

ASSEMBLY BILL

No. 1079

Introduced by Assembly Member Bradford

February 22, 2013

An act to add Sections 7083.1, 7083.2, and 63045.1 to the Government Code, and to amend Sections 21180 and 21189.1 of, and to repeal and add Section 21189.3 of, the Public Resources Code, relating to enterprise zones.

LEGISLATIVE COUNSEL'S DIGEST

AB 1079, as introduced, Bradford. Enterprise zones: energy management plans.

The Enterprise Zone Act provides for the designation of zones according to specified criteria, pursuant to which certain entities within each zone may receive regulatory, tax, and other incentives for economic and employment development and private investment.

This bill would amend the Enterprise Zone Act to authorize a city, county, or city and county to propose one or more energy management plans, developed jointly with an electrical corporation, gas corporation, local publicly owned electric utility, or rural electric cooperative, serving an enterprise zone other than an area within a harbor or port district formed pursuant to specified law, in order to reduce air emissions and to promote economic development, the addition of new business, and the retention of existing businesses in that enterprise zone. The bill would require the Public Utilities Commission, if the city, county, or city and county has developed jointly with an electrical or gas corporation one or more plan elements that involve special programs to be offered to the enterprise zone and administered by the electrical or gas corporation to facilitate economic development, to provide

expedited review of the proposed jointly developed elements. The bill would require the commission to encourage electrical or gas corporations to participate jointly with local agencies in developing, implementing, and administering viable energy management plans for enterprise zones and would prohibit the commission from limiting the role of the electrical or gas corporation that was cooperatively developed in the energy management plan.

Under the Bergeson-Peace Infrastructure and Economic Development Bank Act, the California Infrastructure and Economic Development Bank is established within state government for the purpose of funding specified types of infrastructure development projects.

The bill would make a project, to promote economic development in enterprise zones developed pursuant to an energy management plan in accordance with the bill, eligible for funding through the bank. The bill would require the bank to consider appropriate action to remove unnecessary barriers for the financing of that project.

The Jobs and Economic Improvement Through Environmental Leadership Act of 2011 establishes specified judicial review procedures for the judicial review of an environmental impact report under the California Environmental Quality Act (CEQA) and approvals granted for a leadership project related to the development of a residential, retail, commercial, sports, cultural, entertainment, or recreational use project, or clean renewable energy or clean energy manufacturing project. The act authorizes the Governor to certify a leadership project for streamlining pursuant to the act if certain conditions are met. Those provisions are repealed as of January 1, 2015.

The bill would include a project pursued in implementation of an energy management plan in the definition of leadership project eligible for streamlining under the Jobs and Economic Improvement Through Environmental Leadership Act of 2011. The bill would delete the January 1, 2015, repeal, of the act and, instead, make those streamlining provisions inoperative on that date except for a project pursued in implementation of an energy management plan pursuant to the bill, for which project those provisions would be operative indefinitely. Because the lead agency under CEQA would be required to use these alternative procedures for creating the administrative record if the applicant for a project pursued in implementation of an energy management plan so chooses and the project is certified by the Governor, this bill would impose a state-mandated local program.

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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

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

1 SECTION 1. Section 7083.1 is added to the Government Code,
2 to read:

3 7083.1. The Legislature finds and declares all of the following:

4 (a) The state should encourage the development of new
5 businesses and the retention of existing businesses within enterprise
6 zones.

7 (b) Energy utility customers can benefit from the addition of
8 new business and the retention of existing business through
9 increased energy cost certainty.

10 (c) Businesses in enterprise zones could benefit through greater
11 stability and certainty in the cost of energy services.

12 (d) Investor-owned utilities and publicly owned utilities are in
13 an optimal position, and should be encouraged to engage in joint
14 projects with government administering enterprise zones, to provide
15 and administer energy-related service alternatives and programs
16 that can promote economic development and retention in enterprise
17 zones.

18 SEC. 2. Section 7083.2 is added to the Government Code, to
19 read:

20 7083.2. (a) A city, county, or city and county may propose
21 one or more energy management plans, developed jointly with an
22 electrical corporation, gas corporation, or local publicly owned
23 electric utility, as defined in the Public Utilities Code, or a rural
24 electric cooperative, serving an enterprise zone other than an area
25 within a harbor or port district formed pursuant to Division 8
26 (commencing with Section 5800) of the Harbors and Navigation
27 Code, in order to reduce air emissions and to promote economic

1 development, the addition of new businesses, and the retention of
2 existing businesses in that enterprise zone.

3 (b) The energy management plan shall include, at a minimum,
4 the following:

5 (1) An electric or natural gas load forecast, developed in
6 coordination with the serving electrical corporation, gas
7 corporation, or local publicly owned electric utility, or rural electric
8 cooperative, that reflects anticipated load growth within the
9 enterprise zone.

10 (2) Consideration of the role that distributed generation,
11 combined with accurately priced utility services, could play in
12 providing greater rate stability and energy cost certainty to aid in
13 economic development, and proposed actions with respect to that
14 role. This assessment shall be developed jointly with the serving
15 electrical corporation, gas corporation, local publicly owned electric
16 utility, or rural electric cooperative.

17 (3) Proposed actions, developed jointly with the serving
18 electrical corporation, gas corporation, local publicly owned electric
19 utility, or rural electric cooperative, for the enhanced use of
20 cost-effective energy efficiency and demand-side management in
21 existing buildings and the inclusion of energy efficiency measures
22 as part of the development of new buildings.

23 (4) Proposed actions, developed jointly with the serving
24 electrical corporation, natural gas corporation, local publicly owned
25 electric utility, or rural electric cooperative, for the development
26 of infrastructure, in appropriate areas, to aid in the refueling of
27 alternative fuel vehicles, including utility ownership or operation
28 of those facilities to provide services to the community.

29 (5) Other actions and associated utility services to implement
30 the jointly developed energy management plan.

31 (6) Proposed methods to fund the activities included in the plan,
32 including funding through utility ratepayer-funded programs and
33 financing through the California Infrastructure and Economic
34 Development Bank established pursuant to Division 1
35 (commencing with Section 63000) of Title 6.7, the California
36 Alternative Energy and Advanced Transportation Financing
37 Authority established pursuant to Section 26004 of the Public
38 Resources Code, or other appropriate sources.

39 (c) If the city, county, or city and county has developed jointly
40 with an electrical or gas corporation one or more plan elements

1 that involves special programs to be offered in the enterprise zone
2 and administered by the electrical or gas corporation to facilitate
3 economic development, including, but not limited to, energy
4 efficiency, the use of biogas for direct injection into common
5 carrier pipelines, economic development rates, distributed
6 generation, energy storage, and alternative fuel vehicle
7 infrastructure, the Public Utilities Commission shall provide
8 expedited review of the proposed jointly developed elements. The
9 Public Utilities Commission shall encourage electrical or gas
10 corporations to participate jointly with local agencies in developing,
11 implementing, and administering viable energy management plans
12 for enterprise zones, and shall not limit the role of the electrical
13 or gas corporation that was cooperatively developed in the energy
14 management plan. The governing boards of local publicly owned
15 utilities and rural electric cooperatives shall encourage joint
16 participation with local agencies and gas corporations in
17 developing, implementing, and administering viable energy
18 management plans for enterprise zones.

19 (d) The energy management plan shall consider the development
20 of projects that provide greater certainty of energy costs over a
21 period of up to 15 years for businesses developing in the enterprise
22 zone and shall consider applying to the California Infrastructure
23 and Economic Development Bank for financial support of those
24 projects under Section 63045.1.

25 SEC. 3. Section 63045.1 is added to the Government Code, to
26 read:

27 63045.1. A project to promote economic development in
28 enterprise zones developed pursuant to an energy management
29 plan in accordance with Section 7083.2 shall be eligible for funding
30 under this article. The bank shall consider appropriate action to
31 remove unnecessary barriers for the financing of that project.

32 SEC. 4. Section 21180 of the Public Resources Code is
33 amended to read:

34 21180. For the purposes of this chapter, the following terms
35 shall have the following meanings:

36 (a) "Applicant" means a public or private entity or its affiliates,
37 or a person or entity that undertakes a public works project, that
38 proposes a project and its successors, heirs, and assignees.

1 (b) “Environmental leadership development project,” “leadership
 2 project,” or “project” means a project as described in Section 21065
 3 that is one the following:

4 (1) A residential, retail, commercial, sports, cultural,
 5 entertainment, or recreational use project that is certified as LEED
 6 silver or better by the United States Green Building Council and,
 7 where applicable, that achieves a 10-percent greater standard for
 8 transportation efficiency than for comparable projects. These
 9 projects must be located on an infill site. For a project that is within
 10 a metropolitan planning organization for which a sustainable
 11 communities strategy or alternative planning strategy is in effect,
 12 the infill project shall be consistent with the general use
 13 designation, density, building intensity, and applicable policies
 14 specified for the project area in either a sustainable communities
 15 strategy or an alternative planning strategy, for which the State
 16 Air Resources Board, pursuant to subparagraph (H) of paragraph
 17 (2) of subdivision (b) of Section 65080 of the Government Code,
 18 has accepted a metropolitan planning organization’s determination
 19 that the sustainable communities strategy or the alternative planning
 20 strategy would, if implemented, achieve the greenhouse gas
 21 emission reduction targets.

22 (2) A clean renewable energy project that generates electricity
 23 exclusively through wind or solar, but not including waste
 24 incineration or conversion.

25 (3) A clean energy manufacturing project that manufactures
 26 products, equipment, or components used for renewable energy
 27 generation, energy efficiency, or for the production of clean
 28 alternative fuel vehicles.

29 (4) *A project pursued in implementation of an energy*
 30 *management plan pursuant to Section 70832.2 of the Government*
 31 *Code.*

32 (c) “Transportation efficiency” means the number of vehicle
 33 trips by employees, visitors, or customers of the residential, retail,
 34 commercial, sports, cultural, entertainment, or recreational use
 35 project divided by the total number of employees, visitors, and
 36 customers.

37 SEC. 5. Section 21189.1 of the Public Resources Code is
 38 amended to read:

39 21189.1. (a) ~~Except for a project defined in paragraph (4)~~
 40 *of subdivision (b) of Section 21180, if a lead agency fails to certify*

1 an environmental impact report for a leadership project subject to
2 this chapter on or before June 1, 2014, this chapter shall not apply
3 to that project. The lead agency shall notify the Secretary of the
4 Natural Resources Agency by July 1, 2014, if an environmental
5 impact report subject to this chapter has not been certified by that
6 date.

7 (b) If, prior to June 1, 2014, a certification issued pursuant to
8 this chapter has not been used or the time period during which an
9 action or proceeding, for purposes of Section 21185, may be filed
10 under this chapter has not elapsed, the certification expires and is
11 no longer valid.

12 SEC. 6. Section 21189.3 of the Public Resources Code is
13 repealed.

14 ~~21189.3. This chapter shall remain in effect until January 1,~~
15 ~~2015, and as of that date is repealed unless a later enacted statute~~
16 ~~extends or repeals that date.~~

17 SEC. 7. Section 21189.3 is added to the Public Resources Code,
18 to read:

19 21189.3. Except for a project defined in paragraph (4) of
20 subdivision (b) of Section 21180, this chapter shall become
21 inoperative on January 1, 2015.

22 SEC. 8. If the Commission on State Mandates determines that
23 this act contains costs mandated by the state, reimbursement to
24 local agencies and school districts for those costs shall be made
25 pursuant to Part 7 (commencing with Section 17500) of Division
26 4 of Title 2 of the Government Code.