

ASSEMBLY BILL

No. 1393

Introduced by Assembly Member Burke

February 27, 2015

An act to amend Sections 44520, 44525, 44526, 44559.3, and 44559.11 of, and to repeal Section 44525.7 of, the Health and Safety Code, relating to the California Pollution Control Financing Authority.

LEGISLATIVE COUNSEL'S DIGEST

AB 1393, as introduced, Burke. California Pollution Control Financing Authority.

The California Pollution Control Financing Authority Act establishes the California Pollution Control Financing Authority, with specified powers and duties, and authorizes the authority to approve financing for projects or pollution control facilities to prevent or reduce environmental pollution.

This bill would authorize the authority to lend financial assistance, including, but not limited to, grants, loans, credit enhancements, and other incentives. The bill also would authorize the authority to establish alternate provisions as necessary to enable the authority to participate in an alternative funding source program, including, but not limited to, implementing loan loss reserve programs to benefit any person, company, corporation, public agency, partnership, or firm engaged in activities in the state that require financing, and to adopt the policies of those alternative funding sources. The bill also would make conforming changes.

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. Section 44520 of the Health and Safety Code is
2 amended to read:

3 44520. (a) The authority shall, in accordance with Chapter
4 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
5 Title 2 of the Government Code, adopt all necessary rules and
6 regulations to carry out its powers and duties under this division.
7 The authority may call upon any board or department of the state
8 government for aid and assistance in the preparation of plans and
9 specifications and in the development of technology necessary to
10 effectively control pollution.

11 (b) Notwithstanding subdivision (a), the authority, or any other
12 agency implementing a small business or brownfield site financing
13 assistance program pursuant to an interagency agreement with the
14 authority, may adopt regulations relating to small business or
15 brownfield site financing as emergency regulations in accordance
16 with ~~Chapter~~ *the Administrative Procedure Act (Chapter 3.5*
17 *(commencing with Section 11340) of Part 1 of Division 3 of Title*
18 *2 of the Government Code. Code)*. For purposes of ~~that Chapter~~
19 ~~3.5; the Administrative Procedure Act~~, including Section 11349.6
20 of the Government Code, the adoption of the regulations shall be
21 considered by the Office of Administrative Law to be necessary
22 for the immediate preservation of the public peace, health and
23 safety, and general welfare. The regulations shall be repealed 180
24 days after their effective date, unless the adopting authority or
25 agency complies with that Chapter 3.5.

26 ~~(e) Notwithstanding subdivision (a), the authority, or any other~~
27 ~~agency implementing a loan program pursuant to an interagency~~
28 ~~agreement with the authority, may adopt regulations relating to~~
29 ~~the loans and grants authorized under subdivision (g) of Section~~
30 ~~44526 as emergency regulations in accordance with Chapter 3.5~~
31 ~~(commencing with Section 11340) of Part 1 of Division 3 of Title~~
32 ~~2 of the Government Code. For purposes of that Chapter 3.5,~~
33 ~~including Section 11349.6 of the Government Code, the adoption~~
34 ~~of the regulations shall be considered by the Office of~~
35 ~~Administrative Law to be necessary for the immediate preservation~~
36 ~~of the public peace, health and safety, and general welfare. The~~
37 ~~regulations shall be repealed 180 days after their effective date,~~

1 ~~unless the adopting authority or agency complies with that Chapter~~
2 ~~3.5.~~

3 SEC. 2. Section 44525 of the Health and Safety Code is
4 amended to read:

5 44525. The authority may charge reasonable application and
6 project fees to reimburse the authority for costs incurred in
7 administering applications for financing pursuant to this division
8 and to support authority programs, including, but not limited to,
9 the Capital Access Loan Program authorized by Article 8
10 (commencing with Section 44559), and grants and loans as
11 authorized by ~~subdivisions~~ *subdivision* (h) ~~and (g)~~ of Section
12 44526.

13 SEC. 3. Section 44525.7 of the Health and Safety Code, as
14 added by Section 7 of Chapter 915 of the Statutes of 2000, is
15 repealed.

16 ~~44525.7. (a) Commencing in 2002, and annually thereafter,~~
17 ~~the authority shall submit a report to the Legislature regarding the~~
18 ~~loan program described in subdivision (g) of Section 44526.~~

19 ~~(b) This section shall not become operative if Assembly Bill~~
20 ~~779 of the 1999-2000 Regular Session is enacted.~~

21 SEC. 4. Section 44526 of the Health and Safety Code is
22 amended to read:

23 44526. The authority ~~is authorized to~~ *may* do any of the
24 following:

25 (a) ~~To determine~~ *Determine* the location and character of any
26 project to be financed under the provisions of this division, ~~to~~ lend
27 financial ~~assistance~~ *assistance, including, but not limited to, grants,*
28 *loans, credit enhancements, and other incentives,* to any
29 participating party, ~~to~~ construct, reconstruct, renovate, replace,
30 lease, as lessor or lessee, and regulate the same, and ~~to~~ enter into
31 contracts for the sale of any pollution control facilities, including
32 installment sales or sales under conditional sales contracts, and ~~to~~
33 make loans to participating parties to lend financial assistance in
34 the acquisition, construction, or installation of a project.

35 (b) ~~To issue~~ *Issue* bonds, notes, bond anticipation notes, and
36 other obligations of the authority for any of its corporate purposes,
37 and ~~to~~ fund or refund the same, all as provided in this division.

38 (c) ~~To fix~~ *Fix* fees and charges for pollution control facilities,
39 or for the loan of moneys to finance pollution control facilities,
40 and to revise from time to time those fees and charges, and ~~to~~

1 collect rates, rents, fees, loan repayments, and charges for the use
2 of and for any facilities or services furnished, or to be furnished,
3 by a project or any part ~~thereof~~ *of a project* and ~~to~~ contract with
4 any person, partnership, association, corporation, or public agency
5 with respect ~~thereto~~ *to these matters*, and to fix the terms and
6 conditions upon which any pollution control facilities may be sold
7 or disposed of, whether upon installment sales contracts or
8 otherwise.

9 ~~To employ~~ *Employ* and fix the compensation of bond
10 counsel, financial consultants, and advisers as may be necessary
11 in its judgment in connection with the issuance and sale of any
12 bonds, notes, bond anticipation notes, or other obligations of the
13 authority; ~~to~~ contract for engineering, architectural, accounting,
14 or other services of appropriate agencies as may be necessary in
15 the judgment of the authority for the successful development of
16 any project; and ~~to~~ pay the reasonable costs of consulting engineers,
17 architects, accountants, and construction experts employed by any
18 participating party if, in the judgment of the authority, those
19 services are necessary to the successful development of any project,
20 and those services are not obtainable from any public agency.

21 ~~To receive~~ *Receive* and accept loans, contributions, or grants,
22 of money, property, labor, or other things of value, for, or in aid
23 of, the authority in carrying out the purposes of this division, from
24 any source, including, but not limited to, the federal government,
25 the state, or any agency of the state, any local government or
26 agency thereof, or any nonprofit or for-profit private entity or
27 individual.

28 ~~To apply~~ *Apply* for, and accept, subventions, grants, loans,
29 advances, and contributions from any source, of money, property,
30 labor, or other things of value. The sources may include, but are
31 not limited to, bond proceeds, dedicated taxes, state appropriations,
32 federal appropriations, federal grant and loan funds, public and
33 private sector retirement system funds, and proceeds of loans from
34 the Pooled Money Investment Account.

35 ~~To provide grants and loans to any city or county deemed~~
36 ~~eligible by the authority. The grants and loans shall be used to~~
37 ~~assist California neighborhoods suffering from high poverty or~~
38 ~~unemployment levels, or from low-income levels, to assist cities~~
39 ~~and counties in developing and implementing growth policies and~~
40 ~~programs that reduce pollution hazards and the degradation of the~~

1 environment, or to promote infill development to revitalize these
2 communities. The grants and loans may be used to employ the
3 technical expertise necessary to identify, assess, and complete
4 applications for state, federal, and private economic assistance
5 programs that develop and implement sustainable development
6 and sound environmental policies and programs. Priority shall be
7 given to applicants lacking the resources to identify, assess, and
8 complete applications to economic assistance, and for those lacking
9 the resources to develop and implement sustainable growth and
10 other sound environmental policies and programs. The authority
11 shall fund these grants and loans from any funds available to the
12 authority or set aside for the authority's administrative expenses.
13 The authority may not award more than seven million five hundred
14 thousand dollars (\$7,500,000) in grants and loans pursuant to this
15 subdivision. This subdivision shall remain operative only until
16 January 1, 2012.

17 (g) *[Reserved]*

18 (h) (1) ~~To provide~~ *Provide* a loan directly, or indirectly through
19 one or more public or private sector intermediaries, to any city,
20 county, school district, redevelopment agency, financial institution,
21 as defined in subdivision (d) of Section 44559.1, for-profit or
22 not-for-profit organization, or participating party, as defined in
23 Section 44506, to assist in financing, among other things, the costs
24 of performing or obtaining brownfield site assessments, remedial
25 action plans and reports, technical assistance, the cleanup,
26 remediation, or development of brownfield sites, or any other
27 similar or related costs, subject to all applicable federal, state, and
28 local laws, procedures, and regulations.

29 (2) The authority shall establish standards and criteria to ensure
30 that a recipient of direct or indirect financing for cleanup or
31 remediation pursuant to this subdivision has the necessary financial
32 resources and expertise to successfully and appropriately complete
33 the cleanup or remediation of the property.

34 (3) The authority may pay all, or a portion, of the associated
35 program development and implementation costs of any public or
36 private sector intermediaries through which a loan is made. A loan
37 authorized by this subdivision is subject to both of the following:

38 (A) A loan may be used in connection with a brownfield site
39 prior to a determination of whether the site has a reasonable
40 potential for economically beneficial reuse.

1 (B) A loan may be made upon the terms determined by the
2 authority and may provide for any rate of interest or no interest.

3 (4) The authority shall fund a loan made pursuant to this
4 subdivision from any funds available to it, from any funds set aside
5 for the authority’s administrative expenses, or from any small
6 business assistance fund established for these purposes pursuant
7 to Section 44548.

8 (5) The authority may waive repayment of all, or a portion, of
9 any loan made pursuant to this subdivision upon conditions to be
10 determined by the authority, and the amount so waived shall be
11 deemed a grant to the recipient.

12 (i) ~~To do~~ Do all things generally necessary or convenient to
13 carry out the purposes of this division.

14 SEC. 5. Section 44559.3 of the Health and Safety Code is
15 amended to read:

16 44559.3. (a) The authority shall establish a loss reserve
17 account for each financial institution with which the authority
18 makes a contract.

19 (b) The loss reserve account for a financial institution shall
20 consist of moneys paid as fees by borrowers and the financial
21 institution, moneys transferred to the account from a small business
22 assistance fund, any matching federal moneys, and any other
23 moneys provided by the authority or other source.

24 (c) Notwithstanding any other law, the authority may establish
25 and maintain loss reserve accounts with any financial institution
26 under any policies the authority may ~~adopt~~: *adopt, including the*
27 *policies of other funding sources, pursuant to subdivision (b) of*
28 *Section 44559.11.*

29 (d) All moneys in a loss reserve account established pursuant
30 to this article are the exclusive property of, and solely controlled
31 by, the authority. Interest or income earned on moneys credited to
32 the loss reserve account shall be deemed to be part of the loss
33 reserve account. The authority may withdraw from the loss reserve
34 account all, or a portion of, the interest or other income that has
35 been credited to the loss reserve account. Any withdrawal made
36 pursuant to this subdivision may be made prior to paying any claim
37 and shall be used for the sole purpose of offsetting costs associated
38 with carrying out the program, including administrative costs and
39 loss reserve account contributions.

1 (e) The combined amount to be deposited by the participating
2 financial institution into any individual loss reserve account over
3 a three-year period, in connection with any single borrower or any
4 group of borrowers among which a common enterprise exists, shall
5 be not more than one hundred thousand dollars (\$100,000).

6 SEC. 6. Section 44559.11 of the Health and Safety Code is
7 amended to read:

8 44559.11. (a) It is the intent of the Legislature to ensure that
9 the state, through the authority, may make maximum, efficient use
10 of capital access programs enacted by all federal and state agencies,
11 as well as funding available from any governmental program whose
12 goals may be advanced by providing funding to the Capital Access
13 Loan Program.

14 (b) In furtherance of this intent, and notwithstanding any other
15 provision of this article, when the contributions required pursuant
16 to Section 44559.4 are entirely funded by a source other than the
17 authority, the authority may, by regulation adopted pursuant to
18 subdivision (b) of Section 44520, establish alternate provisions as
19 necessary to enable the authority to participate in the alternative
20 funding source ~~program~~ *program, including, but not limited to,*
21 *implementing loan loss reserve programs to benefit any person,*
22 *company, corporation, public agency, partnership, or firm engaged*
23 *in activities in the state that require financing.*