

AMENDED IN ASSEMBLY MARCH 21, 2011

AMENDED IN ASSEMBLY MARCH 1, 2011

CALIFORNIA LEGISLATURE—2011–12 FIRST EXTRAORDINARY SESSION

ASSEMBLY BILL

No. 14

**Introduced by Assembly Members Skinner, 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 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 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.

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

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

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

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

- (1) Intelligent vehicle highway systems.
- (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.

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

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

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

(A) Biomass.

(B) Solar thermal.

(C) Photovoltaic.

(D) Wind.

(E) Geothermal.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CHAPTER 2.5. CLEAN ENERGY UPGRADE PROGRAM

26130. The authority shall administer a Clean Energy Upgrade Program to reduce overall costs to the property owners of a loan

1 provided by an applicant to finance the installation of distributed
2 generation renewable energy sources, *electric vehicle charging*
3 *infrastructure*, or energy or water efficiency improvements on real
4 property by providing a reserve or other financial assistance at a
5 level to be determined by the State Energy Resources Conservation
6 and Development Commission and the authority. *Improvements*
7 *financed pursuant to this program shall be for a residential project*
8 *of three units or fewer or a commercial project that costs less than*
9 *twenty-five thousand dollars (\$25,000) in total.*

10 26131. The authority shall adopt guidelines governing the
11 implementation of this chapter, including quality assurance
12 pursuant to subdivision (b) of Section 26132, at a publicly noticed
13 meeting. Notwithstanding any other law, guidelines adopted
14 pursuant to this section shall be exempt from the requirements of
15 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
16 3 of Title 2 of the Government Code.

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

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

32 26133. (a) In evaluating eligibility, the authority shall consider
33 whether the applicant's loan 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 program offers financing for energy *and water* efficiency
4 improvements.

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

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

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

14 (2) The cost efficiency of the applicant's loan program.

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

16 (4) The applicant's loan program requirements for quality
17 assurance and consumer protection, as related to achieving
18 efficiency and clean energy production, in accordance with the
19 standards developed pursuant to subdivision (b) of Section 26132.

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

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

23 (c) *The authority may approve a loan program that offers*
24 *financing for electric vehicle charging infrastructure if the electric*
25 *vehicle charging infrastructure is part of a project to install energy*
26 *efficiency improvements and distributed generation renewable*
27 *energy resources and is designed so that the project does not*
28 *increase peak energy demand.*

29 26134. (a) The authority shall require certification from a loan
30 applicant that each loan offered pursuant to the applicant's loan
31 program is consistent with the requirements of the Clean Energy
32 Upgrade Program administered pursuant to this chapter.

33 (b) If the conditions of subdivision (a) are satisfied, the authority
34 shall allocate to the applicant, at the closing of the loan, the amount
35 made available from the Renewable Resource Trust Fund in the
36 form of financial assistance as approved by the State Energy
37 Resources Conservation and Development Commission and the
38 authority. Prior to providing financial assistance pursuant to this
39 section, the authority shall enter into an agreement with the
40 applicant regarding the financial assistance, including the process

1 for the possible return of moneys disbursed to or on behalf of the
2 applicant.

3 SEC. 7. Section 26140 of the Public Resources Code is
4 amended to read:

5 26140. (a) Until January 1, 2015, an amount of up to fifty
6 million dollars (\$50,000,000) from the Renewable Resource Trust
7 Fund, established pursuant to Section 25751, is hereby appropriated
8 to the authority for the purposes of this division. The moneys
9 appropriated shall remain in the Renewable Resource Trust Fund
10 until the funds are needed by the authority pursuant to this division.

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

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

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

19 26141. (a) On March 31, 2011, and annually thereafter, the
20 authority shall submit to the Legislature a report pursuant to Section
21 9795 of the Government Code on all of the following:

22 (1) The status of the account.

23 (2) A summary of the PACE bonds that received assistance
24 pursuant to Chapter 2 (commencing with Section 26120) and a
25 summary of the loans that received assistance pursuant to Chapter
26 2.5 (commencing with Section 26130).

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

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

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

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

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

39 SEC. 9. This act addresses the fiscal emergency declared and
40 reaffirmed by the Governor by proclamation on January 20, 2011,

- 1 pursuant to subdivision (f) of Section 10 of Article IV of the
- 2 California Constitution.

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