AMENDED IN SENATE JUNE 22, 2005

AMENDED IN ASSEMBLY MAY 27, 2005

AMENDED IN ASSEMBLY MAY 16, 2005

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, *Leno,* Levine, Mullin, Salinas, and Torrico)

February 22, 2005

~~An act to amend Section 25401.6 of the Public Resources Code, relating to energy.~~ *An act to add and repeal Chapter 5.6 (commencing with Section 25460) of Division 15 of the Public Resources Code, relating to energy, and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1383, as amended, Pavley. Electricity: ~~distributed emerging technologies: rebates.~~ *Solar Energy: Low-Income Housing Development Revolving Loan Program.*

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 expand and accelerate the development of alternative sources of energy, including solar energy. Existing law

requires the Energy Commission, until January 1, 2006, and to the extent that funds are appropriated for that purpose in the annual Budget Act, to implement a grant program to accomplish specified goals, including making solar energy systems cost competitive with alternative forms of energy.

Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations. Existing law requires the PUC to require Pacific Gas and Electric Company, San Diego Gas and Electric, and Southern California Edison to identify a separate electrical rate component to fund programs that enhance system reliability and provide in-state benefits. This rate component is a nonbypassable element of local distribution and collected on the basis of usage. The funds are collected to support cost-effective energy efficiency and conservation activities, public interest research and development not adequately provided by competitive and regulated markets, and renewable energy sources. Existing law requires that 17.5% of the money collected under the renewable energy public goods charge be used for a multiyear, consumer-based program to foster the development of emerging renewable technologies in distributed generation application.

This bill would establish, until January 1, 2016, the Low-Income Housing Development Revolving Loan Program (program) to help finance solar energy systems, as defined, in eligible low-income housing located in the service areas of an electrical corporation. The bill would create the Low-income Housing Development Revolving Loan Program Fund (fund), which would be continuously appropriated, for the purpose of providing loans for program purposes, thereby making an appropriation.

The bill would require the Energy Commission to consider and evaluate the level of funding necessary to adequately fund the program to achieve the goal of placing solar energy systems on low-income or affordable housing units during the first year of the program. The bill would provide that a certain amount of moneys from the Emerging Renewable Resources Account and the self-generation incentive program for distributed generation resources would be transferred to the fund.

The bill would prescribe requirements for repayment of allocations made pursuant to the program and would authorize the Department of

Finance to audit the expenditure of an allocation or the computation of specified payments.

~~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. Existing law requires that 17.5% of the funds collected to accomplish the funding of in-state operation and development of existing, new, and emerging renewable resources technologies be used for a multiyear, consumer-based program to foster the development of emerging renewable technologies in distributed generation applications by providing monetary rebates, buydowns, or equivalent incentives. Existing law requires the Energy Commission to establish a separate rebate for eligible distributed emerging technologies for affordable housing projects, and authorizes the Energy Commission to adjust the amount of the rebate based on the capacity of the system, if the commission determines the occupants should have individual meters, but allows the system to receive a rebate of the total installed costs.~~

~~This bill would instead authorize the commission to adjust the amount of the rebate based on the capacity of the system and the anticipated rebate funding level to stimulate increased participation from affordable housing projects.~~

~~Existing law authorizes the commission to establish a reasonable limit on the total amount of funds dedicated for these purposes.~~

~~This bill would instead authorize the commission to establish a reasonable minimum funding level or limit.~~

Vote: ~~majority~~ *2/3*. Appropriation: ~~no~~ *yes*. Fiscal committee: yes. State-mandated local program: no.

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

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

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

(b) Solar generated electricity is uniquely suited to California's needs because it produces electricity when California needs it most, during the peak demand hours in

summer afternoons when the sun is brightest and air conditioners are running at capacity.

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

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

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

(f) Investing in low-income housing solar electricity generation installations today will lower the cost of solar generated electricity for all Californians in the future.

(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) Establishing a Low-Income Housing Development Revolving Loan Program would be 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) A 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.

(j) 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) "Allocation" means a loan of funds by the commission pursuant to this chapter.

(b) "Building" means any existing or planned structure for residential uses that includes a heating or cooling system, or both. Additions to an original building shall be considered part of that building rather than a separate building.

(c) "Electrical corporation" has the meaning set forth in Section 218 of the Public Utilities Code.

(d) "Energy conservation measure" means an installation or modification of an installation of a solar energy system in a building or a housing unit that is primarily intended to reduce energy consumption.

(e) "Energy conservation project" means an undertaking to acquire and to install one or more energy conservation measures in a building or a housing unit, and technical assistance in connection with that undertaking.

(f) "Fund" means the Low-Income Housing Development Revolving Loan Program Fund created by Section 25461.

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

(h) "Program" means the Low-Income Housing Development Revolving Loan Program created by Section 25460.5.

(i) "Solar energy system" means a solar energy device that has the primary purpose of providing for the collection and distribution of solar energy for the generation of electricity that is qualified by the commission for participation in the program.

(j) "Technical assistance" means assistance including, but not limited to:

(1) Conducting specialized studies identifying and specifying energy savings and related cost savings that are likely to be realized as a result of the acquisition and installation of one or

more specified energy conservation measures in the building or facility, or as a result of both.

(2) Planning of specific remodeling, renovation, repair, replacement, or insulation projects related to the installation of energy conservation measures in the building or housing unit.

25460.5. The Low-Income Housing Development Revolving Loan Program is hereby established. The purposes of the program are as follows:

(a) To provide a source of funding to help finance energy conservation projects, not to exceed 75 percent of the total costs of the solar energy systems, in low-income residential housing units located in the service areas of an electrical corporation that are not already covered by the rebate program established pursuant to Section 25401.6.

(b) To be a cost-effective investment by ratepayers in peak electricity generation capacity that enables ratepayers to recoup the cost of their investment through lower rates as a result of avoiding purchases of electricity at peak rates generated by traditional powerplants and peaker generation units, with additional system reliability and pollution reduction benefits.

25461. (a) The Low-Income Housing Development Revolving Loan Program Fund is hereby created in the State Treasury for the purpose of providing loans for purposes of the program. Notwithstanding Section 13340 of the Government Code, the fund is continuously appropriated to the commission without regard to fiscal year.

(b) The moneys in the fund shall consist of both of the following:

(1) Moneys from sources set forth in Section 25461.5 or 25461.7, as appropriate.

(2) Moneys authorized by or required to be deposited in the fund by the Legislature and moneys received by the commission pursuant to subdivision (d) of Section 25462.5, or Section 25463.5 or 25464.

(c) The commission shall administer the fund.

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

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

(f) The money in the fund shall be disbursed by the Controller for the purposes of this chapter as authorized by the commission.

(g) The commission may contract and provide grants for services to be performed for energy conservation projects meeting the requirements of Section 25462. Services may include, but are not limited to, feasibility analysis, project design, field assistance, technical assistance, operation, and training. The amount expended for those services may not exceed 10 percent of the balance of the fund as determined by the commission on July 1 of each year.

(h) The commission may make grants for innovative projects and programs. The amount expended for grants may not exceed 5 percent of the annual appropriation from the account.

25461.5. (a) The commission shall consider and evaluate the level of funding that is necessary to adequately fund the program to achieve the goal of placing solar energy systems on low-income or affordable housing units during the first year of the program.

(b) (1) The commission shall transfer 50 percent of the amount identified pursuant to subdivision (a) from the Emerging Renewable Resources Account established pursuant to paragraph (3) of subdivision (b) of Section 25751.

(2) The amount transferred shall not exceed 10 percent of the overall funds in the account as of July 1, 2005.

(c) (1) The Public Utilities Commission shall transfer 50 percent of the amount identified pursuant to subdivision (a) from the self-generation incentive program for distributed generation resources originally established pursuant to Chapter 329 of the Statutes of 2000.

(2) The amount transferred shall not exceed 10 percent of the overall funds in the self-generation incentive program for distributed generation resources as of July 1, 2005.

(d) This section shall not be operative if Senate Bill 1 of the 2005-06 Regular Session is enacted and becomes effective on or before January 1, 2006.

25461.7. (a) Notwithstanding subdivision (f) of Section 25782, as added to the Public Resources Code by Senate Bill 1 of the 2005-06 Regular Session, the commission shall provide proportional program support, not to exceed 10 percent of the overall funds for the Million Solar Roofs Initiative, for the implementation of this chapter.

(b) This section shall become operative if Senate Bill 1 of the 2005-06 Regular Session is enacted and becomes effective on or before January 1, 2006.

25462. (a) To be eligible for participation in the program, a building or housing unit shall satisfy all of the following:

(1) Be low-income housing.

(2) Be within the service area of an electrical corporation.

(3) Be at least 10 percent more energy efficient than required by the current standards specified in the California Building Standards Code contained in Part 6 (commencing with Section 100) of Title 24 of the California Code of Regulations, or have implemented measures to reduce the energy use of the building or housing unit by 10 percent, as calculated pursuant to compliance models set forth in Part 6 (commencing with Section 100) of Title 24 of the California Code of Regulations.

(b) An eligible building or housing unit that exceeds energy efficiency standards required by Part 6 (commencing with Section 100) of Title 24 of the California Code of Regulations by more than 10 percent shall receive financing at rate of .25 percent lower for every 5 percent additional improvement in energy efficiency.

25462.5. (a) An applicant may submit an application to the commission for an allocation for the purpose of financing all or a portion of the costs incurred in implementing an energy conservation project. The application shall be in the form and contain the information that the commission shall prescribe.

(b) An application may be for the purpose of financing the applicant's share of the costs for implementing an energy conservation project that are to be jointly funded through a state, local, or federal-local program.

(c) The commission may approve an application if the applicant has furnished information satisfactory to the commission showing both of the following:

(1) That the building or housing is eligible pursuant to Section 25462.

(2) That the costs of the energy conservation project, plus interest on state funds loaned, calculated in accordance with Sections 25463 and 25463.5, will be covered by the savings in the cost of energy during the repayment period of the allocation. The savings shall be calculated in a manner prescribed by the commission.

(d) The commission shall establish and collect a fee for each application for an allocation authorized by this chapter. The fee shall be set at a level that is sufficient to reimburse the commission for the cost of processing the application. In addition, the agency shall establish a schedule of fees, or points, for allocations that are entered into by the commission, to fund the commission's administration of the program.

25463. Annually at the conclusion of each fiscal year, but not later than October 31, each applicant that has received an allocation pursuant to this chapter shall compute the cost of the energy saved as a result of implementing the energy conservation project funded by the allocation. The cost shall be calculated in a manner prescribed by the commission.

25463.5. (a) An applicant receiving an allocation pursuant to this chapter shall repay the principal amount of the allocation, plus interest, in not more than 30 equal semiannual payments, as determined by the commission. The first semiannual payment shall be made on or before December 22 of the fiscal year following the year in which the energy conservation project is completed. The repayment period may not exceed the life of the equipment, as determined by the commission, or the time period in which the building or housing unit where the energy conservation measures will be installed maintain its low-income housing status.

(b) Notwithstanding any other provision of law, the commission shall, unless it determines that the purposes of this chapter would be better served by establishing an alternative interest rate schedule, periodically set interest rates on the loans based on surveys of existing financial markets and at rates not less than 3 percent per annum.

(c) The applicant receiving an allocation pursuant to this chapter shall annually budget an amount at least sufficient to

make the semiannual payments required in this section. The amount shall not be raised by the levy of additional taxes but shall instead be obtained by a savings in energy costs or other sources.

25464. All interest accruing on interest payments from a housing project shall be deposited in the fund.

25464.5. (a) An allocation made pursuant to this chapter shall be used for the purposes specified in an approved application.

(b) If the commission determines that an allocation has been expended for purposes other than those specified in an approved application, it shall immediately request the return of the full amount of the allocation. The applicant shall immediately comply with that request.

25465. (a) In furtherance of the purposes of the commission as set forth in this chapter, the commission may do all of the following:

(1) Borrow money, for the purpose of obtaining funds to make loans pursuant to this chapter, from the California Economic Development Financing Authority, the California Infrastructure and Economic Development Bank, and the California Consumer Power and Conservation Financing Authority from the proceeds of revenue bonds issued by any of those agencies.

(2) Pledge, to provide collateral in connection with the borrowing of money pursuant to paragraph (1), loans made pursuant to this chapter or Chapter 5.4 (commencing with Section 25440), or the principal and interest payments on loans made pursuant to this chapter or Chapter 5.4 (commencing with Section 25440).

(3) Sell loans made pursuant to this chapter or Chapter 5.4 (commencing with Section 25440), at prices determined in the sole discretion of the commission, to the California Economic Development Financing Authority, the California Infrastructure and Economic Development Bank, and the California Consumer Power and Conservation Financing Authority to raise funds to enable the commission to make loans to eligible institutions.

(4) Enter into loan agreements or other contracts necessary or appropriate in connection with the pledge or sale of loans pursuant to paragraph (2) or (3), or the borrowing of money as provided in paragraph (1), containing any provisions that may

be required by the California Economic Development Financing Authority, the California Infrastructure and Economic Development Bank, or the California Consumer Power and Conservation Financing Authority as conditions of issuing bonds to fund loans to, or the purchase of loans from, the commission.

(b) In connection with the pledging of loans, or of the principal and interest payment on loans, pursuant to paragraph (2) of subdivision (a), the commission may enter into pledge agreements setting forth the terms and conditions pursuant to which the commission is pledging loans or the principal and interest payment on loans, and may also agree to have the loans held by bond trustees or by independent collateral or escrow agents and to direct that payments received on those loans be paid to those trustee, collateral, or escrow agents.

(c) The commission may employ financial consultants, legal advisers, accountants, and other service providers, as may be necessary in its judgment, in connection with activities pursuant to this chapter.

(d) Notwithstanding any other provision of law, this chapter provides a complete, separate, additional, and alternative method for implementing the measures authorized by this chapter, including the authority of the applicant to have borrowed and to borrow in the future pursuant to loans made pursuant to this chapter or Chapter 5.4 (commencing with Section 25440), and is supplemental and additional to powers conferred by other laws.

(e) To establish qualifications and priorities, consistent with the objectives of this chapter, for making allocations.

(f) To establish procedures and policies that may be necessary for the administration of this chapter.

25465.5. The commission may expend from the fund an amount to pay for the actual administrative costs incurred by the commission pursuant to this chapter. That amount shall not exceed 5 percent of the total appropriation, to be held in reserve and used to defray costs incurred by the commission for allocations made by the commission pursuant to this chapter.

25466. The Department of Finance, at its discretion, may audit the expenditure of any allocation made pursuant to this chapter or the computation of any payment made pursuant to Section 25463.5.

25466.5. (a) Except as provided in subdivision (b), this chapter shall remain in effect only until January 1, 2016, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2016, deletes or extends that date.

(b) All loans outstanding as of January 1, 2016, shall continue to be repaid on a semiannual basis, as specified in Section 25463.5, until paid in full. All unexpended moneys in the fund on January 1, 2016, and thereafter, except to the extent those funds are encumbered pursuant to this chapter, shall revert to the General Fund.

~~SECTION 1. Section 25401.6 of the Public Resources Code is amended to read:~~

~~25401.6. (a) In its administration of Section 25744, the commission shall establish a separate rebate for eligible distributed emerging technologies for affordable housing projects including, but not limited to, projects undertaken pursuant to Section 50052.5, 50053, or 50199.4 of the Health and Safety Code. In establishing the rebate, where the commission determines that the occupants of the housing shall have individual meters, the commission may adjust the amount of the rebate, based on the capacity of the system and the anticipated rebate funding level, to stimulate increased participation from affordable housing projects, provided that the rebate does not exceed the total installed cost. The commission may establish a reasonable minimum funding level or limit on the total amount of funds dedicated for purposes of this section.~~

~~(b) It is the intent of the Legislature that this section fulfills the purpose of paragraph (5) of subdivision (b) of Section 25744.~~

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