

AMENDED IN SENATE FEBRUARY 19, 1974

AMENDED IN SENATE JANUARY 9, 1974

AMENDED IN ASSEMBLY AUGUST 6, 1973

AMENDED IN ASSEMBLY MAY 29, 1973

CALIFORNIA LEGISLATURE—1973-74 REGULAR SESSION

ASSEMBLY BILL

No. 1575

Introduced by Assemblyman Warren
(Coauthor: Senator Alquist)

April 25, 1973

REFERRED TO COMMITTEE ON GOVERNMENT ADMINISTRATION

An act to amend Section 21100 of, and to add Division 15 (commencing with Section 25000) to, the Public Resources Code, relating to energy resources.

LEGISLATIVE COUNSEL'S DIGEST

AB 1575, as amended, Warren (Gov. Adm.). Energy resources.

Enacts the *Warren-Alquist* State Energy Resources Conservation and Development Act.

Declares legislative findings relating to energy resources.

Establishes the State Energy Resources Conservation and Development Commission and prescribes its membership, powers, and duties.

Provides for forecasting and assessment of energy demands and supplies, and for conservation of energy resources by designated methods.

Provides for certification of power facilities, as defined, by the commission.

Requires the commission to carry on a program of research and development of energy resources, and provides for limiting the use of electrical and other forms of energy under designated emergency conditions.

Imposes various fees and requires the money to be deposited in the State Energy Resources Conservation and Development ~~Fund~~ *Special Account*, which is ~~hereby created established in the General Fund~~. Requires that money from such ~~fund~~ *account* be expended for purposes of carrying out the provisions of this act, when appropriated by the Legislature.

Requires specifically that an environmental impact report on any project prepared pursuant to the Environmental Quality Act of 1970 include a statement of measures to reduce wasteful, inefficient, and unnecessary consumption of energy.

Provides that there are no state-mandated local costs in this act that require reimbursement under Section ~~2164.3~~ *2231* of the Revenue and Taxation Code.

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

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

- 1 SECTION 1. Section 21100 of the Public Resources
- 2 Code is amended to read:
- 3 21100. All state agencies, boards, and commissions
- 4 shall prepare, or cause to be prepared by contract, and
- 5 certify the completion of an environmental impact
- 6 report on any project they propose to carry out or
- 7 approve which may have a significant effect on the
- 8 environment. Such a report shall include a detailed
- 9 statement setting forth the following:
- 10 (a) The environmental impact of the proposed action.
- 11 (b) Any adverse environmental effects which cannot
- 12 be avoided if the proposal is implemented.
- 13 (c) Mitigation measures proposed to minimize the
- 14 impact including, but not limited to, measures to reduce
- 15 wasteful, inefficient, and unnecessary consumption of
- 16 energy.
- 17 (d) Alternatives to the proposed action.

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1 (e) The relationship between local short-term uses of
2 man's environment and the maintenance and
3 enhancement of long-term productivity.

4 (f) Any irreversible environmental changes which
5 would be involved in the proposed action should it be
6 implemented.

7 (g) The growth-inducing impact of the proposed
8 action.

9 SEC. 2. Division 15 (commencing with Section 25000)
10 is added to the Public Resources Code, to read:

11
12 DIVISION 15. ENERGY CONSERVATION AND
13 DEVELOPMENT

14
15 CHAPTER 1. TITLE AND GENERAL PROVISIONS

16
17 25000. This division shall be known and may be cited
18 as the Warren-Alquist State Energy Resources
19 Conservation and Development Act.

20 25001. The Legislature hereby finds and declares that
21 electrical energy is essential to the health, safety and
22 welfare of the people of this state and to the state
23 economy, and that it is the responsibility of state
24 government to ensure that a reliable supply of electrical
25 energy is maintained at a level consistent with the need
26 for such energy for protection of public health and safety,
27 for promotion of the general welfare, and for
28 environmental quality protection.

29 25002. The Legislature further finds and declares that
30 the present rapid rate of growth in demand for electric
31 energy is in part due to wasteful, uneconomic, inefficient,
32 and unnecessary uses of power and a continuation of this
33 trend will result in serious depletion or irreversible
34 commitment of fuels, land and water resources, and
35 potential threats to the state's environmental quality.

36 25003. The Legislature further finds and declares that
37 in planning for future electrical generating and
38 transmitting facilities state, regional, and local plans for
39 land use, urban expansion, transportation systems,
40 environmental protection, and economic development

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2 25004. The Legislature further finds and declares that
3 there is a pressing need to accelerate research and
4 development into alternative sources of energy and into
5 improved technology of design and siting of power
6 facilities.

7 25005. The Legislature further finds and declares that
8 prevention of delays and interruptions in the orderly
9 provision of electrical energy, protection of
10 environmental values, and conservation of energy
11 resources require expanded authority and technical
12 capability within state government.

13 25006. It is the policy of the state and the intent of the
14 Legislature to establish and consolidate the state's
15 responsibility for energy resources, for encouraging and
16 conducting research and development into energy
17 supply and demand problems, and for regulating
18 electrical generating and transmitting facilities.

19 25007. It is further the policy of the state and the
20 intent of the Legislature to employ a range of measures
21 to reduce wasteful, uneconomical, and unnecessary uses
22 of energy, thereby reducing the rate of growth of energy
23 consumption, prudently conserve energy resources, and
24 assure statewide environmental, public safety, and land
25 use goals.

26
27 CHAPTER 2. DEFINITIONS

28
29 25100. Unless the context otherwise requires, the
30 definitions in this chapter govern the construction of this
31 division.

32 25101. "Applicant" means any person who submits an
33 application for certification pursuant to the provisions of
34 this division.

35 25102. "Application" means any request for
36 certification of any site and related facility filed in
37 accordance with the procedures established pursuant to
38 this division.

39 25103. "Coastal zone" means the "coastal zone" as
40 defined in Section 27100.

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1 25104. "Commission" means the State Energy
2 Resources Conservation and Development Commission.

3 25105. "Construction" means onsite work to install
4 permanent equipment or structure for any facility.

5 "Construction" does not include any of the following:

6 (a) The installation of environmental monitoring
7 equipment.

8 (b) A soil or geological investigation.

9 (c) A topographical survey.

10 (d) Any other study or investigation to determine the
11 environmental acceptability or feasibility of the use of the
12 site for any particular facility.

13 (e) Any work to provide access to a site for any of the
14 purposes specified in subdivision (a), (b), (c), or (d).

15 ~~25106. "Counsel" means the legal counsel employed~~

16 ~~25106. "Advisor" means the administrative advisor~~
17 ~~employed by the commission pursuant to Section 25217.~~

18 25107. "Electric transmission line" means any electric
19 power line which carries more than 200 kilovolts and all
20 appurtenant facilities thereof, including, but not limited
21 to, switching yards. "Electric transmission line" does not
22 include any replacement on the existing site of existing
23 facilities with facilities equivalent thereto or the
24 placement of new or additional conductors, insulators, or
25 accessories related thereto on supporting structures in
26 existence on the effective date of this division.

27 25108. "Electric utility" means any person engaged
28 in, or authorized to engage in, generating, transmitting,
29 or distributing electric power by any facilities, including,
30 but not limited to, any such person who is subject to the
31 regulation of the Public Utilities Commission.

32 25109. "Energy" means work or heat that is, or may
33 be, produced from any fuel or source whatsoever.

34 25110. "Facility" means any electric transmission line
35 or thermal powerplant regulated according to the
36 provisions of this division.

37 ~~25111. "Fund" means the State Energy Resources~~
38 ~~Conservation and Development Fund.~~

39 ~~25111. "Account" means the State Energy Resources~~
40 ~~Conservation and Development Special Account.~~

1 25112. "Member" or "member of the commission"
2 means a member of the State Energy Resources
3 Conservation and Development Commission appointed
4 pursuant to Section 25200.

5 25113. "Notice" means the notice of intent, as further
6 defined in Chapter 6 (commencing with Section 25500),
7 which shall state the intention of an applicant to file an
8 application for certification of any site and related
9 facility.

10 25114. "Interested party" means any person whom
11 the commission finds and acknowledges as having a real
12 and direct interest in any proceeding or action carried
13 on, under, or as a result of the operation of, this division.

14 25115. "Permit area" means the "permit area" as
15 defined in Section 27104.

16 25116. "Person" means any person, firm, association,
17 organization, partnership, business trust, corporation, or
18 company. "Person" also includes any city, county, public
19 district or agency, the state or any department or agency
20 thereof, and the United States to the extent authorized by
21 federal law.

22 25117. "Plan" means the Emergency Load
23 Curtailment and Energy Distribution Plan.

24 25118. "Service area" means any contiguous
25 geographic area serviced by the same electric utility.

26 25119. "Site" means any location on which a facility is
27 constructed or is proposed to be constructed.

28 25120. "Thermal powerplant" means any stationary
29 or floating electrical generating facility using any source
30 of thermal energy, with a generating capacity of 50
31 megawatts or more, and any facilities appurtenant
32 thereto.

33

34 CHAPTER 3. STATE ENERGY RESOURCES
35 CONSERVATION AND DEVELOPMENT COMMISSION
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38 25200. There is in the Resources Agency the State
39 Energy Resources Conservation and Development
40 Commission, consisting of five members appointed by
the Governor subject to Section 25204.

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1 25201. One member of the commission shall be
2 ~~qualified in the field of physical science with knowledge~~
3 ~~of electrical power supply systems; one member shall be~~
4 *have a background in the field of engineering or physical*
5 *science and have knowledge of energy supply or*
6 *conversion systems; one member shall be an attorney and*
7 *a member of the State Bar of California who is qualified*
8 *in the field of governmental or administrative law; one*
9 *member shall be an ecologist with background and*
10 *experience in the study of natural biological ecosystems;*
11 *one member shall be an economist have a background*
12 *and experience in the field of environmental protection*
13 *or the study of ecosystems; one member shall be an*
14 *economist with background and experience in the field*
15 *of natural resource management; and one member shall*
16 *be from the public at large.*

17 25202. The Secretary of the Resources Agency and
18 the President of the Public Utilities Commission shall be
19 ex officio, nonvoting members of the commission, whose
20 presence shall not be counted for a quorum or for vote
21 requirements.

22 25203. Each member of the commission shall
23 represent the state at large and not any particular area
24 thereof, and shall serve on a full-time basis.

25 25204. The Governor shall appoint the members of
26 the commission within 30 days after the effective date of
27 this division. The appointments to the commission shall
28 be confirmed unless the appointment is rejected by a
29 majority vote of all the members of either the Assembly
30 or the Senate within 60 days from the date of
31 appointment by the Governor. Action by either house to
32 reject any appointment shall cause a vacancy in the office
33 to which the appointment was made, and the Governor
34 shall, within 30 days, make another appointment.

35 25205. (a) No person shall be a member of the
36 commission who, during the two years prior to
37 appointment on the commission, received any substantial
38 portion of his income directly or indirectly from any
39 electric utility, or who engages in sale or manufacture of
40 any major component of any facility. No member of the

1 commission shall be employed by any electric utility,
 2 applicant, or, within two years after he ceases to be a
 3 member of the commission, by any person who engages
 4 in the sale or manufacture of any major component of any
 5 facility.

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

9 (c) The members of the commission and all employees
 10 of the commission shall comply with all applicable
 11 provisions of Section 19251 of the Government Code.

12 (d) No person who is a member or employee of the
 13 commission shall participate personally and substantially
 14 as a member or employee of the commission, through
 15 decision, approval, disapproval, recommendation, the
 16 rendering of advice, investigation, or otherwise, in a
 17 judicial or other proceeding, hearing, application,
 18 request for a ruling, or other determination, contract,
 19 claim, controversy, study, plan, or other particular matter
 20 in which, to his knowledge, he, his spouse, minor child, or
 21 partner, or any organization in which he is serving, or has
 22 served as officer, director, trustee, partner, or employee
 23 while serving as a member or employee of the
 24 commission or within two years prior to his appointment
 25 as a member of the commission, has a direct or indirect
 26 financial interest.

27 (e) No person who is a partner, employer, or
 28 employee of a member or employee of the commission
 29 shall act as an attorney, agent, or employee for any person
 30 other than the state in connection with any judicial or
 31 other proceeding, hearing, application, request for a
 32 ruling, or other determination, contract, claim,
 33 controversy, study, plan, or other particular matter in
 34 which the commission is a party or has a direct and
 35 substantial interest.

36 (f) The provisions of this section shall not apply if the
 37 Attorney General finds that the interest of the member
 38 or employee of the commission is not so substantial as to
 39 be deemed likely to affect the integrity of the services
 40 which the state may expect from such member or

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2 (g) Any person who violates any provision of this
3 section is guilty of a felony and shall be subject to a fine
4 of not more than ten thousand dollars (\$10,000) or
5 imprisonment in the state prison for not more than two
6 years, or both.

7 25206. The terms of office of the members of the
8 commission shall be for six years, except that the
9 members first appointed to the commission shall classify
10 themselves by lot so that the term of office of one
11 member shall expire at the end of two years after the
12 effective date of this division; the terms of office of two
13 members shall expire at the end of four years after the
14 effective date of this division, and the terms of office of
15 two members shall expire at the end of six years after the
16 effective date of this division. Any vacancy shall be filled
17 by the Governor within 30 days of the date on which a
18 vacancy occurs for the unexpired portion of the term in
19 which it occurs or for any new term of office.

20 If the Governor fails to make an appointment for any
21 vacancy within such 30-day period, the Senate Rules
22 Committee may make the appointment to fill the
23 vacancy for the unexpired portion of the term in which
24 the vacancy occurred or for any new term of office,
25 subject to the confirmation as prescribed by Section
26 25204.

27 25207. The members of the commission shall receive
28 an annual salary as prescribed by Section ~~11550~~ 11552 of
29 the Government Code.

30 Each member of the commission shall receive the
31 necessary traveling and other expenses incurred in the
32 performance of his official duties. When necessary, the
33 members of the commission and its employees may travel
34 within or without the state.

35 25208. Before entering upon the duties of his office
36 each member of the commission shall execute an official
37 bond to the state in the penal sum of twenty-five
38 thousand dollars (\$25,000), conditioned upon the faithful
39 performance of his duties.

40 25209. Each member of the commission shall have

1 one vote. Except as provided in Section 25211, the
2 affirmative votes of at least three members shall be
3 required for the transaction of any business of the
4 commission

5 25210. The commission may hold any hearings and
6 conduct any investigations in any part of the state
7 necessary to carry out its powers and duties prescribed by
8 this division and for such purposes has the same powers
9 as is conferred upon heads of departments of the state by
10 Article 2 (commencing with Section 11180) of Chapter 2,
11 Part 1, Division 3, Title 2 of the Government Code.

12 25211. The commission may appoint a committee of
13 not less than three members of the commission to carry
14 on investigations, inquiries, or hearings which the
15 commission has power to undertake or to hold. Every
16 order made by such committee pursuant to such inquiry,
17 investigation, or hearing, when approved or confirmed
18 by the commission and ordered filed in its office, shall be
19 the order of the commission.

20 ~~25212. Every two years the commission shall elect a~~
21 ~~chairman and vice chairman from among its members.~~

22 25212. Every two years the Governor shall designate
23 a chairman and vice chairman of the commission from
24 among its members.

25 25213. The commission shall adopt rules and
26 regulations, as necessary, to carry out the provisions of
27 this division in conformity with the provisions of Chapter
28 4.5 (commencing with Section 11371) of Part 1, Division
29 3, Title 2 of the Government Code. The commission shall
30 make available to any person upon request copies of
31 proposed regulations, together with summaries of
32 reasons supporting their adoption.

33 25214. The commission shall maintain its
34 headquarters in the City of Sacramento and may establish
35 branch offices in such parts of the state as the commission
36 deems necessary. The commission shall hold meetings at
37 such times and at such places as shall be determined by
38 it. All meetings and hearings of the commission shall be
39 open to the public, and opportunity to be heard with
40 respect to the subject of the hearings shall be afforded to

1 any person. Upon
2 granted reasonable
3 testimony at the
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1 any person. Upon request, an interested party may be
2 granted reasonable opportunity to examine any witness
3 testifying at the hearing. The first meeting of the
4 commission shall be held within 30 days after the
5 confirmation of the last member of the commission
6 pursuant to Section 25204. The Governor shall designate
7 the time and place for the first meeting of the
8 commission.

9 25215. Any member of the commission may be
10 removed from office by the Legislature, by concurrent
11 resolution adopted by a majority vote of all members
12 elected to each house, for dereliction of duty or
13 corruption or incompetency.

14 25216. In addition to other duties specified in this
15 division, the commission shall do all of the following:

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

26 (b) Collect from electric utilities and other sources
27 forecasts of future loads and resources for all sources of
28 energy, including electrical; independently analyze such
29 forecasts in relation to statewide estimates of population,
30 economic, and other growth factors and in terms of the
31 availability of fuel resources, costs to consumers, and
32 other factors; and formally specify statewide and service
33 area electrical energy demands to be utilized as a basis for
34 planning the siting and design of electric power
35 generating and related facilities.

36 (c) Carry out, or cause to be carried out, under
37 contract or other arrangements, research and
38 development into alternative sources of energy,
39 improvements in energy generation, transmission, and
40 siting, fuel substitution, and other topics related to

1 energy supply, demand, public safety, ecology, and
 2 conservation which are of particular statewide
 3 importance.

4 25216.3. (a) The commission shall compile relevant
 5 local, regional, state, and federal land use, public safety,
 6 environmental, and other standards to be met in
 7 designing, siting, and operating facilities in the state;
 8 adopt standards, except for air and water quality, to be
 9 met in designing or operating facilities to safeguard
 10 public health and safety, which may be more stringent
 11 than those adopted by local, regional, or other state
 12 agencies, or by any federal agency if permitted by federal
 13 law; and monitor compliance and ensure that all facilities
 14 are operated in accordance with this division.

15 (b) The local, regional, and other state agencies shall
 16 advise the commission as to any change in its standards,
 17 ordinances, or laws which are pertinent and relevant to
 18 the objective of carrying out the provisions of this
 19 division.

20 25216.5. The commission shall do all of the following:

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

28 (b) Prepare and adopt an integrated plan specifying
 29 actions to be taken in the event of an impending serious
 30 shortage of energy, or a clear threat to public health,
 31 safety, or welfare and exercise such direct authority in
 32 carrying out such a plan as is specified in this division.

33 (c) Evaluate policies governing the establishment of
 34 rates for electric power and other sources of energy as
 35 related to energy conservation, environmental
 36 protection, and other goals and policies established in this
 37 division, and transmit recommendations for changes in
 38 power-pricing policies and rate schedules to the
 39 Governor, the Legislature, to the Public Utilities
 40 Commission, and to publicly owned electric utilities.

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1 (d) Serve as a central repository within the state
2 government for the collection and storage of data and
3 information on all forms of energy supply, demand,
4 conservation, public safety, and related subjects.

5 25217. The commission shall do all of the following:

6 (a) Appoint an executive director, who shall serve at
7 its pleasure and whose duties and salary shall be
8 prescribed by the commission.

9 ~~(b) Appoint a legal counsel who shall carry out the~~

10 (b) Appoint an administrative advisor, who shall be an
11 attorney admitted to practice law in this state, and who
12 shall carry out the provisions of Section 25222, as well as
13 other duties prescribed by the commission.

14 (c) Employ and prescribe the duties of other staff
15 members as necessary to carry out the provisions of this
16 division.

17 25217.5. *The chairman of the commission shall direct*
18 *the advisor, the executive director, and other staff in the*
19 *performance of their duties in conformance with the*
20 *policies and guidelines established by the commission.*

21 25218. In addition to other powers specified in this
22 division, the commission may do any of the following:

23 (a) Apply for and accept grants, contributions, and
24 appropriations.

25 (b) Contract for professional services if such work or
26 services cannot be satisfactorily performed by its
27 employees or by any other state agency.

28 (c) Be sued and sue.

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

31 (e) Adopt any rule or regulation, or take any action, it
32 deems reasonable and necessary to carry out the
33 provisions of this division.

34 (f) Adopt rules and regulations, or take any action, it
35 deems reasonable and necessary to ensure the free and
36 open participation of any member of the staff in
37 proceedings before the commission.

38 25218.5. The provisions specifying any power or duty
39 of the commission shall be liberally construed, in order to
40 carry out the objectives of this division.

1 25219. As to any matter involving the federal
2 government, its departments or agencies, which is within
3 the scope of the power and duties of the commission, the
4 commission may represent the interest of the state or any
5 county, city, state agency, or public district upon its
6 request, and to that end may correspond, confer, and
7 cooperate with the federal government, its departments
8 or agencies.

9 25220. The commission may participate as a party, to
10 the extent that it shall determine, in any proceeding
11 before any federal or state agency having authority
12 whatsoever to approve or disapprove any aspect of a
13 proposed facility, receive notice from any applicant of all
14 applications and pleadings filed subsequently by such
15 applicants in any of such proceedings, and, by its request,
16 receive copies of any of such subsequently filed
17 applications and pleadings that it shall deem necessary.

18 25221. Upon request of the commission, the Attorney
19 General shall represent the commission and the state in
20 litigation concerning affairs of the commission, unless the
21 ~~commission's interest and that of another state agency~~
22 *Attorney General represents another state agency, in*
23 *which case the commission shall be authorized to employ*
24 *other counsel.*

25 ~~are, in the opinion of the counsel of the commission,~~
26 ~~potentially in conflict. In such case the counsel of the~~
27 ~~commission shall represent the commission. The~~
28 ~~provisions of Sections 11041, 11042, and 11043 of the~~
29 ~~Government Code do not apply to the commission.~~

30 ~~25222. In addition to other duties as may be~~
31 ~~prescribed, the counsel shall insure that full and adequate~~

32 25222. *The advisor shall insure that full and adequate*
33 *participation by all interested groups and the public at*
34 *large is secured in the planning, site and facility*
35 *certification, energy conservation, and emergency*
36 *allocation procedures provided in this division. The*
37 ~~counsel~~ *advisor shall insure that timely and complete*
38 *notice of commission meetings and public hearings is*
39 *disseminated to all interested groups and to the public at*
40 *large. The ~~counsel~~ advisor shall also advise such groups*

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1 and the public as to effective ways of participating in the
2 commission's proceedings. The ~~counsel~~ *advisor* shall
3 recommend to the commission additional measures to
4 assure open consideration and public participation in
5 energy planning, site and facility certification, energy
6 conservation, and emergency allocation proceedings.

7 25223. The commission shall make available any
8 information filed or submitted pursuant to this division
9 under the provisions of the California Public Records Act,
10 Chapter 3.5 (commencing with Section 6250) of Division
11 7, Title 1 of the Government Code.

12 25224. The commission and other state agencies shall,
13 to the fullest extent possible, exchange records, reports,
14 material, and other information relating to energy
15 resources and conservation and power facilities siting, or
16 any areas of mutual concern, to the end that unnecessary
17 duplication of effort may be avoided.

18
19 CHAPTER 4. PLANNING AND FORECASTING
20

21 25300. Every electric utility in the state shall prepare
22 and transmit to the commission within one year after the
23 effective date of this division, and every two years
24 thereafter, a report specifying, by year, 5-, 10-, and
25 20-year forecasts or assessments of loads and resources for
26 its service area. The report shall set forth the facilities
27 which, as determined by the electric utility, will be
28 required to supply electric power during the forecast or
29 assessment periods. The report shall be in a form
30 specified by the commission and shall include all of the
31 following:

32 (a) A tabulation of estimated peak loads, resources,
33 and reserve margins for each year during the 5- and
34 10-year forecast or assessment periods, and an estimate of
35 peak load, resources, and reserve margins for the last year
36 in the 20-year forecast or assessment period.

37 (b) A list of existing electric generating plants in
38 service, with a description of planned and potential
39 generating capacity at existing sites.

40 (c) A list of facilities which will be needed to serve

1 additional electrical requirements identified in the
 2 forecasts or assessments, the general location of such
 3 facilities, and the anticipated types of fuel to be utilized
 4 in the proposed facilities.

5 (d) A description of additional system capacity which
 6 might be achieved through, among other things,
 7 improvements in (1) generating or transmission
 8 efficiency, (2) importation of power, (3) interstate or
 9 interregional pooling, and (4) other improvements in
 10 efficiencies of operation.

11 (e) An estimation of the availability and cost of fuel
 12 resources for the 5-, 10-, and 20-year forecast or
 13 assessment periods with a statement by the electric utility
 14 describing firm commitments for supplies of fuel
 15 required during the forecast or assessment periods.

16 (f) An annual load duration curve and a forecast of
 17 anticipated peak loads for each forecast or assessment
 18 period for the residential, commercial, industrial, and
 19 such other major demand sectors in the service area of
 20 the electric utility as the commission shall determine.

21 (g) A description of projected population growth,
 22 urban development, industrial expansion, and other
 23 growth factors influencing increased demand for electric
 24 energy and the bases for such projections.

25 25301. The commission shall establish and every
 26 electric utility shall utilize, for purposes of the report, a
 27 common methodology for preparing forecasts of future
 28 loads and resources. After applying the commission's
 29 established methodology to the mandatory elements of
 30 the report specified in Section 25300, any electric utility
 31 may transmit to the commission supplementary
 32 information and forecasts based upon an alternative
 33 methodology. If such alternate methodology is employed,
 34 the electric utility shall fully describe the data and other
 35 components of the methodology, and shall specify the
 36 reasons why the approach is considered more accurate
 37 than that established by the commission.

38 25302. Upon receipt of a report required under
 39 Section 25300 from an electric utility, the commission
 40 shall forward copies thereof to the Legislature, the Public

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40 25305. With

1 Utilities Commission, the Secretary of the Resources
2 Agency, the Director of the Office of Planning and
3 Research, and other concerned state and federal
4 agencies. The report shall also be made available, at cost,
5 to any person upon request. The commission shall also
6 forward copies of the report to each city and county
7 within the service area covered by the report, and shall
8 request that the city and county review and comment on
9 the report in relation to estimates of population growth
10 and economic development, patterns of land use and
11 open space, and conservation and other appropriate
12 elements of the adopted city or county general plan. A
13 copy of the report shall be maintained on file for public
14 inspection in each county.

15 25303. For a period of four months after the receipt of
16 the reports required under Section 25300 the commission
17 shall receive the comments of any person on the reports.

18 25304. The commission shall review and evaluate the
19 electric utilities' forecasts of loads and resources in
20 relation to the population growth estimates prepared by
21 the Department of Finance, Population Research Unit,
22 and in relation to statewide and regional land use,
23 transportation, and economic development programs
24 and forecasts. The commission shall also examine the
25 implications of the forecast level of loads and resources
26 on, among other things, all of the following:

27 (a) Critical environmental and other resources of the
28 state, including air and water quality, coastal, natural, and
29 other unique areas, and fuel resources.

30 (b) Public health and safety, general welfare, and the
31 state's economy.

32 (c) Capital requirements for new facilities and costs to
33 consumers of electrical and other forms of energy.

34 (d) Other significant factors which relate to the
35 provision of electrical energy in the amounts and in the
36 manner proposed by the electric utilities.

37 The commission shall also consider alternative
38 methods to those proposed by the electric utilities to
39 meet forecasted electrical energy requirements.

40 25305. Within six months after receipt of the reports

1 specified in Section 25300, the commission shall prepare
 2 and distribute a preliminary report, setting forth its
 3 findings and conclusions regarding the accuracy and
 4 acceptability of the electric utilities' forecasts. The report
 5 shall be based upon information and views presented in
 6 the comments received under Section 25303 and the
 7 commission's independent analysis, and shall contain all
 8 of the following:

9 (a) The commission's evaluation of the probable
 10 service area and statewide, environmental, and economic
 11 impact and the health and safety aspect of constructing
 12 and operating the facilities proposed by the electric
 13 utilities and a description of the measures considered
 14 necessary by the commission to avoid or ameliorate any
 15 adverse impacts.

16 (b) The proposed alternative methods for meeting the
 17 electrical energy requirements identified by the electric
 18 utilities.

19 (c) The anticipated 5- and 10-year level of demand for
 20 energy to be utilized as a basis for certification of
 21 facilities, and an anticipated 20-year level of demand for
 22 energy to be utilized as a basis for energy conservation
 23 policies and actions.

24 (d) Identification, on a statewide and service area
 25 basis, of required electric facilities consistent with the
 26 anticipated level of demand.

27 (e) An analysis and evaluation of the means by which
 28 the projected annual rate of demand growth of electrical
 29 energy may be reduced, together with an estimate of the
 30 amount of such reduction to be obtained by each of the
 31 means analyzed and evaluated, including a statement of
 32 the impact of such reduction on the factors reviewed by
 33 the commission set forth in Section 25304 and subdivision
 34 (a) of this section.

35 25306. The commission shall distribute the report
 36 required under Section 25305 to the same persons, and
 37 under the same conditions, as prescribed in Section
 38 25302.

39 25307. Within three months after distribution of the
 40 commission's preliminary report pursuant to Section

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1 25305, the commission shall hold public hearings of which
2 at least one shall be in the City of Sacramento to obtain
3 the views and comments of the electric utilities,
4 governmental agencies, private groups, and any other
5 person on the commission's proposals and
6 recommendations in the preliminary report.

7 25308. Within 12 months after receipt of the reports
8 required in Section 25300, the commission shall include
9 its final report on the accuracy and acceptability of the
10 electric utilities' forecasts and on the commission's
11 independent analyses and evaluations within the
12 commission's biennial report to the Governor and the
13 Legislature, as specified in Section 25309.

14 25309. Beginning on the second January 1st after the
15 effective date of this division, and every two years
16 thereafter, the commission shall transmit to the Governor
17 and the Legislature a comprehensive report designed to
18 identify emerging trends related to energy supply,
19 demand, and conservation and public health and safety
20 factors, to specify the level of statewide and service area
21 electrical energy demand for each year in the
22 forthcoming 5-, 10-, and 20-year period, and to provide
23 the basis for state policy and actions in relation thereto,
24 including, but not limited to, approval of new sites for
25 additional facilities. The report shall include, but not be
26 limited to, all of the following:

27 (a) An overview, looking 20 years ahead, of statewide
28 growth and development as they relate to future
29 requirements for energy, including patterns of urban
30 metropolitan expansion, statewide and service area
31 economic growth, shifts in transportation modes,
32 modifications in housing types and design, and other
33 trends and factors which, as determined by the
34 commission, will significantly affect state energy policy
35 and programs.

36 (b) The level of statewide and service area electrical
37 energy demand for the forthcoming 5- and 10-year
38 forecast or assessment period which, in the judgment of
39 the commission, will reasonably balance requirements of
40 state and service area growth and development,

1 protection of public health and safety, preservation of
 2 environmental quality, and conservation of energy and
 3 resources. Such 5- and 10-year forecasts or assessments
 4 established by the commission shall serve as the basis for
 5 planning and certification of facilities proposed by
 6 electric utilities.

7 (c) The anticipated level of statewide and service area
 8 electrical energy demand for 20 years, which shall serve
 9 as the basis for action by the commission and other
 10 appropriate public and private agencies in the following:

11 (1) Demand-reducing policies.

12 (2) Conservation of energy fuels.

13 (3) Development of potential sources of energy.

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

16 (d) A list, including maps, of existing electrical power
 17 generating sites, indicating those where the commission
 18 has determined that expansion is feasible within the
 19 forthcoming 10-year period.

20 (e) A list, including maps, of additional electrical
 21 generating sites, including the generating capacity of the
 22 sites and the type of fuel and other general characteristics
 23 of the facilities which, as determined by the commission,
 24 will be required to meet the 10-year level of electrical
 25 energy demand established by the commission as
 26 specified in subdivision (b) of this section.

27 (f) Based upon the commission's 20-year forecasts or
 28 assessment of growth trends in energy consumption,
 29 identification of potential adverse social, economic, or
 30 environmental impacts which might be imposed by
 31 continuation of the present trends, including, but not
 32 limited to, the costs of electrical and other forms of
 33 energy to consumers, significant increase in air, water,
 34 and other forms of pollution, threats to public health and
 35 safety, and loss of scenic and natural areas.

36 (g) Assessment of the state's energy resources,
 37 including among others, fossil fuels and nuclear, solar,
 38 and geothermal sources; examination of the availability of
 39 commercially developable fuels, including imported
 40 fuels, during the forthcoming 10- and 20-year periods; and

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1 recommendations regarding measures to be applied to
2 conserve energy and fuels.

3 (h) An analysis and evaluation of the means by which
4 the projected annual rate of demand growth of energy
5 may be reduced, together with an estimate of the amount
6 of such reduction to be obtained by each of the means
7 analyzed and evaluated, including, but not limited to, a
8 statement of the impact of such reduction on the factors
9 reviewed by the commission set forth in Section 25304
10 and subdivision (a) of this section.

11 (i) The status of the commission's ongoing research
12 and development program directed to energy supply,
13 demand, and conservation and description of new
14 projects which have been proposed for funding as
15 specified in Chapter 7 (commencing with Section 25600)
16 of this division.

17 (j) Description of the commission's adopted plan for
18 emergency measures to be applied in the event of
19 impending serious shortage of electrical and other forms
20 of energy as provided in Chapter 8 (commencing with
21 Section 25700) of this division.

22 (k) Recommendations to the Governor and the
23 Legislature for administrative and legislative actions
24 based on the results of commission studies and
25 evaluations as specified in this section and in Chapter 5
26 (commencing with Section 25400).

27
28 CHAPTER 5. ENERGY RESOURCES CONSERVATION

29
30 25400. The commission shall conduct an ongoing
31 assessment of the opportunities and constraints
32 presented by all forms of energy. The commission shall
33 encourage the balanced use of all sources of energy to
34 meet the state's needs and shall seek to avoid possible
35 undesirable consequences of reliance on a single source
36 of energy.

37 25401. The commission shall continuously carry out
38 studies, research projects, data collection, and other
39 activities required to assess the nature, extent, and
40 distribution of energy resources to meet the needs of the

1 state, including but not limited to, fossil fuels and solar,
 2 nuclear, and geothermal resources. It shall also carry out
 3 studies, technical assessments, research projects, data
 4 collection and other activities directed to reducing
 5 wasteful, inefficient, unnecessary, or uneconomic uses of
 6 energy, including, but not limited to, all of the following:

7 (a) Pricing of ~~electrical~~ *electricity* and other forms of
 8 energy.

9 (b) Improved ~~housing~~ *building* design and insulation.

10 (c) Restriction of promotional activities designed to
 11 increase the use of electrical energy by consumers.

12 (d) Improved appliance efficiency.

13 (e) Advances in power generation and transmission
 14 technology.

15 (f) *Comparisons in the efficiencies of alternative*
 16 *methods of energy utilization.*

17 The commission shall continually assess the potential of
 18 commercially developable energy resources.

19 The commission shall survey pursuant to this section all
 20 forms of energy on which to base its recommendations to
 21 the Governor and Legislature for elimination of waste or
 22 increases in efficiency for sources or uses of energy. The
 23 commission shall transmit to the Governor and the
 24 Legislature, as part of the biennial report specified in
 25 Section 25309, recommendations for state policy and
 26 actions for the orderly development of all potential
 27 sources of energy to meet the state's needs, including, but
 28 not limited to, fossil fuels and solar, nuclear, and
 29 geothermal resources, and to reduce wasteful and
 30 inefficient uses of energy.

31 25402. Within 18 months after the effective date of
 32 this division, the commission shall, after one or more
 33 public hearings, by regulation, do all of the following, in
 34 order to reduce the wasteful, uneconomic, inefficient, or
 35 unnecessary consumption of energy:

36 (a) Prescribe lighting, insulation, climate control
 37 systems, and other building design and construction
 38 standards which increase the efficient use of energy. Such
 39 standards shall be economically feasible in that the
 40 resultant savings in energy procurement shall be greater

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1 than the cost of the energy conserving requirements
2 amortized over the designed life of the building. In
3 prescribing standards for insulation, the commission shall
4 take into consideration the standards developed pursuant
5 to Chapter 11 (commencing with Section 19870) of Part
6 3, Division 13 of the Health and Safety Code. No city or
7 county shall approve any building permit unless the
8 standards prescribed by the commission pursuant to this
9 section are satisfied.

10 (b) Prescribe per unit energy requirement allotments
11 based on square footage for various classes of buildings
12 which would reduce the growth rate of electrical energy
13 consumption and which are technically feasible and will
14 provide adequate safeguards for public health, safety, and
15 welfare. No city or county shall approve any permit for
16 any building unless the design of such building meets the
17 energy allotment prescribed by the commission pursuant
18 to this section.

19 (c) Prescribe standards for minimum level of
20 operating efficiency, based on a reasonable use pattern,
21 for all appliances whose use, as determined by the
22 commission, requires a significant amount of energy on a
23 statewide basis. Such minimum levels of operating
24 efficiency shall be based on attainable efficiencies or
25 feasible improved efficiencies which will reduce the
26 electrical energy consumption growth rate. One year
27 after the date of the adoption of such standards, no new
28 appliance may be purchased in the state which is not
29 certified by the manufacturer thereof to be in
30 compliance with such standards. Such standards shall be
31 drawn so that they do not result in any added total costs
32 to the consumer over the designed life of the appliances
33 concerned.

34 (d) Prescribe minimum standards of efficiency for
35 operation of any new facility at a particular site which are
36 technically and economically feasible. Except as
37 provided in Section 25525, no site and related facility shall
38 be certified pursuant to Chapter 6 (commencing with
39 Section 25500) of this division if the standards established
40 by the commission are not met.

1 25403. The commission shall submit to the Public
 2 Utilities Commission and to any publicly owned electric
 3 utility, recommendations designed to reduce wasteful,
 4 unnecessary, or uneconomic energy consumption
 5 resulting from practices including, but not limited to,
 6 differential rate structures, cost-of-service allocations, the
 7 disallowance of a business expense of advertising or
 8 promotional activities which encourage the use of
 9 electrical power, peakload pricing, and other pricing
 10 measures. The Public Utilities Commission or publicly
 11 owned electric utility shall review and consider such
 12 recommendations and shall, within six months after the
 13 date it receives them, as prescribed by this section,
 14 implement such recommendations, unless the Public
 15 Utilities Commission or any publicly owned electric
 16 utility finds that it is not feasible or not in the public
 17 interest to implement such recommendations. If the
 18 Public Utilities Commission or a publicly owned electric
 19 utility makes such a finding, it shall report to the
 20 Governor, the Legislature, and the commission setting
 21 forth the reasons why it is not feasible or not in the public
 22 interest to implement such recommendations.

23 25404. The commission shall cooperate with the
 24 Office of Planning and Research, the Resources Agency
 25 and other interested parties in developing procedures to
 26 ensure that mitigation measures to minimize wasteful,
 27 inefficient, and unnecessary consumption of energy are
 28 included in all environmental impact reports required on
 29 local projects as specified in Section 21151.

30
 31 CHAPTER 6. POWER FACILITY AND SITE
 32 CERTIFICATION
 33

34 25500. In accordance with the provisions of this
 35 division, the commission shall have the exclusive power
 36 to certify all sites and related facilities in the state, except
 37 for any site and related facility proposed to be located in
 38 the permit area, whether a new site and related facility
 39 or a change or addition to an existing facility. The
 40 issuance of a certificate by the commission shall be in lieu

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1 of any permit, certificate, or similar document required
2 by any state, local or regional agency, or federal agency
3 to the extent permitted by federal law, for such use of the
4 site and related facilities, and shall supersede any
5 applicable statute, ordinance, or regulation of any state,
6 local, or regional agency, or federal agency to the extent
7 permitted by federal law.

8 After the effective date of this division, no construction
9 of any facility or modification of any existing facility shall
10 be commenced without first obtaining certification for
11 any such site and related facility by the commission, as
12 prescribed in this division.

13 *25500.5. The commission shall certify sufficient sites
14 and related facilities which are required to provide a
15 supply of electric power sufficient to accommodate the
16 demand consistent with all of the following:*

17 *(a) The forecast of statewide and service area electric
18 power demands adopted pursuant to Section 25309.*

19 *(b) The conservation measures adopted by the
20 commission pursuant to this division.*

21 *(c) Any conservation measures imposed or adopted
22 under any provision of law.*

23 **25501.** The provisions of this division do not apply to
24 any site and related facility: (a) for which the Public
25 Utilities Commission has issued a certificate of public
26 convenience and necessity before the effective date of
27 this division, provided that such facility shall not provide
28 capacity on its planned operating date exceeding the
29 estimated number of megawatts of needed capacity for
30 the year of that planned operating date as stated in the
31 reports required under Section 2 of General Order 131 of
32 the Public Utilities Commission as of March 31, 1973; or,
33 (b) for which an application for a certificate of public
34 convenience and necessity is on file with the Public
35 Utilities Commission by the effective date of this division
36 and for which construction is planned to commence and
37 shall have commenced within three years from the
38 effective date of this division, provided that such planned
39 construction shall not create capacity on its planned
40 operating date exceeding the estimated number of

1 megawatts of needed capacity for the year of that
 2 planned operating date as stated in the reports required
 3 under Section 2 of General Order 131 of the Public
 4 Utilities Commission as of March 31, 1973.

5 25501.3. The provisions of this division shall not apply
 6 to any site and related facility for which a certificate of
 7 public convenience and necessity from the Public
 8 Utilities Commission is not required and for which
 9 construction is planned to commence and shall have
 10 commenced within three years from the effective date of
 11 this division provided that such planned construction
 12 shall not create capacity on its planned operating date
 13 exceeding the estimated number of megawatts of needed
 14 capacity for the year of that planned operating date as
 15 stated in the reports ~~required~~ *submitted* under Section 2
 16 of General Order 131 of the Public Utilities Commission
 17 as of March 31, 1973.

18 25501.5. In the case of any site and related facility or
 19 facilities not covered by the provisions of this division and
 20 for which a certificate of public convenience and
 21 necessity has not been issued by the Public Utilities
 22 Commission, the following shall apply:

23 (a) On the completion of the hearing, the Public
 24 Utilities Commission shall supply the commission with its
 25 hearing record.

26 (b) The commission shall review the information
 27 supplied by the Public Utilities Commission and shall,
 28 within 90 days after it receives such information, advise
 29 the Public Utilities Commission and the applicant of the
 30 recommendation of the commission that the certificate of
 31 public convenience and necessity be denied, approved,
 32 or approved subject to specified conditions. There shall
 33 be a rebuttable presumption in favor of the commission's
 34 recommendation.

35 25502. Each person proposing to construct a thermal
 36 powerplant or electric transmission line on a site shall
 37 submit to the commission notice of intention to file an
 38 application for the certification of such site and related
 39 facility or facilities. The notice shall be an attempt
 40 primarily to determine the suitability of the proposed

1 sites to accommodate
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1 sites to accommodate the facilities and to determine the
2 general conformity of the proposed sites and related
3 facilities with standards of the commission and forecasts
4 adopted pursuant to Sections 25216.3 and 25309. The
5 notice shall be in the form prescribed by the commission
6 and shall be supported by such information as the
7 commission may require.

8 25503. Each notice of intention to file an application
9 shall contain at least three alternative sites and related
10 facilities, at least one of which shall not be located in
11 whole or in part in the coastal zone. In addition, the
12 alternative sites and related electrical facilities may be
13 proposed from an inventory of sites which have
14 previously been approved by the commission in a notice
15 of intent or may be proposed from sites previously
16 examined. If modification of an existing facility is
17 proposed, the commission may require that alternative
18 methods of providing the additional service or making
19 the proposed modification be specified in the notice.

20 25504. The notice of intention shall include a
21 statement by the applicant describing the location of the
22 proposed sites by section or sections, range and township,
23 and county; a summary of the proposed design criteria of
24 the facilities; the type or types of fuels to be used; the
25 methods of construction and operation; the proposed
26 location of facilities and structures on each site; a
27 preliminary statement of the relative economic,
28 technological, and environmental advantages and
29 disadvantages of the alternative site and related facility
30 proposals; a statement of need for the facility and
31 information showing the compatibility of the proposals
32 with the most recent biennial report issued pursuant to
33 Section 25309; and any other information that an electric
34 utility deems desirable to submit to the commission.

35 25505. Upon receipt of a notice, the commission shall
36 cause a summary of the notice to be published in a
37 newspaper of general circulation in each county in which
38 the sites and related facilities, or any part thereof,
39 designated in the notice are proposed to be located. The
40 commission shall also transmit a copy of the notice to each

1 federal, state, regional, and local agency having an
2 interest in matters pertinent to the proposed facilities at
3 any of the alternative sites. A copy of the notice shall also
4 be transmitted to the Attorney General.

5 25506. The commission shall request the appropriate
6 local, regional, state, and federal agencies to make
7 comments and recommendations regarding the design,
8 operation, and location of the facilities designated in the
9 notice, in relation to environmental quality, public health
10 and safety, and other factors on which they may have
11 expertise.

12 25507. If any alternative site and related facility
13 proposed in the notice is proposed to be located, in whole
14 or in part, within the coastal zone, the commission shall
15 transmit a copy of the notice to the California Coastal
16 Zone Conservation Commission. The commission shall
17 request that the California Coastal Zone Conservation
18 Commission complete an analysis of any coastal zone site
19 and related facility and forward preliminary findings of
20 the acceptability of any such site and related facility prior
21 to completion of the preliminary report required by
22 Section 25510.

23 25508. The commission shall cooperate with, and
24 render advice to, the California Coastal Zone
25 Conservation Commission and any appropriate regional
26 coastal zone conservation commission in studying
27 applications for any site and related facility proposed to
28 be located, in whole or in part, within the permit area, if
29 requested by the California Coastal Zone Conservation
30 Commission or a regional coastal zone conservation
31 commission, and may invite the members of the
32 California Coastal Zone Conservation Commission and
33 regional coastal zone conservation commissions to
34 participate in public hearings on the notice and on the
35 application for site and related facility certification, in
36 connection with matters of mutual concern, as interested
37 parties in such proceedings.

38 25509. The commission shall conduct a public
39 informational hearing or hearings in the county of the
40 proposed sites and related facilities no earlier than 60 nor

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39 25511. The
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1 later than 90 days from receipt of a notice of intention to
2 file an application. The place of such public informational
3 hearing or hearings shall be as close as practicable to the
4 proposed sites. Any person may participate to the extent
5 deemed reasonable and relevant by the presiding
6 member of the commission, in any such hearing. Such
7 hearings on the original three sites and related facilities
8 shall be concluded within 90 days of their
9 commencement. Such hearings shall be conducted in
10 order to accomplish all of the following purposes:

11 (a) To set forth the electrical demand basis for the
12 proposed site and related facility.

13 (b) To provide knowledge and understanding of
14 proposed facilities and sites.

15 (c) To obtain the views and comments of the public
16 and concerned governmental agencies on the
17 environmental, public health and safety, economic,
18 social, and land use impacts of the facility at the proposed
19 sites.

20 (d) To solicit information regarding reasonable
21 alternative sources of the power capacity to be provided
22 by alternative sites and related facilities, or combinations
23 thereof, which will better carry out the policies and
24 objectives of this division.

25 25510. Within 90 days after the conclusion of such
26 hearing or hearings, the commission shall prepare and
27 make public a preliminary report on the notice of
28 intention to file an application. Such report shall contain
29 the comments and recommendations of local authorities
30 as to the construction of any thermal powerplant or
31 electric transmission line on a particular site. The
32 commission may include within the preliminary report
33 any other alternatives proposed by the commission or
34 presented to the commission at a public hearing prior to
35 preparation of the preliminary report. The preliminary
36 report shall be published and made available to the
37 public and to interested local, regional, state, and federal
38 agencies.

39 25511. The commission shall review the factors
40 related to safety and reliability of the facilities at each of

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1 the alternative sites designated in the notice. In addition
 2 to other information requested of the applicant, the
 3 commission shall, in determining a more appropriate site
 4 and related facility alternative, require detailed
 5 information on proposed emergency systems and safety
 6 precautions, plans for transport, handling and storage of
 7 wastes and fuels, proposed methods to prevent illegal
 8 diversion of nuclear fuels, special design features to
 9 account for seismic and other potential hazards, proposed
 10 methods to control density of population in areas
 11 surrounding nuclear powerplants, and such other
 12 information as the commission may determine to be
 13 relevant to the reliability and safety of the facility at the
 14 proposed sites. The commission shall analyze the
 15 information provided by the applicant, supplementing it,
 16 where necessary, by onsite investigations and other
 17 studies. The commission shall determine the adequacy of
 18 measures proposed by the applicant to protect public
 19 health and safety, and shall include its findings in the
 20 preliminary report required by Section 25510.

21 25512. The preliminary report shall be based upon
 22 testimony presented during any hearing on the notice,
 23 the comments transmitted by local, regional, state, and
 24 federal agencies and the public to the commission, and
 25 the independent studies conducted by the commission's
 26 staff. The preliminary report shall include findings and
 27 conclusions, within the limitation of the information
 28 required in Sections 25502, 25503, 25504, and 25511, with
 29 respect to all of the following:

30 (a) The degree to which each alternative site and
 31 related facility proposal designated in the notice or
 32 presented at a hearing and considered by the commission
 33 is in conformity with both of the following:

34 (1) The forecast of ~~state and regional~~ *statewide and*
 35 *service area* electric power demands adopted pursuant to
 36 Section 25309.

37 (2) Applicable local, regional, state, and federal
 38 standards, ordinances, and laws.

39 (b) The relative merit of each alternative site and
 40 related facility proposal designated in the notice or

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1 presented at a public hearing and considered by the
2 commission.

3 (c) The safety and reliability of the facility at each of
4 the sites designated in the notice as determined by the
5 commission pursuant to Section 25511.

6 25513. Within 30 days of the publication of the
7 preliminary report, a copy of the report will be
8 distributed to any person requesting the report prior to
9 distribution. Any such person may respond in writing to
10 the preliminary report. Such response shall be submitted
11 to the commission no later than 60 days after distribution
12 of the report.

13 25514. No later than 120 days after distribution of the
14 preliminary report, a final report shall be prepared and
15 distributed. The final report shall include, but not be
16 limited to, all of the following:

17 (a) The findings and conclusions of the commission
18 regarding the conformity of alternative sites and related
19 facilities designated in the notice or presented at the
20 informational hearing or hearings and reviewed by the
21 commission with both of the following:

22 (1) The 10-year forecast of statewide and service area
23 electric power demands adopted pursuant to subdivision
24 (b) of Section 25309.

25 (2) Findings that the notice is or is not in compliance
26 with the provisions of any state law or local or regional
27 ordinance or regulation, including any long-range land
28 use plans or guidelines adopted by the state or by any
29 local or regional planning agency, which would be
30 applicable but for the exclusive authority of the
31 commission to certify sites and related facilities; and with
32 standards adopted by the commission pursuant to Section
33 25216.3 and subdivision (d) of Section 25402.

34 (b) Any findings and comments submitted by the
35 California Coastal Zone Conservation Commission or any
36 regional coastal zone conservation commission regarding
37 conformity of any siting alternative proposed in the
38 coastal zone with policies, regulations, or guidelines
39 established by the commission. Such findings and
40 comments, however, shall not constitute approval of any

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2 conservation commission or California Coastal Zone
3 Conservation Commission on appeal.

4 (c) The commission's ruling on the acceptability of
5 each alternative siting proposal designated in the notice
6 or presented at the hearings and reviewed by the
7 commission. In its decision on any alternative siting
8 proposal, the commission may specify modification in the
9 design, construction, location, or other conditions which
10 will meet the standards, policies, and guidelines
11 established by the commission.

12 25515. No later than 30 days after the final report is
13 distributed, a hearing or hearings on the final report shall
14 be commenced. Such hearings shall be concluded within
15 30 days of their commencement.

16 25516. The approval of the notice by the commission
17 shall be based upon findings pursuant to Section 25514.
18 The commission's decision shall be issued within 60 days
19 after the conclusion of the hearings on the final report.
20 The notice shall not be approved unless the commission
21 finds at least two alternative site proposals considered in
22 the commission's final report as acceptable. If the
23 commission does not find at least two sites acceptable,
24 additional sites may be proposed by the applicant which
25 shall be considered in the same manner as those proposed
26 in the original notice. If the commission finds that a good
27 faith effort has been made by the electric utility to find
28 an acceptable alternative site and that there is only one
29 feasible site, the commission may approve the notice
30 based on the one site.

31 25517. After the effective date of this division, no
32 construction of any thermal powerplant or electric
33 transmission line shall be commenced by any electric
34 utility without first obtaining certification as prescribed
35 in this division. Any onsite improvements not qualifying
36 as construction may be required to be restored as
37 determined by the commission as necessary to protect
38 the environment, if certification is denied.

39 25518. Except as provided in subdivision (b) of
40 Section 25501, the Public Utilities Commission shall issue

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1 no certificate of public convenience and necessity for a
2 site or related electrical facilities unless the utility has
3 obtained a certificate from the commission.

4 25518.5. Nothing in this division shall preclude the
5 concurrent initiation of an application for a certificate of
6 public convenience and necessity from the Public
7 Utilities Commission subject to the condition specified in
8 Section 25518.

9 25519. (a) Each person proposing to construct any
10 thermal powerplant or electric transmission line shall file
11 with the commission an application for certification of
12 any site. Such application shall be in a form prescribed by
13 the commission and shall be filed with the commission no
14 later than 18 months before any construction is to
15 commence. Such application shall be for a site which has
16 received a favorable recommendation from the
17 commission pursuant to Section 25516. Any person
18 proposing to construct a thermal powerplant or
19 transmission line excluded from the provisions of this
20 division may waive such exclusion by filing an application
21 with the commission.

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

28 (c) Upon receipt of the application, the commission
29 shall undertake studies and investigations necessary to
30 comply with the environmental impact reporting
31 procedures established pursuant to Section 21100. For
32 purposes of preparation and approval of the
33 environmental impact report on a proposed site and
34 related facility, the commission shall be the lead agency
35 as provided in Section 21165, except as to any site and
36 related facility proposed to be located within the permit
37 area. Except as otherwise provided in Division 13
38 (commencing with Section 21000), the environmental
39 impact report shall be completed within one year after
40 receipt of the application.

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

6 (e) Upon receipt of an application, the commission
7 shall forward the application to local governmental
8 agencies having land use and related jurisdiction in the
9 area of the proposed site and related facility. Such local
10 agencies shall review the application and submit
11 comments on, among other things, the design of facility,
12 architectural and aesthetic features of the facility, access
13 to highways, landscaping and grading, public use of lands
14 in the area of the facility, and other appropriate aspects
15 of the design, construction, or operation of the proposed
16 site and related facility.

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

26 (g) Each application shall be accompanied by proof of
27 service of a copy of such application on the Attorney
28 General of the State of California. The commission
29 counsel shall require that adequate notice is given to the
30 public and that the procedures specified by this division
31 are complied with.

32 (h) The commission shall transmit a copy of the
33 application to any governmental agency not specifically
34 mentioned in this act, but which it finds has any
35 information or interest in the proposed site and related
36 facilities, and shall invite the comments and
37 recommendations of each such agency. The commission
38 shall request any relevant laws, ordinances, or regulations
39 which any such agency has promulgated or administered.

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1 related facilities shall contain a listing of every federal
2 agency from which any approval or authorization
3 concerning the proposed site is required, specifying the
4 approvals or authorizations obtained at the time of the
5 application and the schedule for obtaining any approvals
6 or authorizations pending.

7 25520. The application shall contain the following and
8 such other information as the commission by regulation
9 may require:

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

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

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

21 (d) Such other information relating to the design,
22 operation, and siting of the facility as the commission may
23 specify.

24 (e) A statement of need providing information
25 showing compatibility of the proposed facility with the
26 most recent biennial report issued by the commission
27 pursuant to Section 25309.

28 (f) A description of the facility, the cost of the facility,
29 the fuel to be used, the source of fuel, fuel cost, plant
30 service life and capacity factor, and generating cost per
31 kilowatt hour.

32 (g) A description of the transmission lines including
33 estimated cost of the proposed transmission line for each
34 alternative site; a map in suitable scale of the proposed
35 routing showing details of the rights-of-way in the vicinity
36 of settled areas, parks, recreational areas, and scenic
37 areas, and existing transmission lines within one mile of
38 the proposed route; and justification for the route and a
39 preliminary description of the effect of the proposed
40 transmission line on the environment, ecology, and

1 scenic, historic and recreational values.

2 25521. No earlier than 90 nor later than 240 days after
 3 the date of the filing of an application, the council shall
 4 commence a public hearing or hearings thereon in
 5 Sacramento, San Francisco, Los Angeles, or San Diego,
 6 whichever city is nearest the proposed site. Additionally,
 7 the commission may hold a hearing or hearings in the
 8 county in which the proposed site and related facilities
 9 are to be located.

10 25522. Within 18 months of the filing of an application
 11 for certification or at such later time as is mutually agreed
 12 by the commission and the applicant, the commission
 13 shall issue a written decision as to such application.

14 25523. The commission shall prepare a written
 15 decision after a public hearing or hearings on an
 16 application, which shall include all of the following:

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

21 (b) Findings regarding the conformity of the
 22 proposed site and related facilities with standards
 23 adopted by the commission pursuant to Section 25216.3
 24 and subdivision (d) of Section 25402, with public safety
 25 standards and the applicable air and water quality
 26 standards, and with other relevant local, regional, state,
 27 and federal standards, ordinances, or laws. If the
 28 commission finds that there is noncompliance with any
 29 state, local, or regional ordinance or regulation in the
 30 application, it shall consult and meet with the local or
 31 regional governmental agency concerned to attempt to
 32 correct or eliminate the noncompliance. If the
 33 noncompliance cannot be corrected or eliminated, the
 34 commission shall inform the state, local, or regional
 35 governmental agency if it makes the findings required by
 36 Section 25525.

37 (c) If the commission denies approval of the
 38 application, the decision shall contain provision for
 39 restoring the site as necessary to protect the
 40 environment.

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1 (d) Findings regarding the conformity of the
2 proposed facility with the 10-year forecast of statewide
3 and service area electric power demands adopted
4 pursuant to subdivision (b) of Section 25309.

5 25524. The commission shall not certify any facility
6 contained in the application, unless its findings with
7 respect to subdivision (d) of Section 25523 are in the
8 affirmative.

9 25525. The commission shall not certify any facility
10 contained in the application when it finds that the facility
11 does not conform with the findings of subdivision (b) of
12 Section 25523, unless the commission determines that
13 such facility is required for public convenience and
14 necessity and that there are not more prudent and
15 feasible means of achieving such public convenience and
16 necessity. In no event shall the commission make any
17 finding in conflict with applicable federal law or
18 regulation. The basis for such findings shall be reduced to
19 writing and submitted as part of the record pursuant to
20 Section 25523.

21 25526. The commission shall not certify any facility
22 contained in the application which is proposed to be
23 located, in whole or in part, within the permit area unless
24 the certificate is conditioned upon obtaining a permit
25 from the California Coastal Zone Conservation
26 Commission. Approval of a permit by any regional coastal
27 zone conservation commission, or the California Coastal
28 Zone Conservation Commission on appeal, shall not
29 effect the authority of the commission to deny
30 certification for any facility contained in the application,
31 as provided in this division.

32 25527. The following areas of the State of California
33 shall be excluded from consideration whenever a site is
34 considered for a thermal powerplant:

35 (a) State, regional, county and city parks; wilderness,
36 scenic or natural reserves; areas for wildlife protection,
37 recreation, historic preservation; or natural preservation
38 areas in existence on the effective date of this division.

39 (b) Wildlife reserves and estuaries in an essentially
40 natural and undeveloped state.

1 In considering applications for certification, the
 2 commission shall give the greatest consideration to the
 3 need for protecting areas of critical environmental
 4 concern, including, but not limited to, unique and
 5 irreplaceable scientific, scenic, and educational wildlife
 6 habitats; unique, historical, archaeological, and cultural
 7 sites; lands of hazardous concern; and areas under
 8 consideration by the state or the United States for
 9 wilderness, or wildlife and game reserves.

10 25528. The commission shall require, as a condition of
 11 certification of any facility contained in the application,
 12 that the applicant acquire development rights of
 13 privately owned lands in the area of the proposed facility
 14 which, as the commission determines, are necessary to
 15 control future population growth and land use in the
 16 interests of public health and safety.

17 25529. When a facility is proposed to be located in the
 18 coastal zone or any other area with recreational, scenic,
 19 or historic value, the commission shall require, as a
 20 condition of certification of any facility contained in the
 21 application, that an area be established for public use, as
 22 determined by the commission. Lands within such area
 23 shall be acquired and maintained by the applicant and
 24 shall be available for public access and use, subject to
 25 restrictions required for security and public safety. The
 26 applicant may dedicate such public use zone to any local
 27 agency agreeing to operate and maintain it for the
 28 benefit of the public. If no local agency agrees to operate
 29 and maintain the public use zone for the benefit of the
 30 public, the applicant may dedicate such zone to the state.
 31 The commission shall also require that any facility to be
 32 located along the coast or shoreline of any major body of
 33 water be set back from the shoreline to permit reasonable
 34 public use and to protect scenic and aesthetic values.

35 25530. The commission may order a reconsideration
 36 of all or part of a decision or order on its own motion or
 37 on petition of any party.

38 Any such petition shall be filed within 30 days after
 39 adoption by the commission of a decision or order. The
 40 commission may not order a reconsideration on its own

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1 motion more than 30 days after it has adopted a decision
2 or order. The commission shall order or deny
3 reconsideration on a petition therefor within 30 days after
4 filing the petition.

5 A decision or order may be reconsidered by the
6 commission on the basis of all pertinent portions of the
7 record together with such argument as the commission
8 may permit, or the commission may hold a further
9 hearing, after notice to all interested persons. A decision
10 or order of the commission on reconsideration shall have
11 the same force and effect as an original order or decision.

12 25531. The decisions of the commission on any notice
13 or application of any electric utility for certification of a
14 site and related facility shall be subject to judicial review
15 in the same manner as the decisions of the Public Utilities
16 Commission on the application for a Certificate of Public
17 Convenience and Necessity for the same site.

18 Subject to the right of judicial review of decisions of the
19 commission, no court in this state shall have jurisdiction
20 to hear or determine any case or controversy concerning
21 any matter which was, or could have been, determined
22 in a proceeding before the commission, or to stop or delay
23 the construction or operation of any thermal powerplant
24 except to enforce compliance with the provisions of a
25 decision of the commission.

26 25532. The commission shall establish a monitoring
27 system to assure that any facility certified under this
28 division is constructed and is operating in compliance
29 with air and water quality, public health and safety, and
30 other applicable regulations, guidelines, and conditions
31 adopted or established by the commission or specified in
32 the written decision on the application. In designing and
33 operating the monitoring system, the commission shall
34 seek the cooperation and assistance of the State Air
35 Resources Board, the State Water Resources Control
36 Board, the Department of Health, and other state,
37 regional, and local agencies which have an interest in
38 environmental control.

39 25534. The commission may after hearings amend the
40 conditions of, or revoke the certification for, any facility

1 for any of the following reasons:

2 (a) For any material false statement set forth in the
3 application, presented in proceedings of the commission,
4 or included in supplemental documentation provided by
5 the applicant.

6 (b) For failure to comply with the terms or conditions
7 of approval of the application as specified by the
8 commission in its written decision.

9 (c) For violation of any provision of this division or any
10 regulation or order issued by the commission under this
11 division.

12 25535. Such cost as the applicant incurs to comply
13 with the decision of the commission shall be allowed for
14 ratemaking purposes.

15 25536. Pending completion of the ~~state~~ statewide and
16 service area forecasts of electric power demand specified
17 in Section 25309, the commission shall utilize as an
18 interim forecast for purposes of determining the
19 acceptability of alternative site and related facility
20 proposals as provided in subdivision (a) of Section 25514
21 and subdivision (d) of Section 25523, the 10-year forecast
22 of loads and resources prepared by the Public Utilities
23 Commission from reports required as of March 31, 1973
24 under Section 2 of General Order 131 of the Public
25 Utilities Commission. On the first June 1st and the second
26 June 1st following the effective date of this division, the
27 commission shall commence public hearings, at least one
28 of which shall be in the City of Sacramento. Any person
29 may participate in any such hearings. The hearing shall
30 be conducted to secure the views and comments of the
31 public, the electric utilities, other state and federal
32 agencies, and city and county governments regarding
33 revision of the interim forecasts based on the
34 considerations specified in Section 25304 and on updated
35 information regarding forecast loads and resources
36 submitted by any electric utility. Such hearings shall be
37 concluded within 30 days from the date of their
38 commencement. Within 60 days of the conclusion of the
39 hearings specified in this section, the commission shall
40 issue a final report specifying the revisions, if any, to the

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1 interim forecast. The report shall be based upon the
2 information and views presented at the public hearings
3 and the commission's independent analysis.

4 25537. Upon approval of an application, the
5 commission shall forward to the Atomic Energy
6 Commission, the Environmental Protection Agency, and
7 to other appropriate federal agencies, the results of its
8 studies including the environmental impact report on the
9 facility, the written decision on the facility contained in
10 the application, and the commission's determination of
11 facility safety and reliability as provided in Section 25511.

12 25538. Upon receiving the commission's request for
13 review under subdivision (e) of Section 25519 and
14 Section 25506, the local agency may request a fee from
15 the commission to reimburse the local agency for the
16 actual and added costs of such review by the local agency.
17 The commission shall reimburse the local agency for such
18 added costs that shall be actually incurred by the local
19 agency in complying with the commission's request. The
20 commission may request a fee from the person proposing
21 the project or may devote a special fund in its budget for
22 the reimbursement of costs incurred by local agencies.

23 25539. In reviewing notices and applications for
24 certification of separate transmission lines and of
25 modifications of existing thermal powerplants, the
26 commission shall adopt rules and regulations as necessary
27 to insure that relevant duties pursuant to this division are
28 carried out.

29 25540. In the case of any site and related facility or
30 facilities for which the provisions of this division do not
31 apply, the exclusive power given to the commission
32 pursuant to Section 25500 to certify sites and related
33 facilities shall not be in effect.

34 35 CHAPTER 7. RESEARCH AND DEVELOPMENT

36
37 25600. The commission shall carry on a program of
38 research and development in energy supply, demand,
39 and conservation and the technology of siting facilities
40 and shall give priority to those forms of research and

1 development which are of particular importance to the
2 state, including, but not limited to, all of the following:

3 (a) Methods of energy conservation specified in
4 Chapter 5 (commencing with Section 25400).

5 (b) Increased energy use efficiencies of existing
6 thermal electric and hydroelectric powerplants and
7 increased energy efficiencies in designs of thermal
8 electric and hydroelectric powerplants.

9 (c) Exploration and accelerated development of
10 alternative sources of energy, including geothermal and
11 solar resources.

12 (d) Improved methods of construction, design, and
13 operation of facilities to protect against seismic hazards.

14 (e) Improved methods of energy demand forecasting.
15 25601. The commission shall carry out technical
16 assessment studies on all forms of energy and energy
17 related problems, in order to influence federal research
18 and development priorities and to be informed on future
19 energy options and their impacts, including, in addition
20 to those problems specified in Section 25600, but not
21 limited to, the following:

22 (a) Advanced nuclear powerplant concepts, fusion,
23 and fuel cells.

24 (b) Total energy concepts.

25 (c) New technology related to coastal and offshore
26 siting of facilities.

27 (d) Expanded use of wastewater as cooling water and
28 other advances in powerplant cooling.

29 (e) Improved methods of power transmission to
30 permit interstate and interregional transfer and
31 exchange of bulk electric power.

32 (f) Measures to reduce wasteful and inefficient uses of
33 energy.

34 (g) Shifts in transportation modes and changes in
35 transportation technology in relation to implications for
36 energy consumption.

37 (h) Methods of recycling, extraction, processing,
38 fabricating, handling, or disposing of materials, especially
39 materials which require large commitments of energy.

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2 (j) Implications of government subsidies and taxation
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4 (k) *Utilization of waste heat.*

5 (l) *Use of hydrogen as an energy form.*

6 (m) *Use of agricultural products, municipal wastes,
7 and organic refuse as an energy source.*

8 Such assessments may also be conducted in order to
9 determine which energy systems among competing
10 technologies are most compatible with standards
11 established pursuant to this division.

12 25602. The commission shall, in cooperation with
13 other state agencies, undertake for research purposes,
14 the design, construction, and operation of energy
15 conserving buildings using data developed pursuant to
16 Section 25401, in order to demonstrate the economic and
17 technical feasibility of such designs.

18 25603. Beginning with the fiscal year commencing 2
19 years and 6 months after the effective date of this
20 division, the commission shall each year submit to the
21 Governor for inclusion in the state budget an integrated
22 program of proposed research and development and
23 technical assessment projects including the priority items
24 established in Sections 25600, 25601, and 25602. The
25 commission shall describe the objectives and anticipated
26 end product of each project, funding and staff
27 requirements, timing and other information which is
28 necessary to describe the projects adequately. As part of
29 each submission, the commission shall describe the
30 progress of its programs.

31 25604. For purposes of carrying out the provisions of
32 this chapter, the commission may contract with any
33 person for materials and services that cannot be
34 performed by its staff or other state agencies, and may
35 apply for federal grants or any other funding.

36

37 CHAPTER 8. EMERGENCY POWERS

38

39 25700. The commission shall, in accordance with the
40 provisions of this chapter, restrict the use of, or limit the

1 availability of, electrical or other forms of energy to avoid
2 impending serious shortages of electrical energy or fossil
3 fuel supplies and to protect the public health, safety, and
4 welfare.

5 25701. (a) Within six months after the effective date
6 of this division, each electric utility, utility or retailer
7 supplying natural gas, and fuel manufacturer in the state
8 shall prepare and submit to the commission a proposed
9 emergency load curtailment program plan or emergency
10 distribution plan setting forth proposals for identifying
11 priority loads or users in the event of a sudden and serious
12 shortage of fuels or interruption in electrical capacity.

13 (b) The commission shall encourage electric utilities
14 to cooperate in joint preparation of an emergency load
15 curtailment program plan or emergency distribution
16 plan. If such a cooperative plan is developed between two
17 or more electric utilities, such utilities may submit such
18 joint plans to the commission in place of individual plans
19 required by subdivision (a) of this section.

20 25702. The commission shall, after public hearings,
21 review the emergency load curtailment program plans or
22 emergency distribution plans submitted pursuant to
23 Section 25701, and, within one year after the effective
24 date of this division, the commission shall adopt an
25 Emergency Load Curtailment and Energy Distribution
26 Plan. The plan shall be based upon the plans presented
27 by the electric utilities, utilities or retailers supplying
28 natural gas, and fuel manufacturers, independent
29 analysis and study by the commission and information
30 provided at the hearings. The plan shall provide, but not
31 be limited to, the following actions on the part of the
32 commission:

33 (a) Recommend to the Public Utilities Commission
34 changes in the rates or rate schedules for electric power
35 and natural gas.

36 (b) Require that persons supplying natural gas or
37 electric utilities restrict new service connections.

38 (c) Allocate electrical energy and other forms of
39 energy among users to assure that critical energy needs
40 are supplied.

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1 25703. Upon a declaration of an energy supply
2 emergency or serious fuel shortage by the Governor or by
3 concurrent resolution of the Legislature, each electric
4 utility, person or retailer supplying natural gas, and fuel
5 manufacturer shall carry out the responsibilities specified
6 by the commission pursuant to the plan.

7 25703.5. If the commission determines that all
8 reasonable conservation, allocation, and service
9 restriction measures will not alleviate an energy supply
10 emergency, upon ratification of the commission's
11 determination either by the Governor or by concurrent
12 resolution of the Legislature, and upon a declaration by
13 the Governor or by concurrent resolution of the
14 Legislature that a direct and immediate threat to the
15 public health, safety, and welfare exists, the commission
16 is empowered to authorize the use of temporary
17 generating facilities not to exceed 250 megawatts net
18 electrical capacity per unit. Within 60 days of the
19 authorization of the use of such temporary generating
20 facilities, the commission shall issue a report detailing the
21 full nature, extent, and estimated duration of the
22 emergency situation and making recommendations to
23 the Governor and the Legislature for further energy
24 conservation and energy supply measures to alleviate the
25 emergency situation as alternatives to the use of such
26 temporary generating facilities.

27 25704. Within four months after the date of
28 certification of any new site and related facility, the
29 commission shall review and revise the plan based on
30 additional new capacity attributed to any such facility.
31 The commission shall after public hearings review the
32 plan at least every five years from the adoption of the
33 initial plan adopted as specified in Section 25702.

34 25705. The commission shall carry out studies to
35 determine if potential serious shortages of electrical, gas,
36 or other sources of energy are likely to occur and shall
37 make recommendations to the Governor and the
38 Legislature concerning administrative and legislative
39 actions needed to avert possible energy supply
40 emergencies or serious fuel shortages, including, but not

1 limited to, energy conservation and energy development
 2 measures.
 3 25706. Pending completion of the plan as specified in
 4 Section 25702, in the event of an energy supply
 5 emergency or serious fuel shortage, the responsibility for
 6 taking specific actions to allocate fuels and energy to
 7 meet critical needs shall rest with the Governor or his
 8 designees.

9
 10 CHAPTER 9. STATE ENERGY RESOURCES
 11 CONSERVATION AND DEVELOPMENT ~~FUND~~ SPECIAL
 12 ACCOUNT
 13

14 25800. ~~There is hereby created in the General Fund~~
 15 ~~in the State Treasury~~ the State Energy Resources
 16 Conservation and Development ~~Fund in the State~~
 17 ~~Treasury Special Account~~. On and after the effective
 18 date of this division, each electric utility shall add a
 19 surcharge of two-tenths of a mill (\$.0002) per kilowatt
 20 hour to the cost of electric power sold to consumers in the
 21 state.

22 25801. (a) The Public Utilities Commission shall
 23 require every electrical corporation, as defined in Section
 24 218 of the Public Utilities Code, in the state to make
 25 quarterly payments, commencing on January 1, of each
 26 year, to the State Treasurer of all funds received pursuant
 27 to this division, less administrative costs incurred in
 28 collecting and transferring such funds to the state. The
 29 amount of funds retained by any electrical corporation
 30 for administrative costs shall not exceed 1.5 percent of the
 31 total funds collected by any such corporation.

32 (b) Every electric utility, except an electric utility
 33 which is an electrical corporation within the meaning of
 34 subdivision (a), shall make quarterly payments,
 35 commencing on January 1 of each year, to the State
 36 Treasurer of all funds received pursuant to this division,
 37 less administrative costs incurred in collecting and
 38 transferring such funds to the state. The amount of funds
 39 retained by any electric utility for administrative costs
 40 shall not exceed 1.5 percent of the total funds collected

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1 by any such utility.
2 25802. Each person who submits to the commission a
3 notice of intent for any proposed generating facility shall
4 accompany the notice with a fee of one cent (\$0.01) per
5 kilowatt of net electric capacity of the proposed
6 generation facility. Such fee shall only be paid on one of
7 the alternate proposed facility sites which has the highest
8 electrical designed capacity. In no event shall such fee be
9 less than one thousand dollars (\$1,000) nor more than
10 twenty-five thousand dollars (\$25,000).

11 For any other facility, the notice shall be accompanied
12 by a fee of five thousand dollars (\$5,000). Such fee shall
13 only be paid on one of the alternate proposed facility
14 sites.

15 Such fees shall be paid into the ~~State Energy Resources~~
16 ~~Conservation and Development Fund~~ account.

17 25803. All the moneys received pursuant to the
18 provisions of this division shall be deposited in the ~~fund~~
19 ~~account~~ and shall be subject to state auditing procedure.
20 The moneys in the ~~fund~~ account shall be expended,
21 without regard to fiscal years, for purposes of carrying out
22 the provisions of this division, when appropriated by the
23 Legislature.

24
25 CHAPTER 10. ENFORCEMENT AND JUDICIAL REVIEW

26
27 25900. Except as provided in Section 25531, whenever
28 the commission finds that any provision of this division is
29 violated or a violation is threatening to take place which
30 constitutes an emergency requiring immediate action to
31 protect the public health, welfare, or safety, the Attorney
32 General, upon request of the commission, shall petition a
33 court to enjoin such violation. The court shall have
34 jurisdiction to grant such prohibitory or mandatory
35 injunctive relief as may be warranted by way of
36 temporary restraining order, preliminary injunction, and
37 permanent injunction.

38 25901. (a) Within 30 days after the commission issues
39 its determination on any matter specified in this division,
40 except as provided in Section 25531, any aggrieved

1 person may file with the superior court a petition for a
2 writ of mandate for review thereof. Failure to file such an
3 action shall not preclude a person from challenging the
4 reasonableness and validity of a decision in any judicial
5 proceedings brought to enforce such decision for other
6 civil remedies.

7 (b) The evidence before the court shall consist of the
8 record before the commission, and any other relevant
9 facts which, in the judgment of the court, should be
10 considered in determining the validity of any decision of
11 the commission.

12 (c) Except as otherwise provided herein, the
13 provisions of subdivisions (e) and (f) of Section 1094.5 of
14 the Code of Civil Procedure shall govern proceedings
15 pursuant to this section.

16 SEC. 3. Notwithstanding Section 2231 of the Revenue
17 and Taxation Code, there shall be no reimbursement
18 pursuant to that section nor shall there be any
19 appropriation made by this act because the Legislature
20 recognizes that during any legislative session a variety of
21 changes to laws relating to crimes and infractions may
22 cause both increased and decreased costs to local
23 governmental entities and school districts which, in the
24 aggregate, do not result in significant identifiable cost
25 changes. In addition, self-financing authority is provided
26 in the form of rate increases by Section 12809 of the
27 Public Utilities Code.

28 SEC. 4. If any provision of this act or the application
29 thereof to any person or circumstances is held invalid,
30 such invalidity shall not affect other provisions or
31 applications of the act which can be given effect without
32 the invalid provision or application, and to this end the
33 provisions of this act are severable.

34 SEC. 5. *The Legislature hereby declares that the*
35 *enactment of Chapter 9 (commencing with Section*
36 *25800) of Division 15 of the Public Resources Code by this*
37 *act does not preempt the field of taxation upon the use*
38 *of electrical energy and shall not affect the validity of any*
39 *such tax imposed by a chartered city.*

O