

AMENDED IN SENATE MAY 4, 2021
AMENDED IN SENATE APRIL 13, 2021
AMENDED IN SENATE MARCH 9, 2021

SENATE BILL

No. 612

Introduced by Senator Portantino

(Coauthors: Senators Allen, Becker, Limón, McGuire, Stern, and Wiener)

(Coauthors: Assembly Members Bauer-Kahan, Berman, Bloom, Boerner Horvath, Chiu, Kalra, Lee, Levine, Mullin, Muratsuchi, Robert Rivas, Stone, Ting, and Wood)

February 18, 2021

An act to add Section 366.4 to the Public Utilities Code, relating to electricity.

LEGISLATIVE COUNSEL'S DIGEST

SB 612, as amended, Portantino. Electrical corporations and other load-serving entities: allocation of legacy resources.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations. Existing law authorizes the commission to fix the rates and charges for every public utility and requires that those rates and charges be just and reasonable.

Existing law requires the commission to authorize and facilitate direct transactions between electric service providers and retail end-use customers, but suspends direct transactions except as expressly authorized. Existing law expressly requires the commission to authorize direct transactions for nonresidential end-use customers, subject to an annual maximum allowable total kilowatthour limit established, as

specified, for each electrical corporation, to be achieved following a now-completed 3-to-5-year phase-in period. Existing law requires the commission, on or before June 1, 2019, to issue an order specifying, among other things, an increase in the annual maximum allowable total kilowatthour limit by 4,000 gigawatthours and to apportion that increase among the service territories of the electrical corporations. Existing law requires the commission, by June 1, 2020, to provide the Legislature with recommendations on the adoption and implementation of a 2nd direct transactions reopening schedule and requires that the commission make specified findings with respect to those recommendations, including that the recommendations do not cause undue shifting of costs to bundled service customers of an electrical corporation or to direct transaction customers.

Existing law authorizes a community choice aggregator to aggregate the electrical load of interested electricity consumers within its boundaries and requires a community choice aggregator to file an implementation plan with the commission in order for the commission to determine a cost-recovery mechanism to be imposed on the community choice aggregator to prevent a shifting of costs to an electrical corporation's bundled customers. Existing law requires that the bundled retail customers of an electrical corporation not experience any cost increase as a result of the implementation of a community choice aggregator program and requires the commission to ensure that the departing load does not experience any cost increases as a result of an allocation of costs that were not incurred on behalf of the departing load.

Pursuant to existing law, the commission has adopted decisions and orders imposing certain costs ~~on that are collected as a nonbypassable charge on distribution from~~ customers of an electrical corporation that depart from receiving bundled electrical service from an electrical corporation to instead receive electric service from an electric service provider or a community choice aggregator.

This bill would require an electrical corporation, by July 1, 2022, and not less than once every 3 years thereafter, to offer an allocation of ~~each product, as defined, arising from legacy resources, as defined, certain electrical resources~~ to its bundled customers and to other load-serving entities, ~~defined to include~~ *including* electric service providers and community choice aggregators, ~~serving that serve~~ departing load ~~customers, as defined, customers~~ who bear cost responsibility for those resources. The bill would authorize a load-serving entity within the

service territory of the electrical corporation to elect to receive all or a portion of the vintaged proportional share of ~~products~~ *those legacy resources* allocated to its end-use customers and, ~~if so, it so elects,~~ *would* require it to pay to the electrical corporation the commission-established market price benchmark for the vintage proportional share of ~~products~~ *the resources* received. ~~The bill would require that an electrical corporation offer the products allocated to departing load customers that a load-serving entity declines to elect to receive in the wholesale market through regular solicitations and require that all revenues received through these solicitations be credited toward reducing any nonbypassable charge paid by bundled and departing load customers to recover the costs of legacy resources.~~ The bill would require the commission to recognize and account for the value of all products in the electrical corporation’s legacy resource portfolio in determining the nonbypassable charge to be paid by bundled and departing load customers to recover the costs of legacy resources.

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 provisions of this bill would be a part of the act and because a violation of a commission action implementing its 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.
State-mandated local program: yes.

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

- 1 SECTION 1. Section 366.4 is added to the Public Utilities
- 2 Code, to read:
- 3 366.4. (a) For purposes of this section, the following
- 4 definitions apply:
- 5 (1) “Departing Load customer” means a customer of an electrical
- 6 corporation that departs from receiving electric service from an

1 electrical corporation to instead receive electric service from
2 another load-serving entity.

3 (2) “Legacy resource” means any generation resource or
4 agreement to purchase electricity for delivery to end-use customers
5 in California that was procured by an electrical corporation solely
6 on behalf of the electrical corporation’s end-use customers it served
7 at the time of procurement and that is eligible for recovery to
8 prevent cost shifting among the customers of load-serving entities.

9 (3) “Load-serving entity” has the same meaning as defined in
10 Section 380.

11 (4) “Product” means electrical resources procured to meet the
12 resource adequacy requirements of Section 380, electrical resources
13 procured to meet the requirements of the California Renewables
14 Portfolio Standard Program (Article 16 (commencing with Section
15 399.11)), *including the attributes of these resources required to*
16 *comply with paragraph (1) of subdivision (b) of Section 399.13,*
17 *and electrical resources that do not emit greenhouse gases, and*
18 ~~any new generating attributes identified after January 1, 2021, that~~
19 ~~have regulatory compliance or other identified market value.~~ *gases.*

20 (5) “Vintage” means the cost responsibility allocated by the
21 commission, for purposes of legacy resource cost responsibility,
22 to departing load customers, which the commission allocates to
23 those departing load customers corresponding to the year the
24 customer departs from receiving electric service from the electrical
25 corporation.

26 (b) (1) By July 1, 2022, and not less than once every three years
27 thereafter, the commission shall require an electrical corporation
28 to offer an allocation of each product arising from legacy resources
29 to its bundled customers and to other load-serving entities serving
30 departing load customers who bear cost responsibility for those
31 resources.

32 (2) The electrical corporation shall offer this allocation in an
33 amount up to each customer’s proportional share of legacy
34 resources in the customer’s vintage, as determined by the
35 commission.

36 (3) The electrical corporation shall offer the products for a term
37 and in a manner that maximizes the value of the legacy resources
38 and promotes stable long-term resource and reliability planning.

39 (c) ~~(1)~~—A load-serving entity within the service territory of the
40 electrical corporation may elect to receive all or a portion of the

1 vintaged proportional share of products allocated to its end-use
2 customers and shall pay to the electrical corporation the
3 commission-established market price benchmark for the vintage
4 proportional share of products received.

5 ~~(2) The electrical corporation shall offer an allocation of eligible
6 renewable energy resources with a remaining contract or ownership
7 term of at least 10 years to load-serving entities for a duration
8 equal to the remaining term. A load-serving entity may apply these
9 allocated resources to its long-term procurement requirement
10 pursuant to subdivision (b) of Section 399.13.~~

11 ~~(3) To enable a load-serving entity to effectively align its supply
12 with its customers' requirements, the electrical corporation shall,
13 at a minimum, provide each load-serving entity electing to receive
14 an allocation the following information for each allocated product:~~

15 ~~(A) Not less than seven months before the beginning of the
16 production year, the most recent three-year historical production
17 data for the allocated products and the estimated annual production
18 profile by vintage and resource type in all hours.~~

19 ~~(B) Within 15 days following the end of each production month,
20 actual production data for the prior month.~~

21 ~~(d) (1) An electrical corporation shall offer the products
22 allocated to departing load customers that a load-serving entity
23 declines to elect to receive pursuant to subdivision (e) in the
24 wholesale market through regular solicitations. All revenues
25 received through these solicitations shall be credited toward
26 reducing any nonbypassable charge paid by bundled and departing
27 load customers to recover the costs of legacy resources.~~

28 ~~(2)~~

29 ~~(d) The commission shall recognize and account for the value
30 of all products in the electrical corporation's legacy resource
31 portfolio in determining the nonbypassable charge to be paid by
32 the bundled and departing load customers to recover the costs of
33 legacy resources.~~

34 SEC. 2. No reimbursement is required by this act pursuant to
35 Section 6 of Article XIII B of the California Constitution because
36 the only costs that may be incurred by a local agency or school
37 district will be incurred because this act creates a new crime or
38 infraction, eliminates a crime or infraction, or changes the penalty
39 for a crime or infraction, within the meaning of Section 17556 of
40 the Government Code, or changes the definition of a crime within

- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

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