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**SENATE COMMITTEE ON ENERGY, UTILITIES AND  
COMMUNICATIONS**  
**Senator Ben Hueso, Chair**  
**2021 - 2022 Regular**

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**Bill No:** SB 1026 **Hearing Date:** 4/26/2022  
**Author:** Wieckowski  
**Version:** 4/7/2022 Amended  
**Urgency:** No **Fiscal:** Yes  
**Consultant:** Sarah Smith

**SUBJECT:** Residential energy efficiency disclosure statement

**DIGEST:** This bill establishes a framework for notifying prospective renters about factors influencing a rental unit's energy consumption and monthly energy costs.

**ANALYSIS:**

Existing law:

- 1) Prohibits electric and natural gas utilities from disclosing a customer's energy consumption data unless the customer has consented to the disclosure. (Public Utilities Code §§8380 and 8381)
- 2) Requires the California Energy Commission (CEC) to establish building design and construction standards that increase the efficiency in the use of energy and water for new residential and new nonresidential buildings. The CEC must periodically update the standards. Six months after the CEC certifies an energy conservation manual, cities, counties, and state agencies are prohibited from issuing a building permit for a building that does not comply with the current standards created by the CEC. The CEC must demonstrate that any water efficiency standards are necessary to save energy. (Public Resources Code §25402(a)(1))
- 3) Requires the CEC's building efficiency standards to be cost-effective when taken in their entirety and amortized over the economic life of the structure compared with historic practice. When determining cost-effectiveness, the CEC must consider the value of the water or energy saved, impact on product efficacy for the consumer, and the life-cycle cost of complying with the standard. The CEC must consider other relevant factors, including, but not limited to the standards' cost on house costs, the total statewide costs and benefits of the standard over its lifetime, economic impacts on California

businesses, and alternative approaches and their associated costs. (Public Resources Code §25402(b)(3))

- 4) Requires the CEC to establish appliance efficiency standards based on a reasonable use pattern. The CEC may prescribe 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 whose use requires a significant amount of energy or water use on a statewide basis. An appliance manufactured on or after the effective date of these standards may not be offered for sale in California unless it complies with the standards. Appliance efficiency standards may not become effective sooner than one year after the CEC adopts or revises the standards. (Public Resources Code §25402(c)(1))
- 5) Requires the CEC to adopt standards for appliances to facilitate the deployment of flexible demand technologies. These regulations may include labeling provisions to promote the use of appliances with flexible demand capabilities. The flexible demand appliance standards must be based on the ability of the appliance's functions to be scheduled, shifted, or curtailed to reduce greenhouse gas (GHG) emissions associated with electricity generation. The standards shall become effective no sooner than one year after the date of their adoption or updating. (Public Resources Code §25402(f))
- 6) Requires the CEC to publish by January 1, 2017, a study on low-income Californians' barriers to energy efficiency and weatherization investments and make recommendations on how to address these barriers. (Public Resources Code §25327)
- 7) Requires the CEC to assess and report by January 1, 2021, on California's potential to reduce GHG emissions in the state's residential and commercial building stock by at least 40 percent below 1990 levels by January 1, 2030. Existing law requires this report to include specified assessments, including an assessment of potential ratepayer impacts and challenges associated with reducing GHG emissions from certain housing sectors. (Public Resources Code §25403)

This bill:

- 1) Establishes a tenant's right to a rental unit's average monthly energy consumption and costs for the prior 12-month period.

- 2) Requires energy suppliers to provide a prospective renter with a residential unit's average monthly energy consumption and costs for the prior 12-month period.
- 3) Prohibits an energy supplier from disclosing personally identifying information about the former occupants of the unit.
- 4) Requires owners of residential unit to provide a prospective tenant with a specified residential energy efficiency disclosure statement that includes information about the energy efficiency of the unit and a statement about the tenant's right to obtain energy consumption data from the unit's energy suppliers.
- 5) Exempts rentals lasting less than 30 days and rent agreements where the tenant pays a fixed amount for energy consumption from this bill's energy efficiency disclosure statement requirements.
- 6) Requires the CEC to create the form for the energy efficiency disclosure statement and recommend certain energy efficiency standards for landlords. The CEC must post this form and the recommended standards on the internet in a publicly accessible format.

## Background

*Bill underscores split incentive challenges facing renters.* In addition to setting a goal of doubling energy efficiency from electric and natural gas end uses, SB 350 (De León, Chapter 547, Statutes of 2015) required the CEC to conduct a study of low-income communities' barriers to energy efficiency investments. The SB 350 barriers report identified split incentives as a significant barrier to incentivizing energy efficiency and distributed energy resource (DER) upgrades in rental units. Split incentives occur when the property owner doesn't experience ratepayer benefits from financing upgrades to a property, and the renter can't authorize upgrades or obtain the financial incentives from upgrade programs. In a subsequent staff report, the *Clean Energy in Low-Income Multifamily Buildings Action Plan*, the CEC notes that multifamily building upgrades can require large upfront financing for building-wide upgrades, and multifamily properties can have more complex ownership systems that pose challenges to linking investments to rates from customers' meters. According to the report, 33 percent of California households meet federal low-income criteria, and 47 percent of low-income Californians live in multifamily housing.

*Bill attempts to mirror disclosures established in Maine.* In Maine, The Efficiency Maine Trust is a quasi-public state agency overseen by the Maine Public Utilities Commission, and the Trust is responsible for providing consumer discounts, rebates, loans and investments for high-efficiency, clean energy equipment. Maine state law provides prospective tenants with a right to energy consumption and cost data similar to the right contained in this bill. Maine also tasks The Efficiency Maine Trust with establishing the energy efficiency disclosures and suggested efficiency standards included in the disclosures. The disclosure provided to tenants in Maine consists of a single double-sided sheet containing one page of definitions and one page of checklist items regarding certain building features that may shape energy costs such as the degree of insulation provided and the use of double-paned windows. This bill's language and requirements are substantially similar to the Maine statutes establishing the disclosure form.

*Bill's energy data disclosure requirements may conflict with existing utility privacy requirements.* This bill establishes a tenant's right to a rental unit's average monthly energy consumption and costs for the prior 12-month period. This bill also requires a utility to provide this data for disclosure to prospective tenants. However, this disclosure requirement conflicts with existing law that prohibits utilities from disclosing customer data, including energy consumption and billing information, without obtaining the customer's consent. While this bill prohibits utilities from disclosing personally identifiable information about a former tenant, disclosure of energy consumption data can provide information that would enable others to infer personal information about the tenant. For example, consumption data can indicate a prior tenant's home departure and arrival times, ownership of certain appliances or electric vehicles, or potential professional activities conducted at home. Cost data can be used to potentially infer a customer's income status or potential medical conditions to the extent that the customer enrolls in rate assistance programs or medical baseline programs.

*Alignment with utility efficiency and decarbonization incentives.* This bill requires the CEC to develop an energy efficiency disclosure form and recommend certain energy efficiency standards for landlords and building owners. Existing law establishes the CEC's authority to create and regularly revise the Building Energy Efficiency Standards. These standards establish energy efficiency requirements for new buildings. A significant gap can exist between the current building code to which newly built buildings must comply and the code at the time an older rental was constructed. To bring a much older building up to the existing code, an owner generally requires substantial financing to conduct deep retrofits. However, most utilities offer assistance and incentives to help building owners identify opportunities to make smaller upgrades and offset costs for those upgrades. Utilities offer a variety of different incentives for upgrades. For example, they

may offer rebates on smart thermostats, certain higher efficiency natural gas and electric appliances, and electric water heaters and heat pumps eligible under the Building Initiative for Low-Emissions Development (BUILD) and Technology and Equipment for Clean Heating (TECH) programs. This bill does not specify the standards the CEC must consider when making recommendations to landlords and buildings owners; however, to the extent that this bill encourages building owners to utilize these incentive programs to make upgrades, this bill could encourage greater adoption of energy efficiency measures in existing rental buildings.

*Need for amendments.* As currently drafted, the provisions of this bill requiring the disclosure of a prior tenant's average monthly energy consumption and energy costs conflict with existing law prohibiting utilities from disclosing customers' energy consumption data without consent. While this bill establishes energy efficiency and usage disclosure requirements that pertain solely to residential rentals, the tenant's right to consumption and cost data under this bill is not restricted to residential tenants. This bill also requires the CEC to recommend certain energy efficiency standards to building owners as part of developing a form to help identify a rental unit's energy efficiency measures without clarifying the extent to which those measures are eligible for incentives to offset installation costs. *For these reasons, the author and committee may wish to amend this bill to do the following:*

- *Delete those provisions that would require an energy supplier to provide prior energy consumption and cost data.*
- *Limit the right to obtain a unit's energy efficiency information to residential tenants.*
- *Require the CEC to consider the availability of incentives and other funding resources for energy efficiency upgrades when recommending standards to building owners.*

### **Prior/Related Legislation**

SB 1112 (Becker, 2022) establishes notification requirements that utilities must provide when adding a decarbonization charge as part of a program financing energy efficiency upgrades to an existing property. The bill is currently pending in the Senate Energy, Utilities and Communications Committee.

SB 1063 (Skinner, 2022) allows the CEC to implement certain appliance efficiency standards sooner if the CEC first makes a specified good cause finding. The bill is currently pending in the Senate Energy, Utilities and Communications Committee.

SB 49 (Skinner, Chapter 697, Statutes of 2019) expanded the CEC's appliance efficiency authority by requiring the CEC develop standards for appliances to

facilitate the deployment of flexible demand technologies. The standards must be based on the ability of an appliance's operations to be scheduled, shifted, or curtailed to reduce GHG emissions associated with electricity generation.

SB 350 (De León, Chapter 547, Statutes of 2015) increased California's Renewable Portfolio Standard procurement goals and required the CEC to develop targets to double energy efficiency savings from electric and natural gas end uses. The bill also required the CEC to study low-income communities' barriers to energy efficiency investments.

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

**SUPPORT:**

American Council for an Energy-Efficient Economy  
California Efficiency + Demand Management Council  
Sierra Club California

**OPPOSITION:**

California Apartment Association  
California Association of Realtors, unless amended  
California Strategic Advisors  
San Diego Gas & Electric, unless amended  
Southern California Edison, unless amended  
Southern California Gas Company, unless amended

**ARGUMENTS IN SUPPORT:** According to the author:

When consumers are seeking out new rental housing, they do so knowing what their general budget is. Unfortunately, there's one cost that they can't fully account for: Energy use. Under current law, consumers generally do not know much about the efficiency of the rental unit they commit to. The appliances can be old and outdated; the building could lack insulation; the windows single-pane. Renters may quickly discover that their energy bills exceed their budgets, through no fault of their own. Because they pay the power bills, there's no incentive for the landlord to make energy- and money-saving efficiency upgrades, while the tenant has no incentive to upgrade windows or replace an old refrigerator they can't take with them when they move again. This is known as the "split incentive" problem.

I'm carrying SB 1026 to empower consumers with a baseline of information on what the energy efficiency is of a potential rental unit. The bill would require a basic disclosure by the landlord at the time of signing a lease, similar to a requirement for all rental leases in the state of Maine. It would further create a rating system by which consumers could know if the unit meets, exceeds, or fails basic tenets of modern energy efficiency. I believe this will help renters make better decisions on where to live and successfully pay their rent and bills, and encourage landlords to seek out our numerous energy efficiency upgrade grants and programs when changing tenants, as well as rewarding those who do.

**ARGUMENTS IN OPPOSITION:** Opponents argue that a disclosure regarding a prior tenant's energy consumption and costs would be a burden on smaller landlords, would not be useful to other prospective tenants, and could pose privacy concerns. Opponents also note that this bill may require utilities to provide information that could violate existing prohibitions against disclosing customer data without consent. In opposition, Sempra Energy states:

SB 1026 does not afford the previous tenant consent to share, any opt-in option, or disclosure about handing over their usage data to any person. Article One of the Constitution guarantees all people the right to privacy, and current law prohibits utilities from sharing customer data without their consent and verification. Prospective renters, whether or not they decide to sign a rental agreement, would have possession of the prior tenant's energy usage, both costs and amount – private information that could reveal personal habits and activities. The prior tenant would be in the dark about their usage data being in the hands of a stranger.

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