

Introduced by Senator BowenFebruary 22, 2002

An act to amend Section 352 of, to add Sections 345.1, 345.3, and 345.5 to, to repeal Section 346 of, to repeal Article 2 (commencing with Section 334), Article 4 (commencing with Section 355), and Article 5 (commencing with Section 359) of Chapter 2.3 of Part 1 of, and to repeal and add Section 350 of, the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 1876, as introduced, Bowen. Electricity Oversight Board: Independent System Operator: Power Exchange.

(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. Pursuant to an order of the Federal Energy Regulatory Commission, the Power Exchange has ceased to function. The Oversight Board is granted various powers including, but not limited to, requiring the revision of the bylaws of the Independent System Operator and the approval of the entry of the Independent System Operator into a multistate entity or a regional organization.

This bill would repeal those provisions establishing, and granting powers to, the Oversight Board. The bill would require the Independent System Operator to revise its own bylaws, and would require the



Legislature to approve the entry of the Independent System Operator into a multistate entity or a regional organization. Because any violation of the Public Utilities Act is a crime, the bill, by establishing new duties for the Independent System Operator, would impose a state-mandated local program by changing the definition of a crime. The bill would repeal certain provisions relating to the Power Exchange.

(2) 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. Article 2 (commencing with Section 334) of
2 Chapter 2.3 of Part 1 of the Public Utilities Code is repealed.

3 SEC. 2. Section 345.1 is added to the Public Utilities Code, to
4 read:

5 345.1. The Legislature finds and declares that, in order to
6 ensure the success of electric industry restructuring in the
7 transition to a new market structure, it is important to ensure a
8 reliable supply of electricity. Reliable electric service is of
9 paramount importance to the safety, health, and comfort of the
10 people of California. Transmission connections among electric
11 utilities allow them to share generation resources and reduce the
12 number of powerplants necessary to maintain a reliable system.
13 The connections among utilities also create exposure to events that
14 can cause widespread and extended transmission and service
15 outages that reach far beyond the originating utility service area.
16 California utilities and those in the western United States
17 voluntarily adhere to reliability standards developed by the
18 Western Systems Coordinating Council. The economic cost of
19 extended electricity outages, such as those that occurred in
20 California and throughout the Western Systems Coordinating
21 Council on July 2, 1996, and August 10, 1996, to California's
22 residential, commercial, agricultural, and industrial customers is
23 significant. The proposed restructuring of the electricity industry



1 would transfer responsibility for ensuring short- and long-term
2 reliability away from electric utilities and regulatory bodies to the
3 Independent System Operator and various market-based
4 mechanisms. The Legislature has an interest in ensuring that the
5 change in the locus of responsibility for reliability does not expose
6 California citizens to undue economic risk in connection with
7 system reliability.

8 SEC. 3. Section 345.3 is added to the Public Utilities Code, to
9 read:

10 345.3. (a) The Independent System Operator governing
11 board shall be composed of a five-member independent governing
12 board of directors appointed by the Governor and subject to
13 confirmation by the Senate. Any reference in this chapter or in any
14 other provision of law to the Independent System Operator
15 governing board means the independent governing board
16 appointed under this subdivision.

17 (b) A member of the independent governing board appointed
18 under subdivision (a) may not be affiliated with any actual or
19 potential participant in any market administered by the
20 Independent System Operator.

21 (c) (1) All appointments shall be for three-year terms.

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

24 (d) The Independent System Operator shall revise its articles of
25 incorporation and bylaws in accordance with this section, and shall
26 make filings with the Federal Energy Regulatory Commission as
27 it determines to be necessary.

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

33 SEC. 4. Section 345.5 is added to the Public Utilities Code, to
34 read:

35 345.5. The Independent System Operator bylaws shall
36 contain provisions that identify matters within state jurisdiction.
37 The bylaws shall also contain provisions that state that the
38 approval function of California's bylaws with respect to the
39 matters within state jurisdiction do not preclude the Federal
40 Energy Regulatory Commission from taking any action necessary

1 to address undue discrimination or other violations of the Federal
2 Power Act (16 U.S.C. Sec. 791a et seq.) or to exercise any other
3 commission responsibility under the Federal Power Act. In taking
4 any action, the Federal Energy Regulatory Commission shall give
5 due respect to California's jurisdictional interests in the functions
6 of the Independent System Operator, and shall attempt to
7 accommodate state interests to the extent those interests are not
8 inconsistent with the Federal Energy Regulatory Commission's
9 statutory responsibilities. The bylaws shall state that any future
10 agreement regarding the apportionment of the Independent
11 System Operator board appointment function among participating
12 states associated with the expansion of the Independent System
13 Operator into a multistate entity shall be filed with the Federal
14 Energy Regulatory Commission pursuant to Section 205 of the
15 Federal Power Act (16 U.S.C. Sec. 824d).

16 SEC. 5. Section 346 of the Public Utilities Code is repealed.

17 ~~346. The Independent System Operator shall immediately~~
18 ~~participate in all relevant Federal Energy Regulatory Commission~~
19 ~~proceedings. The Independent System Operator shall ensure that~~
20 ~~additional filings at the Federal Energy Regulatory Commission~~
21 ~~request confirmation of the relevant provisions of this chapter and~~
22 ~~seek the authority needed to give the Independent System Operator~~
23 ~~the ability to secure generating and transmission resources~~
24 ~~necessary to guarantee achievement of planning and operating~~
25 ~~reserve criteria no less stringent than those established by the~~
26 ~~Western Systems Coordinating Council and the North American~~
27 ~~Electric Reliability Council.~~

28 SEC. 6. Section 350 of the Public Utilities Code is repealed.

29 ~~350. The Independent System Operator, in consultation with~~
30 ~~the California Energy Resources Conservation and Development~~
31 ~~Commission, the Public Utilities Commission, the Western~~
32 ~~Systems Coordinating Council, and concerned regulatory~~
33 ~~agencies in other western states, shall within six months after the~~
34 ~~Federal Energy Regulatory Commission approval of the~~
35 ~~Independent System Operator, provide a report to the Legislature~~
36 ~~and to the Oversight Board that does the following:~~

37 ~~(a) Conducts an independent review and assessment of Western~~
38 ~~Systems Coordinating Council operating reliability criteria.~~

39 ~~(b) Quantifies the economic cost of major transmission outages~~
40 ~~relating to the Pacific Intertie, Southwest Power Link, DC link,~~

1 ~~and other important high voltage lines that carry power both into~~
2 ~~and from California.~~

3 ~~(e) Identifies the range of cost-effective options that would~~
4 ~~prevent or mitigate the consequences of major transmission~~
5 ~~outages.~~

6 ~~(d) Identifies communication protocols that may be needed to~~
7 ~~be established to provide advance warning of incipient problems.~~

8 ~~(e) Identifies the need for additional generation reserves and~~
9 ~~other voltage support equipment, if any, or other resources that~~
10 ~~may be necessary to carry out its functions.~~

11 ~~(f) Identifies transmission capacity additions that may be~~
12 ~~necessary at certain times of the year or under certain conditions.~~

13 ~~(g) Assesses the adequacy of current and prospective~~
14 ~~institutional provisions for the maintenance of reliability.~~

15 ~~(h) Identifies mechanisms to enforce transmission~~
16 ~~right-of-way maintenance.~~

17 ~~(i) Contains recommendations regarding cost-beneficial~~
18 ~~improvements to electric system reliability for the citizens of~~
19 ~~California.~~

20 SEC. 7. Section 350 is added to the Public Utilities Code, to
21 read:

22 350. (a) It is the intent of the Legislature to provide for the
23 development of regional electricity transmission markets in the
24 western states and to improve the access of consumers served by
25 the Independent System Operator to those markets.

26 (b) The preferred means by which the voluntary evolution
27 described in subdivision (a) should occur is through the adoption
28 of a regional compact or other comparable agreement among
29 cooperating party states, the retail customers of which states would
30 reside within the geographic territories served by the Independent
31 System Operator.

32 (c) The agreement described in subdivision (b) should provide
33 for all of the following:

34 (1) An equitable process for the appointment or confirmation
35 by party states of members of the governing boards of the
36 Independent System Operator.

37 (2) A respecification of the size, structure, representation,
38 eligible membership, nominating procedures, and member terms
39 of service of the governing boards of the Independent System
40 Operator.

(3) Mechanisms by which each party state, jointly or separately, can oversee effectively the actions of the Independent System Operator as those actions relate to ensuring electricity system reliability within the party state and to matters that affect electricity sales to the retail customers of the party state or otherwise affect the general welfare of the electricity consumers and the general public of the party state.

(4) The adherence by publicly owned and investor-owned utilities located in party states to enforceable standards and protocols to protect the reliability of the interconnected regional transmission and distribution systems.

SEC. 8. Section 352 of the Public Utilities Code is amended to read:

352. The Independent System Operator may not enter into a multistate entity or a regional organization as authorized in Section ~~359~~ 350 unless that entry is approved by the ~~Oversight Board~~ Legislature.

SEC. 9. Article 4 (commencing with Section 355) of Chapter 2.3 of Part 1 of the Public Utilities Code is repealed.

SEC. 10. Article 5 (commencing with Section 359), of Chapter 2.3 of Part 1 of the Public Utilities Code is repealed.

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