

Date of Hearing: June 22, 2022

ASSEMBLY COMMITTEE ON UTILITIES AND ENERGY

Eduardo Garcia, Chair

SB 1020 (Laird) – As Amended May 23, 2022

SENATE VOTE: 30-8

SUBJECT: Clean Energy, Jobs, and Affordability Act of 2022

SUMMARY: Establishes interim targets to the statewide 100% clean energy policy, and requires state agencies to accelerate their 100% clean energy goal by 15 years. Also, establishes a California Affordable Decarbonization Authority (the Authority) as a nonprofit public benefit organization as a mechanism to help fund various electric utility-related programs and activities. Specifically, **this bill:**

- 1) Modifies, with respect to the provision that a portion of the scoping plan workshops be conducted in regions of the state that have the most significant exposure to air pollutants, the above-described communities to include areas designated as federal extreme nonattainment.
- 2) Authorizes the California Public Utilities Commission (CPUC) and California Energy Commission (CEC), upon request of the California Independent System Operator (CAISO), to disclose to the CAISO confidential information relating to power purchase agreements with electric generation and energy storage projects for purposes of transmission planning.
- 3) Revises state policy to include interim targets to the statewide 100% clean energy goal established under SB 100 (De León, Chapter 312, Statutes of 2018), specifically to provide 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 by December 31, 2040, and 100 percent by December 31, 2045. Additionally accelerates the 100% clean energy goal for state agencies by 15 years, from December 31, 2045 to December 31, 2030.
- 4) Requires each state agency, except the State Water Resources Development System (State Water Project), to ensure that zero-carbon resources and eligible renewable energy resources supply 100% of electricity procured on its behalf by December 31, 2030 by either:
 - a. Installing zero-carbon resources or eligible renewable energy resources on state-owned or state-leased buildings to serve the state agency's onsite load; or
 - b. Procuring zero-carbon resources or eligible renewable energy resources through the local publicly owned electric utility (POU) or load-serving entity (LSE) providing retail service to the state agency.

- 5) Requires new procurement commitments made on behalf of a state agency by its LSE or POU after June 1, 2022 to be:
 - a. Newly developed as a result of contracting and reach initial commercial operations on or after January 1, 2023.
 - b. Have a first point of interconnection with a California balancing authority, distribution facility serving end users within a California balancing authority, are scheduled from eligible renewables into a California balancing authority, or have an agreement to dynamically transfer electricity to a California balancing authority. These are colloquially referred to as “bucket 1” resources for Renewables Portfolio Standard (RPS) purposes.
 - c. Located within California and interconnected in front of a customer meter.
 - d. Constructed with contractors using multicraft project labor agreements.
 - e. Have retail sales of the state agency customer excluded from any compliance obligations of the LSE or POU, and any renewable energy credits or environmental attributes retired on behalf of the state agency customer.

- 6) Requires the CPUC and CEC to jointly authorize the establishment of the Authority as a nonprofit public benefit corporation and to take all necessary measures to create the Authority. Specifically:
 - a. Requires the Authority to be governed by an independent board of directors appointed by the Governor, Speaker of the Assembly, and Senate Committee on Rules, as specified.
 - b. Requires the Authority to maintain open meeting standards and meeting notice requirements consistent with the requirements of the Bagley-Keene Open Meeting Act and the California Public Records Act.
 - c. Establishes the Climate and Equity Trust Fund as a fund, separate and apart from all public moneys or funds of the state, and specifies the fund to consist of moneys transferred from the federal government, moneys transferred from the Greenhouse Gas Reduction Fund (GGRF), moneys from noncompliance penalties assessed by the CPUC, CEC, or the California Air Resources Board (CARB), interest earned, and any properties or securities.
 - d. Authorizes disbursements from the trust fund to be made through direct credits on ratepayer bills; direct rebates or incentives to market participants, technology vendors, technology installers, and end-use customers; and reimbursement of eligible costs incurred by LSEs or POUs in the form of matching funds.
 - e. Specifies eligible costs for reimbursement include transportation electrification programs and incentives, building electrification programs and incentives, public purpose programs, programs to promote equity and affordability for low-income customers, wildfire mitigation activities, distributed energy resource incentives, administrative and overhead costs, and any other purpose specified by the Legislature in a General Fund appropriation of money to the authority.

- f. Requires the Authority to submit annual and multiyear spending plans for review and approval to the CPUC and CEC before disbursing trust fund moneys.
- 7) Requires the State Water Project to ensure that zero-carbon resources and eligible renewable energy resources supply 100% of electricity procured on its behalf by December 31, 2030. Specifies these resources procured after February 1, 2022 to meet this obligation must:
 - a. Be newly developed as a result of contracting by the Department of Water Resources (DWR) to reach initial commercial operation on or after January 1, 2023.
 - b. Be located within California and interconnected in front of a customer meter.
 - c. Be capable of being dispatched by a California balancing authority and operated for the benefit of the balancing area.
 - d. Benefit from expedited interconnection from CAISO, other California balancing authorities, and electrical corporations.
 - e. Use multicraft project labor agreements for construction.
- 8) Directs DWR to consider cost reduction opportunities, such as coordination with the California Infrastructure and Economic Development Bank, coordination with other state agencies to identify incentives from existing programs, securing ownership stakes or royalties for any projects.
- 9) Directs DWR to invite all electrical corporations, community choice aggregators, electric service providers, and POUs to voluntarily subscribe to its procurement commitments. A subscription shall be made available at the department's cost.
- 10) Specifies all resources procured by DWR shall first meet DWR's own electricity needs, except for procured resources subject to a voluntary subscription. Additional procured resources shall meet the accelerated zero-carbon resource targets of other state agencies.

EXISTING LAW:

- 1) Establishes 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. (Public Utilities Code § 454.53)
- 2) Establishes the CAISO as a nonprofit public benefit corporation and requires the CAISO to ensure efficient use and reliable operation of the electrical transmission grid consistent with achieving planning and operating reserve criteria. (Public Utilities Code § 345.5)
- 3) Requires the CEC, in consultation with the CPUC, CAISO, transmission owners, users, and consumers, to adopt a strategic plan for the state's electrical transmission grid to ensure reliability, relieve congestion, and meet future growth in load and generation. (Public Resources Code § 25324)

- 4) Defines “load-serving entities” as electric investor-owned utilities, electric service providers, and community choice aggregators. (Public Utilities Code § 380 (k))
- 5) Designates CARB, via the California Global Warming Solutions Act of 2006, as the state agency responsible for monitoring and regulating sources emitting greenhouse gases (GHGs). Requires CARB to prepare and approve a scoping plan for achieving the maximum technologically feasible and cost-effective reductions in GHG emissions and to update the scoping plan at least once every five years. Requires CARB 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 air pollutants, including communities with minority populations, communities with low-income populations, or both. (Health and Safety Code § 38561)

FISCAL EFFECT: According to the Senate Committee on Appropriations, this bill will result in approximately \$3.5 billion in costs, of which, over a hundred million would be annual, ongoing costs. These include over \$3.3 billion estimated for DWR to procure zero carbon resources by 2030. DWR notes these costs would be *in excess* of costs to achieve SB 100 by the current 2045 deadline. Additional unknown impacts would arise from the state’s role as an electrical utility ratepayer.

BACKGROUND:

100% Clean Energy Goals – SB 100 (De León, Chapter 312, Statutes of 2018) established the 100 Percent Clean Energy Act of 2018 which increases the RPS requirement from 50% by 2030 to 60%, and creates the policy of planning to meet all of the state's retail electricity supply with a mix of RPS-eligible and zero-carbon resources by December 31, 2045, for a total of 100% clean energy. SB 100 also required CARB, CEC, and CPUC to issue a joint report by January 1, 2021, and at least every four years thereafter, that describes the costs and benefits to customer rates, as well as, barriers to achieving the SB 100 policy. The Joint Agency report was finalized on March 15, 2021, and notes it “is intended to be a first step in an iterative and ongoing effort to assess barriers and opportunities to implementing the 100 percent clean electricity policy.”¹

State Water Project – The State Water Project (SWP), operated by DWR, is both a major producer and consumer of electricity. As the largest single consumer of electricity in California, the SWP uses electricity to operate pumping plants which deliver water throughout the state. The pump load ranges from 6,000 to 9,500 gigawatt hours (GWh) depending on the water year. The SWP has a power portfolio consisting of 65% carbon-free resources, increasing to 75% by 2030 and 100% by 2045. According to DWR, approximately 50% of the SWP’s power is provided by its own emission-free hydroelectric generation. The remainder is made up of

¹ Pg. 1, CEC, CPUC, & CARB; 2021 SB 100 Joint Agency Report: *Achieving 100 Percent Clean Electricity in California: An Initial Assessment*,” March 2021.

approximately 20% contracted renewable resources, 25% CAISO market purchases, and 5% from a contract with a natural gas facility in Lodi, CA.²

State Agency Energy Usage – The State of California is an electric utility customer, purchasing roughly one percent of the state’s electricity. As such, the state incurs costs when electricity rates increase (or realizes savings when rates go down). While the SWP is the single largest consumer of electricity, the electricity usage of the remaining state agencies is not insignificant. The Department of General Services (DGS), which serves as the state’s business manager and operates most state buildings, reports electricity usage for all executive branch departments in 2018 was approximately 1,200 GWh. Of these, approximately 148 GWh were served by onsite renewables and 83 GWh by offsite renewables, such as through Sacramento Municipal Utility District’s (SMUD) SolarShares program. Of the state agencies outside of the SWP, DGS itself and the Department of Corrections were the largest electricity consumers. These state agencies are ratepayers to many LSEs and POUs throughout the state, notably SMUD which serves the Capitol and surrounding agency buildings, but also Pacific Gas & Electric, Los Angeles Department of Water and Power, Southern California Edison, and San Diego Gas and Electric, to name the major utilities.

What’s in a Utility Bill? – Costs that utilities can forecast with reasonable accuracy are examined and approved by the CPUC in general rate case (GRC) proceedings.³ In these GRC proceedings, the CPUC determines the total amount the utility is authorized to collect (the “revenue requirement”). The utilities’ authorized revenue requirements typically remain unchanged even if the utilities spend more or less than authorized by the CPUC.⁴ Approximately 63% of the utilities’ electric revenue requirements are set in GRCs at the CPUC and FERC;⁵ the remaining 37% consists of pass-through of the costs of power procurement, DWR bond charges, nuclear decommissioning trusts, Public Purpose Programs (PPP), fees, and regulatory expenses approved by the CPUC.⁶ Table 1 shows the breakdown of the major components of the electric IOUs’ 2021 revenue requirement.

Table 1: 2021 Electric IOU Authorized Costs (\$ billions)⁷

| Source | SCE | PG&E | SDG&E |
|-------------------|------|------|-------|
| Generation/Energy | 5.23 | 5.07 | 1.42 |

² DWR notes the contract with the Lodi facility is planned to be divested by 2040. If divestment is accelerated under this bill to 2030, DWR reports the contract exit would cost \$100 million alone.

³ In January 2020, the major utilities were directed by the CPUC to transition from a three-year GRC cycle to a four-year GRC cycle. D. 20-01-002

⁴ The exception to this occurs in operations covered by balancing and/or memorandum accounts which can adjust the authorized revenue requirement based on actual spending, upon CPUC approval.

⁵ FERC sets the revenue requirement for transmission assets.

⁶ Pg. 15, CPUC, *2021 California Electric and Gas Utility Costs Report: AB 67 Annual Report to the Governor and Legislature*, published April 2022.

⁷ Rounded values taken from Pg. 13, 2021 AB 67 Report.

| | | | |
|-------------------------|-------|-------|------|
| Procurement | | | |
| Distribution | 6.58 | 5.59 | 1.6 |
| Transmission | 1.25 | 2.03 | 0.73 |
| Public Purpose Programs | 0.76 | 0.62 | 0.47 |
| Bonds and Fees | 0.55 | 1.05 | 0.09 |
| Total | 14.39 | 14.38 | 4.33 |

COMMENTS:

- 1) *Author's Statement.* According to the author, "The Senate Workgroup on Climate has worked collaboratively to find common ground on impactful climate solutions, so we can truly focus on the work that must be done to address the looming peril of climate change. As someone who represents so much of California's coast, it's apparent that sea level rise and ocean acidification are already impacting infrastructure and ocean ecology. Severe water shortages from drought also weigh heavily on our most vulnerable communities."
- 2) *Updating Clean Energy Goals.* This bill revises state policy to include interim targets to reach SB 100 goals, specifically to require 90% of all retail sales of electricity to California end-use customers be RPS-eligible or zero-carbon resources by December 31, 2035 and 95% by December 31, 2040. There is currently no compliance regime in place for achieving the 100% clean energy by 2045 policy, so adding interim targets as proposed by this bill would likely be helpful.

This bill also requires each state agency to ensure that zero-carbon resources and eligible renewable energy resources supply 100% of electricity procured to serve their agency by December 31, 2030. This bill provides state agencies with two options to fulfill their clean energy requirement: (1) installing zero-carbon resources or eligible renewable energy resources onsite to serve the state agency, or (2) procuring zero carbon resources or eligible renewable energy resources from their local POU or LSE. As noted earlier, this policy would affect all state agency operations and involve most, if not all, electric utilities in the state who would need to account for the additional procurement to serve state load.

- 3) *Impacts to DWR.* This bill requires the SWP to enter into new energy procurement contracts to meet the SB 100 goals, including the proposed interim targets. The bill requires the new renewable energy and zero-carbon resources first fulfill the SWP energy needs, and secondarily, be available to help other state agencies meet their procurement requirements. Unlike the other state agencies subject to the accelerated procurement in this bill, DWR is required to procure only "in front of the meter" resources; in other

words, DWR would be prohibited from installing distributed energy resources—like rooftop solar—at its facilities to help reduce its load and meet the obligations under this bill. As a result, any procurement DWR conducts would be subject to transmission access charges, a potential cost increase. SWP costs are borne by 29 public water agencies across the state who supply 27 million Californians and 750,000 acres of agricultural land with water. The ratepayers of these public agencies would be responsible for these charges unless an alternative funding scheme were devised; this bill does not currently contemplate an alternative scheme.

- 4) *Central Procurement?* This bill would also have DWR procure contracts in excess of its own needs to either offset state agency procurement or engage in voluntary subscriptions with any LSE or POU. The mechanics of this excess procurement are unclear. For state agencies, either DWR would be helping state agencies purchase onsite clean energy, or DWR would be procuring power—and the associated renewable credits—in order to offset state agency power purchased from their local utility (whose power is not required to be 100% renewable- and zero-carbon until 2045). The SWP’s cost of this benefit to state agencies would not be a cost that could be passed along to the SWP ratepayers, as water supply contracts do not allow SWP ratepayers to be charged for costs which do not relate to their benefits or their water supply. The author may wish to consider providing authority to SWP to charge state agencies, or provide an alternate funding scheme.

For the voluntary subscriptions of LSEs and POUs, either DWR would be partnering with these utilities to collectively procure large projects, or DWR is expected to procure resources to cover any LSE or POU that desires to have some of their procurement needs met by the state, ostensibly creating a central procurement entity (CPE). If a CPE is the expectation from these voluntary subscriptions, it is likewise unclear how DWR-procured resources would impact an LSE’s or POU’s RPS or resource adequacy obligations, or whether the DWR-CPE would serve as a provider of last resort. With the additional requirement in this bill that DWR projects receive expedited interconnection treatment,⁸ the consequences of a CPE with state purchasing power and interconnection fast-track authority could drive many LSEs to forego their procurement obligations and subscribe to DWR’s procurement. Such a shift in energy market dynamics deserves additional detail and scrutiny.

- 5) *Addressing Affordability.* This bill establishes a Trust Fund to promote affordable electricity rates through disbursements of direct bill credits to customers; direct rebates or incentives to vendors, installers, or end-use customers; or through reimbursements of eligible costs incurred by LSEs or POUs. Creating a Trust Fund could be a useful mechanism to alleviate cost pressures on electric ratepayers. As noted by this committee

⁸ Additionally unclear whether state law can give preference to any entity for operations that occur under a federally-approved tariff.

in past hearings, California utility bills have been rising over the last decade. Many ratepayer-funded programs have been adding significantly to rates; these include wildfire mitigation, grid hardening, transportation electrification, and decarbonization efforts.^{9, 10}

This bill proposes to establish a nonprofit benefit corporation, the Authority, to help reduce ratepayer costs. The Authority would be able to receive funds (state budget, federal dollars, other non-ratepayer funding) that could be used to reimburse utilities and their customers from specified expenses. This bill includes a broad list of possible utility-related activities that could be funded, such as wildfire mitigation, transportation electrification, and public purpose programs, among others, to help reduce electric customer bills. However, the mechanics of the reimbursements are unclear. First, the bill provides no assurance that Trust moneys used to reimburse LSEs or POU for eligible costs result in reductions to customer bills. Presumably, the LSE or POU would have already collected the money from ratepayers to conduct the eligible work; this bill allows the LSE or POU to receive a reimbursement, effectively being paid twice for the same expense. This does not seem aligned with the author's intent, and a clarifying amendment may be helpful.

Second, while using alternative funding streams to pay for existing ratepayer-funded programs may be more equitable, it does introduce volatility (from the General Fund or GGRF) into the payment structure for many of these long-standing, ratepayer-funded programs. As currently drafted, any and all public purpose programs could be included among the activities to be funded by the Authority. However, for the most vulnerable residents who rely on low-income rate assistance programs, anticipating an annual or semi-annual credit may not be sufficient to address their needs for ongoing utility bill discounts, such as those participating in the California Alternate Rates for Energy (CARE) program. These programs are likely less suitable to the volatility of state budgets. The author may wish to consider removing low-income rate assistance programs from the list of eligible activities, to ensure their ongoing stability in providing for the most vulnerable. Third, stakeholders have raised concerns around the structure of the Authority as proposed in the bill, suggesting it more efficient to vest an existing agency—either the CPUC, the CEC, the Department of Community Services and Development, or partnerships amongst them—with the management of the Trust. Such a change could reduce administrative costs, which in this bill are paid for with money from the Trust.

- 6) *Confidential Treatment.* This bill explicitly authorizes the sharing of specified confidential information between the CEC, CPUC, and CAISO and prohibits the public

⁹ Borenstein, S., Fowle, M., and Sallee, J., “Designing Electricity Rates for an Equitable Energy Transition,” *Energy Institute at Haas* working paper WP 314, February 2021.

¹⁰ “Utility Costs and Affordability of the Grid of the Future: An Evaluation of Electric Costs, Rates, and Equity Issues Pursuant to P.U. Code Section 913.1,” CPUC, February 2021.

disclosure of this information. In September 2021, the CEC, CPUC, CARB and CAISO published a *Report to the Governor on Priority SB 100 Actions to Accelerate the Transition to Carbon-Free Energy*. The report includes a recommended change to the statute to allow the CPUC and CEC to disclose to CAISO limited confidential information related to generation and energy storage projects for statewide planning purposes, which this bill seeks to address.

The report noted that the CPUC and CEC require detailed and consistent information that is often considered confidential in order to effectively monitor project development progress. However, since the CAISO is not a state agency, legal barriers prevent the CEC and CPUC from sharing the same information with the CAISO. The report notes that any disclosure of confidential information to the CAISO by a state agency may waive confidentiality designations of market sensitive information thereby creating legal barriers that can constrain and hinder sharing. Some stakeholders in support of this data-sharing provision have raised concerns that the language in this bill may not go far enough to ensure confidential treatment, and seek further specificity, such as requiring market sensitive data be secured on separate servers at the CAISO or that the data sharing be explicitly exempted from the Public Records Act.

7) *2022-2023 Budget*. Many aspects of this bill—from data sharing between CPUC, CEC, and CAISO to DWR resource procurement—are current proposals included in the Governor’s 2022-2023 May Revision to the Budget. As development of the overall budget package solidifies over the coming months, the Legislature may wish to revisit the proposal put forward by this bill to ensure complementary, not competing or redundant, action occurs.

8) *Related Legislation*.

AB 2765 (Santiago, 2022) eliminates from electric IOU rates the costs of various programs, including utility bill discount programs for low-income customers, and instead establishes a Public Utilities Public Purpose Programs Fund in the State Treasury to fund the programs. Status: Held under submission in the Assembly Committee on Appropriations.

SB 1158 (Becker, 2022) requires every retail supplier of electricity to annually report hourly GHG emissions data to the CEC. Status: *pending hearing* in this committee on June 22nd, 2022.

SB 1203 (Becker, 2022) declares the intent of the Legislature that state agencies aim to achieve zero net emissions of GHGs resulting from their operations no later than January 1, 2035; requires each state agency to develop and publish a plan that describes its current GHG inventory, its planned actions for achieving net zero emissions, and an estimate of the costs associated with the planned actions, as specified. Status: *pending hearing* in the Assembly Committee on Natural Resources.

9) *Prior Legislation.*

SB 100 (De León) established the 100 Percent Clean Energy Act of 2017 which increases the RPS requirement from 50 percent by 2030 to 60 percent, and created the policy of planning to meet all of the state's retail electricity supply with a mix of RPS-eligible and zero-carbon resources by December 31, 2045, for a total of 100 percent clean energy. Status: Chapter 312, Statutes of 2018.

10) *Double Referral.* This bill is double-referred; upon passage in this Committee, this bill will be referred to the Assembly Committee on Natural Resources.

REGISTERED SUPPORT / OPPOSITION:**Support**

350 Silicon Valley
Active SGV
Brightline Defense
California Community Choice Association
California Native Plant Society
CAL-PIRG
Center for Climate Change and Health
Central Coast Community Energy
Central Coast Energy Services
Clean Power Campaign
Climate Resolve
Coalition for Clean Air
Community Environmental Council
Elders Climate Action, NorCal and SoCal Chapters
Environment California
Environmental Protection Information Center
Environmental Working Group
Families Advocating for Chemical and Toxics Safety
Friends Committee on Legislation of California
Glendale Environmental Coalition
Marin Clean Energy (MCE)
Offshore Wind California
Safe Routes Partnership
San Diego Gas & Electric
Sonoma Clean Power
Surfrider Foundation
The Climate Center
The Nature Conservancy
The Utility Reform Network (TURN)
Throop Unitarian Universalist Church, Pasadena
Transform
Union of Concerned Scientists

Support If Amended

East Bay Community Energy (EBCE)
Silicon Valley Leadership Group

Opposition

Western Electrical Contractors Association

Oppose Unless Amended

Animal Legal Defense Fund
California Environmental Justice Alliance C4
CEJA Action
Center for Food Safety; the
Clean Water Action
Community Water Center
Enel North America
Food & Water Watch
Leadership Counsel for Justice and Accountability

Other

California Farm Bureau Federation

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