

Assembly Bill No. 1498

CHAPTER 25

An act to amend Sections 32207, 32320, 32321, 32324, 32325, 32352.5, 32423, 32721, 32722, 32932, 32942, and 32952 of, and to repeal Sections 32213, 32214, 32700, 32701, 32702, 32703, 32710, 32711, 32909, and 32928 of, the Financial Code, and to amend Section 20057 of the Government Code, relating to financial institutions, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor March 16, 2004. Filed with
Secretary of State March 17, 2004.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1498, Wiggins. State Assistance Fund for Enterprise, Business, and Industrial Development Corporation.

(1) Existing law creates the nonprofit State Assistance Fund for Enterprise, Business, and Industrial Development Corporation. Existing law establishes a 7-member board of directors of the corporation. Official and public directors of the board serve without compensation but may receive per diem payment of up to \$50 per calendar day. Existing law authorizes the board to consider and adopt rules for the acceptance of grants if, among other things, the primary purpose of a grant administered by the corporation is to assist the development of the alternative energy industry in this state.

This bill would revise the membership of the board. The bill would change the per diem amount available to directors to the rate established by the state. The bill would delete the requirement that grants considered for acceptance by the board be for the primary purpose of assisting the development of the alternative energy industry in this state. The bill would repeal various provisions relating to alternative energy research and make related changes.

(2) The Public Employees' Retirement Law authorizes various public agencies, as defined, to enter into contracts for participation in the Public Employees' Retirement System, upon obtaining a specified advisory opinion from the United States Department of Labor.

This bill would authorize the State Assistance Fund for Enterprise, Business, and Industrial Development Corporation to enter into a contract for participation in the system upon obtaining that advisory opinion. Contributions are deposited in the Public Employees' Retirement Fund, a continuously appropriated fund. By increasing



member contributions to that fund, the bill would make an appropriation.

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

Appropriation: yes.

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

SECTION 1. Section 32207 of the Financial Code is amended to read:

32207. “Corporation” means the State Assistance Fund for Enterprise Business and Industrial Development Corporation.

SEC. 2. Section 32213 of the Financial Code is repealed.

SEC. 3. Section 32214 of the Financial Code is repealed.

SEC. 4. Section 32320 of the Financial Code is amended to read:

32320. Except as provided in Sections 32325 and 32352.5, the board of directors of the corporation shall consist of six members, two official and four public directors.

SEC. 5. Section 32321 of the Financial Code is amended to read:

32321. (a) The official members of the board shall be:

(1) A member of the Governor’s cabinet, or his or her designee.

(2) One member of the Energy Commission, selected and appointed by the members of the Energy Commission.

(b) The public members of the board shall be:

(1) One member selected and appointed by the Senate Rules Committee.

(2) One member selected and appointed by the Speaker of the Assembly.

(3) Two members selected and appointed by the Governor as follows:

(A) One member with a minimum three years’ experience as an owner, partner, officer, or employee of a California-based small business.

(B) One member with a minimum three years’ experience as an officer or employee of a financial institution.

SEC. 6. Section 32324 of the Financial Code is amended to read:

32324. (a) The official directors shall serve without compensation, except that they shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties, or at the discretion of the board, may receive a reasonable per diem payment and mileage charge as reimbursement for living and traveling expenses incurred in the performance of duties away from their principal areas of residence. The amount of such per diem payment shall not exceed the rate established by the state for any calendar day. No director shall receive



per diem both in the course of his official duties and from the corporation for the same calendar day.

(b) All other directors may, at the discretion of the board, be paid a stipend in addition to reimbursement for their actual and necessary expenses incurred in the performance of their duties or reasonable per diem payment and mileage charge. The amount of any per diem payment shall not exceed the rate established by the state for any calendar day. The board shall determine the amount of the stipend received by public directors, provided, however, that such stipend shall not exceed one hundred dollars (\$100) for any calendar day. Additionally, public directors may not receive stipends for more than 25 days in any calendar year.

SEC. 7. Section 32325 of the Financial Code is amended to read:

32325. If the corporation becomes a federal Community Development Financial Institution (CDFI), in addition to the official and public directors provided for in Section 32321, the board may select not more than three private directors to assist the board in managing the corporation, subject to the following:

(a) Private directors shall serve on the board in an advisory and voluntary capacity.

(b) Each private director shall be knowledgeable about the CDFI target market.

(c) At the discretion of the board, private directors shall be eligible to receive compensation, subject to the limitations contained in subdivision (b) of Section 32324.

SEC. 8. Section 32352.5 of the Financial Code is amended to read:

32352.5. (a) If the corporation becomes a small business development corporation pursuant to Section 32352, the official and public members of the board of directors shall, within 30 days thereafter, appoint three additional directors to the board, who shall be residents of the region to be served by the corporation when acting as a small business development corporation.

(b) For purposes of this section, the three regional directors appointed pursuant to subdivision (a) shall be appointed by the official and public members of the board as full voting members of the board.

SEC. 9. Section 32423 of the Financial Code is amended to read:

32423. The proceeds of the sale of government guaranteed securities shall be allocated to the accounts of the corporation in the following manner:

(a) That portion of the proceeds of the sale of government guaranteed securities which represents the purchase of the principal amount of the securities shall be credited to the enterprise loan fund of the corporation; and



(b) That portion of the proceeds of the sale of government guaranteed securities which represents the purchase of the future interest earnings of the securities shall be credited to the general operating account of the corporation.

SEC. 10. Section 32700 of the Financial Code is repealed.

SEC. 11. Section 32701 of the Financial Code is repealed.

SEC. 12. Section 32702 of the Financial Code is repealed.

SEC. 13. Section 32703 of the Financial Code is repealed.

SEC. 14. Section 32710 of the Financial Code is repealed.

SEC. 15. Section 32711 of the Financial Code is repealed.

SEC. 16. Section 32721 of the Financial Code is amended to read:

32721. The board may consider and adopt rules for the acceptance and disbursement of grants, provided, however, that the cost of administering any grant, less any payment for grant administration made to the corporation by the granting authority, shall in no case exceed 5 percent of the operating budget of the corporation in any calendar year.

SEC. 17. Section 32722 of the Financial Code is amended to read:

32722. The corporation may participate with any federal or state governmental agency, department, board, bureau, or office in any program which is intended to assist the development of the alternative energy industry or to encourage economic development.

SEC. 18. Section 32909 of the Financial Code is repealed.

SEC. 19. Section 32928 of the Financial Code is repealed.

SEC. 20. Section 32932 of the Financial Code is amended to read:

32932. Loans made under this chapter to small businesses shall be at a fixed rate of interest that shall not exceed the prevailing prime interest rate as published in the Wall Street Journal.

SEC. 21. Section 32942 of the Financial Code is amended to read:

32942. Loans shall be approved according to criteria established by a credit committee, chaired by the chief financial officer of the corporation or that officer's designee. The other members of the committee shall be the member of the board appointed by the Energy Commission and the corporate president.

SEC. 22. Section 32952 of the Financial Code is amended to read:

32952. The corporation shall develop a program to assist small business owners in reducing their energy costs by providing technical assistance and information through local chambers of commerce and business organizations.

SEC. 23. Section 20057 of the Government Code is amended to read:

20057. "Public agency" also includes the following:

(a) The Commandant, Veterans' Home of California, with respect to employees of the Veterans' Home Exchange and other post fund



activities whose compensation is paid from the post fund of the Veterans' Home of California.

(b) Any auxiliary organization operating pursuant to Chapter 7 (commencing with Section 89900) of Part 55 of the Education Code and in conformity with regulations adopted by the Trustees of the California State University and any auxiliary organization operating pursuant to Article 6 (commencing with Section 72670) of Chapter 6 of Part 45 of the Education Code and in conformity with regulations adopted by the Board of Governors of the California Community Colleges.

(c) Any student body or nonprofit organization composed exclusively of students of the California State University or community college or of members of the faculty of the California State University or community college, or both, and established for the purpose of providing essential activities related to, but not normally included as a part of, the regular instructional program of the California State University or community college.

(d) A state organization of governing boards of school districts, the primary purpose of which is the advancing of public education through research and investigation.

(e) Any nonprofit corporation whose membership is confined to public agencies as defined in Section 20056.

(f) A section of the California Interscholastic Federation.

(g) Any credit union incorporated under Division 5 (commencing with Section 14000) of the Financial Code, or incorporated pursuant to federal law, with 95 percent of its membership limited to employees who are members of or retired members of this system or the State Teachers' Retirement Plan, and their immediate families, and employees of any credit union. For the purposes of this subdivision, "immediate family" means those persons related by blood or marriage who reside in the household of a member of the credit union who is a member of or retired member of this system or the State Teachers' Retirement Plan. The credit union shall pay any costs that are in addition to the normal charges required to enter into a contract with the board. All the payments made by the credit union that are in addition to the normal charges required shall be added to the total amount appropriated by the Budget Act for the administrative expense of this system. For purposes of this subdivision, a credit union is not deemed to be a public agency unless it has entered into a contract with the board pursuant to Chapter 5 (commencing with Section 20460) prior to January 1, 1988. After January 1, 1988, the board may not enter into a contract with any credit union as a public agency.

(h) Any county superintendent of schools that was a contracting agency on July 1, 1983, and any school district or community college



district that was a contracting agency with respect to local policemen, as defined in Section 20430, on July 1, 1983.

(i) Any school district or community college district that has established a police department, pursuant to Section 39670 or 72330 of the Education Code, and has entered into a contract with the board on or after January 1, 1990, for school safety members, as defined in Section 20444.

(j) A nonprofit corporation formed for the primary purpose of assisting the development and expansion of the educational, research, and scientific activities of a district agricultural association formed pursuant to Part 3 (commencing with Section 3801) of Division 3 of the Food and Agricultural Code, and the nonprofit corporation described in the California State Exposition and Fair Law (former Article 3 (commencing with Section 3551) of Chapter 3 of Part 2 of Division 3 of the Food and Agricultural Code, as added by Chapter 15 of the Statutes of 1967).

(k) (1) A public or private nonprofit corporation that operates a regional center for the developmentally disabled in accordance with Chapter 5 (commencing with Section 4620) of Division 4.5 of the Welfare and Institutions Code.

(2) A public or private nonprofit corporation, exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, that operates a rehabilitation facility for the developmentally disabled and provides services under a contract with either (A) a regional center for the developmentally disabled, pursuant to paragraph (3) of subdivision (a) of Section 4648 of the Welfare and Institutions Code, or (B) the Department of Rehabilitation, pursuant to Chapter 4.5 (commencing with Section 19350) of Part 2 of Division 10 of the Welfare and Institutions Code, upon obtaining a written advisory opinion from the United States Department of Labor as described in Section 20057.1.

(3) A public or private nonprofit corporation described in this subdivision shall be deemed a “public agency” only for purposes of this part and only with respect to the employees of the regional center or the rehabilitation facility described in this subdivision. Notwithstanding any other provision of this part, the agency may elect by appropriate provision or amendment of its contract not to provide credit for service prior to the effective date of its contract.

(l) Independent data-processing centers formed pursuant to former Article 2 (commencing with Section 10550) of Chapter 6 of Part 7 of the Education Code, as it read on December 31, 1990. An agency included pursuant to this subdivision shall only provide benefits that are identical to those provided to a school member.

(m) Any local agency formation commission.



(n) A nonprofit corporation organized for the purpose of and engaged in conducting a citrus fruit fair as defined in Section 4603 of the Food and Agricultural Code.

(o) (1) A public or private nonprofit corporation that operates an independent living center providing services to severely handicapped people and established pursuant to federal P.L. 93-112, that receives the approval of the board, and that provides at least three of the following services:

(A) Assisting severely handicapped people to obtain personal attendants who provide in-home supportive services.

(B) Locating and distributing information about housing in the community usable by severely handicapped people.

(C) Providing information about financial resources available through federal, state and local government, and private and public agencies to pay all or part of the cost of the in-home supportive services and other services needed by severely handicapped people.

(D) Counseling by people with similar disabilities to aid the adjustment of severely handicapped people to handicaps.

(E) Operation of vans or buses equipped with wheelchair lifts to provide accessible transportation to otherwise unreachable locations in the community where services are available to severely handicapped people.

(2) A public or private nonprofit corporation described in this subdivision shall be deemed a “public agency” only for purposes of this part and only with respect to the employees of the independent living center.

(3) Notwithstanding any other provisions of this part, the public or private nonprofit corporation may elect by appropriate provision or amendment of its contract not to provide credit for service prior to the effective date of its contract.

(p) A hospital that is managed by a city legislative body in accordance with Article 8 (commencing with Section 37650) of Chapter 5 of Part 2 of Division 3 of Title 4.

(q) The Tahoe Transportation District that is established by Article IX of Section 66801.

(r) The California Firefighter Joint Apprenticeship Program formed pursuant to Chapter 4 (commencing with Section 3070) of Division 3 of the Labor Code.

(s) A public health department or district that is managed by the governing body of a county of the 15th class, as defined by Sections 28020 and 28036, as amended by Chapter 1204 of the Statutes of 1971.

(t) A nonprofit corporation or association conducting an agricultural fair pursuant to Section 25905 may enter into a contract with the board



for the participation of its employees as members of this system, upon obtaining a written advisory opinion from the United States Department of Labor as described in Section 20057.1. The nonprofit corporation or association shall be deemed a “public agency” only for this purpose.

(u) An auxiliary organization established pursuant to Article 2.5 (commencing with Section 69522) of Chapter 2 of Part 42 of the Education Code upon obtaining a written advisory opinion from the United States Department of Labor as described in Section 20057.1. The auxiliary organization is a “public agency” only for this purpose.

(v) The Western Association of Schools and Colleges upon obtaining a written advisory opinion from the United States Department of Labor as described in Section 20057.1. The association shall be deemed a “public agency” only for this purpose.

(w) The State Assistance Fund for Enterprise, Business, and Industrial Development Corporation upon obtaining a written opinion from the United States Department of Labor as described in Section 20057.1.

SEC. 24. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the provisions of this act to take effect as soon as possible, it is necessary that this act take effect immediately.

