

AMENDED IN SENATE OCTOBER 14, 2009  
AMENDED IN SENATE SEPTEMBER 10, 2009  
AMENDED IN SENATE SEPTEMBER 8, 2009  
AMENDED IN SENATE SEPTEMBER 2, 2009  
AMENDED IN SENATE JUNE 23, 2009  
AMENDED IN ASSEMBLY MAY 6, 2009  
AMENDED IN ASSEMBLY APRIL 14, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

## ASSEMBLY BILL

**No. 1536**

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**Introduced by Assembly Member Blakeslee**

February 27, 2009

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~~An act to add and repeal Sections 6245 and 6246 of the Public Resources Code, relating to public resources, and making an appropriation therefor. An act to amend Section 379.6 of the Public Utilities Code, relating to energy.~~

### LEGISLATIVE COUNSEL'S DIGEST

AB 1536, as amended, Blakeslee. ~~Oil and gas leases. Distributed energy resources incentive program.~~

*Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical 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.*

*This bill would instead require the PUC, in consultation with the Energy Commission, to administer the distributed energy resources incentive program for distributed generation until January 1, 2012, for the purposes of deploying distributed generation technologies that the PUC determines produce benefits for ratepayers commensurate with their contribution to the costs of the program. The bill would additionally authorize incentives to be provided pursuant to the program for energy storage systems meeting certain requirements and would delete certain combustion-operated distributed generation projects from eligibility. The bill would delete the commission's existing authority to include other ultraclean and low-emission distributed generation technologies, as defined, in the program. The bill would limit program costs to no more than \$83,000,000 per year.*

~~(1) Existing law authorizes the State Lands Commission to enter into a lease for the extraction of oil or gas from state-owned tide and submerged lands in the California Coastal Sanctuary if the commission determines that those oil and gas deposits are being drained by means of producing wells upon adjacent federal lands and if the lease is in the best interests of the state.~~

~~This bill would create the Interim Resources Management Board, consisting of the Secretary of the Natural Resources Agency, the Secretary for Environmental Protection, and the Controller. The bill would authorize the board to consider a lease, lease application, or revised lease application filed with the State Lands Commission pursuant to that provision and subsequently rejected by the commission. The bill would authorize the board to approve that lease if specified terms and conditions are met.~~

~~The bill would provide for the repeal of these provisions on January 1, 2011. The bill would set forth related declarations and findings.~~

~~(2) The bill would annually appropriate, commencing with the 2010-11 fiscal year, up to \$50,000,000 from any amounts received annually by the state from royalty payments made according to a lease or leases executed pursuant to the bill, as scheduled. The bill would provide that \$34,000,000 would be allocated to the Department of Conservation for purposes of making subvention payments under the Open Space Subvention Act of 1971 to eligible counties participating in the California Land Conservation Act of 1965, and that \$16,000,000 would be allocated to the Department of Parks and Recreation for the acquisition and operation of state parks along the coast.~~

(3) ~~The bill would appropriate, for the 2009–10 fiscal year, up to \$50,000,000 from any amounts received during that fiscal year by the state from prepaid royalty payments required to be made according to a lease executed pursuant to the bill to the State Department of Public Health, as scheduled.~~

Vote:  $\frac{2}{3}$ -majority. Appropriation: ~~yes~~-no. Fiscal committee: yes. State-mandated local program: no.

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

1     SECTION 1. Section 379.6 of the Public Utilities Code is  
2     amended to read:  
3     379.6. (a) (1) The commission, in consultation with the State  
4     Energy Resources Conservation and Development Commission,  
5     shall administer, until January 1, 2012, the self-generation incentive  
6     program for distributed generation resources *distributed energy*  
7     *resources initiative program*, originally established pursuant to  
8     Chapter 329 of the Statutes of 2000. *The distributed energy*  
9     *resources eligible for program incentives are those specified in*  
10    *subdivision (b). The purpose of the program is to deploy distributed*  
11    *energy resources that the commission determines produce benefits*  
12    *for ratepayers commensurate with their contribution to the costs*  
13    *of the program.*  
14    ~~(2) Except as provided in paragraph (3), the extension of the~~  
15    ~~program pursuant to Chapter 894 of the Statutes of 2003, as~~  
16    ~~amended by Chapter 675 of the Statutes of 2004 and Chapter 22~~  
17    ~~of the Statutes of 2005, shall apply to all eligible technologies, as~~  
18    ~~determined by the commission, until January 1, 2008.~~  
19    (3)  
20    (2) The commission shall administer solar technologies  
21    separately, ~~after January 1, 2007~~, pursuant to the California Solar  
22    Initiative adopted by the commission in *Decision 05-12-044 and*  
23    *Decision 06-01-024, as modified by Chapter 8.8 (commencing*  
24    *with Section 25780) of Division 15 of the Public Resources Code*  
25    *and Article 1 (commencing with Section 2851) of Chapter 9 of*  
26    *Part 2.*  
27    ~~(b) Commencing January 1, 2008, until January 1, 2012,~~  
28    ~~eligibility for the program pursuant to paragraphs (1) and (2) of~~  
29    ~~subdivision (a) shall be limited to fuel~~

1     (b) *Distributed energy resources that are eligible for the*  
2     *program shall be limited to the following:*

3     (1) *Fuel cells and wind distributed generation technologies that*  
4     *meet or exceed the emissions standards required under the*  
5     *distributed generation certification program requirements of Article*  
6     *3 (commencing with Section 94200) of Subchapter 8 of Chapter*  
7     *1 of Division 3 of Title 17 of the California Code of Regulations.*

8     ~~(c) Eligibility for the self-generation incentive program's level~~  
9     ~~3 incentive category shall be subject to the following conditions:~~

10    ~~(1) Commencing January 1, 2007, all combustion-operated~~  
11    ~~distributed generation projects using fossil fuel shall meet an oxides~~  
12    ~~of nitrogen (NO<sub>x</sub>) emissions rate standard of 0.07 pounds per~~  
13    ~~megawatthour and a minimum efficiency of 60 percent. A~~  
14    ~~minimum efficiency of 60 percent shall be measured as useful~~  
15    ~~energy output divided by fuel input. The efficiency determination~~  
16    ~~shall be based on 100 percent load.~~

17    ~~(2) Combined heat and power units that meet the 60-percent~~  
18    ~~efficiency standard may take a credit to meet the applicable NO<sub>x</sub>~~  
19    ~~emissions standard of 0.07 pounds per megawatthour. Credit shall~~  
20    ~~be at the rate of one megawatthour for each 3.4 million British~~  
21    ~~thermal units (Btus) of heat recovered.~~

22    ~~(3) Notwithstanding paragraph (1), a project that does not meet~~  
23    ~~the applicable NO<sub>x</sub> emissions standard is eligible if it meets both~~  
24    ~~of the following requirements:~~

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

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

1 ~~(d) In determining the eligibility for the self-generation incentive~~  
2 ~~program, minimum system efficiency shall be determined either~~  
3 ~~by calculating electrical and process heat efficiency as set forth in~~  
4 ~~Section 218.5, or by calculating overall electrical efficiency.~~

5 *(2) Energy storage systems with a storage capacity of 10*  
6 *megawatts or less that meet any of the following requirements:*

7 *(A) The energy storage system supports the integration of an*  
8 *eligible renewable energy resource pursuant to Article 16*  
9 *(commencing with Section 399.11) of Chapter 2.3.*

10 *(B) The energy storage system is capable of responding to*  
11 *dispatch and market protocols for grid reliability and stability.*

12 *(C) The energy storage system is capable of providing frequency*  
13 *or area control error regulation required to integrate intermittent*  
14 *eligible renewable energy resources and maintain reliable*  
15 *operation of the electrical grid.*

16 *(D) The energy storage system stores energy to be dispatched*  
17 *at a later time.*

18 *(c) Energy storage systems that have a storage capacity of more*  
19 *than 10 megawatts are not eligible for the program.*

20 ~~(e)~~

21 ~~(d) (1) In administering the self-generation distributed energy~~  
22 ~~resources incentive program, the commission may adjust the~~  
23 ~~amount of rebates, include other ultraclean and low-emission~~  
24 ~~distributed generation technologies, as defined in Section 353.2,~~  
25 ~~and evaluate other public policy interests, including, but not limited~~  
26 ~~to, ratepayers, and energy efficiency and environmental interests.~~

27 ~~(f) On or before November 1, 2008, the State Energy Resources~~  
28 ~~Conservation and Development Commission, in consultation with~~  
29 ~~the commission and the State Air Resources Board, shall evaluate~~  
30 ~~the costs and benefits, including air pollution, efficiency, and~~  
31 ~~transmission and distribution system improvements, of providing~~  
32 ~~ratepayer subsidies for renewable and fossil fuel "ultraclean and~~  
33 ~~low-emission distributed generation," as defined in Section 353.2,~~  
34 ~~as part of the integrated energy policy report adopted pursuant to~~  
35 ~~Chapter 4 (commencing with Section 25300) of Division 15 of the~~  
36 ~~Public Resources Code. The State Energy Resources Conservation~~  
37 ~~and Development Commission shall include recommendations for~~  
38 ~~changes in the eligibility of technologies and fuels under the~~  
39 ~~program, and whether the level of subsidy should be adjusted, after~~

1 ~~considering its conclusions on costs and benefits pursuant to this~~  
2 ~~subdivision.~~

3 (2) *Notwithstanding paragraph (1), the commission may*  
4 *authorize the expenditure of not more than eighty-three million*  
5 *dollars (\$83,000,000) per year for the program, including incentive*  
6 *payments and program administrative costs.*

7 ~~(g)~~

8 (e) (1) ~~In administering the self-generation distributed energy~~  
9 ~~resources~~ incentive program, the commission shall provide an  
10 additional incentive of 20 percent from existing program funds for  
11 the installation of ~~eligible distributed generation distributed energy~~  
12 ~~resources~~ from a California supplier.

13 (2) “California supplier” as used in this subdivision means any  
14 sole proprietorship, partnership, joint venture, corporation, or other  
15 business entity that manufactures ~~eligible distributed generation~~  
16 ~~distributed energy~~ resources in California and that meets either of  
17 the following criteria:

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

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

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

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

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

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

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**All matter omitted in this version of the bill  
appears in the bill as amended in the  
Senate September 10, 2009 (JR11)**

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