

AMENDED IN SENATE SEPTEMBER 10, 2015

AMENDED IN SENATE SEPTEMBER 4, 2015

AMENDED IN SENATE JUNE 22, 2015

AMENDED IN ASSEMBLY MAY 28, 2015

AMENDED IN ASSEMBLY MAY 1, 2015

AMENDED IN ASSEMBLY APRIL 20, 2015

AMENDED IN ASSEMBLY APRIL 7, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 802**

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**Introduced by Assembly Member Williams**

February 26, 2015

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An act to amend Sections 25301 and 25303 of, and to repeal and add Section 25402.10 ~~to~~ *of*, the Public Resources Code, and to amend Section 381.2 of, to amend and renumber Section 384.2 of, and to add Section 913.8 to, the Public Utilities Code, relating to energy efficiency.

### LEGISLATIVE COUNSEL'S DIGEST

AB 802, as amended, Williams. Energy efficiency.

(1) Existing law requires the State Energy Resources Conservation and Development Commission (Energy Commission), at least every 2 years, to conduct assessments and forecasts of all aspects of energy industry supply, production, transportation, delivery, distribution, demand, and prices. Existing law requires the Energy Commission to use these assessments and forecasts to develop energy policies that conserve resources, protect the environment, ensure energy reliability,

enhance the state's economy, and protect public health and safety. Existing law requires the Energy Commission to prepare an integrated energy policy report every 2 years and requires the report to include an assessment and forecast of system reliability and the need for resource additions, efficiency, and conservation that considers certain criteria.

This bill would require the Energy Commission, in consultation with the Public Utilities Commission, to make all reasonable adjustments to its energy demand forecasts conducted pursuant to the above-described provisions to account for its findings of market conditions and existing baselines, and in making those adjustments, would authorize the commission to consider the results from specified programs.

The bill would require the Energy Commission to use the above-described assessments and forecasts relating to various aspects of the energy industry to develop and evaluate energy policies and programs.

(2) Existing law requires electric and gas utilities to maintain records of the energy consumption data of all nonresidential buildings to which they provide service and requires that this data be maintained, in a format compatible for uploading to the United States Environmental Protection Agency's ENERGY STAR Portfolio Manager, for at least the most recent 12 months. Existing law also requires, upon the written authorization or secure electronic authorization of a nonresidential building owner or operator, an electric or gas utility to upload all of the energy consumption data for the account specified for a building to the United States Environmental Protection Agency's ENERGY STAR Portfolio Manager in a manner that preserves the confidentiality of the customer. Existing law requires an owner or operator to disclose the United States Environmental Protection Agency's ENERGY STAR Portfolio Manager benchmarking data and rating to a prospective buyer, lessee of the entire building, or lender that would finance the entire building based on a schedule of compliance established by the Energy Commission.

This bill would revise and recast these provisions. The bill would require utilities to maintain records of the energy usage data of all buildings to which they provide service for at least the most recent 12 complete months. Beginning no later than January 1, 2017, the bill would require each utility, upon the request and the written authorization or secure electronic authorization of the owner, owner's agent, or operator of a covered building, as defined, to deliver or provide aggregated energy usage data for a covered building to the owner,

owner's agent, operator, or to the owner's account in the ENERGY STAR Portfolio Manager, subject to specified requirements. The bill would also authorize the commission to specify additional information to be delivered by utilities for certain purposes. The bill would delete the requirement of an owner or operator of a building to disclose the above-described information to a prospective buyer, lessee of the entire building, or lender that would finance the entire building. The bill would require the Energy Commission to adopt regulations providing for the delivery to the commission and public disclosure of benchmarking ~~results of energy use~~ for covered buildings, as prescribed. The bill would authorize the Energy Commission to impose a civil fine, as provided, for a violation of these data submission requirements.

(3) Existing law requires the Energy Commission to develop and implement a comprehensive program to achieve greater energy savings in existing residential and nonresidential building stock. Existing law requires the Public Utilities Commission (PUC) to investigate the ability of electrical corporations and gas corporations to provide various energy efficiency financing options to their customers for the purposes of implementing the program developed by the Energy Commission.

This bill would require the PUC, by September 1, 2016, to authorize electrical corporations and gas corporations to provide incentives, rebates, technical assistance, and support to their customers to increase the energy efficiency of existing buildings, as specified, and would authorize electrical corporations and gas corporations to recover the reasonable costs of those programs in rates. The bill would require the PUC to authorize electrical corporations and gas corporations to count all energy savings achieved through the authorized programs, unless determined otherwise, toward overall energy efficiency goals or targets established by the PUC. The bill would authorize the PUC to adjust the energy efficiency goals or targets of electrical corporations and gas corporations to reflect the estimated change in energy savings resulting from the program.

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. It is the intent of the Legislature to support
- 2 strategies that enhance energy efficiency. Building owners should
- 3 have access to their buildings' energy usage information, which

1 enables understanding of a building's energy usage for improved  
2 building management and investment decisions. It is the intent of  
3 the Legislature that the State Energy Resources Conservation and  
4 Development Commission create a benchmarking and disclosure  
5 program through which building owners of commercial and  
6 multifamily buildings above 50,000 square feet gross floor area  
7 will better understand their energy consumption through  
8 standardized energy use metrics.

9 SEC. 2. Section 25301 of the Public Resources Code is  
10 amended to read:

11 25301. (a) At least every two years, the commission shall  
12 conduct assessments and forecasts of all aspects of energy industry  
13 supply, production, transportation, delivery and distribution,  
14 demand, and prices. The commission shall use these assessments  
15 and forecasts to develop and evaluate energy policies and programs  
16 that conserve resources, protect the environment, ensure energy  
17 reliability, enhance the state's economy, and protect public health  
18 and safety. To perform these assessments and forecasts, the  
19 commission may require submission of demand forecasts, resource  
20 plans, market assessments, related outlooks, individual customer  
21 historic electric or gas service usage, or both, and individual  
22 customer historic billing data, in a format and level of granularity  
23 specified by the commission from electric and natural gas utilities,  
24 transportation fuel and technology suppliers, and other market  
25 participants. These assessments and forecasts shall be done in  
26 consultation with the appropriate state and federal agencies  
27 including, but not limited to, the Public Utilities Commission, the  
28 Office of Ratepayer Advocates, the Air Resources Board, the  
29 Electricity Oversight Board, the Independent System Operator,  
30 the Department of Water Resources, the California Consumer  
31 Power and Conservation Financing Authority, the Department of  
32 Transportation, and the Department of Motor Vehicles. The  
33 commission shall maintain reasonable policies and procedures to  
34 protect customer information from unauthorized disclosure.

35 (b) In developing the assessments and forecasts prepared  
36 pursuant to subdivision (a), the commission shall do all of the  
37 following:

38 (1) Provide information about the performance of energy  
39 industries.

1 (2) Develop and maintain the analytical capability sufficient to  
2 answer inquiries about energy issues from government, market  
3 participants, and the public.

4 (3) Analyze, develop, and evaluate energy policies and  
5 programs.

6 (4) Provide an analytical foundation for regulatory and policy  
7 decisionmaking.

8 (5) Facilitate efficient and reliable energy markets.

9 SEC. 3. Section 25303 of the Public Resources Code is  
10 amended to read:

11 25303. (a) The commission shall conduct electricity and natural  
12 gas forecasting and assessment activities to meet the requirements  
13 of paragraph (1) of subdivision (a) of Section 25302, including,  
14 but not limited to, all of the following:

15 (1) Assessment of trends in electricity and natural gas supply  
16 and demand, and the outlook for wholesale and retail prices for  
17 commodity electricity and natural gas under current market  
18 structures and expected market conditions.

19 (2) Forecasts of statewide and regional electricity and natural  
20 gas demand including annual, seasonal, and peak demand, and the  
21 factors leading to projected demand growth, including, but not  
22 limited to, projected population growth, urban development,  
23 industrial expansion and energy intensity of industries, energy  
24 demand for different building types, energy efficiency, and other  
25 factors influencing demand for electricity. With respect to  
26 long-range forecasts of the demand for natural gas, the report shall  
27 include an evaluation of average conditions, as well as best and  
28 worst case scenarios, and an evaluation of the impact of the  
29 increasing use of renewable resources on natural gas demand.

30 (3) Evaluation of the adequacy of electricity and natural gas  
31 supplies to meet forecasted demand growth. Assessment of the  
32 availability, reliability, and efficiency of the electricity and natural  
33 gas infrastructure and systems, including, but not limited to, natural  
34 gas production capability both in and out of state, natural gas  
35 interstate and intrastate pipeline capacity, storage and use, and  
36 western regional and California electricity and transmission system  
37 capacity and use.

38 (4) Evaluation of potential impacts of electricity and natural gas  
39 supply, demand, and infrastructure and resource additions on the

1 electricity and natural gas systems, public health and safety, the  
2 economy, resources, and the environment.

3 (5) Evaluation of the potential impacts of electricity and natural  
4 gas load management efforts, including end-user response to  
5 market price signals, as a means to ensure reliable operation of  
6 electricity and natural gas systems.

7 (6) Evaluation of whether electricity and natural gas markets  
8 are adequately meeting public interest objectives including the  
9 provision of all of the following: economic benefits; competitive,  
10 low-cost reliable services; customer information and protection;  
11 and environmentally sensitive electricity and natural gas supplies.  
12 This evaluation may consider the extent to which California is an  
13 element within western energy markets, the existence of appropriate  
14 incentives for market participants to provide supplies and for  
15 consumers to respond to energy prices, appropriate identification  
16 of responsibilities of various market participants, and an assessment  
17 of long-term versus short-term market performance. To the extent  
18 this evaluation identifies market shortcomings, the commission  
19 shall propose market structure changes to improve performance.

20 (7) Identification of impending or potential problems or  
21 uncertainties in the electricity and natural gas markets, potential  
22 options and solutions, and recommendations.

23 (8) (A) Compilation and assessment of existing scientific studies  
24 that have been performed by persons or entities with expertise and  
25 qualifications in the subject of the studies to determine the potential  
26 vulnerability to a major disruption due to aging or a major seismic  
27 event of large baseload generation facilities, of 1,700 megawatts  
28 or greater.

29 (B) The assessment specified in subparagraph (A) shall include  
30 an analysis of the impact of a major disruption on system reliability,  
31 public safety, and the economy.

32 (C) The commission may work with other public entities and  
33 public agencies, including, but not limited to, the California  
34 Independent System Operator, the Public Utilities Commission,  
35 the Department of Conservation, and the Seismic Safety  
36 Commission as necessary, to gather and analyze the information  
37 required by this paragraph.

38 (D) Upon completion and publication of the initial review of  
39 the information required pursuant to this paragraph, the commission

1 shall perform subsequent updates as new data or new understanding  
2 of potential seismic hazards emerge.

3 (b) Commencing November 1, 2003, and every two years  
4 thereafter, to be included in the integrated energy policy report  
5 prepared pursuant to Section 25302, the commission shall assess  
6 the current status of the following:

7 (1) The environmental performance of the electric generation  
8 facilities of the state, to include all of the following:

9 (A) Generation facility efficiency.

10 (B) Air emission control technologies in use in operating plants.

11 (C) The extent to which recent resource additions have, and  
12 expected resource additions are likely to, displace or reduce the  
13 operation of existing facilities, including the environmental  
14 consequences of these changes.

15 (2) The geographic distribution of statewide environmental,  
16 efficiency, and socioeconomic benefits and drawbacks of existing  
17 generation facilities, including, but not limited to, the impacts on  
18 natural resources including wildlife habitat, air quality, and water  
19 resources, and the relationship to demographic factors. The  
20 assessment shall describe the socioeconomic and demographic  
21 factors that existed when the facilities were constructed and the  
22 current status of these factors. In addition, the report shall include  
23 how expected or recent resource additions could change the  
24 assessment through displaced or reduced operation of existing  
25 facilities.

26 (c) In the absence of a long-term nuclear waste storage facility,  
27 the commission shall assess the potential state and local costs and  
28 impacts associated with accumulating waste at California's nuclear  
29 powerplants. The commission shall further assess other key policy  
30 and planning issues that will affect the future role of nuclear  
31 powerplants in the state. The commission's assessment shall be  
32 adopted on or before November 1, 2008, and included in the 2008  
33 energy policy review adopted pursuant to subdivision (d) of Section  
34 25302.

35 (d) The commission, in consultation with the Public Utilities  
36 Commission, shall make all reasonable adjustments to its energy  
37 demand forecasts conducted pursuant to Sections 25301 and 25302  
38 to account for its findings of market conditions and existing  
39 baselines, and, in making those adjustments, may consider the

1 results from subdivisions (b) and (d) of Section 381.2 of the Public  
2 Utilities Code.

3 SEC. 4. Section 25402.10 of the Public Resources Code is  
4 repealed.

5 SEC. 5. Section 25402.10 is added to the Public Resources  
6 Code, to read:

7 25402.10. (a) For the purposes of this section, the following  
8 terms have the following meanings:

9 (1) “Benchmark” means to obtain information on the energy  
10 use in an entire building for a specific period to enable that usage  
11 to be tracked or compared against other buildings.

12 (2) “Covered building” for purposes of this section means either  
13 or both of the following:

14 (A) Any building with no residential utility accounts.

15 (B) Any building with five or more active utility accounts,  
16 residential or nonresidential.

17 (3) “Energy” means electricity, natural gas, steam, or fuel oil  
18 sold by a utility to a customer for end uses addressed by the  
19 ENERGY STAR Portfolio Manager system.

20 (4) “ENERGY STAR Portfolio Manager” means the tool  
21 developed and maintained by the United States Environmental  
22 Protection Agency to track and assess the energy performance of  
23 buildings.

24 (b) On and after January 1, 2016, each utility shall maintain  
25 records of the energy usage data of all buildings to which they  
26 provide service for at least the most recent 12 complete calendar  
27 months.

28 (c) (1) Subject to the requirements of paragraph (2), beginning  
29 no later than January 1, 2017, each utility shall, upon the request  
30 and written authorization or secure electronic authorization of the  
31 owner, owner’s agent, or operator of a covered building, deliver  
32 or otherwise provide aggregated energy usage data for a covered  
33 building to the owner, owner’s agent, building operator, or to the  
34 owner’s account in the ENERGY STAR Portfolio Manager. The  
35 commission may specify additional information to be delivered  
36 by utilities to enable building owners to complete benchmarking  
37 of the energy use in their buildings and in other systems or formats  
38 for information delivery and automation.

39 (2) The delivery of information by utilities pursuant to this  
40 section shall be subject to the following requirements:



1 (A) For covered buildings with three or more active utility  
2 accounts, each utility shall deliver information showing the  
3 aggregated energy usage *data* of all utility customers in the same  
4 building for each of the 12 prior months. Notwithstanding any  
5 other law, energy usage data aggregated in this manner shall not  
6 be deemed customer utility usage information or confidential  
7 information by the utility for purposes of delivery to the owner,  
8 owner's agent, or operator of a building. The building owner and  
9 utility shall not have any liability for any use or disclosure of  
10 aggregated *energy usage information data* delivered as required  
11 by this section.

12 (B) For covered buildings not subject to subparagraph (A), each  
13 utility shall deliver the information showing the aggregated energy  
14 usage *data* of all utility customers in the same building for each  
15 of the prior 12 months if the accountholder provides written or  
16 electronic consent for the delivery of the accountholder's energy  
17 usage data to the owner, owner's agent, operator, or utility.

18 (C) Each utility shall deliver, upload, or otherwise provide  
19 aggregated energy usage data within four weeks of receiving a  
20 request from an owner, owner's agent, or operator of a covered  
21 building.

22 (D) Each utility shall make available the covered building *energy*  
23 usage data aggregated at a monthly level unless otherwise specified  
24 by the commission.

25 (E) The building owner and utility shall not have any liability  
26 for any use or disclosure by others of usage information delivered  
27 as required by this section.

28 (d) The commission shall adopt regulations providing for the  
29 delivery to the commission and public disclosure of benchmarking  
30 ~~results of energy use~~ for covered buildings, as follows:

31 (1) This subdivision shall not require the owner of a building  
32 with 16 or fewer residential utility accounts to collect or deliver  
33 *energy usage information to the commission for public disclosure.*  
34 *commission.*

35 (2) The commission may do, but is not limited to doing, all of  
36 the following in regulations adopted pursuant to this subdivision:

37 (A) Identify and provide for the collection of the energy usage  
38 data for the calculation of benchmarking ~~results of energy use.~~

39 (B) Identify and provide for the collection of the covered  
40 building characteristic information deemed necessary by the

1 commission for the calculation of benchmarking ~~results~~ *of energy*  
2 *use*.

3 (C) Specify the manner in which certain benchmarking ~~results~~  
4 *of energy use* shall be publicly disclosed.

5 (D) Determine which covered buildings, in addition to those  
6 described in paragraph (1), are not subject to the public disclosure  
7 requirement.

8 (E) Set a schedule to implement the requirements for public  
9 disclosure adopted by the commission.

10 (F) Determine if compliance with a local or county  
11 benchmarking program fulfills the commission's requirements  
12 adopted pursuant to this subdivision.

13 (G) Identify categories of information it receives pursuant to  
14 this section that are protected from release under either the  
15 California Public Records Act (Chapter 3.5 (commencing with  
16 Section 6250) of Division 7 of Title 1 of the Government Code)  
17 or the Information Practices Act of 1977 (Chapter 1 (commencing  
18 with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil  
19 Code).

20 (3) The commission shall determine who will deliver the energy  
21 usage data and related information for any covered building to the  
22 commission.

23 (e) The commission may ensure timely and accurate compliance  
24 with the data submission requirements of this section by using the  
25 enforcement measures identified in Section 25321. An owner of  
26 a covered building, or its agents or operators, shall not be liable  
27 for any noncompliance due to the failure of a utility to provide the  
28 information required for compliance.

29 (f) For buildings that are not covered buildings, and for customer  
30 information that is not aggregated pursuant to subparagraph (A)  
31 of paragraph (2) of subdivision (c), the commission may adopt  
32 regulations prescribing how utilities shall either obtain the  
33 customer's permission or determine that a building owner has  
34 obtained the customer's permission, for the owner to receive  
35 aggregated ~~customer information~~ *energy usage data* or, where  
36 applicable, individual customer usage information, including by  
37 use of electronic authorization and in a lease agreement between  
38 the owner and the customer.

39 (g) The reasonable costs of an electrical or gas corporation in  
40 delivering electrical or gas usage data pursuant to this section or

1 other information as required under state or federal law or by an  
2 order of the commission shall be recoverable in rates evaluated  
3 and approved by the Public Utilities Commission.

4 (h) The reasonable costs of local publicly owned electric utilities  
5 in disclosing electrical usage data pursuant to this section may be  
6 considered “cost-effective demand-side management services to  
7 promote energy efficiency and energy conservation” and thereby  
8 reimbursable by their general fund.

9 (i) Nothing in this section shall prevent a city or county from  
10 establishing its own benchmarking program requiring collection,  
11 delivery, and disclosure of building information.

12 SEC. 6. Section 381.2 of the Public Utilities Code is amended  
13 to read:

14 381.2. (a) The commission shall investigate the ability of  
15 electrical corporations and gas corporations to provide various  
16 energy efficiency financing options to their customers for the  
17 purposes of implementing the program developed pursuant to  
18 Section 25943 of the Public Resources Code.

19 (b) Recognizing the already underway 2015 commission work  
20 to adopt efficiency potential and goals, the Energy Commission  
21 work on its 2015 energy demand forecast, and the need to  
22 determine how to incorporate meter-based performance into  
23 determinations of goals, portfolio cost-effectiveness, and authorized  
24 budgets, the commission, in a separate or existing proceeding,  
25 shall, by September 1, 2016, authorize electrical corporations or  
26 gas corporations to provide financial incentives, rebates, technical  
27 assistance, and support to their customers to increase the energy  
28 efficiency of existing buildings based on all estimated energy  
29 savings and energy usage reductions, taking into consideration the  
30 overall reduction in normalized metered energy consumption as a  
31 measure of energy savings. Those programs shall include energy  
32 usage reductions resulting from the adoption of a measure or  
33 installation of equipment required for modifications to existing  
34 buildings to bring them into conformity with, or exceed, the  
35 requirements of Title 24 of the California Code of Regulations, as  
36 well as operational, behavioral, and retrocommissioning activities  
37 reasonably expected to produce multiyear savings. Electrical  
38 corporations and gas corporations shall be permitted to recover in  
39 rates the reasonable costs of these programs. The commission shall  
40 authorize an electrical corporation and gas corporation to count

1 all energy savings achieved through the authorized programs  
2 created by this subdivision, unless determined otherwise, toward  
3 overall energy efficiency goals or targets established by the  
4 commission. The commission may adjust the energy efficiency  
5 goals or targets of an electrical corporation and gas corporation to  
6 reflect this change in savings estimation consistent with this  
7 subdivision and subdivision (d).

8 (c) Effective January 1, 2016, electrical corporations and gas  
9 corporations are authorized to implement the provisions of  
10 subdivision (b) for high opportunity projects or programs. The  
11 commission shall provide expedited authorization of high  
12 opportunity projects and programs to apply the savings baseline  
13 provisions in subdivision (b).

14 (d) In furtherance of subdivision (b), the commission, in  
15 consultation with the Energy Commission, shall consider all of  
16 the following:

17 (1) The results of any interagency baseline assessment.

18 (2) Any available results from investor-owned utility baseline  
19 pilot studies ordered in D.14-10-046.

20 (3) Information necessary to ensure consistency with the energy  
21 forecast and planning functions of the Energy Commission and  
22 the Independent System Operator.

23 (e) The commission may direct electrical corporations and gas  
24 corporations to make filings that are necessary to ensure  
25 coordination with the energy forecast and planning functions of  
26 the Energy Commission and the Independent System Operator.

27 (f) The commission shall prioritize energy efficiency activities  
28 consistent with Sections 454.55 and 454.56.

29 SEC. 7. Section 384.2 of the Public Utilities Code is amended  
30 and renumbered to read:

31 913.7. The commission shall submit a report to the Legislature  
32 by July 15, 2009, and triennially thereafter, on the energy efficiency  
33 and conservation programs it oversees. The report shall include  
34 information regarding authorized utility budgets and expenditures  
35 and projected and actual energy savings over the program cycle.

36 SEC. 8. Section 913.8 is added to the Public Resources Code,  
37 to read:

38 913.8. In the report prepared pursuant Section 913.7, the  
39 commission shall include an assessment of each electrical  
40 corporation's and each gas corporation's implementation of the

- 1 program developed pursuant to Section 25943 of the Public
- 2 Resources Code.

O