

AMENDED IN SENATE FEBRUARY 27, 2012

AMENDED IN SENATE SEPTEMBER 2, 2011

AMENDED IN SENATE JULY 13, 2011

AMENDED IN ASSEMBLY MAY 11, 2011

AMENDED IN ASSEMBLY APRIL 25, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 796

Introduced by Assembly Member Blumenfield
(Coauthor: Assembly Member Wieckowski)
(Coauthor: Senator Pavley)

February 17, 2011

An act to amend Section 44559.3 of the Health and Safety Code, and to add and repeal Division 16.1 (commencing with Section 26050) of the Public Resources Code, relating to financial assistance.

LEGISLATIVE COUNSEL'S DIGEST

AB 796, as amended, Blumenfield. Financial assistance: Capital Access Loan Program: Clean Energy Economy and Jobs Incentive Program.

Existing law establishes the Capital Access Loan Program for small businesses, administered by the California Pollution Control Financing Authority (authority), which provides loans through participating financial institutions to qualifying small businesses. Existing law requires the authority to create a loss reserve account for each financial institution in order to provide protection against loss. The loss reserve account for a financial institution consists of moneys paid as fees by

borrowers and the financial institution, moneys transferred to the account from a small business assistance fund, matching federal moneys, and other moneys provided by the authority or other source. Existing law requires the combined amount to be deposited by the participating financial institution into any individual loss reserve account over a 3-year period, in connection with any single borrower or any group of borrowers among which a common enterprise exists, to be not more than \$100,000.

This bill would increase this maximum contribution by the financial institution to \$200,000, if the matching contribution made by the authority is funded exclusively from funds made available pursuant to the federal Small Business Jobs Act of 2010. The bill would limit the amount of those funds used for matching contributions for deposits exceeding \$100,000 to not more than 50% of the available funds.

Existing law establishes the California Alternative Energy and Advanced Transportation Financing Authority and requires the authority to provide financial assistance in the form of a sale and use tax exclusion for applicants to promote the creation of California-based manufacturing, California-based jobs, the reduction of greenhouse gases, or reductions in air and water pollution or energy consumption.

This bill would require the authority to establish the Clean Energy Economy and Jobs Incentive Program to provide financial assistance in the form of specified financing mechanisms for an applicant to promote the commercialization and manufacturing of a project in eligible clean energy technology areas. The bill would establish the Clean Energy Economy and Jobs Incentive Program Fund in the State Treasury and would, upon appropriation by the Legislature, authorize the authority to expend moneys in the fund to implement the program. The bill would repeal the program on January 1, 2018.

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 44559.3 of the Health and Safety Code*
- 2 *is amended to read:*
- 3 44559.3. (a) The authority shall establish a loss reserve account
- 4 for each financial institution with which the authority makes a
- 5 contract.

1 (b) The loss reserve account for a financial institution shall
2 consist of moneys paid as fees by borrowers and the financial
3 institution, moneys transferred to the account from a small business
4 assistance fund, any matching federal moneys, and any other
5 moneys provided by the authority or other source.

6 (c) Notwithstanding any other law, the authority may establish
7 and maintain loss reserve accounts with ~~any~~ a financial institution
8 under any policies the authority may adopt.

9 (d) All moneys in a loss reserve account established pursuant
10 to this article are the exclusive property of, and solely controlled
11 by, the authority. Interest or income earned on moneys credited to
12 the loss reserve account shall be deemed to be part of the loss
13 reserve account. The authority may withdraw from the loss reserve
14 account all, or a portion of, the interest or other income that has
15 been credited to the loss reserve account. Any withdrawal made
16 pursuant to this subdivision may be made prior to paying any claim
17 and shall be used for the sole purpose of offsetting costs associated
18 with carrying out the program, including administrative costs and
19 loss reserve account contributions.

20 (e) (1) *Except as provided in paragraph (2), the combined*
21 *amount to be deposited by the participating financial institution*
22 *into an individual loss reserve account over a three-year period,*
23 *in connection with a single borrower or a group of borrowers*
24 *among which a common enterprise exists, shall be not more than*
25 *one hundred thousand dollars (\$100,000).*

26 (e)

27 (2) (A) The combined amount to be deposited by the
28 participating financial institution into ~~any~~ an individual loss reserve
29 account over a three-year period, in connection with any single
30 borrower or any group of borrowers among which a common
31 enterprise exists, shall be not more than ~~one~~ two hundred thousand
32 dollars ~~(\$100,000)~~ (\$200,000), if the matching contribution made
33 by the authority is funded exclusively from funds made available
34 pursuant to the federal Small Business Jobs Act of 2010 (Public
35 Law 111-240).

36 (B) *The authority shall not use more than 50 percent of the total*
37 *funds made available for matching contribution purposes of*
38 *subparagraph (A) pursuant to the federal Small Business Jobs Act*
39 *of 2010 (Public Law 111-240) for deposits exceeding one hundred*
40 *thousand dollars (\$100,000).*

1 SECTION 1. ~~Section 44559.3 of the Health and Safety Code~~
2 ~~is amended to read:~~

3 ~~44559.3. (a) The authority shall establish a loss reserve account~~
4 ~~for each financial institution with which the authority makes a~~
5 ~~contract.~~

6 ~~(b) The loss reserve account for a financial institution shall~~
7 ~~consist of moneys paid as fees by borrowers and the financial~~
8 ~~institution, moneys transferred to the account from a small business~~
9 ~~assistance fund, any matching federal moneys, and any other~~
10 ~~moneys provided by the authority or other source.~~

11 ~~(c) Notwithstanding any other law, the authority may establish~~
12 ~~and maintain loss reserve accounts with a financial institution~~
13 ~~under any policies that as the authority may adopt.~~

14 ~~(d) All moneys in a loss reserve account established pursuant~~
15 ~~to this article are the exclusive property of, and solely controlled~~
16 ~~by, the authority. Interest or income earned on moneys credited to~~
17 ~~the loss reserve account shall be deemed to be part of the loss~~
18 ~~reserve account. The authority may withdraw from the loss reserve~~
19 ~~account all or a portion of the interest or other income that has~~
20 ~~been credited to the loss reserve account. Any withdrawal made~~
21 ~~pursuant to this subdivision may be made prior to paying any claim~~
22 ~~and shall be used for the sole purpose of offsetting costs associated~~
23 ~~with carrying out the program, including administrative costs and~~
24 ~~loss reserve account contributions.~~

25 ~~(e) (1) Except as provided in paragraph (2), the combined~~
26 ~~amount to be deposited by the participating financial institution~~
27 ~~into an individual loss reserve account over a three-year period,~~
28 ~~in connection with a single borrower or a group of borrowers~~
29 ~~among which a common enterprise exists, shall be not more than~~
30 ~~one hundred thousand dollars (\$100,000).~~

31 ~~(2) (A) The combined amount to be deposited by the~~
32 ~~participating financial institution into an individual loss reserve~~
33 ~~account over a three-year period, in connection with a single~~
34 ~~borrower or any group of borrowers among which a common~~
35 ~~enterprise exists, shall be not more than two hundred thousand~~
36 ~~dollars (\$200,000), if the matching contribution made by the~~
37 ~~authority is funded exclusively from funds made available pursuant~~
38 ~~to the federal Small Business Jobs Act of 2010 (Public Law~~
39 ~~111-240).~~

1 ~~(B) The authority shall not use more than 50 percent of the total~~
2 ~~funds made available for matching contribution purposes of~~
3 ~~subparagraph (A) pursuant to the federal Small Business Jobs Act~~
4 ~~of 2010 (Public Law 111-240) for deposits exceeding one hundred~~
5 ~~thousand dollars (\$100,000).~~

6 SEC. 2. Division 16.1 (commencing with Section 26050) is
7 added to the Public Resources Code, to read:

8
9 DIVISION 16.1. CLEAN ENERGY ECONOMY AND JOBS
10 INCENTIVE PROGRAM

11
12 26050. As used in this division, the following terms mean the
13 following:

14 (a) “Authority” means the California Alternative Energy and
15 Advanced Transportation Financing Authority established pursuant
16 to Section 26004.

17 (b) “Biogas” means digester gas, landfill gas, and any gas
18 derived from an eligible biomass feedstock.

19 (c) “Biomass” means an organic material not derived from fossil
20 fuels, including, but not limited to, agricultural crops, agricultural
21 wastes and residues, waste pallets, crates, dunnage, manufacturing
22 and construction wood wastes, landscape and right-of-way tree
23 trimmings, mill residues that result from milling lumber, rangeland
24 maintenance residues, biosolids, sludge derived from organic
25 matter, and wood and wood waste from timbering operations.

26 (1) Agricultural wastes and residues include, but are not limited
27 to, animal wastes, remains, and tallow, food wastes, recycled
28 cooking oils, and pure cooking oils.

29 (2) Landscape or right-of-way tree trimmings include all solid
30 waste materials that result from tree or vegetation trimming or
31 removal to establish or maintain right-of-way on public or private
32 land for the following purposes:

33 (A) Provision of public utilities, including, but not limited to,
34 natural gas, water, electricity, and telecommunications.

35 (B) Fuel hazard reduction resulting in fire protection and
36 prevention.

37 (C) Recreational use.

38 (d) “California-based entity” means a corporation or other
39 business form organized for the transaction of business in
40 California that has an office in California, and manufactures or

1 plans to manufacture in California, a product in an eligible
2 technology that qualifies for financial assistance as determined by
3 the authority.

4 (e) “Eligible clean energy technology” means a technology in
5 any of the following areas:

6 (1) A technology that conserves, produces, or processes heat,
7 space heating, water heating, steam, space cooling, refrigeration,
8 mechanical energy, electricity, or energy in any form convertible
9 to those uses that does not expend or use conventional energy fuels
10 and that uses any of the following energy generating technologies:

11 (A) Biogas.

12 (B) Biomass.

13 (C) Geothermal.

14 (D) Solar photovoltaic.

15 (E) Solar thermal.

16 (F) Wind.

17 (2) Emerging commercially competitive transportation-related
18 technologies that use any of the following:

19 (A) Intelligent vehicle highway systems.

20 (B) Command, control, and communications for public transit
21 vehicles and systems.

22 (C) Vehicle electrification and related components.

23 (D) Transportation fuels that meet or exceed the goal of the
24 California Low Carbon Fuel Standard pursuant to Executive Order
25 S/01/07.

26 (3) Energy storage technology as defined in subdivision (a) of
27 Section 2835 of the Public Utilities Code.

28 (4) Fuel cells designed for renewable fuel use.

29 (f) “Financial assistance” means loans, loan loss reserves,
30 interest rate reductions, insurance, guarantees or other credit
31 enhancements or liquidity facilities, contributions of money,
32 property, labor, or other terms of value, or any combination thereof,
33 as determined by the resolutions of the authority.

34 (g) “Financial institution” means an insured depository
35 institution or insured credit union, as those terms are defined in
36 Section 103 of the Riegle Community Development and Regulatory
37 Improvement Act of 1994 (12 U.S.C. Sec. 4702).

38 (h) “Manufacture” means to make, process, prepare, alter, repair,
39 or finish in whole or in part, or to assemble.

1 (i) “Program” means the Clean Energy Economy and Jobs
2 Incentive Program established pursuant to Section 26051.

3 (j) “Project total” means the total capital expenses for an
4 applicant’s project.

5 26051. (a) The authority shall establish the Clean Energy
6 Economy and Jobs Incentive Program to provide financial
7 assistance to eligible California-based entities for the
8 manufacturing of eligible technologies.

9 (b) The authority shall only provide financial assistance to a
10 project that meets all of the following requirements:

11 (1) Meets or exceeds the state’s energy and environmental goals.

12 (2) Promotes instate commercialization and manufacturing
13 capacity that will establish California as a leader in clean energy
14 technologies.

15 (3) Supports instate manufacturing of eligible clean energy
16 technology on a scale that is capable of meeting a market demand.

17 (4) Maximizes the leveraging of other funding sources.

18 (c) A project is eligible for financial assistance if the applicant
19 demonstrates, to the satisfaction of the authority, all of the
20 following:

21 (1) The eligible clean energy technology is significantly more
22 energy efficient or cost effective than current comparable products
23 commercially available and has been researched and developed.

24 (2) The project is for the full-scale commercialization or
25 manufacture of a product to be used as a part of an eligible clean
26 energy technology within three years of the date of the submission
27 of the application.

28 (3) The financial assistance would accelerate the construction
29 or expansion of the project.

30 (4) The eligible clean technology is manufactured by a
31 California-based entity that is transitioning from product
32 development to commercialization.

33 (5) Any other criteria established by the authority.

34 (d) (1) The financial assistance provided to an applicant shall
35 not exceed five million dollars (\$5,000,000), and shall not be worth
36 more than 25 percent of the project total as provided by the
37 applicant.

38 (2) Notwithstanding paragraph (1), the authority may provide
39 financial assistance of up to ten million dollars (\$10,000,000) if
40 the authority provides notice to the chair of the Joint Legislative

1 Budget Committee and the chair concurs with the provision of the
2 financial assistance within 30 days of the notice.

3 (e) The financial assistance shall only be provided in partnership
4 with a financial institution.

5 26052. (a) This division does not require the authority to
6 promulgate regulations to implement this division until the
7 Legislature appropriates funds to the authority for the purposes of
8 this division.

9 (b) The implementation of this division is contingent on the
10 availability of the nonbypassable system benefits charge collected
11 ~~pursuant to Section 399.8 of~~ *by the Public Utilities Commission*
12 *pursuant to its authority under* the Public Utilities Code, and
13 private and federal funds for the purpose of developing clean
14 energy technology.

15 (c) On or before January 1, 2015, the Legislative Analyst's
16 Office shall report to the Joint Legislative Budget Committee on
17 the effectiveness of the program by evaluating factors, including,
18 but not limited to, all of the following:

- 19 (1) The number of jobs created by the program in California.
- 20 (2) The number of businesses that have remained in, or relocated
21 to, California as a result of the program.
- 22 (3) The amount of state and local revenue and economic activity
23 generated by the program.
- 24 (4) The amount of reduction in greenhouse gas emissions, air
25 pollution, water pollution, and energy consumption.

26 26053. The authority shall make every effort to expedite the
27 operation of this division, and shall adopt regulations for purposes
28 of this division and Section 26011.5 as emergency regulations in
29 accordance with Chapter 3.5 (commencing with Section 11340)
30 of Part 1 of Division 3 of Title 2 of the Government Code. For
31 purposes of that chapter, including Section 11349.6 of the
32 Government Code, the adoption of the regulations shall be
33 considered by the Office of Administrative Law to be necessary
34 for the immediate preservation of the public peace, health and
35 safety, and general welfare.

36 26054. (a) The Clean Energy Economy and Jobs Incentive
37 Program Fund is hereby established in the State Treasury, and
38 upon appropriation by the Legislature, shall be expended by the
39 authority for the purposes of this division.

1 (b) Of the moneys appropriated pursuant to subdivision (a), up
2 to three hundred thousand dollars (\$300,000) may be expended
3 by the authority for the initial administrative costs in implementing
4 this division.

5 (c) The authority may fix fees and other charges to reimburse
6 the costs of the authority in its administration of this division.

7 26055. This division shall remain in effect only until January
8 1, 2018, and as of that date is repealed, unless a later enacted
9 statute, that is enacted before January 1, 2018, deletes or extends
10 that date.

O