

AMENDED IN ASSEMBLY AUGUST 19, 2014

AMENDED IN ASSEMBLY JULY 1, 2014

AMENDED IN ASSEMBLY JUNE 10, 2014

AMENDED IN SENATE APRIL 29, 2014

AMENDED IN SENATE APRIL 10, 2014

SENATE BILL

No. 1121

Introduced by Senator De León

February 19, 2014

An act to add Chapter ~~5 (commencing with Section 26100)~~ to Division 16 of the Public Resources 7 (*commencing with Section 63100*) to Division 1 of Title 6.7 of the Government Code, relating to greenhouse gases.

LEGISLATIVE COUNSEL'S DIGEST

SB 1121, as amended, De León. California Climate Technology and Infrastructure Financing Act.

~~Existing law establishes the California Alternative Energy and Advanced Transportation Financing Authority consisting of specified members and authorizes the authority to provide financial assistance to projects related to the utilization of alternative energy sources or advanced transportation technologies.~~

The Bergeson-Peace Infrastructure and Economic Development Bank Act authorizes the California Infrastructure and Economic Development Bank, governed by a board of directors, to make loans, issue bonds, and provide other assistance for various types of economic development projects, among other things. The activities of the bank under these provisions are funded from the California Infrastructure and Economic

Development Bank Fund, which is continuously appropriated for these purposes.

This bill would enact the California Climate Technology and Infrastructure Financing Act and would require the ~~authority, bank,~~ in consultation with the State Air Resources Board, to ~~develop~~ *administer* the California Climate ~~Technology and Infrastructure Financing Program~~ *Solutions Accelerator Account, which would be established by the bill in the California Infrastructure and Economic Development Bank Fund,* to provide financial assistance to eligible greenhouse gas emissions reduction projects, as ~~defined. The bill would establish the Climate Technology and Infrastructure Finance Fund and would, upon appropriation by the Legislature, require the authority to expend moneys in the fund for the purposes of the program.~~ *defined, upon appropriation by the Legislature.*

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

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

1 SECTION 1. Chapter ~~5 7~~ (commencing with Section ~~26100~~)
2 ~~63100~~ is added to Division ~~16 1~~ of Title 6.7 of the ~~Public~~
3 ~~Resources-Government~~ Code, to read:

4
5 CHAPTER ~~5-7~~. CALIFORNIA CLIMATE TECHNOLOGY AND
6 INFRASTRUCTURE FINANCING ACT

7
8 Article 1. General Provisions and Definitions
9

10 ~~26100.~~
11 ~~63100.~~ (a) The Legislature finds and declares all of the
12 following:

13 (a)
14 (1) The California Global Warming Solutions Act of 2006
15 (Division 25.5 (commencing with Section 38500) of the Health
16 and Safety Code) requires the reduction of statewide greenhouse
17 gas emissions to 1990 levels by 2020.

18 (b)
19 (2) As a result of the act and complimentary policies, California
20 has established itself as a leader in the development of clean

1 technologies, helping to drive innovation and deployment of a
2 variety of greenhouse gas emissions reducing technologies.

3 ~~(e)~~

4 (3) However, there exist barriers to the widespread adoption
5 and commercial scale deployment of these technologies and, as a
6 result, cleaner, lower-carbon, cheaper, and more reliable energy
7 remains unavailable to many California consumers and businesses.

8 ~~(d)~~

9 (4) Among the most critical barriers is the availability of
10 financing options for consumers and businesses, and the lack of
11 familiarity and perceived risk for investors due to limited data,
12 and, often, small and expensive financial transactions.

13 ~~(e)~~

14 (5) To achieve the state’s climate goals, the state should better
15 optimize our limited public dollars to attract more private
16 investment, so that each dollar of public funds provides multiple
17 dollars of private capital.

18 ~~(f)~~

19 (6) A statewide financing entity focused on fostering private
20 investments in low-carbon projects can provide significant
21 leveraging of private dollars to make public funds go further.

22 ~~(g)~~

23 (7) A statewide financing entity in California could accelerate
24 the transition to a low-carbon economy, achieve the state’s climate
25 goals, and improve access for all Californians to cleaner energy.
26 A financing entity could help achieve all of the following goals:

27 ~~(1)~~

28 (A) Evaluate, coordinate, and increase private investment in
29 greenhouse gas emissions reduction projects that are not currently
30 able to obtain financing in the capital markets at a reasonable cost
31 and with a reasonable rate of return to project developers at scale
32 and with significant private sector participation.

33 ~~(2)~~

34 (B) Lower rates and decrease costs for utility ratepayers within
35 the state, expand the accessibility and affordability of clean energy
36 for end users, ensure the reliability and safety of the state’s energy
37 and water supplies, increase the climate resilience of the state’s
38 infrastructure, increase the use of clean energy, promote energy
39 efficiency, and advance the state’s energy- and
40 infrastructure-related economy.

1 ~~(3)~~
 2 (C) Foster increasingly efficient, low-cost capital financing at
 3 scale and with maximum private sector participation for eligible
 4 projects through the creation, where appropriate, of financial
 5 performance data, standardized contracts, underwriting standards,
 6 and measurement and verification protocols.

7 ~~(4)~~
 8 (D) Coordinate with, and enhance, existing clean energy
 9 financing programs to fill financing gaps not currently filled by
 10 existing programs or markets and further enhance the scale and
 11 scope of existing programs or markets to enabling financing at
 12 scale and with maximum private sector participation.

13 ~~(5)~~
 14 (E) Implement a variety of financing tools, including, but not
 15 limited to, loans, loan guarantees, securitization, warehousing, and
 16 other forms of financing support and risk management, to support
 17 greenhouse gas emissions reduction projects necessary to advance
 18 the state’s policy objectives, including the reduction of greenhouse
 19 gas emissions within the state.

20 ***(b) Moneys appropriated by the Legislature for the purposes of***
 21 ***this chapter from the Greenhouse Gas Reduction Fund shall be***
 22 ***expended consistent with the appropriation processes and criteria***
 23 ***established by the Greenhouse Gas Reduction Fund Investment***
 24 ***Plan and Communities Revitalization Act (Chapter 4.1***
 25 ***(commencing with Section 39710) of Part 2 of Division 26 of the***
 26 ***Health and Safety Code) to ensure investments made pursuant to***
 27 ***this chapter benefit disadvantaged communities identified pursuant***
 28 ***to Section 39711 of the Health and Safety Code.***

29 ~~26101.~~
 30 **63101.** For the purposes of this chapter, the following terms
 31 mean the following:

32 ***(a) “Account” means the California Climate Solutions***
 33 ***Accelerator Account established pursuant to Section 63130.***

34 ~~(a)~~
 35 ***(b) “Clean agriculture project” means a project, product, service,***
 36 ***function, or measure, or an aggregation of projects, products,***
 37 ***services, functions, or measures, having the primary purpose of***
 38 ***deploying a product or service that avoids or reduces emissions***
 39 ***of greenhouse gases directly or indirectly caused by the production***
 40 ***or processing of crops or livestock.***

1 ~~(b)~~

2 (c) “Clean energy infrastructure project” means the construction,
3 alteration, or repair of types of infrastructure necessary for the
4 deployment of technologies, products, or services, that will avoid
5 or reduce emissions of greenhouse gases, including, but not limited
6 to, the following:

7 (1) Electric transmission and distribution facilities
8 interconnected to renewable energy projects or system efficiency
9 projects.

10 (2) Hydrogen transportation and distribution systems.

11 (3) Car sharing, ridesharing, and bicycle sharing facilities.

12 (4) Improvements to infrastructure used for the transportation
13 of passengers, goods, or freight.

14 ~~(e)~~

15 (d) “Demand response project” means a project, product, service,
16 function, or measure, or an aggregation of projects, products,
17 services, functions, or measures, that results in reductions in
18 greenhouse gas emissions by reducing electric usage by end-use
19 customers in the state from their normal consumption pattern in
20 response to any of the following:

21 (1) Changes in the price of electricity over time.

22 (2) Incentive payments designed to induce lower electricity use
23 at times of high market prices or when system reliability is
24 jeopardized.

25 ~~(f)~~

26 (e) “Energy efficiency project” means a project, product, service,
27 function, or measure, or an aggregation of projects, products,
28 services, functions, or measures, that results in the reduction of
29 energy usage required to achieve the same level of service or output
30 prior to the application of the project, product, service, function,
31 or measure, and reduces emissions of greenhouse gas relative to
32 emissions that would have occurred prior to the application of the
33 project, product, service, function, or measure, including, but not
34 limited to, either of the following:

35 (1) Water capture, conveyance, distribution, use, reuse, and
36 recycling.

37 (2) Wastewater collection, treatment, and disposal.

38 ~~(e) “Fund” means the California Climate Technology and~~
39 ~~Infrastructure Finance Fund established pursuant to Section 26130.~~

1 (f) “Greenhouse gas emissions reduction project” means a
2 project, product, service, function, or measure, or an aggregation
3 of projects, products, services, functions, or measures, that avoids
4 or reduces emissions of greenhouse gases, including, but not
5 limited to, any of the following:

- 6 (1) Energy efficiency projects.
- 7 (2) Clean energy infrastructure projects.
- 8 (3) Innovation energy technology projects.
- 9 (4) Renewable *and small scale distributed* energy projects.
- 10 (5) System efficiency projects.
- 11 (6) Clean agriculture projects.
- 12 (7) Low-carbon transportation projects.
- 13 (8) Demand response projects.
- 14 (9) Land-based greenhouse gas sequestration projects.
- 15 (10) A combination of the projects specified in paragraphs (1)
16 to (9), inclusive.

17 (g) “Innovation energy technology project” means a project
18 having either of the following primary purposes:

19 (1) Deployment of a technology, infrastructure, practice,
20 product, or service that avoids or reduces emissions of greenhouse
21 gases and that employs new or significantly improved technologies
22 or practices, as compared to technologies or practices that are in
23 general use in the commercial marketplace in the United States at
24 the time the project is approved by the ~~authority~~ *bank* pursuant to
25 this chapter.

26 (2) Manufacturing of a commercially ready energy technology
27 or product that avoids or reduces emissions of air pollutants and
28 greenhouse gases and that incorporates an innovative
29 manufacturing process or processes not in general use in the
30 commercial marketplace in the United States at the time the project
31 is approved by the ~~authority~~ *bank* pursuant to this chapter.

32 (h) “Land-based greenhouse gas sequestration project” means
33 a project, product, service, function, or measure, or an aggregation
34 of projects, products, services, functions, or measures, having a
35 primary purpose of ~~developing, constructing, or deploying a project~~
36 ~~in forests, grasslands, wetlands, or other habitat types in California~~
37 ~~for which a carbon credit or offset protocol has been adopted by~~
38 ~~the state board: reducing greenhouse gas emissions, including~~
39 ~~carbon sequestration in forests, urban forests, grasslands,~~
40 ~~wetlands, or other habitat types in California.~~

1 (i) “Low-carbon transportation project” means a project, product,
2 service, function, or measure, or an aggregation of projects,
3 products, services, functions, or measures, that results in reductions
4 in greenhouse gas emissions from the transportation of people,
5 goods, freight, or off-road equipment.

6 ~~(j) “Program” means the California Climate Technology and
7 Infrastructure Financing Program developed pursuant to Section
8 26110.~~

9 ~~(k)~~

10 (j) “Renewable energy project” means the development,
11 construction, deployment, or alteration of an eligible renewable
12 energy resource, as defined in Section 399.12 of the Public Utilities
13 Code, that avoids or reduces greenhouse gas emissions.

14 ~~(l)~~

15 (k) “State board” means the State Air Resources Board.

16 ~~(m)~~

17 (l) “System efficiency project” means the development,
18 construction, deployment, alteration, or repair of a distributed
19 generation, energy storage, smart grid, advanced battery, microgrid,
20 fuel cell, water pumping, or combined heat and power, technology
21 or system that results in the reductions of greenhouse gas
22 emissions.

23

24 Article 2. California Climate Change ~~Technology and~~
25 ~~Infrastructure Financing Program Solutions Accelerator~~

26

27 ~~26110.~~

28 ~~63110.~~ (a) The ~~authority, bank,~~ in consultation with the state
29 board, shall ~~develop and~~ administer the California Climate
30 ~~Technology and Infrastructure Financing Program Solutions~~
31 ~~Accelerator Account~~ to provide financial assistance for greenhouse
32 gas emissions reduction projects consistent with this chapter, the
33 guiding document developed pursuant to Section ~~26120, 63120,~~
34 and both of the following:

35 (1) Earning a net positive return on the financial assistance made
36 pursuant to this chapter.

37 (2) Maximizing net greenhouse gas emissions reductions for
38 each dollar provided by focusing financial support on filling
39 demonstrated financing gaps that are the key barriers to greater
40 investment or market transformation.

1 (b) Greenhouse gas emissions reduction projects eligible for
2 financial assistance pursuant to this chapter shall demonstrate all
3 of the following:

- 4 (1) Reduction in net emissions of greenhouse gases.
- 5 (2) Partnership with a private financial institution or lender.
- 6 (3) Ability for the project to meet applicable permitting
7 requirements.
- 8 (4) Ability to create jobs in the state.
- 9 (5) Technological viability.
- 10 (6) Ability to, over time, pay back the financial assistance
11 provided pursuant to this chapter.
- 12 (7) The existence of a financing gap that is a barrier to project
13 implementation or market growth.
- 14 (8) Other requirements deemed necessary by the ~~authority~~ *bank*.

15 (c) The ~~authority~~ *bank* shall establish a portfolio approach to
16 the provision of financial assistance to address different industry
17 needs and different development and commercialization stages of
18 technology.

19 (d) The ~~authority~~ *bank* may accept applications for financial
20 assistance pursuant to the program on an ongoing and open
21 solicitation basis.

22 (e) (1) *Sections 10295 of, and Article 4 (commencing with*
23 *Section 10335) of Chapter 2 of Part 2 of Division 2 of, the Public*
24 *Contract Code shall not apply to agreements entered into by the*
25 *bank in connection with financial assistance provided pursuant*
26 *to this chapter.*

27 (2) *To the extent that this chapter is inconsistent with other state*
28 *laws, this chapter shall prevail over those laws.*

29 ~~26111.~~

30 63111. (a) The ~~authority~~ *bank*, in consultation with the state
31 board, shall establish guidelines for the program and project
32 eligibility that are consistent with the requirements of the California
33 Global Warming Solutions Act of 2006 (Division 25.5
34 (commencing with Section 38500) of the Health and Safety Code)
35 and the Greenhouse Gas Reduction Fund Investment Plan and
36 Communities Revitalization Act (Chapter 4.1 (commencing with
37 Section 39710) of the Health and Safety Code). The guidelines
38 shall include consideration of whether providing financial
39 assistance for a greenhouse gas emissions reduction project will
40 do the following:

1 (1) Increase private investment in greenhouse gas emissions
2 reduction projects that are not currently able to obtain financing
3 at attractive terms or through an existing state program.

4 (2) Enable the implementation and scaling of greenhouse gas
5 emissions reduction projects to increase deployment of innovative
6 financing by leveraging limited public dollars to attract private
7 capital.

8 (3) Facilitate the deployment of greenhouse gas emissions
9 reduction projects at an accelerated rate.

10 (4) Enhance the competitiveness of California-based companies
11 and reduce leakage of greenhouse gas emissions to other
12 jurisdictions.

13 (5) Achieve cobenefits, such as enhanced water supply,
14 improved water quality, improved air quality, enhanced urban
15 environments, *local reliability and resiliency*, and improved public
16 health and wildlife habitat.

17 (6) Address barriers that have prevented adequate commercial
18 financing of greenhouse gas emissions reduction projects.

19 (b) Priority shall be given to projects that demonstrate the ability
20 to meet the following criteria:

21 (1) Increase private investment in otherwise commercially viable
22 greenhouse gas emissions reduction projects not currently able to
23 obtain financing in the capital markets at a reasonable cost with a
24 reasonable rate of return.

25 (2) Increase private investment in greenhouse gas emissions
26 reduction projects located in disadvantaged communities identified
27 pursuant to Section 39711 of the Health and Safety Code.

28 (3) Maximize economic, environmental, and public health
29 benefits to the ~~state~~: *state, including the competitiveness of*
30 *California companies to achieve greenhouse gas emissions*
31 *reduction.*

32 ~~26112.~~

33 ~~63112.~~ (a) ~~The authority bank board~~ shall appoint an executive
34 officer to oversee and implement ~~the program, this chapter,~~ who
35 meets ~~all~~ *both* of the following requirements:

36 ~~(a)~~

37 (1) Demonstrates significant experience and knowledge of
38 private sector financing of low-carbon technologies and projects.

39 ~~(b)~~

1 (2) Does not have any financial interest in any greenhouse gas
 2 emissions reduction project under consideration or any financial
 3 interest in an investment institution or its affiliates or any other
 4 entity seeking or likely to seek financial assistance for any
 5 greenhouse gas emissions reduction project pursuant to this chapter.

6 ~~(e) Has~~

7 (b) *The executive officer shall have the ability to hire staff with*
 8 *experience and knowledge of private sector financing structures*
 9 *and tools.*

10 ~~26113.~~

11 ~~63113.~~ *The authority bank shall convene, at least twice each*
 12 *year, in a public process, an advisory stakeholder group consisting*
 13 *of clean energy stakeholders with experience in clean energy*
 14 *financing financing, financing assistance for low-income*
 15 *communities, or technological expertise. The advisory group shall*
 16 *provide to the authority bank information on topics, including, but*
 17 *not limited to, current market needs, financial feasibility of*
 18 *financial tools, commercial feasibility of greenhouse gas emissions*
 19 *reducing technologies and projects, and relevant studies.*

20

21 Article 3. Oversight and Coordination

22

23 ~~26120.~~

24 ~~63120.~~ (a) ~~The authority~~ *On or before December 30, 2015,*
 25 *the bank shall prepare a three-year guiding document, consistent*
 26 *with the three-year investment plan developed pursuant to Section*
 27 *39716 of the Health and Safety Code, outlining planned financial*
 28 *assistance categories and how financial assistance furthers the*
 29 *reductions of greenhouse gas emissions. The guiding document*
 30 *shall establish priorities for investment of funds to achieve the*
 31 *goals of this chapter and describe how funding will complement*
 32 *existing public and private investments, including existing state*
 33 *programs that further the goals of this chapter. The guiding*
 34 *document shall identify gaps in existing programs or private*
 35 *financing markets that can be filled by financial assistance made*
 36 *pursuant to this chapter to achieve the goals of this chapter. The*
 37 *bank may use the three-year investment plan developed pursuant*
 38 *to Section 39716 of the Health and Safety Code to guide*
 39 *investments made prior to the completion of the guiding document*
 40 *pursuant to this section.*

1 (b) In developing the guiding document, the ~~authority~~ *bank* shall
2 convene and consult with a climate and energy incentive
3 coordination advisory body consisting of the following:

- 4 (1) The chair of the state board or his or her designee.
- 5 (2) The chair of the State Energy Resources Conservation and
6 Development Commission or his or her designee.
- 7 (3) The President of the Public Utilities Commission or his or
8 her designee.
- 9 (4) The Treasurer or his or her designee.
- 10 (5) The Director of the Governor’s Office of Business and
11 Economic Development or his or her designee.
- 12 (6) The Director of Water Resources or his or her designee.
- 13 (7) Two members appointed by the Speaker of the Assembly.
- 14 (8) Two members appointed by the Senate Committee on Rules.
- 15 (9) *Not less than one member appointed pursuant to paragraph*
16 *(7) or (8) shall represent the interest of disadvantaged*
17 *communities, as identified pursuant to Section 39711 of the Health*
18 *and Safety Code, and shall have appropriate expertise.*

19 (c) The advisory body is subject to the requirements of the
20 Bagley-Keene Open Meeting Act (Article 9 (commencing with
21 Section 11120) of Chapter 1 of Part 1 of Division 3 of Title ~~2~~
22 ~~of the Government Code~~: 2).

23 ~~26121.~~
24 ~~63121.~~ (a) No later than July 30, ~~2016~~, 2017, and annually
25 thereafter, the ~~authority~~ *bank* shall report to the Legislature on the
26 progress of the financial assistance provided pursuant to this
27 chapter, the performance of the ~~program~~, *investments made*
28 *pursuant to this chapter*, how the financial assistance provided has
29 supported the goals of this chapter, and how the financial assistance
30 has been coordinated with other state incentive programs.

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

34
35 Article 4. Financial Provision

36
37 ~~26130.~~
38 ~~63130.~~ (a) The *California Climate Technology and*
39 ~~Infrastructure Finance Fund Solutions Accelerator Account~~ is
40 hereby established in the ~~State Treasury~~: *California Infrastructure*

1 *and Economic Development Bank Fund.* Moneys in the ~~fund,~~
2 *account,* upon appropriation of the Legislature, shall be expended
3 by the ~~authority bank~~ for the purpose of this chapter.

4 (b) The ~~fund account~~ is a repository of both of the following:

5 (1) Moneys transferred by the Legislature from the Greenhouse
6 Gas Reduction Fund established pursuant to Section 16428.8 ~~of~~
7 ~~the Government Code~~ for the purposes of carrying out this chapter.

8 (2) Other moneys, including, but not limited to, revenues from
9 bonds and other securities issued by the ~~authority bank~~ and fees
10 collected pursuant to this division, and gifts and grants to the
11 ~~authority, bank,~~ if issued, collected, granted, or gifted for the
12 purposes of this chapter.