

AMENDED IN ASSEMBLY SEPTEMBER 6, 2011

AMENDED IN ASSEMBLY AUGUST 29, 2011

AMENDED IN ASSEMBLY JULY 12, 2011

SENATE BILL

No. 870

Introduced by ~~Senator Padilla~~ *Senators Padilla and Steinberg*

February 18, 2011

~~An act to add and repeal Article 2 (commencing with Section 25620.10) of Chapter 7.1 of Division 15 of, and to repeal and add Chapter 7.1 (commencing with Section 25620) of Division 15 of, the Public Resources Code, and to amend Section 384 of the Public Utilities Code, relating to energy. An act to add Section 25620.16 to, and to add Article 2 (commencing with Section 25621.10) to Chapter 7.2 of Division 15 of, the Public Resources Code, and to amend Sections 890, 892, 892.2, 893, 894, and 895 of, and to repeal Section 892.1 of, the Public Utilities Code, relating to energy.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 870, as amended, Padilla. ~~California Energy Research and Technology program.~~ *Energy: Clean Energy Innovation Program: natural gas surcharge.*

(1) Under the Public Utilities Act, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations. The act requires the PUC to require, until January 1, 2012, an electrical corporation to identify a separate electrical rate component to fund energy efficiency, renewable energy, and research, development, and demonstration programs that enhance system reliability and provide in-state benefits. Existing law requires the rate component collected for the purposes of funding the research, development, and demonstration

programs be transferred to the Public Interest Research, Development, and Demonstration Fund.

Existing law requires that the moneys collected between January 1, 2007, and January 1, 2012, from the electrical corporations for public interest research, development, and demonstration projects be transferred to the Public Interest Research, Development, and Demonstration Fund and be used for the purposes of the Public Interest Research, Demonstration, and Development Program.

~~This bill would repeal the Public Interest Research, Demonstration, and Development Program and would eliminate the Public Interest Research, Development, and Demonstration Fund for the above purpose and would instead establish the California Energy Research and Technology Program Fund for those purposes described in (3) below. *would expressly provide that expenditure of moneys collected for public interest research, development, and demonstration before January 1, 2012, would be expended for the Public Interest Research, Demonstration, and Development Program.*~~

~~(3) This bill would require the State Energy Resources Conservation and Development Commission (Energy Commission) to establish and administer the California Energy Research and Technology program (CERT) to fund research, development, and demonstration projects that may lead to advancement and other breakthroughs to overcome those barriers that prevent the achievement of the state's statutory energy goals. The bill would require the Energy Commission to convene, no less than twice a year, meetings of the CERT Coordinating Council consisting of members representing specified entities and would require the council to identify the technological and other challenges that most warranted funding under the CERT and opportunities for joint funding of projects and to make recommendations for avoiding the funding of duplicative projects. The bill would require the Energy Commission to adopt regulations or modify existing regulations to implement the CERT. The bill would require the Energy Commission to consult with the CERT Coordinating Council to establish a process for tracking the progress and outcome of funded projects. The bill would require the Energy Commission to consult with the CERT Coordinating Council and the Treasurer to establish terms that may be imposed as conditions for the receipt of CERT funding. The bill would, upon appropriation by the Legislature, authorize the Energy Commission to expend moneys in the California Energy Research and Technology Program Fund to implement the CERT. The bill would establish the CERT Cost-Share~~

~~Account in the California Energy Research and Technology Program Fund and, upon appropriation by the Legislature, would provide up to \$10,000,000 per year for the Energy Commission to make cost-share commitments as leverage to help California-based entities to obtain matching funds from the United States Department of Energy. The bill would require the Energy Commission, no later than March 31 of each year, to prepare and submit to the Legislature an annual report regarding projects funded by the CERT. The bill would require the Energy Commission to contract with an independent entity to review the CERT and would require the Energy Commission, no later than an October 1, 2015, to report to the Legislature regarding the CERT. The bill would repeal these provisions on January 1, 2020.~~

The bill would require the Energy Commission to establish and administer the California Energy Innovation Program (CEIP) to fund research, development, and demonstration projects that may lead to technological advancement and breakthroughs to overcome those barriers that prevent the achievement of the state's energy policy goals. The bill would require the Energy Commission to convene, no less than twice a year, meetings of the CEIP Coordinating Council consisting of members representing specified entities and would require the council to identify the technological challenges that most warrant funding under the CEIP and opportunities to leverage funding of projects and to make recommendations to avoid funding duplicative projects. The bill would require the Energy Commission to adopt regulations or modify existing regulations to implement the CEIP. The bill would require the Energy Commission to consult with the CEIP Coordinating Council to establish a process for tracking the progress and outcome of funded projects. The bill would require the Energy Commission to consult with the CEIP Coordinating Council and the Treasurer to establish terms that may be imposed as conditions for the receipt of CEIP funding. The bill would require the Energy Commission, no later than March 31 of each year, to prepare and submit to the Legislature an annual report regarding projects funded by the CEIP. The bill would require the PUC to fund mechanisms to finance comprehensive energy efficiency retrofits of specified building sectors.

This bill would declare the intent of the Legislature in enacting this act that the public goods charge collected on or before December 31, 2011, to fund research, development, and demonstration shall be expended pursuant to the law in effect January 1, 2012 and the public goods charge collected for this purpose on and after January 1, 2012,

shall be expended pursuant to the law in effect on and after the effective date of this act.

(2) Existing law requires the Public Utilities Commission to establish a surcharge on all natural gas consumed in the state to fund certain low-income assistance programs, cost-effective energy efficiency and conservation activities, and public interest research and development. Existing law requires a public utility gas corporation, as defined, to collect the surcharge from natural gas consumers, as specified, and to remit the moneys collected to the State Board of Equalization (state board) on a quarterly basis. Existing law requires persons consuming natural gas delivered by an interstate pipeline to pay the surcharge to the state board. Existing law requires every public utility gas corporation and every person consuming natural gas transported by a provider other than the public utility gas corporation to file a quarterly return with the state board in the form prescribed by the state board. The money from the surcharge is transmitted by the state board to the Treasurer for deposit in the Gas Consumption Surcharge Fund and is continuously appropriated to specified entities, including to the commission, or to an entity designated by the commission, to fund low-income assistance programs, cost-effective energy efficiency and conservation activities, and public interest research and development not adequately provided by the competitive and regulated markets.

This bill would require the commission to establish rates that are sufficient to fund the specified low-income assistance programs, cost-effective energy efficiency and conservation activities, and public interest research and development, and would require the surcharges imposed on natural gas customers of an interstate gas pipeline to be equal to the rate component imposed upon the customers of a public utility gas corporation to fund those programs. The bill would require only persons consuming natural gas delivered by an interstate pipeline to pay the surcharge quarterly to the state board and require only those persons consuming natural gas transported by a provider other than the public utility gas corporation to file a quarterly return with the state board. A public utility gas corporation would continue to collect the surcharge to fund the specified programs, but would not remit the moneys collected to the state board. The bill would repeal existing provisions relieving public utility gas corporations from liability to collect the surcharges for specified uncollected and worthless accounts. The bill would make other conforming changes.

(3) *This bill would not become operative unless AB 724 of the 2011–12 Regular Session of the Legislature is enacted on or before January 1, 2012.*

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 25620.16 is added to the Public Resources*
2 *Code, to read:*

3 *25620.16. This chapter applies to the expenditure of funds for*
4 *research, development, and demonstration collected pursuant to*
5 *Section 399.8 of the Public Utilities Code before January 1, 2012.*

6 *SEC. 2. Article 2 (commencing with Section 25621.10) is added*
7 *to Chapter 7.2 of Division 15 of the Public Resources Code, to*
8 *read:*

9

10 *Article 2. Clean Energy Innovation Program*

11

12 *25621.10. This article shall be known and may be cited as the*
13 *Clean Energy Innovation Program.*

14 *25621.11. The Legislature finds and declares all of the*
15 *following:*

16 *(a) California has been a national leader in clean energy by*
17 *establishing ambitious goals, policies, and programs to increase*
18 *energy efficiency and generation from renewable energy sources.*

19 *(b) Achieving the state’s energy goals will benefit the public*
20 *and energy utility ratepayers through reduced system costs and*
21 *reduced end-user charges for service.*

22 *(c) Barriers to achieving these energy goals and ratepayer*
23 *benefits include significant technological and other challenges*
24 *relating to energy storage, renewable energy and its integration*
25 *into the electrical grid, energy efficiency, integration of electric*
26 *vehicles into the electrical grid, accurately forecasting the*
27 *availability of renewable energy for integration into the grid,*
28 *impacts of energy generation, and additional areas identified by*
29 *the CEIP Coordinating Council.*

30 *(d) Breakthroughs to overcome these technological challenges*
31 *and to enable the state to achieve its energy policy goals require*

1 *strategically focused research, development, and demonstration*
2 *projects.*

3 *(e) It is appropriate and necessary for the state to administer*
4 *a program of research, development, and demonstration to*
5 *accelerate technological advancement and breakthroughs that*
6 *may enable the state to achieve its energy policy goals.*

7 *25621.12. (a) The Clean Energy Innovation Program (CEIP)*
8 *is hereby established for the purpose of funding research,*
9 *development, and demonstration projects that may lead to*
10 *technological advancement and breakthroughs to overcome the*
11 *barriers that prevent the achievement of the state's energy policy*
12 *goals.*

13 *(b) The commission shall develop and administer the program*
14 *consistent with this article.*

15 *25621.13. (a) The commission shall, no less than twice a year,*
16 *convene a meeting of the CEIP Coordinating Council, which shall*
17 *consist of the following members:*

18 *(1) The chair of the commission, who shall serve as the chair*
19 *of the council.*

20 *(2) One representative from Pacific Gas and Electric Company.*

21 *(3) One representative from Southern California Edison*
22 *Company.*

23 *(4) One representative from San Diego Gas and Electric*
24 *Company.*

25 *(5) One representative from Southern California Gas Company.*

26 *(6) One representative from any participating publicly owned*
27 *utility.*

28 *(7) One representative from the Public Utilities Commission.*

29 *(8) One representative from the Independent System Operator.*

30 *(9) One representative from the State Air Resources Board.*

31 *(10) One representative from the Division of Ratepayer*
32 *Advocates within the Public Utilities Commission.*

33 *(11) Two representatives from the building industry, with one*
34 *appointed by the Senate Committee on Rules and one appointed*
35 *by the Speaker of the Assembly.*

36 *(12) Two representatives from consumer organizations, with*
37 *one appointed by the Senate Committee on Rules and one appointed*
38 *by the Speaker of the Assembly.*

1 (13) Two representatives from environmental organizations,
2 with one appointed by the Senate Committee on Rules and one
3 appointed by the Speaker of the Assembly.

4 (14) Two representatives of environmental justice groups, with
5 one appointed by the Senate Committee on Rules and one appointed
6 by the Speaker of the Assembly.

7 (15) Two representatives from a university, college, or other
8 research institution, with one appointed by the Senate Committee
9 on Rules and one appointed by the Speaker of the Assembly.

10 (16) Two representatives of clean energy businesses,
11 associations, or investors appointed by the Governor.

12 (17) Two representatives of labor organizations appointed by
13 the Governor.

14 (18) Two at-large members appointed by the Governor.

15 (19) (A) Two nonvoting members from the Legislature, with
16 one Senator appointed by the Senate Committee on Rules and one
17 Assembly Member appointed by the Speaker of the Assembly.

18 (B) The Members of the Legislature shall participate in the
19 activities of the council to the extent that the participation is not
20 incompatible with their respective positions as Members of the
21 Legislature.

22 (b) Each nongovernmental member of the council shall serve
23 a term of three years.

24 (c) The council shall annually identify the technological and
25 other challenges that are the most significant barriers to achieving
26 the state's energy policy goals for which CEIP funding is most
27 warranted.

28 (d) The council shall identify opportunities for leveraged funding
29 of research, development, and demonstration projects, and make
30 recommendations to help the agencies represented on the council
31 avoid funding projects that would duplicate projects already being
32 funded by the commission, the Public Utilities Commission, the
33 State Air Resources Board, or any other public agency or private
34 organization.

35 25621.14. (a) The commission shall expend CEIP funds for
36 projects and program implementation that results in a portfolio
37 of project awards that does all of the following:

38 (1) Is strategically focused and sufficiently narrow to make
39 advancement on the most significant barriers to achieving the
40 state's energy policy goals, including energy storage, renewable

1 *energy and its integration into the electrical grid, energy efficiency,*
2 *integration of electric vehicles into the electrical grid, accurately*
3 *forecasting the availability of renewable energy for integration*
4 *into the grid, impacts of energy generation, and other significant*
5 *technological barriers identified by the CEIP Coordinating Council*
6 *pursuant to Section 25621.13.*

7 (2) *Ensures that prior, current, and future research,*
8 *development, and demonstration projects are not unnecessarily*
9 *duplicated.*

10 (3) *Invests in projects of California-based entities unless there*
11 *is a unique need that can be met only by an entity based outside*
12 *of California.*

13 (4) *Results in a reasonably equitable distribution of awards to*
14 *various geographic regions of California to the extent possible*
15 *and consistent with the provisions of this article.*

16 (5) *Maximizes expenditure of funds for research, development,*
17 *and demonstration projects and minimizes expenditure of funds*
18 *for administration and overhead costs.*

19 (b) *Utilities may receive CEIP funds only if they participate in*
20 *the program.*

21 (c) *The commission shall not award or expend CEIP funds for*
22 *any purposes except as provided in this article.*

23 (d) *The commission should seek to minimize overhead*
24 *expenditures on the University of California's and all other award*
25 *recipients' contracts pursuant to Chapter 14.27 (commencing with*
26 *Section 67325) of Part 40 of Division 5 of Title 3 of the Education*
27 *Code.*

28 25621.15. (a) *The commission shall adopt regulations, or*
29 *modify existing regulations, for the solicitation of award*
30 *applications, evaluation of applications, and the award of funds*
31 *consistent with this article.*

32 (b) *The regulations shall require each applicant to demonstrate*
33 *how the proposed project may lead to technological advancement*
34 *and potential breakthroughs to overcome barriers to achieving*
35 *the state's energy policy goals.*

36 (c) *The regulations shall require each award recipient, as a*
37 *condition of receiving CEIP funds, to agree to any terms the*
38 *commission determines are appropriate for the state to accrue*
39 *royalties that may derive from CEIP funding.*

1 (d) *The regulations shall prohibit any person from participating*
2 *in the evaluation or disposition of any application if that person*
3 *has a conflict of interest regarding that application, within the*
4 *meaning of Section 87100 of the Government Code.*

5 25621.16. *The commission, prior to awarding any CEIP funds,*
6 *and in consultation with the CEIP Coordinating Council, shall*
7 *establish a process for tracking the progress and outcomes of each*
8 *funded project, including an accounting of the amount of funds*
9 *spent on administrative and overhead costs and whether the project*
10 *resulted in any technological advancement or breakthrough to*
11 *overcome barriers to achieving the state's energy policy goals.*
12 *The commission may require CEIP awardees to report progress*
13 *and outcomes of each funded project up to five years past the*
14 *agreement end term.*

15 25621.17. *The commission, prior to awarding any CEIP funds,*
16 *and in consultation with the CEIP Coordinating Council and the*
17 *Treasurer, shall establish terms that may be imposed as a condition*
18 *to receipt of funding, as the commission determines appropriate,*
19 *for the state to accrue any intellectual property interest or royalties*
20 *that may derive from CEIP funding. The commission, when*
21 *determining if imposition of these terms is appropriate, shall*
22 *balance the potential benefit to the state from those terms and the*
23 *effect those terms may have on the state achieving its energy policy*
24 *goals.*

25 25621.18. (a) *The commission may solicit applications and*
26 *award CEIP funds using a sealed competitive bid, interagency*
27 *agreement, or sole source method.*

28 (b) *A sealed competitive bid method shall be used in all cases*
29 *in which a research project can be described with sufficient*
30 *specificity so that bids can be evaluated against specifications and*
31 *criteria set forth in the solicitation for bids.*

32 (c) *The commission shall not award CEIP funds to the University*
33 *of California through the sole source or interagency agreement*
34 *method for a research project for which funds could be awarded*
35 *through a sealed competitive bid method. Notwithstanding any*
36 *other law, standard terms and conditions that generally apply to*
37 *contracts between any state agency and the University of California*
38 *do not automatically preclude the award of CEIP funds to the*
39 *University of California through the sealed competitive bid method.*

1 (d) If an award cannot be made using the competitive bid method
2 pursuant to subdivision (b), the commission, in accordance with
3 subdivision (e) and in consultation with the Department of General
4 Services, may provide awards on a sole source basis when the cost
5 to the state is reasonable and any of the following apply:

6 (1) The proposal was unsolicited and meets the evaluation
7 criteria of this article.

8 (2) The expertise, service, or product is unique.

9 (3) The award funds the next phase of a multiphased proposal
10 and the existing agreement is being satisfactorily performed.

11 (e) (1) The commission shall not use a sole source basis for an
12 award pursuant to subdivision (d), or a sole source or interagency
13 agreement for an award to the University of California, unless
14 both of the following conditions are met:

15 (A) The commission, at least 60 days prior to making an award
16 pursuant to this subdivision, notifies the Joint Legislative Budget
17 Committee and the relevant policy committees in both houses of
18 the Legislature, in writing, of its intent to take the proposed action.

19 (B) The Joint Legislative Budget Committee either approves or
20 does not disapprove the proposed action within 60 days from the
21 date of notification required by subparagraph (A).

22 (2) It is the intent of the Legislature to enact this subdivision to
23 ensure legislative oversight for awards made on a sole source
24 basis, or awards to the University of California through a sole
25 source or interagency agreement.

26 (f) The commission shall give priority to California-based
27 entities in making awards pursuant to this article.

28 (g) The provisions of this section are severable. If any provision
29 of this section or its application is held to be invalid, that invalidity
30 does not affect other provisions or applications that can be given
31 effect without the invalid provision or application.

32 25621.19. (a) On or before March 31 of each year, the
33 commission shall prepare and submit to the Legislature an annual
34 report in compliance with Section 9795 of the Government Code
35 that shall include all of the following:

36 (1) A brief description of each project for which funding was
37 awarded in the immediately prior calendar year, including the
38 name of the recipient and amount of the award, and a description
39 of how the project may lead to technological advancement or

1 *breakthroughs to overcome barriers to achieving the state's energy*
2 *policy goals.*

3 (2) *A brief description of each CEIP-funded project that was*
4 *completed in the immediately prior calendar year, including the*
5 *name of the recipient, the amount of the award, and the outcomes*
6 *of the funded project, in accordance with the process described*
7 *in Section 25621.16.*

8 (3) *A brief description of each CEIP-funded project for which*
9 *an award was made in previous years but that is not completed,*
10 *including the name of the recipient and amount of the award, and*
11 *a description of how the project may lead to technological*
12 *advancement or breakthroughs to overcome barriers to achieving*
13 *the state's energy policy goals.*

14 (4) *A list and description of the technological challenges that*
15 *the CEIP Coordinating Council identifies as the most significant*
16 *barriers to achieving the state's energy policy goals, as identified*
17 *by the council pursuant to Section 25621.13 for the current year*
18 *and all prior years.*

19 (b) *The commission shall post on its Internet Web site each*
20 *annual report, and a searchable database containing information*
21 *in the annual report, and shall also include information on awards*
22 *made under the former Public Interest Research, Development,*
23 *and Demonstration Program.*

24 (c) *The commission shall establish procedures for protecting*
25 *confidential or proprietary information in public reports about*
26 *CEIP-funded projects.*

27 *SEC. 3. Section 890 of the Public Utilities Code is amended*
28 *to read:*

29 890. (a) ~~On and after January 1, 2001, there shall be imposed~~
30 ~~a surcharge on all natural gas consumed in this state. The~~
31 ~~commission shall establish a surcharge rates that are sufficient to~~
32 ~~fund low-income assistance programs required by Sections 739.1,~~
33 ~~739.2, and 2790 and cost-effective energy efficiency and~~
34 ~~conservation activities and public interest research and~~
35 ~~development authorized by Section 740 and not adequately~~
36 ~~provided by the competitive and regulated markets. Upon~~
37 ~~implementation of this article, funding for those programs shall~~
38 ~~be removed from the rates of gas utilities.~~

39 (b) ~~(1)~~ *Except as specified in Section 898, a public utility gas*
40 *corporation, as defined in subdivision (b) of Section 891, shall*

1 collect the ~~surcharge~~ *rates* imposed pursuant to subdivision (a)
2 from any person consuming natural gas in this state who receives
3 gas service from the public utility gas corporation.

4 ~~(2) A public utility gas corporation is relieved from liability to~~
5 ~~collect the surcharge insofar as the base upon which the surcharge~~
6 ~~is imposed is represented by accounts which have been found to~~
7 ~~be worthless and charged off in accordance with generally accepted~~
8 ~~accounting principles. If the public utility gas corporation has~~
9 ~~previously paid the amount of the surcharge it may, under~~
10 ~~regulations prescribed by the State Board of Equalization, take as~~
11 ~~a deduction on its return the amount found to be worthless and~~
12 ~~charged off. If any accounts are thereafter collected in whole or~~
13 ~~in part, the surcharge so collected shall be paid with the first return~~
14 ~~filed after that collection. The commission may by regulation~~
15 ~~promulgate other rules with respect to uncollected or worthless~~
16 ~~accounts as it determines to be necessary to the fair and efficient~~
17 ~~administration of this part.~~

18 (c) Except as specified in Section 898, all persons consuming
19 natural gas in this state that has been transported by an interstate
20 pipeline, as defined in subdivision (c) of Section 891, shall be
21 liable for ~~the surcharge imposed~~ *a surcharge equal to the rate*
22 *component imposed to fund low-income assistance programs,*
23 *cost-effective energy efficiency and conservation activities, and*
24 *public interest research and development* pursuant to subdivision
25 (a).

26 (d) The commission shall annually determine the amount of
27 money required for the following year to administer this chapter
28 and fund the natural gas related programs described in subdivision
29 (a) for the service territory of each public utility gas corporation.

30 (e) The commission shall annually establish a ~~surcharge~~ rate
31 for each class of customer for the service territory of each public
32 utility gas corporation. A customer of an interstate gas pipeline,
33 as defined in *subdivision (c) of Section 891*, shall pay *a surcharge*
34 *that is equal to the same surcharge rate as the customer would pay*
35 *if the customer received service from the public utility gas*
36 *corporation in whose service territory the customer is ~~located.~~*
37 *located or, if the customer is not located within the service territory*
38 *of a public utility gas corporation, the applicable surcharge of the*
39 *public utility gas corporation with the service territory nearest the*
40 *customer.* The commission shall determine the total volume of

1 retail natural gas transported within the service territory of a utility
2 gas provider, that is not subject to exemption pursuant to Section
3 896, for the purpose of establishing the surcharge rate.

4 (f) The commission shall allocate the *appropriate rate*
5 *adjustment and* surcharge for gas used by all customers, including
6 those customers who were not subject to the surcharge prior to
7 January 1, ~~2001~~ 2012.

8 (g) The commission shall notify the State Board of Equalization
9 of the surcharge ~~rate~~ for each class of customer served by an
10 interstate pipeline in the service territory of a public utility gas
11 corporation.

12 (h) The State Board of Equalization shall notify each person
13 who consumes natural gas delivered by an interstate pipeline of
14 the surcharge ~~rate~~ for each class of customer within the service
15 territory of a public utility gas corporation.

16 (i) ~~The surcharge imposed pursuant to subdivision (a) shall be~~
17 ~~in addition to any other charges for natural gas sold or transported~~
18 ~~for consumption in this state. Effective on July 1, 2001, the~~
19 ~~surcharge imposed pursuant to this article shall be identified as a~~
20 ~~separate line item on the bill of a customer of a public utility gas~~
21 ~~corporation.~~

22 (j) ~~Notwithstanding subdivision (a), public~~

23 (i) *Public utility gas corporations shall continue to collect in*
24 *rates those costs of programs described in subdivision (a) of Section*
25 *890 that are uncollected prior to the operative date of this article.*

26 *SEC. 4. Section 892 of the Public Utilities Code is amended*
27 *to read:*

28 892. ~~The revenue from the surcharge imposed pursuant to this~~
29 ~~article and collected by a public utility gas corporation shall be~~
30 ~~paid to the State Board of Equalization in the form of remittances.~~
31 Persons consuming natural gas delivered by an interstate pipeline
32 shall pay the surcharge *quarterly* to the State Board of Equalization
33 in the form of remittances. The board shall transmit the payments
34 to the Treasurer who shall deposit the payments in the Gas
35 Consumption Surcharge Fund, which is hereby created in the State
36 Treasury.

37 *SEC. 5. Section 892.1 of the Public Utilities Code is repealed.*

38 ~~892.1. The surcharges imposed by this part and the amounts~~
39 ~~thereof required to be collected by public utility gas corporations~~

1 ~~are due quarterly on or before the last day of the month next~~
 2 ~~succeeding each calendar quarter.~~

3 *SEC. 6. Section 892.2 of the Public Utilities Code is amended*
 4 *to read:*

5 892.2. On or before the last day of the month following each
 6 calendar quarter, a return for the preceding quarterly period shall
 7 be filed with the State Board of Equalization, in such form as the
 8 board may prescribe. A return shall be filed by every ~~public utility~~
 9 ~~gas corporation, and by every person consuming, as defined in this~~
 10 ~~article, natural gas transported by a provider other than the public~~
 11 ~~utility gas corporation. The return shall be signed by the person~~
 12 ~~required to file the return or by his or her duly authorized agent.~~

13 *SEC. 7. Section 893 of the Public Utilities Code is amended*
 14 *to read:*

15 893. The State Board of Equalization shall administer the
 16 surcharge imposed pursuant to this article *that is remitted to it* in
 17 accordance with the Fee Collection Procedures Law (Part 30
 18 (commencing with Section 55001) of Division 2 of the Revenue
 19 and Taxation Code.

20 *SEC. 8. Section 894 of the Public Utilities Code is amended*
 21 *to read:*

22 894. The State Board of Equalization may collect any unpaid
 23 surcharge imposed pursuant to this article *that is to be remitted to*
 24 *it pursuant to Section 892.2.*

25 *SEC. 9. Section 895 of the Public Utilities Code is amended*
 26 *to read:*

27 895. Notwithstanding Section 13340 of the Government Code,
 28 moneys in the Gas Consumption Surcharge Fund are continuously
 29 appropriated, without regard to fiscal years, as follows:

30 (a) To the commission or an entity designated by the commission
 31 to fund programs described in subdivision (a) of Section 890. If
 32 the commission designates the ~~State Energy Resources~~
 33 ~~Conservation and Development~~ *Energy Commission* to receive
 34 funds for public interest research and development, ~~both of the~~
 35 ~~following shall apply:~~ *the Energy Commission may administer the*
 36 *program pursuant to Article 2 (commencing with Section 25621.10)*
 37 *of Chapter 7.2 of Division 15 of the Public Resources Code.*

38 ~~(1) The Controller shall transfer funds to a separate subaccount~~
 39 ~~within the Public Interest Research, Development, and~~
 40 ~~Demonstration Fund to pay the State Energy Resources~~

1 ~~Conservation and Development Commission for its costs in~~
2 ~~carrying out its duties and responsibilities under this article.~~

3 ~~(2) The State Energy Resources Conservation and Development~~
4 ~~Commission may administer the program pursuant to Chapter 7.1~~
5 ~~(commencing with Section 25620) of Division 15 of the Public~~
6 ~~Resources Code.~~

7 (b) To pay the commission for its costs in carrying out its duties
8 and responsibilities under this article.

9 (c) To pay the State Board of Equalization for its costs in
10 administering this article.

11 *SEC. 10. It is the intent of the Legislature in enacting this act*
12 *that the public goods charge collected on or before December 31,*
13 *2011, pursuant to Section 399.8 of the Public Utilities Code to*
14 *fund research, development, and demonstration, shall be expended*
15 *pursuant to the provisions of law that are in effect January 1, 2012.*
16 *The public goods charge collected for this purpose on and after*
17 *January 1, 2012, shall be expended pursuant to Article 2*
18 *(commencing with Section 25621.10) of Chapter 7.2 of Division*
19 *15 of the Public Resources Code.*

20 *SEC. 11. This act shall not become operative unless Assembly*
21 *Bill 724 of the 2011–2012 Regular Session of the Legislature is*
22 *enacted on or before January 1, 2012.*

23 ~~SECTION 1. Chapter 7.1 (commencing with Section 25620)~~
24 ~~of Division 15 of the Public Resources Code is repealed.~~

25 ~~SEC. 2. Chapter 7.1 (commencing with Section 25620) is added~~
26 ~~to Division 15 of the Public Resources Code, to read:~~

27
28 ~~CHAPTER 7.1. CLEAN ENERGY PROGRAMS~~

29
30 ~~Article 1. [Reserved]~~

31
32 ~~25620. [Reserved]~~

33
34 ~~Article 2. California Energy Research and Technology~~

35
36 ~~25620.10. The Legislature finds and declares all of the~~
37 ~~following:~~

38 ~~(a) California has been a national leader in reducing energy~~
39 ~~consumption by establishing ambitious goals, policies, and~~

1 ~~programs to increase energy efficiency and generation from~~
2 ~~renewable energy sources.~~

3 ~~(b) Achieving these state energy goals will benefit the public~~
4 ~~and energy utility ratepayers through reduced system costs and~~
5 ~~reduced end-user charges for service.~~

6 ~~(c) Barriers to achieving these energy goals and ratepayer~~
7 ~~benefits include significant technological and other challenges~~
8 ~~relating to energy efficiency technologies, energy storage,~~
9 ~~integrating renewable energy into the electric grid, and accurately~~
10 ~~forecasting the availability of renewable energy for integration~~
11 ~~into the grid.~~

12 ~~(d) Breakthroughs to overcome those technological and other~~
13 ~~challenges referred to in subdivision (c) and to enable the state to~~
14 ~~achieve its statutory energy goals require strategically focused~~
15 ~~research, development, and demonstration projects.~~

16 ~~(e) It is appropriate and necessary for the state to administer a~~
17 ~~program of research, development, and demonstration to accelerate~~
18 ~~technological advancement and other breakthroughs that may~~
19 ~~enable the state to achieve its statutory energy goals.~~

20 ~~25620.11. For the purpose of this article, “California-based~~
21 ~~entity” means either of the following:~~

22 ~~(a) A corporation or other business form organized for the~~
23 ~~transaction of business that has its headquarters in California and~~
24 ~~manufactures in California the product that qualifies for the~~
25 ~~incentive or award pursuant to this chapter.~~

26 ~~(b) A corporation or other business form organized for the~~
27 ~~transaction of business that has an office for the transaction of~~
28 ~~business in California and substantially manufactures in California~~
29 ~~the product that qualifies for the incentive or award pursuant to~~
30 ~~this chapter, or substantially develops within California the research~~
31 ~~that qualifies for the incentive or award pursuant to this chapter,~~
32 ~~as determined by the commission.~~

33 ~~25620.12. (a) The California Energy Research and Technology~~
34 ~~program (CERT) is hereby established for the purpose of funding~~
35 ~~research, development, and demonstration projects that may lead~~
36 ~~to technological advancement and other breakthroughs to overcome~~
37 ~~the most significant barriers that prevent the achievement of the~~
38 ~~state’s statutory energy goals.~~

39 ~~(b) The CERT may fund projects relating to energy efficiency~~
40 ~~technologies, energy storage, integrating renewable energy into~~

1 ~~the electrical grid, accurately forecasting the availability of~~
2 ~~renewable energy for integration into the electrical grid, and~~
3 ~~additional areas identified by the CERT Coordinating Council~~
4 ~~pursuant to subdivision (e) of Section 25620.13.~~

5 ~~(e) The commission shall develop and administer the program~~
6 ~~consistent with this article.~~

7 ~~25620.13. (a) The commission shall, no less than twice a year,~~
8 ~~convene a meeting of the CERT Coordinating Council, which shall~~
9 ~~consist of the following:~~

10 ~~(1) Members representing public entities consisting of the~~
11 ~~following:~~

12 ~~(A) The chair of the commission, who shall serve as the chair~~
13 ~~of the council.~~

14 ~~(B) One representative from the Independent System Operator.~~

15 ~~(C) One representative from the State Air Resources Board.~~

16 ~~(D) One representative from the Division of Ratepayer~~
17 ~~Advocates within the Public Utilities Commission.~~

18 ~~(E) One representative from the Public Utilities Commission.~~

19 ~~(2) Members representing stakeholders, which shall consist of~~
20 ~~the following:~~

21 ~~(A) One representative from Pacific Gas and Electric~~
22 ~~Corporation.~~

23 ~~(B) One representative from Southern California Edison~~
24 ~~Corporation.~~

25 ~~(C) One representative from San Diego Gas and Electric~~
26 ~~Corporation.~~

27 ~~(D) One representative from Southern California Gas Company.~~

28 ~~(E) Two representatives from consumer organizations, with one~~
29 ~~appointed by the Senate Committee on Rules and one appointed~~
30 ~~by the Speaker of the Assembly.~~

31 ~~(F) Two representatives from environmental organizations, with~~
32 ~~one appointed by the Senate Committee on Rules and one~~
33 ~~appointed by the Speaker of the Assembly.~~

34 ~~(G) Two representatives from environmental justice~~
35 ~~organizations, with one appointed by the Senate Committee on~~
36 ~~Rules and one appointed by the Speaker of the Assembly.~~

37 ~~(H) Two representatives from university research institutions,~~
38 ~~with one appointed by the Senate Committee on Rules and one~~
39 ~~appointed by the Speaker of the Assembly.~~

1 ~~(I) Two representatives from clean energy businesses,~~
2 ~~organizations, or investors appointed by the Governor.~~
3 ~~(J) Two at-large members appointed by the Governor.~~
4 ~~(3) (A) Two ex officio, nonvoting members from the Legislature,~~
5 ~~with one Senator appointed by the Senate Committee on Rules~~
6 ~~and one Assembly Member appointed by the Speaker of the~~
7 ~~Assembly.~~
8 ~~(B) The Members of the Legislature shall participate in the~~
9 ~~activities of the council to the extent that the participation is not~~
10 ~~incompatible with their respective positions as Members of the~~
11 ~~Legislature.~~
12 ~~(b) Each member of the council specified in paragraph (2) of~~
13 ~~subdivision (a) shall serve a term of three years.~~
14 ~~(c) The council shall annually identify the technological or other~~
15 ~~challenges that are the most significant barriers to achieving the~~
16 ~~state's statutory energy goals for which CERT funding is most~~
17 ~~warranted.~~
18 ~~(d) The council shall identify opportunities for joint funding of~~
19 ~~research, development, and demonstration projects, and make~~
20 ~~recommendations to help the commission avoid funding projects~~
21 ~~that would duplicate projects already being funded by the Public~~
22 ~~Utilities Commission, the State Air Resources Board, or any other~~
23 ~~public agency or private organization.~~
24 ~~(e) The council shall comply with the requirements of the~~
25 ~~Bagley-Keene Open Meeting Act (Article 9 (commencing with~~
26 ~~Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of~~
27 ~~the Government Code).~~
28 ~~25620.14. (a) The commission shall award CERT funds for~~
29 ~~research, development, and demonstration projects that result in~~
30 ~~a portfolio of project awards that does all of the following:~~
31 ~~(1) Is strategically focused and sufficiently narrow to make~~
32 ~~advancement on the technological or other challenges that are the~~
33 ~~most significant barriers to achieving the state's statutory energy~~
34 ~~goals pursuant to Section 25620.12.~~
35 ~~(2) Ensures that prior, current, and future research, development,~~
36 ~~and demonstration projects are not unnecessarily duplicated.~~
37 ~~(3) Invests in projects of California-based entities unless there~~
38 ~~is a unique need that can be met only by an entity based outside~~
39 ~~of California.~~

1 ~~(4) Results in a reasonably equitable distribution of awards from~~
2 ~~various geographic regions of California, if consistent with this~~
3 ~~article.~~

4 ~~(5) Maximizes expenditure of funds for research, development,~~
5 ~~and demonstration projects and minimizes expenditure of funds~~
6 ~~for administration and overhead costs.~~

7 ~~(b) The commission shall not award or expend CERT funds for~~
8 ~~any purposes except as provided in this article.~~

9 ~~25620.15. The commission shall, prior to awarding any CERT~~
10 ~~funds, adopt regulations for the solicitation and evaluation of~~
11 ~~applications, and the award of funds consistent with this article.~~
12 ~~The regulations shall do all of the following:~~

13 ~~(a) Require each applicant to demonstrate how the proposed~~
14 ~~project may lead to technological advancement or other~~
15 ~~breakthroughs to overcome barriers to achieving the state's~~
16 ~~statutory energy goals.~~

17 ~~(b) Require each award recipient, as a condition of receiving~~
18 ~~CERT funds, to agree to any terms the commission determines are~~
19 ~~appropriate for the state to accrue any intellectual property interest~~
20 ~~or royalties that may derive from CERT funding, including a~~
21 ~~requirement that each recipient report progress and outcomes of~~
22 ~~each funded project for up to five years.~~

23 ~~(c) Prohibit any person from participating in the evaluation or~~
24 ~~disposition of any application if that person has a conflict of interest~~
25 ~~regarding that application, within the meaning of Section 87100~~
26 ~~of the Government Code.~~

27 ~~25620.16. The commission, prior to awarding any CERT funds,~~
28 ~~and in consultation with the CERT Coordinating Council, shall~~
29 ~~establish a process for tracking the progress and outcomes of each~~
30 ~~funded project, including an accounting of the amount of funds~~
31 ~~spent on administrative and overhead costs and whether the project~~
32 ~~resulted in any technological advancement or other breakthroughs~~
33 ~~to overcome barriers to achieving the state's statutory energy goals.~~

34 ~~25620.17. The commission, prior to awarding any CERT funds,~~
35 ~~and in consultation with the CERT Coordinating Council and the~~
36 ~~Treasurer, shall establish terms that may be imposed as a condition~~
37 ~~to receipt of funding, as the commission determines appropriate,~~
38 ~~for the state to accrue any intellectual property interest or royalties~~
39 ~~that may derive from CERT funding. The commission, when~~
40 ~~determining if imposition of these terms is appropriate, shall~~

1 balance the potential benefit to the state from those terms and the
2 effect those terms may have on the state achieving its statutory
3 energy goals.

4 ~~25620.18. (a) The commission shall establish a cost-share~~
5 ~~program to help California entities to obtain research funds from~~
6 ~~the United States Department of Energy.~~

7 ~~(b) The commission shall, upon appropriation by the Legislature,~~
8 ~~use funds in the CERT Cost-Share Account, which is hereby~~
9 ~~established in the California Energy Research and Technology~~
10 ~~Program Fund established pursuant to Section 384 of the Public~~
11 ~~Utilities Code, to enable California-based entities seeking energy~~
12 ~~research funds from the United States Department of Energy to~~
13 ~~meet the federal cost-share requirements.~~

14 ~~(c) A California university, research institution, nonprofit~~
15 ~~organization, or a California-based entity is eligible to participate~~
16 ~~in the cost-share program if the energy research project for which~~
17 ~~that entity is seeking federal funds would otherwise be eligible for~~
18 ~~CERT funds pursuant to this chapter.~~

19 ~~(d) The commission shall establish a process to provide timely~~
20 ~~and sufficient documentation to the United States Department of~~
21 ~~Energy to demonstrate that funds for the cost-share program will~~
22 ~~be available if the federal funds are awarded to an entity specified~~
23 ~~in subdivision (c).~~

24 ~~(e) The commission may make cost-share commitments of up~~
25 ~~to ten million dollars (\$10,000,000) per year and shall maintain a~~
26 ~~balance in the CERT Cost-Share Account to ensure that all~~
27 ~~outstanding commitments can be met if federal funds are awarded~~
28 ~~to an entity specified in subdivision (c).~~

29 ~~25620.19. (a) The commission may solicit applications and~~
30 ~~award CERT funds using a sealed competitive bid, interagency~~
31 ~~agreement, or sole source method.~~

32 ~~(b) A sealed competitive bid method shall be used in all cases~~
33 ~~in which a research project can be described with sufficient~~
34 ~~specificity so that bids can be evaluated against specifications and~~
35 ~~criteria set forth in the solicitation for bids.~~

36 ~~(c) The commission shall not award CERT funds to the~~
37 ~~University of California through the sole source or interagency~~
38 ~~agreement method for a research project for which funds could be~~
39 ~~awarded through a sealed competitive bid method. Notwithstanding~~
40 ~~any other law, standard terms and conditions that generally apply~~

1 to contracts between any state agency and the University of
2 California do not automatically preclude the award of CERT funds
3 to the University of California through the sealed competitive bid
4 method.

5 (d) If an award cannot be made using the competitive bid method
6 pursuant to subdivision (a), the commission, in accordance with
7 subdivision (e) and in consultation with the Department of General
8 Services, may provide awards on a sole source basis when the cost
9 to the state is reasonable and any of the following apply:

10 (1) The proposal was unsolicited and meets the evaluation
11 criteria of this chapter.

12 (2) The expertise, service, or product is unique.

13 (3) The award funds the next phase of a multiphased proposal
14 and the existing agreement is being satisfactorily performed.

15 (e) (1) The commission shall not use a sole source basis for an
16 award pursuant to subdivision (d), or a sole source or interagency
17 agreement for an award to the University of California, unless both
18 of the following conditions are met:

19 (A) The commission, at least 60 days prior to making an award
20 pursuant to this subdivision, notifies the Joint Legislative Budget
21 Committee and the relevant policy committees in both houses of
22 the Legislature, in writing, of its intent to take the proposed action.

23 (B) The Joint Legislative Budget Committee either approves or
24 does not disapprove the proposed action within 60 days from the
25 date of notification required by subparagraph (A).

26 (2) It is the intent of the Legislature to enact the subdivision to
27 ensure legislative oversight for awards made on a sole source basis,
28 or awards to the University of California through a sole source or
29 interagency agreement.

30 (f) The commission shall give priority to California-based
31 entities in making awards pursuant to this chapter.

32 (g) The provisions of this section are severable. If any provision
33 of this section or its application is held to be invalid, that invalidity
34 does not affect other provisions or applications that can be given
35 effect without the invalid provision or application.

36 25620.20.—(a) The commission, not later than March 31 of
37 each year, shall prepare and submit to the Legislature an annual
38 report in compliance with Section 9795 of the Government Code
39 that shall include all of the following:

1 (1) ~~A brief description of each project for which funding was~~
2 ~~awarded in the immediately prior calendar year, including the~~
3 ~~name of the recipient and amount of award, and a description of~~
4 ~~how the project may lead to technological advancement or other~~
5 ~~breakthroughs to overcome barriers to achieving the state's~~
6 ~~statutory energy goals.~~

7 (2) ~~A brief description of each CERT-funded project that was~~
8 ~~completed in the immediately prior calendar year, including the~~
9 ~~name of the recipient, the amount of the award, and the outcomes~~
10 ~~of the funded project, in accordance with the process described in~~
11 ~~Section 25620.16.~~

12 (3) ~~A brief description of each CERT-funded project for which~~
13 ~~an award was made in the previous years but that is not completed,~~
14 ~~including the name of the recipient and amount of the award, and~~
15 ~~a description of how the project may lead to technological~~
16 ~~advancement or other breakthroughs to overcome barriers to~~
17 ~~achieving the state's statutory energy goals.~~

18 (4) ~~A list and description of the technological or other challenges~~
19 ~~that the council identifies as the most significant barriers to~~
20 ~~achieving the state's statutory energy goals, as identified by the~~
21 ~~council pursuant to Section 25620.13 for the current year and all~~
22 ~~prior years.~~

23 (5) ~~Designation of which award recipients are California-based~~
24 ~~entities and which award recipients are small businesses or~~
25 ~~businesses owned by women, minorities, or disabled veterans.~~

26 (6) ~~A list of entities participating in the cost-share program~~
27 ~~pursuant to Section 25620.18 and the total amount of cost-share~~
28 ~~commitments made by the commission.~~

29 (b) ~~The commission shall post on its Internet Web site each~~
30 ~~annual report, and a searchable database containing information~~
31 ~~in the annual report, and shall also include information on awards~~
32 ~~made under the former Public Interest Research, Development,~~
33 ~~and Demonstration Program.~~

34 (e) ~~The commission shall establish procedures for protecting~~
35 ~~confidential or proprietary information in public reports about~~
36 ~~CERT-funded projects.~~

37 ~~25620.21. The commission shall contract with an independent~~
38 ~~entity to conduct a review of the CERT and pursuant to Section~~
39 ~~9795 of the Government Code report the conclusions and~~

1 recommendations from that review to the Legislature no later than
2 October 1, 2015:

3 ~~25620.22. This article shall remain in effect only until January~~
4 ~~1, 2020, and as of that date is repealed, unless a later enacted~~
5 ~~statute, that is enacted before January 1, 2020, deletes or extends~~
6 ~~that date.~~

7 ~~SEC. 3. Section 384 of the Public Utilities Code is amended~~
8 ~~to read:~~

9 ~~384. (a) Funds transferred to the Energy Commission pursuant~~
10 ~~to this article for purposes of public interest research, development,~~
11 ~~and demonstration shall be transferred to the California Energy~~
12 ~~Research and Technology Program Fund, which is hereby created~~
13 ~~in the State Treasury. The fund is a trust fund and shall contain~~
14 ~~money from all interest, repayments, disencumbrances, royalties,~~
15 ~~and any other proceeds appropriated, transferred, or otherwise~~
16 ~~received for purposes pertaining to public interest research,~~
17 ~~development, and demonstration. Any appropriations that are made~~
18 ~~from the fund shall have an encumbrance period of not longer than~~
19 ~~two years, and a liquidation period of not longer than four years.~~

20 ~~(b) The Energy Commission shall report annually to the~~
21 ~~appropriate budget committees of the Legislature on any~~
22 ~~encumbrances or liquidations that are outstanding at the time the~~
23 ~~Energy Commission’s budget is submitted to the Legislature for~~
24 ~~review.~~

25 ~~(c) Moneys in the Public Interest Research, Development, and~~
26 ~~Demonstration Fund that have not been encumbered as of the~~
27 ~~effective date of this section shall be transferred to the California~~
28 ~~Energy Research and Technology Program Fund.~~

29 ~~(d) Moneys in the California Energy Research and Technology~~
30 ~~Program Fund, upon appropriation by the Legislature, shall be~~
31 ~~expended by the Energy Commission to implement Article 2~~
32 ~~(commencing with Section 25620.10) of Chapter 7.1 of Division~~
33 ~~15 of the Public Resources Code.~~

34 ~~(e) Any reference in any law or regulation to the Public Interest~~
35 ~~Research, Development, and Demonstration Fund shall hereafter~~
36 ~~be to the California Energy Research and Technology Program~~
37 ~~Fund.~~

O