



SB-1020 Clean Energy, Jobs, and Affordability Act of 2022. (2021-2022)

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Senate Bill No. 1020

CHAPTER 361

An act to amend Section 7921.505 of the Government Code, to amend Section 38561 of the Health and Safety Code, to amend Sections 454.53 and 583 of, and to add Sections 454.59 and 739.13 to, the Public Utilities Code, and to add Division 27.5 (commencing with Section 80400) to the Water Code, relating to public resources.

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

LEGISLATIVE COUNSEL'S DIGEST

SB 1020, Laird. Clean Energy, Jobs, and Affordability Act of 2022.

The California Global Warming Solutions Act of 2006 designates 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 prepare and approve a scoping plan for achieving the maximum technologically feasible and cost-effective reductions in greenhouse gas emissions and to update the scoping plan at least once every 5 years. The act requires the state board to conduct a series of public workshops to give interested parties an opportunity to comment on the plan and requires a portion of those workshops to be conducted in regions of the state that have the most significant exposure to pollutants. The act specifically includes as regions for these workshops communities with minority populations, communities with low-income populations, or both.

This bill would instead include as regions for these workshops federal extreme nonattainment areas that have communities with minority populations, communities with low-income populations, or both.

Under existing law, it is the policy of the state that eligible renewable energy resources and zero-carbon resources supply 100% of all retail sales of electricity to California end-use customers and 100% of electricity procured to serve all state agencies by December 31, 2045.

This bill would revise that state policy to instead provide that eligible renewable energy resources and zero-carbon resources supply 90% of all retail sales of electricity to California end-use customers by December 31, 2035, 95% of all retail sales of electricity to California end-use customers by December 31, 2040, 100% of all retail sales of electricity to California end-use customers by December 31, 2045, and 100% of electricity procured to serve all state agencies by December 31, 2035, as specified.

Existing law vests the Public Utilities Commission (PUC) with regulatory authority over public utilities, including electrical corporations, while local publicly owned electric utilities are under the direction of their governing

boards. Existing law requires the PUC to ensure that facilities needed to maintain the reliability of the electrical supply remain available and operational.

Existing law establishes an Independent System Operator (ISO) as a nonprofit public benefit corporation and requires the ISO to ensure efficient use and reliable operation of the electrical transmission grid consistent with achieving planning and operating reserve criteria no less stringent than those established by the Western Electricity Coordinating Council and the North American Electric Reliability Council.

Existing law requires the State Energy Resources Conservation and Development Commission (Energy Commission), in consultation with the PUC, ISO, transmission owners, users, and consumers, to adopt a strategic plan for the state's electrical transmission grid using existing resources in order to identify and recommend actions required to implement investments needed to ensure reliability, relieve congestion, and meet future growth in load and generation.

This bill would authorize the PUC and Energy Commission, upon request of the ISO, to disclose to the ISO confidential information relating to power purchase agreements with electric generation and energy storage projects for purposes of transmission planning.

This bill would require the PUC, Energy Commission, and state board, on or before December 1, 2023, and annually thereafter, to issue a joint reliability progress report that reviews system and local reliability within the context of that state policy described above, with a particular focus on summer reliability, identifies challenges and gaps, if any, to achieving system and local reliability, and identifies the amount and cause of any delays to achieving compliance with all energy and capacity procurement requirements set by the PUC.

This bill would require the PUC to develop a definition of energy affordability, as specified, and to use energy affordability metrics to guide the development of any protections, incentives, discounts, or new programs to assist residential customers facing hardships or disconnections due to electricity or gas bills and to assess the impact of proposed rate increases on different types of residential customers.

The California Public Records Act requires a public agency, defined to mean a state or local agency, to make its public records available for public inspection and to make copies available upon request and payment of a fee, unless the public records are exempt from disclosure. The act makes specified records exempt from disclosure and provides that disclosure by a state or local agency of a public record that is otherwise exempt constitutes a waiver of the exemptions.

This bill would specify that a disclosure made through the sharing of information between the ISO and a state agency does not constitute a waiver of the exemptions.

Existing law prohibits information furnished to the PUC by a public utility, a business that is a subsidiary or affiliate of a public utility, or a corporation that holds a controlling interest in a public utility from being open to public inspection or made public, except as specified.

This bill would authorize a present officer or employee of the PUC to share information with the ISO pursuant to an agreement to treat the shared information as confidential.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

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

Because certain of the above provisions would be part of the act and a violation of a PUC action implementing this bill's requirements would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

SECTION 1. This act shall be known, and may be cited, as the Clean Energy, Jobs, and Affordability Act of 2022.

SEC. 2. Section 7921.505 of the Government Code is amended to read:

7921.505. (a) As used in this section, "agency" includes a member, agent, officer, or employee of the agency acting within the scope of that membership, agency, office, or employment.

(b) Notwithstanding any other law, if a state or local agency discloses to a member of the public a public record that is otherwise exempt from this division, this disclosure constitutes a waiver of the exemptions specified in:

(1) The provisions listed in Section 7920.505.

(2) Sections 7924.510 and 7924.700.

(3) Other similar provisions of law.

(c) This section, however, does not apply to any of the following disclosures:

(1) A disclosure made pursuant to the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code) or a discovery proceeding.

(2) A disclosure made through other legal proceedings or as otherwise required by law.

(3) A disclosure within the scope of disclosure of a statute that limits disclosure of specified writings to certain purposes.

(4) A disclosure not required by law, and prohibited by formal action of an elected legislative body of the local agency that retains the writing.

(5) A disclosure made to a governmental agency that agrees to treat the disclosed material as confidential. Only persons authorized in writing by the person in charge of the agency shall be permitted to obtain the information. Any information obtained by the agency shall only be used for purposes that are consistent with existing law.

(6) A disclosure of records relating to a financial institution or an affiliate thereof, if the disclosure is made to the financial institution or affiliate by a state agency responsible for regulation or supervision of the financial institution or affiliate.

(7) A disclosure of records relating to a person who is subject to the jurisdiction of the Department of Business Oversight, if the disclosure is made to the person who is the subject of the records for the purpose of corrective action by that person, or, if a corporation, to an officer, director, or other key personnel of the corporation for the purpose of corrective action, or to any other person to the extent necessary to obtain information from that person for the purpose of an investigation by the Department of Business Oversight.

(8) A disclosure made by the Commissioner of Business Oversight under Section 450, 452, 8009, or 18396 of the Financial Code.

(9) A disclosure of records relating to a person who is subject to the jurisdiction of the Department of Managed Health Care, if the disclosure is made to the person who is the subject of the records for the purpose of corrective action by that person, or, if a corporation, to an officer, director, or other key personnel of the corporation for the purpose of corrective action, or to any other person to the extent necessary to obtain information from that person for the purpose of an investigation by the Department of Managed Health Care.

(10) A disclosure made through the sharing of information between the Independent System Operator and a state agency.

SEC. 3. Section 38561 of the Health and Safety Code is amended to read:

38561. (a) On or before January 1, 2009, the state board shall prepare and approve a scoping plan, as that term is understood by the state board, for achieving the maximum technologically feasible and cost-effective reductions in greenhouse gas emissions from sources or categories of sources of greenhouse gases by 2020 under this division. The state board shall consult with all state agencies with jurisdiction over sources of

greenhouse gases, including the Public Utilities Commission and the State Energy Resources Conservation and Development Commission, on all elements of its plan that pertain to energy-related matters including, but not limited to, electrical generation, load based-standards or requirements, the provision of reliable and affordable electrical service, petroleum refining, and statewide fuel supplies to ensure the greenhouse gas emissions reduction activities to be adopted and implemented by the state board are complementary, nonduplicative, and can be implemented in an efficient and cost-effective manner.

(b) The plan shall identify and make recommendations on direct emissions reduction measures, alternative compliance mechanisms, market-based compliance mechanisms, and potential monetary and nonmonetary incentives for sources and categories of sources that the state board finds are necessary or desirable to facilitate the achievement of the maximum feasible and cost-effective reductions of greenhouse gas emissions by 2020.

(c) In making the determinations required by subdivision (b), the state board shall consider all relevant information pertaining to greenhouse gas emissions reduction programs in other states, localities, and nations, including the northeastern states of the United States, Canada, and the European Union.

(d) The state board shall evaluate the total potential costs and total potential economic and noneconomic benefits of the plan for reducing greenhouse gases to California's economy, environment, and public health, using the best available economic models, emission estimation techniques, and other scientific methods.

(e) In developing its plan, the state board shall take into account the relative contribution of each source or source category to statewide greenhouse gas emissions, and the potential for adverse effects on small businesses, and shall recommend a de minimis threshold of greenhouse gas emissions below which emissions reduction requirements will not apply.

(f) In developing its plan, the state board shall identify opportunities for emissions reduction measures from all verifiable and enforceable voluntary actions, including, but not limited to, carbon sequestration projects and best management practices.

(g) The state board shall conduct a series of public workshops to give interested parties an opportunity to comment on the plan. The state board shall conduct a portion of these workshops in regions of the state that have the most significant exposure to air pollutants, including, but not limited to, areas designated as federal extreme nonattainment that have communities with minority populations, communities with low-income populations, or both.

(h) The state board shall update its plan for achieving the maximum technologically feasible and cost-effective reductions of greenhouse gas emissions at least once every five years.

SEC. 4. Section 454.53 of the Public Utilities Code is amended to read:

454.53. (a) It is the policy of the state that eligible renewable energy resources and zero-carbon resources supply 90 percent of all retail sales of electricity to California end-use customers by December 31, 2035, 95 percent of all retail sales of electricity to California end-use customers by December 31, 2040, 100 percent of all retail sales of electricity to California end-use customers by December 31, 2045, and 100 percent of electricity procured to serve all state agencies by December 31, 2035. The achievement of this policy for California shall not increase carbon emissions elsewhere in the western grid and shall not allow resource shuffling. The commission and Energy Commission, in consultation with the State Air Resources Board, shall take steps to ensure that a transition to a zero-carbon electric system for the State of California does not cause or contribute to greenhouse gas emissions increases elsewhere in the western grid, and is undertaken in a manner consistent with clause 3 of Section 8 of Article I of the United States Constitution. The commission, the Energy Commission, the State Air Resources Board, and all other state agencies shall incorporate this policy into all relevant planning.

(b) The commission, Energy Commission, State Air Resources Board, and all other state agencies shall ensure that actions taken in furtherance of subdivision (a) do all of the following:

(1) Maintain and protect the safety, reliable operation, and balancing of the electric system.

(2) Prevent unreasonable impacts to electricity, gas, and water customer rates and bills resulting from implementation of this section, taking into full consideration the economic and environmental costs and benefits of renewable energy and zero-carbon resources.

(3) To the extent feasible and authorized under law, lead to the adoption of policies and taking of actions in other sectors to obtain greenhouse gas emission reductions that ensure equity between other sectors and the

electricity sector.

(4) Not affect in any manner the rules and requirements for the oversight of, and enforcement against, retail sellers and local publicly owned utilities pursuant to the California Renewables Portfolio Standard Program (Article 16 (commencing with Section 399.11) of Chapter 2.3) and Sections 454.51, 454.52, 9621, and 9622.

(c) Nothing in this section shall affect a retail seller's obligation to comply with the federal Public Utility Regulatory Policies Act of 1978 (16 U.S.C. Sec. 2601 et seq.).

(d) The commission, Energy Commission, and State Air Resources Board shall do all of the following:

(1) Use programs authorized under existing statutes to achieve the policy described in subdivision (a).

(2) In consultation with all California balancing authorities, as defined in subdivision (d) of Section 399.12, as part of a public process, issue a joint report to the Legislature by January 1, 2021, and at least every four years thereafter. The joint report shall include all of the following:

(A) A review of the policy described in subdivision (a) focused on technologies, forecasts, then-existing transmission, and maintaining safety, environmental and public safety protection, affordability, and system and local reliability.

(B) An evaluation identifying the potential benefits and impacts on system and local reliability associated with achieving the policy described in subdivision (a).

(C) An evaluation identifying the nature of any anticipated financial costs and benefits to electric, gas, and water utilities, including customer rate impacts and benefits.

(D) The barriers to, and benefits of, achieving the policy described in subdivision (a).

(E) Alternative scenarios in which the policy described in subdivision (a) can be achieved and the estimated costs and benefits of each scenario.

(3) On or before December 1, 2023, and annually thereafter, in consultation with California balancing authorities, as defined in subdivision (d) of Section 399.12, and as part of, or an interim addendum to, the quadrennial joint report required by paragraph (2), as applicable, issue a joint reliability progress report that reviews system and local reliability within the context of the policy described in subdivision (a), with a particular focus on summer reliability. The joint reliability progress report shall identify challenges and gaps, if any, to achieving system and local reliability and identify the amount and cause of any delays to achieving compliance with all energy and capacity procurement requirements set by the commission.

(e) Nothing in this section authorizes the commission to establish any requirements on a nonmobile self-cogeneration or cogeneration facility that served onsite load, or that served load pursuant to an over-the-fence arrangement if that arrangement existed on or before December 20, 1995.

(f) This section does not limit any entity, including local governments, from accelerating their achievement of the state's electric sector decarbonization targets.

SEC. 5. Section 454.59 is added to the Public Utilities Code, to read:

454.59. (a) This section applies to the obligations on a state agency, except the State Water Resources Development System commonly known as the State Water Project, imposed pursuant to subdivision (a) of Section 454.53.

(b) Each state agency shall ensure that zero-carbon resources and eligible renewable energy resources supply 100 percent of electricity procured on its behalf by December 31, 2035.

(c) A state agency may satisfy the requirement in subdivision (b) by doing one or more of the following:

(1) Installing zero-carbon resources or eligible renewable energy resources behind the customer meter on state-owned or state-leased buildings to serve the state agency's onsite load.

(2) Procuring zero-carbon resources or eligible renewable energy resources through the local publicly owned electric utility or load-serving entity, as defined in Section 380, providing retail service to the state agency, subject to any credit or collateral requirements or other applicable requirements imposed by the local publicly

owned electric utility or load-serving entity, as defined in Section 380, as a condition for procurement on behalf of a customer.

(3) Participating in a voluntary shared renewable or green pricing program offered by a local publicly owned electric utility or load-serving entity, as defined in Section 380, if the resources serving the state agency satisfy the requirements of subdivision (d).

(d) New procurement commitments made on behalf of a state agency by its retail seller or local publicly owned electric utility after June 1, 2022, for zero-carbon resources or eligible renewable energy resources to serve the state agency pursuant to subdivision (c) shall satisfy all of the following criteria:

(1) The zero-carbon resource or eligible renewable energy resource shall be newly developed as a result of contracting and reach initial commercial operations on or after January 1, 2023.

(2) An eligible renewable energy resource or storage product shall be required to satisfy either of the criteria specified in paragraph (1) of subdivision (b) of Section 399.16.

(3) The zero-carbon resource or eligible renewable energy resource shall be located within California.

(4) The retail seller or local publicly owned electric utility shall require its contractors to use a multicraft project labor agreement, as defined in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract Code, for construction of the zero-carbon resource or eligible renewable energy resource. The project labor agreement shall conform to the industry standard agreements recently used for other similar private projects, including side letters for high-voltage transmission and related work.

(5) The retail seller or local publicly owned electric utility shall exclude the retail sales to a state agency customer from any compliance obligations relating to zero-carbon resources or eligible renewable resources, including, but not limited to, obligations pursuant to Section 399.25 or 399.30.

(6) Any renewable energy credits or environmental attributes associated with incremental procurement pursuant to this section shall be retired on behalf of the state agency customer and shall not be further sold, transferred, or otherwise monetized for any purpose.

(e) Zero-carbon resource or eligible renewable energy resource procurement commitments made on behalf of a state agency shall give preference to resource options expected to yield maximum long-term employment, stimulate new economic activity, generate local and state tax revenues, and assist with the development of new industries.

SEC. 6. Section 583 of the Public Utilities Code is amended to read:

583. (a) No information furnished to the commission by a public utility, a business that is a subsidiary or affiliate of a public utility, or a corporation that holds a controlling interest in a public utility, except those matters specifically required to be open to public inspection by this part, shall be open to public inspection or made public, except on order of the commission or by the commission or a commissioner in the course of a hearing or proceeding. A present or former officer or employee of the commission who divulges that information is guilty of a misdemeanor.

(b) Notwithstanding subdivision (a) or any other law, a present officer or employee of the commission may share information with the Independent System Operator pursuant to an agreement to treat the shared information as confidential.

SEC. 7. Section 739.13 is added to the Public Utilities Code, to read:

739.13. (a) The commission shall develop a definition of energy affordability.

(b) The definition of energy affordability shall establish energy affordability metrics based on household income and include the combined impact of electricity and gas bills.

(c) The commission shall use energy affordability metrics for both of the following purposes:

(1) To guide the development of any protections, incentives, discounts, or new programs to assist residential customers facing hardships or disconnections due to electricity or gas bills.

(2) To assess the impact of proposed rate increases on different types of residential customers.

SEC. 8. Division 27.5 (commencing with Section 80400) is added to the Water Code, to read:

DIVISION 27.5. State Water Project Energy Procurement

80400. (a) (1) The department shall procure eligible renewable energy resources and zero-carbon resources to satisfy the state agency obligations imposed on the State Water Resources Development System, commonly known as the State Water Project, pursuant to subdivision (a) of Section 454.53 of the Public Utilities Code.

(2) If the department determines that the full achievement of the state agency obligations imposed on the State Water Resources Development System would require the early termination of an existing contract to procure fossil generation entered before January 1, 2010, and that early termination would result in significant uneconomic costs, the department may defer procuring zero-carbon electricity resource quantities equal to the amount of electricity provided under the existing contract until no later than December 31, 2040.

(3) In the event that extraordinary circumstances, catastrophic events, considerable supply chain disruptions and equipment shortages, or threats of significant economic harm render full achievement of the obligations imposed on the State Water Resources Development System pursuant to subdivision (a) of Section 454.53 of the Public Utilities Code infeasible, the Governor may adjust the applicable deadline for the department's compliance to the earliest feasible date, but that date shall be no later than December 31, 2040.

(b) The department may satisfy all or a portion of the obligation on the State Water Resources Development System pursuant to subdivision (a) of Section 454.53 of the Public Utilities Code by installing zero-carbon resources or eligible renewable energy resources behind the meter on the State Water Resources Development System property or properties to service its load.

(c) All resources procured pursuant to subdivision (a) after February 1, 2022, shall satisfy both of the following criteria:

(1) The eligible renewable energy resources and zero-carbon resources shall either be newly developed as a result of contracting by the department or constitute incremental production from existing resources and reach initial commercial operations on or after January 1, 2023. This requirement may be satisfied if the resource is newly developed by a local publicly owned electric utility with the expectation that the output would be sold to the department in support of the State Water Resources Development System.

(2) The eligible renewable energy resources and zero-carbon resources shall be located within California or have a first point of interconnection to a California balancing authority.

(d) In conducting procurement pursuant to subdivision (a), the department shall consider all of the following:

(1) Procurement commitments that may yield maximum long-term employment, stimulate new economic activity, generate local and state tax revenues, and assist with the development of new industries.

(2) Attributes, including resource adequacy, flexibility, and integration value, the ability to provide firm clean electricity, and local air quality benefits.

(3) The results of integrated resource planning modeling conducted by the Public Utilities Commission pursuant to Section 454.52 of the Public Utilities Code.

(e) The department shall consider doing all of the following to reduce the costs of any procurement made pursuant to this section:

(1) Coordinate with the California Infrastructure and Economic Development Bank to make low-cost financing assistance available to new projects included in any procurement commitments.

(2) Coordinate with other state agencies to identify incentives from existing programs for new projects included in any procurement commitments.

(3) If reasonably expected to provide incremental benefits, secure an ownership stake or royalties for any project or economic activity resulting from a contractual commitment.

(f) All resources procured pursuant to this section shall be used first to meet the department's own electricity needs. A renewable energy credit, as defined in Section 399.12 of the Public Utilities Code, associated with the electricity used to satisfy the obligations of the department and the State Water Resources Development System under this section shall be retired and shall not be transferred or resold.

(g) The department shall enter into an agreement to procure energy from a new energy generation facility only if the seller requires its contractors to use a multicraft project labor agreement, as defined in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract Code, for construction of the facility. Those project labor agreements shall conform to the industry standard agreements recently used for other similar private projects, including side letters for high-voltage transmission and related work.

SEC. 9. The Legislature finds and declares that Section 2 of this act, which amends Section 7921.505 of the Government Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

This act protects market-sensitive procurement information from public disclosure to protect fair competition and prevent market manipulation, while enabling the Independent System Operator and a state agency to share with each other otherwise confidential information for purposes of ensuring electrical system reliability. Further, the Legislature endorses the Public Utilities Commission's findings and governing rules adopted after the 2000-01 energy crisis for protecting and accessing confidential market-sensitive information, as specified in Public Utilities Commission Decisions 06-06-66, 06-12-030, 07-05-032, 08-04-023, 09-12-020, 11-07-028, and 20-07-005.

SEC. 10. 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.