

AMENDED IN SENATE AUGUST 30, 2011

AMENDED IN SENATE JULY 13, 2011

AMENDED IN ASSEMBLY APRIL 25, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 894

Introduced by Assembly Member V. Manuel Pérez

February 17, 2011

An act to amend Sections 91502, 91503, 91504, and 91558 of, and to add and repeal Article 6 (commencing with Section 91600) ~~to~~ of Chapter 1 of Title 10 of, the Government Code, *and to amend Section 25461 of the Public Resources Code*, relating to economic development.

LEGISLATIVE COUNSEL'S DIGEST

AB 894, as amended, V. Manuel Pérez. State government: economic development.

The California Industrial Development Financing Act authorizes cities, counties, cities and counties, and redevelopment agencies to establish industrial development authorities that are authorized to issue industrial development bonds, the proceeds of which may be used to fund capital projects of private enterprise under terms and conditions specified in the act. That act establishes the California Industrial Development Financing Advisory Commission and grants it various powers relating to industrial development bonds.

This bill, the California Manufacturing Competitiveness Act of 2011, would authorize the commission to establish the California Manufacturing Competitiveness Loan and Loan Guarantee Program for the purpose of attracting, retaining, and expanding manufacturing facilities, and would require the commission to establish guidelines for

the implementation and oversight of the program. The bill would prohibit the commission from commencing the program until the commission adopts a resolution finding that there is sufficient expertise, either directly employed by the commission or employed under a contract with the commission, to assess the credit risk of applicants for assistance under the program and the aggregate credit risk retained by the commission for the loans, loan guarantees, and lines of credit in the commission's program. The bill would require the commission to provide for the development and administration of the program application and evaluation process, and would require that applicants to the program demonstrate that they meet specified requirements. The bill would also require each applicant to pay a nonrefundable application fee.

The bill would also create the Manufacturing Program Account within the Industrial Development Fund. The bill would prohibit General Fund moneys from being deposited in the account. *The bill would authorize a state agency to contract with the commission, as specified, to contribute prescribed funds for deposit into the account.* The bill would prohibit the commission from commencing the program ~~prior to its adoption of~~ *until the commission adopts* a resolution finding that there is sufficient money in the account to cover the costs of implementing the program. The bill would allow moneys in the account to be allocated to a lending institution or financial company that will act as trustee of the funds, with the approval of the Department of Finance. The bill would further require the above-described application fees to be deposited in the account to ensure that funds are available to the state for the sole purpose of administration of the program.

The bill would require the commission, beginning October 1, 2013, and annually thereafter, to post on its Internet Web site or provide to the Legislature, as specified, a report on the program's activities and impact on the manufacturing industry, and on the state's economy generally.

The bill would provide that the above-described provisions shall be implemented only to the extent that sufficient moneys are available to the commission to implement the California Manufacturing Competitiveness Loan and Loan Guarantee Program. The bill would provide that its provisions only remain in effect until January 1, 2017, and as of that date are repealed.

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 91502 of the Government Code is
2 amended to read:

3 91502. (a) It is the purpose of this title to carry out and make
4 effective the findings of the Legislature, and to that end, to provide
5 business with alternative methods of financing in acquiring,
6 constructing, or rehabilitating facilities, including, but not limited
7 to, equipment and furnishings, in accordance with the criteria set
8 forth in Section 91502.1, all to the mutual benefit of the people of
9 the state and to protect their health, welfare, and safety.

10 (b) The Legislature further declares that it is the policy of this
11 state, consistent with environmental, resource conservation, job
12 creation and retention, economic development, and other policies,
13 to, on behalf of private enterprise, facilitate the acquisition of
14 property, either suitable for or evidencing an obligation respecting
15 one or more of the activities or uses set forth in Section 91503,
16 and access to working capital through the issuance of loans, loan
17 guarantees, and lines of credit by the commission, or on behalf of
18 the commission by a participating financial institution, or directly
19 by a participating financial institution for purposes of the
20 commission's loan, loan guarantee, or line of credit program, in
21 accordance with the criteria set forth in Article 6 (commencing
22 with Section 91600), and that this additional method of financing,
23 when made available in accordance with that policy, serves a public
24 purpose and will promote the prosperity, health, safety, and welfare
25 of the citizens of the state.

26 SEC. 2. Section 91503 of the Government Code is amended
27 to read:

28 91503. The property acquired pursuant to this article shall be
29 suitable for, or shall evidence an obligation respecting, certain
30 activities or uses. The activities or uses shall include one or more
31 of the activities or uses described in subdivision (a) and, unless
32 incidental to those activities or uses, shall not include any of the
33 activities described in, and not excepted from, subdivision (b).

34 (a) (1) Industrial uses including, without limitation, assembling,
35 fabricating, manufacturing, processing, or warehousing activities
36 with respect to any products of agriculture, forestry, mining, or
37 manufacture, if these activities have demonstrated job creation or
38 retention potential.

- 1 (2) Energy development, production, collection, or conversion
2 from one form of energy to another.
- 3 (3) Research and development activities relating to commerce
4 or industry, including, without limitation, professional,
5 administrative, and scientific office and laboratory activities or
6 uses.
- 7 (4) Commercial uses located within an enterprise zone
8 designated pursuant to Chapter 12.8 (commencing with Section
9 7070) of Division 7 of Title 1, commercial activities within an
10 empowerment zone and enterprise community designated pursuant
11 to Section 1391 of the Internal Revenue Code of 1986, in effect
12 on January 1, 1998, commercial uses located within a recovery
13 zone designated pursuant to Section 1401 of the American
14 Recovery and Reinvestment Act of 2009 (Public Law 111-5), or
15 any amendments thereto, or other commercial needs.
- 16 (5) Processing or manufacturing recycled or reused products
17 and materials by manufacturing facilities.
- 18 (6) Business activities with the purpose of creating or producing
19 intangible property.
- 20 (7) Business activities incidental to, or with the purpose of,
21 supporting the activities or uses specified in paragraphs (1) to (6),
22 inclusive.
- 23 (b) (1) Residential real property for family unit or other housing
24 activities.
- 25 (2) Airport, dock, wharf, or mass commuting activities, or
26 storage or training activities related to any of those activities, unless
27 the property acquired is suitable for one or more of the activities
28 described in paragraph (4) of subdivision (a).
- 29 (3) Sewage or solid waste disposal activities or electric energy
30 or gas furnishing activities, unless the property acquired is suitable
31 for one or more of the activities described in paragraph (2) or (4)
32 of subdivision (a).
- 33 (4) Water furnishing activities, unless the property acquired is
34 suitable for one or more of the activities described in paragraph
35 (4) of subdivision (a).
- 36 (5) Any activities of persons qualifying as exempt persons under
37 Section 501 of the Internal Revenue Code of 1986, as amended,
38 undertaken by those persons, other than activities constituting an
39 unrelated trade or business as described in Section 513 of that
40 code.

1 SEC. 3. Section 91504 of the Government Code is amended
2 to read:

3 91504. Unless the context otherwise requires, the definitions
4 in this article shall govern the construction of this title, as follows:

5 (a) “Acquire” and its variants means acquire, construct, improve,
6 furnish, equip, repair, reconstruct, or rehabilitate.

7 (b) “Administration expenses” means the reasonable and
8 necessary expenses incurred by an authority in the administration
9 of this title, including, without limitation, fees and costs of paying
10 agents, trustees, attorneys, consultants, and others.

11 (c) “Authority” means any industrial development authority
12 established pursuant to this title.

13 (d) “Board” means the board of directors of an authority.

14 (e) “Bonds” means the revenue obligations, inclusive of
15 principal (premium, if any) and interest authorized to be issued by
16 any authority pursuant to this title, including a single bond, a
17 promissory note or notes, including bond anticipation notes, or
18 other instruments evidencing an indebtedness or obligation.

19 (f) “Bond proceeds” means all amounts received by an authority
20 upon sale or other disposition of any bonds.

21 (g) “Commission” means the California Industrial Development
22 Financing Advisory Commission established pursuant to Article
23 3 (commencing with Section 91550).

24 (h) “Company” means a person, partnership, corporation,
25 whether for profit or not, limited liability company, trust, or other
26 private enterprise of whatever legal form, for which a project is
27 undertaken or proposed to be undertaken pursuant to this title or
28 which is in possession of property owned by an authority, and may
29 include more than a single enterprise.

30 (i) “Cost” as applied to any project, may embrace:

31 (1) The cost of construction, improvement, repair, rehabilitation,
32 and reconstruction.

33 (2) The cost of acquisition, including rights in land and other
34 property, both real and personal and improved and unimproved,
35 and franchises, and disposal rights.

36 (3) The cost of demolishing, removing, or relocating any
37 building or structures on lands so acquired, including the cost of
38 acquiring any lands to which the buildings or structures may be
39 moved or relocated.

1 (4) The cost of machinery, equipment, furnishings, engineering
2 and architectural surveys, plans, and specifications, and of
3 transportation and storage until the facility is operational.

4 (5) The cost of agents or consultants, including, without
5 limitation, legal, financial, engineering, accounting, and auditing,
6 necessary or incident to a project and of the determination as to
7 the feasibility or practicability of undertaking the project.

8 (6) The cost of issuance of any bonds and of financing, interest
9 prior to, during, and for a reasonable period after completion of a
10 project, and reserves for principal and interest and for extensions,
11 enlargements, additions, repairs, replacements, renovations,
12 rehabilitations, and improvements.

13 (7) The cost of acquiring or refinancing existing obligations
14 incident to the undertaking and carrying out, including the
15 financing, of a project, and the reimbursement to any governmental
16 entity or agency, or any company, of expenditures made by or on
17 behalf of the entity, agency, or company that are costs of the project
18 hereunder, without regard to whether or not the expenditures may
19 have been made before or after the adoption of a resolution of
20 intention with respect to that project by an authority.

21 (8) The cost of making relocation assistance payments as
22 provided by Chapter 16 (commencing with Section 7260) of
23 Division 7 of Title 1.

24 (9) In the case only of taxable bonds, loans, loan guarantees, or
25 lines of credit, the cost of refunding or refinancing any outstanding
26 debt or obligations with respect to any facilities, or the cost of any
27 other working capital.

28 (10) Except as provided in paragraph (9), “cost” does not
29 otherwise include working capital.

30 (j) “Facilities” mean property suitable for any one or more of
31 the activities or uses described in Section 91503 and includes
32 incidental facilities.

33 (k) “Governing body” means the board of supervisors, city
34 council, or board of directors of a redevelopment agency, as the
35 case may be.

36 (l) “Indenture” means any mortgage, deed of trust, trust
37 indenture, security agreement, or other instrument relating to
38 establishing a lien or security interest in, or on, property, any pledge
39 or other instrument relating to the possession of property, and any
40 assignment or other instrument relating to establishing any right,

1 title, or interest in, or related to, property, including the revenues
2 therefrom, given by an authority to a corporate trustee, which may
3 be any trust company or bank having the powers of a trust company
4 within or without the state, or bondholder or agent, for the security
5 of its bonds and the benefit of the bondholders.

6 (m) (1) “Participating financial institution” means a financial
7 institution approved by the commission to do either of the
8 following:

9 (A) Make a loan, provide a loan guarantee, or extend a line of
10 credit on behalf of the commission to a company pursuant to this
11 article.

12 (B) Participate in the commission’s loan, loan guarantee, or line
13 of credit program by directly providing all or part of a loan or line
14 of credit to a company or accepting a loan guarantee in support of
15 a loan or line of credit issued to a company pursuant to the
16 commission’s program.

17 (2) An approved financial institution shall be any of the
18 following:

19 (A) A federal- or state-chartered bank, savings association,
20 credit union, nonprofit community development financial
21 institution certified under Part 1805 (commencing with Section
22 1805.100) of Charter XVIII of Title 12 of the Code of Federal
23 Regulations.

24 (B) A lending institution that has executed a participation
25 agreement with the Small Business Administration under the
26 guaranteed loan program pursuant to Part 120 (commencing with
27 Section 120.1) of Chapter 1 of Title 13 of the Code of Federal
28 Regulations and that meets the requirements of Section 120.410
29 of Chapter I of Title 13 of the Code of Federal Regulations, or a
30 small business investment company licensed by the Small Business
31 Administration pursuant to Part 107 (commencing with Section
32 107.20) of Chapter I of Title 13 of the Code of Federal Regulations.

33 (C) A small business financial development corporation as
34 specified in the Small Business Financial Development Corporation
35 Act (Chapter 1 (commencing with Section 14000) of Part 5 of
36 Division 3 of the Corporations Code).

37 (D) A consortium of any of the above entities.

38 (n) “Proceedings” means the actions taken by an authority in
39 undertaking, carrying out, and completing a project, including,

1 without limitation, the project agreements, indenture, bonds, and
 2 resolutions.

3 (o) “Project” means the acquisition, construction, improvement,
 4 repair, rehabilitation, and reconstruction of facilities and the
 5 acquisition and rehabilitation of machinery, equipment, and
 6 furnishings, and the acquisition of engineering and architectural
 7 surveys, plans, and specifications, and all other necessary and
 8 related capital expenditures by the issuance of bonds, loans, loan
 9 guarantees, or lines of credit upon the application of and to be
 10 repaid by payments from a company for the purposes of this title.
 11 For purposes of the loan, loan guarantee, and line of credit program,
 12 a project may also consist of working capital expenditures.

13 (p) “Project agreements” means the agreements between an
 14 authority and a company respecting a project, and may include,
 15 without limitation, leases, subleases, options, and installment or
 16 other contracts of purchase or sale, loan, loan guarantee, line of
 17 credit, or guaranty agreements, notes, mortgages, deeds of trust,
 18 and security agreements.

19 (q) “Property” means any land, air rights, water rights, disposal
 20 rights, improvements, buildings or other structures, and any
 21 personal property, tangible or intangible, and includes, but is not
 22 limited to, machinery and equipment, whether or not in existence
 23 or under construction, and interests in any of the foregoing, or
 24 promissory notes or other obligations of any kind respecting such
 25 interests.

26 (r) “Public agency” means any county, city and county, city, or
 27 redevelopment agency.

28 (s) “Revenues” means all rents, purchase payments, interest and
 29 principal payments, and other income derived by an authority from,
 30 or with respect to, the sale, lease, or other voluntary or involuntary
 31 disposition of, or repayment of loans, loan guarantees, or lines of
 32 credit with respect to, property, working capital, bond proceeds,
 33 and any receipts derived from the deposit or investment of any
 34 such income or proceeds in any fund or account of an authority,
 35 but does not include receipts designated to cover administration
 36 expenses.

37 (t) “Tax-exempt” means, with respect to any bonds, that the
 38 interest on the bonds is excluded from gross income of the holders
 39 thereof for federal income tax purposes.

1 (u) “Taxable” means, with respect to any bonds, that the bonds
2 are not tax-exempt.

3 SEC. 4. Section 91558 of the Government Code is amended
4 to read:

5 91558. (a) The commission may, upon request of two or more
6 authorities, in order to share expenses and facilitate bond issuance,
7 act as a pooling agent to issue bonds on a joint or composite basis
8 for companies which have applied for financing to the participating
9 authorities. Authorities shall enter into written agreements with
10 the commission specifying the projects which are to be delegated
11 to the commission for financing pursuant to this section.

12 (b) Prior to *the* issuance of any bonds pursuant to this section,
13 the authority and public agency shall have completed the
14 procedures required by Section 91530.

15 (c) The commission may issue bonds as requested and
16 authorized by this section. For these purposes, the commission is
17 granted all of the powers of an authority and may enter into project
18 agreements and take all steps toward the sale, issuance, and security
19 of bonds in the same manner as authorities may do. The resolution
20 required by Section 91537 shall be adopted by the commission
21 rather than by an authority.

22 (d) The commission may make loans, loan guarantees, or lines
23 of credit available to companies, directly or through a contract
24 with a participating financial institution, for the purpose of
25 acquiring, constructing, or rehabilitating facilities or portions
26 thereof, including, but not limited to, equipment and furnishings,
27 pursuant to Article 6 (commencing with Section 91600), all to the
28 mutual benefit of the people of the state and to protect their health,
29 welfare, and safety.

30 (e) The commission may establish credit requirements, interest
31 rates, and other requirements for companies and participating
32 financial institutions and the nature of the information required
33 for the making of loans, loan guarantees, or lines of credit pursuant
34 to subdivision (d) of Section 91558.

35 SEC. 5. Article 6 (commencing with Section 91600) is added
36 to Chapter 1 of Title 10 of the Government Code, to read:

1 Article 6. California Manufacturing Competitiveness Act of
2 2011

3
4 91600. This act shall be known, and may be cited, as the
5 California Manufacturing Competitiveness Act of 2011.

6 91601. (a) The Legislature finds and declares all of the
7 following:

8 (1) California is one of the largest and most diverse economies
9 in the world, with a state gross domestic product (GDP) of over
10 \$1.7 trillion in 2011. Based on figures from the International
11 Monetary Fund, if California were an independent nation it would
12 rank as the eighth largest economy in the world.

13 (2) Historically, the state’s significance in the global marketplace
14 resulted from a variety of factors, including: its strategic west coast
15 location that provides direct access to the growing markets in Asia;
16 its economically diverse regional economies; its large, ethnically
17 diverse population, representing both a ready workforce and
18 significant consumer base; its access to a wide variety of venture
19 and other private capital; its broad base of small- and medium-sized
20 businesses that support the global manufacturing supply chain;
21 and its culture of innovation and entrepreneurship, particularly in
22 the area of high technology.

23 (3) Historically, economic growth in California has outpaced
24 the economic growth rate of the nation as a whole, and the state
25 has led the nation in export-related jobs, business startups, and
26 innovation. However, since the subprime home mortgage crisis in
27 2007, California communities have struggled. With the increasing
28 rates of home foreclosure and the tightening of the credit markets,
29 many businesses have found their existing lines of credit
30 unaccessible. Significant drops in consumer spending have led to
31 workforce reductions and business bankruptcies.

32 (4) For much of 2009, the number of unemployed workers rose
33 by 40,000 to 60,000 per month, and the year ended with 2.25
34 million unemployed California workers. While California may
35 have officially emerged from the recession in the final quarter of
36 2009, unemployment is expected to remain high throughout 2011
37 and 2012. Without specific intervention to support job creation
38 and business expansion, many regions of California will be very
39 slow to recover.

1 (5) Further, as California moves forward from this recession, it
2 is important that the state support the recovery of industries that
3 provide quality jobs, including manufacturing industries. A robust
4 manufacturing sector offers many benefits to the state, including
5 high-wage jobs, a basis for international trade, and one of the
6 highest multiplier effects on other industries and businesses. It has
7 been estimated that for every job created in manufacturing, two
8 and a half jobs are supported in other industry sectors. For instance,
9 in the electronic computer manufacturing industry, the multiplier
10 effect is 16 to one.

11 (6) Manufacturing employers and other large employers in
12 California, however, face many challenges in maintaining global
13 and domestic competitiveness, including maintaining a skilled
14 workforce and cost-effective productivity in the face of lower
15 safety and wage standards in emerging foreign markets.

16 (b) It is therefore the intent of the Legislature to strengthen the
17 manufacturing capacity of California through the implementation
18 of the California Manufacturing Competitiveness Act of 2011.
19 The act will provide the framework and focus to retool and expand
20 California’s manufacturing facilities, support a vibrant logistics
21 network, and retain and create more quality jobs.

22 91602. Unless the context requires otherwise, for the purposes
23 of this article, the following terms shall have the following
24 meanings:

25 (a) “Administration expenses” means the reasonable and
26 necessary expenses incurred by a commission in the administration
27 of this title, including, without limitation, the fees and costs of
28 paying agents, trustees, attorneys, consultants, and others.

29 (b) “Applicant” means a company or a participating financial
30 institution on behalf of a company that applies to the commission
31 for a loan, a loan guarantee, or a line of credit to finance a project
32 undertaken or proposed to be undertaken pursuant to this title and
33 may be comprised of more than a single entity.

34 (c) “Commission” means the California Industrial Development
35 Financing Advisory Commission established pursuant to Article
36 3 (commencing with Section 91550).

37 (d) “Company” means a person, partnership, corporation,
38 whether for profit or not, limited liability company, trust, or other
39 private enterprise of whatever legal form, for which a project is
40 undertaken or proposed to be undertaken pursuant to this title or

1 which is in possession of property owned by an authority, and may
2 include more than a single enterprise.

3 (e) “Cost” as applied to any project, may include all of the
4 following:

5 (1) The cost of construction, improvement, repair, rehabilitation,
6 and reconstruction.

7 (2) The cost of acquisition, including rights in land and other
8 property, both real and personal and improved and unimproved,
9 and franchises, and disposal rights.

10 (3) The cost of demolishing, removing, or relocating any
11 building or structures on lands so acquired, including the cost of
12 acquiring any lands to which the buildings or structures may be
13 moved or relocated.

14 (4) The cost of machinery, equipment, and furnishings, of
15 engineering and architectural surveys, plans, and specifications,
16 and of transportation and storage until the facility is operational.

17 (5) The cost of agents or consultants, including, without
18 limitation, legal, financial, engineering, accounting, and auditing
19 costs, necessary or incident to a project and the determination as
20 to the feasibility or practicability of undertaking the project.

21 (6) The cost of acquiring or refinancing existing obligations
22 incident to the undertaking and carrying out, including the
23 financing, of a project, and the reimbursement to any governmental
24 entity or agency, or any company, of expenditures made by or on
25 behalf of the entity, agency, or company that are costs of the project
26 hereunder, without regard to whether or not the expenditures may
27 have been made before or after the adoption of a resolution of
28 intention with respect to that project by an authority.

29 (7) The cost of making relocation assistance payments as
30 provided by Chapter 16 (commencing with Section 7260) of
31 Division 7 of Title 1.

32 (8) The cost of procuring raw materials and finished goods that
33 become integral to the property as a result of construction,
34 improvement, repair, rehabilitation, or reconstruction.

35 (9) In the case of taxable bonds, loans, loan guarantees, or lines
36 of credit, the cost of refunding or refinancing any outstanding debt
37 or obligations with respect to any facilities, or the cost of working
38 capital.

39 (f) “Fund” means the Manufacturing Program Account Fund.

1 (g) “Governing body” means the board of supervisors, city
2 council, or board of directors of a redevelopment agency, as the
3 case may be.

4 (h) “Loan” means a loan, a portion of a loan, a loan guarantee,
5 or a line of credit or portion of a line of credit made or extended
6 by the commission, or by a participating financial institution on
7 behalf of the commission, or by a participating financial institution
8 pursuant to the commission’s program, to a company for a project
9 or for a portion of a project encompassing one or more of the
10 activities or uses set forth in Section 91503.

11 (i) “Manufacturing Program Account” means the account
12 established within the Industrial Development Fund for moneys
13 which are available for direct loans and loan guarantees. Moneys
14 in this account are not subject to Section 91554.

15 (j) “Project” means the acquisition, construction, improvement,
16 repair, rehabilitation, and reconstruction of facilities and the
17 acquisition and rehabilitation of machinery, equipment, and
18 furnishings, and the acquisition of engineering and architectural
19 surveys, plans, and specifications, and all other necessary and
20 related capital expenditures by the issuance of bonds, loans, loan
21 guarantees, or lines of credit upon the application of and to be
22 repaid by payments from a company for the purposes of this title.
23 For purposes of this article and the commission loan, loan
24 guarantee, and line of credit program, a project may also consist
25 of working capital expenditures.

26 (k) (1) “Property” means any land, air rights, water rights,
27 disposal rights, improvements, buildings or other structures, and
28 any personal property, tangible or intangible, and includes, but is
29 not limited to, machinery and equipment, whether or not in
30 existence or under construction, and interests in any of the
31 foregoing, or promissory notes or other obligations of any kind
32 respecting such interests.

33 (2) “Property” also means property suitable for one or more of
34 the activities or uses described below:

35 (A) Industrial uses including, without limitation, assembling,
36 fabricating, manufacturing, processing, or warehousing activities
37 with respect to any products of agriculture, forestry, mining, or
38 manufacturing, if these activities have demonstrated job-creation
39 or retention potential.

- 1 (B) Energy development, production, collection, or conversion
- 2 from one form of energy to another.
- 3 (C) Research and development activities relating to commerce
- 4 or industry, including, without limitation, professional,
- 5 administrative, and scientific office and laboratory activities or
- 6 uses.
- 7 (D) Processing or manufacturing recycled or reused products
- 8 and materials by manufacturing facilities.
- 9 (E) Business activities with the purpose of creating or producing
- 10 intangible property.
- 11 (F) Airport, dock, wharf, or mass commuting activities, or
- 12 storage or training activities related to any of those activities are
- 13 prohibited unless the property acquired is suitable for one or more
- 14 of the activities described in subparagraphs (A) to (E), inclusive.
- 15 (G) Sewage or solid waste disposal activities or electric energy
- 16 or gas furnishing activities are prohibited unless the property
- 17 acquired is suitable for one or more of the activities described in
- 18 subparagraphs (A) to (E), inclusive.
- 19 (H) Water furnishing activities are prohibited unless the property
- 20 acquired is suitable for one or more of the activities described in
- 21 subparagraphs (A) to (E), inclusive.
- 22 (I) "Public agency" means any city, county, city and county, or
- 23 redevelopment agency.
- 24 (m) "Revenues" means all rents, purchase payments, and other
- 25 income derived from, or with respect to, the sale, lease, or other
- 26 voluntary or involuntary disposition of, or repayment of loans with
- 27 respect to, property, bond proceeds, repayment of loans and lines
- 28 of credit, moneys received in recovery of defaulted loans, loan
- 29 guarantees, or lines of credit, and any receipts derived from the
- 30 deposit or investment of any income or proceeds in the account,
- 31 but does not include receipts designated to cover administration
- 32 expenses or expenses associated with the recovery activities on
- 33 defaulted loans, loan guarantees, and lines of credit.
- 34 91603. (a) The commission may establish the California
- 35 Manufacturing Competitiveness Loan and Loan Guarantee Program
- 36 for the purpose of attracting, retaining, and expanding
- 37 manufacturing facilities and other companies in the state. The
- 38 commission shall establish guidelines for the implementation of
- 39 this program consistent with this article. The commission shall not
- 40 commence operation of the program ~~prior to adopting~~ *until the*

1 *commission adopts* a resolution finding that there is sufficient
2 money in the Manufacturing Program Account, established
3 pursuant to Section 91604, to cover the costs of implementing the
4 program, including, but not limited to, appropriate oversight costs.
5 The commission shall not commence operation of the program
6 ~~prior to adopting~~ *until the commission adopts* a resolution finding
7 that there is sufficient expertise, either directly employed by the
8 commission or employed under a contract with the commission,
9 to assess the credit risk of applicants for assistance under the
10 program and the aggregate credit risk retained by the commission
11 for the loans, loan guarantees, and lines of credit in the
12 commission's program.

13 (b) In designing the California Manufacturing Competitiveness
14 Loan and Loan Guarantee Program, the commission shall develop
15 a program that meets all of the following objectives:

16 (1) Encourages the development of the state's long-term
17 manufacturing capacity.

18 (2) Creates jobs through the support of retooling and expansion
19 of manufacturing facilities.

20 (3) Supports quality manufacturing jobs that provide high wages,
21 including benefits.

22 (4) Allows manufacturers to access funds under terms and
23 conditions which would not otherwise be available in the private
24 market.

25 (5) Strengthens the supply chain of small businesses that support
26 this state's manufacturing competitiveness.

27 (6) Assists manufacturers to cost effectively respond to energy
28 efficiency regulations and new technologies.

29 (c) The commission shall adopt procedures and criteria to
30 evaluate and approve applicants for loans, loan guarantees, or lines
31 of credit and to evaluate and certify the participating financial
32 institutions that may make loans, loan guarantees, or extend lines
33 of credit on its behalf or directly to companies pursuant to the
34 commission's program. The evaluation and approval of applicants
35 shall include the assessment of the applicant's creditworthiness
36 and the valuation of guarantees and collateral to be posted by the
37 applicant to secure payment of principal and interest on the loan,
38 line of credit, or extension of a loan guarantee. The evaluation and
39 certification of participating financial institutions shall include an
40 assessment of the standards for due diligence for each loan, loan

1 guarantee, or line of credit made on behalf of the commission or
2 made directly to a company pursuant to the commission's program.
3 The commission shall provide for the development and
4 administration of the application, review, and evaluation process
5 for the program, including, but not limited to, defining the
6 eligibility standards, rating and ranking criteria, and other
7 appropriate policies and procedures for implementing and
8 overseeing the program pursuant to this article. Among other
9 requirements, the loan, loan guarantee, and line of credit shall be
10 subject to all of the following provisions:

11 (1) The amount of guarantee liability outstanding at any one
12 time shall not exceed five times the amount of funds on deposit
13 designated by the commission for loan guarantees, including any
14 receivables due from funds loaned from the Manufacturing
15 Program Account to another fund in state government as directed
16 by the Department of Finance pursuant to a statute enacted by the
17 Legislature.

18 (2) The commission may establish subaccounts within the
19 Manufacturing Program Account for loan guarantees. Each
20 subaccount is a legally separate account and shall not be used to
21 satisfy other loan guarantees or obligations.

22 (3) The state shall not be liable or obligated in any way beyond
23 money deposited in the Manufacturing Program Account. Because
24 General Fund moneys may not be deposited into the account,
25 pursuant to subdivision (b) of Section 91604, any loan, loan
26 guarantee, or line of credit issued pursuant to this article shall not
27 be a debt of the state for purposes of Section 1 of Article XVI of
28 the California Constitution.

29 (4) Applicants must demonstrate they are in compliance with
30 applicable federal, state, and local laws and regulations, or that
31 the project for which they are requesting funding will bring them
32 into compliance.

33 (5) Outstanding loans must be paid in full six months prior to
34 a relocation of a facility outside of California. If the loan or loan
35 guarantee included a subsidized amount, that amount must also
36 be repaid subject to a sliding scale adopted by the commission.

37 (6) Applicants shall demonstrate where the facility or facilities
38 where the moneys will be expended are located and where the
39 benefits of the assistance will be realized in the state.

1 (7) That wages the applicant pays its employees in the state are
2 on average, equal to or more than the average monthly wage rate
3 for similar workers in the same industry subsector.

4 (8) The applicant's turnover rate has not exceeded 20 percent
5 annually at any facility where moneys obtained through the
6 program will be used.

7 (9) Upon the request of the commission, each applicant shall
8 agree to report to the commission in the year the funding was
9 provided, and the following years, on total capital investments
10 made by the company, the total employment at the project facility,
11 and the wage levels by type of work. The applicant shall also
12 estimate the number of jobs created or retained through the
13 provision of this state assistance, as well as provide other
14 appropriate performance data, as determined by the commission.

15 (d) (1) The commission shall develop a process for the ongoing
16 monitoring of current and outstanding loans, loan guarantees, and
17 lines of credit and develop and maintain a database on loans, loan
18 guarantees, or lines of credit from the fund, which shall include
19 data related to the applicant, participating financial institution, the
20 project, the terms of each loan, loan guarantee, or line of credit,
21 and the status of each loan, loan guarantee, or line of credit.

22 (2) The commission shall adopt minimum standards for the
23 documentation, underwriting, and servicing of loans, loan
24 guarantees, or lines of credit made by the commission or made by
25 participating financial institutions on the commission's behalf or
26 directly by a participating financial institution pursuant to the
27 commission's program. The documentation, underwriting, and
28 servicing standards shall be designed to promote the integrity of
29 the program, the fund, and uniformity in the commission's process
30 of evaluation and due diligence.

31 (3) The commission shall provide technical assistance to
32 participating financial institutions in order to increase utilization
33 of the minimum documentation, underwriting, and servicing
34 standards.

35 (e) The commission's evaluation criteria for reviewing
36 applications and determining financing approvals shall include all
37 of the following:

38 (1) Whether employment benefits arising out of the use of the
39 financing secures the employment of existing employees or

1 increases the overall number of full-time employees of the
2 company.

3 (2) Whether the company provides compensation for employees
4 at the project facility which exceeds the average compensation for
5 similar employment within the company’s jurisdiction or within
6 the state.

7 (3) Whether the company provides health benefits to employees
8 employed at the project facility or contributions to employee
9 retirement benefits.

10 (4) Whether the project will provide energy, mineral or natural,
11 or cultivated resource conservation benefits.

12 (5) Whether the project will include building certified
13 environmentally beneficial facilities, bringing existing facilities
14 up to certified environmentally beneficial status, or implementing
15 energy efficiency measures and installing renewable energy
16 equipment.

17 (6) Whether the company purchases raw materials or other
18 products from California-based companies.

19 (f) Priority for loans, loan guarantees, or lines of credit shall be
20 given to those companies that do any of the following:

21 (1) Retain or create the greatest number of jobs compensated
22 at a wage rate above the average monthly wage rate for a similar
23 company in the project jurisdiction or in the state.

24 (2) Have the greatest beneficial economic impact on the state
25 and local economies as a result of the financing.

26 (3) Have the greatest negative economic impact on the state and
27 local economies and on other businesses in the state if it moved
28 its operations to another state or otherwise ceased operations within
29 the state.

30 (4) Submit applications jointly with the union representing
31 workers at the facility or the union with pending representation of
32 workers at the facility.

33 (g) The commission shall require that for any construction,
34 improvement, reconstruction, or rehabilitation financed, in whole
35 or in part, by means of loans, loan guarantees, or lines of credit
36 issued pursuant to this article that, pursuant to a resolution of
37 intention, all workers employed in that work, exclusive of
38 maintenance work, shall be paid not less than the general prevailing
39 rate of per diem wages for work of a similar character in the locality
40 in which the work is performed, and not less than the general

1 prevailing rate of per diem wages for holiday and overtime work.
2 Those rates shall be determined by the Director of the Department
3 of Industrial Relations in accordance with the standards set forth
4 in Section 1773 of the Labor Code. The director's determination
5 shall be final, and Sections 1773.1, 1773.5, 1774, and 1776, with
6 the exception of subdivision (f) of Section 1776, of the Labor Code
7 shall apply.

8 (h) Each applicant shall pay a nonrefundable application fee
9 that covers the full amount of the cost for administering the
10 program, including a proportional share of the development of the
11 program, review of applications, and the monitoring and oversight
12 of the program. These moneys shall be deposited directly into the
13 Manufacturing Program Account, established pursuant to Section
14 91604, for the purpose of ensuring that funds are available to the
15 state for the sole purpose of administration of the program.

16 91604. (a) There is hereby created within the Industrial
17 Development Fund, an account called the Manufacturing Program
18 Account. The account shall be used to pay for direct loans and
19 defaulted loan guarantees issued pursuant to this article,
20 administrative costs of the commission, and those costs necessary
21 to protect a real property interest in a defaulted loan or guarantee.
22 No moneys other than those moneys in the account may be used
23 to pay for the direct loans and defaulted loan guarantees issued
24 pursuant to this article.

25 (b) All moneys received from the federal government,
26 foundations, and other public or private funding sources for the
27 purpose of implementing the California Manufacturing
28 Competitiveness Loan and Loan Guarantee Program shall be
29 deposited in the Manufacturing Program Account. All loan
30 repayments, interest, and royalties shall be deposited back into the
31 Manufacturing Program Account. No General Fund moneys may
32 be deposited in the Manufacturing Program Account.

33 (c) The commission shall not commence operation of the
34 program ~~prior to adopting~~ *until the commission adopts* a resolution
35 finding that there is sufficient money in the account to cover the
36 costs of implementing the program, including, but not limited to,
37 appropriate oversight costs.

38 (d) *A state agency, including, but not limited to, the California*
39 *Energy Resources Conservation and Development Commission,*
40 *may contract with the commission to expend funds of that agency,*

1 *including, but not limited to, funds allocated to the state agency*
 2 *pursuant to the American Recovery and Reinvestment Act (Public*
 3 *Law 111-5), by depositing the funds in the Manufacturing Program*
 4 *Account for purposes of this article. However, this subdivision*
 5 *shall apply only to the extent that the expenditure by the agency*
 6 *is otherwise consistent with the requirements of state and federal*
 7 *law relative to the authority of the state agency to make the*
 8 *expenditures.*

9 ~~(d)~~

10 (e) Moneys in the account shall not be subject to Section 91554.

11 ~~(e)~~

12 (f) Upon appropriation by the Legislature, all or a portion of the
 13 funds in the account may be allocated by the commission, with
 14 the approval of the Department of Finance, to a lending institution
 15 or financial company that will act as trustee of the funds.

16 91605. (a) Beginning October 1, 2013, and annually thereafter,
 17 the commission shall post on its Internet Web site or provide the
 18 Legislature with a report, whichever is more cost effective, on the
 19 program's activities and impact on the manufacturing industry and
 20 on the state's economy, in general.

21 (b) At a minimum, the information provided pursuant to
 22 subdivision (a) shall include the following:

23 (1) The total amount of moneys in the Manufacturing Program
 24 Account, at the beginning of the fiscal year and at the end of the
 25 fiscal year.

26 (2) The number of projects funded and the number of
 27 manufacturers and other businesses assisted.

28 (3) The number of jobs created and the number of jobs retained
 29 through program assistance in each of the fiscal years.

30 (4) The amount of investments made by the manufacturer in
 31 the prior year to their assistance and next two years.

32 (5) The amount of federal, state, and local taxes paid by the
 33 companies in aggregate. Information on publicly held companies
 34 shall also be reported separately.

35 91606. (a) This article shall be implemented only to the extent
 36 that sufficient moneys are available to the commission to
 37 administer the California Manufacturing Competitiveness Loan
 38 and Loan Guarantee Program.

1 (b) This article shall remain in effect only until January 1, 2017,
2 and as of that date is repealed, unless a later enacted statute, that
3 is enacted before January 1, 2017, deletes or extends that date.

4 *SEC. 6. Section 25461 of the Public Resources Code is*
5 *amended to read:*

6 25461. (a) Except as provided in Chapter 5.5 (commencing
7 with Section 25450), the commission shall administer federal funds
8 allocated to, and received by, the state for energy-related projects
9 pursuant to the American Recovery and Reinvestment Act of 2009
10 (Public Law 111-5) or federal acts related to the American
11 Recovery and Reinvestment Act of 2009.

12 (b) Unless otherwise prohibited by the American Recovery and
13 Reinvestment Act of 2009 (Public Law 111-5) or subsequent
14 federal acts related to the American Recovery and Reinvestment
15 Act of 2009, the commission may use the federal funds to award
16 contracts, grants, and loans, including loan guarantees, loan loss
17 reserves, and credit enhancements, for energy efficiency, energy
18 conservation, renewable energy, and other energy-related projects
19 and activities authorized by the American Recovery and
20 Reinvestment Act of 2009 or subsequent federal acts related to the
21 American Recovery and Reinvestment Act of 2009.

22 (c) *The commission may contract with the California Industrial*
23 *Development Financing Advisory Commission to expend funds*
24 *through the California Manufacturing Competitiveness Loan and*
25 *Loan Guarantee Program, pursuant to Section 91604 of the*
26 *Government Code, if the expenditure is consistent with the*
27 *requirements of this division and is not otherwise prohibited by*
28 *the American Recovery and Reinvestment Act of 2009 (Public Law*
29 *111-5) or subsequent federal acts related to the American Recovery*
30 *and Reinvestment Act of 2009.*

O