

AMENDED IN ASSEMBLY MARCH 24, 2008

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 2112

Introduced by Assembly Members Saldana and Lieu

February 20, 2008

An act to amend Section 25402 of the Public Resources Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 2112, as amended, Saldana. Energy: building standards.

The Warren-Alquist State Energy Resources Conservation and Development Act requires the State Energy Resources Conservation and Development Commission to adopt building design and construction standards, and energy and water conservation standards to reduce the wasteful, uneconomic, inefficient, or unnecessary consumption of energy, including energy associated with the use of water.

This bill would require the commission to adopt, in collaboration with specified parties, building design and construction standards, and energy and water conservation standards to require new residential constructions commenced on or after January 1, 2020, ~~and new nonresidential constructions commenced on or after January 1, 2030,~~ to be zero net energy buildings.

This bill would define the term "zero net energy building."

This bill would also make a technical change by deleting an obsolete statutory cross-reference.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 25402 of the Public Resources Code is
2 amended to read:

3 25402. The commission shall, after one or more public
4 hearings, do all of the following, in order to reduce the wasteful,
5 uneconomic, inefficient, or unnecessary consumption of energy,
6 including the energy associated with the use of water:

7 (a) (1) Prescribe, by regulation, lighting, insulation climate
8 control system, and other building design and construction
9 standards that increase the efficiency in the use of energy and water
10 for new residential and new nonresidential buildings. The
11 commission shall periodically update the standards and adopt any
12 revision that, in its judgment, it deems necessary. Six months after
13 the commission certifies an energy conservation manual pursuant
14 to subdivision (c) of Section 25402.1, a city, county, or state agency
15 shall not issue a permit for a building unless the building satisfies
16 the standards prescribed by the commission pursuant to this
17 subdivision or subdivision (b) that are in effect on the date an
18 application for a building permit is filed. Water efficiency standards
19 adopted pursuant to this subdivision shall be demonstrated by the
20 commission to be necessary to save energy.

21 (2) Prior to adopting a water efficiency standard for residential
22 buildings, the Department of Housing and Community
23 Development and the commission shall issue a joint finding
24 whether the standard (A) is equivalent or superior in performance,
25 safety, and for the protection of life, health, and general welfare
26 to standards in Title 24 of the California Code of Regulations and
27 (B) does not unreasonably or unnecessarily impact the ability of
28 Californians to purchase or rent affordable housing, as determined
29 by taking account of the overall benefit derived from water
30 efficiency standards. Nothing in this subdivision in any way
31 reduces the authority of the Department of Housing and
32 Community Development to adopt standards and regulations
33 pursuant to Part 1.5 (commencing with Section 17910) of Division
34 13 of the Health and Safety Code.

35 (3) Water efficiency standards and water conservation design
36 standards adopted pursuant to this subdivision and subdivision (b)
37 shall be consistent with the legislative findings of this division to
38 ensure and maintain a reliable supply of electrical energy and be

1 equivalent to or superior to the performance, safety, and protection
2 of life, health, and general welfare standards contained in Title 24
3 of the California Code of Regulations. The commission shall
4 consult with the members of the coordinating council as established
5 in Section 18926 of the Health and Safety Code in the development
6 of these standards.

7 (b) (1) Prescribe, by regulation, energy and water conservation
8 design standards for new residential and new nonresidential
9 buildings. The standards shall be performance standards and shall
10 be promulgated in terms of energy consumption per gross square
11 foot of floorspace, but may also include devices, systems, and
12 techniques required to conserve energy and water. The commission
13 shall periodically review the standards and adopt any revision that,
14 in its judgment, it deems necessary. A building that satisfies the
15 standards prescribed pursuant to this subdivision need not comply
16 with the standards prescribed pursuant to subdivision (a). Water
17 conservation design standards adopted pursuant to this subdivision
18 shall be demonstrated by the commission to be necessary to save
19 energy. Prior to adopting a water conservation design standard for
20 residential buildings, the Department of Housing and Community
21 Development and the commission shall issue a joint finding
22 whether the standard (A) is equivalent or superior in performance,
23 safety, and for the protection of life, health, and general welfare
24 to standards in the California Building Standards Code and (B)
25 does not unreasonably or unnecessarily impact the ability of
26 Californians to purchase or rent affordable housing, as determined
27 by taking account of the overall benefit derived from the water
28 conservation design standards. Nothing in this subdivision in any
29 way reduces the authority of the Department of Housing and
30 Community Development to adopt standards and regulations
31 pursuant to Part 1.5 (commencing with Section 17910) of Division
32 13 of the Health and Safety Code.

33 (2) In order to increase public participation and improve the
34 efficacy of the standards adopted pursuant to ~~subdivisions (a) and~~
35 ~~(b)~~ *this subdivision and subdivision (a)*, the commission shall,
36 prior to publication of the notice of proposed action required by
37 Section 18935 of the Health and Safety Code, involve parties who
38 would be subject to the proposed regulations in public meetings
39 regarding the proposed regulations. All potential affected parties
40 shall be provided advance notice of these meetings and given an

1 opportunity to provide written or oral comments. During these
2 public meetings, the commission shall receive and take into
3 consideration input from all parties concerning the parties' design
4 recommendations, cost considerations, and other factors that would
5 affect consumers and California businesses of the proposed
6 standard. The commission shall take into consideration prior to
7 the start of the notice of proposed action any input provided during
8 these public meetings.

9 (3) The standards adopted or revised pursuant to ~~subdivisions~~
10 ~~(a) and (b)~~ *this subdivision and subdivision (a)* shall be
11 cost-effective when taken in their entirety and when amortized
12 over the economic life of the structure compared with historic
13 practice. When determining cost-effectiveness, the commission
14 shall consider the value of the water or energy saved, impact on
15 product efficacy for the consumer, and the life cycle cost of
16 complying with the standard. The commission shall consider other
17 relevant factors, as required by Sections 18930 and 18935 of the
18 Health and Safety Code, including, but not limited to, the impact
19 on housing costs, the total statewide costs and benefits of the
20 standard over its lifetime, economic impact on California
21 businesses, and alternative approaches and their associated costs.

22 (c) (1) Prescribe, by regulation, standards for minimum levels
23 of operating efficiency, based on a reasonable use pattern, and
24 may prescribe other cost-effective measures, including incentive
25 programs, fleet averaging, energy and water consumption labeling
26 not preempted by federal labeling law, and consumer education
27 programs, to promote the use of energy and water efficient
28 appliances whose use, as determined by the commission, requires
29 a significant amount of energy or water on a statewide basis. The
30 minimum levels of operating efficiency shall be based on feasible
31 and attainable efficiencies or feasible improved efficiencies that
32 will reduce the energy or water consumption growth rates. The
33 standards shall become effective no sooner than one year after the
34 date of adoption or revision. A new appliance manufactured on or
35 after the effective date of the standards shall not be sold or offered
36 for sale in the state, unless it is certified by the manufacturer thereof
37 to be in compliance with the standards. The standards shall be
38 drawn so that they do not result in any added total costs for
39 consumers over the designed life of the appliances concerned.

1 In order to increase public participation and improve the efficacy
2 of the standards adopted pursuant to this subdivision, the
3 commission shall, prior to publication of the notice of proposed
4 action required by Section 18935 of the Health and Safety Code,
5 involve parties who would be subject to the proposed regulations
6 in public meetings regarding the proposed regulations. All potential
7 affected parties shall be provided advance notice of these meetings
8 and given an opportunity to provide written or oral comments.
9 During these public meetings, the commission shall receive and
10 take into consideration input from all parties concerning the parties'
11 design recommendations, cost considerations, and other factors
12 that would affect consumers and California businesses of the
13 proposed standard. The commission shall take into consideration
14 prior to the start of the notice of proposed action input provided
15 during these public meetings.

16 The standards adopted or revised pursuant to this subdivision
17 shall not result in added total costs for consumers over the designed
18 life of the appliances concerned. When determining
19 cost-effectiveness, the commission shall consider the value of the
20 water or energy saved, impact on product efficacy for the
21 consumer, and the life cycle cost to the consumer of complying
22 with the standard. The commission shall consider other relevant
23 factors, as required by Sections 11346.5 and 11357 of the
24 Government Code, including, but not limited to, the impact on
25 housing costs, the total statewide costs and benefits of the standard
26 over its lifetime, economic impact on California businesses, and
27 alternative approaches and their associated costs.

28 (2) A new appliance, except for any plumbing fitting, regulated
29 under paragraph (1), that is manufactured on or after July 1, 1984,
30 shall not be sold, or offered for sale, in the state, unless the date
31 of the manufacture is permanently displayed in an accessible place
32 on that appliance.

33 (3) During the period of five years after the commission has
34 adopted a standard for a particular appliance under paragraph (1),
35 an increase or decrease in the minimum level of operating
36 efficiency required by the standard for that appliance shall not
37 become effective, unless the commission adopts other cost-effective
38 measures for that appliance.

39 (4) Neither the commission nor any other state agency shall
40 take action to decrease a standard adopted under this subdivision

1 on or before June 30, 1985, prescribing minimum levels of
2 operating efficiency or other energy conservation measures for an
3 appliance, unless the commission finds by a four-fifths vote that
4 a decrease is of benefit to ratepayers, and that there is significant
5 evidence of changed circumstances. Before January 1, 1986, the
6 commission shall not take action to increase a standard prescribing
7 minimum levels of operating efficiency for an appliance or adopt
8 a new standard under paragraph (1). Before January 1, 1986, an
9 appliance manufacturer doing business in this state shall provide
10 directly, or through an appropriate trade or industry association,
11 information, as specified by the commission after consultation
12 with manufacturers doing business in the state and appropriate
13 trade or industry associations on sales of appliances so that the
14 commission may study the effects of regulations on those sales.
15 These informational requirements shall remain in effect until the
16 information is received. The trade or industry association may
17 submit sales information in an aggregated form in a manner that
18 allows the commission to carry out the purposes of the study. The
19 commission shall treat sales information of an individual
20 manufacturer as confidential and that information shall not be a
21 public record. The commission shall not request information that
22 cannot be reasonably produced in the exercise of due diligence by
23 the manufacturer. At least one year prior to the adoption or
24 amendment of a standard for an appliance, the commission shall
25 notify the Legislature of its intent, and the justification to adopt
26 or amend a standard for the appliance. Notwithstanding paragraph
27 (3) and this paragraph, the commission may do any of the
28 following:

29 (A) Increase the minimum level of operating efficiency in an
30 existing standard up to the level of the National Voluntary
31 Consensus Standards 90, adopted by the American Society of
32 Heating, Refrigeration, and Air Conditioning Engineers or, for
33 appliances not covered by that standard, up to the level established
34 in a similar nationwide consensus standard.

35 (B) Change the measure or rating of efficiency of any standard,
36 if the minimum level of operating efficiency remains substantially
37 the same.

38 (C) Adjust the minimum level of operating efficiency in an
39 existing standard in order to reflect changes in test procedures that
40 the standards require manufacturers to use in certifying compliance,

1 if the minimum level of operating efficiency remains substantially
2 the same.

3 (D) Readopt a standard preempted, enjoined, or otherwise found
4 legally defective by an administrative agency or a lower court, if
5 final legal action determines that the standard is valid and if the
6 standard that is readopted is not more stringent than the standard
7 that was found to be defective or preempted.

8 (E) Adopt or amend any existing or new standard at any level
9 of operating efficiency, if the Governor has declared an energy
10 emergency as described in Section 8558 of the Government Code.

11 (5) Notwithstanding paragraph (4), the commission may adopt
12 standards pursuant to Commission Order No. 84-0111-1, on or
13 before June 30, 1985.

14 (d) Recommend minimum standards of efficiency for the
15 operation of a new facility at a particular site that are technically
16 and economically feasible. A site and related facility shall not be
17 certified pursuant to Chapter 6 (commencing with Section 25500),
18 unless the applicant certifies that standards recommended by the
19 commission have been considered, which certification shall include
20 a statement specifying the extent to which conformance with the
21 recommended standards will be achieved.

22 (e) The commission shall do all of the following:

23 (1) Not later than January 1, 2004, amend any regulations in
24 effect on January 1, 2003, pertaining to the energy efficiency
25 standards for residential clothes washers to require that residential
26 clothes washers manufactured on or after January 1, 2007, be at
27 least as water efficient as commercial clothes washers.

28 (2) Not later than April 1, 2004, petition the federal Department
29 of Energy for an exemption from any relevant federal regulations
30 governing energy efficiency standards that are applicable to
31 residential clothes washers.

32 (3) Not later than January 1, 2005, report to the Legislature on
33 its progress with respect to the requirements of paragraphs (1) and
34 (2).

35 (f) (1) The standards adopted by the commission pursuant to
36 subdivision (a) or (b) shall require a new residential construction
37 ~~commenced on or after January 1, 2020, and a new nonresidential~~
38 ~~construction commenced on or after January 1, 2030, to be a zero~~
39 ~~commenced on or after January 1, 2020, to be a zero~~ net energy
40 building.

1 (2) For the purposes of this subdivision, the term “zero net
2 energy building” means a building that implements a combination
3 of building energy efficiency design features and *clean* onsite
4 distributed generation that result in no net purchases from the
5 electricity or gas grid on an annual basis.

6 (3) In developing the standards pursuant this subdivision, the
7 commission shall consult with the Public Utilities Commission,
8 the electric and gas utilities, and other interested parties.

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