



## Supporting Equitable Building Performance - SB48 BPS Strategy Report Comments and Recommendations on Community Accountability, Supporting Programs, and Housing Affordability

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To: California Energy Commission  
From: Institute for Market Transformation (IMT), Emerald Cities Collaborative (ECC) - Northern California, Local Clean Energy Alliance (LCEA), Physicians for Social Responsibility (PSR) - LA, PODER - SF, and Strategic Actions for Just Economy (SAJE). Supporting technical work completed by Building Electrification Institute (BEI) and ECC National.  
Re: Docket NO. 24-BPS-01

Via Electronic Commenting System

### **DOCKET NO. 24-BPS-01 RE: California Building Energy Performance Strategy Report**

Thank you for the opportunity to comment on the California Building Energy Performance Strategy Report. Our joint comments address CEC's proposed Building Performance Standard strategy and reflect the work completed as part of the Supporting Equitable Building Performance (SEBP) project. The goals of the project were to:

1. Create or strengthen partnerships between communities and government, building a foundation that will remain after this project for lasting impacts and future policies as measured by the [Spectrum of Community Engagement to Ownership](#).
2. Develop and implement policy and programs through community-led processes.

In California, the Institute for Market Transformation (IMT) and People's Climate Innovation Center has facilitated conversations among several community-based organizations (CBOs) and California Energy Commission (CEC) staff, specifically Energy Efficiency in Existing Buildings program staff within CEC's Efficiency Division. The CBOs involved in this effort include: [Emerald Cities Collaborative](#) (ECC) - Northern California, [Local Clean Energy Alliance](#) (LCEA), [Physicians for Social Responsibility](#) (PSR) - LA, [PODER](#) - SF, and [Strategic Actions for Just Economy](#) (SAJE).

As part of this project, the team worked together between Autumn 2024 and December 2025 to define shared goals around equitable building decarbonization, create a scope of work to identify or clarify policy or program priorities, and center community voices in the design of this work.

This document highlights key findings from technical analyses and provides actionable policy and program recommendations which include:

1. Strong support for the adoption of a statewide BPS in California.
2. Guidance on how to include community accountability mechanisms in the design and implementation of a BPS.
3. Recommendations for how to best support various property types that may need additional assistance in complying with BPS.
4. Recommendations focused on avoiding unintended consequences and expanding access to better buildings.

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# Community Accountability

## Who Do We Mean When We Say “Community”?

Frontline communities are those that experience “first and worst” the consequences of climate change. These are communities of color, Native communities, immigrants, undocumented people, and people of low-income, whose neighborhoods often lack basic infrastructure to support them, whose resources have been exploited, whose daily work or living environments are often polluted or toxic, who have been disproportionately impacted by redlining and other systemic racism, and who will be increasingly vulnerable as our climate deteriorates. Too often, policy officials exclude frontline communities from critical decisions, policies, and technical processes. Such exclusion denies these residents the opportunity to share their knowledge and experience, provide consent, and fully participate in decisions that will affect their daily lives.

## Meaningful Engagement

For IMT, meaningful engagement means taking a “person-centered approach which encourages and invites communities to purposefully participate in the work [of an engagement process] to increase justice to the communities in which they belong.”

Meaningful and accessible engagement by CEC with frontline communities will require all of the following:

- A welcoming attitude from staff and volunteers
- Staff that understands the effects of climate injustices on communities
- A participatory approach (“nothing about me without me”)
- Allowing communities to speak for themselves
- Active listening and engagement in dialogue
- Open expression of opinions and ideas without fear of judgment or dismissal
- Clear explanation of complex topics to facilitate shared understanding
- A willingness and flexibility to address barriers to participation, e.g. IT barriers

This approach enables communities to address the challenges they face and identify solutions alongside government partners. Policies co-developed with CBOs and the communities they serve are stronger and more effective. Grounded in trust and deep democracy, building decarbonization solutions are easier to implement and defend because they have inherent community backing. They are also more effective because they respond to real problems identified by the communities most impacted by climate change, rather than to technocratic assumptions or hypotheticals. In this model, technical experts play a critical role in supporting and informing what communities already understand through lived experience. This type of

collaboration, where communities, CBOs, and technical actors co-create policy unlocks the most creative and impactful solutions. By contrast, traditional policymaking tends to be exclusionary and inaccessible, addressing symptoms rather than root causes while sidelining frontline and marginalized communities. Traditional policymaking risks exacerbating both ecological and economic crises.

IMT's [Community Engagement resources](#) address the following needs:

- Facilitation of conversations and approaches by designing processes that honor community expertise while avoiding artificial “box-checking” exercises
- Shifting and sharing power to scale solutions that place high-performing buildings at the center of an equitable, climate-resilient future
- Translating complex technical processes into community-ready formats so community members can shape the policy process

## Community Accountability Boards

One of the strongest ways to embed community power directly into governmental decision-making for equitable climate and building-decarbonization policies is to establish a Community Accountability Board (CAB). CABs ensure communities most affected by environmental harms— energy burden, health inequities, displacement risk—hold formal authority, not just advisory influence, over policies shaping their lives. The most relevant example is Boston's [BERDO Review Board](#).

We recommend that the CEC consider establishing both a statewide CAB and county-level CABs to ensure equitable BPS implementation. In an ideal world, there would be one CAB which would be responsible for the entire state, but the number of covered buildings makes this both infeasible and impractical. Given the scale of the state and the resulting multiplicity of frontline communities and volume of building- and community-specific decisions that CABs should make, CEC should explore delegation of authority and decision-making to CABs at the county-level. There are 58 counties across the state of California, and it likely does not make sense for every county to have its own CAB. We recommend that the rulemaking for any BPS include a deliberative process that is led by frontline communities to ultimately decide whether they support CABs at the county-level, what the responsibilities and make-up of the CABs may be, and whether there are multiple counties with lower counts of covered buildings that can be covered by a single county-level CAB (thus taking a more regional approach where appropriate). CEC should be cognizant of the fact that some counties in the state have limited organized frontline community representation, and so there is a risk that county-level CABs could skew towards representing the interests of groups that have historically held power and influence over decision-making processes. Ensuring that frontline communities are centered and truly empowered throughout the rulemaking process can help mitigate against this risk.

Ultimately, we recommend that the statewide CAB be responsible for the following:

- Overseeing and coordinating efforts of county-level CABs, and advocating for them to be provided additional resources (including staff support from CEC and other agencies as appropriate) as needed.
  - This role of overseeing and coordinating should not entitle the statewide CAB to overrule decisions or recommendations made by county-level CABs, rather they should act as a point of triage between the lens of BPS design and implementation across the entire state and the realities of such implementation at the county level.
- Developing and publicizing statewide equity impact reports that assess the impacts of BPS implementation on community priorities.
- Distributing a proportion of any available funds to county-level CABs.
  - Such funds may be gathered through either payments in lieu of performance, or funds that may be distributed from the state purse to support building owners.

County-level CABs should be vested with the power to make final decisions as:

- Creating criteria to define and determine which covered buildings in their county can be considered “community priority buildings”.
- Deciding which buildings are given priority for financial assistance in complying with BPS targets.
- Evaluating the impact on affected communities of proposals by specific buildings to comply with the BPS through alternative compliance pathways.

We provide additional information below on key considerations for establishing a CAB. Recommended policy language is included in the [JMT Model Law](#), which generally recommends that the BPS law establish a CAB and define the key responsibilities of the CAB, but leave details to rulemaking or administrative guidance.

CABs should be:

- **Representative** of frontline communities
- **Empowered** with meaningful decision-making authority
- **Resourced** to participate effectively
- **Responsive** to community-defined needs

To the extent possible, governments should give CABs *legal decision-making authority* to make decisions and allocate resources. Anything less risks becoming a “false solution”—approaches that appear participatory but reinforce inequities.

## Core Conditions for an Effective CAB

### 1. Community Representation & Power Sharing

Even the most knowledgeable technical experts are prone to blind spots because, often, they do not experience the harms and negative consequences of policy decisions that frontline community members live with every day. This is why it is crucial for members of a CAB to reflect communities' diversity in terms of age, race, economic status, expertise, education, and employment experiences. This ensures that multiple perspectives are considered in CAB activities. Doing so facilitates greater power sharing between governments and communities; even when government staff are well-intentioned, they often lack key insights into community issues by not being genuinely representative of the communities they serve. California must align and connect technical and climate equity work which seeks to empower frontline communities, remedy past harms, and avoid the continuation of such harms in the future. As such, we recommend that members of CAB should, in the aggregate, have robust expertise in equity and climate justice, as well as technical expertise such as building science, architecture, and engineering.

- Reflect the diversity of frontline communities (race, income, geography, lived experience).
- Prioritize lived expertise alongside technical knowledge.

### 2. Capacity, Compensation & Support

To function effectively, CABs must be properly resourced. California should provide training, compensation, and logistical support so members can participate without hardship. Meetings should be accessible—offered at reasonable times, with childcare, food, translation, and options for remote or hybrid participation (while avoiding power imbalances associated with hybrid formats, where it can be easier for the majority of a conversation to be stuck between either in-person or virtual participants with limited cross-pollination between the two). Equity tools—such as Racial Equity Impact Assessments and facilitated equity trainings—can help ensure shared understanding and alignment between government and CAB members. When possible, local CBOs should serve as facilitators, as they bring trust and existing relationships within affected communities. CABs must also have access to policy and technical experts when navigating complex decisions.

- Provide stipends, training, and administrative support.
- Ensure accessible meetings (childcare, food, translation, hybrid options).
- Engage CBOs as facilitators rather than outside consultants.

### 3. Real Authority & Accountability

To support meaningful community leadership, CABs need real authority over decisions that affect frontline communities, including flexibility pathways under BPS policies and directing

reinvestment of funds addressing environmental harms. For policies that have an enforcement mechanism, such as BPS, there is a real opportunity to progress community ownership efforts.

In the case of Boston's Review Board, the CAB-equivalent for the City's BPS, they have decision making authority over how to spend monies gathered from building owners that fail to meet their performance targets, and have penalties levied against them by the implementing entity. This allows the Review Board to provide financial support to building owners that will struggle the most to reach performance targets, such as multifamily affordable housing or buildings owned by local nonprofits. The Review Board also has the power to grant or hardship compliance applications from building owners, which is a flexibility measure by which building owners can request performance target adjustments or extensions. The Review Board can assess whether a building owner is acting in good faith, and decide to grant them adjustments. This is a real-world example of a CAB with a significant level of authority over policy implementation.

#### **4. Establishing metrics of success**

CABs should also be empowered to develop and review their own metrics of success, hold regular accountability reviews on those metrics, and integrate lived experience into evaluation—especially when data alone does not fully capture community impacts.

CABs should co-create clear goals and metrics tailored to local needs and policy context. Allowing the CAB to choose the most relevant indicators ensures that progress is measured in ways that genuinely reflect community priorities and lived reality. There are many other indicators and variables to track the impacts of policy implementation, and CEC should work collaboratively with community members to share knowledge on areas of particular concern to assist in identifying what Californians need the most (e.g. measuring impacts on utility costs could be the top priority of one community, but indoor air quality may be the biggest concern of another). CEC may wish to refer to [IMT's CAB Toolkit](#) for further guidance.



# Supporting Programs and Policies

## Resources and Tools to Support Building Owners

### Considerations for Prioritization of Support

For successful implementation of a BPS, building owners need adequate support and engagement on compliance requirements and how to best approach building upgrades to meet requirements. The current compliance rates and energy use intensities from the benchmarking and covered building list provide some indication of building types, regions of the state, and building vintages to prioritize. These takeaways are noted below:

- 1. Tailor outreach and support by building type:** The three building types with the highest number of covered buildings are housing, warehouse/industrial, and office/retail. However, the building types with the highest overall energy use intensity are hospitals, grocery stores, and other medical offices. We recommend a few outreach and resource strategies given these findings:
  - *Prioritize multifamily buildings:* we recommend that CEC prioritizes this sector for implementation resources and financing. The sector represents the largest percentage of all covered buildings (and is likely to comprise the widest variety of ownership types), and any upgrades or costs impacts community members most significantly as the benefits of BPS will have the highest impact for these community members. According to current data, a little over half of these building owners are complying with the benchmarking ordinance. To address resource challenges and ensure multifamily buildings and their residents see the benefits of energy efficiency upgrades, we recommend educational materials for this sector (including multifamily building owners, operators, and residential tenants) and direct financial support. Other jurisdictions have implemented navigator programs to provide technical assistance along with rebate support, provided free audits to these buildings, or provided grants or rebates to multifamily housing that cover a higher percentage of overall upgrade costs. Grants and rebates are often provided by entities other than the implementing government, and are often contingent on affordability restrictions. Other potential sources include federal and state housing funds which have existing incentives (and often requirements) tied to efficiency measures. It is important that the state considers how to ensure that upgrades to multifamily housing do not lead to rent increases net of any utility savings and exacerbate the affordability crisis. More recommendations on protecting affordability of residential tenants are included in the Appendix.
  - *Stress the importance of green leasing for offices and retail:* this sector represents the second largest number of covered buildings in the state and one of the largest contributors to overall energy use. This sector can be challenging

to decarbonize as typical commercial leases misalign tenant - landlord relationships and create split incentives where neither tenants nor landlords believe that it is in their interest to invest in energy efficiency. IMT recommends that CEC highlight resources on green performance-based leasing, such as [Green Lease Leaders](#) and [performance-based leasing](#). Green leases include clauses that address efficiency and decarbonization actions and operational procedures and the roles and responsibilities of the tenant and owners. These leases align costs, benefits, and responsibilities for each party.

- *Protect small under-resourced commercial tenants:* In designing a BPS, California should take care to protect small under-resourced community-serving commercial tenants. Outreach, financial, and technical assistance should be targeted at these tenants, whose importance and vulnerability are laid out in the SAJE brief (Appendix B). SAJE points to potential policy interventions that could better protect commercial tenants but would require a law separate from the BPS itself and would likely be administered by agencies other than CEC including a rent registry for commercial units, relocation assistance requirements for no-fault evictions, requirements for written, standardized leases, and extending anti-harassment provisions to small commercial tenants with robust government oversight and enforcement.
- *Analyze overall contribution to energy use by building type as benchmarking compliance increases:* We recommend continued analysis of how energy performance and overall contributions to total energy and carbon emissions vary by building type. This type of analysis can help inform what focused outreach and education materials would be most impactful. This is a place where local stakeholders and experts in the state can provide support in developing those resources or sharing existing resources on specific building types.

**2. Consider a tiered approach to county-level outreach:** the number of buildings covered by benchmarking, and a future BPS are highly clustered near major metropolitan areas in the state. However, benchmarking compliance rates generally illustrate that as fewer buildings are covered in a county, the percentage of buildings that are complying with the existing benchmarking policy decreases. The benchmarking data illustrates small differences in performance by county - but no significant trends. Based on this, we recommend the following:

- *As compliance rates with benchmarking increase, analyze how energy use intensities vary by county.* With only around 50% of buildings currently complying with benchmarking, it is likely that many of the reporting buildings are top performers and may not reflect the entire building stock. As more buildings comply, it will be important to understand if there are trends in energy performance by county or region to inform how to prioritize outreach across the state.

- *Focus on counties with a high number of covered properties first* - counties clustered in the Los Angeles, San Diego, and Bay Area account for the majority of covered buildings and show rates of compliance with benchmarking averaging around 50%. Given the vast number of buildings in these areas, a strategy for outreach materials and trusted messengers around any future building performance standard requirements should first be developed here. We recommend that the outreach materials include information to help building owners understand the steps to benchmark and understand historical energy use as well as any requirements for a BPS. CEC should work with community-based organizations and other local stakeholders to design the outreach approach to ensure it is tailored to local needs where possible.
- *Use the lessons learned and strategy deployed in high density areas to develop outreach strategies for all other counties.* The lessons learned on how to use trusted messengers and what language to use to increase compliance or building decarbonization knowledge can be applied to outreach in counties with less covered buildings. However, it will be important that CEC works with local stakeholders and community-based organizations in those regions to tailor materials and messaging to local conditions.
- *Consider more surveys across the state to understand basic understanding and what resources are most needed* - once initial outreach is completed, we recommend that CEC continues to solicit feedback directly from building owners and managers across the state on resource needs and existing building decarbonization knowledge. This will ensure that outreach efforts are refined over time to best address local needs, and generally help all buildings receive the benefits from lower energy use. Beyond this, and discussed further in the appendix, we recommend that CEC commit to ongoing robust community engagement to understand the needs and concerns of frontline communities.

## Financial Resources

To meet building performance targets, some building owners require access to various financial resources and support mechanisms and assistance to navigate them. A number of financial resources and supports already exist in the State of California, including utility rebates, PACE financing option, and state grants. We want to highlight the importance of [California's Equitable Building Decarbonization](#) program, and the state should strongly consider how important continued funding of direct installation programs such as this (which feature tenant protections, workforce standards, and funds for remediation of buildings) will be to allow California to address its affordability crisis whilst meeting its ambitious climate goals.

Helping owners to meet building performance targets requires a multifaceted approach, combining financial incentives, technical assistance, and regulatory flexibility. We recommend that CEC considers how it can offer more dedicated building performance standard technical and financial support, and how it can encourage or regulate utilities to update their offerings to

directly address building performance standards. Examples of navigator and technical assistance programs are below:

1. [\*\*The DC Sustainable Energy Utility \(DCSEU\)\*\*](#): Offers technical assistance, financial incentives, and training to help building owners in Washington, D.C., meet energy performance standards. DCSEU provides rebates for energy-efficient equipment and supports energy audits.
2. [\*\*New York City's Retrofit Accelerator\*\*](#): Provides free advisory services to building owners to help them comply with Local Law 97, which sets GHG emission limits for buildings. The program offers technical assistance, connects owners with financing options, and helps navigate regulatory requirements.
3. [\*\*Seattle Clean Buildings Accelerator\*\*](#): A free coaching program that helps building owners and managers meet the requirements of Washington's Clean Buildings Standards and Seattle's Building Emissions Performance Standard. It provides one-on-one coaching, educational workshops, and resources to help participants improve energy efficiency.
4. [\*\*Toronto's Taking Action on Tower Renewal \(TATR\) Program\*\*](#): Toronto's Tower Renewal Program focuses on improving the energy efficiency and living conditions of older high-rise residential buildings. The program provides technical support, funding, and resources for building retrofits that enhance energy performance and resident comfort.
5. [\*\*Massachusetts Leading by Example \(LBE\) Program\*\*](#): The LBE program in Massachusetts sets energy and sustainability targets for state government operations. It provides technical assistance, funding opportunities, and recognition to state facilities that achieve significant energy savings and environmental benefits. It is important that the State of California also leads by example with regard to buildings.
6. [\*\*Washington Building Performance Incentives\*\*](#): Department of Commerce provides a set of incentives to help with compliance with the Clean Building Performance Standard. These include early adopter incentives for buildings that comply early, grant programs for energy efficiency improvements, and energy audits for public buildings that have to comply with the standard.
7. [\*\*Cambridge Building Energy Retrofit Program\*\*](#): The program provides comprehensive planning services, guidance to building owners on vendors and rebates, energy efficiency incentives, and Building Operator Certification training classes. Any building over 25,000 square feet is eligible. This type of one-stop shop is a best practice model that the state could work to replicate.
8. [\*\*Massachusetts Deep Energy Retrofit\*\*](#): MassSave has a program designed to help commercial customers achieve building upgrades that lead to greenhouse gas savings of 40% savings or more. The program provides an additional \$1/square foot if that metric is matched in addition to all other energy efficiency upgrades.

## High Performance Building Hub

We strongly recommend that CEC also support the creation of an independent non-profit organization to act as a trusted third party that focuses on outreach, education, and compliance support known as a high-performance building hub (Hub), such as the [California Building Performance Hub](#) developed by USGBC California. A “Hub” is a centralized location where all real estate stakeholders in California can access critical guidance, technical assistance, and/or access to available incentives to building owners, designers, contractors, and operators. Hubs are non-exclusive aggregators of the information that can help covered property owners comply with policies, including but not limited to the BPS, that lead to the achievement of California's climate goals.

A Hub's goal is to remove obstacles that prevent the implementation of high-performance building strategies by both spotlighting good practices of local market leaders and aiding those who may not have the necessary resources—be it information, expertise, or finances—to act to improve their buildings' performance. This support is distinct from compliance or approval activities, and in our experience, it is important to separate this education and engagement work from the public agency necessarily focused on compliance. Establishing a hub either as a stand-alone nonprofit or in partnership with a credible existing nonprofit can improve short term outreach and provide opportunities for diversified funding streams over the long term.

If the state elected to create its own Hub instead, it is understandable that this can seem like a daunting undertaking to create an entity that will have the scale and resources necessary to support building owners. However, IMT and its partners have already launched several Hubs in various locations across the nation and have formed a network of Hubs called the [Building Performance Partnership](#). Drawing from this experience, Chapter 8 of IMT's [Building Performance Standard Implementation Guide](#) summarizes best practices and lessons learned to stand up a Hub in a time-efficient and cost-effective manner.

Building owners have benefitted from resources and programs produced by Hubs based on local market needs to support BPS compliance including:

- **Policy compliance checklists and FAQs:** Simple, easy-to-use resources describing BPS (and other policy) compliance pathways.
- **Playbooks and templates for implementing improvement strategies:** Guidance related to constructing and retrofitting primary building systems (envelope, ventilation, heating/cooling, domestic hot water, plugs and process loads), strategies for new construction to go above the energy code to comply with the BPS, implementing low-cost strategies to decrease energy-related operating costs, and assessing high-performance building technology solutions.
- **Contract templates and toolkits:** Guidance to enable building owners to support sustainability and equitable decarbonization through leasing and procurement

processes. This could include RFP templates, a recommended process for [high-road contracting](#), [sample contract language](#), and [sample leasing provisions](#) that overcome the split incentive between landlords and tenants.

- **Case studies:** Promoting peer-to-peer learning, showcasing best practices, and minimizing perception of risk.
- **Funding and financing guides:** A regularly-updated directory of available financial incentives, grants, tax abatements, and utility rebate programs to help property owners fund improvements.
- **Help desk:** A phone number and email address that building owners can use to get answers to their questions regarding the BPS requirements.
- **Vendor matchmaking:** Web-based resources for owners to connect with experienced and certified contractors to perform audits, installations, and operations

Hubs can also provide a space for residential tenants to learn more about the renovation process and building improvements that will be necessary to achieve BPS targets, as well as getting exposure to new appliances and systems that they are likely to be introduced to as owners make improvements (smart thermostats, induction cooking, heat pumps, etc).

Beyond providing compliance resources, the Hub can also act as a convener and translator for the industry to advance and share ideas. Outreach and engagement events might include:

- **BPS compliance presentations:** Regular presentations on the BPS explaining who must comply, relevant deadlines, compliance pathways and reporting processes.
- **Peer-to-Peer activities:** Workshops in which industry peers share successes, challenges, and lessons learned with one another.

Based on the need's assessment and available funding, the Hub may offer additional, more resource-intensive services, including the following:

- **One-on-One compliance consulting services:** Hub staff and advisors could provide tailored support to covered property owners, particularly those whose properties serve frontline communities, who need direct, individualized assistance to comply with BPS. The [DC Building Innovation Hub](#) conducted a pilot program in 2021 that connected 20 under-resourced affordable multifamily housing owners with resources and assistance to help them comply with BPS requirements. This pilot reached 2,700 residential units or 17% of all non-compliant affordable multifamily housing buildings in the District.
- **Workforce development programs:** Following the adoption of BPS, the market for high performing building services should experience significant growth. After New York City adopted Local Law 97, [Urban Green estimated](#) that the new law would create a \$20 billion retrofit market and 141,000 new jobs by 2030, a 13-fold increase from baseline. Hubs should align with existing workforce development programs or even create

programs of their own to equip students with skills that will be in demand because of the BPS. Programs such as small and medium disadvantaged business accelerators or matching services that connect vendors and customers present opportunities for Hubs to address inequity by preparing members of frontline communities to compete for contracts and jobs resulting from the BPS.

- **Funding source:** Where resources permit, Hubs could administer dedicated funding or financing for building performance improvements. CEC may consider setting aside a portion of such funding for specific social equity purposes including support for under-resourced buildings serving frontline communities.

Whichever combination of services the Hub offers, it is critical to ensure broad awareness of both the BPS and the Hub among owners of covered properties. Owners cannot comply with a BPS that they are not aware of, and they cannot access Hub resources that they do not know about.



# Appendix A

The document attached is a literature review that was completed by the [Building Electrification Institute](#) (BEI) in collaboration with [Emerald Cities Collaborative](#) (ECC) - Northern California, [Local Clean Energy Alliance](#) (LCEA), [Physicians for Social Responsibility](#) (PSR) - LA, [PODER](#) - SF, and [Strategic Actions for Just Economy](#) (SAJE), and the [Institute for Market Transformation](#) (IMT). This collaborative effort was part of the Supporting Equitable Building Performance (SEBP) project, the goals of which were to strengthen relationships between communities and government, as well as centering community leadership and ownership in policy design and implementation. It explores the potential benefits and impacts of adopting BPS in California, the status of existing tenant protections across the state, and recommendations that we encourage CEC and other state agencies to follow in order to equitably design and implement a BPS statewide.

## **Advancing Climate Goals and Housing Affordability: Equity Considerations To Inform California's Building Performance Strategy**

### **Introduction**

California stands at a pivotal moment, with the chance to address housing unaffordability, energy insecurity, and climate change in ways that strengthen communities and improve quality of life for everyone. Nearly half of renters in the state are cost-burdened, and deed-restricted affordable housing providers already work hard to balance rising energy, maintenance, and compliance costs with the need to keep rents stable.<sup>1</sup>

California has set ambitious decarbonization targets,<sup>2</sup> and the state legislature has passed SB 48 (Building Energy Savings Act, 2023), directing the California Energy Commission (CEC) to develop recommendations for a statewide Building Performance Standard (BPS) that the legislature will consider. SB 48 marks the state's most significant step toward developing comprehensive regulations to improve the energy performance of existing large buildings, aiming to reduce energy use and greenhouse gas emissions while advancing health, safety, and resilience.<sup>3</sup>

If designed and implemented with equity at its core, a statewide BPS offers a critical opportunity to align California's climate goals with the promise of safe, resilient, and comfortable housing for all residents. Strong tenant protections and coordinated policy design can ensure that compliance costs do not create new burdens, but instead deliver healthier, more climate-resilient housing.



The paper synthesizes recent literature, tenant protection policy analysis, and community feedback to address three key questions:

1. **Affordability Impacts:** How could a statewide BPS affect housing affordability, particularly for **unregulated (unsubsidized) rental housing**?
2. **Interagency Coordination:** How do fragmented housing, energy, and planning policies limit equitable BPS implementation?
3. **Policy Design Lessons:** What elements from other jurisdictions can help California design an equitable, affordable BPS?

By highlighting key findings and offering targeted recommendations, this paper aims to support the CEC in ensuring that any future BPS advances California's climate goals while also delivering healthier, safer, and more resilient communities where housing is affordable and comfortable for all.

## Background on Building Decarbonization Policies in California

In 2023, the California Legislature passed SB 48 (Building Energy Savings Act), directing the CEC to develop recommendations on a statewide BPS for existing buildings 50,000 square feet and above. SB 48 represents the state's most significant effort to reduce energy use and greenhouse gas emissions from large existing buildings, with a mandate to center equity and affordability in its design and implementation.<sup>4</sup>

The Institute for Market Transformation (IMT) was awarded Resilient and Efficient Codes Implementation (RECI) funding from the US Department of Energy in 2024. Through this work, IMT has facilitated conversations and engagement between several community-based organizations (CBOs) and CEC staffers. As a result, the CBOs have been able to discuss and explore varied design considerations for BPS and to highlight their concerns around potential unintended consequences.<sup>5</sup>

SB 48 signals a turning point in California's approach to existing building decarbonization efforts by the state: moving from voluntary or programmatic efforts toward comprehensive, statewide standards that must account for the housing affordability crisis and the needs of vulnerable tenants.

### The California Housing Affordability Crisis

California's ambitious building decarbonization policies intersect with an aging housing stock already under severe strain. The state faces one of the nation's deepest affordability crises, with nearly half of all renters being rent-burdened, spending over 30% of their income on housing.<sup>6</sup> From 2020 to 2023, median rents rose by 40%, while median renter incomes increased by only 9%.<sup>7</sup>

California also has some of the nation's highest utility rates, leaving 5.2 million residents "energy burdened," spending over 6% of their income on power, heating, and cooling.<sup>8</sup> Statewide, 61%

of adults earning under \$50,000 face this burden, with women-led households hit hardest.<sup>9</sup> Since renters are already struggling to make ends meet, a statewide BPS must be designed to ensure that compliance costs do not translate into higher housing costs, which would deepen rent burdens, housing insecurity, and displacement for low-income and marginalized households.

Housing affordability is not only an economic issue but also a public health concern. Families facing both rent and energy burdens are forced to choose between paying bills and securing essentials like food and medicine. The resulting stress fuels disease, harms mental health, and makes it harder for children to succeed in school, creating lasting barriers to a family's economic mobility.<sup>10</sup>

For decades, low-, very low-, and extremely low-income households of color have borne the brunt of discriminatory land use decisions, with affordable housing frequently placed on toxic sites or near sources of pollution.<sup>11</sup> These practices have contributed to disproportionate health burdens, including respiratory illnesses and cancer.<sup>12</sup> A statewide BPS presents an opportunity to reverse this legacy by supporting affordable housing that is not only accessible, but also safe, resilient, comfortable, and conducive to good health.

## **Potential Impacts and Benefits of BPS Compliance on Unsubsidized Housing**

In California, unsubsidized rental housing includes non-deed-restricted housing, which are properties that do not receive government subsidy, but may be protected by rent stabilization. These homes can have rents set at market rate without legal or regulatory limits on income eligibility. For these housing types, the goal of a statewide BPS should be to ensure that households do not see an increase in their rent due to mandatory building upgrades, especially for those already rent-burdened.

### **Potential Impacts**

A region-wide eviction study by the Bay Area Housing Finance Authority (BAHFA) found that the inability to pay rent is the leading legal cause of eviction, with renters of color and women-headed households disproportionately impacted.<sup>13</sup> Similarly, the San Diego Housing Commission found housing cost burden to be the strongest predictor of eviction, with Black and Hispanic renters more likely to be affected.<sup>14</sup> A BPS policy could inadvertently lead to greater cost burden and evictions; if building owners are allowed to pass upgrade costs onto tenants, households that are not currently rent-burdened could become so, and those already struggling could face even higher costs. Without strong renter protections, tenants risk displacement if owners shift the costs of complying with a BPS onto them.<sup>15</sup> In jurisdictions with rent stabilization laws that cap annual rent hikes, some landlords resort to harassment to push tenants out, enabling them to reset rents above regulated limits.<sup>16</sup> Capital improvement loopholes, which allow landlords to increase rents to cover the costs of retrofits, can also allow rent increases that exceed rent stabilization thresholds.<sup>17</sup>

BPS compliance can involve extensive upgrades, such as costly system requirements (e.g., HVAC, electrical upgrades). Unsubsidized housing properties with low rents often have deferred maintenance, which may make it difficult for older properties to finance significant upgrades. Without targeted funding and technical assistance for owners of unsubsidized affordable housing, compliance could default to pathways that risk permanent tenant displacement. Many cities permit “substantial remodel” evictions—removing tenants to complete major renovations—without requiring mitigation plans that guarantee relocation assistance or the right to return.<sup>18</sup> Because BPS compliance can involve extensive upgrades, landlords could use it as justification for large-scale evictions if these gaps are not addressed.<sup>19</sup>

BPS compliance can involve extensive upgrades, such as costly system requirements (e.g., HVAC, electrical upgrades). Many unsubsidized affordable rental properties—particularly older buildings with long histories of deferred maintenance—may face real logistical and financing challenges in completing upgrades on a short timeline. At the same time, compliance requirements could also be exploited in bad faith, as some landlords may use BPS-related renovations as a pretext to remove tenants rather than invest in maintaining properties—especially in markets where owners have long operated without meaningful requirements to keep properties up to health and safety codes that mandate habitable dwellings.

Without guardrails and enforcement, compliance could default to pathways that increase the risk of permanent tenant displacement. Targeted public funding and technical assistance should be narrowly designed, prioritizing owners who can demonstrate financial hardship and conditioning support on strong tenant protections (e.g., relocation assistance, rent caps, and a right to return). Policy design should also ensure landlords are not rewarded for years of illegal or negligent deferred maintenance either by gaining a pathway to evict tenants through “substantial remodel” provisions or by receiving public subsidies to address code violations they were already legally required to fix.

## **Potential Benefits**

A statewide BPS has the potential to bring a wealth of benefits for California residents. Given that we spend 90% of our time indoors, buildings serve as a nexus point to address broad issues that impact people’s health, the resiliency of populations, and the broader economy.<sup>20</sup>

Buildings that are not well-maintained or do not meet current construction standards may exacerbate or even lead to poorer health outcomes for residents. Mold and methane gas can increase asthma risk, old insulation can harbor asbestos, and broken systems can fail to provide adequate heating or cooling, exacerbating both physical and mental anxiety.<sup>21</sup> Failing to address indoor air quality has costs for both the public and for businesses. Estimates by the U.S. Environmental Protection Agency suggest that improving indoor environmental quality could result in potential annual benefits of \$1-\$4 billion in reduced healthcare costs related to allergies and asthma. Better buildings also support greater productivity. In U.S. offices alone, increasing ventilation rates and adding economizers would increase work performance by \$7-15 billion, and avoiding high temperatures in the winter would increase performance by \$2 billion.<sup>22</sup>

A statewide building performance standard can help reduce indoor air pollution from fossil fuel combustion in appliances such as stoves, water heaters, and HVAC systems.<sup>23</sup> Switching to electric appliances also improves heating and cooling efficiency, boosting indoor comfort during extreme weather and potentially lowering utility bills when paired with weatherization upgrades.<sup>24</sup> These improvements are particularly beneficial for low-income communities of color, providing safer, healthier, and more energy-secure homes while reducing disproportionate exposure to pollution.<sup>25</sup>

Protecting tenants through strong safeguards—such as funding for upgrades, relocation assistance, and limits on residential rent pass-throughs—is critical to ensuring that the benefits of a BPS are realized without worsening housing instability. When paired with electrification and energy-efficiency measures, a well-designed statewide BPS can deliver safer, healthier, and more comfortable homes, reduce indoor air pollution, and lower utility costs, creating tangible gains for the households who need them most.

## Tenant Protections Across the State

While a statewide BPS holds promise for improving health, comfort, and energy affordability, these outcomes are not guaranteed without strong and enforceable tenant protections. The extent to which BPS compliance costs translate into rent increases, evictions, or displacement depends largely on the legal safeguards in place for renters. Understanding California’s existing tenant protection landscape and its limitations is critical to assessing how a statewide BPS can advance climate goals while protecting housing stability for renters across the state.

Assembly Bill 1482 (Tenant Protection Act of 2019) was adopted in response to California’s growing housing affordability crisis. Its goal is to limit rent gouging and arbitrary evictions, establishing baseline tenant protections across the state—especially in jurisdictions where no local protections existed before.

AB 1482 protects tenants by:

- Capping rent increases. Landlords can raise rent once a year, but the increase cannot be more than 5% plus inflation, and it can never be more than 10%.
- Protecting tenants who have lived in their home for at least 12 months from eviction unless the landlord has a legally defined reason, such as “at-fault” reasons. At-fault reasons include not paying rent, violating the lease, or engaging in criminal activity. “No-fault” reasons include situations where the landlord plans to substantially remodel the unit or take it off the rental market.<sup>26</sup>

Unfortunately, several property types are not covered under AB 1482. Exemptions include:

- Single-family homes and condominiums owned by natural persons (e.g. not real estate investment trust, a corporation, or an LLC with at least one corporate member);
- Owner-occupied duplexes;
- New construction less than 15 years old (rolling exemption); and

- Deed-restricted affordable housing and some specialized housing types.

Although AB 1482 provides critical protections to tenants across the state, it contains shortcomings that limit its effectiveness in preventing displacement tied to building upgrades—most notably the “substantial remodel” loophole, which allows landlords to evict tenants for renovation work. AB 1482 also sets rent caps higher than most local rent stabilization ordinances, allowing for landlords to increase rents relatively steeply on an annual basis. Finally, there is no proactive statewide enforcing agency for AB 1482, leaving tenants little recourse when their rights are violated, other than suing for damages in court. Seeking justice through the courts is a difficult and inaccessible process for many, especially low-income tenants who are the most likely to have their rights violated.

AB 1482 will sunset on January 1, 2030, unless extended by the legislature. If the law sunsets without renewal, the majority of California renters will be without a safeguard against excessive rent increases and unjust evictions.

While not as strong as AB 1482, several new laws have strengthened and expanded tenant protections:

- **SB 567** (2023; effective April 2024): Tightens the definition of no-fault evictions (e.g., not allowing a landlord to evict a tenant to move into the unit unless the landlord can show they genuinely plan to live there for a sustained period of time) and allows the Attorney General or city attorneys to enforce violations, including damages.<sup>27</sup>
- **AB 12** (effective July 2024): Caps most security deposits at one month’s rent, reducing move-in cost burdens.<sup>28</sup>
- **SB 611** (effective April 2025): Prohibits common “junk fees” (e.g., charging for paying rent by check) and requires landlords to advertise transparent, all-inclusive rental pricing.<sup>29</sup>
- **SB 436** (pending, 2025): Would extend the period for tenants to pay overdue rent before eviction from 3 days to 14 days, providing more stability for households facing temporary hardship.<sup>30</sup>

These protections are operating under California’s Costa-Hawkins Rental Housing Act and the Ellis Act, which together limit the reach of local rent protections and contribute to housing affordability challenges. Costa-Hawkins restricts rent control by exempting newer units, single-family homes, and condominiums, and allows landlords to reset rents to market rates whenever a tenant leaves, thereby incentivizing landlords to remove long-standing tenants.<sup>31</sup> The Ellis Act permits landlords to withdraw rental units from the market entirely, even in rent-controlled buildings, often resulting in tenant displacement.<sup>32</sup> Together, these laws reduce the number of protected, affordable units and can accelerate displacement, particularly in high-demand markets, placing low-income renters and communities of color at greater risk of housing instability.

Many jurisdictions in California rely solely on AB 1482 and other statewide protections, especially in regions such as the Central Valley, Inland Empire, and much of San Diego County.

If AB 1482 protections expire or continue to leave tenants vulnerable to substantial remodel evictions—or if exemptions continue to leave large swaths of unsubsidized housing uncovered—a BPS policy could cause negative unintended consequences as related costs could be passed onto tenants with little recourse. Additional statewide tenant protections must be considered in order to protect against potential harms that a BPS may cause. As building owners begin to comply with BPS targets, there will need to be requirements in place (e.g., habitability plans, relocation and return rights, limits on cost pass-throughs) regardless of whether AB 1482 or local ordinances apply.

## Local Tenant Protections

### Bay Area

AB 1482 establishes only a baseline of tenant protections, and local ordinances vary widely in strength across the state. As a result, the impacts of BPS compliance will differ significantly depending on geography. The Bay Area demonstrates this patchwork clearly: while cities such as Berkeley and Oakland have local rent stabilization and just-cause laws, neighboring jurisdictions rely solely on AB 1482.

The Bay Area Air District (BAAD) has already grappled with these disparities. In preparing for its Zero NOx Rules, which phase out gas-fired space and water heaters starting in 2027, the agency assessed tenant protections across its nine-county jurisdiction.<sup>33</sup> As heat pumps are generally more expensive than their gas appliance counterparts, the potential for tenant displacement in unregulated rental housing emerged as a key concern.

BAAD's assessment of tenant protections found a highly inconsistent patchwork of tenant protections<sup>34</sup>:

- **Strong protections in some cities:** Berkeley and Oakland have long-standing rent stabilization ordinances and robust just-cause eviction laws. These protections reduce the risk that BPS-related upgrades will lead to displacement.
- **Baseline-only protections in others:** Cities such as San Rafael, Petaluma, and Union City rely solely on AB 1482. In these jurisdictions, tenants are protected only by the statewide rent cap and just-cause requirements, leaving significant gaps if AB 1482 sunsets.
- **Eviction allowances for major repairs:** Many cities allow landlords to evict tenants when repair or upgrade work renders a unit uninhabitable for more than 30 days. BPS compliance could trigger such “substantial repair” evictions without guarantees of relocation assistance or return rights.
- **Capital cost pass-throughs:** Most local ordinances allow landlords to petition for rent increases to recover the costs of capital improvements, including appliance or system upgrades required by decarbonization policies.

This patchwork of protections means that where a renter lives largely determines their risk of displacement. Viewed through the lens of the social determinants of health, uneven tenant

protections do more than create housing insecurity—they compound inequities in health, education, and economic stability, especially for low-income renters and communities of color.

## **Los Angeles**

Los Angeles demonstrates how local tenant protections intersect with building decarbonization. The City of Los Angeles aims to electrify all buildings, which account for 43% of total citywide greenhouse gas (GHG) emissions, by 2050.<sup>35</sup> Yet with roughly 2 million renters, half of whom are severely rent burdened (spending over 50% of their income on rent),<sup>36</sup> the stakes are particularly high. Low-income renters already spend an average of 6% of their monthly income on utilities, compounding housing costs.<sup>37</sup> The estimated cost to decarbonize housing across the city is estimated at \$26,000 per unit, creating pressure for landlords to recover expenses.

SAJE has extensively researched and reported on the potential impacts of a decarbonization mandate on low-income tenants in Los Angeles and California. SAJE's reports [Los Angeles Building Decarbonization: Tenant Impacts and Recommendations](#), [Decarbonizing California Equitably](#), and [Tenants at the Center: An Equitable Path to Building Decarbonization](#), outline gaps in Los Angeles' existing protections that leave tenants vulnerable to rent increases and displacement, including:

- **Substantial remodel evictions:** When it was passed in 2022, Los Angeles' Just Cause for Eviction Ordinance replicated the AB 1482 substantial remodel provision, allowing non-rent stabilized tenants to be evicted for renovation work. Recognizing the potential for a building decarbonization mandate to spur mass displacement under this provision, tenant and environmental justice groups in Los Angeles won an ordinance prohibiting substantial remodel evictions in the City of Los Angeles in 2025.
- **Pass-through costs:** Los Angeles' Rent Stabilization Ordinance (LARSO) provides guardrails against exorbitant rent increases but also includes cost-recovery programs that allow landlords to pass upgrade costs to tenants (Table 2). These provisions risk undermining affordability, even for units covered by stabilization rules. California already has some models to limit such pass throughs, such as limits within seismic retrofit ordinances in Beverly Hills or Chula Vista. [West Hollywood has gone as far as banning pass-through costs](#), such as rent raises or other associated rental fees, for seismic retrofits, with a provision that allows landlords to petition for a rent increase if the property owner believes costs of completing the retrofit will exceed the net operating income for their property.

**Table 2. Summary of Cost Recovery Programs in Los Angeles<sup>38</sup>**

|                                 |                                                                                                                                                                                                                    |
|---------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Primary Renovation Work Program | Landlords can increase LARSO unit rents up to an additional 10% for insulation improvements, upgrading electrical panels, and improving cooling and heating systems.                                               |
| Rehabilitation Work Program     | Landlords can surcharge rent by an additional \$55 monthly until they recover 100% of the costs associated with city-mandated building codes.                                                                      |
| Capital Improvement Program     | Landlords can surcharge rent by an additional \$55 monthly for the cost to complete property improvements like exterior painting, window replacements, and major appliances, until 50% of the costs are recovered. |
| Seismic Retrofit Work           | Landlords can charge tenants up to \$4,560 over 10 years for seismic work.                                                                                                                                         |

- Construction-as-harassment:** Construction-as-harassment is a tactic used to displace tenants by creating hazardous living conditions via unpermitted construction, and it is already an issue in Los Angeles. A building decarbonization mandate could encourage more landlords to do construction work cheaply and without permits. Los Angeles' strategies to prevent construction-as-harassment, such as issuing stop work orders for unpermitted work and small fees for inspections, are not effective at deterring landlords from proceeding with dangerous construction work.
- Tenant Habitability Plans (THPs):** Owners of properties that fall under LARSO must create plans to mitigate construction impacts on tenants or pay temporary relocation costs to tenants if they cannot remain safely in the home during retrofit work. These plans will likely be necessary for extensive decarbonization retrofits. However, THPs are commonly exploited by landlords to harass tenants by relocating them to uncomfortable and substandard housing or placing them in housing far away from their homes for a prolonged period.
- Enforcement:** Los Angeles has laws against arbitrary rent increases, harassment, and evictions, but violations of these laws are often only addressed through individual legal battles. Better enforcement by city authorities is needed to ensure the onus is not on tenants to navigate complex legal processes on their own.



SAJE cites other potential impacts, including Ellis Act evictions, further corporate consolidation of rental housing and increased energy bills if landlords opt for electrification and neglect opportunities to improve energy efficiency. The Bay Area and Los Angeles examples illustrate how uneven tenant protections, cost-recovery provisions, and gaps in statewide safeguards can put renters at risk as California advances building decarbonization. These local dynamics stress the importance of designing SB 48 with strong, enforceable tenant protections—especially because several large buildings in Los Angeles will be required to comply with performance targets under a statewide BPS.<sup>39</sup>

## Recommendations

The following recommendations outline strategies that, through cross-agency implementation with the CEC, the California Department of Housing and Community Development (HCD), the California Public Utilities Commission (CPUC), and the California Air Resources Board (CARB), can be adopted to advance building decarbonization for large buildings under SB48, while protecting tenants.

To ensure that a statewide BPS advances California’s climate goals without deepening housing insecurity, the CEC and the HCD should adopt an equity-centered approach to BPS design and implementation. Both agencies should coordinate on policy design that prioritizes tenant protections, drawing on strategies used in the development of the Equitable Building Decarbonization (EBD) Program, as further described below.

### **1. Strengthen Interagency Coordination and Create an Inclusive Policy Engagement Process**

The CEC and HCD already share responsibility for California’s building code standards. The CEC develops and adopts energy efficiency requirements for new and existing buildings (Title 24, Part 6), while HCD leads on regulations that protect the health, safety, and general welfare of the public for residential construction (Title 24, Part 11). This coordination ensures that energy upgrades and new construction meet both climate goals and basic housing quality standards. To build on this foundation, a statewide BPS should formalize interagency and community collaboration to ensure decarbonization efforts are equitable, health-protective, and tenant-centered:

- 1A: Expand and Strengthen the Role of Local CBOs
  - Local CBOs’ involvement is essential for ensuring that affordable housing communities understand the purpose, requirements, and protections associated with BPS compliance.
  - We recommend consideration of establishing and funding a comprehensive CBO-led outreach and tenant-support program that includes:
    - CBO-led outreach and education initiatives tailored specifically for low-income communities;
    - Community BPS learning sessions, developed and delivered in partnership with neighborhood groups to build understanding of

- decarbonization measures; and
    - Tenant protection navigation, helping tenants understand retrofit-related impacts, available protections, and their rights throughout the process.
- 1B: Create Regional BPS Working Groups
  - We also suggest considering the formation of regional building decarb working groups that convene building owners, local housing officials, public agencies, utilities, and community organizations across different regions of the state to coordinate compliance strategies.
  - Through regular meetings, these stakeholders can share goals, challenges, and resources to support progress toward BPS targets.
  - Such coordination would be particularly beneficial for low-income communities, since they often lack access to technical expertise and consistent support throughout the compliance process.
  - To ensure effective and equitable implementation, we recommend that these outreach, coordination, and tenant-support functions be administered by existing community-based organizations with strong reputations, demonstrated community trust, and deep experience in building decarbonization.
- 1C: Strengthen Cross-Agency Rulemaking and Implementation
  - Establish a formal implementation collaboration between the CEC and the California Department of Public Health (CDPH) to more closely align BPS rules and regulations with health and safety remediation, particularly in low-income, disinvested, and deed-restricted affordable housing properties that will be covered by the BPS.
  - Convene a cross-agency implementation team (CEC, HCD, CDPH, CPUC, and others) to identify and increase the number of healthy, safe, and decarbonization-ready housing units statewide.
- 1D: Advance Community Engagement and Co-Design
  - Make BPS design and implementation a public process that includes community engagement and co-design at every stage—that centers front-line communities and community-based organizations based in communities most at risk for displacement.
  - Create an interagency and community working group to identify barriers, design solutions, and expand opportunities for equitable decarbonization of covered low-income residential buildings.
- 1E: Build Capacity and Technical Support for Housers
  - Provide technical assistance and capacity-building support to affordable housing providers to help them access resources and develop equitable decarbonization plans.
  - Ensure tenants have reliable access to electricity and that affordable housing owners can upgrade electrical service to meet building and tenant needs.
  - Support timely and affordable utility service upgrades to enable electrification and

prevent project delays.

- **1F: Expand Access to Distributed Energy Benefits**
  - Increase access to solar and battery storage systems designed to benefit tenants directly—reducing energy burdens while improving resilience.
  - Encourage program designs that deliver tenant-level benefits (e.g., bill savings, backup power, and improved indoor comfort) through distributed energy resources.

## **2. Draw on the Equitable Building Decarbonization (EBD) program as a Framework to Integrate Tenant Protections into Statewide Funding Programs that Enable BPS Compliance**

In 2022, the CEC developed the Equitable Building Decarbonization (EBD) Direct Install Program, which provides no-cost energy retrofits to low and moderate-income households, administered regionally throughout the state.<sup>25</sup> The program was shaped with input from environmental and tenant advocates. The EBD Direct Install Program may demonstrate how decarbonization can advance without displacement by incorporating the following:<sup>26</sup>

- **Rent increase caps:** Limit annual rent increases following project completion.
- **Anti-displacement rules:** Prohibit evictions or non-renewals linked to retrofit work.
- **Habitability safeguards:** Require that work be staged or timed to avoid loss of basic services, consistent with HCD's Rehabilitation Standards.
- **Relocation assistance and return rights:** Provide temporary housing support if a unit becomes uninhabitable during construction. Ensure tenants can return at the same rent after temporary relocation.
- **Health and safety repairs:** Address hazards uncovered during retrofits before completing the work, ensuring units meet HCD's habitability requirements.

The EBD program may further demonstrate that California can advance decarbonization without displacing residents—serving as a replicable model for aligning state climate goals with housing stability and ensuring low-income and vulnerable renters directly benefit from building improvements.

## **3. Support tenant rights legislation that ensures equitable implementation of a statewide BPS**

Stronger and standardized tenant protections will help ensure the equitable implementation of a statewide BPS policy. The CEC and HCD should leverage their power as state agencies to support such legislation, including:

- Elimination of the substantial remodel provision in AB 1482, which allows tenants to be evicted for renovation work.

- Permanent codification of AB 1482, which is currently set to sunset in 2030
- Strengthening of AB 1482 through lower rent caps and expansion to single-family homes

#### **4. Provide funding and affordability safeguards**

To ensure owners reach compliance while maintaining affordability safeguards, the state should do as follows:

- Require joint rulemaking between CEC and HCD.
  - They should consider the establishment of caps on cost-past throughs from building performance upgrades in meeting BPS policy requirements, such that any rent increase cannot be greater than the energy cost savings resulting from the building performance upgrades.
- Create a structure of payment in lieu of performance while offering alternative compliance pathways for property owners who face genuine financial constraints.
  - Repurpose payments collected in lieu of performance to offer funding and technical support to mission-based affordable housing providers and owners who face financial hardship.
- Explore statewide financing models to support compliance for affordable housing providers and small property owners for buildings 50k sqft and below.
- Pair affordability covenants or deed restrictions with financial assistance.
- Phase BPS compliance, beginning with commercial properties, to build programmatic support and tenant protections before expanding to small multifamily and unsubsidized affordable housing.
- Automatically grant unsubsidized affordable housing buildings short-term extensions upon request, with these buildings being eligible for their extension to be renewed more times, or for longer intervals, than other short-term extensions.
- Support continued funding for the EBD program.

#### **5. Establish enforcement and accountability**

Tenant protections and habitability standards must be enforceable. The CEC, HCD, CPUC, and CARB should do the following:

- Create oversight mechanisms and data reporting requirements to monitor impacts on rent, cost pass-throughs, evictions, and affordability.
- Empower HCD, and relevant authorities in local governments, to enforce tenant protections and pursue penalties for violations.

- Ensure alignment between BPS implementation and appliance and health standards by coordinating with relevant regulatory agencies to monitor and enforce indoor environmental health requirements, including indoor temperature standards

California already has the policy momentum (e.g., SB 48) and programmatic examples (e.g., EBD) to design a statewide BPS that integrates tenant protections. By combining phased, equity-sensitive targets with enforceable safeguards, direct funding support, and strong interagency coordination, the state can achieve its decarbonization goals while strengthening—not weakening—housing affordability and stability.

## Conclusion

The potential adoption of a statewide BPS in California is a chance to align climate action with housing stability. However, careful design is necessary to avoid placing heavy costs on unsubsidized affordable housing and displacing the very renters most vulnerable to inequities. Communities of color, immigrant households, and women-led families already face disproportionate eviction risks, and compliance costs for older buildings could compound these pressures. By pairing a BPS with targeted funding, tenant protections, and coordinated implementation, California can achieve “decarbonization without displacement” and set a national precedent for marrying ambitious climate goals with housing justice.

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## Appendix B

The document attached is a brief completed by [Strategic Actions for Just Economy](#) (SAJE). It is being submitted along with other recommendations formed during the [Institute for Market Transformation's](#) (IMT's) Supporting Equitable Building Performance (SEBP) project, the goals of which were to strengthen relationships between communities and government, as well as centering community leadership and ownership in policy design and implementation. It explores potential gaps in protections offered to small commercial tenants, and highlights options the state legislature, California Energy Commission, and local governments should explore.

### **Building Decarbonization and Small Commercial Tenants**

Black, Indigenous, and people of color (BIPOC) and immigrant-owned small businesses are important pillars in low-income communities, helping both to sustain local economies and provide culturally significant spaces that forge social connectivity. Despite their contributions to communities across California, these small businesses face structural barriers in accessing capital and institutional support compared to larger and white-owned businesses, and are vulnerable to displacement as neighborhoods gentrify.<sup>1</sup> The [Small Business Anti-Displacement Network](#) (SBAN), a national alliance of organizations working to prevent the displacement of BIPOC and immigrant-owned small businesses in gentrifying neighborhoods, provides a comprehensive exploration of displacement pressures impacting small businesses and anti-displacement strategies in their 2024 toolkit [Small Business Anti-Displacement Toolkit: A Guide for Small Businesses Advocates](#).

Without appropriate support and protections for small business owners, a statewide BPS could exacerbate the displacement of small businesses. If mandated to decarbonize, landlords of commercial properties may seek to recoup the cost of upgrades through rent increases to commercial tenants. They may also feel incentivized to displace small businesses and replace them with higher-paying tenants through harassment or formal eviction. No protections exist against these outcomes. Rent stabilization for commercial tenants is preempted in California, allowing landlords to increase rents without limit. Commercial tenants do not have “just cause” eviction protections and may be evicted for any reason at the end of their lease term, including for decarbonization retrofits, without receiving relocation assistance.

The vulnerability of small businesses is compounded by the fact that many of them, especially legacy businesses that are 20+ years old, do not have written leases or contracts. Without a contract that specifically defines the terms and length of the rental agreement, they are especially susceptible to eviction. Lack of a written lease or contract also creates ambiguity as to who is responsible for maintenance and mandated work such as decarbonization upgrades. It

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<sup>1</sup> [SBAN's Small Business Anti-Displacement Toolkit: A Guide for Small Businesses Advocates](#)



is common for commercial tenants to maintain their business spaces and make repairs, even if this responsibility has not been established in writing. Under these circumstances, the responsibility and financial burden of decarbonization upgrades could fall on already struggling small businesses.

A statewide BPS could place other forms of financial strain on commercial tenants without appropriate protections. Commercial tenants are often responsible for paying for utilities and could incur higher costs if their landlord opts for electrification upgrades without taking measures to improve energy efficiency. Additionally, if a retrofit or upgrade interferes with a tenant's ability to use their commercial space, they could lose out on revenue from their business for the duration of the renovation work.

The movement for commercial tenant protections is growing in California, as evidenced by recent local and statewide legislation. In 2022, [LA County adopted anti-harassment protections for small businesses](#) (9 or fewer employees) that closely mirror those that exist for LA County's residential tenants. These protections prohibit different forms of harassment such as refusal to accept a tenant's rent or conducting elective construction with the intention of harassing the tenant. However, there is a lack of government enforcement of these protections, leaving commercial tenants without recourse if they are unable to access legal services.

In 2024, the California legislature passed [SB 1103](#), a bill intended to protect microenterprises (with 5 or fewer employees), restaurants (with 10 or fewer employees), and nonprofits (with 20 or fewer employees). The law requires leases to be executed in the language they were negotiated in; longer written notice for rent increases and termination of tenancies; and standards for building operating costs charged to commercial tenants. Specifically, if landlords are to charge commercial tenants for the cost of maintaining and operating a property's shared spaces, they must follow certain transparency measures such as allocating cost proportionately among tenants and providing supporting documentation explaining the charge. Unfortunately, in practice, the protections in SB 1103 lack teeth because there is no government enforcement.

Potential policy interventions that could better protect commercial tenants include rent registries for commercial units; relocation assistance requirements for no-fault evictions; requirements for written, standardized leases; and increased government oversight and enforcement of anti-harassment protections.