

AMENDED IN SENATE APRIL 5, 1999

SENATE BILL

No. 110

Introduced by Senator Peace

December 15, 1998

~~An act to amend Section 66645 of the Government Code, and to amend Sections 25519, 25520, 25520.5, 25522, 25524.5, 25528, 25531, 25540, 25540.1, and 25540.4 of, and to repeal Sections 25502, 25502.3, 25503, 25504, 25504.5, 25505, 25506, 25506.5, 25507, 25508, 25509, 25509.5, 25510, 25511, 25512, 25512.5, 25513, 25513.3, 25514, 25514.3, 25514.5, 25515, 25516, 25516.1, 25516.5, 25516.6, and 30413 of, the Public Resources Act to amend Sections 25305, 25308.5, 25309, 25520, 25523, 25524, 25540.6, and 25541 of, and to repeal Section 25523.5 of, the Public Resources Code, relating to energy conservation.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 110, as amended, Peace. Energy conservation: power facility and site certification: ~~notice of intention.~~

Existing law, the Warren-Alquist State Energy Resources Conservation and Development Act, requires the State Energy Resources Conservation and Development Commission to *certify sufficient sites and related facilities that are required to provide a supply of electric power sufficient to accommodate projected demand for power statewide. The act requires the commission to prepare and distribute a specified draft electricity report setting forth its findings and conclusions regarding the electric utilities' forecasts, and requires that the 5- and 12-year forecasts or assessments established by the commission serve as the basis for planning*

and certification of electric transmission or thermal powerplant facilities.

This bill would eliminate the requirement that those 5- and 12-year forecasts established by the commission serve as the basis for the planning and certification of electric transmission and thermal powerplant facilities.

The existing act requires the commission, every 2 years, to transmit to the Governor and the Legislature a comprehensive report designed to identify emerging trends related to energy supply, demand, and conservation and public health and safety factors, and to provide the basis for state policy and actions in relation thereto, including specified information.

This bill would make various changes with regard to the information and analyses to be contained in that report, as specified.

The act requires that an application for certification of a power facility submitted to the commission pursuant to the act contain specified information that the commission may require by regulation. The act also requires that the commission prepare a written decision after a public hearing on an application for certification, which contains specified information.

This bill would make various changes with respect to the information required to be provided in an application for certification, and to be contained in the commission's written decision concerning the application, as prescribed.

The existing act prohibits the commission from certifying any facility contained in the application for certification, unless it makes specified findings relating to conformity of the proposed facility with an integrated assessment of need for the new facility.

This bill would eliminate that prohibition.

The existing act authorizes the commission to exempt from those certification requirements thermal powerplants with a generating capacity of up to 100 megawatts and modifications to existing generating facilities that do not add capacity in excess of 100 megawatts, if the commission finds that no substantial adverse impact on the environment or energy resources will result from the construction or operation of the



proposed facility or from the modification, and that generating capacity will not be added that is substantially in excess of the integrated assessment of need for new resource additions, as determined.

This bill would eliminate, for purposes of that exemption, the requirement that the commission find that generating capacity will not be added that is substantially in excess of the integrated assessment of need for new resource additions, as determined. The bill would also make various related conforming changes.—certify sufficient sites and related facilities that are required to provide a supply of electric power sufficient to accommodate projected demand for electric power statewide, and prescribes procedures for the certification of a person proposing to construct a power facility, as specified. The act, among other things, requires each person proposing to construct a thermal powerplant or electric transmission line on a site to submit to the commission a notice to file an application for the certification of the site and related facility or facilities. The act requires the notice of intention to file an application to contain specified information relating to the proposed facility, and prescribes procedures for the content and review of a notice of intention to file an application.

This bill would eliminate those provisions requiring the submission of the notice of intention to file an application for the certification of a power facility to the commission, and the provisions prescribing procedures for the content and review of a notice, as specified. The bill would also make various related conforming changes.

Existing law requires the San Francisco Bay Conservation and Development Commission to analyze each notice of intention to file an application for certification of a site and related facilities within the Suisun Marsh or the area of jurisdiction of the commission, and to forward to the State Energy and Resources Conservation and Development Commission a written report on the suitability of the proposed site and related facilities specified in that notice.

This bill would delete those provisions requiring the San Francisco Bay Conservation and Development Commission



~~to analyze each notice, and report to the State Energy Resources Conservation and Development Commission.~~

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 66645 of the Government Code~~

2 *SECTION 1. Section 25305 of the Public Resources*
3 *Code is amended to read:*

4 25305. Within nine months after receipt of the reports
5 specified in Section 25300, the commission shall prepare
6 and distribute a draft electricity report, setting forth its
7 findings and conclusions regarding the electric utilities'
8 forecasts. The report shall be based upon information and
9 views presented in the comments received under Section
10 25303 and the commission's independent analysis, and
11 shall contain all of the following:

12 (a) The commission's evaluation of the probable
13 service area and statewide, environmental, and economic
14 impact and the health and safety aspect of constructing
15 and operating the facilities proposed by the electric
16 utilities and a description of the measures considered
17 necessary by the commission to avoid or ameliorate any
18 adverse impacts.

19 (b) Discussion of reasonable alternative technologies
20 to those proposed by the electrical utilities for
21 consideration pursuant to Section 25604.

22 (c) After consideration of the utility reports, public
23 and agency comments, and forecasts prepared by the
24 commission staff, the commission's 5- and 12-year
25 forecasts of demand for electrical energy and capacity.
26 Conservation, load management, or other demand
27 reducing measures reasonably expected to occur shall be
28 explicitly taken into account only in the determinations
29 made pursuant to this subdivision, and shall not be
30 considered as alternatives to a proposed facility during
31 the siting process specified in Chapter 6 (commencing
32 with Section 25500).

(d) An analysis and evaluation of the means by which the projected annual rate of demand growth of electrical energy may be reduced, together with an estimate of the amount of the reduction to be obtained by each of the means analyzed and evaluated, including a statement of the impact of the reduction on the factors reviewed by the commission set forth in Section 25304 and subdivision (a).

(e) A statement of the level of statewide and service area electrical energy demand for the forthcoming 5- and 12-year forecast or assessment period which, in the judgment of the commission, will reasonably balance requirements of state and service area growth and development, protection of public health and safety, preservation of environmental quality, maintenance of a sound economy, and conservation of energy and resources reasonably expected to occur. ~~The 5- and 12-year forecasts or assessments established by the commission shall serve as the basis for planning and certification of facilities.~~

(f) A statement, on a statewide and service area basis, of the probable capacity additions consistent with the level of demand determined by the commission pursuant to subdivision (e).

(g) The anticipated level of statewide and service area electrical energy demand for 20 years, which shall serve as the basis for recommendations by the commission to the Governor, the Legislature, and other appropriate public and private agencies in all of the following categories:

(1) Demand-reducing policies.

(2) Conservation of energy.

(3) Development of potential sources of energy.

(4) Other policies and actions designed to affect the rate of growth in demand for electrical energy.

(h) A list, including maps, of existing electrical power generating sites, indicating those where the commission has determined that expansion is feasible within the forthcoming 12-year period.

1 (i) A list, including maps, of possible areas appropriate
2 for additional electrical generating sites, including the
3 generating capacity to be installed at the sites and the
4 type of fuel and other general characteristics of the
5 facilities which, as determined by the commission, will be
6 required to meet the 12-year level of electrical energy
7 demand established by the commission pursuant to
8 subdivision (a).

9 (j) A list, including maps of sites and potential
10 multiple-facility sites which have been found to be
11 acceptable by the commission pursuant to Sections 25516
12 and 25516.5, including the generating capacity to be
13 installed at each site and the type of fuel and other
14 general characteristics of the facilities at each site.

15 *SEC. 2. Section 25308.5 of the Public Resources Code*
16 *is amended to read:*

17 ~~25308.5. (a) In developing the electricity report, the~~
18 ~~commission shall, after providing an opportunity for~~
19 ~~parties to submit recommendations, establish criteria for~~
20 ~~determining demand conformance for the siting of~~
21 ~~facilities.~~

22 ~~(b) In issuing the final electricity report, the~~
23 ~~commission shall describe how the hearing record~~
24 ~~supports its policy decisions, including, but not limited to,~~
25 ~~the demand and supply forecasts and the demand~~
26 ~~conformance criteria.~~

27 *SEC. 3. Section 25309 of the Public Resources Code is*
28 *amended to read:*

29 25309. Beginning May 1, 1985, and every two years
30 thereafter, *notwithstanding Section 7550.5 of the*
31 *Government Code*, the commission shall transmit to the
32 Governor and the Legislature a comprehensive report
33 designed to identify emerging trends related to energy
34 supply, demand, and conservation and public health and
35 safety factors, and to provide the basis for state policy and
36 actions in relation thereto, including, but not limited to,
37 approval of new sites for additional facilities. The report
38 shall include, but not be limited to, all of the following:

39 (a) An overview, looking 20 years ahead, of statewide
40 growth and development as they relate to future

1 requirements for energy, including patterns of urban
2 metropolitan expansion, statewide and service area
3 economic growth, shifts in transportation modes,
4 modifications in building types and design, and other
5 trends and factors which, as determined by the
6 commission, will significantly affect energy consumption
7 and need to be considered in formulating state energy
8 policy and programs.

9 ~~(b) The commission's integrated assessment of the~~
10 ~~need for new resource additions, as determined pursuant~~
11 ~~to subdivisions (a) to (f), inclusive, of Section 25305 and~~
12 ~~adopted in its final report pursuant to Section 25308,~~
13 ~~which shall be used as the basis of planning and approval~~
14 ~~of new resource additions, including the level of~~
15 ~~statewide and service area electrical energy demand for~~
16 ~~the forthcoming 5- and 12-year forecasts or assessment~~
17 ~~periods which, in the judgment of the commission, will~~
18 ~~reasonably balance the requirements of state and service~~
19 ~~area growth and development, the protection of the~~
20 ~~public health and safety, the preservation of~~
21 ~~environmental quality, the maintenance of a sound~~
22 ~~economy, and the conservation of resources.~~

23 ~~(c) A statement, on a statewide and service area basis,~~
24 ~~of the probable capacity additions consistent with the~~
25 ~~level of demand determined by the commission pursuant~~
26 ~~to Sections 25305 to 25308, inclusive.~~

27 ~~(d) The anticipated level of statewide and service area~~
28 ~~electrical energy demand for 20 years, which shall serve~~
29 ~~as the basis for recommendations by the commission to~~
30 ~~the Governor, the Legislature, and other appropriate~~
31 ~~public and private agencies.~~

32 ~~(e)~~

33 (c) Based upon the commission's 20-year forecasts or
34 assessment of growth trends in energy consumption and
35 production, identification of potential adverse social,
36 economic, or environmental impacts which might be
37 imposed by continuation of the present trends, including,
38 but not limited to, the costs of electricity and other forms
39 of energy to consumers, significant increases in air, water,

1 and other forms of pollution, threats to public health and
2 safety, and loss of scenic and natural areas.

3 ~~(f)~~

4 (d) Assessment of the energy resources available to
5 the state, including, among others, fossil fuels and
6 nuclear, solar, geothermal, cogeneration, and purchased
7 power resources and power pooling; assessment of the
8 potential of, and examination of the availability of,
9 commercially developable fuels, including imported
10 fuels, during the forthcoming 12- and 20-year periods; and
11 recommendations regarding measures to be applied to
12 conserve energy and fuels.

13 ~~(g)~~

14 (e) An analysis and evaluation of the means by which
15 the projected annual rate of demand growth of energy
16 may be reduced, together with an estimate of the amount
17 of the reduction to be obtained by policies and programs
18 evaluated pursuant to Section 25401.1.

19 ~~(h)~~

20 (f) An indication of those technologies which merit
21 continued consideration or support in the commission's
22 long range assessment efforts and its research and
23 development program. The report shall also indicate
24 those electrical generation and nongeneration
25 technologies which have been found to be commercially
26 available or reasonably expected to become available
27 pursuant to Section 25604.

28 ~~(i)~~

29 (g) A description of the commission's responsibilities
30 and recommendations for emergency measures to be
31 applied in the event of impending serious shortage of
32 electrical and other forms of energy as provided in
33 Chapter 8 (commencing with Section 25700) and
34 evaluated under subdivision (b) of Section 25358.

35 ~~(j)~~

36 (h) Recommendations to the Governor and the
37 Legislature for administrative and legislative actions
38 based on the results of commission studies and
39 evaluations.



1 *SEC. 4. Section 25520 of the Public Resources Code is*
2 *amended to read:*

3 25520. The application shall contain all of the
4 following information and any other information that the
5 commission by regulation may require:

6 (a) A detailed description of the design, construction,
7 and operation of the proposed facility.

8 (b) Safety and reliability information, including, in
9 addition to documentation previously provided pursuant
10 to Section 25511, planned provisions for emergency
11 operations and shutdowns.

12 (c) Available site information, including maps and
13 descriptions of present and proposed development and,
14 as appropriate, geological, aesthetic, ecological, seismic,
15 water supply, population, and load center data, and
16 justification for the particular site proposed.

17 (d) Any other information relating to the design,
18 operation, and siting of the facility that the commission
19 may specify.

20 ~~(e) A statement of need providing information~~
21 ~~showing compatibility of the proposed facility with the~~
22 ~~most recent electricity report issued by the commission~~
23 ~~pursuant to Sections 25305 to 25308, inclusive, or, where~~
24 ~~applicable, information pertinent to Section 25523.5~~
25 ~~regarding the conformity of a competitive solicitation for~~
26 ~~new generation resources with the integrated assessment~~
27 ~~of need for new resource additions determined pursuant~~
28 ~~to subdivisions (a) to (f), inclusive, of Section 25305 and~~
29 ~~adopted pursuant to Section 25308, and in effect at the~~
30 ~~time that the competitive solicitation for new generation~~
31 ~~resources, as described in subdivision (f) of Section 25523,~~
32 ~~was developed.~~

33 ~~(f)~~ A description of the facility, the cost of the facility,
34 the fuel to be used, the source of fuel, fuel cost, plant
35 service life and capacity factor, and generating cost per
36 kilowatt hour.

37 ~~(g)~~

38 (f) A description of any electric transmission lines,
39 including the estimated cost of the proposed electric
40 transmission line; a map in suitable scale of the proposed

1 routing showing details of the rights-of-way in the vicinity
2 of settled areas, parks, recreational areas, and scenic
3 areas, and existing transmission lines within one mile of
4 the proposed route; justification for the route, and a
5 preliminary description of the effect of the proposed
6 electric transmission line on the environment, ecology,
7 and scenic, historic, and recreational values.

8 *SEC. 5. Section 25523 of the Public Resources Code is*
9 *amended to read:*

10 25523. The commission shall prepare a written
11 decision after the public hearing on an application, which
12 includes all of the following:

13 (a) Specific provisions relating to the manner in which
14 the proposed facility is to be designed, sited, and operated
15 in order to protect environmental quality and assure
16 public health and safety.

17 (b) In the case of a site to be located in the coastal zone,
18 specific provisions to meet the objectives of Division 20
19 (commencing with Section 30000) as may be specified in
20 the report submitted by the California Coastal
21 Commission pursuant to subdivision (d) of Section 30413,
22 unless the commission specifically finds that the adoption
23 of the provisions specified in the report would result in
24 greater adverse effect on the environment or that the
25 provisions proposed in the report would not be feasible.

26 (c) In the case of a site to be located in the Suisun
27 Marsh or in the jurisdiction of the San Francisco Bay
28 Conservation and Development Commission, specific
29 provisions to meet the requirements of Division 19
30 (commencing with Section 29000) of this code or Title 7.2
31 (commencing with Section 66600) of the Government
32 Code as may be specified in the report submitted by the
33 San Francisco Bay Conservation and Development
34 Commission pursuant to subdivision (d) of Section 66645
35 of the Government Code, unless the commission
36 specifically finds that the adoption of the provisions
37 specified in the report would result in greater adverse
38 effect on the environment or the provisions proposed in
39 the report would not be feasible.



(d) (1) Findings regarding the conformity of the proposed site and related facilities with standards adopted by the commission pursuant to Section 25216.3 and subdivision (d) of Section 25402, with public safety standards and the applicable air and water quality standards, and with other relevant local, regional, state, and federal standards, ordinances, or laws. If the commission finds that there is noncompliance with any state, local, or regional ordinance or regulation in the application, it shall consult and meet with the state, local, or regional governmental agency concerned to attempt to correct or eliminate the noncompliance. If the noncompliance cannot be corrected or eliminated, the commission shall inform the state, local, or regional governmental agency if it makes the findings required by Section 25525.

(2) The commission shall not find that the proposed facility conforms with applicable air quality standards pursuant to paragraph (1) unless the applicable air pollution control district or air quality management district certifies that complete emissions offsets for the proposed facility have been identified and will be obtained by the applicant prior to the commission's licensing of the project, to the extent that the proposed facility requires emission offsets to comply with local, regional, state, or federal air quality standards.

(e) Provision for restoring the site as necessary to protect the environment, if the commission denies approval of the application.

~~(f) Findings regarding the conformity of the proposed facility with the integrated assessment of need for new resource additions determined pursuant to subdivisions (a) to (f), inclusive, of Section 25305 and adopted pursuant to Section 25308 or, where applicable, findings pursuant to Section 25523.5 regarding the conformity of a competitive solicitation for new generation resources with the integrated assessment of need for new resource additions determined pursuant to subdivisions (a) to (f), inclusive, of Section 25305 and adopted pursuant to~~

1 ~~Section 25308 that was in effect at the time that the~~
2 ~~solicitation was developed.~~

3 ~~(g)~~ In the case of a geothermal site and related facility,
4 findings on whether there are sufficient commercial
5 quantities of geothermal resources available to operate
6 the proposed facility for its planned life.

7 ~~(h)~~

8 (g) In the case of a site and related facility using
9 resource recovery (waste-to-energy) technology,
10 specific conditions requiring that the facility be
11 monitored to ensure compliance with paragraphs (1),
12 (2), (3), and (6) of subdivision (a) of Section 42315 of the
13 Health and Safety Code.

14 ~~(i)~~

15 (h) In the case of a facility, other than a resource
16 recovery facility subject to subdivision ~~(h)~~ (g), specific
17 conditions requiring the facility to be monitored to
18 ensure compliance with toxic air contaminant control
19 measures adopted by an air pollution control district or air
20 quality management district pursuant to subdivision (d)
21 of Section 39666 or Section 41700 of the Health and Safety
22 Code, whether the measures were adopted before or
23 after issuance of a determination of compliance by the
24 district.

25 *SEC. 6. Section 25523.5 of the Public Resources Code*
26 *is repealed.*

27 ~~25523.5. The commission shall make an affirmative~~
28 ~~finding pursuant to subdivision (f) of Section 25523 if the~~
29 ~~proposed facility is either of the following:~~

30 ~~(a) The result of the Public Utilities Commission's~~
31 ~~Final Standard Offer No. 4 auction on the Request for~~
32 ~~Bids issued in August 1993.~~

33 ~~(b) The result of a utility's competitive solicitation for~~
34 ~~new generation resources which limits the amount of new~~
35 ~~generation to an amount of capacity or energy at or below~~
36 ~~the amount of capacity or energy determined to be~~
37 ~~needed for the utility through the integrated assessment~~
38 ~~of need for new resource additions determined pursuant~~
39 ~~to subdivisions (a) to (f), inclusive, of Section 25305 and~~
40 ~~adopted pursuant to Section 25308, and in effect at the~~

1 ~~time that the solicitation was developed, provided that~~
2 ~~the application for certification for the proposed facility~~
3 ~~is filed within 18 months after contracts have been~~
4 ~~executed from the utility's competitive solicitation.~~

5 *SEC. 7. Section 25524 of the Public Resources Code is*
6 *amended to read:*

7 25524. (a) ~~The commission shall not certify any~~
8 ~~facility contained in the application, unless its findings~~
9 ~~with respect to subdivision (f) of Section 25523 are in the~~
10 ~~affirmative.~~

11 (b) The commission shall not certify any geothermal
12 site and related facility unless it finds that the geothermal
13 field dedicated to the proposed powerplant is reasonably
14 capable of providing geothermal resources in sufficient
15 commercial quantities to supply the powerplant over its
16 planned life.

17 *SEC. 8. Section 25540.6 of the Public Resources Code*
18 *is amended to read:*

19 25540.6. (a) Notwithstanding any other provision of
20 law, no notice of intention is required, and the
21 commission shall issue its final decision on the application,
22 as specified in Section 25523, within 12 months after the
23 filing of the application for certification of the powerplant
24 and related facility or facilities, or at any later time as is
25 mutually agreed by the commission and the applicant, for
26 any of the following:

27 (1) A thermal powerplant which will employ
28 cogeneration technology, a thermal powerplant ~~which is~~
29 ~~the result of a competitive solicitation or negotiation for~~
30 ~~new generation resources and that~~ will employ natural
31 gas-fired technology, or a solar thermal powerplant.

32 (2) A modification of an existing facility.

33 (3) A thermal powerplant which it is only
34 technologically or economically feasible to site at or near
35 the energy source.

36 (4) A thermal powerplant with a generating capacity
37 of up to 100 megawatts.

38 (5) A thermal powerplant designed to develop or
39 demonstrate technologies which have not previously
40 been built or operated on a commercial scale. Such a

1 research, development, or commercial demonstration
2 project may include, but is not limited to, the use of
3 renewable or alternative fuels, improvements in energy
4 conversion efficiency, or the use of advanced pollution
5 control systems. Such a facility may not exceed 300
6 megawatts unless the commission, by regulation,
7 authorizes a greater capacity. Section 25524 does not
8 apply to such a powerplant and related facility or
9 facilities.

10 (b) Projects exempted from the notice of intention
11 requirement pursuant to paragraph (1), (4), or (5) of
12 subdivision (a) shall include, in the application for
13 certification, a discussion of the applicant's site selection
14 criteria, any alternative sites that the applicant
15 considered for the project, and the reasons why the
16 applicant chose the proposed site. That discussion shall
17 not be required for cogeneration projects at existing
18 industrial sites. The commission may also accept an
19 application for a noncogeneration project at an existing
20 industrial site without requiring a discussion of site
21 alternatives if the commission finds that the project has
22 a strong relationship to the existing industrial site and that
23 it is therefore reasonable not to analyze alternative sites
24 for the project.

25 *SEC. 9. Section 25541 of the Public Resources Code is*
26 *amended to read:*

27 25541. The commission may exempt from this chapter
28 thermal powerplants with a generating capacity of up to
29 100 megawatts and modifications to existing generating
30 facilities ~~which that~~ do not add capacity in excess of 100
31 megawatts, if the commission finds ~~both of the following:~~

32 ~~(a) No that no~~ substantial adverse impact on the
33 environment or energy resources will result from the
34 construction or operation of the proposed facility or from
35 the modifications.

36 ~~(b) Generating capacity will not be added which is~~
37 ~~substantially in excess of the integrated assessment of~~
38 ~~need for new resource additions determined pursuant to~~
39 ~~subdivisions (a) to (f), inclusive, of Section 25305 and~~
40 ~~adopted pursuant to Section 25308 which would be~~

1 ~~applicable to the project pursuant to subdivision (f) of~~
2 ~~Section 25523.~~

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**All matter omitted in this version of the
bill appears in the bill as introduced in the
Senate, December 15, 1998 (JR 11)**

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