

Senate Bill No. 199

Passed the Senate August 30, 2002

Secretary of the Senate

Passed the Assembly August 26, 2002

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day of _____, 2002, at _____ o'clock __M.

Private Secretary of the Governor



CHAPTER _____

An act to amend Sections 44520 and 44526 of the Health and Safety Code, relating to pollution.

LEGISLATIVE COUNSEL'S DIGEST

SB 199, Torlakson. Pollution control: grants and loans.

Existing law authorizes the California Pollution Control Financing Authority to finance various pollution control projects to control and eliminate pollution hazards to the environment. The authority is empowered, among other things, to provide grants and loans to any city or county to assist California neighborhoods suffering from high poverty or unemployment levels, or from low-income levels, to assist cities and counties in developing and implementing growth policies and programs that reduce pollution hazards and the degradation of the environment, or to promote infill development to revitalize these communities. The authority, or any other agency implementing a loan program pursuant to an interagency agreement with the authority, is authorized to adopt emergency regulations relating to the loans. The Office of Administrative Law is required to consider the adoption of the regulations to be necessary for the immediate preservation of the public peace, health and safety, and general welfare and the regulations are required to be repealed 180 days after their effective date, unless the adopting authority or agency complies with the rulemaking provisions of the Administrative Procedure Act.

Existing law prohibits the authority from awarding more than \$2,500,000 of these grants and loans.

This bill would include, within the provisions governing the adoption of emergency regulations, the adoption of emergency regulations relating to those grants and would increase the amount of those grants and loans that the authority is authorized to award to \$5,000,000.

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

SECTION 1. Section 44520 of the Health and Safety Code is amended to read:



44520. (a) The authority shall, in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, adopt all necessary rules and regulations to carry out its powers and duties under this division. The authority may call upon any board or department of the state government for aid and assistance in the preparation of plans and specifications and in the development of technology necessary to effectively control pollution.

(b) Notwithstanding subdivision (a), the authority, or any other agency implementing a small business or brownfield site financing assistance program pursuant to an interagency agreement with the authority, may adopt regulations relating to small business or brownfield site financing as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For purposes of that Chapter 3.5, including Section 11349.6 of the Government Code, the adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding subdivision (e) of Section 11346.1 of the Government Code, the regulations shall be repealed 180 days after their effective date, unless the adopting authority or agency complies with that Chapter 3.5, as provided in subdivision (e) of Section 11346.1 of the Government Code.

(c) Notwithstanding subdivision (a), the authority, or any other agency implementing a loan program pursuant to an interagency agreement with the authority, may adopt regulations relating to the loans and grants authorized under subdivision (g) of Section 44526 as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For purposes of that Chapter 3.5, including Section 11349.6 of the Government Code, the adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding subdivision (e) of Section 11346.1 of the Government Code, the regulations shall be repealed 180 days after their effective date, unless the adopting authority or agency complies with that Chapter 3.5, as provided in subdivision (e) of Section 11346.1 of the Government Code.



SEC. 2. Section 44526 of the Health and Safety Code is amended to read:

44526. The authority is authorized:

(a) To determine the location and character of any project to be financed under the provisions of this division, to lend financial assistance to any participating party, to construct, reconstruct, renovate, replace, lease, as lessor or lessee, and regulate the same, and to enter into contracts for the sale of any pollution control facilities, including installment sales or sales under conditional sales contracts, and to make loans to participating parties to lend financial assistance in the acquisition, construction, or installation of a project.

(b) To issue bonds, notes, bond anticipation notes, and other obligations of the authority for any of its corporate purposes, and to fund or refund the same, all as provided in this division.

(c) To fix fees and charges for pollution control facilities, and to revise from time to time those fees and charges, and to collect rates, rents, fees, and charges for the use of and for any facilities or services furnished, or to be furnished, by a project or any part thereof and to contract with any person, partnership, association, corporation, or public agency with respect thereto, and to fix the terms and conditions upon which any pollution control facilities may be sold or disposed of, whether upon installment sales contracts or otherwise.

(d) To employ and fix the compensation of bond counsel, financial consultants, and advisers as may be necessary in its judgment in connection with the issuance and sale of any bonds, notes, bond anticipation notes, or other obligations of the authority; to contract for engineering, architectural, accounting, or other services of appropriate agencies as may be necessary in the judgment of the authority for the successful development of any project; and to pay the reasonable costs of consulting engineers, architects, accountants, and construction experts employed by any participating party if, in the judgment of the authority, those services are necessary to the successful development of any project, and those services are not obtainable from any public agency.

(e) To receive and accept loans, contributions, or grants, in money, property, labor, or other things of value, for, or in aid of, the authority in carrying out the purposes of this division, from any



source including, but not limited to, the federal government, the state, or any agency of the state, any local government or agency thereof, or any nonprofit or for-profit private entity or individual.

(f) To apply for, and accept, subventions, grants, loans, advances, and contributions from any source, of money, property, labor, or other things of value. The sources may include, but are not limited to, bond proceeds, dedicated taxes, state appropriations, federal appropriations, federal grant and loan funds, public and private sector retirement system funds, and proceeds of loans from the Pooled Money Investment Account.

(g) To provide grants and loans to any city or county deemed eligible by the authority. The grants and loans shall be used to assist California neighborhoods suffering from high poverty or unemployment levels, or from low-income levels, to assist cities and counties in developing and implementing growth policies and programs that reduce pollution hazards and the degradation of the environment, or to promote infill development to revitalize these communities. The grants and loans may be used to employ the technical expertise necessary to identify, assess, and complete applications for state, federal, and private economic assistance programs that develop and implement sustainable development and sound environmental policies and programs. Priority shall be given to applicants lacking the resources to identify, assess, and complete applications for economic assistance, and for those lacking the resources to develop and implement sustainable growth and other sound environmental policies and programs. The authority shall fund these grants and loans from any funds available to the authority or set aside for the authority's administrative expenses. The authority may not award more than five million dollars (\$5,000,000) in grants and loans pursuant to this subdivision. This subdivision shall remain operative only until January 1, 2007, and as of that date is no longer operative, unless a later enacted statute that is enacted before January 1, 2007, deletes or extends that date.

(h) (1) To provide a loan directly, or indirectly through one or more public or private sector intermediaries, to any city, county, school district, redevelopment agency, financial institution, as defined in subdivision (d) of Section 44559.1, for-profit or not-for-profit organization, or participating party, as defined in Section 44506, to assist in financing, among other things, the costs



of performing or obtaining brownfield site assessments, remedial action plans and reports, technical assistance, the cleanup, remediation, or development of brownfield sites, or any other similar or related costs, subject to all applicable federal, state, and local laws, procedures, and regulations.

(2) The authority shall establish standards and criteria to ensure that a recipient of direct or indirect financing for cleanup or remediation pursuant to this subdivision has the necessary financial resources and expertise to successfully and appropriately complete the cleanup or remediation of the property.

(3) The authority may pay all, or a portion, of the associated program development and implementation costs of any public or private sector intermediaries through which a loan is made. A loan authorized by this subdivision is subject to both of the following:

(A) A loan may be used in connection with a brownfield site prior to a determination of whether the site has a reasonable potential for economically beneficial reuse.

(B) A loan may be made upon the terms determined by the authority and may provide for any rate of interest or no interest.

(4) The authority shall fund a loan made pursuant to this subdivision from any funds available to it, from any funds set aside for the authority's administrative expenses, or from any small business assistance fund established for these purposes pursuant to Section 44548.

(5) The authority may waive repayment of all, or a portion, of any loan made pursuant to this subdivision upon conditions to be determined by the authority, and the amount so waived shall be deemed a grant to the recipient.

(i) To do all things generally necessary or convenient to carry out the purposes of this division.



Approved _____, 2002

Governor

