

Senate Bill No. 1388

CHAPTER 1040

An act to amend Sections 25519 and 25523 of, and to repeal Section 25524 of, the Public Resources Code, and to add Sections 393 and 454.1 to the Public Utilities Code, relating to public utilities.

[Approved by Governor September 30, 2000. Filed
with Secretary of State September 30, 2000.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1388, Peace. Electrical power facilities.

(1) 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 that the commission forward an application for certification of a power facility to local governmental agencies having land use and related jurisdiction in the area of the proposed site and related facility, and requires those local agencies to review the application and submit comments, as prescribed. The act requires the commission to transmit a copy of the application to each federal and state agency having jurisdiction or special interest in matters pertinent to the proposed site and related facilities and to the Attorney General.

This bill would require local and state agencies having jurisdiction or special interest in matters pertinent to the proposed site and related facilities to provide their comments and recommendations on the project within 180 days of the date of filing of an application.

(2) The act requires that the commission prepare a written decision after a public hearing on an application for certification, containing specified information, including, with respect to a geothermal site and related facility, findings on whether there are sufficient commercial quantities of geothermal resources available to operate the proposed facility for its planned life. The act prohibits the commission from certifying 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.

This bill would delete the above provisions relating to certifying geothermal sites and related facilities.

(3) The Public Utilities Act requires the Public Utilities Commission to implement specified provisions of the restructuring of the electrical industry in the state.

This bill would require the commission to conduct a pilot study of certain customers of each electrical corporation to determine the relative value to ratepayers of information, rate design, and metering innovations using specified approaches. The commission would be required to report initial results of the study to the Legislature on or before March 31, 2002, and results for a specified electrical corporation 15 months after a certain rate level is no longer in effect. The bill would require the commission and the Electricity Oversight Board to facilitate efforts to obtain federal authorization to recover certain expenses of electrical corporations related to reconfiguration, replacement, or expansion of transmission facilities. The bill would authorize the commission to periodically review and adjust depreciation schedules and rates authorized for an electric plant that is under the jurisdiction of the commission and owned by electrical corporations and to periodically review and adjust depreciation schedules and rates authorized for a gas plant that is under the jurisdiction of the commission and owned by gas corporations. Because a violation of the act is a crime, this bill would impose a state-mandated local program.

(4) The bill would make legislative findings and declarations with regard to the reliability and cost of electricity service and the need for an electricity consumer infrastructure that will provide electricity consumption information to customers.

(5) 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.

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

SECTION 1. The Legislature finds and declares all of the following:

(a) Reliable, reasonably priced electricity service is and always has been essential for California's economic growth and for the health and welfare of its citizens.

(b) To improve the reliability and cost of electricity service in California, Chapter 854 of the Statutes of 1996 (hereafter AB 1890) restructured the state's electricity industry to allow market-based competition in the supply of electric power and created the Independent System Operator to ensure reliability, efficiently operate the statewide transmission system, and ensure that necessary new transmission capacity was planned for and constructed.



(c) Prior to electric industry restructuring, California had experienced a decade-long hiatus in powerplant construction that, in conjunction with strong, population-driven electricity demand growth, had begun to jeopardize electric system reliability.

(d) The passage of AB 1890 ended this construction hiatus and stimulated private developers to file an unprecedented number of applications to build new, environmentally superior merchant powerplants in California.

(e) However, because these new powerplants will not be completed until 2002 or 2003, the state's electric system reliability will remain vulnerable during the next few years during periods when California and its neighboring states simultaneously experience very hot weather.

(f) This vulnerability will be exacerbated, in the event of a drought, by California's dependence on rainfall-driven hydroelectric power for over 20 percent of its annual electricity requirements.

(g) Adequate generation, transmission, and consumer-demand responsiveness alternatives are critical to managing the vulnerability of the state's electric system and ensuring reliable, reasonably priced, electricity.

(h) Therefore all of the following are necessary:

(1) Timely and efficient public processes for siting, licensing, and interconnecting new generation and transmission facilities.

(2) Providing tools and information to the state's electricity consumers to enable them to manage their energy use during periods when electricity is most costly.

(3) Equipping public and private institutions that protect the interests of California's citizens with the tools and authority they need to facilitate the timely development of required physical and policy infrastructure.

(i) This act is intended to ensure that needed processes and institutional capabilities are in place so California's citizens and businesses will continue to be assured reliable, reasonably priced, electricity service. Specifically, this bill is intended to do all of the following:

(1) Expedite the deployment of new in-state electric generation capacity.

(2) Expedite the development of necessary transmission capacity identified by the Independent System Operator.

(3) Expedite the development of necessary distribution capacity identified by the Public Utilities Commission.

(4) Maximize the potential benefits of energy conservation by facilitating the deployment of appropriate metering and communication and control technologies through the distribution system.

(j) The Legislature further finds and declares all of the following:

(1) There is a need to establish an electricity consumer information infrastructure that will provide electricity consumption information to residential and small commercial customers to help them better manage their electricity use and costs and improve the demand responsiveness of the electricity market.

(2) A fundamental tool residential and small electricity consumers require to better manage their electricity use is real-time information about their electricity consumption. Currently, the only electricity usage information consumers have is a monthly bill that summarizes historical electricity consumption. Real-time electricity usage information is required for consumers to understand the relationship between their current activities and the amount of electricity they are consuming. However, at present, few consumers have technology installed to monitor their electricity consumption on a real-time basis.

(3) Technology exists that could help consumers acquire the real-time information they would need to understand and manage their electricity consumption. However, the current stock of installed electricity meters is not capable of allowing ready access to this information.

(4) It may be possible to economically retrofit or, in certain cases, replace the current stock of electricity meters to allow real-time usage information to be made available to consumers through a standard output interface. A standard output interface would allow consumers to purchase a variety of energy information and management technologies that would meet their individual energy management objectives.

(5) Today, no energy information and management technologies are commercially available to the small consumer market at a cost low enough to encourage participation. However, the ubiquitous availability of standard electricity usage information at a standard output interface, along with rates that reward customers for managing their electricity usage and costs, will provide an incentive to customers to change their usage patterns and to third party providers to develop value-added technological solutions to help consumers use their electricity usage information to manage their electricity consumption and meet their individual energy management objectives and improve the demand responsiveness of the electricity market.

(k) The Legislature further finds and declares all of the following:

(1) The electric facilities owned by electrical corporations that are used in California for the transmission of electric energy at high voltages, whether or not in interstate commerce, are facilities essential to the well-being of California residents and businesses.

(2) It is in the public interest to reconfigure and add transfer and replacement capacity to electric transmission facilities to facilitate competition in electric generation markets, ensure open,



nondiscriminatory access to all buyers and sellers of electricity, to assure all buyers and sellers of electricity that they will receive comparable service, and to ensure continued reliability of the transmission grid.

(3) Reasonable expenditures by electrical corporations to plan, design, and engineer reconfigurations, replacements, or expansions of transmission facilities are in the public interest, and are deemed prudent if made for the purpose of facilitating competition in electric generation markets, ensuring open access and comparable service, or maintaining or enhancing reliability, whether or not expenditures are for transmission facilities that become operational.

SEC. 2. Section 25519 of the Public Resources Code is amended to read:

25519. (a) In order to obtain certification for a site and related facility, an application for certification of the site and related facility shall be filed with the commission. The application shall be in a form prescribed by the commission and shall be for a site and related facility that has been found to be acceptable by the commission pursuant to Section 25516, or for an additional facility at a site that has been designated a potential multiple-facility site pursuant to Section 25514.5 and found to be acceptable pursuant to Sections 25516 and 25516.5. An application for an additional facility at a potential multiple-facility site shall be subject to the conditions and review specified in Section 25520.5. An application may not be filed for a site and related facility, if there is no suitable alternative for the site and related facility that was previously found to be acceptable by the commission, unless the commission has approved the notice based on the one site as specified in Section 25516.

(b) The commission, upon its own motion or in response to the request of any party, may require the applicant to submit any information, document, or data, in addition to the attachments required by subdivision (i), that it determines is reasonably necessary to make any decision on the application.

(c) The commission shall be the lead agency as provided in Section 21165 for all projects that require certification pursuant to this chapter and for projects that are exempted from such certification pursuant to Section 25541. Unless the commission's regulatory program governing site and facility certification and related proceedings are certified by the Resources Agency pursuant to Section 21080.5, an environmental impact report shall be completed within one year after receipt of the application. If the commission prepares a document or documents in the place of an environmental impact report or negative declaration under a regulatory program certified pursuant to Section 21080.5, any other public agency that must make a decision that is subject to the California Environmental Quality Act, Division 13 (commencing with Section 21000), on a site or related facility, shall use the

document or documents prepared by the commission in the same manner as they would use an environmental impact report or negative declaration prepared by a lead agency.

(d) If the site and related facility specified in the application is proposed to be located in the coastal zone, the commission shall transmit a copy of the application to the California Coastal Commission for its review and comments.

(e) If the site and related facility specified in the application is proposed to be located in the Suisun Marsh or the jurisdiction of the San Francisco Bay Conservation and Development Commission, the commission shall transmit a copy of the application to the San Francisco Bay Conservation and Development Commission for its review and comments.

(f) Upon receipt of an application, the commission shall forward the application to local governmental agencies having land use and related jurisdiction in the area of the proposed site and related facility. Those local agencies shall review the application and submit comments on, among other things, the design of the facility, architectural and aesthetic features of the facility, access to highways, landscaping and grading, public use of lands in the area of the facility, and other appropriate aspects of the design, construction, or operation of the proposed site and related facility.

(g) Upon receipt of an application, the commission shall cause a summary of the application to be published in a newspaper of general circulation in the county in which the site and related facilities, or any part thereof, designated in the application, is proposed to be located. The commission shall transmit a copy of the application to each federal and state agency having jurisdiction or special interest in matters pertinent to the proposed site and related facilities and to the Attorney General.

(h) Local and state agencies having jurisdiction or special interest in matters pertinent to the proposed site and related facilities shall provide their comments and recommendations on the project within 180 days of the date of filing of an application.

(i) The adviser shall require that adequate notice is given to the public and that the procedures specified by this division are complied with.

(j) For any proposed site and related facility requiring a certificate of public convenience and necessity, the commission shall transmit a copy of the application to the Public Utilities Commission and request the comments and recommendations of the Public Utilities Commission on the economic, financial, rate, system reliability, and service implications of the proposed site and related facility. If the commission requires modification of the proposed facility, the commission shall consult with the Public Utilities Commission regarding the economic, financial, rate, system reliability, and service implications of those modifications.



(k) The commission shall transmit a copy of the application to any governmental agency not specifically mentioned in this act, but which it finds has any information or interest in the proposed site and related facilities, and shall invite the comments and recommendations of each agency. The commission shall request any relevant laws, ordinances, or regulations that an agency has promulgated or administered.

(l) An application for certification of any site and related facilities shall contain a listing of every federal agency from which any approval or authorization concerning the proposed site is required, specifying the approvals or authorizations obtained at the time of the application and the schedule for obtaining any approvals or authorizations pending.

SEC. 3. 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 San Francisco Bay Conservation and Development Commission pursuant to subdivision (d) of Section 66645 of the Government Code, 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 the provisions proposed in the report would not be feasible.

(d) (1) Findings regarding the conformity of the proposed site and related facilities with standards adopted by the commission pursuant to Section 25216.3 and subdivision (d) of Section 25402, with public safety standards and the applicable air and water quality standards, and with other relevant local, regional, state, and federal standards, ordinances, or laws. If the commission finds that there is noncompliance with any state, local, or regional ordinance or regulation in the application, it shall consult and meet with the state,

local, or regional governmental agency concerned to attempt to correct or eliminate the noncompliance. If the noncompliance cannot be corrected or eliminated, the commission shall inform the state, local, or regional governmental agency if it makes the findings required by Section 25525.

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

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

(f) 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.

(g) In the case of a facility, other than a resource recovery facility subject to subdivision (f), 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. 4. Section 25524 of the Public Resources Code is repealed.

SEC. 5. Section 393 is added to the Public Utilities Code, to read:

393. (a) The commission shall conduct a pilot study of the residential and small commercial customers of each electrical corporation, where the rate level established in subdivision (a) of Section 368 is no longer in effect, to determine the relative value to ratepayers of various information, rate design, and metering innovations for helping residential and small commercial customers better manage their electricity use. The commission shall compare the net benefits, including, but not limited to, all of the following approaches:

(1) The retrofit or replacement of residential and small commercial meters to provide real-time usage information to a standard output interface that is connected to a visual display module within the customer's home or business that presents information, at minimum, on current usage and historic usage. The commission may also test the effects of providing greater amounts of information display capability including, but not limited to, historic usage and estimated aggregated costs for the billing period, associated with the

customer's bundled rate structure. The standard output interface of the meter must be multiply accessible to allow the installation by the customer, an electrical corporation, or a registered energy service provider of energy information-based energy management applications.

(2) The replacement of residential and small commercial meters with time-of-use meters that distinguish and measure peak and off-peak energy use. Subject to the approval of the commission, electrical corporations shall offer a rate schedule to customers that differentially price seasonal on-peak, mid-peak, and off-peak energy use that reflects the electrical corporation's actual energy cost. The meters used shall have the same standard usage information output interface as in paragraph (1).

(3) The replacement of residential and small commercial meters with meters that facilitate the offering of hourly real-time pricing. Subject to the approval of the commission, electrical corporations shall offer a rate schedule to customers that prices electricity usage at the electrical corporation's hourly cost. The meters used shall have the same standard usage information output interface as in paragraph (1).

(b) The commission shall ensure that sufficient valid randomized customer use data, normalized for weather, occupancy, energy cost differences and other potentially confounding factors, are collected to respond to, but are not limited to, all of the following questions:

(1) To what extent is the real-time availability of customer usage information to customers sufficient to bring about a significant change in customer energy consumption behavior?

(2) To what extent is the availability of customer usage information to customers sufficient to stimulate innovation in energy information-based energy management applications?

(3) What is the difference in energy consumption behavior between customers that have enhanced access to energy consumption information and those who have time-of-use rates?

(4) Do the differences in usage and net cost savings, if any, between customers who have enhanced energy information and those who have time-of-use rates justify the broader offering of time-of-use metering capability?

(5) What is the difference in energy consumption behavior between customers who consume electricity under hourly real-time pricing and customers who either have enhanced information access or time-of-use pricing? Does the value of these differences justify the broader offering of hourly real-time pricing?

(6) What issues should be addressed prior to systemwide deployment?

(c) In conducting the pilot study, the commission shall ensure that all of the following study conditions are observed:

(1) No more than the minimum number of customers required to provide a statistically valid sample for a customer group in a pilot study as required by subdivision (a) are included. The aggregate total number of customers participating in a customer group in a pilot study may not exceed 3 percent of the electrical corporation's customers.

(2) Customers from each electrical corporation are selected from comparable geographic areas, from a variety of climate zones, and from a range of socioeconomic circumstances. In addition, control groups of customers shall be established for each study against whom the behavior of the study group participants may be compared.

(3) No customer is required to participate in a pilot study. However, customer rates of participation and reasons for nonparticipation for each study condition shall be monitored and incorporated in the study results, as appropriate.

(4) The offerings for the customers in the service territories of each electrical corporation that participates in a pilot study required by subdivision (a) are identical among electrical corporations to allow the comparison of data and results. However, electrical corporations may test alternative technological solutions, not including those relating to the standard usage information output interface specified in subdivision (e), to offer hourly real-time pricing for the pilot study in paragraph (3) of subdivision (a).

(5) Notwithstanding paragraph (4), the commission may waive the requirement imposed by that paragraph, or otherwise alter a pilot study, if the commission finds that it is in the public interest.

(6) All interested energy service providers and equipment manufacturers are included in the design and implementation of the pilot study to ensure that its results may be used to guide the subsequent deployment of the appropriate customer usage information infrastructure.

(d) The commission shall report to the Legislature on the initial results of the pilot study on or before March 31, 2002. The commission shall report on the results of the study for electrical corporations that continue to be under the rate level established in subdivision (a) of Section 368 at the effective date of this act within 15 months from the time when that rate level is no longer in effect.

(e) The study data shall be available to the public. The data shall be provided in a way that does not reveal customer-specific information.

(f) The standard usage information output interface used in pilot study elements set forth in paragraphs (1) to (3), inclusive, of subdivision (a) shall meet all of the following specifications:

(1) All electrical corporation retrofits or meter replacements shall conform to the same American National Standards Institute, Institute of Electrical and Electronics Engineers or other standard, as appropriate, and provide the same standard output interface.

(2) The technology selected shall be the most cost-effective, including its use of electricity on a life-cycle basis.

(3) The standard output interface selected shall allow a customer's data to be multiply accessed in a secure and protected manner.

(4) The standard output interface shall be installed in a way that does not compromise customer or worker safety or the integrity or accuracy of the meter.

(5) Because some older vintage meters cannot be readily retrofitted, the decision regarding whether to retrofit or replace a meter must be made on the basis of cost-effectiveness.

(6) Access by electrical corporations and third-party providers to the usage information output interface shall be at the sole discretion of the customer, except to the extent that the customer enters into a billing relationship with an electrical corporation or energy service provider.

(7) To ensure customer privacy, unless specifically authorized by the customer, information based upon customer data may not be used for any commercial purpose.

(8) Customers receiving service under the California Alternative Rates for Energy program under Section 739.1 do not pay a higher distribution rate attributable to participating in any of the pilot studies in subdivision (a).

(g) The commission shall allow electrical corporations to include in their distribution rates the reasonable investment and operating, installing, accounting, and evaluating costs of the pilot studies, those costs to be allocated only among the customer classes participating in the study.

SEC. 6. Section 454.1 is added to the Public Utilities Code, to read:

454.1. (a) Reasonable expenditures by transmission owners that are electrical corporations to plan, design, and engineer reconfiguration, replacement, or expansion of transmission facilities are in the public interest and are deemed prudent if made for the purpose of facilitating competition in electric generation markets, ensuring open access and comparable service, or maintaining or enhancing reliability, whether or not these expenditures are for transmission facilities that become operational.

(b) The commission and the Electricity Oversight Board shall jointly facilitate the efforts of the state's transmission owning electrical corporations to obtain authorization from the Federal Energy Regulatory Commission to recover reasonable expenditures made for the purposes stated in subdivision (a).

(c) Nothing in this section alters or affects the recovery of the reasonable costs of other electric facilities in rates pursuant to the commission's existing ratemaking authority under this code or pursuant to the Federal Power Act (41 Stat. 1063; 16 U.S.C. Secs. 791a, et seq.). The commission may periodically review and adjust depreciation schedules and rates authorized for an electric plant that

is under the jurisdiction of the commission and owned by electrical corporations and periodically review and adjust depreciation schedules and rates authorized for a gas plant that is under the jurisdiction of the commission and owned by gas corporations, consistent with this code.

SEC. 7. 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, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

