

AMENDED IN ASSEMBLY MAY 11, 2011

AMENDED IN ASSEMBLY APRIL 25, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 796

Introduced by Assembly Member Blumenfield
(Coauthor: Assembly Member Wieckowski)

February 17, 2011

An act to amend Section 44559.3 of the Health and Safety Code, and to add Division 16.1 (commencing with Section 26050) to the Public Resources Code, relating to financial assistance.

LEGISLATIVE COUNSEL'S DIGEST

AB 796, as amended, Blumenfield. Financial assistance.

(1) The California Alternative Energy and Advanced Transportation Financing Act requires the California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA), in consultation with the State Energy Resources Conservation and Development Commission, to establish criteria for selecting projects related to renewable energy and alternative transportation technologies that would receive financial assistance, including loans, loan loss reserves, interest rate reductions, insurance, guarantees, and other credit enhancement or liquidity facilities, from the authority.

This bill would require the CAEATFA to establish the Clean Energy and Jobs Incentive Program to provide financial assistance in the form of loan loss reserves to a participating financial institution providing loans to California-based entities for the development and expansion of manufacturing facilities or the installation of eligible technologies, as defined.

(2) Existing law establishes the Capital Access Loan Program for small businesses, administered by the California Pollution Control Financing Authority (authority), which provides loans through participating financial institutions to qualifying small businesses. Existing law requires the authority to create a loss reserve account for each financial institution in order to provide protection against loss. The loss reserve account for a financial institution consists of moneys paid as fees by borrowers and the financial institution, moneys transferred to the account from a small business assistance fund, matching federal moneys, and other moneys provided by the authority or other source. Existing law requires the combined amount to be deposited by the participating financial institution into any individual loss reserve account over a 3-year period, in connection with any single borrower or any group of borrowers among which a common enterprise exists, to be not more than \$100,000.

This bill would increase this maximum contribution by the financial institution to \$200,000, if the matching contribution made by the authority is funded exclusively from funds made available pursuant to the federal Small Business Jobs Act of 2010.

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 44559.3 of the Health and Safety Code
2 is amended to read:
3 44559.3. (a) The authority shall establish a loss reserve account
4 for each financial institution with which the authority makes a
5 contract.
6 (b) The loss reserve account for a financial institution shall
7 consist of moneys paid as fees by borrowers and the financial
8 institution, moneys transferred to the account from a small business
9 assistance fund, any matching federal moneys, and any other
10 moneys provided by the authority or other source.
11 (c) Notwithstanding any other law, the authority may establish
12 and maintain loss reserve accounts with a financial institution
13 under such policies as the authority may adopt.
14 (d) All moneys in a loss reserve account established pursuant
15 to this article are the exclusive property of, and solely controlled
16 by, the authority. Interest or income earned on moneys credited to

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

9 (e) (1) Except as provided in paragraph (2), the combined
10 amount to be deposited by the participating financial institution
11 into an individual loss reserve account over a three-year period,
12 in connection with a single borrower or a group of borrowers
13 among which a common enterprise exists, shall be not more than
14 one hundred thousand dollars (\$100,000).

15 (2) The combined amount to be deposited by the participating
16 financial institution into an individual loss reserve account over a
17 three-year period, in connection with a single borrower or any
18 group of borrowers among which a common enterprise exists, shall
19 be not more than two hundred thousand dollars (\$200,000), if the
20 matching contribution made by the authority is funded exclusively
21 from funds made available pursuant to the federal Small Business
22 Jobs Act of 2010 (Public Law 111-240).

23 SEC. 2. Division 16.1 (commencing with Section 26050) is
24 added to the Public Resources Code, to read:

25
26 DIVISION 16.1. CLEAN ENERGY ECONOMY AND JOBS

27
28 CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

29
30 26050. (a) The Legislature finds and declares all of the
31 following:

32 (1) The continued growth of California's clean technology
33 industry is essential to the state's economic solvency and will
34 continue to create California-based jobs.

35 (2) Promoting innovative technologies that reduce dependence
36 on fossil fuels, improve energy efficiency, and reduce carbon
37 emissions will help California meet its environmental targets and
38 increase energy security.

1 (3) From 1995 to 2008, inclusive, clean technology
2 manufacturing employment expanded by 19 percent, while overall
3 manufacturing employment dropped by 9 percent.

4 (4) California's environmental laws have stimulated nine billion
5 dollars (\$9,000,000,000) in cumulative venture capital investment
6 from 2005 to 2009, inclusive, including two billion one hundred
7 million dollars (\$2,100,000,000) in investment capital in 2009,
8 representing 60 percent of the total investment in North America
9 and more than five times the investment in the state's nearest
10 competitor, Massachusetts.

11 (5) Between 2007 and 2009, California led all other states in
12 clean technology patent registrations, outpacing the second-ranked
13 state, New York, by more than 150.

14 (6) California-based companies have patented more types of
15 electric vehicle battery technology than companies in other states.

16 (7) Attempting to take advantage of California's economic and
17 environmental progress, other states and other countries are
18 providing financial incentives to California clean energy companies
19 to move away from California and establish manufacturing
20 facilities elsewhere.

21 (8) Given the surge in out-of-state and overseas competition
22 and incentives, it is in the state's best interest to immediately
23 incentivize California-based clean technology companies so that
24 they remain in California.

25 (b) It is the intent of the Legislature to promote the development
26 of in-state manufacturing facilities and jobs that produce
27 technologies that reduce pollution, increase energy efficiency,
28 reduce greenhouse gas emissions, improve air quality, or reduce
29 water pollution.

30 26051. As used in this division, the following terms mean the
31 following:

32 (a) "Authority" means the California Alternative Energy and
33 Advanced Transportation Financing Authority established pursuant
34 to Section 26004.

35 (b) "California-based entity" means either of the following:

36 (1) A corporation or other business form organized for the
37 transaction of business in California that has its headquarters in
38 California and manufactures in California the product in an eligible
39 technology that qualifies for the incentive or award, as determined
40 by the authority.

(2) A corporation or other business form organized for the transaction of business that has an office for transaction in California and substantially manufactures in California the product in an eligible technology that qualifies for the incentive or award, as determined by the authority.

(c) “Eligible technology” means any of the following:

(1) A device of technology that conserves or produces heat, processes heat, space heating, water heating, steam, space cooling, refrigeration, mechanical energy, electricity, or energy in any form convertible to these uses that does not expend or use conventional energy fuels, and that uses any of the following electrical generation technologies:

(A) Biomass.

(B) Solar thermal.

(C) Photovoltaic.

(D) Wind.

(E) Geothermal.

(2) Ultralow emission equipment for energy generation based on thermal energy systems such as natural gas turbines and fuel cells.

(3) Advanced transportation vehicles, fuels, or infrastructure.

(4) Advanced electric distributive generation technology as defined in Section 379.8 of the Public Utilities Code or energy storage technologies and their component materials.

(d) “Program” means the Clean Energy and Jobs Incentive Program established pursuant to Section 26055.

CHAPTER 2. CLEAN ENERGY AND JOBS INCENTIVE PROGRAM

26055. (a) The authority shall establish the Clean Energy and Jobs Incentive Program for eligible California-based entities for the development and expansion of manufacturing facilities or the installation of eligible technologies.

(b) The program shall provide a loan loss reserve account to a participating loan institution that would be responsible for the overall financial structure of the financial assistance for clean technology manufacturing development and expansion.

(c) The program shall evaluate an application based on need, job development benefit, environmental benefit, and financial risk.

1 (d) The program shall allow a participating financial institution
2 to apply for loan loss reserve support for qualified loans for clean
3 energy technology manufacturing development and expansion.

4 (e) The program shall establish a process for allowing a lender
5 applicant to become a participating financial institution and enroll
6 in the loan loss reserve program.

7 (f) The process established pursuant to subdivision (e) shall, at
8 a minimum, require the lender applicant to provide certification
9 of all of the following:

10 (1) The applicant meets federal and state requirements for a
11 financial institution.

12 (2) The borrower has secured or made applications for all
13 applicable licenses or permits needed to conduct business,
14 including appropriate environmental review.

15 (3) The borrower is a California-based entity that is developing
16 an eligible technology.

17 (4) The lender applicant and the borrower would not be able to
18 enter into a loan without the loan loss reserve support.

19 (g) The program shall give priority to lender applicants that are
20 working with borrowers that have been offered financial assistance
21 to relocate to another state or other countries.

22 (h) (1) To the extent funds are required to implement the
23 program, that authority, upon the appropriation of the Legislature,
24 may use federal funds as authorized by federal law, state funds,
25 including the renewable energy public goods charge—collected
26 pursuant to Section 399.12 of the Public Utilities Code as defined
27 in Section 25741, or private funds to develop the program.

28 (2) *Funds appropriated from the renewable energy public goods*
29 *charge shall be used only for an eligible renewable energy*
30 *resource, as defined in Section 399.12 of the Public Utilities Code.*