

AMENDED IN SENATE JUNE 25, 2013

AMENDED IN ASSEMBLY APRIL 16, 2013

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 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 has regulatory authority over public utilities, including electrical corporations. Decisions of the 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 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 commission adopted decisions that established the Single-Family Affordable Solar Homes Program (SASH) and the Multifamily Affordable Solar Housing Program (MASH), 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, 2016,

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

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. The bill would make legislative findings and declarations that it is the goal of the state to install solar energy systems that have a generating capacity equivalent to 50 megawatts for low-income residential housing. 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: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: 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 Energy Commission pursuant to Chapter 8.8
 9 (commencing with Section 25780) of Division 15 of the Public
 10 Resources Code. The commission shall determine the eligibility
 11 of a solar energy system, as defined in Section 25781 of the Public
 12 Resources Code, to receive monetary incentives until the time the
 13 Energy Commission establishes eligibility criteria pursuant to

1 Section 25782. Monetary incentives shall not be awarded for solar
2 energy systems that do not meet the eligibility criteria. The
3 incentive level authorized by the commission shall decline each
4 year following implementation of the California Solar Initiative,
5 at a rate of no less than an average of 7 percent per year, and,
6 except as provided in subparagraph (B), shall be zero as of
7 December 31, 2016. The commission shall adopt and publish a
8 schedule of declining incentive levels no less than 30 days in
9 advance of the first decline in incentive levels. The commission
10 may develop incentives based upon the output of electricity from
11 the system, provided those incentives are consistent with the
12 declining incentive levels of this paragraph and the incentives
13 apply to only the first megawatt of electricity generated by the
14 system.

15 (B) The incentive level for the installation of a solar energy
16 system pursuant to Section 2852 shall be zero as of December 31,
17 2021.

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

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

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

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

37 (3) By January 1, 2008, the commission, in consultation with
38 the Energy Commission, shall require reasonable and cost-effective
39 energy efficiency improvements in existing buildings as a condition
40 of providing incentives for eligible solar energy systems, with

1 appropriate exemptions or limitations to accommodate the limited
2 financial resources of low-income residential housing.

3 (4) Notwithstanding subdivision (g) of Section 2827, the
4 commission may develop a time-variant tariff that creates the
5 maximum incentive for ratepayers to install solar energy systems
6 so that the system's peak electricity production coincides with
7 California's peak electricity demands and that ensures that
8 ratepayers receive due value for their contribution to the purchase
9 of solar energy systems and customers with solar energy systems
10 continue to have an incentive to use electricity efficiently. In
11 developing the time-variant tariff, the commission may exclude
12 customers participating in the tariff from the rate cap for residential
13 customers for existing baseline quantities or usage by those
14 customers of up to 130 percent of existing baseline quantities, as
15 required by Section 739.9. Nothing in this paragraph authorizes
16 the commission to require time-variant pricing for ratepayers
17 without a solar energy system.

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

23 (c) (1) In implementing the California Solar Initiative, the
24 commission shall not allocate more than fifty million dollars
25 (\$50,000,000) to research, development, and demonstration that
26 explores solar technologies and other distributed generation
27 technologies that employ or could employ solar energy for
28 generation or storage of electricity or to offset natural gas usage.
29 Any program that allocates additional moneys to research,
30 development, and demonstration shall be developed in
31 collaboration with the Energy Commission to ensure there is no
32 duplication of efforts, and adopted by the commission through a
33 rulemaking or other appropriate public proceeding. Any grant
34 awarded by the commission for research, development, and
35 demonstration shall be approved by the full commission at a public
36 meeting. This subdivision does not prohibit the commission from
37 continuing to allocate moneys to research, development, and
38 demonstration pursuant to the self-generation incentive program
39 for distributed generation resources originally established pursuant

1 to Chapter 329 of the Statutes of 2000, as modified pursuant to
2 Section 379.6.

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

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

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

34 (2) Notwithstanding any other provision of law, any charge
35 imposed to fund the program adopted and implemented pursuant
36 to this section shall be imposed upon all customers not participating
37 in the California Alternate Rates for Energy (CARE) or family
38 electric rate assistance (FERA) programs, including those
39 residential customers subject to the rate limitation specified in

1 Section 739.9 for existing baseline quantities or usage up to 130
 2 percent of existing baseline quantities of electricity.

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

9 (e) In implementing the California Solar Initiative, the
 10 commission shall, except as provided in subdivision (f), ensure
 11 that the total cost over the duration of the program does not exceed
 12 three billion five hundred fifty million eight hundred thousand
 13 dollars (\$3,550,800,000). The financial components of the
 14 California Solar Initiative shall consist of the following:

15 (1) Programs under the supervision of the commission funded
 16 by charges collected from customers of San Diego Gas and Electric
 17 Company, Southern California Edison Company, and Pacific Gas
 18 and Electric Company. Except as provided in subdivision (f), the
 19 total cost over the duration of these programs shall not exceed two
 20 billion three hundred sixty-six million eight hundred thousand
 21 dollars (\$2,366,800,000) and includes moneys collected directly
 22 into a tracking account for support of the California Solar Initiative.

23 (2) Programs adopted, implemented, and financed in the amount
 24 of seven hundred eighty-four million dollars (\$784,000,000), by
 25 charges collected by local publicly owned electric utilities pursuant
 26 to Section ~~387.5~~ 2854. Nothing in this subdivision shall give the
 27 commission power and jurisdiction with respect to a local publicly
 28 owned electric utility or its customers.

29 (3) Programs for the installation of solar energy systems on new
 30 construction, administered by the ~~State Energy Resources~~
 31 ~~Conservation and Development Commission~~ *Energy Commission*,
 32 and funded by charges in the amount of four hundred million
 33 dollars (\$400,000,000), collected from customers of San Diego
 34 Gas and Electric Company, Southern California Edison Company,
 35 and Pacific Gas and Electric Company.

36 (4) The changes made to this subdivision by ~~the act adding this~~
 37 ~~paragraph~~ *Chapter 39 of the Statutes of 2012* do not authorize the
 38 levy of a charge or any increase in the amount collected pursuant
 39 to any existing charge, nor do the changes add to, or detract from,
 40 the commission's existing authority to levy or increase charges.

1 (f) Notwithstanding subdivision (e), upon exhaustion of the
2 amount specified in paragraph (1) of subdivision (e), the
3 commission shall authorize the continued collection of the charge
4 for the purposes of Section 2852. The commission shall ensure
5 that the total amount collected pursuant to this subdivision does
6 not exceed one hundred eight million dollars (\$108,000,000). Upon
7 approval by the commission, an electrical corporation may use
8 amounts collected pursuant to subdivision (e) for purposes of
9 funding the general market portion of the California Solar Initiative,
10 that remain unspent and unencumbered after December 31, 2016,
11 to reduce that electrical corporation’s portion of the total amount
12 collected pursuant to this subdivision.

13 SEC. 2. Section 2852 of the Public Utilities Code is amended
14 to read:

15 2852. (a) The Legislature finds and declares that it is the goal
16 of the state to install solar energy systems that have a generating
17 capacity equivalent to 50 megawatts for low-income residential
18 housing. *It is also the intent of the Legislature to ensure that the*
19 *commission designs a program that reaches low-income*
20 *communities with a high-energy demand load so that it is*
21 *affordable for all ratepayers.*

22 (b) As used in this section, the following terms have the
23 following meanings:

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

28 (2) “California Solar Initiative” means the program providing
29 ~~ratepayer-funded~~ *ratepayer-funded* incentives for eligible solar
30 energy systems adopted by the Public Utilities Commission in
31 Decision 05-12-044 and Decision 06-01-024.

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

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

38 (i) The rents of the occupants who are lower income households
39 do not exceed those prescribed by deed restrictions or regulatory

1 agreements pursuant to the terms of the financing or financial
2 assistance.

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

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

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

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

29 (C) An individual residence sold at an affordable housing cost
30 to a lower income household that is subject to a resale restriction
31 or equity sharing agreement, for which the homeowner does not
32 receive a greater share of equity than described in paragraph (2)
33 of subdivision (c) of Section 65915 of the Government Code, with
34 a public entity or nonprofit housing provider organized under
35 Section 501(c)(3) of the Internal Revenue Code that has as its
36 stated purpose in its articles of incorporation on file with the office
37 of the Secretary of State to provide affordable housing to lower
38 income households.

39 (4) “Solar energy system” means a solar energy device that has
40 the primary purpose of providing for the collection and distribution

1 of solar energy for the generation of electricity, that produces at
2 least one kilowatt, and produces not more than five megawatts,
3 alternating current rated peak electricity, and that meets or exceeds
4 the eligibility criteria established by the commission or the Energy
5 Commission.

6 (c) In establishing the California Solar Initiative, no moneys
7 shall be diverted from any existing programs for low-income
8 ratepayers, or from cost-effective energy efficiency or demand
9 response programs.

10 (d) (1) The commission shall ensure that not less than 10 percent
11 of the funds for the California Solar Initiative, as specified in
12 subdivision (e) of, or moneys collected pursuant to subdivision (f)
13 of, Section 2851, are utilized for the installation of solar energy
14 systems on low-income residential housing. Notwithstanding any
15 other law, the commission may modify the monetary incentives
16 made available pursuant to the California Solar Initiative to
17 accommodate the limited financial resources of low-income
18 residential housing.

19 (2) The commission may incorporate a revolving loan or loan
20 guarantee program into the California Solar Initiative for
21 low-income residential housing. All loans outstanding as of January
22 1, 2022, shall continue to be repaid consistent with the terms and
23 conditions of the program adopted and implemented by the
24 commission pursuant to this subdivision, until repaid in full.

25 (3) All moneys set aside for the purpose of funding the
26 installation of solar energy systems on low-income residential
27 housing that are unexpended and unencumbered on January 1,
28 2022, and all moneys thereafter repaid pursuant to paragraph (2),
29 except to the extent those moneys are encumbered pursuant to this
30 section, shall be utilized to augment existing cost-effective energy
31 efficiency measures in low-income residential housing that benefit
32 ratepayers.

33 (e) In supervising a program implementing the California Solar
34 Initiative pursuant to this section, the commission shall ensure that
35 the program does all of the following:

36 (1) Is a cost-effective investment by ratepayers in peak
37 electricity generation capacity where ~~ratepayers recoup the cost~~
38 ~~of their investment through lower rates as a result of avoiding~~
39 ~~purchases of electricity at peak rates, with additional system~~
40 ~~reliability and pollution reduction benefits~~ *low-income residential*

1 *programs are designed to reach low-income communities with a*
2 *high-energy demand load.*

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

6 (3) Provides job training and employment opportunities in the
7 solar energy and energy efficiency sectors of the economy.

8 SEC. 3. No reimbursement is required by this act pursuant to
9 Section 6 of Article XIII B of the California Constitution because
10 the only costs that may be incurred by a local agency or school
11 district will be incurred because this act creates a new crime or
12 infraction, eliminates a crime or infraction, or changes the penalty
13 for a crime or infraction, within the meaning of Section 17556 of
14 the Government Code, or changes the definition of a crime within
15 the meaning of Section 6 of Article XIII B of the California
16 Constitution.

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