

AMENDED IN SENATE JULY 1, 2011

AMENDED IN SENATE MAY 10, 2011

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

1 the powers conferred upon the authority by this division shall be
2 given.

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

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

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

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

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

1 purchase, including prepayment, or sale of energy derived from
2 an alternative source pursuant to subdivision (g) of Section 26011.

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

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

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

18 (A) Biomass.

19 (B) Solar thermal.

20 (C) Photovoltaic.

21 (D) Wind.

22 (E) Geothermal.

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

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

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

39 SEC. 2. The heading of Division 16.2 (commencing with
40 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

provided by an applicant to finance the installation of distributed generation renewable energy sources, electric vehicle charging infrastructure, or energy or water efficiency improvements on real property by providing a reserve or other financial assistance at a level to be determined by the State Energy Resources Conservation and Development Commission and the authority. Improvements financed pursuant to this program shall be 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.

26131. (a) The authority shall adopt regulations governing the implementation of this chapter, including quality assurance pursuant to subdivision (b) of Section 26132, at a publicly noticed meeting. Notwithstanding any other law, regulations adopted pursuant to this section may be adopted as emergency regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) *For the purposes of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, including Section 11349.6 of that code, the Office of Administrative Law shall consider the adoption of the regulations pursuant to subdivision (a) to be necessary for the immediate preservation of the public peace, health and safety, and general welfare.*

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

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

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

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

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

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

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

8 (5) The program offers financing for energy and water efficiency
9 improvements.

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

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

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

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

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

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

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

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

28 (c) The authority may approve a loan program that offers
29 financing for electric vehicle charging infrastructure if the electric
30 vehicle charging infrastructure is part of a project to install energy
31 efficiency improvements and distributed generation renewable
32 energy resources and is designed so that the project does not
33 increase peak energy demand.

34 26134. (a) The authority shall require certification from a loan
35 applicant that each loan offered pursuant to the applicant's loan
36 program is consistent with the requirements of the Clean Energy
37 Upgrade Program administered pursuant to this chapter.

38 (b) If the conditions of subdivision (a) are satisfied, the authority
39 shall allocate to the applicant, at the closing of the loan, the amount
40 made available from the Renewable Resource Trust Fund in the

1 form of financial assistance as approved by the State Energy
2 Resources Conservation and Development Commission and the
3 authority. Prior to providing financial assistance pursuant to this
4 section, the authority shall enter into an agreement with the
5 applicant regarding the financial assistance, including the process
6 for the possible return of moneys disbursed to or on behalf of the
7 applicant.

8 SEC. 7. Section 26140 of the Public Resources Code is
9 amended to read:

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

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

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

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

24 26141. (a) On March 31, 2011, and annually thereafter, the
25 authority shall submit to the Legislature a report pursuant to Section
26 9795 of the Government Code on all of the following:

27 (1) The status of the account.

28 (2) A summary of the PACE bonds that received assistance
29 pursuant to Chapter 2 (commencing with Section 26120) and a
30 summary of the loans that received assistance pursuant to Chapter
31 2.5 (commencing with Section 26130).

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

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

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

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

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

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

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