

STATE OF CALIFORNIA

Public Utilities Commission  
San Francisco

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

**Date:** May 25, 2011

**To:** The Commission  
(Meeting of May 26, 2011)

**From:** Edward Randolph, Director  
Office of Governmental Affairs (OGA) — Sacramento

**Subject:** **AB 1073 (Fuentes) – Energy Efficiency**  
**As amended: May 16, 2011**

**LEGISLATIVE SUBCOMMITTEE RECOMMENDATION: SUPPORT**

**SUMMARY OF BILL:** AB 1073 requires a recipient of ratepayer-funded energy efficiency incentives to certify that any applicable permits for a project that involves a physical alteration or addition to a residential, commercial, or industrial structure have been obtained prior to applying for investor-owned or municipal utility incentives. The bill excludes from this requirement incentives for appliances, and changes, alterations, or repairs to structures that are minor in nature, as determined by the applicable local government.

**SUMMARY OF SUPPORTING ARGUMENTS FOR RECOMMENDATION:**

The requirements in AB 1073 will raise consumer awareness of the importance of complying with appropriate building and construction permitting requirements. Studies have shown that 90% of heating, ventilation and air conditioning (HVAC) systems installed in California do not have proper permits and/or were not installed by licensed contractors. Evidence shows that there is an increase in the efficiency of installed HVAC system when they are installed by licensed contractors and the appropriate local permits are obtained for the work. As amended, this bill places the responsibility of demonstrating compliance with the local permitting rules on consumers and does not place the electric or gas utility in the business of enforcing code compliance.

However, due to the varying costs of local permits, the bill could result in unintended consequences of lower participation in the state's energy efficiency programs in some local jurisdictions if the cost of obtaining permits exceeds the value of the economic benefits offered by the programs.

**ANALYSIS (Energy Division):**

1. This bill would primarily impact investor owned utility (IOU) energy efficiency programs covering new residential, commercial, and industrial construction projects, and residential and commercial HVAC systems. However, the new rules should not have a major overall impact on these programs on a statewide basis since the statewide component of these programs already require property owners to obtain building permits prior to receipt of incentives. Additionally, the bill would only affect “downstream” incentive programs, where rebates or incentives are paid to a customer or that customer’s contractor, and not “upstream” programs, where the incentive is paid to manufacturers who agree to stock designated high efficiency products in the California marketplace. Most of the IOU incentives paid for efficient HVAC systems are administered through upstream programs.
2. The California Public Utilities Commission (CPUC) supports the bill’s goals of encouraging consumers to comply with all applicable permitting requirements, especially if those requirements lead to incremental energy savings. However, we are concerned that the high costs of obtaining a permit, including administrative hurdles, in some jurisdictions may negatively impact HVAC program participation. CPUC staff estimate that a utility incentive represents approximately only 20% of the total cost of obtaining permits (including mechanical, electrical, structural, incremental labor costs, HERS rating, etc.) so consumers may view obtaining a permit as more trouble and cost than it is worth. While this may result in lower participation and fewer energy savings from utility programs, customers may still choose to buy and install an energy efficient HVAC system without incentives.

**PROGRAM BACKGROUND:**

1. Several IOU activities and programs in the 2010-2012 energy efficiency program portfolios (authorized pursuant to D.09-09-047) are designed to improve compliance with permitting and code requirements, as specified further below.
2. **Statewide HVAC Residential and Commercial Quality (QI) Installation subprograms**

Pursuant to D.09-09-047 and the approved statewide HVAC Program Implementation Plan,<sup>1</sup> the Residential and Commercial Quality Installation (QI) programs (\$17 million and \$10 million, respectively) require building permits for central AC and heat pump systems prior to receiving incentive payments. These technologies represent the large majority of HVAC systems for which installations trigger Title 24 requirements.

Most of the IOU incentives paid for HVAC systems are administered through the Upstream Equipment Incentives subprogram of the statewide HVAC program. The upstream program offers incentives to distributors who sell qualifying high efficiency

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<sup>1</sup> Current versions of PIPs are available at <http://eega.cpuc.ca.gov/Main2010PIPs.aspx>.

HVAC equipment. This bill would not apply to this subprogram since it assumes a “downstream” incentive design where incentives are paid to the customer (or contractor) after the system is installed.

**3. Statewide Codes and Standards Compliance Enhancement subprogram**

As part of the IOUs 2010-2012 energy efficiency portfolio, the Codes and Standard program was expanded to include new Compliance Enhancement (CE) subprogram, funded at \$3.8 million. The goal of this program is to increase Title 24 code compliance by helping to improve building department code enforcement processes from beginning to end. Activities include: training and supporting building officials; simplifying and expediting permitting and compliance processes; and a pilot program with 12 local building departments to investigate knowledge and skill gaps and code enforcement processes in detail, in order to identify opportunities to streamline enforcement practices and improve consistency between jurisdictions.

**4. Western HVAC Performance Alliance (WHPA) Compliance Committee**

Several of the activities described above in the CE subprogram are being implemented in partnership with HVAC industry stakeholders through the WHPA. The WHPA<sup>2</sup> is an HVAC industry forum established to advise the IOUs on implementation of the *California Long-Term Energy Efficiency Strategic Plan* (Strategic Plan)<sup>3</sup> and funded through the statewide HVAC program in the 2010-2012 EE program portfolio. WHPA is tasked with implementing HVAC Goal #1 of the Strategic Plan: “Consistent and effective compliance, enforcement, and verification of applicable building and appliance standards.” Through this forum the IOUs are actively working with the California Energy Commission, California State Licensing Board and other industry stakeholders to improve code compliance.

**5. Statewide Workforce Education and Training (WE&T) program**

Under the statewide WE&T program, the IOUs are involved with several activities to support a trained and educated workforce, that is designed, in turn, to support improved code compliance.

**6. HVAC WE&T subprogram** – Under the statewide HVAC program, this \$10 million subprogram offers industry specific education and training opportunities targeted at all levels of the HVAC value chain. Building on the findings and recommendations of the WE&T Needs Assessment, this subprogram will seek to influence quality-inclined contractors, installers, and technicians to deliver premium services to their customers, including ensuring compliance with Title 24 building codes.

**7. Energy Centers** - Through the “Centergies” subprogram of the 2010-2012 statewide WE&T program (\$75 million), the IOUs offers conducts seminars and workshops that address the knowledge and skill gaps of builders, developers, contractors, designers, installers, plant engineers and operators, agricultural owners

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<sup>2</sup> For information about WHPA, go to [www.performancealliance.org](http://www.performancealliance.org).

<sup>3</sup> The Strategic Plan was adopted by the Commission in D.08-09-040. It is available on the Engage360 Web Portal at [www.engage360.com/images/stories/ceesp/caenergyefficiencystrategicplan\\_jan2011.pdf](http://www.engage360.com/images/stories/ceesp/caenergyefficiencystrategicplan_jan2011.pdf)

and managers, and city and county building department staffs.

**STATUS:**

AB 1073 passed the Assembly 78-0 and is awaiting committee assignment in the Senate.

**SUPPORT/OPPOSITION:**

Support: Natural Resources Defense Council, Western State Council of Sheet Metal Workers

Opposition: None on file

**STAFF CONTACT:**

Dan Chia, Deputy Director, OGA

(916) 324-5945

[dc2@cpuc.ca.gov](mailto:dc2@cpuc.ca.gov)

**May 25, 2011**

**BILL LANGUAGE**

BILL NUMBER: AB 1073    AMENDED  
BILL TEXT

AMENDED IN ASSEMBLY    MAY 16, 2011  
AMENDED IN ASSEMBLY    MARCH 31, 2011

INTRODUCED BY    Assembly Member Fuentes

FEBRUARY 18, 2011

An act to add ~~Section 717 to~~ Chapter 6  
(commencing with Section 8390) to Division 4.1 of  
the Public Utilities Code, relating to energy efficiency.

## LEGISLATIVE COUNSEL'S DIGEST

AB 1073, as amended, Fuentes. Electrical corporation energy efficiency programs: application requirements.

Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations and gas corporations, as defined . The Public Utilities Act requires the PUC to review and adopt a procurement plan for each electrical corporation in accordance with specified elements, incentive mechanisms, and objectives. The act requires that an electrical corporation's proposed procurement plan include certain elements, including a showing that the electrical corporation will first meet its unmet needs through all available energy efficiency and demand reduction resources that are cost effective, reliable, and feasible. The act requires the PUC, in consultation with the State Energy Resources Conservation and Development Commission, to identify all potentially achievable cost-effective electricity efficiency savings and to establish efficiency targets for electrical corporations to achieve pursuant to their procurement plan. *The act additionally requires the PUC, in consultation with the Energy Commission, to identify all potentially achievable cost-effective natural gas efficiency savings and to establish efficiency targets for a gas corporation to achieve and requires that a gas corporation first meet its unmet resource needs through all available natural gas efficiency and demand response resources that are cost effective, reliable, and feasible.* The PUC has approved various energy efficiency programs by electrical corporations and gas corporations .

*Existing law requires that a local publicly owned electric utility, in procuring energy to serve the load of its retail end-use customers, to first acquire all available energy efficiency and demand reduction resources that are cost effective, reliable, and feasible, to establish annual targets for energy efficiency savings and demand reduction, and to report those targets and their basis to the Energy Commission.*

This bill would require that ~~a written building or construction permit be submitted to the electrical corporation at the time of application for any ratepayer-funded energy efficiency~~

~~incentive for a project that involves a physical alteration or addition to a residential, commercial, or industrial structure~~  
*the recipient of ratepayer-funded energy efficiency incentives certify that any applicable permits, as appropriate, for a project that involves a physical alteration or addition to a residential, commercial, or industrial structure have been obtained and approved prior to applying for incentives from an energy utility, as defined .*

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

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

~~SECTION 1. Section 717 is added to the Public Utilities Code, to read:~~

~~717. A written building or construction permit shall be submitted to the electrical corporation at the time of application for any ratepayer-funded energy efficiency incentive for a project that involves a physical alteration or addition to a residential, commercial, or industrial structure.~~

SECTION 1. Chapter 6 (commencing with Section 8390) is added to Division 4.1 of the Public Utilities Code, to read:

CHAPTER 6. ENERGY EFFICIENCY PROGRAMS

8390. (a) For purposes of this chapter, "energy utility" means an electrical corporation, gas corporation, local publicly owned electric utility, or municipal corporation that provides gas service.

(b) The recipient of ratepayer-funded energy efficiency incentives shall certify that any applicable permits, as appropriate, for a project that involves a physical alteration or addition to a residential, commercial, or industrial structure have been obtained and approved prior to applying for incentives from an energy utility. This requirement does not apply to an application for ratepayer-funded energy efficiency incentives for appliances or changes, alterations, or repairs to structures that are of a minor nature not affecting structural features, egress, sanitation, safety, or accessibility, as determined by the entity of local government responsible for the issuance of building or construction permits.