

Introduced by Senator Pavley

February 24, 2012

An act to amend Sections 63000 and 63010 of the Government Code, relating to infrastructure finance.

LEGISLATIVE COUNSEL'S DIGEST

SB 1484, as introduced, Pavley. California Infrastructure and Economic Development Bank: clean energy technology.

The Bergeson-Peace Infrastructure and Economic Development Bank Act establishes the California Infrastructure and Economic Development Bank Fund for the purpose of funding specified types of infrastructure development projects. Existing law makes several legislative findings and declarations relating to the need for providing greater access to capital in specified industries and defines terms for purposes of the act.

This bill would modify one of the legislative findings and declarations relating to the need for providing greater access to capital in specified industries and define the term "clean energy technology."

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

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

- 1 SECTION 1. Section 63000 of the Government Code is
- 2 amended to read:
- 3 63000. The Legislature finds and declares the following:
- 4 (a) Economic revitalization, future development, and a healthy
- 5 climate for jobs in California will depend upon a well-conceived
- 6 system of public improvements that are essential to the economic

1 well-being of the citizens of the state and are necessary to maintain,
2 as well as create, employment within the state for business.

3 (b) It is necessary for public policy to support the efforts of
4 businesses attempting to expand, businesses seeking to locate in
5 California, and local economic development organizations, public
6 agencies, and new entrepreneurs by dedicating public fiscal
7 resources to confront obstacles and barriers that impede economic
8 growth.

9 (c) Existing mechanisms that coordinate federal, state, local,
10 and private financial resources are inadequate to attract and sustain
11 that level of private investment that is essential to a growth
12 economy.

13 (d) In order to secure and enhance the economic well-being of
14 Californians, promote economic development in the state, and
15 provide a healthy climate for the creation of jobs, it is necessary
16 for public policy to support the efforts of expanding businesses,
17 businesses seeking to locate in California, local development
18 organizations, public bodies, and new entrepreneurs to gain access
19 to capital through current and potential operations of financial
20 markets.

21 (e) The high cost and the lack of availability of industrial loans
22 for small- and medium-size businesses is making it difficult for
23 thousands of these enterprises to get established, to maintain their
24 present employment levels, or to expand employment.

25 (f) The problem of access to capital is acute in the high
26 technology industry clusters because companies must often finance
27 large capital expenditures early in their development cycle, and
28 cannot obtain financing sufficient to cover the cost of those
29 expenditures. Consideration should be given to industry clusters
30 that may include the following:

- 31 (1) Health care technology.
- 32 (2) Multimedia.
- 33 (3) Environmental technology.
- 34 (4) Information technology.
- 35 (5) *Clean energy technology*.

36 (g) The high cost and limited availability of loans and capital
37 has led a number of states to take action to remedy these conditions
38 through concerted public and private investment programs that
39 include efforts to do the following:

- 1 (1) Use the state’s access to capital markets more effectively
2 for economic development.
- 3 (2) Create financing pools to access national capital markets or
4 help government sponsors and public-private economic
5 development organizations obtain credit enhancement on their
6 own.
- 7 (3) Facilitate credit enhancement for selected specific projects.
- 8 (4) Provide or arrange for loan insurance.
- 9 (5) Create and support secondary markets for loan portfolios of
10 urban and rural economic development corporations and others.
- 11 (6) Improve access to international capital markets.
- 12 (7) Provide opportunities for public pension funds and other
13 institutional investors to play a larger role in state economic
14 development.
- 15 (8) Arrange for or provide subordinated debt for selected
16 projects.
- 17 (9) Increase support for local infrastructure development.
- 18 (h) Local governments in California bear a primary
19 responsibility for the business of promoting job creation and
20 economic development efforts. California’s continued reliance on
21 autonomous local entities often fails to adequately consider regional
22 impacts of business expansion. Projects of a regional nature need
23 the benefit of a state coordinating function to augment and enhance
24 local economic development and environmental efforts.
- 25 (i) The State of California has not embarked on a major
26 infrastructure financing effort since the decade of the 1960’s,
27 despite persistent unemployment and soaring population growth.
- 28 (j) California’s ability to compete in a global economy depends
29 upon its capacity to implement policies that take maximum
30 advantage of public and private resources at the local, regional,
31 state, and national levels. These policies should be coordinated
32 with any future legislative plan involving growth management
33 strategies designed to make economic growth compatible with
34 environmental protections. It is the intent of the Legislature in
35 enacting this act to create a mechanism to finance projects needed
36 to implement economic development and job creation and growth
37 management strategies, and to provide a secure and stable funding
38 source for implementation of this act in order to meet critical
39 economic, social, and environmental concerns.

1 (k) The State of California needs a financing entity structured
2 with broad authority to issue bonds, provide guarantees, and
3 leverage state and federal funds using techniques that will target
4 public investment to facilitate economic development. The goal
5 is to produce more private sector jobs with less public sector
6 investment.

7 (l) The mechanisms for financing public improvements and
8 private job creation strategies provided for in this act are in the
9 public interest, serve a public purpose, and will promote the health,
10 welfare, and safety of the citizens of the state.

11 (m) The public policies and responsibilities of the state,
12 including all of the above purposes and functions, cannot be fully
13 obtained without the use of financing assistance and can be most
14 effectively furthered by the creation of the California Infrastructure
15 and Economic Development Bank.

16 SEC. 2. Section 63010 of the Government Code is amended
17 to read:

18 63010. For purposes of this division, the following words and
19 terms shall have the following meanings unless the context clearly
20 indicates or requires another or different meaning or intent:

21 (a) “Act” means the Bergeson-Peace Infrastructure and
22 Economic Development Bank Act.

23 (b) “Bank” means the California Infrastructure and Economic
24 Development Bank.

25 (c) “Board” or “bank board” means the Board of Directors of
26 the California Infrastructure and Economic Development Bank.

27 (d) “Bond purchase agreement” means a contractual agreement
28 executed between the bank and a sponsor, or a special purpose
29 trust authorized by the bank or a sponsor, or both, whereby the
30 bank or special purpose trust authorized by the bank agrees to
31 purchase bonds of the sponsor for retention or sale.

32 (e) “Bonds” means bonds, including structured, senior, and
33 subordinated bonds or other securities; loans; notes, including
34 bond, revenue, tax or grant anticipation notes; commercial paper;
35 floating rate and variable maturity securities; and any other
36 evidences of indebtedness or ownership, including certificates of
37 participation or beneficial interest, asset backed certificates, or
38 lease-purchase or installment purchase agreements, whether taxable
39 or excludable from gross income for federal income taxation
40 purposes.

1 (f) “Cost,” as applied to a project or portion thereof financed
2 under this division, means all or any part of the cost of construction,
3 renovation, and acquisition of all lands, structures, real or personal
4 property, rights, rights-of-way, franchises, licenses, easements,
5 and interests acquired or used for a project; the cost of demolishing
6 or removing any buildings or structures on land so acquired,
7 including the cost of acquiring any lands to which the buildings
8 or structures may be moved; the cost of all machinery, equipment,
9 and financing charges; interest prior to, during, and for a period
10 after completion of construction, renovation, or acquisition, as
11 determined by the bank; provisions for working capital; reserves
12 for principal and interest and for extensions, enlargements,
13 additions, replacements, renovations, and improvements; and the
14 cost of architectural, engineering, financial and legal services,
15 plans, specifications, estimates, administrative expenses, and other
16 expenses necessary or incidental to determining the feasibility of
17 any project or incidental to the construction, acquisition, or
18 financing of any project, and transition costs in the case of an
19 electrical corporation.

20 (g) “Economic development facilities” means real and personal
21 property, structures, buildings, equipment, and supporting
22 components thereof that are used to provide industrial, recreational,
23 research, commercial, utility, or service enterprise facilities,
24 community, educational, cultural, or social welfare facilities and
25 any parts or combinations thereof, and all facilities or infrastructure
26 necessary or desirable in connection therewith, including provision
27 for working capital, but shall not include any housing.

28 (h) “Electrical corporation” has the meaning set forth in Section
29 218 of the Public Utilities Code.

30 (i) “Executive director” means the Executive Director of the
31 California Infrastructure and Economic Development Bank
32 appointed pursuant to Section 63021.

33 (j) “Financial assistance” in connection with a project, includes,
34 but is not limited to, any combination of grants, loans, the proceeds
35 of bonds issued by the bank or special purpose trust, insurance,
36 guarantees or other credit enhancements or liquidity facilities, and
37 contributions of money, property, labor, or other things of value,
38 as may be approved by resolution of the board or the sponsor, or
39 both; the purchase or retention of bank bonds, the bonds of a
40 sponsor for their retention or for sale by the bank, or the issuance

1 of bank bonds or the bonds of a special purpose trust used to fund
2 the cost of a project for which a sponsor is directly or indirectly
3 liable, including, but not limited to, bonds, the security for which
4 is provided in whole or in part pursuant to the powers granted by
5 Section 63025; bonds for which the bank has provided a guarantee
6 or enhancement, including, but not limited to, the purchase of the
7 subordinated bonds of the sponsor, the subordinated bonds of a
8 special purpose trust, or the retention of the subordinated bonds
9 of the bank pursuant to Chapter 4 (commencing with Section
10 63060); or any other type of assistance deemed appropriate by the
11 bank or the sponsor, except that no direct loans shall be made to
12 nonpublic entities other than in connection with the issuance of
13 rate reduction bonds pursuant to a financing order or in connection
14 with a financing for an economic development facility.

15 For purposes of this subdivision, “grant” does not include grants
16 made by the bank except when acting as an agent or intermediary
17 for the distribution or packaging of financing available from
18 federal, private, or other public sources.

19 (k) “Financing order” has the meaning set forth in Section 840
20 of the Public Utilities Code.

21 (l) “Guarantee trust fund” means the California Infrastructure
22 Guarantee Trust Fund.

23 (m) “Infrastructure bank fund” means the California
24 Infrastructure and Economic Development Bank Fund.

25 (n) “Loan agreement” means a contractual agreement executed
26 between the bank or a special purpose trust and a sponsor that
27 provides that the bank or special purpose trust will loan funds to
28 the sponsor and that the sponsor will repay the principal and pay
29 the interest and redemption premium, if any, on the loan.

30 (o) “Participating party” means any person, company,
31 corporation, association, state or municipal governmental entity,
32 partnership, firm, or other entity or group of entities, whether
33 organized for profit or not for profit, engaged in business or
34 operations within the state and that applies for financing from the
35 bank in conjunction with a sponsor for the purpose of implementing
36 a project. However, in the case of a project relating to the financing
37 of transition costs or the acquisition of transition property, or both,
38 on the request of an electrical corporation, or in connection with
39 a financing for an economic development facility, or for the

1 financing of insurance claims, the participating party shall be
2 deemed to be the same entity as the sponsor for the financing.

3 (p) “Project” means designing, acquiring, planning, permitting,
4 entitling, constructing, improving, extending, restoring, financing,
5 and generally developing public development facilities or economic
6 development facilities within the state or financing transition costs
7 or the acquisition of transition property, or both, upon approval of
8 a financing order by the Public Utilities Commission, as provided
9 in Article 5.5 (commencing with Section 840) of Chapter 4 of Part
10 1 of Division 1 of the Public Utilities Code.

11 (q) “Public development facilities” means real and personal
12 property, structures, conveyances, equipment, thoroughfares,
13 buildings, and supporting components thereof, excluding any
14 housing, that are directly related to providing the following:

15 (1) “City streets” including any street, avenue, boulevard, road,
16 parkway, drive, or other way that is any of the following:

17 (A) An existing municipal roadway.

18 (B) Is shown upon a plat approved pursuant to law and includes
19 the land between the street lines, whether improved or unimproved,
20 and may comprise pavement, bridges, shoulders, gutters, curbs,
21 guardrails, sidewalks, parking areas, benches, fountains, plantings,
22 lighting systems, and other areas within the street lines, as well as
23 equipment and facilities used in the cleaning, grading, clearance,
24 maintenance, and upkeep thereof.

25 (2) “County highways” including any county highway as defined
26 in Section 25 of the Streets and Highways Code, that includes the
27 land between the highway lines, whether improved or unimproved,
28 and may comprise pavement, bridges, shoulders, gutters, curbs,
29 guardrails, sidewalks, parking areas, benches, fountains, plantings,
30 lighting systems, and other areas within the street lines, as well as
31 equipment and facilities used in the cleaning, grading, clearance,
32 maintenance, and upkeep thereof.

33 (3) “Drainage, water supply, and flood control” including, but
34 not limited to, ditches, canals, levees, pumps, dams, conduits,
35 pipes, storm sewers, and dikes necessary to keep or direct water
36 away from people, equipment, buildings, and other protected areas
37 as may be established by lawful authority, as well as the
38 acquisition, improvement, maintenance, and management of
39 floodplain areas and all equipment used in the maintenance and
40 operation of the foregoing.

1 (4) “Educational facilities” including libraries, child care
2 facilities, including, but not limited to, day care facilities, and
3 employment training facilities.

4 (5) “Environmental mitigation measures” including required
5 construction or modification of public infrastructure and purchase
6 and installation of pollution control and noise abatement
7 equipment.

8 (6) “Parks and recreational facilities” including local parks,
9 recreational property and equipment, parkways and property.

10 (7) “Port facilities” including docks, harbors, ports of entry,
11 piers, ships, small boat harbors and marinas, and any other
12 facilities, additions, or improvements in connection therewith.

13 (8) “Power and communications” including facilities for the
14 transmission or distribution of electrical energy, natural gas, and
15 telephone and telecommunications service.

16 (9) “Public transit” including air and rail transport of goods,
17 airports, guideways, vehicles, rights-of-way, passenger stations,
18 maintenance and storage yards, and related structures, including
19 public parking facilities, equipment used to provide or enhance
20 transportation by bus, rail, ferry, or other conveyance, either
21 publicly or privately owned, that provides to the public general or
22 special service on a regular and continuing basis.

23 (10) “Sewage collection and treatment” including pipes, pumps,
24 and conduits that collect wastewater from residential,
25 manufacturing, and commercial establishments, the equipment,
26 structures, and facilities used in treating wastewater to reduce or
27 eliminate impurities or contaminants, and the facilities used in
28 disposing of, or transporting, remaining sludge, as well as all
29 equipment used in the maintenance and operation of the foregoing.

30 (11) “Solid waste collection and disposal” including vehicles,
31 vehicle-compatible waste receptacles, transfer stations, recycling
32 centers, sanitary landfills, and waste conversion facilities necessary
33 to remove solid waste, except that which is hazardous as defined
34 by law, from its point of origin.

35 (12) “Water treatment and distribution” including facilities in
36 which water is purified and otherwise treated to meet residential,
37 manufacturing, or commercial purposes and the conduits, pipes,
38 and pumps that transport it to places of use.

1 (13) “Defense conversion” including, but not limited to, facilities
2 necessary for successfully converting military bases consistent
3 with an adopted base reuse plan.

4 (14) “Public safety facilities” including, but not limited to, police
5 stations, fire stations, court buildings, jails, juvenile halls, and
6 juvenile detention facilities.

7 (15) “State highways” including any state highway as described
8 in Chapter 2 (commencing with Section 230) of Division 1 of the
9 Streets and Highways Code, and the related components necessary
10 for safe operation of the highway.

11 (16) (A) Military infrastructure, including, but not limited to,
12 facilities on or near a military installation, that enhance the military
13 operations and mission of one or more military installations in this
14 state. To be eligible for funding, the project shall be endorsed by
15 the Office of Military and Aerospace Support established pursuant
16 to Section 13998.2.

17 (B) For purposes of this subdivision, “military installation”
18 means any facility under the jurisdiction of the Department of
19 Defense, as defined in paragraph (1) of subsection (e) of Section
20 2687 of Title 10 of the United States Code.

21 (r) “Rate reduction bonds” has the meaning set forth in Section
22 840 of the Public Utilities Code.

23 (s) “Revenues” means all receipts, purchase payments, loan
24 repayments, lease payments, and all other income or receipts
25 derived by the bank or a sponsor from the sale, lease, or other
26 financing arrangement undertaken by the bank, a sponsor or a
27 participating party, including, but not limited to, all receipts from
28 a bond purchase agreement, and any income or revenue derived
29 from the investment of any money in any fund or account of the
30 bank or a sponsor and any receipts derived from transition property.
31 Revenues shall not include moneys in the General Fund of the
32 state.

33 (t) “Special purpose trust” means a trust, partnership, limited
34 partnership, association, corporation, nonprofit corporation, or
35 other entity authorized under the laws of the state to serve as an
36 instrumentality of the state to accomplish public purposes and
37 authorized by the bank to acquire, by purchase or otherwise, for
38 retention or sale, the bonds of a sponsor or of the bank made or
39 entered into pursuant to this division and to issue special purpose
40 trust bonds or other obligations secured by these bonds or other

1 sources of public or private revenues. Special purpose trust also
2 means any entity authorized by the bank to acquire transition
3 property or to issue rate reduction bonds, or both, subject to the
4 approvals by the bank and powers of the bank as are provided by
5 the bank in its resolution authorizing the entity to issue rate
6 reduction bonds.

7 (u) “Sponsor” means any subdivision of the state or local
8 government including departments, agencies, commissions, cities,
9 counties, nonprofit corporations formed on behalf of a sponsor,
10 special districts, assessment districts, and joint powers authorities
11 within the state or any combination of these subdivisions that
12 makes an application to the bank for financial assistance in
13 connection with a project in a manner prescribed by the bank. This
14 definition shall not be construed to require that an applicant have
15 an ownership interest in the project. In addition, an electrical
16 corporation shall be deemed to be the sponsor as well as the
17 participating party for any project relating to the financing of
18 transition costs and the acquisition of transition property on the
19 request of the electrical corporation and any person, company,
20 corporation, partnership, firm, or other entity or group engaged in
21 business or operation within the state that applies for financing of
22 any economic development facility, shall be deemed to be the
23 sponsor as well as the participating party for the project relating
24 to the financing of that economic development facility.

25 (v) “State” means the State of California.

26 (w) “Transition costs” has the meaning set forth in Section 840
27 of the Public Utilities Code.

28 (x) “Transition property” has the meaning set forth in Section
29 840 of the Public Utilities Code.

30 (y) “*Clean energy technology*” means technologies that reduce
31 substantially greenhouse gas emissions, including, but not limited
32 to, energy efficiency, renewable energy, alternative fuels, advanced
33 vehicles and related infrastructure, distributed generation, energy
34 storage, combined heat and power, and integrated demand-side
35 management, and the essential components of those technologies.

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