Senate Bill No. 1340

CHAPTER 649

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 add Sections 5898.15, 5898.23, and 5899.3 to the Streets and Highways Code, relating to energy.

[Approved by Governor September 30, 2010. Filed with Secretary of State September 30, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1340, Kehoe. Energy.

(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.

(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.

This bill would expand the use of the voluntary contractual assessment to finance electric vehicle charging infrastructure affixed on real property. The bill would prohibit a public agency from permitting a property owner to participate in a contractual assessment program if the total amount of assessments and taxes on the property exceeds 5% of the property's market value, as specified. The bill would also require the preliminary report issued in connection with the contractual assessment program to include criteria for determining underwriting requirements, and safeguards to be used to limit the total annual property tax and assessments on the property, as specified.

(3) 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 PACE Reserve program to assist local jurisdictions in financing the installation of electric vehicle charging infrastructure.

(4) This bill would incorporate additional changes in Section 44272 of the Health and Safety Code proposed by AB 1106, that would become operative only if AB 1106 and this bill are both chaptered and become operative on or before January 1, 2011, and this bill is chaptered last.

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

SECTION 1. Section 44272 of the Health and Safety Code is amended to read:

44272. (a) The Alternative and Renewable Fuel and Vehicle Technology Program is hereby created. The program shall be administered by the commission. The commission shall implement the program by regulation pursuant to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The program shall provide, upon appropriation by the Legislature, competitive grants, revolving loans, loan guarantees, loans, or other appropriate funding measures, to public agencies, vehicle and technology entities, businesses and projects, public-private partnerships, workforce training partnerships and collaboratives, fleet owners, consumers, recreational boaters, and academic institutions to develop and deploy innovative technologies that transform California's fuel and vehicle types to help attain the state's climate change policies. The emphasis of this program shall be to develop and deploy technology and alternative and renewable fuels in the marketplace, without adopting any one preferred fuel or technology.

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

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

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

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

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

(4) The project's ability to decrease, on a life-cycle basis, the discharge of water pollutants or any other substances known to damage human health

or the environment, in comparison to the production and use of California Phase 2 Reformulated Gasoline or diesel fuel produced and sold pursuant to California diesel fuel regulations set forth in Article 2 (commencing with Section 2280) of Chapter 5 of Division 3 of Title 13 of the California Code of Regulations.

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

(6) The project provides nonstate matching funds.

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

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

(9) The project's ability to reduce on a life-cycle assessment greenhouse gas emissions by at least 10 percent, and higher percentages in the future, from current reformulated gasoline and diesel fuel standards established by the state board.

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

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

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

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

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

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

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

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

(6) Projects to develop and improve light-, medium-, and heavy-duty vehicle technologies that provide for better fuel efficiency and lower greenhouse gas emissions, alternative fuel usage and storage, or emission reductions, including propulsion systems, advanced internal combustion engines with a 40 percent or better efficiency level over the current market standard, light-weight materials, energy storage, control systems and system integration, physical measurement and metering systems and software, development of design standards and testing and certification protocols,

battery recycling and reuse, engine and fuel optimization electronic and electrified components, hybrid technology, plug-in hybrid technology, battery electric vehicle technology, fuel cell technology, and conversions of hybrid technology to plug-in technology through the installation of safety certified supplemental battery modules.

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

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

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

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

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

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

(13) A program to provide funding for homeowners who purchase a plug-in electric vehicle to offset costs associated with modifying electrical sources to include a residential plug-in electric vehicle charging station. In establishing this program, the commission shall consider funding criteria to maximize the public benefit of the program.

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

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

SEC. 1.5. Section 44272 of the Health and Safety Code is amended to read:

44272. (a) The Alternative and Renewable Fuel and Vehicle Technology Program is hereby created. The program shall be administered by the commission. The commission shall implement the program by regulation pursuant to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The program shall provide, upon appropriation by the Legislature, competitive grants, revolving loans, loan guarantees, loans, or other appropriate funding measures, to public agencies, vehicle and technology entities, businesses and projects, public-private partnerships, workforce training partnerships and collaboratives, fleet owners, consumers, recreational boaters, and academic institutions to develop and deploy innovative technologies that transform California's fuel and vehicle types to help attain the state's climate change policies. The emphasis of this program shall be to develop and deploy technology and alternative and renewable fuels in the marketplace, without adopting any one preferred fuel or technology.

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

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

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

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

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

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

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

(6) The project provides nonstate matching funds.

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

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

(9) The project's ability to reduce on a life cycle assessment greenhouse gas emissions by at least 10 percent, and higher percentages in the future, from current reformulated gasoline and diesel fuel standards established by the state board.

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

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

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

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

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

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

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

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

(6) Projects to develop and improve light-, medium-, and heavy-duty vehicle technologies that provide for better fuel efficiency and lower greenhouse gas emissions, alternative fuel usage and storage, or emission reductions, including propulsion systems, advanced internal combustion engines with a 40 percent or better efficiency level over the current market standard, light-weight materials, energy storage, control systems and system integration, physical measurement and metering systems and software, development of design standards and testing and certification protocols, battery recycling and reuse, engine and fuel optimization electronic and electrified components, hybrid technology, plug-in hybrid technology, battery electric vehicle technology, fuel cell technology, and conversions of hybrid technology to plug-in technology through the installation of safety certified supplemental battery modules.

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

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

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

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

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

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

(13) A program to provide funding for homeowners who purchase a plug-in electric vehicle to offset costs associated with modifying electrical sources to include a residential plug-in electric vehicle charging station. In establishing this program, the commission shall consider funding criteria to maximize the public benefit of the program.

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

(f) The commission may do both of the following:

(1) Contract with the Treasurer to expend funds through programs implemented by the Treasurer, if the expenditure is consistent with all of the requirements of this article and Article 1 (commencing with Section 44270).

(2) Contract with small business financial development corporations established by the Business, Transportation and Housing Agency to expend funds through the Small Business Loan Guarantee Program if the expenditure is consistent with all of the requirements of this article and Article 1 (commencing with Section 44270).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 6. Section 5898.15 is added to the Streets and Highways Code, to read:

5898.15. (a) A public agency shall not permit a property owner to participate in any program established pursuant to this chapter if the owner's participation would result in the total amount of any annual property taxes and assessments exceeding 5 percent of the property's market value, as determined at the time of approval of the owner's contractual assessment.

(b) Nothing in this chapter shall be construed to void or otherwise release a property owner from the contractual obligations incurred by a contractual assessment on a property, particularly in the event that the total amount of annual property taxes and assessments exceeds 5 percent of a property's market value after the property owner has entered into a contractual assessment pursuant to this chapter.

SEC. 7. Section 5898.23 is added to the Streets and Highways Code, to read:

5898.23. For purposes of the report required pursuant to Section 5898.22, the statement of public agency policies required pursuant to subdivision (c) of that section shall also include a brief description of criteria for determining the underwriting requirements, and safeguards that will be used to ensure that the total annual property tax and assessments on the property will not

exceed 5 percent of the property's market value, as determined at the time of approval for the owner's contractual assessment.

SEC. 8. Section 5899.3 is added to the Streets and Highways Code, to read:

5899.3. (a) The Legislature finds and declares all of the following:

(1) This chapter should be used to finance the installation of electric vehicle charging infrastructure that is permanently fixed to residential, commercial, industrial, agricultural, or other real property.

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

(3) The upfront cost of installing electric vehicle charging infrastructure improvements for residential, commercial, industrial, agricultural, or other real property prevents many property owners from making those improvements. To make those improvements more affordable and to promote the installation of those improvements, it is necessary to authorize an alternative procedure for authorizing assessments to finance the cost of installing electric vehicle charging infrastructure.

(4) The Legislature declares that a public purpose will be served by a voluntary contractual assessment program that provides the legislative body of a public agency with the authority to finance the installation of electric vehicle charging infrastructure that is permanently fixed to residential, commercial, industrial, agricultural, or other real property.

(b) For the purpose of financing the installation of electric vehicle charging infrastructure, "public agency" means a county, city, city and county, or a municipal utility district, an irrigation district, or public utility district that owns and operates an electric distribution system. The definition of "city" in Section 5005 shall not apply to this section.

(c) The legislative body of any public agency may designate an area, in the manner provided pursuant to Section 5898.20, within which authorized public agency officials and property owners may enter into voluntary contractual assessments to finance the installation of electric vehicle charging infrastructure that is permanently fixed to real property pursuant to this chapter.

(d) For purposes of establishing a voluntary contractual assessment program relating to electric vehicle charging infrastructure, the legislative body shall make the determinations required pursuant to Section 5898.20 by adopting a resolution indicating its intention to do so. The resolution of intention shall identify the kinds of electric vehicle charging infrastructure that may be financed and shall include all of the information that is required pursuant to subdivision (b) of Section 5898.20, including, but not limited to, directing an appropriate public agency official to prepare a report pursuant to Section 5898.22.

(e) For purposes of the report required pursuant to Section 5898.22, relating to a voluntary contractual assessment program for electric vehicle charging infrastructure, the designated public agency official shall satisfy

the requirements of paragraph (1) of subdivision (c) of Section 5898.22 by identifying the types of electric vehicle charging infrastructure that may be financed through the use of contractual assessments.

(f) Notwithstanding any other provision of this chapter, upon the written consent of an authorized public agency official, the proposed arrangements for financing the program pertaining to the installation of electric vehicle charging infrastructure that is permanently fixed to real property may authorize the property owner to purchase directly the related equipment and materials for the installation of electric vehicle charging infrastructure and to contract directly for the installation of electric vehicle charging infrastructure that is permanently fixed to the property owner's residential, commercial, industrial, agricultural, or other real property.

SEC. 9. Section 1.5 of this bill incorporates amendments to Section 44272 of the Health and Safety Code proposed by this bill and AB 1106. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2011, (2) each bill amends Section 44272 of the Health and Safety Code, and (3) this bill is enacted after AB 1106, in which case Section 44272 of the Health and Safety Code, as amended by AB 1106, shall remain operative only until the operative date of this bill, at which time Section 1.5 of this bill shall become operative, and Section 1 of this bill shall not become operative.

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