CAC Item C5
Staff Report Item 13

TO: East Bay Community Energy Board of Directors

FROM: Melissa Brandt, Vice President of Public Policy & Deputy General Counsel

SUBJECT: **Approval of Legislative Positions (Action Item)**

DATE: May 18, 2022

Recommendation

Take a “support” position on Assembly Bill (“AB”) AB 2765 (Santiago), take a “support if amended” position on Senate Bill (“SB”) 1020 (Laird), and move to a neutral position on AB 2070 (Bauer-Kahan).

Background and Discussion

At the April 20, 2022, EBCE Board Meeting, the Board decided to watch AB 2765. Subsequently, the Senate Working Group on Climate Change introduced SB 1020. Both bills address concerns about electric ratepayer rate increases and bill affordability by using newly created funds to pay for certain electric programs with broad public benefit using taxpayer revenue. The goal is to mitigate electric ratepayers’ rising rates, particularly since income taxes in California are regressive and electric rates are regressive. While CARE and FERA programs help the lowest-income customers, hardest hit are often the low-income customers just above the CARE/FERA eligibility threshold, who on average have a higher number of residents living in one household compared to middle income households, energy inefficient housing (often rentals), and correspondingly high electric bills. These customers are burdened with the high cost of housing in the Bay Area and its surrounds, coupled with high electricity bills on account of their high volumetric usage. They receive no relief if their incomes exceed the CARE/FERA thresholds which are very low versus the cost of living in the Bay Area, as CARE/FERA eligibility is based on a multiplier of the Federal Poverty Index. In addition to the regressive cost impact on customers (and associated expected customer disconnections), high electric rates are a disincentive to vehicle and building electrification, as they make fuel switching from gas to electric more expensive.

Also at the April 20, 2022, EBCE Board Meeting, at the recommendation of Staff the Board decided to support AB 2070. However, AB 2070 has since been amended to no longer include the language that led EBCE to recommend taking a support position. Specifically, the language requiring a notification to the fire protection district when the utility initiates a deenergization event has been struck, likely due to concerns that the requirement may conflict with existing California Public Utilities Commission (CPUC) notice mandates. While taking no position on the broader public policy merits of the bill as amended, the bill is no longer directly relevant to EBCE's interests or legislative principles, making a neutral position appropriate.

Recommended EBCE Bill Positions:

- SUPPORT: AB 2765 (Santiago) would establish a taxpayer-funded Public Utilities Public Purpose Programs Fund and would require the CPUC to use the fund to pay for programs currently funded through an electrical corporation's public purpose program rate component except for the California Alternate Rates for Energy (CARE) program, and other programs determined by the CPUC to provide public benefits. If the fund does not have sufficient moneys for those purposes, the bill would authorize the CPUC to permit electrical corporations to recover the costs of those programs from ratepayers, as they do today through a charge on electric service, which is collected through customer delivery rates. The CPUC must consider the continuity of the public purpose programs and minimize customer disruptions. This bill would lower the electric delivery rates for all customers including EBCE customers, helping both with customer bill affordability and lower service disconnection rates, and supporting the growth of electrification by keeping electricity costs competitive. This aligns with EBCE's legislative principle of accelerating decarbonization through electrification, as well as promoting local development through incentivizing transportation and building electrification. It would further align with our policy position on Disadvantaged Communities by supporting rate relief for our low-income customers.

- SUPPORT IF AMENDED: SB 1020 (Laird) would set interim targets for serving load with 100% renewable/zero-carbon energy by 2045: 90% by end-2035, 95% by end-2040, and 100% for state agencies by 2030. Given EBCE's goal of 100% clean energy by 2030, staff expects to exceed these interim targets and supporting the targets for others aligns with our legislative principle of accelerating decarbonization.

  While state agencies can meet their 100% obligation through their load-serving entity's purchases, the purchases on behalf of state agencies are subject to a number of requirements including that the resource be newly developed and that the compliance obligations be separate from other load the entity serves. These requirements would not allow EBCE to simply serve its state agency load with its Renewable 100 product; rather, EBCE would have to maintain a separate procurement portfolio for its state agency load. This would be unnecessarily bureaucratic, expensive, and risky. EBCE staff recommends seeking amendments to the state agency procurement requirements so that EBCE could enable any state agency load to satisfy its 100% clean energy requirements simply by enrolling in EBCE's Renewable 100 product.

SB 1020 additionally creates the Climate and Equity Trust Fund, to be administered by a new nonprofit benefit corporation, the California Affordable Decarbonization Authority. The Trust Fund would support the costs of decarbonization, clean energy, and wildfire mitigation activities with funding sources outside of electricity rates. The CPUC would approve the disbursement of funds from the Trust Fund for eligible costs, including disbursements to CCAs such as EBCE. The Trust Fund would consist of federal funds, state legislative appropriations, Greenhouse Gas Reduction Funds, noncompliance penalties, and any other sources identified by the legislature. Disbursements would be made as direct credits on ratepayer bills, direct rebates or incentives, or reimbursement of eligible costs incurred by load-serving entities in the form of matching funds. In order to ensure that there is no competitive disadvantage to CCAs who only have generation revenues, EBCE staff recommends seeking amendments to ensure that eligible costs incurred by load-serving entities may be reimbursed in full, not only as matching funds.

If amended as suggested, this bill has the potential to lower the electric delivery rates for all customers including EBCE customers, helping both with customer bill affordability and lower service disconnection rates, and supporting the growth of electrification by keeping electricity costs competitive. This aligns with EBCE's legislative principle of accelerating decarbonization through electrification, as well as promoting local development through incentivizing transportation and building electrification. It would further align with our policy position on Disadvantaged Communities by supporting rate relief for our low-income customers.

- MOVE TO NEUTRAL: AB 2070 (Bauer-Kahan) would require an electrical corporation or local publicly owned electric utility to notify a fire protection district at least 24 hours before performing scheduled, nonemergency hot work, deploying a safety and infrastructure protection team, or performing a prescribed or controlled burn within the district's jurisdiction. Bauer-Kahan is a member of EBCE's legislative delegation. The bill was amended before EBCE formally communicated its support position, so moving to neutral would mean that EBCE would simply remove its support position from its website and would not communicate a formal position to the author or committees.

Fiscal Impact

AB 2765 and SB 1020 may result in lower customer utility delivery charges.

Attachments:

A. Author Fact Sheets: AB 2765 and SB 1020
B. Presentation

ASSEMBLYMEMBER
Miguel Santiago
DISTRICT 53

AB 2765: Equitable and Reduced Utility Bills

Bill Summary

AB 2765 would sunset some Public Purpose Program (PPP) surcharges on utility customers and continue the programs with funding from the State's General Fund to continue supporting low-income consumers and help meet California's climate goals.

Existing Law

Establishes energy efficiency, cost saving, and rate assistance programs to help reduce energy costs for consumers (Public Utilities Code Section 381, 399.4, 739.1, 739.3; Public Resources Code Section 25710).

Background

Electric rates continue to increase dramatically in California. Inflation is hitting goods across the board, and the economic impacts of the pandemic and the Russian invasion of Ukraine are causing financial challenges for many Californians, especially at the gas pump and on their utility bills.

California's PPP includes cost-effective energy efficiency, conservation, and rate assistance programs to help meet the state's climate goals and subsidize energy costs for low-income consumers. Electric customers in investor-owned utility (IOU) territories pay for these state-mandated public benefits programs through a surcharge on their utility bill.

Although the PPP is, in part, meant to provide discounts on utility bills for low-income households, not all low-income households benefit from the utility discounts. Some low-income residential customers do not qualify for PPP low-income assistance programs, such as the California Alternate Rates for Energy (CARE) and Family Electric Rate Assistance (FERA) programs. These households are effectively low-income, don't benefit from utility relief, and still have to pay into the programs through a monthly surcharge on their utility bill. PPP surcharges for programs such as the School Energy Efficiency Stimulus Program help California reach its climate goals, but do not directly benefit the low-income residential customer.

Need for AB 2765

In California, high electric bills are hitting low-income households hard. Their utility bills are saturated with various add-on costs that don't actually reflect the cost of supplying electricity. These add-ons include subsidies for clean energy and EV charging stations, climate change adaptation costs, and more.

One of the best ways to help the working poor is by reducing their utility bills and taking some of these costs out of electricity prices to make them more closely reflect their true social cost.

Since the PPP's climate benefits accrue to everyone in California, it is more appropriate for all taxpayers to fund these programs, not just a subset of electric customers. Furthermore, if all taxpayers paid for the PPP, then electric customers would pay lower utility bills, especially low-income households. For example, as of January 1, 2022, if the public purpose program costs considered in AB 2765 were removed from San Diego Gas & Electric's electric rates, system average rates would be about 2.6% lower.

To ensure that the cost of the PPP is equitably distributed, AB 2765 would sunset some of the PPP surcharges on utility customers and continue the programs with funding from the State's General Fund, thus reducing the cost of utility bills for low-income utility customers experiencing rising energy costs and equitably distributing the costs of achieving California's climate goals.

Support

Coalition of California Utility Employees
California State Association of Electrical Workers
San Diego Gas & Electric Company

Opposition

None on File.

For More Information

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Clean Energy, Jobs and Affordability Act of 2022

SB 1020

(Laird, Caballero, Durazo and Atkins)

Provides Greater Specificity to SB 100 Targets and Establishes New State Agency leadership in Clean Energy. The bill does the following:

1. **Adds 90% by 2035 and 95% by 2040 interim zero carbon electric sector targets to the existing SB 100 framework.**
    - Existing law requires that all Load Serving Entities procure at least 60% of retail sales from renewable generation by 2030 and 100% of retail sales from zero carbon resources by 2045.
        - The definition of "renewable generation" is based on eligibility rules under the Renewable Portfolio Standard (RPS) program.
        - The definition of "zero carbon resources" is more expansive and includes generation eligible under the RPS plus other non-emitting technologies such as nuclear and large hydroelectric generation.
        - State agencies have not yet aligned on a formal definition of "zero carbon" for purposes of SB 100 compliance. This bill would not provide any additional guidance relating to this definition.
    - The California Public Utilities Commission (CPUC) recently adopted Integrated Resource Planning goals intended to result in 86% zero carbon resources serving customer loads by 2032. These goals apply to all Investor-Owned Utilities (IOUs), Community Choice Aggregators, and Electric Service Providers.
    - The two largest Publicly Owned Utilities (POUs) have committed to achieve the SB 100 targets on an accelerated basis.
        - The Los Angeles Department of Water and Power plans to rely on 100% zero carbon electricity by 2035.
        - The Sacramento Municipal Utility District is committed to 100% zero carbon electricity by 2030.

2. **Require all state agencies to purchase 100% zero carbon electricity to serve their own needs by 2030.**
    - Applies to all electricity serving state agency facilities or operations.
        - Under existing law (SB 100), state agencies are required to meet the 100% zero carbon electricity target by 2045.
    - State agencies that are customers of a Load Serving Entity (IOUs, Community Choice Aggregator, or POUs) may comply in either of the following ways:
        - Installation of behind the meter zero carbon generation on owned or leased buildings.
        - Purchase of newly developed zero carbon resources through their Load Serving Entity.
    - For the State Water Project (approximately 70% of total state agency electricity consumption), compliance via procurement of new zero carbon resources by the Department of Water Resources (DWR).
        - DWR currently procures electricity on behalf of the State Water Project and projects that approximately 70% of total needs will be served with zero carbon generation by the end of 2022. Absent any acceleration, DWR forecasts that contribution of zero carbon resources will be 75% by 2030.
    - SB 1020 requires procurement of new zero carbon resources to serve state agency needs give preference to resource options expected to yield maximum long-term employment, stimulate new economic activity, generate local and state tax revenues, and assist with the development of new industries.

Establishes the Climate and Equity Trust

1. **Climate and Equity Trust fund**
   - Establishes a separate trust fund outside of the state budget to ensure the integrity of all funds deposited into the account.
   - The source of trust funds may be from the federal government, the Greenhouse Gas Reduction Fund (GGRF), state legislative appropriations, mitigation fees, noncompliance penalties assessed by the California Energy Commission (CEC)/CPUC/California Air Resources Board (CARB) and any other sources identified by the Legislature.
   - Legislature must separately identify and authorize specific funding sources.
     - New long-term funding streams required to provide meaningful benefits.
     - Potential funding options include new mitigation fees, budget surplus, and a climate bond.
   - Annual and multi-year spending plans/disbursements authorized by CPUC and CEC.
   - Trust funds can be used for any of the following costs included in retail electricity rates (depending upon funding source):
     - Transportation/building electrification initiatives.
     - Public Purpose Programs (including energy efficiency, research and development, and low-income customer discounts).
     - Programs to promote equity and affordability for low-income customers.
     - Wildfire Mitigation Costs.
     - Other decarbonization programs.
     - Distributed Energy Resource subsidies.
   - Annual funding needs vary by objective and beneficiaries:
     - Approximately $5 billion to reduce rates for all retail customers by 2 cents/kilowatt hour (kWh) (includes IOUs and POUs).
     - Approximately $1.75 billion to reduce residential customer rates by 2 cents/kWh.
     - Approximately $450 million to reduce low-income customer rates by 2 cents/kWh.
   - Allowable methods of disbursement:
     - Direct credits to retail customer bills (via IOU/POU billing).
     - Direct rebates/incentives to market participants, vendors, installers or customers.
     - Reimbursement of eligible costs incurred by a Load Serving Entity in the form of matching funds.
2. **Establishment of California Affordable Decarbonization Authority (CADA) to administer the Trust fund.**
   - Non-profit public benefit corporation with a board appointed by the Governor and Legislature.
   - Regulated by the CEC (for disbursements to customers of POUs) and CPUC (for disbursements to customers of IOUs, Community Choice Aggregators and Electric Service Providers).
   - Subject to Bagley-Keene open meeting requirements and the California Public Records Act.
   - Submits annual and multi-year spending plans for review/approval by CPUC and CEC, including reasonable overhead and operations costs.

Coordinates State Agencies to Support Informed Transmission Planning

1. **Authorizes the CPUC and CEC to disclose confidential information to the California Independent System Operator (CAISO) relating to power purchase agreements to assist with transmission planning.**
   - Clarifies that sharing of confidential information does not constitute a waiver of confidentiality under the Public Records Act.
   - Purpose it to assist CAISO with its transmission planning process by allowing review of relevant details of contractual agreements for new resources.
   - This change to state law was recommended by the CPUC, CEC, CARB and CAISO in a September 2021 report.[1]
     - The Joint Agencies found that, absent a statutory change, legal barriers currently prevent the CPUC and CEC from sharing confidential information with the CAISO without waiving protections for market sensitive information.

1. Report to the Governor on Priority SB 100 Actions to Accelerate the Transition to Carbon-Free Energy issued jointly by the CPUC, CEC, CARB and CAISO (September 2021), pages 10-11, 26.

MAY 18, 2022

Legislative Update

EAST BAY COMMUNITY ENERGY

Legislative Highlights

- New Recommended Bill Positions: AB 2765, SB 1020, AB 2070

Key Deadlines for the 2022 Legislative Year

- 1/3: Legislature reconvened
- 1/10: Governor submitted budget
- 1/31: Deadline to move 2-year bills out of 1st house
- 2/18: Bill introduction deadline
- 4/29: Policy cmtes to move fiscal bills to fiscal cmtes (1st house)
- 5/6: Policy cmtes to move nonfiscal bills to floor (1st house)
- 5/20: Fiscal cmtes must move bills to floor (1st house)
- 5/27: Last day for bills to be passed out of 1st house
- 6/15: Budget bill must be passed
- 7/1: Policy cmtes to meet and report bills (2nd house)
- 8/12: Fiscal cmtes to move bills to floor (2nd house)
- 8/31: Last day for each house to pass bills
- 9/30: Last day for Governor to sign/veto bills

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Recommended Bill Positions

Bill #	Author	Description	Sponsor	Status	Recommended EBCE Position
AB 2765	Santiago	Creates a new taxpayer-funded fund to cover the costs of CPUC Public Purpose Programs including energy efficiency and conservation, and arrearage management, instead of continuing to rely on customer delivery rates. Reverts to utility ratepayers if fund isn't sufficiently funded by the legislature. Excludes CARE/FERA.	Sempra	Asm Approps Cmte	**SUPPORT**
SB 1020	Laird	Sets interim targets for meeting renewable/zero-carbon goals: 90% by end-2035, 95% by end-2040; 100% for state agencies by 2030. State agencies can comply through their LSE, but LSE procurement for the state agency must meet certain criteria. Establishes new fund to support the costs of decarbonization, clean energy, and wildfire mitigation activities with funding sources outside of electricity rates. Establishes new nonprofit public benefit corporation to administer the fund.	Senate Climate Change Working Group	Sen Approps Suspense File	**SUPPORT IF AMENDED**
AB 2070	Bauer-Kahan	Requires an electrical corporation or local publicly owned electric utility to notify the fire protection district 24+ hours before performing scheduled, nonemergency hot work, deploying a safety and infrastructure protection team, or performing a prescribed or controlled burn, or else face a $500 penalty.		Asm Approps Cmte	**NEUTRAL (formerly SUPPORT)**

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Funding Programs Through Taxes Instead of Rates

What is being proposed?

- Fund the costs of public purpose programs or other broad societal benefit programs with a fund using state tax revenues instead of electric utility rates

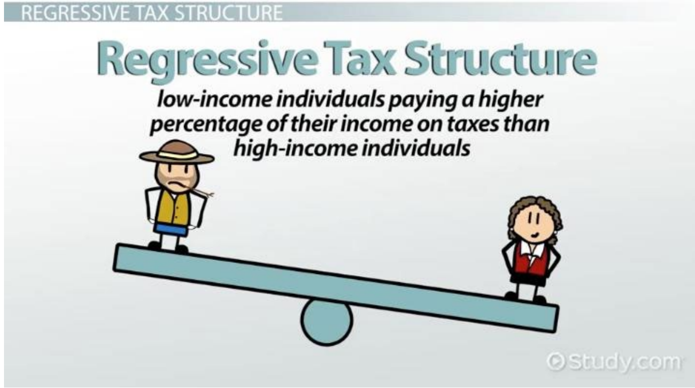
What does it accomplish?

- Supports SB 100/electrification goals by reducing the rate of utility bill increases to prevent reaching a threshold where electrification is disincentivized
- Social policy program costs are paid for in a more progressive way, reducing the burden on lower-income customers

Estimated Costs

- EBCE's estimate: Current public purpose program including CARE is ~ $2.7B/year

Why is it important? Equity.



Utility rates are not equitable

- Customers who are not CARE/FERA-eligible but nevertheless lower-income are paying as much as customers who have higher incomes – this regressive rate structure lies in stark contrast to state taxes which are progressive
- When EBCE has expanded its customers' program eligibility for its own electrification programs using Area Mean Income (AMI) instead of Federal Poverty Level (FPL), it has resulted in an increase in eligibility – these customers are struggling the most to bear the cost of utility rates today

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Why is it important? Electrification.

Electric rates need to stay below a threshold to incentivize fuel-switching to electric

- Goal is to prevent electric rates from reaching a point that discourages electrification
- Gas/EV charging station signage example: Electric rates need be lower than gas or people won’t buy EVs

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Bill Tracker - Assembly

Bill #	Author	Description	Sponsor	Status	EBCE Position
AB 1814	Grayson	Authorizes CCAs to file applications for PUC programs and investments to accelerate widespread transportation electrification.	CalCCA	Author withdrawn	SUPPORT
AB 1960	Villapudua	Encourages the Senate and the Governor to consider permanent residents of northern, southern and the central valley regions of the state to provide more regional diversity among CPUC commissioners.		Sen EUC Cmte	SUPPORT
AB 2061	Ting	Requires data disclosure on EV charging station availability for stations using public or ratepayer money and requires the CEC to assess reliability and equitable access issues.	Flo	Asm Approps Cmte 5/11	
AB 2667	Friedman	Establishes and requires CEC to administer state IDER Fund to incentivize eligible resources to support consumer adoption of clean DERs, creates a system to equitably award incentives, and establishes a process to allow an LSE to apply for incentives on behalf of a customer as part of that LSE's program to reduce its RA obligations.	NRG / EDF	Asm Approps Cmte 5/11	SUPPORT
AB 2700	McCarty	Requires IOUs and POUs to ensure that their distribution systems are upgraded to support the state's anticipated level of EV charging; requires the CPUC to develop an expedited process to ensure that IOUs can meet the requirements to upgrade, and to direct IOUs to expedite interconnection; requires CARB to share fleet data to inform electrical grid planning and requires CEC to forecast distribution needs for DERs.		Asm Approps Cmte 5/11	
AB 2703	Muratsuchi	Establishes reliability standards for ZEV refueling/charging stations.		Asm Approps Cmte 5/11	

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Bill Tracker - Senate

Bill #	Author	Description	Sponsor	Status	EBCE Position
SB 45	Portantino	Requires Dept of Res Recycling and Recovery to analyze progress in achieving organic waste reduction goals and assist local jurisdictions with funding to comply.		Asm Nat Res Cmte	
SB 833	Dodd	Community Energy Resiliency Act of 2022: requires the CEC to develop and implement a grant program for local govts to develop community energy resilience plans and expedite permit review of DERs.	The Climate Center	Sen Approps Suspense File	
SB 881	Min	Gives CPUC authority to monitor compliance with LSE's IRP GHG emission reductions and penalties/CPUC-ordered procurement for non-compliance.	UCS	Sen Approps Cmte 5/16	
SB 1112	Becker	Requires energy suppliers (including CCAs) offering decarb programs to record a decarb charge notice, then notice of full cost recovery, then notice of charge removal with the project's county.		Sen Approps Suspense File	SUPPORT
SB 1158	Becker	Changes the Power Source Disclosure rules to require utilities and CCAs to report comparisons of their energy and capacity purchases with their electricity demand on an hourly basis including the associated GHG emissions.		Sen Approps Cmte 5/16	
SB 1393	Archuleta	Requires local jurisdictions to consider CEC guidance before mandating that retrofits to a bldg. must upgrade fossil appliances to electric and to file records with CEC.		Sen Approps Suspense File	OPPOSE
SB 1482	Allen	Requires mandatory building standards for installation of EV charging infrastructure for parking spaces in new multifamily units.	Acterra	Sen Approps Suspense File	

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Next Steps

- Review and analyze new amendments
- Monitor bills on our watch list; determine when EBCE should formally take a position
- Send position letters for bills once EBCE formally takes a position
- Monitor Governor’s Budget request, which includes $6.1B over 5 years for Zero Emission Vehicles (ZEV)
- Engage with CalCCA on legislative efforts