

Date of Hearing: June 22, 2022

ASSEMBLY COMMITTEE ON UTILITIES AND ENERGY

Eduardo Garcia, Chair

SB 1393 (Archuleta) – As Amended June 9, 2022

SENATE VOTE: 21-3

SUBJECT: Energy: appliances: local requirements

SUMMARY: Expands the types of electrification guidance the California Energy Commission (CEC) must provide to local governments, and establishes a process for local governments to request CEC technical assistance when considering this guidance for ordinances that require the replacement of fossil fuel appliances with electric appliances as part of building retrofits.

Specifically, **this bill:**

- 1) Expands the types of electrification guidance the CEC must provide to include the ways in which local governments may:
 - a) Assess the number of skilled installers of all electric appliances that operate within the local government’s jurisdiction.
 - b) Ensure that permitting and inspection adequately accommodates the need for 24-hour emergency replacement of new all electric space or water heating appliances.
 - c) Establish incentives to assist low- to moderate-income property owners in offsetting the cost and installation of an equivalent all electric space or water heating appliance.
 - d) Provide exemptions for certain facilities—such as hospitals, acute care facilities, or other commercial facilities—particularly where any interruption in facility operations caused by an electrical outage could jeopardize public health and safety.
- 2) Requires a local government agency to consider the CEC’s guidance regarding electrification best practices when considering an ordinance that requires a fossil fuel appliance to be replaced with an electric appliance as part of building retrofits. Does not require an ordinance to be updated when the CEC guidance is updated.
- 3) When requested by a local government, establishes a process for the CEC to review and determine the extent to which the local government has considered its guidance and best practices when adopting an electrification ordinance. This bill sets the following deadlines for this review process:
 - a) A local government must submit the ordinance, a staff report, any cost-effectiveness studies, and other supplemental documents to the CEC within 60 days of adopting an electrification ordinance.
 - b) The CEC must publish the information submitted by the local government on its website after receiving the documents

- c) Within 30 days of submission, the CEC must provide written comments on the ordinance based on the updated electrification guidance.
 - d) Upon receiving the CEC's comments, the local government has 180 days to consider written comments on the ordinance, make any modifications to the ordinance, and re-submit documentation to the CEC.
- 4) Delays the statute's application to local governments until July 1, 2023, or the date following the adoption of the CEC's initial guidance. Requires the CEC to post on its website the date of the adoption of the initial guidance.
 - 5) Specifies this bill does not prevent a local ordinance that requires a fossil fuel appliance to be replaced with an electric appliance as part of building retrofits from taking effect or from being enforced.
 - 6) Specifies that the CEC shall only implement this bill if it receives a legislative appropriation.

EXISTING LAW:

- 1) Establishes the CEC's authority to create regulations for building efficiency standards. Existing law requires the CEC to create cost-effective regulations for lighting, insulation, climate control systems, and other building design and construction standards that increase energy and water efficiency for new residential and new nonresidential buildings. Local governments may not issue permits for construction and installation projects that fail to comply with the CEC's certified efficiency standards. (Public Resources Code § 25402(a-b))
- 2) Establishes the CEC's authority to create regulations for appliance efficiency standards. Existing law requires the CEC to set minimum levels of operating efficiency and allows the CEC to set other cost-effective measures, including incentive programs, fleet averaging, energy and water consumption labeling not preempted by federal labeling law, and consumer education programs, to promote the use of energy and water-efficient appliances. (Public Resources Code § 25402(c))
- 3) Requires the CEC to take certain steps to support the enforcement of its energy efficiency standards, including providing specified technical assistance to local governments. (Public Resources Code § 25402.1)
- 4) Requires the CEC to provide guidance and best practices to help building owners, the construction industry, and local governments overcome barriers to electrification of buildings and installation of electric vehicle charging equipment. (Public Resources Code § 25233.5)

FISCAL EFFECT: According to the Senate Appropriations Committee, this bill will result in ongoing cost pressure of about \$1 million annually (General Fund or special fund) for the CEC to implement.

BACKGROUND:

CEC's appliance and building code authority – Existing law requires the CEC to adopt regulations to improve the energy efficiency of buildings and appliances. The CEC's Building Energy Efficiency Standards are included in Title 24 of the California Code of Regulations and the CEC's appliance standards are included in Title 20 of the California Code of Regulations. Under existing law, the CEC's building code authority applies only to new construction, and it does not extend to retrofits of existing buildings. The CEC's appliance standards apply to certain appliances sold within the state.

Existing law requires the CEC to provide local governments with technical assistance to support the enforcement of the Building Energy Efficiency Standards. The CEC's regulations allow local governments to adopt requirements for building codes that exceed the CEC's Building Energy Efficiency Standards, these are generally known as "reach codes." Under existing law, local jurisdictions must submit their reach codes to the CEC for approval before the local government may enforce those reach codes. Over 50 local municipalities in California have taken steps to decarbonize buildings by enacting reach codes, which go beyond state minimum requirements and routinely place natural gas moratoriums in new construction or require new buildings be all-electric.¹

COMMENTS:

- 1) *Author's Statement.* According to the author, "While California has primarily focused on decarbonizing new construction, existing residential and commercial buildings produce the vast majority of GHGs from California's building stock. The CEC recently identified several barriers to decarbonizing the existing building stock and found that the most significant barrier is cost. According to the CEC, an electric panel upgrade may cost between \$2,500 - \$4,000, which would be borne by the home or property owner. These costs disproportionately impact low-income and disadvantaged communities, which may face additional unique barriers because of systemic inequality, a history of lower access to capital and financing, greater energy burden, and lower rates of home or business ownership. In anticipation of local requirements seeking to decarbonize the existing building stock, it is important that local governments consider critical factors when doing so. It is important for the CEC to have some level of oversight when cities begin adopting ordinances on the existing building stock."
- 2) *Potential for Better Planning.* This bill establishes a process for local governments to demonstrate that they have considered state guidance when adopting certain electrification retrofit requirements, and provides an opportunity for local governments to request CEC technical assistance when developing building decarbonization ordinances. The process includes the local government submitting to the CEC all relevant materials

¹ See Statewide Reach Codes Program website; <https://localenergycodes.com/>; accessed 06.18.2022.

60 days after adopting an ordinance; the CEC publishing those materials online; the CEC providing public comments on the ordinance's consideration of CEC guidance within 30 days of the submission; and upon receipt of CEC comments, the local government having 180 days to consider, make modifications to its ordinance as necessary, and resubmit the ordinance to the CEC.

While a number of local jurisdictions have adopted rules prohibiting or limiting the use of natural gas appliances in new buildings, to the committee's knowledge no local governments have adopted similar appliance replacement mandates for existing buildings. But given time, local governments may eventually seek to phase out natural gas appliances in existing buildings for both climate and equity reasons.² More comprehensive planning, as envisioned by this bill, for building electrification could provide a number of benefits, including better targeting of electrification incentives, helping mitigate consumer costs for upgrades, identifying appliances that have few electric alternatives, and better planning for electric and natural gas reliability.

However, opponents to this bill note the outlined CEC process puts additional burdens on both the CEC to review and the local government to reconsider ordinances. They are concerned that the review period is drawn out and may discourage local governments from adopting reach codes. This bill does presume local governments will always have updates to their ordinance or supporting materials, by requiring a resubmission to the CEC regardless of necessity. The author may wish to consider a clarifying amendment that requires the review and resubmission of an ordinance by a local government only in the event the CEC initially determines part of their guidance was not followed.

- 3) *Equity in Building Decarbonization.* Costs for complying with building decarbonization mandates depend on a variety of factors, including the depth of the retrofits required, the condition of building, and the availability of incentives to cover appliance and electric upgrades. While consumers that do not electrify may face increasing natural gas rates due to cost shifts, homeowners and businesses that do electrify may face substantial panel and wiring costs to replace gas appliances with electric appliances. Certain appliances, particularly in the commercial space, may not have viable electric alternatives. This bill requires the CEC to expand the types of electrification guidance it provides to include guidance on how local governments can better help address barriers to electrification, including incentive options for consumers who may have difficulty with up-front costs for electrification retrofits.

A variety of electrification incentives exist for commercial and residential building owners through utilities, the California Public Utilities Commission, and the CEC.

² Such as limiting cost shifts resulting from remaining natural gas ratepayers paying higher and higher costs to support the maintenance of the natural gas system as more buildings electrify.

However, not all consumers qualify and not all appliances or associated electrical upgrades are covered by these incentives. The Governor's proposed 2022-2023 State Budget includes approximately \$962 million in funding for programs to help consumers decarbonize existing buildings. This proposed funding includes approximately \$622 million aimed at helping lower income Californians retrofit existing buildings to replace fossil fuel appliances with electric appliances.

4) *Prior Legislation.*

SB 68 (Becker) authorized the use of Electric Program Investment Charge funds for the development of technologies that reduce building electrification costs and required the CEC to publish guidance and best practices to help building owners, the construction industry, and local governments overcome barriers to electrification of buildings and installation of electric vehicle charging equipment. Status: Chapter 720, Statutes of 2021.

SB 49 (Skinner) expanded the CEC's authority to create appliance efficiency standards in order to adopt standards that promote the deployment of appliances with flexible demand capabilities. Status: Chapter 697, Statutes of 2019.

SB 1477 (Stern) required the CPUC to establish incentives for advancing low-emission space and water heating technologies and zero emission building technologies through the Technology and Equipment for Clean Heating (TECH) program and the Building for Low-Emissions Development (BUILD) program. Status: Chapter 378, Statutes of 2018.

AB 3232 (Friedman) required the CEC to assess by January 1, 2021, the potential to reduce greenhouse gas emissions from existing buildings by at least 40% below 1990 levels by January 1, 2030. The bill also requires the CEC to regularly report on emissions associated with buildings' energy consumption. Status: Chapter 373, Statutes of 2018

5) *Double Referral.* This bill is double-referred; upon passage in this Committee, this bill will be referred to the Assembly Committee on Local Government.

REGISTERED SUPPORT / OPPOSITION:

Support

A. O. Smith Corporation
Air-conditioning Heating and Refrigeration Institute
California Association of Realtors
California Building Industry Association
California Business Properties Association
California State Pipe Trades Council

Coalition of California Utility Employees
Omegaflex

Oppose

City of Los Angeles
City of San Marcos

Oppose Unless Amended

Earthjustice
RMI
Sierra Club

Removal of Opposition/Neutral

California State Association of Counties (CSAC)
Edison International and Affiliates, Including Southern California Edison
League of California Cities
Silicon Valley Clean Energy

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