

Introduced by Senator SimitianFebruary 26, 2009

An act to amend Section 25303 of, to add Section 21090.2 to, and to add Chapter 3.5 (commencing with Section 25250) to Division 15 of, the Public Resources Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

SB 376, as introduced, Simitian. Energy: State Energy Resources Conservation and Development Commission: natural gas.

(1) The Warren-Alquist State Energy Resources Conservation and Development Act (act) establishes the State Energy Resources Conservation and Development Commission (Energy Commission) and requires the commission to prepare a biennial integrated energy policy report containing specified information related to major energy trends and issues facing the state, as well as a biennial energy policy review. The act requires the commission to certify sufficient sites and related facilities that are required to provide a supply of electricity sufficient to accommodate projected demand for power statewide.

This bill would enact the Liquefied Natural Gas Market Assessment Act and would require the Energy Commission, in consultation with affected state agencies, including, but not limited to, the Public Utilities Commission, the State Air Resources Board, the State Lands Commission, the Department of Water Resources, and the California Coastal Commission, to adopt and submit to the Legislature and the Governor, on or before July 1, 2011, the Liquefied Natural Gas Market Assessment Report of 2011 that would be incorporated into the integrated energy policy report of 2009 and would contain specified information. The Energy Commission would be required to prepare a draft report, on or before April 1, 2011, to solicit public comments in

the preparation of the report, and to hold 2 public hearings, one in Los Angeles and the other in the San Francisco Bay area, to consider the results of the liquefied natural gas needs assessment study and to provide an opportunity for public comment. The Energy Commission would be required to include a Liquefied Natural Gas Market Assessment Report in every integrated energy policy report adopted after January 1, 2011.

The Governor, or a state or local entity would be prohibited from approving the construction or operation of an onshore or offshore liquefied natural gas terminal in California until the Liquefied Natural Gas Market Assessment Report of 2011 has been issued and becomes final and all appeals have been exhausted, or November 1, 2011, whichever is earlier. By requiring a local official to determine whether the report has been adopted, the bill would increase the level of service provided by a local agency, thereby imposing a state-mandated local program.

The bill would require a liquefied natural gas terminal project applicant to include in the application evidence that it has consulted with the United States Department of Defense and its impacted service components. For a project involving the construction or operation of a liquefied natural gas terminal that has not received a permit to operate on or before January 1, 2010, an environmental impact report prepared for that project by a lead agency would be required to contain specified information. By requiring a local agency to prepare an environmental impact report that contains specified information, the bill would increase the level of service provided by a local agency, thereby imposing a state-mandated local program.

The Energy Commission would be required on or before March 31, 2010, to create a matrix on its Internet Web site containing information related to the construction and operation of a liquefied natural gas terminal project, and quarterly updates would be required.

(2) The act requires the Energy Commission, as a part of the integrated energy policy report, to conduct electricity and natural gas forecasting assessment activities.

This bill would, in addition, require the Energy Commission to include an assessment of California's ability to meet its conservation, energy efficiency, and renewable energy goals and an evaluation of the global energy markets.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

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

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

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

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

3 (a) The state has a critical role in decisions regarding the siting
4 and design of new onshore and offshore infrastructure for the
5 importation of liquefied natural gas with regard to public health,
6 safety, and the environment.

7 (b) California has a rich history of innovative and strong
8 environmental laws and should continue to strive for the best
9 protections possible.

10 (c) Utilities in California are required to meet new demand
11 through energy efficiency programs before acquiring other sources
12 of electricity.

13 (d) Accelerating the use of renewable energy resources wherever
14 feasible and ensuring a diverse and affordable portfolio of fuel
15 sources may minimize supply interruptions and increase reliability.

16 (e) Decisions regarding the importation of liquefied natural gas
17 should be based on a comprehensive review of current and
18 projected natural gas supply and demand in California.

19 (f) The possible importation of liquefied natural gas should be
20 reviewed as part of the state's integrated energy policy report,
21 which contains an overview of major energy trends and issues
22 facing the state, including supply, demand, and price.

23 SEC. 2. Section 21090.2 is added to the Public Resources Code,
24 to read:

25 21090.2. (a) In addition to any other requirements under this
26 division, for a project involving the construction or operation of
27 an onshore or offshore liquefied natural gas terminal in California
28 that has not received an approval or a permit to operate by a local,
29 state, or federal agency on or before January 1, 2010, an
30 environmental impact report shall include all of the following:

31 (1) A comparative analysis of feasible alternative project
32 technologies pursuant to Section 15126.6 of Title 14 of the
33 California Code of Regulations.

1 (2) An analysis of potential disproportionately high and adverse
2 human health or environmental effects on minority and low-income
3 populations.

4 (3) A full life-cycle analysis of the impacts of greenhouse gases.

5 (b) This section shall not be construed as a limitation on the
6 power of a public agency to otherwise disapprove the project
7 pursuant to any other provision of law.

8 (c) This section shall not be construed as a limitation to comply
9 with any other requirements of this division or any other provision
10 of law.

11 SEC. 3. Chapter 3.5 (commencing with Section 25250) is added
12 to Division 15 of the Public Resources Code, to read:

13
14 CHAPTER 3.5. LIQUEFIED NATURAL GAS MARKET ASSESSMENT
15 ACT

16
17 25250. This chapter shall be known and may be cited as the
18 Liquefied Natural Gas Market Assessment Act.

19 25250.5. For purposes of this chapter, the following definitions
20 apply:

21 (a) “Liquefied natural gas” or “LNG” means natural gas cooled
22 to minus 259 degrees Fahrenheit so that it forms a liquid at
23 approximately atmospheric pressure.

24 (b) “Onshore or offshore liquefied natural gas terminal in
25 California” means facilities located onshore or offshore in
26 California, designed to receive liquefied natural gas from
27 oceangoing vessels, including those facilities required for storage
28 and regasification of the liquefied natural gas, the marine vessels
29 associated with these facilities, and any new pipelines, including,
30 but not limited to, all new pipelines from these offshore or onshore
31 terminals to shore and facilities necessary or the transmission of
32 the regasified natural gas from those facilities, to the point of
33 interconnection with any existing natural gas transportation or
34 distribution system.

35 25251. (a) As a component of the integrated energy policy
36 report of 2009 adopted pursuant to subdivision (a) of Section
37 25302, the commission shall conduct a study of the need for
38 liquefied natural gas imports to meet the state’s energy demand at
39 reasonable prices, which shall be known as the Liquefied Natural
40 Gas Market Assessment Report of 2011.

1 (b) On or before July 1, 2011, the commission shall complete
2 and submit to the Governor and the Legislature the Liquefied
3 Natural Gas Market Assessment Report of 2011, and shall
4 incorporate the report into the integrated energy policy report of
5 2009 adopted pursuant to subdivision (a) of Section 25302.

6 (c) In the preparation of the report, the commission shall consult
7 with affected state agencies including, but not limited to, the State
8 Air Resources Board, the Public Utilities Commission, the State
9 Lands Commission, the Department of Water Resources, and the
10 California Coastal Commission.

11 (d) The report shall assess all of the following:

12 (1) The future demand for natural gas in California, including,
13 but not limited to, natural gas as an alternative transportation fuel.

14 (2) The future supply of natural gas in California available from
15 domestic production and imported into California through interstate
16 pipelines, the supply available from domestic production within
17 California, and the supply available from foreign production and
18 imported into California through international pipelines from
19 Mexico and Canada, including any liquefied natural gas terminal
20 proposed to be built outside the state and the nation that would be
21 the source of natural gas imported into the state.

22 (3) All supplemental sources of natural gas and natural gas
23 alternatives that can be reasonably expected to be available to meet
24 projected energy demand, including, but not limited to,
25 conservation, energy efficiency programs, and renewable energy
26 resources.

27 (4) Projections of the price for natural gas under reasonable
28 supply and demand circumstances.

29 (e) The report shall consider the impact of reducing electricity
30 derived from coal pursuant to Chapter 3 (commencing with Section
31 8340) of Division 4.1 of the Public Utilities Code, and the potential
32 of demand reduction opportunities, including, but not limited to,
33 the upgrading and retrofitting of energy infrastructure, the role of
34 renewable energy, and greater efficiency in building codes.

35 (f) The report shall include an analysis of what impact new
36 fossil fuel infrastructure will have on mandates on investor owned
37 utilities under any provision of law, including, but not limited to,
38 the California Renewables Portfolio Standard Program, Article 16
39 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of
40 Division 1 of the Public Utilities Code.

1 (g) (1) On or before April 1, 2011, the commission shall prepare
2 a draft of the report and shall circulate the draft report to the public.

3 (2) Between April 15 and May 15, 2011, the commission shall
4 hold two public hearings, one in southern California and one in
5 the San Francisco Bay area. During the public hearings, the
6 commission shall accept public comment, testimony, and evidence
7 on the draft report for the purpose of creating a public record. The
8 public may submit written evidence to the commission on or before
9 May 15, 2011.

10 (h) (1) The final Liquefied Natural Gas Market Assessment
11 Report of 2011 shall include a finding based on the entirety of the
12 testimony and evidence submitted pursuant to paragraph (2) of
13 subdivision (g) as to whether California and North American
14 natural gas supplies projected as necessary to meet California's
15 energy requirement pursuant to the integrated energy policy report
16 of 2009 can be attained at a reasonable price without the purchase
17 of additional supplies obtained by importing natural gas to an
18 onshore or offshore liquefied natural gas terminal in California.

19 (2) The finding shall include an analysis of market price, retail
20 rates, market transparency, projected suppliers, location of
21 California and North American facilities, and quality of the natural
22 gas provided, as well as alternative scenarios for supplying
23 domestic natural gas through existing and planned pipelines,
24 including opportunities for conservation, efficiency, and renewable
25 energy.

26 (3) In reaching a finding that California and North American
27 supplies of natural gas for California markets will be sufficient,
28 the commission shall conclude, utilizing a substantial evidence
29 standard and a consideration of price, that energy supplies will be
30 adequate to meet California's energy needs in an economically
31 feasible manner.

32 (i) (1) A person who complies with paragraph (2) may challenge
33 the findings of the Liquefied Natural Gas Market Assessment
34 Report of 2011 by filing a writ of mandate for review pursuant to
35 Section 25901.

36 (2) To file a writ of mandate pursuant to paragraph (1), an
37 aggrieved person shall have appeared, in person or through a
38 representative, at one of the commission's public hearings, in
39 person or in writing, and informed the commission of his or her
40 concerns, or for good cause have been unable to do either.

1 25252. (a) For an integrated energy policy report adopted
2 pursuant to subdivision (a) of Section 25302 after January 1, 2011,
3 the commission shall include a Liquefied Natural Gas Market
4 Assessment Report as a part of the integrated energy policy report
5 that contains all of the following:

6 (1) The assessments specified in subdivision (d) of Section
7 25251.

8 (2) The impacts specified in subdivision (e) of Section 25251.

9 (3) The analysis specified in subdivision (f) of Section 25251.

10 (b) In the preparation of the Liquefied Natural Gas Market
11 Assessment Report, the commission shall consult with affected
12 state agencies, including, but not limited to, the State Air Resources
13 Board, the Public Utilities Commission, the State Lands
14 Commission, the Department of Water Resources, and the
15 California Coastal Commission.

16 (c) (1) On or before August 1 of the year in which the
17 commission is required to adopt an integrated energy policy report
18 pursuant to subdivision (a) of Section 25302, the commission shall
19 prepare a draft of the Liquefied Natural Gas Market Assessment
20 Report and shall circulate the draft report to the public.

21 (2) Between August 15 and September 15 of the year in which
22 the commission is required to adopt an integrated energy policy
23 report pursuant to subdivision (a) of Section 25302, the commission
24 shall hold two public hearings, one in southern California and one
25 in the San Francisco Bay area. During the public hearings, the
26 commission shall accept public comment, testimony, and evidence
27 on the draft of the Liquefied Natural Gas Market Assessment
28 Report for the purpose of creating a public record. The public may
29 submit written evidence to the commission on or before September
30 15 of that year.

31 (d) (1) The final Liquefied Natural Gas Market Assessment
32 Report shall include a finding based on the entirety of the testimony
33 and evidence submitted pursuant to paragraph (2) of subdivision
34 (c) as to whether California and North American natural gas
35 supplies projected as necessary to meet California's energy
36 requirement pursuant to the integrated energy policy report can be
37 attained at a reasonable price without the purchase of additional
38 supplies obtained by importing natural gas to an onshore or
39 offshore liquefied natural gas terminal in California.

1 (2) The finding shall include an analysis of market price, retail
2 rates, market transparency, projected suppliers, location of
3 California and North American facilities, and quality of the natural
4 gas provided, as well as alternative scenarios for supplying
5 domestic natural gas through existing and planned pipelines,
6 including opportunities for conservation, efficiency, and renewable
7 energy.

8 (3) In reaching a finding that California and North American
9 supplies of natural gas for California markets will be sufficient,
10 the commission shall conclude, utilizing a substantial evidence
11 standard and a consideration of price, that energy supplies will be
12 adequate to meet California's energy needs in an economically
13 feasible manner.

14 (e) (1) A person who complies with paragraph (2) may
15 challenge the findings of the Liquefied Natural Gas Market
16 Assessment Report by filing a writ of mandate for review pursuant
17 to Section 25901.

18 (2) To file a writ of mandate pursuant to paragraph (1), an
19 aggrieved person shall have appeared, in person or through a
20 representative, at one of the commission's public hearings, in
21 person or in writing, and informed the commission of his or her
22 concerns, or for good cause have been unable to do either.

23 25253. (a) The Governor, or a state or local entity shall not
24 approve the construction or operation of an onshore or offshore
25 liquefied natural gas terminal in California until the Liquefied
26 Natural Gas Market Assessment Report of 2011 is issued and
27 becomes final and all appeals have been exhausted, or November
28 1, 2011, whichever is earlier.

29 (b) Notwithstanding any other provision of law, a state or local
30 permitting agency shall not use this chapter for the purpose of
31 limiting the acceptance, review, or processing of an application
32 for a permit while the Liquefied Natural Gas Assessment Report
33 is pending or while a judicial appeal of the report is pending.

34 25254. On or before March 31, 2010, the commission shall
35 create a matrix on its Internet Web site that meets, to the extent
36 that data are publicly available, all of the following requirements:

37 (a) The matrix shall be in a format that allows the public to
38 contrast and compare each liquefied natural gas terminal, either
39 existing or proposed, that is located onshore or offshore anywhere
40 in California. The matrix shall also include information from

1 facilities located in Alaska, Canada, the west coast of the
2 continental United States, and the west coast of Mexico including
3 Baja California that may provide natural gas to California.

4 (b) It shall include a summary of environmental impacts,
5 mitigation measures, and alternatives discussed in the
6 environmental impact report (EIR) completed for the project, along
7 with an online link to the EIR. For projects outside the state and
8 nation a link to an equivalent environmental review document.

9 (c) For each existing and proposed land-based or offshore
10 liquefied natural gas terminal project, the matrix shall include the
11 following information: project location, project owner, project
12 Web site, project contact, project description, average natural gas
13 production capacity in cubic feet per day, the peak natural gas
14 production capacity in cubic feet per day, liquefied natural gas and
15 natural gas storage capacity, if any, the approximate project cost,
16 projected online date, and the siting process applicable to the
17 project.

18 (d) The matrix shall be updated as information becomes
19 available and no less than quarterly and shall include the major
20 project components and the potential environmental impacts
21 associated with each land-based and offshore natural gas import
22 terminal project proposal that has filed an application or has
23 publicly announced plans to build a land-based or offshore
24 terminal.

25 (e) The commission shall post a new application for approval
26 to build and operate a natural gas import terminal in the state to
27 the matrix within 30 days after the filing of the application.

28 25255. An applicant for the construction or operation of a
29 liquefied natural gas terminal project shall provide evidence in its
30 application that it has consulted with the United States Department
31 of Defense and its impacted service components, and include within
32 the application a description of the consultation with regard to
33 potential impacts upon national security, including potential
34 impacts on the land, sea, and airspace identified by the Department
35 of Defense and its impacted service components, for conducting
36 operations or training, or for the research, development, testing,
37 and evaluation of weapons, sensors, and tactics.

38 SEC. 4. Section 25303 of the Public Resources Code is
39 amended to read:

1 25303. (a) The commission shall conduct electricity and natural
2 gas forecasting and assessment activities to meet the requirements
3 of paragraph (1) of subdivision (a) of Section 25302, including,
4 but not limited to, all of the following:

5 (1) Assessment of trends in electricity and natural gas supply
6 and demand; and the outlook for wholesale and retail prices for
7 commodity electricity and natural gas under current market
8 structures and expected market conditions, *including an assessment*
9 *of California meeting its conservation, energy efficiency, and*
10 *renewable energy goals.*

11 (2) Forecasts of statewide and regional electricity and natural
12 gas demand including annual, seasonal, and peak demand, and the
13 factors leading to projected demand growth, including, but not
14 limited to, projected population growth, urban development,
15 industrial expansion and energy intensity of industries, energy
16 demand for different building types, energy efficiency, and other
17 factors influencing demand for electricity. With respect to
18 long-range forecasts of the demand for natural gas, the report shall
19 include an evaluation of average conditions, as well as best and
20 worst case scenarios, and an evaluation of the impact of the
21 increasing use of renewable resources on natural gas demand.

22 (3) Evaluation of the adequacy of electricity and natural gas
23 supplies to meet forecasted demand growth. Assessment of the
24 availability, reliability, and efficiency of the electricity and natural
25 gas infrastructure and systems, including, but not limited to, natural
26 gas production capability both in and out of state, natural gas
27 interstate and intrastate pipeline capacity, storage and use, and
28 western regional and California electricity and transmission system
29 capacity and use.

30 (4) Evaluation of potential impacts of electricity and natural gas
31 supply, demand, and infrastructure and resource additions on the
32 electricity and natural gas systems, public health and safety, the
33 economy, resources, and the environment.

34 (5) Evaluation of the potential impacts of electricity and natural
35 gas load management efforts, including end-user response to
36 market price signals, as a means to ensure reliable operation of
37 electricity and natural gas systems.

38 (6) Evaluation of whether electricity and natural gas markets
39 are adequately meeting public interest objectives including the
40 provision of all of the following: economic benefits; competitive,

1 low-cost reliable services; customer information and protection;
2 and environmentally sensitive electricity and natural gas supplies.
3 This evaluation may consider the extent to which California is an
4 element within western energy markets, *global energy markets*,
5 the existence of appropriate incentives for market participants to
6 provide supplies and for consumers to respond to energy prices,
7 appropriate identification of responsibilities of various market
8 participants, and an assessment of long-term versus short-term
9 market performance. To the extent this evaluation identifies market
10 shortcomings, the commission shall propose market structure
11 changes to improve performance.

12 (7) Identification of impending or potential problems or
13 uncertainties in the electricity and natural gas markets, potential
14 options and solutions, and recommendations.

15 (8) (A) Compilation and assessment of existing scientific studies
16 that have been performed by persons or entities with expertise and
17 qualifications in the subject of the studies to determine the potential
18 vulnerability to a major disruption due to aging or a major seismic
19 event of large baseload generation facilities, of 1,700 megawatts
20 or greater.

21 (B) The assessment specified in subparagraph (A) shall include
22 an analysis of the impact of a major disruption on system reliability,
23 public safety, and the economy.

24 (C) The commission may work with other public entities and
25 public agencies, including, but not limited to, the California
26 Independent System Operator, the Public Utilities Commission,
27 the Department of Conservation, and the Seismic Safety
28 Commission as necessary, to gather and analyze the information
29 required by this paragraph.

30 (D) Upon completion and publication of the initial review of
31 the information required pursuant to this paragraph, the commission
32 shall perform subsequent updates as new data or new understanding
33 of potential seismic hazards emerge.

34 (b) Commencing November 1, 2003, and every two years
35 thereafter, to be included in the integrated energy policy report
36 prepared pursuant to Section 25302, the commission shall assess
37 the current status of the following:

38 (1) The environmental performance of the electric generation
39 facilities of the state, to include all of the following:

40 (A) Generation facility efficiency.

1 (B) Air emission control technologies in use in operating plants.

2 (C) The extent to which recent resource additions have, and
3 expected resource additions are likely to, displace or reduce the
4 operation of existing facilities, including the environmental
5 consequences of these changes.

6 (2) The geographic distribution of statewide environmental,
7 efficiency, and socioeconomic benefits and drawbacks of existing
8 generation facilities, including, but not limited to, the impacts on
9 natural resources including wildlife habitat, air quality, and water
10 resources, and the relationship to demographic factors. The
11 assessment shall describe the socioeconomic and demographic
12 factors that existed when the facilities were constructed and the
13 current status of these factors. In addition, the report shall include
14 how expected or recent resource additions could change the
15 assessment through displaced or reduced operation of existing
16 facilities.

17 (c) In the absence of a long-term nuclear waste storage facility,
18 the commission shall assess the potential state and local costs and
19 impacts associated with accumulating waste at California’s nuclear
20 powerplants. The commission shall further assess other key policy
21 and planning issues that will affect the future role of nuclear
22 powerplants in the state. The commission’s assessment shall be
23 adopted on or before November 1, 2008, and included in the 2008
24 energy policy review adopted pursuant to subdivision (d) of Section
25 25302.

26 SEC. 5. No reimbursement is required by this act pursuant to
27 Section 6 of Article XIII B of the California Constitution because
28 this act provides for offsetting savings to local agencies or school
29 districts that result in no net costs to the local agencies or school
30 districts, within the meaning of Section 17556 of the Government
31 Code.