

AMENDED IN SENATE APRIL 24, 2000

SENATE BILL

No. 1622

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. An act to amend Section 72001 of, and to add Section 25539.5 to, the Public Resources Code, relating to environmental justice.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1622, as amended, Alarcon. State Energy Resources Conservation and Development Commission: ~~siting~~ *environmental justice*.

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 Energy 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 adopt regulations to ensure that when it certifies sites it is in conformity with federal guidance concerning environmental justice. The bill would also require the California Environmental Protection Agency, in consultation with the Resources Agency and the commission, to develop a model environmental justice mission statement for the commission.~~

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

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

1 ~~SECTION 1. Section 25210.5 is added to the Public~~
 2 *SECTION 1. Section 25539.5 is added to the Public*
 3 *Resources Code, to read:*
 4 *25539.5. On or before January 1, 2002, the commission*
 5 *shall adopt regulations to ensure that the commission,*
 6 *when certifying sites and related facilities pursuant to this*
 7 *chapter, is in conformity with the applicable federal*
 8 *guidance relating to environmental justice.*
 9 *SEC. 2. Section 72001 of the Public Resources Code is*
 10 *amended to read:*
 11 *72001. On or before January 1, 2001, the California*
 12 *Environmental Protection Agency shall develop a model*
 13 *environmental justice mission statement for boards,*
 14 *departments, and offices within the agency, and, in*
 15 *consultation with the Resources Agency and the State*
 16 *Energy Resources Conservation and Development*
 17 *Commission, for the State Energy Resources*
 18 *Conservation and Development Commission. For*
 19 *purposes of this section, environmental justice has the*
 20 *same meaning as defined in subdivision (c) of Section*
 21 *65040.12 of the Government Code.*

Resources Code, to read:

25210.5. The commission shall do all of the following:

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

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

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

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

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

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

25520.6. The commission shall identify and address, as appropriate, disproportionately high and adverse human health or environmental effects on minority populations and low-income populations that would result from the proposed siting of a facility.

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

(1) Whether the health effects, which may be measured in risks and rates of adverse health impacts, or qualitatively, are significant or above generally accepted

1 norms. Adverse health impacts may include bodily
2 impairment, infirmity, illness, or death.

3 (2) Whether the risk, or rate, of exposure to an
4 environmental hazard by a minority population or
5 low-income population is significant and exceeds, or is
6 likely to exceed, the risk, or rate, of exposure of the
7 general population or other appropriate comparison
8 group.

9 (3) Whether health effects occur in a minority
10 population or low-income population affected by
11 cumulative or multiple adverse exposures from
12 environmental hazards.

13 (b) When determining whether environmental
14 effects are disproportionately high and adverse, the
15 commission shall consider the following three factors to
16 the extent practicable:

17 (1) Whether there is or will be an impact on the
18 natural or physical environment that significantly and
19 adversely affects a minority population or low-income
20 population. Those effects may include ecological,
21 cultural, human health, economic, or social impacts on
22 minority communities or low-income communities when
23 those impacts are interrelated to impacts on the natural
24 or physical environment.

25 (2) Whether environmental effects are significant and
26 are or may be having an adverse impact on minority
27 populations or low-income populations that exceeds or is
28 likely to exceed those on the general population or other
29 appropriate comparison group.

30 (3) Whether the environmental effects occur or would
31 occur in a minority population or low-income population
32 affected by cumulative or multiple adverse exposures
33 from environmental hazards.

34 (c) For the purposes of this section, the commission
35 shall identify a “minority population” consistently with
36 the manner in which federal agencies that provide
37 funding to the commission identify a “minority
38 population.”

39 (d) For purposes of this section, the commission shall
40 identify a “low-income population” consistently with the

1 manner in which federal agencies that provide funding
2 to the commission identify “low income population” and
3 by incorporating the definition of “lower-income
4 household”, as defined in Section 50079.5 of the Health
5 and Safety Code.

6 SEC. 3. Section 25520.7 is added to the Public
7 Resources Code, to read:

8 25520.7. If any siting proposal is closely related to any
9 other siting proposal pending or reasonably anticipated
10 within one year, the applications shall be evaluated
11 together in a single impact statement. Applications are
12 closely related if they:

13 (a) Are connected in that they are any of the
14 following:

15 (1) Automatically trigger another application that
16 may require commission review.

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

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

21 (b) Are cumulative applications, which, when viewed
22 with other proposed applications have cumulatively
23 significant impacts and should therefore be considered at
24 the same time.

25 (c) Have similarities that provide a basis for evaluating
26 their environmental consequences together, such as
27 common timing or geography, and the best way to assess
28 adequately the combined impacts of similar applications
29 or reasonable alternatives to such applications is to review
30 them in a single proceeding.

31 SEC. 4. Section 25523 of the Public Resources Code is
32 amended to read:

33 25523. The commission shall prepare a written
34 decision after the public hearing on an application, which
35 includes all of the following:

36 (a) Specific provisions relating to the manner in which
37 the proposed facility is to be designed, sited, and operated
38 in order to protect environmental quality and assure
39 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.~~

~~(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 effect on the environment or the provisions proposed in the report would not be feasible.~~

~~(e) (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~~

1 application, it shall consult and meet with the state, local,
2 or regional governmental agency concerned to attempt
3 to correct or eliminate the noncompliance. If the
4 noncompliance cannot be corrected or eliminated, the
5 commission shall inform the state, local, or regional
6 governmental agency if it makes the findings required by
7 Section 25525.

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

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

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

25 (h) In the case of a site and related facility using
26 resource recovery (waste-to-energy) technology,
27 specific conditions requiring that the facility be
28 monitored to ensure compliance with paragraphs (1),
29 (2), (3), and (6) of subdivision (a) of Section 42315 of the
30 Health and Safety Code.

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

1 ~~SEC. 5. Section 25525 of the Public Resources Code is~~
2 ~~amended to read:~~
3 ~~25525. The commission shall not certify any facility~~
4 ~~contained in the application when it finds, pursuant to~~
5 ~~subdivision (c) of Section 25523, that the facility does not~~
6 ~~conform with any applicable state, local, or regional~~
7 ~~standards, ordinances, or laws, unless the commission~~
8 ~~determines that the facility is required for public~~
9 ~~convenience and necessity and that there are not more~~
10 ~~prudent and feasible means of achieving public~~
11 ~~convenience and necessity. In making the determination,~~
12 ~~the commission shall consider the entire record of the~~
13 ~~proceeding, including, but not limited to, the impacts of~~
14 ~~the facility on the environment, consumer benefits, and~~
15 ~~electric system reliability. The commission shall not make~~
16 ~~any finding in conflict with applicable federal law or~~
17 ~~regulation. The basis for these findings shall be reduced~~
18 ~~to writing and submitted as part of the record pursuant~~
19 ~~to Section 25523.~~

