

M e m o r a n d u m

Date: March 28, 2007

To: The Commission
(Meeting of April 12, 2007)

From: Delaney Hunter, Director
Office of Governmental Affairs (OGA) — Sacramento

Subject: **AB 1234 (Wolk) – Real property: furnaces.**
As Introduced: February 23, 2007

LEGISLATIVE SUBCOMMITTEE RECOMMENDATION: Oppose

SUMMARY OF BILL: This bill would require the Commission, in consultation with the Low-Income Oversight Board (LIOB) and the gas corporations or electrical corporations that participate in the CARE program, to establish a program to replace old gas furnaces in residential dwelling units occupied by customers eligible for the CARE program. The furnace replacement program shall go into effect on July 1, 2008, and continue until December 31, 2013 and shall initially provide financial support for replacing old gas furnaces when the residential dwelling unit is sold or transferred.

The bill would further provide that the furnace replacement program shall be in addition to all other specified programs of assistance for low-income customers and that the costs to adopt and implement the furnace replacement program shall be recovered pursuant to PU Code Sections 381 (public goods charge) and 890 (natural gas surcharge).

Lastly, the bill would require the transferor of real property to disclose to a prospective transferee whether a residential dwelling unit has a floor furnace, old floor furnace, or old wall furnace. The bill would provide that if a residential dwelling unit has an old floor furnace or old wall furnace, that old floor furnace or old wall furnace shall be replaced. The bill would also provide that a residential dwelling unit shall not be transferred unless these provisions have been met. The bill further bars any waiver of this requirement.

SUMMARY OF SUPPORTING ARGUMENTS FOR RECOMMENDATION:

AB 1234 would dramatically expand furnace replacements in California outside of furnace replacements currently administered under the CPUC's Low Income Energy Efficiency (LIEE) program. Moreover, if incorporated under the LIEE program, AB 1234 would expand program costs by millions of dollars.

Under AB 1234, the costs of the program would be recovered through the natural gas and electricity Public Goods Charge. California's middle or low-middle income consumers, who fall just outside the qualifying income guidelines for the CARE program, would face the increased burden of a higher Public Good Surcharge on their energy bills.

The Winter Initiative which, went in to effect November 1, 2005, and continued through April 30, 2006, greatly increased the number of gas furnace replacements in California. PG&E alone will replace over 1200 gas furnaces for the period covered by the Winter Initiative.

SUMMARY OF SUGGESTED AMENDMENTS (if any):

None

DIVISION ANALYSIS (Energy Division):

- California's existing LIEE program already encompasses a gas furnace replacement program. By creating a separate program for gas furnace replacement, AB 1234 duplicates this effort to the detriment of other features of the current LIEE program. For example:
 - Additional installers would have to be trained and hired to implement the volume of furnaces that AB 1234 requires.
 - The additional man-power and transaction costs connected with AB 1234 would elevate gas furnace replacements as a priority service for low income customers to the detriment of other LIEE program measures.

An emphasis on gas furnace replacement services for low income customers is not linked to any policy directive of the Commission.

- AB 1234 focuses on electricity and gas customers that are eligible for the CARE program. However, furnace replacement is not a feature of the CARE program as this program offers a discounted rate for energy to qualified low income energy customers.

- Furnace replacement is more appropriately addressed under PU Code 2790 as a potential weatherization service component.
- AB 1234 offers no independent studies or other data supported information to validate the need for an accelerated gas furnace replacement program.
- The potential need for gas furnace replacement among California's low income population is better addressed through changes to the existing LIEE program's energy efficiency and weatherization components. Additional legislation is unnecessary.
- The Commission is currently in the process of setting goals for future programs in its recently opened Ordered Instituting Rulemaking, R. 07-01-042. Under the auspices of the Rulemaking the PUC will conduct workshops and consider Needs Assessments, Impact Evaluations, and Cost Benefit Analyses in setting future goals for the Low Income Energy Efficiency Programs. Such analyses are necessary to determine what programs should be implemented in the future based on their benefit cost ratios. Instituting a furnace replacement program that would more than double the LIEE budget from \$104 million to an estimated \$254 million per year without consideration of the cost effectiveness would be inadvisable.
- All other non low-income electricity ratepayers would face the burden of a rate increase for the furnace replacements.

PROGRAM BACKGROUND:

AB 1234 would have a significant impact on the costs and operation of low income energy programs for California's utilities. In 2005, 260 of Pacific Gas and Electric's (PG&E's) LIEE participants received gas furnaces at a total cost of \$643,240. Two hundred twenty two (222) LIEE participants have received furnaces as of March 15, 2006, at an approximate cost of \$704,341. PG&E projects that if 25,000 furnaces were replaced in 2006, the estimated cost would be over \$65.9 million during one calendar year. By 2013 costs, for the six-year program, would come to about \$395 million for PG&E alone.

According to SouthWest Gas (SWG), it has replaced 30 gas furnaces during the 2005 LIEE program year at a cost of about \$71,370. SWG anticipates replacing approximately 50 gas furnaces in low income homes during 2006.

In 2005 San Diego Gas and Electric (SDG&E) replaced a total of 314 gas furnaces at a cost of approximately \$414,000 under the LIEE program. During the same period, SoCal Gas replaced 2,025 gas furnaces at a cost of approximately \$3,182,000. For SDG&E, the potential gas furnace replacement activity, under AB 1234, would be over 4,000 units at a cost of approximately \$7 million to \$12 million per year.

California IOUs have criteria in-place to assess whether gas furnaces are eligible for replacement. Currently, outside of the Winter Initiative Program, a furnace is repaired or replaced in the LIEE program if it fails the NGAT test and is the primary furnace in an owner-occupied home. For example, in 2005, PG&E repaired 949 furnaces and replaced 260 furnaces. Under the Winter Initiative Program, a central forced air furnace with an efficiency of 65 percent AFUE or less is replaced in all qualifying homes (whether homeowner or renter occupied). The Winter Initiative went in to effect November 1, 2005 and continued through April 30, 2006. PG&E has replaced over 642 furnaces under the Winter Initiative since November 1, 2005 to date, and has assessed over 600 for pending furnace installations. Procedures for gas furnace replacement at other California IOUs are substantively identical to the procedures described for PG&E. Changes to the current LIEE gas furnace replacement procedures or the Winter Initiative Program may achieve similar results to what is intended for AB 1234.

Potential Costs

Commission staff – in analyzing similar legislation last year developed the chart below. While the program envisioned under AB 1234 does NOT include a mandatory number of gas replacements as was required in the previous legislation it is believed that AB 1234 could lead to large increases in the funding required. **The chart is for illustrative purposes only.**

Utility	2006 Authorized LIEE Budget	AB 1234 Potential Furnace Replacement Adder	Total Potential Revised LIEE plus AB 1234 Budget
SWG	\$941,9801	\$360,000	\$ 1,301,980
PG&E	\$56,530,000	\$66,000,000	\$ 122,530,000
SoCal Gas	\$33,324,875	\$72,000,000	\$ 105,324,875
SDG&E	\$13,368,093	\$12,000,000	\$ 25,368,093
Total	\$104,164,948	\$150,360,000	\$ 254,524,948

AB 1234 could potentially create an over \$200 million statewide program with the existing LIEE programs plus the additional cost for gas furnace replacements. The potential need for gas furnace replacement among California's low income population is better addressed through changes to the existing LIEE program's energy efficiency and weatherization components. Additional legislation is unnecessary.

¹ SouthWest Gas (SWG) purchased Avista Corp. After the merger the program budgets for CARE and LIEE were combined (Avista \$81,980 plus SWG \$860,000).

LEGISLATIVE HISTORY:

SB 1816 (Alarcon), introduced last session, contained provisions similar to those in AB 1234. The Commission opposed SB 1816 and the bill failed passage in the Senate Appropriations Committee.

FISCAL IMPACT:

The bill requires two additional analyst positions, one Public Utilities Regulatory Analyst (PURA) IV and one PURA III, to enable the Commission to develop and adopt new utility budgets and rules to implement this statute and to oversee utility compliance. The two analysts will develop proposed new procedures and budget authority for the utilities to expand the gas furnace replacement component of their Low Income Energy Efficiency (LIEE) programs. The budgets and implementation plans, subject to public review and comment, will be adopted by the Commission through a formal rulemaking and/or utility application process. Following adoption of the new program rules and budgets, the analysts will oversee utility implementation of the procedures in a fair and consistent manner within each utility service area and across the state.

Total fiscal impact is \$184,005 per year.

STATUS:

AB 1234 has not been assigned to a policy committee yet.

SUPPORT/OPPOSITION:

None on file

STAFF CONTACTS:

Sean Gallagher
Director - Energy Division

shg@cpuc.ca.gov
(415) 703-2059

Sarita Sarvate
Staff - Energy Division

sbs@cpuc.ca.gov
(415) 703-5574

Hazlyn Fortune
Staff - Energy Division

hcf@cpuc.ca.gov
(415) 703-1809

Date: March 28, 2007

BILL LANGUAGE:

BILL NUMBER: AB 1234 INTRODUCED
BILL TEXT

INTRODUCED BY Assembly Member Wolk

FEBRUARY 23, 2007

An act to add Article 1.9 (commencing with Section 1103.50) to Chapter 2 of Title 4 of Part 4 of Division 2 of the Civil Code, and to add Section 382.5 to the Public Utilities Code, relating to real property.

LEGISLATIVE COUNSEL'S DIGEST

AB 1234, as introduced, Wolk. Real property: furnaces.

(1) Existing law requires specified written disclosures to be made to prospective transferees of real property and a waiver of these provisions is declared void as a violation of public policy.

This bill would require the transferor of real property to disclose to a prospective transferee whether a residential dwelling unit has a floor furnace, old floor furnace, or old wall furnace, as specified. The bill would provide that if a residential dwelling unit has an old floor furnace or old wall furnace, that old floor furnace or old wall furnace shall be replaced. The bill would also provide that a residential dwelling unit shall not be transferred unless these provisions have been met. The bill would further provide that a waiver of these provisions is declared void as a violation of public policy.

(2) Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including, but not limited to, electrical corporations and gas corporations, as defined. Existing law requires the commission to establish a program of assistance to low-income electric and gas customers, referred to as the California Alternate Rates for Energy (CARE) program. Existing law also establishes the Low-Income Oversight Board for the purpose of advising the commission on low-income electric and gas customer issues and serving as a liaison for the commission to low-income ratepayers and representatives. Under existing law, a violation of the Public Utilities Act or an order or direction of the Public Utilities Commission is a crime.

This bill would require the Public Utilities Commission, in consultation with the Low-Income Oversight Board and the gas corporations or electrical corporations that participate in the CARE program, to establish a program to replace old gas furnaces, as defined, in residential dwelling units occupied by customers eligible for the CARE program, as specified. The bill would provide that the furnace replacement program shall go into effect on July 1, 2008, and continue until December 31, 2013. The bill would further provide that the furnace replacement program shall be in addition to all other specified programs of assistance for low-income customers. The

bill would provide that the costs to adopt and implement the furnace replacement program shall be recovered by the commission, as specified. Because a violation of an order or decision of the commission implementing the requirements of the bill would be a crime, the bill would impose a state-mandated local program.

(3) This bill would make related findings and declarations by the Legislature.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares all of the following:

(a) The efficiency of new gas furnaces that heat residential dwelling units has improved by an average of 25 percent since 1975, due in part to the implementation of appliance efficiency standards that began in 1978.

(b) The improvements in the efficiency of gas furnaces and floor heaters have been accompanied by safety improvements that reduce emissions of carbon monoxide and other harmful air pollutants that endanger public health.

(c) California has a large number of residential dwelling units that are more than 30 years old and have gas furnaces and floor heaters that predate the improvements in furnace efficiency and safety.

(d) Residential dwellings with floor heaters that lack vents or flues may pose fire or other safety hazards that make the disclosure of these floor heaters a matter of public interest.

(e) It is a matter of public interest to promote the replacement of old and inefficient gas furnaces lacking safety features with new furnaces that are safer and more energy efficient.

SEC. 2. Article 1.9 (commencing with Section 1103.50) is added to Chapter 2 of Title 4 of Part 4 of Division 2 of the Civil Code, to read:

Article 1.9. Disclosure and Replacement of Old Floor Furnaces Upon Transfer of Residential Dwelling Units

1103.50. For purposes of this article, the following definitions shall apply:

(a) "Floor furnace" means a floor furnace as described in Section 1602(e) of Title 20 of the California Code of Regulations.

(b) "Installment land sale contract" means a real property sales contract defined in Section 2985.

(c) "Old floor furnace" means a floor furnace that is more than 30 years old.

(d) "Old wall furnace" means a wall furnace as described in Section 1602(e) of Title 20 of the California Code of Regulations

that is more than 30 years old.

1103.51. (a) This article applies to a transfer by sale, exchange, installment land sale contract, lease with an option to purchase, any other option to purchase, or ground lease coupled with improvements of real property or residential stock cooperative improved with or consisting of one or more residential dwelling units.

(b) Any waiver of the requirements of this article is void as against public policy.

1103.52. A residential dwelling unit subject to this article shall not be transferred unless the disclosure and replacement requirements described in Section 1103.53 are met.

1103.53. (a) The transferor of a residential dwelling unit subject to this article shall deliver to the prospective transferee a written statement disclosing whether the residential dwelling unit has any of the following:

- (1) A floor furnace.
- (2) An old floor furnace.
- (3) An old wall furnace.

(b) If there is an old floor furnace or old wall furnace in the residential dwelling unit, that old floor furnace or old wall furnace shall be replaced.

SEC. 3. Section 382.5 is added to the Public Utilities Code, to read:

382.5. (a) For purposes of this section, the following definitions shall apply:

- (1) "Old gas furnace" means an old floor furnace or old wall furnace as described in Section 1103.50 of the Civil Code.
- (2) "Residential dwelling unit" means a detached home, mobilehome, manufactured home, or a unit in a multifamily structure occupied by either the owner or a tenant.

(b) The commission, in consultation with the Low-Income Oversight Board and the gas corporations or electrical corporations that participate in the California Alternate Rates for Energy (CARE) program, shall establish a program to take effect on July 1, 2008, and to continue to December 31, 2013, inclusive, to replace old gas furnaces in residential dwelling units occupied by customers eligible for the CARE program. This furnace replacement program shall initially provide financial support for replacing old gas furnaces when the residential dwelling unit is sold or transferred.

(c) The furnace replacement program described in this section shall be in addition to all other programs of assistance for low-income customers established by the commission and administered by an electrical or gas corporation or third-party administrator pursuant to Sections 381, 381.1, 382, 382.1, 739.1, and 2790.

(d) The costs of the program adopted and implemented pursuant to this section shall be recovered pursuant to Sections 381 and 890.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.