

ASSEMBLY BILL

No. 303

Introduced by Assembly Member Addis

January 23, 2025

An act to add Chapter 14 (commencing with Section 66350) to Division 1 of Title 7 of the Government Code, and to amend Section 25545 of the Public Resources Code, relating to energy, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 303, as introduced, Addis. Battery energy storage facilities.

Existing law, until June 30, 2029, authorizes a person proposing an eligible facility, including an energy storage system capable of storing 200 megawatthours or more of energy, to submit an application for certification with the State Energy Resources Conservation and Development Commission of the site and related facility. Existing law specifies that the issuance by the commission of the certificate is in lieu of any permit, certificate, or similar document required by any state, local, or regional agency, or federal agency to the extent permitted by federal law, except as provided. Existing law establishes the procedures by which the commission is to review the application.

This bill would specify that energy storage systems do not include battery energy storage systems for the above-described purposes. The bill would require the commission to deny applications for a battery energy storage system that are pending as of the effective date of the bill.

Existing law, the Planning and Zoning Law, sets forth various requirements relating to the review of development project permit

applications and the issuance of development permits for specified classes of development projects.

This bill would prohibit the authorization of a development project that includes a battery energy storage system capable of storing 200 megawatthours or more of energy if the development project is located within 3,200 feet of a sensitive receptor or is located on an environmentally sensitive site, as specified.

By modifying the duties of local agencies with regard to the approval of development projects that include a battery energy storage system, this bill would impose a state-mandated local program.

This bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

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 a specified reason.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

1 SECTION 1. Chapter 14 (commencing with Section 66350)
2 is added to Division 1 of Title 7 of the Government Code, to read:

3
4 CHAPTER 14. ENERGY STORAGE SYSTEMS

5
6 66350. For purposes of this chapter, the following definitions
7 apply:

8 (a) "Battery energy storage system" means an energy storage
9 system, as defined in Section 2835 of the Public Utilities Code,
10 that is capable of storing 200 megawatthours or more of energy
11 and uses battery technology to store the energy.

12 (b) "Environmentally sensitive site" means any of the following:

13 (1) (A) An area of the coastal zone subject to paragraph (1),
14 (2), or (3) of subdivision (a) of Section 30603 of the Public
15 Resources Code.

1 (B) An area of the coastal zone that is not subject to a certified
2 local coastal program or a certified land use plan.

3 (C) An area of the coastal zone that is vulnerable to five feet of
4 sea level rise, as determined by the National Oceanic and
5 Atmospheric Administration, the Ocean Protection Council, the
6 United States Geological Survey, the University of California, or
7 a local government's coastal hazards vulnerability assessment.

8 (D) A parcel within the coastal zone that is not zoned for
9 multifamily housing.

10 (E) A parcel in the coastal zone and located on either of the
11 following:

12 (i) On, or within a 100-foot radius of, a wetland, as defined in
13 Section 30121 of the Public Resources Code.

14 (ii) Prime agricultural land, as defined in Section 30113 of the
15 Public Resources Code.

16 (2) Prime farmland or farmland of statewide importance, as
17 defined pursuant to United States Department of Agriculture land
18 inventory and monitoring criteria, as modified for California, and
19 designated on the maps prepared by the Farmland Mapping and
20 Monitoring Program of the Department of Conservation, or land
21 zoned or designated for agricultural protection or preservation by
22 a local ballot measure that was approved by the voters of that
23 jurisdiction.

24 (3) Wetlands, as defined in the United States Fish and Wildlife
25 Service Manual, Part 660 FW 2 (June 21, 1993).

26 (4) A parcel in a very high fire hazard severity zone, as
27 determined by the State Fire Marshal pursuant to Section 51178.

28 (5) A hazardous waste site that is listed pursuant to Section
29 65962.5 or a hazardous waste site selected by the Department of
30 Toxic Substances Control pursuant to Section 78765 of the Health
31 and Safety Code, unless either of the following apply:

32 (A) The site is an underground storage tank site that received a
33 uniform closure letter issued pursuant to subdivision (g) of Section
34 25296.10 of the Health and Safety Code based on closure criteria
35 established by the State Water Resources Control Board for the
36 use of the site as an energy storage facility. This subparagraph
37 does not alter or change the conditions to remove a site from the
38 list of hazardous waste sites listed pursuant to Section 65962.5.

39 (B) The State Department of Public Health, State Water
40 Resources Control Board, Department of Toxic Substances Control,

1 or a local agency making a determination pursuant to subdivision
2 (c) of Section 25296.10 of the Health and Safety Code, has
3 otherwise determined that the site is suitable for energy storage
4 uses.

5 (6) A parcel within a delineated earthquake fault zone as
6 determined by the State Geologist in any official maps published
7 by the State Geologist, unless the development complies with
8 applicable seismic protection building code standards adopted by
9 the California Building Standards Commission under the California
10 Building Standards Law (Part 2.5 (commencing with Section
11 18901) of Division 13 of the Health and Safety Code), and by any
12 local building department under Chapter 12.2 (commencing with
13 Section 8875) of Division 1 of Title 2.

14 (7) A parcel within a special flood hazard area subject to
15 inundation by the 1 percent annual chance flood (100-year flood)
16 as determined by the Federal Emergency Management Agency in
17 any official maps published by the Federal Emergency
18 Management Agency, except if the parcel satisfies either of the
19 following conditions:

20 (A) The site has been subject to a Letter of Map Revision
21 prepared by the Federal Emergency Management Agency and
22 issued to the local jurisdiction.

23 (B) The site meets Federal Emergency Management Agency
24 requirements necessary to meet minimum flood plain management
25 criteria of the National Flood Insurance Program pursuant to Part
26 59 (commencing with Section 59.1) and Part 60 (commencing
27 with Section 60.1) of Subchapter B of Chapter I of Title 44 of the
28 Code of Federal Regulations.

29 (8) A parcel within a regulatory floodway as determined by the
30 Federal Emergency Management Agency in any official maps
31 published by the Federal Emergency Management Agency, unless
32 the parcel has received a no-rise certification in accordance with
33 Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations.

34 (9) Lands identified for conservation in an adopted natural
35 community conservation plan pursuant to the Natural Community
36 Conservation Planning Act (Chapter 10 (commencing with Section
37 2800) of Division 3 of the Fish and Game Code), habitat
38 conservation plan pursuant to the federal Endangered Species Act
39 of 1973 (16 U.S.C. Sec. 1531 et seq.), or other adopted natural
40 resource protection plan.

(10) Habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code).

(11) Lands under a conservation easement.

(c) “Sensitive receptor” means any of the following:

(1) A residence, including a private home, condominium, apartment, or living quarter.

(2) An education resource, including a preschool, school maintaining transitional kindergarten, kindergarten, or any of grades 1 to 12, inclusive, daycare center, park, playground, university, or college. If a university or college is the only sensitive receptor within 3,200 feet of the development, the university or college is not a sensitive receptor if the development proponent demonstrates to the satisfaction of the public agency with jurisdiction over the development project that no building with nominal daily occupancy on the university or college campus is located within 3,200 feet of the development project.

(3) A community resource center, including a youth center.

(4) A health care facility, including a hospital, retirement home, or nursing home.

(5) Live-in housing, including a long-term care hospital, hospice, prison, detention center, or dormitory.

(6) A building housing a business that is open to the public.

66351. A development project that includes a battery energy storage system shall not be authorized if the development project is located on either of the following:

(a) A site that is within 3,200 feet of a sensitive receptor.

(b) An environmentally sensitive site.

66352. The Legislature finds and declares that this chapter addresses a matter of statewide concern rather than a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this chapter applies to all cities, including charter cities.

SEC. 2. Section 25545 of the Public Resources Code is amended to read:

25545. For purposes of this chapter, the following definitions apply:

(a) “California Native American tribe” has the same meaning as set forth in Section 21073.

(b) “Facility” means any of the following:

(1) A solar photovoltaic or terrestrial wind electrical generating powerplant with a generating capacity of 50 megawatts or more and any facilities appurtenant thereto.

(2) ~~An~~ (A) *Except as provided in subparagraph (B), an energy storage system as defined in Section 2835 of the Public Utilities Code that is capable of storing 200 megawatthours or more of energy.*

(B) *“Energy storage system” does not include a battery energy storage system. The commission shall deny an application for a battery energy storage system that is pending as of the effective date of this subparagraph.*

(3) A stationary electrical generating powerplant using any source of thermal energy, with a generating capacity of 50 megawatts or more, excluding any powerplant that burns, uses, or relies on fossil or nuclear fuels.

(4) A discretionary project as described in Section 21080 for which the applicant has certified that a capital investment of at least two hundred fifty million dollars (\$250,000,000) will be made over a period of five years and the discretionary project is for (A) the manufacture, production, or assembly of an energy storage system or component manufacturing, wind system or component manufacturing, and solar photovoltaic energy system or component manufacturing, or (B) the manufacture, production, or assembly of specialized products, components, or systems that are integral to renewable energy or energy storage technologies.

(5) An electrical transmission line carrying electricity from a facility described in paragraph (1), (2), or (3) that is located in the state to a point of junction with any interconnected electrical transmission system.

(6) A hydrogen production facility and associated onsite storage and processing facilities that do not derive hydrogen from a fossil fuel feedstock and that receive funding from any of the following:

(A) The Hydrogen Program established pursuant to Section 25664.1.

1 (B) Section 91530, as added by the Safe Drinking Water,
2 Wildfire Prevention, Drought Preparedness, and Clean Air Bond
3 Act of 2024 (Section 2 of Chapter 83 of the Statutes of 2024
4 (Senate Bill No. 867)), if that act is approved by the voters at the
5 November 5, 2024, statewide general election. 91530.

6 (C) The Alliance for Renewable Clean Hydrogen Energy
7 Systems (ARCHES) authorized by Article 15 (commencing with
8 Section 12100.160) of Chapter 1.6 of Part 2 of Division 3 of Title
9 2 of the Government Code, as awarded by the United States
10 Department of Energy Office of Clean Energy Demonstrations.

11 (c) "Site" means any location on which an eligible facility is
12 constructed or is proposed to be constructed.

13 SEC. 3. No reimbursement is required by this act pursuant to
14 Section 6 of Article XIII B of the California Constitution because
15 a local agency or school district has the authority to levy service
16 charges, fees, or assessments sufficient to pay for the program or
17 level of service mandated by this act, within the meaning of Section
18 17556 of the Government Code.

19 SEC. 4. This act is an urgency statute necessary for the
20 immediate preservation of the public peace, health, or safety within
21 the meaning of Article IV of the California Constitution and shall
22 go into immediate effect. The facts constituting the necessity are:

23 Because of the potential fire hazard posed by large energy storage
24 systems, it is necessary for this measure to take effect immediately
25 for the protection of public health and safety and the environment.