

**SENATE BILL**

**No. 31**

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**Introduced by Senator Bowen**

February 5, 2001

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An act to amend Sections 335, 337, and 341.2 of the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 31, as introduced, Bowen. Electrical restructuring: Oversight Board: Independent System Operator.

The existing restructuring of the electrical services industry within the Public Utilities Act provides for the authorization of direct transactions between electricity suppliers and end-use customers and for the establishment of an Independent System Operator and a Power Exchange as separately incorporated public benefit, nonprofit corporations. An Electricity Oversight Board is also established to oversee the Independent System Operator and the Power Exchange. Under existing law, the Oversight Board has the exclusive right to decline to confirm the appointments of members of the governing board of the Independent System Operator. Under existing law, the existing Independent System Operator governing board is required to be replaced, within a specified period of time, by a 5-member independent governing board of directors appointed by the Governor for one-year terms. Existing law requires that a member of the independent governing board of the Independent System Operator not be affiliated with any actual or potential market participant administered by the Independent System Operator.

This bill would delete the Electricity Oversight Board's exclusive right to decline to confirm the appointments of members of the

governing board of the Independent System Operator. This bill would require the Independent System Operator governing board appointed by the Governor to be confirmed by the Senate. The bill would require these appointments to be for 3-year terms, with initial appointments of one member for a one-year term, 2 members for a 2-year term, and 2 members for a 3-year term. The bill would specify that a member of the governing board of the Power Exchange is not considered to be affiliated with a market participant solely as a consequence of service on the governing board of the Power Exchange.

This bill would make a conforming change in existing law.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

1 SECTION 1. Section 335 of the Public Utilities Code, as  
2 amended by Section 1 of Chapter 1 of the 2001-02 First  
3 Extraordinary Session, is amended to read:

4 335. In order to ensure that the interests of the people of  
5 California are served, a five-member Electricity Oversight Board  
6 is hereby created as provided in Section 336. For purposes of this  
7 chapter, any reference to the Oversight Board shall mean the  
8 Electricity Oversight Board. Its functions shall be all of the  
9 following:

10 (a) To oversee the Independent System Operator and the Power  
11 Exchange.

12 (b) ~~(1) To exercise the exclusive right to decline to confirm the~~  
13 ~~appointments of members of the governing board of the~~  
14 ~~Independent System Operator.~~

15 ~~(2) To determine the composition and terms of service and to~~  
16 ~~exercise the exclusive right to decline to confirm the appointments~~  
17 ~~of specific members of the governing board of the Power~~  
18 ~~Exchange.~~

19 (c) To serve as an appeal board for majority decisions of the  
20 Independent System Operator governing board, as they relate to  
21 matters subject to exclusive state jurisdiction, as specified in  
22 Section 339.

23 (d) Those members of the Power Exchange governing board  
24 whose appointments the Oversight Board has the exclusive right  
25 to decline to confirm include proposed governing board members



1 representing agricultural end users, industrial end users,  
2 commercial end users, residential end users, end users at large,  
3 nonmarket participants, and public interest groups.

4 SEC. 2. Section 337 of the Public Utilities Code, as amended  
5 by Section 3 of Chapter 1 of the 2001-02 First Extraordinary  
6 Session, is amended to read:

7 337. (a) ~~Within 90 days of the effective date of the act adding~~  
8 ~~this section, the existing~~ *The Independent System Operator*  
9 governing board shall be ~~replaced by~~ *composed of* a five-member  
10 independent governing board of directors appointed by the  
11 Governor *and subject to confirmation by the Senate*. Any  
12 reference in this chapter or in any other provision of law to the  
13 Independent System Operator governing board means the  
14 independent governing board appointed under this subdivision.

15 (b) A member of the independent governing board appointed  
16 under subdivision (a) may not be affiliated with any actual or  
17 potential participant in any market administered by the  
18 Independent System Operator. *A member of the governing board*  
19 *of the Power Exchange shall not be considered to be affiliated with*  
20 *a participant solely as a consequence of that individual's service*  
21 *on the governing board of the Power Exchange.*

22 (c) (1) All appointments shall be for ~~one-year~~ *three-year*  
23 terms.

24 (2) There is no limit on the number of terms that may be served  
25 by any member.

26 (d) The Oversight Board shall require the articles of  
27 incorporation and bylaws of the Independent System Operator to  
28 be revised in accordance with this section, and shall make filings  
29 with the Federal Energy Regulatory Commission as the Oversight  
30 Board determines to be necessary.

31 (e) *For the purposes of the initial appointments to the*  
32 *Independent System Operator governing board, as provided in*  
33 *subdivision (a), the Governor shall appoint one member to a*  
34 *one-year term, two members to a two-year term, and two members*  
35 *to a three-year term.*

36 SEC. 3. Section 341.2 of the Public Utilities Code, as  
37 amended by Section 4 of Chapter 1 of the 2001-02 First  
38 Extraordinary Session, is amended to read:

39 341.2. The Bagley-Keene Open Meeting Act (Article 9  
40 (commencing with Section 11120) of Chapter 1 of Part 1 of



1 Division 3 of Title 2 of the Government Code) applies to meetings  
2 of the Oversight Board. In addition to the allowances of that act,  
3 the Oversight Board may hold a closed session to consider the  
4 appointment of one or more candidates to the governing board of  
5 the ~~Independent System Operator or the~~ Power Exchange,  
6 deliberate on matters involving the removal of a member of the  
7 governing board of the Power Exchange, or to consider a matter  
8 based on information that has received a grant of confidential  
9 status pursuant to regulations of the Oversight Board, provided  
10 that any action taken on such a matter shall be taken by vote in an  
11 open session.

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