

AMENDED IN ASSEMBLY APRIL 1, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 217

Introduced by Assembly Member Bradford
(Principal coauthor: Senator De León)

January 31, 2013

An act to add Article 1.5 (commencing with Section 2855) to Chapter 9 of Part 2 of Division 1 to amend Sections 2851 and 2852 of the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 217, as amended, Bradford. Electricity: solar electricity: low-income households.

Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations. Decisions of the PUC *commission* adopted the California Solar Initiative *administered by the state's 3 largest electrical corporations and subject to the commission's supervision*. Existing law requires the PUC *commission* to ensure that not less than 10% of the funds for the California Solar Initiative are utilized for the installation of solar energy systems, as defined, on low-income residential housing, as defined. Pursuant to this requirement, the PUC *commission* adopted decisions that established the Single-Family Affordable Solar Homes Program (SASH) and the Multifamily Affordable Solar Housing Program (MASH), *which pursuant to which the electrical corporations* provide monetary incentives for the installation of solar energy systems on low-income residential housing. The SASH and MASH programs will operate until December 31, ~~2015~~ 2016, or until ~~budgeted~~ funds

collected for the above purposes are exhausted, whichever occurs sooner.

~~This bill would require the PUC to adopt a program, pursuant to prescribed requirements, to provide monetary incentives for the installation of solar energy systems on low-income residential housing commencing January 1, 2015, to December 31, 2021, inclusive. This bill would require the program to be funded by charges collected from customers of specified investor-owned utilities, subject to prescribed limitations. This bill would prohibit the total cost of the program from exceeding \$108,000,000. This bill would establish the Low Income Solar Energy Fund, would require the moneys collected to be deposited therein, and to be made available to the commission for the purposes of this bill upon appropriation by the Legislature.~~

~~This bill would require that all moneys set aside for the purpose of funding the installation of solar energy systems on low-income residential housing, that are unexpended and unencumbered on January 1, 2022, be utilized to augment existing cost-effective energy efficiency measures in low-income residential housing that benefit ratepayers.~~

~~By imposing a charge on customers to fund the Solar Energy Program for Low-Income Residential Housing, the bill would constitute a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.~~

~~*This bill would, upon the exhaustion of those funds, authorize the surcharge collected by the electrical corporations for the California Solar Initiative to continue to provide funding for the administration of the SASH and MASH programs. The bill would require the commission to ensure the total amount resulting from the continued collection of the charge does not exceed \$108,000,000. The bill would extend the operation of the SASH and MASH programs to December 31, 2021, or until the exhaustion of that amount, whichever occurs sooner. The bill would require the SASH and MASH programs to meet specified requirements. Because a violation of any order, decision, rule, direction, demand, or requirement of the commission is a crime, this bill would impose a state-mandated local program.*~~

~~*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*~~

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: $\frac{2}{3}$ -majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~-yes.

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

29 (B) *The incentive level for the installation of a solar energy*
30 *system pursuant to Section 2852 shall be zero as of December 31,*
31 *2021.*

32 (2) The commission shall adopt a performance-based incentive
33 program so that by January 1, 2008, 100 percent of incentives for

1 solar energy systems of 100 kilowatts or greater and at least 50
2 percent of incentives for solar energy systems of 30 kilowatts or
3 greater are earned based on the actual electrical output of the solar
4 energy systems. The commission shall encourage, and may require,
5 performance-based incentives for solar energy systems of less than
6 30 kilowatts. Performance-based incentives shall decline at a rate
7 of no less than an average of 7 percent per year. In developing the
8 performance-based incentives, the commission may:

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

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

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

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

25 (4) Notwithstanding subdivision (g) of Section 2827, the
26 commission may develop a time-variant tariff that creates the
27 maximum incentive for ratepayers to install solar energy systems
28 so that the system's peak electricity production coincides with
29 California's peak electricity demands and that ensures that
30 ratepayers receive due value for their contribution to the purchase
31 of solar energy systems and customers with solar energy systems
32 continue to have an incentive to use electricity efficiently. In
33 developing the time-variant tariff, the commission may exclude
34 customers participating in the tariff from the rate cap for residential
35 customers for existing baseline quantities or usage by those
36 customers of up to 130 percent of existing baseline quantities, as
37 required by Section ~~80110 of the Water Code~~ 739.9. Nothing in
38 this paragraph authorizes the commission to require time-variant
39 pricing for ratepayers without a solar energy system.

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

6 (c) (1) In implementing the California Solar Initiative, the
7 commission shall not allocate more than fifty million dollars
8 (\$50,000,000) to research, development, and demonstration that
9 explores solar technologies and other distributed generation
10 technologies that employ or could employ solar energy for
11 generation or storage of electricity or to offset natural gas usage.
12 Any program that allocates additional moneys to research,
13 development, and demonstration shall be developed in
14 collaboration with the Energy Commission to ensure there is no
15 duplication of efforts, and adopted by the commission through a
16 rulemaking or other appropriate public proceeding. Any grant
17 awarded by the commission for research, development, and
18 demonstration shall be approved by the full commission at a public
19 meeting. This subdivision does not prohibit the commission from
20 continuing to allocate moneys to research, development, and
21 demonstration pursuant to the self-generation incentive program
22 for distributed generation resources originally established pursuant
23 to Chapter 329 of the Statutes of 2000, as modified pursuant to
24 Section 379.6.

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

29 (3) On or before June 30, 2009, and by June 30th of every year
30 thereafter, the commission shall submit to the Legislature an
31 assessment of the success of the California Solar Initiative program.
32 That assessment shall include the number of residential and
33 commercial sites that have installed solar thermal devices for which
34 an award was made pursuant to subdivision (b) and the dollar value
35 of the award, the number of residential and commercial sites that
36 have installed solar energy systems, the electrical generating
37 capacity of the installed solar energy systems, the cost of the
38 program, total electrical system benefits, including the effect on
39 electrical service rates, environmental benefits, how the program
40 affects the operation and reliability of the electrical grid, how the

1 program has affected peak demand for electricity, the progress
2 made toward reaching the goals of the program, whether the
3 program is on schedule to meet the program goals, and
4 recommendations for improving the program to meet its goals. If
5 the commission allocates additional moneys to research,
6 development, and demonstration that explores solar technologies
7 and other distributed generation technologies pursuant to paragraph
8 (1), the commission shall include in the assessment submitted to
9 the Legislature, a description of the program, a summary of each
10 award made or project funded pursuant to the program, including
11 the intended purposes to be achieved by the particular award or
12 project, and the results of each award or project.

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

16 (2) Notwithstanding any other provision of law, any charge
17 imposed to fund the program adopted and implemented pursuant
18 to this section shall be imposed upon all customers not participating
19 in the California Alternate Rates for Energy (CARE) or family
20 electric rate assistance (FERA) programs, including those
21 residential customers subject to the ~~rate cap required by limitation~~
22 ~~specified in Section 80110 of the Water Code 739.9~~ for existing
23 baseline quantities or usage up to 130 percent of existing baseline
24 quantities of electricity.

25 (3) The costs of the program adopted and implemented pursuant
26 to this section may not be recovered from customers participating
27 in the California Alternate Rates for Energy or CARE program
28 established pursuant to Section 739.1, except to the extent that
29 program costs are recovered out of the nonbypassable system
30 benefits charge authorized pursuant to Section 399.8.

31 (e) In implementing the California Solar Initiative, the
32 commission shall, *except as provided in subdivision (f)*, ensure
33 that the total cost over the duration of the program does not exceed
34 three billion five hundred fifty million eight hundred thousand
35 dollars (\$3,550,800,000). The financial components of the
36 California Solar Initiative shall consist of the following:

37 (1) Programs under the supervision of the commission funded
38 by charges collected from customers of San Diego Gas and Electric
39 Company, Southern California Edison Company, and Pacific Gas
40 and Electric Company. ~~The~~ *Except as provided in subdivision (f)*,

1 *the* total cost over the duration of these programs shall not exceed
2 two billion three hundred sixty-six million eight hundred thousand
3 dollars (\$2,366,800,000) and includes moneys collected directly
4 into a tracking account for support of the California Solar Initiative.

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

11 (3) Programs for the installation of solar energy systems on new
12 construction, administered by the State Energy Resources
13 Conservation and Development Commission, and funded by
14 charges in the amount of four hundred million dollars
15 (\$400,000,000), collected from customers of San Diego Gas and
16 Electric Company, Southern California Edison Company, and
17 Pacific Gas and Electric Company.

18 (4) The changes made to this subdivision by the act adding this
19 paragraph do not authorize the levy of a charge or any increase in
20 the amount collected pursuant to any existing charge, nor do the
21 changes add to, or detract from, the commission’s existing authority
22 to levy or increase charges.

23 *(f) Notwithstanding subdivision (e), upon exhaustion of the*
24 *amount specified in paragraph (1) of subdivision (e), the*
25 *commission shall authorize the continued collection of the charge*
26 *for the purposes of Section 2852. The commission shall ensure*
27 *that the total amount collected pursuant to this subdivision does*
28 *not exceed one hundred eight million dollars (\$108,000,000).*

29 *SEC. 2. Section 2852 of the Public Utilities Code is amended*
30 *to read:*

31 2852. (a) As used in this section, the following terms have the
32 following meanings:

33 (1) “Affordable housing cost,” “affordable rent,” and “lower
34 income households” have the same meanings as in those set forth
35 in Chapter 2 (commencing with Section 50050) of Part 1 of
36 Division 31 of the Health and Safety Code.

37 (2) “California Solar Initiative” means the program providing
38 ratepayer funded incentives for eligible solar energy systems
39 adopted by the Public Utilities Commission in Decision 05-12-044
40 and Decision 06-01-024.

1 (3) “Low-income residential housing” means any of the
2 following:

3 (A) A multifamily residential complex financed with
4 low-income housing tax credits, tax-exempt mortgage revenue
5 bonds, general obligation bonds, or local, state, or federal loans
6 or grants, and for which either of the following applies:

7 (i) The rents of the occupants who are lower income households
8 do not exceed those prescribed by deed restrictions or regulatory
9 agreements pursuant to the terms of the financing or financial
10 assistance.

11 (ii) The affordable units have been or will be initially sold at an
12 affordable housing cost to a lower income household and those
13 units are subject to a resale restriction or equity sharing agreement
14 pursuant to the terms of the financing or financial assistance.

15 (B) A multifamily residential complex in which at least 20
16 percent of the total housing units are sold or rented to lower income
17 households and either of the following applies:

18 (i) The rental housing units targeted for lower income
19 households are subject to a deed restriction or affordability
20 covenant with a public entity or nonprofit housing provider
21 organized under Section 501(c)(3) of the Internal Revenue Code
22 that has as its stated purpose in its articles of incorporation on file
23 with the office of the Secretary of State to provide affordable
24 housing to lower income households that ensures that the units
25 will be available at an affordable rent for a period of at least 30
26 years.

27 (ii) The housing units have been or will be initially sold at an
28 affordable cost to a lower income household and those units are
29 subject to a resale restriction or equity sharing agreement, for
30 which the homeowner does not receive a greater share of equity
31 than described in paragraph (2) of subdivision (c) of Section 65915
32 of the Government Code, with a public entity or nonprofit housing
33 provider organized under Section 501(c)(3) of the Internal Revenue
34 Code that has as its stated purpose in its articles of incorporation
35 on file with the office of the Secretary of State to provide affordable
36 housing to lower income households.

37 (C) An individual residence sold at an affordable housing cost
38 to a lower income household that is subject to a resale restriction
39 or equity sharing agreement, for which the homeowner does not
40 receive a greater share of equity than described in paragraph (2)

1 of subdivision (c) of Section 65915 of the Government Code, with
2 a public entity or nonprofit housing provider organized under
3 Section 501(c)(3) of the Internal Revenue Code that has as its
4 stated purpose in its articles of incorporation on file with the office
5 of the Secretary of State to provide affordable housing to lower
6 income households.

7 (4) “Solar energy system” means a solar energy device that has
8 the primary purpose of providing for the collection and distribution
9 of solar energy for the generation of electricity, that produces at
10 least one kilowatt, and produces not more than five megawatts,
11 alternating current rated peak electricity, and that meets or exceeds
12 the eligibility criteria established by the commission or the ~~State~~
13 ~~Energy Resources Conservation and Development~~ Commission.

14 (b) In establishing the California Solar Initiative, no moneys
15 shall be diverted from any existing programs for low-income
16 ratepayers, or from cost-effective energy efficiency or demand
17 response programs.

18 (c) (1) The commission shall ensure that not less than 10 percent
19 of the funds for the California Solar Initiative, *as specified in*
20 *subdivision (e) of, or moneys collected pursuant to subdivision (f)*
21 *of, Section 2851*, are utilized for the installation of solar energy
22 systems on low-income residential housing. Notwithstanding any
23 other law, the commission may modify the monetary incentives
24 made available pursuant to the California Solar Initiative to
25 accommodate the limited financial resources of low-income
26 residential housing.

27 (2) The commission may incorporate a revolving loan or loan
28 guarantee program into the California Solar Initiative for
29 low-income residential housing. All loans outstanding as of January
30 1, ~~2016~~ 2021, shall continue to be repaid consistent with the terms
31 and conditions of the program adopted and implemented by the
32 commission pursuant to this subdivision, until repaid in full.

33 (3) All moneys set aside for the purpose of funding the
34 installation of solar energy systems on low-income residential
35 housing that are unexpended and unencumbered on January 1,
36 ~~2016~~ 2021, and all moneys thereafter repaid pursuant to paragraph
37 (2), except to the extent those moneys are encumbered pursuant
38 to this section, shall be utilized to augment existing cost-effective
39 energy efficiency measures in low-income residential housing that
40 benefit ratepayers.

1 (d) In supervising a program implementing the California Solar
2 Initiative pursuant to this section, the commission shall ensure
3 that the program does all of the following:

4 (1) Is a cost-effective investment by ratepayers in peak electricity
5 generation capacity where ratepayers recoup the cost of their
6 investment through lower rates as a result of avoiding purchases
7 of electricity at peak rates, with additional system reliability and
8 pollution reduction benefits.

9 (2) Requires reasonable and cost-effective energy efficiency
10 improvements in existing buildings as a condition of providing
11 incentives for eligible solar energy systems, with appropriate
12 exemptions or limitations to accommodate the limited financial
13 resources of low-income residential housing.

14 (3) Requires participants who receive monetary incentives to
15 enroll in the Energy Savings Assistance Program established
16 pursuant to Section 382, if eligible.

17 (4) Provides job training and employment opportunities in the
18 solar energy and energy efficiency sectors of the economy.

19 SEC. 3. No reimbursement is required by this act pursuant to
20 Section 6 of Article XIII B of the California Constitution because
21 the only costs that may be incurred by a local agency or school
22 district will be incurred because this act creates a new crime or
23 infraction, eliminates a crime or infraction, or changes the penalty
24 for a crime or infraction, within the meaning of Section 17556 of
25 the Government Code, or changes the definition of a crime within
26 the meaning of Section 6 of Article XIII B of the California
27 Constitution.

28 SECTION 1. ~~Article 1.5 (commencing with Section 2855) is~~
29 ~~added to Chapter 9 of Part 2 of Division 1 of the Public Utilities~~
30 ~~Code, to read:~~

31
32 ~~Article 1.5. Solar Energy Program for Low-Income Residential~~
33 ~~Housing~~
34

35 ~~2855. The Legislature finds and declares that it is the goal of~~
36 ~~the state to establish a program to install solar energy systems that~~
37 ~~have a generating capacity equivalent of 50 megawatts on~~
38 ~~low-income residential housing during the period from January 1,~~
39 ~~2016, to December 31, 2021, inclusive.~~

1 2856. ~~As used in this article, the following terms have the~~
2 ~~following meanings:~~

3 (a) ~~“Low-income residential housing” has the same meaning as~~
4 ~~that term is defined in Section 2852.~~

5 (b) ~~“Solar energy system” has the same meaning as that term~~
6 ~~is defined in Section 2852.~~

7 2857. ~~Commencing January 1, 2015, until December 31, 2021,~~
8 ~~the commission shall adopt a program to provide monetary~~
9 ~~incentives for the installation of solar energy systems on~~
10 ~~low-income residential housing receiving service from San Diego~~
11 ~~Gas and Electric Company, Southern California Edison Company,~~
12 ~~and Pacific Gas and Electric Company.~~

13 2858. ~~The program adopted by the commission, pursuant to~~
14 ~~this article, shall do all of the following:~~

15 (a) ~~Be a cost-effective investment by ratepayers in peak~~
16 ~~electricity generation capacity where ratepayers recoup the cost~~
17 ~~of their investment through lower rates as a result of avoiding~~
18 ~~purchases of electricity at peak rates, with additional system~~
19 ~~reliability and pollution reduction benefits.~~

20 (b) ~~Require reasonable and cost-effective energy efficiency~~
21 ~~improvements in existing buildings as a condition of providing~~
22 ~~incentives for eligible solar energy systems, with appropriate~~
23 ~~exemptions or limitations to accommodate the limited financial~~
24 ~~resources of low-income residential housing.~~

25 (c) ~~Require participants who receive monetary incentives to~~
26 ~~enroll in the Energy Savings Assistance Program established~~
27 ~~pursuant to Section 382, if eligible.~~

28 (d) ~~Provide job training and employment opportunities in the~~
29 ~~solar energy and energy efficiency sectors of the economy.~~

30 (e) ~~Prohibit participants in the program from receiving monetary~~
31 ~~incentives in those locations where incentives are available~~
32 ~~pursuant to Section 2852.~~

33 2859. (a) ~~The program shall be funded by charges collected~~
34 ~~from customers of San Diego Gas and Electric Company, Southern~~
35 ~~California Edison Company, and Pacific Gas and Electric~~
36 ~~Company. The total cost over the duration of the program shall~~
37 ~~not exceed one hundred eight million dollars (\$108,000,000).~~

38 (b) ~~In establishing the program, moneys shall not be diverted~~
39 ~~from any existing programs for low-income ratepayers, or from~~
40 ~~cost-effective energy efficiency or demand response programs.~~

1 ~~(e) (1) The commission shall not impose any charge upon the~~
2 ~~consumption of natural gas, or upon natural gas ratepayers, to fund~~
3 ~~the program.~~

4 ~~(2) Notwithstanding any other law, any charge imposed to fund~~
5 ~~the program adopted and implemented pursuant to this article shall~~
6 ~~be imposed upon all customers not participating in the California~~
7 ~~Alternate Rates for Energy (CARE) or family electric rate~~
8 ~~assistance (FERA) programs, including those residential customers~~
9 ~~subject to the rate cap required by Section 80110 of the Water~~
10 ~~Code for existing baseline quantities or usage up to 130 percent~~
11 ~~of existing baseline quantities of electricity.~~

12 ~~(3) The costs of the program adopted and implemented pursuant~~
13 ~~to this section shall not be recovered from customers participating~~
14 ~~in the CARE program established pursuant to Section 739.1, except~~
15 ~~to the extent that program costs are recovered out of the~~
16 ~~nonbypassable system benefits charge authorized pursuant to~~
17 ~~Section 399.8.~~

18 ~~(d) All moneys set aside for the purpose of funding the~~
19 ~~installation of solar energy systems on low-income residential~~
20 ~~housing that are unexpended and unencumbered on January 1,~~
21 ~~2022, except to the extent those moneys are encumbered pursuant~~
22 ~~to this article, shall be utilized to augment existing cost-effective~~
23 ~~energy efficiency measures in low-income residential housing that~~
24 ~~benefit ratepayers.~~

25 ~~(e) The Low Income Solar Energy Fund is hereby established~~
26 ~~in the State Treasury. Moneys collected pursuant to this article~~
27 ~~shall be deposited into the fund and made available to the~~
28 ~~commission for the purposes of this article upon appropriation by~~
29 ~~the Legislature.~~