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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 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: 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~~ *moneys* 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 and would require the moneys in the fund to be continuously annually appropriated by the Legislature, and used 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 for each fiscal 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.

Vote: $\frac{2}{3}$ -majority. Appropriation: ~~yes~~-no. Fiscal committee: yes. State-mandated local program: no.

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.

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

30 (h) Establishing a Low-Income Housing Development
31 Revolving Loan Program would be a cost-effective investment
32 by ratepayers in peak electricity generation capacity, because as
33 a result of the program ratepayers will recoup the cost of their

1 investment through lower rates by avoiding purchases of
2 electricity at peak rates, with additional system reliability and
3 pollution reduction benefits.

4 (i) A loan program would further establish, increase, and
5 modify incentives and provide financing mechanisms for energy
6 efficiency and photovoltaic capabilities for subsidized and
7 affordable housing, and establish “zero energy homes” as a goal
8 for low-income and affordable housing residents.

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

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

15
16 ~~CHAPTER 5.6. LOW-INCOME HOUSING DEVELOPMENT~~
17 ~~REVOLVING LOAN PROGRAM~~
18

19 *CHAPTER 5.6. LOW-INCOME HOUSING DEVELOPMENT*
20 *REVOLVING LOAN PROGRAM*
21

22 25460. As used in this chapter, the following terms have the
23 following meanings:

24 (a) “Allocation” means a loan of funds by the commission
25 pursuant to this chapter.

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

30 (c) “Electrical corporation” has the meaning set forth in
31 Section 218 of the Public Utilities Code.

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

36 (e) “Energy conservation project” means an undertaking to
37 acquire and to install one or more energy conservation measures
38 in a building or a housing unit, and technical assistance in
39 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

1 Treasury and, upon annual appropriation by the Legislature,
2 shall be used for the purpose of providing loans for purposes of
3 the program. ~~Notwithstanding Section 13340 of the Government~~
4 ~~Code, the fund is continuously appropriated to the commission~~
5 ~~without regard to fiscal year.~~

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

8 (1) Moneys from sources set forth in Section 25461.5 or
9 25461.7, as appropriate.

10 (2) Moneys authorized by or required to be deposited in the
11 fund by the Legislature and moneys received by the commission
12 pursuant to subdivision (d) of Section 25462.5, or Section
13 25463.5 or 25464.

14 (c) The commission shall administer the fund.

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

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

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

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

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

37 25461.5. (a) ~~The~~ During each fiscal year, the commission
38 shall consider and evaluate the level of funding that is necessary
39 to adequately fund the program to achieve the goal of placing

1 solar energy systems on low-income or affordable housing units
2 ~~during the first year of the program~~ *for the following fiscal year.*

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

7 (2) The amount transferred shall not exceed 10 percent of the
8 overall funds in the account as of July 1, ~~2005~~ *of the fiscal year*
9 *for which the determination in subdivision (a) is made.*

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

15 (2) The amount transferred shall not exceed 10 percent of the
16 overall funds in the self-generation incentive program for
17 distributed generation resources as of July 1, ~~2005~~ *of the fiscal*
18 *year for which the determination in subdivision (a) is made.*

19 (d) This section shall not be operative if Senate Bill 1 of the
20 2005-06 Regular Session is enacted and becomes effective on or
21 before January 1, 2006.

22 25461.7. (a) Notwithstanding subdivision (f) of Section
23 25782, as added to the Public Resources Code by Senate Bill 1 of
24 the 2005-06 Regular Session, the commission shall provide
25 proportional program support, not to exceed 10 percent of the
26 overall funds for the Million Solar Roofs Initiative, for the
27 implementation of this chapter.

28 (b) This section shall become operative if Senate Bill 1 of the
29 2005-06 Regular Session is enacted and becomes effective on or
30 before January 1, 2006.

31 25462. (a) To be eligible for participation in the program, a
32 building or housing unit shall satisfy all of the following:

33 (1) Be low-income housing.

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

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

1 compliance models set forth in Part 6 (commencing with Section
2 100) of Title 24 of the California Code of Regulations.

3 (b) An eligible building or housing unit that exceeds energy
4 efficiency standards required by Part 6 (commencing with
5 Section 100) of Title 24 of the California Code of Regulations by
6 more than 10 percent shall receive financing at a rate of 0.25
7 percent lower for every 5 percent additional improvement in
8 energy efficiency.

9 25462.5. (a) An applicant may submit an application to the
10 commission for an allocation for the purpose of financing all or a
11 portion of the costs incurred in implementing an energy
12 conservation project. The application shall be in the form and
13 contain the information that the commission shall prescribe.

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

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

21 (1) That the building or housing is eligible pursuant to Section
22 25462.

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

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

36 25463. Annually at the conclusion of each fiscal year, but not
37 later than October 31, each applicant that has received an
38 allocation pursuant to this chapter shall compute the cost of the
39 energy saved as a result of implementing the energy conservation

1 project funded by the allocation. The cost shall be calculated in a
2 manner prescribed by the commission.

3 25463.5. (a) An applicant receiving an allocation pursuant to
4 this chapter shall repay the principal amount of the allocation,
5 plus interest, in not more than 30 equal semiannual payments, as
6 determined by the commission. The first semiannual payment
7 shall be made on or before December 22 of the fiscal year
8 following the year in which the energy conservation project is
9 completed. The repayment period may not exceed the life of the
10 equipment, as determined by the commission, or the time period
11 in which the building or housing unit where the energy
12 conservation measures will be installed maintain its low-income
13 housing status.

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

20 (c) The applicant receiving an allocation pursuant to this
21 chapter shall annually budget an amount at least sufficient to
22 make the semiannual payments required in this section. The
23 amount shall not be raised by the levy of additional taxes but
24 shall instead be obtained by a savings in energy costs or other
25 sources.

26 25464. All interest accruing on interest payments from a
27 housing project shall be deposited in the fund.

28 25464.5. (a) An allocation made pursuant to this chapter
29 shall be used for the purposes specified in an approved
30 application.

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

36 25465. (a) In furtherance of the purposes of the commission
37 as set forth in this chapter, the commission may do all of the
38 following:

39 (1) Borrow money, for the purpose of obtaining funds to make
40 loans pursuant to this chapter, from the California Economic

1 Development Financing Authority, the California Infrastructure
2 and Economic Development Bank, and the California Consumer
3 Power and Conservation Financing Authority from the proceeds
4 of revenue bonds issued by any of those agencies.

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

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

18 (4) Enter into loan agreements or other contracts necessary or
19 appropriate in connection with the pledge or sale of loans
20 pursuant to paragraph (2) or (3), or the borrowing of money as
21 provided in paragraph (1), containing any provisions that may be
22 required by the California Economic Development Financing
23 Authority, the California Infrastructure and Economic
24 Development Bank, or the California Consumer Power and
25 Conservation Financing Authority as conditions of issuing bonds
26 to fund loans to, or the purchase of loans from, the commission.

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

36 (c) The commission may employ financial consultants, legal
37 advisers, accountants, and other service providers, as may be
38 necessary in its judgment, in connection with activities pursuant
39 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~~ *The commission may* establish qualifications and priorities, consistent with the objectives of this chapter, for making allocations.

(f) ~~To~~ *The commission may* 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.