

AMENDED IN ASSEMBLY AUGUST 19, 1999

AMENDED IN ASSEMBLY AUGUST 16, 1999

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, 25541, 25911, and 26004~~ of, and ~~25541 of, and to add Sections 25009 and 25543 to,~~ and to repeal Section 25523.5 of, and to repeal and add Section 25541.5 of, and Chapter 3 (commencing with Section 25200) of Division 15 of, the Public Resources Code, 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. *the Public Resources Code, relating to energy.*

LEGISLATIVE COUNSEL'S DIGEST

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

(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.

~~(3)~~

~~(2)~~ 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.

~~(4)–~~

(3) 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.

~~(5)–~~

(4) 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 act would require the Secretary of the Resources Agency, by January 1, 2001, to review the facility certification program to determine whether that program meets specified criteria for state regulatory programs under the California Environmental Quality Act, and if the secretary determines the regulatory program meets those criteria, the bill would require the secretary to continue the certification of the program. The bill would also, under those circumstances, require the commission to amend the regulatory program from time to time, as necessary to permit the secretary to continue to certify the program.

The bill would also make various related conforming changes *and legislative findings and declarations*.

~~(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.~~

~~(5) Existing law establishes an application and certification process for siting and licensing thermal electric power plants.~~

~~This bill would require that the commission prepare a report to the Governor and the Legislature on or before March 31, 2000, identifying improvements in this process and making recommendations, as prescribed. The commission immediately may implement any administrative recommendations.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

~~Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes no.~~

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~~

~~California Energy Infrastructure and Oversight Commission to ascertain future energy problems and uncertainties, including, but not limited to, all of the following:~~

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

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

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

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

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

~~(f) Proposals for processing petroleum outside the 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 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 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 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) One 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 the executive director in the routine administration of the California Energy Infrastructure and Oversight Commission's business. The Governor shall also designate one of the other voting members as a vice-chairperson to preside over meetings in the absence of the chairperson. The chairperson and vice-chairperson shall serve in those capacities at the pleasure of the Governor.~~

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

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

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

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

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

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

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

~~(d) No person who is a member or employee of the commission shall participate personally and substantially as a member or employee of the commission, through decision, approval, disapproval, recommendation, the~~

~~1 rendering of advice, investigation, or otherwise, in a
2 judicial or other proceeding, hearing, application,
3 request for a ruling, or other determination, contract,
4 claim, controversy, study, plan, or other particular matter
5 in which, to his or her knowledge, his or her spouse, minor
6 child, or partner, or any organization, except a
7 governmental agency or educational or research
8 institution qualifying as a nonprofit organization under
9 state or federal income tax law, in which he or she is
10 serving, or has served as a officer, director, trustee,
11 partner, or employee while serving as a member or
12 employee of the commission or within two years prior to
13 his or her appointment as a member of the commission,
14 has a direct or indirect financial interest.~~

~~15 (e) No person who is a partner, employer, or employee
16 of a member or employee of the commission shall act as
17 an attorney, agent, or employee for any person other than
18 the state in connection with any judicial or other
19 proceeding, hearing, application, request for a ruling, or
20 other determination, contract, claim, controversy, study,
21 plan, or other particular matter in which the commission
22 is a party or has a direct and substantial interest.~~

~~23 (f) The provisions of this section shall not apply if the
24 Attorney General finds that the interest of the member
25 or employee of the commission is not so substantial as to
26 be deemed likely to affect the integrity of the services
27 that the state may expect from such member or
28 employee.~~

~~29 (g) Any person who violates any provision of this
30 section is guilty of a felony and shall be subject to a fine
31 of not more than ten thousand dollars (\$10,000) or
32 imprisonment in the state prison, or both.~~

~~33 25204. The members of the commission shall receive
34 the salary provided for by Chapter 6 (commencing with
35 Section 11550) of Part 1 of Division 3 of Title 2 of the
36 Government Code.~~

~~37 Each member of the commission shall receive the
38 necessary travel and other expenses incurred in the
39 performance of his official duties. When necessary, the~~

~~1 members of the commission and its employees may travel
2 within or without the state.~~

~~3 25205. Each member of the commission shall have
4 one vote. Except as provided in Section 25208, the
5 affirmative votes of at least three members shall be
6 required for the transaction of any business of the
7 commission.~~

~~8 25206. Any member of the commission may be
9 removed from office by the Legislature, by concurrent
10 resolution adopted by a majority vote of all members
11 elected to each house, for dereliction of duty or
12 corruption or incompetence.~~

~~13 25207. The commission may hold any hearings and
14 conduct any investigations in any part of the state
15 necessary to carry out its powers and duties prescribed by
16 this division and, for those purposes, has the same powers
17 as are conferred upon heads of departments of the state
18 by Article 2 (commencing with Section 11180) of Chapter
19 2 of Part 1 of Division 3 of Title 2 of the Government Code.~~

~~20 25208. The commission may appoint a committee of
21 not less than two members of the commission to carry on
22 investigations, inquiries, or hearings that the commission
23 has power to undertake or to hold. At least one member
24 of the committee shall attend all public hearings or other
25 proceedings held pursuant to Chapter 6 (commencing
26 with Section 25500), and all public hearings in biennial
27 report proceedings and rulemaking proceedings, except
28 that, upon agreement of all parties to a proceeding who
29 are present at the hearing or proceeding, the committee
30 may authorize a hearing officer to continue to take
31 evidence in the temporary absence of a commission
32 member. Every order made by the committee pursuant
33 to the inquiry, investigation, or hearing, when approved
34 or confirmed by the commission and ordered filed in its
35 office, shall be the order of the commission.~~

~~36 25209. The commission shall adopt rules and
37 regulations, as necessary, to carry out this division in
38 conformity with the provisions of Chapter 3.5
39 (commencing with Section 11340) of Part 1 of Division 3
40 of Title 2 of the Government Code. The commission shall~~

1 ~~make available to any person upon request copies of~~
2 ~~proposed regulations, together with summaries of reasons~~
3 ~~supporting their adoption.~~

4 ~~25210. The commission shall maintain its~~
5 ~~headquarters in the County of Sacramento and may~~
6 ~~establish branch offices in those parts of the state that the~~
7 ~~commission determines to be necessary in the~~
8 ~~administration of this division. The commission shall hold~~
9 ~~meetings at those times and places as it determines to be~~
10 ~~appropriate. All meetings and hearings of the commission~~
11 ~~pursuant to this division shall be open to the public, and~~
12 ~~an opportunity to be heard with respect to the subject of~~
13 ~~the hearings shall be afforded to any person. Upon~~
14 ~~request, an interested party may be granted reasonable~~
15 ~~opportunity to examine any witness testifying at the~~
16 ~~hearing.~~

17 ~~25211. In addition to any other duty specified in this~~
18 ~~division, the commission shall do all of the following:~~

19 ~~(a) Undertake a continuing assessment of trends in the~~
20 ~~consumption of electrical energy and other forms of~~
21 ~~energy and analyze the social, economic, and~~
22 ~~environmental consequences of those trends; carry out~~
23 ~~directly, or cause to be carried out, energy conservation~~
24 ~~measures specified in Chapter 5 (commencing with~~
25 ~~Section 25400); and recommend to the Governor and the~~
26 ~~Legislature new and expanded energy conservation~~
27 ~~measures as required to meet the objectives of this~~
28 ~~division.~~

29 ~~(b) Carry out, or cause to be carried out, under~~
30 ~~contract or other arrangements, research and~~
31 ~~development into alternative sources of energy;~~
32 ~~improvements in energy generation, transmission, and~~
33 ~~siting, fuel substitution, and other topics related to energy~~
34 ~~supply, demand, public safety, ecology, and conservation~~
35 ~~that are of particular statewide importance.~~

36 ~~25212. (a) The commission shall do all of the~~
37 ~~following:~~

38 ~~(1) Compile relevant local, regional, state, and federal~~
39 ~~land use, public safety, environmental, and other~~

1 standards to be met in designing, siting, and operating
2 facilities in this state.

3 (2) Except as provided in subdivision (d) of Section
4 25402, adopt standards, except for air and water quality,
5 to be met in designing or operating facilities to safeguard
6 public health and safety, which may be different from or
7 more stringent than those adopted by local, regional, or
8 other state agencies, or by any federal agency if
9 permitted by federal law.

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

12 (b) Local, regional, and other state agencies shall
13 advise the commission as to any change in its standards,
14 ordinances, or laws that are pertinent and relevant to the
15 objective of carrying out this division.

16 25213. The commission shall do all of the following:

17 (a) Prescribe the form and content of applications for
18 facilities; conduct public hearings and take other actions
19 to secure adequate evaluation of applications; and
20 formally act to approve or disapprove applications,
21 including specifying conditions under which approval
22 and continuing operation of any facility shall be
23 permitted.

24 (b) Prepare an integrated plan specifying actions to be
25 taken in the event of an impending serious shortage of
26 energy, or a clear threat to public health, safety, or
27 welfare.

28 (c) Evaluate policies governing the establishment of
29 rates for electric power and other sources of energy as
30 related to energy conservation, environmental
31 protection, and other goals and policies established in this
32 division, and transmit recommendations for changes in
33 power pricing policies and rate schedules to the
34 Governor, the Legislature, and to publicly owned electric
35 utilities.

36 (d) Serve as a central repository within the state
37 government for the collection, storage, retrieval, and
38 dissemination of data and information on all forms of
39 energy supply, demand, conservation, public safety,
40 research, and related subjects. The data and information

1 shall be derived from all sources, including, but not be
2 limited to, electric and gas utilities, oil and other energy
3 producing companies, institutions of higher education,
4 private industry, public and private research laboratories,
5 private individuals, and from any other source that the
6 commission determines is necessary to carry out its
7 objectives under this division. The commission may
8 charge and collect a reasonable fee for retrieving and
9 disseminating any such information to cover the cost of
10 such a service. Any funds received by the commission
11 pursuant to this subdivision shall be deposited in the
12 account and are continuously appropriated for
13 expenditure, by the commission, for purposes of
14 retrieving and disseminating any such information
15 pursuant to this section.

16 25214. The commission shall do all of the following:

17 (a) Appoint an executive director with administration
18 and fiscal experience for purposes of administering this
19 division, who shall serve at the pleasure of the commission
20 and whose duties and salary shall be prescribed by the
21 commission.

22 (b) Employ and prescribe the duties of other staff
23 members as necessary to carry out this division. Those
24 staff members may participate in all matters before the
25 commission subject to such limits as may be prescribed by
26 the commission.

27 (c) Employ legal counsel who shall advise the
28 commission in its administration of this division and
29 represent it in legal matters and litigation in connection
30 with this division before any boards or other agencies of
31 the state or federal government.

32 25215. The commission shall nominate, and the
33 Governor shall appoint for a term of three years, a public
34 adviser to the commission who shall be an attorney
35 admitted to the practice of law in this state and who shall
36 carry out the provisions of Section 25222 as well as other
37 duties prescribed by this division or by the commission in
38 its administration of this division. The adviser may be
39 removed from office only upon the joint concurrence of
40 four commissioners and the Governor.

1 ~~25216. The chairperson of the commission shall direct~~
2 ~~the adviser, the executive director, and other staff in the~~
3 ~~performance of their duties in conformance with the~~
4 ~~policies and guidelines established by the commission.~~

5 ~~25217. In addition to other powers specified in this~~
6 ~~division, the commission may do any of the following:~~

7 ~~(a) Apply for and accept grants, contributions, and~~
8 ~~appropriations.~~

9 ~~(b) Contract for professional work or services if work~~
10 ~~or services cannot be satisfactorily performed by its~~
11 ~~employees or by any other state agency.~~

12 ~~(c) Be sued and sue.~~

13 ~~(d) Request and utilize the advice and services of all~~
14 ~~federal, state, regional, and local agencies.~~

15 ~~(e) Adopt any rule or regulation, or take any action,~~
16 ~~that the commission determines to be reasonable and~~
17 ~~necessary to carry out this division.~~

18 ~~(f) Adopt rules and regulations, or take any action, that~~
19 ~~the commission determines to be reasonable and~~
20 ~~necessary to ensure the free and open participation of any~~
21 ~~member of the staff in proceedings before the~~
22 ~~commission.~~

23 ~~25218. The provisions of this division specifying any~~
24 ~~power or duty of the commission shall be liberally~~
25 ~~construed, to carry out the objectives of this division.~~

26 ~~25219. As to any matter involving the federal~~
27 ~~government, its departments or agencies, that is within~~
28 ~~the scope of the powers and duties of the commission~~
29 ~~under this division, the commission may represent its~~
30 ~~interest or the interest of any county, city, state agency,~~
31 ~~or district upon its request, and to that end may~~
32 ~~correspond, confer, and cooperate with the federal~~
33 ~~government, and its departments or agencies.~~

34 ~~25220. The commission may participate as a party, to~~
35 ~~the extent that it shall determine, in any proceeding~~
36 ~~before any federal or state agency having authority~~
37 ~~whatsoever to approve or disapprove any aspect of a~~
38 ~~proposed facility, receive notice from any applicant of all~~
39 ~~applications and pleadings filed subsequently by those~~
40 ~~applicants in any such proceedings, and, upon its request,~~

1 receive copies of any such subsequently filed applications
2 and pleadings that the commission shall determine to be
3 necessary.

4 25221. Upon request of the commission, the Attorney
5 General shall represent the commission and the state in
6 litigation concerning the affairs of the commission, unless
7 the Attorney General represents another state agency, in
8 which case the commission may employ other counsel.

9 25222. The adviser shall ensure that full and adequate
10 participation by all interested groups and the public at
11 large is secured in the energy resources planning, site and
12 facility certification, energy conservation, and
13 emergency allocation procedures prescribed in this
14 division. The adviser shall ensure that timely and
15 complete notice of commission meetings and public
16 hearings is disseminated to all interested groups and to
17 the public at large. The adviser shall also advise those
18 groups and the public as to effective ways of participating
19 in the commission's proceedings. The adviser shall
20 recommend to the commission additional measures to
21 assure open consideration and public participation in
22 energy resources planning, site and facility certification,
23 energy conservation, and emergency allocation
24 proceedings.

25 25223. The commission shall make available any
26 information filed or submitted pursuant to this division
27 under the California Public Records Act (Chapter 3.5
28 (commencing with Section 6250) of Division 7 of Title 1
29 of the Government Code), except that the commission
30 shall keep confidential any information submitted to the
31 Division of Oil, Gas, and Geothermal Resources of the
32 Department of Conservation that division determines,
33 pursuant to Section 3752, to be proprietary.

34 25224. The commission and other state agencies shall,
35 to the fullest extent possible, exchange records, reports,
36 material, and other information relating to energy
37 resources and conservation and power facilities siting, or
38 any areas of mutual concern, to the end that unnecessary
39 duplication of effort may be avoided.

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

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

~~(2) Find that the proposed program or project will not duplicate any other past or present publicly funded California program or project. This paragraph is not intended to prevent funding for programs or projects jointly funded with another public agency where there is no duplication.~~

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

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

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

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

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

~~SEC. 8.—~~

SECTION 1. Section 25009 is added to the Public Resources Code, to read:

1 25009. The Legislature finds and declares that
 2 Chapter 854 of the Statutes of 1996 restructured the
 3 California electricity industry and created a competitive
 4 electricity generation market. In a competitive
 5 generation market, the recovery by power plant owners
 6 of their private investment and operating costs is at risk
 7 and no longer guaranteed through regulated rates.
 8 Before the California electricity industry was
 9 restructured, the regulated cost recovery framework for
 10 power plants justified requiring the commission to
 11 determine the need for new generation, and site only
 12 power plants for which need was established. Now that
 13 power plant owners are at risk to recover their
 14 investments, it is no longer appropriate to make this
 15 determination. It is necessary that California site new
 16 power plants to ensure electricity reliability, improve the
 17 environmental performance of the current electricity
 18 industry and reduce consumer costs. The success of
 19 California's restructured electricity industry depends
 20 upon the willingness of private capital to invest in new
 21 power plants. Therefore, it is necessary to modify the
 22 need for determination requirements of the state's power
 23 plant siting and licensing process to reflect the economics
 24 of the restructured electricity industry and ensure the
 25 timely construction of new electricity generation
 26 capacity.

27 SEC. 2. Section 25305 of the Public Resources Code is
 28 amended to read:

29 25305. Within nine months after receipt of the reports
 30 specified in Section 25300, the commission shall prepare
 31 and distribute a draft electricity report, setting forth its
 32 findings and conclusions regarding the electric utilities'
 33 forecasts. The report shall be based upon information and
 34 views presented in the comments received under Section
 35 25303 and the commission's independent analysis, and
 36 shall contain all of the following:

37 (a) The commission's evaluation of the probable
 38 service area and statewide, environmental, and economic
 39 impact and the health and safety aspect of constructing
 40 and operating the facilities proposed by the electric

1 utilities and a description of the measures considered
2 necessary by the commission to avoid or ameliorate any
3 adverse impacts.

4 (b) Discussion of reasonable alternative technologies
5 to those proposed by the electrical utilities for
6 consideration pursuant to Section 25604.

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

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

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

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

39 (g) The anticipated level of statewide and service area
40 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.

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

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

~~SEC. 9.—~~

SEC. 3. Section 25308.5 of the Public Resources Code is amended to read:

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

~~SEC. 10.—~~

SEC. 4. Section 25309 of the Public Resources Code is amended to read:

25309. Beginning May 1, 1985, and every two years thereafter, notwithstanding Section 7550.5 of the Government Code, the commission shall transmit to the Governor and the Legislature a comprehensive report

1 designed to identify emerging trends related to energy
2 supply, demand, and conservation and public health and
3 safety factors, and to provide the basis for state policy and
4 actions in relation thereto, including, but not limited to,
5 approval of new sites for additional facilities. The report
6 shall include, but not be limited to, all of the following:

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

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

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

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

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

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

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

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

~~SEC. 11.~~

SEC. 5. Section 25520 of the Public Resources Code is amended to read:

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

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

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

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

1 (d) Any other information relating to the design,
2 operation, and siting of the facility that the commission
3 may specify.

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

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

18 ~~SEC. 12.—~~

19 SEC. 6. Section 25523 of the Public Resources Code is
20 amended to read:

21 25523. The commission shall prepare a written
22 decision after the public hearing on an application, which
23 includes all of the following:

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

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

37 (c) In the case of a site to be located in the Suisun
38 Marsh or in the jurisdiction of the San Francisco Bay
39 Conservation and Development Commission, specific
40 provisions to meet the requirements of Division 19



1 (commencing with Section 29000) of this code or Title 7.2
2 (commencing with Section 66600) of the Government
3 Code as may be specified in the report submitted by the
4 San Francisco Bay Conservation and Development
5 Commission pursuant to subdivision (d) of Section 66645
6 of the Government Code, unless the commission
7 specifically finds that the adoption of the provisions
8 specified in the report would result in greater adverse
9 effect on the environment or the provisions proposed in
10 the report would not be feasible.

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

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

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

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

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

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

21 ~~SEC. 13.—~~

22 *SEC. 7.* Section 25523.5 of the Public Resources Code
23 is repealed.

24 ~~SEC. 14.—~~

25 *SEC. 8.* Section 25524 of the Public Resources Code is
26 amended to read:

27 25524. The commission shall not certify any
28 geothermal site and related facility unless it finds that the
29 geothermal field dedicated to the proposed powerplant
30 is reasonably capable of providing geothermal resources
31 in sufficient commercial quantities to supply the
32 powerplant over its planned life.

33 ~~SEC. 15.—~~

34 *SEC. 9.* Section 25540.6 of the Public Resources Code
35 is amended to read:

36 25540.6. (a) Notwithstanding any other provision of
37 law, no notice of intention is required, and the
38 commission shall issue its final decision on the application,
39 as specified in Section 25523, within 12 months after the
40 filing of the application for certification of the powerplant

1 and related facility or facilities, or at any later time as is
2 mutually agreed by the commission and the applicant, for
3 any of the following:

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

8 (2) A modification of an existing facility.

9 (3) A thermal powerplant which it is only
10 technologically or economically feasible to site at or near
11 the energy source.

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

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

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

1 ~~SEC. 16.~~—

2 *SEC. 10.* Section 25541 of the Public Resources Code
3 is amended to read:

4 25541. The commission may exempt from this chapter
5 thermal powerplants with a generating capacity of up to
6 100 megawatts and modifications to existing generating
7 facilities that do not add capacity in excess of 100
8 megawatts, if the commission finds that no substantial
9 adverse impact on the environment or energy resources
10 will result from the construction or operation of the
11 proposed facility or from the modifications.

12 ~~SEC. 17.~~—

13 *SEC. 11.* Section 25541.5 of the Public Resources Code
14 is repealed.

15 ~~SEC. 18.~~—

16 *SEC. 12.* Section 25541.5 is added to the Public
17 Resources Code, to read:

18 25541.5. (a) On or before January 1, 2001, the
19 Secretary of the Resources Agency shall review the
20 regulatory program conducted pursuant to this chapter
21 that was certified pursuant to subdivision (k) of Section
22 15251 of Title 14 of the California Code of Regulations, to
23 determine whether the regulatory program meets the
24 criteria specified in Section 21080.5. If the Secretary of the
25 Resources Agency determines that the regulatory
26 program meets those criteria, the secretary shall continue
27 the certification of the regulatory program.

28 (b) If the Secretary of the Resources Agency continues
29 the certification of the regulatory program, the
30 commission shall amend the regulatory program from
31 time to time, as necessary to permit the secretary to
32 continue to certify the program.

33 (c) This section does not invalidate the certification of
34 the regulatory program, as it existed on January 1, 2000,
35 pending the review required by subdivision (a).

36 ~~SEC. 19.~~ ~~Section 25911 of the Public Resources Code~~

37 *SEC. 13.* Section 25543 is added to the Public
38 Resources Code, to read:

39 25543. (a) *It is the intent of the Legislature to*
40 *improve the process of siting and licensing new thermal*

1 *electric power plants to ensure that these facilities can be*
2 *sited in a timely manner.*

3 *(b) Notwithstanding Section 7550.5 of the*
4 *Government Code, the commission shall prepare a report*
5 *to the Governor and the Legislature on or before March*
6 *31, 2000, that identifies administrative and statutory*
7 *measures that, preserving environmental protections,*
8 *would improve the commission's siting and licensing*
9 *process for thermal power plants of 50 megawatts and*
10 *larger. The report shall include, but is not limited to, all*
11 *of the following:*

12 *(1) An examination of potential process efficiencies*
13 *associated with required hearings, site visits, and*
14 *documents.*

15 *(2) A review of the impacts of restrictions on*
16 *communications between applicants and staff or*
17 *decisionmakers.*

18 *(3) An assessment of means for improving*
19 *coordination with the licensing activities of local*
20 *jurisdictions and participation by other state agencies.*

21 *(4) An assessment of organizational structure issues*
22 *including the adequacy of the amounts and organization*
23 *of current technical and legal resources.*

24 *(5) Recommendations for administrative and*
25 *statutory measures to improve the siting and licensing*
26 *process.*

27 *(c) The commission may immediately implement any*
28 *administrative recommendations. Regulations, as*
29 *identified in paragraph (5), adopted within 180 days of*
30 *the effective date of this section may be adopted as*
31 *emergency regulations in accordance with Chapter 3.5*
32 *(commencing with Section 11340) of the Government*
33 *Code. For purposes of that chapter, including Section*
34 *11349.6 of the Government Code, the adoption of the*
35 *regulations shall be considered by the Office of*
36 *Administrative Law to be necessary for the immediate*
37 *preservation of the public peace, health, safety, and*
38 *general welfare.*

39 ~~*is amended to read:*~~

1 ~~25911. The California Energy Infrastructure and~~
2 ~~Oversight Commission may adopt regulations pertaining~~
3 ~~to urea formaldehyde foam insulation materials that are~~
4 ~~reasonably necessary to protect the public health and~~
5 ~~safety. Those regulations may include, but are not limited~~
6 ~~to, prohibition of the manufacture, sale, or installation of~~
7 ~~urea formaldehyde foam insulation, requirements for~~
8 ~~safety notices to consumers, certification of installers, and~~
9 ~~specification of installation practices. Regulations~~
10 ~~adopted pursuant to this section shall be adopted after~~
11 ~~public hearings in accordance with Chapter 3.5~~
12 ~~(commencing with Section 11340) of Part 1 of Division 3~~
13 ~~of Title 2 of the Government Code. Any regulation~~
14 ~~adopted by the commission to prohibit the sale and~~
15 ~~installation of urea formaldehyde foam insulation shall be~~
16 ~~based upon a record of scientific evidence that~~
17 ~~demonstrates the need for the prohibition to protect the~~
18 ~~public health and safety.~~

19 ~~SEC. 20. Section 26004 of the Public Resources Code~~
20 ~~is amended to read:~~

21 ~~26004. (a) There is in the state government the~~
22 ~~California Alternative Energy and Advanced~~
23 ~~Transportation Financing Authority. The authority~~
24 ~~constitutes a public instrumentality and the exercise by~~
25 ~~the authority of powers conferred by this division is the~~
26 ~~performance of an essential public function.~~

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

29 ~~(1) The Director of Finance.~~

30 ~~(2) The Chairperson of the California Energy~~
31 ~~Infrastructure and Oversight Commission.~~

32 ~~(3) The President of the Public Utilities Commission.~~

33 ~~(4) The Controller.~~

34 ~~(5) The Treasurer, who shall serve as the chairperson~~
35 ~~of the authority.~~

36 ~~(c) The members listed in subdivision (b) may each~~
37 ~~designate a deputy or clerk in his or her agency to act for~~
38 ~~and represent the member at all meetings of the~~
39 ~~authority.~~

1 ~~(d) The first meeting of the authority shall be~~
2 ~~convened by the Treasurer.~~

3 ~~SEC. 21. Section 335 of the Public Utilities Code is~~
4 ~~amended to read:~~

5 ~~335. In order to ensure that the interests of the people~~
6 ~~of California are served, a seven-member Electricity~~
7 ~~Oversight Board is hereby created as provided in Section~~
8 ~~336. For purposes of this chapter, any reference to the~~
9 ~~Oversight Board shall mean the Electricity Oversight~~
10 ~~Board. Its functions shall be all of the following:~~

11 ~~(a) To oversee the Independent System Operator and~~
12 ~~the Power Exchange.~~

13 ~~(b) To determine the composition and terms of~~
14 ~~service and to exercise the exclusive right to decline to~~
15 ~~confirm the appointments of specific members of the~~
16 ~~governing boards of the Independent System Operator~~
17 ~~and the Power Exchange, as specified in subdivision (f).~~

18 ~~(c) To serve as an appeal board for majority decisions~~
19 ~~of the Independent System Operator governing board, as~~
20 ~~they relate to matters subject to exclusive state~~
21 ~~jurisdiction, as specified in Section 339.~~

22 ~~(d) To perform licensing functions and review in~~
23 ~~accordance with the California Environmental Quality~~
24 ~~Act (Division 13 (commencing with Section 21000) of the~~
25 ~~Public Resources Code), for electric transmission lines~~
26 ~~and natural gas pipelines.~~

27 ~~(e) To certify a five-year statewide electricity~~
28 ~~transmission plan, prepared and annually updated by the~~
29 ~~Independent System Operator, for the expansion and~~
30 ~~upgrade of the transmission system by the Independent~~
31 ~~System Operator.~~

32 ~~(f) Those members of the Independent System~~
33 ~~Operator and Power Exchange governing boards whose~~
34 ~~appointments the Oversight Board has the exclusive right~~
35 ~~to decline to confirm include proposed governing board~~
36 ~~members representing agricultural end users, industrial~~
37 ~~end users, commercial end-users, residential end users,~~
38 ~~end users at large, nonmarket participants, and public~~
39 ~~interest groups.~~

1 ~~SEC. 22. Section 336 of the Public Utilities Code is~~
2 ~~amended to read:~~

3 ~~336. (a) The Electricity Oversight Board shall be~~
4 ~~within and under the auspices of the California Energy~~
5 ~~Infrastructure and Oversight Commission.~~

6 ~~(b) The seven-member Electricity Oversight Board~~
7 ~~shall be comprised as follows:~~

8 ~~(1) Five members who are voting commissioners of~~
9 ~~the California Energy Infrastructure and Oversight~~
10 ~~Committee.~~

11 ~~(2) One member of the Assembly appointed by the~~
12 ~~Speaker of the Assembly.~~

13 ~~(3) One member of the Senate appointed by the~~
14 ~~Senate Committee on Rules.~~

15 ~~(c) Legislative members shall be nonvoting members,~~
16 ~~however, they are otherwise full members of the board~~
17 ~~with all rights and privileges pertaining thereto.~~

18 ~~(d) The terms of voting members of the Oversight~~
19 ~~Board members shall be coterminous with their terms as~~
20 ~~commissioners of the California Energy Infrastructure~~
21 ~~and Oversight Commission.~~

22 ~~(e) The chairperson of the California Energy~~
23 ~~Infrastructure and Oversight Commission shall serve as~~
24 ~~the chairperson of the Oversight Board and shall preside~~
25 ~~over Oversight Board meetings and direct the board's~~
26 ~~Executive Director, General Counsel, and staff, in~~
27 ~~accordance with the policies and guidelines of the~~
28 ~~Oversight Board.~~

29 ~~(f) Three voting members shall constitute a quorum.~~
30 ~~Any decision or action of the Oversight Board shall be by~~
31 ~~majority vote of the voting members.~~

32 ~~(g) There shall be separate staffs and legal~~
33 ~~organizations for the Electricity Oversight Board within~~
34 ~~the California Energy Infrastructure and Oversight~~
35 ~~Commission.~~

36 ~~SEC. 23. Section 337 of the Public Utilities Code is~~
37 ~~amended to read:~~

38 ~~337. The Oversight Board, shall have the exclusive~~
39 ~~right to approve procedures for the election and~~
40 ~~submission for confirmation and the qualifications for~~

1 Independent System Operator governing board
 2 members specified in subdivision (f) of Section 335, all of
 3 whom shall be required to be electricity consumers in the
 4 area served by the Independent System Operator. The
 5 Independent System Operator governing board shall
 6 include, but not be limited to, representatives of
 7 investor-owned utility transmission owners, publicly
 8 owned utility transmission owners, nonutility electricity
 9 sellers, public buyers and sellers, private buyers and
 10 sellers, industrial end users, commercial end users,
 11 residential end users, agricultural end users, public
 12 interest groups, and nonmarket participant
 13 representatives. A simple majority of the board shall
 14 consist of persons who are themselves unaffiliated with
 15 electric generation, transmission or distribution
 16 corporations. The structural composition of the
 17 Independent System Operator governing board existing
 18 on July 1, 1999, shall remain in effect until an agreement
 19 with a participating state is legally in effect. However,
 20 prior to such an agreement, California shall retain the
 21 right to change the Independent System Operator
 22 governing board into a nonstakeholder board. In the
 23 event of such a legislative change, revised bylaws shall be
 24 filed with the Federal Energy Regulatory Commission
 25 under Section 205 of the Federal Power Act (16 U.S.C.A.
 26 Sec. 842d).

27 SEC. 24. Section 338 of the Public Utilities Code is
 28 amended to read:

29 338. The Oversight Board, shall have the exclusive
 30 right to approve procedures and the qualifications for
 31 Power Exchange governing board members specified in
 32 subdivision (f) of Section 335, all of whom shall be
 33 required to be electricity customers in the area served by
 34 the Power Exchange. The Power Exchange governing
 35 board shall include, but not be limited to, representatives
 36 of investor-owned electric distribution companies,
 37 publicly owned electric distribution companies,
 38 nonutility generators, public buyers and sellers, private
 39 buyers and sellers, industrial end users, commercial end
 40 users, 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. 25. 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 (b) The following matters are subject to California's
20 exclusive jurisdiction:

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

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

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

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

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

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

37 (7) Public access to corporate records.

38 (8) The amendment of bylaws relevant to these
39 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. 26. 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. 27. 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. 28. 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. 29. 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. 30. 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. 31. 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. 32. Section 359 of the Public Utilities Code is
10 repealed.~~

~~11 SEC. 33. Section 359 is added to the Public Utilities
12 Code, to read:~~

~~13 359. (a) It is the intent of the Legislature to provide
14 for the evolution of the Independent System Operator
15 and the Power Exchange into regional organizations to
16 promote the development of regional electricity
17 transmission markets in the western states and to
18 improve the access of consumers served by the
19 Independent System Operator and the Power Exchange
20 to those markets.~~

~~21 (b) The preferred means by which the voluntary
22 evolution described in subdivision (a) should occur is
23 through the adoption of a regional compact or other
24 comparable agreement among cooperating party states,
25 the retail customers of which states would reside within
26 the geographic territories served by the Independent
27 System Operator and the Power Exchange.~~

~~28 (c) The agreement described in subdivision (b)
29 should provide for all of the following:~~

~~30 (1) An equitable process for the appointment or
31 confirmation by party states of members of the governing
32 boards of the Independent System Operator and the
33 Power Exchange.~~

~~34 (2) A respecification of the size, structure,
35 representation, eligible membership, nominating
36 procedures, and member terms of service of the
37 governing boards of the Independent System Operator
38 and the Power Exchange.~~

~~39 (3) Mechanisms by which each party state, jointly or
40 separately, can oversee effectively the actions of the~~

~~Independent System Operator and the Power Exchange as those actions relate to the assurance of electricity system reliability within the party state and to matters that affect electricity sales to the retail customers of the party state or otherwise affect the general welfare of the electricity consumers and the general public of the party state.~~

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

~~SEC. 34. The California Energy Infrastructure and Oversight Commission may use the unexpended balance of funds available for use in connection with the performance of the functions of the former State Energy Resources Conservation and Development Commission.~~

~~SEC. 35. Any officer or employee of the former State Energy Resources Conservation and Development Commission or the Oversight Board who is serving in the state civil service, other than as a temporary employee, and who is engaged in the performance of a function vested in the former State Energy Resources Conservation and Development Commission or the Oversight Board shall be transferred to the California Energy Infrastructure and Oversight Commission. The status, position, and rights of that person shall not be affected by the transfer and shall be retained by the person as an officer or employee of the Public Utilities Commission, pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code), except as to a position that is exempt from civil service.~~

~~SEC. 36. The California Energy Infrastructure and Oversight Commission shall have possession and control of all records, papers, offices, equipment, supplies, money, funds, appropriations, licenses, permits, agreements, contracts, claims, judgments, land, and other property, real or personal, connected with the administration of, or held for the benefit or use of, the~~

~~former State Energy Resources Conservation and Development Commission and the Oversight Board.~~

~~SEC. 37. (a) Any regulation or other action, adopted, prescribed, taken, or performed by the former State Energy Resources Conservation and Development Commission or the Oversight Board or by any of its officers in the administration of a program, the performance of a power, duty, or responsibility, or the exercise of any function transferred by this act shall remain in effect and shall be deemed to be a regulation or action of the California Energy Infrastructure and Oversight Commission or of any of its officers to whom the program, power, duty, responsibility, or function is transferred.~~

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

~~SEC. 38. The Department of Finance may direct the transfer of unexpended balances of appropriations and other funds available for use in connection with any function affected by the reorganization prescribed by this act that the director determines to be necessary to facilitate the reorganization, for use in connection with the functions affected by the reorganization, provided that any unexpended balances of appropriations and other funds so transferred shall be used, as to appropriations, only for purposes that were authorized by the appropriation and, as to other available funds, only for purposes authorized as of the effective date of this act.~~

~~SEC. 39. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction,~~

1 ~~eliminates a crime or infraction, or changes the penalty~~
2 ~~for a crime or infraction, within the meaning of Section~~
3 ~~17556 of the Government Code, or changes the definition~~
4 ~~of a crime within the meaning of Section 6 of Article~~
5 ~~XIII B of the California Constitution.~~

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