

Date of Hearing:

ASSEMBLY COMMITTEE ON UTILITIES AND ENERGY

Eduardo Garcia, Chair

SB 379 (Wiener) – As Amended May 31, 2022

**SENATE VOTE:** 31-1

**SUBJECT:** Residential solar energy systems: permitting

**SUMMARY:** This bill requires cities and counties, as specified, to implement an online, automated permitting platform for residential solar energy systems, as specified. This bill also requires local jurisdictions to provide specified reporting to the California Energy Commission (CEC). Specifically, **this bill:**

- 1) Requires every city, county, or city and county, in consultation with the local fire department, district, or authority, to implement an online, automated permitting platform, such as SolarAPP+, that meets both of the following requirements:
  - a. The platform verifies code compliance and issues permits in real time or allows the city, county, or city and county to issue permits in real time to a licensed contractor for a residential solar energy system that is no larger than 38.4 kilowatts (kW) alternating current nameplate rating and an energy storage system paired with a residential solar energy system that is no larger than 38.4kW alternating current nameplate rating,
  - b. The platform is consistent with the system parameters and configurations, including an inspection checklist, of SolarAPP+.
- 2) Provides that a city, county, or city and county is not required to permit an application for a residential solar energy system or residential energy storage system paired with a residential solar energy system through the online automated permitting platform pursuant to this bill if the system configuration is not eligible for SolarAPP+ at the time the application is submitted to the jurisdiction.
- 3) Prescribes a compliance schedule for satisfying these requirements, which would exempt a city with a population of fewer than 5,000 or a county with a population of fewer than 150,000 including all cities within that county.
- 4) Requires a city with a population of 50,000 or fewer that is not otherwise exempt to satisfy these requirements by September 30, 2024, while cities and counties with populations greater than 50,000 that are not otherwise exempt would be required to satisfy the requirements by September 30, 2023.
- 5) Requires a city, county, or city and county to report to the CEC when it is in compliance with the requirements of this bill.
- 6) Requires cities and counties to self-certify their compliance with this bill's provisions when applying for funds from the CEC except for the \$20 million in funds available pursuant to the 2021 budget bill authorizing the initial SolarAPP+ pilots in California (Section 76 of Chapter 69 of the Statutes of 2021).

- 7) Requires the CEC to set guidelines for cities and counties to report to the CEC on the number of permits issued for residential solar energy systems and residential energy storage systems paired with residential solar energy systems and the relevant characteristics of those systems.
- 8) Provides that this bill does not limit or otherwise affect the generator interconnection requirements and approval process for a local publicly owned electric utility (POU) or an electrical corporation.

**EXISTING LAW:**

- 1) Requires a city or county to administratively approve applications to install solar energy systems through the issuance of a building permit or similar nondiscretionary permit. Requires every city, county, or city and county to develop a streamlined permitting process for the installation of small residential rooftop solar energy systems, as that term is defined. (Government Code §65850.5)
- 2) Prescribes and limits permit fees that a city or county may charge for a residential and commercial solar energy system. (Government Code §66015)
- 3) Creates the CEC in the Natural Resources Agency and prescribes its duties, which include administering programs for the installation of solar energy systems. (Public Resources Code §25200)

**FISCAL EFFECT:** According to the Senate Appropriations Committee, this bill generates one-time CEC costs of approximately \$150,000 for 1 PY of staff time to develop and adopt guidelines through the Office of Administrative Law. The CEC may also incur additional one-time and ongoing costs to establish and administer systems to accommodate the solar energy and storage system permitting data reported by cities and counties to the CEC. (Energy Resources Programs Account) Additionally, by requiring specified local officials to report information on the numbers of permits issued and the characteristics of solar energy and storage systems to the CEC, this bill creates a state-mandated local program. To the extent the Commission on State Mandates determines that the reporting provisions create a new program or impose a higher level of service on local agencies, those local agencies could claim state reimbursement for those local costs (General Fund). Appropriations staff notes that local costs to implement an online automated permitting platform are not likely to be reimbursable because cities and counties may set permit fees to offset those costs.

**BACKGROUND:**

*Solar energy systems* – The cost of installing solar energy systems—devices or structural design features that collect, store, and distribute solar energy for heating, cooling, and electricity generation—has dropped dramatically over the past decade, from \$7.53/watt for a residential photovoltaic (PV) system in 2010 to \$2.71/watt in 2020, according to National Renewable Energy Laboratory (NREL) benchmarks for these systems. Initial cost reductions were largely due to cheaper solar panels. However, in recent years, this trend has continued because of reductions in “soft costs,” such as sales taxes, supply chain efficiencies, installer and developer profit, indirect corporate costs, transaction and financing costs, customer acquisition, permitting,

and other non-hardware costs. Although soft costs have been declining, they have not dropped as much as hard costs. As a result, soft costs are increasing as a share of the system's total cost. According to NREL, soft costs comprised about 64% of the total system price for residential solar PV systems in 2020.

*Solar energy system permitting* – Although exact procedures vary by location, the procedure for approving a solar energy system permit is similar to the procedure for approving a building permit. Typically, the solar installation company or customer submits an electrical diagram and roof layout plan to the city or county building department. If the plan is approved, the installer or customer pays a permit fee and starts the installation project.

*AB 2188 (Muratsuchi, Chapter 521, Statutes of 2014)* – In 2014, the Legislature required local governments to streamline their permitting processes for certain solar systems. AB 2188 requires every city and county, including charter cities, to adopt an ordinance that creates an expedited, streamlined permitting process for small residential rooftop solar energy systems. For purposes of AB 2188, solar systems are those that are sized no larger than 10 kW for PV systems and 30 kW for thermal systems, and that are installed on a single family or duplex family dwelling, and meet other conditions. AB 2188 requires each city and county to develop a checklist of all requirements that allow rooftop solar energy systems to be eligible for expedited review, and requires them to approve all complete applications that meet the requirements of the checklist.

AB 2188 also limits local governments to administrative—nondiscretionary—review of solar energy system permits. Local governments cannot review permits based on standards other than health or safety, so they cannot require design review. The permitting process must generally conform to procedures identified in the “Solar Guidebook” developed by the Office of Planning and Research (OPR), with modifications allowed only due to unique climactic, geological, seismological, or topographical conditions. Under AB 2188, only one inspection may be required for small residential rooftop solar energy systems that qualify for expedited review.

*AB 546 (Chiu, Chapter 380, Statutes of 2017)* – In addition to AB 2188, state law, pursuant to AB 546, required cities and counties to make all documentation and forms associated with the permitting of advanced energy storage, such as battery systems, available online. The city or county must also allow for electronic submittal and signatures of a permit application, much as is required for solar energy system permitting.

*Lower fees for solar permitting* – To address some soft costs, the Legislature capped building permit fees that local agencies can charge for residential and commercial solar energy systems: first by SB 1222 (Leno, Chapter 614, Statutes of 2012) until January 1, 2018, and then until January 1, 2025 by AB 1414 (Friedman, Chapter 849, Statutes of 2017). AB 1414 caps fees at the following limits:

	<b>Base Fee</b>	<b>Additional Fees</b>
Residential	\$450 for PV systems up to 15 kilowatt (kW) or solar thermal systems up to 10 kilowatt thermal (kWth)	\$15 per kW for each kW above 15kW; or  \$15 per kWth for each kWth above 10kWth

Commercial	\$1,000 for PV systems up to 50kW or solar thermal systems up to 30kWth	<p>\$7 kW for each additional kW between 51kW and 250 kW, plus \$5 per kW for each kW above 250 kW; or</p> <p>\$7 per kWth for each kWth between 30kWth and 260kWth, plus \$5 per kWth for each kWth above 260kWth</p>
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A city or county can charge permit fees exceeding these caps, provided that the city or county makes a written finding and adopted a resolution or ordinance showing substantial evidence of the reasonable cost to issue the permit. The city or county must also include in its finding:

- A determination that it has adopted appropriate ordinances to streamline the application and approval process in line with guidelines issued by the OPR, other state guidelines, and model ordinances.
- A calculation related to the administrative cost of issuing a solar permit that includes consideration of reductions in permitting cost due to adopting the streamlined processes under AB 2188, described below.
- A description of how the higher fee will result in a quick streamlined approval process.

AB 1124 (Friedman, Chapter 235, Statutes of 2021) subsequently clarified the definition of solar energy system for the purposes of establishing solar easements and determining which fees are capped, such that the support structures, such as carports, are also included.

*SolarAPP+ and online platforms for residential solar system permitting* – SolarAPP+ is an online platform for rapid building permitting of solar energy systems and associated battery storage that can check an application for code compliance and instantly issue an approval or denial. The NREL developed the SolarAPP+ software in collaboration with the other entities, including:

- International Code Council, which develops the code behind the California Residential and Building Codes;
- The National Fire Protection Association, which develops the code behind the California Electrical Code;
- UL, which develops some of the standards for the equipment that make up a solar energy system (e.g., solar modules); and
- The International Association of Electrical Inspectors.

SolarAPP+ integrates with certain popular planning programs, but can also be operated as a standalone application. This software is provided for free to local jurisdictions; applicants pay an administrative fee to defray the costs of the program. Local jurisdictions must also train staff and adjust documents and systems in order to enable SolarAPP+ in their jurisdiction. According to the sponsors of this bill, these costs can range in the tens of thousands of dollars. In November 2020, the City of Pleasant Hill, California was the first city in the nation to issue a permit for a solar energy system using SolarAPP+. According to NREL, 10 jurisdictions in California have

adopted, or are in the process of adopting, SolarAPP+, while four jurisdictions, such as the City of San Jose, have developed their own online permitting systems.

*2021-22 Budget appropriates \$20 million for grants to local jurisdictions* – SB 129 (Committee on Budget, Chapter 69, Statutes of 2021) appropriated \$20 million from the General Fund to the CEC to support a grant program for cities, counties, or cities and counties to establish online solar permitting. The CEC is now soliciting applications to the California Automated Permit Processing (CalAPP) Program through a Grant Funding Opportunity (GFO). Funds are available for encumbrance until June 30, 2023, and available for liquidation until June 30, 2027.

#### COMMENTS:

- 1) *Author's Statement.* According to the author, “SB 379 requires jurisdictions of a certain size to implement an automated online solar permitting system for residential rooftop solar systems. Although the costs of solar hardware have decreased by 80% in the past 15 years, the ‘soft’ costs associated with permitting are still a massive barrier. Beyond the cost, the unnecessary delays associated with solar permitting result in upwards of 10% of applicants rescinding their application prior to approval. This is a major hindrance to California’s clean energy goals, as current models suggest that the state will need to triple solar and wind capacity in order to meet 100% renewable energy by 2045. In order to address this delay and the costs associated with permitting, SB 379 will require that an online automated permitting system be utilized. In jurisdictions such as San Jose, the implementation of an automated system resulted in an increase in solar applications of over 600%.”
- 2) *Concern over application processing delays.* Despite the existing requirements regarding solar energy system permitting, the solar industry and advocates for distributed solar generating systems remain concerned with permitting delays. The industry and advocates express concerns that permitting and inspection practices are inconsistent across jurisdictions, requiring installers to take the time to become familiar with the practices of each jurisdiction. They further express concerns that municipal permitting and inspection resources also vary greatly, and in some cities the gap between system installation and an inspector’s permission to operate might take months. The proponents express concerns that such complications can lead to higher labor and overhead costs on the part of the installer, and in some cases can lead to the outright cancelation of the project by the customer. The proponents of SB 379 believe mandating the use of an online solar permitting software will help address many of these concerns. According to data collected by NREL, the median time to permit approval in California is four days, although NREL also notes that delays can add weeks or months to the process.
- 3) *Carrot or a stick?* This bill would require local jurisdictions to self-certify its compliance with the automated permitting platform mandate whenever they apply for funds from the CEC, other than the \$20 million grant program. This includes other grant and loan funding opportunities administered by the agency, including those unrelated to the automated solar permitting such as the Clean Transportation Program for alternative or clean transportation fuels. While the desire for an additional stick—in combination with the \$20 million grant funding carrot—is understandable, the Legislature may wish to proceed with caution in requiring self-certification on such a broad bases of programs.

4) *Double Referral*. This bill was previously heard in the Assembly Committee on Local Government on June 15<sup>th</sup>, 2022, where it passed with a 6-1-1 vote.

5) *Prior Legislation*:

SB 617 (Wiener, 2021) proposed similar requirements on local permitting jurisdictions to implement an online, automated permitting platform that verifies code compliance and issues permits in real time to a licensed contractor for a solar energy system, as specified. This bill also would have authorized the CEC to provide technical assistance and grant funding to cities and counties to comply with the requirements for the online platform. Status – held under submission in the Senate Committee on Appropriations.

AB 1124 (Friedman) revised the definition of “solar energy system” to additionally include any structural design feature by eliminating the provision that it be a feature of a building. Status – Chapter 235, Statutes of 2021

SB 129 (Committee on Budget) authorized \$20 million from the General Fund to the CEC to support a grant program for cities, counties, or cities and counties to establish online solar permitting. Status – Chapter 69, Statutes of 2021

AB 546 (Chiu) required cities and counties to post online the materials required for permitting of energy storage systems. Status – Chapter 380, Statutes of 2017

AB 1414 (Friedman), until January 1, 2025, lowered the cap on local government permit fees for rooftop solar energy systems and extends the cap to cover solar thermal systems. The bill also expanded the definition of solar energy system to include PV systems integrated into other parts of a building. Status – Chapter 849, Statutes of 2017

AB 2188 (Muratsuchi) required every city and county to adopt an ordinance that creates an expedited, streamlined permitting process for small residential rooftop solar energy systems. Status – Chapter 521, Statutes of 2014

SB 1222 (Leno) capped local government building permit fees for residential and commercial rooftop solar energy systems. Status – Chapter 614, Statutes of 2012

AB 2473 (Wolk) required cities and counties to permit the installation of solar energy systems by right if the system meets specified requirements, and redefined the term “significantly” in regard to restrictions on solar systems that raise costs or decrease efficiency. Status – Chapter 789, Statutes of 2004

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

350 Bay Area Action

350 Humboldt

350 Humboldt: Grass Roots Climate Action

350 Sacramento

Adt Solar

Adt, INC.  
Advanced Energy Economy  
Alameda County Democratic Party  
Bay Area Council  
Berkeley; City of  
Board of Supervisors for The City and County of San Francisco  
Brightline Defense  
California Association of Realtors  
California Environmental Voters  
California Environmental Voters (formerly Clcv)  
California Solar & Storage Association  
Center for Sustainable Energy  
Chair Lea Simon- Weisberg, Berkeley  
City of El Cerrito, Mayor Pro Tem Gabriel Quinto  
City of Emeryville, Mayor Dianne Martinez  
City of Perris, Mayor Michael Vargas  
City of Walnut Creek Mayor Kevin Wilk  
Climate Reality Project, San Fernando Valley  
Coachella Valley Association of Governments (CVAG)  
Commissioner Paola Laverde, Berkeley  
Council Member Chris Ricci, Modesto District 3  
Councilmember Adele Andrade Stadler, Alhambra  
Councilmember Ben Bartlett, Berkeley  
Councilmember DAN Kalb, City of Oakland  
Councilmember Dennis Pocekay, Petaluma  
Councilmember Eduardo Martinez, Richmond  
Councilmember Erin Minett, Nevada City  
Councilmember Glenn Grandis, Fountain View  
Councilmember Hung Wei, Cupertino  
Councilmember Jenny Kassan, Fremont  
Councilmember Kate Harrison, Berkeley  
Councilmember Kathy Watanabe, Santa Clara  
Councilmember Kevin Mckeown, Santa Monica  
Councilmember Kristin Mccowan, Santa Monica  
Councilmember Loren Taylor, City of Oakland  
Councilmember Mikke Pierson, Malibu City Council  
Councilmember Rebecca Garcia, Watsonville City Council District 5  
Councilmember Ronaldo Fierra- Riverside  
Councilmember Ruth Luevanos, Simi Valley  
Councilmember Salvador Solorio-ruiz, Delano  
Councilmember Sara Lamnin, Hayward  
Councilmember Sophie Hahn, Berkeley  
Councilmember Terry Taplin, Berkeley

Councilmember Tony Madrigal, Modesto Council City District 2  
Councilmember Valerie Arkin, Pleasanton  
Councilmember Victor Aguilar, San Leandro  
Desert Valleys Builders Association  
E2 (environmental Entrepreneurs)  
Electric Ratepayers Alliance  
Environment California  
Environmental Defense Fund  
Greenwork INC  
Grid Alternatives  
Habitat for Humanity California  
Habitat for Humanity East Bay/silicon Valley  
Habitat for Humanity Greater San Francisco  
Local Solar for All  
Los Angeles Business Council  
Mayor Alma Beltran, Parlier  
Mayor Ariston Julian, Guadalupe  
Mayor David Potter, Carmel By-the-sea  
Mayor of Richmond Tom Butt  
Mayor Pauline Cutter, San Leandro  
Mayor Sue Himmelrich, Santa Monica  
Mayor Teresa Barrett, Petaluma  
Mountain View Council Member Alison Hicks  
Natural Resources Defense Council  
San Diego Housing Federation  
San Francisco Board of Supervisors  
San Francisco Housing Action Coalition  
Sierra Club California  
Silicon Valley Youth Climate Action  
Solar and Fire Education  
Solar and Fire Education (SAFE)  
Solar Rights Alliance  
South San Francisco Councilmember James Coleman  
Southern California Association of Non-profit Housing  
Spur  
Sunpower Corporation  
Supervisor Ahsha Safai, San Francisco Board of Supervisors  
Supervisor Carmen Ramirez- Ventura County  
Supervisor Das Williams, Santa Barbara County  
Supervisor Jaron Brandon, Tuolumne County  
Supervisor Miguel Villapudua- San Joaquin County  
The Climate Center  
Vice Chair Soli Alpert, Berkeley



Vice Mayor Katherine Lee, Alhambra  
Vote Solar  
Watsonville Director of Public Works, Steve Palmisano

**Opposition**

California Contract Cities Association

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