

Renewable Energy On The Rise In Calif.

Law360, New York (January 3, 2013, 1:12 PM EST) -- California continues to be a leader in promoting the use of renewable energy sources — both on the utility scale and through distributed generation. In 2012, the California State Legislature adopted bills designed to: encourage the safe production and distribution of bio-derived fuels; reduce the cost of permitting solar energy systems; promote distributed generation through net energy metering arrangements; and to provide additional funding to maximize energy use savings and renewable energy production. These bills and other energy-related bills are summarized below.

Renewable Energy — Bio-Derived Fuels

AB 1900 (Gatto) Renewable Energy Resources: Biomethane

- Health and Safety Code — amends § 25420, replaces § 2541
- Public Resources Code — adds § 25326
- Public Utilities Code — adds §§ 399.24 and 784

AB 1900 provides a variety of mandates for several state agencies designed to encourage the use of biomethane and biogas in California. AB 1900 requires the Office of Environmental Health Hazard Assessment to determine the health protective levels for all constituents of concern that appear in biogas at concentrations significantly higher than in natural gas that could pose risks to human health. The California Air Resources Board (CARB) then must determine the allowable concentrations of those constituents.

Under AB 1900, the California Public Utilities Commission (CPUC) must also establish safety standards, monitoring and reporting requirements and open pipeline access rules for biomethane. It must further adopt policies that promote in-state production and distribution of biomethane.

The Energy Resources Conservation and Development Commission (a.k.a. California Energy Commission or CEC) must hold public hearings to identify impediments to the procurement of biomethane in the state and offer solutions to those impediments in its biennial integrated energy policy report.

SB 1122 (Rubio) Energy: Renewable Bioenergy Projects

- Public Utilities Code — amends § 399.20

Under SB 1122, the CPUC must direct the investor-owned utilities (IOUs) to collectively procure at least 250 megawatts (MW) of capacity from bioenergy projects that commence operation on or after June 1, 2013, based on each IOU's proportionate share of load. The CPUC must also encourage utilities to develop and offer programs and services to facilitate development of in-state biogas.

AB 2196 (Chesbro) Renewable Energy Resources

- Public Resources Code — amends § 25741
- Public Utilities Code — adds § 399.12.6

The pre-existing California Renewables Portfolio Standard (RPS) Program, administered jointly by the CPUC and CEC, requires utilities and other retail sellers of electricity to purchase specified minimum quantities of electricity products from eligible renewable energy resources for specified compliance periods. The pre-existing Renewable Energy Resources (RER) Program aims to increase the quantity of electricity generated by renewable electrical generation facilities while protecting the reliability of the grid and obtaining the greatest environmental benefits for California residents.

This legislation amends the definition of a renewable electrical generation facility for purposes of the RER. AB 2196 sets forth conditions for the use of renewable fuels for facilities that are eligible for the RPS program based on the use of landfill gas, digester gas or another renewable fuel delivered to the facility through a common carrier pipeline.

AB 2196 also specifies that some biomethane procurement contracts prior to March 29, 2012, count in full toward the RPS program's procurement requirement. However, new requirements on the RPS eligibility of biomethane will apply to such contracts that are subsequently extended or modified or for contracts executed after March 29, 2012.

AB 523 (Valadao) Ethanol: Alternative and Renewable Fuel and Vehicle Technology Program

- Health and Safety Code — amend §§ 44272.3 and 44272.4

The CEC administers the pre-existing Alternative and Renewable Fuel and Vehicle Technology Program. This program provides grants, loans, loan guarantees and revolving loans for the development and deployment of innovative technologies that transform the fuel and vehicle sector to help attain the state's climate change goals.

Prior to AB 523, biorefiners could receive loans from the Ethanol Producer Incentive Program until July 1, 2013. This bill provides that on and after July 1, 2013, ethanol projects may only be funded if the ethanol is not derived from corn, unless the ethanol is derived from corn stover, leaves, cobs or other nonedible plant portions of the corn.

Renewable Energy — Solar Development

SB 1222 (Leno) Solar Energy: Permits

- Government Code — replaces Chapter 7.5 (commencing with § 66015) of Division 1 of Title 7

SB 1222 requires permit fees imposed by cities or counties for rooftop solar energy systems be limited to the estimated reasonable cost of providing the service for which the fee is charged. Permit fees for residential rooftop solar systems generally cannot exceed \$500 plus \$15 per kilowatt (kW) for each 1 kW above 15 kW. Fees for commercial rooftop solar systems generally cannot exceed \$1,000 plus \$7 per kW for each 1 kW between 51 kW and 250 kW and \$5 for every 1 kW above 250 kW.

SB 1222 allows fees above these specified limits only if the city or county makes a written finding in an adopted resolution or ordinance that the reasonable cost to issue the permit exceeds these limits. This legislation sunsets on Jan. 1, 2018.

AB 1801 (Campo) Land Use: Fees

- Government Code — adds § 65850.55

AB 1801 provides limitations on a city or county's ability to charge fees for a solar energy system in addition to the limitations imposed by SB 1222. Under AB 1801, the fees cannot be based on the valuation of the solar energy system, the property or the improvement or on any other factor not directly associated with the cost to issue the permit. Additionally, the fee must be identified on an invoice provided to the applicant.

Net Energy Metering and Distributed Generation

AB 2165 (Hill) Net Energy Metering: Eligible Fuel Cell Customer-Generators

- Public Utilities Code — amends § 2827.10

Under existing law, IOUs must provide a standard contract or tariff for net energy metering to eligible fuel cell customer-generators on a first-come, first-served basis, up to a specified cap. AB 2165 now requires that the customer-generator be physically located within the IOU's service territory to receive distribution, transmission or bundled service from the IOU and commence operation prior to Jan. 1, 2015.

The bill also redefines the program cap. Each IOU must now offer a tariff to each fuel cell customer-generator until the total capacity of such fuel cells in the IOU's territory reaches its proportional share of the statewide 500 MW cap, a total which may be raised by the CPUC.

AB 2514 (Bradford) Net Energy Metering

- Public Utilities Code — amends § 2827.8 and repeal § 2827.1

Electric utilities must make available to eligible customer-generators a standard contract or tariff for net energy metering on a first-come, first-served basis until the time the total capacity of eligible renewable facilities exceeds 5 percent of the utility's aggregate customer peak demand. AB 2514 requires the CPUC to complete a study by Oct. 1, 2013 to determine who benefits from and who bears the economic burden, if any, of the net energy metering program.

This study will determine the extent to which each class of ratepayers and each region of the state receiving service under the net energy metering program is paying the full cost of the services provided to them by utilities and the extent to which those customers pay their share of the costs of public purpose programs. The CPUC must report the results of the study to the legislature within 30 days of the study's completion.

SB 594 (Wolk) Energy: Net Energy Metering

- Public Utilities Code — amends §§ 2827 and 2827.10

Under the pre-existing net energy metering program, an eligible customer-generator may elect to have the servicing utility either: provide compensation for any net surplus electricity generated in a given 12-month period or allow the customer-generator to apply the net surplus electricity as a credit for electricity later supplied by the utility. SB 594 authorizes an eligible customer-generator with multiple meters to elect to aggregate the electrical load of the meters located on the property where the generation facility is located and on all property adjacent or contiguous to that property if the customer-generator solely owns, leases or rents those properties. However, customer-generators who choose to aggregate will not be able to receive net surplus compensation.

For IOUs, this authorization is conditioned upon the CPUC making a determination that such aggregation will not cause an increase in the expected revenue obligations of other customers who do not participate in the net energy metering program. For publicly owned utilities and electrical cooperatives, similar authorizations would be required by the relevant ratemaking authority. For customer-generators using fuel cells, SB 594 provides additional limitations.

In deciding whether the customer-generator is a net consumer or a net producer of electricity in the relevant period, the IOU must aggregate the electrical load of the property where the fuel cell is located with the load on all adjacent or contiguous properties, if those properties are solely owned, leased, or rented by the same customer-generator.

Energy Financing

SB 1268 (Pavley) Energy: Energy Conservation Assistance

- Public Resources Code — amends §§ 25411, 25415, 25421, 25443, and 25449.4; adds §§ 25412.5 and 25442.8

Prior to this bill, the Energy Conservation Assistance Act of 1979 required the CEC to administer the State Energy Conservation Assistance Account until Jan. 1, 2013 to provide grants and loans to local governments and public institutions to maximize energy use savings. SB 1268 extends the act until Jan. 1, 2018.

This bill also includes additional measures intended to reduce peak electricity demand and new provisions regarding loan repayment under the act. It further directs the CEC to take certain steps regarding soliciting loan applications, awarding loans in specified geographic regions and offering loans in disadvantaged communities.

SB 1268 also provides various terms regarding unexpended funds and interest rates for loans governed by the act.

SB 1128 (Padilla) Energy: Alternative Energy Financing

- Public Resources Code — amends §§ 26001, 26002, 26008, 26009, 26011, 26014, 26015, 26017, 26022, 26023, 26024, 26025, 26030, 26033, 26034, and 26035; replaces §§ 26003 and 26011.8; adds Chapter 4 (commencing with § 26050) to Division 16; repeals §§ 26001.5, 26011.5, 26011.6, 26012, 26013, 26016, 26016.5, 26020, 26021, 26026, 26027, and 26081; repeals Division 16.2 (commencing with § 26100) Revenue and Taxation Code - replaces § 6010.8

SB 1128 revises the law regarding the California Alternative Energy and Advanced Transportation Financing Authority. It requires the authority to establish programs providing financial assistance to projects for renewable energy generation facilities, combined heat and power systems, facilities designed for the production of renewable fuels and certain distributed generation, energy storage and energy efficiency technologies.

This legislation eliminates the \$1 billion limitation on the amount of outstanding indebtedness the authority may incur and authorizes the authority, until July 1, 2016, to grant financial assistance to projects that promote the utilization of advanced manufacturing. It requires the authority to study and report to the legislature on the cost benefit and efficacy in creating jobs of an exemption from sales and use taxes for certain projects.

SB 1128 also requires the California Governor's Office of Business and Economic Development, in consultation with other entities, to review and identify efficient and cost-effective methods for the state to create jobs in advanced manufacturing.

AB 1255 (Perez) Energy: Renewable Energy Resources

- Public Resources Code — amends § 25619

Prior to AB 1255, the CEC was authorized to provide \$7 million in grants to qualified counties for the development or revision of rules and policies such as general plan elements, zoning ordinances and a natural community conservation plans (so long as the county is a “plan participant”) to facilitate the development of eligible renewable energy resources and related transmission facilities.

This legislation authorizes the CEC to award a grant if a qualified county enters into a specified memorandum of understanding with the CEC in which the county agrees to participate in the development of the natural community conservation plan. AB 1255 also adds San Luis Obispo County as a qualified county.

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