, among other information, data regarding the diversity of contractor or subcontractor workforces and the total dollar amounts expended with in-state subcontractors, as provided. The bill would also require the commission to direct each community choice aggregator with gross annual revenues exceeding \$15,000,000 to annually submit to the commission a report describing the employment of women, minority, disabled veteran, and LGBT individuals at all levels of employment within its organization and the diversity, equity, and inclusion policies or activities that promote equitable recruitment and hiring, and would require those entities to furnish an annual report regarding the implementation of related programs. By imposing additional duties on community choice aggregators, the bill would impose a state-mandated local program.

(3) Existing law requires the commission to annually report to the Legislature, by September 1 of each year, on the progress of activities undertaken in the implementation of women, minority, disabled veteran, and LGBT business enterprise development programs by electrical corporations, gas corporations, water corporations, wireless telecommunications service providers, electric service providers, telephone corporations, and community choice aggregators with gross annual California revenues exceeding \$15,000,000.

This bill would authorize the commission to include, as part of that report, certain information related to attracting business for contractors and subcontractors operating in California, among other information.

(4) 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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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 366.2 of the Public Utilities Code is amended to read:

**366.2.** (a) (1) Customers shall be entitled to aggregate their electrical loads as members of their local community with community choice aggregators.

(2) Customers may aggregate their loads through a public process with community choice aggregators, if each customer is given an opportunity to opt out of the customer's community's aggregation program.

(3) If a customer opts out of a community choice aggregator's program, or has no community choice aggregation program available, that customer shall have the right to continue to be served by the existing electrical corporation or its successor in interest.

(4) The implementation of a community choice aggregation program shall not result in a shifting of costs between the customers of the community choice aggregator and the bundled service customers of an electrical corporation.

(5) A community choice aggregator shall be solely responsible for all generation procurement activities on behalf of the community choice aggregator's customers, except where other generation procurement arrangements are expressly authorized by statute.

(b) If a public agency seeks to serve as a community choice aggregator, it shall offer the opportunity to purchase electricity to all residential customers within its jurisdiction.

(c) (1) Notwithstanding Section 366, a community choice aggregator is hereby authorized to aggregate the electrical load of interested electricity consumers within its boundaries to reduce transaction costs to consumers, provide consumer protections, and leverage the negotiation of contracts. However, the community choice aggregator shall not aggregate electrical load if that load is served by a local publicly owned electric utility. A community choice aggregator may group retail electricity customers to solicit bids, broker, and contract for electricity and energy services for those customers. The community choice aggregator may enter into agreements for services to facilitate the sale and purchase of electricity and other related services. Those service agreements may be entered into by an entity authorized to be a community choice aggregator, as defined in Section 331.1.

(2) Under community choice aggregation, customer participation shall not require a positive written declaration, but each customer shall be informed of the customer's right to opt out of the community choice aggregation program. If no negative declaration is made by a customer, that customer shall be served through the community choice aggregation program. If an existing customer moves the location of the customer's electrical service within the jurisdiction of the community choice aggregator, the customer shall retain the same subscriber status as before the move, unless the customer affirmatively changes the customer's subscriber status. If the customer is moving from outside to inside the jurisdiction of the community choice aggregator, customer participation shall not require a positive written declaration, but the customer shall be informed of the customer's right to elect not to receive service through the community choice aggregator.

(3) A community choice aggregator establishing electrical load aggregation pursuant to this section shall develop an implementation plan detailing the process and consequences of aggregation. The implementation plan, and any subsequent changes to it, shall be considered and adopted at a duly noticed public hearing. The implementation plan shall contain all of the following:

- (A) An organizational structure of the program, its operations, and its funding.
- (B) Ratesetting and other costs to participants.
- (C) Provisions for disclosure and due process in setting rates and allocating costs among participants.
- (D) The methods for entering and terminating agreements with other entities.
- (E) The rights and responsibilities of program participants, including, but not limited to, consumer protection procedures, credit issues, and shutoff procedures.
- (F) Termination of the program.
- (G) A description of the third parties that will be supplying electricity under the program, including, but not limited to, information about financial, technical, and operational capabilities.
- (H) The methods for ensuring procurement from small, local, and diverse business enterprises in all categories, including, but not limited to, renewable energy, energy storage system, and smart grid projects.

(4) A community choice aggregator establishing electrical load aggregation shall prepare a statement of intent with the implementation plan. Any community choice load aggregation established pursuant to this section shall provide for all of the following:

- (A) Universal access.
- (B) Reliability.
- (C) Equitable treatment of all classes of customers.
- (D) Any requirements established by state law or by the commission concerning aggregated service, including those rules adopted by the commission pursuant to paragraph (3) of subdivision (b) of Section 8341 for the application of the greenhouse gases emission performance standard to community choice aggregators.

(5) In order to determine the cost-recovery mechanism to be imposed on the community choice aggregator pursuant to subdivisions (d), (e), and (f) that shall be paid by the customers of the community choice aggregator to prevent shifting of costs, the community choice aggregator shall file the implementation plan with the commission, and any other information requested by the commission that the commission determines is necessary to develop the cost-recovery mechanism in subdivisions (d), (e), and (f).

(6) The commission shall notify any electrical corporation serving the customers proposed for aggregation that an implementation plan initiating community choice aggregation has been filed, within 10 days of the filing.

(7) Within 90 days after the community choice aggregator establishing load aggregation files its implementation plan, the commission shall certify that it has received the implementation plan, including any additional information necessary to determine a cost-recovery mechanism. After certification of receipt of the implementation plan and any additional information requested, the commission shall then provide the community choice aggregator with its findings regarding any cost recovery that must be paid by customers of the community choice aggregator to prevent a shifting of costs as provided for in subdivisions (d), (e), and (f).

(8) An entity proposing community choice aggregation shall not furnish electricity to electricity consumers within its boundaries until the commission determines the cost recovery that must be paid by the customers of that proposed community choice

aggregation program, as provided for in subdivisions (d), (e), and (f). The commission shall designate the earliest possible effective date for implementation of a community choice aggregation program, taking into consideration the impact on any annual procurement plan of the electrical corporation that has been approved by the commission.

(9) All electrical corporations shall cooperate fully with any community choice aggregators that investigate, pursue, or implement community choice aggregation programs. Cooperation shall include providing the entities with appropriate billing and electrical load data, including, but not limited to, electrical consumption data as defined in Section 8380 and other data detailing electricity needs and patterns of usage, as determined by the commission, and in accordance with procedures established by the commission. The commission shall exercise its authority pursuant to Chapter 11 (commencing with Section 2100) to enforce the requirements of this paragraph when it finds that the requirements of this paragraph have been violated. Electrical corporations shall continue to provide all metering, billing, collection, and customer service to retail customers that participate in community choice aggregation programs. Bills sent by the electrical corporation to retail customers shall identify the community choice aggregator as providing the electrical energy component of the bill. The commission shall determine the terms and conditions under which the electrical corporation provides services to community choice aggregators and retail customers.

(10) If the commission finds that an electrical corporation has violated this section, the commission shall consider the impact of the violation on community choice aggregators.

(11) The commission shall proactively expedite the complaint process for disputes regarding an electrical corporation's violation of its obligations pursuant to this section in order to provide for timely resolution of complaints made by community choice aggregation programs, so that all complaints are resolved in no more than 180 days following the filing of a complaint by a community choice aggregation program concerning the actions of the incumbent electrical corporation. This deadline may only be extended under either of the following circumstances:

(A) Upon agreement of all of the parties to the complaint.

(B) The commission makes a written determination that the deadline cannot be met, including findings for the reason for this determination, and issues an order extending the deadline. A single order pursuant to this subparagraph shall not extend the deadline for more than 60 days.

(12) (A) An entity authorized to be a community choice aggregator, as defined in Section 331.1, that elects to implement a community choice aggregation program within its jurisdiction pursuant to this chapter, shall do so by ordinance. A city, county, or city and county may request, by affirmative resolution of its governing council or board, that another entity authorized to be a community choice aggregator act as the community choice aggregator on its behalf. If a city, county, or city and county, by resolution, requests another authorized entity be the community choice aggregator for the city, county, or city and county, that authorized entity shall be responsible for adopting the ordinance to implement the community choice aggregation program on behalf of the city, county, or city and county.

(B) Two or more entities authorized to be a community choice aggregator, as defined in Section 331.1, may participate as a group in a community choice aggregation program pursuant to this chapter, through a joint powers agency established pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code, if each entity adopts an ordinance pursuant to subparagraph (A). Pursuant to Section 6508.1 of the Government Code, members of a joint powers agency that is a community choice aggregator may specify in the joint powers agreement that, unless otherwise agreed by the members of the agency, the debts, liabilities, and obligations of the agency shall not be the debts, liabilities, and obligations, either jointly or severally, of the members of the agency. The commission shall not, as a condition of registration or otherwise, require an agency's members to voluntarily assume the debts, liabilities, and obligations of the agency to the electrical corporation unless the commission finds that the agreement by the agency's members is the only reasonable means by which the agency may establish its creditworthiness under the electrical corporation's tariff to pay charges to the electrical corporation under the tariff.

(13) Following adoption of aggregation through the ordinance described in paragraph (12), the program shall allow any retail customer to opt out and to continue to be served as a bundled service customer by the existing electrical corporation, or its successor in interest. Delivery services shall be provided at the same rates, terms, and conditions, as approved by the commission, for community choice aggregation customers and customers that have entered into a direct transaction where applicable, as determined by the commission. Once enrolled in the aggregated entity, any ratepayer that chooses to opt out within 60 days or two billing cycles of the date of enrollment may do so without penalty and shall be entitled to receive default service pursuant to paragraph (3) of subdivision (a). Customers that return to the electrical corporation for procurement services shall be subject to the same terms and conditions as are applicable to other returning direct access customers from the same class, as determined by the commission, as authorized by the commission pursuant to this code or any other law, except that those customers shall be subject to no more than a 12-month stay requirement with the electrical corporation. Any reentry fees to be imposed after the opt-out period specified in this paragraph, shall be approved by the commission and shall

reflect the cost of reentry. The commission shall exclude any amounts previously determined and paid pursuant to subdivisions (d), (e), and (f) from the cost of reentry.

(14) This section does not authorize any city or any community choice retail load aggregator to restrict the ability of retail electricity customers to obtain or receive service from any authorized electric service provider in a manner consistent with law.

(15) (A) The community choice aggregator shall fully inform participating customers at least twice within two calendar months, or 60 days, in advance of the date of commencing automatic enrollment. Notifications may occur concurrently with billing cycles. Following enrollment, the aggregated entity shall fully inform participating customers for not less than two consecutive billing cycles. Notification may include, but is not limited to, direct mailings to customers, or inserts in water, sewer, or other utility bills. Any notification shall inform customers of both of the following:

- (i) That the customer is to be automatically enrolled and that the customer has the right to opt out of the community choice aggregator without penalty.

- (ii) The terms and conditions of the services offered.

(B) The community choice aggregator may request the commission to approve and order the electrical corporation to provide the notification required in subparagraph (A). If the commission orders the electrical corporation to send one or more of the notifications required pursuant to subparagraph (A) in the electrical corporation's normally scheduled monthly billing process, the electrical corporation shall be entitled to recover from the community choice aggregator all reasonable incremental costs it incurs related to the notification or notifications. The electrical corporation shall fully cooperate with the community choice aggregator in determining the feasibility and costs associated with using the electrical corporation's normally scheduled monthly billing process to provide one or more of the notifications required pursuant to subparagraph (A).

(C) Each notification shall also include a mechanism by which a ratepayer may opt out of community choice aggregated service. The opt out may take the form of a self-addressed return postcard indicating the customer's election to remain with, or return to, electrical service provided by the electrical corporation, or another straightforward means by which the customer may elect to derive electrical service through the electrical corporation providing service in the area.

(16) A community choice aggregator shall have an operating service agreement with the electrical corporation before furnishing electric service to consumers within its jurisdiction. The service agreement shall include performance standards that govern the business and operational relationship between the community choice aggregator and the electrical corporation. The commission shall ensure that any service agreement between the community choice aggregator and the electrical corporation includes equitable responsibilities and remedies for all parties. The parties may negotiate specific terms of the service agreement, provided that the service agreement is consistent with this chapter.

(17) The community choice aggregator shall register with the commission, which may require additional information to ensure compliance with basic consumer protection rules and other procedural matters.

(18) Once the community choice aggregator's contract is signed, the community choice aggregator shall notify the applicable electrical corporation that community choice service will commence within 30 days.

(19) Once notified of a community choice aggregator program, the electrical corporation shall transfer all applicable accounts to the new supplier within a 30-day period from the date of the close of the electrical corporation's normally scheduled monthly metering and billing process.

(20) An electrical corporation shall recover from the community choice aggregator any costs reasonably attributable to the community choice aggregator, as determined by the commission, of implementing this section, including, but not limited to, all business and information system changes, except for transaction-based costs as described in this paragraph. Any costs not reasonably attributable to a community choice aggregator shall be recovered from ratepayers, as determined by the commission. All reasonable transaction-based costs of notices, billing, metering, collections, and customer communications or other services provided to an aggregator or its customers shall be recovered from the aggregator or its customers on terms and at rates to be approved by the commission.

(21) At the request and expense of any community choice aggregator, electrical corporations shall install, maintain, and calibrate metering devices at mutually agreeable locations within or adjacent to the community choice aggregator's political boundaries. The electrical corporation shall read the metering devices and provide the data collected to the community choice aggregator at the aggregator's expense. To the extent that the community choice aggregator requests a metering location that would require alteration or modification of a circuit, the electrical corporation shall only be required to alter or modify a circuit if such alteration or modification does not compromise the safety, reliability, or operational flexibility of the electrical corporation's facilities. All costs incurred to modify circuits pursuant to this paragraph shall be borne by the community choice aggregator.

(d) (1) It is the intent of the Legislature that each retail end-use customer that has purchased electricity from an electrical corporation on or after February 1, 2001, should bear a fair share of the Department of Water Resources' electricity purchase costs, and electricity purchase contract obligations incurred as of the effective date of the act adding this section, that are recoverable from electrical corporation customers in commission-approved rates. It is further the intent of the Legislature to prevent any shifting of recoverable costs between customers.

(2) The Legislature finds and declares that this subdivision is consistent with the requirements of Division 27 (commencing with Section 80000) of the Water Code and Section 360.5 of this code, and is therefore declaratory of existing law.

(e) A retail end-use customer that purchases electricity from a community choice aggregator pursuant to this section shall pay both of the following:

(1) A charge equivalent to the charges that would otherwise be imposed on the customer by the commission to recover bond-related costs pursuant to any agreement between the commission and the Department of Water Resources pursuant to Section 80110 of the Water Code, which charge shall be payable until any obligations of the Department of Water Resources pursuant to Division 27 (commencing with Section 80000) of the Water Code are fully paid or otherwise discharged.

(2) Any additional costs of the Department of Water Resources, equal to the customer's proportionate share of the Department of Water Resources' estimated net unavoidable electricity purchase contract costs as determined by the commission, for the period commencing with the customer's purchases of electricity from the community choice aggregator, through the expiration of all then existing electricity purchase contracts entered into by the Department of Water Resources.

(f) A retail end-use customer purchasing electricity from a community choice aggregator pursuant to this section shall reimburse the electrical corporation that previously served the customer for all of the following:

(1) The electrical corporation's unrecovered past undercollections for electricity purchases, including any financing costs, attributable to that customer, that the commission lawfully determines may be recovered in rates.

(2) Any additional costs of the electrical corporation recoverable in commission-approved rates, equal to the share of the electrical corporation's estimated net unavoidable electricity purchase contract costs attributable to the customer, as determined by the commission, for the period commencing with the customer's purchases of electricity from the community choice aggregator, through the expiration of all then existing electricity purchase contracts entered into by the electrical corporation.

(g) Estimated net unavoidable electricity costs paid by the customers of a community choice aggregator shall be reduced by the value of any benefits that remain with bundled service customers, unless the customers of the community choice aggregator are allocated a fair and equitable share of those benefits.

(h) (1) Any charges imposed pursuant to subdivision (e) shall be the property of the Department of Water Resources. Any charges imposed pursuant to subdivision (f) shall be the property of the electrical corporation. The commission shall establish mechanisms, including agreements with, or orders with respect to, electrical corporations necessary to ensure that charges payable pursuant to this section shall be promptly remitted to the party entitled to payment.

(2) Charges imposed pursuant to subdivisions (d), (e), and (f) shall be nonbypassable.

(i) The commission shall authorize community choice aggregation only if the commission imposes a cost-recovery mechanism pursuant to subdivisions (d), (e), (f), and (h). Except as provided by this subdivision, this section shall not alter the suspension by the commission of direct purchases of electricity from alternate providers other than by community choice aggregators, pursuant to Section 365.1.

(j) (1) The commission shall not authorize community choice aggregation until it implements a cost-recovery mechanism, consistent with subdivisions (d), (e), and (f), that is applicable to customers that elected to purchase electricity from an alternate provider between February 1, 2001, and January 1, 2003.

(2) The commission shall not authorize community choice aggregation until it has adopted rules for implementing community choice aggregation.

(k) (1) Except for nonbypassable charges imposed by the commission pursuant to subdivisions (d), (e), (f), and (h), and programs authorized by the commission to provide broader statewide or regional benefits to all customers, electric service customers of a community choice aggregator shall not be required to pay nonbypassable charges for goods, services, or programs that do not benefit either, or where applicable, both, the customer and the community choice aggregator serving the customer.

(2) The commission, the Energy Commission, an electrical corporation, or a third-party administrator shall administer any program funded through a nonbypassable charge on a nondiscriminatory basis so that the electric service customers of a

community choice aggregator may participate in the program on an equal basis with the customers of an electrical corporation.

(3) This subdivision does not modify, or prohibit the use of, charges funding programs for the benefit of low-income customers.

(l) (1) An electrical corporation shall not terminate the services of a community choice aggregator unless authorized by a vote of the full commission. The commission shall ensure that before authorizing a termination of service, that the community choice aggregator has been provided adequate notice and a reasonable opportunity to be heard regarding any electrical corporation contentions in support of termination. If the contentions made by the electrical corporation in favor of termination include factual claims, the community choice aggregator shall be afforded an opportunity to address those claims in an evidentiary hearing.

(2) Notwithstanding paragraph (1), if the Independent System Operator has transferred the community choice aggregator's scheduling coordination responsibilities to the incumbent electrical corporation, an administrative law judge or assigned commissioner, after providing the aggregator with notice and an opportunity to respond, may suspend the aggregator's service to customers pending a full vote of the commission.

(m) (1) The commission shall require each community choice aggregator with gross annual revenues exceeding fifteen million dollars (\$15,000,000) to annually submit a detailed and verifiable plan to the commission for increasing procurement from small, local, and diverse business enterprises in all categories, including, but not limited to, renewable energy, energy storage system, and smart grid projects.

(2) (A) The commission shall require each community choice aggregator with gross annual revenues exceeding fifteen million dollars (\$15,000,000) to annually submit a report to the commission regarding its procurement from women, minority, disabled veteran, and LGBT business enterprises in all categories, including, but not limited to, renewable energy, energy storage system, and smart grid projects.

(B) The report shall be in a form that the commission may require and shall be submitted by an annual date that the commission shall designate.

(C) The report shall include women, minority, disabled veteran, and LGBT business enterprises with whom a prime contractor or grantee of a community choice aggregator has engaged in contracts or subcontracts for all categories, including, but not limited to, renewable energy, energy storage system, and smart grid projects.

(3) The Legislature declares that each community choice aggregator that is not required to submit a plan pursuant to this subdivision is encouraged to voluntarily adopt a plan for increasing procurement from small, local, and diverse business enterprises in all categories.

(n) Any meeting of an entity authorized to be a community choice aggregator, as defined in Section 331.1, for the purpose of developing, implementing, or administering a program of community choice aggregation shall be conducted in the manner prescribed by the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

(o) (1) As part of each annual report required pursuant to subdivision (m), each community choice aggregator shall provide all of the following information in the aggregate:

(A) The number of new contractors and subcontractors certified pursuant to General Order 156 with which it contracted.

(B) The total dollar amounts expended with in-state contractors certified under General Order 156.

(C) The total dollar amounts expended with in-state subcontractors certified under General Order 156.

(D) The percentage of the total workforce used by contractors and subcontractors that reside in California.

(E) Data regarding the diversity of contractor or subcontractor workforces, to the extent that the data is provided voluntarily by the employees of the contractor or subcontractor.

(2) A community choice aggregator may use data provided to the commission pursuant to subdivision (b) of Section 8284 to satisfy the requirements of paragraph (1).

(p) For purposes of this section, "disabled veteran business enterprise," "LGBT business enterprise," "minority business enterprise," "renewable energy project," and "women business enterprise," are defined as in Section 8282.

**SEC. 2.** Section 910.3 of the Public Utilities Code is amended to read:

**910.3.** (a) (1) The commission shall provide a report to the Legislature on September 1 of each year, on the progress of activities undertaken by each electrical corporation, gas corporation, water corporation, wireless telecommunications service provider, electric service provider, and telephone corporation with gross annual California revenues exceeding twenty-five million dollars

(\$25,000,000), by each community choice aggregator with gross annual revenues exceeding fifteen million dollars (\$15,000,000), and by each electrical corporation, gas corporation, water corporation, wireless telecommunications service provider, electric service provider, and telephone corporation with gross annual California revenues exceeding fifteen million dollars (\$15,000,000), but not more than twenty-five million dollars (\$25,000,000), in the implementation of women, minority, disabled veteran, and LGBT business enterprise development programs pursuant to Article 5 (commencing with Section 8281) of Chapter 7 of Division 4. The report shall include information about which procurements are made with women, minority, disabled veteran, and LGBT business enterprises with at least a majority of the enterprise's workforce in California, to the extent that information is readily accessible. The commission shall recommend a program for carrying out the policy declared in Article 5 (commencing with Section 8281) of Chapter 7 of Division 4, together with recommendations for legislation that it deems necessary or desirable to further that policy. The commission shall make the report available on its internet website.

(2) (A) As part of the annual report, the commission may include an analysis of the information described in subdivision (b) of Section 8284 to gauge the efficacy of the programs established pursuant to Article 5 (commencing with Section 8281) of Chapter 7 of Division 4 in attracting business for contractors and subcontractors operating in California.

(B) If the commission includes the analysis described in subparagraph (A), the commission shall also, as part of that annual report, analyze the information provided to the commission pursuant to subdivision (a) of Section 8290.2.

(b) In regard to disabled veteran business enterprises, the commission shall ensure that the programs and legislation recommended pursuant to subdivision (a) are consistent with the disabled veteran business enterprise certification eligibility requirements imposed by the Department of General Services and that the recommendations include only those disabled veteran business enterprises certified by the Department of General Services.

**SEC. 3.** Section 8281 of the Public Utilities Code is amended to read:

**8281.** (a) The Legislature hereby finds and declares that the essence of the American economic system of private enterprise is free, open, and transparent competition. Only through free, open, and transparent competition can free markets, reasonable and just prices, and creative and innovative opportunities for growth of personal initiative and individual judgment be ensured. The preservation and expansion of that competition are basic to the economic well-being of this state and that well-being cannot be realized unless the actual and potential capacity of women, minority, disabled veteran, and LGBT business enterprises is encouraged and developed. Therefore, it is the declared policy of the state to aid the interests of women, minority, disabled veteran, and LGBT business enterprises in order to preserve reasonable and just prices and a free competitive enterprise, to ensure that a fair proportion of the total purchases and contracts or subcontracts for commodities, supplies, technology, property, and services for regulated public utilities, including, but not limited to, renewable energy, wireless telecommunications, broadband, smart grid, and rail projects, are awarded to women, minority, disabled veteran, and LGBT business enterprises, and to maintain and strengthen the overall economy of the state.

(b) (1) The Legislature finds all of the following:

(A) The opportunity for full participation in our free enterprise system by women, minority, disabled veteran, and LGBT business enterprises is essential if this state is to attain social and economic equality for those businesses and improve the functioning of the state economy. By providing more transparency on who is performing the work in the state, the state will see a broader and deeper economic impact.

(B) Public agencies and some regulated utilities that have established short- and long-range women, minority, disabled veteran, and LGBT business enterprise goals are awarding 30 percent or more of their contracts to these business enterprises.

(C) Women, minority, disabled veteran, and LGBT business enterprises have traditionally received less than a proportionate share of regulated public utility procurement contracts, especially in renewable energy, wireless telecommunications, broadband, smart grid, and rail projects.

(D) It is in the state's interest to expeditiously improve the economically disadvantaged position of women, minority, disabled veteran, and LGBT business enterprises. It is also in the state's interest to see the number of women, minority, disabled veteran, and LGBT business enterprises increase by unbundling the work with prime contractors and enabling subcontractors of the prime contractor to report their subcontracted spending with women, minority, disabled veteran, and LGBT business enterprises to further enhance the opportunities for women, minority, disabled veteran, and LGBT business enterprises.

(E) The position of these businesses can be substantially improved by providing long-range substantial goals for procurement by regulated public utilities of technology, equipment, supplies, services, materials, and construction work, especially in renewable energy, wireless telecommunications, broadband, smart grid, and rail projects, from women, minority, disabled veteran, and LGBT businesses.



(F) That procurement also benefits the regulated public utilities and consumers of the state by encouraging the expansion of the number of suppliers for procurements, thereby encouraging competition among the suppliers and promoting economic efficiency in the process.

(G) That the long-term economic viability of this state depends substantially on the ability of renewable energy, wireless telecommunications, broadband, smart grid, and rail projects to incorporate women, minority, disabled veteran, and LGBT businesses into those projects.

(H) Employment within the state benefits local communities on many different levels, including, but not limited to, the state receiving more revenue from employee taxes, more consumable expenditures, and more wealth within the state. Monitoring employment beyond women, minority, disabled veteran, and LGBT entrepreneurs expands the economic reach to all suppliers and utilities operating in the state.

(2) It is the purpose of this article to do all of the following:

(A) Encourage greater economic opportunity for women, minority, disabled veteran, and LGBT business enterprises.

(B) Promote competition among regulated public utility suppliers in order to enhance economic efficiency in the procurement of electrical, gas, water, wireless telecommunications service provider, and telephone corporation contracts and contracts of their commission-regulated subsidiaries and affiliates.

(C) Clarify and expand the program for the procurement by regulated public utilities of technology, equipment, supplies, services, materials, and construction work from women, minority, disabled veteran, and LGBT business enterprises.

**SEC. 4.** Section 8283 of the Public Utilities Code is amended to read:

**8283.** (a) The commission shall require each electrical corporation, gas corporation, water corporation, wireless telecommunications service provider, electric service provider, and telephone corporation with gross annual California revenues exceeding twenty-five million dollars (\$25,000,000), and their commission-regulated subsidiaries and affiliates, to submit annually a detailed and verifiable plan for increasing procurement from women, minority, disabled veteran, and LGBT business enterprises in all categories, including, but not limited to, renewable energy, energy storage system, wireless telecommunications, broadband, smart grid, vegetation management, and rail projects.

(b) These annual plans shall include short- and long-term goals and timetables, but not quotas, and shall include methods for encouraging both prime contractors and grantees to engage women, minority, disabled veteran, and LGBT business enterprises in subcontracts in all categories that provide subcontracting opportunities, including, but not limited to, renewable energy, energy storage system, wireless telecommunications, broadband, smart grid, vegetation management, and rail projects.

(c) The commission shall establish guidelines for all electrical corporations, gas corporations, water corporations, wireless telecommunications service providers, electric service providers, and telephone corporations with gross annual California revenues exceeding twenty-five million dollars (\$25,000,000), and their commission-regulated subsidiaries and affiliates, to be used in establishing programs pursuant to this article.

(d) Every electrical corporation, gas corporation, water corporation, wireless telecommunications service provider, electric service provider, and telephone corporation with gross annual California revenues exceeding twenty-five million dollars (\$25,000,000) shall furnish an annual report to the commission regarding the implementation of programs established pursuant to this article in a form that the commission shall require, and at the time that the commission shall annually designate.

(e) (1) The Legislature declares that each electrical corporation, gas corporation, water corporation, mobile telephony service provider, electric service provider, and telephone corporation that is not required to submit a plan pursuant to subdivision (a) is encouraged to voluntarily adopt a plan for increasing women, minority, disabled veteran, and LGBT business enterprise procurement in all categories.

(2) The Legislature declares that each cable television corporation, direct broadcast satellite provider, exempt wholesale generator contracting to sell electricity to a retail seller, distributed energy resource contractor, and energy storage system company is encouraged to voluntarily adopt a plan for increasing women, minority, disabled veteran, and LGBT business enterprise procurement and to voluntarily report activity in this area to the Legislature on an annual basis.

(f) The commission shall require each electrical corporation, gas corporation, water corporation, wireless telecommunications service provider, electric service provider, and telephone corporation with gross annual California revenues exceeding fifteen million dollars (\$15,000,000), but not more than twenty-five million dollars (\$25,000,000), to annually submit data in a simplified form to the commission on its procurement from women, minority, disabled veteran, and LGBT business enterprises in all categories, including, but not limited to, renewable energy, energy storage system, wireless telecommunications, broadband, smart grid, vegetation management, and rail projects.

(g) (1) As part of each annual report or data submission required pursuant to subdivision (d) or (f), the electrical corporation, gas corporation, water corporation, wireless telecommunications service provider, electric service provider, or telephone corporation shall provide all of the following information in the aggregate:

(A) The number of new contractors and subcontractors certified pursuant to General Order 156 with which it contracted.

(B) The total dollar amounts expended with in-state contractors certified under General Order 156.

(C) The total dollar amounts expended with in-state subcontractors certified under General Order 156.

(D) The percentage of the total workforce used by contractors and subcontractors that reside in California.

(E) Data regarding the diversity of contractor or subcontractor workforces, to the extent that the data is provided voluntarily by the employees of the contractor or subcontractor.

(2) An electrical corporation, gas corporation, water corporation, wireless telecommunications service provider, electric service provider, or telephone corporation may use data provided to the commission pursuant to subdivision (b) of Section 8284 to satisfy the requirements of paragraph (1).

(h) For purposes of this section, the following terms have the following meanings:

(1) "Distributed energy resource contractor" means any corporation or other business entity that employs anyone licensed by the Contractors State License Board to perform installations of distributed energy resources, as defined in Section 8370.

(2) "Energy storage system company" means any person or corporation operating a centralized or distributed energy storage system, as defined in Section 2835, that furnishes electricity to an electrical corporation, local publicly owned electric utility, community choice aggregator, or electric service provider within California, or that supplies electricity to a retail end-use customer of an electrical corporation, local publicly owned electric utility, community choice aggregator, or electric service provider within California.

(3) "Other business entity" has the same meaning as defined in Section 174.5 of the Corporations Code.

**SEC. 5.** Section 8284 of the Public Utilities Code is amended to read:

**8284.** (a) (1) The commission shall, by rule or order, adopt criteria for verifying and determining the eligibility of women, minority, and LGBT business enterprises for procurement contracts.

(2) The commission shall adopt the Department of General Services' disabled veteran business enterprise certification eligibility requirements for verifying and determining the eligibility of disabled veteran business enterprises for procurement contracts, and shall not deem eligible those disabled veteran business enterprises that are not certified by the Department of General Services.

(3) In initially adopting criteria for verifying and determining the eligibility of LGBT business enterprises for procurement contracts pursuant to paragraph (1), the commission shall adopt the LGBT status qualifiers created by the National Gay and Lesbian Chamber of Commerce. The commission may update these LGBT status qualifiers as appropriate.

(b) The commission shall add all of the following questions to the verification form described in General Order 156:

(1) Questions about the location of the business enterprise's headquarters.

(2) Questions about the business enterprise's operating locations in California.

(3) Questions about the percentage of the business enterprise's employees that reside in California.

(c) The commission shall develop, and require every electrical corporation, gas corporation, water corporation, wireless telecommunications service provider, electric service provider, and telephone corporation with gross annual California revenues exceeding twenty-five million dollars (\$25,000,000) and their commission-regulated subsidiaries and affiliates to implement, an outreach program to inform and recruit women, minority, disabled veteran, and LGBT business enterprises to apply for procurement contracts under this article.

**SEC. 6.** Article 6 (commencing with Section 8290) is added to Chapter 7 of Division 4 of the Public Utilities Code, to read:

**Article 6. Diversity, Equity, and Inclusion Employment Report**

**8290.** (a) In addition to Section 8281, the Legislature finds and declares both of the following:

(1) Public agencies and some regulated utilities should establish short- and long-term plans to advance diversity and equity, and include doing so in their employment practices.

(2) Encouraging utility work to be performed locally and with a reasonably proportionate number of employees from women, minority, disabled veteran, and LGBT communities, the state is better serving and financially impacting the communities they serve.

(b) It is the declared policy of the state to aid the interests of women, minority, disabled veteran, and LGBT individuals by providing access to local jobs for women, minorities, disabled veterans, and LGBT individuals through strong diversity, equity, and inclusion plans.

(c) The purpose of this article is to promote and enhance diversity, equity, and inclusion employment plans for utilities in the state by including reporting entities' workforce information in the commission's analysis of the Supplier Diversity Program's success.

**8290.2.** (a) (1) The commission shall require each electrical corporation, gas corporation, water corporation, wireless telecommunications service provider, electric service provider, and telephone corporation with gross annual California revenues exceeding twenty-five million dollars (\$25,000,000), and their commission-regulated subsidiaries and affiliates, to annually submit to the commission a report describing the employment of women, minority, disabled veteran, and LGBT individuals at all levels of employment within their organization and describing the diversity, equity, and inclusion policies or activities that promote equitable recruitment and hiring.

(2) The commission shall direct each community choice aggregator with gross annual revenues exceeding fifteen million dollars (\$15,000,000), as described in subdivision (m) of Section 366.2, to annually submit to the commission a report describing the employment of women, minority, disabled veteran, and LGBT individuals at all levels of employment within its organization and describing the diversity, equity, and inclusion policies or activities that promote equitable recruitment and hiring.

(b) Every entity specified in subdivision (a) shall furnish an annual report to the commission regarding the implementation of the programs established pursuant to this article in a form that the commission requires and at the time that the commission annually designates.

(c) (1) The Legislature declares that each community choice aggregator, electrical corporation, gas corporation, water corporation, mobile telephony service provider, electric service provider, and telephone corporation that is not required to submit a report pursuant to subdivision (a) is encouraged to voluntarily adopt a plan for increasing women, minority, disabled veteran, and LGBT employment at all levels of employment in those entities.

(2) The Legislature declares that each cable television corporation, direct broadcast satellite provider, exempt wholesale generator contracting to sell electricity to a retail seller, distributed energy resource contractor, and energy storage system company is encouraged to voluntarily adopt a plan for increasing women, minority, disabled veteran, and LGBT employment at all levels of employment in those entities.

**SEC. 7.** No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, 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.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.