

AMENDED IN SENATE MAY 6, 2014
AMENDED IN SENATE APRIL 2, 2014

SENATE BILL

No. 1277

Introduced by Senator Steinberg

February 21, 2014

An act to add Section 346.5 to the Public Utilities Code, relating to electricity.

LEGISLATIVE COUNSEL'S DIGEST

SB 1277, as amended, Steinberg. Electricity: electrical restructuring: Independent System Operator.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations, as defined. *Existing law authorizes the Public Utilities Commission to establish rules for all public utilities, subject to control by the Legislature.* The Public Utilities Act imposes various duties and responsibilities on the Public Utilities Commission with respect to the purchase of electricity and requires the commission to review and adopt a procurement plan and a renewable energy procurement plan for each electrical corporation pursuant to the California Renewables Portfolio Standard Program.

The existing restructuring of the electrical industry within the Public Utilities Act provides for the establishment of an Independent System Operator as a nonprofit public benefit corporation. Existing law requires the Independent System Operator to make certain filings with the Federal Energy Regulatory Commission and to seek authority from the Federal Energy Regulatory Commission as needed to give the Independent System Operator the ability to secure generating and transmission resources necessary to guarantee achievement of planning and operating

reserve criteria no less stringent than those established by the Western Electricity Coordinating Council and the North American Electric Reliability Council.

Existing law requires the Public Utilities Commission, in consultation with the Independent System Operator, to establish resource adequacy requirements for all load-serving entities, as defined, in accordance with specified objectives and requires each load-serving entity to maintain physical generating capacity adequate to meet its load requirements, including peak demand and planning and operating reserves, deliverable to locations and at times as may be necessary to provide reliable electric service. The Public Utilities Commission has opened a rulemaking proceeding to consider revisions to the existing reliability framework for electrical resource and transmission planning and procurement processes pursuant to a Joint Reliability Plan adopted by the Public Utilities Commission and the Board of Governors of the Independent System Operator.

This bill would prohibit the Independent System Operator from submitting any proposal to the Federal Energy Regulatory Commission that seeks approval of a new auction or market-based mechanism for forward procurement of electricity or capacity products *to implement the Joint Reliability Plan* in California unless it first obtains the formal concurrence of the Public Utilities Commission. If the Federal Energy Regulatory Commission approves the mechanism, the bill would prohibit the Independent System Operator from proposing or endorsing any modification to the approved mechanism, unless it first obtains the formal concurrence of the Public Utilities Commission. The bill would prohibit the Public Utilities Commission from formally concurring in these proposals unless it ~~concludes that there is a de minimus risk that the proposal could preempt or otherwise frustrate state laws and policies relating to specified topics.~~ *reasonably concludes that specified principles of the state will not be diminished.*

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

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

- 1 SECTION 1. Section 346.5 is added to the Public Utilities
- 2 Code, to read:
- 3 346.5. (a) The Independent System Operator shall not submit
- 4 any proposal to the Federal Energy Regulatory Commission that

1 seeks approval of a new auction or market-based mechanism for
2 forward procurement of electricity or capacity products to
3 *implement the Joint Reliability Plan* in California unless it first
4 obtains the formal concurrence of the commission. If the Federal
5 Energy Regulatory Commission approves the mechanism, the
6 Independent System Operator shall not propose or endorse any
7 modifications to the approved mechanism unless it first obtains
8 the formal concurrence of the commission.

9 (b) In considering any proposal described in subdivision (a),
10 the commission shall issue a decision pursuant to a proceeding
11 initiated pursuant to Section 1701.1. The commission shall not
12 formally concur unless it ~~concludes that there is a de minimus risk~~
13 ~~that the proposal could preempt or otherwise frustrate any of the~~
14 ~~following:~~ *reasonably concludes that the following principles of*
15 *the state will not be diminished:*

16 (1) Any state law or policy relating to the promotion of
17 environmentally preferred resources, demand response, energy
18 efficiency, eligible renewable resources, or electric storage.

19 (2) Any state law or policy relating to reducing emissions of
20 greenhouse gases.

21 (3) State efforts to ensure the timely development of new
22 generating sources needed to ensure local reliability.

23 (4) The ability of the commission to establish procurement
24 requirements or practices for electrical corporations.

25 (5) The ability of the commission to ensure just and reasonable
26 retail electric rates.