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## SB-355 Multifamily Affordable Housing Solar Roofs Program. (2023-2024)

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### Senate Bill No. 355

#### CHAPTER 393

An act to amend Section 2870 of the Public Utilities Code, relating to electricity.

[ Approved by Governor October 07, 2023. Filed with Secretary of State October 07, 2023. ]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 355, Eggman. Multifamily Affordable Housing Solar Roofs Program.

Existing law vests the Public Utilities Commission with regulatory authority over public utilities, including electrical corporations. Existing law establishes the Multifamily Affordable Housing Solar Roofs Program. Existing law requires the commission, beginning with the 2016–17 fiscal year and ending with the 2019–20 fiscal year, to authorize the annual allocation of certain amounts of moneys for the program. Existing law requires the commission to continue authorizing the allocation of those moneys through June 30, 2026, if the commission determines that revenues are available and that there is adequate interest and participation in the program. Existing law requires the commission, as part of the program, to award monetary incentives for qualifying solar energy systems, as defined, that are installed on multifamily residential buildings of at least 5 rental housing units that are operated to provide deed-restricted low-income residential housing, as defined, and that meet one or more specified requirements, including that at least 80% of the households have incomes at or below 60% of the area median income, through December 31, 2030.

This bill would expand those specified requirements to, among other things, include properties in which at least 66% of the households have incomes at or below 80% of the area median income, properties owned by a tribe, as defined, and rental housing properties owned by public housing agencies or authorities, as defined. The bill would extend the requirement that the commission award monetary incentives for those solar energy systems through December 31, 2032. If those multifamily residential properties are new construction, the bill would prohibit using moneys authorized through the program to meet specified regulatory requirements. The bill would authorize the commission to consider authorizing an advance payment loan to an eligible project if there is reasonable evidence to suggest that an advance payment loan would lead to the delivery of a project that would not occur absent the advance payment loan, as specified.

Existing law requires that low-income tenants who participate in the program receive credits on utility bills from the program.

This bill would limit the applicability of that requirement to units that are separately metered.

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

Because a violation of a commission action implementing this bill's requirements would be a crime, 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.

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

### **SECTION 1.** Section 2870 of the Public Utilities Code is amended to read:

**2870.** (a) As used in this section, the following definitions apply:

(1) "CARE program" means the California Alternate Rates for Energy program established pursuant to Section 739.1.

(2) "Program" means the Multifamily Affordable Housing Solar Roofs Program established pursuant to this chapter, which is also known as the Solar on Multifamily Affordable Housing Program.

(3) "Qualified multifamily affordable housing property" means a multifamily residential property of at least five rental housing units that is, or will be, operated to provide deed-restricted low-income residential housing, as defined in clause (i) of subparagraph (A) of paragraph (3) of subdivision (a) of Section 2852, and that meets one or more of the following requirements:

(A) The property is located in a disadvantaged community, as identified by the California Environmental Protection Agency pursuant to Section 39711 of the Health and Safety Code.

(B) At least 66 percent of the households have incomes at or below 80 percent of the area median income, as defined in subdivision (f) of Section 50052.5 of the Health and Safety Code.

(C) The property is owned by a tribe.

(D) The property is rental housing property that is owned by one of the following:

(i) A public housing authority created pursuant to the Housing Authorities Law (Chapter 1 (commencing with Section 34200) of Part 2 of Division 24 of the Health and Safety Code).

(ii) A public housing agency, as defined in Section 1437a of Title 42 of the United States Code.

(4) "Solar energy system" means a solar energy photovoltaic device that meets or exceeds the eligibility criteria established pursuant to Section 25782 of the Public Resources Code.

(5) "Tribe" means a California Native American tribe, as defined in Section 21073 of the Public Resources Code.

(b) (1) Adoption and implementation of the program may count toward the satisfaction of the commission's obligation to ensure that specific alternatives designed for growth among residential customers in disadvantaged communities are offered as part of the standard contract or tariff authorized pursuant to paragraph (1) of subdivision (b) of Section 2827.1.

(2) This section does not preclude electrical corporations from offering and administering a distributed energy resource program, including solar energy systems, in disadvantaged communities offered under current or proposed programs using funds provided under subdivision (c) of Section 748.5 or programs proposed to comply with paragraph (1) as approved by the commission.

(c) The commission shall annually authorize the allocation of one hundred million dollars (\$100,000,000) or 66.67 percent of available funds, whichever is less, from the revenues described in subdivision (c) of Section 748.5 for the program, beginning with the fiscal year commencing July 1, 2016, and ending with the fiscal year ending June 30, 2020. The commission shall continue authorizing the allocation of these funds through June 30, 2026, if the commission determines that revenues are available after 2020 and that there is adequate interest and participation in the program.

(d) The commission shall consider the most appropriate program administration structure, including administration by a qualified third-party administrator, selected by the commission through a competitive bidding process, or administration by an electrical corporation, in an existing or future proceeding.

(e) Not more than 10 percent of the funds allocated to the program shall be used for administration.

(f) (1) By June 30, 2017, the commission shall authorize the award of monetary incentives for qualifying solar energy systems that are installed on qualified multifamily affordable housing properties through December 31, 2032. The target of the program is to install a combined generating capacity of at least 300 megawatts on qualified properties.

(2) The commission shall require that the electricity generated by qualifying renewable energy systems installed pursuant to the program be primarily used to offset electricity usage by low-income tenants. These requirements may include required covenants and restrictions in deeds.

(3) The commission shall require that qualifying solar energy systems owned by third-party owners are subject to contractual restrictions to ensure that no additional costs for the system be passed on to low-income tenants at the properties receiving incentives pursuant to the program. The commission shall require third-party owners of solar energy systems to provide ongoing operations and maintenance of the system, monitor energy production, and, where necessary, take appropriate action to ensure that the kWh production levels projected for the system are achieved throughout the period of the third-party agreement. Those actions may include, but are not limited to, providing a performance guarantee of annual production levels or taking corrective actions to resolve underproduction problems.

(4) The commission shall ensure that incentive levels for photovoltaic installations receiving incentives through the program are aligned with the installation costs for solar energy systems for affordable housing and take account of federal investment tax credits and contributions from other sources to the extent feasible.

(5) The commission shall require that no individual installation receive incentives at a rate greater than 100 percent of the total system installation costs.

(6) The commission shall establish local hiring requirements for the program to provide economic development benefits to disadvantaged communities.

(7) The commission shall establish energy efficiency requirements that are equal to the energy efficiency requirements established for the program described in Section 2852, including participation in a federal, state, or utility-funded energy efficiency program or documentation of a recent energy efficiency retrofit.

(8) For purposes of the new construction of qualified multifamily affordable housing property, moneys authorized through the program shall not be used to meet the requirements of Part 6 (commencing with Section 100) of Title 24 of the California Code of Regulations.

(g) (1) The commission shall ensure that electrical corporation tariff structures affecting the low-income tenants participating in the program continue to provide a direct economic benefit from the qualifying solar energy system.

(2) If units are separately metered, low-income tenants who participate in the program shall receive credits on utility bills from the program. The commission shall ensure that utility bill reductions are achieved through tariffs that allow for the allocation of credits, such as virtual net metering tariffs designed for program participants, or other tariffs that may be adopted by the commission pursuant to Section 2827.1.

(h) This chapter is not intended to supplant CARE program rates as the primary mechanism for achieving the goals of the CARE program.

(i) The commission shall determine the eligibility of qualified multifamily affordable housing property tenants that are customers of community choice aggregators.

(j) The commission may consider authorizing an advance payment loan to an eligible project if there is reasonable evidence to suggest that an advance payment loan would lead to the delivery of a project that would not occur absent the advance payment loan, so long as appropriate funding guarantee and loss recovery mechanisms are implemented to limit the risk of liability to the program from making the advance payment loan. The commission, in considering an advance payment loan, may prioritize allocating funding to a project where an advance payment loan will have the greatest impact on project delivery.

(k) (1) Every three years, the commission shall evaluate the program's expenditures, commitments, uncommitted balances, future demands, performance, and outcomes and shall make any necessary adjustments to the program to ensure the goals of the program are being met. If, upon review, the commission finds there is insufficient participation in the program, the commission may credit uncommitted funds back to ratepayers pursuant to Section 748.5.

(2) The commission shall include in the annual workplan required pursuant to Section 910, an annual update of the program that shall include, but not be limited to, the number of projects approved, number of projects completed, number of pending projects awaiting approval, and geographic distribution of the projects.

**SEC. 2.** No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only 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.