

Assembly Bill No. 523

CHAPTER 551

An act to amend Section 25711.5 of, and to add and repeal Section 25711.6 of, the Public Resources Code, relating to energy.

[Approved by Governor October 7, 2017. Filed with
Secretary of State October 7, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

AB 523, Reyes. Electric Program Investment Charge: allocation.

The California Constitution establishes the Public Utilities Commission (PUC), with jurisdiction over all public utilities, as defined. Existing decisions of the PUC institute an Electric Program Investment Charge (EPIC) to fund renewable energy and research, development, and demonstration programs.

Existing law creates in the State Treasury the Electric Program Investment Charge Fund to be administered by the State Energy Resources Conservation and Development Commission (Energy Commission) and requires the PUC to forward to the Energy Commission at least quarterly moneys for those EPIC programs the PUC has determined should be administered by the Energy Commission for deposit in the fund.

Existing law requires the Energy Commission, in administering moneys in the fund for research, development, and demonstration programs, to develop and implement the EPIC program for the purpose of awarding funds to projects that may lead to technological advancement and breakthroughs to overcome barriers that prevent the achievement of the state's statutory energy goals and that may result in a portfolio of projects that are strategically focused and sufficiently narrow to make advancement on the most significant technological challenges. Existing law requires the Energy Commission to prepare and submit to Legislature an annual report regarding the operation of the EPIC program.

This bill would require the Energy Commission, until July 1, 2023, to allocate at least 25% of the moneys in the fund for technology demonstration and deployment at sites located in, and benefiting, disadvantaged communities, as defined. The bill would require the Energy Commission to allocate at least an additional 10% of the moneys in the fund for technology demonstration and deployment at sites located in, and benefiting, low-income communities, as defined. The bill would require the Energy Commission, under the EPIC program, to take into account adverse localized health impacts of proposed projects to the greatest extent possible, and give preference for funding to clean energy projects that benefit residents of low-income or disadvantaged communities. The bill would require the annual report regarding the operation of the EPIC program to include a

description of the impact on program administration resulting from awarding funds to disadvantaged and low-income communities pursuant to the above provisions, including any information that would help the Legislature determine whether to reauthorize those allocations beyond June 30, 2023.

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

SECTION 1. Section 25711.5 of the Public Resources Code is amended to read:

25711.5. In administering moneys in the fund for research, development, and demonstration programs under this chapter, the commission shall develop and implement the Electric Program Investment Charge (EPIC) program to do all of the following:

(a) Award funds for projects that will benefit electricity ratepayers and lead to technological advancement and breakthroughs to overcome the barriers that prevent the achievement of the state's statutory energy goals and that result in a portfolio of projects that is strategically focused and sufficiently narrow to make advancement on the most significant technological challenges that shall include, but not be limited to, energy storage, renewable energy and its integration into the electrical grid, energy efficiency, integration of electric vehicles into the electrical grid, and accurately forecasting the availability of renewable energy for integration into the grid.

(b) In consultation with the Treasurer, establish terms that shall be imposed as a condition to receipt of funding for the state to accrue any intellectual property interest or royalties that may derive from projects funded by the EPIC program. The commission, when determining if imposition of the proposed terms is appropriate, shall balance the potential benefit to the state from those terms and the effect those terms may have on the state achieving its statutory energy goals. The commission shall require each reward recipient, as a condition of receiving moneys pursuant to this chapter, to agree to any terms the commission determines are appropriate for the state to accrue any intellectual property interest or royalties that may derive from projects funded by the EPIC program.

(c) Require each applicant to report how the proposed project may lead to technological advancement and potential breakthroughs to overcome barriers to achieving the state's statutory energy goals.

(d) Take into account, when applicable, the adverse localized health impacts of proposed projects to the greatest extent possible.

(e) Establish a process for tracking the progress and outcomes of each funded project, including an accounting of the amount of funds spent by program administrators and individual grant recipients on administrative and overhead costs and whether the project resulted in any technological advancement or breakthrough to overcome barriers to achieving the state's statutory energy goals.

(f) Notwithstanding Section 10231.5 of the Government Code, prepare and submit to the Legislature no later than April 30 of each year an annual report in compliance with Section 9795 of the Government Code that shall include all of the following:

(1) A brief description of each project for which funding was awarded in the immediately prior calendar year, including the name of the recipient and the amount of the award, a description of how the project is thought to lead to technological advancement or breakthroughs to overcome barriers to achieving the state’s statutory energy goals, and a description of why the project was selected.

(2) A brief description of each project funded by the EPIC program that was completed in the immediately prior calendar year, including the name of the recipient, the amount of the award, and the outcomes of the funded project.

(3) A brief description of each project funded by the EPIC program for which an award was made in the previous years but that is not completed, including the name of the recipient and the amount of the award, and a description of how the project will lead to technological advancement or breakthroughs to overcome barriers to achieving the state’s statutory energy goals.

(4) Identification of the award recipients that are California-based entities, small businesses, or businesses owned by women, minorities, or disabled veterans.

(5) Identification of which awards were made through a competitive bid, interagency agreement, or sole source method, and the action of the Joint Legislative Budget Committee pursuant to paragraph (2) of subdivision (g) for each award made through an interagency agreement or sole source method.

(6) Identification of the total amount of administrative and overhead costs incurred for each project.

(7) A brief description of the impact on program administration from the allocations required to be made pursuant to Section 25711.6, including any information that would help the Legislature determine whether to reauthorize those allocations beyond June 30, 2023.

(g) Establish requirements to minimize program administration and overhead costs, including costs incurred by program administrators and individual grant recipients. Each program administrator and grant recipient, including a public entity, shall be required to justify actual administration and overhead costs incurred, even if the total costs incurred do not exceed a cap on those costs that the commission may adopt.

(h) (1) Use a sealed competitive bid as the preferred method to solicit project applications and award funds pursuant to the EPIC program.

(2) (A) The commission may use a sole source or interagency agreement method if the project cannot be described with sufficient specificity so that bids can be evaluated against specifications and criteria set forth in a solicitation for bid and if both of the following conditions are met:

(i) The commission, at least 60 days prior to making an award pursuant to this subdivision, notifies the Joint Legislative Budget Committee and the relevant policy committees in both houses of the Legislature, in writing, of its intent to take the proposed action.

(ii) The Joint Legislative Budget Committee either approves or does not disapprove the proposed action within 60 days from the date of notification required by clause (i).

(B) It is the intent of the Legislature to enact this paragraph to ensure legislative oversight for awards made on a sole source basis, or through an interagency agreement.

(3) Notwithstanding any other law, standard terms and conditions that generally apply to contracts between the commission and any entities, including state entities, do not automatically preclude the award of moneys from the fund through the sealed competitive bid method.

SEC. 2. Section 25711.6 is added to the Public Resources Code, to read:

25711.6. (a) The commission shall give preference for funding pursuant to this chapter to clean energy projects that benefit residents of low-income or disadvantaged communities.

(b) The commission shall expend at least 25 percent of the moneys appropriated from the fund for technology demonstration and deployment at sites located in, and benefiting, disadvantaged communities.

(c) The commission shall expend at least 10 percent of the moneys appropriated from the fund for technology demonstration and deployment at sites located in, and benefiting, low-income communities located in the state.

(d) Moneys allocated pursuant to subdivision (b) shall not count toward the allocation made pursuant to subdivision (c).

(e) For purposes of this section, the following definitions apply:

(1) “Disadvantaged communities” means communities identified pursuant to Section 39711 of the Health and Safety Code.

(2) “Low-income communities” means communities within census tracts with median household incomes at or below either of the following levels:

(A) Eighty percent of the statewide median income.

(B) The applicable low-income threshold listed in the state income limits updated by the Department of Housing and Community Development and filed with the Office of Administrative Law pursuant to subdivision (c) of Section 50093 of the Health and Safety Code.

(f) This section shall become inoperative on July 1, 2023, and, as of January 1, 2024, is repealed.