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 Code, 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 a 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.


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

SECTION 1. Chapter 5.7 (commencing with Section 26100) is added to Division 16 1 of Title 6.7 of the Public Resources Government Code, to read:

Chapter 5.7. California Climate Technology and Infrastructure Financing Act

Article 1. General Provisions and Definitions

26100. (a) The Legislature finds and declares all of the following:


(2) As a result of the act and complimentary policies, California has established itself as a leader in the development of clean
technologies, helping to drive innovation and deployment of a variety of greenhouse gas emissions reducing technologies.

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

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

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

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

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

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

(B) Lower rates and decrease costs for utility ratepayers within the state, expand the accessibility and affordability of clean energy for end users, ensure the reliability and safety of the state’s energy and water supplies, increase the climate resilience of the state’s infrastructure, increase the use of clean energy, promote energy efficiency, and advance the state’s energy- and infrastructure-related economy.
(C) Foster increasingly efficient, low-cost capital financing at scale and with maximum private sector participation for eligible projects through the creation, where appropriate, of financial performance data, standardized contracts, underwriting standards, and measurement and verification protocols.

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

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

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

26101. For the purposes of this chapter, the following terms mean the following:

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

(b) “Clean agriculture project” means a project, product, service, function, or measure, or an aggregation of projects, products, services, functions, or measures, having the primary purpose of deploying a product or service that avoids or reduces emissions of greenhouse gases directly or indirectly caused by the production or processing of crops or livestock.
(b) “Clean energy infrastructure project” means the construction, alteration, or repair of types of infrastructure necessary for the deployment of technologies, products, or services, that will avoid or reduce emissions of greenhouse gases, including, but not limited to, the following:

(1) Electric transmission and distribution facilities interconnected to renewable energy projects or system efficiency projects.
(2) Hydrogen transportation and distribution systems.
(3) Car sharing, ridesharing, and bicycle sharing facilities.
(4) Improvements to infrastructure used for the transportation of passengers, goods, or freight.

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

(1) Changes in the price of electricity over time.
(2) Incentive payments designed to induce lower electricity use at times of high market prices or when system reliability is jeopardized.

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

(1) Water capture, conveyance, distribution, use, reuse, and recycling.
(2) Wastewater collection, treatment, and disposal.

(e) “Fund” means the California Climate Technology and Infrastructure Finance Fund established pursuant to Section 26130.
(f) “Greenhouse gas emissions reduction project” means a project, product, service, function, or measure, or an aggregation of projects, products, services, functions, or measures, that avoids or reduces emissions of greenhouse gases, including, but not limited to, any of the following:

1. Energy efficiency projects.
2. Clean energy infrastructure projects.
3. Innovation energy technology projects.
4. Renewable and small scale distributed energy projects.
5. System efficiency projects.
6. Clean agriculture projects.
7. Low-carbon transportation projects.
8. Demand response projects.
10. A combination of the projects specified in paragraphs (1) to (9), inclusive.

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

1. Deployment of a technology, infrastructure, practice, product, or service that avoids or reduces emissions of greenhouse gases and that employs new or significantly improved technologies or practices, as compared to technologies or practices that are in general use in the commercial marketplace in the United States at the time the project is approved by the authority.
2. Manufacturing of a commercially ready energy technology or product that avoids or reduces emissions of air pollutants and greenhouse gases and that incorporates an innovative manufacturing process or processes not in general use in the commercial marketplace in the United States at the time the project is approved by the authority.

(h) “Land-based greenhouse gas sequestration project” means a project, product, service, function, or measure, or an aggregation of projects, products, services, functions, or measures, having a primary purpose of developing, constructing, or deploying a project in forests, grasslands, wetlands, or other habitat types in California for which a carbon credit or offset protocol has been adopted by the state board, reducing greenhouse gas emissions, including carbon sequestration in forests, urban forests, grasslands, wetlands, or other habitat types in California.
(i) “Low-carbon transportation project” means a project, product, service, function, or measure, or an aggregation of projects, products, services, functions, or measures, that results in reductions in greenhouse gas emissions from the transportation of people, goods, freight, or off-road equipment.

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

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

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

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

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

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

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

(2) Maximizing net greenhouse gas emissions reductions for each dollar provided by focusing financial support on filling demonstrated financing gaps that are the key barriers to greater investment or market transformation.
(b) Greenhouse gas emissions reduction projects eligible for financial assistance pursuant to this chapter shall demonstrate all of the following:

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

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

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

(e) (1) Sections 10295 of, and Article 4 (commencing with Section 10335) of Chapter 2 of Part 2 of Division 2 of the Public Contract Code shall not apply to agreements entered into by the bank in connection with financial assistance provided pursuant to this chapter.
(2) To the extent that this chapter is inconsistent with other state laws, this chapter shall prevail over those laws.

(a) The authority bank, in consultation with the state board, shall establish guidelines for the program and project eligibility that are consistent with the requirements of the California Global Warming Solutions Act of 2006 (Division 25.5 (commencing with Section 38500) of the Health and Safety Code) and the Greenhouse Gas Reduction Fund Investment Plan and Communities Revitalization Act (Chapter 4.1 (commencing with Section 39710) of the Health and Safety Code). The guidelines shall include consideration of whether providing financial assistance for a greenhouse gas emissions reduction project will do the following:
(1) Increase private investment in greenhouse gas emissions reduction projects that are not currently able to obtain financing at attractive terms or through an existing state program.

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

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

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

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

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

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

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

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

(3) Maximize economic, environmental, and public health benefits to the state, including the competitiveness of California companies to achieve greenhouse gas emissions reduction.

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

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

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

(c) Has

The executive officer shall have the ability to hire staff with experience and knowledge of private sector financing structures and tools.

26113.

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

Article 3. Oversight and Coordination

26120.

63120. (a) The authority On or before December 30, 2015, the bank shall prepare a three-year guiding document, consistent with the three-year investment plan developed pursuant to Section 39716 of the Health and Safety Code, outlining planned financial assistance categories and how financial assistance furthers the reductions of greenhouse gas emissions. The guiding document shall establish priorities for investment of funds to achieve the goals of this chapter and describe how funding will complement existing public and private investments, including existing state programs that further the goals of this chapter. The guiding document shall identify gaps in existing programs or private financing markets that can be filled by financial assistance made pursuant to this chapter to achieve the goals of this chapter. The bank may use the three-year investment plan developed pursuant to Section 39716 of the Health and Safety Code to guide investments made prior to the completion of the guiding document pursuant to this section.
(b) In developing the guiding document, the authority shall convene and consult with a climate and energy incentive coordination advisory body consisting of the following:

(1) The chair of the state board or his or her designee.

(2) The chair of the State Energy Resources Conservation and Development Commission or his or her designee.

(3) The President of the Public Utilities Commission or his or her designee.

(4) The Treasurer or his or her designee.

(5) The Director of the Governor’s Office of Business and Economic Development or his or her designee.

(6) The Director of Water Resources or his or her designee.

(7) Two members appointed by the Speaker of the Assembly.

(8) Two members appointed by the Senate Committee on Rules.

(9) Not less than one member appointed pursuant to paragraph (7) or (8) shall represent the interest of disadvantaged communities, as identified pursuant to Section 39711 of the Health and Safety Code, and shall have appropriate expertise.

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

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

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

Article 4. Financial Provision

63130. (a) The California Climate—Technology and Infrastructure Finance Fund Solutions Accelerator Account is hereby established in the State Treasury. California Infrastructure
and Economic Development Bank Fund. Moneys in the fund account, upon appropriation of the Legislature, shall be expended by the authority bank for the purpose of this chapter.

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

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

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