

AMENDED IN ASSEMBLY JANUARY 4, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1054

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

February 18, 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 Section 6804.1 of the Public Resources Code, relating to public lands.

LEGISLATIVE COUNSEL'S DIGEST

AB 1054, as amended, Skinner. ~~Energy: clean energy financing. Public lands: oil and gas leases.~~

Existing law authorizes the State Lands Commission to lease lands owned by the state that are under the jurisdiction of the commission for those purposes as the commission deems advisable, including, but not limited to, grazing leases and leases for commercial, industrial, and recreational purposes. Existing law allows lessees of oil and gas and mineral leases to make and file with the commission a written quitclaim or relinquishment of all rights under a lease comprising a particular parcel. The quitclaim or relinquishment becomes effective as of the date of its filing subject to specified conditions.

This bill instead would allow a lessee to file with the commission a written request for the commission to approve a quitclaim or

relinquishment of all rights under an oil and gas and mineral lease subject to any required abandonment of facilities and required reclamation of the lease premises. The bill would require the request to approve a quitclaim or relinquishment of all rights under a lease to be heard at a commission meeting.

~~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: $\frac{2}{3}$ -majority. Appropriation: yes-no. Fiscal committee: yes. State-mandated local program: no.~~

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 6804.1 of the Public Resources Code is
- 2 amended to read:
- 3 6804.1. (a) Notwithstanding any ~~provisions~~ provision of this
- 4 code to the contrary, a lessee may at any time ~~make and~~ file with
- 5 the commission a written ~~quitclaim or relinquishment of all rights~~
- 6 under any lease or of any portion thereof comprising a 10-acre
- 7 parcel or multiple thereof in a compact form, or of any separate
- 8 or distinct zone or geological horizon or portion thereof underlying
- 9 such 10-acre parcel or multiple thereof. Such ~~quitclaim or~~

1 ~~relinquishment shall be effective as of the date of its filing, subject~~
2 ~~to the continued obligation of the lessee and his surety to make~~
3 ~~payment of all rentals and royalties theretofore accrued and to~~
4 ~~place all wells on the lands or in the zones or horizons to be~~
5 ~~quitclaimed or relinquished, in condition for suspension or~~
6 ~~abandonment in accordance with the applicable lease terms and~~
7 ~~regulations; thereupon the lessee shall be released from all~~
8 ~~obligations thereafter accruing under said lease with respect to the~~
9 ~~lands, zones or horizons quitclaimed or relinquished, but no such~~
10 ~~quitclaim or relinquishment shall release such lessee or his surety~~
11 ~~from any liability for breach of any obligation of the lease with~~
12 ~~respect to which such lessee is in default at the time of the filing~~
13 ~~of such quitclaim or relinquishment~~ *request for the commission to*
14 *approve a quitclaim or relinquishment of all rights under any*
15 *lease. A quitclaim or relinquishment shall be effective upon*
16 *completion of any required abandonment of facilities and required*
17 *reclamation of the lease premises as approved by the commission.*
18 *Until that time, a lessee is subject to the continued obligation of*
19 *the lessee and the lessee's surety to pay all rentals and royalties*
20 *that have accrued.*

21 *(b) A lessee's request for the commission to approve a quitclaim*
22 *or relinquishment of all rights under a lease shall be heard at the*
23 *next regularly scheduled commission meeting for which the request*
24 *may be properly reviewed and noticed. Upon approval of the*
25 *commission and contingent upon any other agreement between*
26 *the lessee and the commission, the lessee shall be released from*
27 *all obligations accruing under the lease with respect to the lands*
28 *or rights quitclaimed or relinquished. Approval of the commission*
29 *does not release the lessee or the lessee's surety from liability for*
30 *breach of any obligation of the lease for which the lessee is in*
31 *default at the time of approval.*

32 ~~SECTION 1. Section 26003 of the Public Resources Code is~~
33 ~~amended to read:~~

34 ~~26003. As used in this division, unless the context otherwise~~
35 ~~requires:~~

36 ~~(a) "Authority" means the California Alternative Energy and~~
37 ~~Advanced Transportation Financing Authority established pursuant~~
38 ~~to Section 26004, and any board, commission, department, or~~
39 ~~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 (e) (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 Reserve Program" means a statewide energy and water efficiency and renewable energy generation retrofit program developed by 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 RESERVE PROGRAM~~

~~26130. The authority shall administer a Clean Energy Reserve Program to reduce overall costs to the property owners of a loan provided by an applicant to finance the installation of distributed~~

1 generation renewable energy sources, electric vehicle charging
2 infrastructure, or energy or water efficiency improvements on real
3 property by providing a reserve or other financial assistance at a
4 level to be determined by the State Energy Resources Conservation
5 and Development Commission and the authority.

6 ~~26131. The authority may adopt guidelines governing the~~
7 ~~implementation of this chapter at a publicly noticed meeting.~~
8 ~~Notwithstanding any other law, guidelines adopted pursuant to~~
9 ~~this section shall be exempt from the requirements of Chapter 3.5~~
10 ~~(commencing with Section 11340) of Part 1 of Division 3 of Title~~
11 ~~2 of the Government Code.~~

12 ~~26132. An applicant shall submit to the authority an application~~
13 ~~providing a detailed description of the loan program to finance the~~
14 ~~installation of distributed generation renewable energy sources,~~
15 ~~electric vehicle charging infrastructure, or energy or water~~
16 ~~efficiency improvements on real property, a detailed description~~
17 ~~of the transactional activities associated with the loan issuance,~~
18 ~~including all transactional costs, and other information deemed~~
19 ~~necessary by the authority.~~

20 ~~26133. (a) In evaluating eligibility, the authority shall consider~~
21 ~~whether the applicant's loan program includes the following~~
22 ~~conditions:~~

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

24 ~~(2) Loan recipients are current on mortgage and property tax~~
25 ~~payments.~~

26 ~~(3) Loan recipients are not in default or in bankruptcy~~
27 ~~proceedings.~~

28 ~~(4) Loans are for less than 10 percent of the value of the~~
29 ~~property.~~

30 ~~(5) The program offers financing for energy efficiency~~
31 ~~improvements or electric vehicle charging infrastructure.~~

32 ~~(6) Improvements financed by the program follow applicable~~
33 ~~standards of energy efficiency retrofit work, including any~~
34 ~~guidelines adopted by the State Resources Conservation and~~
35 ~~Development Commission.~~

36 ~~(b) In evaluating an application, the authority shall consider all~~
37 ~~the following factors:~~

38 ~~(1) The use by the loan program of best practices, adopted by~~
39 ~~the authority, to qualify eligible properties for participation in~~
40 ~~underwriting the loan program.~~

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

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

3 ~~(4) The applicant's loan program requirements for quality~~
4 ~~assurance and consumer protection as related to achieving~~
5 ~~efficiency and clean energy production.~~

6 ~~(5) The mechanisms by which savings produced by this program~~
7 ~~are passed on to the property owners.~~

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

9 ~~26134. (a) The authority shall require certification from the~~
10 ~~loan applicant that each loan offered pursuant to the applicant's~~
11 ~~loan program is consistent with the requirements of the Clean~~
12 ~~Energy Reserve Program administered pursuant to this chapter.~~

13 ~~(b) If the conditions of subdivision (a) are satisfied, the authority~~
14 ~~shall allocate to the applicant, at the closing of the loan, the amount~~
15 ~~made available from the Renewable Resources Trust Fund in the~~
16 ~~form of financial assistance as approved by the State Energy~~
17 ~~Resources Conservation and Development Commission and the~~
18 ~~authority. Prior to providing financial assistance pursuant to this~~
19 ~~section, the authority shall enter into an agreement with the~~
20 ~~applicant regarding the financial assistance, including the process~~
21 ~~for the possible return of money disbursed to or on behalf of the~~
22 ~~applicant.~~

23 ~~SEC. 7. Section 26140 of the Public Resources Code is~~
24 ~~amended to read:~~

25 ~~26140. (a) Until January 1, 2015, an amount of up to fifty~~
26 ~~million dollars (\$50,000,000) from the Renewable Resource Trust~~
27 ~~Fund, established pursuant to Section 25751, is hereby appropriated~~
28 ~~to the authority for the purposes of this division. The moneys~~
29 ~~appropriated shall remain in the Renewable Resource Trust Fund~~
30 ~~until the funds are needed by the authority pursuant to this division.~~

31 ~~(b) Of the moneys appropriated in subdivision (a), up to five~~
32 ~~hundred fifty thousand dollars (\$550,000) may be expended by~~
33 ~~the authority for the initial administrative costs in implementing~~
34 ~~this division.~~

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

37 ~~SEC. 8. Section 26141 of the Public Resources Code is~~
38 ~~amended to read:~~

1 ~~26141. (a) On March 31, 2011, and annually thereafter, the~~
2 ~~authority shall submit to the Legislature a report pursuant to Section~~
3 ~~9795 of the Government Code on all of the following:~~
4 ~~(1) The status of the account.~~
5 ~~(2) A summary of the PACE bonds that received assistance~~
6 ~~pursuant to Chapter 2 (commencing with Section 26120) and a~~
7 ~~summary of the loans that received assistance pursuant to Chapter~~
8 ~~2.5 (commencing with Section 26130).~~
9 ~~(3) A summary of the benefits provided by this division,~~
10 ~~including reduced interest rates on the PACE bonds or on loans~~
11 ~~receiving assistance pursuant to this division.~~
12 ~~(4) The number of jobs created by the PACE programs or loans~~
13 ~~that received assistance pursuant to this division.~~
14 ~~(5) Information on energy and water savings resulting from the~~
15 ~~PACE programs or loans that received assistance pursuant to this~~
16 ~~division.~~
17 ~~(6) Other information deemed appropriate by the authority.~~
18 ~~(b) This section shall remain in effect only until January 1, 2015,~~
19 ~~and as of that date is repealed, unless a later enacted statute, that~~
20 ~~is enacted before January 1, 2015, deletes or extends that date.~~