AMENDED IN ASSEMBLY AUGUST 12, 2014

SENATE BILL No. 874

Introduced by Committee on Budget and Fiscal Review

January 9, 2014

~~An act relating to the Budget Act of 2014.~~ *An act to amend Section 5956.10 of the Government Code, to amend Section 50661 of the Health and Safety Code, to amend Section 25416 of the Public Resources Code, to amend Section 379.6 of the Public Utilities Code, and to amend Sections 62 and 193 of Chapter 35 of the Statutes of 2014, relating to public resources, and making an appropriation therefor, to take effect immediately, bill related to the budget.*

LEGISLATIVE COUNSEL'S DIGEST

SB 874, as amended, Committee on Budget and Fiscal Review. ~~Budget Act of 2014.~~ *Public resources.*

(1) Existing law authorizes a governmental agency to solicit proposals and enter into agreements with private entities for the design, construction, or reconstruction of, and to lease to private entities, specified types of fee-producing infrastructure projects. Existing law prohibits a state agency or specified governmental agencies from using this authorization to design, construct, finance, or operate a state project, as specified.

This bill would specify that a state project, for these purposes, does not include a governmental agency project financed through the State Water Pollution Control Revolving Fund or the Safe Drinking Water State Revolving Fund.

(2) Existing law creates the Housing Rehabilitation Loan Fund and continuously appropriates moneys in the fund for, among other purposes, making specified deferred payment housing rehabilitation

loans. Prior to June 20, 2014, existing law authorized, to the extent no other funding sources were available, $10,000,000 in the fund to be used by the department for the purpose of providing housing rental-related subsidies to persons rendered homeless, or at risk of becoming homeless, due to unemployment, underemployment, or other economic hardship resulting from the state of emergency proclaimed by the Governor based on drought conditions.

This bill would, to the extent no other funding sources are available, reauthorize that $10,000,000 in the fund to be used by the department for the above-stated purposes.

(3) The Energy Conservation Assistance Act of 1979 establishes the State Energy Conservation Assistance Account, a continuously appropriated account, that is administered by the State Energy Resources Conservation and Development Commission to provide grants and loans to various public entities to maximize energy use savings in existing and planned buildings and facilities. Existing law, the Budget Act of 2014, transfers, upon order of the Director of Finance, moneys from the Greenhouse Gas Reduction Fund to the account for those purposes.

This bill would create a continuously appropriated subaccount within the State Energy Conservation Assistance Count to track the award and repayment of loans made with moneys transferred from the Greenhouse Gas Reduction Fund, as specified. The bill would authorize moneys in the subaccount to be used for loans only for projects in buildings owned and operated by a state agency or entity, including, without limitation, the University of California and California State University.

(4) Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations, as defined. Existing law requires the Public Utilities Commission to require the administration, until January 1, 2021, of a self-generation incentive program for distributed generation resources. Existing law limits eligibility for incentives under the self-generation incentive program to distributed energy resources that the Public Utilities Commission, in consultation with the State Air Resources Board, determines will achieve reductions in emissions of greenhouse gases pursuant to the California Global Warming Solutions Act of 2006.

This bill would modify the eligibility requirements for incentives under the self-generation incentive program, as specified. The bill also would modify the performance measures used in Public Utilities Commission's *evaluation of the overall success and impact of the self-generation incentive program, as specified.*

(5) Existing law, the Budget Act of 2014, appropriates the unencumbered balance of specified moneys appropriated in the Budget Act of 2003 for the State Department of Public Health to the State Water Resources Control Board for encumbrance or expenditure until June 30, 2016, for the purposes of providing grants of up to $500,000 per project for public water systems to address drought-related drinking water emergencies or threatened emergencies.

This bill would make those moneys available for liquidation until June 30, 2018.

This bill also would make conforming changes.

(6) The California Global Warming Solutions Act of 2006 establishes the State Air Resources Board as the state agency responsible for monitoring and regulating sources emitting greenhouse gases. The act requires the state board to adopt a statewide greenhouse gas emissions limit, as defined, to be achieved by 2020, equivalent to the statewide greenhouse gas emissions levels in 1990. Existing law authorizes the state board to adopt a schedule of fees to be paid by the sources of greenhouse gas emissions regulated pursuant to the act and requires those fees to be deposited in the Cost of Implementation Account. The act requires the state board to prepare and approve a scoping plan for achieving the maximum technologically feasible and cost-effective reductions in greenhouse gas emissions. The act requires the scoping plan to be updated at least once every 5 years.

This bill would appropriate $529,000 from the Cost of Implementation Account to the Secretary of the Natural Resources Agency for the purpose of implementing elements of the scoping plan adopted by the State Air Resources Board.

(7) This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

~~This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2014.~~

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

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

SECTION 1. Section 5956.10 of the Government Code is amended to read:

5956.10. *(a)* Notwithstanding any *other* provision of this chapter, neither the state or any state agency ~~may~~ *shall* directly or indirectly use the authority in this ~~chapter,~~ *chapter* nor ~~may~~ *shall* any governmental ~~agency~~ *agency,* as defined in Section 5956.3, use the authority in this ~~chapter,~~ *chapter* to design, construct, finance, or operate a state project. For purposes of this section, a state project includes any of the following:

~~(a)~~

(1) Toll roads on state highways.

~~(b)~~

(2) State water projects.

~~(c)~~

(3) State park and recreation projects.

~~(d)~~

(4) State financed projects.

(b) These limitations shall not prohibit the state, any state agency, or any governmental ~~agency~~ *agency,* as defined in Section 5956.3, from utilizing authorizations contained in other provisions of law.

(c) For purposes of this section, a state project does not include a governmental agency project financed through the State Water Pollution Control Revolving Fund, established pursuant to Section 13477 of the Water Code, or the Safe Drinking Water State Revolving Fund, established pursuant to Section 116760.30 of the Health and Safety Code.

SEC. 2. Section 50661 of the Health and Safety Code is amended to read:

50661. (a) There is hereby created in the State Treasury the Housing Rehabilitation Loan Fund. All interest or other increments resulting from the investment of moneys in the Housing Rehabilitation Loan Fund shall be deposited in the fund, notwithstanding Section 16305.7 of the Government Code. Notwithstanding Section 13340 of the Government Code, all money in the fund is continuously appropriated to the department for the following purposes:

(1) For making deferred-payment rehabilitation loans for financing all or a portion of the cost of rehabilitating existing housing to meet rehabilitation standards as provided in this chapter.

(2) For making deferred payment loans as provided in Sections 50668.5, 50669, and 50670.

(3) For making deferred payment loans pursuant to Sections 50662.5 and 50671.

(4) Subject to the restrictions of Section 53131, if applicable, for administrative expenses of the department made pursuant to this chapter, Article 3 (commencing with Section 50693) of Chapter 7.5, and Chapter 10 (commencing with Section 50775).

(5) For related administrative costs of nonprofit corporations and local public entities contracting with the department pursuant to Section 50663 in an amount, if any, as determined by the department, to enable the entities and corporations to implement a program pursuant to this chapter. The department shall ensure that not less than 20 percent of the funds loaned pursuant to this chapter shall be allocated to rural areas. For purposes of this ~~chapter~~ *chapter,* "rural area" shall have the same meaning as in Section 50199.21.

(6) To the extent no other funding sources are available, ten million dollars ($10,000,000), as provided in Section 4 of Chapter 3 of the Statutes of 2014, may be used for the purposes of Section 34085.

(b) There shall be paid into the fund the following:

(1) Any moneys appropriated and made available by the Legislature for purposes of the fund.

(2) Any moneys that the department receives in repayment of loans made from the fund, including any interest thereon.

(3) Any other moneys that may be made available to the department for the purposes of this chapter from any other source or sources.

(4) Moneys transferred or deposited to the fund pursuant to Sections 50661.5 and 50778.

(c) Notwithstanding any other ~~provision of~~ law, any interest or other increment earned by the investment or deposit of moneys appropriated by subdivision (b) of Section 3 of Chapter 2 of the Statutes of the 1987–88 First Extraordinary Session, or Section 7 of Chapter 4 of the Statutes of the 1987–88 First Extraordinary Session, shall be deposited in a special account in the Housing Rehabilitation Loan Fund and shall be used exclusively for purposes of Sections 50662.5 and 50671.

(d) Notwithstanding any other ~~provision of~~ law, effective with the date of the act adding this subdivision, appropriations authorized by the Budget Act of 1996 for support of the

Department of Housing and Community Development from the California Disaster Housing Repair Fund and the California Homeownership Assistance Fund shall instead be authorized for expenditure from the Housing Rehabilitation Loan Fund.

(e) Effective July 1, 2014, the California Housing Trust Fund in the State Treasury is abolished and any remaining balance, assets, liabilities, and encumbrances shall be transferred to, and become part of, the Housing Rehabilitation Loan Fund. Notwithstanding Section 13340 of the Government Code, all transferred amounts are continuously appropriated to the department for the purpose of satisfying any liabilities and encumbrances and the purposes specified in this section.

SEC. 3. Section 25416 of the Public Resources Code is amended to read:

25416. (a) The State Energy Conservation Assistance Account is hereby created in the General Fund. Notwithstanding Section 13340 of the Government Code, the account is continuously appropriated to the commission without regard to fiscal year.

(b) The money in the account shall consist of all ~~money~~ *moneys* authorized or required to be deposited in the account by the Legislature and all ~~money~~ *moneys* received by the commission pursuant to Sections 25414 and 25415.

(c) The ~~money~~ *moneys* in the account shall be disbursed by the Controller for the purposes of this chapter as authorized by the commission.

(d) The commission may contract and provide grants for services to be performed for eligible institutions. Services may include, but are not limited to, feasibility analysis, project design, field assistance, and operation and training. The amount expended for those services ~~may~~ *shall* not exceed 10 percent of the unencumbered balance of the account as determined by the commission on July 1 of each year.

(e) The commission may make grants to eligible institutions for innovative projects and programs. Except as provided in subdivision (d), the amount expended for grants ~~may~~ *shall* not exceed 5 percent of the annual unencumbered balance in the account as determined by the commission on July 1 of each fiscal year.

(f) The commission may charge a fee for the services provided under subdivision (d).

(g) Notwithstanding any other ~~provision of~~ law, the Controller may use the State Energy Conservation Assistance Account for loans to the General Fund as provided in Sections 16310 and 16381 of the Government Code.

(h) (1) A subaccount is hereby created within the State Energy Conservation Assistance Account to track the award and repayment of loans, including principal, interest, and interest earnings on or accruing to the subaccount, made with moneys transferred to the account from the Greenhouse Gas Reduction Fund, created pursuant to Section 16428.8 of the Government Code. Notwithstanding Section 13340 of the Government Code, the subaccount is hereby continuously appropriated to the commission without regard to fiscal year.

(2) Moneys deposited in the subaccount may be used for loans only for projects in buildings owned and operated by a state agency or entity, including, without limitation, the University of California and California State University.

(3) Notwithstanding Section 39718 of the Health and Safety Code, a repayment of a loan made pursuant to this chapter with moneys transferred from the Greenhouse Gas Reduction Fund shall be deposited in the subaccount and shall be available for a loan made to an entity eligible for these moneys pursuant to this subdivision.

SEC. 4. Section 379.6 of the Public Utilities Code is amended to read:

379.6. (a) (1) It is the intent of the Legislature that the self-generation incentive program increase deployment of distributed generation and energy storage systems to facilitate the integration of those resources into the electrical grid, improve efficiency and reliability of the distribution and transmission system, and reduce emissions of greenhouse gases, peak demand, and ratepayer costs. It is the further intent of the Legislature that the commission, in future proceedings, provide for an equitable distribution of the costs and benefits of the program.

(2) The commission, in consultation with the Energy Commission, may authorize the annual collection of not more than the amount authorized for the self-generation incentive program in the 2008 calendar year, through December 31, 2019. The commission shall require the administration of the program for distributed energy resources originally established pursuant to

Chapter 329 of the Statutes of 2000 until January 1, 2021. On January 1, 2021, the commission shall provide repayment of all unallocated funds collected pursuant to this section to reduce ratepayer costs.

(3) The commission shall administer solar technologies separately, pursuant to the California Solar Initiative adopted by the commission in Decisions 05-12-044 and 06-01-024, as modified by Article 1 (commencing with Section 2851) of Chapter 9 of Part 2 of Division 1 of this code and Chapter 8.8 (commencing with Section 25780) of Division 15 of the Public Resources Code.

(b) (1) Eligibility for incentives under the self-generation incentive program shall be limited to distributed energy resources that the commission, in consultation with the State Air Resources Board, determines will achieve reductions in emissions of greenhouse gases pursuant to the California Global Warming Solutions Act of 2006 (Division 25.5 (commencing with Section 38500) of the Health and Safety Code).

(2) On or before July 1, 2015, the commission shall update the factor for avoided greenhouse gas emissions based on the most recent data available to the State Air Resources Board for greenhouse gas emissions from electricity sales in the self-generation incentive program administrators' service areas as well as current estimates of greenhouse gas emissions over the useful life of the distributed energy resource, including consideration of the effects of the California Renewables Portfolio Standard.

(c) Eligibility for the funding of any combustion-operated distributed generation projects using fossil fuel is subject to all of the following conditions:

(1) An oxides of nitrogen (NO_x) emissions rate standard of 0.07 pounds per megawatthour and a minimum efficiency of 60 percent, or any other NO_x emissions rate and minimum efficiency standard adopted by the State Air Resources Board. A minimum efficiency of 60 percent shall be measured as useful energy output divided by fuel input. The efficiency determination shall be based on 100 percent load.

(2) Combined heat and power units that meet the 60-percent efficiency standard may take a credit to meet the applicable NO_x emissions standard of 0.07 pounds per megawatthour. Credit shall

be at the rate of one megawatthour for each 3,400,000 British thermal units (Btus) of heat recovered.

(3) The customer receiving incentives shall adequately maintain and service the combined heat and power units so that during operation the system continues to meet or exceed the efficiency and emissions standards established pursuant to paragraphs (1) and (2).

(4) Notwithstanding paragraph (1), a project that does not meet the applicable NO_x emissions standard is eligible if it meets both of the following requirements:

(A) The project operates solely on waste gas. The commission shall require a customer that applies for an incentive pursuant to this paragraph to provide an affidavit or other form of proof that specifies that the project shall be operated solely on waste gas. Incentives awarded pursuant to this paragraph shall be subject to refund and shall be refunded by the recipient to the extent the project does not operate on waste gas. As used in this paragraph, "waste gas" means natural gas that is generated as a byproduct of petroleum production operations and is not eligible for delivery to the utility pipeline system.

(B) The air quality management district or air pollution control district, in issuing a permit to operate the project, determines that operation of the project will produce an onsite net air emissions ~~benefit,~~ *benefit* compared to permitted onsite emissions if the project does not operate. The commission shall require the customer to secure the permit prior to receiving incentives.

(d) In determining the eligibility for the self-generation incentive program, minimum system efficiency shall be determined either by calculating electrical and process heat efficiency as set forth in Section 216.6, or by calculating overall electrical efficiency.

(e) Eligibility for incentives under the program shall be limited to distributed energy resource technologies that the commission determines meet all of the following requirements:

(1) The distributed energy resource technology is capable of reducing demand from the grid by offsetting *or shifting* some or all of the customer's onsite energy ~~load, including, but not limited to, peak electric demand.~~ *load.*

(2) The distributed energy resource technology is commercially available.

(3) The distributed energy resource technology safely utilizes the existing transmission and distribution system.

(4) The distributed energy resource technology improves air quality by reducing criteria air pollutants.

(f) Recipients of the self-generation incentive program funds shall provide relevant data to the commission and the State Air Resources Board, upon request, and shall be subject to onsite inspection to verify equipment operation and performance, including capacity, thermal output, and usage to verify criteria air pollutant and greenhouse gas emissions performance.

(g) In administering the self-generation incentive program, the commission shall determine a capacity factor for each distributed generation system energy resource technology in the program.

(h) (1) In administering the self-generation incentive program, the commission may adjust the amount of rebates and evaluate other public policy interests, including, but not limited to, ratepayers, energy efficiency, peak load reduction, load management, and environmental interests.

(2) The commission shall consider the relative amount and the cost of greenhouse gas ~~emission~~ *emissions* reductions, peak demand reductions, system reliability benefits, and other measurable factors when allocating program funds between eligible technologies.

(i) The commission shall ensure that distributed generation resources are made available in the program for all ratepayers.

(j) In administering the self-generation incentive program, the commission shall provide an additional incentive of 20 percent from existing program funds for the installation of eligible distributed generation resources manufactured in California.

(k) The costs of the program adopted and implemented pursuant to this section shall not be recovered from customers participating in the California Alternate Rates for Energy (CARE) program.

(*l*) The commission shall evaluate the overall success and impact of the self-generation incentive program based on the following performance measures:

(1) The amount of reductions of emissions of greenhouse gases.

(2) The amount of reductions of emissions of criteria air pollutants measured in terms of avoided emissions and reductions of criteria air pollutants represented by emissions credits secured for project approval.

(3) The amount of energy reductions measured in energy value.

(4) The amount of reductions of ~~aggregate noncoincident~~ customer peak demand.

(5) The ratio of the electricity generated by distributed energy resource *generation* projects receiving incentives from the program to the electricity capable of being produced by those distributed energy resource projects, commonly known as a capacity factor.

(6) The value to the electrical transmission and distribution system measured in avoided costs of transmission and distribution upgrades and replacement.

(7) The ability to improve onsite electricity reliability as compared to onsite electricity reliability before the self-generation incentive program technology was placed in service.

SEC. 5. Section 62 of Chapter 35 of the Statutes of 2014 is amended to read:

Sec. 62. It is the intent of the Legislature that the reorganization and transfer made by Sections 63 to 127, inclusive, Section 181, ~~and~~ *Section 182,* Sections 187 to ~~190~~ *191*, inclusive, *and Section 193* of this act be carried out in a manner to preserve state primacy under the federal Safe Drinking Water Act and that the terms of this act shall be liberally construed to achieve this purpose.

SEC. 6. Section 193 of Chapter 35 of the Statutes of 2014 is amended to read:

Sec. 193. Notwithstanding any other law, the ~~unencumbered~~ balance of the appropriation provided for in Item 4265-111-0001 of Chapter 2 of the Statutes of 2014, for the purposes specified in Provision 3 of that item, is hereby appropriated to the State Water Resources Control Board, as of June 30, 2014. ~~This fund~~ *These funds* shall be available for encumbrance or expenditure until June 30, 2016, *and available for liquidation until June 30, 2018,* for purposes consistent with subdivisions (a) and (c) of Section 75021 of the Public Resources Code for grants pursuant to the Public Water System Drought Emergency Funding Guidelines adopted by the State Department of Public Health on March 28, 2014, for public water systems to address drought-related drinking water emergencies. The State Water Resources Control Board shall make every effort to use other funds available to address drinking water emergencies, including federal funds made available for the ~~drought~~ *drought,* prior to using the funds specified in this section.

SEC. 7. The sum of five hundred twenty-nine thousand dollars ($529,000) is hereby appropriated from the Cost of Implementation

Account, established pursuant to Section 16428.95 of the Government Code, to the Secretary of the Natural Resources Agency for the purpose of implementing elements of the scoping plan adopted by the State Air Resources Board pursuant to Section 38561 of the Health and Safety Code.

SEC. 8. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.

~~SECTION 1. It is the intent of the Legislature to enact statutory changes relating to the Budget Act of 2014.~~

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