

AMENDED IN ASSEMBLY MAY 18, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1393

Introduced by Assembly Member Burke

February 27, 2015

An act to amend Sections 44520, 44525, 44526, 44559.3, 44559.6, and 44559.11 of, and to repeal *and add* Section 44525.7 of, the Health and Safety Code, relating to the California Pollution Control Financing Authority.

LEGISLATIVE COUNSEL'S DIGEST

AB 1393, as amended, 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~~ *loan program* or brownfield
13 site financing assistance program pursuant to an interagency
14 agreement with the authority, may adopt regulations relating to
15 ~~small-business~~ *the loans* or brownfield site financing as emergency
16 regulations in accordance with the Administrative Procedure Act
17 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
18 Division 3 of Title 2 of the Government Code). For purposes of
19 the Administrative Procedure Act, including Section 11349.6 of
20 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 SEC. 2. Section 44525 of the Health and Safety Code is
27 amended to read:
28 44525. The authority may charge reasonable application and
29 project fees to reimburse the authority for costs incurred in
30 administering applications for financing pursuant to this division
31 and to support authority programs, including, but not limited to,
32 the Capital Access Loan Program authorized by Article 8
33 (commencing with Section 44559), and grants and loans as
34 authorized by subdivision (h) of Section 44526.

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3 repealed.

4 SEC. 4. *Section 44525.7 is added to the Health and Safety*
5 *Code, to read:*

6 *44525.7. Notwithstanding Section 10231.5 of the Government*
7 *Code, commencing in 2016 and annually thereafter, the authority*
8 *shall submit a report to the Legislature, pursuant to Section 9795*
9 *of the Government Code, regarding alternative financing programs*
10 *administered under subdivision (a) of Section 44526.*

11 ~~SEC. 4.~~

12 SEC. 5. Section 44526 of the Health and Safety Code is
13 amended to read:

14 44526. The authority may do any of the following:

15 (a) Determine the location and character of any project to be
16 financed under the provisions of this division, lend financial
17 assistance, ~~including, but not limited to,~~ *including* grants, loans,
18 credit enhancements, and other ~~incentives,~~ *incentives designed to*
19 *leverage private capital*, to any participating party, construct,
20 reconstruct, renovate, replace, lease, as lessor or lessee, and
21 regulate the same, and enter into contracts for the sale of any
22 pollution control facilities, including installment sales or sales
23 under conditional sales contracts, and make loans to participating
24 parties to lend financial assistance in the acquisition, construction,
25 or installation of a project.

26 (b) Issue bonds, notes, bond anticipation notes, and other
27 obligations of the authority for any of its corporate purposes, and
28 fund or refund the same, all as provided in this division.

29 (c) Fix fees and charges for pollution control facilities, or for
30 the loan of moneys to finance pollution control facilities, and to
31 revise from time to time those fees and charges, and collect rates,
32 rents, fees, loan repayments, and charges for the use of and for
33 any facilities or services furnished, or to be furnished, by a project
34 or any part of a project and contract with any person, partnership,
35 association, corporation, or public agency with respect to these
36 matters, and to fix the terms and conditions upon which any
37 pollution control facilities may be sold or disposed of, whether
38 upon installment sales contracts or otherwise.

39 (d) Employ and fix the compensation of bond counsel, financial
40 consultants, and advisers as may be necessary in its judgment in

1 connection with the issuance and sale of any bonds, notes, bond
2 anticipation notes, or other obligations of the authority; contract
3 for engineering, architectural, accounting, or other services of
4 appropriate agencies as may be necessary in the judgment of the
5 authority for the successful development of any project; and pay
6 the reasonable costs of consulting engineers, architects,
7 accountants, and construction experts employed by any
8 participating party if, in the judgment of the authority, those
9 services are necessary to the successful development of any project,
10 and those services are not obtainable from any public agency.

11 (e) Receive and accept loans, contributions, or grants, of money,
12 property, labor, or other things of value, for, or in aid of, the
13 authority in carrying out the purposes of this division, from any
14 source, including, but not limited to, the federal government, the
15 state, or any agency of the state, any local government or agency
16 thereof, or any nonprofit or for-profit private entity or individual.

17 (f) Apply for, and accept, subventions, grants, loans, advances,
18 and contributions from any source, of money, property, labor, or
19 other things of value. The sources may include, but are not limited
20 to, bond proceeds, dedicated taxes, state appropriations, federal
21 appropriations, federal grant and loan funds, public and private
22 sector retirement system funds, and proceeds of loans from the
23 Pooled Money Investment Account.

24 (g) [Reserved]

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

36 (2) The authority shall establish standards and criteria to ensure
37 that a recipient of direct or indirect financing for cleanup or
38 remediation pursuant to this subdivision has the necessary financial
39 resources and expertise to successfully and appropriately complete
40 the cleanup or remediation of the property.

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

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

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

10 (4) The authority shall fund a loan made pursuant to this
11 subdivision from any funds available to it, from any funds set aside
12 for the authority's administrative expenses, or from any small
13 business assistance fund established for these purposes pursuant
14 to Section 44548.

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

19 (i) Do all things generally necessary or convenient to carry out
20 the purposes of this division.

21 ~~SEC. 5.~~

22 *SEC. 6.* Section 44559.3 of the Health and Safety Code is
23 amended to read:

24 44559.3. (a) The authority shall establish a loss reserve
25 account for each financial institution with which the authority
26 makes a contract.

27 (b) The loss reserve account for a financial institution shall
28 consist of moneys paid as fees by borrowers and the financial
29 institution, moneys transferred to the account from a small business
30 assistance fund, any matching federal moneys, and any other
31 moneys provided by the authority or other source.

32 (c) Notwithstanding any other law, the authority may establish
33 and maintain loss reserve accounts with any financial institution
34 under any policies the authority may adopt, including the policies
35 of other funding sources, pursuant to subdivision (b) of Section
36 44559.11.

37 (d) All moneys in a loss reserve account established pursuant
38 to this article are the exclusive property of, and solely controlled
39 by, the authority. Interest or income earned on moneys credited to
40 the loss reserve account shall be deemed to be part of the loss

1 reserve account. The authority may withdraw from the loss reserve
 2 account all, or a portion of, the interest or other income that has
 3 been credited to the loss reserve account. Any withdrawal made
 4 pursuant to this subdivision may be made prior to paying any claim
 5 and shall be used for the sole purpose of offsetting costs associated
 6 with carrying out the program, including administrative costs and
 7 loss reserve account contributions.

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

13 *SEC. 7. Section 44559.6 of the Health and Safety Code is*
 14 *amended to read:*

15 44559.6. ~~The~~ *(a) Notwithstanding Section 10231.5 of the*
 16 *Government Code, the authority shall annually prepare a report to*
 17 *the Governor and the Legislature that describes the financial*
 18 *condition and programmatic results of the capital access loan*
 19 ~~program for small businesses programs~~ *authorized under this*
 20 *article. Programmatic results shall include, but not be limited to,*
 21 *the total number of businesses business, entities, and individuals*
 22 *served, jobs created, jobs retained, the geographic distribution of*
 23 *the loans, and the breakdown of businesses served by industry*
 24 *sector for all new loans issued since the report for the prior year.*

25 *(b) The report submitted to the Legislature shall be submitted*
 26 *in compliance with Section 9795 of the Government Code.*

27 ~~SEC. 6.~~

28 *SEC. 8. Section 44559.11 of the Health and Safety Code is*
 29 *amended to read:*

30 44559.11. (a) It is the intent of the Legislature to ensure that
 31 the state, through the authority, may make maximum, efficient use
 32 of capital access programs enacted by all federal and state agencies,
 33 as well as funding available from any governmental program whose
 34 goals may be advanced by providing funding to the Capital Access
 35 Loan Program.

36 (b) In furtherance of this intent, and notwithstanding any other
 37 provision of this article, when the contributions required pursuant
 38 to Section 44559.4 are entirely funded by a source *that is a public*
 39 *or quasi-public entity* other than the authority, the authority may,
 40 by regulation adopted pursuant to subdivision (b) of Section 44520,

1 establish alternate provisions as necessary to enable the authority
2 to participate in the alternative funding source program, ~~including,~~
3 ~~but not limited to,~~ *including* implementing loan loss reserve
4 programs to benefit any person, company, corporation, public
5 agency, partnership, or firm engaged in activities *in furtherance*
6 *of the public or quasi-public entity's policy objectives* in the state
7 that require financing.

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