

Solar Assessment Districts

By Warren Diven

California has an abundance of sunshine, making solar energy a plausible energy generation option for many of the state's residents and businesses. But with the cost of adding solar panels to a home or business at approximately \$30,000 or more, unfortunately, not everyone who wants solar energy can afford it. Realizing that cost is a major factor when deciding whether to upgrade a property to be more energy efficient, the state passed a bill that helps with the affordability issues.

Assembly Bill 811, passed in September 2008, gives all California cities and counties the ability to offer low-interest loans to homeowners and commercial property owners for energy efficient projects and solar panels. The loans are offered through "sustainable energy financing districts" (also called solar or energy assessment districts) that are established by cities and counties.

These districts offer loan programs that are user-friendly in that property owners are not strapped with large down payments or high interest rates. The loan is secured by contract assessments levied on the owners' properties. Owners borrow money from a city or county participating in a contract assessment program to pay for their new energy efficient or energy generation products, and the long-term payment of the loans is linked to owners' property taxes. A participating city or county may issue

bonds secured by the contract assessments to raise money for the loans, access general and re-development funds, or otherwise raise capital to fund such loans.

AB 811 has many benefits for property owners not found in other forms of financing, such as home equity loans. These advantages include the fact that a contract assessment runs with the land and is not required to be paid off when a participating property is sold. There is little upfront cost for owners and, unlike a second mortgage or home equity loan, the process to receive approval of a loan secured by a contract assessment may require limited documentation. Because the loan payments are tied to property taxes, the interest portion of the loan payments is tax deductible.

Some districts are devoted exclusively to one type of sustainable energy generation improvements while others will fund multiple types of projects, including solar, wind, or geothermal energy. Municipalities and counties throughout California are embracing the idea, and not only because it is a creative way for property owners to finance upgrades to their property. The programs also help cities and counties meet their mandated need to reduce greenhouse gases and be energy independent.

The Sonoma County Energy Independence Program made its first loan in May 2009. A homeowner was granted a loan of \$25,500 for a five kilowatt PV system. The county reports there are another \$6 million of applications for loans pending. Under the program, commercial property owners are encouraged to "reduce operating and maintenance costs through investment in energy efficiency and renewable energy."

Palm Desert, in Southern California, was the first city in the state to establish such a district. Palm Desert city officials realized that their constituents needed help to finance private energy projects, which would help contribute to the city's five-year goal of cutting energy use by 30% by 2011. With a \$1.5 million advance from the city's general fund, Palm Desert's AB 811 program allows residential or commercial real property owners to immediately enjoy a greatly reduced electric bill with no out-of-pocket expenses.

Under Palm Desert's program, there is a minimum loan amount of \$5,000, with no maximum limit. Property owners are not subject to credit ratings or a credit check. The interest rate is fixed at or near 7% and paid bi-annually (through assessment installment collected on the property tax bill). Loans can be used on a variety of energy efficient improvements, as well as the materials and labor required to properly install them.

The process to establish an AB 811 program is multi-faceted and requires establishing the jurisdiction of the district, public hearings, designating the type of improvements to be financed, prioritizing the types of property owners who will receive financing, raising the capitol and marketing the program. Depending upon the staffing and budgetary resources, this process could take years. With the state facing unprecedented financial problems combined with the depressed real estate market, many municipalities may not place an AB 811 program at the top of their priority list.

However, California's energy shortage is not a short-term dilemma. AB 811 programs offer a significant resource to energy conservation problems that will face the Golden State for years to come.

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Warren Diven is a partner with the law firm of Best Best & Krieger. A lawyer for 26 years, Diven specializes in public finance law, acting as lead counsel in engagements involving all types of financings or finance issues and has advised a number of the firm's municipal clients on the establishment of AB 811 contract assessment programs.

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