

**ASSEMBLY BILL**

**No. 1054**

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

February 18, 2011

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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 1054, as introduced, Skinner. Energy: clean energy financing.

Existing law requires the California Alternative Energy and Advanced Transportation Financing Authority to establish a Property Assessed Clean Energy (PACE) Reserve program to assist local jurisdictions in financing the installation of distributed generation renewable energy sources or energy or water efficiency improvements meeting specified requirements that are permanently affixed on real property through the use of a voluntary contractual assessment. Existing law, until January 1, 2015, appropriates up to \$50,000,000 from the Renewable Resource Trust Fund to the authority for the purposes of the PACE Reserve program and authorizes the authority to expend up to \$300,000 of that appropriation for initial administrative costs in implementing the PACE Reserve program.

This bill would additionally require the authority to administer a Clean Energy Reserve 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 specified requirements. The bill would require the authority to report annually specified information regarding the reserve program. The bill would increase the amount of the appropriation that may be expended for initial administrative costs to \$550,000 thereby making an appropriation.

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

1 or incident to determining the feasibility of constructing any project  
2 or incident to the construction, acquisition, or financing of a  
3 project.

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

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

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

- 21 (1) Intelligent vehicle highway systems.
- 22 (2) Advanced telecommunications for transportation.
- 23 (3) Command, control, and communications for public transit  
24 vehicles and systems.
- 25 (4) Electric vehicles and ultralow-emission vehicles.
- 26 (5) High-speed rail and magnetic levitation passenger systems.
- 27 (6) Fuel cells.

28 (e) “Financial assistance” includes, but is not limited to, either,  
29 or any combination, of the following:

30 (1) Loans, loan loss reserves, interest rate reductions, proceeds  
31 of bonds issued by the authority, insurance, guarantees or other  
32 credit enhancements or liquidity facilities, contributions of money,  
33 property, labor, or other items of value, or any combination thereof,  
34 as determined by, and approved by the resolution of, the board.

35 (2) Any other type of assistance the authority determines is  
36 appropriate.

37 (f) “Participating party” means either of the following:

38 (1) A person, or an entity or group of entities engaged in  
39 business or operations in the state, whether organized for profit or  
40 not for profit, that does either of the following:

1 (A) Applies for financial assistance from the authority for the  
2 purpose of implementing a project in a manner prescribed by the  
3 authority.

4 (B) Participates in the purchase or sale of energy derived from  
5 an alternative source pursuant to subdivision (g) of Section 26011.

6 (2) A public agency or nonprofit corporation that does either of  
7 the following:

8 (A) Applies for financial assistance from the authority for the  
9 purpose of implementing a project in a manner prescribed by the  
10 authority.

11 (B) Participates in the purchase or sale of energy derived from  
12 an alternative source pursuant to subdivision (g) of Section 26011.

13 (g) (1) “Project” means a land, building, improvement to the  
14 land or building, rehabilitation, work, property, or structure, real  
15 or personal, stationary or mobile, including, but not limited to,  
16 machinery and equipment, whether or not in existence or under  
17 construction, that utilizes, or is designed to utilize, an alternative  
18 source, or that is utilized for the design, technology transfer,  
19 manufacture, production, assembly, distribution, or service of  
20 advanced transportation technologies, or an arrangement for the  
21 purchase, including prepayment, or sale of energy derived from  
22 an alternative source pursuant to subdivision (g) of Section 26011.

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

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

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

38 (A) Biomass.

39 (B) Solar thermal.

40 (C) Photovoltaic.

1 (D) Wind.

2 (E) Geothermal.

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

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

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

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

21

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

24

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

27 26100.5. The Legislature further finds and declares both of the  
28 following:

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

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

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

39 26102. “Applicant” means, *for the purposes of Chapter 2*  
40 *(commencing with Section 26120)*, a public agency as defined in

1 paragraph (3) of subdivision (c) of Section 5898.20 of the Streets  
2 and Highways Code *and, for the purposes of Chapter 2.5*  
3 *(commencing with Section 26130), a financial institution providing*  
4 *a loan pursuant to that chapter to finance the installation of*  
5 *distributed generation renewable energy sources, electric vehicle*  
6 *charging infrastructure, or energy or water efficiency*  
7 *improvements.*

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

10 26103.5. “Clean Energy Reserve Program” means a statewide  
11 energy and water efficiency and renewable energy generation  
12 retrofit program developed by the authority pursuant to Section  
13 26130.

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

16

17 CHAPTER 2.5. CLEAN ENERGY RESERVE PROGRAM

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19 26130. The authority shall administer a Clean Energy Reserve  
20 Program to reduce overall costs to the property owners of a loan  
21 provided by an applicant to finance the installation of distributed  
22 generation renewable energy sources, electric vehicle charging  
23 infrastructure, or energy or water efficiency improvements on real  
24 property by providing a reserve or other financial assistance at a  
25 level to be determined by the State Energy Resources Conservation  
26 and Development Commission and the authority.

27 26131. The authority may adopt guidelines governing the  
28 implementation of this chapter at a publicly noticed meeting.  
29 Notwithstanding any other law, guidelines adopted pursuant to  
30 this section shall be exempt from the requirements of Chapter 3.5  
31 (commencing with Section 11340) of Part 1 of Division 3 of Title  
32 2 of the Government Code.

33 26132. An applicant shall submit to the authority an application  
34 providing a detailed description of the loan program to finance the  
35 installation of distributed generation renewable energy sources,  
36 electric vehicle charging infrastructure, or energy or water  
37 efficiency improvements on real property, a detailed description  
38 of the transactional activities associated with the loan issuance,  
39 including all transactional costs, and other information deemed  
40 necessary by the authority.

1 26133. (a) In evaluating eligibility, the authority shall consider  
2 whether the applicant's loan program includes the following  
3 conditions:

- 4 (1) Loan recipients are legal owners of underlying property.
- 5 (2) Loan recipients are current on mortgage and property tax  
6 payments.
- 7 (3) Loan recipients are not in default or in bankruptcy  
8 proceedings.
- 9 (4) Loans are for less than 10 percent of the value of the  
10 property.
- 11 (5) The program offers financing for energy efficiency  
12 improvements or electric vehicle charging infrastructure.
- 13 (6) Improvements financed by the program follow applicable  
14 standards of energy efficiency retrofit work, including any  
15 guidelines adopted by the State Resources Conservation and  
16 Development Commission.

17 (b) In evaluating an application, the authority shall consider all  
18 the following factors:

- 19 (1) The use by the loan program of best practices, adopted by  
20 the authority, to qualify eligible properties for participation in  
21 underwriting the loan program.
- 22 (2) The cost efficiency of the applicant's loan program.
- 23 (3) The projected number of jobs created by the loan program.
- 24 (4) The applicant's loan program requirements for quality  
25 assurance and consumer protection as related to achieving  
26 efficiency and clean energy production.
- 27 (5) The mechanisms by which savings produced by this program  
28 are passed on to the property owners.
- 29 (6) Any other factors deemed appropriate by the authority.

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

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

1 applicant regarding the financial assistance, including the process  
 2 for the possible return of money disbursed to or on behalf of the  
 3 applicant.

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

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

12 (b) Of the moneys appropriated in subdivision (a), up to ~~three~~  
 13 *five hundred fifty* thousand dollars ~~(\$300,000)~~ (*\$550,000*) may be  
 14 expended by the authority for the initial administrative costs in  
 15 implementing this division.

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

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

20 26141. (a) On March 31, 2011, and annually thereafter, the  
 21 authority shall submit to the Legislature a report pursuant to Section  
 22 9795 of the Government Code on all of the following:

- 23 (1) The status of the account.
- 24 (2) A summary of the PACE bonds that received assistance  
 25 pursuant to ~~this division~~ *Chapter 2 (commencing with Section*  
 26 *26120) and a summary of the loans that received assistance*  
 27 *pursuant to Chapter 2.5 (commencing with Section 26130).*
- 28 (3) A summary of the benefits provided by this division,  
 29 including reduced interest rates on the PACE bonds *or on loans*  
 30 receiving assistance pursuant to this division.
- 31 (4) The number of jobs created by the PACE programs *or loans*  
 32 that received assistance pursuant to this division.
- 33 (5) Information on energy and water savings resulting from the  
 34 PACE programs *or loans* that received assistance pursuant to this  
 35 division.
- 36 (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.

O