

**ASSEMBLY BILL**

**No. 808**

**Introduced by Assembly Member Richman**

February 20, 2003

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An act to enact the Energy Code, to repeal Division 3 (commencing with Section 3000) of, and to repeal Division 15 (commencing with Section 25000) of, the Public Resources Code, to repeal Chapter 2.3 (commencing with Section 330) of Part 1 of Division 1 of, to repeal Chapter 4 (commencing with Section 701) of Part 1 of Division 1 of, to repeal Chapter 5 (commencing with Section 1001) of Part 1 of Division 1 of, to repeal Chapter 7 (commencing with Section 1351) of Part 1 of Division 1 of, to repeal Chapter 8 (commencing with Section 1401) of Part 1 of Division 1 of, to repeal Chapter 9 (commencing with Section 1701) of Part 1 of Division 1 of, to repeal Chapter 10 (commencing with Section 1901) of Part 1 of Division 1 of, to repeal Chapter 11 (commencing with Section 2100) of Part 1 of Division 1 of, and to repeal Division 1.5 (commencing with Section 3300) of, the Public Utilities Code, and to repeal Division 27 (commencing with Section 80000) of the Water Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 808, as introduced, Richman. Energy: agency consolidation.

The Warren-Alquist State Energy Resources Conservation and Development Act establishes the State Energy Resources Conservation and Development Commission (Energy Commission) and requires it to certify sufficient sites and related facilities that are required to provide a supply of electricity sufficient to accommodate projected demand for power statewide. Under that act, the Energy Commission also administers existing law with respect to energy conservation.

Existing law authorizes the Public Utilities Commission to regulate public utilities, including electrical and gas corporations. Under existing law, the commission is charged with issuing certificates of public convenience and necessity to every electrical and gas corporation proposing to construct or modify any electric or gas plant within the state, is authorized to determine the value of the property of every public utility in the state, to fix the just compensation to be paid by a political subdivision for public utility property acquired by eminent domain, to hold hearings concerning complaints against certain entities, including electrical and gas corporations, and to charge and collect certain fees. Under existing law, a public utility is guilty of a crime for failing to comply with provisions of the Public Utilities Act, the California Constitution, or an order by the commission.

Under existing law, the California Consumer Power and Conservation Financing Authority Act establishes the California Consumer Power and Conservation Financing Authority (Power Authority), with certain powers and responsibilities, including the issuance of up to \$5,000,000,000 of revenue bonds, for the purposes of augmenting electric generating facilities and ensuring a sufficient and reliable supply of electricity.

Existing law authorizes the Department of Water Resources to enter into contracts for the purchase and sale of electricity in accordance with specified requirements.

This bill would enact the Energy Code. The bill would delete the above described provisions of existing law and would establish the Department of Energy under the administration of the Secretary for Energy, who would be appointed by the Governor and subject to confirmation by the Senate. The bill would state the intent of the Legislature to propose changes in existing law to transfer to the department all the duties, powers, purposes, responsibilities, and jurisdiction of the Public Utilities Commission relating to the ownership, operation, control, and management of a line, plant, or system for the production, generation, transmission, and furnishing of heat, light, and power directly or indirectly to or for the public. The bill would transfer to the department all the duties, powers, purposes, responsibilities, and jurisdiction of the Power Authority, the Energy Commission, and the Department of Water Resources relating to the purchase and sale of electric power. The bill would require all the officers and employees of the Power Authority, the Energy Commission, and the Department of Water Resources who, on the



operative date of this bill are exercising any duty, power, purpose, responsibility, or jurisdiction to which the department succeeds to, to be employed by the department.

This bill would establish an Energy Reliability Board consisting of a chairperson, appointed by the Governor and confirmed by the Senate, the secretary of the department, a representative of public utilities, appointed by the Governor and confirmed by the Senate, and an energy ratepayer, appointed by the Governor and confirmed by the Senate. The bill would declare the intent of the Legislature to propose changes to existing law to vest the board with all ratemaking powers for electrical transmission and distribution, and natural gas transportation, consistent with former powers of the Public Utilities Commission with respect to the regulation of the electrical and natural gas industries.

The existing restructuring of the electrical services industry establishes the Electricity Oversight Board (Oversight Board) to oversee the Independent System Operator and the Power Exchange in order to ensure the success of the electrical industry restructuring and to ensure a reliable supply of electricity in the transition to a new market structure.

This bill would delete these provisions.

The bill would declare the intent of the Legislature to codify the provisions that would be repealed by the bill in the Energy Code under the governance of the department, the Independent System Operator, and the Energy Reliability Board.

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. The Energy Code is enacted, to read:

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3 DIVISION 1. PRELIMINARY PROVISIONS

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5 Article 1. General Provisions

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7 1. This code is known as the Energy Code.

8 2. Division, chapter, article, and section headings do not affect  
9 the scope, meaning, or intent of this code.



1 3. Unless the provision or context otherwise requires, the  
2 general provisions and rules of construction in this division govern  
3 the construction of this code.

4 4. If a reference is made to a portion of this code or to another  
5 law, the reference applies to all amendments and additions  
6 regardless of the time made.

7 5. Unless otherwise expressly stated:

8 (a) “Division” means a division of this code.

9 (b) “Part” means a part of the division in which that term  
10 occurs.

11 (c) “Chapter” means a chapter of the division or part, as the  
12 case may be, in which that term occurs.

13 (d) “Article” means an article of the chapter in which that term  
14 occurs.

15 (e) “Section” means a section of this code.

16 (f) “Subdivision” means a subdivision of the section in which  
17 that term occurs.

18 (g) “Paragraph” means a paragraph of the subdivision in  
19 which that term occurs.

20 (h) “Subparagraph” means a subparagraph of the paragraph in  
21 which that term occurs.

22 6. The present tense includes the past and future tenses, and  
23 the future, the present.

24 7. The singular number includes the plural, and the plural, the  
25 singular.

26 8. “Shall” is mandatory and “may” is permissive. “Shall  
27 not” and “may not” are prohibitory.

28 9. If a provision or clause of this code or its application to any  
29 person or circumstances is held invalid, the invalidity does not  
30 affect other provisions or applications of the code that can be given  
31 effect without the invalid provision or application, and to this end,  
32 the provisions of this code are severable.

33 10. (a) Any reference in any code to the California Consumer  
34 Power and Conservation Financing Authority, the State Energy  
35 Resources Conservation and Development Commission, or the  
36 Division of Oil, Gas, and Geothermal Resources in the Department  
37 of Conservation, shall be deemed to refer to the Department of  
38 Energy.

39 (b) Any reference in any code to the Department of Water  
40 Resources relating to the purchase or sale of electric power

1 pursuant to Division 27 (commencing with Section 80000) of the  
2 Water Code, shall be deemed to refer to the Department of Energy.

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4 Article 2. Definitions

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6 11. As used in this code, unless otherwise indicated, the  
7 following terms have the following meanings:

8 (a) “Department” means the Department of Energy.

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10 DIVISION 2. DEPARTMENT OF ENERGY

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12 50. The Department of Energy is hereby established.

13 51. (a) The department is administered by the Secretary for  
14 Energy.

15 (b) The secretary is appointed by the Governor and subject to  
16 confirmation by the Senate.

17 52. (a) It is the intent of the Legislature to propose changes  
18 in existing law so that the department succeeds to, and is vested  
19 with, all the duties, powers, purposes, responsibilities, and  
20 jurisdiction of the Public Utilities Commission relating to the  
21 ownership, operation, control, and management of a line, plant, or  
22 system for the production, generation, transmission, and  
23 furnishing of heat, light, and power directly or indirectly to or for  
24 the public.

25 (b) (1) Notwithstanding any other provision of law, except as  
26 specified in paragraph (2), the department succeeds to, and is  
27 vested with, all the duties, powers, purposes, responsibilities, and  
28 jurisdiction of the California Consumer Power and Conservation  
29 Financing Authority.

30 (2) Notwithstanding Section 3380.1 of the Public Utilities  
31 Code, the department may issue bonds only for the purposes of  
32 energy conservation in an amount not to exceed one billion dollars  
33 (\$1,000,000,000), exclusive of any refunds.

34 (c) Notwithstanding any other provision of law, the department  
35 succeeds to, and is vested with, all the duties, powers, purposes,  
36 responsibilities, and jurisdiction of the State Energy Resources  
37 Conservation and Development Commission.

38 (d) Notwithstanding any other provision of law, the department  
39 succeeds to, and is vested with, all the duties, powers, purposes,

responsibilities, and jurisdiction of the Division of Oil, Gas, and Geothermal Resources in the Department of Conservation.

(e) Notwithstanding any other provision of law, the department succeeds to, and is vested with, all the duties, powers, purposes, responsibilities, and jurisdiction of the Department of Water Resources relating to the purchase and sale of electric power pursuant to Division 27 (commencing with Section 80000) of the Water Code.

53. All officers and employees of the Public Utilities Commission, the California Consumer Power and Conservation Financing Authority, the State Energy Resources Conservation and Development Commission, the Division of Oil, Gas, and Geothermal Resources in the Department of Conservation, and the Department of Water Resources who, on the operative date of this section, are serving in the state civil service, other than as temporary employees, and are exercising any duty, power, purpose, responsibility, or jurisdiction to which the department succeeds pursuant to Section 52, are transferred to the department. The status, positions, and rights of those persons existing prior to the transfer shall not be affected by the transfer and shall be retained by those persons as officers and employees of the agency, pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code), except as to positions exempted from civil service.

54. The department shall have possession and control of all records, papers, offices, equipment, supplies, moneys, funds, appropriations, licenses, permits, agreements, contracts, claims, judgments, and land or other property, real or personal, connected with the administration of, or held for the benefit or use of, the Public Utilities Commission, the California Consumer Power and Conservation Financing Authority, the State Energy Resources Conservation and Development Commission, the Division of Oil, Gas, and Geothermal Resources in the Department of Conservation, and the Department of Water Resources for the performance of the functions transferred to the department by Section 52.

### DIVISION 3. ENERGY RELIABILITY BOARD

75. The Energy Reliability Board is hereby established.

1 76. It is the intent of the Legislature to propose changes in  
2 existing law to vest the Energy Reliability Board with all  
3 ratemaking powers for electrical transmission and distribution,  
4 and natural gas transportation, consistent with former powers of  
5 the Public Utilities Commission with respect to the regulation of  
6 the electrical and natural gas industries.

7 77. The Energy Reliability Board shall consist of five  
8 members as follows:

9 (a) A chairperson, appointed by and serving at the pleasure of,  
10 the Governor, subject to confirmation by the Senate.

11 (b) The secretary of the department.

12 (c) The chairperson of the Independent System Operator.

13 (d) A representative of public utilities, who shall be appointed  
14 by the Governor, confirmed by the Senate, for an initial two-year  
15 term, and four-year terms thereafter.

16 (e) An energy ratepayer, who shall be appointed by the  
17 Governor, confirmed by the Senate, for an initial three-year term,  
18 and four-year terms thereafter.

19 SEC. 2. Division 15 (commencing with Section 25000) of the  
20 Public Resources Code is repealed.

21 SEC. 3. Chapter 2.3 (commencing with Section 330) of the  
22 Public Utilities Code is repealed.

23 SEC. 4. Chapter 4 (commencing with Section 701) of the  
24 Public Utilities Code is repealed.

25 SEC. 5. Chapter 5 (commencing with Section 1001) of the  
26 Public Utilities Code is repealed.

27 SEC. 6. Chapter 7 (commencing with Section 1351) of the  
28 Public Utilities Code is repealed.

29 SEC. 7. Chapter 8 (commencing with Section 1401) of the  
30 Public Utilities Code is repealed.

31 SEC. 8. Chapter 9 (commencing with Section 1701) of the  
32 Public Utilities Code is repealed.

33 SEC. 9. Chapter 10 (commencing with Section 1901) of the  
34 Public Utilities Code is repealed.

35 SEC. 10. Chapter 11 (commencing with Section 2100) of the  
36 Public Utilities Code is repealed.

37 SEC. 11. Division 1.5 (commencing with Section 3300) of the  
38 Public Utilities Code is repealed.

39 SEC. 12. Division 27 (commencing with Section 80000) of  
40 the Public Utilities Code is repealed.

1 SEC. 13. It is the intent of the Legislature in subsequent  
2 legislation to codify the repealed provisions set forth in Sections  
3 2 to 12, inclusive, of this act in the Energy Code under the  
4 governance of the Department of Energy, the Independent System  
5 Operator, and the Energy Reliability Board. It is further the intent  
6 of the Legislature to abolish the Electricity Oversight Board.

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