

AMENDED IN ASSEMBLY MAY 16, 2001

AMENDED IN ASSEMBLY MAY 1, 2001

CALIFORNIA LEGISLATURE—2001-02 REGULAR SESSION

ASSEMBLY BILL

No. 112

Introduced by Assembly Member Longville

January 18, 2001

An act to amend Sections 63010 and 63050 of the Government Code, relating to infrastructure finance.

LEGISLATIVE COUNSEL'S DIGEST

AB 112, as amended, Longville. California Infrastructure and Economic Development Bank: eligible projects.

The Bergeson-Peace Infrastructure and Economic Development Bank Act establishes the California Infrastructure and Economic Development Bank for the purpose of funding specified types of infrastructure development projects, including public development facilities that are directly related to providing, among other things, environmental mitigation measures. Not more than 15% of the annually approved financing from the fund may be expended upon educational facilities, environmental mitigation measures, and parks and recreational facilities. The term "environmental mitigation measures" is defined for these purposes to include construction or modification of public infrastructure and purchase and installation of pollution control and noise abatement equipment.

This bill would ~~reduce to 5% the amount that may be expended upon educational facilities, environmental mitigation measures, and parks and recreational facilities~~ specify that not more than 1/3 of that amount

may be expended on habitat acquisition measures, subject to certain criteria. It would specify that environmental mitigation measures include the acquisition of habitat pursuant to the Natural Community Conservation Planning Act ~~and~~, the federal Endangered Species Act, *and the California Endangered Species Act*, and that, for funds expended for this purpose, the term of the loan may not exceed 60 months.

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

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

- 1 SECTION 1. Section 63010 of the Government Code is
- 2 amended to read:
- 3 63010. For purposes of this division, the following words and
- 4 terms shall have the following meanings unless the context clearly
- 5 indicates or requires another or different meaning or intent:
- 6 (a) “Act” means the Bergeson-Peace Infrastructure and
- 7 Economic Development Bank Act.
- 8 (b) “Bank” means the California Infrastructure and Economic
- 9 Development Bank.
- 10 (c) “Board” or “bank board” means the Board of Directors of
- 11 the California Infrastructure and Economic Development Bank.
- 12 (d) “Bond purchase agreement” means a contractual
- 13 agreement executed between the bank and a sponsor, or a special
- 14 purpose trust authorized by the bank or a sponsor, or both, whereby
- 15 the bank or special purpose trust authorized by the bank agrees to
- 16 purchase bonds of the sponsor for retention or sale.
- 17 (e) “Bonds” means bonds, including structured, senior, and
- 18 subordinated bonds or other securities; loans; notes, including
- 19 bond, revenue, tax or grant anticipation notes; commercial paper;
- 20 floating rate and variable maturity securities; and any other
- 21 evidences of indebtedness or ownership, including certificates of
- 22 participation or beneficial interest, asset backed certificates, or
- 23 lease-purchase or installment purchase agreements, whether
- 24 taxable or excludable from gross income for federal income
- 25 taxation purposes.
- 26 (f) “Cost,” as applied to a project or portion thereof financed
- 27 under this division, means all or any part of the cost of
- 28 construction, renovation, and acquisition of all lands, structures,



1 real or personal property, rights, rights-of-way, franchises,
2 licenses, easements, and interests acquired or used for a project;
3 the cost of demolishing or removing any buildings or structures on
4 land so acquired, including the cost of acquiring any lands to which
5 the buildings or structures may be moved; the cost of all
6 machinery, equipment, and financing charges; interest prior to,
7 during, and for a period after completion of construction,
8 renovation, or acquisition, as determined by the bank; provisions
9 for working capital; reserves for principal and interest and for
10 extensions, enlargements, additions, replacements, renovations,
11 and improvements; and the cost of architectural, engineering,
12 financial and legal services, plans, specifications, estimates,
13 administrative expenses, and other expenses necessary or
14 incidental to determining the feasibility of any project or
15 incidental to the construction, acquisition, or financing of any
16 project, and transition costs in the case of an electrical corporation.

17 (g) “Economic development facilities” means real and
18 personal property, structures, buildings, equipment, and
19 supporting components thereof that are used to provide industrial,
20 recreational, research, commercial, utility, or service enterprise
21 facilities, community, educational, cultural, or social welfare
22 facilities and any parts or combinations thereof, and all facilities
23 or infrastructure necessary or desirable in connection therewith,
24 including provision for working capital, but shall not include any
25 housing.

26 (h) “Electrical corporation” has the meaning set forth in
27 Section 218 of the Public Utilities Code.

28 (i) “Executive director” means the Executive Director of the
29 California Infrastructure and Economic Development Bank
30 appointed pursuant to Section 63021.

31 (j) “Financial assistance” in connection with a project,
32 includes, but is not limited to, any combination of grants, loans, the
33 proceeds of bonds issued by the bank or special purpose trust,
34 insurance, guarantees or other credit enhancements or liquidity
35 facilities, and contributions of money, property, labor, or other
36 things of value, as may be approved by resolution of the board or
37 the sponsor, or both; the purchase or retention of bank bonds, the
38 bonds of a sponsor for their retention or for sale by the bank, or the
39 issuance of bank bonds or the bonds of a special purpose trust used
40 to fund the cost of a project for which a sponsor is directly or



1 indirectly liable, including, but not limited to, bonds, the security
2 for which is provided in whole or in part pursuant to the powers
3 granted by Section 63025; bonds for which the bank has provided
4 a guarantee or enhancement, including, but not limited to, the
5 purchase of the subordinated bonds of the sponsor, the
6 subordinated bonds of a special purpose trust, or the retention of
7 the subordinated bonds of the bank pursuant to Chapter 4
8 (commencing with Section 63060); or any other type of assistance
9 deemed appropriate by the bank or the sponsor, except that no
10 direct loans shall be made to nonpublic entities other than in
11 connection with the issuance of rate reduction bonds pursuant to
12 a financing order or in connection with a financing for an
13 economic development facility.

14 For purposes of this subdivision, “grant” does not include
15 grants made by the bank except when acting as an agent or
16 intermediary for the distribution or packaging of financing
17 available from federal, private, or other public sources.

18 (k) “Financing order” has the meaning set forth in Section 840
19 of the Public Utilities Code.

20 (l) “Guarantee trust fund” means the California Infrastructure
21 Guarantee Trust Fund.

22 (m) “Infrastructure bank fund” means the California
23 Infrastructure and Economic Development Bank Fund.

24 (n) “Loan agreement” means a contractual agreement
25 executed between the bank or a special purpose trust and a sponsor
26 that provides that the bank or special purpose trust will loan funds
27 to the sponsor and that the sponsor will repay the principal and pay
28 the interest and redemption premium, if any, on the loan.

29 (o) “Participating party” means any person, company,
30 corporation, partnership, firm, or other entity or group of entities,
31 whether organized for profit or not for profit, engaged in business
32 or operations within the state and that applies for financing from
33 the bank in conjunction with a sponsor for the purpose of
34 implementing a project. However, in the case of a project relating
35 to the financing of transition costs or the acquisition of transition
36 property, or both, on the request of an electrical corporation, or in
37 connection with a financing for an economic development facility,
38 the participating party shall be deemed to be the same entity as the
39 sponsor for the financing.



1 (p) “Project” means designing, acquiring, planning,
2 permitting, entitling, constructing, improving, extending,
3 restoring, financing, and generally developing public
4 development facilities or economic development facilities within
5 the state or financing transition costs or the acquisition of
6 transition property, or both, upon approval of a financing order by
7 the Public Utilities Commission, as provided in Article 5.5
8 (commencing with Section 840) of Chapter 4 of Part 1 of Division
9 1 of the Public Utilities Code.

10 (q) “Public development facilities” means real and personal
11 property, structures, conveyances, equipment, thoroughfares,
12 buildings, and supporting components thereof, excluding any
13 housing, that are directly related to providing the following:

14 (1) “City streets” including any street, avenue, boulevard,
15 road, parkway, drive, or other way that is any of the following:

16 (A) An existing municipal roadway.

17 (B) Is shown upon a plat approved pursuant to law and includes
18 the land between the street lines, whether improved or
19 unimproved, and may comprise pavement, bridges, shoulders,
20 gutters, curbs, guardrails, sidewalks, parking areas, benches,
21 fountains, plantings, lighting systems, and other areas within the
22 street lines, as well as equipment and facilities used in the cleaning,
23 grading, clearance, maintenance, and upkeep thereof.

24 (2) “County highways” including any county highway as
25 defined in Section 25 of the Streets and Highways Code, that
26 includes the land between the highway lines, whether improved or
27 unimproved, and may comprise pavement, bridges, shoulders,
28 gutters, curbs, guardrails, sidewalks, parking areas, benches,
29 fountains, plantings, lighting systems, and other areas within the
30 street lines, as well as equipment and facilities used in the cleaning,
31 grading, clearance, maintenance, and upkeep thereof.

32 (3) “Drainage, water supply, and flood control” including, but
33 not limited to, ditches, canals, levees, pumps, dams, conduits,
34 pipes, storm sewers, and dikes necessary to keep or direct water
35 away from people, equipment, buildings, and other protected areas
36 as may be established by lawful authority, as well as the
37 acquisition, improvement, maintenance, and management of
38 floodplain areas and all equipment used in the maintenance and
39 operation of the foregoing.



1 (4) “Educational facilities” including libraries, child care
2 facilities, including, but not limited to, day care facilities, and
3 employment training facilities.

4 (5) “Environmental mitigation measures” including required
5 construction or modification of public infrastructure, purchase
6 and installation of pollution control and noise abatement
7 equipment, and acquisition of habitat pursuant to the Natural
8 Community Conservation Planning Act (Chapter 10
9 (commencing with Section 2800) of Division 3 of the Fish and
10 Game Code) ~~and~~, the federal Endangered Species Act (Title 16,
11 United States Code, Section 1531 and following), *and the*
12 *California Endangered Species Act (Chapter 1.5 (commencing*
13 *with Section 2050) of Division 3 of the Fish and Game Code).*

14 (6) “Parks and recreational facilities” including local parks,
15 recreational property and equipment, parkways and property.

16 (7) “Port facilities” including docks, harbors, ports of entry,
17 piers, ships, small boat harbors and marinas, and any other
18 facilities, additions, or improvements in connection therewith.

19 (8) “Power and communications” including facilities for the
20 transmission or distribution of electrical energy, natural gas, and
21 telephone and telecommunications service.

22 (9) “Public transit” including air and rail transport of goods,
23 airports, guideways, vehicles, rights-of-way, passenger stations,
24 maintenance and storage yards, and related structures, including
25 public parking facilities, equipment used to provide or enhance
26 transportation by bus, rail, ferry, or other conveyance, either
27 publicly or privately owned, that provides to the public general or
28 special service on a regular and continuing basis.

29 (10) “Sewage collection and treatment” including pipes,
30 pumps, and conduits that collect wastewater from residential,
31 manufacturing, and commercial establishments, the equipment,
32 structures, and facilities used in treating wastewater to reduce or
33 eliminate impurities or contaminants, and the facilities used in
34 disposing of, or transporting, remaining sludge, as well as all
35 equipment used in the maintenance and operation of the foregoing.

36 (11) “Solid waste collection and disposal” including vehicles,
37 vehicle-compatible waste receptacles, transfer stations, recycling
38 centers, sanitary landfills, and waste conversion facilities
39 necessary to remove solid waste, except that which is hazardous
40 as defined by law, from its point of origin.



1 (12) “Water treatment and distribution” including facilities in
2 which water is purified and otherwise treated to meet residential,
3 manufacturing, or commercial purposes and the conduits, pipes,
4 and pumps that transport it to places of use.

5 (13) “Defense conversion” including, but not limited to,
6 facilities necessary for successfully converting military bases
7 consistent with an adopted base reuse plan.

8 (14) “Public safety facilities” including, but not limited to,
9 police stations, fire stations, court buildings, jails, juvenile halls,
10 and juvenile detention facilities.

11 (15) “State highways” including any state highway as
12 described in Chapter 2 (commencing with Section 230) of
13 Division 1 of the Streets and Highways Code, and the related
14 components necessary for safe operation of the highway.

15 (r) “Rate reduction bonds” has the meaning set forth in Section
16 840 of the Public Utilities Code.

17 (s) “Revenues” means all receipts, purchase payments, loan
18 repayments, lease payments, and all other income or receipts
19 derived by the bank or a sponsor from the sale, lease, or other
20 financing arrangement undertaken by the bank, a sponsor or a
21 participating party, including, but not limited to, all receipts from
22 a bond purchase agreement, and any income or revenue derived
23 from the investment of any money in any fund or account of the
24 bank or a sponsor and any receipts derived from transition
25 property. Revenues shall not include moneys in the General Fund
26 of the state.

27 (t) “Special purpose trust” means a trust, partnership, limited
28 partnership, association, corporation, nonprofit corporation, or
29 other entity authorized under the laws of the state to serve as an
30 instrumentality of the state to accomplish public purposes and
31 authorized by the bank to acquire, by purchase or otherwise, for
32 retention or sale, the bonds of a sponsor or of the bank made or
33 entered into pursuant to this division and to issue special purpose
34 trust bonds or other obligations secured by these bonds or other
35 sources of public or private revenues. Special purpose trust also
36 means any entity authorized by the bank to acquire transition
37 property or to issue rate reduction bonds, or both, subject to the
38 approvals by the bank and powers of the bank as are provided by
39 the bank in its resolution authorizing the entity to issue rate
40 reduction bonds.



1 (u) “Sponsor” means any subdivision of the state or local
2 government including departments, agencies, commissions,
3 cities, counties, nonprofit corporations formed on behalf of a
4 sponsor, special districts, assessment districts, and joint powers
5 authorities within the state or any combination of these
6 subdivisions that makes an application to the bank for financial
7 assistance in connection with a project in a manner prescribed by
8 the bank. This definition shall not be construed to require that an
9 applicant have an ownership interest in the project. In addition, an
10 electrical corporation shall be deemed to be the sponsor as well as
11 the participating party for any project relating to the financing of
12 transition costs and the acquisition of transition property on the
13 request of the electrical corporation and any person, company,
14 corporation, partnership, firm, or other entity or group engaged in
15 business or operation within the state that applies for financing of
16 any economic development facility, shall be deemed to be the
17 sponsor as well as the participating party for the project relating to
18 the financing of that economic development facility.

19 (v) “State” means the State of California.

20 (w) “Transition costs” has the meaning set forth in Section 840
21 of the Public Utilities Code.

22 (x) “Transition property” has the meaning set forth in Section
23 840 of the Public Utilities Code.

24 SEC. 2. Section 63050 of the Government Code is amended
25 to read:

26 63050. (a) There is hereby created in the State Treasury the
27 California Infrastructure and Economic Development Bank Fund
28 for the purpose of implementing the objectives and provisions of
29 this division. Within the fund there shall also be established a
30 Sponsor Revenue Bond Account, a Participating Party Revenue
31 Bond Account, a State Infrastructure Revolving Account, and
32 additional accounts and subaccounts that the bank may establish
33 from time to time.

34 (b) Notwithstanding Section 13340 and except as provided in
35 subdivision (c), all moneys in the infrastructure bank fund are
36 continuously appropriated without regard to fiscal years for the
37 support of the bank and shall be available for expenditure for the
38 purposes stated in this division.

39 (c) Moneys in the infrastructure bank fund shall be available
40 for expenditure for general administration only upon



1 appropriation by the Legislature. This subdivision shall not limit
2 the authority of the bank to expend funds directly related to the
3 servicing of approved debt. Moneys in the fund shall be available
4 for the purpose of general administration of the authority only
5 upon appropriation by the Legislature, but not more than 5 percent
6 of any bond proceeds administered by the authority may be
7 expended to cover the costs of issuance, as that terminology is
8 defined under Section 147 (G) of the Internal Revenue Code.

9 (d) (1) Notwithstanding any other provision of this division,
10 not more than ~~5-15~~ percent of the financing annually approved by
11 the executive director that utilizes state funds from the
12 infrastructure bank fund may be expended upon educational
13 facilities, environmental mitigation measures, and parks and
14 recreational facilities. ~~For all funds expended for habitat~~
15 ~~acquisition pursuant to the Natural Community Conservation~~
16 ~~Planning Act (Chapter 10 (commencing with Section 2800) of~~
17 ~~Division 3 of the Fish and Game Code) and the federal Endangered~~
18 ~~Species Act (Title 16, United States Code, Section 1531 and~~
19 ~~following), the term of the loan shall not exceed 60 months.~~
20 *facilities.*

21 (2) *Not more than one-third of the amount subject to this*
22 *subdivision may be expended on habitat acquisition measures. The*
23 *term of a loan for habitat acquisition shall not exceed 60 months.*
24 *Only counties that have populations of all of the following species*
25 *may apply for loans for habitat acquisition:*

- 26 (A) *Bighorn sheep (ovis canadensis).*
- 27 (B) *Golden eagles (aguila chrysaetos).*
- 28 (C) *Thread-leaved brodiaea (brodiaea filifolia).*
- 29 (D) *Slender-horned spineflower (dodecahema leptoceras).*

30 (e) The executive director may transfer funds between the
31 infrastructure bank fund and the guarantee trust fund when
32 appropriate to accomplish the financing objectives of this division.

