

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

Introduced by Assembly Member Williams

February 26, 2015

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