

AMENDED IN ASSEMBLY MARCH 1, 2011

CALIFORNIA LEGISLATURE—2011–12 FIRST EXTRAORDINARY SESSION

ASSEMBLY BILL

No. 14

**Introduced by Assembly Member Skinner ~~Members Skinner,~~
Bradford, Chesbro, and V. Manuel Pérez
(~~Coauthors: Assembly Members Bradford, Chesbro, and V. Manuel~~
~~Pérez~~)
(*Coauthor: Assembly Member John A. Pérez*)**

February 16, 2011

An act to amend Sections 26003, 26102, 26140, and 26141 of, to amend the heading of Division 16.2 (commencing with Section 26100) of, to add Sections 26100.5 and 26103.5 to, and to add Chapter 2.5 (commencing with Section 26130) to Division 16.2 of, the Public Resources Code, relating to energy, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 14, as amended, Skinner. Energy: energy upgrade financing.

(1) 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. Existing law, until January 1, 2015, appropriates up to \$50,000,000 from the Renewable Resource Trust Fund to the authority for the purposes of the PACE Reserve program and authorizes the authority to expend up

to \$300,000 of that appropriation for initial administrative costs in implementing the PACE Reserve program.

This bill would additionally require the authority to administer a Clean Energy Reserve Upgrade Program that would be developed by the State Energy Resources Conservation and Development Commission and the authority to reduce the costs to property owners of a loan provided by a financial institution that has a loan program that satisfies the specified requirements. *Because this bill would authorize the use of the money appropriated for the PACE Reserve program for the Clean Energy Upgrade Program, this bill would make an appropriation.* The bill would require the authority to report annually specified information regarding the reserve program. The bill would increase the amount of the appropriation that may be expended for initial administrative costs to \$550,000, thereby making an appropriation.

(2) The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. Governor Schwarzenegger issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on December 6, 2010. Governor Brown issued a proclamation on January 20, 2011, declaring and reaffirming that a fiscal emergency exists and stating that his proclamation supersedes the earlier proclamation for purposes of that constitutional provision.

This bill would state that it addresses the fiscal emergency declared and reaffirmed by the Governor by proclamation issued on January 20, 2011, pursuant to the California Constitution.

Vote: $\frac{2}{3}$. 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 26003 of the Public Resources Code is
- 2 amended to read:
- 3 26003. As used in this division, unless the context otherwise
- 4 requires:
- 5 (a) "Authority" means the California Alternative Energy and
- 6 Advanced Transportation Financing Authority established pursuant
- 7 to Section 26004, and any board, commission, department, or
- 8 officer succeeding to the functions of the authority, or to which
- 9 the powers conferred upon the authority by this division shall be
- 10 given.

1 (b) “Cost” as applied to a project or portion of the project
2 financed under this division means all or part of the cost of
3 construction and acquisition of all lands, structures, real or personal
4 property or an interest in the real or personal property, rights,
5 rights-of-way, franchises, easements, and interests acquired or
6 used for a project; the cost of demolishing or removing any
7 buildings or structures on land so acquired, including the cost of
8 acquiring any lands to which those buildings or structures may be
9 moved; the cost of all machinery, equipment, and furnishings,
10 financing charges, interest prior to, during, and for a period after,
11 completion of construction as determined by the authority; the cost
12 of the purchase or sale of energy derived from an alternative source
13 pursuant to subdivision (g) of Section 26011; provisions for
14 working capital; reserves for principal and interest and for
15 extensions, enlargements, additions, replacements, renovations,
16 and improvements; the cost of architectural, engineering, financial,
17 accounting, auditing and legal services, plans, specifications,
18 estimates, administrative expenses, and other expenses necessary
19 or incident to determining the feasibility of constructing any project
20 or incident to the construction, acquisition, or financing of a
21 project.

22 (c) (1) “Alternative sources” means the application of
23 cogeneration technology, as defined in Section 25134; the
24 conservation of energy; or the use of solar, biomass, wind,
25 geothermal, hydroelectricity under 30 megawatts, or any other
26 source of energy, the efficient use of which will reduce the use of
27 fossil and nuclear fuels.

28 (2) “Alternative sources” does not include a hydroelectric facility
29 that does not meet state laws pertaining to the control,
30 appropriation, use, and distribution of water, including, but not
31 limited to, the obtaining of applicable licenses and permits.

32 (d) “Advanced transportation technologies” means emerging
33 commercially competitive transportation-related technologies
34 identified by the authority as capable of creating long-term, high
35 value-added jobs for Californians while enhancing the state’s
36 commitment to energy conservation, pollution reduction, and
37 transportation efficiency. Those technologies may include, but are
38 not limited to, any of the following:

- 39 (1) Intelligent vehicle highway systems.
- 40 (2) Advanced telecommunications for transportation.

- 1 (3) Command, control, and communications for public transit
- 2 vehicles and systems.
- 3 (4) Electric vehicles and ultralow-emission vehicles.
- 4 (5) High-speed rail and magnetic levitation passenger systems.
- 5 (6) Fuel cells.
- 6 (e) “Financial assistance” includes, but is not limited to, either,
- 7 or any combination, of the following:
- 8 (1) Loans, loan loss reserves, interest rate reductions, proceeds
- 9 of bonds issued by the authority, insurance, guarantees or other
- 10 credit enhancements or liquidity facilities, contributions of money,
- 11 property, labor, or other items of value, or any combination thereof,
- 12 as determined by, and approved by the resolution of, the board.
- 13 (2) Any other type of assistance the authority determines is
- 14 appropriate.
- 15 (f) “Participating party” means either of the following:
- 16 (1) A person, or an entity or group of entities engaged in
- 17 business or operations in the state, whether organized for profit or
- 18 not for profit, that does either of the following:
- 19 (A) Applies for financial assistance from the authority for the
- 20 purpose of implementing a project in a manner prescribed by the
- 21 authority.
- 22 (B) Participates in the purchase or sale of energy derived from
- 23 an alternative source pursuant to subdivision (g) of Section 26011.
- 24 (2) A public agency or nonprofit corporation that does either of
- 25 the following:
- 26 (A) Applies for financial assistance from the authority for the
- 27 purpose of implementing a project in a manner prescribed by the
- 28 authority.
- 29 (B) Participates in the purchase or sale of energy derived from
- 30 an alternative source pursuant to subdivision (g) of Section 26011.
- 31 (g) (1) “Project” means a land, building, improvement to the
- 32 land or building, rehabilitation, work, property, or structure, real
- 33 or personal, stationary or mobile, including, but not limited to,
- 34 machinery and equipment, whether or not in existence or under
- 35 construction, that utilizes, or is designed to utilize, an alternative
- 36 source, or that is utilized for the design, technology transfer,
- 37 manufacture, production, assembly, distribution, or service of
- 38 advanced transportation technologies, or an arrangement for the
- 39 purchase, including prepayment, or sale of energy derived from
- 40 an alternative source pursuant to subdivision (g) of Section 26011.

1 (2) “Project,” for the purposes of Section 26011.8, means any
2 tangible personal property that is utilized for the design,
3 manufacture, production, or assembly of advanced transportation
4 technologies or alternative source products, components, or
5 systems.

6 (h) “Public agency” means a federal or state agency, department,
7 board, authority, state or community college, university, or
8 commission, or a county, city and county, city, regional agency,
9 public district, school district, or other political entity.

10 (i) (1) “Renewable energy” means a device or technology that
11 conserves or produces heat, processes heat, space heating, water
12 heating, steam, space cooling, refrigeration, mechanical energy,
13 electricity, or energy in any form convertible to these uses, that
14 does not expend or use conventional energy fuels, and that uses
15 any of the following electrical generation technologies:

16 (A) Biomass.

17 (B) Solar thermal.

18 (C) Photovoltaic.

19 (D) Wind.

20 (E) Geothermal.

21 (2) For purposes of this subdivision, “conventional energy fuel”
22 means any fuel derived from petroleum deposits, including, but
23 not limited to, oil, heating oil, gasoline, fuel oil, or natural gas,
24 including liquefied natural gas, or nuclear fissionable materials.

25 (3) Notwithstanding paragraph (1), for purposes of this section,
26 “renewable energy” also means ultralow-emission equipment for
27 energy generation based on thermal energy systems such as natural
28 gas turbines and fuel cells.

29 (j) “Revenue” means all rents, receipts, purchase payments,
30 loan repayments, and all other income or receipts derived by the
31 authority from a project, or the sale, lease, or other disposition of
32 alternative source or advanced transportation technology facilities,
33 or the making of loans to finance alternative source or advanced
34 transportation technology facilities, and any income or revenue
35 derived from the investment of money in any fund or account of
36 the authority.

37 SEC. 2. The heading of Division 16.2 (commencing with
38 Section 26100) of the Public Resources Code is amended to read:

1 DIVISION 16.2. PROPERTY ASSESSED CLEAN ENERGY
2 (PACE) AND CLEAN ENERGY FINANCING ASSISTANCE

3
4 SEC. 3. Section 26100.5 is added to the Public Resources Code,
5 to read:

6 26100.5. The Legislature further finds and declares both of the
7 following:

8 (a) Actions by federally chartered home loan entities have
9 frustrated efforts to accelerate the implementation of the PACE
10 financing program, creating a need to establish effective alternative
11 approaches that can be rapidly deployed to advance the purposes
12 of this division.

13 (b) Among the most promising alternatives that can be
14 implemented rapidly are those intended to increase access to capital
15 for projects that advance the purposes of this division.

16 SEC. 4. Section 26102 of the Public Resources Code is
17 amended to read:

18 26102. “Applicant” means, for the purposes of Chapter 2
19 (commencing with Section 26120), a public agency as defined in
20 paragraph (3) of subdivision (c) of Section 5898.20 of the Streets
21 and Highways Code and, for the purposes of Chapter 2.5
22 (commencing with Section 26130), a financial institution providing
23 a loan pursuant to that chapter to finance the installation of
24 distributed generation renewable energy sources, ~~electric vehicle~~
25 ~~charging infrastructure~~, or energy or water efficiency
26 improvements.

27 SEC. 5. Section 26103.5 is added to the Public Resources Code,
28 to read:

29 26103.5. “Clean Energy ~~Reserve Upgrade~~ Program” means a
30 statewide energy and water efficiency and renewable energy
31 generation building retrofit financing program developed by the
32 State Energy Resources Conservation and Development
33 Commission and the authority pursuant to Section 26130.

34 SEC. 6. Chapter 2.5 (commencing with Section 26130) is added
35 to Division 16.2 of the Public Resources Code, to read:

36
37 CHAPTER 2.5. CLEAN ENERGY ~~RESERVE~~ *UPGRADE* PROGRAM

38
39 26130. The authority shall administer a Clean Energy ~~Reserve~~
40 *Upgrade* Program to reduce overall costs to the property owners

1 of a loan provided by an applicant to finance the installation of
 2 distributed generation renewable energy sources, ~~electric vehicle~~
 3 ~~charging infrastructure~~, or energy or water efficiency improvements
 4 on real property by providing a reserve or other financial assistance
 5 at a level to be determined by the State Energy Resources
 6 Conservation and Development Commission and the authority.

7 26131. The authority ~~may~~ *shall* adopt guidelines governing
 8 the implementation of this chapter, *including quality assurance*
 9 *pursuant to subdivision (b) of Section 26132*, at a publicly noticed
 10 meeting. Notwithstanding any other law, guidelines adopted
 11 pursuant to this section shall be exempt from the requirements of
 12 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
 13 3 of Title 2 of the Government Code.

14 26132. (a) An applicant shall submit to the authority an
 15 application providing a detailed description of the loan program
 16 to finance the installation of distributed generation renewable
 17 energy sources, ~~electric vehicle charging infrastructure~~, or energy
 18 or water efficiency improvements on real property, a detailed
 19 description of the transactional activities associated with the loan
 20 issuance, including all transactional costs, and other information
 21 deemed necessary by the authority.

22 (b) *The authority shall ensure that all improvements financed*
 23 *by the program meet quality assurance standards developed by*
 24 *the authority in consultation with the State Energy Resources*
 25 *Conservation and Development Commission. The standards shall*
 26 *include contractor certification and third-party inspection of an*
 27 *appropriate portion of completed projects to ensure project*
 28 *performance and consumer protection.*

29 26133. (a) In evaluating eligibility, the authority shall consider
 30 whether the applicant’s loan program includes the following
 31 conditions:

- 32 (1) Loan recipients are legal owners of underlying property.
- 33 (2) Loan recipients are current on mortgage and property tax
 34 payments.
- 35 (3) Loan recipients are not in default or in bankruptcy
 36 proceedings.
- 37 (4) Loans are for less than 10 percent of the value of the
 38 property.
- 39 (5) The program offers financing for energy efficiency
 40 improvements ~~or electric vehicle charging infrastructure~~.

1 (6) Improvements financed by the program follow applicable
2 standards of energy efficiency retrofit work, including any
3 guidelines adopted by the State Energy Resources Conservation
4 and Development Commission.

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

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

10 (2) The cost efficiency of the applicant’s loan program.

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

12 (4) The applicant’s loan program requirements for quality
13 assurance and consumer protection, as related to achieving
14 efficiency and clean energy production, *in accordance with the*
15 *standards developed pursuant to subdivision (b) of Section 26132.*

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

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

19 26134. (a) The authority shall require certification from a loan
20 applicant that each loan offered pursuant to the applicant’s loan
21 program is consistent with the requirements of the Clean Energy
22 Reserve Upgrade Program administered pursuant to this chapter.

23 (b) If the conditions of subdivision (a) are satisfied, the authority
24 shall allocate to the applicant, at the closing of the loan, the amount
25 made available from the Renewable Resource Trust Fund in the
26 form of financial assistance as approved by the State Energy
27 Resources Conservation and Development Commission and the
28 authority. Prior to providing financial assistance pursuant to this
29 section, the authority shall enter into an agreement with the
30 applicant regarding the financial assistance, including the process
31 for the possible return of moneys disbursed to or on behalf of the
32 applicant.

33 SEC. 7. Section 26140 of the Public Resources Code is
34 amended to read:

35 26140. (a) Until January 1, 2015, an amount of up to fifty
36 million dollars (\$50,000,000) from the Renewable Resource Trust
37 Fund, established pursuant to Section 25751, is hereby appropriated
38 to the authority for the purposes of this division. The moneys
39 appropriated shall remain in the Renewable Resource Trust Fund
40 until the funds are needed by the authority pursuant to this division.

1 (b) Of the moneys appropriated in subdivision (a), up to five
2 hundred fifty thousand dollars (\$550,000) may be expended by
3 the authority for the initial administrative costs in implementing
4 this division.

5 (c) All repayments of moneys disbursed pursuant to this division
6 shall be deposited into the Renewable Resource Trust Fund.

7 SEC. 8. Section 26141 of the Public Resources Code is
8 amended to read:

9 26141. (a) On March 31, 2011, and annually thereafter, the
10 authority shall submit to the Legislature a report pursuant to Section
11 9795 of the Government Code on all of the following:

12 (1) The status of the account.

13 (2) A summary of the PACE bonds that received assistance
14 pursuant to Chapter 2 (commencing with Section 26120) and a
15 summary of the loans that received assistance pursuant to Chapter
16 2.5 (commencing with Section 26130).

17 (3) A summary of the benefits provided by this division,
18 including reduced interest rates on the PACE bonds or on loans
19 receiving assistance pursuant to this division.

20 (4) The number of jobs created by the PACE programs or loans
21 that received assistance pursuant to this division.

22 (5) Information on energy and water savings resulting from the
23 PACE programs or loans that received assistance pursuant to this
24 division.

25 (6) Other information deemed appropriate by the authority.

26 (b) This section shall remain in effect only until January 1, 2015,
27 and as of that date is repealed, unless a later enacted statute, that
28 is enacted before January 1, 2015, deletes or extends that date.

29 SEC. 9. This act addresses the fiscal emergency declared and
30 reaffirmed by the Governor by proclamation on January 20, 2011,
31 pursuant to subdivision (f) of Section 10 of Article IV of the
32 California Constitution.

O