

Introduced by Senator BowenFebruary 20, 2004

An act to add and repeal Sections 25550 and 25550.5 of the Public Resources Code, relating to energy resources.

LEGISLATIVE COUNSEL'S DIGEST

SB 1776, as introduced, Bowen. Electrical energy: thermal powerplants.

Existing law provides for the restructuring of California's electric power industry so that the price for the generation of electricity is determined by a competitive market. Existing law, until January 1, 2004, required the State Energy Resources Conservation and Development Commission (Energy Commission) to establish a process for the expedited review of applications to construct and operate thermal powerplants and related facilities and for the expedited review of repowering projects.

This bill would, until January 1, 2007, reinstate those provisions for establishing a process for the expedited review of applications to construct and operate thermal powerplants and related facilities and for the expedited review of repowering projects.

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 25550 is added to the Public Resources
- 2 Code, to read:
- 3 25550. (a) Notwithstanding subdivision (a) of Section 25522
- 4 and Section 25540.6, the commission shall establish a process to



1 issue its final certification for any thermal powerplant and related
2 facilities within six months after the filing of the application for
3 certification that, on the basis of an initial review, shows that there
4 is substantial evidence that the project will not cause a significant
5 adverse impact on the environment or electrical system and will
6 comply with all applicable standards, ordinances, or laws. For
7 purposes of this section, filing has the same meaning as in Section
8 25522.

9 (b) Thermal powerplants and related facilities reviewed under
10 this process shall satisfy the requirements of Section 25520 and
11 other necessary information required by the commission, by
12 regulation, including the information required for permitting by
13 each local, state, and regional agency that would have jurisdiction
14 over the proposed thermal powerplant and related facilities, but for
15 the exclusive jurisdiction of the commission, and the information
16 required for permitting by each federal agency that has jurisdiction
17 over the proposed thermal powerplant and related facilities.

18 (c) After acceptance of an application under this section, the
19 commission shall not be required to issue a six-month final
20 decision on the application if it determines there is substantial
21 evidence in the record that the thermal powerplant and related
22 facilities may result in a significant adverse impact on the
23 environment or electrical system or does not comply with an
24 applicable standard, ordinance, or law. Under this circumstance,
25 the commission shall make its decision in accordance with
26 subdivision (a) of Section 25522 and Section 25540.6, and a new
27 application shall not be required.

28 (d) For an application that the commission accepts under this
29 section, all local, regional, and state agencies that would have had
30 jurisdiction over the proposed thermal powerplant and related
31 facilities, but for the exclusive jurisdiction of the commission,
32 shall provide their final comments, determinations, or opinions
33 within 100 days after the filing of the application. The regional
34 water quality control boards, as established pursuant to Chapter 4
35 (commencing with Section 13200) of Division 7 of the Water
36 Code, shall retain jurisdiction over any applicable water quality
37 standard that is incorporated into any final certification issued
38 pursuant to this chapter.



1 (e) Thermal powerplants and related facilities that demonstrate
2 superior environmental or efficiency performance shall receive
3 priority in review.

4 (f) With respect to a thermal powerplant and related facilities
5 reviewed under the process established by this chapter, it shall be
6 shown that the applicant has a contract with a general contractor
7 and has contracted for an adequate supply of skilled labor to
8 construct, operate, and maintain the plant.

9 (g) With respect to a thermal powerplant and related facilities
10 reviewed under the process established by this chapter, it shall be
11 shown that the thermal powerplant and related facilities complies
12 with all regulations adopted by the commission that ensure that an
13 application addresses disproportionate impacts in a manner
14 consistent with Section 65040.12 of the Government Code.

15 (h) To implement this section, the commission may adopt
16 emergency regulations in accordance with Chapter 3.5
17 (commencing with Section 11340) of Part 2 of Division 3 of Title
18 2 of the Government Code. For purposes of that chapter, including
19 without limitation, Section 11349.6 of the Government Code, the
20 adoption of the regulations shall be considered by the Office of
21 Administrative Law to be necessary for the immediate
22 preservation of the public peace, health, safety, and general
23 welfare.

24 (i) This section shall remain in effect until January 1, 2007, and
25 as of that date is repealed unless a later enacted statute, that is
26 enacted before January 1, 2007, deletes or extends that date.

27 SEC. 2. Section 25550.5 is added to the Public Resources
28 Code, to read:

29 25550.5. (a) Notwithstanding subdivision (a) of Section
30 25522 and Section 25540.6, the commission shall establish a
31 process to issue its final decision on an application for certification
32 for the repowering of a thermal powerplant and related facilities
33 within 180 days after the filing of the application for certification
34 that, on the basis of an initial review, shows that there is substantial
35 evidence that the project will not cause a significant adverse
36 impact on the environment or electrical system and that the project
37 will comply with all applicable standards, ordinances, regulations,
38 and statutes. For purposes of this section, filing has the same
39 meaning as in Section 25522.

1 (b) The repowering of a thermal powerplant and related
2 facilities reviewed under this process shall satisfy the requirements
3 of Section 25520 and other necessary information required by the
4 commission by regulation, including the information required for
5 permitting by each local, state, and regional agency that would
6 have jurisdiction over the proposed repowering of a thermal
7 powerplant and related facilities, but for the exclusive jurisdiction
8 of the commission, and the information required for permitting by
9 each federal agency that has jurisdiction over the proposed
10 repowering of a thermal powerplant and related facilities.

11 (c) After an application is filed under this section, the
12 commission shall not be required to issue a final decision on the
13 application within 180 days if it determines there is substantial
14 evidence in the record that the thermal powerplant and related
15 facilities may result in a significant adverse impact on the
16 environment or electrical system or does not comply with an
17 applicable standard, ordinance, regulation, or statute. Under this
18 circumstance, the commission shall make its decision in
19 accordance with subdivision (a) of Section 25522 and Section
20 25540.6, and a new application shall not be required.

21 (d) For an application that the commission accepts under this
22 section, any local, regional, or state agency that would have had
23 jurisdiction over the proposed thermal powerplant and related
24 facilities, but for the exclusive jurisdiction of the commission,
25 shall provide its final comments, determinations, or opinions
26 within 100 days after the filing of the application. The regional
27 water quality control board, as established pursuant to Chapter 4
28 (commencing with Section 13200) of Division 7 of the Water
29 Code, shall retain jurisdiction over any applicable water quality
30 standard that is incorporated into any final certification issued
31 pursuant to this chapter.

32 (e) The repowering of a thermal powerplant and related
33 facilities that demonstrate superior environmental or efficiency
34 performance improvement shall receive first priority in review by
35 the commission.

36 (f) With respect to the repowering of a thermal powerplant and
37 related facilities reviewed under the process established by this
38 chapter, it shall be shown that the applicant has contracted with a
39 general contractor and has contracted for an adequate supply of
40 skilled labor to construct, operate, and maintain the plant.



1 (g) With respect to a repowering of a thermal powerplant and
2 related facilities reviewed under the process established by this
3 chapter, it shall be shown that the thermal powerplant and related
4 facilities complies with all regulations adopted by the commission
5 that ensure that an application addresses disproportionate impacts
6 in a manner consistent with Section 65040.12 of the Government
7 Code.

8 (h) To implement this section, the commission may adopt
9 emergency regulations in accordance with Chapter 3.5
10 (commencing with Section 11340) of Part 1 of Division 3 of Title
11 2 of the Government Code. For purposes of that chapter, including,
12 without limitation, Section 11349.6 of the Government Code, the
13 adoption of the regulations shall be considered by the Office of
14 Administrative Law to be necessary for the immediate
15 preservation of the public peace, health, safety, and general
16 welfare.

17 (i) For purposes of this section, “repowering” means a project
18 for the modification of an existing generation unit of a thermal
19 powerplant that meets all of the following criteria:

20 (1) The project complies with all applicable requirements of
21 federal, state, and local laws.

22 (2) The project is located on the site of, and within the existing
23 boundaries of, an existing thermal facility.

24 (3) The project will not require significant additional
25 rights-of-way for electrical or fuel-related transmission facilities.

26 (4) The project will result in significant and substantial
27 increases in the efficiency of the production of electricity,
28 including, but not limited to, reducing the heat rate, reducing the
29 use of natural gas, reducing the use and discharge of water, and
30 reducing air pollutants emitted by the project, as measured on a per
31 kilowatthour basis.

32 (j) This section shall remain in effect only until January 1,
33 2007, and as of that date is repealed, unless a later enacted statute,
34 that is enacted before January 1, 2007, deletes or extends that date.

