

AMENDED IN ASSEMBLY MAY 2, 2005

AMENDED IN ASSEMBLY APRIL 18, 2005

AMENDED IN ASSEMBLY APRIL 6, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 1383

Introduced by Assembly Member Pavley
(Coauthors: Assembly Members Hancock, Jerome Horton, Levine,
Mullin, Salinas, and Torrico)

February 22, 2005

An act to add and repeal Chapter 5.6 (commencing with Section 25460) of Division 15 of the Public Resources Code, *and to add and repeal Section 379.9 of the Public Utilities Code*, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1383, as amended, Pavley. Solar energy: Low-Income Housing Development Revolving Loan Program.

(1) Existing law establishes various revolving loan programs to provide loans for specified purposes, including recycling market development and renewable energy resources. *Existing law requires the State Energy Resources Conservation and Development Commission (Energy Commission) to transfer funds collected for in-state operation and development of existing and new and emerging renewable resources technologies into the Renewable Resource Trust Fund.*

This bill would establish, until January 1, 2016, the ~~Low-income~~ *Low-Income* Housing Development Revolving Loan Program to subsidize the financing gap for distributed solar energy systems, as defined, in low-income housing units. The bill would create the

~~Low-income~~ *Low-Income* Housing Development Revolving Loan Fund (~~the revolving loan fund~~) for the purpose of providing loans for program purposes.

The bill would require the ~~State Energy Resources Conservation and Development~~ Commission to take various actions to establish the program upon the appropriation of money in the fund for that purpose in the annual Budget Act.

(2) ~~The~~ *Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations.*

~~This bill would require the California Public Utilities Commission (PUC) PUC, in consultation with the commission Energy Commission, on or before July 1, 2006, to issue an order initiating an investigation and opening a ratemaking proceeding, or expanding the scope of an existing proceeding, to adopt and implement a program to invest in low-income residential housing solar energy systems pursuant to the program established by the bill, as provided.~~

~~The bill would require the commission Energy Commission to identify funds that are currently available in the current fiscal year in the Renewable Resource Trust Funds Fund or in the next fiscal year, for transfer to the revolving loan fund for the program, if funds are not made available through the PUC ratemaking proceeding and if the Energy Commission makes specified determinations regarding those funds.~~

~~The bill would require the commission, if funds are available for this purpose under provisions of this bill, to ensure that the proportional program support for the installation of solar energy systems on new construction and rehabilitation of affordable housing units does not exceed a certain percentage of the overall program funds, as specified.~~

~~The bill would require the funds generated as a result of the ratemaking proceeding or so identified by the Energy Commission to be transferred to the revolving loan fund.~~

~~The bill would repeal these provisions on January 1, 2016.~~

(3) *Existing law makes a violation of the Public Utilities Act or a violation of an order of the PUC a crime.*

Because a provision of this bill would be part of the act and an order of the PUC would be required to implement that provision, and a violation of the provision of the bill that is part of the act or of any PUC order implementing that provision would be a crime, this bill

would impose a state-mandated local program by creating new crimes.

(4) *The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: ~~no~~-yes.

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

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) California has a pressing need to procure a steady supply
4 of affordable and reliable peak electricity for affordable housing
5 units.

6 (b) Solar generated electricity is uniquely suited to
7 California's needs because it produces electricity when
8 California needs it most, during the peak demand hours in
9 summer afternoons when the sun is brightest and air conditioners
10 are running at capacity.

11 (c) Procuring solar electric generation capacity to meet peak
12 electricity demand increases system reliability and decreases
13 California's dependence on unstable fossil fuel supplies.

14 (d) Solar generated electricity diversifies California's energy
15 portfolio. California currently relies on natural gas for the bulk of
16 its electricity generation needs. Increasing energy demands place
17 increasing pressure on limited natural gas supplies and threaten
18 to raise costs.

19 (e) Roughly 20,000 affordable housing units will be built
20 annually in California in the coming years, challenging energy
21 reliability and affordability for those residents who can least
22 afford inflated energy bills.

23 (f) Investing in low-income housing solar electricity
24 generation installations today will lower the cost of solar
25 generated electricity for all Californians in the future. In 10
26 years, solar peak electric generation can be procured without the
27 need for rebates.

(g) Increasing California’s solar electricity generation market will also bring additional manufacturing, installation, and sales jobs to the state at a higher rate than most conventional energy production sources.

(h) Funding the Low-Income Housing Development Revolving Loan Program established pursuant to Chapter 5.6 (commencing with Section 25460) of Division 15 of the Public Resources Code (hereafter the loan program) is a cost-effective investment by ratepayers in peak electricity generation capacity, because as a result of the program ratepayers will recoup the cost of their investment through lower rates by avoiding purchases of electricity at peak rates, with additional system reliability and pollution reduction benefits.

(i) The Public Utilities Commission has regulatory authority over public utilities, including electrical corporations, and existing law authorizes the commission to establish rules for all public utilities, subject to control by the Legislature. In addition, the commission can require an electric or gas corporation to perform home weatherization services, as defined, for low-income customers, as determined by the commission.

(j) The loan program would further establish, increase, and modify incentives and provide financing mechanisms for energy efficiency and photovoltaic capabilities for subsidized and affordable housing, and establish “zero energy homes” as a goal for low-income and affordable housing residents.

(k) Solar energy systems provide substantial energy reliability and pollution reduction benefits. Solar energy systems also diversify our energy supply and thereby reduce our dependence on imported fossil fuels.

SEC. 2. Chapter 5.6 (commencing with Section 25460) is added to Division 15 of the Public Resources Code, to read:

CHAPTER 5.6.

LOW-INCOME HOUSING DEVELOPMENT REVOLVING LOAN PROGRAM

25460. As used in this chapter, the following terms have the following meanings:

(a) “Fund” means the ~~Low-income~~ *Low-Income* Housing Development Revolving Loan Fund created by Section 25462.

1 (b) "Low-income residential housing" means affordable
2 residential housing units that are defined in Section 50052.5 or
3 50053 of, or are undertaken, constructed, or operated pursuant to
4 Chapter 3.6 (commencing with Section 50199.4) of Part 1 of
5 Division 31 of, the Health and Safety Code.

6 (c) "Program" means the Low-Income Housing Development
7 Revolving Loan Program created by Section 25461.

8 ~~(d) "Solar energy system" means a photovoltaic solar collector~~
9 ~~or other photovoltaic solar energy device that has a primary~~
10 ~~purpose of providing for the collection and distribution of solar~~
11 ~~energy for the generation of electricity, and that produces at least~~

12 *(d) "Solar energy system" means a solar energy device that*
13 *has the primary purpose of providing for the collection and*
14 *distribution of solar energy for the generation of electricity, and*
15 *that produces at least 1 kW alternating current rated peak*
16 *electricity.*

17 25461. The Low-Income Housing Development Revolving
18 Loan Program is hereby established. The purpose of the program
19 is to provide a source of financing not to exceed 75 percent of the
20 total system cost, for solar energy systems in low-income
21 residential housing units.

22 25462. (a) The ~~Low-income~~ *Low-Income* Housing
23 Development Revolving Loan Program Fund is hereby created in
24 the State Treasury for the purpose of providing loans for
25 purposes of the program.

26 (b) The commission shall administer the fund.

27 (c) The commission shall consult with the California Tax
28 Credit Allocation Committee (TCAC), the California Housing
29 Finance Agency, and the Department of Housing and
30 Community Development to develop guidelines for the fund.

31 (d) The commission may expend the money in the fund to
32 make loans to local governing bodies, private businesses, and
33 nonprofit entities to provide funding for solar energy systems in
34 low-income housing units.

35 (e) The commission shall administer below market rate loans
36 at a rate determined annually by the agency.

37 25463. (a) The commission shall establish and collect a fee for
38 each application for a loan authorized by this section. The
39 application fee shall be set at a level that is sufficient to fund the
40 commission's cost of processing applications for loans. In

1 addition, the agency shall establish a schedule of fees, or points,
2 for loans that are entered into by the commission, to fund the
3 commission's administration of the program.

4 (b) The commission may expend money in the fund, including
5 interest earnings on money in the fund, for the administration of
6 the program, upon the appropriation of money in the fund for that
7 purpose in the annual Budget Act.

8 (c) The money from any loan repayments and fees, including,
9 but not limited to, principal and interest repayments, fees and
10 points, recovery of collection costs, income earned on any asset
11 recovered pursuant to a loan default, and money collected
12 through foreclosure actions, shall be deposited in the fund.

13 (d) All interest accruing on interest payments from loan
14 applicants shall be deposited in the fund.

15 (e) The commission may set aside money in the fund for the
16 purposes of paying costs necessary to protect the state's position
17 as a lender-creditor. These costs shall be broadly construed to
18 include, but not be limited to, foreclosure expenses, auction fees,
19 title searches, appraisals, real estate brokerage fees, attorney fees,
20 mortgage payments, insurance payments, utility costs, repair
21 costs, removal and storage costs for repossessed equipment and
22 inventory, and additional expenditures to purchase a senior lien
23 in foreclosure or bankruptcy proceedings.

24 25464. To be eligible for participation in the program, a
25 housing project must be at least 10 percent or more energy
26 efficient than required by the current standards specified in the
27 California Building Standards Code contained in Title 24 of the
28 California Code of Regulations, or have implemented measures
29 to reduce the energy use of the building or unit by 10 percent, as
30 calculated pursuant to Title 24 compliance models. An eligible
31 housing project that exceeds energy efficiency standards required
32 by Title 24 by more than 10 percent shall receive financing at
33 rate of .25 percent lower for every 5 percent additional
34 improvement in energy efficiency.

35 25466. This chapter shall remain in effect only until January 1,
36 2016, and as of that date is repealed, unless a later enacted
37 statute, that is enacted before January 1, 2016, deletes or extends
38 that date.

39 ~~SEC. 3. (a) Notwithstanding any other law, on or before July~~
40 ~~1, 2006, the California Public Utilities Commission (PUC), in~~

~~consultation with the State Energy Resources Conservation and Development Commission, shall issue an order initiating an investigation and opening a ratemaking proceeding, or expanding the scope of an existing proceeding, for the purpose of adopting and implementing a program to invest in low-income residential housing solar energy systems pursuant to Chapter 5.6 (commencing with Section 25460) of Division 15 of the Public Resources Code.~~

~~(b) In the course of that proceeding, the PUC and the State Energy Resources Conservation and Development Commission shall also consider and evaluate whether existing solar energy programs are adequately funded to achieve the goal of placing solar energy systems on low-income or affordable residential housing units by December 31, 2018.~~

~~(c) If funds are not available through a PUC ratemaking proceeding, the State Energy Resources Conservation and Development Commission shall identify funds either from those currently available in the Renewable Resource Trust Fund established by Section 25751 of the Public Resources Code or in the next available reauthorization of the fund.~~

~~(d) If funds are made available for this purpose under subdivision (a) or (c), the State Energy Resources and Conservation and Development Commission shall ensure proportional program support, not to exceed 10 percent of the overall program funds, for the installation of solar energy systems on the new construction and rehabilitation of affordable housing units, including single and multifamily residential housing. The commission shall also ensure that additional and proportional resources, not to exceed 5 percent of the overall program funds, are provided for the unique needs of the subsidized low-income housing program through a targeted financing mechanism, including a revolving loan fund, as identified in consultation with the California Tax Credit Allocation Committee.~~

SEC. 3. Section 379.9 is added to the Public Utilities Code, to read:

379.9. (a) Notwithstanding any other law, on or before July 1, 2006, the commission, in consultation with the State Energy Resources Conservation and Development Commission, shall issue an order initiating an investigation and opening a

1 *ratemaking proceeding, or expanding the scope of an existing*
2 *proceeding, for the purpose of adopting and implementing a*
3 *program to invest in low-income residential housing solar energy*
4 *systems pursuant to Chapter 5.6 (commencing with Section*
5 *25460) of Division 15 of the Public Resources Code.*

6 *(b) In the course of the proceeding specified in subdivision (a),*
7 *the commission and the State Energy Resources Conservation*
8 *and Development Commission shall also consider and evaluate*
9 *whether existing solar energy programs are adequately funded to*
10 *achieve the goal of placing solar energy systems on low-income*
11 *or affordable residential housing units by December 31, 2018.*

12 *(c) If funds are not available through a commission*
13 *ratemaking proceeding, the State Energy Resources*
14 *Conservation and Development Commission shall identify funds*
15 *that are either available in the current fiscal year in the*
16 *Renewable Resource Trust Fund established by Section 25751 of*
17 *the Public Resources Code, or in the next fiscal year, for transfer*
18 *to the Low-Income Housing Development Revolving Loan*
19 *Program Fund created pursuant to Section 25462 of the Public*
20 *Resources Code, if the State Energy Resources Conservation and*
21 *Development Commission does both of the following:*

22 *(1) Conducts a cost benefit analysis of programs authorized to*
23 *be funded through the Renewable Resource Trust Fund and*
24 *determines that money used to fund any of those programs could*
25 *more effectively achieve the goal of developing more renewable*
26 *electricity if the money is transferred to the Low-Income Housing*
27 *Development Revolving Loan Program created in Chapter 5.6*
28 *(commencing with Section 25460) of Division 15 of the Public*
29 *Resources Code.*

30 *(2) Determines that a transfer of funds from the Renewable*
31 *Resource Trust Fund to the Low-Income Housing Development*
32 *Revolving Loan Program Fund will not result in insufficient*
33 *funds to cover the above market costs of eligible renewable*
34 *resources, as required in paragraph (1) of subdivision (b) of*
35 *Section 25743 of the Public Resources Code.*

36 *(d) The State Energy Resources Conservation and*
37 *Development Commission shall transfer the funds generated*
38 *pursuant to a proceeding specified in subdivision (a), or, after*
39 *making the determinations specified in subdivision (c), shall*
40 *transfer the funds identified pursuant to subdivision (c), to the*

1 *Low-Income Housing Development Revolving Loan Program*
2 *Fund created by Section 25462 of the Public Resources Code.*

3 *(e) This section shall remain in effect only until January 1,*
4 *2016, and as of that date is repealed, unless a later enacted*
5 *statute, that is enacted before January 1, 2016, deletes or extends*
6 *that date.*

7 *SEC. 4. No reimbursement is required by this act pursuant to*
8 *Section 6 of Article XIII B of the California Constitution because*
9 *the only costs that may be incurred by a local agency or school*
10 *district will be incurred because this act creates a new crime or*
11 *infraction, eliminates a crime or infraction, or changes the*
12 *penalty for a crime or infraction, within the meaning of Section*
13 *17556 of the Government Code, or changes the definition of a*
14 *crime within the meaning of Section 6 of Article XIII B of the*
15 *California Constitution.*