

Assembly Bill No. 2249

CHAPTER 607

An act to amend Sections 2861, 2862, 2863, 2864, 2865, and 2867.1 of the Public Utilities Code, relating to solar energy.

[Approved by Governor September 27, 2012. Filed with Secretary of State September 27, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2249, Buchanan. Solar Water Heating and Efficiency Act of 2007.

The Solar Water Heating and Efficiency Act of 2007 makes findings and declarations of the Legislature relating to the promotion of solar water heating systems and other technologies that reduce natural gas demand and defines terms for purposes of the act. The act requires the Public Utilities Commission (PUC) to evaluate data available from a specified pilot program, and, if it makes a specified determination, to design and implement a program of incentives for the installation of 200,000 solar water heating systems, as defined, in homes and businesses throughout the state by 2017. The act requires the PUC, in consultation with the State Energy Resources and Conservation Commission and interested members of the public, to establish eligibility criteria for the solar water heating systems receiving gas customer funded incentives. The act requires the PUC to establish conditions on those incentives. The act defines a solar water heating system as a solar energy device that has the primary purpose of reducing demand for natural gas through water heating, space heating, or other methods of capturing energy from the sun to reduce natural gas consumption in a home, business, or any building receiving natural gas sold or transported for consumption in this state and that meets or exceeds the eligibility criteria. The act excludes solar pool heating systems from that definition.

This bill would expand the definition of a solar water heating system to include a facility meeting the specified requirements and would qualify the exclusion from the definition of a solar water heating system as being limited to a single-family residential solar pool heating system. The bill would delete the requirement that the PUC evaluate data available from a specified pilot program before it makes a specified determination to design and implement a program of incentives for the installation of 200,000 solar water heating systems in homes and business throughout the state by 2017. The bill would revise certain eligibility criteria as being applicable to installation of solar water heating systems at government, nonprofit, and educational sites and would require the PUC to determine an appropriate division of funds between solar water heating systems that are and are not solar pool heating systems. The bill would require the PUC, not later than February 1, 2014, to complete a review of whether the rebate levels

established by the PUC will be sufficient to spur investment to reach the goals of the program and to report the results of the review to the Legislature. The bill would require the PUC to require a gas corporation or 3rd-party administrator to implement the changes made to the act by the bill not later than July 1, 2013. The bill would make other technical, nonsubstantive changes to the act.

Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the PUC is a crime.

Because the duties of gas corporations pursuant to the Solar Water Heating and Efficiency Act of 2007 would be expanded by this bill, a decision or order of the PUC would be required to implement the program requirements, a violation of which would be a crime, the bill would impose a state-mandated local program by expanding the definition of a crime.

The Solar Water Heating and Efficiency Act of 2007 requires the governing body of each publicly owned utility providing gas service to retail end-use gas customers to adopt, implement, and finance a solar water heating system incentive program to meet certain requirements.

By expanding the definition of a solar water heating system to include a facility meeting the specified requirements and qualifying the exclusion from the definition of a solar water heating system as being limited to a single-family residential solar pool heating system, 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 specified reasons.

The people of the State of California do enact as follows:

SECTION 1. Section 2861 of the Public Utilities Code is amended to read:

2861. As used in this article, the following terms have the following meanings:

(a) "Gas customer" includes both "core" and "noncore" customers, as those terms are used in Chapter 2.2 (commencing with Section 328) of Part 1, that receive retail end-use gas service within the service territory of a gas corporation.

(b) "kW_{th}" means the kilowatt thermal capacity of a solar water heating system, measured consistent with the standard established by the SRCC.

(c) "kWh_{th}" means kilowatthours thermal as measured by the number of kilowatts thermal generated, or displaced, in an hour.

(d) "Low-income residential housing" means either of the following:

(1) Residential housing financed with low-income housing tax credits, tax-exempt mortgage revenue bonds, general obligation bonds, or local, state, or federal loans or grants, and for which the rents of the occupants

who are lower income households, as defined in Section 50079.5 of the Health and Safety Code, do not exceed those prescribed by deed restrictions or regulatory agreements pursuant to the terms of the financing or financial assistance.

(2) A residential complex in which at least 20 percent of the total units are sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, and the housing units targeted for lower income households are subject to a deed restriction or affordability covenant with a public entity that ensures that the units will be available at an affordable housing cost meeting the requirements of Section 50052.5 of the Health and Safety Code, or at an affordable rent meeting the requirements of Section 50053 of the Health and Safety Code, for a period of not less than 30 years.

(e) “New Solar Homes Partnership” means the 10-year program, administered by the Energy Commission, encouraging solar energy systems in new home construction.

(f) “Solar heating collector” means a device that is used to collect or capture heat from the sun and that is generally, but need not be, located on a roof.

(g) “Solar water heating system” means a solar energy device that has the primary purpose of reducing demand for natural gas through water heating, space heating, or other methods of capturing energy from the sun to reduce natural gas consumption in a home, business, or any building or facility receiving natural gas that is subject to the surcharge established pursuant to subdivision (b) of Section 2863, or exempt from the surcharge pursuant to subdivision (c) of Section 2863, and that meets or exceeds the eligibility criteria established pursuant to Section 2864. “Solar water heating systems” include multifamily residential, governmental, educational, and nonprofit solar pool heating systems, but do not include single-family residential solar pool heating systems.

(h) “SRCC” means the Solar Rating and Certification Corporation.

SEC. 2. Section 2862 of the Public Utilities Code is amended to read: 2862. The Legislature finds and declares all of the following:

(a) California is heavily dependent on natural gas, importing more than 80 percent of the natural gas it consumes.

(b) Rising worldwide demand for natural gas and a shrinking supply create rising and unstable prices that can harm California consumers and the economy.

(c) Natural gas is a fossil fuel and a major source of global warming pollution and the pollutants that cause air pollution, including smog.

(d) California’s growing population and economy will put a strain on energy supplies and threaten the ability of the state to meet its global warming goals unless specific steps are taken to reduce demand and generate energy cleanly and efficiently.

(e) Water heating for domestic and industrial use relies almost entirely on natural gas and accounts for a significant percentage of the state’s natural gas consumption.

(f) Solar water heating systems represent the largest untapped natural gas saving potential remaining in California.

(g) In addition to financial and energy savings, solar water heating systems can help protect against future gas and electricity shortages and reduce our dependence on foreign sources of energy.

(h) Solar water heating systems can also help preserve the environment and protect public health by reducing air pollution, including carbon dioxide, a leading global warming gas, and nitrogen oxide, a precursor to smog.

(i) Growing demand for these technologies will create jobs in California as well as promote greater energy independence, protect consumers from rising energy costs, and result in cleaner air.

(j) It is in the interest of the State of California to promote solar water heating systems and other technologies that directly reduce demand for natural gas in homes and businesses.

(k) It is the intent of the Legislature to build a mainstream market for solar water heating systems that directly reduces demand for natural gas in homes, businesses, schools, nonprofit, and government buildings. Toward that end, it is the goal of this article to install at least 200,000 solar water heating systems on homes, businesses, and other buildings or facilities of eligible customer classes throughout the state by 2017, thereby lowering prices and creating a self-sufficient market that will sustain itself beyond the life of this program.

(l) It is the intent of the Legislature that the solar water heating system incentives created by the article should be a cost-effective investment by gas customers. Gas customers will recoup the cost of their investment through lower prices as a result of avoiding purchases of natural gas.

(m) It is the intent of the Legislature that this article will encourage the cost-effective deployment of solar heating systems in both residential and commercial markets and in each end-use application sector in a balanced manner. It is the intent of the Legislature that the commission monitor and adjust incentives created by the article so that they are cost-effective investments sufficient to significantly increase markets and promote market transformation. It is the intent of the Legislature that the commission ensure that increased, uniform growth in each market sector is achieved through program incentives or structure adjustments that prevent overutilization of program resources by any single sector.

SEC. 3. Section 2863 of the Public Utilities Code is amended to read:

2863. (a) If, after a public hearing, the commission determines that a solar water heating program is cost effective for ratepayers and in the public interest, the commission shall do all of the following:

(1) Design and implement a program applicable to the service territories of a gas corporation, to achieve the goal of the Legislature to promote the installation of 200,000 solar water heating systems in homes, businesses, and buildings or facilities of eligible customer classes receiving natural gas service throughout the state by 2017. Eligible customer classes shall include single-family and multifamily residential, commercial, industrial,

governmental, nonprofit, and primary, secondary, and postsecondary educational customers.

(2) The program shall be administered by gas corporations or third-party administrators, as determined by the commission, and subject to the supervision of the commission.

(3) The commission shall coordinate the program with the Energy Commission's New Solar Homes Partnership to achieve the goal of building zero-energy homes.

(4) The commission shall determine an appropriate division of funds between solar water heating systems that are and are not solar pool heating systems.

(b) (1) The commission shall fund the program through the use of a surcharge applied to gas customers based upon the amount of natural gas consumed. The surcharge shall be in addition to any other charges for natural gas sold or transported for consumption in this state.

(2) The commission shall impose the surcharge at a level that is necessary to meet the goal of installing 200,000 solar water heating systems, or the equivalent output of 200,000 solar water heating systems, on homes, businesses, and buildings or facilities of eligible customer classes receiving natural gas service in California by 2017. Funding for the program established by this article shall not, for the collective service territories of all gas corporations, exceed two hundred fifty million dollars (\$250,000,000) over the course of the 10-year program.

(3) The commission shall annually establish a surcharge rate for each class of gas customers. Any gas customer participating in the California Alternate Rates for Energy (CARE) or Family Electric Rate Assistance (FERA) programs shall be exempt from paying any surcharge imposed to fund the program designed and implemented pursuant to this article.

(4) Any surcharge imposed to fund the program designed and implemented pursuant to this article shall not be imposed upon the portion of any gas customer's procurement of natural gas that is used or employed for a purpose that Section 896 excludes from being categorized as the consumption of natural gas.

(5) The gas corporation or other person or entity providing revenue cycle services, as defined in Section 328.1, shall be responsible for collecting the surcharge.

(c) Funds shall be allocated for the benefit of gas customers to promote utilization of solar water heating systems.

(d) In designing and implementing the program required by this article, no moneys shall be diverted from any existing programs for low-income ratepayers or cost-effective energy efficiency programs.

SEC. 4. Section 2864 of the Public Utilities Code is amended to read:

2864. (a) The commission, in consultation with the Energy Commission and interested members of the public, shall establish eligibility criteria for solar water heating systems receiving gas customer funded incentives pursuant to this article. The criteria should specify and include all of the following:

(1) Design, installation, and energy output or displacement standards. To be eligible for rebate funding, a residential solar water heating system shall, at a minimum, have an SRCC OG-300 Solar Water Heating System Certification. Solar collectors used in systems for multifamily residential, commercial, government, nonprofit, educational, or industrial water heating shall, at a minimum, have an SRCC OG-100 Solar Water Heating System Certification.

(2) Require that solar water heating system components are new and unused, and have not previously been placed in service in any other location or for any other application.

(3) Require that solar water heating collectors have a warranty of not less than 10 years to protect against defects and undue degradation.

(4) Require that solar water heating systems are in buildings or facilities connected to a natural gas utility's distribution system within the state.

(5) Require that solar water heating systems have meters or other kWh_{th} measuring devices in place to monitor and measure the system's performance and the quantity of energy generated or displaced by the system. The criteria shall require meters for systems with a capacity for displacing over $30 \text{ kW}_{\text{th}}$. The criteria may require meters for systems with a capacity of $30 \text{ kW}_{\text{th}}$ or smaller.

(6) Require that solar water heating systems are installed in conformity with the manufacturer's specifications and all applicable codes and standards.

(b) Gas customer funded incentives shall not be made for a solar water heating system that does not meet the eligibility criteria.

SEC. 5. Section 2865 of the Public Utilities Code is amended to read:

2865. (a) The commission shall establish conditions on gas customer funded incentives pursuant to this article. The conditions shall require both of the following:

(1) Appropriate siting and high-quality installation of the solar water heating system based on installation guidelines that maximize the performance of the system and prevent qualified systems from being inefficiently or inappropriately installed. The conditions shall not impact housing designs or densities presently authorized by a city, county, or city and county. The goal of this paragraph is to achieve efficient installation of solar water heating systems and promote the greatest energy production or displacement per gas customer dollar.

(2) Appropriate energy efficiency improvements in the new or existing home or facility where the solar water heating system is installed.

(b) The commission shall set rating standards for equipment, components, and systems to ensure reasonable performance and shall develop standards that provide for compliance with the minimum ratings.

SEC. 6. Section 2867.1 of the Public Utilities Code is amended to read:

2867.1. (a) Not later than July 1, 2010, the commission shall report to the Legislature as to the effectiveness of the program and make recommendations as to any changes that should be made to the program. This report shall include justification for the size of the rebate program in terms of total available incentive moneys as well as the anticipated benefits

of the program in its entirety. To facilitate the understanding of how solar water heating systems compare with other clean energy and energy efficiency technologies, all documents related to and rebates provided by this program shall be measured in both kWh_{th} and therms of natural gas saved.

(b) Not later than February 1, 2014, the commission shall complete a review of whether the rebate levels established by the commission will be sufficient to spur investment to reach the program goal of installing 200,000 solar water heating systems in homes, businesses, and other buildings or facilities receiving natural gas service throughout the state by 2017, and shall report to the Legislature on the results of its review. The report submitted pursuant to this subdivision shall be submitted in compliance with Section 9795 of the Government Code.

SEC. 7. The Public Utilities Commission shall require a gas corporation or third-party administrator to implement the program changes made to the Solar Water Heating and Efficiency Act of 2007 (Article 2 (commencing with Section 2860) of Chapter 9 of Part 2 of Division 1 of the Public Utilities Code) by this act not later July 1, 2013.

SEC. 8. 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.