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SB-1112 Energy: building decarbonization: notice and recordation of a decarbonization charge. (2021-2022)

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Senate Bill No. 1112

CHAPTER 834

An act to add and repeal Section 25235 of the Public Resources Code, and to add Chapter 4.6 (commencing with Section 8375) to Division 4.1 of the Public Utilities Code, relating to electricity.

[Approved by Governor September 29, 2022. Filed with Secretary of State September 29, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1112, Becker. Energy: building decarbonization: notice and recordation of a decarbonization charge.

(1) Existing law requires the State Energy Resources Conservation and Development Commission (Energy Commission) to undertake various actions in furtherance of meeting the state's clean energy and pollution reduction objectives.

Existing law requires the Energy Commission to assess the potential for the state to reduce the emissions of greenhouse gases from the state's residential and commercial building stock by at least 40% below 1990 levels by January 1, 2030.

This bill would require the Energy Commission, on or before December 31, 2023, to identify state and federal financing or investment solutions, as defined, that will enable electrical corporations, community choice aggregators, or other eligible entities to provide zero-emission, clean energy, or decarbonizing building upgrades. The bill would also require the Energy Commission to apply for federal financing or investment solutions, where applicable, and provide technical assistance to certain entities to apply for state and federal financing or investment solutions. The bill would require the Energy Commission, on or before December 31, 2023, to prepare and submit a report to the relevant committees of the Legislature that describes any statutory changes necessary to improve access to federal funding for financing or investment solutions. The bill would repeal these provisions on January 1, 2028.

(2) Existing law vests the Public Utilities Commission with regulatory authority over public utilities, including electrical corporations, while local publicly owned electric utilities and electrical cooperatives are under the direction of their governing boards. Existing law requires the commission, in consultation with the Independent System Operator, to establish resource adequacy requirements for all load-serving entities, defined to include electrical corporations, community choice aggregators, and electric service providers. The California Renewables Portfolio Standard Program requires the commission to establish a renewables portfolio standard requiring all retail suppliers, defined as including electrical corporations, community choice aggregators, and electric service providers, to procure a minimum quantity of electricity products from eligible renewable energy resources, as defined, so that the total kilowatthours of those products sold to their retail end-use customers achieves 33% of retail sales by December 31, 2020, 44% by December 31, 2024, 52% by December 31, 2027, and 60% by December 31, 2030.

This bill would require the commission, or the governing board of a local publicly owned electric utility or electrical cooperative, to require an energy supplier, defined as an electrical corporation, local publicly owned electric utility, electric service provider, community choice aggregator, or electrical cooperative, administering a decarbonization upgrade program or initiative, to record,

no later than 30 days after funding a decarbonization upgrade, a notice of decarbonization charge, as defined, with the county recorder of the county where the property subject to the decarbonization charge is located. The bill would require an energy supplier, within 30 days of full cost recovery of the outstanding charges related to the recorded notice of decarbonization charge, to record a notice of the full cost recovery and removal of the decarbonization charge with the county recorder of the county where the property subject to the decarbonization charge is located. The bill also would require an energy supplier, within 30 days of a decision by the energy supplier to cease collection of the charge, to record a notice of removal of the decarbonization charge with the county recorder of the county where the property subject to the decarbonization charge is located. If the subscriber's property is not owner-occupied, the bill would require the energy supplier to incorporate in a written agreement between the energy supplier and the property owner related to installation of a decarbonization upgrade, a requirement that the property owner shall cause the obligation to pay the decarbonization charge to appear in the terms through which the property owner leases or licenses the property for occupancy.

(3) Under existing law, a violation of any order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because a violation of an order by the commission implementing the above provisions would be 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 specified reasons.

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

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

SECTION 1. Section 25235 is added to the Public Resources Code, to read:

25235. (a) For purposes of this section, "financing or investment solutions" means financing or investment solutions that are consistent with the United States Environmental Protection Agency's inclusive utility investments policies or other industry best practices, and that will enable electrical corporations, community choice aggregators, or other eligible entities to provide zero-emission, clean energy, or decarbonizing building upgrades.

(b) (1) On or before December 31, 2023, the commission, in coordination with the Governor's Office of Business and Economic Development, the Public Utilities Commission, and the Treasurer, shall do all of the following:

(A) Identify available state and federal financing or investment solutions.

(B) Apply for federal financing or investment solutions, where applicable.

(C) Provide technical assistance to electrical corporations, community choice aggregators, or other eligible entities to apply for state and federal financing or investment solutions.

(2) The commission may consult with the United States Department of Energy regarding the identification of federal financing or investment solutions, pursuant to paragraph (1).

(3) To maximize the state's access to federal financing or investment solutions, pursuant to paragraph (1), the commission may do any of the following:

(A) Identify the authority of the Treasurer to administer financing or investment solutions, and to identify programs administered by the Treasurer that provide financing or investment solutions.

(B) Identify funding appropriated in the Budget Act of 2022 that enables or otherwise impacts the availability of federal funding for financing or investment solutions.

(C) Identify state programs, authorizations, and administrative actions that enable, or could enable, access to federal funding for financing or investment solutions, including, but not limited to, Public Utilities Commission Rulemaking 20-08-022 (Order Instituting Rulemaking to Investigate and Design Clean Energy Financing Options for Electricity and Natural Gas Customers), filed August 27, 2020.

(c) On or before December 31, 2023, the commission shall prepare and submit a report to the relevant committees of the Legislature that describes any statutory changes necessary to improve access to federal funding for financing or investment solutions.

(d) Notwithstanding Section 10231.5 of the Government Code, this section shall remain in effect only until January 1, 2028, and as of that date is repealed.

SEC. 2. Chapter 4.6 (commencing with Section 8375) is added to Division 4.1 of the Public Utilities Code, to read:

CHAPTER 4.6. Notice and Recordation of a Decarbonization Charge

8375. (a) It is the intent of the Legislature to establish transparency for renters and home buyers regarding the existence of a decarbonization charge associated with a decarbonization upgrade located on a property.

(b) The Legislature finds and declares that the act of an energy supplier recording a notice of decarbonization charge pursuant to this chapter does not constitute a debt collection.

8376. For purposes of this chapter, the following definitions apply:

(a) "Decarbonization charge" means a charge that is added to the billing for service associated with the electrical meter, or other measuring device, under the control of an energy supplier located at the subscriber property where a decarbonization upgrade is located, and that is collected in order to pay for a decarbonization upgrade.

(b) "Decarbonization upgrade" means all of the following:

(1) A change to a subscriber property that reduces the demand for electricity from an energy supplier.

(2) A change to a subscriber property that allows for storage of energy.

(3) A change to a subscriber property that reduces the use of fossil fuels.

(4) A change to a subscriber property that converts water, wind, or sunlight to usable electricity.

(c) "Energy supplier" means either of the following:

(1) An entity that offers an electricity product for sale to retail consumers in California, including an electrical corporation, local publicly owned electric utility, electric service provider, and community choice aggregator.

(2) Any private corporation or association organized for purposes of transmitting or distributing electricity exclusively to its stockholders or members at cost, including an electrical cooperative.

(d) "Subscriber" means a person or entity that purchases electricity or electrical grid services from an energy supplier and is billed for the electricity or electrical grid services by the energy supplier, either directly or by another entity on behalf of the energy supplier.

(e) "Subscriber property" means residential, commercial, industrial, agricultural, or other real property owned, leased, or licensed for occupancy by the subscriber.

8377. (a) This chapter shall apply to any program or initiative administered by an energy supplier that has all of the following attributes:

(1) The program or initiative makes a site-specific investment to fund the installation of decarbonization upgrades on subscriber properties.

(2) The program or initiative recovers any portion of the site-specific investment through decarbonization charges associated with one or more electrical meters associated with those upgraded subscriber properties.

(3) The program or initiative imposes a duty to pay the decarbonization charge that arises from, and is evidenced by, a written agreement executed relative to the installation of the decarbonization upgrade on the subscriber property between the property owner, or all current property owners of record, if different than the subscriber, and the energy supplier.

(4) Under the program or initiative, the subscriber's obligation to pay the decarbonization charge is associated with the electrical meter located at the subscriber's property on which the decarbonization upgrade is located and is transferable to any successor subscriber who subsequently receives electrical service at the property.

(b) The commission, or the governing board of a local publicly owned electric utility or electrical cooperative, as applicable, shall require an energy supplier, in administering the program or initiative, to facilitate proper notification of upgrades and decarbonization charge obligations to successor subscribers by completing all of the following:

(1) The energy supplier shall record, no later than 30 days after funding a decarbonization upgrade, a notice of decarbonization charge with the county recorder of the county where the property subject to the decarbonization charge is located. A county

recorder, upon recording a notice of decarbonization charge, shall index the notice of decarbonization charge in the general index by the name of the owner of the real property where the meter affected by the decarbonization charge will be located. The notice shall be entitled "NOTICE OF DECARBONIZATION CHARGE" and shall comply with Section 27324 of the Government Code. The recordation of the notice of decarbonization charge shall be considered sufficient notice to a subsequent subscriber at a property with installed decarbonization upgrades of the subscriber's obligation to pay the decarbonization charge for installed measures.

(2) The recorded notice of decarbonization charge shall contain all of the following information:

(A) The address or legal description, the assessor's parcel number, and the name of the owner, of the real property where the electrical meter affected by the decarbonization charge will be located.

(B) The decarbonization charge amount and payment period.

(C) A description of the decarbonization upgrades funded with the decarbonization charge.

(D) Contact information for the person or entity authorized to provide a prompt and accurate written statement of the outstanding charges and payoff amounts related to the decarbonization charge for which the notice of decarbonization charge was recorded.

(3) Within 30 days of full cost recovery of the outstanding charges related to the recorded notice of decarbonization charge, the energy supplier shall record a notice of the full cost recovery and removal of the decarbonization charge with the county recorder of the county where the property subject to the decarbonization charge is located. The notice of the full cost recovery and removal of the decarbonization charge shall include a reference to the recorded notice of decarbonization charge.

(4) Within 30 days of a decision by the energy supplier to cease collection of the charge, the energy supplier shall record a notice of removal of the decarbonization charge with the county recorder of the county where the property subject to the decarbonization charge is located. The notice of the removal of the decarbonization charge shall include a reference to the recorded notice of the decarbonization charge.

(5) When the subscriber property is not owner-occupied, the written agreement between the energy supplier and the property owner executed relative to the installation of the decarbonization upgrade shall incorporate a requirement that the property owner shall cause the obligation to pay the decarbonization charge to appear in the terms through which the subscriber leases or licenses the property for occupancy. This paragraph shall only apply to written agreements executed after January 1, 2023.

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 or because costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.