

Date of Hearing: July 17, 2025

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Isaac G. Bryan, Chair

SB 254 (Becker) – As Amended May 28, 2025

SENATE VOTE: 29-10

SUBJECT: Electricity: wildfire mitigation: rate assistance: Policy-Oriented and Wildfire Electric Reimbursement (POWER) Program

SUMMARY: This bill includes 50 sections addressing disparate policies, primarily affecting electrical and gas corporations, ranging from adjustments to the utility wildfire mitigation plan regulatory framework; reallocating the Climate Credit; establishing a public financing mechanism for certain eligible energy projects; prohibiting the inclusion of \$15 billion of capital investments in electrical corporations' rate base for purposes of earning equity returns; and extending and expanding expedited permitting of renewable energy, energy storage and manufacturing facilities.

Note: This analysis focuses on the California Environmental Quality Act (CEQA) and California Energy Commission (CEC) issues in the bill that are within this committee's jurisdiction (i.e., Sections 10-20). See Assembly Utilities and Energy Committee analysis for discussion of other issues.

EXISTING LAW:

- 1) Requires lead agencies with the principal responsibility for carrying out or approving a proposed project to prepare a negative declaration, mitigated negative declaration, or environmental impact report (EIR) for this action, unless the project is exempt from CEQA. (Public Resources Code (PRC) 21000 *et seq.*)
- 2) Defines “tiering” or “tier” as the coverage of general matters and environmental effects in an EIR prepared for a policy, plan, *program* or ordinance followed by narrower or site-specific EIRs which incorporate by reference the discussion in any prior EIR and which concentrate on the environmental effects which (a) are capable of being mitigated, or (b) were not analyzed as significant effects in the prior EIR. (PRC 21068.5)
- 3) Requires EIRs to be tiered off of prior EIRs whenever feasible, as determined by the lead agency. Tiering applies when the later project is consistent with the *program*, plan, policy, or ordinance for which an EIR has been prepared and certified, as well as applicable local land use plans and zoning, and there have not been substantial changes or new information, as specified. Provides that the later EIR is not required to examine effects that were mitigated or avoided as a result of the prior EIR or examined in the prior EIR at a level of detail that enables mitigation or avoidance by site-specific revisions, conditions, or other means with the approval of the later project. (PRC 21093 and 21094)
- 4) The CEQA Guidelines define a program EIR (PEIR) as an EIR which may be prepared on a series of actions that can be characterized as one large project and are related either:
 - a) Geographically,

- b) As logical parts in the chain of contemplated actions,
 - c) In connection with issuance of rules, regulations, plans, or other general criteria to govern the conduct of a continuing program, or
 - d) As individual activities carried out under the same authorizing statutory or regulatory authority and having generally similar environmental effects which can be mitigated in similar ways.
(CEQA Guidelines 15168)
- 5) Grants CEC the exclusive authority to license thermal powerplants 50 megawatts (MW) and larger (including related facilities such as fuel supply lines, water pipelines, and electric transmission lines that tie the plant to the bulk transmission grid). The CEC must consult with specified agencies, but the CEC may override any contrary state or local decision. The CEC process is a certified regulatory program (i.e., the functional equivalent of CEQA), so the CEC is exempt from having to prepare an EIR. (PRC 25500 *et seq.*).
- 6) Authorizes, pursuant to AB 205 (Budget Committee), Chapter 61, Statutes of 2022, additional facilities not subject to the CEC's thermal powerplant licensing process to "opt-in" to a CEC process for CEQA review until June 30, 2029, in lieu of review by the appropriate local lead agency. These opt-in permitting procedures apply to the following energy-related projects:
- a) A solar photovoltaic or terrestrial wind electrical generating powerplant with a generating capacity of 50 MW or more and any facilities appurtenant thereto;
 - b) An energy storage system capable of storing 200 MW hours or more of electrical energy;
 - c) A stationary electrical generating powerplant using any source of thermal energy, with a generating capacity of 50 MW or more, excluding any powerplant that burns, uses, or relies on fossil or nuclear fuels;
 - d) A project for the manufacture, production, or assembly of an energy storage, wind, or photovoltaic system or component, or specialized products, components, or systems that are integral to renewable energy or energy storage technologies, for which the applicant has certified that a capital investment of at least \$250 million will be made over a period of five years; and
 - e) An electric transmission line carrying electric power from an eligible solar, wind, thermal, or energy storage facility to a point of junction with any interconnected electrical transmission system.
 - f) Certain publicly-funded, non-fossil hydrogen production facilities.

AB 205 provides the CEC exclusive power to certify the site and related facilities, and provides that the CEC's approval preempts state, local, or regional authorities, except for the authority of the State Lands Commission to require leases and receive lease revenues, if applicable, or the authority of the California Coastal Commission, the San Francisco Bay

Conservation and Development Commission, the State Water Resources Control Board, or the applicable regional water quality control boards, and, for manufacturing facilities, the authority of local air quality management districts or the Department of Toxic Substances Control. Requires the CEC to determine whether to certify the EIR and to issue a certificate for the site and related facilities no later than 270 days after the application is deemed complete, or as soon as practicable thereafter. Applies the procedures and requirements applicable to Environmental Leadership Development Projects (ELDPs, PRC 21178 *et seq.*), including mitigation of greenhouse gas (GHG) emissions, requiring applicants to pay the costs of expedited administrative and judicial review, and requiring the courts to resolve lawsuits within 270 days, to the extent feasible. (PRC 25545 *et seq.*)

- 7) Exempts, pursuant to SB 131 (Budget and Fiscal Review Committee), Chapter 24, Statutes of 2025, “advanced manufacturing” facilities, as defined, on sites zoned exclusively for industrial uses, and not located on natural and protected lands, as defined. (PRC 21080.69)

THIS BILL (Sections 10-20):

- 1) Requires the CEC to prepare a PEIR to analyze development of a class or classes of facilities eligible for expedited review pursuant to AB 205. (Section 10)
- 2) Authorizes a public agency to tier from the CEC PIER, but only if the project meets specified labor requirements of AB 205. (Section 10)
- 3) Expands and extends AB 205 as follows:
 - a) Reduces the minimum investment for eligible energy manufacturing, production, or assembly projects from \$250 million to \$100 million. (Section 11)
 - b) Extends sunset from 2029 to 2034. (Section 12)
 - c) Expands beyond projects where an EIR is prepared to include “other environmental documents.” (This term is not defined in the bill, but in CEQA, “environmental documents” includes EIRs, EIR substitutes, mitigated negative declarations, negative declarations, initial studies, as well as documents prepared pursuant to the National Environmental Policy Act and used in place of CEQA documents.) (Sections 13 and 14)
- 4) Makes other conforming changes and updates to the AB 205 application process.

FISCAL EFFECT: According to the Senate Appropriations Committee, this bill will result in unknown, but significant, ongoing costs to the Clean Energy Infrastructure Authority, Department of Finance, State Auditor, CEC, and the Public Utilities Commission. These various costs are estimated to total into the tens of millions annually. Should the POWER program contemplated under this measure be funded, significantly larger costs would arise and be borne by the state.

COMMENTS:**1) Author's statement:**

According to the non-partisan Legislative Analyst Office (LAO), “California electricity rates also have been increasing rapidly in recent years—not only growing faster than inflation but also outpacing growth in other states.” The California Energy Modernization and Affordability Act is California’s most ambitious effort yet to rein in these rising energy costs and put ratepayers first. This bill ensures wildfire mitigation dollars are spent where they have the greatest impact and sharpens scrutiny of utility budgets through stronger laws that will help control excessive profits and rate increases. It uses financing innovations, such as securitization and public financing of infrastructure, to lower long-term costs, and it streamlines clean energy permitting so we can build clean projects faster and more affordably. It adjusts the way utility Cap & Trade revenues are returned to customers as a “climate credit” so that 100% of the money available is used to lower bills at the highest cost times of year. It also sets up a new mechanism, the POWER Fund, by which some public purpose costs can be paid for by taxpayer funds or GGRF revenues rather than through electricity bills. There is no silver bullet that can immediately lower electricity bills, but collectively these provisions, once fully implemented, can reduce the cost to ratepayers by billions of dollars annually.

- 2) **Should be the CEC be required to prepare a PEIR?** PEIRs, and tiering in subsequent project reviews, are well-established approaches to making CEQA review more efficient. The CEC could prepare a PEIR under current law, or otherwise tier off of prior CEQA reviews to avoid duplicative analysis. However, a PEIR is a practical tool only when there are a foreseeable collection of similar future projects, and it makes sense for the lead agency to pay for the costs of preparation of a PEIR to save time and money going forward.

This bill requires the CEC to prepare a PEIR for AB 205 facilities, apparently focusing on the class of energy storage systems. The CEC would have to front the substantial preparation costs, without any mechanism to recover those costs from later projects that may apply for a permit and benefit from a PEIR.

Because the point of a PEIR is to make CEQA review less duplicative and more efficient, the CEC should be given discretion to prepare a PEIR if it makes sense, rather than required to prepare a PEIR.

- 3) **The CEC has nearly 50 years' experience permitting powerplants, and zero experience permitting manufacturing facilities.** The primary impetus for the opt in CEC permitting process was solar projects facing delays or moratoria from counties resisting solar projects in part due to land use conflicts and in part due to the projects' property tax exemption. It's not clear why manufacturing facilities were included in AB 205 to begin with, but no manufacturing facility has applied to the CEC under AB 205.

This bill expands the scope of manufacturing facilities eligible for AB 205 by lowering the investment threshold to \$100 million. Meanwhile, SB 131 just added a new CEQA exemption for “advanced manufacturing” facilities, which appears to significantly overlap with projects eligible under this bill.

The manufacturing facilities provision of AB 205 also overlaps with provisions more recently enacted by SB 149 (Caballero), Chapter 60, Statutes of 2023, which provides expedited CEQA review for the exact same types of projects in PRC 21189.81(d)(1)(C):

(i) The manufacture, production, or assembly of an energy storage system or component manufacturing, wind system or component manufacturing, and solar photovoltaic energy system or component manufacturing.

(ii) The manufacture, production, or assembly of specialized products, components, or systems that are integral to renewable energy or energy storage technologies.

- 4) **Bill provides streamlining for projects that have received little or no environmental review.** AB 205, and all other prior expedited CEQA administrative and judicial review bills, required eligible projects to undergo a complete CEQA review via EIR. This bill adds projects reviewed with an “other environmental document.” This term is not defined, but in CEQA “environmental document” applies to a wide range of documents, including very limited review (negative declaration) and no substantive review (initial study). It’s not clear why this is needed or if it makes sense in the real world. For example, a project eligible for a negative declaration by a local lead agency would have little incentive to apply to the CEC under AB 205 and subject itself to AB 205’s expensive environmental and labor requirements.
- 5) **Is AB 205 a proven success yet?** After three years, nine projects have applied to the CEC under AB 205. Five projects are battery storage, three are solar and battery storage, and one is wind. The first AB 205 project was approved in June, 20 months after first applying to the CEC. CEC staff recommended rejecting the wind project, which had already been rejected by the local lead agency (Shasta County). AB 205 is less than half way through its initial authorization, with more than three years before the current 2029 sunset. At this time, an extension of the sunset may be premature.
- 6) **Double referral.** This bill was heard and passed by the Utilities and Energy Committee on July 16.

REGISTERED SUPPORT / OPPOSITION:

Support

350 Humboldt: Grass Roots Climate Action
 350 Sacramento
 Ava Community Energy Authority
 California Climate Action
 California Community Choice Association
 California Wind Energy Association
 Clean Air Task Force
 Climate Future California
 Net-Zero California
 NextGen California
 The Climate Reality Project: Silicon Valley
 The Utility Reform Network (TURN)

Opposition

California Chamber of Commerce
North American Wood Pole Council
PacifiCorp
Treated Wood Council
Western Wood Preservers Institute

Oppose Unless Amended

Association for Energy Affordability
California Center for Sustainable Energy
California Farm Bureau Federation
City of Morro Bay
County of Fresno
Pacific Gas and Electric Company
San Diego Gas and Electric Company

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