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AB-361 Nuclear powerplants. (2015-2016)

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Assembly Bill No. 361

CHAPTER 399

An act to add and repeal Section 8610.5 of the Government Code, and to add Section 712 to the Public Utilities Code, relating to electricity, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 01, 2015. Filed with Secretary of State October 01, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

AB 361, Achadjian. Nuclear powerplants.

Existing law, the California Emergency Services Act, authorizes local government entities to create disaster councils by ordinance and in turn develop disaster plans specific to their jurisdictions. Existing law, the Radiation Protection Act of 1999, requires local governments to develop and maintain radiological emergency preparedness and response plans to safeguard the public in the emergency planning zone around a nuclear powerplant, and generally makes the Office of Emergency Services responsible for the coordination and integration of all emergency planning programs and response plans created pursuant to the Radiation Protection Act of 1999. The California Emergency Services Act, until July 1, 2019, prescribes a method for funding state and local costs for carrying out these activities that are not reimbursed by federal funds, with the costs borne by utilities operating nuclear powerplants with a generating capacity of 50 megawatts or more.

This bill, operative July 1, 2019, would extend, until August 26, 2025, the method for funding state and local costs for emergency service activities associated with a nuclear powerplant, as described above, with respect to a utility operating a nuclear powerplant with a generating capacity of 50 megawatts or more, thereby extending an amount, as specified, available for disbursement for local costs for the Diablo Canyon site.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations. Existing law authorizes the commission to fix the rates and charges for every public utility, and requires that those rates and charges be just and reasonable. Existing law requires the commission, for purposes of establishing rates for any electrical corporation, to disallow expenses reflecting the direct or indirect costs resulting from any unreasonable error or omission relating to the planning, construction, or operation of any portion of the corporation's plant which cost, or is estimated to have cost, more than \$50,000,000, including any expenses resulting from delays caused by any unreasonable error or omission. For these purposes, "planning" includes activities related to the initial and subsequent assessments of the need for a plant construction project and includes investigation and interpretation of environmental factors such as seismic conditions.

This bill would require the commission to convene, or continue, until August 26, 2025, an independent peer review panel to conduct an independent review of enhanced seismic studies and surveys of the Diablo Canyon Units 1 and 2 powerplant, including the surrounding areas of the facility and areas of nuclear waste storage.

This bill would declare that it is to take effect immediately as an urgency statute.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 8610.5 is added to the Government Code, to read:

8610.5. (a) For purposes of this section:

- (1) "Office" means the Office of Emergency Services.
- (2) "Previous fiscal year" means the fiscal year immediately prior to the current fiscal year.
- (3) "Utility" means an "electrical corporation" as defined in Section 218 of the Public Utilities Code.

(b) (1) State and local costs to carry out activities pursuant to this section and Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 of the Health and Safety Code that are not reimbursed by federal funds shall be borne by a utility operating a nuclear powerplant with a generating capacity of 50 megawatts or more.

(2) The Public Utilities Commission shall develop and transmit to the office an equitable method of assessing a utility operating a powerplant for its reasonable share of state agency costs specified in paragraph (1).

(3) Each local government involved shall submit a statement of its costs specified in paragraph (1), as required, to the office.

(4) Upon notification by the office, from time to time, of the amount of its share of the actual or anticipated state and local agency costs, a utility shall pay this amount to the Controller for deposit in the Nuclear Planning Assessment Special Account, which is continued in existence, for allocation by the Controller, upon appropriation by the Legislature, to carry out activities pursuant to this section and Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 of the Health and Safety Code. The Controller shall pay from this account the state and local costs relative to carrying out this section and Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 of the Health and Safety Code, upon certification of the costs by the office.

(5) Upon appropriation by the Legislature, the Controller may disburse up to 80 percent of a fiscal year allocation from the Nuclear Planning Assessment Special Account, in advance, for anticipated local expenses, as certified by the office pursuant to paragraph (4). The office shall review program expenditures related to the balance of funds in the account and the Controller shall pay the portion, or the entire balance, of the account, based upon those approved expenditures.

(c) (1) The total annual disbursement of state costs from a utility operating a nuclear powerplant within the state for activities pursuant to this section and Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 of the Health and Safety Code, shall not exceed the lesser of the actual costs or the maximum funding levels established in this section, subject to subdivisions (e) and (f).

(2) Of the annual amount of two million forty-seven thousand dollars (\$2,047,000) for the 2009–10 fiscal year, the sum of one million ninety-four thousand dollars (\$1,094,000) shall be for support of the office for activities pursuant to this section and Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 of the Health and Safety Code, and the sum of nine hundred fifty-three thousand dollars (\$953,000) shall be for support of the State Department of Public Health for activities pursuant to this section and Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 of the Health and Safety Code.

(d) (1) The total annual disbursement for each fiscal year, commencing July 1, 2009, of local costs from a utility shall not exceed the lesser of the actual costs or the maximum funding levels established in this section, in support of activities pursuant to this section and Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 of the Health and Safety Code. The maximum annual amount available for disbursement for local costs, subject to subdivisions (e) and (f), shall, for the fiscal year beginning July 1, 2009, be one million seven hundred thirty-two thousand dollars (\$1,732,000) for the Diablo Canyon site.

(2) The amounts paid by a utility under this section shall be allowed for ratemaking purposes by the Public Utilities Commission.

(e) The amounts available for disbursement for state and local costs as specified in this section shall be adjusted and compounded each fiscal year by the larger of the percentage change in the prevailing wage for San Luis Obispo County employees, not to exceed 5 percent, or the percentage increase in the California Consumer Price Index from the previous fiscal year.

(f) Through the inoperative date specified in subdivision (h), the amounts available for disbursement for state and local costs as specified in this section shall be cumulative biennially. Any unexpended funds from a year shall be carried over for one year. The

funds carried over from the previous year may be expended when the current year's funding cap is exceeded.

(g) This section shall become operative on July 1, 2019.

(h) This section shall become inoperative on August 26, 2025, and, as of January 1, 2026, is repealed.

(i) When this section becomes inoperative, any amounts remaining in the special account shall be refunded to a utility contributing to it, to be credited to the utility's ratepayers.

SEC. 2. Section 712 is added to the Public Utilities Code, to read:

712. (a) The commission shall convene, or continue, until August 26, 2025, an independent peer review panel to conduct an independent review of enhanced seismic studies and surveys of the Diablo Canyon Units 1 and 2 powerplant, including the surrounding areas of the facility and areas of nuclear waste storage.

(b) The independent peer review panel shall contract with the Energy Commission, the California Geological Survey of the Department of Conservation, the California Coastal Commission, the Alfred E. Alquist Seismic Safety Commission, the Office of Emergency Services, and the County of San Luis Obispo to participate on the panel and provide expertise.

(c) The independent peer review panel shall review the seismic studies and hold public meetings.

(d) The commission shall make reports by the independent peer review panel publicly available on the Internet Web site maintained by the commission.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

The Public Utilities Commission in Decision 10-08-003 (August 12, 2010) convened an independent peer review panel to review the seismic studies conducted on behalf of Pacific Gas and Electric Company relative to the Diablo Canyon Units 1 and 2 powerplant. The independent peer review panel, in addition to providing valuable expertise to the commission in evaluating the seismic studies, also operates to assure the public that the seismic studies are being performed in an appropriate manner. Because (1) the commission's current contracts for the independent peer review panel are set to expire on November 30, 2015, the Diablo Canyon Units 1 and 2 powerplant is authorized to operate until August 26, 2025, by the federal Nuclear Regulatory Commission, and there continues to be enhanced seismic studies and surveys conducted that warrant review by the independent peer review panel to ensure the safety of the public, and (2) continuing the Nuclear Planning Assessment Special Account beyond the July 1, 2019, expiration date is vital to provide the public assurance that the maintenance of the state's nuclear emergency programs is in place, and will provide certainty for emergency planning and response preparedness should an emergency occur, it is necessary that this act take effect immediately.