

**ASSEMBLY BILL**

**No. 1453**

---

---

**Introduced by Assembly Member Buchanan**

February 27, 2009

---

---

An act to amend Sections 2851 and 2852 of the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1453, as introduced, Buchanan. Solar energy systems.

Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations, as defined. A decision of the PUC adopted the California Solar Initiative. Existing law requires the PUC to undertake certain steps in implementing the California Solar Initiative.

The bill would make technical and nonsubstantive changes to existing statutes that require the PUC to undertake certain steps in implementing the California Solar Initiative.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

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

- 1 SECTION 1. Section 2851 of the Public Utilities Code is  
2 amended to read:  
3 2851. (a) In implementing the California Solar Initiative, the  
4 commission shall do all of the following:  
5 (1) The commission shall authorize the award of monetary  
6 incentives for up to the first megawatt of alternating current  
7 generated by solar energy systems that meet the eligibility criteria

1 established by the ~~State Energy Resources Conservation and~~  
 2 ~~Development Energy~~ Commission pursuant to Chapter 8.8  
 3 (commencing with Section 25780) of Division 15 of the Public  
 4 Resources Code. The commission shall determine the eligibility  
 5 of a solar energy system, as defined in Section 25781 of the Public  
 6 Resources Code, to receive monetary incentives until the time the  
 7 ~~State Energy Resources Conservation and Development Energy~~  
 8 Commission establishes eligibility criteria pursuant to Section  
 9 25782. Monetary incentives shall not be awarded for solar energy  
 10 systems that do not meet the eligibility criteria. The incentive level  
 11 authorized by the commission shall decline each year following  
 12 implementation of the California Solar Initiative, at a rate of no  
 13 less than an average of 7 percent per year, and shall be zero as of  
 14 December 31, 2016. The commission shall adopt and publish a  
 15 schedule of declining incentive levels no less than 30 days in  
 16 advance of the first decline in incentive levels. The commission  
 17 may develop incentives based upon the output of electricity from  
 18 the system, provided those incentives are consistent with the  
 19 declining incentive levels of this paragraph and the incentives  
 20 apply to only the first megawatt of electricity generated by the  
 21 system.

22 (2) The commission shall adopt a performance-based incentive  
 23 program so that by January 1, 2008, 100 percent of incentives for  
 24 solar energy systems of 100 kilowatts or greater and at least 50  
 25 percent of incentives for solar energy systems of 30 kilowatts or  
 26 greater are earned based on the actual electrical output of the solar  
 27 energy systems. The commission shall encourage, and may require,  
 28 performance-based incentives for solar energy systems of less than  
 29 30 kilowatts. Performance-based incentives shall decline at a rate  
 30 of no less than an average of 7 percent per year. In developing the  
 31 performance-based incentives, the commission may:

32 (A) Apply performance-based incentives only to customer  
 33 classes designated by the commission.

34 (B) Design the performance-based incentives so that customers  
 35 may receive a higher level of incentives than under incentives  
 36 based on installed electrical capacity.

37 (C) Develop financing options that help offset the installation  
 38 costs of the solar energy system, provided that this financing is  
 39 ultimately repaid in full by the consumer or through the application  
 40 of the performance-based rebates.

1 (3) By January 1, 2008, the commission, in consultation with  
2 the ~~State Energy Resources Conservation and Development~~ *Energy*  
3 Commission, shall require reasonable and cost-effective energy  
4 efficiency improvements in existing buildings as a condition of  
5 providing incentives for eligible solar energy systems, with  
6 appropriate exemptions or limitations to accommodate the limited  
7 financial resources of low-income residential housing.

8 (4) Notwithstanding subdivision (g) of Section 2827, the  
9 commission may develop a time-variant tariff that creates the  
10 maximum incentive for ratepayers to install solar energy systems  
11 so that the system's peak electricity production coincides with  
12 California's peak electricity demands and that assures that  
13 ratepayers receive due value for their contribution to the purchase  
14 of solar energy systems and customers with solar energy systems  
15 continue to have an incentive to use electricity efficiently. In  
16 developing the time-variant tariff, the commission may exclude  
17 customers participating in the tariff from the rate cap for residential  
18 customers for existing baseline quantities or usage by those  
19 customers of up to 130 percent of existing baseline quantities, as  
20 required by Section 80110 of the Water Code. Nothing in this  
21 paragraph authorizes the commission to require time-variant pricing  
22 for ratepayers without a solar energy system.

23 (b) Notwithstanding subdivision (a), in implementing the  
24 California Solar Initiative, the commission may authorize the award  
25 of monetary incentives for solar thermal and solar water heating  
26 devices, in a total amount up to one hundred million eight hundred  
27 thousand dollars (\$100,800,000).

28 (c) (1) In implementing the California Solar Initiative, the  
29 commission shall not allocate more than fifty million dollars  
30 (\$50,000,000) to research, development, and demonstration that  
31 explores solar technologies and other distributed generation  
32 technologies that employ or could employ solar energy for  
33 generation or storage of electricity or to offset natural gas usage.  
34 Any program that allocates additional moneys to research,  
35 development, and demonstration shall be developed in  
36 collaboration with the Energy Commission to ensure there is no  
37 duplication of efforts, and adopted by the commission through a  
38 rulemaking or other appropriate public proceeding. Any grant  
39 awarded by the commission for research, development, and  
40 demonstration shall be approved by the full commission at a public

1 meeting. This subdivision does not prohibit the commission from  
2 continuing to allocate moneys to research, development, and  
3 demonstration pursuant to the self-generation incentive program  
4 for distributed generation resources originally established pursuant  
5 to Chapter 329 of the Statutes of 2000, as modified pursuant to  
6 Section 379.6.

7 (2) The Legislature finds and declares that a program that  
8 provides a stable source of monetary incentives for eligible solar  
9 energy systems will encourage private investment sufficient to  
10 make solar technologies cost effective.

11 (3) On or before June 30, 2009, and by June 30th of every year  
12 thereafter, the commission shall submit to the Legislature an  
13 assessment of the success of the California Solar Initiative program.  
14 That assessment shall include the number of residential and  
15 commercial sites that have installed solar thermal devices for which  
16 an award was made pursuant to subdivision (b) and the dollar value  
17 of the award, the number of residential and commercial sites that  
18 have installed solar energy systems, the electrical generating  
19 capacity of the installed solar energy systems, the cost of the  
20 program, total electrical system benefits, including the effect on  
21 electrical service rates, environmental benefits, how the program  
22 affects the operation and reliability of the electrical grid, how the  
23 program has affected peak demand for electricity, the progress  
24 made toward reaching the goals of the program, whether the  
25 program is on schedule to meet the program goals, and  
26 recommendations for improving the program to meet its goals. If  
27 the commission allocates additional moneys to research,  
28 development, and demonstration that explores solar technologies  
29 and other distributed generation technologies pursuant to paragraph  
30 (1), the commission shall include in the assessment submitted to  
31 the Legislature, a description of the program, a summary of each  
32 award made or project funded pursuant to the program, including  
33 the intended purposes to be achieved by the particular award or  
34 project, and the results of each award or project.

35 (d) (1) The commission shall not impose any charge upon the  
36 consumption of natural gas, or upon natural gas ratepayers, to fund  
37 the California Solar Initiative.

38 (2) Notwithstanding any other provision of law, any charge  
39 imposed to fund the program adopted and implemented pursuant  
40 to this section shall be imposed upon all customers not participating

1 in the California Alternate Rates for Energy (CARE) or family  
2 electric rate assistance (FERA) programs as provided in paragraph  
3 (2), including those residential customers subject to the rate cap  
4 required by Section 80110 of the Water Code for existing baseline  
5 quantities or usage up to 130 percent of existing baseline quantities  
6 of electricity.

7 (3) The costs of the program adopted and implemented pursuant  
8 to this section may not be recovered from customers participating  
9 in the California Alternate Rates for Energy or CARE program  
10 established pursuant to Section 739.1, except to the extent that  
11 program costs are recovered out of the nonbypassable system  
12 benefits charge authorized pursuant to Section 399.8.

13 (e) In implementing the California Solar Initiative, the  
14 commission shall ensure that the total cost over the duration of the  
15 program does not exceed three billion three hundred fifty million  
16 eight hundred thousand dollars (\$3,350,800,000). The financial  
17 components of the California Solar Initiative shall consist of the  
18 following:

19 (1) Programs under the supervision of the commission funded  
20 by charges collected from customers of San Diego Gas and Electric  
21 Company, Southern California Edison Company, and Pacific Gas  
22 and Electric Company. The total cost over the duration of these  
23 programs shall not exceed two billion one hundred sixty-six million  
24 eight hundred thousand dollars (\$2,166,800,000) and includes  
25 moneys collected directly into a tracking account for support of  
26 the California Solar Initiative and moneys collected into other  
27 accounts that are used to further the goals of the California Solar  
28 Initiative.

29 (2) Programs adopted, implemented, and financed in the amount  
30 of seven hundred eighty-four million dollars (\$784,000,000), by  
31 charges collected by local publicly owned electric utilities pursuant  
32 to Section 387.5. Nothing in this subdivision shall give the  
33 commission power and jurisdiction with respect to a local publicly  
34 owned electric utility or its customers.

35 (3) Programs for the installation of solar energy systems on new  
36 construction, administered by the ~~State Energy Resources~~  
37 ~~Conservation and Development~~ *Energy* Commission pursuant to  
38 Chapter 8.6 (commencing with Section 25740) of Division 15 of  
39 the Public Resources Code, and funded by nonbypassable charges  
40 in the amount of four hundred million dollars (\$400,000,000),

1 collected from customers of San Diego Gas and Electric Company,  
2 Southern California Edison Company, and Pacific Gas and Electric  
3 Company pursuant to Article 15 (commencing with Section 399).

4 SEC. 2. Section 2852 of the Public Utilities Code is amended  
5 to read:

6 2852. (a) As used in this section, the following terms have the  
7 following meanings:

8 (1) “California Solar Initiative” means the program providing  
9 ratepayer funded incentives for eligible solar energy systems  
10 adopted by the Public Utilities Commission in Decision 05-12-044  
11 and Decision 06-01-024.

12 (2) “Low-income residential housing” means either of the  
13 following:

14 (A) Residential housing financed with low-income housing tax  
15 credits, tax-exempt mortgage revenue bonds, general obligation  
16 bonds, or local, state, or federal loans or grants, and for which the  
17 rents of the occupants who are lower income households, as defined  
18 in Section 50079.5 of the Health and Safety Code, do not exceed  
19 those prescribed by deed restrictions or regulatory agreements  
20 pursuant to the terms of the financing or financial assistance.

21 (B) A residential complex in which at least 20 percent of the  
22 total units are sold or rented to lower income households, as defined  
23 in Section 50079.5 of the Health and Safety Code, and the housing  
24 units targeted for lower income households are subject to a deed  
25 restriction or affordability covenant with a public entity that ensures  
26 that the units will be available at an affordable housing cost, as  
27 defined in Section 50052.5 of the Health and Safety Code, or at  
28 an affordable rent, as defined in Section 50053 of the Health and  
29 Safety Code for a period of at least 30 years.

30 (3) “Solar energy system” means a solar energy device that has  
31 the primary purpose of providing for the collection and distribution  
32 of solar energy for the generation of electricity, that produces at  
33 least one kilowatt, and produces not more than five megawatts,  
34 alternating current rated peak electricity, and that meets or exceeds  
35 the eligibility criteria established by the commission or the ~~State~~  
36 ~~Energy Resources Conservation and Development~~ *Energy*  
37 Commission.

38 (b) In establishing the California Solar Initiative, no moneys  
39 shall be diverted from any existing programs for low-income

1 ratepayers, or from cost-effective energy efficiency or demand  
2 response programs.

3 (c) (1) The commission shall ensure that not less than 10 percent  
4 of the funds for the California Solar Initiative are utilized for the  
5 installation of solar energy systems on low-income residential  
6 housing. Notwithstanding any other law, the commission may  
7 modify the monetary incentives made available pursuant to the  
8 California Solar Initiative to accommodate the limited financial  
9 resources of low-income residential housing.

10 (2) The commission may incorporate a revolving loan or loan  
11 guarantee program into the California Solar Initiative for  
12 low-income residential housing. All loans outstanding as of January  
13 1, 2016, shall continue to be repaid consistent with the terms and  
14 conditions of the program adopted and implemented by the  
15 commission pursuant to this subdivision, until repaid in full.

16 (3) All moneys set aside for the purpose of funding the  
17 installation of solar energy systems on low-income residential  
18 housing that are unexpended and unencumbered on January 1,  
19 2016, and all moneys thereafter repaid pursuant to paragraph (2),  
20 except to the extent those moneys are encumbered pursuant to this  
21 section, shall be utilized to augment existing cost-effective energy  
22 efficiency measures in low-income residential housing that benefit  
23 ratepayers.