

Date of Hearing: June 29, 2022

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

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

**SENATE VOTE:** 21-3

**SUBJECT:** Energy: appliances: local requirements.

**SUMMARY:** Expands the guidance and best practices regarding the electrification of buildings and installation of electrical vehicle (EV) charging equipment that the California Energy Commission (CEC) must provide to local governments, and establishes a process for local governments to demonstrate that they have considered the guidance and best practices when adopting ordinances that require the replacement of fossil fuel appliances with electric appliances as part of building alterations or retrofits. Specifically, **this bill:**

- 1) Specifies that the guidance and best practices that the CEC must publish on its website to help building owners, the construction industry, and local governments overcome barriers to electrification of buildings and installation of EV charging equipment must: be published by July 1, 2023; be updated annually; and, include all (rather than any) of the topics specified in existing law and this bill.
- 2) Adds the following to the list of topics that must be included in the CEC's guidance and best practices:
  - a) Ways in which local governments may assess the number of skilled installers of all electric appliances that operate within the local government's jurisdiction.
  - b) Ways in which local governments may ensure that permitting and inspection of structures in the local jurisdiction adequately accommodate the need for 24-hour emergency replacement of new all electric space or water heating appliances.
  - c) Ways in which local governments can establish incentives to assist low-to-moderate-income property owners, as defined, in offsetting the first cost and installation of an equivalent all electric space or water heating appliance.
  - d) Ways in which local governments can consider and implement limited 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.
  - e) Other topics deemed appropriate by the CEC.
- 3) Requires a local government, when adopting an ordinance to require that a fossil-fuel-powered appliance be replaced with an electric appliance upon the alteration or retrofit of a residential or nonresidential building (appliance retrofit ordinance), to consider any guidance published by the CEC pursuant to existing law and this bill.
- 4) Specifies that a local government shall not be required to update its appliance retrofit ordinance when the CEC updates its guidance.

- 5) Requires, upon request of a local government considering the adoption of an appliance retrofit ordinance, the CEC to provide technical assistance to the local government.
- 6) Requires, within 60 days of adopting an appliance retrofit ordinance, the local government to submit to the CEC a copy of the ordinance, a copy of the final staff report, supplemental documents, a copy of any cost-effectiveness study relied upon, and any other materials the local government deems relevant.
- 7) Requires the CEC to publish on its internet website appliance retrofit ordinances and supporting documents submitted by local governments.
- 8) Requires, within 30 days of receipt of the local government's appliance retrofit ordinance, the CEC to provide written comments on the ordinance based upon the CEC's guidance that is published at the time of the adoption of the ordinance. The CEC shall make its written findings publicly available.
- 9) Requires, local governments to consider the CECs written comments on an appliance retrofit ordinance within 180 days of receipt, to make any modification to an appliance retrofit ordinance that the local government deems necessary, and resubmit the ordinance and other materials.
- 10) Provides that the requirements of the bill, shall not apply to local governments prior to July 1, 2023, or on the date following the adoption of the CEC's initial guidance, whichever is later. Requires the CEC to post on its website the date of the adoption of the initial guidance.
- 11) Provides that this bill does not prevent an appliance retrofit ordinance from taking effect or from being enforced.
- 12) Requires the CEC to implement this bill upon appropriation by the Legislature in the annual Budget Act or another statute for its purposes.
- 13) Finds and declares that this bill addresses a matter of statewide concern rather than a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this bill applies to all cities, including charter cities.

**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.
- 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.

- 3) Authorizes the California Building Standards Commission (BSC) to approve and adopt building standards. Every three years, BSC, in coordination with relevant state agencies (including the CEC), undertakes rulemaking to revise and update the California Building Standards Code (Title 24 of the California Code of Regulations). These building codes serve as the basis for the design and construction of buildings in California.
- 4) Allows a governing body of a city or county to make modifications to the BSC if it makes express findings that such a modification or change is necessary because of local climatic, geological, or topographical conditions.

**FISCAL EFFECT:** According to the Senate Appropriations Committee, ongoing cost pressure of about \$1 million annually (General Fund or special fund) for the CEC to support seven staff positions in order to publish and update specified information, make required determinations, and otherwise implement the provisions of this bill.

**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 California Energy Commission to have some level of oversight when cities begin adopting ordinances on the existing building stock.”

- 2) **Building Codes.** The California Building Standards Code contains building standards and regulations as adopted by the BSC. These standards include, among other requirements, structural standards for building safety (the Building Code), fire safety standards (the Fire Code), energy efficiency standards (the Energy Code), and standards for green buildings (CalGreen).

The BSC updates the Building Standards Code on a three-year cycle—the BSC will publish new standards on or before July 1, 2022, that will go into effect on January 1, 2023. Once adopted at the state level, cities and counties in California then enact an ordinance to adopt the codes. New construction and improvements to existing buildings must comply with the current building codes, and improvements to an existing building may trigger additional code upgrades for other parts of the building.

- 3) **California’s Building Energy Efficiency Standards.** The CEC adopts building energy efficiency standards that are cost effective for occupants over the 30-year lifespan of a building. The standards ensure that builders use the most energy efficient technologies and

construction, save energy, increase electricity supply reliability, increase indoor comfort, avoid the need to construct new power plants and help preserve the environment. These measures can be found in Title 24, Parts 6 and 11, of the California Code of Regulations. State law also tasks the CEC with developing and implementing a comprehensive program to achieve greater energy savings in California's existing residential and nonresidential building stock that fall significantly below the current standards in Title 24. The CEC also adopted a Building Action Plan that sets out a ten-year roadmap to use market forces to improve California's existing residential, commercial, and public building stock into high-performing and energy-efficient buildings.

- 4) **Local Green Building Codes.** Local ordinances that adopt the building codes may include amendments that are more stringent than the state codes—including green building standards—if the local governing body makes findings that the amendments are necessary because of local climatic, geological, or topographical conditions. CalGreen provides that local climatic, geological, or topographical conditions include environmental conditions established by the city, county, or city and county, meaning that local governments can adopt more stringent green building requirements than the state codes. The CEC must approve these “reach codes” as cost effective and at least as energy efficient as state standards before they go into effect. More than 30 cities and counties in California have adopted reach codes that exceed the statewide minimum 2019 Energy Code requirements.
- 5) **CEC Guidance on Electrification.** SB 68 (Becker), Chapter 720, Statutes of 2021, requires the CEC to develop and publish guidance on best practices to help reduce barriers for building owners to transition to electric equipment and appliances, and install EV charging equipment. It also authorizes funds from an existing grant program, funded by surcharges on energy ratepayer utility bills, for technological advancements that reduce the costs of electrifying building-related applications. SB 68 provides that the guidance can include any of the following:
  - a) Availability of electrical equipment for replacement of the common fossil-fuel-powered equipment within buildings.
  - b) Approaches to fit electrical replacements and vehicle-charging equipment within the existing electrical service capacity of the building whenever possible.
  - c) Technologies that allow the noncoincidental sharing of electrical circuits.
  - d) The development of whole building electrification plans to help building owners prepare for future additions of electrical equipment during an initial project.
  - e) Model permit applications, an eligibility checklist for expedited permitting, and a concise inspection list for the most common building electrification, energy storage, or vehicle charging installation projects that would be suitable for adoption by local governments seeking to streamline and standardize permitting and inspections.

To date, reach codes in California only apply to new construction. However, discussion at the local level is ongoing about decarbonizing existing buildings through electrification of water and space heating. For example, East Bay Community Energy (EBCE), a joint powers agency of the County of Alameda and 11 cities in that county that purchases power from green energy sources to provide to residents in the area, published a memo in September

2019 that recommended adoption of requirements that require replacement space heating systems to be heat pumps, which capture heat from outside (even on cold days) and move it indoors, rather than fossil-fuel fired systems. Shortly thereafter, EBCE also published model codes and staff reports for decarbonization requirements for existing buildings.

- 6) **Bill Summary.** This bill establishes new requirements related to efforts to decarbonize buildings and add energy storage or EV charging capacity to buildings. Specifically, this bill:
- a) Requires the CEC to publish guidance documents to help building owners decarbonize buildings, add energy storage and EV charging capacity by July 1, 2023, and to update the guidance annually. This bill also expands the items the CEC must include in its guidance to address how local governments may:
    - i) Determine the number of skilled installers of all electric appliances that operate within the local government's jurisdiction.
    - ii) Assess the need for 24-hour emergency replacement of new all electric space or water heating appliances.
    - iii) Establish incentives to assist low-to-moderate-income property owners in offsetting the costs associated with all electric space or water heating appliance.
    - iv) Implement limited exemptions for facilities where an interruption in facility operations caused by an electrical outage could jeopardize public health and safety.
    - v) Other topics deemed appropriate by the CEC
  - b) Requires the following with respect to local governments and the CEC as it relates to appliance retrofit ordinances:
    - i) Local governments adopting appliance retrofit ordinances are required to:
      - (1) Consider the CEC's guidance noted above.
      - (2) Submit the appliance retrofit ordinance and supporting documents to the CEC within 60 days of adopting the ordinance
      - (3) Consider any CEC comments on the appliance retrofit ordinance within 180 days of receipt.
    - ii) Require the CEC, in reviewing appliance retrofit ordinances, to:
      - (1) Provide technical assistance to local governments adopting appliance retrofit ordinance upon request.
      - (2) Publish appliance retrofit ordinances and any supporting documents submitted to the CEC by the local governments.
      - (3) Provide written comments on an appliance retrofit ordinance within 30 days of receipt and publish its comments on its website.

- c) Provides that the appliance retrofit ordinance provisions in the bill do not apply to local governments until July 1, 2023, or the date of adoption of the CEC guidance, whichever is later.
- d) Specifies that the bill does not prevent an appliance retrofit ordinance from taking effect or being enforced.
- e) Provides that the CEC shall implement the changes made by this bill upon appropriation by the Legislature.

This bill is author sponsored.

- 7) **Author's Amendments.** Due to compressed committee referral deadlines, the author was unable to adopt author's amendments prior to the Committee deadline. The Committee may wish to incorporate the following amendments proposed by the author. Specifically, the author would like to amend the bill in the following way:
  - a) Specify that local governments are only required to consider the CEC's comments on an appliance retrofit ordinance if the CEC determines that the local government did not consider the CECs guidance.
  - b) Specify that a local government's obligation to consider the CEC written comments within 180 days is specific to whether or not the commission determines that the local government considered the CEC's guidance prior to adopting the appliance retrofit ordinance.
  - c) Clarify that a local government has no further obligation under the bill if the CEC determines that the local government considered its guidance when adopting an appliance retrofit ordinance.
- 8) **Previous Legislation.** SB 68 (Becker), Chapter 720, Statutes of 2021 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 EV charging equipment.

SB 49 (Skinner), Chapter 697, Statutes of 2019, 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.

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 required the CEC to regularly report on emissions associated with buildings' energy consumption.
- 9) **Arguments in Support.** A.O. Smith writes in support, "SB 1393 retains significant discretion with local governments in adopting ordinances requiring residential and commercial buildings to switch from gas to electric appliances, but in doing so, also ensures that such ordinances address these well-documented challenges so that the path to decarbonization is both successful and manageable. Importantly, SB 1393 has been

significantly amended throughout the course of the legislative process to address opposition concerns; in its current form, SB 1393 merely requires local governments to ‘consider’ state guidance when adopting these ordinances. Local governments will continue to have the flexibility to adopt whatever ordinances they deem fit for their respective communities.”

10) **Arguments in Opposition.** The Board of Supervisors for the City and County of San Francisco writes in opposition, “Local governments should be encouraged rather than discouraged to adopt strong building and decarbonization policies, including requirements to install electric appliances, to better protect the health and safety of their communities and address the climate crises...”

11) **Double-Referral.** This bill was double-referred to the Assembly Utilities and Energy Committee, where it passed on a 11-0 vote on June 22, 2022.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

A. O. Smith Corporation  
California Association of Realtors  
California Building Industry Association  
California Business Properties Association  
California State Pipe Trades Council  
Coalition of California Utility Employees  
Omegaflex

### **Oppose Unless Amended**

Acterra  
Fresnans Against Fracking

### **Opposition**

Bloc Power  
Board of Supervisors for the City and County of San Francisco  
Building Electrification Institute  
San Mateo Climate Action Team

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