

M e m o r a n d u m

Date: March 28, 2008

To: The Commission
(Meeting of April 10, 2008)

From: Bryan Crabb, Legislative Liaison
Office of Governmental Affairs (OGA) — Sacramento

Subject: **AB 2804 (Hayashi) – California Solar Initiative.**
As introduced: February 22, 2008

LEGISLATIVE SUBCOMMITTEE RECOMMENDATION: OPPOSE

SUMMARY OF BILL:

AB 2804 would require the California Public Utilities Commission (Commission) to grant special status to school buildings, as defined in Section 17283 and 81050 of the Education Code, in the implementation of the California Solar Initiative (CSI) Program. This special status would recognize the additional requirements that are applicable to the modernization and alteration of a school building, potentially providing them with additional project implementation time, monetary incentives or more lenient system design guidelines. However, AB 2804 does not address how these “flexible requirements” for school solar projects should be implemented in the context of the CSI Program’s existing program rules that provide opportunities for extensions for schools, as well as other government entities.

SUMMARY OF SUPPORTING ARGUMENTS FOR RECOMMENDATION:

- **AB 2804 is a duplication of the existing services provided by the CSI program provided by the Commission.** The Commission’s CSI program was designed with an understanding that schools, as well as other government entities, face special challenges in completing solar projects. Government and non-profit organizations, including schools, are already granted special status under the California Solar Initiative (CSI) and receive a higher monetary incentive and six months of additional project implementation time (18 months as opposed to 12 months for other applicants). Additionally, all projects in the California Solar Initiative are eligible for timeline extensions of up to 180 days on a case-by-case basis.

- **AB 2804 would provide special consideration to schools as a separate customer class.** There is no need to change State law to address a single and specific customer class. Other public buildings, such as recreation centers, have physical and monetary constraints similar to those experienced by schools. All projects faced with similar constraints should be treated equally under the CSI Program.
- **AB 2804 does not specify why schools need additional time, and does not suggest how CSI should implement “flexible requirements” for school projects.** The Commission’s Energy Division staff does not have data to suggest that schools, in particular, require special consideration beyond that of the current government & non-profit category. The CSI program began in 2007 and will be subject to a comprehensive review in 2009, at which point more data will be available and it may be more appropriate to consider such program changes at that time.
- **The existing CSI Program has a process in place to handle program changes suggested in AB 2804.** Any party seeking changes to the California Solar Initiative Program may raise their suggestion at a CSI Program Forum. If supported, the CSI program administrators can file a Program Handbook modification via Advice Letter. Numerous minor program changes have already taken effect via Program Handbook changes. If a change is required of a decision, a party may file a Petition To Modify (PTM) the Program with the CPUC, outlining reasons for the proposed changes and suggesting how the proposed changes are to be implemented. The PTM is considered by CPUC and either granted or rejected, in part or whole. The changes suggested by 2804 could be handled via an Advice Letter, and if absolutely necessary, via a PTM. This may be a more appropriate way to address the changes implied in AB 2804.

SUMMARY OF SUGGESTED AMENDMENTS:

None.

DIVISION ANALYSIS (Energy Division):

- Under the California Solar Initiative:
 - **School projects are already given both *additional implementation time and additional incentive dollars*.** As written, AB 2804 does not require any changes to the current CSI program – it just says that we should offer "flexibility", which already exists. If that "flexibility" had more specificity, AB 2804 would create a third incentive category—schools—separate from the government and non-profit category that currently exists, and require ratepayers to pay additional incentives and grant additional time to this single and specific applicant class;

- **Government and non-profit entities are already granted additional monetary incentives.** Commission decision D.06-08-028¹, the second of three CPUC decisions implementing the California Solar Initiative Program, anticipated that tax-exempt entities such as schools would require higher monetary incentives than taxed entities because schools and other government and non-profit entities would not be able to take advantage of any tax credits in financing their solar system. Therefore, the decision created a separate and higher class of government and non-profit incentives.
- **Government and non-profit entities are also granted additional project implementation time, with the opportunity for extensions.** The CSI Program Handbook² recognizes the unique physical and administrative issues associated with government and non-profit projects and grants these projects an additional six months of project implementation time. Government and non-profit applicants, including schools, have 18 months to complete their solar projects, while regular commercial and residential projects have 12 months to complete their solar projects. The CSI Program Handbook also allows Program Administrators to grant up to an additional 180 days of project implementation time if an applicant can demonstrate real need for an extension.
- This bill does not require any program changes. However, if the bill were create a special category for school solar projects and require additional project implementation time, monetary incentives and/or relaxed system design requirements, changes would have to be made to the application process, which is currently integrated with the program database. The database was developed and is managed by a third party, who would be responsible for implementing the technical changes required to administer a third category of CSI applicants. Additionally, the CSI Program Handbook would have to be changed by CPUC Energy Division staff to clearly reflect the special considerations—in either time or money—to be given to school buildings.
- Other states' and/or federal information:
 - Federal solar tax credits are not provided to “government” and “non-profits.” Under CSI, these entities are given additional monetary incentives to compensate for this fact.
 - The Vermont Solar and Small Wind Incentive Program provides incentives of \$1.75 / watt up to a maximum of \$8,750 for all customers, regardless of status. The same incentive level and project timeline is provided for residential, commercial, government and non-profit projects³. There is no

¹ Available at: http://docs.cpuc.ca.gov/WORD_PDF/FINAL_DECISION/59186.PDF

² Available at: http://www.cpuc.ca.gov/NR/rdonlyres/A4E6B6BD-0D6E-4C5F-BBA1-F2712B491577/0/CSI_Handbook_1_08.pdf

³ Please see the Vermont Solar and Small Wind Incentive Program website for additional information: <http://www.nerc-vt.org/incentives/index.htm>

special category for schools under this program.

- The Customer On-Site Renewable Energy Program (CORE Program) in New Jersey offers two rebate categories to customers who install solar: a lower rebate available to all private projects, and a separate higher rebate available to school projects⁴.
- In Boulder, Colorado, the City provides a tax rebate to all entities that purchase and install solar equipment. Non-profits and affordable housing projects can apply for additional solar grants through the ClimateSmart Solar Grant program⁵. There is no separate grant category for schools.

PROGRAM BACKGROUND:

The CSI program was created by the Commission to further the state's goal to create 3,000 MW of new, solar-produced electricity by 2017 - moving the state toward a cleaner energy future and helping lower the cost of solar systems for consumers. The CSI statewide budget is \$3.3 billion over 10 years. With a 10-year commitment for solar incentives, and under legislative direction, California aims to build a self-sustaining solar industry free from ratepayer subsidies after 2016.

LEGISLATIVE HISTORY:

None.

FISCAL IMPACT:

Minor cost to employ additional Commission staff to reconstruct the existing Powerlink database that tracks CSI applications and program statistics.

- A junior-level Public Utilities Regulatory Analyst (PURA I, II or III) would be required to update the CSI Program Handbook.
- An Energy Division Supervisor and a CPUC Administrative Law Judge (I) would be required to review the Handbook changes, which would require several full days of their time.
- Energy Division staff would also be required to coordinate with the CSI Program Administrators on the implementation of AB 2804.

⁴ Please see New Jersey's CORE Program website for additional information:
<http://www.njcleanenergy.com/renewable-energy/programs/core-rebate-program/incentives/core-rebate-program>

⁵ Please see Boulder, Colorado's ClimateSmart Solar Grant program website for additional information:
http://www.bouldercolorado.gov/index.php?option=com_content&task=view&id=7700&Itemid=2845

- A third party contractor manages the development of the CSI Powerclerk database, and it would take several full work days and at least \$10,000 to implement the changes necessary under AB 2804.

This proposed Petition to Modify (PTM) the exiting CSI Program will constitute additional work required by the Energy Division staff, as well as additional time of Administrative Law Judges.

STATUS:

AB 2804 is scheduled to be heard before the Assembly Committee on Utilities and Commerce on April 7, 2008.

SUPPORT/OPPOSITION:

None on file.

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Date: March 28, 2008

BILL LANGUAGE:

BILL NUMBER: AB 2804 INTRODUCED
BILL TEXT

INTRODUCED BY Assembly Member Hayashi

FEBRUARY 22, 2008

An act to add Section 2851.5 to the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 2804, as introduced, Hayashi. Renewable energy resources: California Solar Initiative.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations. A decision of the commission adopted the California Solar Initiative. Existing law requires the commission to undertake certain steps in implementing the California Solar Initiative, including authorizing the award of monetary incentives for up to the first megawatt of alternating current generated by a solar energy system, as defined, with the incentive level declining each year following implementation at a rate of no less than an average of 7% per year.

This bill would require the commission, in implementing the California Solar Initiative, to utilize flexible design and build out completion requirements for a school building, as defined, that recognize the additional requirements that are applicable to the modernization or alteration of a school building.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

SECTION 1. Section 2851.5 is added to the Public Utilities Code, to read:

2851.5. (a) In implementing the California Solar Initiative, the commission shall utilize flexible design and build out completion requirements for a school building, as defined in Section 17283 and 81050 of the Education Code, that recognize the additional requirements that are applicable to the modernization or alteration of a school building.

(b) This section does not limit the authority of the commission to utilize flexible design and build out completion requirements for other categories of buildings that, because of special requirements, generally need more time to complete the planning, design, and build out of solar energy systems than the average commercial building.