

Assembly Bill No. 1124

CHAPTER 235

An act to amend Section 801.5 of the Civil Code, and to amend Section 66015 of the Government Code, relating to solar energy systems.

[Approved by Governor September 23, 2021. Filed with
Secretary of State September 23, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1124, Friedman. Solar energy systems.

Existing law creates the right to receive sunlight, which is referred to as a solar easement, and defines it to mean the right of receiving sunlight across real property of another for any solar energy system. Existing law defines a "solar energy system" for this purpose to mean either 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, or a structural design feature of a building, including a 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.

This bill would revise the definition of "solar energy system" to mean either of the above-described solar devices or features that is designed to serve one or more utility retail customers on the same, adjacent, or contiguous properties, as specified, and is not designed for procurement of electricity by an electric utility, as defined. The bill would include any structural design feature by eliminating the provision that it be a feature of a building. The bill would specify certain structural design features to be included in the definition, including solar racking, solar mounting, and elevated solar support structures, as specified, regardless of whether the feature is on the ground or on a building.

Existing law prescribes and limits permit fees that a city or county may charge for a residential and commercial solar energy system and establishes definitions for this purpose.

This bill would define "commercial permit fee" to mean the sum of all charges levied by a city, county, city and county, or charter city in connection with the application for a commercial solar energy system, including, but not limited to, a solar energy system that is installed on the property of multifamily housing that has more than 2 family dwellings. The bill would also revise the definition of "residential permit fee" to mean 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 that is installed on the property of a single- or 2-family dwelling.

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

SECTION 1. The Legislature finds and declares that nothing in this act is intended to affect the required Contractors State License Board classifications or the field of scope of operations of a contractor licensed pursuant to Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code.

SEC. 2. 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 that is designed to serve one utility retail customer on the same property, more than one utility retail customer on the same property, one utility retail customer on the same, adjacent, or contiguous properties, or more than one utility retail customer on the same, adjacent or contiguous properties, and is not designed for procurement of electricity by an electric utility:

(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, including the following:

(A) Solar racking, solar mounting, and elevated solar support structures, including, but not limited to, solar carports, solar shade structures, solar awnings, solar canopies, and solar patio covers, regardless of whether the feature is on the ground or on a building. Elevated solar support structures include the aboveground superstructure and associated foundation elements that support the solar collectors or other solar energy devices described in paragraph (1).

(B) 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.

(C) 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.

(c) As used in this section, “electric utility” means an electrical corporation as defined in Section 218 of the Public Utilities Code or a local publicly owned electric utility as defined in Section 224.3 of the Public Utilities Code.

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 that is installed on the property of a single- or two-family dwelling.

(f) For purposes of this section, “commercial 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 commercial solar energy system, including, but not limited to, a solar energy system that is installed on the property of multifamily housing that has more than two family dwellings.

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

(h) 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.

(i) Nothing in this section precludes a city, county, city and county, or charter city from conducting a plan check to confirm the safety of a solar energy system pursuant to Section 65850.5 and the California Building Standards Code (Title 24 of the California Code of Regulations).

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