

AMENDED IN ASSEMBLY AUGUST 2, 2010

AMENDED IN ASSEMBLY JUNE 17, 2010

AMENDED IN SENATE APRIL 22, 2010

SENATE BILL

No. 1340

Introduced by Senator Kehoe

(Coauthors: Assembly Members Bradford, Coto, Davis, and Solorio)

February 19, 2010

An act to amend Section 44272 of the Health and Safety Code, to amend Sections 26100, 26104, 26121, and 26123 of the Public Resources Code, and to amend Sections 5898.12, 5898.14, 5898.20, 5898.21, and 5898.22 of the Streets and Highways Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1340, as amended, Kehoe. Energy: ~~alternative fuels and vehicle technologies.~~

Existing

(1) *Existing* law establishes the Alternative and Renewable Fuel and Vehicle Technology Program, administered by the State Energy Resources Conservation and Development Commission (Energy Commission), to provide to specified entities, upon appropriation by the Legislature, grants, loans, loan guarantees, revolving loans, or other appropriate measures, for the development and deployment of innovative technologies that transform California's fuel and vehicle types to help attain the state's climate change goals. Existing law specifies that only certain projects or programs are eligible for funding.

This bill would, additionally, specify projects eligible for funding under the program to include a cost-effective program to provide funding

for homeowners who purchase an electric vehicle to offset costs associated with modifying electrical sources to include a residential plug-in electric vehicle charging station.

~~Existing~~

(2) *Existing* law authorizes a public agency and a property owner to enter into voluntary contractual assessments to finance the installation of distributed generation renewable energy sources or energy or water efficiency improvements that are permanently affixed on real property.

Existing law requires the California Alternative Energy and Advanced Transportation Financing Authority to establish a Property Assessed Clean Energy (PACE) Reserve program to assist local jurisdictions in financing the installation of distributed generation renewable energy sources or energy or water efficiency improvements meeting specified requirements that are permanently affixed on real property through the use of a voluntary contractual assessment.

This bill would expand the use of the voluntary contractual assessment to finance electric vehicle charging infrastructure affixed on real property and would *declare the intent of the Legislature to limit participation in this assessment program when it would result in an inability of the property owner to pay property taxes or in total taxes and assessments exceeding 5% of the property value. The bill would* expand the PACE Reserve program to assist local jurisdictions in financing the installation of electric vehicle charging infrastructure.

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 44272 of the Health and Safety Code is
2 amended to read:
3 44272. (a) The Alternative and Renewable Fuel and Vehicle
4 Technology Program is hereby created. The program shall be
5 administered by the commission. The commission shall implement
6 the program by regulation pursuant to the requirements of Chapter
7 3.5 (commencing with Section 11340) of Division 3 of Title 2 of
8 the Government Code. The program shall provide, upon
9 appropriation by the Legislature, competitive grants, revolving
10 loans, loan guarantees, loans, or other appropriate funding
11 measures, to public agencies, vehicle and technology entities,
12 businesses and projects, public-private partnerships, workforce

1 training partnerships and collaboratives, fleet owners, consumers,
2 recreational boaters, and academic institutions to develop and
3 deploy innovative technologies that transform California’s fuel
4 and vehicle types to help attain the state’s climate change policies.
5 The emphasis of this program shall be to develop and deploy
6 technology and alternative and renewable fuels in the marketplace,
7 without adopting any one preferred fuel or technology.

8 (b) A project funded by the commission shall be approved at a
9 noticed public hearing of the commission and shall be consistent
10 with the priorities established by the investment plan adopted
11 pursuant to Section 44272.5.

12 (c) The commission shall provide preferences to those projects
13 that maximize the goals of the Alternative and Renewable Fuel
14 and Vehicle Technology Program, based on the following criteria,
15 as applicable:

16 (1) The project’s ability to provide a measurable transition from
17 the nearly exclusive use of petroleum fuels to a diverse portfolio
18 of viable alternative fuels that meet petroleum reduction and
19 alternative fuel use goals.

20 (2) The project’s consistency with existing and future state
21 climate change policy and low-carbon fuel standards.

22 (3) The project’s ability to reduce criteria air pollutants and air
23 toxics and reduce or avoid multimedia environmental impacts.

24 (4) The project’s ability to decrease, on a life-cycle basis, the
25 discharge of water pollutants or any other substances known to
26 damage human health or the environment, in comparison to the
27 production and use of California Phase 2 Reformulated Gasoline
28 or diesel fuel produced and sold pursuant to California diesel fuel
29 regulations set forth in Article 2 (commencing with Section 2280)
30 of Chapter 5 of Division 3 of Title 13 of the California Code of
31 Regulations.

32 (5) The project does not adversely impact the sustainability of
33 the state’s natural resources, especially state and federal lands.

34 (6) The project provides nonstate matching funds.

35 (7) The project provides economic benefits for California by
36 promoting California-based technology firms, jobs, and businesses.

37 (8) The project uses existing or proposed fueling infrastructure
38 to maximize the outcome of the project.

39 (9) The project’s ability to reduce on a life-cycle assessment
40 greenhouse gas emissions by at least 10 percent, and higher

1 percentages in the future, from current reformulated gasoline and
2 diesel fuel standards established by the state board.

3 (10) The project's use of alternative fuel blends of at least 20
4 percent, and higher blend ratios in the future, with a preference
5 for projects with higher blends.

6 (11) The project drives new technology advancement for
7 vehicles, vessels, engines, and other equipment, and promotes the
8 deployment of that technology in the marketplace.

9 (d) Only the following shall be eligible for funding:

10 (1) Alternative and renewable fuel projects to develop and
11 improve alternative and renewable low-carbon fuels, including
12 electricity, ethanol, dimethyl ether, renewable diesel, natural gas,
13 hydrogen, and biomethane, among others, and their feedstocks
14 that have high potential for long-term or short-term
15 commercialization, including projects that lead to sustainable
16 feedstocks.

17 (2) Demonstration and deployment projects that optimize
18 alternative and renewable fuels for existing and developing engine
19 technologies.

20 (3) Projects to produce alternative and renewable low-carbon
21 fuels in California.

22 (4) Projects to decrease the overall impact of an alternative and
23 renewable fuel's life cycle carbon footprint and increase
24 sustainability.

25 (5) Alternative and renewable fuel infrastructure, fueling
26 stations, and equipment. The preference in paragraph (10) of
27 subdivision (c) shall not apply to renewable diesel or biodiesel
28 infrastructure, fueling stations, and equipment used solely for
29 renewable diesel or biodiesel fuel.

30 (6) Projects to develop and improve light-, medium-, and
31 heavy-duty vehicle technologies that provide for better fuel
32 efficiency and lower greenhouse gas emissions, alternative fuel
33 usage and storage, or emission reductions, including propulsion
34 systems, advanced internal combustion engines with a 40 percent
35 or better efficiency level over the current market standard,
36 light-weight materials, energy storage, control systems and system
37 integration, physical measurement and metering systems and
38 software, development of design standards and testing and
39 certification protocols, battery recycling and reuse, engine and fuel
40 optimization electronic and electrified components, hybrid

1 technology, plug-in hybrid technology, battery electric vehicle
2 technology, fuel cell technology, and conversions of hybrid
3 technology to plug-in technology through the installation of safety
4 certified supplemental battery modules.

5 (7) Programs and projects that accelerate the commercialization
6 of vehicles and alternative and renewable fuels including buy-down
7 programs through near-market and market-path deployments,
8 advanced technology warranty or replacement insurance,
9 development of market niches, supply-chain development, and
10 research related to the pedestrian safety impacts of vehicle
11 technologies and alternative and renewable fuels.

12 (8) Programs and projects to retrofit medium- and heavy-duty
13 on-road and nonroad vehicle fleets with technologies that create
14 higher fuel efficiencies, including alternative and renewable fuel
15 vehicles and technologies, idle management technology, and
16 aerodynamic retrofits that decrease fuel consumption.

17 (9) Infrastructure projects that promote alternative and renewable
18 fuel infrastructure development connected with existing fleets,
19 public transit, and existing transportation corridors, including
20 physical measurement or metering equipment and truck stop
21 electrification.

22 (10) Workforce training programs related to alternative and
23 renewable fuel feedstock production and extraction, renewable
24 fuel production, distribution, transport, and storage,
25 high-performance and low-emission vehicle technology and high
26 tower electronics, automotive computer systems, mass transit fleet
27 conversion, servicing, and maintenance, and other sectors or
28 occupations related to the purposes of this chapter.

29 (11) Block grants administered by not-for-profit technology
30 entities for multiple projects, education and program promotion
31 within California, and development of alternative and renewable
32 fuel and vehicle technology centers.

33 (12) Life cycle and multimedia analyses, sustainability and
34 environmental impact evaluations, and market, financial, and
35 technology assessments performed by a state agency to determine
36 the impacts of increasing the use of low-carbon transportation fuels
37 and technologies, and to assist in the preparation of the investment
38 plan and program implementation.

39 (13) A program to provide funding for homeowners who
40 purchase a plug-in electric vehicle to offset costs associated with

1 modifying electrical sources to include a residential plug-in electric
2 vehicle charging station. In establishing this program, the
3 commission shall consider funding criteria to maximize the public
4 benefit of the program.

5 (e) The commission may make a single source or sole source
6 award pursuant to this section for applied research. The same
7 requirements set forth in Section 25620.5 of the Public Resources
8 Code shall apply to awards made on a single source basis or a sole
9 source basis. This subdivision does not authorize the commission
10 to make a single source or sole source award for a project or
11 activity other than for applied research.

12 (f) Until January 1, 2012, the commission may contract with
13 the Treasurer to expend funds through programs implemented by
14 the Treasurer, if that expenditure is consistent with all of the
15 requirements of this chapter.

16 SEC. 2. Section 26100 of the Public Resources Code is
17 amended to read:

18 26100. (a) The Legislature finds and declares all of the
19 following:

20 (1) Property Assessed Clean Energy (PACE) financing has been
21 pioneered by municipalities and counties in California as a way
22 for home and small business owners to finance voluntary energy
23 and water efficiency and clean energy improvements.

24 (2) PACE financing was pioneered in the City of Berkeley,
25 while the City and County of San Francisco, City of San Diego,
26 City of Palm Desert, Sonoma County, and the California Statewide
27 Communities Development Authority (CSCDA) have already
28 initiated or are working to launch additional programs.

29 (3) Seventeen other states, including Colorado and New York,
30 have also enacted enabling PACE legislation.

31 (4) The public subsidy provided by the PACE financing is
32 justified by the benefits received in job creation, lower energy
33 demand, and spurring new clean industries that will grow the
34 economy.

35 (b) It is the intent of the Legislature to assist local jurisdictions
36 in financing the installation of distributed generation renewable
37 energy sources, electric vehicle charging infrastructure, or energy
38 or water efficiency improvements that are permanently fixed to
39 real property through the use of voluntary contractual assessments.

1 (c) It is not the intent of the Legislature to create any debt,
2 liability, or obligation on the part of the state in assisting local
3 jurisdictions pursuant to this division.

4 SEC. 3. Section 26104 of the Public Resources Code is
5 amended to read:

6 26104. “Property Assessed Clean Energy bond” or “PACE
7 bond” means a bond that is secured by a voluntary contractual
8 assessment on property authorized pursuant to paragraph (2) of
9 subdivision (a) of Section 5898.20 of the Streets and Highways
10 Code or by a voluntary contractual assessment or a voluntary
11 special tax on property to finance the installation of distributed
12 generation renewable energy sources, electric vehicle charging
13 infrastructure, or energy or water efficiency improvements that is
14 levied pursuant to a chartered city’s constitutional authority under
15 Section 5 of Article XI of the California Constitution.

16 SEC. 4. Section 26121 of the Public Resources Code is
17 amended to read:

18 26121. To qualify for assistance pursuant to this division, the
19 PACE program shall require all of the following:

20 (a) The interest rate on the PACE bond does not exceed a
21 percentage as determined by the authority to be appropriate.

22 (b) Minimum legal loan structure and credit underwriting criteria
23 as determined by the authority are met.

24 (c) Proceeds of the PACE bonds are used to finance qualified
25 energy and water efficiency, electric vehicle charging
26 infrastructure, and clean energy improvements.

27 (d) The improvement financed is for a residential project of
28 three units or fewer, or a commercial project that costs less than
29 twenty-five thousand dollars (\$25,000) in total.

30 SEC. 5. Section 26123 of the Public Resources Code is
31 amended to read:

32 26123. (a) In evaluating eligibility, the authority shall consider
33 whether the applicant’s PACE program includes the following
34 conditions:

35 (1) Loan recipients are legal owners of underlying property.

36 (2) Loan recipients are current on mortgage and property tax
37 payments.

38 (3) Loan recipients are not in default or in bankruptcy
39 proceedings.

1 (4) Loans are for less than 10 percent of the value of the
2 property.

3 (5) The property is within the geographical boundaries of the
4 PACE program.

5 (6) The program offers financing for energy efficiency
6 improvements or electric vehicle charging infrastructure.

7 (7) Improvements financed by the program follow applicable
8 standards of energy efficiency retrofit work, including any
9 guidelines adopted by the State Resources Conservation and
10 Development Commission.

11 (b) In evaluating an application, the authority shall consider all
12 of the following factors:

13 (1) The use by the PACE program of best practices, adopted by
14 the authority, to qualify eligible properties for participation in
15 underwriting the PACE program.

16 (2) The cost efficiency of the applicant’s PACE program,
17 including bond issuance.

18 (3) The projected number of jobs created by the PACE program.

19 (4) The applicant’s PACE program requirements for quality
20 assurance and consumer protection as related to achieving
21 efficiency and clean energy production.

22 (5) The mechanisms by which savings produced by this program
23 are passed on to the property owners.

24 (6) Any other factors deemed appropriate by the authority.

25 SEC. 6. Section 5898.12 of the Streets and Highways Code is
26 amended to read:

27 5898.12. (a) It is the intent of the Legislature that this chapter
28 should be used to finance public improvements to lots or parcels
29 that are developed and for which the costs and time delays involved
30 in creating an assessment district pursuant to other provisions of
31 this division or any other law would be prohibitively large relative
32 to the cost of the public improvements to be financed.

33 (b) It is also the intent of the Legislature that this chapter should
34 be used to finance the installation of distributed generation
35 renewable energy sources, electric vehicle charging infrastructure,
36 or energy efficiency improvements that are permanently fixed to
37 residential, commercial, industrial, agricultural, or other real
38 property.

39 (c) It is also the intent of the Legislature to address chronic
40 water needs throughout California by permitting voluntary

1 individual efforts to improve water efficiency. The Legislature
2 further intends that this chapter should be used to finance the
3 installation of water efficiency improvements that are permanently
4 fixed to residential, commercial, industrial, agricultural, or other
5 real property, including, but not limited to, recycled water
6 connections, synthetic turf, cisterns for stormwater recovery, and
7 permeable pavement.

8 (d) It is also the intent of the Legislature that a public agency
9 in the process of establishing an assessment program, to the extent
10 feasible, use a good faith effort to provide advance notice of the
11 proposed program to water and electric service providers in the
12 relevant service area, as set forth in Section 5898.24, to allow the
13 most efficient coordination and collaboration between the public
14 agency and water and electric service providers.

15 (e) This chapter shall not be used to finance facilities for parcels
16 that are undergoing development.

17 (f) *It is the intent of the Legislature that participation in an*
18 *assessment program shall not have the effect of making the*
19 *participant unable to pay the property taxes and assessments on*
20 *the property, therefore, a property owner shall not be eligible to*
21 *participate in any program established pursuant to this chapter if*
22 *participation would result in the total amount of any annual*
23 *property taxes and assessments exceeding 5 percent of the*
24 *property's appraised market value.*

25 ~~(f)~~

26 (g) This chapter shall not be used to finance the purchase or
27 installation of appliances that are not permanently fixed to
28 residential, commercial, industrial, agricultural, or other real
29 property.

30 ~~(g)~~

31 (h) Assessments may be levied pursuant to this chapter only
32 with the free and willing consent of the owner of each lot or parcel
33 on which an assessment is levied at the time the assessment is
34 levied.

35 SEC. 7. Section 5898.14 of the Streets and Highways Code is
36 amended to read:

37 5898.14. (a) The Legislature finds all of the following:

38 (1) Energy and water conservation efforts, including the
39 promotion of energy efficiency improvements to residential,

1 commercial, industrial, agricultural, or other real property are
2 necessary to address the issue of global climate change.

3 (2) Electric vehicle charging infrastructure is a necessary
4 component to transitioning to increase electric vehicle usage.
5 Electric vehicles and their electric charging infrastructure also
6 address the issue of global climate change.

7 (3) The upfront cost of making residential, commercial,
8 industrial, agricultural, or other real property more energy and
9 water efficient prevents many property owners from making those
10 improvements. To make those improvements more affordable and
11 to promote the installation of those improvements, it is necessary
12 to authorize an alternative procedure for authorizing assessments
13 to finance the cost of energy and water efficiency improvements.

14 (b) The Legislature declares that a public purpose will be served
15 by a voluntary contractual assessment program that provides the
16 legislative body of any public agency with the authority to finance
17 the installation of distributed generation renewable energy sources,
18 electric vehicle charging infrastructure, and energy or water
19 efficiency improvements that are permanently fixed to residential,
20 commercial, industrial, agricultural, or other real property.

21 SEC. 8. Section 5898.20 of the Streets and Highways Code is
22 amended to read:

23 5898.20. (a) (1) The legislative body of any public agency
24 may determine that it would be convenient and advantageous to
25 designate an area within the public agency, which may encompass
26 the entire public agency or a lesser portion, within which authorized
27 public agency officials and property owners may enter into
28 voluntary contractual assessments for public improvements and
29 to make financing arrangements pursuant to this chapter.

30 (2) The legislative body of any public agency may also
31 determine that it would be convenient, advantageous, and in the
32 public interest to designate an area within the public agency, which
33 may encompass the entire public agency or a lesser portion, within
34 which authorized public agency officials and property owners may
35 enter into voluntary contractual assessments to finance the
36 installation of distributed generation renewable energy sources,
37 electric vehicle charging infrastructure, or energy or water
38 efficiency improvements that are permanently fixed to real property
39 pursuant to this chapter.

1 (b) The legislative body shall make these determinations by
2 adopting a resolution indicating its intention to do so. The
3 resolution of intention shall include a statement that the public
4 agency proposes to make voluntary contractual assessment
5 financing available to property owners, shall identify the kinds of
6 public works, distributed generation renewable energy sources,
7 electric vehicle charging infrastructure, or energy or water
8 efficiency improvements that may be financed, shall describe the
9 boundaries of the area within which voluntary contractual
10 assessments may be entered into, and shall briefly describe the
11 proposed arrangements for financing the program, including a
12 brief description of criteria for determining the creditworthiness
13 of a property owner. The resolution of intention shall state that it
14 is in the public interest to finance the installation of distributed
15 generation renewable energy sources, electric vehicle charging
16 infrastructure, or energy or water efficiency improvements, or any
17 combination of these sources, infrastructure, and improvements,
18 pursuant to paragraph (2) of subdivision (a), if applicable. The
19 resolution shall state that a public hearing should be held at which
20 interested persons may object to or inquire about the proposed
21 program or any of its particulars, and shall state the time and place
22 of the hearing. The resolution shall direct an appropriate public
23 agency official to prepare a report pursuant to Section 5898.22
24 and to enter into consultations with the county auditor's office or
25 county controller's office in order to reach agreement on what
26 additional fees, if any, will be charged to the city or county for
27 incorporating the proposed voluntary contractual assessments into
28 the assessments of the general taxes of the city or county on real
29 property.

30 (c) As used in this chapter, each of the following terms shall
31 have the following meaning:

32 (1) "Efficiency improvements" means permanent improvements
33 fixed to residential, commercial, industrial, agricultural, or other
34 real property.

35 (2) "Legislative body" means the governing body of a public
36 agency.

37 (3) (A) For the purpose of financing the installation of water
38 efficiency improvements, "public agency" means a city, county,
39 city and county, municipal utility district, community services
40 district, sanitary district, sanitation district, or water district, as

1 defined in Section 20200 of the Water Code. The definition of
2 “city” in Section 5005 shall not apply to this subparagraph.

3 (B) For the purpose of financing the installation of distributed
4 generation renewable energy sources, *electric vehicle charging*
5 *infrastructure*, or energy efficiency improvements, “public agency”
6 means a county, city, city and county, or a municipal utility district,
7 an irrigation district, or public utility district that owns and operates
8 an electric distribution system. The definition of “city” in Section
9 5005 shall not apply to this subparagraph.

10 (C) For the purpose of financing the public improvements,
11 “public agency” means a city as defined in Section 5005.

12 SEC. 9. Section 5898.21 of the Streets and Highways Code is
13 amended to read:

14 5898.21. Notwithstanding any other provision of this chapter,
15 upon the written consent of an authorized public agency official,
16 the proposed arrangements for financing the program pertaining
17 to the installation of distributed generation renewable energy
18 sources, electric vehicle charging infrastructure, or energy or water
19 efficiency improvements that are permanently fixed to real property
20 may authorize the property owner to purchase directly the related
21 equipment and materials for the installation of distributed
22 generation renewable energy sources, electric vehicle charging
23 infrastructure, or energy or water efficiency improvements and to
24 contract directly for the installation of distributed generation
25 renewable energy sources, electric vehicle charging infrastructure,
26 or energy or water efficiency improvements that are permanently
27 fixed to the property owner’s residential, commercial, industrial,
28 agricultural, or other real property.

29 SEC. 10. Section 5898.22 of the Streets and Highways Code
30 is amended to read:

31 5898.22. The report shall contain all of the following:

32 (a) A map showing the boundaries of the territory within which
33 voluntary contractual assessments are proposed to be offered.

34 (b) A draft contract specifying the terms and conditions that
35 would be agreed to by a property owner within the voluntary
36 contractual assessment area and the public agency.

37 (c) A statement of public agency policies concerning voluntary
38 contractual assessments including all of the following:

39 (1) Identification of types of facilities, distributed generation
40 renewable energy sources, electric vehicle charging infrastructure,

1 or energy or water efficiency improvements that may be financed
2 through the use of contractual assessments.

3 (2) Identification of a public agency official authorized to enter
4 into voluntary contractual assessments on behalf of the public
5 agency.

6 (3) A maximum aggregate dollar amount of voluntary
7 contractual assessments.

8 (4) A method for setting requests from property owners for
9 financing through voluntary contractual assessments in priority
10 order in the event that requests appear likely to exceed the
11 authorization amount.

12 (5) *A brief description of criteria for determining the*
13 *creditworthiness of a property owner, and of the safeguards that*
14 *will be used to ensure that the total annual property tax and*
15 *assessments on the property will not exceed 5 percent of the*
16 *property's appraised market value.*

17 (d) A plan for raising a capital amount required to pay for work
18 performed pursuant to voluntary contractual assessments. The plan
19 may include amounts to be advanced by the public agency through
20 funds available to it from any source. The plan may include the
21 sale of a bond or bonds or other financing relationship pursuant
22 to Section 5898.28. The plan shall include a statement of or method
23 for determining the interest rate and time period during which
24 contracting property owners would pay any assessment. The plan
25 shall provide for any reserve fund or funds. The plan shall provide
26 for the apportionment of all or any portion of the costs incidental
27 to financing, administration, and collection of the voluntary
28 contractual assessment program among the consenting property
29 owners and the public agency.

30 (e) A report on the results of the consultations with the county
31 auditor's office or county controller's office concerning the
32 additional fees, if any, that will be charged to the city or county
33 for incorporating the proposed voluntary contractual assessments
34 into the assessments of the general taxes of the city or county on
35 real property, and a plan for financing the payment of those fees.

O