

Introduced by Senator Alarcon

February 22, 2000

An act to amend Sections 25523 and 25525 of, and to add Sections 25210.5, 25520.6, and 25520.7 to, the Public Resources Code, relating to energy conservation and development.

LEGISLATIVE COUNSEL'S DIGEST

SB 1622, as introduced, Alarcon. State Energy Resources Conservation and Development Commission: siting.

Existing law prohibits the construction of any facility or the modification of any existing facility without first obtaining certification for any such site and related facility by the State Resources Conservation and Development Commission. Existing law provides for a procedure to be followed in certifying a facility, including holding a public hearing on the application, and preparing a written decision after the public hearing.

This bill would require the commission to identify and address disproportionately high and adverse effects on minority populations and low-income populations that would result from the proposed siting of the facility. The bill would also require that applications are evaluated together if a siting proposal is closely related, as specified, to any other siting proposal pending or anticipated within one year. The bill would require the written decision to include findings as to whether the siting proposal results in the fair treatment of people of all races, cultures, and income levels, including minority populations and low-income populations of the state, with respect to matters that substantially affect human health

or the environment, and any conditions, modifications, or criteria proposed for any site and related facility proposal resulting from these findings and conclusions.

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

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

1 SECTION 1. Section 25210.5 is added to the Public
2 Resources Code, to read:

3 25210.5. The commission shall do all of the following:

4 (a) Conduct its programs, policies, and activities that
5 substantially affect human health or the environment in
6 a manner that ensures the fair treatment of people of all
7 races, cultures, and income levels, including minority
8 populations and low-income populations of the state.

9 (b) Promote enforcement of all health and
10 environmental statutes within its jurisdiction in a manner
11 that ensures the fair treatment of people of all races,
12 cultures, and income levels, including minority
13 populations and low-income populations in the state.

14 (c) Ensure greater public participation in the
15 commission's development, adoption, and
16 implementation of environmental regulations and
17 policies.

18 (d) Improve research and data collection for
19 programs within the commission relating to the health of,
20 and environment of, people of all races, cultures, and
21 income levels, including minority populations and
22 low-income populations of the state.

23 (e) Identify differential patterns of consumption of
24 natural resources among people of different
25 socioeconomic classifications for programs within the
26 commission.

27 SEC. 2. Section 25520.6 is added to the Public
28 Resources Code, to read:

29 25520.6. The commission shall identify and address, as
30 appropriate, disproportionately high and adverse human
31 health or environmental effects on minority populations

1 and low-income populations that would result from the
2 proposed siting of a facility.

3 (a) When determining whether human health effects
4 are disproportionately high and adverse, the commission
5 shall consider the following three factors to the extent
6 practicable:

7 (1) Whether the health effects, which may be
8 measured in risks and rates of adverse health impacts, or
9 qualitatively, are significant or above generally accepted
10 norms. Adverse health impacts may include bodily
11 impairment, infirmity, illness, or death.

12 (2) Whether the risk, or rate, of exposure to an
13 environmental hazard by a minority population or
14 low-income population is significant and exceeds, or is
15 likely to exceed, the risk, or rate, of exposure of the
16 general population or other appropriate comparison
17 group.

18 (3) Whether health effects occur in a minority
19 population or low-income population affected by
20 cumulative or multiple adverse exposures from
21 environmental hazards.

22 (b) When determining whether environmental
23 effects are disproportionately high and adverse, the
24 commission shall consider the following three factors to
25 the extent practicable:

26 (1) Whether there is or will be an impact on the
27 natural or physical environment that significantly and
28 adversely affects a minority population or low-income
29 population. Those effects may include ecological,
30 cultural, human health, economic, or social impacts on
31 minority communities or low-income communities when
32 those impacts are interrelated to impacts on the natural
33 or physical environment.

34 (2) Whether environmental effects are significant and
35 are or may be having an adverse impact on minority
36 populations or low-income populations that exceeds or is
37 likely to exceed those on the general population or other
38 appropriate comparison group.

39 (3) Whether the environmental effects occur or would
40 occur in a minority population or low-income population

1 affected by cumulative or multiple adverse exposures
2 from environmental hazards.

3 (c) For the purposes of this section, the commission
4 shall identify a “minority population” consistently with
5 the manner in which federal agencies that provide
6 funding to the commission identify a “minority
7 population.”

8 (d) For purposes of this section, the commission shall
9 identify a “low-income population” consistently with the
10 manner in which federal agencies that provide funding
11 to the commission identify “low-income population” and
12 by incorporating the definition of “lower-income
13 household”, as defined in Section 50079.5 of the Health
14 and Safety Code.

15 SEC. 3. Section 25520.7 is added to the Public
16 Resources Code, to read:

17 25520.7. If any siting proposal is closely related to any
18 other siting proposal pending or reasonably anticipated
19 within one year, the applications shall be evaluated
20 together in a single impact statement. Applications are
21 closely related if they:

22 (a) Are connected in that they are any of the
23 following:

24 (1) Automatically trigger another application that
25 may require commission review.

26 (2) Cannot or will not proceed unless the other
27 application is evaluated previously or simultaneously.

28 (3) Are interdependent parts of a larger action and
29 depend on the larger action for their justification.

30 (b) Are cumulative applications, which, when viewed
31 with other proposed applications have cumulatively
32 significant impacts and should therefore be considered at
33 the same time.

34 (c) Have similarities that provide a basis for evaluating
35 their environmental consequences together, such as
36 common timing or geography, and the best way to assess
37 adequately the combined impacts of similar applications
38 or reasonable alternatives to such applications is to review
39 them in a single proceeding.



SEC. 4. 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) *Findings as to whether the siting proposal results in the fair treatment of people of all races, cultures, and income levels, including minority populations and low-income populations of the state, with respect to matters that substantially affect human health or the environment, and any conditions, modifications, or criteria proposed for any site and related facility proposal resulting from these findings and conclusions.*

(c) 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.

~~(e)~~

(d) 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

1 effect on the environment or the provisions proposed in
2 the report would not be feasible.

3 ~~(d)~~

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

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

30 ~~(e)~~

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

34 ~~(f)~~

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

39 ~~(g)~~

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

~~(h)~~

(i) In the case of a facility, other than a resource recovery facility subject to subdivision ~~(g)~~ (h), 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. 5. Section 25525 of the Public Resources Code is amended to read:

25525. The commission shall not certify any facility contained in the application when it finds, pursuant to subdivision ~~(b)~~ (c) of Section 25523, that the facility does not conform with any applicable state, local, or regional standards, ordinances, or laws, unless the commission determines that ~~such~~ the facility is required for public convenience and necessity and that there are not more prudent and feasible means of achieving ~~such~~ public convenience and necessity. In making the determination, the commission shall consider the entire record of the proceeding, including, but not limited to, the impacts of the facility on the environment, consumer benefits, and electric system reliability. ~~In no event shall the~~ The commission *shall not* make any finding in conflict with applicable federal law or regulation. The basis for these findings shall be reduced to writing and submitted as part of the record pursuant to Section 25523.