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SB-379 Residential solar energy systems: permitting. (2021-2022)

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Senate Bill No. 379

CHAPTER 356

An act to add Section 65850.52 to the Government Code, relating to land use.

[Approved by Governor September 16, 2022. Filed with Secretary of State September 16, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

SB 379, Wiener. Residential solar energy systems: permitting.

Existing law requires a city or county to approve administratively applications to install solar energy systems through the issuance of a building permit or similar nondiscretionary permit. Existing law requires every city, county, or city and county to develop a streamlined permitting process for the installation of small residential rooftop solar energy systems, as that term is defined. Existing law prescribes and limits permit fees that a city or county may charge for a residential and commercial solar energy system. Existing law creates the State Energy Resources Conservation and Development Commission (Energy Commission) in the Natural Resources Agency and prescribes its duties, which include administering programs for the installation of solar energy systems.

This bill would require every city, county, or city and county to implement an online, automated permitting platform that verifies code compliance and issues permits in real time or allows the city, county, or city and county to issue permits in real time for a residential solar energy system, as defined, that is no larger than 38.4 kilowatts alternating current nameplate rating and a residential energy storage system, as defined, paired with a residential solar energy system that is no larger than 38.4 kilowatts alternating current nameplate rating.

This bill would prescribe a compliance schedule for satisfying these requirements, which would exempt a city with a population of fewer than 5,000 and a county with a population of fewer than 150,000, including each city within that county. The bill would require a city with a population of 50,000 or fewer that is not otherwise exempt to satisfy these requirements by September 30, 2024, while cities, counties, and cities and counties with populations greater than 50,000 that are not otherwise exempt would be required to satisfy the requirements by September 30, 2023. The bill would require a city, county, or city and county to report to the Energy Commission when it is in compliance with specified requirements, in addition to other information. The bill would require cities, counties, and cities and counties to self-certify their compliance with the bill's provisions when applying for specified funds from the Energy Commission, as specified.

This bill would require the Energy Commission to set guidelines, adopted through a specified public process, for cities, counties, and cities and counties to report to the commission on the number of permits issued for residential solar energy systems and residential energy storage systems paired with residential solar energy systems and the relevant characteristics of those systems. The bill would make related findings and declarations.

The Administrative Procedure Act generally governs the procedure for the adoption, amendment, or repeal of regulations by state agencies and for the review of those regulatory actions by the Office of Administrative Law.

This bill would exempt the guidelines from the Administrative Procedures Act.

This bill would expressly apply to charter cities.

By increasing the duties of local officials, 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.

The bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

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

SECTION 1. The Legislature finds and declares all of the following:

(a) Permitting fees or soft costs to solar and storage projects can add substantial time and money to the adoption of additional solar and storage projects.

(b) To meet its clean energy goals, California may need up to six gigawatts of new renewable and storage resources annually, including additional rooftop solar and storage projects.

(c) Per the 2021 Senate Bill 100 Joint Agency Report, Achieving 100% Clean Electricity in California, development of rooftop solar must increase dramatically.

(d) Because the 2021 budget included a \$20 million appropriation to the Energy Commission for grants to all jurisdictions that adopt the SolarAPP+ or a similar program in order to expedite permitting, local permitting jurisdictions can and should be required to adopt SolarAPP+ or a similar program for automated permitting in order to promote the development of solar and storage to help meet the state's clean energy needs.

SEC. 2. Section 65850.52 is added to the Government Code, immediately following Section 65850.5, to read:

65850.52. (a) For purposes of this section, the following definitions apply:

(1) "Energy Commission" means the State Energy Resources Conservation and Development Commission.

(2) "Residential energy storage system" means commercially available technology, located behind a customer's residential utility meter, that is capable of absorbing electricity generated from a colocated electricity generator or from the electrical grid, storing it for a period of time, and thereafter discharging it to meet the energy or power needs of the host customer or for export.

(3) "Residential solar energy system" means any configuration of solar energy devices that collects and distributes solar energy for the purpose of generating electricity and that has a single residential interconnection with the electric utility transmission or distribution network.

(4) "SolarAPP+" means the most recent version of a web-based portal, developed by the National Renewable Energy Laboratory, that automates plan review, produces code-compliant approvals, and issues permits for residential solar energy systems and residential energy storage systems paired with residential solar energy systems.

(b) (1) Pursuant to the compliance schedule in subdivision (c), a city, county, or city and county, in consultation with the local fire department, district, or authority, shall implement an online, automated permitting platform, such as SolarAPP+, that meets both of the following requirements:

(A) The platform verifies code compliance and issues permits in real time or allows the city, county, or city and county to issue permits in real time to a licensed contractor for a residential solar energy system that is no larger than 38.4 kilowatts alternating current nameplate rating and a residential energy storage system paired with a residential solar energy system that is no larger than 38.4 kilowatts alternating current nameplate rating.

(B) The platform issues permits or allows the city, county, or city and county to issue permits for residential solar energy systems and residential energy storage systems paired with residential solar energy systems that SolarAPP+ is capable of processing.

(2) A city, county, or city and county is not required to permit an application for a residential solar energy system or a residential energy storage system paired with a residential solar energy system through the online automated permitting platform pursuant to this section if the system configuration is not eligible for SolarAPP+ at the time the application is submitted to the jurisdiction.

(c) (1) A city with a population of fewer than 5,000 and a county with a population of fewer than 150,000, including each city within that county, is exempt from subdivision (b).

(2) A city with a population of 50,000 or fewer that is not exempt pursuant to paragraph (1) shall satisfy the requirements of subdivision (b) by September 30, 2024.

(3) A city, county, or city and county with a population of greater than 50,000 that is not exempt pursuant to paragraph (1) shall satisfy the requirements of subdivision (b) by September 30, 2023.

(d) A city, county, or city and county shall report to the Energy Commission when it is in compliance with subdivision (b).

(e) (1) The Energy Commission shall set guidelines for cities, counties, and cities and counties to report to the commission on the number of permits issued for residential solar energy systems and residential energy storage systems paired with residential solar energy systems and the relevant characteristics of those systems. A city, county, or city and county shall annually report to the Energy Commission pursuant to those guidelines within one year of implementing the online, automated solar permitting system pursuant to subdivision (b). This annual reporting requirement shall become inoperative on June 30, 2034.

(2) The Energy Commission shall adopt the guidelines required by this subdivision through a public process that shall include, but shall not be limited to, both of the following requirements:

(A) The Energy Commission shall make the proposed guidelines available for public comment for at least 30 days prior to adopting the guidelines.

(B) The Energy Commission shall respond in writing to a public comment received during the period required by paragraph (A).

(3) The Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2) shall not apply to the adoption of guidelines pursuant to this subdivision.

(f) A city, county, or city and county shall self-certify its compliance with this section when applying for funds from the Energy Commission after the applicable date in the compliance schedule in subdivision (c). This subdivision shall not apply to the twenty million dollars (\$20,000,000) in funds available, pursuant to Section 76 of Chapter 69 of the Statutes of 2021, from the Energy Commission for automated solar permitting.

(g) This section does not limit or otherwise affect the generator interconnection requirements and approval process for a local publicly owned electric utility, as defined in Section 224.3 of the Public Utilities Code, or an electrical corporation, as defined in Section 218 of the Public Utilities Code.

(h) All liabilities and immunities, including, but not limited to, the immunities provided in Sections 818.4, 818.6, and 821.2, applicable to cities, counties, and cities and counties shall apply to any permits issued through an online, automated permitting platform and any inspections conducted in connection with those permits.

(i) For the purposes of this section, a city shall include a charter city.

SEC. 3. 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.

SEC. 4. The Legislature finds and declares that Section 2 of this act adding Section 65850.5 of the Government Code address a matter of statewide concern rather than a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, Section 2 of this act applies to all cities, including charter cities.