

AMENDMENTS TO SENATE BILL NO. 870
AS AMENDED IN ASSEMBLY AUGUST 29, 2011

Amendment 1

In line 1 of the heading, strike out "Senator Padilla" and insert:

Senators Padilla and Steinberg

Amendment 2

Strike out lines 3 to 7, inclusive, of the title and insert:

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.

Amendment 3

On page 3, before line 1, insert:

SECTION 1. Section 25620.16 is added to the Public Resources Code, to read: 25620.16. This chapter applies to the expenditure of funds for research, development, and demonstration collected pursuant to Section 399.8 of the Public Utilities Code before January 1, 2012.

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

Article 2. Clean Energy Innovation Program

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

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

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

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

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



(d) Breakthroughs to overcome these technological challenges and to enable the state to achieve its energy policy goals require strategically focused research, development, and demonstration projects.

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

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

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

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

- (1) The chair of the commission, who shall serve as the chair of the council.
- (2) One representative from Pacific Gas and Electric Company.
- (3) One representative from Southern California Edison Company.
- (4) One representative from San Diego Gas and Electric Company.
- (5) One representative from Southern California Gas Company.
- (6) One representative from any participating publicly owned utility.
- (7) One representative from the Public Utilities Commission.
- (8) One representative from the Independent System Operator.
- (9) One representative from the State Air Resources Board.
- (10) One representative from the Division of Ratepayer Advocates within the Public Utilities Commission.
- (11) Two representatives from the building industry, with one appointed by the Senate Committee on Rules and one appointed by the Speaker of the Assembly.
- (12) Two representatives from consumer organizations, with one appointed by the Senate Committee on Rules and one appointed by the Speaker of the Assembly.
- (13) Two representatives from environmental organizations, with one appointed by the Senate Committee on Rules and one appointed by the Speaker of the Assembly.
- (14) Two representatives of environmental justice groups, with one appointed by the Senate Committee on Rules and one appointed by the Speaker of the Assembly.
- (15) Two representatives from a university, college, or other research institution, with one appointed by the Senate Committee on Rules and one appointed by the Speaker of the Assembly.
- (16) Two representatives of clean energy businesses, associations, or investors appointed by the Governor.
- (17) Two representatives of labor organizations appointed by the Governor.
- (18) Two at-large members appointed by the Governor.
- (19) (A) Two nonvoting members from the Legislature, with one Senator appointed by the Senate Committee on Rules and one Assembly Member appointed by the Speaker of the Assembly.
(B) The Members of the Legislature shall participate in the activities of the council to the extent that the participation is not incompatible with their respective positions as Members of the Legislature.

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

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

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

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

(1) Is strategically focused and sufficiently narrow to make advancement on the most significant barriers to achieving the state's energy policy goals, including energy storage, renewable energy and its integration into the electrical grid, energy efficiency, integration of electric vehicles into the electrical grid, accurately forecasting the availability of renewable energy for integration into the grid, impacts of energy generation, and other significant technological barriers identified by the CEIP Coordinating Council pursuant to Section 25621.13.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) ~~(1)~~ Except as specified in Section 898, a public utility gas corporation, as defined in subdivision (b) of Section 891, shall collect the surcharge rates imposed pursuant to subdivision (a) from any person consuming natural gas in this state who receives gas service from the public utility gas corporation.

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

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

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

(e) The commission shall annually establish ~~a surcharge rate~~ for each class of customer for the service territory of each public utility gas corporation. A customer of an interstate gas pipeline, as defined in subdivision (c) of Section 891, shall pay a surcharge that is equal to the same surcharge rate as the customer would pay if the customer received service from the public utility gas corporation in whose service territory the customer is located. ~~located or, if the customer is not located within the service territory of a public utility gas corporation, the applicable surcharge of the public utility gas corporation with the service territory nearest the customer.~~ The commission shall determine the total volume of retail natural gas transported within the service territory of a utility gas provider, that is not subject to exemption pursuant to Section 896, for the purpose of establishing the surcharge rate.

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

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

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

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

(j) Notwithstanding subdivision (a), public

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

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

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

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

~~892.1. The surcharges imposed by this part and the amounts thereof required to be collected by public utility gas corporations are due quarterly on or before the last day of the month next succeeding each calendar quarter.~~

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

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

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

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

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

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

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

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

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

~~(1) The Controller shall transfer funds to a separate subaccount within the Public Interest Research, Development, and Demonstration Fund to pay the State Energy Resources Conservation and Development Commission for its costs in carrying out its duties and responsibilities under this article.~~

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

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

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

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

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

Amendment 4

On page 3, strike out lines 1 to 22, inclusive, and strike out pages 4 to 12, inclusive