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Energy Agency Reorganization

LEGISLATIVE ANALYST'S OFFICE

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Senate Committee on Energy,
Utilities, and Communications
Hon. Alex Padilla, Chair





Issues for Legislative Consideration

When evaluating proposals to reorganize the state's energy-related activities, there are a number of issues that the Legislature should consider. These issues, which we discuss in the following sections, include:

- Creating clear lines of accountability.
- Deciding who should make policy.
- Deciding the placement and structure of regulatory functions, specifically transmission permitting.
- Deciding the placement and structure of nonregulatory programs, such as renewable and energy efficiency programs.



Creating Clear Lines of Accountability

- Current Organizational Structure Reduces Accountability.*** The current energy organizational structure, in which multiple state entities have responsibility for policy making and program implementation, reduces accountability by spreading responsibility for the success or failure of these activities across multiple organizations.

- Consolidated Energy Department Would Improve Accountability.*** A department, into which functions from multiple entities are consolidated and headed by a Secretary, would provide a single point of contact, through which to focus legislative oversight of energy policy development and program implementation. It would also improve accountability within the administration by integrating the development of policy and the implementation of programs in one entity.



Deciding Who Should Make Policy

- ☑ ***Policy-Making Decisions Currently Reside With Commissioners.*** Currently, policy-making responsibilities at both the California Energy Commission (CEC) and the California Public Utility Commission (CPUC) reside with commissioners who are appointed to fixed terms and have little direct accountability to the Governor or the Legislature for their decisions.

- ☑ ***The CPUC's Policy-Making Role.*** While the Governor's proposal would consolidate policy making with the Secretary of the new department, we note that there is no specific provision in this proposal requiring CPUC (which would still retain energy-related functions under the Governor's proposal) to abide by those policy decisions. We think that any proposal to reorganize the state's energy entities should explicitly address CPUC's policy-making role. This is because CPUC has interpreted its duty to protect ratepayers broadly, and has made significant energy-related policy decisions under this authority.



Deciding the Placement and Structure of Regulatory Functions

When deciding where to place and how to structure the state's energy-related regulatory functions, it is important to consider the special requirements for independence and public involvement of regulatory decision making.



Legislature Should Consider Reorganizing the State's Electricity Transmission Permitting Process. The Governor's proposal would transfer the authority to permit specified new electricity transmission projects from CPUC to the new California Energy Commission in the new department. This component of the Governor's proposal is an attempt to address concerns that the state's current system for planning and permitting new transmission projects is substantially impeding investment in this type of infrastructure. However, the Governor's proposal does not comprehensively address this issue.

Addressing problems with the transmission permitting process is a particularly complex one, as it involves not only multiple state entities but also multiple levels of government. We believe that the Legislature should determine a policy that explicitly lays out each entity's responsibilities and addresses the fundamental issue of allocating responsibilities, including systemwide planning, determination of the system reliability and economic need of a project, permitting, environmental review, and the allocation of costs to ratepayers.



Deciding the Placement and Structure of Nonregulatory Programs

- Many State Entities Operate Nonregulatory Energy Programs.** To the extent that similar programs are operated by different entities, this can create inefficiencies. Additionally, several small programs are often less effective than a consolidated program, because program beneficiaries may not be aware of all the overlapping programs and may not take advantage of existing programs. Finally, the operation of duplicative programs in different entities can result in unnecessary administrative costs.

- Energy Efficiency Programs.** The Governor's proposal incorporates the Department of Community Services and Development's low-income energy assistance program and low-income weatherization program into the new Department of Energy. While we support this consolidation, we would also recommend that CPUC's Energy Efficiency program be consolidated into the new department.

- Renewable Energy Programs.** As the state's primary energy entity, CEC operates programs which encourage new investment in renewable energy, including providing subsidies for solar energy. CPUC also administers the California Solar Initiative, which is similar in purpose and duplicative of the CEC program. While the Governor's proposal does not consolidate the departments' solar energy programs, we recommend that CPUC's California Solar Initiative and CEC's existing solar energy program be consolidated in the new department.



Structure of Energy Commission

Current	Governor's Proposal
<p>The Energy Commission consists of five members appointed by the Governor, subject to qualifications set in statute; Governor designates a chairman and vice chairman of the commission from among its members every two years.</p>	<p>Four members appointed by the Governor: Secretary of new consolidated Department of Energy serves as chair of the commission; other members include Executive Officer of California Independent System Operator, President of California Public Utilities Commission, and Secretary of Natural Resources Agency.</p>
<p>Each member of the commission has one vote. A Yes vote of at least three members is required for the transaction of any business of the commission.</p>	<p>Secretary has exclusive authority to certify power plants and bulk transmission lines under jurisdiction of commission (full commission would not vote).</p>



Energy Reorganization Proposals

Key Function	Currently Responsible	Governor's Proposal	LAO Alternative
Electricity and natural gas demand forecasting	CEC	Transfer to new Department of Energy.	Same.
Develop energy efficiency standards	CEC	Transfer to new Department of Energy.	Same.
Promote renewables	CEC, CPUC	Transfer CEC's programs to new Department of Energy, but maintain CPUC regulatory duties and programs for promoting renewables.	Additional renewable-related program could be transferred into new Department of Energy. See "Issues for Legislative Consideration (page 5)."
Research, development, and demonstration	CEC	Transfer to new Department of Energy.	Same.
Permitting power plants	CEC—Thermal Power Plants (including Solar Thermal) > 50 MW Locals, municipal utilities—other renewable technologies such as wind and Solar photovoltaic	Transfer to new commission within new Department of Energy duty to permit all technologies > 50 MW.	Same.
Oversee energy efficiency incentive programs (low income assistance, weatherization)	Department of Community Services and Development, CPUC	Transfer Department of Community Services and Development's energy duties to new Department of Energy, but keep CPUC's weatherization program in place.	Additional Energy Efficiency Incentive Programs could be transferred to new Department of Energy. See "Issues for Legislative Consideration (page 5)."
Monitor electricity market	CPUC, EOB	Transfer to new Department of Energy.	Same.
Manage existing DWR power contracts	CERS	Transfer to new Department of Energy.	Leave as is, no transfer.
Regulate drilling, operation, maintenance, plugging and abandonment of oil, natural gas, and geothermal wells	DOGGR	Leave as is, no transfer.	Transfer duty to new Department of Energy.
Procure energy for state agencies and implement energy efficiency measures in state buildings	Office of State Architect, Department of General Services	Transfer duties to new Department of Energy.	Leave as is, no transfer.

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Energy Reorganization Proposals *(Continued)*

Key Function	Currently Responsible	Governor's Proposal	LAO Alternative
Policy-making authority	Many entities have a role in the development and implementation of state energy policy and regulation	Transfer most authority to new Department of Energy, but there is no provision that requires CPUC to abide by policy decisions.	Address energy policymaking role of CPUC. See "Issues for Legislative Consideration (page 3)."
Transmission permitting	CPUC, CEC, local governments, FERC	Transfer CPUC's permitting authority from CPUC to new commission within new Department of Energy. (CEC's existing authority continues in new commission.)	Legislature needs to determine allocation of responsibilities. See "Issues for Legislative Consideration (page 4)."
FERC representation	CPUC, EOB, CERS	New Department of Energy would appear before FERC as the lead representative. Other state entities could appear as needed.	Same.

^a CEC = California Energy Commission; CPUC = California Public Utility Commission; EOB = Electricity Oversight Board; DWR = Department of Water Resources; CERS = California Energy Resources Scheduling Division; DOGGR = Division of Oil, Gas, and Geothermal Resources; CPA = California Power Authority; ISO = Independent System Operator; and FERC = Federal Energy Regulatory Commission.