

STATE OF CALIFORNIA

Public Utilities Commission  
San Francisco

**M e m o r a n d u m**

**Date:** April 5, 2006

**To:** The Commission  
(Meeting of April 13, 2006)

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

**Subject:** **AB 2021 (Levine) - Public utilities: energy efficiency.**  
**As Amended March 20, 2006**

**LEGISLATIVE SUBCOMMITTEE RECOMMENDATION: Support with technical amendments**

**SUMMARY OF BILL:** This bill would require local publicly owned electric utilities (municipal utilities) to implement energy efficiency and demand reduction programs in their service territories. The target electric savings by each municipal utility will be based on the cost-effective electricity efficiency savings targets to be established by the State Energy Resources Conservation and Development Commission (Energy Commission or CEC) in consultation with the California Public Utilities Commission (CPUC). The energy efficiency and demand reduction programs will be funded by the customers of each municipal utility through a nonbypassable usage based charge.

**SUMMARY OF SUPPORTING ARGUMENTS FOR RECOMMENDATION:** The bill would ensure continuous investment in energy efficiency by utilities, including municipal utilities. However, the bill as currently worded needs amendments as detailed below.

**SUMMARY OF SUGGESTED AMENDMENTS:**

(1) Synchronize Schedule of Setting Energy Saving Goals for Both Investor Owned Utilities (IOUs) and Municipal Utilities

Suggested amendment:

“399.21 **In 2007**, and every three years thereafter, the State Energy Resources Conservation and Development Commission, in consultation with

the Commission, shall identify all potentially achievable cost-effective electricity and natural gas efficiency savings and establish statewide annual energy and demand saving targets over ten years.”

“399.23 (a) **In 2007** and every three years thereafter, the Energy Commission shall use the information development in Section 399.21, to identify all potential achievable cost-effective electricity efficiency savings and establish annual energy and demand saving targets over ten years for each local publicly owned electric utility to achieve. The savings as a percent of sales, for all local publicly owned electric utilities.”

(2) Adoption of Three-Year Program Cycle for Energy Efficiency Programs of Municipal Utilities

Suggested amendment:

“399.23 (a) **In 2007** and every three years thereafter, the Energy Commission shall use the information development in Section 399.21, to identify all potential achievable cost-effective electricity efficiency savings and establish annual energy and demand saving targets over ten years for each local publicly owned electric utility to achieve. The savings as a percent of sales, for all local publicly owned electric utilities. **The local publicly owned electric utilities shall implement their energy efficiency and demand savings efforts consistent with the program cycle adopted for investor owned utilities.**”

**DIVISION ANALYSIS (Energy Division):**

In order to reduce per capita energy consumption, the CPUC has adopted aggressive annual and cumulative energy savings goals for the service territories of the California investor-owned utilities (IOUs) from 2004-2013. These ten-year goals, subject to three-year updating process, were adopted by the CPUC in Decision 04-09-060. The goals adopted in this decision guide the IOUs in their projections of supply-side resource needs, pipeline or transmission needs, new facilities or projections of energy demand.

Synchronize Schedule of Setting Energy Saving Goals for Both IOUs and Municipal Utilities

The bill as currently worded states:

“399.21 On or before June 1, 2007, and every three years thereafter, the State Energy Resources Conservation and Development Commission, in consultation with the Commission, shall identify all potentially achievable cost-effective electricity and natural gas efficiency savings and establish statewide annual energy and demand saving targets over ten years.”

“399.23 (a) On or before June 1, 2007 and every three years thereafter, the Energy Commission shall use the information development in Section 399.21, to identify all potential achievable cost-effective electricity efficiency savings and establish annual energy and demand saving targets over ten years for each local publicly owned electric utility to achieve. The savings as a percent of sales, for all local publicly owned electric utilities.”

Since the CPUC has already adopted energy savings goals--collaboratively examined by the CEC and CPUC--for the service territories of the IOUs for the next ten years up to 2013, it is reasonable that the energy goals to be established for the service territories of municipal utilities leverage on the goals established by the CPUC in Decision 04-09-060. These goals will soon be subject to an updating process in preparation for the next energy efficiency program cycle (2009-2011). Therefore, the CPUC recommends that the bill be revised accordingly to reflect adoption of a single schedule for setting energy savings goals for both investor owned and municipal utilities, but with the specific dates to be determined by the two agencies instead of being set in the legislation itself. Please see specific recommended changes as detailed above.

#### Adoption of Three-Year Program Cycle for Energy Efficiency Programs of Municipal Utilities

The CPUC has recently adopted a three-year program cycle for the energy efficiency programs for the service territories of the IOUs beginning with the 2006-2008 program cycle. The energy efficiency goals for the next cycle (2009-2011) will be based on the updated target savings goals. Consistent with the CPUC recommendation to adopt energy savings goals for IOUs and municipal utilities at the same time, it is also reasonable that energy efficiency programs of municipal utilities consider a three-year program cycle to be based on updated goals to be established every three years. Therefore, the CPUC recommends that the bill be revised accordingly to reflect adoption of a three-year energy efficiency program cycle for municipal utilities. Please see specific recommended changes as detailed above.

#### **PROGRAM BACKGROUND:**

On September 23, 2004, the CPUC adopted energy savings goals --through Decision 04-09-060-- for the four largest IOUs: Pacific Gas and Electric Company (PG&E), San Diego Gas and Electric Company (SDG&E), Southern California Edison Company (SCE), and Southern California Gas Company (SCG). Electric and natural gas savings from energy efficiency programs funded by ratepayers through the public goods charge and procurement rates will contribute to these goals. The adopted goals will be updated every three-years, in concert with the three-year program planning and funding cycle for energy efficiency programs. Furthermore, in any application or other filing in which PG&E, SDG&E, SCE or SCG present projections or supply-side resource needs,

pipeline or transmission needs, propose new facilities or otherwise utilize projections of energy demand, they must demonstrate that such filings are fully consistent with the adopted energy savings goals or updates to these goals as adopted by the CPUC.

**LEGISLATIVE HISTORY:**

N/A

**FISCAL IMPACT:**

The fiscal impact of this bill would be \$95,929 as it would require one additional PURA IV position at the CPUC to fully comply with its requirements. This additional position would be an ongoing cost that will be incurred by the CPUC if the bill is enacted.

**STATUS:**

The bill was heard in the Assembly Utilities & Commerce Committee on April 3<sup>rd</sup>. The bill was amended, passed, and re-referred to the Assembly Natural Resources Committee. Two amendments were taken. One amendment would ensure that programs to increase efficiency of power plants and transmission lines can count toward a utility's efficiency targets. The second amendment would strike lines 15-18 on page 6 of the bill which read *"Each local publicly owned utility shall adjust its financial practices as it determines to be necessary to ensure the recovery of fixed costs is not dependent on sales, while maintaining volumetric rates."* It is staff's belief that neither of these amendments would change either the recommended position or suggested amendments proposed in this memo.

**SUPPORT/OPPOSITION:**Support:

California Chamber of Commerce  
California Coalition of Utility Employees  
California League of Conservation Voters  
California Public Interest Research Group  
Clean Power Campaign  
Coalition for Clean Air  
Environment California  
Natural Resources Defense Council  
Pacific Gas & Electric  
Planning and Conservation League  
Sempra Energy  
Sierra Club California

Southern California Edison  
Union of Concerned Scientists

Oppose:

Azusa City Council / Utility Board  
California Municipal Utilities Association  
Imperial Irrigation District  
Northern California Power Agency  
Sacramento Municipal Utility District  
Southern California Public Power Authority

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**BILL LANGUAGE:**

BILL NUMBER: AB 2021    AMENDED  
BILL TEXT

AMENDED IN ASSEMBLY    MARCH 20, 2006

INTRODUCED BY    Assembly Member Levine

FEBRUARY 14, 2006

An act    to add Article 17 (commencing with Section 399.20) to Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code, relating to energy efficiency.

LEGISLATIVE COUNSEL'S DIGEST

AB 2021, as amended, Levine    Public utilities: energy efficiency.

(1) *The Warren-Alquist State Energy Resources Conservation and Development Act establishes the State Energy Resources Conservation and Development Commission (Energy Commission) and requires it to certify sufficient sites and related facilities that are required to provide a supply of electricity sufficient to accommodate projected demand for power statewide. Under that act, the Energy Commission also administers existing law with respect to energy conservation and renewable electricity generation sources.*

*Existing law authorizes the Public Utilities Commission to regulate public utilities, including electrical and gas corporations. The Public Utilities Act requires the commission to review and adopt a procurement plan for each electrical corporation. Under existing law, a person is guilty of a crime for failing to comply with provisions of the act.*

*Existing law requires the commission, in consultation with the Energy Commission, to identify all potentially achievable cost-effective electricity efficiency savings and to establish efficiency targets for an electrical corporation to achieve pursuant to its procurement plan. Existing law requires that an electrical corporation's procurement plan include a showing that the electrical corporation will first meet its unmet resource needs through all available energy efficiency and demand reduction resources that are cost effective, reliable, and feasible. Existing law requires the commission, in consultation with the Energy Commission, to identify all potentially achievable cost-effective natural gas efficiency savings and to establish efficiency targets for the gas corporation to achieve these targets and to require that a gas corporation first meet its unmet gas resource needs through all available natural gas efficiency and demand reduction resources that are cost effective, reliable, and feasible.*

*This bill would require the Energy Commission, on or before June 1, 2007, and every 3 years thereafter, in consultation with the commission, to identify all potentially achievable cost-effective*

electricity and natural gas efficiency savings and establish statewide annual targets for energy efficiency savings and demand reduction over 10 years. The bill would require the commission to use that information to meet its identification and target-setting requirements under existing law.

The bill would require the Energy Commission to investigate options and develop a plan to improve the energy efficiency of, and to decrease the peak electricity demand of, air conditioners in the state. The bill would require the Energy Commission, on or before January 1, 2008, to prepare and submit to the Legislature a report on that plan.

(2) Existing law requires each local publicly owned electric utility, in procuring energy, to first acquire all available energy efficiency and demand reduction resources that are cost effective, reliable, and feasible. Existing law requires each local publicly owned electric utility to report annually to its customers and to the Energy Commission, its investment on energy efficiency and demand reduction programs.

This bill would require the Energy Commission, on or before June 1, 2007, and every 3 years thereafter, to identify all potentially achievable cost effective electricity efficiency savings and establish annual targets for energy efficiency savings and demand reduction over 10 years for each local publicly owned electric utility, as defined. The bill would authorize the Energy Commission to establish a single minimum requirement for all local publicly owned electric utilities. The bill would require the Energy Commission to include in a report prepared under specified existing law, for each local publicly owned electric utility, a comparison of the utility's annual targets and the utility's actual energy efficiency savings and demand reduction. The bill would require the local publicly owned electric utility, if the Energy Commission identifies a shortfall, and the local publicly owned electric utility does not remedy that shortfall within one year, to provide funds, as prescribed, to the Energy Commission for remedial investments in energy efficiency and demand reduction programs. The bill would require each local publicly owned utility to adjust its financial practices as it determines to be necessary to ensure that the recovery of fixed costs is not dependent on sales, while maintaining volumetric rates. The bill, by establishing new requirements for local publicly owned electric utilities, would create a state-mandated local program, and because the violation of these requirements would be a crime under the act, the bill would additionally impose a state-mandated local program by creating new crimes.

(3) 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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

~~Existing law regulates public utilities, as defined, including public utilities owned by municipal corporations and publicly owned utilities.~~

~~This bill would express the intent of the Legislature to develop comprehensive legislation to carry out all achievable cost effective energy efficiency programs by requiring municipal utilities to decouple revenues from total sales of electricity if current practices are limiting investments in cost effective energy efficiency, requiring that local publicly owned utilities contribute proportionally to meeting any statewide energy saving targets established by the State Energy Resources Conservation and Development Commission, requiring local publicly owned utilities to contract for independent evaluation, measurement, and verification of energy and demand savings achieved by the energy efficiency programs, and requiring the energy commission to investigate options and develop a plan to improve the energy efficiency, and to decrease peak electricity demand of air conditioners, as provided.~~

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

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

SECTION 1. Article 17 (commencing with Section 399.20) is added to Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code , to read:

Article 17. California Energy Efficiency Procurement Portfolio Standard

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

(a) In order to ensure that prudent investments in energy efficiency continue to be made that produce cost-effective energy savings, reduce customer demand, reduce overall system costs, increase reliability, and increase public health and environmental benefits, it is the intent of the Legislature that all load serving entities procure all cost-effective energy efficiency measures so that the state can meet the goal of reducing total forecasted electrical consumption by 10 percent over the next 10 years.

(b) Expanding California's energy efficiency programs will promote lower energy bills, protect public health, improve environmental quality, stimulate sustainable economic development, create new employment opportunities, and reduce reliance on imported fuels.

(c) Expanding California's energy efficiency programs will ameliorate air quality problems throughout the state and will also reduce harmful greenhouse gas emissions.

399.21. As used in this article:

(a) "Energy Commission" means the State Energy Resources Conservation and Development Commission.

(b) "Local publicly owned electric utility" means a local publicly owned electric utility as defined in Section 9604.

399.22. On or before June 1, 2007, and every three years thereafter, the Energy Commission, in consultation with the



commission, shall identify all potentially achievable cost-effective electricity and natural gas efficiency savings and establish targets for statewide annual energy efficiency savings and demand reduction over 10 years.

399.23. The commission shall use the information developed pursuant to Section 399.22 to meet its responsibilities pursuant to Sections 454.55 and 454.56.

399.24. (a) On or before June 1, 2007, and every three years thereafter, the Energy Commission shall use the information developed pursuant to Section 399.22 to identify all potentially achievable cost-effective electricity efficiency savings and shall establish annual targets for energy efficiency savings and demand reduction over 10 years to be achieved by each local publicly owned electric utility. The Energy Commission may establish a single minimum requirement, expressed as annual savings as a percent of sales, for all local publicly owned electric utilities.

(b) Local publicly owned electric utility investments in programs to achieve the energy efficiency and demand reduction targets shall be treated as procurement investments. Each local publicly owned electric utility may fund a portion of its investments in energy efficiency and demand reduction programs from the nonbypassable usage based charge established pursuant to Section 385. However, that portion shall not exceed the percentage of the funds each local publicly owned electric utility spent on those investments in 2005.

(c) Each local publicly owned electric utility shall contract for independent evaluation, measurement, and verification of the energy efficiency savings and demand reduction achieved by energy efficiency and demand reduction programs. These evaluation reports shall be available to the public, upon request.

(d) Each local publicly owned electric utility shall prepare and submit annually to its customers and to the Energy Commission a report on its investment in energy efficiency and demand reduction programs. The report shall contain a description of programs, expenditures, and expected and actual energy savings results.

(e) The Energy Commission shall include in each integrated energy policy report prepared pursuant to Section 25302 of the Public Resources Code, for each local publicly owned electric utility, a comparison of the utility's annual target established in accordance with subdivision (a) and the utility's actual energy efficiency savings and demand reduction. If the Energy Commission identifies a shortfall, and the local publicly owned electric utility does not remedy that shortfall within one year, the Energy Commission shall require, and the local publicly owned electric utility shall provide, funds to the Energy Commission in an amount specified by the Energy Commission for remedial investments in energy efficiency and demand reduction to be procured through a competitive solicitation process, not to exceed \$0.03 per kilowatthour, adjusted annually for inflation.

(f) Each local publicly owned utility shall adjust its financial practices as it determines to be necessary to ensure the recovery of fixed costs is not dependent on sales, while maintaining volumetric rates.

(g) Each local publicly owned utility shall implement the requirements of this section through a public process that provides a meaningful opportunity for public participation.

SEC. 2. (a) The Legislature finds and declares that the use of air conditioners in a hot, dry climate drives peak electricity demand in much of this state.

(b) The State Energy Resources Conservation and Development Commission shall do both of the following:

(1) Investigate options and develop a plan to improve the energy efficiency of, and to decrease the peak electricity demand of, air conditioners.

(2) On or before January 1, 2008, prepare and submit to the Legislature a report on the plan developed pursuant to subdivision (a), including, but not limited to, any changes in law the State Energy Resources Conservation and Development Commission recommends to implement the plan.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, 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.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

~~SECTION 1. It is the intent of the Legislature to develop comprehensive legislation to carry out all achievable cost effective energy efficiency programs through all of the following:~~

~~(a) Requiring that local publicly owned utilities, as defined by Section 9604 of the Public Utilities Code, contribute proportionally to meeting any statewide energy saving targets established by the State Energy Resources Conservation and Development Commission (Energy Commission), and to contribute at a level no lower than the investor owned utilities' annual energy savings in dollars as a percent of sales.~~

~~(b) Requiring municipal utilities to decouple revenues from total sales of electricity if current practices are limiting investments in cost effective energy efficiency.~~

~~(c) Requiring local publicly owned utilities to contract for independent evaluation, measurement, and verification of energy and demand savings achieved by the energy efficiency programs, and to make evaluation reports available to the public upon request.~~

~~(d) Requiring the Energy Commission to investigate options and develop a plan to improve the energy efficiency, and to decrease peak electricity demand, of air conditioners in the hot, dry climate that drives peak electricity demand in much of the state.~~