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THIRD READING

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Bill No: AB 1078  
Author: Patterson (R), et al.  
Amended: 6/8/22 in Senate  
Vote: 21

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SENATE ENERGY, U. & C. COMMITTEE: 8-0, 5/31/22  
AYES: Hueso, Dahle, Dodd, Eggman, Grove, Hertzberg, McGuire, Rubio  
NO VOTE RECORDED: Becker, Borgeas, Bradford, Gonzalez, Min, Stern

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 61-0, 1/27/22 (Consent) - See last page for vote

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**SUBJECT:** Energy: building standards: photovoltaic requirements

**SOURCE:** Author

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**DIGEST:** This bill extends by one year, from January 1, 2023 to January 1, 2024, an exemption from the state's solar requirement for residential construction intended to repair, restore, or replace a residential building that was damaged or destroyed as a result of a disaster. This bill also expands, by one year, eligibility for the exemption to homes affected in disasters in the year 2020.

**ANALYSIS:**

Existing law:

- 1) Authorizes the State Energy Resources Conservation and Development Commission (also known as the California Energy Commission (CEC)) to prescribe, by regulation, energy efficiency standards, including appliance efficiency standards. Under this authority, the CEC has established regulations requiring solar-ready buildings and for the installation of solar systems meeting certain requirements for low-rise residential buildings built on or after January 1, 2020. (Public Resources Code §25402)

- 2) Specifies, until January 1, 2023, that residential construction intended to repair, restore, or replace a residential building damaged or destroyed as a result of a disaster in an area in which a state of emergency has been proclaimed by the Governor, before January 1, 2020, is required to comply with the solar requirements, if any, that were in effect at the time the damaged or destroyed residential building was originally constructed and is not required to comply with any additional or conflicting solar requirements in effect at the time of repair, restoration, or replacement. Provides that this provision applies if certain requirements are met with respect to the owner's income and insurance coverage and the location and square footage of the construction. (Public Resources Code §25402.13)
- 3) Requires electric utilities to procure 60 percent of their retail sales of electricity from renewable energy by 2030. This is known as the Renewable Portfolio Standard (RPS). (Public Utilities Code §399.11 et seq.)
- 4) Requires every electric utility (other than a local public owned utilities that serves more than 750,000 customers and that also conveys water to its customers) to offer net-energy metering (NEM) to eligible customer-generators, upon request, on a first-come-first-served basis until the total rated generating capacity used by eligible customer-generators exceeds five percent of the electric utility's aggregate customer peak demand. (Public Utilities Code §2827)
- 5) Directs the California Public Utilities Commission (CPUC) to develop a standard tariff or contract, known as the "successor tariff," for eligible customer-generators with a renewable electrical generation facility no later than December 31, 2015. Requires, for each large electrical corporation, using the successor tariff, to continue to offer NEM to its customers on July 1, 2017, or upon reaching the five-percent NEM program limit, whichever is earlier. (Public Utilities Code §2827.1)

This bill:

- 1) Extends, by one year, the application of the exemption from the CEC's requirements for the installation of solar systems until January 1, 2024.
- 2) Expands the application of the exemption to include emergencies declared by the Governor in the 2020 calendar year.
- 3) Requires the CEC to collect data on the use and application of the exemption from local permitting agencies and, on or before March 1, 2023, and again on or

before March 1, 2024, to prepare and submit a report to the relevant policy committees of the Legislature concerning the exemption.

- 4) Imposes a state-mandated local program, because a local agency would be required to determine whether those requirements are met.

## **Background**

*California's building energy efficiency standards and solar mandate.* California's building energy efficiency standards are updated approximately every three years. The 2019 Building Energy Efficiency Standards, which went into effect on January 1, 2020, are the first in the nation to require solar systems for new building construction. The standards also include improved insulation, residential and nonresidential ventilation requirements, and nonresidential lighting requirements. For residential buildings, according to the CEC, the standards will result in about 53 percent less energy use than under the 2016 standards. The CEC further estimates that the new standards will reduce greenhouse gas emissions by 700,000 metric tons over three years. CEC's energy efficiency standards are adopted by the Building Standards Commission as part of the *California Building Standards Code*, which serves as the basis for building and construction in California.

*Statute requires that CEC's standards must be "cost-effective."* CEC estimates that based on a 30-year mortgage, the 2019 standards will add about \$40 per month in costs and result in about \$80 per month in reduced energy costs. According to the CEC, on average, a solar system adds about \$9,500 to the cost of a new home and will result in a savings of \$19,000 in energy costs over 30 years. The up-front costs for solar have decreased over the past several years and many in the industry anticipate continued declines. However, more recently, costs for solar installations have seemed to inch upwards, with average installation costs reportedly between \$16,000 to \$27,000, before federal incentives. Nonetheless, there are many variables to the overall cost of solar installation, including the size of the panels. CEC established a few exemptions to the new solar requirement, including homes that are shaded by trees, hills, other structures. Homeowners in areas with community solar programs are also exempt from the requirement.

*AB 178 (Dahle, Chapter 259, Statutes of 2019).* AB 178 provides that homes being rebuilt, due to a disaster that occurred before January 1, 2020, are exempted from the state building standards requirement to install rooftop solar, if one, or more, additional requirement(s) is met. Specifically, residential properties that meet any of the following four criteria are exempted: the homeowner's income is below the county's average median income (AMI), the homeowner lacked code upgrade insurance coverage, the home is being built on the same plot as the home

that was destroyed, or the size of the new home is the same as the destroyed home. With regards to the AMI, the California Department of Housing and Community Development establishes the annual state income limits and the AMI varies by each county. Per AB 178, local building permit agencies would need to account for these requirements in processing building permit applications. In the case of the size of the home and whether the new home is on the same land as the destroyed home, the building permit agency could easily verify this information. However, in the case of the property owner's income and lack of insurance coverage for code upgrades, the building permit agency would likely need to provide the applicant with a document to self-certify and attest to the information.

*Net Energy Metering.* The vast majority of solar customers are enrolled in NEM (NEM 1.0) or NEM Successor (NEM 2.0) tariffs, established by statute and CPUC decisions. The NEM program supports onsite renewable energy (largely rooftop solar) installations designed to offset a portion, or all, of the customer's electrical energy usage. Under NEM, customers receive a bill credit (in dollars) based on the retail rate (including generation, transmission, and distribution rate components) for any excess generation (in kilowatt hours (kWh)) that is exported back to the grid. In periods when a customer's bill is negative (because the amount of energy the solar system exported to the grid exceeded the amount of energy consumed by the customer), this bill credits are carried forward up to one year, at which point customers may elect to receive net surplus compensation for any electricity produced in excess of on-site energy usage.

*Solar system payback period likely affected.* The CPUC has initiated a proceeding to develop a successor to the NEM 2.0 tariff, as part of its commitment in a previous decision to review the current tariff pursuant to a requirement in statute. The CPUC noted the need to address grid reliability shortfalls during net peak hours in the early evening when the sun is down and there is a greater reliance on fossil fuels to meet demand. CPUC further states that the current NEM program does not incentivize pairing storage systems with solar systems, which would help with addressing the net peak hours, when solar and wind resources are not available. Customers without solar energy systems, who are more likely to be low-income, pay higher electricity rates to pay for solar rates for customers with solar. The CPUC estimates that low-income households pay \$67 to \$128 more per year due to the costs of NEM systems, while non-low-income households pay \$100 to \$234 more annually.

*CPUC issues proposed decision.* In December 2021, the CPUC released a proposed decision which includes numerous changes to NEM that combined would suggest a change to the payback period for solar energy systems from the current

three to five years to 10 or more years. While these changes may provide equity for customers who are not able to install solar energy systems in the form of reduced electric rates, they will affect the pace of the payback period for customers installing solar systems, especially solar systems without storage, including for property owners who are required to install systems per the building codes. However, a revised proposed decision is pending as the CPUC is currently soliciting additional stakeholder comments after concerns were raised by the proposed decision issued in December.

*Governor's proposed May Budget Revision proposes incentives for solar and storage.* The May Revision proposes \$970 million to the CPUC to provide residential solar and storage system incentives, including for low-income households. Specifically, the proposal consists of \$670 million for solar and storage systems for low-income households and also includes \$300 million for additional storage installations paired with existing residential solar systems.

*Emergency declarations.* Unfortunately, California has been no stranger to disasters in recent years. Within the past two years or so, the Governor has made over 30 declarations of emergency largely due to severe storms or fires which have affected all 58 of the state's counties, except Imperial County. This bill would apply to any home damaged or destroyed in a disaster in an area in which the Governor has declared a state of emergency as of January 1, 2021, instead of January 1, 2020. The additional year of declarations include several fires throughout the state, including Zogg, Valley, and other fires.

## **Comments**

*AB 1078.* This bill extends, by one year, the current exemption from the CEC's solar mandate for residential properties affected by disasters and expand by an additional year the disasters that would qualify a property for the exemption to include residential properties affected in calendar year 2020. This bill also requires the CEC to collect data on use of the exemption and report this information annually to the Legislature.

*Need for this bill.* There are many variables to the costs of repairing or rebuilding a home or residential structure after a disaster, including costs related to labor, permitting, supplies, insurance coverage, and others. The author and proponents of this bill wish to alleviate victims of disasters, especially those affected by wildfires, by authorizing these victims to forgo the additional costs associated with installing solar systems when rebuilding their homes or residential properties after a disaster. The opponents of this bill contend that solar installations, in the long-term, provide homeowners with operational savings from reduced energy bills.

**Related/Prior Legislation**

AB 2143 (Carrillo, 2022) requires prevailing wages are paid for renewable energy installations with a generating capacity of more than 15 kW that receives service pursuant to an electric utility's NEM tariff. The bill is pending in the Senate Committee on Labor, Public Employment, and Retirement.

AB 178 (Dahle, Chapter 259, Statutes of 2019) exempted, until January 1, 2023, residential construction from complying with the solar requirements in the recently adopted building standards when the construction is in response to a disaster in an area in which a state of emergency has been proclaimed by the Governor.

AB 217 (Bradford and De León, Chapter 609, Statutes of 2013) extended the low-income programs of the California Solar Initiative from 2016 until 2021, authorized the collection of an additional \$108 million for these programs, and added additional standards to the program, as specified.

AB 327 (Perea, Chapter 611, Statutes of 2013) restructured the rate design for residential electric customers and revised the NEM program.

SB 1 (Murray, Chapter 132, Statutes of 2006) established the electric portion of the CSI with a 10-year budget of \$2.2 billion collected from ratepayers.

**FISCAL EFFECT:** Appropriation: No Fiscal Com.: Yes Local: Yes

**SUPPORT:** (Verified 6/21/22)

California Builders Alliance  
County of Fresno  
Pine Ridge Volunteer Fire Department  
Rural County Representatives of California  
Sacramento Regional Builders Exchange  
Valley Contractors Exchange

**OPPOSITION:** (Verified 6/21/22)

350 Sacramento  
California Solar & Storage Association  
Natural Resources Defense Council  
Sierra Club

**ARGUMENTS IN SUPPORT:** According to the author, “AB 1078 is an appropriate, fair, and limited measure to help ease the burden of rebuilding one’s life after all was destroyed by a wildfire.”

Rural County Representatives of California states:

As these communities [those affected by wildfires] begin rebuilding, many insured homeowners are finding themselves underinsured. Rebuilding is even more difficult for uninsured homeowners. This is becoming an even larger problem because many insurers are canceling policies for those who live in high-fire risk areas and homeowners are finding that they cannot afford replacement policies.

While it is admittedly less expensive to install solar panels on a newly-constructed home, even those reduced costs add up and make rebuilding harder and more expensive for those who have already lost everything and may not have the resources necessary to rebuild the life they once had.

**ARGUMENTS IN OPPOSITION:** In opposition to this bill, the California Solar & Storage Association states:

While AB 1078 is purported to be relief to families needing to rebuild their homes, the reality of the bill is an attack on solar. Homes rebuilt after fires still need to follow the rest of the building standards – including today’s requirements for attic insulation, double-paned windows, and energy efficient appliances – many of which carry high price tags.

Singling out rooftop solar as a burden to rebuilding homes while continuing to require new energy efficiency features for rebuilt homes is unjustified. In reality, rooftop solar makes housing more affordable by allowing the homeowner or tenant to buy less electricity from the utility, thus lowering their energy bills.

ASSEMBLY FLOOR: 61-0, 1/27/22

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Cervantes, Choi, Cooley, Cooper, Cunningham, Daly, Davies, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Gipson, Grayson, Holden, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Mathis, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes,

Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone,  
Ting, Valladares, Ward, Wicks, Wood, Rendon  
NO VOTE RECORDED: Mia Bonta, Carrillo, Chen, Megan Dahle, Flora,  
Eduardo Garcia, Gray, Irwin, Maienschein, Mayes, Blanca Rubio, Villapudua,  
Voepel, Waldron, Akilah Weber

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