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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, *Negrete McLeod*,
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~~ *and to add Sections 740.7, 740.9, 740.10, and 740.11 to the Public Utilities Code, relating to energy*, 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~~ 2003, 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 ~~\$926,960,000~~ \$708,900,000 from the General Fund to implement energy efficiency programs and supplement existing energy efficiency programs. Of that amount, from the General Fund, ~~\$326,000,000~~ \$246,300,000 would be allocated to the Public Utilities Commission, ~~\$405,500,000~~ \$282,600,000 would be allocated to the State Energy Resources Conservation and Development Commission, \$10,000,000 would be allocated to the Department of Consumer Affairs, \$50,000,000 would

be allocated to the Department of General Services, \$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~~ March 31, 2002, would revert to the General Fund on that date, *except as otherwise provided.*

(5) *Under existing law, the Public Utilities Commission requires every electrical and gas corporation to file a schedule of rates and charges providing baseline rates. In establishing these rates, existing law requires the commission to avoid excessive rate increases for residential customers, and to establish a gradual differential between the rates for respective blocks of usage.*

This bill would require that the commission assure that a specified condition is met with respect to any interruptible service or curtailment programs it adopts. The bill would require that any binding mandatory curtailment programs adopted by the commission, which exempt customers from Stage III rotating outages, in exchange for partial load curtailments during every rotating outage period include specified provisions for agricultural and water supplier customers, as defined. The bill would require each public utility electrical corporation to develop and offer its agricultural customers, including those customers involved in the production or processing, or both, of agricultural products, and water suppliers, on or before April 30, 2001, the opportunity to participate, in addition to other programs developed by the commission, in a demand reduction program, as specified.

~~This~~

(6) *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.

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

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

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

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

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

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

CHAPTER 3.5. STATE ENERGY PROJECTS

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

4241. As used in this chapter, and as used in Section 3 of the act adding this chapter, "state energy project" means equipment,

load management techniques, and other measures or services that reduce energy consumption and provide for more efficient use of energy in state buildings or facilities, or buildings or facilities owned or operated by community colleges.

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

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

4244. Notwithstanding Section 4243, the Director of General Services may exempt a state energy project from the advertising and competitive bidding requirements of this code and the Public 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, 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,

1 unless the department complies with Chapter 3.5 (commencing
2 with Section 11340) of Part 1 of Division 3 of Title 2 as provided
3 in subdivision (e) of Section 11346.1.

4 4246.5. *On or before October 1, 2001, and quarterly*
5 *thereafter, the Department of Finance shall provide to the*
6 *Chairperson of the Joint Legislative Budget Committee a report of*
7 *all state energy projects implemented pursuant to the exemptions*
8 *provided either in Section 4244 or 4245 of this chapter.*

9 ~~4247. This chapter shall become inoperative on June 30,~~
10 ~~2003, and, as of January 1, 2004, is repealed, unless a later enacted~~
11 ~~statute, that becomes operative on or before January 1, 2004,~~
12 ~~deletes or extends the dates on which it becomes inoperative and~~
13 ~~is repealed.~~

14 4247. *This chapter shall remain in effect only until January 1,*
15 *2003, and as of that date is repealed, unless a later enacted statute,*
16 *that is enacted before January 1, 2003, deletes or extends that date.*

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

19 25402.5. (a) As used in this section, “lighting device”
20 includes, but is not limited to, a lamp, luminaire, light fixture,
21 lighting control, ballast, or any component of those devices.

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

25 (2) The commission shall include both indoor and outdoor
26 lighting devices as appliances to be considered in prescribing
27 standards pursuant to paragraph (1) of subdivision (c) of Section
28 25402.

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

31 (c) The commission shall adopt efficiency standards for
32 outdoor lighting. The standards shall be technologically feasible
33 and cost-effective. As used in this subdivision, “outdoor lighting”
34 refers to all electrical lighting that is *not* subject to standards
35 adopted pursuant to Section 25402, and includes, but is not limited
36 to, street lights, traffic lights, parking lot lighting, and billboard
37 lighting. The commission shall consult with the Department of
38 Transportation (CALTRANS) to ensure that outdoor lighting
39 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 ~~nine hundred twenty-six million nine hundred sixty thousand dollars (\$926,960,000)~~ *seven hundred eight million nine hundred thousand dollars (\$708,900,000)* 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-six million dollars (\$326,000,000)~~ *two hundred forty six million three hundred thousand dollars (\$246,300,000)* 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)~~ *Fifty million dollars (\$50,000,000)* to encourage the purchase, ~~refurbishment of~~ *energy efficient equipment*, and retirement of inefficient appliances and improvements in the efficiency of high-efficiency heating, ventilating, and air-conditioning (HVAC) equipment 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 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.

(2) One hundred million dollars (\$100,000,000) to provide immediate assistance to electric or gas utility customers enrolled in, or eligible to be enrolled in, the California Alternative Rates for

1 Energy (CARE) Program established pursuant to Section 739.1 of
2 the Public Utilities Code. Funds appropriated pursuant to this
3 paragraph shall be expended to increase and supplement CARE
4 discounts and to increase enrollment in the CARE program. *These*
5 *funds shall be available to assist those customers enrolled or*
6 *eligible for CARE who are on payment arrangements or have*
7 *current or pending overdue notices due to increases in energy*
8 *rates. Not more than 20 percent of the funds appropriated in this*
9 *subdivision shall be allocated to increase enrollment. The funding*
10 *provided in this subdivision is intended to supplement, but not*
11 *replace, surcharge-generated revenues utilized to fund the CARE*
12 *program.*

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

17 (4) ~~Twenty million dollars (\$20,000,000)~~ *Sixteen million three*
18 *hundred thousand dollars (\$16,300,000)* for high-efficiency and
19 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)~~ *Sixty million*
25 *dollars (\$60,000,000)* to provide incentives to encourage
26 replacement of low-efficiency lighting with high-efficiency
27 lighting systems.

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

32 (b) In order to achieve a reduction in peak electricity demand,
33 ~~four hundred five million five hundred thousand dollars~~
34 ~~(\$405,500,000)~~ *two hundred eighty-two million six hundred*
35 *thousand dollars (\$282,600,000)* to the State Energy Resources
36 Conservation and Development Commission (hereafter the
37 Energy Commission), to be expended in the following amounts for
38 the following purposes:

39 (1) ~~Eighty-seven million dollars (\$87,000,000)~~ *Sixty million*
40 *dollars (\$60,000,000)* for allocation by the Energy Commission to

locally owned public utilities ~~in the following amounts for the following purposes: 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 the electric and gas corporations subject to the jurisdiction of the Public Utilities Commission pursuant to subdivision (a).~~

~~(A) Twenty million two hundred thousand dollars (\$20,200,000) to encourage the purchase, refurbishment, and~~

~~To the extent that any of the funds allocated to the locally owned public utilities are used to encourage the purchase of energy efficiency equipment and retirement of inefficient appliances and improvements in the efficiency of high-efficiency heating, ventilating, and air-conditioning (HVAC) equipment 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 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).~~

1 ~~(2) Seventy million dollars (\$70,000,000)~~ *Thirty-five million*
2 *dollars (\$35,000,000) to implement programs to improve*
3 *demand-responsiveness in heating, ventilation, air-conditioning,*
4 *lighting, advanced metering of energy usage, and other systems in*
5 *buildings. Of the amount appropriated pursuant to this paragraph,*
6 ~~not more than thirty-five million dollars (\$35,000,000) shall be~~
7 ~~expended to provide incentives for the installation of real time,~~
8 ~~time-of-use meters.~~

9 ~~(3) Fifty million dollars (\$50,000,000) to implement a ten~~
10 ~~million dollars (\$10,000,000) shall be used to encourage the~~
11 ~~purchase and installation of advanced metering and telemetry~~
12 ~~equipment for agricultural and water pumping customers in order~~
13 ~~to improve load management and demand responsiveness~~
14 ~~techniques particularly applicable to this sector.~~

15 (3) *Thirty-five million dollars (\$35,000,000) to implement a*
16 *low-energy usage building materials program, and other measures*
17 *to lower air-conditioning usage in schools, colleges, universities,*
18 *hospitals, and other nonresidential buildings. These funds shall not*
19 *be available for community college facilities if Assembly Bill No.*
20 *29 of the First Extraordinary Session is enacted, becomes*
21 *effective, and provides funding for energy efficiency measures to*
22 *the community college from the Proposition 98 Reversion*
23 *Account.*

24 ~~(4) Sixty million dollars (\$60,000,000)~~ *Fifty million dollars*
25 ~~(\$50,000,000) to implement a program to encourage third parties~~
26 ~~to implement innovative peak demand reduction measures.~~

27 (A) ~~Of the amount appropriated pursuant to this paragraph, not~~
28 ~~more than ten million dollars (\$10,000,000) shall be expended for~~
29 ~~innovative peak demand reduction measures in the agricultural~~
30 ~~sector. ten million dollars (\$10,000,000) shall be used for the~~
31 ~~California Agricultural Pump Energy Program to facilitate the~~
32 ~~efficiency testing of existing agricultural water pumps and to~~
33 ~~provide incentives for the retrofitting of pumps to increase~~
34 ~~efficiency as necessary. Up to one million dollars (\$1,000,000) of~~
35 ~~those funds shall be used for grants to local public agencies to~~
36 ~~enhance and expedite the testing of agricultural water pumps.~~

37 (B) *Of the amount appropriated pursuant to this paragraph, not*
38 *more than one million dollars (\$1,000,000) shall be expended by*
39 *the commission to fund one-time startup costs for innovative*
40 *voluntary programs to reduce air emissions through energy*

conservation and related actions pursuant to programs authorized by law in effect on the effective date of this act.

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

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

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

(5) Seventy-five million dollars (\$75,000,000) to implement programs to reduce peak load electricity usage, encourage bio-gas digestion power production technologies, enhance conservation and encourage the use of alternative fuels, including, but not limited to instate natural gas resources for the agricultural and water pumping sector. These funds shall be allocated by the Energy Commission, in the form of rebates or grants, in the following amounts for the following purposes:

(A) Forty-five million dollars (\$45,000,000) to encourage the purchase of high efficiency electrical agricultural equipment, installed, on or after January 1, 2001, and incentives for overall electricity conservation efforts. Eligible equipment shall include, but not be limited to, lighting, refrigeration, or cold storage equipment. Any agricultural energy conservation incentive program shall recognize the increased demand due to currently reduced water supply conditions.

(B) Fifteen million dollars (\$15,000,000) to offset the costs of retrofitting existing natural gas powered equipment to burn alternative fuels, including, but not limited to, instate produced “non-spec” or “off-spec” natural gas.

(C) Fifteen million dollars (\$15,000,000) in grants to be used for pilot projects designed to encourage the development of bio-gas digestion power production technologies.

(i) Ten million dollars (\$10,000,000) of these funds shall be used to provide grants for the purpose of encouraging the

1 *development of manure methane power production projects on*
2 *California dairies.*

3 *(ii) Five million dollars (\$5,000,000) of these funds shall be*
4 *used to provide grants to reduce peak usage in southern California*
5 *by revision of system operations to produce replacement energy as*
6 *a byproduct of the anaerobic digestion of bio-solids and animal*
7 *wastes.*

8 *(6) Ten million dollars (\$10,000,000) to provide incentives for*
9 *installation of light-emitting diode (LED) traffic signals.*

10 ~~(8)–~~

11 *(7) Seven million dollars (\$7,000,000) to implement a program*
12 *to teach school children about energy efficiency in the home and*
13 *at school.*

14 ~~(9) Twenty million dollars (\$20,000,000)~~

15 *(8) Ten million dollars (\$10,000,000) for incentives for the*
16 *retrofit of existing distributed generation owned and operated by*
17 *municipal water districts to replace diesel and natural gas*
18 *generation with cleaner technology that reduces oxides of nitrogen*
19 *emissions. Funds expended pursuant to this paragraph shall be*
20 *expended exclusively for retrofit equipment that meets or exceeds*
21 *the requirements for best available control technology within the*
22 *air district in which the distributed generation owned and operated*
23 *by a municipal water district is located, or with standards adopted*
24 *by the state Air Resources Board pursuant to Section 41514.9 of*
25 *the Health and Safety Code upon the effective date of those*
26 *standards. Technologies eligible pursuant to this paragraph*
27 *include natural gas reciprocating engines, microturbines, fuel*
28 *cells, and wind and solar energy renewable technologies.*

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

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

40 ~~(12)–~~

(9) 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) 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 2¹/₂ 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, *including any two-year limited positions, as approved by the Department of Finance, necessary to implement the programs.*

(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. *Any public awareness program to reduce peak electricity usage conducted by the Department of Consumer Affairs after November 30, 2001, shall be conducted pursuant to a contract in accordance with Article 4 (commencing with Section 10335) of Chapter 2 of the Public Contract Code.* 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) 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 2½ 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.

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

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

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

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

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

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

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

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

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

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

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

1 (A) The department shall establish reasonable limits for
2 expenditures, including up to 15 percent for outreach and training
3 for consumers.

4 (B) Grantee agencies shall do special outreach to vulnerable
5 households, including outreach to senior centers, independent
6 living centers, welfare departments, regional centers, and migrant
7 and seasonable farmworkers.

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

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

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

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

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

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

39 (7) For any funds distributed in 2001, the department shall
40 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 existing contracts, the department may develop and RFP process to solicit additional grantees.

(8) The department shall limit administrative costs to not more than 2½ percent of the funds expended. For the purposes of this paragraph, “administrative costs” means personnel and overhead costs associated with the implementation of each measure or program. However, “administrative costs” does not include costs associated with the marketing or evaluation of a measure or program. ~~Fifteen million four hundred sixty thousand dollars (\$15,460,000) to the Department of Water Resources to establish the Energy and Water Efficiency Program to assist local water purveyors and water users in developing and implementing measures that conserve energy and water.~~ *program.*

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

(j) On or before January 1, 2002, each state agency receiving funds appropriated pursuant to this section shall provide quarterly reports 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, which include all of the following information:

(1) The amount of funding expended.

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

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

(k) To the extent that local government entities may apply for, and receive funds pursuant to this section, and to the extent they otherwise qualify for the funds, federally recognized California

1 Indian tribes may apply for funds appropriated pursuant to this
2 section on behalf of their tribal members, and the applications shall
3 be considered on their merits. Each commission shall ensure that
4 its efforts to provide public information on programs funded
5 pursuant to this section shall include outreach to California Indian
6 tribes.

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

11 ~~(a) Except for any contract entered into by the Department of~~
12 ~~Consumer Affairs pursuant to subdivision (c) of Section 5 of this~~
13 ~~act, services~~

14 (a) *Services* contracts are exempt from Article 4 (commencing
15 with Section 10335) of Chapter 2 of Part 2 of Division 2 of the
16 Public Contract Code.

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

20 (c) Architectural and engineering contracts are exempt from
21 Chapter 10 (commencing with Section 4525) of Division 5 of Title
22 1 of the Government Code, and from Sections 6106 and 6106.5 of
23 the Public Contract Code.

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

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

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

35 (g) Contracts may be awarded pursuant to subdivision (c) of
36 Section 25555 of the Public Resources Code by choosing from
37 among one or more parties, or soliciting multiple applications
38 from parties capable of providing goods or services. For purposes
39 of this section, Section 25555 of the Public Resources Code shall,
40 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 maximum amount that shall be established by the respective commission.

SEC. 7. *Section 740.7 is added to the Public Utilities Code, to read:*

740.7. (a) *Interruptible service or curtailment programs adopted by the commission shall assure that the programs allow for agricultural and water supplier customers to aggregate multiple accounts to meet any minimum kilowatt requirements for participation in the program.*

(b) *As used in this section, “agricultural customers” means any customer involved in the production of or processing of agricultural products. “Water suppliers” means those water agencies or suppliers as defined in Section 20200 of the Water Code and Section 241 of the Public Utilities Code.*

SEC. 8. *Section 740.9 is added to the Public Utilities Code, to read:*

740.9. (a) *Any binding mandatory curtailment programs adopted by the commission, which exempt customers from Stage III rotating outages in exchange for partial load curtailments during every rotating outage period, shall include the following for agricultural and water supplier customers:*

(1) *Provisions allowing for the use of backup generation to offset the curtailed load under the program, to the extent such use of backup generation is allowed under existing law.*

(2) *Provisions limiting maximum daily curtailments to no more than four hours and monthly curtailments to no more than 20 hours per month.*

(b) *As used in this section, “agricultural customers” means any customer involved in the production of or processing of agricultural products. “Water suppliers” means those water agencies or suppliers as defined in Section 20200 of the Water Code and Section 241 of the Public Utilities Code.*

1 SEC. 9. Section 740.10 is added to the Public Utilities Code,
2 to read:

3 740.10. (a) Each public utility electrical corporation shall
4 develop and offer its agricultural customers, including those
5 customers involved in the production or processing, or both, of
6 agricultural products, and water suppliers, on or before April 30,
7 2001, the opportunity to participate, in addition to other programs
8 developed by the commission, in a demand reduction program as
9 described in this section.

10 (b) The program required by this subdivision shall be known as
11 the Scheduled Load Reduction Program, or SLRP. Agricultural
12 customers and water suppliers may identify specific two-to-six
13 hour periods coincident with Independent System
14 Operator-determined morning or evening system peak conditions
15 within which they agree to drop a preset amount of load. The
16 commission shall develop appropriate incentives to be paid for
17 participation in the SLRP program.

18 (c) As used in this section, “agricultural customers” means any
19 customer involved in the production of or processing of
20 agricultural products. “Water suppliers” means those water
21 agencies or suppliers as defined in Section 20200 of the Water
22 Code and Section 241 of the Public Resources Code.

23 SEC. 10. Section 740.11 is added to the Public Utilities Code
24 to read:

25 740.11. In recognition of the fact that these customers
26 necessarily have high electricity usage during peak summer
27 demand periods, the Legislature strongly urges that the
28 commission consider including all agricultural commodity
29 processing customers in the definition of customers eligible to be
30 served under agricultural tariffs, if the customer chooses.

31 SEC. 11. Sections 5 and 6 of this act shall remain in effect only
32 until January 1, 2005, and as of that date is repealed unless a later
33 enacted statute, that is enacted before January 1, 2005, deletes or
34 extends that date. Any funds appropriated under Section 5 of this
35 act that are unencumbered by ~~January 1, 2005~~ March 31, 2002,
36 shall revert to the General Fund on that date, *except that funds*
37 *appropriated pursuant to paragraph (2) of subdivision (a) and*
38 *subdivision (g) of Section 5 are not subject to this reversion*
39 *requirement.*

40 ~~SEC. 8.—~~

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

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

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