

Introduced by Senator KehoeFebruary 26, 2009

An act to amend Sections 42023.1, 42023.2, 42023.4, 42023.5, and 42023.6 of, and to repeal Section 42023.3 of, the Public Resources Code, relating to solid waste, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 390, as introduced, Kehoe. Solid waste: recycling market development.

(1) The California Integrated Waste Management Act of 1989, which is administered by the California Integrated Waste Management Board, establishes an integrated waste management program. The act creates the Recycling Market Development Revolving Loan Subaccount in the Integrated Waste Management Account and continuously appropriates the funds deposited in the subaccount to the board for making loans for the purposes of the Recycling Market Development Revolving Loan Program (program). Existing law makes the provisions regarding the loan program, the creation of the subaccount, and expenditures therefrom inoperative on July 1, 2011, and repeals them as of January 1, 2012, and provides for disposition of funds remaining after inoperation and repeal.

This bill would delete the inoperative and repeal dates, thereby indefinitely continuing the program and the continuous appropriation, and thereby making an appropriation, and would delete the provisions providing for disposition of funds remaining after inoperation and repeal.

(2) The act requires, upon authorization by the Legislature in the annual Budget Act, the Controller to transfer a sum that does not exceed \$5,000,000 from the account to the subaccount as necessary to meet anticipated loan demand under the program. The act provides that the

transferred amount is a loan to the subaccount, repayable with interest to the account.

This bill would delete the limitation of the transfer to \$5,000,000 and the requirement that the amount transferred be a loan to the subaccount, repayable with interest.

(3) The act requires the board under the program to finance by a recycling market development loan not more than $\frac{3}{4}$ of the cost of each project, or not more than \$2,000,000 for each project, whichever is less.

This bill, instead, would authorize the board to expend not more than 50% of the amount available in the subaccount at the beginning of each fiscal year for loans that do not exceed the lesser of \$2,000,000 or $\frac{3}{4}$ of the cost of the project to be funded by the loan, and to expend not more than 50% of the amount available in the subaccount at the beginning of each fiscal year for loans that are greater than \$2,000,000, but do not exceed \$5,000,000, and do not exceed $\frac{3}{4}$ of the cost of the project to be funded by the loan.

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

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

- 1 SECTION 1. Section 42023.1 of the Public Resources Code
- 2 is amended to read:
- 3 42023.1. (a) The Recycling Market Development Revolving
- 4 Loan Subaccount is hereby created in the account for the purpose
- 5 of providing loans for purposes of the Recycling Market
- 6 Development Revolving Loan Program established pursuant to
- 7 this article.
- 8 (b) Notwithstanding Section 13340 of the Government Code,
- 9 the funds deposited in the subaccount are hereby continuously
- 10 appropriated to the board without regard to fiscal year for making
- 11 loans pursuant to this article.
- 12 (c) The board may expend interest earnings on funds in the
- 13 subaccount for administrative expenses incurred in carrying out
- 14 the Recycling Market Development Revolving Loan Program,
- 15 upon the appropriation of funds in the subaccount for that purpose
- 16 in the annual Budget Act.
- 17 (d) The money from ~~any~~ loan repayments and fees, including,
- 18 but not limited to, principal and interest repayments, fees and
- 19 points, recovery of collection costs, income earned on ~~any~~ an asset

1 recovered pursuant to a loan default, and funds collected through
2 foreclosure actions, shall be deposited in the subaccount.

3 (e) All interest accruing on interest payments from loan
4 applicants shall be deposited in the subaccount.

5 (f) The board may expend the money in the subaccount to make
6 loans to local governing bodies, private businesses, and nonprofit
7 entities within recycling market development zones, or in areas
8 outside zones where partnerships exist with other public entities
9 to assist local jurisdictions to comply with Section 40051.

10 (g) The board shall establish and collect fees for applications
11 for loans authorized by this section. The application fee shall be
12 set at a level that is sufficient to fund the board's cost of processing
13 applications for loans. In addition, the board shall establish a
14 schedule of fees, or points, for loans ~~which~~ *that* are entered into
15 by the board, to fund the board's administration of the revolving
16 loan program.

17 (h) The board may expend money in the subaccount for the
18 administration of the Recycling Market Development Revolving
19 Loan Program, upon the appropriation of funds in the subaccount
20 for that purpose in the annual Budget Act. In addition, the board
21 may expend money in the account to administer the revolving loan
22 program, upon the appropriation of funds in the subaccount for
23 that purpose in the annual Budget Act. However, funding for the
24 administration of the revolving loan program from the account
25 shall be provided only if there are not sufficient funds in the
26 subaccount to fully fund the administration of the program.

27 (i) The board, pursuant to subdivision (a) of Section 47901, may
28 set aside funds for the purposes of paying costs necessary to protect
29 the state's position as a lender-creditor. These costs shall be broadly
30 construed to include, but not be limited to, foreclosure expenses,
31 auction fees, title searches, appraisals, real estate brokerage fees,
32 attorney fees, mortgage payments, insurance payments, utility
33 costs, repair costs, removal and storage costs for repossessed
34 equipment and inventory, and additional expenditures to purchase
35 a senior lien in foreclosure or bankruptcy proceedings.

36 ~~(j) (1) Except as provided in paragraph (2), this section shall
37 become inoperative on July 1, 2011, and as of January 1, 2012, is
38 repealed, unless a later enacted statute, which becomes effective
39 on or before January 1, 2012, deletes or extends the dates on which
40 it becomes inoperative and is repealed.~~

1 ~~(2) The repeal of this section pursuant to paragraph (1) shall~~
 2 ~~not extinguish any loan obligation or the authority of the state to~~
 3 ~~pursue appropriate actions for the collection of a loan.~~

4 SEC. 2. Section 42023.2 of the Public Resources Code is
 5 amended to read:

6 42023.2. ~~(a) Upon authorization by the Legislature in the~~
 7 ~~annual Budget Act, the Controller shall transfer a sum not to exceed~~
 8 ~~five million dollars (\$5,000,000), as available, from the account~~
 9 ~~to the subaccount as necessary to meet anticipated loan demand~~
 10 ~~under the program. Those amounts shall be a loan to the~~
 11 ~~subaccount, repayable with interest to the account at the rate of~~
 12 ~~return for money in the Surplus Money Investment Fund.~~

13 ~~(b) (1) Except as provided in paragraph (2), this section shall~~
 14 ~~become inoperative on July 1, 2011, and as of January 1, 2012, is~~
 15 ~~repealed, unless a later enacted statute, which becomes effective~~
 16 ~~on or before January 1, 2012, deletes or extends the dates on which~~
 17 ~~it becomes inoperative and is repealed.~~

18 ~~(2) The repeal of this section pursuant to paragraph (1) shall~~
 19 ~~not extinguish any loan obligation or the authority of the state to~~
 20 ~~pursue appropriate actions for the collection of a loan.~~

21 SEC. 3. Section 42023.3 of the Public Resources Code is
 22 repealed.

23 ~~42023.3. (a) All money remaining in the subaccount on July~~
 24 ~~1, 2011, and all money received as repayment and interest on loans~~
 25 ~~shall, as of July 1, 2011, be transferred to the account and any~~
 26 ~~money due and outstanding on loans as of July 1, 2011, shall be~~
 27 ~~repaid to the board and deposited by the board in the account until~~
 28 ~~paid in full, except that, upon authorization by the Legislature in~~
 29 ~~the annual Budget Act, interest earnings may be expended for~~
 30 ~~administrative costs associated with the collection of outstanding~~
 31 ~~loan accounts.~~

32 ~~(b) (1) Except as provided in paragraph (2), this section shall~~
 33 ~~become inoperative on July 1, 2011, and as of January 1, 2012, is~~
 34 ~~repealed, unless a later enacted statute, which becomes effective~~
 35 ~~on or before January 1, 2012, deletes or extends the dates on which~~
 36 ~~it becomes inoperative and is repealed.~~

37 ~~(2) The repeal of this section pursuant to paragraph (1) shall~~
 38 ~~not extinguish any loan obligation or the authority of the state to~~
 39 ~~pursue appropriate actions for the collection of a loan.~~

1 SEC. 4. Section 42023.4 of the Public Resources Code is
2 amended to read:

3 42023.4. (a) ~~Loans~~ *A loan* made pursuant to Section 42023.1
4 shall be subject to all of the following requirements:

5 (1) The terms of ~~any~~ *an* approved loan shall be specified in a
6 loan agreement between the borrower and the board. The loan
7 agreement shall include a requirement that the failure to comply
8 with the agreement shall result in any remaining unpaid amount
9 of the loan, with accrued interest, being immediately due and
10 payable. Notwithstanding any term of the agreement, ~~any~~ *a*
11 recipient of a loan that the board approves shall repay the principal
12 amount, plus interest on the basis of the rate of return for money
13 in the Surplus Money Investment Fund at the time of the loan
14 commitment. ~~Except as provided in subdivision (a) of Section~~
15 ~~42023.3, all~~ *All* money received as repayment and interest on loans
16 made pursuant to this section shall be deposited in the subaccount.

17 (2) The term of ~~any~~ *a* loan made pursuant to this section shall
18 be not more than 10 years when collateralized by assets other than
19 real estate, or not more than 15 years when partially or wholly
20 collateralized by real estate.

21 (3) The board shall approve only those loan applications that
22 demonstrate the applicant's ability to repay the loan. The highest
23 priority for funding shall be given to projects ~~which~~ *that*
24 demonstrate that the project will increase market demand for
25 recycling the project's type of postconsumer waste material.

26 ~~(4) The board shall finance not more than three-fourths of the~~
27 ~~cost of each project, or not more than two million dollars~~
28 ~~(\$2,000,000) for each project, whichever is less.~~

29 *(b) (1) The board may expend not more than 50 percent of the*
30 *amount available in the subaccount as of the beginning of each*
31 *fiscal year for loans that do not exceed the lesser of two million*
32 *dollars (\$2,000,000) or three-fourths of the cost of the project to*
33 *be funded by the loan.*

34 *(2) The board may expend not more than 50 percent of the*
35 *amount available in the subaccount as of the beginning of each*
36 *fiscal year for loans that are greater than two million dollars*
37 *(\$2,000,000), but do not exceed five million dollars (\$5,000,000),*
38 *and do not exceed three-fourths of the cost of the project to be*
39 *funded by the loan.*

1 (3) A loan made pursuant to paragraph (1) or (2) shall promote
2 market demand for priority materials, as determined by the board.

3 ~~(5)~~

4 (c) The Department of Finance may audit the expenditure of
5 the proceeds of ~~any a~~ loan made pursuant to Section 42023.1 and
6 this section.

7 ~~(b) (1) Except as provided in paragraph (2), this section shall
8 become inoperative on July 1, 2011, and as of January 1, 2012, is
9 repealed, unless a later enacted statute, which becomes effective
10 on or before January 1, 2012, deletes or extends the dates on which
11 it becomes inoperative and is repealed.~~

12 ~~(2) The repeal of this section pursuant to paragraph (1) shall
13 not extinguish any loan obligation or the authority of the state to
14 pursue appropriate actions for the collection of a loan.~~

15 SEC. 5. Section 42023.5 of the Public Resources Code is
16 amended to read:

17 42023.5. ~~(a)~~ The board shall, as part of the annual report to
18 the Legislature, pursuant to Section 40507, include a report on the
19 performance of the Recycling Market Development Revolving
20 Loan Program, including the number and size of loans made,
21 characteristics of loan recipients, projected loan demand, and the
22 cost of administering the program.

23 ~~(b) This section shall become inoperative on July 1, 2011, and
24 as of January 1, 2012, is repealed, unless a later enacted statute,
25 which becomes effective on or before January 1, 2012, deletes or
26 extends the dates on which it becomes inoperative and is repealed.~~

27 SEC. 6. Section 42023.6 of the Public Resources Code is
28 amended to read:

29 42023.6. (a) The board shall encourage applicants to seek
30 participation from private financial institutions or other public
31 agencies. For purposes of enabling the board and local agencies
32 to comply with Sections 40051 and 41780, the board may
33 participate, in an amount not to exceed five hundred thousand
34 dollars (\$500,000), in the Capital Access Loan Program as provided
35 in Article 8 (commencing with Section 44559) of Chapter 1 of
36 Division 27 of the Health and Safety Code.

37 (b) For purposes of participating in the Capital Access Loan
38 Program, as specified in subdivision (a), or in ~~any a~~ program that
39 leverages subaccount funds, the board may operate both inside
40 and outside the recycling market development zones.

1 ~~(e) (1) Except as provided in paragraph (2), this section shall~~
2 ~~become inoperative on July 1, 2011, and as of January 1, 2012, is~~
3 ~~repealed, unless a later enacted statute, which becomes effective~~
4 ~~on or before January 1, 2012, deletes or extends the dates on which~~
5 ~~it becomes inoperative and is repealed.~~

6 ~~(2) The repeal of this section pursuant to paragraph (1) shall~~
7 ~~not extinguish any loan obligation or the authority of the state to~~
8 ~~pursue appropriate actions for the collection of a loan.~~

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