

AMENDED IN SENATE MAY 20, 2021

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, Skinner,
Stern, and Wiener)**

(Coauthors: Assembly Members Bauer-Kahan, Berman, Bloom,
Boerner Horvath, Chiu, Kalra, Lee, Levine, *Low*, Mullin, Muratsuchi,
Robert Rivas, Stone, Ting, *Villapudua*, 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 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 certain electrical resources to its bundled customers and to other load-serving entities, including electric service providers and community choice aggregators, that serve departing load 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 those legacy resources allocated to its end-use customers and, if it so elects, would require it to pay to the electrical corporation the commission-established market price benchmark for the vintage proportional share of the resources received. 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
7 electrical corporation to instead receive electric service from
8 another load-serving entity.

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

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

3 (4) “Product” means electrical resources procured to meet the
4 resource adequacy requirements of Section 380, electrical resources
5 procured to meet the requirements of the California Renewables
6 Portfolio Standard Program (Article 16 (commencing with Section
7 399.11)), ~~including the attributes of these resources required to~~
8 ~~comply with paragraph (1) of subdivision (b) of Section 399.13,~~
9 and electrical resources that do not emit greenhouse gases.

10 (5) “Vintage” means the cost responsibility allocated by the
11 commission, for purposes of legacy resource cost responsibility,
12 to departing load customers, which the commission allocates to
13 those departing load customers corresponding to the year the
14 customer departs from receiving electric service from the electrical
15 corporation.

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

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

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

29 (c) (1) A load-serving entity within the service territory of the
30 electrical corporation may elect to receive all or a portion of the
31 vintaged proportional share of products allocated to its end-use
32 customers and shall pay to the electrical corporation the
33 commission-established market price benchmark for the vintage
34 proportional share of products received.

35 (2) *The electrical corporation shall offer an allocation of eligible*
36 *renewable energy resources with a remaining contract or*
37 *ownership term of at least 10 years to load-serving entities for a*
38 *duration equal to the remaining term. A load-serving entity may*
39 *apply these allocated resources to its long-term procurement*
40 *requirement pursuant to subdivision (b) of Section 399.13.*

1 (d) The commission shall recognize and account for the value
2 of all products in the electrical corporation's legacy resource
3 portfolio in determining the nonbypassable charge to be paid by
4 the bundled and departing load customers to recover the costs of
5 legacy resources.

6 SEC. 2. No reimbursement is required by this act pursuant to
7 Section 6 of Article XIII B of the California Constitution because
8 the only costs that may be incurred by a local agency or school
9 district will be incurred because this act creates a new crime or
10 infraction, eliminates a crime or infraction, or changes the penalty
11 for a crime or infraction, within the meaning of Section 17556 of
12 the Government Code, or changes the definition of a crime within
13 the meaning of Section 6 of Article XIII B of the California
14 Constitution.

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