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AMENDED IN SENATE MARCH 5, 2001

AMENDED IN SENATE FEBRUARY 20, 2001

AMENDED IN SENATE FEBRUARY 5, 2001

CALIFORNIA LEGISLATURE—2001–02 FIRST EXTRAORDINARY SESSION

SENATE BILL

No. 5

Introduced by Senators Sher, Alarcon, Bowen, and Burton
(Principal coauthors: Senators Chesbro, Machado, and Perata)

(Principal coauthor: Assembly Member Shelley)

(Coauthors: Senators Figueroa, Karnette, Murray, Polanco,
Scott, Soto, and Torlakson)

(Coauthors: Assembly Members Aroner, Keeley, Pavley,
Strom-Martin, and Thomson)

January 17, 2001

An act to amend Section 15814.20 of, and to add and repeal Chapter 3.5 (commencing with Section 4240) of Division 5 of Title 1 of, the Government Code, and to amend Section 25402.5 of the Public Resources Code, relating to public utilities, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 5, as amended, Sher. State energy projects.

(1) Existing law authorizes state and local agencies to develop energy conservation, cogeneration, and alternate energy supply sources at the facilities of public agencies through contracts and leases in accordance with specified criteria.

This bill, until January 1, 2004, would authorize state agencies to implement energy related projects, subject to certain criteria, and to enter into contracts for these purposes subject to certain criteria. The bill would authorize the Director of General Services to exempt state energy projects from the advertising and competitive bidding requirements set forth in state law, if the director deems it necessary to implement these provisions. The bill would exempt state energy projects from a specified capital outlay process at the discretion of the Department of Finance.

(2) Existing law prohibits the State Public Works Board from entering into leases and energy service contracts sooner than 45 days after notification to the Joint Legislative Budget Committee. Existing law authorizes the joint committee to hold a hearing within 45 days of receipt of the notification.

This bill would prohibit the board from entering into a lease and energy services contract sooner than 15 days after notification and would authorize the joint committee to hold a hearing within 15 days of receipt of the notification.

(3) Existing law requires the State Energy Resources Conservation and Development Commission to adopt interior and exterior lighting energy conservation standards, as specified.

This bill would require the commission to adopt lighting standards for outdoor lighting, as defined, that is not subject to the above standards.

(4) Existing law provides for the establishment and implementation of various energy efficiency programs administered by the State Energy Resources Conservation and Development Commission and the Public Utilities Commission.

This bill would, until January 1, 2005, appropriate ~~\$1,039,500,000~~ \$926,960,000 from the General Fund to implement energy efficiency programs and supplement existing energy efficiency programs. Of that amount, from the General Fund, ~~\$321,000,000~~ \$326,000,000 would be allocated to the Public Utilities Commission, ~~\$464,500,000~~ \$405,500,000 would be allocated to the State Energy Resources Conservation and Development Commission, \$10,000,000 would be allocated to the Department of Consumer Affairs, ~~\$100,000,000~~ \$50,000,000 would be allocated to the Department of General Services, ~~\$24,000,000 would be allocated to the Department of Corrections, and~~ \$120,000,000 would be allocated to the Department of Community Services and Development, *and \$15,460,000 would be allocated to the*

Department of Water Resources to fund various energy efficiency programs, as scheduled, and subject to reallocation and conditions. Under the bill, any funds that are unencumbered by January 1, 2005, would revert to the General Fund on that date.

(5) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ²/₃. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares as follows:

2 (a) California is currently experiencing an energy crisis which
3 threatens to adversely affect the economic and environmental
4 well-being of the state.

5 (b) One of the most cost-effective, efficient, and
6 environmentally beneficial methods of meeting the state's energy
7 needs is to encourage the efficient use of energy.

8 (c) The purpose of this act is to ensure the immediate
9 implementation of energy efficiency programs in order to reduce
10 consumption of energy and to assist in reducing the costs
11 associated with energy demand.

12 (d) To the maximum extent feasible, the expenditure of funds
13 appropriated pursuant to this act shall be prioritized based upon
14 immediate benefits in peak energy demand reduction and more
15 efficient use of energy.

16 SEC. 2. Section 15814.20 of the Government Code is
17 amended to read:

18 15814.20. The board shall not enter into leases and energy
19 service contracts authorized under this chapter sooner than 15 days
20 after notification in writing of the necessity therefor has been
21 submitted to the Chairperson of the Joint Legislative Budget
22 Committee and the chairpersons of the fiscal committees of each
23 house, or sooner than whatever lesser time the chairperson of the
24 joint committee, or his or her designee, may in each instance
25 determine. At the request of the chairperson of the joint
26 committee, the joint committee may hold a hearing within 15 days
27 of receipt of the notification. If a hearing is held, the affected
28 agencies shall be provided all information available to the joint
29 committee at least 10 days in advance of the hearing. In the event

1 that a hearing is conducted, the joint committee may recommend
2 to the board approval, modification, or rejection of leases or
3 energy service contracts.

4 SEC. 3. Chapter 3.5 (commencing with Section 4240) is
5 added to Division 5 of Title 1 of the Government Code, to read:

6
7 CHAPTER 3.5. STATE ENERGY PROJECTS
8

9 4240. It is the intent of the Legislature to permit state agencies
10 to develop energy conservation, efficiency, cogeneration, and
11 alternate energy supply sources on public property in accordance
12 with this chapter in the most expedient manner possible.

13 4241. As used in this chapter, and as used in Section 3 of the
14 act adding this chapter, “state energy project” means equipment,
15 load management techniques, and other measures or services that
16 reduce energy consumption and provide for more efficient use of
17 energy in state buildings or facilities, or buildings or facilities
18 owned or operated by community colleges.

19 4242. State energy projects may be implemented under this
20 chapter with the approval of the Director of General Services and
21 the Director of Finance.

22 4243. Prior to awarding or entering into a contract,
23 agreement, or lease, the state agency shall request proposals from
24 qualified persons. After evaluating the proposals, the state agency
25 shall award contracts based on qualifications, including the
26 consideration of such factors as the experience of the contractor,
27 the type of technology to be employed by the contractor on the
28 energy project, the cost to the agency, and any other relevant
29 considerations. State agencies may also award contracts to persons
30 selected from the pool of qualified energy service companies
31 established pursuant to Section 388 of the Public Utilities Code,
32 when it is determined they are qualified to perform the work on a
33 particular project. For purposes of this chapter, energy projects
34 shall be exempt from Chapter 10 (commencing with Section
35 4525).

36 4244. Notwithstanding Section 4243, the Director of General
37 Services may exempt a state energy project from the advertising
38 and competitive bidding requirements of this code and the Public
39 Contract Code, if the director deems the exemption necessary to

implement the purpose of this chapter, to reduce peak electricity demand, and to improve energy efficiency.

4245. At the discretion of the Department of Finance, state energy projects may be exempted from the capital outlay process, including, but not limited to, ~~as provided in~~ Section 13332.11.

4246. The Department of General Services may adopt regulations for purposes of this chapter as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2. For purposes of Chapter 3.5, including, but not limited to, Section 11349.6, the adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of public peace, health, safety, and general welfare. Notwithstanding the 120-day limit specified in subdivision (e) of Section 11346.1, the regulations shall be repealed 180 days after their effective date, unless the department complies with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 as provided in subdivision (e) of Section 11346.1.

4247. This chapter shall become inoperative on June 30, 2003, and, as of January 1, 2004, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2004, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 4. Section 25402.5 of the Public Resources Code is amended to read:

25402.5. (a) As used in this section, “lighting device” includes, but is not limited to, a lamp, luminaire, light fixture, lighting control, ballast, or any component of those devices.

(b) (1) The commission shall consider both new and replacement, and both interior and exterior, lighting devices as lighting which is subject to subdivision (a) of Section 25402.

(2) The commission shall include both indoor and outdoor lighting devices as appliances to be considered in prescribing standards pursuant to paragraph (1) of subdivision (c) of Section 25402.

(3) The Legislature hereby finds and declares that paragraphs (1) and (2) are declarative of existing law.

~~(c) (1) The commission shall establish an advisory group to provide technical advice, and, after public review, shall prepare and submit a report to the Legislature on or before January 1, 1997,~~

1 identifying which lighting devices, whether indoor or outdoor, and
2 residential or commercial, may be appropriate either for the
3 commission to include in lighting efficiency regulations and other
4 state energy or lighting efficiency programs or for federal
5 government consideration in setting national lighting efficiency
6 standards. The advisory group shall include, but not be limited to,
7 representatives of the Illuminating Engineering Society of North
8 America, the International Association of Lighting Designers, the
9 National Electrical Manufacturers Association, the Association of
10 Professional Energy Managers, the Lighting Research Institute,
11 the Electric Power Research Institute, the Natural Resources
12 Defense Council, the Department of Energy, the Environmental
13 Protection Agency, and California's electric utilities. No state
14 funds shall be used to support the advisory group.

15 (2) The commission's report and recommendations shall
16 identify proposed lighting efficiency regulations, standards, or
17 programs that are technologically feasible and cost-effective and
18 that would result in a significant level of energy savings. The
19 report shall emphasize, but not be limited to, residential lighting
20 efficiency, and shall consider requiring manufacturers of light
21 fixtures to produce fixtures which are physically compatible with
22 fluorescent lamps. The report shall also consider educational and
23 labeling programs that could help increase the use of efficient
24 lighting devices.

25 (d) (1) To the extent not preempted by federal law, on or before
26 February 1, 1997, the commission shall initiate a formal
27 rulemaking proceeding, including public review and hearings, to
28 consider efficiency standards for lighting devices as
29 recommended in the report required by subdivision (e). Any
30 regulations issued pursuant to this paragraph shall be subject to the
31 requirements of paragraph (1) of subdivision (e) of Section 25402.

32 (2) The commission may also actively participate in
33 proceedings of the Department of Energy concerning the
34 development and adoption of national lighting efficiency
35 standards as recommended in the report.

36 (e)

37 (c) The commission shall adopt efficiency standards for
38 outdoor lighting. The standards shall be technologically feasible
39 and cost-effective. As used in this subdivision, "outdoor lighting"
40 refers to all electrical lighting that is exterior to buildings but not

subject to standards adopted pursuant to Section 25402, and includes, but is not limited to, street lights, traffic lights, parking lot lighting, and billboard lighting. *The commission shall consult with the Department of Transportation (CALTRANS) to ensure that outdoor lighting standards that affect CALTRANS are compatible with that department's policies and standards for safety and illumination levels on state highways.*

SEC. 5. In order to achieve a total reduction in peak electricity demand of not less than 2,585 megawatts, the sum of ~~one billion thirty-nine million five hundred thousand dollars (\$1,039,500,000)~~ *nine hundred twenty-six million nine hundred sixty thousand dollars (\$926,960,000)* is hereby appropriated from the General Fund to the Controller for allocation according to the following schedule:

(a) In order to achieve a reduction in peak electricity demand and meet urgent needs of low-income households, ~~three hundred twenty-one million dollars (\$321,000,000)~~ *twenty-six million dollars (\$326,000,000)* for allocation by the Public Utilities Commission for the customers of electric and gas corporations subject to commission jurisdiction, to be expended in the following amounts:

(1) Sixty-six million dollars (\$66,000,000) to encourage the purchase, *refurbishment, and retirement of inefficient appliances and improvements in the efficiency of high-efficiency heating, ventilating, and air-conditioning (HVAC) equipment and appliances insulation or other efficiency measures.* Any funds expended pursuant to this paragraph for the purchase of refrigerators, air-conditioning equipment, and other similar residential appliances shall be expended pursuant to the following criteria:

(A) Priority for the expenditure of funds shall be given for the purchase *or retirement* of those appliances in low- and moderate-income households, and for the replacement of the oldest and least efficient appliances.

~~(B) Any funds expended for the replacement of refrigerators shall include a condition that older refrigerators that are replaced are promptly disposed of or recycled in a manner that protects public health and the environment.~~

(B) *Any retirement of residential equipment and appliances undertaken pursuant to this paragraph shall be undertaken in a*

1 *manner that protects public health and the environment. Nothing*
2 *in this paragraph affects the requirements of Article 10.1*
3 *(commencing with Section 25211) of Chapter 6.5 of Division 20 of*
4 *the Health and Safety Code and Chapter 3.5 (commencing with*
5 *Section 42160) of Part 3 of Division 30 of the Public Resources*
6 *Code.*

7 (2) One hundred million dollars (\$100,000,000) to provide
8 immediate assistance to electric or gas utility customers enrolled
9 in, or eligible to be enrolled in, the California Alternative Rates for
10 Energy (CARE) Program established pursuant to Section 739.1 of
11 the Public Utilities Code. Funds appropriated pursuant to this
12 paragraph shall be expended to increase and supplement CARE
13 discounts and to increase enrollment in the CARE program.

14 (3) Twenty million dollars (\$20,000,000) to augment funding
15 for low-income weatherization services provided pursuant to
16 Section 2790 of the Public Utilities Code, and *to fund* other energy
17 efficient measures to assist low-income energy users.

18 (4) Twenty million dollars (\$20,000,000) for high-efficiency
19 and ultra-low-polluting pump and motor retrofits for oil or gas, or
20 both, producers and pipelines. *For the purposes of this paragraph,*
21 *“ultra low polluting” means retrofit equipment which exceeds the*
22 *requirements for best available control technology within the air*
23 *district in which the pump or motor is located.*

24 (5) One hundred million dollars (\$100,000,000) to provide
25 incentives to encourage replacement of low-efficiency lighting
26 with high-efficiency lighting *systems.*

27 (6) ~~Fifteen million dollars (\$15,000,000)~~ *Twenty million*
28 *dollars (\$20,000,000)* to encourage installation of
29 demand-responsive and energy-efficient technologies in buildings
30 owned and operated by counties and cities.

31 (b) In order to achieve a reduction in peak electricity demand,
32 ~~four hundred sixty-four million five hundred thousand dollars~~
33 ~~(\$464,500,000)~~ *four hundred five million five hundred thousand*
34 *dollars (\$405,500,000)* to the State Energy Resources
35 Conservation and Development Commission (hereafter the
36 Energy Commission), to be expended in the following amounts for
37 the following purposes:

38 (1) Eighty-seven million dollars (\$87,000,000) for allocation
39 by the Energy Commission to locally owned public utilities in the
40 following amounts for the following purposes:

(A) Twenty million two hundred thousand dollars (\$20,200,000) to encourage the purchase, *refurbishment, and retirement of inefficient appliances and improvements in the efficiency of high-efficiency heating, ventilating, and air-conditioning (HVAC) equipment and appliances insulation, and other efficiency measures.* Any funds expended pursuant to this paragraph for the purchase of refrigerators, air-conditioning equipment, and other similar residential appliances shall be expended pursuant to the following criteria:

(i) Priority for expenditure of funds shall be given for the purchase of those appliances in low- and moderate-income households, and for the replacement of the oldest and least efficient appliances.

~~(ii) Any funds expended for the replacement of refrigerators shall include a condition that older refrigerators that are replaced are promptly disposed of or recycled in a manner that protects public health and the environment.~~

(ii) Any retirement of residential equipment and appliances undertaken pursuant to this paragraph shall be undertaken in a manner that protects public health and the environment. Nothing in this paragraph affects the requirements of Article 10.1 (commencing with Section 25211) of Chapter 6.5 of Division 20 of the Health and Safety Code and Chapter 3.5 (commencing with Section 42160) of Part 3 of Division 30 of the Public Resources Code.

(B) Six million eight hundred thousand dollars (\$6,800,000) to provide incentives to encourage replacement of low-efficiency lighting with high-efficiency lighting.

(C) Sixty million dollars (\$60,000,000) for energy efficiency, peak demand reduction, and low-income assistance measures in the service areas of the locally owned public utilities analagous to those measures and programs funded in the service areas of electric and gas corporations subject to the jurisdiction of the Public Utilities Commission pursuant to subdivision (a).

(2) Seventy million dollars (\$70,000,000) to implement programs to improve demand-responsiveness in heating, ventilation, air-conditioning, lighting, advanced metering of energy usage, and other systems in buildings. *Of the amount appropriated pursuant to this paragraph, not more than thirty-five*

1 million dollars (\$35,000,000) shall be expended to provide
2 incentives for the installation of real time, time-of-use meters.

3 (3) Fifty million dollars (\$50,000,000) to implement a
4 low-energy usage building materials program, and other measures
5 to lower air-conditioning usage in schools, colleges, universities,
6 hospitals, and other nonresidential buildings.

7 (4) Sixty million dollars (\$60,000,000) to implement a
8 program to encourage third parties to implement innovative peak
9 demand reduction measures.

10 (A) Of the amount appropriated pursuant to this paragraph,
11 not more than ten million dollars (\$10,000,000) shall be expended
12 for innovative peak demand reduction measures in the agricultural
13 sector.

14 (B) Of the amount appropriated pursuant to this paragraph,
15 not more than one million dollars (\$1,000,000) shall be expended
16 by the commission to fund one-time startup costs for innovative
17 voluntary programs to reduce air emissions through energy
18 conservation and related actions pursuant to programs authorized
19 by law in effect on the effective date of this act.

20 (5) Fifty million dollars (\$50,000,000) to implement a program
21 to reduce peak load electricity usage for the agricultural sector. The
22 commission shall adopt guidelines for expenditure of funds
23 pursuant to this paragraph that ensure the equitable distribution
24 of funds appropriated pursuant to this paragraph among small,
25 medium, and large sized farming and agricultural operations.

26 (6) Fourteen million five hundred thousand dollars
27 (\$14,500,000) to provide incentives for installation of
28 light-emitting diode (LED) traffic signals.

29 ~~(7) Sixty-four million dollars (\$64,000,000) to provide~~
30 ~~incentives for water and wastewater treatment systems to reduce~~
31 ~~peak usage.~~

32 ~~(8) Fifteen million dollars (\$15,000,000)~~

33 (7) Twenty million dollars (\$20,000,000) to encourage
34 installation of demand-responsive and energy-efficient
35 technologies in buildings owned and operated by counties and
36 cities.

37 ~~(9)~~

38 (8) Seven million dollars (\$7,000,000) to implement a program
39 to teach school children about energy efficiency in the home and
40 at school.

~~(10)~~

(9) Twenty million dollars (\$20,000,000) for incentives for the retrofit of existing distributed generation owned and operated by municipal water districts to replace diesel and natural gas generation with cleaner technology that reduces oxides of nitrogen emission to less than two parts per million.

~~(11)~~—*emissions. Funds expended pursuant to this paragraph shall be expended exclusively for retrofit equipment that meets or exceeds the requirements for best available control technology within the air district in which the distributed generation owned and operated by a municipal water district is located, or with standards adopted by the state Air Resources Board pursuant to Section 41514.9 of the Health and Safety Code upon the effective date of those standards. Technologies eligible pursuant to this paragraph include natural gas reciprocating engines, microturbines, fuel cells, and wind and solar energy renewable technologies.*

(10) One million four hundred thousand dollars (\$1,400,000) to fund 16 personnel-years in the Energy Commission to implement ~~subdivision (a)~~ *this subdivision*. Funds appropriated pursuant to this paragraph shall be used to fund temporary staff resources, including, but not limited to, limited term positions, not to exceed a term of four years, at the commission for the exclusive purpose of implementing programs funded pursuant to this subdivision.

~~(12)~~

(11) Twenty-five million dollars (\$25,000,000) to provide *low-interest or zero-interest* loans to schools pursuant to the Energy Conservation Assistance Act (Chapter 5.2 (commencing with Section 25410) of the Public Resources Code).

~~(13)~~

(12) Six hundred thousand dollars (\$600,000) for four personnel-years to improve the ability of the Energy Commission to provide timely and accurate assessments of electricity and natural gas markets.

(c) ~~Funds~~ *Except for funds expended to implement programs established pursuant to Section 25555 of the Public Resources Code, for which the Public Utilities Commission or the Energy Commission has adopted and published guidelines pursuant to that section, funds appropriated pursuant to subdivisions (a) and*

(b) shall be expended pursuant to guidelines adopted by each commission. The guidelines shall be exempt from the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of the Division 3 of Title 2 of the Government Code and shall do all of the following:

(1) Establish cost-effectiveness criteria for programs funded. Within 10 days from the date of the adoption of criteria pursuant to this paragraph, each commission shall provide a copy of the criteria to the chairperson of the Legislative Budget Committee, to the chairpersons of the appropriate policy and fiscal committees of both houses of the Legislature, and to the Governor.

(2) Limit administrative costs to not more than 2 1/2 percent of the amount of the funds expended. For the purposes of this paragraph, “administrative costs” means *commission* personnel and overhead costs associated with the implementation of each measure or program. However, “administrative costs” does not include costs associated with marketing or evaluation of a measure of a program.

(3) Allow reasonable flexibility to shift funds among program categories in order to achieve the maximum feasible amount of energy conservation, peak load reduction, and energy efficiency by the earliest feasible date.

(4) Establish matching fund criteria that, except for funds appropriated pursuant to paragraphs (2) and (3) of subdivision (a), ensure that entities eligible to receive funds appropriated pursuant to subdivisions (a) and (b) pay an appropriate share of the cost of acquiring or installing measures to achieve the maximum feasible amount of energy conservation, peak load reduction, and energy efficiency by the earliest feasible date.

(5) Establish mechanisms and criteria that ensure that funds expended pursuant to this section through electric and gas corporations are not seized by the creditors of those corporations in the event of a bankruptcy. In implementing this paragraph, the commissions shall adopt mechanisms such as the segregation of funds by the electric or gas corporation, the holding of those funds in trust until they are expended, and the reversion of funds to the General Fund in the event of bankruptcy.

(6) Establish tracking and auditing procedures to ensure that funds are expended in a manner consistent with this act.

(d) Within six months of the effective date of this section, each commission shall contract for an independent audit of the expenditures made pursuant to subdivisions (a) and (b) for the purpose of determining whether the funds achieved demonstrable energy peak demand reduction while limiting administrative costs associated with expenditures made pursuant to those subdivisions. Within one year of the effective date of this section, each commission shall submit the audit prepared pursuant to this paragraph to the Chairperson of the Joint Legislative Budget Committee, to the chairpersons of the appropriate policy and fiscal committees of both houses of the Legislature, and to the Governor.

(e) Ten million dollars (\$10,000,000) to the Department of Consumer Affairs to implement a public awareness program to reduce peak electricity usage. The department shall ensure that the program includes the use of nontraditional mass media, including, but not limited to, the use of community based organizations, mass media in different languages, and media targeted to low-income and ethnically diverse communities.

~~(f) In order to achieve a reduction in peak electricity demand, twenty-four million dollars (\$24,000,000) to the Department of Corrections to install systems to retrofit generation units to improve environmental performance of existing electric generating units.~~

~~(g) One hundred million dollars (\$100,000,000) to the~~
 (f) Fifty million dollars (\$50,000,000) to the Department of General Services to be expended for the purposes of implementing Chapter 3.5 (commencing with Section 4240) of Division 5 of Title 1 of the Government Code. The department shall limit its administrative costs to not more than 2¹/₂ percent of the funds expended. For the purposes of this paragraph, “administrative costs” means personnel and overhead costs associated with implementation of each measure or program. However, “administrative costs” does not include costs associated with marketing or evaluation of a measure or program.

~~(h)~~
 (g) One hundred twenty million dollars (\$120,000,000) to the Department of Community Services and Development for the purpose of supplementing the Low-Income Home Energy Assistance Program (LIHEAP). *The department may also use these funds for the purposes of increasing participation in the*

1 *LIHEAP program. The department shall use funds appropriated*
2 *pursuant to this paragraph in the following manner:*

3 *(1) The department shall implement a California Low Income*
4 *Home Energy Assistance Program (LIHEAP). Services provided*
5 *by California's LIHEAP shall be designed to do both of the*
6 *following:*

7 *(A) Increase energy conservation and reduce demand for*
8 *energy services in low-income households.*

9 *(B) Assure that the most vulnerable households cope with high*
10 *energy costs.*

11 *(2) The program shall include weatherization and*
12 *conservation services, energy crisis intervention services, and*
13 *cash assistance payments.*

14 *(3) (A) Eligibility for California LIHEAP shall include*
15 *households with incomes that do not exceed the greater of either*
16 *of the following:*

17 *(i) An amount equal to 60 percent of the state median income.*

18 *(ii) An amount equal to 80 percent of the county median*
19 *income.*

20 *(B) In no area shall eligibility be provided to households whose*
21 *income is greater than 250 percent of the federal poverty level for*
22 *this state.*

23 *(4) The department shall examine the penetration of other*
24 *energy programs, including, but not limited to, those provided*
25 *through federal LIHEAP, utility companies, and other parties, to*
26 *identify the adequacy of services to elderly persons, disabled*
27 *persons, limited-English-speaking persons, migrant and seasonal*
28 *farmworkers and households with very young children. California*
29 *LIHEAP funds shall be distributed so as to ensure that vulnerable*
30 *populations have comparable access to energy programs.*

31 *(5) The department shall ensure that services under California*
32 *LIHEAP are delivered using all of the following requirements:*

33 *(A) The department shall establish reasonable limits for*
34 *expenditures, including up to 15 percent for outreach and training*
35 *for consumers.*

36 *(B) Grantee agencies shall do special outreach to vulnerable*
37 *households, including outreach to senior centers, independent*
38 *living centers, welfare departments, regional centers, and migrant*
39 *and seasonable farmworkers.*

(C) Grantee agencies shall be required to coordinate with other low-income energy programs, and to demonstrate plans for using all energy resources efficiently for maximum outreach to low-income households.

(D) Grantee agencies shall spend the maximum feasible amount of California LIHEAP funds for weatherization assistance, but in no event less than 50 percent of the funds available by grantee. The balance shall be used for cash assistance and energy crisis intervention. The department shall provide grantees with maximum flexibility to use energy crisis and cash assistance funds to resolve energy crisis for households and to serve the maximum number of households. Cash assistance payments may be used as a supplement to federal LIHEAP cash assistance payments.

(6) The department shall do the following in addition to administering the program:

(A) Explore, with grantee agencies, standards for determining effective, efficient intake, and procedures to combine outreach for federal, state, and utility low-income energy programs into a single intake process.

(B) Report to the policy and budget committees of the Legislature on the extent to which increased flexibility in weatherization measures and flexibility in cash assistance and crisis intervention payments have increased service and reduced energy demand. If barriers to flexibility exist, the report should identify those barriers.

(C) Report to the policy and budget committees of the Legislature on the number of recipients of service, the number of grantees providing service, categories of expenditure, estimated impact of funds on energy demand, estimated unmet need, and plans for automated reporting of this information routinely.

(7) For any funds distributed in 2001, the department shall distribute funds as follows:

(A) Funds shall be distributed to have maximum possible impact on reducing energy demand immediately.

(B) First priority shall be to distribute funds through community-based programs with whom it has existing contracts.

(C) If additional capacity is needed beyond the existing network, or if vulnerable populations cannot be served within the

1 *existing contracts, the department may develop and RFP process*
2 *to solicit additional grantees.*

3 (8) The department shall limit administrative costs to not more
4 than 2¹/₂ percent of the funds expended. For the purposes of this
5 paragraph, “administrative costs” means personnel and overhead
6 costs associated with the implementation of each measure or
7 program. However, “administrative costs” does not include costs
8 associated with the marketing or evaluation of a measure or
9 program. *Fifteen million four hundred sixty thousand dollars*
10 *(\$15,460,000) to the Department of Water Resources to establish*
11 *the Energy and Water Efficiency Program to assist local water*
12 *purveyors and water users in developing and implementing*
13 *measures that conserve energy and water.*

14 (i) Each state agency receiving funds appropriated pursuant to
15 this section shall ensure, where appropriate, not less than 85
16 percent of the funds shall be expended for direct rebates,
17 purchases, *direct installations*, buy-downs, loans, or other
18 incentives that will achieve reductions in peak electricity demand
19 and improvements in energy efficiency.

20 (j) On or before January 1, 2002, each state agency receiving
21 funds appropriated pursuant to this section shall provide quarterly
22 reports to the Chairperson of the Joint Legislative Budget
23 Committee, to the chairpersons of the appropriate policy and fiscal
24 committees of both houses of the Legislature, and to the Governor,
25 which include all of the following information:

26 (1) The amount of funding expended.

27 (2) The measures, programs, or activities that were funded.

28 (3) A description of the effectiveness of the measures,
29 programs, or activities funded in reducing peak electricity demand
30 and improving energy efficiency, as measured in kilowatthours of
31 electricity reduced per dollar expended.

32 (k) *To the extent that local government entities may apply for,*
33 *and receive funds pursuant to this section, and to the extent they*
34 *otherwise qualify for the funds, federally recognized California*
35 *Indian tribes may apply for funds appropriated pursuant to this*
36 *section on behalf of their tribal members, and the applications*
37 *shall be considered on their merits. Each commission shall ensure*
38 *that its efforts to provide public information on programs funded*
39 *pursuant to this section shall include outreach to California Indian*
40 *tribes.*

SEC. 6. Any contracts entered into pursuant to Section 5 of this act by a state agency are exempt from the following requirements of the Government Code and the Public Contracts Code:

(a) Except for any contract entered into by the Department of Consumer Affairs pursuant to subdivision (e) of Section 5 of this act, services contracts are exempt from Article 4 (commencing with Section 10335) of Chapter 2 of Part 2 of Division 2 of the Public Contract Code.

(b) Consulting services contracts are exempt from Article 5 (commencing with Section 10359) of Chapter 2 of Part 2 of Division 2 of the Public Contract Code.

(c) Architectural and engineering contracts are exempt from Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code, and from Sections 6106 and 6106.5 of the Public Contract Code.

(d) All contracts are exempt from Section 10295 of the Public Contract Code, relating to approval from the Department of General Services.

(e) All contracts are exempt from Chapter 6 (commencing with Section 14825) of Part 5.5 of Division 3 of Title 2 of the Government Code, relating to advertising.

(f) *Grants may be awarded for projects or programs that include a group of related projects, or to a party who aggregates projects that directly benefit from the grant. The grants do not constitute the rendering of goods or services or a direct benefit to the agency making the grant.*

(g) *Contracts may be awarded pursuant to subdivision (c) of Section 25555 of the Public Resources Code by choosing from among one or more parties, or soliciting multiple applications from parties capable of providing goods or services. For purposes of this section, Section 25555 of the Public Resources Code shall, notwithstanding, any provision of law to the contrary, apply during the period this section is effective, as set forth in Section 7 of the act adding this section. Contracts may be awarded to develop or administer or both, portions of the program, including agency delegation of the authority to implement the program.*

(h) *The Public Utilities Commission and the Energy Commission may each delegate approval of contracts and grants to the agency executive director or an agency committee up to a*

1 *maximum amount that shall be established by the respective*
2 *commission.*

3 SEC. 7. Sections 5 and 6 of this act shall remain in effect only
4 until January 1, 2005, and as of that date is repealed unless a later
5 enacted statute, that is enacted before January 1, 2005, deletes or
6 extends that date. Any funds appropriated under Section 5 of this
7 act that are unencumbered by January 1, 2005, shall revert to the
8 General Fund on that date.

9 SEC. 8. This act is an urgency statute necessary for the
10 immediate preservation of the public peace, health, or safety
11 within the meaning of Article IV of the Constitution and shall go
12 into immediate effect. The facts constituting the necessity are:

13 Due to the shortage of electric generation capacity to meet the
14 needs of the people of this state and in order to limit further impacts
15 of this shortage on the public health, safety, and welfare, it is
16 necessary that this act take effect immediately.

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