

AMENDED IN SENATE JULY 10, 2013

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 *by extending the application of a crime*.

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.** *The Legislature finds and declares that it is the*
2 *goal of the state to install solar energy systems that have a*
3 *generating capacity equivalent to 50 megawatts for low-income*
4 *residential housing. It is also the intent of the Legislature to ensure*
5 *that the commission designs a program that reaches low-income*
6 *communities with a high-energy demand load so that it is*
7 *affordable for all ratepayers.*

8 ~~**SECTION 1.**~~

9 **SEC. 2.** Section 2851 of the Public Utilities Code is amended
10 to read:

1 2851. (a) In implementing the California Solar Initiative, the
2 commission shall do all of the following:

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

26 (B) The incentive level for the installation of a solar energy
27 system pursuant to Section 2852 shall be zero as of December 31,
28 2021.

29 (2) The commission shall adopt a performance-based incentive
30 program so that by January 1, 2008, 100 percent of incentives for
31 solar energy systems of 100 kilowatts or greater and at least 50
32 percent of incentives for solar energy systems of 30 kilowatts or
33 greater are earned based on the actual electrical output of the solar
34 energy systems. The commission shall encourage, and may require,
35 performance-based incentives for solar energy systems of less than
36 30 kilowatts. Performance-based incentives shall decline at a rate
37 of no less than an average of 7 percent per year. In developing the
38 performance-based incentives, the commission may:

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

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

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

8 (3) By January 1, 2008, the commission, in consultation with
9 the Energy Commission, shall require reasonable and cost-effective
10 energy efficiency improvements in existing buildings as a condition
11 of providing incentives for eligible solar energy systems, with
12 appropriate exemptions or limitations to accommodate the limited
13 financial resources of low-income residential housing.

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

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

34 (c) (1) In implementing the California Solar Initiative, the
35 commission shall not allocate more than fifty million dollars
36 (\$50,000,000) to research, development, and demonstration that
37 explores solar technologies and other distributed generation
38 technologies that employ or could employ solar energy for
39 generation or storage of electricity or to offset natural gas usage.
40 Any program that allocates additional moneys to research,

1 development, and demonstration shall be developed in
2 collaboration with the Energy Commission to ensure there is no
3 duplication of efforts, and adopted by the commission through a
4 rulemaking or other appropriate public proceeding. Any grant
5 awarded by the commission for research, development, and
6 demonstration shall be approved by the full commission at a public
7 meeting. This subdivision does not prohibit the commission from
8 continuing to allocate moneys to research, development, and
9 demonstration pursuant to the self-generation incentive program
10 for distributed generation resources originally established pursuant
11 to Chapter 329 of the Statutes of 2000, as modified pursuant to
12 Section 379.6.

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

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

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

4 (2) Notwithstanding any other provision of law, any charge
5 imposed to fund the program adopted and implemented pursuant
6 to this section shall be imposed upon all customers not participating
7 in the California Alternate Rates for Energy (CARE) or family
8 electric rate assistance (FERA) programs, including those
9 residential customers subject to the rate limitation specified in
10 Section 739.9 for existing baseline quantities or usage up to 130
11 percent of existing baseline quantities of electricity.

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

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

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

32 (2) Programs adopted, implemented, and financed in the amount
33 of seven hundred eighty-four million dollars (\$784,000,000), by
34 charges collected by local publicly owned electric utilities pursuant
35 to Section 2854. Nothing in this subdivision shall give the
36 commission power and jurisdiction with respect to a local publicly
37 owned electric utility or its customers.

38 (3) Programs for the installation of solar energy systems on new
39 construction, administered by the Energy Commission, and funded
40 by charges in the amount of four hundred million dollars

1 (\$400,000,000), collected from customers of San Diego Gas and
2 Electric Company, Southern California Edison Company, and
3 Pacific Gas and Electric Company.

4 (4) The changes made to this subdivision by Chapter 39 of the
5 Statutes of 2012 do not authorize the levy of a charge or any
6 increase in the amount collected pursuant to any existing charge,
7 nor do the changes add to, or detract from, the commission’s
8 existing authority to levy or increase charges.

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

21 ~~SEC. 2.~~

22 *SEC. 3.* Section 2852 of the Public Utilities Code is amended
23 to read:

24 ~~2852. (a) The Legislature finds and declares that it is the goal~~
25 ~~of the state to install solar energy systems that have a generating~~
26 ~~capacity equivalent to 50 megawatts for low-income residential~~
27 ~~housing. It is also the intent of the Legislature to ensure that the~~
28 ~~commission designs a program that reaches low-income~~
29 ~~communities with a high-energy demand load so that it is~~
30 ~~affordable for all ratepayers.~~

31 ~~(b)~~

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

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

38 (2) “California Solar Initiative” means the program providing
39 ratepayer-funded incentives for eligible solar energy systems

1 adopted by the Public Utilities Commission in Decision 05-12-044
2 and Decision 06-01-024.

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

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

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

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

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

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

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

39 (C) An individual residence sold at an affordable housing cost
40 to a lower income household that is subject to a resale restriction

1 or equity sharing agreement, for which the homeowner does not
2 receive a greater share of equity than described in paragraph (2)
3 of subdivision (c) of Section 65915 of the Government Code, with
4 a public entity or nonprofit housing provider organized under
5 Section 501(c)(3) of the Internal Revenue Code that has as its
6 stated purpose in its articles of incorporation on file with the office
7 of the Secretary of State to provide affordable housing to lower
8 income households.

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

16 (e)

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

21 (d)

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

31 (2) The commission may incorporate a revolving loan or loan
32 guarantee program into the California Solar Initiative for
33 low-income residential housing. All loans outstanding as of January
34 1, 2022, shall continue to be repaid consistent with the terms and
35 conditions of the program adopted and implemented by the
36 commission pursuant to this subdivision, until repaid in full.

37 (3) All moneys set aside for the purpose of funding the
38 installation of solar energy systems on low-income residential
39 housing that are unexpended and unencumbered on January 1,
40 2022, and all moneys thereafter repaid pursuant to paragraph (2),

1 except to the extent those moneys are encumbered pursuant to this
2 section, shall be utilized to augment existing cost-effective energy
3 efficiency measures in low-income residential housing that benefit
4 ratepayers.

5 (e)

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

9 (1) Is a cost-effective investment by ratepayers in peak
10 electricity generation capacity where low-income residential
11 programs are designed to reach low-income communities with a
12 high-energy demand load.

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

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

18 ~~SEC. 3.~~

19 *SEC. 4.* 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.