

Date of Hearing: May 4, 2011

ASSEMBLY COMMITTEE ON UTILITIES AND COMMERCE

Steven Bradford, Chair

AB 1124 (Skinner) – As Amended: April 7, 2011

SUBJECT: Energy: Low-Income Energy Efficiency Program.

SUMMARY: Adds furnaces and water heating systems to the list of eligible energy efficiency (EE) improvements through the Low-Income Energy Efficiency (LIEE) Program. Specifically, this bill:

- 1) Defines “low-income multifamily rental apartment building” for this section of code as a building that meets all of the following requirements prior to receiving assistance: (a) has at least five dwelling units; (b) at least 66 percent of the total dwelling units are occupied by households with incomes below 200 percent of the federal poverty level (FPL);(c) a deed restriction or affordability covenant is held by a federal, state, or local governmental entity that ensures that the required percentage of units will be available at an affordable rent for a period of at least 15 years following the installation of EE improvements.
- 2) Requires the California Public Utilities Commission (PUC) to establish certification requirements to implement this subdivision “consistent with” the United States Department of Energy’s Weatherization Assistance Program (WAP) for Low-Income Persons.
- 3) Requires the PUC to ensure that low-income multifamily rental apartment buildings receive assistance pursuant to the Low-Income Energy Efficiency (LIEE) program, a successor program, or other EE program under its jurisdiction for EE furnaces and water heating systems and energy audit recommended EE measures in common areas.
- 4) Specifies that financial assistance for these measures shall be 100 percent of the cost of the improvement less a percentage equal to the percent of total dwelling units not occupied by households with incomes 200 percent of the federal poverty level.
- 5) Requires the PUC mandate the LIEE Program, as implemented by an electrical corporation or gas corporation, to use a whole building, performance-based approach based on site-specific measures recommended by an energy audit of the building; provide a single point of entry for low-income multifamily rental apartment building residents so that they can efficiently and effectively access the LIEE program and other EE program resources; and, eliminate barriers to accessing energy retrofit programs for owners of low-income multifamily rental apartment buildings when serving low-income multifamily rental apartment buildings.
- 6) States it is the intent of the Legislature to do all of the following:
  - a) Promote the investment of existing ratepayer energy efficiency (EE) funds to increase the efficiency of furnace and water heating systems in multifamily rental apartment buildings occupied by low-income households to achieve the maximum potential energy savings in the residential sector.
  - b) Promote the use of ratepayer funds to pay for EE heating and water heater systems in multifamily rental apartment buildings as defined and in particular in those that have

contracts with federal, state, or local governmental agencies that require them to serve low-income households in a majority of the units for not less than 30 years.

- c) Modify the application of CPUC Decision 07-12-051, insofar as these decisions disallowed the repair or replacement of furnaces and water heaters through the LIEE or other residential energy efficiency programs under the CPUC's jurisdiction.

7) Makes Legislative findings.

EXISTING LAW:

- 1) Requires utilities to provide weatherization assistance to low-income customers to reduce energy related hardships.
- 2) States that PUC has regulatory authority over public utilities.
- 3) Authorizes PUC to fix the rates and charges for every public utility and requires those rates and charges to be just and reasonable.
- 4) Requires PUC to establish a program of assistance to low-income electric and gas customers; the cost of which is not to be borne solely by any single customer class.
- 5) Requires PUC to create the California Alternative Rates for Energy (CARE) program to assistance low-income electric and gas customers and requires the PUC to ensure that the level of discount for low-income electric and gas customers correctly reflects the level of need.
- 6) Authorizes rebates, grants or loans for installation of solar water heaters on low-income residential housing.

FISCAL EFFECT: Unknown.

COMMENTS: According to the author, this bill would allow the use of ratepayer energy efficiency funds for heating and hot water systems and common-area energy efficiency measures in low-income multifamily rental apartment buildings. The PUC restrictions on the Low-Income Energy Efficiency (LIEE) program prevent the replacement or repair of heating and cooling systems in multifamily rental apartment buildings. The author states "forty-three percent of low-income households that are eligible for the LIEE program live in multifamily buildings, such as apartments. Current rules allow only minor adjustments of heating and cooling systems generating minimal energy savings. As a result, many low-income Californians are effectively denied the most impactful benefits of the program, and California ratepayers are denied a substantial conservation opportunity. "

Background: According to the PUC, more than 5.5 million households qualify for utility low-income programs and many of those households are barely able or unable to pay their energy bills. According to the PUC, of the 5.5 million customers in California who qualify for Low Income Energy Efficiency (LIEE) programs, less than 170,000 received LIEE measures in 2006 and only 1.6 million have been served in the past ten years. In December 2007, the PUC modified its program to (D.07-12-051) to enable the investor owned utilities (IOUs) to provide services to more eligible customers. LIEE programs are funded via a public purpose program surcharge paid by non-participating ratepayers.

PUC Directed Programs: The California Alternative Rates for Energy (CARE) Program provides a 20% discount on monthly electric and gas bills for qualified low-income customers and master-metered housing (master-metered housing qualifies only if the property managers pass the CARE discount through to the tenants). Qualifications are based on the number of people living in the home and the total annual household income. The CPUC determines the appropriate level of funding and qualifications. The income levels to qualify for CARE, (in effect through May 31, 2011) are:

\$31,300 for a household of 1-2; \$36,800 for a household of 3; \$44,400 for a household of 4; \$52,000 for a household of 5; \$59,600 for a household of 6; and \$7,600 for each additional individual.

Customers may also be eligible for CARE if they are enrolled in public assistance programs such as Medicaid/Medi-Cal; Women, Infants and Children Program (WIC); Healthy Families A & B; National School Lunch's Free Lunch Program (NSL); Food Stamps/SNAP; Low Income Home Energy Assistance Program (LIHEAP); Head Start Income Eligible (Tribal Only); Supplemental Security Income (SSI); Bureau of Indian Affairs General Assistance; and, Temporary Assistance for Needy Families (TANF) or Tribal TANF.

The Low-Income Energy Efficiency (LIEE) initiative began in the 1980s when the PUC instituted EE programs in response to the energy crisis of the 1970s. The PUC broadened these programs in 1981 to encourage participation by renters, the elderly, and low-income or non-English speaking persons. It subsequently ordered Pacific Gas & Electric (PG&E) and Southern California Gas Company (SoCalGas) to offer low-income customers \$200 in credit for EE installations and San Diego Gas & Electric (SDG&E) to provide free weatherization.

The investor owned utilities' LIEE programs provide substantial energy savings and reduce the bills of program participants. Average lifecycle bill savings from the 2006 programs are estimated to be more than \$703 a year in PG&E's territory, \$669 a year for SDG&E, \$780 a year for Southern California Edison (SCE) and \$196 a year for SoCalGas. Cumulative energy savings in 2006 were about 13.8 megawatts (MW), 60 million kilowatt hours and 2.57 million therms.

The Energy Savings Assistance (ESA) Program: The ESA provides no-cost weatherization services (attic insulation, energy efficient refrigerators, energy efficient furnaces, weather-stripping, caulking, low-flow showerheads, water heater blankets, and door and building envelope repairs). The income levels effective June 1, 2010 through May 31, 2011 are the same as CARE.

On Sept. 18, 2008, the CPUC adopted its first Long Term Energy Efficiency Strategic Plan (Plan) to be a single roadmap to achieve energy savings across all major groups and sectors in California. The Plan had marketing, education, and outreach (ME&O) components to increase consumer awareness and participation in demand-side management activities and to encourage behavior changes that save energy, reduce greenhouse gas emissions, and support clean energy solutions.

To that end, the "Engage 360" brand was developed through a year-long process between PUC staff and the IOUs. Additionally, the PUC developed a new statewide brand name for its low

income energy efficiency program: the Energy Savings Assistance Program (ESAP) - providing weatherization and energy efficient measures to income-qualified households.

Federal Program: The Weatherization Assistance (WAP) Program was created 1976 and is administered by the Department of Energy (DOE). The program was designed to save imported oil and cut heating bills for low-income households, including senior citizens living on fixed incomes and Social Security, who were especially hard hit by rising energy bills. The program currently provides a offers a variety of weatherization retrofit measures. Beginning in 1984, the DOE allowed states to use the WAP funding to provide energy efficiency improvements to space heating and water heating systems. In 1985, furnace and boiler replacement was added as an allowed measure.

EE for multifamily units: According to PUC, nearly half of all eligible low-income households live in multifamily building such as apartment stock and that 25% of LIEE participants are multifamily (MF) residents. To qualify an entire building for the LIEE program, at least 80% of all units must be occupied by income-qualified households. If this condition is met, then the other 20% will qualify as well regardless of income.

CPUC has been resistant to funding landlord furnace and water heater repairs:

“We are not convinced that utility ratepayers should assume the costs of appliance repairs and replacements. Section 1941.1 of the California Civil Code requires landlords to provide space heating and hot water to renters. California law also requires landlords to be responsible for certain household repairs, to assure the unit is habitable and to repair problems that make the unit uninhabitable. It is the landlord’s responsibility to assure rental property is safe.” (pgs. 72-73)

The CPUC broadened the objectives of the LIEE program: On December 2007, the PUC issued D. 07-12-051, which updated and expanded its policy direction for LIEE programs to include measures that may not be cost effective but that may also promote the quality of life of participating customers.

IOU 2009-2011 LIEE program portfolios: The PUC provided guidance to the IOUs in their development of a comprehensive long-term statewide strategic plan as directed in Decision 07-10-032. The PUC directed the IOUs to propose programs and budgets for their 2009-2011 LIEE applications that would help them move toward this programmatic initiative and the Plan.

This appears to be the crux of some opposition. The East Los Angeles Community Union (TELACU) claims to be the largest Community Development Corporation in the United States and exists to serve, empower, advance and create self-sufficiency in low-income communities. In opposition, TELACU writes that the PUC’s Energy Division (ED) recently disseminated its “Energy Division Recommendations for a Multi-Family Pilot” which appear to direct the IOUs to prepare in their upcoming ESAP applications a multi-family pilot program. Further, TELACU claims the ED’s recommendations for the pilot are based on the multi-family proposal submitted 12-16-10 to PG&E and the ED by the California Housing Partnership Corporation (CHPC) entitled “Low Income Energy Efficient (LIEE) Comprehensive Retrofits for Multifamily Properties.”

In D.08-11-031 the PUC authorized a pilot program to provide 250 replacement high-efficiency furnaces, at a budget of \$2900 per unit for residential low income homeowners. (pg. 150) In this same ruling, the PUC reaffirmed its the position in Decision 07-12-051 stating that “no furnace

repair and replacement or water heater repair or replacement work shall occur in violation of our holding in D.07-12-051 that heating and water heating in rental housing are the responsibility of the landlord.” (pg. 39)

It is TELACU’s opinion that sequestering ESAP funds for the use of assisted housing owners/developers does little to assist low-income families and very little to assist the families already living in assisted family housing. It fears that the unintended consequences of AB 1124 will be to take away benefits currently restricted for low-income families’ energy savings and give those benefits to developers who should be paying for their own capitol repairs through other means. As owner/developers, TELACU states it assumes this responsibility for each and every one of its buildings.

The author and this committee might seek a clarifying amendment limiting total expenditures on furnace and water heating replacement to no more than \$2,700 per unit served; require the landlord to pass through bill savings to the tenants; restrict expenditures to the value of the equipment and installation cost only (i.e., does not cover the cost of hiring a consultant to perform an energy audit); and publish data on the installed cost of these products similar to what is made available through the CSI program in order to provide monitoring on progress toward goals.

REGISTERED SUPPORT / OPPOSITION:

Support:

A Community of Friends (ACOF)  
Abode Communities  
Affordable Housing Associates (AHA)  
Asian Neighborhood Design  
BRIDGE Housing Corporation  
Burbank Housing Development Corporation  
California Advocacy Committee of the United States Green Building Council (USGBC CAC)  
California Association of Housing Authorities  
California Catholic Conference, Inc.  
California Coalition for Rural Housing  
California Housing Consortium  
California Housing Partnership Corporation (CHPC) (Sponsor)  
California Rural Legal Assistance Foundation  
Century Housing  
Charities Housing  
Coalition for Economic Survival  
Consolidated Area Housing Authority  
County of Los Angeles  
Division of Ratepayer Advocates (DRA) (if amended)  
EAH Housing  
East Bay Asian Local Development Corporation  
East Bay Housing Organizations (EBHO)  
East Los Angeles Community Corporation  
Ecumenical Association for Housing (EAH)  
Eden Housing, Inc.  
Emerald Cities Collaborative  
Emerald Cities Oakland

Enterprise Community Partners  
Global Green USA  
Housing Leadership Council of San Mateo  
Kennedy Commission  
LINC Housing  
Little Tokyo Service Center  
Los Angeles County Board of Supervisors  
Low Income Investment Fund  
Mammoth Lakes Housing  
Mercy Housing  
MidPen Housing  
Napa Valley Community Housing  
National Housing Law Project  
National Housing Trust  
Non-Profit Housing Association of Northern California (NPH)  
PolicyLink  
Sacramento Housing Alliance  
Sacramento Mutual Housing Association (SMHA)  
San Diego Housing Federation  
San Francisco Mayor's Office of Housing  
San Francisco Planning and Urban Research Association (SPUR)  
Self-Help Enterprises  
Southern California Association of Non-Profit Housing (SCANPH)  
Tenderloin Neighborhood Development Corporation  
Venice Community Housing Corporation  
Ward Economic Development Corporation (WEDC)  
Western Center on Law and Poverty  
Yolo Mutual Housing

Opposition:

Allen Temple Housing & Economic Development Co.  
American Insulation, Inc.  
Association of California Community and Energy Services (ACCES)  
CarrollCo  
Greenlining Institute  
Empire Insulation, Inc.  
Energy Efficiency, Inc.  
Pacific Energy Policy Center  
Pacific Gas and Electric (PG&E)  
Pacific Power (unless amended)  
San Diego Gas & Electric (SDG&E)  
Southern California Gas Company (SCG)  
Synergy Companies  
The East Los Angeles Community Union (TELACU)

