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AB-1414 Solar energy systems: permits. (2017-2018)

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Date Published: 10/16/2017 02:00 PM

Assembly Bill No. 1414

CHAPTER 849

An act to amend Section 801.5 of the Civil Code, and to amend Section 66015 of, and to amend the heading of Chapter 7.5 (commencing with Section 66015) of Division 1 of Title 7 of, the Government Code, relating to solar energy.

[Approved by Governor October 15, 2017. Filed with Secretary of State October 15, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1414, Friedman. Solar energy systems: permits.

Existing law, for purposes of provisions governing property rights, defines the term "solar energy system" to mean any solar collector or other solar energy device whose primary purpose is to provide for the collection, storage, and distribution of solar energy for space heating or cooling, or for water heating, or any structural design feature of a building, whose primary purpose is to provide for the collection, storage, and distribution of solar energy for electricity generation, space heating or cooling, or water heating.

This bill would revise the definition of "solar energy system" to specify that a design feature additionally includes any photovoltaic device or technology that is integrated into a building, including, but not limited to, photovoltaic windows, siding, and roofing shingles or tiles.

Existing law requires a city, county, or city and county to administratively approve applications to install solar energy systems through the issuance of a building permit or similar nondiscretionary permit. Existing law, until January 1, 2018, prohibits permit fees for rooftop solar energy systems that produce direct current electricity, as specified, by a city, county, city and county, or charter city from exceeding the estimated reasonable cost of providing the service for which the fee is charged, which cannot exceed \$500 plus \$15 per kilowatt for each kilowatt above 15kW for residential permits and, for commercial permits, \$1,000 for systems up to 50kW plus \$7 per kW for each kW between 51kW and 250kW, plus \$5 per kW for each kW above 250kW. Existing law authorizes permit fees that exceed these charges if, as part of a written finding and adopted resolution or ordinance, the city, county, city and county, or charter city provides substantial evidence, as specified, of the reasonable cost to issue the permit.

This bill would extend the applicability of the above-described limit on fees to all solar energy systems and would extend the repeal date to January 1, 2025. This bill would revise and reduce the maximum permit fees, as specified, for photovoltaic and thermal systems. This bill would authorize permit fees that exceed these charges if the city, county, city and county, or charter city provides substantial evidence, as part of a written finding and adopted resolution or ordinance, of the reasonable cost to issue the permit. The bill would require the written finding to include consideration of any reduction in permit or inspection costs. By requiring local agencies to perform additional duties for an extended period, the 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 Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 801.5 of the Civil Code is amended to read:

801.5. (a) The right of receiving sunlight as specified in subdivision 18 of Section 801 shall be referred to as a solar easement. "Solar easement" means the right of receiving sunlight across real property of another for any solar energy system.

As used in this section, "solar energy system" means either of the following:

(1) Any solar collector or other solar energy device whose primary purpose is to provide for the collection, storage, and distribution of solar energy for space heating, space cooling, electric generation, or water heating.

(2) A structural design feature of a building, including either of the following:

(A) Any design feature whose primary purpose is to provide for the collection, storage, and distribution of solar energy for electricity generation, space heating or cooling, or for water heating.

(B) Any photovoltaic device or technology that is integrated into a building, including, but not limited to, photovoltaic windows, siding, and roofing shingles or tiles.

(b) Any instrument creating a solar easement shall include, at a minimum, all of the following:

(1) A description of the dimensions of the easement expressed in measurable terms, such as vertical or horizontal angles measured in degrees, or the hours of the day on specified dates during which direct sunlight to a specified surface of a solar collector, device, or structural design feature may not be obstructed, or a combination of these descriptions.

(2) The restrictions placed upon vegetation, structures, and other objects that would impair or obstruct the passage of sunlight through the easement.

(3) The terms or conditions, if any, under which the easement may be revised or terminated.

SEC. 2. The heading of Chapter 7.5 (commencing with Section 66015) of Division 1 of Title 7 of the Government Code is amended to read:

CHAPTER 7.5. Fees for Solar Energy Systems

SEC. 3. Section 66015 of the Government Code is amended to read:

66015. (a) For a residential solar energy system:

(1) A city, county, city and county, or charter city shall not charge a residential permit fee that exceeds the estimated reasonable cost of providing the service for which the fee is charged. Except as provided in paragraph (2), for photovoltaic systems, that fee shall not exceed four hundred fifty dollars (\$450) plus fifteen dollars (\$15) per kilowatt for each kilowatt above 15kW. Except as provided in paragraph (2), for thermal systems, that fee shall not exceed four hundred fifty dollars (\$450) plus fifteen dollars (\$15) per kilowatt thermal for each kilowatt thermal above 10kWth.

(2) Notwithstanding paragraph (1), a city, county, city and county, or charter city may charge a residential permit fee for a solar energy system that exceeds the fees specified in paragraph (1) if the city, county, city and county, or charter city, as part of a written finding and an adopted resolution or ordinance, provides substantial evidence of the reasonable cost to issue the permit.

(b) For a commercial solar energy system:

(1) A city, county, city and county, or charter city shall not charge a commercial permit fee that exceeds the estimated reasonable cost of providing the service for which the fee is charged. Except as provided in paragraph (2), for photovoltaic systems, the fee shall not exceed one thousand dollars (\$1,000) for systems up to 50kW plus seven dollars (\$7) per kilowatt for each kilowatt between 51kW and 250kW, plus five dollars (\$5) per kilowatt for each kilowatt above 250kW. Except as provided in paragraph (2), for thermal systems, the fee shall not exceed one thousand dollars (\$1,000) for systems up to 30kWth, plus seven dollars (\$7) per kilowatt thermal for each kilowatt thermal between 30kWth and 260kWth, plus five dollars (\$5) per kilowatt thermal for each kilowatt thermal above 260kWth.

(2) Notwithstanding paragraph (1), a city, county, city and county, or charter city may charge a commercial permit fee for a solar energy system that exceeds the applicable fee specified in paragraph (1) if the city, county, city and county, or charter city, as part of a written finding and an adopted resolution or ordinance, provides substantial evidence of the reasonable cost to issue the permit.

(c) A written finding adopted pursuant to paragraph (2) of subdivision (a) or (b) shall include all of the following:

(1) A determination that the municipality has adopted appropriate ordinances, permit fees, and processes to streamline the submittal and approval of permits for solar energy systems pursuant to the practices and policies in state guidelines, the checklists and standard plans in the California Solar Permitting Guidebook, and model ordinances.

(2) A calculation related to the administrative cost of issuing a solar permit that includes consideration of any reduction in costs to issue the permit or inspect a solar energy system pursuant to Section 65850.5.

(3) A description of how the higher fee will result in a quick and streamlined approval process.

(d) For purposes of this section, "administrative costs" means the costs incurred in connection with the review, approval, and issuance of the permit, and the hourly site inspection and followup costs, and may also include an amortization of the costs incurred in connection with producing a written finding and adopting an ordinance or resolution pursuant to subdivision (a) or (b).

(e) For purposes of this section, "residential permit fee" means the sum of all charges levied by a city, county, city and county, or charter city in connection with the application for a solar energy system.

(f) For purposes of this section, "solar energy system" has the same meaning as defined in Section 801.5 of the Civil Code.

(g) It is the intent of the Legislature that a city, county, city and county, or charter city that meets the obligations of subdivisions (a) and (b) receive priority access to state funds for the purposes of distributed energy generation planning, permitting, training, or implementation.

(h) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.