

AMENDED IN SENATE JUNE 30, 2015

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 The regulations shall be repealed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

1 (commencing with Section 44559), and grants and loans as
2 authorized by subdivision (h) of Section 44526.

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5 repealed.

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

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

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

16 44526. The authority may do any of the following:

17 (a) Determine the location and character of any project to be
18 financed under the provisions of this division, lend financial
19 assistance, including grants, loans, credit enhancements, and other
20 incentives designed to leverage private capital, to any participating
21 party, construct, reconstruct, renovate, replace, lease, as lessor or
22 lessee, and regulate the same, and enter into contracts for the sale
23 of any pollution control facilities, including installment sales or
24 sales under conditional sales contracts, and make loans to
25 participating parties to lend financial assistance in the acquisition,
26 construction, or installation of a project.

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

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

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

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

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

27 (g) [Reserved]

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

39 (2) The authority shall establish standards and criteria to ensure
 40 that a recipient of direct or indirect financing for cleanup or

1 remediation pursuant to this subdivision has the necessary financial
2 resources and expertise to successfully and appropriately complete
3 the cleanup or remediation of the property.

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

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

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

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

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

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

24 SEC. 6. Section 44559.3 of the Health and Safety Code is
25 amended to read:

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

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

34 (c) Notwithstanding any other law, the authority may establish
35 and maintain loss reserve accounts with any financial institution
36 under any policies the authority may adopt, including the policies
37 of other funding sources, pursuant to subdivision (b) of Section
38 44559.11.

39 (d) All moneys in a loss reserve account established pursuant
40 to this article are the exclusive property of, and solely controlled

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

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

15 SEC. 7. Section 44559.6 of the Health and Safety Code is
 16 amended to read:

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

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

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

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

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

1 by regulation adopted pursuant to subdivision (b) of Section 44520,
2 establish alternate provisions as necessary to enable the authority
3 to participate in the alternative funding source program, including
4 implementing loan loss reserve programs to benefit any person,
5 company, corporation, public agency, partnership, or firm engaged
6 in activities in furtherance of the public or quasi-public entity's
7 policy objectives in the state that require financing.

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