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# SENATE COMMITTEE ON GOVERNMENTAL ORGANIZATION

Senator

Chair

2021 - 2022 Regular

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<b>Bill No:</b>	SB 52	<b>Hearing Date:</b>	3/9/2021
<b>Author:</b>	Dodd		
<b>Version:</b>	12/7/2020	Introduced	
<b>Urgency:</b>	No	<b>Fiscal:</b>	Yes
<b>Consultant:</b>	Brian Duke		

**SUBJECT:** State of emergency: local emergency: sudden and severe energy shortage: planned power outage

**DIGEST:** This bill would expand the definition of “sudden and severe energy shortage” to include a “deenergization event,” as defined, and would make a deenergization event one of the enumerated conditions constituting a state of emergency and a local emergency.

## ANALYSIS:

Existing law:

- 1) Establishes the California Office of Emergency Services (OES) within the office of the Governor and makes OES responsible for the state’s emergency and disaster response services for natural, technological, or manmade disasters and emergencies.
- 2) Authorizes the Governor to proclaim a state of emergency and local officials and local governments to proclaim a local emergency, when specified conditions of disaster or extreme peril to the safety of persons and property exist, and authorizes the Governor or the appropriate local government to exercise certain powers in response to that emergency.
- 3) Defines “state of emergency” and “local emergency” to mean a duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the state or territorial limits of a local government caused by, among other things, a sudden and severe energy shortage.
- 4) Defines “sudden and severe energy shortage” to mean a rapid, unforeseen shortage of energy, resulting from, but not limited to, events such as an

embargo, sabotage, or natural disasters, and which has statewide, regional, or local impact.

- 5) Defines “electrical corporation” to include every corporation or person owning, controlling, operating, or managing any electric plant for compensation within this state, except where electricity is generated on or distributed by the producer through private property solely for its own use or the use of its tenant and not sale or transmission to others.

This bill:

- 1) Changes the definition of “sudden and severe energy shortage” to mean either of the following:
  - a. A rapid, unforeseen shortage of energy, resulting from, but not limited to, events such as an embargo, sabotage, or natural disasters, and that has statewide, regional, or local impact.
  - b. A deenergization event.
- 2) Defines “deenergization event” to mean a planned power outage, undertaken by an electrical corporation, as defined, to reduce the risk of wildfires caused by utility equipment, as specified. A deenergization event commences when an electrical corporation provides notice to any state agency or political subdivision of the potential need to initiate a planned deenergization of the electrical grid, and ceases when the electrical corporation restores electrical services to all deenergized customers, or at such time as the electrical corporation cancels the deenergization event for some or all of its affected customers, and rescinds the notice of the potential need to initiate the deenergization event.

## Background

*Purpose of the bill.* According to the author’s office, “in an era of climate change and enhanced wildfire prevention, public safety power shutoffs (PSPS) have become an all too frequent event. A PSPS has very significant impacts on various activities and populations in an effected region/county, including sustaining the needs of medically vulnerable residents, and continued and uninterrupted operations of critical public services (water, wastewater, traffic control, police and fire protection, etc.). In order for public services to continue, and in order to ensure vulnerable populations are protected, counties open emergency operation centers to coordinate and oversee the maintenance of public safety health and

welfare. Activation of county emergency operation centers is expensive and a drain on county funds.”

Further, the author’s office states that, “currently, the Emergency Services Act recognizes a loss of electrical power as an emergency, but limits that definition of a loss of power to a sudden, unplanned event. Given the fact that a loss of power pursuant to a PSPS is planned, it is necessary to broaden the definition of a loss of power in the Emergency Services Act. In this manner, counties will be able to seek reimbursement for the costs incurred by running the emergency operation centers.”

*California Emergency Services Act.* The California Emergency Services Act (ESA) was enacted in 1970, and established OES within the Governor’s Office. Under the ESA, OES is charged with coordinating statewide emergency preparedness; post emergency recovery and mitigation efforts; and the development, review, approval, and integration of emergency plans.

The ESA gives the Governor authority to proclaim a state of emergency in an area affected or likely to be affected when: a) conditions of disaster or extreme peril exist; b) the Governor is requested to do so upon request from a designated local government official; or c) the Governor finds that local authority is inadequate to cope with the emergency. Local governments may also issue local emergency proclamations, which is a prerequisite for requesting the Governor’s Proclamation of a State of Emergency.

Specifically, the ESA defines a “state of emergency” as the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions such as air pollution, fire, flood, storm, epidemic, riot, drought, cyberterrorism, sudden and severe energy shortage, plant or animal infestation or disease, the Governor’s warning of an earthquake or volcanic prediction, or an earthquake, or other conditions, other than conditions resulting from a labor controversy or conditions causing a “state of war emergency,” which, by reason of their magnitude, are or are likely to be beyond the control of the services, personnel, equipment, and facilities of any single county, city and county, or city and require the combined forces of a mutual aid region or regions to combat, or with respect to regulated energy utilities, a sudden and severe energy shortage requires extraordinary measures beyond the authority vested in the California Public Utilities Commission (CPUC).

The ESA grants the Governor certain special powers during a declared state of emergency, which are in addition to any other existing powers otherwise granted. For example, the ESA empowers the Governor to expend any appropriation for

support of the ESA in order to carry out its provisions: the authority to make, amend, and rescind orders and regulations necessary to carry out the ESA. The orders and regulations shall have the force and effect of law.

*California wildfire and electric utility infrastructure.* Electrical equipment, including downed power lines, arcing, and conductor contact with trees and grass, can act as an ignition source. Risks for wildfires also increased in recent years with the extended drought and bark beetle infestation that has increased tree mortalities and, as a result, increased the fuel, and risk for wildfires. In recent years, California has experienced a number of catastrophic wildfires, including several that ignited by electrical utility infrastructure, including the 2007 Witch Fire in San Diego County, the 2015 Butte Fire, several of the 2017 fires that ravaged the state, and the brutally deadly Camp Fire in 2018. The current top six largest California wildfires have all occurred within the last two and a half years and their causes remain under investigation.

*Deenergizing electric lines.* Generally, electric utilities attempt to maintain power and ensure continued reliability of the flow of power. However, as recent catastrophic fires have demonstrated, the risk of fire caused by electric utility infrastructure can pose a great risk, perhaps greater than the risks of turning off the power to certain circuits. As a safety consideration, electric utilities have the ability and authority to deenergize electric lines in order to prevent harm or threats of harm, commonly referred to as PSPS. However, deenergizing electric lines can result in the loss of power to households, businesses, traffic signals, communication systems, critical facilities, water treatment facilities, emergency services and others. Therefore, efforts to deenergize electric lines must consider the potential harm of the energized lines causing a wildfire against the safety hazards associated with eliminating electricity to the areas served by the line(s).

*Recent history with PSPS.* Although there is some history with PSPSs, their use as a tool to prevent sparking fires is a more recent development that has expanded and grown in-use due to California's recent experience with catastrophic wildfires ignited by utility infrastructure. The practice began by San Diego Gas & Electric (SDG&E) after several electric utility infrastructure ignited catastrophic fires in 2007. Proactive power shutoffs were one of the many measures SDG&E implemented to reduce the risk of fire ignited by its infrastructure.

*PSPS in September and October 2019.* At the end of September 2019, under high-speed Diablo wind conditions, Pacific Gas & Electric (PG&E) sent PSPS notifications to a widespread region of its service territory and ultimately shutdown power to 76,000 customers in the North Bay and Sierra Foothill areas. This was the first back-to-back power shutoff event for PG&E in the same geographic area.

These power shutoffs set the stage for continued PSPS activity throughout the month of October, as there were additional multiple proactive power shutoff events throughout the month within the service territories of each of the three large electric investor owned utilities (IOUs). In some cases, especially in the PG&E territory, these events bled into each other. As a result, customers experienced extended days with loss of power, as the utility did not have enough time to complete inspections of the deenergized electric lines before the initiation of the next PSPS event. In total, over two million California residents endured the loss of power in communities located in about 40 of the state's 58 counties.

*Declaring an emergency.* This bill specifies that a PSPS by an IOU would be considered a qualifying condition to declare a local or state emergency. The deenergization events in the fall of 2019 proved to be an extraordinary burden on local and state governments who were forced to scramble with their own resources to respond to the events. By allowing proactive power shutoffs to be an eligible condition to declare an emergency, local governments could benefit by allowing them to recoup costs that they might bear during these events. These costs could be substantial. However, there is hope that the events of last fall will not be repeated. Nonetheless, local governments are valid in their concerns that local and state government resources could be impacted, once again, in future events.

The author's office notes that Marin County incurred approximately \$850,000, the City of San Jose approximately \$1 million, Sonoma County approximately \$1.6 million, and the City of Santa Rosa approximately \$1.8 million in costs during the 2019 PSPS events.

### **Prior/Related Legislation**

AB 69 (Kiley, 2021) would require a state of emergency to terminate 60 days after the Governor's proclamation of the state of emergency unless the Legislature extends it by a concurrent resolution, as specified. (Pending in the Assembly Emergency Services Committee)

AB 108 (Cunningham, 2021) would permit an order or regulation, or an amendment or rescission thereof, issued pursuant to specified ESA provisions 60 or more days after the proclamation, to take effect only if approved by a concurrent resolution of the Legislature. (Pending in the Assembly Emergency Services Committee)

AB 1403 (Levine, 2021) would include deenergization, defined as a PSPS, within conditions constituting a state of emergency or local emergency. (Pending referral in the Assembly)

SB 209 (Dahle, 2021) would require a state of emergency to terminate 45 days after the Governor's proclamation of the state of emergency unless the Legislature extends it by a concurrent resolution. (Pending in the Senate Governmental Organization Committee)

SB 397 (Jones, 2021) the Religion is Essential Act would, during a state of emergency or local emergency, require the Governor or the local government to deem religious services to be an essential service and to be necessary and vital to the health and welfare of the public, as specified. (Pending in the Senate Judiciary Committee)

SB 448 (Melendez, 2021) the Emergency Power Limitation Act would require that an emergency order be narrowly tailored to serve a compelling public health or safety purpose and limited in duration, applicability, and scope, as specified. (Pending in Senate Governmental Organization Committee)

SB 468 (Dodd, 2021) would include an electromagnetic pulse attack among the conditions constituting a state of emergency or local emergency. (Pending in the Senate Governmental Organization Committee)

AB 2178 (Levine, 2020) would have included deenergization, defined as a PSPS, as specified within conditions constituting a state of emergency or local emergency. (Never heard in the Senate Governmental Organization Committee)

SB 862 (Dodd, 2020) would have added planned deenergization events, as defined, within the conditions that constitute a state of emergency; and, added new requirements of electrical corporations regarding protocols for these events, as specified. (Never heard in the Assembly Utilities and Energy Committee)

SB 532 (Dodd, Chapter 557, Statutes of 2018) added "cyberattacks" to the list of conditions that are named in the ESA that may be cited to support the proclamation of a state of emergency or local emergency.

SB 901 (Dodd, Chapter 626, Statutes of 2018) addressed numerous issues concerning wildfire prevention, response and recovery, including funding for mutual aid, fuel reduction and forestry policies, wildfire mitigation plans by electric utilities, and cost recovery by electric corporations of wildfire-related damages.

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

**SUPPORT:**

Napa County Board of Supervisors (Sponsor)  
California Association of Public Authorities for IHSS  
Disability Rights California  
Rural County Representatives of California

**ARGUMENTS IN SUPPORT:** The Napa County Board of Supervisors writes in support of the bill stating that, “[w]hile the intent of a PSPS is to limit the threat of wildfires during specific weather conditions, these events trigger many activities required by local agencies to protect public health and safety for the duration of the event. These activities are coordinated through and by local Emergency Operation Centers (EOCs). Often, the local EOC is activated as soon as a utility company issues a notice of possible PSPS, and remains active until power is restored and/or the notice is rescinded. EOCs are expensive to operate. Current law allows local agencies to recover some costs if the emergency is covered by the ESA. However, it is unclear whether an EOC activation caused by a PSPS announcement is covered by the ESA. SB 52 will make that clear.”