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CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 2437

Introduced by Assembly Member 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 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 manufacturing facilities, and would require the commission to establish guidelines for the implementation *and oversight* 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 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 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:

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

1 91502. (a) It is the purpose of this title to carry out and make
2 effective the findings of the Legislature, and to that end, to provide
3 business with alternative methods of financing in acquiring,
4 constructing, or rehabilitating facilities, including, but not limited
5 to, equipment and furnishings, in accordance with the criteria set
6 forth in Section 91502.1, all to the mutual benefit of the people of
7 the state and to protect their health, welfare, and safety.

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

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

26 91503. The property acquired pursuant to this article shall be
27 suitable for, or shall evidence an obligation respecting, certain
28 activities or uses. The activities or uses shall include one or more
29 of the activities or uses described in subdivision (a) and, unless
30 incidental to those activities or uses, shall not include any of the
31 activities described in, and not excepted from, subdivision (b).

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

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

39 (3) Research and development activities relating to commerce
40 or industry, including, without limitation, professional,

1 administrative, and scientific office and laboratory activities or
2 uses.

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

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

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

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

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

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

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

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

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

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

39 91504. Unless the context otherwise requires, the definitions
40 in this article shall govern the construction of this title, as follows:

1 (a) “Acquire” and its variants means acquire, construct, improve,
2 furnish, equip, repair, reconstruct, or rehabilitate.

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

7 (c) “Authority” means any industrial development authority
8 established pursuant to this title.

9 (d) “Board” means the board of directors of an authority.

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

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

17 (g) “Commission” means the California Industrial Development
18 Financing Advisory Commission established pursuant to Article
19 3 (commencing with Section 91550).

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

26 (i) “Cost” as applied to any project, may embrace:

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

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

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

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

39 (5) The cost of agents or consultants, including, without
40 limitation, legal, financial, engineering, accounting, and auditing,

1 necessary or incident to a project and of the determination as to
2 the feasibility or practicability of undertaking the project.

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

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

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

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

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

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

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

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

1 (m) (1) “Participating financial institution” means a financial
2 institution approved by the commission to do either of the
3 following:

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

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

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

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

35 (o) “Project” means the acquisition, construction, improvement,
36 repair, rehabilitation, and reconstruction of facilities and the
37 acquisition and rehabilitation of machinery, equipment, and
38 furnishings, and the acquisition of engineering and architectural
39 surveys, plans, and specifications, and all other necessary and
40 related capital expenditures by the issuance of bonds, loans, loan

1 guarantees, or lines of credit upon the application of and to be
2 repaid by payments from a company for the purposes of this title.
3 For purposes of the loan, loan guarantee, and line of credit program,
4 a project may also consist of working capital expenditures.

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

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

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

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

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

32 (u) "Taxable" means, with respect to any bonds, that the bonds
33 are not tax-exempt.

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

36 91558. (a) The commission may, upon request of two or more
37 authorities, in order to share expenses and facilitate bond issuance,
38 act as a pooling agent to issue bonds on a joint or composite basis
39 for companies which have applied for financing to the participating
40 authorities. Authorities shall enter into written agreements with

1 the commission specifying the projects which are to be delegated
2 to the commission for financing pursuant to this section.

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

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

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

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

24 ~~(f)~~
25 (e) The commission may establish credit requirements, interest
26 rates, and other requirements for companies and participating
27 financial institutions and the nature of the information required
28 for the making of loans, loan guarantees, or lines of credit pursuant
29 to subdivision (d) of Section 91558.

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

32
33 Article 6. California Manufacturing Competitiveness Act of
34 2010
35

36 91600. This act may be cited as the California Manufacturing
37 Competitiveness Act of 2010.

38 91601. (a) The Legislature finds and declares all of the
39 following:

1 (1) California is one of the largest and most diverse economies
2 in the world, with a state gross domestic product (GDP) of over
3 \$1.8 trillion in 2008. Based on figures from the International
4 Monetary Fund, if California were an independent nation it would
5 rank as the eighth largest economy in the world.

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

16 (3) Historically, economic growth in California has outpaced
17 the economic growth rate of the nation as a whole, and the state
18 has led the nation in export-related jobs, business startups, and
19 innovation. However, since the subprime home mortgage crisis in
20 2007, California communities have struggled. With the increasing
21 rates of home foreclosure and the tightening of the credit markets,
22 many businesses have found their existing lines of credit
23 unaccessible. Significant drops in consumer spending have led to
24 workforce reductions and business bankruptcies.

25 (4) For much of 2009, the number of unemployed workers rose
26 by 40,000 to 60,000 per month, and the year ended with 2.25
27 million unemployed California workers. While California may
28 have emerged from the recession in the final quarter of 2009,
29 unemployment is expected to remain high throughout 2010 and
30 2011. Without specific intervention to support job creation and
31 business expansion, many regions of California will be very slow
32 to recover.

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

1 in the electronic computer manufacturing industry, the multiplier
2 effect is 16 to one.

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

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

14 91602. Unless the context requires otherwise, for the purposes
15 of this article, the following terms shall have the following
16 meanings:

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

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

26 (c) "Commission" means the California Industrial Development
27 Financing Advisory Commission established pursuant to Article
28 3 (commencing with Section 91550).

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (h) "Loan" means a loan, a portion of a loan, a loan guarantee,
38 or a line of credit or portion of a line of credit made or extended
39 by the commission, or by a participating financial institution on
40 behalf of the commission, or by a participating financial institution

1 pursuant to the commission's program, to a company for a project
2 or for a portion of a project encompassing one or more of the
3 activities or uses set forth in Section 91503.

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

8 (j) "Project" means the acquisition, construction, improvement,
9 repair, rehabilitation, and reconstruction of facilities and the
10 acquisition and rehabilitation of machinery, equipment, and
11 furnishings, and the acquisition of engineering and architectural
12 surveys, plans, and specifications, and all other necessary and
13 related capital expenditures by the issuance of bonds, loans, loan
14 guarantees, or lines of credit upon the application of and to be
15 repaid by payments from a company for the purposes of this title.
16 For purposes of this article and the commission loan, loan
17 guarantee, and line of credit program, a project may also consist
18 of working capital expenditures.

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

26 (2) ~~Property~~ "*Property*" also means property suitable for one
27 or more of the activities or uses described below:

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

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

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

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

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

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

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

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

14 (I) "Public agency" means any city, county, city and county, or
15 redevelopment agency.

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

26 91603. (a) The commission may establish the California
27 Manufacturing Competitiveness Loan and Loan Guarantee Program
28 for the purpose of attracting, retaining, and expanding
29 manufacturing facilities and other companies in the state. The
30 commission shall establish guidelines for the implementation of
31 this program consistent with this article. The commission shall not
32 commence operation of the program prior to adopting a resolution
33 finding that there is sufficient money in the Manufacturing Program
34 Account, established pursuant to Section 91604, to cover the costs
35 of implementing the program, including, but not limited to,
36 appropriate oversight costs.

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

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

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

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

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

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

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

14 (c) The commission shall adopt procedures and criteria to
15 evaluate and approve applicants for loans, loan guarantees, or lines
16 of credit and to evaluate and certify the participating financial
17 institutions that may make loans, loan guarantees, or extend lines
18 of credit on its behalf or directly to companies pursuant to the
19 commission's program. The evaluation and approval of applicants
20 shall include the assessment of the applicant's creditworthiness
21 and the valuation of guarantees and collateral to be posted by the
22 applicant to secure payment of principal and interest on the loan,
23 line of credit, or extension of a loan guarantee. The evaluation and
24 certification of participating financial institutions shall include an
25 assessment of the standards for due diligence for each loan, loan
26 guarantee, or line of credit made on behalf of the commission or
27 made directly to a company pursuant to the commission's program.
28 The commission shall provide for the development and
29 administration of the application, review, and evaluation process
30 for the program, including, but not limited to, defining the
31 eligibility standards, rating and ranking criteria, and other
32 appropriate policies and procedures for implementing *and*
33 *overseeing* the program pursuant to this article. Among other
34 requirements, the loan, loan guarantee, and line of credit shall be
35 subject to all of the following provisions:

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

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

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

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

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

14 ~~(6) Each applicant must agree to annually report to the~~
15 ~~commission on total capital investments made by the company~~
16 ~~and total employment, including wage levels by type of work, in~~
17 ~~the prior year and the following two years. The applicant shall also~~

18 *(6) Upon the request of the commission, each applicant shall*
19 *agree to report to the commission in the year the funding was*
20 *provided, and the following years, on total capital investments*
21 *made by the company, the total employment at the project facility,*
22 *and the wage levels by type of work. The applicant shall also*
23 estimate the number of jobs created or retained through the
24 provision of this state assistance, as well as provide other
25 appropriate performance data, as determined by the commission.

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

33 (2) The commission shall adopt minimum standards for the
34 documentation, underwriting, and servicing of loans, loan
35 guarantees, or lines of credit made by the commission or made by
36 participating financial institutions on the commission's behalf or
37 directly by a participating financial institution pursuant to the
38 commission's program. The documentation, underwriting, and
39 servicing standards shall be designed to promote the integrity of

1 the program, the fund, and uniformity in the commission's process
2 of evaluation and due diligence.

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

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

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

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

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

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

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

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

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

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

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

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

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

5 (h) The commission shall require that for any construction,
6 improvement, reconstruction, or rehabilitation financed, in whole
7 or in part, by means of loans, loan guarantees, or lines of credit
8 issued pursuant to this article that, pursuant to a resolution of
9 intention, all workers employed in that work, exclusive of
10 maintenance work, shall be paid not less than the general prevailing
11 rate of per diem wages for work of a similar character in the locality
12 in which the work is performed, and not less than the general
13 prevailing rate of per diem wages for holiday and overtime work.
14 Those rates shall be determined by the Director of the Department
15 of Industrial Relations in accordance with the standards set forth
16 in Section 1773 of the Labor Code. The director's determination
17 shall be final, and Sections 1773.1, 1773.5, 1774, and 1776, with
18 the exception of *subdivision* (f) of Section 1776, of the Labor Code
19 shall apply.

20 (i) Each applicant shall pay a nonrefundable application fee that
21 covers the full amount of the cost for administering the program,
22 including a proportional share of the development of the program,
23 review of applications, and the monitoring and oversight of the
24 program. These moneys shall be deposited directly into the
25 Manufacturing Program Account, established pursuant to Section
26 91604, for the purpose of ensuring that funds are available to the
27 state for the sole purpose of administration of the program.

28 91604. (a) There is hereby created within the Industrial
29 Development Fund, an account called the Manufacturing Program
30 Account. The account shall be used to pay for direct loans and
31 defaulted loan guarantees issued pursuant to this article,
32 administrative costs of the commission, and those costs necessary
33 to protect a real property interest in a defaulted loan or guarantee.
34 *No moneys other than those moneys in the account may be used*
35 *to pay for the direct loans and defaulted loan guarantees issued*
36 *pursuant to this article.*

37 (b) All moneys received from the federal government,
38 foundations, and other public or private funding sources for the
39 purpose of implementing the California Manufacturing
40 Competitiveness Loan and Loan Guarantee Program shall be

1 deposited in the Manufacturing Program Account. All loan
2 repayments, interest, and royalties shall be deposited back into the
3 Manufacturing Program Account. No General Fund moneys may
4 be deposited in the Manufacturing Program Account.

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

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

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

15 91605. (a) Beginning October 1, 2012, and annually thereafter,
16 the commission shall post on its Internet Web site or provide the
17 Legislature with a report, whichever is more cost effective, on the
18 program's activities and impact on the manufacturing industry and
19 on the state's economy, in general.

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

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

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

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

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

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

34 91606. (a) This article shall be implemented only to the extent
35 that sufficient moneys are available to the commission to
36 administer the California Manufacturing Competitiveness Loan
37 and Loan Guarantee Program.

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