AMENDED IN SENATE AUGUST 2, 2010

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AMENDED IN ASSEMBLY APRIL 28, 2010

AMENDED IN ASSEMBLY APRIL 5, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL No. 2437

Introduced by Assembly Member ~~V. Manuel Perez~~ *V. Manuel Pérez*

February 19, 2010

An act to amend Sections 91502, *91503, 91504* and 91558 of, and to add Article 6 (commencing with Section 91600) to Chapter 1 of Title 10 of, the Government Code, relating to economic development.

LEGISLATIVE COUNSEL'S DIGEST

AB 2437, as amended, ~~V. Manuel Perez~~ *V. Manuel Pérez*. State government: economic development.

The California Industrial Development Financing Act authorizes cities, counties, cities and counties, and redevelopment agencies to establish industrial development authorities that are authorized to issue industrial development bonds, the proceeds of which may be used to fund capital projects of private enterprise under terms and conditions specified in the act. That act establishes the California Industrial Development Financing Advisory Commission and grants it various powers relating to industrial development bonds.

This bill, the California Manufacturing Competitiveness Act of 2010, would authorize the commission to establish the California Manufacturing Competitiveness Loan and Loan Guarantee Program for the purpose of attracting, retaining, and expanding ~~large~~

manufacturing facilities, and would require the commission to establish guidelines for the implementation of the program, as specified. The bill would require the commission to provide for the development and administration of the program application and evaluation process, and would require that applicants to the program demonstrate that they meet specified requirements. The bill would also require each applicant to pay a nonrefundable application fee ~~of $5,000 and an administrative fee equal to 0.5% of the total requested guarantee~~ *that covers a specified* amount. The bill would specify that only companies with at least 200 employees are eligible to receive assistance under the program.

The bill would also create the Manufacturing Program Account within the Industrial Development Fund. The bill would prohibit General Fund moneys from being deposited in the account. The bill would prohibit the commission from commencing the program prior to its adoption of a resolution finding that there is sufficient money in the account to cover the costs of implementing the program. The bill would allow moneys in the account to be allocated to a lending institution or financial company that will act as trustee of the funds, with the approval of the Department of Finance. ~~The bill would also require the account to pay for specified direct loans, which the bill would limit to a maximum amount of $5,000,000 under the program, and defaulted loan guarantees, which the bill would limit to a maximum amount of $10,000,000 under the program.~~ The bill would further require the above-described application fees to be deposited in the account to ensure that funds are available to the state for the sole purpose of administration of the program.

The bill would require the commission, beginning October 1, 2012, and annually thereafter, to post on its Internet Web site and provide the Legislature with a report on the program's activities and impact on the manufacturing industry, and on the state's economy generally.

The bill would provide that the above-described provisions shall be implemented only to the extent that sufficient moneys are available to the commission to implement the California Manufacturing Competitiveness Loan and Loan Guarantee Program. The bill would provide that its provisions only remain in effect until January 1, 2016, and as of that date are repealed.

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

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

SECTION 1. Section 91502 of the Government Code is amended to read:

91502. *(a)* It is the purpose of this title to carry out and make effective the findings of the Legislature, and to that end, to provide business with alternative methods of financing in acquiring, constructing, or rehabilitating facilities, including, but not limited to, equipment and furnishings, in accordance with the criteria set forth in Section 91502.1, all to the mutual benefit of the people of the state and to protect their health, welfare, and safety.

(b) The Legislature further declares that it is the policy of this state, consistent with environmental, resource conservation, job creation and retention, economic development, and other policies, to, on behalf of private enterprise, facilitate the acquisition of property, either suitable for or evidencing an obligation respecting one or more of the activities or uses set forth in Section 91503, and access to working capital through the issuance of loans, loan guarantees, and lines of credit by the commission, or on behalf of the commission by a participating financial institution, or directly by a participating financial institution for purposes of the commission's loan, loan guarantee, or line of credit program, in accordance with the criteria set forth in Article 6 (commencing with Section 91600), and that this additional method of financing, when made available in accordance with that policy, serves a public purpose and will promote the prosperity, health, safety, and welfare of the citizens of the state.

SEC. 2. Section 91503 of the Government Code is amended to read:

91503. The property acquired pursuant to this article shall be suitable for, or shall evidence an obligation respecting, certain activities or uses. The activities or uses shall include one or more of the activities or uses described in subdivision (a) and, unless incidental to those activities or uses, shall not include any of the activities described in, and not excepted from, subdivision (b).

(a) (1) Industrial uses including, without limitation, assembling, fabricating, manufacturing, processing, or warehousing activities with respect to any products of agriculture, forestry, mining, or manufacture, if these activities have demonstrated job creation or retention potential.

(2) Energy development, production, collection, or conversion from one form of energy to another.

(3) Research and development activities relating to commerce or industry, including, without limitation, professional, administrative, and scientific office and laboratory activities or uses.

(4) Commercial uses located within an enterprise zone designated pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1, commercial activities within an empowerment zone and enterprise community designated pursuant to Section 1391 of the Internal Revenue Code of 1986, in effect on January 1, 1998, commercial uses located within a recovery zone designated pursuant to Section 1401 of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5), or any amendments thereto, or other commercial needs.

(5) Processing or manufacturing recycled or reused products and materials by manufacturing facilities.

(6) Business activities with the purpose of creating or producing intangible property.

(7) Business activities incidental to, or with the purpose of, supporting the activities or uses specified in paragraphs (1) to (6), inclusive.

(b) (1) Residential real property for family unit or other housing activities.

(2) Airport, dock, wharf, or mass commuting activities, or storage or training activities related to any of those activities, unless the property acquired is suitable for one or more of the activities described in paragraph (4) of subdivision (a).

(3) Sewage or solid waste disposal activities or electric energy or gas furnishing activities, unless the property acquired is suitable for one or more of the activities described in paragraph (2) or (4) of subdivision (a).

(4) Water furnishing activities, unless the property acquired is suitable for one or more of the activities described in paragraph (4) of subdivision (a).

(5) Any activities of persons qualifying as exempt persons under Section 501 of the Internal Revenue Code of 1986, as amended, undertaken by those persons, other than activities constituting an unrelated trade or business as described in Section 513 of that code.

SEC. 3. Section 91504 of the Government Code is amended to read:

91504. Unless the context otherwise requires, the definitions in this article shall govern the construction of this title, as follows:

(a) "Acquire" and its variants means acquire, construct, improve, furnish, equip, repair, reconstruct, or rehabilitate.

(b) "Administration expenses" means the reasonable and necessary expenses incurred by an authority in the administration of this title, including, without limitation, fees and costs of paying agents, trustees, attorneys, consultants, and others.

(c) "Authority" means any industrial development authority established pursuant to this title.

(d) "Board" means the board of directors of an authority.

(e) "Bonds" means the revenue obligations, inclusive of principal (premium, if any) and interest authorized to be issued by any authority pursuant to this title, including a single bond, a promissory note or notes, including bond anticipation notes, or other instruments evidencing an indebtedness or obligation.

(f) "Bond proceeds" means all amounts received by an authority upon sale or other disposition of any bonds.

(g) "Commission" means the California Industrial Development Financing Advisory Commission established pursuant to Article 3 (commencing with Section 91550).

(h) "Company" means a person, partnership, corporation, whether for profit or not, limited liability company, trust, or other private enterprise of whatever legal form, for which a project is undertaken or proposed to be undertaken pursuant to this title or which is in possession of property owned by an authority, and may include more than a single enterprise.

(i) "Cost" as applied to any project, may embrace:

(1) The cost of construction, improvement, repair, rehabilitation, and reconstruction.

(2) The cost of acquisition, including rights in land and other property, both real and personal and improved and unimproved, and franchises, and disposal rights.

(3) The cost of demolishing, removing, or relocating any building or structures on lands so acquired, including the cost of acquiring any lands to which the buildings or structures may be moved or relocated.

(4) The cost of machinery, equipment and furnishings, of engineering and architectural surveys, plans, and specifications, and of transportation and storage until the facility is operational.

(5) The cost of agents or consultants, including, without limitation, legal, financial, engineering, accounting, and auditing, necessary or incident to a project and of the determination as to the feasibility or practicability of undertaking the project.

(6) The cost of issuance of any bonds and of financing, interest prior to, during, and for a reasonable period after completion of a project, and reserves for principal and interest and for extensions, enlargements, additions, repairs, replacements, renovations, rehabilitations, and improvements.

(7) The cost of acquiring or refinancing existing obligations incident to the undertaking and carrying out, including the financing, of a project, and the reimbursement to any governmental entity or agency, or any company, of expenditures made by or on behalf of the entity, agency, or company that are costs of the project hereunder, without regard to whether or not the expenditures may have been made before or after the adoption of a resolution of intention with respect to that project by an authority.

(8) The cost of making relocation assistance payments as provided by Chapter 16 (commencing with Section 7260) of Division 7 of Title 1.

(9) In the case only of taxable bonds, *loans, loan guarantees, or lines of credit*, the cost of refunding or refinancing any outstanding debt or obligations with respect to any facilities, or the cost of any other working capital.

(10) Except as provided in paragraph (9), “cost” does not otherwise include working capital.

(j) “Facilities” mean property suitable for any one or more of the activities or uses described in Section 91503 and includes incidental facilities.

(k) “Governing body” means the board of supervisors, city council, or board of directors of a redevelopment agency, as the case may be.

(*l*) “Indenture” means any mortgage, deed of trust, trust indenture, security agreement, or other instrument relating to establishing a lien or security interest in, or on, property, any pledge or other instrument relating to the possession of property, and any assignment or other instrument relating to establishing any right, title, or interest in, or related to, property, including the revenues therefrom, given by an authority to a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the state, or bondholder or agent, for the security of its bonds and the benefit of the bondholders.

(m) (1) "Participating financial institution" means a financial institution approved by the commission to do either of the following:

(A) Make a loan, provide a loan guarantee, or extend a line of credit on behalf of the commission to a company pursuant to this article.

(B) Participate in the commission's loan, loan guarantee, or line of credit program by directly providing all or part of a loan or line of credit to a company or accepting a loan guarantee in support of a loan or line of credit issued to a company pursuant to the commission's program.

(2) An approved financial institution shall be any of the following: (A) a federal- or state-chartered bank, savings association, credit union, nonprofit community development financial institution certified under Part 1805 (commencing with Section 1805.100) of Charter XVIII of Title 12 of the Code of Federal Regulations; (B) a lending institution that has executed a participation agreement with the Small Business Administration under the guaranteed loan program pursuant to Part 120 (commencing with Section 120.1) of Chapter 1 of Title 13 of the Code of Federal Regulations and that meets the requirements of Section 120.410 of Chapter I of Title 13 of the Code of Federal Regulations, or a small business investment company licensed by the Small Business Administration pursuant to Part 107 (commencing with Section 107.20) of Chapter I of Title 13 of the Code of Federal Regulations; (C) a small business financial development corporation as specified in the Small Business Financial Development Corporation Act (Chapter 1 (commencing with Section 14000) of Part 5 of Division 3 of the Corporations Code); (D) or a consortium of these entities.

~~(m)~~

(n) "Proceedings" means the actions taken by an authority in undertaking, carrying out, and completing a project, including, without limitation, the project agreements, indenture, bonds, and resolutions.

~~(n)~~

(o) "Project" means the acquisition, construction, improvement, repair, rehabilitation, and reconstruction of facilities and the acquisition and rehabilitation of machinery, equipment, and furnishings, and the acquisition of engineering and architectural surveys, plans, and specifications, and all other necessary and related capital expenditures by the issuance of bonds, *loans, loan guarantees, or lines of credit* upon the application of and to be repaid by payments from a company for the purposes of this title. *For purposes of the loan, loan guarantee, and line of credit program, a project may also consist of working capital expenditures.*

~~(o)~~

(p) "Project agreements" means the agreements between an authority and a company respecting a project, and may include, without limitation, leases, subleases, options, and installment or other contracts of purchase or sale, loan, *loan guarantee, line of credit,* or guaranty agreements, notes, mortgages, deeds of trust, and security agreements.

~~(p)~~

(q) "Property" means any land, air rights, water rights, disposal rights, improvements, buildings or other structures, and any personal property, tangible or intangible, and includes, but is not limited to, machinery and equipment, whether or not in existence or under construction, and interests in any of the foregoing, or promissory notes or other obligations of any kind respecting such interests.

~~(q)~~

(r) "Public agency" means any county, city and county, city, or redevelopment agency.

~~(r)~~

(s) "Revenues" means all rents, purchase payments, *interest and principle payments,* and other income derived by an authority from, or with respect to, the sale, lease, or other voluntary or involuntary disposition of, or repayment of loans, *loan guarantees, or lines of credit* with respect to, property, *working capital,* bond proceeds, and any receipts derived from the deposit or investment of any such income or proceeds in any fund or account of an authority, but does not include receipts designated to cover administration expenses.

~~(s)~~

(t) “Tax-exempt” means, with respect to any bonds, that the interest on the bonds is excluded from gross income of the holders thereof for federal income tax purposes.

~~(t)~~

(u) “Taxable” means, with respect to any bonds, that the bonds are not tax-exempt.

~~SEC. 2.~~

SEC. 4. Section 91558 of the Government Code is amended to read:

91558. (a) The commission may, upon request of two or more authorities, in order to share expenses and facilitate bond issuance, act as a pooling agent to issue bonds on a joint or composite basis for companies which have applied for financing to the participating authorities. Authorities shall enter into written agreements with the commission specifying the projects which are to be delegated to the commission for financing pursuant to this section.

(b) Prior to issuance of any bonds pursuant to this section, the authority and public agency shall have completed the procedures required by Section 91530.

(c) The commission may issue bonds as requested and authorized by this section. For these purposes, the commission is granted all of the powers of an authority and may enter into project agreements and take all steps toward the sale, issuance, and security of bonds in the same manner as authorities may do. The resolution required by Section 91537 shall be adopted by the commission rather than by an authority.

(d) The commission may make loans or lines of credit available to companies, directly or through a contract with a participating financial institution, for the purpose of acquiring, constructing, or rehabilitating facilities or portions thereof, including, but not limited to, equipment and furnishings, pursuant to Article 6 (commencing with Section 91600), all to the mutual benefit of the people of the state and to protect their health, welfare, and safety.

(e) The commission shall not make loans, loan guarantees, or lines of credit available to companies where loans, loan guarantees, or lines of credit are available from a public agency in the jurisdiction of the project.

(f) The commission may establish credit requirements, interest rates, and other requirements for companies and participating

financial institutions and the nature of the information required for the making of loans, loan guarantees, or lines of credit pursuant to subdivision (d) of Section 91558.

~~SEC. 3.~~

SEC. 5. Article 6 (commencing with Section 91600) is added to Chapter 1 of Title 10 of the Government Code, to read:

Article 6. California Manufacturing Competitiveness Act of 2010

91600. This act may be cited as the California Manufacturing Competitiveness Act of 2010.

91601. (a) The Legislature finds and declares all of the following:

(1) California is one of the largest and most diverse economies in the world, with a state gross domestic product (GDP) of over $1.8 trillion in 2008. Based on figures from the International Monetary Fund, if California were an independent nation it would rank as the eighth largest economy in the world.

(2) Historically, the state's significance in the global marketplace resulted from a variety of factors, including: its strategic west coast location that provides direct access to the growing markets in Asia; its economically diverse regional economies; its large, ethnically diverse population, representing both a ready workforce and significant consumer base; its access to a wide variety of venture and other private capital; its broad base of small- and medium-sized businesses that support the global manufacturing supply chain; and its culture of innovation and entrepreneurship, particularly in the area of high technology.

(3) Historically, economic growth in California has outpaced the economic growth rate of the nation as a whole, and the state has led the nation in export-related jobs, business startups, and innovation. However, since the subprime home mortgage crisis in 2007, California communities have struggled. With the increasing rates of home foreclosure and the tightening of the credit markets, many businesses have found their existing lines of credit unaccessible. Significant drops in consumer spending have led to workforce reductions and business bankruptcies.

(4) For much of 2009, the number of unemployed workers rose by 40,000 to 60,000 per month, and the year ended with 2.25

million unemployed California workers. While California may have emerged from the recession in the final quarter of 2009, unemployment is expected to remain high throughout 2010 and 2011. Without specific intervention to support job creation and business expansion, many regions of California will be very slow to recover.

(5) Further, as California moves forward from this recession, it is important that the state support the recovery of industries that provide quality jobs, including manufacturing industries. A robust manufacturing sector offers many benefits to the state, including high-wage jobs, a basis for international trade, and one of the highest multiplier effects on other industries and businesses. It has been estimated that for every job created in manufacturing, two and a half jobs are supported in other industry sectors. For instance, in the electronic computer manufacturing industry, the multiplier effect is 16 to one.

(6) Manufacturing employers and other large employers in California, however, face many challenges in maintaining global and domestic competitiveness, including maintaining a skilled workforce and cost-effective productivity in the face of lower safety and wage standards in emerging foreign markets.

(b) It is therefore the intent of the Legislature to strengthen the manufacturing capacity of California through the implementation of the California Manufacturing Competitiveness Act of 2010. The act will provide the framework and focus to retool and expand California's manufacturing facilities, support a vibrant logistics network, and retain and create more quality jobs.

91602. Unless the context requires otherwise, for the purposes of this article, the following terms shall have the following meanings:

(a) "Administration expenses" means the reasonable and necessary expenses incurred by a commission in the administration of this title, including, without limitation, the fees and costs of paying agents, trustees, attorneys, consultants, and others.

(b) "Applicant" means a company or a participating financial institution on behalf of a company that applies to the commission for a loan, a loan guarantee, or a line of credit to finance a project undertaken or proposed to be undertaken pursuant to this title and may be comprised of more than a single entity.

~~(b)~~

(c) "Commission" means the California Industrial Development Financing Advisory Commission established pursuant to Article 3 (commencing with Section 91550).

~~(c)~~

(d) "Company" means a person, partnership, corporation, whether for profit or not, limited liability company, trust, or other private enterprise of whatever legal form, for which a project is undertaken or proposed to be undertaken pursuant to this title or which is in possession of property owned by an authority, and may include more than a single enterprise.

~~(d)~~

(e) "Cost" as applied to any project, may include all of the following:

(1) The cost of construction, improvement, repair, rehabilitation, and reconstruction.

(2) The cost of acquisition, including rights in land and other property, both real and personal and improved and unimproved, and franchises, and disposal rights.

(3) The cost of demolishing, removing, or relocating any building or structures on lands so acquired, including the cost of acquiring any lands to which the buildings or structures may be moved or relocated.

(4) The cost of machinery, equipment, and furnishings, of engineering and architectural surveys, plans, and specifications, and of transportation and storage until the facility is operational.

(5) The cost of agents or consultants, including, without limitation, legal, financial, engineering, accounting, and auditing costs, necessary or incident to a project and the determination as to the feasibility or practicability of undertaking the project.

(6) The cost of acquiring or refinancing existing obligations incident to the undertaking and carrying out, including the financing, of a project, and the reimbursement to any governmental entity or agency, or any company, of expenditures made by or on behalf of the entity, agency, or company that are costs of the project hereunder, without regard to whether or not the expenditures may have been made before or after the adoption of a resolution of intention with respect to that project by an authority.

(7) The cost of making relocation assistance payments as provided by Chapter 16 (commencing with Section 7260) of Division 7 of Title 1.

(8) The cost of procuring raw materials and finished goods that become integral to the property as a result of construction, improvement, repair, rehabilitation, or reconstruction.

(9) In the case of taxable bonds, loans, loan guarantees, or lines of credit, the cost of refunding or refinancing any outstanding debt or obligations with respect to any facilities, or the cost of working capital.

(f) "Fund" means the Manufacturing Program Account Fund.

~~(e)~~

(g) "Governing body" means the board of supervisors, city council, or board of directors of a redevelopment agency, as the case may be.

(h) "Loan" means a loan, a portion of a loan, a loan guarantee, or a line of credit or portion of a line of credit made or extended by the commission, or by a participating financial institution on behalf of the commission, or by a participating financial institution pursuant to the commission's program, to a company for a project or for a portion of a project encompassing one or more of the activities or uses set forth in Section 91503.

~~(f) "Indenture" means any mortgage, deed of trust, trust indenture, security agreement, or other instrument relating to establishing a lien or security interest in, or on, property, any pledge or other instrument relating to the possession of property, and any assignment or other instrument relating to establishing any right, title, or interest in, or related to, property, including the revenues therefrom, given by an authority to a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the state, or bondholder or agent, for the security of its bonds and the benefit of the bondholders.~~

~~(g)~~

(i) "Manufacturing Program Account" means the account established within the Industrial Development Fund for moneys which are available for direct loans and loan guarantees. Moneys in this account are not subject to Section 91554.

~~(h)~~

(j) "Project" means the acquisition, construction, improvement, repair, rehabilitation, and reconstruction of facilities and the acquisition and rehabilitation of machinery, equipment, and furnishings, and the acquisition of engineering and architectural surveys, plans, and specifications, and all other necessary and

related capital expenditures by the issuance of bonds, *loans, loan guarantees, or lines of credit* upon the application of and to be repaid by payments from a company for the purposes of this title. *For purposes of this article and the commission loan, loan guarantee, and line of credit program, a project may also consist of working capital expenditures.*

~~(i) "Project agreements" means the agreements between an authority and a company respecting a project, and may include, without limitation, leases, subleases, options, and installments or the contracts of purchase or sale, loan, or guaranty agreements, notes, mortgages, deeds of trust, and security agreements.~~

~~(j)~~

(k) (1) "Property" means any land, air rights, water rights, disposal rights, improvements, buildings or other structures, and any personal property, tangible or intangible, and includes, but is not limited to, machinery and equipment, whether or not in existence or under construction, and interests in any of the foregoing, or promissory notes or other obligations of any kind respecting such interests.

(2) Property also means property suitable for one or more of the activities or uses described below:

(A) Industrial uses including, without limitation, assembling, fabricating, manufacturing, processing, or warehousing activities with respect to any products of agriculture, forestry, mining, or manufacturing, if these activities have demonstrated job-creation or retention potential.

(B) Energy development, production, collection, or conversion from one form of energy to another.

(C) Research and development activities relating to commerce or industry, including, without limitation, professional, administrative, and scientific office and laboratory activities or uses.

(D) Processing or manufacturing recycled or reused products and materials by manufacturing facilities.

(E) Business activities with the purpose of creating or producing intangible property.

(F) Airport, dock, wharf, or mass commuting activities, or storage or training activities related to any of those activities are prohibited unless the property acquired is suitable for one or more of the activities described in subparagraphs (A) to (E), inclusive.

(G) Sewage or solid waste disposal activities or electric energy or gas furnishing activities are prohibited unless the property acquired is suitable for one or more of the activities described in subparagraphs (A) to (E), inclusive.

(H) Water furnishing activities are prohibited unless the property acquired is suitable for one or more of the activities described in subparagraphs (A) to (E), inclusive.

~~(k)~~

(l) "Public agency" means any city, county, city and county, or redevelopment agency.

~~(*l*)~~

(m) "Revenues" means all rents, purchase payments, and other income derived from, or with respect to, the sale, lease, or other voluntary or involuntary disposition of, or repayment of loans with respect to, property, bond proceeds, *repayment of loans and lines of credit, moneys received in recovery of defaulted loans, loan guarantees, or lines of credit* and any receipts derived from the deposit or investment of any income or proceeds in the account, but does not include receipts designated to cover administration expenses *or expenses associated with the recovery activities on defaulted loans, loan guarantees, and lines of credit*.

91603. (a) The commission may establish the California Manufacturing Competitiveness Loan and Loan Guarantee Program for the purpose of attracting, retaining, and expanding ~~large~~ manufacturing facilities *and other companies in the state*. The commission shall establish guidelines for the implementation of this program consistent with this article. The commission shall not commence operation of the program prior to adopting a resolution finding that there is sufficient money in the Manufacturing Program Account, established pursuant to Section 91604, to cover the costs of implementing the program, including, but not limited to, appropriate oversight costs.

(b) In designing the California Manufacturing Competitiveness Loan and Loan Guarantee Program, the commission shall develop a program that meets all of the following objectives:

(1) Encourages the development of the state's long-term manufacturing capacity.

(2) Creates jobs through the support of retooling and expansion of manufacturing facilities.

~~(3) Prioritizes assistance to manufacturers who consistently pay the highest wages based on the average weekly wage rate for their industry subsector and health benefits.~~

(3) Supports quality manufacturing jobs that provide high wages, including benefits.

(4) Allows manufacturers to access funds under terms and conditions which would not otherwise be available in the private market.

~~(5) Prioritizes assistance to applications that are jointly submitted by management and the union at the facility or the union pending representation of workers at the facility.~~

(5) Strengthens the supply chain of small businesses that support this state's manufacturing competitiveness.

(6) Assists manufacturers to cost effectively respond to energy efficiency regulations and new technologies.

~~(c) The commission shall provide for the development and administration of the application, review, and evaluation process for the program, including, but not limited to, defining the eligibility standards, rating and ranking criteria, and other appropriate policies and procedures for implementing a direct loan and guarantee program subject to the following provisions:~~

~~(1) The maximum loan limit shall be five million dollars ($5,000,000). The maximum loan guarantee amount shall be ten million dollars ($10,000,000).~~

~~(2) Only companies with at least 200 employees shall be eligible to receive assistance under the program.~~

~~(3) All loan and loan guarantee applicants shall demonstrate that they will have the ability to repay the loans.~~

~~(4) Loans may be provided at terms and conditions below market to the extent that the overall program remains financially viable.~~

(c) The commission shall adopt procedures and criteria to evaluate and approve applicants for loans, loan guarantees, or lines of credit and to evaluate and certify the participating financial institutions that may make loans, loan guarantees, or extend lines of credit on its behalf or directly to companies pursuant to the commission's program. The evaluation and approval of applicants shall include the assessment of the applicant's creditworthiness and the valuation of guarantees and collateral to be posted by the applicant to secure payment of principal and interest on the loan, line of credit, or extension of a loan guarantee. The evaluation

and certification of participating financial institutions shall include an assessment of the standards for due diligence for each loan, loan guarantee, or line of credit made on behalf of the commission or made directly to a company pursuant to the commission's program. The commission shall provide for the development and administration of the application, review, and evaluation process for the program, including, but not limited to, defining the eligibility standards, rating and ranking criteria, and other appropriate policies and procedures for implementing the program pursuant to this article. Among other requirements, the loan, loan guarantee, and line of credit shall be subject to all of the following provisions:

~~(5)~~

(1) Applicants must demonstrate they are in compliance with applicable federal, state, and local laws and regulations, or that the project for which they are requesting funding will bring them into compliance.

~~(6)~~

(2) Outstanding loans must be paid in full six months prior to a relocation of a facility outside of California. If the loan or loan guarantee included a subsidized amount, that amount must also be repaid subject to a sliding scale adopted by the commission.

(3) Applicants shall demonstrate where the facility or facilities where the moneys will be expended are located and where the benefits of the assistance will be realized in the state.

(4) That wages the applicant pays its employees in the state are on average, equal to or more than the average monthly wage rate for similar workers in the same industry subsector.

(5) The applicant's turnover rate has not exceeded 20 percent annually at any facility where moneys obtained through the program will be used.

~~(7)~~

(6) Each applicant must agree to annually report to the commission on total capital investments made by the company and total employment, including wage levels by type of work, in the prior year and the following two years. The applicant shall also estimate the number of jobs created or retained through the provision of this state assistance, as well as provide other appropriate performance data, as determined by the commission.

~~(d) In addition to any other requirements in this article, each applicant shall demonstrate that it meets all of the following requirements:~~

~~(1) The facility or facilities where the moneys will be expended or benefit are located in the state.~~

~~(2) The moneys being awarded will be used to create or retain jobs in the state.~~

~~(3) That wages the applicant pays its employees in the state are on average, equal to or more than the average weekly wage rate for similar workers in the same industry subsector.~~

~~(4) That the applicant provides health insurance benefits for all full-time employees.~~

~~(5) The applicant's turnover rate has not exceeded 20 percent annually at any facility where moneys obtained through the program will be used.~~

(d) (1) The commission shall develop a process for the ongoing monitoring of current and outstanding loans, loan guarantees, and lines of credit and develop and maintain a data base on loans, loan guarantees, or lines of credit from the fund, which shall include data related to the applicant, participating financial institution, the project, the terms of each loan, loan guarantee, or line of credit, and the status of each loan, loan guarantee, or line of credit.

(2) The commission shall adopt minimum standards for the documentation, underwriting, and servicing of loans, loan guarantees, or lines of credit made by the commission or made by participating financial institutions on the commission's behalf or directly by a participating financial institution pursuant to the commission's program. The documentation, underwriting, and servicing standards shall be designed to promote the integrity of the program, the fund, and uniformity in the commission's process of evaluation and due diligence.

(3) The commission shall provide technical assistance to participating financial institutions in order to increase utilization of the minimum documentation, underwriting, and servicing standards.

(e) The commission's evaluation criteria for reviewing applications and determining financing approvals shall include all of the following:

(1) Whether employment benefits arising out of the use of the financing secures the employment of existing employees or increases the overall number of full-time employees of the company.

(2) Whether the company provides compensation for employees at the project facility which exceeds the average compensation for similar employment within the company's jurisdiction or within the state.

(3) Whether the company provides health benefits to employees employed at the project facility or contributions to employee retirement benefits.

(4) Whether the project will provide energy, mineral or natural, or cultivated resource conservation benefits.

(5) Whether the project will include building certified environmentally beneficial facilities, bringing existing facilities up to certified environmentally beneficial status, or implementing energy efficiency measures and installing renewable energy equipment.

(6) Whether the company purchases raw materials or other products from California-based companies.

(f) Priority for loans, loan guarantees, or lines of credit shall be given to those companies that do all of the following:

(1) Retain or create the greatest number of jobs compensated at a wage rate above the average monthly wage rate for a similar company in the project jurisdiction or in the state.

(2) Have the greatest beneficial economic impact on the state and local economies as a result of the financing.

(3) Have the greatest negative economic impact on the state and local economies and on other businesses in the state if it moved its operations to another state or otherwise ceased operations within the state.

(g) Priority for loans, loan guarantees, or lines of credit shall be given to those companies that submit applications jointly with the union representing workers at the facility or the union with pending representation of workers at the facility.

(h) The commission shall require that for any construction, improvement, reconstruction, or rehabilitation financed, in whole or in part, by means of loans, loan guarantees, or lines of credit issued pursuant to this article that, pursuant to a resolution of intention, all workers employed in that work, exclusive of

maintenance work, shall be paid not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the work is performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work. Those rates shall be determined by the Director of the Department of Industrial Relations in accordance with the standards set forth in Section 1773 of the Labor Code. The director's determination shall be final, and Sections 1773.1, 1773.5, 1774, and 1776, with the exception of (f) of Section 1776, of the Labor Code shall apply.

~~(e)~~

(i) Each applicant shall pay a nonrefundable application fee ~~of five thousand dollars ($5,000) and an administrative fee equal to one-half of 1 percent of the total requested guarantee amount.~~ *that covers the full amount of the cost for administering the program, including a proportional share of the development of the program, review of applications, and the monitoring and oversight of the program.* These moneys shall be deposited directly into the Manufacturing Program Account, established pursuant to Section 91604, for the purpose of ensuring that funds are available to the state for the sole purpose of administration of the program.

91604. (a) There is hereby created within the Industrial Development Fund, an account called the Manufacturing Program Account. The account shall be used to pay for direct loans and defaulted loan guarantees issued pursuant to this article, administrative costs of the commission, and those costs necessary to protect a real property interest in a defaulted loan or guarantee.

(b) All moneys received from the federal government, foundations, and other public or private funding sources for the purpose of implementing the California Manufacturing Competitiveness Loan and Loan Guarantee Program shall be deposited in the Manufacturing Program Account. All loan repayments, interest, and royalties shall be deposited back into the Manufacturing Program Account. No General Fund moneys may be deposited in the Manufacturing Program Account.

(c) The commission shall not commence operation of the program prior to adopting a resolution finding that there is sufficient money in the account to cover the costs of implementing the program, including, but not limited to, appropriate oversight costs.

(d) Moneys in the account shall not be subject to Section 91554.

(e) Upon appropriation by the Legislature, all or a portion of the funds in the account may be allocated by the commission, with the approval of the Department of Finance, to a lending institution or financial company that will act as trustee of the funds.

91605. (a) Beginning October 1, 2012, and annually thereafter, the commission shall post on its Internet Web site or provide the Legislature with a report, whichever is more cost effective, on the program's activities and impact on the manufacturing industry and on the state's economy, in general.

~~(c)~~

(b) At a minimum, the information provided pursuant to subdivision (a) shall include the following:

(1) The total amount of moneys in the Manufacturing Program Account, at the beginning of the fiscal year and at the end of the fiscal year.

(2) The number of projects funded and the number of manufacturers *and other businesses* assisted.

(3) The number of jobs created and the number of jobs retained through program assistance in each of the fiscal years.

(4) The amount of investments made by the manufacturer in the prior year to their assistance and next two years.

(5) The amount of federal, state, and local taxes paid by the companies in aggregate. Information on publicly held companies shall also be reported separately.

91606. (a) This article shall be implemented only to the extent that sufficient moneys are available to the commission to administer the California Manufacturing Competitiveness Loan and Loan Guarantee Program.

(b) This article shall remain in effect only until January 1, 2016, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2016, deletes or extends that date.

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