

AMENDED IN ASSEMBLY JUNE 22, 2011

AMENDED IN SENATE MAY 31, 2011

AMENDED IN SENATE MAY 10, 2011

AMENDED IN SENATE APRIL 25, 2011

SENATE BILL

No. 343

Introduced by Senator De León

February 15, 2011

An act to add ~~Section 385.1 to~~ *Chapter 4 (commencing with Section 26043) to, and to repeal Article 4 (commencing with Section 26043.50) of Chapter 4 of, Division 16 of the Public Resources Code, and to amend Section 399.8 of the Public Utilities Code, relating to energy, and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

SB 343, as amended, De León. Energy: efficiency.

(1) The California Alternative Energy and Advanced Transportation Financing Act requires the California Alternative Energy and Advanced Transportation Financing Authority, in consultation with the State Energy Resources Conservation and Development Commission, to establish criteria for selecting projects related to renewable energy and alternative transportation technologies that would receive financial assistance, including loans, loan loss reserves, interest rate reductions, insurance, guarantees, and other credit enhancement or liquidity facilities from the authority.

This bill would require the authority to establish a Commercial Energy Efficiency Retrofit Revolving Loan Program for the purposes of providing loans for energy efficiency retrofit for commercial properties. The bill would require the authority to accept and evaluate applications

for energy retrofits for commercial properties to accomplish specified goals. The bill would establish in the State Treasury the California Alternative Energy and Advanced Transportation Financing Authority Energy Efficiency Retrofit Bank Fund (bank fund). Moneys from the bank fund would be available for expenditure for the general administration of the loan program upon appropriation of the Legislature. The bill would continuously appropriate the moneys in the bank fund to the authority for all other purposes of the loan program, thereby resulting in an appropriation.

This bill would require the Legislative Analyst's Office, by an unspecified date, to submit a report to the Joint Legislative Budget Committee on the effectiveness of the loan program. The bill would repeal this requirement on an unspecified date.

(2) Existing law, the Public Utilities Act, requires the Public Utilities Commission to require an electrical corporation, until January 1, 2012, to identify a separate electrical rate component, commonly referred to as the "public goods charge," to fund energy efficiency, renewable energy, and research, development, and demonstration programs that enhance system reliability and provide instate benefits. Electrical corporations are required to collect and allocate these funds in accordance with prescribed requirements. Under existing law, a violation of the Public Utilities Act is a crime.

This bill would require the commission to require each electrical corporation to remit an unspecified amount of that money collected to the California Alternative Energy and Advanced Transportation Financing Authority for deposit in the bank fund.

Because this bill would add a requirement to the Public Utilities Act, the violation of which would be a crime, it would create a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law requires each local publicly owned electric utility, as defined, to establish a nonbypassable, usage-based charge on local distribution service to fund cost-effective demand-side management services to promote energy efficiency and energy conservation, new investment in renewable energy resources and technologies, research,~~

development, and demonstration programs for the public interest, and services provided for low-income electricity customers.

This bill would require each local publicly owned electric utility to dedicate a portion of that moneys collected to a program for energy efficiency retrofits of commercial buildings.

Vote: ~~majority~~^{2/3}. Appropriation: ~~no~~ yes. Fiscal committee: yes. State-mandated local program: ~~no~~ yes.

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

1 SECTION 1. Chapter 4 (commencing with Section 26043) is
2 added to Division 16 of the Public Resources Code, to read:

3
4 CHAPTER 4. COMMERCIAL ENERGY EFFICIENCY RETROFIT
5 REVOLVING LOAN PROGRAM

6
7 Article 1. General Provisions

8
9 26043. The purpose of this chapter is to promote and accelerate
10 the implementation of energy efficiency retrofits of commercial
11 properties in California. Commercial properties represent a large
12 potential for energy savings, greenhouse gas emissions reductions,
13 and creation of jobs in the state. In furtherance of these objectives,
14 the authority may approve projects for financial assistance in the
15 form of loans on terms established pursuant to this chapter.

16 26043.1. To the extent not inconsistent with Section 26003, the
17 following definitions shall apply for the purposes of this chapter:

18 (a) "Bank fund" means the California Alternative Energy and
19 Advanced Transportation Financing Authority Energy Efficiency
20 Retrofit Bank Fund established pursuant to Section 26043.10.

21 (b) "Borrower" means a person or entity engaged in business
22 operations in the state.

23 (c) "Commercial property" means improvement to real property
24 used for business operations in the state.

25 (d) "Energy retrofit" means the installation, utilization,
26 implementation, or deployment of equipment on or in existing
27 commercial properties or the making of modifications to existing
28 commercial properties with the purpose of reducing energy use
29 or increasing the efficiency of the use of energy within the
30 commercial property.

1 26043.2. *The authority shall make every effort to expedite the*
2 *operation of this chapter and shall adopt emergency regulations*
3 *for the purposes of implementing the chapter in accordance with*
4 *Chapter 3.5 (commencing with Section 11340) of Part 1 of Division*
5 *3 of Title 2 of the Government Code. For the purposes of that*
6 *chapter, including Section 11349.6 of the Government Code, the*
7 *adoption of the regulations shall be considered by the Office of*
8 *Administrative Law to be necessary for the immediate preservation*
9 *of the public peace, health and safety, and general welfare.*

10 26043.3. *The authority shall accept applications from*
11 *borrowers for financing of energy retrofits of commercial*
12 *properties. The applications shall be considered and evaluated*
13 *based upon the extent to which the proposed energy retrofits will*
14 *accomplish the following:*

15 (a) *Produce energy savings.*
16 (b) *Involve equipment manufactured or assembled in California.*
17 (c) *Create new jobs in California.*
18 (d) *Result in a reduction in greenhouse gas emissions, a*
19 *reduction in air or water pollution, an increase in energy efficiency,*
20 *or a reduction in energy consumption, as compared to existing*
21 *conditions and beyond what is required by federal or state law or*
22 *regulations.*

23 (e) *Leverage other private or public funds.*
24 (f) *Other factors the authority deems appropriate in advancing*
25 *the purposes of this chapter.*

26 26043.4. *The authority shall, by regulation, establish program*
27 *priorities, an application process, and terms and conditions for*
28 *loans made pursuant to this chapter.*

29
30 *Article 2. Energy Efficiency Retrofit Bank Fund*
31

32 26043.10. (a) *There is hereby established in the State Treasury*
33 *the California Alternative Energy and Advanced Transportation*
34 *Financing Authority Energy Efficiency Retrofit Bank Fund for the*
35 *purposes of implementing the objectives and provisions of this*
36 *chapter. The authority may establish accounts within the bank*
37 *fund from time to time as the authority deems appropriate.*

38 (b) *Notwithstanding Section 13340 of the Government Code*
39 *and except as provided in subdivision (c), moneys in the bank fund*

1 *are continuously appropriated to the authority without regard to*
2 *fiscal year for the implementation of this chapter.*

3 *(c) (1) Moneys in the bank fund shall be available for*
4 *expenditure for general administration of the program*
5 *implementing this chapter only upon appropriation by the*
6 *Legislature.*

7 *(2) This subdivision does not limit the authority to expend*
8 *moneys in the bank fund that are directly related to servicing of*
9 *approved debts.*

10 *(d) The bank fund shall be organized as a public enterprise*
11 *fund.*

12 *(e) The executive director may, if appropriate, transfer funds*
13 *between accounts established, from time to time, pursuant to*
14 *subdivision (a) to accomplish the objective of this chapter.*

15
16 *Article 3. Powers and Authorities*
17

18 *26043.11. (a) The authority may pledge any or all of the*
19 *moneys in the bank fund as security for payment of the principal*
20 *of, and interest on, any particular issuance of bonds issued*
21 *pursuant to this division for the purposes of this chapter. The*
22 *authority may use any or all of the moneys in the bank fund,*
23 *including the grant account, to retain or purchase for retention*
24 *or sale, subordinated bonds issued by the authority for the purposes*
25 *of this chapter, by a special purpose trust, or by a sponsor pursuant*
26 *to this chapter. For these purposes, or as necessary or convenient*
27 *to the accomplishment of any other purpose of the authority, the*
28 *authority may divide the bank fund into separate accounts or*
29 *subaccounts. All moneys accruing to the authority pursuant to this*
30 *chapter from any sources shall be deposited in the bank fund.*

31 *(b) Subject to priorities that may be created by the pledge of*
32 *particular moneys in the bank fund to secure any issuance of*
33 *revenue bonds of the authority for the purposes of this chapter, a*
34 *special purpose trust, or a sponsor, and subject further to*
35 *reasonable costs that may be incurred by the authority in*
36 *administering the program authorized by this chapter, all moneys*
37 *in the bank fund derived from any source, shall be held in trust*
38 *for the security and payment of revenue bonds of the authority, a*
39 *special purpose trust, or a sponsor and shall not be used or pledged*

1 *for any other purpose so long as the revenue bonds are outstanding*
2 *and unpaid.*

3 *(c) Pursuant to any agreements with the holders of revenue*
4 *bonds pledging any particular assets, revenues, or moneys, the*
5 *authority may create separate accounts or subaccounts in the bank*
6 *fund to manage these assets, revenues, or moneys in the manner*
7 *set forth in the agreements.*

8 *(d) The authority may, from time to time, direct the Treasurer*
9 *to invest moneys in the bank fund that are not required for its*
10 *current needs, including proceeds from the sale of any bonds, in*
11 *any eligible securities specified in Section 16430 of the Government*
12 *Code as the authority shall designate. The authority may direct*
13 *the Treasurer to deposit moneys in interest-bearing accounts in*
14 *any bank in this state or in any savings and loan association in*
15 *this state. The authority may alternatively require the transfer of*
16 *moneys in the bank fund to the Surplus Money Investment Fund*
17 *for investment pursuant to Article 4 (commencing with Section*
18 *16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the*
19 *Government Code. Notwithstanding Section 16305.7 of the*
20 *Government Code, all interest or other increment resulting from*
21 *the investment or deposit of moneys from the bank fund shall be*
22 *deposited in the bank fund. Moneys in the bank fund shall not be*
23 *subject to transfer to any other funds pursuant to Part 2*
24 *(commencing with Section 16300) of Division 4 of Title 2 of the*
25 *Government Code, except to the Surplus Money Investment Fund.*

26 *(e) Subject to any agreement with holders of particular bonds,*
27 *and to the extent permitted by law, the authority may also invest*
28 *moneys of the bank fund, including, but not limited to, proceeds*
29 *of any of its bonds or refunding bonds, in obligations of financial*
30 *institutions as are permitted by resolution. The authority may*
31 *alternatively require the transfer of moneys in the bank fund to*
32 *the Surplus Money Investment Fund for investment pursuant to*
33 *Article 4 (commencing with Section 16470) of Chapter 3 of Part*
34 *2 of Division 4 of Title 2 of the Government Code.*

35 *(f) Subject to any agreement with the holders of particular*
36 *bonds, all interest or other increment resulting from the investment*
37 *or deposit shall be deposited in the bank fund, notwithstanding*
38 *Section 16305.7 of the Government Code. Moneys in the bank fund*
39 *shall not be subject to transfer to any other fund pursuant to Part*

1 2 (commencing with Section 16300) of Division 4 of Title 2 of the
2 Government Code except to the Surplus Money Investment Fund.

3 (g) The authority shall cause all moneys in the bank fund that
4 are in excess of current requirements to be invested and reinvested,
5 from time to time.

6 26043.12. (a) The authority may administer and distribute
7 among the authority's accounts and subaccounts, at its discretion,
8 any moneys made available to the bank fund from the federal
9 government, a public agency, or any other source for carrying out
10 the purposes of this chapter.

11 (b) The assets of the bank fund shall be available for the payment
12 of salaries and other expenses charged against the bank fund in
13 accordance with this chapter.

14 26043.13. All expenses incurred in carrying out the purposes
15 of this chapter shall be payable solely from funds provided
16 pursuant to this chapter, and no liability or obligation shall be
17 imposed upon the state and none shall be incurred by the authority
18 beyond the extent to which moneys shall have been provided
19 pursuant to this chapter.

20 26043.14. (a) Moneys in the bank fund received from the
21 proceeds of bonds issued pursuant to this division for the purposes
22 of this chapter may not be transferred to any other fund except as
23 necessary to pay the expenses of operating the program authorized
24 by this chapter, nor shall the authority utilize any moneys other
25 than moneys in the bank fund to satisfy liabilities arising from
26 projects authorized by this chapter.

27 (b) The bank fund, on behalf of the authority, may borrow or
28 receive moneys from the authority or from any federal, state, or
29 local agency or private entity, in order to create reserves in the
30 bank fund as provided in this chapter and as authorized by
31 resolution of the authority.

32 26043.15. (a) Notwithstanding Chapter 2 (commencing with
33 Section 12850) of Part 2.5 of, and Article 2 (commencing with
34 Section 13320) of Chapter 3 of Part 3 of, Division 3 of Title 2 of
35 the Government Code, expenditures of the bank fund shall not be
36 subject to the supervision or approval of any other officer or
37 division of state government, with the exception of the Legislature.
38 However, the authority's budget shall be prepared and reviewed
39 not later than November 1 of each year and the authority shall
40 submit to the Legislature a report of its activities for the prior

1 *fiscal year. However, the authority's budget regarding the bank*
2 *fund shall be prepared and reviewed in accordance with Section*
3 *50913 of the Government Code, and, not later than November 1*
4 *of each year, the authority shall submit to the Legislature a report*
5 *of its activities in implementing this chapter for the prior fiscal*
6 *year. The authority's operating budget shall be subject to review*
7 *and appropriation in the annual Budget Act.*

8 *(b) The submissions required pursuant to subdivision (a) shall*
9 *be submitted in accordance with Section 9795 of the Government*
10 *Code.*

11
12 *Article 4. Reporting*
13

14 *26043.50. (a) On or before January 1, ____, the Legislative*
15 *Analyst's Office shall submit a report to the Joint Legislative*
16 *Budget Committee on the effectiveness of this chapter by evaluating*
17 *all of the following factors:*

18 *(1) The number of jobs created by the loan program in*
19 *California.*

20 *(2) The number of businesses that have remained in California*
21 *or relocated to California as a result of the loan program.*

22 *(3) The amount of state and local revenue and economic activity*
23 *generated by the loan program.*

24 *(4) The amount of reduction in greenhouse gas emissions, air*
25 *and water pollution, and energy consumption.*

26 *(5) Other factors deemed appropriate by the Legislative Analyst.*

27 *(b) This article shall remain in effect only until January 1, ____,*
28 *and as of that date is repealed, unless a later enacted statute, that*
29 *is enacted before January 1, ____, deletes or extends that date.*

30 *SEC. 2. Section 399.8 of the Public Utilities Code is amended*
31 *to read:*

32 *399.8. (a) In order to ensure that the citizens of this state*
33 *continue to receive safe, reliable, affordable, and environmentally*
34 *sustainable electric service, it is the policy of this state and the*
35 *intent of the Legislature that prudent investments in energy*
36 *efficiency, renewable energy, and research, development and*
37 *demonstration shall continue to be made.*

38 *(b) (1) Every customer of an electrical corporation shall pay a*
39 *nonbypassable system benefits charge authorized pursuant to this*

1 article. The system benefits charge shall fund energy efficiency,
2 renewable energy, and research, development and demonstration.

3 (2) Local publicly owned electric utilities shall continue to
4 collect and administer system benefits charges pursuant to Section
5 385.

6 (c) (1) The commission shall require each electrical corporation
7 to identify a separate rate component to collect revenues to fund
8 energy efficiency, renewable energy, and research, development
9 and demonstration programs authorized pursuant to this section
10 beginning January 1, 2002, and ending January 1, 2012. The rate
11 component shall be a nonbypassable element of the local
12 distribution service and collected on the basis of usage.

13 (2) This rate component ~~may~~ *shall* not exceed, for any tariff
14 schedule, the level of the rate component that was used to recover
15 funds authorized pursuant to Section 381 on January 1, 2000. If
16 the amounts specified in paragraph (1) of subdivision (d) are not
17 recovered fully in any year, the commission shall reset the rate
18 component to restore the unrecovered balance, provided that the
19 rate component ~~may~~ *shall* not exceed, for any tariff schedule, the
20 level of the rate component that was used to recover funds
21 authorized pursuant to Section 381 on January 1, 2000. Pending
22 restoration, any annual shortfalls shall be allocated pro rata among
23 the three funding categories in the proportions established in
24 paragraph (1) of subdivision (d).

25 (d) The commission shall order San Diego Gas and Electric
26 Company, Southern California Edison Company, and Pacific Gas
27 and Electric Company to collect these funds commencing on
28 January 1, 2002, as follows:

29 (1) Two hundred twenty-eight million dollars (\$228,000,000)
30 per year in total for energy efficiency and conservation activities,
31 sixty-five million five hundred thousand dollars (\$65,500,000) in
32 total per year for renewable energy, and sixty-two million five
33 hundred thousand dollars (\$62,500,000) in total per year for
34 research, development and demonstration. The funds for energy
35 efficiency and conservation activities shall continue to be allocated
36 in proportions established for the year 2000 as set forth in
37 paragraph (1) of subdivision ~~(e)~~ (b) of Section 381.

38 (2) The amounts shall be adjusted annually at a rate equal to
39 the lesser of the annual growth in electric commodity sales or
40 inflation, as defined by the gross domestic product deflator.

(e) The commission shall ensure that each electrical corporation allocates funds transferred by the Energy Commission pursuant to subdivision (b) of Section 25743 *of the Public Resources Code* in a manner that maximizes the economic benefit to all customer classes that funded the New Renewable Resources Account.

(f) The commission and the Energy Commission shall retain and continue their oversight responsibilities as set forth in Sections 381 and ~~383~~ 384, and Chapter 7.1 (commencing with Section 25620) and Chapter 8.6 (commencing with Section 25740) of Division 15 of the Public Resources Code.

(g) An applicant for the Large Nonresidential Standard Performance Contract Program funded pursuant to paragraph (1) of subdivision (b) and an electrical corporation shall promptly attempt to resolve disputes that arise related to the program's guidelines and parameters prior to entering into a program agreement. The applicant shall provide the electrical corporation with written notice of any dispute. Within 10 business days after receipt of the notice, the parties shall meet to resolve the dispute. If the dispute is not resolved within 10 business days after the date of the meeting, the electrical corporation shall notify the applicant of his or her right to file a complaint with the commission, which complaint shall describe the grounds for the complaint, injury, and relief sought. The commission shall issue its findings in response to a filed complaint within 30 business days of the date of receipt of the complaint. Prior to issuance of its findings, the commission shall provide a copy of the complaint to the electrical corporation, which shall provide a response to the complaint to the commission within five business days of the date of receipt. During the dispute period, the amount of estimated financial incentives shall be held in reserve until the dispute is resolved.

(h) *The commission shall require each electrical corporation to remit ____ dollars (\$ ____) collected pursuant to this section to the California Alternative Energy and Advanced Transportation Financing Authority for deposit in the California Alternative Energy and Advanced Transportation Financing Authority Energy Efficiency Retrofit Bank Fund established pursuant to Section 26043.10 of the Public Resources Code.*

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school

1 *district will be incurred because this act creates a new crime or*
2 *infraction, eliminates a crime or infraction, or changes the penalty*
3 *for a crime or infraction, within the meaning of Section 17556 of*
4 *the Government Code, or changes the definition of a crime within*
5 *the meaning of Section 6 of Article XIII B of the California*
6 *Constitution.*

7 ~~SECTION 1. Section 385.1 is added to the Public Utilities~~
8 ~~Code, to read:~~

9 ~~385.1. Each local publicly owned electric utility shall dedicate~~
10 ~~a portion of the moneys collected pursuant to Section 385 to a~~
11 ~~program for energy efficiency retrofits of commercial buildings.~~