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

Bill No: SB 1393 **Hearing Date:** 3/28/2022
Author: Archuleta
Version: 2/18/2022 Introduced
Urgency: No **Fiscal:** Yes
Consultant: Sarah Smith

SUBJECT: Energy: appliances: local requirements

DIGEST: This bill requires local governments to obtain approval from the California Energy Commission (CEC) for local requirements that mandate the replacement of fossil fuel appliances with electric appliances in existing buildings.

ANALYSIS:

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 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. (Public Resources Code §25402(f))

- 4) 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)

This bill:

- 1) Requires a local government agency to apply and receive approval from the CEC before the local government may require a fossil fuel appliance to be replaced with an electric appliance as part of building retrofits.
- 2) Exempts a local government agency's retrofit electrification requirement from the requirement to obtain CEC approval if the local government's requirement exempts the following situations from the appliance electrification requirement:
 - a) Where compliance would be technically infeasible.
 - b) Where compliance would not be cost effective.
 - c) Where compliance would disproportionately impact low and median income consumers.
 - d) Where compliance would adversely impact a skilled and trained workforce.
 - e) Where compliance would increase costs for ratepayers of a local publicly owned electric utility or electrical corporation.
- 3) Specifies information that local governments must submit to the CEC when applying for approval for an electrification retrofit requirement. This information must include a text of the requirement, a list of adjacent jurisdiction that have adopted or proposed similar requirements, specified findings about the requirement's impact on consumers, potential energy consumption from the retrofits, cost-effectiveness, identification of any exemptions included in the requirement, and reports required under the California Environmental Quality Act.
- 4) Requires the CEC to consider various factors when reviewing a local government's application for approval for an electrification retrofit requirement, including, but not limited to, costs to consumers, costs to ratepayers, and labor impacts.
- 5) Prohibits the CEC from approving a local government's retrofit requirement if the CEC finds that the requirement, or a portion of the requirement, is not technically feasible, is not cost effective, disproportionately impacts low and median income consumers, adversely impacts a skilled and trained workforce, or increases costs for ratepayers of a local publicly owned electric utility or electrical corporation.

- 6) Requires the CEC to ensure that a local government's retrofit requirement is consistent with state and federal law before approving the requirement.

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. 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. Local requirements that exceed the CEC's requirements 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. 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. This bill would establish a review and approval process at the CEC for local requirements that mandate the replacement of fossil fuel appliances with electric appliances in existing buildings. Since this bill provides the CEC with approval authority over requirements for appliances installed in existing buildings, this bill may be interpreted as expanding the CEC's authority over retrofits of existing buildings and appliances that have already been sold in California.

Pre-emptive strike or an opportunity for better planning? This bill establishes a state-level approval process for local government electrification retrofit requirements. While a number of local jurisdictions have adopted rules prohibiting or limiting the use of natural gas appliances in new buildings, no local governments have adopted similar appliance replacement mandates for existing buildings at this time. However, in the future, local governments may seek to phase out natural gas appliances in existing buildings for a variety of reasons, including limiting cost shifts resulting from remaining natural gas ratepayers incurring higher costs to support the maintenance of the natural gas system as more buildings electrify.

More comprehensive planning 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. Both electric

and natural gas utilities could face challenges as building electrification accelerates. While natural gas utilities could face challenges maintaining the existing natural gas infrastructure without substantial costs shifts for remaining ratepayers, electric utilities may face challenges planning for additional load and distribution upgrades.

Addressing equity concerns in building decarbonization. This bill requires the CEC to consider a variety of factors related to equity concerns when determining whether to approve a local government's electrification retrofit requirement. These concerns include the impact of accelerated electrification on workers, consumers, and ratepayers. This bill also exempts local electrification requirements from the CEC's approval process if the local requirements include specified exemptions that address these equity concerns. These exemptions could exacerbate the extent to which piecemeal electrification may increase cost-shifts in the natural gas sector; however, they also reflect broader concerns about the need for more resources to address costs associated with the transition from fossil fuels to electric and renewable resources.

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 may face substantial panel and wiring costs to replace gas appliances with electric appliances. Certain appliances, particularly in the commercial space, may not have a large selection of electric alternatives.

A variety of electrification incentives exist for commercial and residential building owners exist through utilities, the California Public Utilities Commission (CPUC), and the CEC. However, not all consumers qualify for these incentives and not all appliances and associated electrical upgrades are covered by these incentives. According to the Senate Budget Subcommittee for Resources Environmental Protection and Energy, 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.

Need for amendments. As currently drafted, this bill could be interpreted to expand the CEC's authority over building retrofit requirements. *To clarify the extent of this authority, the author and committee may wish to amend this bill to specify that the approval authority granted to the CEC under this bill is only for the purpose of reviewing local appliance replacement requirements.*

Double referred. This bill has been double-referred to the Senate Committee on Governance and Finance.

Prior/Related Legislation

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

SB 1477 (Stern, Chapter 378, Statutes of 2018) 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.

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

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

SUPPORT:

A. O. Smith Corporation
California Pool & Spa Association
Coalition of California Utility Employees

OPPOSITION:

BlocPower
Building Electrification Institute
Earthjustice
Natural Resources Defense Council
RMI
Sierra Club California

ARGUMENTS IN SUPPORT: According to the author's office:

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. In a scenario in which every house built before 1990 requires an electric panel upgrade, it would cost approximately \$25 - \$40 billion dollars.

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 the state establish certain standards—and in some cases play a role—to ensure that California can achieve its building decarbonization goals both equitably and pragmatically. This bill furthers those goals by ensuring that local governments consider critical factors such as cost, technological feasibility, and ratepayer impacts before requiring homeowners and business owners to replace their fossil fuel fired appliances with electric appliances upon the alteration or retrofit of a residential or nonresidential building.

ARGUMENTS IN OPPOSITION: Opponents argue that this bill will discourage local governments from adopting ordinances aimed at electrifying communities in a manner that limits cost-shifts. These opponents state:

Local ordinances are some of the most cost effective ways to transition our homes and buildings off fossil fuels because they target a specific geographic area, allowing for a managed phase down of the local gas infrastructure. A geographically-targeted phase-down allows the state to reduce the overall cost of the infrastructure as the volume of gas sold declines, avoiding an upward spiral in retail gas prices and impacts on low-income customers who may be left behind in a free-for-all transition where wealthier customers would be able to afford getting off fossil gas in their homes leaving low-income customers stranded on an unaffordable gas system.

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