

AMENDED IN SENATE APRIL 9, 2012

SENATE BILL

No. 1465

Introduced by Senator Yee
(Coauthor: Senator Correa)

*(Coauthors: Assembly Members Ammiano, Blumenfield, Huffman, and
Wieckowski)*

February 24, 2012

An act to add Title 10.5 (commencing with Section 91700) to the Government Code, relating to state government, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1465, as amended, Yee. California Agriculture and ~~Clean Energy~~ ~~(solar energy), biotech~~ *Renewable Energy* Export Loan Guarantee Financing Program.

~~The California Industrial Development Financing Act establishes the California Industrial Development Financing Advisory Commission~~ *Pollution Control Financing Authority Act establishes the California Pollution Control Financing Authority*, consisting of the Treasurer, the Controller, *and* the Director of Finance, ~~the Secretary of Business, Transportation and Housing, and the Commissioner of Corporations.~~

This bill would create the California Agriculture and ~~Clean Energy~~ ~~(solar energy), biotech~~ *Renewable Energy* Export Loan Guarantee Financing Program, to be implemented by the ~~commission~~ *California Pollution Control Financing Authority*, to provide small businesses, as defined, with financial and technical assistance *on export opportunities and techniques, as specified*. This bill would also create the Export Financing Advisory Board, consisting of 11 members appointed by the Legislature, the Governor, and specified state officials, to advise the

~~commission~~ authority on trends and opportunities in export financing. Members of the board will serve at the pleasure of their appointing authority and ~~serve~~ without compensation. This bill would also create the Export Development Fund, a continuously appropriated fund for the purposes of the program. By creating a continuously appropriated fund and providing for the deposit of moneys into the fund, this bill would make an appropriation.

Vote: 2/3. Appropriation: yes. 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) The great recession that began in 2007 has severely eroded
4 California’s economy, and the state must restore the agricultural
5 and ~~clean energy (solar energy), biotech~~ *renewable energy*
6 manufacturing and production sectors by retaining jobs and
7 promoting job growth in those sectors, while improving revenue
8 collections through an export financing loan guarantee program
9 for those sectors.

10 (b) International trade and expanding export markets have been
11 an important part of California’s economic prosperity over the last
12 60 years. This legislation is necessary to assist California’s most
13 successful and promising new and emerging businesses and
14 industries secure markets outside of the United States. The credit
15 support provided by this legislation is necessary to facilitate
16 expansion of financially secure businesses and industries that have
17 insufficient international experience or access to credit to secure
18 financing from private sources. The credit support provided by
19 this legislation will be used to facilitate export expansion and is
20 intended to be targeted to new or emerging ventures and provide
21 temporary assistance.

22 SEC. 2. Title 10.5 (commencing with Section 91700) is added
23 to the Government Code, to read:

24
25 TITLE 10.5. CALIFORNIA AGRICULTURE AND ~~CLEAN~~
26 ENERGY (SOLAR ENERGY), BIOTECH *RENEWABLE*

1 ENERGY EXPORT LOAN GUARANTEE FINANCING
2 PROGRAM

3
4 91700. The following definitions shall apply to this title:

5 (a) "Authority" means the California Pollution Control
6 Financing Authority, established pursuant to Section 44515 of the
7 Health and Safety Code.

8 (a)

9 (b) "Board" means the Export Financing Advisory Board.

10 ~~(b) "Commission" means the California Industrial Development~~
11 ~~Financing Advisory Commission established pursuant to Section~~
12 ~~91550.~~

13 (c) "Director" means the Executive Director of the California
14 Agriculture and Clean Energy (solar energy), biotech Export Loan
15 Guarantee Financing Program ~~Pollution Control Financing~~
16 ~~Authority.~~

17 (d) "Financial institution" means any bank or savings and loan
18 association regulated by the state or the federal government, ~~any~~
19 ~~insurance company authorized to transact business in the state,~~
20 ~~and or~~ any personal property broker or industrial loan company
21 that is regulated under state law.

22 (e) "Program" means the California Agriculture and ~~Clean~~
23 ~~Energy (solar energy), biotech Renewable Energy~~ Export Loan
24 Guarantee Financing Program.

25 (f) "Small business" means an independently owned and
26 operated business that meets all of the following:

27 (1) Primarily engaged in agricultural support, production,
28 processing, and distribution or ~~clean energy renewable energy~~
29 manufacturing and production.

30 (2) Not dominant in its field of operation.

31 (3) The principal office is located in California and the officers
32 are domiciled in California.

33 (4) Together with affiliates it has 100 or fewer employees and
34 has average gross receipts of ten million dollars (\$10,000,000) or
35 less over the previous three years.

36 (5) Creates and sells products that are at least 85 percent
37 produced and manufactured in California.

38 91701. The California Agriculture and ~~Clean Energy (solar~~
39 ~~energy), biotech Renewable Energy~~ Export Loan Guarantee
40 Financing Program is hereby established in the California ~~Industrial~~

1 ~~Development Financing Advisory Commission~~ *Pollution Control*
2 *Financing Authority*. The purpose of the program is to expand
3 employment and income opportunities through increased exports
4 of California goods, services, and agricultural commodities *and*
5 *renewable energy manufacturing and production* by providing
6 small businesses with financial and technical assistance on export
7 opportunities, exporting techniques, and financial assistance in
8 support of export transactions.

9 91702. The ~~commission~~ *authority* shall do all of the following:

10 (a) Implement this title and promulgate rules and regulations
11 necessary to carry out the responsibilities under this title, including,
12 but not limited to, establishing the program to ~~insure, coinsure,~~
13 ~~and~~ provide loan guarantees to support export transactions. The
14 ~~commission~~ *authority* shall ensure that the program conforms to
15 international trade agreements of the United States.

16 (b) Create advisory groups as necessary to carry out the powers
17 and duties of the program.

18 (c) Publish an annual report critiquing the program, the
19 continued need for the program, and recommended changes to the
20 program. The report shall include, but not be limited to, an
21 evaluation of the program's impact on all of the following:

- 22 (1) Jobs created in the state by every program participant.
- 23 (2) Participation of private banks in export financing programs.
- 24 (3) Access by firms located in the state to federal export
25 financing programs.
- 26 (4) Export volume of firms located in the state.
- 27 (5) Other economic and social benefits to the state.

28 (d) Adopt criteria establishing which exporters and export
29 transactions shall be eligible for the ~~insurance, coinsurance, and~~
30 loan guarantees as may be extended by the ~~commission~~ *authority*.
31 Pursuant to this subdivision, the ~~commission~~ *authority* shall adopt
32 regulations to ensure that all of the following criteria are met:

- 33 (1) Borrowers have a minimum equity interest in the business
34 as determined by the ~~commission~~ *authority*.
- 35 (2) The loan guarantees, ~~insurance, and coinsurance~~ are extended
36 exclusively to support the export of goods, services, and
37 agricultural commodities *or renewable energy products* produced
38 or grown primarily in the state by companies or agricultural
39 enterprises commercially domiciled in the state, as defined in

1 subdivision (b) of Section 25120 of the Revenue and Taxation
2 Code.

3 (3) That financing assistance using state funds shall be extended
4 only if at least one of the following circumstances is met:

5 (A) Assistance is part of a state match that may be required to
6 secure participation of California *renewable energy* firms or
7 agricultural enterprises in federal, state, or private financing
8 programs.

9 (B) If adequate financing assistance is not readily available from
10 public or private sources in a timely manner.

11 (e) Adopt collateral or security requirements to ensure the
12 reasonable expectation of the full repayment of loan guarantees
13 ~~and solvency of any insurance and coinsurance program~~ extended
14 under this title and to assist in evaluating the program.

15 (f) Consider and approve or reject any and all extensions of
16 ~~insurance, coinsurance, or~~ loan guarantees under this title.

17 (g) In order to expedite the implementation of this title, if a loan
18 guarantee does not exceed one hundred thousand dollars
19 (\$100,000), the ~~commission~~ *authority* may elect to delegate this
20 approval ~~authority~~ *authorization* to the director. All approvals
21 made by the director pursuant to this paragraph shall be reported
22 to, and reviewed by, the ~~commission~~ *authority* at its next regular
23 meeting.

24 (h) Consult with the office of the Governor to ensure that the
25 respective loan guarantee programs are not duplicative and that
26 each program makes full use of, to the extent practicable, the
27 resources of the other.

28 (i) Work to secure a delegated line of ~~authority~~ *authorization*
29 from the ~~United States~~ Export-Import Bank *of the United States*
30 in order to take advantage of this possible new federal funding
31 source.

32 (j) Develop a streamlined application and review process.

33 91703. (a) The director shall administer the program and
34 perform any duties delegated by the ~~commission~~ *authority* and
35 shall exercise any other power as may be necessary to carry out
36 the purposes of this title. The director shall provide export finance
37 training for program staff and other individuals involved in export
38 finance assistance, including any training sessions as may be
39 provided by the ~~United States~~ Export-Import Bank *of the United*

1 *States*, the United States Department of Commerce, or other
2 organizations.

3 (b) The director shall have the power ~~and authority~~ to carry out
4 the following functions:

5 (1) To establish a network of contacts among those public and
6 private organizations that provide technical assistance and financial
7 support of exporting.

8 (2) To ~~insure, coinsure, and~~ guarantee loans related to qualified
9 export transactions pursuant to regulations adopted by the
10 ~~commission~~ *authority*.

11 (3) To seek public and private funding sources for the purpose
12 of guaranteeing loans.

13 (4) To coordinate to the maximum extent possible the efforts
14 of the program with programs and goals of the ~~United States~~
15 Export-Import Bank *of the United States*, United States Department
16 of Commerce, the United States Small Business Administration,
17 and other private and public programs designed to provide export
18 assistance and export-related financing.

19 (5) Certify that exporters who borrow more than two hundred
20 thousand dollars (\$200,000) create at least one job for each
21 increment thereof and retain those jobs through the repayment
22 period for the loan.

23 (6) Certify that exporters who borrow less than two hundred
24 thousand dollars (\$200,000) retain all jobs at the time of application
25 through repayment of the loan.

26 (7) Take any other related actions as may be appropriate and
27 necessary to facilitate sale of export accounts receivable for
28 exporters located in the state.

29 (c) The director shall provide administrative assistance to the
30 board.

31 91704. (a) The Export Financing Advisory Board is hereby
32 established. The purpose of the board is to advise the ~~commission~~
33 *authority* on trends and opportunities in export financing.

34 (b) The board shall consist of 11 members as follows:

35 (1) One member appointed by the Secretary of Food and
36 Agriculture who is knowledgeable about, and experienced in, the
37 exporting and export finance needs of California agriculture.

38 (2) Four members representing export firms, two each appointed
39 by the Governor and the Speaker of the Assembly, who are
40 experienced in exporting, knowledgeable about the needs and

1 problems of small and entrepreneurial exporters, and actively
2 employed with an exporting firm, export trading company, or
3 export management company.

4 (3) Four members representing financial institutions, two each
5 appointed by the Governor and the Senate Committee on Rules,
6 who shall be experienced in export financing, knowledgeable about
7 the export financing needs and problems of small and
8 entrepreneurial exporters, and actively employed with financial
9 institutions.

10 (4) Two members, one each appointed by the Treasurer and the
11 Controller, who shall be accomplished credit evaluation
12 representatives experienced in analyzing financial statements, such
13 as loan applications, and in evaluating the creditworthiness of the
14 types of loans, loan guarantees, and firms that are likely to come
15 before the board.

16 (c) The appointing authorities described in subdivision ~~(a)~~ (b)
17 shall make their initial board appointments on or before April 1,
18 2013.

19 (d) Upon appointment of at least seven members under
20 subdivision ~~(a)~~ (b), the board may commence formal action
21 pursuant to this title, but in no case shall this be later than June 1,
22 2013.

23 (e) The director shall call the initial meeting of the board and
24 serve as interim chair of the board until a chair has been elected.

25 (f) Board members shall serve at the pleasure of the appointing
26 authority and vacancies shall be filled by the appointing authority.

27 (g) Board members shall serve without compensation.

28 91705. ~~The commission authority~~ may charge fees, in amounts
29 it determines, for loan guarantees, ~~insurance, and other services~~
30 provided by the program. Fees shall be deposited into the Export
31 Development Fund, created pursuant to Section 91707.

32 91706. Loan guarantees ~~and insured export transactions~~ made
33 by the ~~commission authority~~ under the program shall be secured
34 by no less than 25 percent reserve in the Export Development Fund
35 established pursuant to Section 91707. ~~The commission authority~~
36 may require a higher reserve. ~~The commission authority~~ shall adopt
37 regulations on the terms and limits for loan guarantees, but a loan
38 guarantee shall not exceed any of the following:

39 (a) Ninety percent of the required financing. However, the
40 ~~commission authority~~ may guarantee a higher percentage of the

1 required financing if there is evidence of lender credit exposure
2 and adequate analysis of foreign commercial and political risk.

3 (b) One million dollars (\$1,000,000).

4 (c) The lesser of two years or the useful life of the product.

5 91707. (a) The Export Development Fund is hereby established
6 in the State Treasury.

7 (b) The fund is created for the purpose of receiving the following
8 moneys for the purposes of this title:

9 (1) State, federal, and nonpublic moneys.

10 (2) ~~Insurance premiums and other fees~~ *Fees* earned by the
11 program.

12 (3) Recoveries and collections on claims paid by the program.

13 (4) Moneys received from the return of investments of money
14 in the fund.

15 (c) Notwithstanding Section 13340, moneys in the fund are
16 continuously appropriated, without regard to fiscal year, for the
17 purposes of this title.

18 91708. Moneys in the Export Development Fund shall be paid
19 out by the Treasurer on warrants drawn by the Controller upon
20 order of the ~~commission~~ *authority* in furtherance of the purposes
21 of this title, including the payment of claims under *a* loan guarantee
22 ~~and insurance programs, payments for reinsurance,~~ and payments
23 required by state, federal, or private export programs conducted
24 by the ~~commission~~ *authority*.

25 91709. This title shall be implemented only to the extent that
26 funding is available for that purpose.