

**SENATE RULES COMMITTEE**

SB 2X1

Office of Senate Floor Analyses  
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THIRD READING

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Bill No: SB 2X1  
Author: Simitian (D)  
Amended: As introduced  
Vote: 21

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SENATE ENERGY, UTIL. & COMMUN. COMMITTEE: 8-2, 2/15/11  
AYES: Padilla, Corbett, de Leon, DeSaulnier, Pavley, Rubio, Simitian,  
Strickland  
NOES: Berryhill, Wright  
NO VOTE RECORDED: Fuller

SENATE APPROPRIATIONS COMMITTEE: 5-1, 2/23/11  
AYES: Kehoe, Alquist, Pavley, Price Steinberg  
NOES: Walters  
NOTE VOTE RECORDED: Emmerson, de Leon, Wyland

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**SUBJECT:** Energy: renewable energy resources

**SOURCE:** Author

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**DIGEST:** This bill requires investor owned utilities (IOUs), local publicly owned utilities (POUs) and energy service providers to increase purchases of renewable energy such that at least 33 percent of retail sales are procured from renewable energy resource by December 31, 2020. In the interim each entity is required to procure an average of 20 percent of renewable energy for the period of January 1, 2011 through December 31, 2016, and 33 percent by 2020. It revises certain terms used in the Renewable Energy Resource Program (RPs) and revises certain eligibility criteria for a renewable electrical generation facility. Requires the Public Utilities Commission (PUC) by January 1, 2012 to establish the quantity of electricity products from eligible renewable energy resources to be procured

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by each retail seller for specified compliance periods, sufficient to ensure that procurement of electricity products from eligible renewable energy resources achieves 25 percent of retail sales by December 31, 2016, and 33 percent of retail sales by December 31, 2020, and that retail sellers procure not less than 33 percent of retail sales in all subsequent years, as specified. Requires the PUC to design and implement an accounting system to verify compliance with the ERPs requirements by retail sellers and local publicly owned electric utilities and to adopt regulations by July 1, 2011 specifying procedures for enforcement of RPO's requirements that include a public process, as specified. Requires the PUC to submit a report to various legislation committees, as specified items concerning costs and activities conducted by electrical corporations or gas corporations by February 1 of each year. Requires the PUC by July 1, 2011 to determine the effective local carrying capacity of wind and solar energy resources on the electrical grid. Requires the Department of Fish and Game to establish an internal division with the primary purpose of performing comprehensive planning and environmental compliance services with priority given to projects involving the building of eligible renewable energy resources. Requires the Independent System Operator and other California balancing authorities to work together to integrate and interconnect eligible renewable resources to the transmission grid, as specified. Appropriates \$322,000 from the PUC reimbursement account to the PUC for additional staffing to identify, review, and approve transmission lines reasonably necessary or appropriate to facilitate achievement of the renewable portfolio standard.

**ANALYSIS:** Current law requires investor-owned utilities (IOUs) and energy service providers (ESPs) to increase existing purchases of renewable energy by one percent of sales per year such that 20 percent of retail sales, as measured by usage, are procured from eligible renewable resources by December 31, 2010. This is known as the Renewables Portfolio Standard (RPS).

Current law exempts local publicly owned utilities (POUs) from the state RPS program and instead directs these utilities to implement and enforce their own renewable energy purchase programs that recognize the intent of the Legislature to encourage increasing use of renewable resources.

Governor's Executive Orders establish a target of 33 percent of retail sales from renewable energy by 2020 and direct the Air Resources Board (ARB) to adopt a regulation by July 2010 requiring the state's load-serving entities to reach that target.

This bill requires IOUs, POU, and ESPs to increase purchases of renewable energy such that at least 33 percent of retail sales are procured from renewable energy resources by December 31, 2020. In the interim each entity would be required to procure an average of 20 percent of renewable energy for the period of January 1, 2011 through December 31, 2013; 25 percent by December 31, 2016, and 33 percent by 2020.

Current law requires renewable resources to be generated in, or delivered to, the California grid.

This bill grandfathers all contracts consummated by an IOU, ESP, or POU prior to June 1, 2010. Going forward all contracts for an electricity product would be required to meet the requirements of a “loading order” that mandates minimum and maximum quantities of three product categories (or “buckets”) which includes renewable resources directly connected to a California balancing authority or provided in real time without substitution from another energy source, energy not connected or delivered in real time yet still delivering electricity, and unbundled renewable energy credits.

Current law requires the PUC to develop, by rulemaking, a procurement process for renewable resources by IOUs which includes the determination of a benchmark for the market price (market price referent or MPR) for energy against which renewable contracts are evaluated for reasonableness in price. If the cumulative costs of those contracts exceeds specified thresholds then the IOU’s RPS purchase mandate is waived (aka cost cap).

This bill requires the PUC to adopt a process for the rank order and selection of RPS projects for the least-cost and best-fit which takes into account the indirect costs of transmission and the firming and shaping of intermittent resources, the cost of resources, and the viability of projects for the IOUs. The PUC is also required to adopt a limitation on the costs for procurement expenditures to prevent disproportionate rate impacts based on certain factors. If an IOU hits the cost limitation, the IOU can suspend procurement unless procurement can proceed without exceeding a de minimus increase in rates.

This bill allows IOUs and ESPs to apply excess generation from any compliance period to a subsequent compliance period if the generation source is from contracts of more than 10 year’s duration, not including unbundled RECs. This is commonly referred to as banking.

This bill permits IOUs to apply to the PUC to construct, own, and operate generation up to 8.25 percent of the IOU's retail sales projected for 2020.

This bill directs the CPUC to impose penalties on IOUs and ESPs for failure to meet the targets and to waive those penalties in specified instances where the IOUs or ESPs demonstrate specified factors have affected development of renewable generation including transmission and project delays beyond its control.

This bill authorizes the California Energy Commission (CEC) to issue a notice for failure to comply with the RPS by a POU and, if not corrected, refer the failure to comply to ARB which would be authorized to assess fines. Fines will remain with ARB and, upon appropriation by the Legislature, be used for reducing emissions of air pollution or greenhouse gases in the territory of the POU from which the fine was collected.

This bill requires the Department of Fish & Game to establish an internal division with the primary purpose of performing comprehensive planning and environment compliance services for renewable generation projects.

This bill requires the PUC to issue a decision on applications for transmission projects within 18 months of the date of filing a completed application.

This bill directs the CEC to study run of river, out-of-country, hydroelectric generating facilities in British Columbia relative to the definition of eligible renewable electrical generation facilities.

### Comments

According to the Senate Energy Utilities, and Communications Committee, although many now view the RPS program as one designed to reduce greenhouse gas (GHG) emissions, in fact the program was developed on the heels of state's electricity crisis which was in part due to the volatility of natural gas markets.

The statute does not reference GHG. However since the initial adoption of the RPS program, the necessity of bringing more renewable resources to the grid has been heightened as a result of the mandate that the state reduce its

GHG emissions to 1990 levels by 2020 (AB 32 [Nunez and Pavley] of 2006).

### Background

Legislation to increase the RPS goals to 33 percent has been attempted in each of the last two sessions. There has been little or no debate about the goal, but there has been great controversy over how to get there and from where the generation should be secured.

In 2009, Governor Schwarzenegger vetoed SB 14 (Simitian) which also established an RPS goal of 33 percent. The basis of the veto concerned the delivery of renewable generation from out-of-state sources which has been addressed in the current measure (and SB 722 in 2010) by instead using a loading order for renewable generation along with other conforming and program changes to ensure a smooth transition to 33 percent in a cost-effective manner.

The author's office has attempted to address the concerns of all parties to ensure a cost-effective and successful program and opines that this bill provides a clear statutory directive and pathway for private and public utilities to reach 33percent renewable energy use, facilitate the acquisition of that energy, and provides the flexibility necessary to acquire that energy in the coming decade. Additionally, it provides a clear signal to financial markets of the importance and need for renewable projects in the state.

Renewable Loading Order. In 2009, SB 14 (Simitian) was vetoed principally over perceptions that the bill imposed excessively strict limits on in-state renewable energy versus out-of-state energy that could be counted towards the RPS. In 2010 both proponents and opponents of SB 14 worked together to revise the core provisions of the bill to address the delivery issues. This bill (and SB 722) reflects that work. In place of delivery requirements this bill establishes a renewable procurement "loading order" that mandates minimum and maximum quantities of certain products (electricity) that can be used in future contracts to meet the RPS requirements. There is no specific requirement that procurement be from generation in California. Instead, it establishes procurement requirements for three product categories.

The author's office states that expanding the use of renewable energy in California would:

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- Bring green investment, expertise and jobs to California
- Improve air quality.
- Address climate change.
- Protect customers from rate manipulation by diversifying our sources of energy.
- Allow for an American foreign policy based on American values and American interests, rather than energy needs.

Reports in 2010 from the California Public Utilities Commission document the dramatic effect of setting a renewable energy portfolio standard. In the first quarter of 2010, the PUC reported that utilities “are contracting with renewable projects at an unprecedented rate.” The PUC expects utilities to provide 18 percent of their electricity from renewables in 2010, and 21percent in 2011.

“With a new governor in office and additional time to carry on the discussions from the last session, I’m optimistic we can establish the 33% standard this year,” Simitian said. “It needs to get done. And until it does, I’m on it.”

In conclusion, the author’s office states a strong renewable energy mandate will ensure that California is served by an array of energy sources, renewable and non-renewable, making California less vulnerable to price spikes in any one source, such as natural gas. The 33 percent standard also will put California in the forefront of the transition to green energy and the jobs in those emerging clean-tech businesses.

**FISCAL EFFECT:** Appropriation: Yes Fiscal Com.: Yes Local: Yes

According to the Senate Appropriations Committee:

<u>Major Provisions</u>	<u>Fiscal Impact (in thousands)</u>			<u>Fund</u>
	<u>2011-12</u>	<u>2012-13</u>	<u>2013-14</u>	
PUC oversight	\$1,500	\$2,500	\$2,500	Special *
Energy Commission oversight	\$1,450	\$1,350	\$1,350	General **

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Air Resources Board enforcement	Up to \$300 per year	Special ***
Department of Fish and Game planning and permitting	Between \$300 and \$650 per year	General / Special****
State agency energy costs	Between \$23,000 and \$42,000 by 2020	Various costs
Public Utility implementation costs	Unknown, not reimbursable	Local

\* Public Utilities Commission Utilities Reimbursement Account.

\*\* Energy Resources Program Account.

\*\*\* Air Pollution Control Fund.

\*\*\*\* Fish and Game Preservation Fund.

**SUPPORT:** (Verified 2/23/11)

American Federation of State, County and Municipal Employees

American Lung Association

American Wind Energy Association

Apollo Alliance

Breathe California

BrightSource Energy

California Center for Sustainable Energy

California Interfaith Power & Light

California League of Conservation Voters

California Wind Energy Association

Catholic Charities, Diocese of Stockton

City of Santa Clara

Clean Power Campaign

Coalition for Clean Air

Division of Ratepayer Advocates

Element Power

Environmental Entrepreneurs

enXco

First Solar

FuelCell Energy

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GE Energy  
Horizon Wind Energy  
Iberdrola Renewables  
Independent Energy Producers  
Large-scale Solar Association  
Natural Resources Defense Council  
NextEra Energy Resources  
Northern California Power Agency  
Oak Creek Energy Systems Inc.  
Ormat Technologies  
Power Company of Wyoming LLC  
San Joaquin Valley Regional Green Jobs Coalition  
Schott Solar  
Solar Millennium  
SunPower  
Terra-Gen Power  
The Solar Alliance  
The Utility Reform Network  
The Vote Solar Initiative  
Union of Concerned Scientists  
Vestas-American Wind Technology, Inc.  
3 Degrees

Support if amended:

California Municipal Utilities Association  
Glendale Water & Power  
Southern California Public Power Authority

**OPPOSITION:** (Verified 2/23/11)

Alliance for Retail Energy Markets  
California Alliance for Choice in Energy Solutions  
California Business Properties Association  
California League of Food Processors  
California Manufacturers & Technology Association  
California Retailers Association  
Chemical Industry Council of California  
Direct Energy Services, LLC  
School Project for Utility Rate Reduction  
Western States Petroleum Association

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Oppose unless Amended:

Pacific Gas & Electric Company

**ARGUMENTS IN SUPPORT:** Proponents state that, the 33 percent RPS will make California “ground zero” for renewables development and create the necessary pressure to build-out the California renewable energy market place, thus creating new jobs. Building the power plants and green infrastructure required to meet a 33 percent RPS by 2020 could pump as much as \$60 billion to the state’s stagnating economy. Between 100,000 and 235,000 new manufacturing, operations, and maintenance jobs could be created under current business conditions to meet those goals. Sales and property taxes paid on 6000 megawatts alone (about \* of the megawatts required for a 33 percent RPS) are anticipated to be more than \$1.3 billion.

The RPS is one of the most effective ways both to stimulate the construction sector through large new energy projects and create a long-term sustainable green energy sector for California’s ailing economy.

**ARGUMENTS IN OPPOSITION:** The opposition states that, “California has ambitious goals to increase renewable energy supplies in the state. It is vital that these goals be achieved in a fair and economic manner. Electricity prices are already high for California employers compared to national averages – the premium for industry is 53% and for commercial customers is 25%. The prospect of ever higher electricity prices will threaten business investment, hiring and economic recovery. California’s unemployment rate of over 12% greatly exceeds the national rate and getting Californians back to work should be our highest priority.

“....SB 1 X2 would impose unacceptable new costs on employers through an ill-conceived plan to reach 33 percent renewable energy purchases by 2020. The most serious flaws of this bill are:

- The bill does not improve the processes that make it too time-consuming and costly to site renewable projects in California where they could provide jobs and support reliable service through direct connection to the local electric grid.
- The bill would impose higher than necessary costs by restricting the use of western state renewable resources that could provide more supply, increase competition and lower costs to consumers.

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- The bill does not provide a feasible compliance pathway for direct access providers in the competitive retail energy market just reopened last year under SB 695 (Kehoe, Statutes of 2008).
- The bill does not include adequate provisions to monitor the costs of new renewable energy, to disclose these costs to the public, and to adjust the goals of the program if costs are too high.”

DLW:RJG:do 2/23/11 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

\*\*\*\* **END** \*\*\*\*