
**SENATE COMMITTEE ON ENERGY, UTILITIES AND
COMMUNICATIONS**
Senator Ben Hueso, Chair
2021 - 2022 Regular

Bill No: SB 1032 **Hearing Date:** 4/18/2022
Author: Becker
Version: 4/7/2022 Amended
Urgency: No **Fiscal:** Yes
Consultant: Nidia Bautista

SUBJECT: Clean Energy Infrastructure Authority Act

DIGEST: This bill establishes a new Clean Energy Infrastructure Authority as a public instrumentality of the state for the purpose of leading the state's efforts to build critical electrical transmission infrastructure necessary to enable the state to transition to 100 percent clean energy, as specified.

ANALYSIS:

Existing law:

- 1) Establishes and vests the California Public Utilities Commission (CPUC) with regulatory authority over public utilities, including electrical corporations. (Article XII of the California Constitution)
- 2) Requires the CPUC to ensure that facilities needed to maintain the reliability of the electrical supply remain available and operational. (Public Utilities Code §362)
- 3) Establishes the California Independent System Operator (CAISO) as a nonprofit public benefit corporation and requires the CAISO to ensure efficient use and reliable operation of the electrical transmission grid consistent with achieving planning and operating reserve criteria no less stringent than those established by the Western Electricity Coordinating Council and the North American Electric Reliability Corporation. (Public Utilities Code §345.5)
- 4) Provides it is the policy of the state that eligible renewable energy resources and zero-carbon resources supply 100 percent of all retail sales of electricity to California end-use customers and 100 percent of electricity procured to serve all state agencies by December 31, 2045. (Public Utilities Code §454.53)
- 5) Requires that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings

demonstrating the interest protected by the limitation and the need for protecting that interest. (Article 1, Section 3, of the California Constitution)

- 6) Establishes the Federal Energy Regulatory Commission (FERC) has exclusive jurisdiction over the transmission of electricity in interstate commerce, over the sale of electricity at wholesale in interstate commerce, and over all facilities for the transmission or sale of electricity in interstate commerce. (Federal Power Act §§201, 205, 206 (16 USC 824, 824d, 824e))

This bill:

- 1) Creates the Clean Energy Infrastructure Authority (CEIA) as a public instrumentality of the state for the purpose of leading the state's efforts to build critical clean energy infrastructure necessary to enable the state to transition to 100 percent clean energy, as specified.
- 2) Requires the CEIA to do any and all things necessary or proper to accomplish that purpose.
- 3) Authorizes the CEIA, among other things, to identify and establish corridors for the transmission of electricity within the state, to coordinate, investigate, plan, prioritize, and negotiate with entities within and outside the state to establish interstate transmission corridors, to finance, plan, develop, acquire, own, maintain, sell, or operate electrical transmission infrastructure and transmission-related energy storage systems, to exercise the power of eminent domain to acquire property or rights-of-way for public use, to issue bonds as necessary to undertake electrical transmission infrastructure or transmission-related energy storage system projects, and to act as the lead agency for purposes of the California Environmental Quality Act (CEQA) and other environmental reviews, as specified.
- 4) Requires the CEIA, before beginning construction of electrical transmission infrastructure that will be located in the service territory of, or connected directly to the electrical transmission infrastructure of, an electrical corporation with 250,000 or more customer accounts within the state and owned by the CEIA, to enter into a lease or other agreement with that electrical corporation to construct, operate, and maintain the electrical transmission infrastructure.
- 5) Authorizes the CEIA to propose, and plan for, new electrical transmission infrastructure, but would prohibit the CEIA from developing electrical transmission infrastructure unless the applicable California balancing authority,

including the CAISO, has approved the project, in which case the approval of the CPUC would not be required.

- 6) Provides that the CEIA is not subject to the supervision or control of the CPUC or any other board, bureau, department, or agency of the state, except as specifically provided.
- 7) Requires the CEIA to annually report to the Legislature on the CEIA's activities, including a complete operating and financial statement covering its operations.
- 8) Requires the California Infrastructure and Economic Development Bank (I-Bank), upon request by the CEIA, to issue taxable or tax-exempt revenue bonds on behalf of the CEIA, as specified.
- 9) Requires the Department of Finance, among other things, to monitor and oversee the CEIA's operations, to receive and review reports from the CEIA, and to annually report its findings and recommendations to the governor, commission, and Legislature.
- 10) Requires the California State Auditor, or its designee, to conduct an annual financial and legal compliance audit of the accounts of the CEIA and file copies with the governor and the Legislature.
- 11) Requires that information obtained by the CEIA that is proprietary technical or business information be confidential and not subject to inspection pursuant to the California Public Records Act. Makes legislative findings that limiting the right of access to the meetings of public bodies or the writing of public officials and agencies is necessary to ensure the benefits of the authorizing the CEIA to partner with utilities and private persons to accelerate the development of clean energy infrastructure.

Background

CAISO. The CAISO is a nonprofit public benefit corporation created by California statute as part of the effort to deregulate the electricity market in the late 1990s. The CAISO manages the flow of electricity across the high-voltage bulk power system that makes up 80 percent of California's, and a small part of Nevada's, electric grid. CAISO is registered as both a transmission operator and balancing authority (BA) under federal reliability requirements. As a general matter, BAs may contain transmission operators. As with other BAs, the CAISO is regulated

by federal statute and regulations with oversight by FERC and the North American Energy Reliability Corporation (NERC).

Transmission planning. Each year, the CAISO conducts its transmission planning process to identify potential system limitations, as well as, opportunities for system reinforcements that improve reliability and efficiency. The CAISO Transmission Plan provides a comprehensive evaluation of the CAISO transmission grid to address grid reliability requirements, identify upgrades needed to successfully meet California's policy goals, and explore projects that can bring economic benefits to consumers. The plan relies heavily on key inputs from state agencies in translating legislative policy into actionable policy driven inputs. The plan is updated annually, and culminates in a CAISO Board of Governors approved transmission plan that identifies the needed transmission solutions and authorizes cost recovery through CAISO transmission rates, subject to federal regulatory approval, as well as identifying non-transmission solutions that will be pursued in other venues as an alternative to building additional transmission facilities. The plan is prepared in the larger context of supporting important energy and environmental policies while maintaining reliability through a resilient electric system. The plan is developed through a comprehensive stakeholder process and relies heavily on coordination with key energy state agencies – the CPUC and the CEC – for key inputs and assumptions regarding electricity demand side forecast assumptions as well as supply side resource development expectations.

SB 100 (De León, Chapter 312, Statutes of 2018). S B 100 established the 100 Percent Clean Energy Act of 2017 which increases the Renewables Portfolio Standard (RPS) requirement from 50 percent by 2030 to 60 percent, and created the policy of planning to meet all of the state's retail electricity supply with a mix of RPS-eligible and zero-carbon resources by December 31, 2045, for a total of 100 percent clean energy. SB 100 also required California Air Resources Board (CARB), CEC, and CPUC to issue a joint report by January 1, 2021, and at least every four years, that describes technologies, forecasts, affordability, and system and local reliability. The report is required to include an evaluation of costs and benefits to customer rate impacts, as well as, barriers to achieving the SB 100 policy. The first Joint Agency report was issued January 2021.

CAISO 20-year Transmission Outlook. The CAISO embarked on creating a 20-Year Transmission Outlook for the electric grid, in collaboration with the CPUC and the CEC, with the goal of exploring the longer-term grid requirements and options for meeting the state's greenhouse gas (GHG) reduction and renewable energy objectives reliably and cost-effectively. The CAISO also intends for the expanded planning horizon to provide valuable input for resource planning processes conducted by the CPUC and CEC, and to provide a longer-term context

and framing of pertinent issues in the CAISO's ongoing annual 10-Year Transmission Plan.

Transmission Development Forum. The Transmission Development Forum is a recent joint effort between the CAISO and the CPUC to discuss and track Participating Transmission Owners expansion and network upgrade projects and schedules. The Transmission Development Forum creates a single forum to track the status of transmission network upgrade projects that affect generators and all other transmission projects approved in the CAISO's transmission planning process. The effort allows for increased transparency for all stakeholders about transmission projects and enhances accountability of transmission owners by having them explain schedule changes, delays, and address stakeholders' questions.

Tracking Energy Development (TED) Task Force. The TED Taskforce is also a recent joint effort of the CPUC, CEC, CAISO, and Office of Business and Economic Development (GO-Biz) to track new energy projects under development. According to the CPUC, the objective is to build on the success of ad hoc 2021 efforts to provide energy resource project development support, as appropriate, and identify barriers and mitigation strategies to accelerate energy project development. Currently, the TED Taskforce is focused on near-term projects, roughly 200 contracted projects needed for summer reliability in 2022 and 2023.

Report to Governor on Priority SB 100 Actions. In September 2021, The CEC, CPUC, CARB, and CAISO published and sent a *Report to the Governor on Priority SB 100 Actions to Accelerate the Transition to Carbon-free Energy*. Among the many issues and recommendations included in the report was a discussion regarding transmission planning, permitting, and interconnection. The report notes that the build out of new electric transmission lines and upgrades to existing lines is "essential to support the interconnection of new resources." However, the report noted that over the past 10 years the cost of transmission for the average California ratepayer has increased by over 150 percent. Large transmission projects were identified as driving much of the increase. As a cost-cutting measure to help mitigate against increasing electric utility rates, the report recommended consideration of "statutory changes for the formation of a new entity for energy and transmission financing." The report specifically noted creation of a "California transmission authority as a new public benefits corporation that can, either on its own or through public private partnerships, fund and build new transmission projects needed to meet clean energy goals."

SB 1032. This bill proposes to create the CEIA to help advance the needed transmission projects to achieve the state's clean energy goals. Specifically, the CEIA would be a public benefits corporation that would plan, finance, construct, and site new electric transmission infrastructure. The CEIA would have a board consisting of individuals (or their designees) from the CPUC, CEC, CARB, Natural Resources Agency, GO-Biz, the CAISO, with the governor selecting the chair. The CEIA would have broad authorities as an instrumentality of the state with the explicit ability to make or execute agreements and contracts, finance, plan, and own projects, utilize eminent domain powers, collect payments and fees, among many others. This bill requires the CEIA to enter into a lease or other agreement with a large electrical corporation when the transmission infrastructure projects is located in the service territory of the large electrical corporation, or connected directly to its transmission infrastructure.

Need for new authority? As noted above, the state agencies and CAISO recommended consideration of a new authority to help finance the needed transmission buildouts to achieve the state's clean energy goals. The financing provided by the authority may result in savings to electric ratepayers depending on the interest and charges associated with any projects. The assumption by some proponents is that the public financing provided by a new state authority could yield savings to electric customers based on potentially better financing terms and the elimination of any rate of return to the electric investor-owned utility (IOU). These potential savings may be possible, though not a guarantee. This bill goes beyond financing and proposes additional actions by the CEIA to not only address transmission costs, but to streamline and expedite these projects including use of eminent domain, utilize the state as the lead agency for environmental review of projects, and elimination of the required CPUC certificate of public convenience and necessity (CPCN). As opponents have raised, there are questions as to whether a new authority is necessary to achieve the state's clean energy goals and efforts to address affordability.

Many other questions remain. Should this bill move forward, the author may wish to consider explicit representation by Legislative appointees to the board so as balance the executive branch representation. Opponents have also wisely raised concerns regarding potential wildfire liability of owning existing transmission lines that have been a source of ignition for recent catastrophic fires. The author's office acknowledges this is an important consideration about the proper role for the CEIA. Relatedly, the CEIA has very broad authority, the author may wish to consider prioritizing and narrowing some of the activities of the CEIA so as to address the most central projects, where and when needed. Additionally, this bill could benefit from cost limitations on the administration of the CEIA.

Need for amendments. In order to maintain the main focus of the bill on transmission, *the author and committee may wish to amend this bill to delete reference to energy storage projects.* Additionally, given the potential conflicts of the CAISO serving on the board of the entity that may own transmission and recover costs from the CAISO, plus potential federal limitations, *the author and committee may wish to amend this bill to delete the CAISO from the CEIA board.* Other amendments are minor and technical in replacing “will” with “may” in some of the findings and declarations.

Double referred. This bill has been double-referred to the Senate Committee on Governance and Finance.

Prior/Related Legislation

SB 887 (Becker, 2022) adjusts the planning horizon for the annual electricity transmission plan from 10-years to 15-years, and requires approval of at least two transmission projects as part of the CAISO 2022-23 transmission planning process. The bill is pending in the Senate Committee on Appropriations.

SB 1174 (Hertzberg, 2022) requires specified reporting related to electric transmission projects, and also requires the CPUC in coordination with other state agencies to identify and advance all interconnections or transmission approvals necessary, as specified. The bill is pending in the Senate Committee on Appropriations.

AB 2696 (E. Garcia, 2022) requires the CEC to conduct a study that reviews lower costs ownership and alternative financing for new transmission facilities, among other provisions. The bill is pending in the Assembly Committee on Natural Resources.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

SUPPORT:

350 Humboldt
350 Silicon Valley
Acterra
California Energy Storage Alliance
Indivisible San Jose
San Fernando Valley Climate Reality Chapter
Silicon Valley Youth Climate Action

The Climate Center
The Utility Reform Network

OPPOSITION:

Independent Energy Producers Association
Pacific Gas & Electric
Rural County Representatives of California
San Diego Gas & Electric
Southern California Edison

ARGUMENTS IN SUPPORT: According to the author:

Today, transmission takes too long and costs too much to build, and everyone thinks it should be built somewhere far from them. A state entity can do better. A state infrastructure authority would be able to reduce the cost of building new transmission infrastructure because the state is usually able to borrow money to finance projects at lower interest rates than the private sector. A state infrastructure authority would be able to spread the impacts of new infrastructure fairly across the state and ensure that state-supported infrastructure projects are aligned with a comprehensive plan for meeting the state's clean energy needs, rather than having each proposed project considered in isolation. A state infrastructure authority would be able to reduce risk and accelerate the completion of critical projects by leveraging the state's authority to facilitate the acquisition of rights-of-way and run thorough but efficient permitting processes.

America didn't build the interstate highway system by hoping that an unorganized group of private sector developers would somehow build a set of toll roads that would eventually add up to a nationwide network of freeways. Such a massive project required centralized planning, centralized financing, and national involvement in obtaining permits and rights-of-way to get it built. Building the transmission we will need is not as big as building the interstate highway system, but it is the same kind of massive undertaking. It is going to require state involvement to make sure it is planned more coherently, executed upon more efficiently, and financed at a lower cost than we can expect if this is left to private companies. This bill establishes the Clean Energy Infrastructure Authority to play that role.

ARGUMENTS IN OPPOSITION: Independent Energy Producers (IEP), three large electric corporations, and Rural County Representatives of California

(RCRC) oppose this bill and they all question whether the CEIA is needed. RCRC expresses concerns about the potential loss of property taxes for transmission projects owned the CEIA. The three large electric corporations question the customer benefits of establishing the CEIA. They also raise concerns about the lack of clarity regarding project approval, among other concerns. IEP also raises questions about the utility of a new authority.

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