

AMENDED IN ASSEMBLY JULY 7, 1999

AMENDED IN SENATE APRIL 5, 1999

SENATE BILL

No. 110

Introduced by Senator Peace

December 15, 1998

An act to amend Sections 25005.5, 25104, 25106, 25112, 25305, 25308.5, 25309, 25520, 25523, 25524, 25540.6, and ~~25541~~ 25541, 25911, and 26004 of, and to repeal Section 25523.5 of, and to repeal and add Chapter 3, (commencing with Section 25200) of Division 15 of, the Public Resources Code, ~~relating to energy conservation~~ and to amend Sections 335, 336, 337, 338, and 339 of, to add Sections 341.5, 351, 352, 353, 354, and 355 to, and to repeal and add Section 359 of, the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

SB 110, as amended, Peace. Energy conservation: power facility and site certification.

Existing

(1) The Warren-Alquist State Energy Resources Conservation and Development Act establishes the State Energy Resources Conservation and Development Commission with prescribed memberships, powers, and duties.

Existing law also creates the Electricity Oversight Board.

This bill would abolish the State Energy Conservation and Development Commission and create the California Energy

Infrastructure and Oversight Commission with prescribed duties and responsibilities.

(2) 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~~

(3) 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.

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(4) *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.

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(5) *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.

(6) *The existing restructuring of the electrical services industry provides for the authorization of direct transactions between electricity suppliers and end use customers and for the creation of an Independent System Operator and Power Exchange. An Oversight Board is also created to, among other things, oversee the Independent System Operator and Power Exchange, and to determine the composition and terms of service and to appoint the members of the governing boards of the Independent System Operator and the Power Exchange. The Oversight Board is the appeal board for majority decisions of the Independent System Operator governing board.*

This bill would place the Oversight Board within the California Energy Infrastructure and Oversight Commission and makes changes to its membership and operation, as prescribed. The bill would revise specified provisions relating to the Independent System Operator and the Power Exchange, and to the duties of the Oversight Board. The bill would require the Independent System Operator and the Power Exchange to each be administered by a governing board appointed by the Oversight Board until an agreement with a participating state is in effect. The bill would authorize the Oversight Board to decline to confirm the appointments of specific members of the governing boards of the Independent System Operator and Power Exchange, and would specify that the board has the exclusive right to approve procedures and qualifications for those governing board members, all of whom would be required to be electricity consumers, as specified. The bill would make the Oversight Board the appeal authority for majority decisions of the governing board of the Independent System Operator only with respect to prescribed matters, that would be subject to California's exclusive jurisdiction. The bill would impose prescribed requirements regarding the bylaws of the Independent System Operator and Power Exchange.

(7) Existing law requires the Independent System Operator to ensure efficient and reliable operation of the transmission grid, participate in federal proceedings, and adopt standards for transmission facilities. The Electricity Oversight Board oversees the Independent System Operator.

This bill would require the Independent System Operator to develop a statewide electric grid plan, as prescribed.

This bill would also require the Electricity Oversight Board to certify the electric grid plan after a public process, as prescribed.

The bill would require the Independent System Operator to secure the resources necessary to meet system improvement needs identified by the plan upon certification, as prescribed.

This bill would also give the Electricity Oversight Board exclusive authority to site and license electricity transmission projects, as prescribed.



This bill would also require the Independent System Operator to develop a process for expediting planning and approval of transmission facilities between 50kv and 200kv, as prescribed.

(8) Existing law governing electrical restructuring states the intent of the Legislature that California enter into a compact with western region states, and that the compact should require the publicly and investor-owned utilities located in those states that sell energy to California retail customers to adhere to enforceable standards and protocols to protect the reliability of the interconnected regional transmission and distribution systems. Existing law provides for the creation of an Independent System Operator and Power Exchange, with powers and duties as prescribed.

This bill would repeal that intent provision, and, instead, state the intent of the Legislature to provide for the evolution of the Independent System Operator and the Power Exchange into regional organizations to promote the development of regional electricity transmission markets in the western states and to improve the access of consumers served by the Independent System Operator and the Power Exchange to those markets. The bill would state that the preferred means by which that voluntary evolution should occur is through the adoption of a regional compact or other comparable agreement, as described.

(9) Because a violation of certain provisions relating to the energy commission is punishable as a crime, the bill would impose a state-mandated local program by creating a new crimes.

(10) 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: ~~no~~-yes.



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

1 SECTION 1. *It is the intent of the Legislature to place*
2 *the Electricity Oversight Board under the auspices of the*
3 *California Energy Infrastructure and Oversight*
4 *Commission, and to expand the authority of the Energy*
5 *Reliability Commission, to include, in addition to the*
6 *powers and responsibilities created by this act, the design*
7 *and administration of energy efficient projects currently*
8 *administered by the Public Utilities Commission to take*
9 *advantage of the synergies associated with the*
10 *institutional experience of the California Energy*
11 *Infrastructure and Oversight Commission in energy*
12 *efficiency. The undertaking of this responsibility shall*
13 *commence on January 1, 2002.*

14 SEC. 2. *Section 25005.5 of the Public Resources Code*
15 *is amended to read:*

16 25005.5. The Legislature further finds and declares
17 that information should be acquired and analyzed by the
18 ~~State Energy Resources Conservation and Development,~~
19 *California Energy Infrastructure and Oversight*
20 *Commission in order* to ascertain future energy problems
21 and uncertainties, including, but not limited to, *all of the*
22 *following:*

23 (a) The state's role in production of oil from domestic
24 reserves, especially within Petroleum Administration for
25 Defense District V.

26 (b) The production of Alaskan North Slope oil and its
27 projected use in the state.

28 (c) Plans of the federal government for development
29 of oil in the Outer Continental Shelf adjacent to the state.

30 (d) Impacts of petroleum price increases and
31 projected conservation measures on the demand for
32 energy and indirect effects on the need for offshore oil
33 development and Alaskan oil delivery into the state.

34 (e) Potential shipment of Alaskan oil through the
35 state.

36 (f) Proposals for processing petroleum outside the
37 state to supply the needs within the state.

(g) The impact on the state of national energy policies, including Project Independence.

SEC. 3. Section 25104 of the Public Resources Code is amended to read:

25104. (a) “Commission” means the ~~State Energy Resources Conservation and Development~~ California Energy Infrastructure and Oversight Commission.

(b) The State Energy Resources Conservation and Development Commission is hereby abolished. The California Energy Infrastructure and Oversight Commission succeeds to, and is vested with, all the powers, duties, responsibilities, and jurisdiction of the former State Energy Resources Conservation and Development Commission.

(c) Any reference in any law to the State Energy Resources Conservation and Development Commission shall be deemed to be a reference to, and to mean, the California Energy Infrastructure and Oversight Commission.

SEC. 4. Section 25106 of the Public Resources Code is amended to read:

25106. “Adviser” means the public adviser employed by the commission pursuant to Section ~~25217~~ 25215.

SEC. 5. Section 25112 of the Public Resources Code is amended to read:

25112. “Member” or “member of the commission” means a member of the ~~State Energy Resources Conservation and Development~~ California Energy Infrastructure and Oversight Commission appointed pursuant to Section 25201.

SEC. 6. Chapter 3 (commencing with Section 25200) of Division 15 of the Public Resources Code is repealed.

SEC. 7. Chapter 3 (commencing with Section 25200) is added to Division 15 of the Public Resources Code, to read:

CHAPTER 3. CALIFORNIA ENERGY INFRASTRUCTURE AND OVERSIGHT COMMISSION

25200. There is in the Resources Agency the California Energy Infrastructure and Oversight Commission.

25201. (a) The California Energy Infrastructure and Oversight Commission shall be comprised of seven members as follows:

(1) One member appointed by the Governor, who shall have a background in engineering or physical science with a knowledge of energy systems and institutions and senior management experience.

(2) One member appointed by the Governor, who shall be an attorney and a member of the State Bar, with administrative law, senior management, and energy industry experience.

(3) One member appointed by the Governor, shall have a background, and experience, in environmental protection as it relates to energy systems and senior management experience.

(4) One member appointed by the Governor, who shall be an economist with a background, and experience, in energy and have senior management experience.

(5) On member appointed by the Governor, who shall represent the public at large, with experience relevant to the field of energy, and have senior management experience.

(6) One member of the Assembly appointed by the Speaker of the Assembly.

(7) One member of the Senate appointed by the President Pro Tem of the Senate.

(b) Legislative members appointed pursuant to paragraphs (6) and (7) of subdivision (a) are nonvoting members, however, they are otherwise full members of the board with all rights and privileges pertaining thereto.

(c) The Governor shall designate one of the voting members as the chairperson of the Energy Reliability Commission who shall preside over meetings and direct

1 the executive director in the routine administration of the
2 California Energy Infrastructure and Oversight
3 Commission's business. The Governor shall also designate
4 one of the other voting members as a vice-chairperson to
5 preside over meetings in the absence of the chairperson.
6 The chairperson and vice-chairperson shall serve in those
7 capacities at the pleasure of the Governor.

8 (d) Each member of the commission designated in
9 paragraphs (1) to (5), inclusive, of subdivision (a) shall
10 serve on a full-time basis and represent the state at large,
11 and not any particular area thereof.

12 (e) (1) The Governor shall appoint the voting
13 members of the commission designated in paragraphs (1)
14 to (5), inclusive, of subdivision (a) within 30 days after the
15 effective date of this chapter. Every appointment made
16 to the commission shall be subject to the advice and
17 consent of the majority of the members elected to the
18 Senate. The terms of office of those members shall be for
19 five years, except that the terms of members first
20 appointed to the commission shall classify themselves by
21 lot so that the term of office of one member shall expire
22 at the end of each one of the five years following the
23 effective date of this chapter. Any vacancy shall be filled
24 by the Governor within 30 days of the date on which a
25 vacancy occurs for the unexpired portion of the term in
26 which it occurs for any new term of office.

27 (2) Effective January 1, 2000, through December 31,
28 2000, in order to ensure that current energy facility siting
29 cases are not delayed due to a commissioner vacancy
30 during the transition period created by the abolishment
31 of the Energy Resources and Conservation Commission
32 and the creation of the California Energy Infrastructure
33 and Oversight Commission, a previously appointed
34 Energy Resources and Conservation Commission
35 commissioner assigned to a facility siting case shall
36 continue to preside over the case and exercise all powers
37 and authority of a commissioner of the California Energy
38 Infrastructure and Oversight Commission until the
39 Governor makes an appointment to fill the vacancy.

1 25202. The Secretary of the Resources Agency and the
2 President of the Public Utilities Commission shall be ex
3 officio, nonvoting members of the commission, whose
4 presence shall not be counted for a quorum or for vote
5 requirements.

6 25203. (a) No person shall be a member of the
7 commission who, during the two years prior to
8 appointment on the commission, received any substantial
9 portion of his or her income directly or indirectly from
10 any electric utility, or who engages in the sale or
11 manufacture of any major component of any facility. No
12 member of the commission shall be employed by any
13 electric utility, applicant, or, within two years after he or
14 she ceases to be a member of the commission, by any
15 person who engages in the sale or manufacture of any
16 major component of any facility.

17 (b) Except as provided in paragraphs (6) and (7) of
18 subdivision (a) of Section 25201 and Section 25202, the
19 members of the commission shall not hold any other
20 elected or appointed public office or position.

21 (c) The members of the commission and all employees
22 of the commission shall comply with all applicable
23 provisions of Section 19990 of the Government Code.

24 (d) No person who is a member or employee of the
25 commission shall participate personally and substantially
26 as a member or employee of the commission, through
27 decision, approval, disapproval, recommendation, the
28 rendering of advice, investigation, or otherwise, in a
29 judicial or other proceeding, hearing, application,
30 request for a ruling, or other determination, contract,
31 claim, controversy, study, plan, or other particular matter
32 in which, to his or her knowledge, his or her spouse, minor
33 child, or partner, or any organization, except a
34 governmental agency or educational or research
35 institution qualifying as a nonprofit organization under
36 state or federal income tax law, in which he or she is
37 serving, or has served as a officer, director, trustee,
38 partner, or employee while serving as a member or
39 employee of the commission or within two years prior to



1 his or her appointment as a member of the commission,
2 has a direct or indirect financial interest.

3 (e) No person who is a partner, employer, or employee
4 of a member or employee of the commission shall act as
5 an attorney, agent, or employee for any person other than
6 the state in connection with any judicial or other
7 proceeding, hearing, application, request for a ruling, or
8 other determination, contract, claim, controversy, study,
9 plan, or other particular matter in which the commission
10 is a party or has a direct and substantial interest.

11 (f) The provisions of this section shall not apply if the
12 Attorney General finds that the interest of the member
13 or employee of the commission is not so substantial as to
14 be deemed likely to affect the integrity of the services
15 that the state may expect from such member or
16 employee.

17 (g) Any person who violates any provision of this
18 section is guilty of a felony and shall be subject to a fine
19 of not more than ten thousand dollars (\$10,000) or
20 imprisonment in the state prison, or both.

21 25204. The members of the commission shall receive
22 the salary provided for by Chapter 6 (commencing with
23 Section 11550) of Part 1 of Division 3 of Title 2 of the
24 Government Code.

25 Each member of the commission shall receive the
26 necessary travel and other expenses incurred in the
27 performance of his official duties. When necessary, the
28 members of the commission and its employees may travel
29 within or without the state.

30 25205. Each member of the commission shall have
31 one vote. Except as provided in Section 25208, the
32 affirmative votes of at least three members shall be
33 required for the transaction of any business of the
34 commission.

35 25206. Any member of the commission may be
36 removed from office by the Legislature, by concurrent
37 resolution adopted by a majority vote of all members
38 elected to each house, for dereliction of duty or
39 corruption or incompetence.

1 25207. The commission may hold any hearings and
2 conduct any investigations in any part of the state
3 necessary to carry out its powers and duties prescribed by
4 this division and, for those purposes, has the same powers
5 as are conferred upon heads of departments of the state
6 by Article 2 (commencing with Section 11180) of Chapter
7 2 of Part 1 of Division 3 of Title 2 of the Government Code.

8 25208. The commission may appoint a committee of
9 not less than two members of the commission to carry on
10 investigations, inquiries, or hearings that the commission
11 has power to undertake or to hold. At least one member
12 of the committee shall attend all public hearings or other
13 proceedings held pursuant to Chapter 6 (commencing
14 with Section 25500), and all public hearings in biennial
15 report proceedings and rulemaking proceedings, except
16 that, upon agreement of all parties to a proceeding who
17 are present at the hearing or proceeding, the committee
18 may authorize a hearing officer to continue to take
19 evidence in the temporary absence of a commission
20 member. Every order made by the committee pursuant
21 to the inquiry, investigation, or hearing, when approved
22 or confirmed by the commission and ordered filed in its
23 office, shall be the order of the commission.

24 25209. The commission shall adopt rules and
25 regulations, as necessary, to carry out this division in
26 conformity with the provisions of Chapter 3.5
27 (commencing with Section 11340) of Part 1 of Division 3
28 of Title 2 of the Government Code. The commission shall
29 make available to any person upon request copies of
30 proposed regulations, together with summaries of reasons
31 supporting their adoption.

32 25210. The commission shall maintain its
33 headquarters in the County of Sacramento and may
34 establish branch offices in those parts of the state that the
35 commission determines to be necessary in the
36 administration of this division. The commission shall hold
37 meetings at those times and places as it determines to be
38 appropriate. All meetings and hearings of the commission
39 pursuant to this division shall be open to the public, and
40 an opportunity to be heard with respect to the subject of

1 the hearings shall be afforded to any person. Upon
2 request, an interested party may be granted reasonable
3 opportunity to examine any witness testifying at the
4 hearing.

5 25211. In addition to any other duty specified in this
6 division, the commission shall do all of the following:

7 (a) Undertake a continuing assessment of trends in the
8 consumption of electrical energy and other forms of
9 energy and analyze the social, economic, and
10 environmental consequences of those trends; carry out
11 directly, or cause to be carried out, energy conservation
12 measures specified in Chapter 5 (commencing with
13 Section 25400); and recommend to the Governor and the
14 Legislature new and expanded energy conservation
15 measures as required to meet the objectives of this
16 division.

17 (b) Carry out, or cause to be carried out, under
18 contract or other arrangements, research and
19 development into alternative sources of energy,
20 improvements in energy generation, transmission, and
21 siting, fuel substitution, and other topics related to energy
22 supply, demand, public safety, ecology, and conservation
23 that are of particular statewide importance.

24 25212. (a) The commission shall do all of the
25 following:

26 (1) Compile relevant local, regional, state, and federal
27 land use, public safety, environmental, and other
28 standards to be met in designing, siting, and operating
29 facilities in this state.

30 (2) Except as provided in subdivision (d) of Section
31 25402, adopt standards, except for air and water quality,
32 to be met in designing or operating facilities to safeguard
33 public health and safety, which may be different from or
34 more stringent than those adopted by local, regional, or
35 other state agencies, or by any federal agency if
36 permitted by federal law.

37 (3) Monitor compliance and ensure that all facilities
38 are operated in accordance with this division.

39 (b) Local, regional, and other state agencies shall
40 advise the commission as to any change in its standards,

1 ordinances, or laws that are pertinent and relevant to the
2 objective of carrying out this division.

3 25213. The commission shall do all of the following:

4 (a) Prescribe the form and content of applications for
5 facilities; conduct public hearings and take other actions
6 to secure adequate evaluation of applications; and
7 formally act to approve or disapprove applications,
8 including specifying conditions under which approval
9 and continuing operation of any facility shall be
10 permitted.

11 (b) Prepare an integrated plan specifying actions to be
12 taken in the event of an impending serious shortage of
13 energy, or a clear threat to public health, safety, or
14 welfare.

15 (c) Evaluate policies governing the establishment of
16 rates for electric power and other sources of energy as
17 related to energy conservation, environmental
18 protection, and other goals and policies established in this
19 division, and transmit recommendations for changes in
20 power-pricing policies and rate schedules to the
21 Governor, the Legislature, and to publicly owned electric
22 utilities.

23 (d) Serve as a central repository within the state
24 government for the collection, storage, retrieval, and
25 dissemination of data and information on all forms of
26 energy supply, demand, conservation, public safety,
27 research, and related subjects. The data and information
28 shall be derived from all sources, including, but not be
29 limited to, electric and gas utilities, oil and other energy
30 producing companies, institutions of higher education,
31 private industry, public and private research laboratories,
32 private individuals, and from any other source that the
33 commission determines is necessary to carry out its
34 objectives under this division. The commission may
35 charge and collect a reasonable fee for retrieving and
36 disseminating any such information to cover the cost of
37 such a service. Any funds received by the commission
38 pursuant to this subdivision shall be deposited in the
39 account and are continuously appropriated for
40 expenditure, by the commission, for purposes of



1 retrieving and disseminating any such information
2 pursuant to this section.

3 25214. The commission shall do all of the following:

4 (a) Appoint an executive director with administration
5 and fiscal experience for purposes of administering this
6 division, who shall serve at the pleasure of the commission
7 and whose duties and salary shall be prescribed by the
8 commission.

9 (b) Employ and prescribe the duties of other staff
10 members as necessary to carry out this division. Those
11 staff members may participate in all matters before the
12 commission subject to such limits as may be prescribed by
13 the commission.

14 (c) Employ legal counsel who shall advise the
15 commission in its administration of this division and
16 represent it in legal matters and litigation in connection
17 with this division before any boards or other agencies of
18 the state or federal government.

19 25215. The commission shall nominate, and the
20 Governor shall appoint for a term of three years, a public
21 adviser to the commission who shall be an attorney
22 admitted to the practice of law in this state and who shall
23 carry out the provisions of Section 25222 as well as other
24 duties prescribed by this division or by the commission in
25 its administration of this division. The adviser may be
26 removed from office only upon the joint concurrence of
27 four commissioners and the Governor.

28 25216. The chairperson of the commission shall direct
29 the adviser, the executive director, and other staff in the
30 performance of their duties in conformance with the
31 policies and guidelines established by the commission.

32 25217. In addition to other powers specified in this
33 division, the commission may do any of the following:

34 (a) Apply for and accept grants, contributions, and
35 appropriations.

36 (b) Contract for professional work or services if work
37 or services cannot be satisfactorily performed by its
38 employees or by any other state agency.

39 (c) Be sued and sue.

1 (d) Request and utilize the advice and services of all
2 federal, state, regional, and local agencies.

3 (e) Adopt any rule or regulation, or take any action,
4 that the commission determines to be reasonable and
5 necessary to carry out this division.

6 (f) Adopt rules and regulations, or take any action, that
7 the commission determines to be reasonable and
8 necessary to ensure the free and open participation of any
9 member of the staff in proceedings before the
10 commission.

11 25218. The provisions of this division specifying any
12 power or duty of the commission shall be liberally
13 construed, to carry out the objectives of this division.

14 25219. As to any matter involving the federal
15 government, its departments or agencies, that is within
16 the scope of the powers and duties of the commission
17 under this division, the commission may represent its
18 interest or the interest of any county, city, state agency,
19 or district upon its request, and to that end may
20 correspond, confer, and cooperate with the federal
21 government, and its departments or agencies.

22 25220. The commission may participate as a party, to
23 the extent that it shall determine, in any proceeding
24 before any federal or state agency having authority
25 whatsoever to approve or disapprove any aspect of a
26 proposed facility, receive notice from any applicant of all
27 applications and pleadings filed subsequently by those
28 applicants in any such proceedings, and, upon its request,
29 receive copies of any such subsequently filed applications
30 and pleadings that the commission shall determine to be
31 necessary.

32 25221. Upon request of the commission, the Attorney
33 General shall represent the commission and the state in
34 litigation concerning the affairs of the commission, unless
35 the Attorney General represents another state agency, in
36 which case the commission may employ other counsel.

37 25222. The adviser shall ensure that full and adequate
38 participation by all interested groups and the public at
39 large is secured in the energy resources planning, site and
40 facility certification, energy conservation, and

1 emergency allocation procedures prescribed in this
2 division. The adviser shall ensure that timely and
3 complete notice of commission meetings and public
4 hearings is disseminated to all interested groups and to
5 the public at large. The adviser shall also advise those
6 groups and the public as to effective ways of participating
7 in the commission's proceedings. The adviser shall
8 recommend to the commission additional measures to
9 assure open consideration and public participation in
10 energy resources planning, site and facility certification,
11 energy conservation, and emergency allocation
12 proceedings.

13 25223. The commission shall make available any
14 information filed or submitted pursuant to this division
15 under the California Public Records Act (Chapter 3.5
16 (commencing with Section 6250) of Division 7 of Title 1
17 of the Government Code), except that the commission
18 shall keep confidential any information submitted to the
19 Division of Oil, Gas, and Geothermal Resources of the
20 Department of Conservation that division determines,
21 pursuant to Section 3752, to be proprietary.

22 25224. The commission and other state agencies shall,
23 to the fullest extent possible, exchange records, reports,
24 material, and other information relating to energy
25 resources and conservation and power facilities siting, or
26 any areas of mutual concern, to the end that unnecessary
27 duplication of effort may be avoided.

28 25225. (a) Prior to expending any funds for any
29 research, development, or demonstration program or
30 project relating to vehicles or vehicle fuels, the
31 commission shall do both of the following, using existing
32 resources:

33 (1) Adopt a plan describing any proposed expenditure
34 that sets forth the expected costs and qualitative as well
35 as quantitative benefits of the proposed program or
36 project.

37 (2) Find that the proposed program or project will not
38 duplicate any other past or present publicly funded
39 California program or project. This paragraph is not
40 intended to prevent funding for programs or projects

1 jointly funded with another public agency where there is
2 no duplication.

3 (b) Within 120 days from the date of the conclusion of
4 a program or project subject to subdivision (a) that is
5 funded by the commission, the commission shall issue a
6 public report that sets forth the actual costs of the
7 program or project, the results achieved and how they
8 compare with expected costs and benefits determined
9 pursuant to paragraph (1) of subdivision (a), and any
10 problems that were encountered by the program or
11 project.

12 (c) (1) This section does not apply to any funds
13 appropriated for research, development, or
14 demonstration pursuant to a statute that expressly
15 specifies both of the following:

16 (A) A vehicle technology or vehicle fuel that is the
17 subject of the research, development, or demonstration.

18 (B) The purpose of, or anticipated products of, the
19 research, development, or demonstration.

20 (2) This section does not apply to the Katz Safe
21 Schoolbus Clean Fuel Efficiency Demonstration
22 Program (Part 10.7 (commencing with Section 17910) of
23 Division 1 of Title 1 of the Education Code).

24 Section 25305 of the Public Resources Code is amended
25 to read:

26 25305. Within nine months after receipt of the reports
27 specified in Section 25300, the commission shall prepare
28 and distribute a draft electricity report, setting forth its
29 findings and conclusions regarding the electric utilities'
30 forecasts. The report shall be based upon information and
31 views presented in the comments received under Section
32 25303 and the commission's independent analysis, and
33 shall contain all of the following:

34 (a) The commission's evaluation of the probable
35 service area and statewide, environmental, and economic
36 impact and the health and safety aspect of constructing
37 and operating the facilities proposed by the electric
38 utilities and a description of the measures considered
39 necessary by the commission to avoid or ameliorate any
40 adverse impacts.

1 (b) Discussion of reasonable alternative technologies
2 to those proposed by the electrical utilities for
3 consideration pursuant to Section 25604.

4 (c) After consideration of the utility reports, public
5 and agency comments, and forecasts prepared by the
6 commission staff, the commission's 5- and 12-year
7 forecasts of demand for electrical energy and capacity.
8 Conservation, load management, or other
9 demand-reducing measures reasonably expected to
10 occur shall be explicitly taken into account only in the
11 determinations made pursuant to this subdivision, and
12 shall not be considered as alternatives to a proposed
13 facility during the siting process specified in Chapter 6
14 (commencing with Section 25500).

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

23 (e) A statement of the level of statewide and service
24 area electrical energy demand for the forthcoming 5- and
25 12-year forecast or assessment period which, in the
26 judgment of the commission, will reasonably balance
27 requirements of state and service area growth and
28 development, protection of public health and safety,
29 preservation of environmental quality, maintenance of a
30 sound economy, and conservation of energy and
31 resources reasonably expected to occur.

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

36 (g) The anticipated level of statewide and service area
37 electrical energy demand for 20 years, which shall serve
38 as the basis for recommendations by the commission to
39 the Governor, the Legislature, and other appropriate



1 public and private agencies in all of the following
2 categories:

3 (1) Demand-reducing policies.

4 (2) Conservation of energy.

5 (3) Development of potential sources of energy.

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

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

12 (i) A list, including maps, of possible areas appropriate
13 for additional electrical generating sites, including the
14 generating capacity to be installed at the sites and the
15 type of fuel and other general characteristics of the
16 facilities which, as determined by the commission, will be
17 required to meet the 12-year level of electrical energy
18 demand established by the commission pursuant to
19 subdivision (a).

20 (j) A list, including maps of sites and potential
21 multiple-facility sites which have been found to be
22 acceptable by the commission pursuant to Sections 25516
23 and 25516.5, including the generating capacity to be
24 installed at each site and the type of fuel and other
25 general characteristics of the facilities at each site.

26 ~~SEC. 2.—~~

27 *SEC. 10.* Section 25308.5 of the Public Resources Code
28 is amended to read:

29 25308.5. In issuing the final electricity report, the
30 commission shall describe how the hearing record
31 supports its policy decisions.

32 ~~SEC. 3.—~~

33 *SEC. 11.* Section 25309 of the Public Resources Code
34 is amended to read:

35 25309. Beginning May 1, 1985, and every two years
36 thereafter, notwithstanding Section 7550.5 of the
37 Government Code, the commission shall transmit to the
38 Governor and the Legislature a comprehensive report
39 designed to identify emerging trends related to energy
40 supply, demand, and conservation and public health and

1 safety factors, and to provide the basis for state policy and
2 actions in relation thereto, including, but not limited to,
3 approval of new sites for additional facilities. The report
4 shall include, but not be limited to, all of the following:

5 (a) An overview, looking 20 years ahead, of statewide
6 growth and development as they relate to future
7 requirements for energy, including patterns of urban
8 metropolitan expansion, statewide and service area
9 economic growth, shifts in transportation modes,
10 modifications in building types and design, and other
11 trends and factors which, as determined by the
12 commission, will significantly affect energy consumption
13 and need to be considered in formulating state energy
14 policy and programs.

15 (b) The anticipated level of statewide and service area
16 electrical energy demand for 20 years, which shall serve
17 as the basis for recommendations by the commission to
18 the Governor, the Legislature, and other appropriate
19 public and private agencies.

20 (c) Based upon the commission's 20-year forecasts or
21 assessment of growth trends in energy consumption and
22 production, identification of potential adverse social,
23 economic, or environmental impacts which might be
24 imposed by continuation of the present trends, including,
25 but not limited to, the costs of electricity and other forms
26 of energy to consumers, significant increases in air, water,
27 and other forms of pollution, threats to public health and
28 safety, and loss of scenic and natural areas.

29 (d) Assessment of the energy resources available to
30 the state, including, among others, fossil fuels and
31 nuclear, solar, geothermal, cogeneration, and purchased
32 power resources and power pooling; assessment of the
33 potential of, and examination of the availability of,
34 commercially developable fuels, including imported
35 fuels, during the forthcoming 12- and 20-year periods; and
36 recommendations regarding measures to be applied to
37 conserve energy and fuels.

38 (e) An analysis and evaluation of the means by which
39 the projected annual rate of demand growth of energy
40 may be reduced, together with an estimate of the amount

1 of the reduction to be obtained by policies and programs
2 evaluated pursuant to Section 25401.1.

3 (f) An indication of those technologies which merit
4 continued consideration or support in the commission's
5 long range assessment efforts and its research and
6 development program. The report shall also indicate
7 those electrical generation and nongeneration
8 technologies which have been found to be commercially
9 available or reasonably expected to become available
10 pursuant to Section 25604.

11 (g) A description of the commission's responsibilities
12 and recommendations for emergency measures to be
13 applied in the event of impending serious shortage of
14 electrical and other forms of energy as provided in
15 Chapter 8 (commencing with Section 25700) and
16 evaluated under subdivision (b) of Section 25358.

17 (h) Recommendations to the Governor and the
18 Legislature for administrative and legislative actions
19 based on the results of commission studies and
20 evaluations.

21 ~~SEC. 4.—~~

22 *SEC. 12.* Section 25520 of the Public Resources Code
23 is amended to read:

24 25520. The application shall contain all of the
25 following information and any other information that the
26 commission by regulation may require:

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

29 (b) Safety and reliability information, including, in
30 addition to documentation previously provided pursuant
31 to Section 25511, planned provisions for emergency
32 operations and shutdowns.

33 (c) Available site information, including maps and
34 descriptions of present and proposed development and,
35 as appropriate, geological, aesthetic, ecological, seismic,
36 water supply, population, and load center data, and
37 justification for the particular site proposed.

38 (d) Any other information relating to the design,
39 operation, and siting of the facility that the commission
40 may specify.



(e) A description of the facility, the cost of the facility, the fuel to be used, the source of fuel, fuel cost, plant service life and capacity factor, and generating cost per kilowatthour.

(f) A description of any electric transmission lines, including the estimated cost of the proposed electric transmission line; a map in suitable scale of the proposed routing showing details of the rights-of-way in the vicinity of settled areas, parks, recreational areas, and scenic areas, and existing transmission lines within one mile of the proposed route; justification for the route, and a preliminary description of the effect of the proposed electric transmission line on the environment, ecology, and scenic, historic, and recreational values.

~~SEC. 5.—~~

SEC. 13. Section 25523 of the Public Resources Code is amended to read:

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

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

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

(c) In the case of a site to be located in the Suisun Marsh or in the jurisdiction of the San Francisco Bay Conservation and Development Commission, specific provisions to meet the requirements of Division 19 (commencing with Section 29000) of this code or Title 7.2 (commencing with Section 66600) of the Government Code as may be specified in the report submitted by the

1 San Francisco Bay Conservation and Development
2 Commission pursuant to subdivision (d) of Section 66645
3 of the Government Code, unless the commission
4 specifically finds that the adoption of the provisions
5 specified in the report would result in greater adverse
6 effect on the environment or the provisions proposed in
7 the report would not be feasible.

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

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

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

37 (f) In the case of a geothermal site and related facility,
38 findings on whether there are sufficient commercial
39 quantities of geothermal resources available to operate
40 the proposed facility for its planned life.



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

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

~~SEC. 6.—~~

SEC. 14. Section 25523.5 of the Public Resources Code is repealed.

~~SEC. 7.—~~

SEC. 15. Section 25524 of the Public Resources Code is amended to read:

25524. The commission shall not certify any geothermal site and related facility unless it finds that the geothermal field dedicated to the proposed powerplant is reasonably capable of providing geothermal resources in sufficient commercial quantities to supply the powerplant over its planned life.

~~SEC. 8.—~~

SEC. 16. Section 25540.6 of the Public Resources Code is amended to read:

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

1 (1) A thermal powerplant which will employ
2 cogeneration technology, a thermal powerplant that will
3 employ natural gas-fired technology, or a solar thermal
4 powerplant.

5 (2) A modification of an existing facility.

6 (3) A thermal powerplant which it is only
7 technologically or economically feasible to site at or near
8 the energy source.

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

11 (5) A thermal powerplant designed to develop or
12 demonstrate technologies which have not previously
13 been built or operated on a commercial scale. Such a
14 research, development, or commercial demonstration
15 project may include, but is not limited to, the use of
16 renewable or alternative fuels, improvements in energy
17 conversion efficiency, or the use of advanced pollution
18 control systems. Such a facility may not exceed 300
19 megawatts unless the commission, by regulation,
20 authorizes a greater capacity. Section 25524 does not
21 apply to such a powerplant and related facility or
22 facilities.

23 (b) Projects exempted from the notice of intention
24 requirement pursuant to paragraph (1), (4), or (5) of
25 subdivision (a) shall include, in the application for
26 certification, a discussion of the applicant's site selection
27 criteria, any alternative sites that the applicant
28 considered for the project, and the reasons why the
29 applicant chose the proposed site. That discussion shall
30 not be required for cogeneration projects at existing
31 industrial sites. The commission may also accept an
32 application for a noncogeneration project at an existing
33 industrial site without requiring a discussion of site
34 alternatives if the commission finds that the project has
35 a strong relationship to the existing industrial site and that
36 it is therefore reasonable not to analyze alternative sites
37 for the project.

38 ~~SEC. 9.—~~

39 SEC. 17. Section 25541 of the Public Resources Code
40 is amended to read:

25541. The commission may exempt from this chapter 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 modifications.

SEC. 18. Section 25911 of the Public Resources Code is amended to read:

~~25911. The State Energy Resources Conservation and Development~~ California Energy Infrastructure and Oversight Commission may adopt regulations pertaining to urea formaldehyde foam insulation materials ~~as that~~ are reasonably necessary to protect the public health and safety. ~~These~~ Those regulations may include, but are not limited to, prohibition of the manufacture, sale, or installation of urea formaldehyde foam insulation, requirements for safety notices to consumers, certification of installers, and specification of installation practices. Regulations adopted pursuant to this section shall be ~~promulgated~~ adopted after public hearings in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. Any regulation adopted by the commission to prohibit the sale and installation of urea formaldehyde foam insulation shall be based upon a record of scientific evidence ~~which~~ that demonstrates the need for the prohibition ~~in order~~ to protect the public health and safety.

SEC. 19. Section 26004 of the Public Resources Code is amended to read:

26004. (a) There is in the state government the California Alternative Energy and Advanced Transportation Financing Authority. The authority constitutes a public instrumentality and the exercise by the authority of powers conferred by this division is the performance of an essential public function.

(b) The authority shall consist of five members, as follows:

1 (1) The Director of Finance.

2 (2) The Chairperson of the ~~State Energy Resources~~
3 ~~Conservation and Development~~ California Energy
4 ~~Infrastructure and Oversight~~ Commission.

5 (3) The President of the Public Utilities Commission.

6 (4) The Controller.

7 (5) The Treasurer, who shall serve as the chairperson
8 of the authority.

9 (c) The members listed in ~~paragraphs (1) to (5),~~
10 ~~inclusive,~~ of subdivision (b) may each designate a deputy
11 or clerk in his or her agency to act for and represent the
12 member at all meetings of the authority.

13 (d) The first meeting of the authority shall be
14 convened by the Treasurer.

15 *SEC. 20. Section 335 of the Public Utilities Code is*
16 *amended to read:*

17 335. In order to ensure that the interests of the people
18 of California are served, a ~~five-member~~ *seven-member*
19 Electricity Oversight Board is hereby created as provided
20 in Section 336. For purposes of this chapter, any reference
21 to the Oversight Board shall mean the Electricity
22 Oversight Board. Its functions shall be all of the following:

23 (a) To oversee the Independent System Operator and
24 the Power Exchange.

25 (b) To determine the composition and terms of
26 service and to ~~appoint the~~ *exercise the exclusive right to*
27 *decline to confirm the appointments of specific* members
28 of the governing boards of the Independent System
29 Operator and the Power Exchange, *as specified in*
30 *subdivision (f).*

31 (c) To serve as an appeal board for majority decisions
32 of the Independent System Operator governing board, *as*
33 *they relate to matters subject to exclusive state*
34 *jurisdiction, as specified in Section 339.*

35 (d) *To perform licensing functions and review in*
36 *accordance with the California Environmental Quality*
37 *Act (Division 13 (commencing with Section 21000) of the*
38 *Public Resources Code), for electric transmission lines*
39 *and natural gas pipelines.*

1 (e) To certify a five-year statewide electricity
2 transmission plan, prepared and annually updated by the
3 Independent System Operator, for the expansion and
4 upgrade of the transmission system by the Independent
5 System Operator.

6 (f) Those members of the Independent System
7 Operator and Power Exchange governing boards whose
8 appointments the Oversight Board has the exclusive right
9 to decline to confirm include proposed governing board
10 members representing agricultural end-users, industrial
11 end-users, commercial end-users, residential end-users,
12 end-users at large, nonmarket participants, and public
13 interest groups.

14 SEC. 21. Section 336 of the Public Utilities Code is
15 amended to read:

16 336. (a) The ~~five-member~~ Electricity Oversight
17 Board shall be within and under the auspices of the
18 California Energy Infrastructure and Oversight
19 Commission.

20 (b) The seven-member Electricity Oversight Board
21 shall be comprised as follows:

22 (1) ~~Three members, who are California residents and~~
23 ~~electricity ratepayers, appointed by the Governor from~~
24 ~~a list jointly provided by the California Energy Resources~~
25 ~~Conservation and Development Commission and the~~
26 ~~Public Utilities Commission, and subject to confirmation~~
27 ~~by the Senate Five members who are voting~~
28 ~~commissioners of the California Energy Infrastructure~~
29 ~~and Oversight Committee.~~

30 (2) One member of the Assembly appointed by the
31 Speaker of the Assembly.

32 (3) One member of the Senate appointed by the
33 Senate Committee on Rules.

34 ~~(b)~~

35 (c) Legislative members shall be nonvoting members,
36 however, they are otherwise full members of the board
37 with all rights and privileges pertaining thereto.

38 ~~(c) Oversight Board members shall serve three-year~~
39 ~~terms with no limit on reappointment. For purposes of~~
40 ~~the initial appointments set forth in paragraph (1), the~~

1 Governor shall appoint one member to a one-year term,
2 one to a two-year term, and one to a three-year term.

3 ~~(d) The Governor shall designate one of the voting~~
4 ~~members as the chairperson of the Oversight Board who~~
5 ~~shall preside over meetings and direct the executive~~
6 ~~director in the routine administration of the Oversight~~
7 ~~Board's business. The chairperson may designate one of~~
8 ~~the other voting members to preside over meetings in the~~
9 ~~absence of the chairperson.~~

10 ~~(e) Two~~

11 *(d) The terms of voting members of the Oversight*
12 *Board members shall be coterminous with their terms as*
13 *commissioners of the California Energy Infrastructure*
14 *and Oversight Commission.*

15 *(e) The chairperson of the California Energy*
16 *Infrastructure and Oversight Commission shall serve as*
17 *the chairperson of the Oversight Board and shall preside*
18 *over Oversight Board meetings and direct the board's*
19 *Executive Director, General Counsel, and staff, in*
20 *accordance with the policies and guidelines of the*
21 *Oversight Board.*

22 *(f) Three voting members shall constitute a quorum.*
23 *Any decision or action of the Oversight Board shall be by*
24 *majority vote of the voting members.*

25 ~~(f) The members of the Oversight Board shall serve~~
26 ~~without compensation, but shall be reimbursed for all~~
27 ~~necessary expenses incurred in the performance of their~~
28 ~~duties.~~

29 *(g) There shall be separate staffs and legal*
30 *organizations for the Electricity Oversight Board within*
31 *the California Energy Infrastructure and Oversight*
32 *Commission.*

33 SEC. 22. Section 337 of the Public Utilities Code is
34 amended to read:

35 337. The Oversight Board, as the appointing body,
36 shall ~~establish~~ *nominating* have the exclusive right to
37 approve procedures for the election and submission for
38 confirmation and the qualifications for Independent
39 System Operator governing board members specified in
40 subdivision (f) of Section 335, all of whom shall be

1 *required to be electricity consumers in the area served by*
2 *the Independent System Operator. The Independent*
3 *System Operator governing board shall be composed of*
4 ~~*California residents and shall*~~ *include, but not be limited*
5 *to, representatives of investor-owned utility transmission*
6 *owners, publicly owned utility transmission owners,*
7 *nonutility electricity sellers, public buyers and sellers,*
8 *private buyers and sellers, industrial end-users,*
9 *commercial end-users, residential end-users, agricultural*
10 *end-users, public interest groups, and nonmarket*
11 *participant representatives. A simple majority of the*
12 *board shall consist of persons who are themselves*
13 *unaffiliated with electric generation, transmission or*
14 *distribution corporations. The structural composition of*
15 *the Independent System Operator governing board*
16 *existing on July 1, 1999, shall remain in effect until an*
17 *agreement with a participating state is legally in effect.*
18 *However, prior to such an agreement, California shall*
19 *retain the right to change the Independent System*
20 *Operator governing board into a nonstakeholder board.*
21 *In the event of such a legislative change, revised bylaws*
22 *shall be filed with the Federal Energy Regulatory*
23 *Commission under Section 205 of the Federal Power Act*
24 *(16 U.S.C.A. Sec. 842d).*

25 *SEC. 23. Section 338 of the Public Utilities Code is*
26 *amended to read:*

27 *338. The Oversight Board, as the appointing body,*
28 ~~*shall establish nominating*~~ *have the exclusive right to*
29 *approve procedures and the qualifications for Power*
30 *Exchange governing board members specified in*
31 *subdivision (f) of Section 335, all of whom shall be*
32 *required to be electricity customers in the area served by*
33 *the Power Exchange. The Power Exchange governing*
34 ~~*board shall be composed of California residents and shall*~~
35 *include, but not be limited to, representatives of*
36 *investor-owned electric distribution companies, publicly*
37 *owned electric distribution companies, nonutility*
38 *generators, public buyers and sellers, private buyers and*
39 *sellers, industrial end-users, commercial end-users,*
40 *residential end-users, agricultural end-users, public*

1 interest groups, and nonmarket participant
2 representatives. *The structural composition of the Power*
3 *Exchange governing board existing on July 1, 1999, shall*
4 *remain in effect until an agreement with a participating*
5 *state is legally in effect. However, prior to such an*
6 *agreement, California shall retain the right to change the*
7 *Power Exchange governing board into a nonstakeholder*
8 *board. In the event of such a legislative change, revised*
9 *bylaws shall be filed with the Federal Energy Regulatory*
10 *Commission under Section 205 of the Federal Power Act*
11 *(16 U.S.C.A. Sec. 842d).*

12 SEC. 24. Section 339 of the Public Utilities Code is
13 amended to read:

14 339. (a) The Oversight Board is the appeal board for
15 majority decisions of the Independent System Operator
16 governing board relating to matters that are identified in
17 subdivision (b) as they pertain to the Independent
18 System Operator.

19 ~~Only~~

20 (b) The following matters are subject to California's
21 exclusive jurisdiction:

22 (1) Selections by California of governing board
23 members, as described in Sections 335, 337, and 338.

24 (2) Matters pertaining to retail electric service or
25 retail sales of electric energy.

26 (3) Ensuring that the purposes and functions of the
27 Independent System Operator and Power Exchange are
28 consistent with the purposes and functions of California
29 nonprofit public benefit corporations, including duties of
30 care and conflict of interest standards for directors of the
31 corporations.

32 (4) State functions assigned to the Independent
33 System Operator and Power Exchange under state law.

34 (5) Open meeting standards and meeting notice
35 requirements.

36 (6) Appointment of advisory representatives
37 representing state interests.

38 (7) Public access to corporate records.

39 (8) The amendment of bylaws relevant to these
40 matters.

1 (c) Only members of the Independent System
2 Operator governing board may appeal a majority
3 decision of the Independent System Operator related to
4 any of the matters specified in subdivision (b) to the
5 Oversight Board.

6 SEC. 25. Section 341.5 is added to the Public Utilities
7 Code, to read:

8 341.5. (a) The Independent System Operator and
9 Power Exchange bylaws shall contain provisions that
10 identify those matters specified in subdivision (b) of
11 Section 339 as matters within state jurisdiction. The
12 bylaws shall also contain provisions which state that
13 California's bylaws approval function with respect to the
14 matters specified in subdivision (b) of Section 339 shall
15 not preclude the Federal Energy Regulatory Commission
16 from taking any action necessary to address undue
17 discrimination or other violations of the Federal Power
18 Act (16 U.S.C.A. Sec. 791a et seq.) or to exercise any other
19 commission responsibility under the Federal Power Act.
20 In taking any such action, the Federal Energy Regulatory
21 Commission shall give due respect to California's
22 jurisdictional interests in the functions of the
23 Independent System Operator and Power Exchange and
24 to attempt to accommodate state interests to the extent
25 those interests are not inconsistent with the Federal
26 Energy Regulatory Commission's statutory
27 responsibilities. The bylaws shall state that any future
28 agreement regarding the apportionment of the
29 Independent System Operator and Power Exchange
30 board appointment function among participating states
31 associated with the expansion of the Independent System
32 Operator and Power Exchange into multistate entities
33 shall be filed with the Federal Energy Regulatory
34 Commission pursuant to Section 205 of the Federal Power
35 Act (16 U.S.C.A. Sec. 824d).

36 (b) Any necessary bylaw changes to implement the
37 provisions of Section 335, 337, 338, 339, or subdivision (a)
38 of this section, or changes required pursuant to an
39 agreement as contemplated by subdivision (a) of this
40 section with a participating state for a regional

1 organization, shall be effective upon approval of the
2 respective governing boards and the Oversight Board
3 and acceptance for filing by the Federal Energy
4 Regulatory Commission.

5 SEC. 26. Section 351 is added to the Public Utilities
6 Code, to read:

7 351. (a) The Independent System Operator shall
8 develop an annually updated, five-year draft statewide
9 electric grid plan for expansion and upgrade of the
10 statewide electric grid under its control. The plan shall
11 include projects that would do the following:

12 (1) Maintain or enhance reliability in the electric grid
13 operated by the Independent System Operator.

14 (2) Improve the competitive structure and
15 performance of the electricity market served by the
16 Independent System Operator and thereby reduce the
17 cost of electricity to electricity consumers served by the
18 Independent System Operator, or both.

19 (b) In developing its draft plan, the Independent
20 System Operator shall review proposals from
21 participating and nonparticipating transmission owners
22 and third parties.

23 (1) Participating transmission owners shall propose
24 annually updated five-year electric grid plans for the
25 transmission systems they own and have committed to
26 the Independent System Operator. These plans shall be
27 developed using grid planning criteria specified by the
28 Independent System Operator and reflect anticipated
29 load growth, congestion mitigation, reliability
30 requirements, and new generation and transmission
31 projects whose future development is reasonably assured.

32 (2) Nonparticipating transmission owners and third
33 parties may also propose projects that conform to the
34 Independent System Operator's grid planning criteria.

35 (c) The Independent System Operator's draft
36 statewide electric grid plan shall consist of a detailed
37 specification of those projects it includes from the
38 proposals of participating and nonparticipating
39 transmission owners and third parties and proposals it
40 originates itself. The draft statewide electric grid plan

1 shall include analytical support for its findings and
2 conclusions that the individual projects selected do the
3 following:

4 (1) Provide the cost-effective solutions to identified
5 reliability problems.

6 (2) In the case of projects to improve the competitive
7 structure and performance of the electricity market,
8 reduce the cost of electricity to electricity consumers.

9 (d) The Independent System Operator shall develop
10 its draft statewide electric grid plan through a process
11 that provides opportunity for stakeholders, interested
12 parties, and public agencies to comment upon elements
13 of the plan and the overall plan itself. The Independent
14 System Operator shall develop a publicly available record
15 of such comments.

16 (e) Upon adoption of the draft statewide electric grid
17 plan by the Independent System Operator Governing
18 Board, the plan, the record developed in subdivision (d),
19 and the Independent System Operator's responses to
20 those comments shall be transmitted to the Electricity
21 Oversight Board in the California Energy Infrastructure
22 and Oversight Commission accompanied by a request
23 that the draft plan be certified.

24 (f) The Independent System Operator shall, through
25 public hearings, develop guidelines for its draft statewide
26 electric grid plan development process.

27 (g) The draft statewide electric grid plan is not a
28 project within the meaning of that term as used in the
29 California Environmental Act (Division 13 (commencing
30 with Section 21000) of the Public Resources Code).

31 SEC. 27. Section 352 is added to the Public Utilities
32 Code, to read:

33 352. (a) The Electricity Oversight Board shall
34 conduct a public process to annually review for
35 certification the draft statewide electric grid plan
36 submitted by the Independent System Operator.

37 (b) In order to certify the plan, the Electricity
38 Oversight Board shall find that the submitted draft
39 electric grid plan is a cost-effective plan to maintain or
40 improve system reliability and reduce the costs of

1 electricity to consumers. The Electricity Oversight Board
2 may certify all or parts of the plan. If any part of the plan
3 is not certified, the Electricity Oversight Board shall
4 identify deficiencies that are required to be remedied
5 prior to certification of that part of the plan. The
6 certification of any projects in the plan shall be
7 determinative of public need for those projects for
8 purposes of the California Environmental Quality Act
9 (Division 13 (commencing with Section 21000) of the
10 Public Resources Code). The Electricity Oversight Board
11 shall make its certification determinations within 90 days
12 of the date the Independent System Operator transmits
13 the draft electric grid plan.

14 (c) The Electricity Oversight Board shall develop
15 guidelines, including timelines and other procedural
16 requirements, to implement its process for the
17 certification of the draft statewide electric grid plan.

18 SEC. 28. Section 353 is added to the Public Utilities
19 Code, to read:

20 353. (a) Upon certification of the statewide electric
21 grid plan by the Electricity Oversight Board, the
22 Independent System Operator shall secure the resources
23 needed to meet system improvement needs identified in
24 the statewide transmission plan. Those resources may
25 include transmission proposals included in the statewide
26 electric grid plan and generation or other viable
27 alternatives that provide comparable system benefits.
28 The Independent System Operator shall develop a
29 procedure to quantify the system benefit equivalence of
30 alternatives to transmission projects.

31 (b) If requested by the Independent System
32 Operator, participating transmission owners shall do the
33 following:

34 (1) Secure the required permits and approvals.

35 (2) Build transmission improvements that the
36 Independent System Operator has determined will
37 provide system benefits identified in the statewide
38 transmission plan. The cost of the improvements,
39 including the ongoing operation and maintenance



1 expenses, shall be recoverable in rates, subject to the
2 approval of the Federal Energy Regulatory Commission.

3 SEC. 29. Section 354 is added to the Public Utilities
4 Code, to read:

5 354. (a) The Electricity Oversight Board shall have
6 the exclusive authority to site and license electricity
7 transmission projects and shall serve as the lead agency
8 for that purpose under the California Environmental
9 Quality Act (Division 13 (commencing with Section
10 21000) of the Public Resources Code).

11 (b) Notwithstanding subdivision (a), modifications
12 and improvements to substations and transmission
13 facilities provided for in Public Utilities Commission
14 General Order 131-D shall not be subject to the
15 requirements of this section.

16 (c) Alternatives analysis under the California
17 Environmental Quality Act (Division 13 (commencing
18 with Section 21000) of the Public Resources Code) of
19 transmission projects certified in the statewide electric
20 grid plan shall be limited to the project goals identified by
21 the independent system operator in the certified
22 statewide electric grid plan. Specific project goals
23 certified in the plan shall be deemed project goals in the
24 siting and licensing process and not be subject to
25 relitigation. However, alternative project routes or
26 configurations may be considered.

27 (d) The issuance of a license by the Electricity
28 Oversight Board to build a transmission project shall
29 confer upon the licensee the right to exercise eminent
30 domain to build the project.

31 (e) The Electricity Oversight Board shall develop
32 guidelines, including timelines and other procedural
33 requirements, that expeditiously implement the
34 transmission siting and licensing process.

35 SEC. 30. Section 355 is added to the Public and
36 Utilities Code, to read:

37 355. Notwithstanding Sections 351, 352, and 353, the
38 Independent System Operator shall develop a process for
39 expediting the planning and approval of transmission
40 facilities of between 50kv and 200kv needed for

1 anticipated local growth, congestion mitigation or
2 reliability requirements. The process shall be developed
3 with input from stakeholders, interested parties and
4 public agencies and shall be subject to the approval of the
5 Electricity Oversight Board. The Electricity Oversight
6 Board shall develop any guidelines it deems necessary for
7 the licensing and siting of those facilities, as provided
8 under Section 354.

9 SEC. 31. Section 359 of the Public Utilities Code is
10 repealed.

11 ~~359. It is the intent of the Legislature that California~~
12 ~~enter into a compact with western region states. That~~
13 ~~compact should require the publicly and investor-owned~~
14 ~~utilities located in those states that sell energy to~~
15 ~~California retail customers, to adhere to enforceable~~
16 ~~standards and protocols to protect the reliability of the~~
17 ~~interconnected regional transmission and distribution~~
18 ~~systems.~~

19 SEC. 32. Section 359 is added to the Public Utilities
20 Code, to read:

21 359. (a) It is the intent of the Legislature to provide
22 for the evolution of the Independent System Operator
23 and the Power Exchange into regional organizations to
24 promote the development of regional electricity
25 transmission markets in the western states and to
26 improve the access of consumers served by the
27 Independent System Operator and the Power Exchange
28 to those markets.

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

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

38 (1) An equitable process for the appointment or
39 confirmation by party states of members of the governing

1 boards of the Independent System Operator and the
2 Power Exchange.

3 (2) A respecification of the size, structure,
4 representation, eligible membership, nominating
5 procedures, and member terms of service of the
6 governing boards of the Independent System Operator
7 and the Power Exchange.

8 (3) Mechanisms by which each party state, jointly or
9 separately, can oversee effectively the actions of the
10 Independent System Operator and the Power Exchange
11 as those actions relate to the assurance of electricity
12 system reliability within the party state and to matters
13 that affect electricity sales to the retail customers of the
14 party state or otherwise affect the general welfare of the
15 electricity consumers and the general public of the party
16 state.

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

22 SEC. 33. The California Energy Infrastructure and
23 Oversight Commission may use the unexpended balance
24 of funds available for use in connection with the
25 performance of the functions of the former State Energy
26 Resources Conservation and Development Commission.

27 SEC. 34. Any officer or employee of the former State
28 Energy Resources Conservation and Development
29 Commission or the Oversight Board who is serving in the
30 state civil service, other than as a temporary employee,
31 and who is engaged in the performance of a function
32 vested in the former State Energy Resources
33 Conservation and Development Commission or the
34 Oversight Board shall be transferred to the California
35 Energy Infrastructure and Oversight Commission. The
36 status, position, and rights of that person shall not be
37 affected by the transfer and shall be retained by the
38 person as an officer or employee of the Public Utilities
39 Commission, pursuant to the State Civil Service Act (Part
40 2 (commencing with Section 18500) of Division 5 of Title

1 2 of the Government Code), except as to a position that
2 is exempt from civil service.

3 SEC. 35. The California Energy Infrastructure and
4 Oversight Commission shall have possession and control
5 of all records, papers, offices, equipment, supplies,
6 money, funds, appropriations, licenses, permits,
7 agreements, contracts, claims, judgments, land, and other
8 property, real or personal, connected with the
9 administration of, or held for the benefit or use of, the
10 former State Energy Resources Conservation and
11 Development Commission and the Oversight Board.

12 SEC. 36. (a) Any regulation or other action, adopted,
13 prescribed, taken, or performed by the former State
14 Energy Resources Conservation and Development
15 Commission or the Oversight Board or by any of its
16 officers in the administration of a program, the
17 performance of a power, duty, or responsibility, or the
18 exercise of any function transferred by this act shall
19 remain in effect and shall be deemed to be a regulation
20 or action of the California Energy Infrastructure and
21 Oversight Commission or of any of its officers to whom
22 the program, power, duty, responsibility, or function is
23 transferred.

24 (b) No suit, action, or other proceeding lawfully
25 commenced by or against the former State Energy
26 Resources Conservation and Development Commission
27 or the Oversight Board or any of its officers, in relation to
28 the administration of any program or the discharge of any
29 power, duty, responsibility, or jurisdiction transferred by
30 this act, shall abate by reason of the transfer of the
31 program, power, duty, responsibility, or jurisdiction
32 under this act.

33 SEC. 37. The Department of Finance may direct the
34 transfer of unexpended balances of appropriations and
35 other funds available for use in connection with any
36 function affected by the reorganization prescribed by this
37 act that the director determines to be necessary to
38 facilitate the reorganization, for use in connection with
39 the functions affected by the reorganization, provided
40 that any unexpended balances of appropriations and

1 other funds so transferred shall be used, as to
2 appropriations, only for purposes that were authorized by
3 the appropriation and, as to other available funds, only for
4 purposes authorized as of the effective date of this act.

5 SEC. 38. No reimbursement is required by this act
6 pursuant to Section 6 of Article XIII B of the California
7 Constitution because the only costs that may be incurred
8 by a local agency or school district will be incurred
9 because this act creates a new crime or infraction,
10 eliminates a crime or infraction, or changes the penalty
11 for a crime or infraction, within the meaning of Section
12 17556 of the Government Code, or changes the definition
13 of a crime within the meaning of Section 6 of Article
14 XIII B of the California Constitution.

