

Senate Bill No. 412

CHAPTER 182

An act to amend Section 379.6 of the Public Utilities Code, relating to electricity.

[Approved by Governor October 11, 2009. Filed with
Secretary of State October 11, 2009.]

LEGISLATIVE COUNSEL'S DIGEST

SB 412, Kehoe. Electricity: self-generation incentive program.

(1) Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations and gas corporations, as defined. Existing law requires the PUC, in consultation with the State Energy Resources Conservation and Development Commission (Energy Commission), to administer, until January 1, 2012, a self-generation incentive program for distributed generation resources. The program is applicable to all eligible technologies, as determined by the PUC and subject to certain air emissions and efficiency standards, until January 1, 2008, except for solar technologies, which the PUC is required to administer separately, after January 1, 2007, pursuant to the California Solar Initiative. Commencing January 1, 2008, until January 1, 2012, existing law limits eligibility for nonsolar technologies to fuel cells and wind distributed generation technologies that meet or exceed emissions standards adopted by the State Air Resources Board (state board). Existing law authorizes the PUC, in administering the program, to include other ultraclean and low-emission distributed generation technologies, as defined.

Pursuant to decisions of the PUC, Pacific Gas and Electric Company, Southern California Edison, and Southern California Gas Company are the program administrators throughout their respective service territories and the Center for Sustainable Energy is the program administrator for the San Diego Gas and Electric Company service territory.

The California Global Warming Solutions Act of 2006 requires the State Air Resources Board (state board) to adopt a statewide greenhouse gas emissions limit equivalent to the statewide greenhouse gas emissions levels in 1990, to be achieved by 2020. Existing law prohibits any load-serving entity, as defined, and any local publicly owned electric utility, as defined, from entering into a long-term financial commitment, as defined, unless any baseload generation, as defined, complies with a greenhouse gases emission performance standard. Existing law requires the commission, in consultation with the Energy Commission and the state board, to establish a greenhouse gases emission performance standard for all baseload generation of load-serving entities.

This bill would authorize the commission to authorize the annual collection of not more than the amount authorized for the self-generation incentive program in the 2008 calendar year, through December 31, 2011. The bill would require the commission to extend the administration of the program until January 1, 2016, and, on that date, would require the commission to provide repayment of all unexpended funds collected to reduce ratepayer costs. The bill would limit the eligibility for incentives pursuant to the program to distributed energy resources that the commission, in consultation with the state board, determines will achieve reduction of greenhouse gas emissions pursuant to the California Global Warming Solutions Act of 2006.

The bill would require the PUC to ensure that distributed energy resources are made available in the program for all ratepayers. The bill would prohibit recovery of the costs of the program from ratepayers that participate in the California Alternative Rates for Energy (CARE) program. The bill would delete the authorization for the PUC, in administering the program, to include other ultraclean and low-emission distributed generation technologies.

(2) Existing law requires the Energy Commission, by November 1, 2008, and in consultation with the PUC and state board, to evaluate the costs and benefits of providing ratepayer subsidies for renewable and fossil fuel ultraclean and low-emission distributed generation.

This bill would delete that requirement.

(3) 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 program that is extended under the provisions of this bill is within the act and a decision or order of the commission implements the program requirements, a violation of these provisions would impose a state-mandated local program by creating a new crime.

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.

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

SECTION 1. Section 379.6 of the Public Utilities Code is amended to read:

379.6. (a) (1) The commission, in consultation with the Energy Commission, may authorize the annual collection of not more than the amount authorized for the self-generation incentive program in the 2008 calendar year, through December 31, 2011. The commission shall require the administration of the program for distributed energy resources originally established pursuant to Chapter 329 of the Statutes of 2000 until January 1, 2016. On January 1, 2016, the commission shall provide repayment of all

unallocated funds collected pursuant to this section to reduce ratepayer costs.

(2) The commission shall administer solar technologies separately, pursuant to the California Solar Initiative adopted by the commission in Decision 06-01-024.

(b) Eligibility for incentives under the program shall be limited to distributed energy resources that the commission, in consultation with the State Air Resources Board, determines will achieve reductions of greenhouse gas emissions pursuant to the California Global Warming Solutions Act of 2006 (Division 25.5 (commencing with Section 38500) of the Health and Safety Code).

(c) Eligibility for the funding of any combustion-operated distributed generation projects using fossil fuel is subject to all of the following conditions:

(1) An oxides of nitrogen (NO_x) emissions rate standard of 0.07 pounds per megawatthour and a minimum efficiency of 60 percent, or any other NO_x emissions rate and minimum efficiency standard adopted by the State Air Resources Board. A minimum efficiency of 60 percent shall be measured as useful energy output divided by fuel input. The efficiency determination shall be based on 100 percent load.

(2) Combined heat and power units that meet the 60-percent efficiency standard may take a credit to meet the applicable NO_x emissions standard of 0.07 pounds per megawatthour. Credit shall be at the rate of one megawatthour for each 3.4 million British thermal units (Btus) of heat recovered.

(3) The customer receiving incentives shall adequately maintain and service the combined heat and power units so that during operation, the system continues to meet or exceed the efficiency and emissions standards established pursuant to paragraphs (1) and (2).

(4) Notwithstanding paragraph (1), a project that does not meet the applicable NO_x emissions standard is eligible if it meets both of the following requirements:

(A) The project operates solely on waste gas. The commission shall require a customer that applies for an incentive pursuant to this paragraph to provide an affidavit or other form of proof, that specifies that the project shall be operated solely on waste gas. Incentives awarded pursuant to this paragraph shall be subject to refund and shall be refunded by the recipient to the extent the project does not operate on waste gas. As used in this paragraph, "waste gas" means natural gas that is generated as a byproduct of petroleum production operations and is not eligible for delivery to the utility pipeline system.

(B) The air quality management district or air pollution control district, in issuing a permit to operate the project, determines that operation of the project will produce an onsite net air emissions benefit, compared to permitted onsite emissions if the project does not operate. The commission shall require the customer to secure the permit prior to receiving incentives.

(d) In determining the eligibility for the self-generation incentive program, minimum system efficiency shall be determined either by calculating electrical and process heat efficiency as set forth in Section 216.6, or by calculating overall electrical efficiency.

(e) In administering the self-generation incentive program, the commission may adjust the amount of rebates and evaluate other public policy interests, including, but not limited to, ratepayers, and energy efficiency, peak load reduction, load management, and environmental interests.

(f) The commission shall ensure that distributed generation resources are made available in the program for all ratepayers.

(g) (1) In administering the self-generation incentive program, the commission shall provide an additional incentive of 20 percent from existing program funds for the installation of eligible distributed generation resources from a California supplier.

(2) "California supplier" as used in this subdivision means any sole proprietorship, partnership, joint venture, corporation, or other business entity that manufactures eligible distributed generation resources in California and that meets either of the following criteria:

(A) The owners or policymaking officers are domiciled in California and the permanent principal office, or place of business from which the supplier's trade is directed or managed, is located in California.

(B) A business or corporation, including those owned by, or under common control of, a corporation, that meets all of the following criteria continuously during the five years prior to providing eligible distributed generation resources to a self-generation incentive program recipient:

(i) Owns and operates a manufacturing facility located in California that builds or manufactures eligible distributed generation resources.

(ii) Is licensed by the state to conduct business within the state.

(iii) Employs California residents for work within the state.

(3) For purposes of qualifying as a California supplier, a distribution or sales management office or facility does not qualify as a manufacturing facility.

(h) The costs of the program adopted and implemented pursuant to this section shall not be recovered from customers participating in the California Alternate Rates for Energy (CARE) program.

SEC. 2. 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.