

**ASSEMBLY BILL**

**No. 28**

**Introduced by Assembly Members Migden, Oropeza, and Diaz  
(Coauthor: Assembly Member Cohn)**

May 17, 2001

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An act to amend Section 335 of, and to add Section 342 to, the Public Utilities Code, relating to public utilities, ~~and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 28, as introduced, Migden. Electrical restructuring: Oversight Board: Independent System Operator.

(1) The existing restructuring of the electrical services industry within the Public Utilities Act provides for the establishment of an Independent System Operator and a Power Exchange as separately incorporated public benefit, nonprofit corporations. An Electricity Oversight Board (Oversight Board) is also established to oversee the Independent System Operator and the Power Exchange in order to ensure the success of electric industry restructuring and to ensure a reliable supply of electricity in the transition to a new market structure. The Oversight Board is granted various powers in order to carry out these purposes.

This bill would expand the authority of the Oversight Board to act on any matters made subject to the approval or determination by the Oversight Board under law, and to investigate any matter and otherwise act consistent with these provisions to ensure that the interests of California's citizens and consumers are served, protected, and represented in relation to the electric transmission grid and generation system and related costs.

The bill would require that electric generation and transmission facilities be subject to various prescribed availability standards. The bill would require the Independent System Operator to annually prepare and submit to the Oversight Board a proposed protocol for the scheduling of transmission and generation equipment outages for the purpose of maintenance, repair, or upgrade, that is required to be reviewed, approved or revised by the Oversight Board after notice and public hearing. The bill would require the Independent System Operator to utilize the approved protocol for the purpose of scheduling maintenance or other planned outages of equipment and to submit a coordinated outage plan to the Oversight Board. The bill would require the Independent System Operator to develop and submit proposed generation facility maintenance criteria for approval by the Oversight Board after notice and public hearing. The bill would require the Independent System Operator to maintain records of generation facility outages and provide those records to the Oversight Board on a daily basis. The bill would require entities that own or operate certain electric generating facilities to provide reports on a monthly basis to the Oversight Board that identify any periods the facilities were unavailable to produce electricity or were available at reduced capacity. The bill would authorize the Independent System Operator and the Oversight Board to engage in audits or inspection of facilities that fail to comply with procedures, criteria, or standards established pursuant to these provisions. The bill would require owners or operators of generation or transmission facilities to provide the Independent System Operator and the Oversight Board with information and access to the facilities as necessary to accomplish reasonable audits and inspections. The bill would authorize the Oversight Board to assess a monetary penalty against an owner or operator of a facility found to have failed to comply with criteria, standards, or procedures established pursuant to these provisions. Since a violation of the Public Utilities Act is a crime under existing provisions of law, the bill would create a state-mandated local program by expanding the definition of a crime.

~~(2) The bill would appropriate \$575,000 from the General Fund to the Oversight Board to be used for the purposes of these provisions.~~

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

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

- 1 SECTION 1. Section 335 of the Public Utilities Code is
- 2 amended to read:
- 3 335. In order to ensure that the interests of the people of
- 4 California are served, a five-member Electricity Oversight Board
- 5 is hereby created as provided in Section 336. For purposes of this
- 6 chapter, any reference to the Oversight Board shall mean the
- 7 Electricity Oversight Board. Its functions shall be all of the
- 8 following:
- 9 (a) To oversee the Independent System Operator and the Power
- 10 Exchange.
- 11 (b) (1) To exercise the exclusive right to decline to confirm the
- 12 appointments of members of the governing board of the
- 13 Independent System Operator.
- 14 (2) To determine the composition and terms of service and to
- 15 exercise the exclusive right to decline to confirm the appointments
- 16 of specific members of the governing board of the Power
- 17 Exchange.
- 18 (c) To serve as an appeal board for majority decisions of the
- 19 Independent System Operator governing board, as they relate to
- 20 matters subject to exclusive state jurisdiction, as specified in
- 21 Section 339.
- 22 (d) Those members of the Power Exchange governing board
- 23 whose appointments the Oversight Board has the exclusive right
- 24 to decline to confirm include proposed governing board members
- 25 representing agricultural end users, industrial end users,
- 26 commercial end users, residential end users, end users at large,
- 27 nonmarket participants, and public interest groups.
- 28 (e) To act on any matters made subject to approval or
- 29 determination by the Oversight Board under law.
- 30 (f) To investigate any matter and otherwise act consistent with
- 31 this chapter to ensure that the interests of California's citizens and
- 32 consumers are served, protected, and represented in relation to the
- 33 electric transmission grid and generation system and related costs.

1 SEC. 2. Section 342 is added to the Public Utilities Code, to  
2 read:

3 342. (a) The Legislature finds and declares that electric  
4 generation and transmission facilities are critical infrastructure  
5 and their predictable availability is essential to the public welfare.

6 (b) Electric generation and transmission facilities shall be  
7 subject to availability standards, in accordance with this section.

8 (c) Owners or operators of electric generating facilities in the  
9 State of California shall comply with all standards approved or  
10 established pursuant to this chapter.

11 (d) The Independent System Operator shall prepare and submit  
12 to the Oversight Board, a proposed protocol for the scheduling of  
13 transmission and generation equipment outages for the purposes  
14 of maintenance, repair, or upgrade. The Independent System  
15 Operator shall resubmit this protocol, including any proposed  
16 revisions of the protocol, at least annually. The Oversight Board  
17 shall review and approve or direct revision of the proposed  
18 protocol as it determines is appropriate and necessary to protect the  
19 public interest after notice and public hearing. The Independent  
20 System Operator shall utilize an approved protocol for the purpose  
21 of scheduling maintenance or other planned outages of equipment  
22 including the preparation of a coordinated outage plan. The  
23 Independent System Operator shall prepare and submit to the  
24 Oversight Board, a coordinated outage plan that shall be updated  
25 not less than once each quarter.

26 (e) The Independent System Operator shall develop and submit  
27 to the Oversight Board proposed generation facility maintenance  
28 criteria. The Oversight Board shall review the proposed  
29 generation maintenance criteria and approve or direct revision of  
30 the criteria as it determines necessary to protect the public interest  
31 after notice and public hearing.

32 (f) The Independent System Operator shall maintain records of  
33 generation facility outages and shall provide those records to the  
34 Oversight Board on a daily basis. Each entity that owns or operates  
35 an electric generating facility in California with a rated maximum  
36 combined capacity of 50 megawatts or greater for all units at a  
37 single location, shall provide a monthly report to the Independent  
38 System Operator and the Oversight Board that identifies any  
39 periods during the preceding month when the facility was  
40 unavailable to produce electricity or was available only at reduced

1 capacity. The report shall identify the reasons for any such  
2 unavailability or reduced capacity.

3 (g) The Independent System Operator and the Oversight Board  
4 may engage in audits or inspection of facilities that fail to comply  
5 with procedures, criteria, or standards established pursuant to this  
6 section or for which compliance is in question. Owners or  
7 operators of generation or transmission facilities shall provide  
8 information and access to the Independent System Operator and  
9 the Oversight Board as necessary to accomplish reasonable audit  
10 or inspection. The Oversight Board may, on petition of the  
11 Independent System Operator or acting on its own motion, and  
12 after public notice and hearing, assess a monetary penalty against  
13 the owner or operator of a facility found to have failed to comply  
14 with criteria, standards, or procedures approved or established  
15 pursuant to this section.

16 ~~SEC. 3. The sum of five hundred seventy-five thousand~~  
17 ~~dollars (\$575,000) is hereby appropriated from the General Fund~~  
18 ~~to the Electricity Oversight Board to be used for the purposes~~  
19 ~~described in Section 342 of the Public Utilities Code.~~

20 ~~SEC. 4.—~~

21 *SEC. 3.* No reimbursement is required by this act pursuant to  
22 Section 6 of Article XIII B of the California Constitution because  
23 the only costs that may be incurred by a local agency or school  
24 district will be incurred because this act creates a new crime or  
25 infraction, eliminates a crime or infraction, or changes the penalty  
26 for a crime or infraction, within the meaning of Section 17556 of  
27 the Government Code, or changes the definition of a crime within  
28 the meaning of Section 6 of Article XIII B of the California  
29 Constitution.

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