

AMENDED IN ASSEMBLY APRIL 26, 2007

AMENDED IN ASSEMBLY APRIL 19, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 1506

Introduced by Assembly Member Arambula

February 23, 2007

An act to add Section 14075.5 to the Corporations Code, *and* to add Section 63038 to the Government Code, ~~and to add Sections 17053.97 and 23665 to the Revenue and Taxation Code~~, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 1506, as amended, Arambula. Energy Independence and Early Adapter Business Incentive Act of 2007.

(1) The California Small Business Financial Development Corporation Law provides for the creation of nonprofit California small business financial development corporations that are authorized to, among other things, provide loans and loan guarantees, including granting energy efficiency improvement loans, to small businesses.

This bill would authorize a corporation to provide direct loans and loan guarantees for capital expenditures that reduce greenhouse gas emissions or generate renewable energy if specified requirements are met.

(2) The Bergeson-Peace Infrastructure and Economic Development Bank Act creates the California Infrastructure and Economic Development Bank, and charges it with responsibilities designed to carry out the purposes of the act. The act requires the bank to establish guidelines for the selection of projects to receive assistance from the bank.

This bill would authorize the bank, upon appropriation by the Legislature of funds for this purpose, to make loans on capital equipment at interest rates that are below market interest rates if specified requirements are met, including a requirement that the loan applicant use the loan proceeds to purchase or retrofit equipment that will directly result in a measurable reduction of greenhouse gas emissions.

~~(3) The Personal Income Tax Law and the Corporation Tax Law authorize various deductions and credits in computing the taxes imposed by those laws:~~

~~This bill would, under both laws, allow a tax credit in an amount equal to 10% of the amount paid or incurred during the taxable year for qualified capital equipment certified by the California Climate Action Registry or the State Air Resources Board to result in measurable reductions in greenhouse gas emissions.~~

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. This act shall be known, and may be cited, as the
2 Energy Independence and Early Adapter Business Incentive Act
3 of 2007.

4 SEC. 2. The Legislature finds and declares both of the
5 following:

6 (a) The increased costs of energy, combined with the physical,
7 environmental, and regulatory risks associated with climate change,
8 have resulted in a significant challenge for California businesses.

9 (b) In order for California companies to remain competitive in
10 the global marketplace, it is necessary and appropriate for the state
11 to provide incentives to businesses to reduce greenhouse gas
12 emissions and increase our energy independence.

13 SEC. 3. Section 14075.5 is added to the Corporations Code,
14 to read:

15 14075.5. (a) A corporation may provide direct loans and loan
16 guarantees for capital expenditures that reduce greenhouse gas
17 emissions or generate renewable energy if all of the following
18 requirements are met:

19 (1) The loan applicant is creditworthy and meets the
20 underwriting standards otherwise required under the loan guarantee
21 program.

1 (2) An alternative loan at a market interest rate is not available
2 to the applicant.

3 (3) State income tax credits do not benefit the applicant in an
4 amount that is sufficient for the applicant to justify the expenditure.

5 (4) The loan applicant reports its greenhouse gas emissions to
6 the California Climate Action Registry or the State Air Resources
7 Board.

8 (b) The agency, in consultation with the State Air Resources
9 Board, shall determine whether a capital expenditure meets the
10 requirements of subdivision (a).

11 (c) Notwithstanding any other law, it is the intent of the
12 Legislature that, for each fiscal year beginning July 1, 2008, until
13 December 31, 2011, funds appropriated for the purposes of this
14 section shall be used on a priority basis for the purposes described
15 in subdivision (a).

16 (d) The agency shall determine which size businesses are eligible
17 for loan and loan guarantees under this section.

18 SEC. 4. Section 63038 is added to the Government Code, to
19 read:

20 63038. The bank, upon appropriation by the Legislature of
21 funds for this purpose, may make loans on capital equipment at
22 interest rates that are below market interest rates if all of the
23 following conditions are met:

24 (a) The loan applicant will use the loan proceeds to purchase
25 or retrofit equipment that will directly result in a measurable
26 reduction of greenhouse gas emissions. The bank, in consultation
27 with the State Air Resources Board, shall determine whether the
28 equipment meets that requirement.

29 (b) The bank determines all of the following:

30 (1) The applicant has the ability to repay the loan.

31 (2) An alternative loan at a market interest rate is not available
32 to the applicant.

33 (3) State income tax credits do not benefit the applicant in an
34 amount that is sufficient for the applicant to justify the expenditure.

35 (c) The loan recipient is a small business with less than 20
36 employees.

37 (d) The loan recipient reports its greenhouse gas emissions to
38 the California Climate Action Registry or the State Air Resources
39 Board.

1 (e) Loans shall be made pursuant to this section on or after
2 March 1, 2008. No loans may be made pursuant to this section
3 after December 31, 2011.

4 ~~SEC. 5. Section 17053.97 is added to the Revenue and Taxation~~
5 ~~Code, to read:~~

6 ~~17053.97. (a) For purposes of this section, the following terms~~
7 ~~have the following meanings:~~

8 ~~(1) “Qualified capital equipment” means equipment that meets~~
9 ~~all of the following requirements:~~

10 ~~(A) Produces a measurable reduction in the qualified facility’s~~
11 ~~greenhouse gas emissions when properly placed in service and~~
12 ~~maintained.~~

13 ~~(B) Is placed in service and used exclusively in California.~~

14 ~~(C) Is certified by the California Climate Action Registry or the~~
15 ~~state board that it has been placed in service and is operational.~~

16 ~~(D) Is certified by the California Climate Action Registry or~~
17 ~~the state board that its operation will result in measurable~~
18 ~~reductions in greenhouse gas emissions.~~

19 ~~(2) “Qualified facility” means either of the following:~~

20 ~~(A) An existing facility of the taxpayer located in California.~~

21 ~~(B) The expansion of an existing facility of the taxpayer, which~~
22 ~~is in the same location as, or adjacent to, an existing facility of the~~
23 ~~taxpayer located in California.~~

24 ~~(3) “State board” means the State Air Resources Board.~~

25 ~~(b) For each taxable year beginning on or after January 1, 2008,~~
26 ~~and ending by January 1, 2012, there shall be allowed as a credit~~
27 ~~against the “net tax,” as defined in Section 17039, an amount equal~~
28 ~~to 10 percent of the amount paid or incurred during the taxable~~
29 ~~year for qualified capital equipment.~~

30 ~~(c) Eligible greenhouse gas reductions do not include those that~~
31 ~~are required by law or regulation. A taxpayer may claim a credit~~
32 ~~for a prorated share of the total cost of the equipment based on the~~
33 ~~additional greenhouse gas reduction value of the equipment. For~~
34 ~~this purpose, the state board shall establish a standard cost for~~
35 ~~equipment that meets existing law or regulations.~~

36 ~~(d) In the case where the credit allowed by this section exceeds~~
37 ~~the “net tax,” the excess may be carried over to reduce the “net~~
38 ~~tax” in the following year, and succeeding five years if necessary.~~

39 ~~(e) Credits may be claimed on qualified capital equipment placed~~
40 ~~in service in a qualified facility on or after January 1, 2008.~~

1 ~~(f) This section only applies to persons that report their~~
2 ~~greenhouse gas emissions, either on a voluntary or mandatory~~
3 ~~basis, to the California Climate Action Registry or the state board.~~

4 ~~SEC. 6. Section 23665 is added to the Revenue and Taxation~~
5 ~~Code, to read:~~

6 ~~23665. (a) For purposes of this section, the following terms~~
7 ~~have the following meanings:~~

8 ~~(1) “Qualified capital equipment” means equipment that meets~~
9 ~~all of the following requirements:~~

10 ~~(A) Produces a measurable reduction in the qualified facility’s~~
11 ~~greenhouse gas emissions when properly placed in service and~~
12 ~~maintained.~~

13 ~~(B) Is placed in service and used exclusively in California.~~

14 ~~(C) Is certified by the California Climate Action Registry or the~~
15 ~~state board that it has been placed in service and is operational.~~

16 ~~(D) Is certified by the California Climate Action Registry or~~
17 ~~the state board that its operation will result in measurable~~
18 ~~reductions in greenhouse gas emissions.~~

19 ~~(2) “Qualified facility” means either of the following:~~

20 ~~(A) An existing facility of the taxpayer located in California.~~

21 ~~(B) The expansion of an existing facility of the taxpayer, which~~
22 ~~is in the same location as, or adjacent to, an existing facility of the~~
23 ~~taxpayer located in California.~~

24 ~~(3) “State board” means the State Air Resources Board.~~

25 ~~(b) For each taxable year beginning on or after January 1, 2008,~~
26 ~~and ending by January 1, 2012, there shall be allowed as a credit~~
27 ~~against the “tax,” as defined in Section 23036, an amount equal~~
28 ~~to 10 percent of the amount paid or incurred during the taxable~~
29 ~~year for qualified capital equipment.~~

30 ~~(c) Eligible greenhouse gas reductions do not include those that~~
31 ~~are required by law or regulation. A taxpayer may claim a credit~~
32 ~~for a prorated share of the total cost of the equipment based on the~~
33 ~~additional greenhouse gas reduction value of the equipment. For~~
34 ~~this purpose, the state board shall establish a standard cost for~~
35 ~~equipment that meets existing law or regulations.~~

36 ~~(d) In the case where the credit allowed by this section exceeds~~
37 ~~the “tax,” as defined in Section 23036, the excess may be carried~~
38 ~~over to reduce the “tax” in the following year, and succeeding five~~
39 ~~years if necessary.~~

- 1 ~~(e) Credits may be claimed on qualified capital equipment placed~~
- 2 ~~in service in a qualified facility on or after January 1, 2008.~~
- 3 ~~(f) This section only applies to entities that report their~~
- 4 ~~greenhouse gas emissions, either on a voluntary or mandatory~~
- 5 ~~basis, to the California Climate Action Registry or the state board.~~