

AMENDED IN ASSEMBLY JUNE 30, 2011

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 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. An act to add Section 381.3 to the Public Utilities Code, relating to energy.~~

LEGISLATIVE COUNSEL'S DIGEST

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

Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations and gas corporations, as defined. Existing law requires the PUC to investigate the ability of electrical corporation and gas corporations to provide energy efficiency financing options to their customers to implement a comprehensive program developed by the State Energy Resources Conservation and Development Commission (Energy Commission) and requires the PUC to include an assessment of each electrical corporation's and each gas corporation's implementation of that program in a specified triennial report required

under existing law. Pursuant to this requirement, the PUC has opened Rulemaking 09-11-014.

This bill would require the PUC, in Rulemaking 09-11-014, in consultation with the Energy Commission, the Treasurer, and the California Alternative Energy and Advanced Transportation Financing Authority, to determine appropriate energy efficiency financing measures, programs, and funding sources for the residential, commercial, and public building sectors in order to achieve the statewide energy efficiency goals for those sectors identified in the California Energy Efficiency Strategic Plan adopted by the PUC.

~~(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.

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

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

- 1 SECTION 1. Section 381.3 is added to the Public Utilities
- 2 Code, to read:
- 3 381.3. In pending Rulemaking 09-11-014, the commission, in
- 4 consultation with the Energy Commission, the Treasurer, and the
- 5 California Alternative Energy and Advanced Transportation
- 6 Financing Authority, shall determine appropriate energy efficiency
- 7 financing measures, programs, and funding sources for the
- 8 residential, commercial, and public building sectors in order to
- 9 achieve the statewide energy efficiency goals for those sectors
- 10 identified in the California Energy Efficiency Strategic Plan, as
- 11 updated by the commission in January 2011.
- 12 SECTION 1. Chapter 4 (commencing with Section 26043) is
- 13 added to Division 16 of the Public Resources Code, to read:

1 ~~CHAPTER 4. COMMERCIAL ENERGY EFFICIENCY RETROFIT~~
2 ~~REVOLVING LOAN PROGRAM~~

3
4 Article 1. General Provisions

5
6 ~~26043. The purpose of this chapter is to promote and accelerate~~
7 ~~the implementation of energy efficiency retrofits of commercial~~
8 ~~properties in California. Commercial properties represent a large~~
9 ~~potential for energy savings, greenhouse gas emissions reductions,~~
10 ~~and creation of jobs in the state. In furtherance of these objectives,~~
11 ~~the authority may approve projects for financial assistance in the~~
12 ~~form of loans on terms established pursuant to this chapter.~~

13 ~~26043.1. To the extent not inconsistent with Section 26003,~~
14 ~~the following definitions shall apply for the purposes of this~~
15 ~~chapter:~~

16 ~~(a) “Bank fund” means the California Alternative Energy and~~
17 ~~Advanced Transportation Financing Authority Energy Efficiency~~
18 ~~Retrofit Bank Fund established pursuant to Section 26043.10.~~

19 ~~(b) “Borrower” means a person or entity engaged in business~~
20 ~~operations in the state.~~

21 ~~(c) “Commercial property” means improvement to real property~~
22 ~~used for business operations in the state.~~

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

29 ~~26043.2. The authority shall make every effort to expedite the~~
30 ~~operation of this chapter and shall adopt emergency regulations~~
31 ~~for the purposes of implementing the chapter in accordance with~~
32 ~~Chapter 3.5 (commencing with Section 11340) of Part 1 of Division~~
33 ~~3 of Title 2 of the Government Code. For the purposes of that~~
34 ~~chapter, including Section 11349.6 of the Government Code, the~~
35 ~~adoption of the regulations shall be considered by the Office of~~
36 ~~Administrative Law to be necessary for the immediate preservation~~
37 ~~of the public peace, health and safety, and general welfare.~~

38 ~~26043.3. The authority shall accept applications from borrowers~~
39 ~~for financing of energy retrofits of commercial properties. The~~
40 ~~applications shall be considered and evaluated based upon the~~

1 extent to which the proposed energy retrofits will accomplish the
2 following:

- 3 (a) ~~Produce energy savings.~~
- 4 (b) ~~Involve equipment manufactured or assembled in California.~~
- 5 (c) ~~Create new jobs in California.~~
- 6 (d) ~~Result in a reduction in greenhouse gas emissions, a~~
7 ~~reduction in air or water pollution, an increase in energy efficiency,~~
8 ~~or a reduction in energy consumption, as compared to existing~~
9 ~~conditions and beyond what is required by federal or state law or~~
10 ~~regulations.~~
- 11 (e) ~~Leverage other private or public funds.~~
- 12 (f) ~~Other factors the authority deems appropriate in advancing~~
13 ~~the purposes of this chapter.~~

14 26043.4. The authority shall, by regulation, establish program
15 priorities, an application process, and terms and conditions for
16 loans made pursuant to this chapter.

17
18 Article 2. ~~Energy Efficiency Retrofit Bank Fund~~
19

20 26043.10. (a) ~~There is hereby established in the State Treasury~~
21 ~~the California Alternative Energy and Advanced Transportation~~
22 ~~Financing Authority Energy Efficiency Retrofit Bank Fund for the~~
23 ~~purposes of implementing the objectives and provisions of this~~
24 ~~chapter. The authority may establish accounts within the bank fund~~
25 ~~from time to time as the authority deems appropriate.~~

26 (b) ~~Notwithstanding Section 13340 of the Government Code~~
27 ~~and except as provided in subdivision (c), moneys in the bank fund~~
28 ~~are continuously appropriated to the authority without regard to~~
29 ~~fiscal year for the implementation of this chapter.~~

30 (c) (1) ~~Moneys in the bank fund shall be available for~~
31 ~~expenditure for general administration of the program~~
32 ~~implementing this chapter only upon appropriation by the~~
33 ~~Legislature.~~

34 (2) ~~This subdivision does not limit the authority to expend~~
35 ~~moneys in the bank fund that are directly related to servicing of~~
36 ~~approved debts.~~

37 (d) ~~The bank fund shall be organized as a public enterprise fund.~~

38 (e) ~~The executive director may, if appropriate, transfer funds~~
39 ~~between accounts established, from time to time, pursuant to~~
40 ~~subdivision (a) to accomplish the objective of this chapter.~~

Article 3. Powers and Authorities

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

~~(b) Subject to priorities that may be created by the pledge of particular moneys in the bank fund to secure any issuance of revenue bonds of the authority for the purposes of this chapter, a special purpose trust, or a sponsor, and subject further to reasonable costs that may be incurred by the authority in administering the program authorized by this chapter, all moneys in the bank fund derived from any source, shall be held in trust for the security and payment of revenue bonds of the authority, a special purpose trust, or a sponsor and shall not be used or pledged for any other purpose so long as the revenue bonds are outstanding and unpaid.~~

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

~~(d) The authority may, from time to time, direct the Treasurer to invest moneys in the bank fund that are not required for its current needs, including proceeds from the sale of any bonds, in any eligible securities specified in Section 16430 of the Government Code as the authority shall designate. The authority may direct the Treasurer to deposit moneys in interest-bearing accounts in any bank in this state or in any savings and loan association in this state. The authority may alternatively require the transfer of moneys in the bank fund to the Surplus Money Investment Fund for investment pursuant to Article 4 (commencing~~

1 with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title
2 2 of the Government Code. Notwithstanding Section 16305.7 of
3 the Government Code, all interest or other increment resulting
4 from the investment or deposit of moneys from the bank fund shall
5 be deposited in the bank fund. Moneys in the bank fund shall not
6 be subject to transfer to any other funds pursuant to Part 2
7 (commencing with Section 16300) of Division 4 of Title 2 of the
8 Government Code, except to the Surplus Money Investment Fund.

9 (e) Subject to any agreement with holders of particular bonds,
10 and to the extent permitted by law, the authority may also invest
11 moneys of the bank fund, including, but not limited to, proceeds
12 of any of its bonds or refunding bonds, in obligations of financial
13 institutions as are permitted by resolution. The authority may
14 alternatively require the transfer of moneys in the bank fund to the
15 Surplus Money Investment Fund for investment pursuant to Article
16 4 (commencing with Section 16470) of Chapter 3 of Part 2 of
17 Division 4 of Title 2 of the Government Code.

18 (f) Subject to any agreement with the holders of particular bonds,
19 all interest or other increment resulting from the investment or
20 deposit shall be deposited in the bank fund, notwithstanding Section
21 16305.7 of the Government Code. Moneys in the bank fund shall
22 not be subject to transfer to any other fund pursuant to Part 2
23 (commencing with Section 16300) of Division 4 of Title 2 of the
24 Government Code except to the Surplus Money Investment Fund.

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

28 26043.12. (a) The authority may administer and distribute
29 among the authority's accounts and subaccounts, at its discretion,
30 any moneys made available to the bank fund from the federal
31 government, a public agency, or any other source for carrying out
32 the purposes of this chapter.

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

36 26043.13. All expenses incurred in carrying out the purposes
37 of this chapter shall be payable solely from funds provided pursuant
38 to this chapter, and no liability or obligation shall be imposed upon
39 the state and none shall be incurred by the authority beyond the

1 extent to which moneys shall have been provided pursuant to this
2 chapter:

3 26043.14. (a) ~~Moneys in the bank fund received from the~~
4 ~~proceeds of bonds issued pursuant to this division for the purposes~~
5 ~~of this chapter may not be transferred to any other fund except as~~
6 ~~necessary to pay the expenses of operating the program authorized~~
7 ~~by this chapter, nor shall the authority utilize any moneys other~~
8 ~~than moneys in the bank fund to satisfy liabilities arising from~~
9 ~~projects authorized by this chapter.~~

10 (b) ~~The bank fund, on behalf of the authority, may borrow or~~
11 ~~receive moneys from the authority or from any federal, state, or~~
12 ~~local agency or private entity, in order to create reserves in the~~
13 ~~bank fund as provided in this chapter and as authorized by~~
14 ~~resolution of the authority.~~

15 26043.15. (a) ~~Notwithstanding Chapter 2 (commencing with~~
16 ~~Section 12850) of Part 2.5 of, and Article 2 (commencing with~~
17 ~~Section 13320) of Chapter 3 of Part 3 of, Division 3 of Title 2 of~~
18 ~~the Government Code, expenditures of the bank fund shall not be~~
19 ~~subject to the supervision or approval of any other officer or~~
20 ~~division of state government, with the exception of the Legislature.~~
21 ~~However, the authority's budget shall be prepared and reviewed~~
22 ~~not later than November 1 of each year and the authority shall~~
23 ~~submit to the Legislature a report of its activities for the prior fiscal~~
24 ~~year. However, the authority's budget regarding the bank fund~~
25 ~~shall be prepared and reviewed in accordance with Section 50913~~
26 ~~of the Government Code, and, not later than November 1 of each~~
27 ~~year, the authority shall submit to the Legislature a report of its~~
28 ~~activities in implementing this chapter for the prior fiscal year.~~
29 ~~The authority's operating budget shall be subject to review and~~
30 ~~appropriation in the annual Budget Act.~~

31 (b) ~~The submissions required pursuant to subdivision (a) shall~~
32 ~~be submitted in accordance with Section 9795 of the Government~~
33 ~~Code.~~

34 Article 4. Reporting

35
36
37 26043.50. (a) ~~On or before January 1, _____, the Legislative~~
38 ~~Analyst's Office shall submit a report to the Joint Legislative~~
39 ~~Budget Committee on the effectiveness of this chapter by~~
40 ~~evaluating all of the following factors:~~

1 ~~(1) The number of jobs created by the loan program in~~
2 ~~California.~~

3 ~~(2) The number of businesses that have remained in California~~
4 ~~or relocated to California as a result of the loan program.~~

5 ~~(3) The amount of state and local revenue and economic activity~~
6 ~~generated by the loan program.~~

7 ~~(4) The amount of reduction in greenhouse gas emissions, air~~
8 ~~and water pollution, and energy consumption.~~

9 ~~(5) Other factors deemed appropriate by the Legislative Analyst.~~

10 ~~(b) This article shall remain in effect only until January 1, _____,~~
11 ~~and as of that date is repealed, unless a later enacted statute, that~~
12 ~~is enacted before January 1, _____, deletes or extends that date.~~

13 ~~SEC. 2. Section 399.8 of the Public Utilities Code is amended~~
14 ~~to read:~~

15 ~~399.8. (a) In order to ensure that the citizens of this state~~
16 ~~continue to receive safe, reliable, affordable, and environmentally~~
17 ~~sustainable electric service, it is the policy of this state and the~~
18 ~~intent of the Legislature that prudent investments in energy~~
19 ~~efficiency, renewable energy, and research, development and~~
20 ~~demonstration shall continue to be made.~~

21 ~~(b) (1) Every customer of an electrical corporation shall pay a~~
22 ~~nonbypassable system benefits charge authorized pursuant to this~~
23 ~~article. The system benefits charge shall fund energy efficiency,~~
24 ~~renewable energy, and research, development and demonstration.~~

25 ~~(2) Local publicly owned electric utilities shall continue to~~
26 ~~collect and administer system benefits charges pursuant to Section~~
27 ~~385.~~

28 ~~(c) (1) The commission shall require each electrical corporation~~
29 ~~to identify a separate rate component to collect revenues to fund~~
30 ~~energy efficiency, renewable energy, and research, development~~
31 ~~and demonstration programs authorized pursuant to this section~~
32 ~~beginning January 1, 2002, and ending January 1, 2012. The rate~~
33 ~~component shall be a nonbypassable element of the local~~
34 ~~distribution service and collected on the basis of usage.~~

35 ~~(2) This rate component shall not exceed, for any tariff schedule,~~
36 ~~the level of the rate component that was used to recover funds~~
37 ~~authorized pursuant to Section 381 on January 1, 2000. If the~~
38 ~~amounts specified in paragraph (1) of subdivision (d) are not~~
39 ~~recovered fully in any year, the commission shall reset the rate~~
40 ~~component to restore the unrecovered balance, provided that the~~

1 rate component shall not exceed, for any tariff schedule, the level
2 of the rate component that was used to recover funds authorized
3 pursuant to Section 381 on January 1, 2000. Pending restoration,
4 any annual shortfalls shall be allocated pro rata among the three
5 funding categories in the proportions established in paragraph (1)
6 of subdivision (d).

7 ~~(d) The commission shall order San Diego Gas and Electric~~
8 ~~Company, Southern California Edison Company, and Pacific Gas~~
9 ~~and Electric Company to collect these funds commencing on~~
10 ~~January 1, 2002, as follows:~~

11 ~~(1) Two hundred twenty-eight million dollars (\$228,000,000)~~
12 ~~per year in total for energy efficiency and conservation activities,~~
13 ~~sixty-five million five hundred thousand dollars (\$65,500,000) in~~
14 ~~total per year for renewable energy, and sixty-two million five~~
15 ~~hundred thousand dollars (\$62,500,000) in total per year for~~
16 ~~research, development and demonstration. The funds for energy~~
17 ~~efficiency and conservation activities shall continue to be allocated~~
18 ~~in proportions established for the year 2000 as set forth in~~
19 ~~paragraph (1) of subdivision (b) of Section 381.~~

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

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

28 ~~(f) The commission and the Energy Commission shall retain~~
29 ~~and continue their oversight responsibilities as set forth in Sections~~
30 ~~381 and 384, and Chapter 7.1 (commencing with Section 25620)~~
31 ~~and Chapter 8.6 (commencing with Section 25740) of Division 15~~
32 ~~of the Public Resources Code.~~

33 ~~(g) An applicant for the Large Nonresidential Standard~~
34 ~~Performance Contract Program funded pursuant to paragraph (1)~~
35 ~~of subdivision (b) and an electrical corporation shall promptly~~
36 ~~attempt to resolve disputes that arise related to the program's~~
37 ~~guidelines and parameters prior to entering into a program~~
38 ~~agreement. The applicant shall provide the electrical corporation~~
39 ~~with written notice of any dispute. Within 10 business days after~~
40 ~~receipt of the notice, the parties shall meet to resolve the dispute.~~

1 If the dispute is not resolved within 10 business days after the date
2 of the meeting, the electrical corporation shall notify the applicant
3 of his or her right to file a complaint with the commission, which
4 complaint shall describe the grounds for the complaint, injury, and
5 relief sought. The commission shall issue its findings in response
6 to a filed complaint within 30 business days of the date of receipt
7 of the complaint. Prior to issuance of its findings, the commission
8 shall provide a copy of the complaint to the electrical corporation,
9 which shall provide a response to the complaint to the commission
10 within five business days of the date of receipt. During the dispute
11 period, the amount of estimated financial incentives shall be held
12 in reserve until the dispute is resolved.

13 (h) ~~The commission shall require each electrical corporation to~~
14 ~~remit _____ dollars (\$ _____) collected pursuant to this section to~~
15 ~~the California Alternative Energy and Advanced Transportation~~
16 ~~Financing Authority for deposit in the California Alternative~~
17 ~~Energy and Advanced Transportation Financing Authority Energy~~
18 ~~Efficiency Retrofit Bank Fund established pursuant to Section~~
19 ~~26043.10 of the Public Resources Code.~~

20 ~~SEC. 3. No reimbursement is required by this act pursuant to~~
21 ~~Section 6 of Article XIII B of the California Constitution because~~
22 ~~the only costs that may be incurred by a local agency or school~~
23 ~~district will be incurred because this act creates a new crime or~~
24 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
25 ~~for a crime or infraction, within the meaning of Section 17556 of~~
26 ~~the Government Code, or changes the definition of a crime within~~
27 ~~the meaning of Section 6 of Article XIII B of the California~~
28 ~~Constitution.~~