

File No. 220519

Committee Item No. _____

Board Item No. 24

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: _____

Date: _____

Board of Supervisors Meeting

Date: May 10, 2022

Cmte Board

- Motion
- Resolution
- Ordinance
- Legislative Digest
- Budget and Legislative Analyst Report
- Youth Commission Report
- Introduction Form
- Department/Agency Cover Letter and/or Report
- MOU
- Grant Information Form
- Grant Budget
- Subcontract Budget
- Contract/Agreement
- Form 126 – Ethics Commission
- Award Letter
- Application
- Public Correspondence

OTHER

- California State Senate Bill No. 1393
- League of CA Cities and CSAC Position Letter 041922
- _____
- _____
- _____
- _____
- _____

Prepared by: Brittney Harrell

Date: May 5, 2022

Prepared by: _____

Date: _____

1 [Opposing California State Senate Bill No. 1393 (Archuleta) - Local Requirements for Electric
2 Appliances]

2

3 **Resolution opposing California State Senate Bill No. 1393, introduced by Senator Bob**
4 **Archuleta, that would impose new local requirements on jurisdictions when adopting**
5 **an ordinance requiring the replacement of fossil fuel-burning appliances with electric**
6 **appliances upon the alteration or retrofit of a residential or non-residential building.**

7

8 WHEREAS, San Francisco’s 2021 Climate Action Plan establishes a goal of reaching
9 net-zero greenhouse gas emissions by 2040, and specifically for all large commercial
10 buildings to be zero emission by 2035, and for all buildings to be zero emission by 2040; and

11 WHEREAS, Building operations are the second largest source of greenhouse gas
12 emissions in San Francisco, accounting for 41 percent of total emissions according to the
13 2019 GHG Inventory; and

14 WHEREAS, The overwhelming majority (87 percent) of greenhouse gas emissions
15 attributed to the building operations sector are from natural gas burned to operate heating
16 systems, boilers, water heaters, clothes dryers and cooking appliances; and

17 WHEREAS, Natural gas plumbing in buildings poses fire, explosion and public safety
18 risks, with a natural gas or oil pipeline catching fire every four days, resulting in an injury every
19 five days, exploding every 11 days and leading to a fatality every 26 days, on average, in the
20 United States, according to a 2018 report; and

21 WHEREAS, Natural gas combustion is a major source of indoor air pollution, with
22 studies having shown that children living in homes with natural gas stoves have a 42 percent
23 increased risk of experiencing asthma symptoms and these impacts may be exacerbated in a
24 compact city such as San Francisco where low-income households are more likely to have
25 more people living in smaller spaces with less ventilation; and

1 WHEREAS, San Francisco has adopted several ordinances in recent years to advance
2 building electrification, including Ordinance No. 237-20 mandating new construction be all-
3 electric and Ordinance No. 8-20 requiring new construction and major renovations of
4 municipal buildings to be all-electric; and

5 WHEREAS, Existing state law requires the State Energy Resources Conservation and
6 Development Commission to gather or develop, and publish, guidance and best practices to
7 help building owners, the construction industry and local governments overcome barriers to
8 electrification of buildings and installation of electric vehicle charging equipment; and

9 WHEREAS, California Senate Bill No. 1393 (SB 1393) would require a city, including a
10 charter city, or county, when adopting an ordinance requiring the replacement of a fossil fuel-
11 fired appliance with an electric appliance upon the alteration or retrofit of a residential or
12 nonresidential building, to consider the guidance published by the commission; and

13 WHEREAS, The bill would require a local government, within 60 days of adopting that
14 ordinance, to submit to the Commission a copy of the ordinance, and other specified
15 information and would require the Commission to determine whether the local government
16 considered the Commission's published guidance in the adoption of the ordinance; and

17 WHEREAS, If the Commission determines that the local government had not
18 considered the guidance, the bill would require the local government to consider the guidance,
19 make any modification of the ordinance deemed necessary by the local government, and
20 resubmit the ordinance and other information to the Commission; and

21 WHEREAS, The bill would inhibit the state's progress on building decarbonization by
22 putting undue and burdensome standards on cities, including San Francisco, seeking to adopt
23 requirements to replace dangerous and polluting fossil-fueled appliances with zero-emission,
24 electric appliances; and

25

1 WHEREAS, The California Energy Commission already has authority to review and
2 approve local adoption of energy standards; and

3 WHEREAS, SB 1393 would require a host of additional findings that undermine local
4 control and place an undue burden on local jurisdictions exercising their prerogative to
5 safeguard their communities from the harms of fossil fuels, including air pollution and wildfires
6 and other extreme weather events caused by climate change that threaten their lives,
7 properties and livelihoods; and

8 WHEREAS, Local governments should be encouraged rather than discouraged to
9 adopt strong building decarbonization policies, including requirements to install electric
10 appliances, to better protect the health and safety of their communities and address the
11 climate crisis; and

12 WHEREAS, SB 1393 is opposed by the California State Association of Counties,
13 Earthjustice, League of California Cities, Natural Resources Defense Council, Rocky
14 Mountain Institute, the Sierra Club, and the City of Los Angeles; now, therefore, be it

15 RESOLVED, That the Board of Supervisors of the City and County of San Francisco
16 hereby opposes passage of Senate Bill No. 1393; and be it

17 FURTHER RESOLVED, That the Board of Supervisors directs the Clerk of the Board
18 to transmit copies of this resolution to San Francisco’s State legislative delegation, Assembly
19 Speaker Anthony Rendon, Senate President Pro Tem Toni Atkins, Governor Gavin Newsom,
20 and to the City Lobbyist upon passage.

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SB-1393 Energy: appliances: local requirements. (2021-2022)

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Date Published: 04/21/2022 09:00 PM

AMENDED IN SENATE APRIL 21, 2022

AMENDED IN SENATE APRIL 18, 2022

AMENDED IN SENATE APRIL 04, 2022

CALIFORNIA LEGISLATURE— 2021-2022 REGULAR SESSION

SENATE BILL

NO. 1393

Introduced by Senator Archuleta
(Principal coauthor: Assembly Member Rodriguez)

February 18, 2022

An act to amend Section 25233.5 of the Public Resources Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1393, as amended, Archuleta. Energy: appliances: local requirements.

Existing law requires the State Energy Resources Conservation and Development Commission to gather or develop, and publish on its internet website, guidance and best practices to help building owners, the construction industry, and local governments overcome barriers to electrification of buildings and installation of electric vehicle charging equipment that include one or more specified topics.

This bill would require the commission to gather or develop, and publish on its internet website, the guidance and best practices by July 1, 2023, and would require the guidance to include all of those specified topics and additional topics. The bill would require the commission to update ~~biannually~~ *annually* the guidance and best practices. The bill would require a city, including a charter city, or county, when adopting an ordinance requiring the replacement of a fossil fuel-fired appliance with an electric appliance upon the alteration or retrofit of a residential and nonresidential building, to consider the guidance published by the commission. The bill ~~would~~ *would, on and after a specified date*, require a local government, within 60 days of adopting that ordinance, to submit to the commission a copy of the ordinance, and other specified information and would require the commission to determine whether the local government considered the commission's published guidance in the adoption of the ordinance. If the commission determines that the local government had not considered the guidance, the bill would require the local government to consider the guidance, make any modification of the ordinance deemed necessary by the local government, and resubmit the ordinance and other information to the commission.

The bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

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

SECTION 1. Section 25233.5 of the Public Resources Code is amended to read:

25233.5. (a) For the purposes of this section, the following definitions apply:

(1) "Local government" means a city, including a charter city, or county.

(2) "Low-to-moderate-income property owners" means those with annual household incomes of 130 percent or less of the area median income, as published by the Department of Housing and Community Development pursuant to Section 50093 of the Health and Safety Code, for the jurisdiction in which the requirement would apply.

(b) To help building owners to decarbonize buildings and add energy storage or electric vehicle charging capacity to buildings, the commission, in coordination with the Public Utilities Commission, the Department of Housing and Community Development, the California Building Standards Commission, and other relevant state agencies, shall, by July 1, 2023, gather or develop, and publish on the commission's internet website, and update ~~biannually~~, *annually*, guidance and best practices to help building owners, the construction industry, and local governments overcome barriers to electrification of buildings and installation of electric vehicle charging equipment that include all of the following topics:

(1) Availability of electrical equipment for replacement of the common fossil-fuel-powered equipment within buildings, including high-efficiency options that can minimize electrical service capacity requirements.

(2) Approaches for energy budgeting to fit electrical replacements and vehicle-charging equipment within the existing electrical service capacity of the building whenever possible, including guidance on how to maximize the use of the nonconcurrent electrical load that is allowed under the California Electrical Code (Part 3 (commencing with Section 89.101.1) of Title 24 of the California Code of Regulations).

(3) Technologies that allow the noncoincidental sharing of electrical circuits.

(4) The development of whole building electrification plans to help building owners prepare for future additions of electrical equipment, even if only a portion of equipment will be replaced, or energy storage or vehicle charging added, during an initial project. The plan may include wiring changes and energy planning to reduce the need for rework and help correctly size distributed energy and energy storage systems to anticipated future needs.

(5) Model permit applications, an eligibility checklist for expedited permitting, and a concise inspection list for the most common building electrification, energy storage, or vehicle charging installation projects that would be suitable for adoption by local governments seeking to streamline and standardize permitting and inspections.

(6) Ways in which local governments may assess the number of skilled installers of all electric appliances that operate within the local government's jurisdiction.

(7) Ways in which local governments may ensure that permitting and inspection *of* structures in the local jurisdiction adequately accommodate the need for 24-hour emergency replacement of new all electric space or water heating appliances.

(8) Ways in which local governments can establish incentives to assist low-to-moderate-income property owners in offsetting the first cost and installation of an equivalent all electric space or water heating appliance.

(9) Ways in which local governments can consider and implement limited exemptions for certain facilities, such as hospitals, acute care facilities, or other commercial facilities, particularly where any interruption in facility operations caused by an electrical outage could jeopardize public health and safety.

(10) Other topics deemed appropriate by the commission.

(c) (1) When adopting an ordinance to require that a ~~fossil-fuel-fired~~ *fossil-fuel-powered* appliance be replaced with an electric appliance upon the alteration or retrofit of a residential or nonresidential building, a local

government shall consider the guidance published by the commission pursuant to subdivision (b). A local government shall not be required to update its ordinance when the commission updates its guidance.

~~(d)~~

(2) Within 60 days of adopting an ordinance described in ~~subdivision (c), paragraph (1)~~, the local government shall submit to the commission a copy of the ordinance, a copy of the final staff report, supplemental documents, a copy of any cost-effectiveness study relied upon, and any other materials the local government deems relevant.

~~(e)~~

(3) Upon receipt of the materials described in ~~subdivision (d), paragraph (2)~~, the commission shall publish and make publicly available the submitted material on the commission's internet website.

~~(f)~~

(4) Within 30 days after the local government's submission, the commission shall determine through written findings whether the local government considered the commission's guidance described in subdivision (b) that is published at the time of the adoption of the ordinance. The commission shall make its written findings publicly available.

~~(g)~~

(5) If the commission determines that the local government did not consider the commission's guidance, the commission shall provide its written findings to the local government. Upon receiving the written findings, the local government shall have 180 days to consider the guidance, make any modification to its ordinance as it deems necessary, and resubmit the ordinance and other materials pursuant to ~~subdivision (d), paragraph (2)~~.

(6) (A) This subdivision shall not apply to local government until on July 1, 2023, or on the date following the adoption of the initial guidance described in subdivision (b), whichever is later.

(B) The commission shall post on its internet website the date of the adoption of the initial guidance.

SEC. 2. The Legislature finds and declares that Section 1 of this act amending Section 25233.5 of the Public Resources Code addresses a matter of statewide concern rather than a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, Section 1 of this act applies to all cities, including charter cities.



April 19, 2022

The Honorable Anna Caballero
Chair, Senate Governance and Finance Committee
1021 O Street, Room 7620
Sacramento, CA 95814

RE: SB 1393 (Archuleta) Energy. Appliances. Local Requirements.
Notice of OPPOSED UNLESS AMENDED *(As Amended on April 18, 2022)*

Dear Senator Caballero,

The League of California Cities (Cal Cities) and the California State Association of Counties (CSAC) must **respectfully oppose unless amended** SB 1393 (Archuleta), which would add new considerations for local governments when creating ordinances that require electrification of existing buildings.

Our organizations appreciate the amendments taken on April 18 and thank the author and sponsors for addressing some of our concerns. However, we continue to have some reservations about what specific considerations local governments must make and want to ensure that more technical expertise is available from the California Energy Commission (CEC) for local governments when crafting such electrification ordinances.

Climate change is an urgent threat to the health and well-being of California's residents and economy. California cities and counties are critical partners with the state in achieving our shared climate change, emission reduction, and clean energy goals, including residential and commercial building decarbonization. Per the updated 2022 Energy Code¹, the CEC encourages building electrification consistent with and supportive of important statewide goals for decarbonization. We remain concerned that the process outlined in SB 1393 could make it more difficult for local governments to develop such ordinances without providing more resources to help in the developing process.

If the goal of the SB 1393 is to ensure that local electrification ordinances are carefully created, **we respectfully request amendments to require the CEC provide additional technical assistance, upon request of the local government, when local governments are in the process of developing such ordinances.** Giving local governments the access to more tools when creating these ordinances will help improve the ordinance's quality, without slowing down the process.

¹ [2022 Building Energy Efficiency Standards](#)

Cal Cities and CSAC also recognize and share the Author's concern regarding any possible impacts to low-income Californians and disadvantaged communities. However, we continue to believe that local governments' existing ordinance development processes would take steps to mitigate against disproportionate impacts to disadvantaged communities, which includes but is not limited to, hosting stakeholder meetings, conducting public outreach, engaging with the local business community and environmental leaders, and directing staff to do research and analysis. This would make some of the additional considerations potentially unnecessary.

As such, Cal Cities and CSAC encourage the Legislature to not add additional "green tape," and make it easy for local governments to have the ability to accelerate the reduction of emissions of greenhouse gases in their communities to meet our shared climate resiliency goals.

For these reasons, Cal Cities and CSAC **opposes SB 1393 (Archuleta) unless it is amended**. If you have any questions, do not hesitate to contact Derek Dolfie (Cal Cities) at ddolfie@calcities.org or Christopher Lee (CSAC) at clee@counties.org.

Sincerely,



Derek Dolfie
Legislative Affairs, Lobbyist
League of California Cities



Christopher Lee
Legislative Representative
California State Association of Counties

cc: The Honorable Bob Archuleta
Members, Senate Governance and Finance Committee
Colin Grinnell, Staff Director, Senate Governance and Finance Committee
Ryan Eisberg, Policy Consultant, Senate Republican Caucus

Introduction Form

By a Member of the Board of Supervisors or Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor [] inquiries"
- 5. City Attorney Request.
- 6. Call File No. [] from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No. []
- 9. Reactivate File No. []
- 10. Topic submitted for Mayoral Appearance before the BOS on []

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.

Sponsor(s):

Mandelman; Preston, Safai

Subject:

[Opposing California State Senate Bill No. 1393 (Archuleta) – Local Requirements for Electric Appliances]

Resolution opposing California State Senate Bill No. 1393, introduced by Senator Bob Archuleta, that would impose new local requirements on jurisdictions when adopting an ordinance requiring the replacement of fossil fuel-burning appliances with electric appliances upon the alteration or retrofit of a residential or non-residential building.

Signature of Sponsoring Supervisor: []

For Clerk's Use Only