

AMENDED IN ASSEMBLY APRIL 25, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 894

Introduced by Assembly Member V. Manuel Pérez

February 17, 2011

An act to amend Sections 91502, 91503, 91504, and 91558 of, and to add and repeal 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 894, 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 2011, 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. 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.

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, 2013, 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, 2017, 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:
- 3 91502. (a) It is the purpose of this title to carry out and make
- 4 effective the findings of the Legislature, and to that end, to provide
- 5 business with alternative methods of financing in acquiring,
- 6 constructing, or rehabilitating facilities, including, but not limited
- 7 to, equipment and furnishings, in accordance with the criteria set
- 8 forth in Section 91502.1, all to the mutual benefit of the people of
- 9 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

1 on January 1, 1998, commercial uses located within a recovery
2 zone designated pursuant to Section 1401 of the American
3 Recovery and Reinvestment Act of 2009 (Public Law 111-5), or
4 any amendments thereto, or other commercial needs.

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

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

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

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

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

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

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

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

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

32 91504. Unless the context otherwise requires, the definitions
33 in this article shall govern the construction of this title, as follows:

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

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

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

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

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

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

11 (g) "Commission" means the California Industrial Development
12 Financing Advisory Commission established pursuant to Article
13 3 (commencing with Section 91550).

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

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

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

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

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

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

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

37 (6) The cost of issuance of any bonds and of financing, interest
38 prior to, during, and for a reasonable period after completion of a
39 project, and reserves for principal and interest and for extensions,

1 enlargements, additions, repairs, replacements, renovations,
2 rehabilitations, and improvements.

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

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

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

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

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

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

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

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

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

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

9 (2) An approved financial institution shall be any of the
10 following:

11 (A) A federal- or state-chartered bank, savings association,
12 credit union, nonprofit community development financial
13 institution certified under Part 1805 (commencing with Section
14 1805.100) of Charter XVIII of Title 12 of the Code of Federal
15 Regulations.

16 (B) A lending institution that has executed a participation
17 agreement with the Small Business Administration under the
18 guaranteed loan program pursuant to Part 120 (commencing with
19 Section 120.1) of Chapter 1 of Title 13 of the Code of Federal
20 Regulations and that meets the requirements of Section 120.410
21 of Chapter I of Title 13 of the Code of Federal Regulations, or a
22 small business investment company licensed by the Small Business
23 Administration pursuant to Part 107 (commencing with Section
24 107.20) of Chapter I of Title 13 of the Code of Federal Regulations.

25 (C) A small business financial development corporation as
26 specified in the Small Business Financial Development Corporation
27 Act (Chapter 1 (commencing with Section 14000) of Part 5 of
28 Division 3 of the Corporations Code).

29 (D) A consortium of any of the above entities.

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

34 (o) "Project" means the acquisition, construction, improvement,
35 repair, rehabilitation, and reconstruction of facilities and the
36 acquisition and rehabilitation of machinery, equipment, and
37 furnishings, and the acquisition of engineering and architectural
38 surveys, plans, and specifications, and all other necessary and
39 related capital expenditures by the issuance of bonds, loans, loan
40 guarantees, or lines of credit upon the application of and to be

1 repaid by payments from a company for the purposes of this title.
2 For purposes of the loan, loan guarantee, and line of credit program,
3 a project may also consist of working capital expenditures.

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

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

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

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

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

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

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

35 91558. (a) The commission may, upon request of two or more
36 authorities, in order to share expenses and facilitate bond issuance,
37 act as a pooling agent to issue bonds on a joint or composite basis
38 for companies which have applied for financing to the participating
39 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, loan guarantees, or lines
14 of credit available to companies, directly or through a contract
15 with a participating financial institution, for the purpose of
16 acquiring, constructing, or rehabilitating facilities or portions
17 thereof, including, but not limited to, equipment and furnishings,
18 pursuant to Article 6 (commencing with Section 91600), all to the
19 mutual benefit of the people of the state and to protect their health,
20 welfare, and safety.

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

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

28
29 Article 6. California Manufacturing Competitiveness Act of
30 2011
31

32 91600. This act shall be known, and may be cited, as the
33 California Manufacturing Competitiveness Act of 2011.

34 91601. (a) The Legislature finds and declares all of the
35 following:

36 (1) California is one of the largest and most diverse economies
37 in the world, with a state gross domestic product (GDP) of over
38 \$1.7 trillion in 2011. Based on figures from the International
39 Monetary Fund, if California were an independent nation it would
40 rank as the eighth largest economy in the world.

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

11 (3) Historically, economic growth in California has outpaced
12 the economic growth rate of the nation as a whole, and the state
13 has led the nation in export-related jobs, business startups, and
14 innovation. However, since the subprime home mortgage crisis in
15 2007, California communities have struggled. With the increasing
16 rates of home foreclosure and the tightening of the credit markets,
17 many businesses have found their existing lines of credit
18 unaccessible. Significant drops in consumer spending have led to
19 workforce reductions and business bankruptcies.

20 (4) For much of 2009, the number of unemployed workers rose
21 by 40,000 to 60,000 per month, and the year ended with 2.25
22 million unemployed California workers. While California may
23 have officially emerged from the recession in the final quarter of
24 2009, unemployment is expected to remain high throughout 2011
25 and 2012. Without specific intervention to support job creation
26 and business expansion, many regions of California will be very
27 slow to recover.

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

38 (6) Manufacturing employers and other large employers in
39 California, however, face many challenges in maintaining global
40 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 2011. 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.

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

(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.

(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.

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

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

8 (6) 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 (7) 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 (8) The cost of procuring raw materials and finished goods that
20 become integral to the property as a result of construction,
21 improvement, repair, rehabilitation, or reconstruction.

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

26 (f) “Fund” means the Manufacturing Program Account Fund.

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

30 (h) “Loan” means a loan, a portion of a loan, a loan guarantee,
31 or a line of credit or portion of a line of credit made or extended
32 by the commission, or by a participating financial institution on
33 behalf of the commission, or by a participating financial institution
34 pursuant to the commission’s program, to a company for a project
35 or for a portion of a project encompassing one or more of the
36 activities or uses set forth in Section 91503.

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

(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.

(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.

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

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

8 (I) “Public agency” means any city, county, city and county, or
9 redevelopment agency.

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

20 91603. (a) The commission may establish the California
21 Manufacturing Competitiveness Loan and Loan Guarantee Program
22 for the purpose of attracting, retaining, and expanding
23 manufacturing facilities and other companies in the state. The
24 commission shall establish guidelines for the implementation of
25 this program consistent with this article. The commission shall not
26 commence operation of the program prior to adopting a resolution
27 finding that there is sufficient money in the Manufacturing Program
28 Account, established pursuant to Section 91604, to cover the costs
29 of implementing the program, including, but not limited to,
30 appropriate oversight costs.

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

34 (1) Encourages the development of the state’s long-term
35 manufacturing capacity.

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

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

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

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

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

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

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

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

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

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

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

7 (6) Upon the request of the commission, each applicant shall
8 agree to report to the commission in the year the funding was
9 provided, and the following years, on total capital investments
10 made by the company, the total employment at the project facility,
11 and the wage levels by type of work. The applicant shall also
12 estimate the number of jobs created or retained through the
13 provision of this state assistance, as well as provide other
14 appropriate performance data, as determined by the commission.

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

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

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

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

38 (1) Whether employment benefits arising out of the use of the
39 financing secures the employment of existing employees or

1 increases the overall number of full-time employees of the
2 company.

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

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

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

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

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

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

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

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

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

30 ~~(g) Priority for loans, loan guarantees, or lines of credit shall~~
31 ~~be given to those companies that submit~~

32 (4) *Submit* applications jointly with the union representing
33 workers at the facility or the union with pending representation of
34 workers at the facility.

35 (h) The commission shall require that for any construction,
36 improvement, reconstruction, or rehabilitation financed, in whole
37 or in part, by means of loans, loan guarantees, or lines of credit
38 issued pursuant to this article that, pursuant to a resolution of
39 intention, all workers employed in that work, exclusive of
40 maintenance work, shall be paid not less than the general prevailing

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

10 (i) Each applicant shall pay a nonrefundable application fee that
11 covers the full amount of the cost for administering the program,
12 including a proportional share of the development of the program,
13 review of applications, and the monitoring and oversight of the
14 program. These moneys shall be deposited directly into the
15 Manufacturing Program Account, established pursuant to Section
16 91604, for the purpose of ensuring that funds are available to the
17 state for the sole purpose of administration of the program.

18 91604. (a) There is hereby created within the Industrial
19 Development Fund, an account called the Manufacturing Program
20 Account. The account shall be used to pay for direct loans and
21 defaulted loan guarantees issued pursuant to this article,
22 administrative costs of the commission, and those costs necessary
23 to protect a real property interest in a defaulted loan or guarantee.
24 No moneys other than those moneys in the account may be used
25 to pay for the direct loans and defaulted loan guarantees issued
26 pursuant to this article.

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

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

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

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

5 91605. (a) Beginning October 1, 2013, and annually thereafter,
6 the commission shall post on its Internet Web site or provide the
7 Legislature with a report, whichever is more cost effective, on the
8 program's activities and impact on the manufacturing industry and
9 on the state's economy, in general.

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

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

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

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

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

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

24 91606. (a) This article shall be implemented only to the extent
25 that sufficient moneys are available to the commission to
26 administer the California Manufacturing Competitiveness Loan
27 and Loan Guarantee Program.

28 (b) This article shall remain in effect only until January 1, 2017,
29 and as of that date is repealed, unless a later enacted statute, that
30 is enacted before January 1, 2017, deletes or extends that date.