

Date of Hearing: April 7, 2014

ASSEMBLY COMMITTEE ON BANKING AND FINANCE

Roger Dickinson, Chair

AB 2045 (Rendon) – As Introduced: February 20, 2014

SUBJECT: Energy improvements: financing.

SUMMARY: Establishes the Nonresidential Real Property Energy Retrofit Financing Act of 2014 (the Act) to be administered by the California Energy Commission (CEC) to create a financing program for energy efficiency improvements in nonresidential real property. Specifically, this bill:

- 1) States that the purpose is to facilitate private financing to enable nonresidential real property owners to invest in clean energy improvements, renewable energy, and conservation to incentivize private equity managers to invest in clean energy improvements, integrate the smart energy economy, and to stimulate the state economy by directly creating jobs.
- 2) Specifies that the Nonresidential Real Property Energy Retrofit Financing Program (the Program) shall provide the special benefits of water efficiency improvements, renewable energy improvements, and building energy efficiency improvements to owners of eligible real properties who voluntarily participate in the program by establishing, developing, financing, and administering a program to assist those owners in completing improvements.
- 3) Defines terms used in the Act, including in part:
  - a) "Alternative sources of energy" as energy from renewable cogeneration or gas-fired cogeneration technology that meets the greenhouse gas (GHG) emissions and efficiency standards in Self-Generation Incentive Program (SGIP), energy storage technologies, or energy from solar, biomass, wind or geothermal systems, or fuel cells. Specifies that alternative energy systems shall be sized appropriately to offset part or all of the applicant's electricity demand and shall be located on-site.
  - b) "Conventional energy fuel" as any of the following:
    - i) A fuel derived from petroleum deposits, as specified;
    - ii) Natural gas, including liquefied natural gas;
    - iii) Nuclear fissionable materials; and,
    - iv) Coal.
  - c) "Eligible real property" as a nonresidential building that completed construction on or before January 1, 2015 and located within the state.
  - d) "Energy remittance repayment agreement" (agreement) as a contractual agreement between an eligible real property owner and the CEC, secured by a lien, that establishes the repayment schedule, as specified.

- e) "Energy efficiency specialist" as an individual or business certified by the CEC to analyze, evaluate, or install a project.
  - f) "Financial assistance" as loans, loan loss reserves, interest rate reductions, secondary loan purchase, insurance, guarantees or other credit enhancements or liquidity facilities, contributions of money, property, labor, or other items of value, or any combination thereof, as determined by CEC, and other types of assistance determined by the CEC.
  - g) "Third-party administrator" as an entity selected by the CEC through a request for proposal to manage project applications and make recommendations to the CEC as to the individual project's compliance with this chapter.
  - h) "Warehouse financier" means a financial entity, bank, or pension fund, chosen by the CEC through a request for proposal to provide an ongoing and revolving source of financing for applications approved.
  - i) "Nonresidential Building Energy Retrofit Bond" as a bond issued pursuant to the Act that is secured by an energy remittance repayment agreement lien on real property and is entered into voluntarily to finance the project.
  - j) "Program administration cost fee" as a fee imposed for the costs incurred by CEC, California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA), and the State Board of Equalization (BOE) to administer the Act.
  - k) "Qualified applicant" as a person or business entity that:
    - i) Owns an eligible real property that has a ratio of loan balance to appraised value not to exceed 85 % and subject to adjustment by the Program administrator at the time the application is approved, unless the holder of the deed of trust or mortgage recorded against the eligible property "that has priority over all other deeds of trust or mortgages recorded against the eligible property has consented in writing to the recording of an agreement pursuant to the Act against the eligible property.
    - ii) Timely submits a complete application to CEC, which notes the existence of any first priority mortgage or deed of trust on the eligible property and the identity of the holder of the mortgage or deed of trust, and consents to the special assessment; and,
    - iii) Meets standards of credit worthiness as established by CEC.
  - l) "Renewable energy" as heat, processed heat, space heating, water heating, steam, space cooling, refrigeration, mechanical energy, electricity, fuel cells, or energy in any form convertible to these uses, including energy storage technologies, and that uses biomass, solar thermal, photovoltaic, wind, or geothermal technologies.
- 4) Requires CEC to establish, develop, finance and administer the Program, as well as:
- a) Within 6 months after the first two years of implementation of the Program or after the expenditure of the first \$250,000,000 of proceeds authorized, whichever occurs earlier, the CEC will make public a report of the efficacy of the Program and recommendations that

would enhance the ability of the Program. The report will be posted on its Internet Web site.

- 5) Provides that in order to receive financial assistance, a qualified applicant shall contractually agree to the recording of an energy remittance repayment agreement lien on the eligible real property that is being retrofitted or benefited.
- 6) Requires the CEC to develop by July 1, 2015 a request for proposal to develop the program by a third part administrator. Requires the third party administrator to administer the program and establish an automated, asset-based underwriting system for all eligible real properties in the state. In addition, the third party administrator shall:
  - a) Provide consultation to the CEC in developing guidelines for the Program,
  - b) Provide an independent energy advisor to assist owners of real properties in evaluating projects,
  - c) Provide a loan servicer to service the loans,
  - d) Establish underwriting guidelines,
  - e) Disclose to an owner of an eligible real property all fees imposed, including the loan loss reserve fee, the Program administration cost fee, and the interest rate charged, prior to the submission of an application by the owner; and,
  - f) Make recommendation to the CEC regarding the approval or disapproval of an application.
- 7) Specifies what information must be included in an application from an owner of an eligible real property.
- 8) Allows no more than 20 years or the effective useful life of the improvement for the repayment of the energy remittance repayment agreement
- 9) Requires the loan servicer to collect the repayment installments that become due and payable. Funds collected will be remitted to the CEC. The loan servicer will notify the board of delinquency.
- 10) Requires BOE to collect the repayment installments that are delinquent and funds collected shall be remitted to the commission. In addition, the BOE:
  - a) Shall assess liquidated damage on the delinquent repayment installment of 10% of the unpaid installment. If delinquent 60 days, the BOE will issue a demand letter and allowing an additional 30 days before the BOE commences further action;
  - b) Allows the BOE to perform the collection of delinquent repayment installments and the foreclosure duties as a ministerial function on behalf of the CEC; and,

- c) Allow the BOE to prescribe, adopt and enforce guidelines relating to the collection of the delinquent repayment installments.
- 11) Upon the full repayment of the balance of the agreement, including any interest and penalties, the BOE shall notify the CEC and record a release of the agreement with the county.
  - 12) Prior to approving an application or a modification of an approved application, requires CEC to conduct a public hearing, as specified. Specifies that the CEC approve an application by adopting a resolution and recording the agreement on the deed of the building, as specified.
  - 13) Requires CEC to consider the creditworthiness of the applicant and the effectiveness of the improvements using the following criteria:
    - a) Whether the applicants are legal owners of the underlying building;
    - b) Whether the applicants are current on any outstanding mortgage and property tax payments;
    - c) Whether the applicants are in default or in bankruptcy proceedings;
    - d) Whether the applicants have applied for incentives available through the energy efficiency programs offered by an electrical or gas corporation; and,
    - e) Whether improvements financed by the program follow applicable standards, including any guidelines adopted by CEC.
  - 14) Specifies that the agreement lien that is secured by a lien recorded, shall have a prominent header on the document that reads “Energy Remittance Repayment Agreement Lien” in 14-point type and contains all of the following information related to the affected real property:
    - a) The assessor’s parcel number;
    - b) The owners of record;
    - c) The legal description;
    - d) The street address; and,
    - e) The amount of the lien.
  - 15) Specifies that, the agreement lien shall have the force, effect, and priority of a judgment lien from the time of recording in the county where the real property is located.
  - 16) Sixty days after the notice of recording of the agreement, requires CEC to include the application in a portfolio posted on its website.
  - 17) Authorizes the Authority CAEATFA to issue \$2 billion in bonds for this program.

- 18) Beginning June 30, 2016, and every fifth year thereafter, requires the California State Auditor to conduct a performance audit of the Program and to report the results and recommendations to the President pro Tempore and the Speaker.
- 19) Authorizes CAEATFA, on behalf of CEC, to "incur indebtedness and issue and renew negotiable bonds, notes, debentures, or other securities of any kind or class" (bonds). Specifies that all indebtedness shall be payable solely from moneys received pursuant to the Act. Limits total indebtedness to \$2 billion unless the Legislature authorizes additional bonds.
- 20) Requires CAEATFA to conduct a semiannual meeting to authorize the issuance of bonds and establishes related requirements. Specifies that every issue of bonds shall be general obligations of CAEATFA or CEC payable from revenues or moneys received pursuant to the Act. Establishes various requirements and limitations relating to the management of the bonds.
- 21) Specifies that bonds issued pursuant to the Act shall not be deemed to constitute a debt or liability of the state or of any political subdivision thereof, other than CAEATFA, or a pledge of the faith and credit of the state or of any such political subdivision. States that all bonds be payable solely from funds obtained pursuant to the Act.
- 22) Authorizes CAEATFA to provide for the issuance of bonds for the purpose of refunding any bonds, notes, or other securities of (CAEATFA) then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the earliest or subsequent date of redemption, purchase, or maturity of such bonds. Specifies that any such bonds may be applied to refund other bonds may be used at maturity or placed in escrow.
- 23) Pending this use, specifies that any such escrowed proceeds may be invested and reinvested by CAEATFA in obligations of, or guaranteed by, the federal government, or in certificates of deposit or time deposits secured by obligations of, or guaranteed by, the federal government, maturing at such time to ensure the prompt payment of the outstanding bonds.
- 24) Specifies that bonds issued by CAEATFA are legal investments for all trust funds, the funds of all insurance companies, commercial and savings banks, trust companies, savings and loan associations, and investment companies, for executors, administrators, trustees, and other fiduciaries, for state school funds, and for any funds that may be invested in county, municipal, or school district bonds, as specified.
- 25) Exempts bonds issued under the Act from all taxation and assessments imposed under state law.
- 26) By February 1, 2015, requires CEC to apply to the US Department of Treasury under the Energy Tax Incentives Act of 2005 for CAEATFA to issue tax advantage bonds under the federal Clean Renewable Energy Bonds program or any other applicable program.
- 27) Establishes the Loan Loss Reserve Account in the Non Residential Real Property Energy Retrofit Debt Servicing Fund (the Fund) in the State Treasury, into which the CEC is required to deposit a portion of the repayment installation that is the loan loss reserve fee into the account. Continuously appropriates the Account to CAEATFA to pay outstanding balances due under an agreement on the building that has been foreclosed if the proceeds from the

foreclosure are insufficient to pay any past due payments.

- 28) Establishes the Administration Account in the Fund, into which CEC is required to deposit the administration fee and liquidated damages collected. Continuously appropriates these funds to CAEATFA, CEC, and the BOE for the costs of implementing the Act.
- 29) Authorizes CEC, the BOE, and CAEATFA to promulgate regulations to implement the Act.
- 30) Makes finding and declarations.

#### EXISTING LAW

- 1) Requires the CEC to establish criteria for adopting a statewide home energy rating program for residential buildings, and requires the CEC to adopt the program in consultation with representatives of the Department of Real Estate, the Department of Housing and Community Development, the PUC, investor-owned and municipal utilities, cities and counties, real estate licensees, home builders, mortgage lenders, home appraisers and inspectors, home energy rating organizations, contractors who provide home energy services, consumer groups, and environmental groups. [Public Resources Code 25943]
- 2) Establishes several natural gas public purpose programs, including a low-income rate assistance program, a research and development program, and energy efficiency programs, which are funded by a surcharge on natural gas bills of customers of pipelines regulated by the PUC. [Public Utilities Code 739]
- 3) Establishes subsidy programs for the installation of solar photovoltaic systems administered by the PUC and CEC. These programs, known collectively as the California Solar Initiative (CSI), are to provide \$3.2 billion in subsidies over 10 years in the form of rebates for the installation of photovoltaic projects. CSI authorizes the PUC to award \$101 million in subsidies for solar thermal and solar water heating devices. [Public Utilities Code 2851]
- 4) Establishes the Solar Hot Water and Efficiency Act of 2007 to fund the installation of 200,000 solar hot water systems in California by 2017. [Public Utilities Code 2860]
- 5) Establishes the SGIP within the PUC to incentivize clean, renewable distributed generation resources. [Public Utilities Code 379.6]
- 6) Requires the CEC to adopt an integrated energy policy report (IEPR) every two years to evaluate market trends and develop energy policies that will "conserve resources, protect the environment, ensure energy reliability, enhance the state's economy, and protect public health and safety." [Public Resources Code 25300]
- 7) Requires the PUC to have each electrical corporation identify a separate rate component to collect revenue to fund cost-effective energy efficiency and conservation activities. [Public Utilities Code 381]
- 8) Requires all electric utilities, in procuring energy, to first acquire all available energy efficiency and demand reduction resources that are cost effective, reliable, and feasible. [Public

Utilities Code 454.5(b)(9)(C)]

- 9) Under the California Constitution and the General Obligation Bond Law, authorizes the Legislature to issue general obligation bonds for specified purposes with a two-thirds vote of both the Senate and the Assembly. These bonds only become enacted if they are approved by a majority vote of the state's electorate. State law authorizes specified state agencies to issue revenue bonds and other credit instruments without voter approval. [Government Code 16720]
- 10) Authorizes the CAEATFA to provide financing for facilities that use alternative energy sources and technologies. CAEATFA can issue revenue bonds (without voter approval), make loans, loan loss reserves, and loan guarantees to develop and commercialize advanced transportation technologies that conserve energy, reduce air pollution, and promote economic development and jobs. State law limits CAEATFA's total debt to \$1 billion. [Public Resources Code 26011]

FISCAL EFFECT: Unknown.

COMMENTS:

AB 2045 creates a statewide financing program to support nonresidential (commercial) real property owners who wish to retrofit their properties with energy efficiency or renewable energy technology. Administered by the CEC, the measure establishes standards for financing energy retrofits. It is the hope that the CEC could pool the individual building financing into a large enough pool in order to obtain lower interest rates. The warehouse financier, defined in the measure as a financial entity, bank, or pension fund, chosen by the CEC through a request for proposal to provide an ongoing and revolving source of financing for applications approved, would be paid by the state revenue bonds. The loan payments to repay the revenue bonds would be collected by the loan servicer. If the individual financing goes into default, then the BOE would be able to exercise its authority to collect this debt to the state. Essentially, the goal of AB 2045 is to allow the CEC to bring commercial property owners together to gain the benefits of lower-cost financing.

The energy retrofit process starts with the commercial building owner presenting an energy improvement plan to a third-party administrator defined as an entity selected by the CEC through a request for proposal to manage project applications and make recommendations to the CEC as to the individual project's compliance. Once the application is submitted and approved, the third-party administrator: reviews plans for compliance with state efficiency guidelines by CEC; arranges financing through a warehouse line of credit, including a lien on the property; aggregates individual loans into a package that lowers risk and finance costs; and, then the State Treasurer issues revenue bonds for the package and pays off the warehouse loans, allowing money to be continuously borrowed.

NEED FOR THE BILL:

According to the author, AB 2045 is needed to accomplish three important actions that are necessary to significantly scale up energy retrofits on commercial buildings:

- 1) Creates statewide standards for energy retrofits.

- 2) Allows energy financing to combine to a size that attracts lower interest rates.
- 3) Gives the finance community assurances that the state will back up the collection.

Retrofitting commercial buildings has the potential to lower energy costs and increase the property value for nonresidential owners while reducing the carbon footprint.

### BACKGROUND

According to a Legislative Analyst's Office (LAO) report released December 19, 2012, titled, "Energy Efficiency and Alternative Energy Programs," California currently maintains over a dozen major programs that are intended to support the development of energy efficiency and alternative energy in the state. Over the past 10 to 15 years, the state has spent a combined total of roughly \$15 billion on such efforts, the vast majority of which has been funded by utility ratepayers. The LAO recommended that the Legislature develop a comprehensive strategy for meeting the state's energy efficiency and alternative energy objectives. Given that the state has numerous programs administered by multiple departments, the LAO recommended that the Legislature designate a lead agency to develop such a comprehensive strategy such as CEC. Accordingly, the LAO recommended that the Legislature adopt legislation requiring CEC to develop, in coordination with other relevant departments (such as PUC and the Air Resources Board (ARB)) - a comprehensive strategy to be submitted for legislative consideration by January 2014 with the Governor's proposed budget.

### AB 2045 AS IT RELATES TO THE BANKING AND FINANCE COMMITTEE:

AB 2045 establishes that the energy remittance repayment agreement lien shall have a prominent header on the document that reads "Energy Remittance Repayment Agreement Lien" in 14-point type and contains all of the following information related to the affected real property: the assessor's parcel number; the owners of record, the legal description, the street address; and, the amount of the lien.

In addition the measure clearly states, "The energy remittance agreement lien shall have the force, effect, and priority of a judgment lien from the time of recording in the county where the real property is located." If a commercial property has any mortgage liens, these liens will come before the energy remittance repayment agreement and take priority. This is very unique because it seems most energy efficiency financing programs such as the Property Assessed Clean Energy (PACE); the lien takes priority over any mortgage lien.

AB 2045 also provides that the lien will stay with the property so if the commercial property forecloses, the new owner will be responsible for all past due payments, unless somehow all payments are taken care of through foreclosure proceedings.

As far as the bond process, under AB 2045, CAEATFA would issue bonds for the program proposed under the bill. The administration of the program (evaluating and approval of the applicants into the loan program and other front-end work) would reside with CEC. CAEATFA's role would be in the back-end through issuance of a bond to replenish the moneys for the program. CAEATFA's board consists of the Treasurer, Controller, Director of Finance, Chair of the CEC and President of the PUC, which determines which projects to receive funding.



PACE Programs:

PACE is an important program to note because it has similarities to AB 2045. It is a program to finance energy efficiency and renewable energy upgrades to buildings. Interested property owners evaluate measures that achieve energy savings and receive 100% financing, repaid as a property tax assessment for up to 20 years. The assessment mechanism has been used nationwide for decades to access low-cost long-term capital to finance improvements to private property that meet a public purpose. PACE is voluntary. Property owners, acting in their own self-interest, implement building upgrades that can save them money, increase the value of their property. PACE was introduced as a pilot program in 2008. Today, 28 states and the District of Columbia adopted legislation that enables local governments to offer PACE benefits to building owners. PACE is available for residential and commercial buildings. California enacted the PACE model in statute through AB 811 in 2008.

Unfortunately, in 2010, the Federal Housing Finance Agency (FHFA) brought forward concerns with PACE. Federally controlled Fannie Mae and Freddie Mac told lenders that they would refuse loans associated with PACE. Regulators also asked state and local governments to put the programs on hold, claiming that first liens for PACE loans were a departure from traditional mortgage lending standards and present “unusual and difficult risk management challenges” for lenders, servicers and mortgage securities investors. The FHFA ruling has effectively ended residential PACE financing, with many local governments suspending their programs as a result. Commercial PACE programs were not affected by the FHFA decision and have been moving forward in various places.

A federal district court in California while not ordering the FHFA to reverse its current position on underwriting mortgages for properties with a PACE assessment, directed the agency to proceed with a notice and comment period for rulemaking. In March, 2013, the U.S. Court of Appeals for the Ninth Circuit overturned a District Court ruling and dismissed a case against the FHFA, which was undergoing a court-ordered rulemaking procedure on Enterprise Underwriting Standards for PACE programs. The appeals court held that FHFA acted within its role as "conservator" of Fannie Mae and Freddie Mac (as opposed to a role of "regulator") when it issued a decision in 2011 to cease purchasing mortgages on PACE properties. The appeals court therefore concluded that it had no jurisdiction in the matter, as the Housing and Economic Recovery Act of 2008 that created FHFA stated that any action the Agency took in its role as a "conservator" could not be challenged in court. This argument was the basis of FHFA's motion to dismiss the lawsuit, however the lower court found that FHFA acted as a "regulator" in issuing its decision and needed to undergo a rulemaking process. Despite an effective ban on residential PACE programs, states continue to enact laws enabling commercial PACE programs, and many communities across the country have implemented such programs.

BOE ROLE:

As drafted, this measure provides a great deal of responsibility to the BOE. AB 2045 requires the BOE to collect delinquent repayment installments while a loan servicer chosen by the third party administrator will collect current payments. The bill also allows the BOE to prescribe, adopt, and enforce guidelines relating to the collection of the energy remittance repayment installments. AB 2045, causes more confusion by having one entity collect payments but then once a payment is delinquent, in then diverts to BOE who would then be responsible to collect past due payments and

potentially foreclose. BOE currently is responsible for administering tax programs such as sales and use taxes, property taxes, special taxes and the tax appellate programs. The BOE is a revenue generating department for the State of California. Overall, the mission of the BOE is to serve the public through fair, effective, and efficient tax administration. While the BOE is fully capable of collecting taxes, what AB 2045 provides is not a tax; it is an energy remittance repayment agreement which as defined is a contractual agreement between an eligible building owner and CEC, secured by a lien that establishes the repayment schedule. AB 2045 also allows the BOE to contract out to a foreclosure service provider if needed. This raises a number of concerns: What is a foreclosure service provider and should a state agency really be contracting out to an entity described as such?

According to a previous BOE analysis on SB 1130 (discussed below), "the BOE does not presently perform any collection duty associated with installment payment collections from private property owners nor does it service loans. The mission of the BOE is to serve the public through fair, effective, and efficient tax administration. The provisions in this bill represent a departure from our traditional "tax collection" functions."

### THE COMMISSION

The CEC was established by the Legislature in 1974 to address the energy challenges facing the state. Created by the Warren-Alquist State Energy Resources Conservation and Development Act signed into law by then-Governor Ronald Reagan, the CEC is the state's principal energy policy and planning organization. Since 1974, successive administrations with bipartisan legislative support have enacted more than 100 separate laws to assist the Commission in implementing state energy policy.

The Commission has five major areas of responsibility carried out by five divisions & an administrative arm. The divisions are:

- Administrative and Financial Services Division
- Electricity Supply Analysis Division
- Efficiency Division
- Renewable Energy Division
- Siting, Transmission and Environmental Protection Division
- Energy Research and Development Division
- Fuels and Transportation Division

Through the efficiency division within CEC, a number of energy efficiency financing programs exist. Through these programs, the CEC has established loan agreements and guidelines in regards to interest rates, payments collected and what occurs if there is a default.

### PROPOSITION 39:

On November 6, 2012, California voters passed Proposition 39, The California Clean Energy Jobs Act that establishes the Clean Energy Job Creation Fund and requires moneys in the fund to be available for appropriation during specified fiscal years for, among other things, the purposes of funding energy efficiency projects in school facilities.

It requires most multistate businesses to determine their California taxable income using a single sales factor method, a change that increases state corporate tax revenue.

For a five-year period (2013-14 through 2017-18), Proposition 39 requires that half of the annual revenue raised from the measure, up to \$550 million, be transferred to a new Clean Energy Job Creation Fund to support projects intended to improve energy efficiency and expand the use of alternative energy. Proposition 39 specifically requires that the funds maximize energy and job benefits by supporting:

- a) Energy efficiency retrofits and alternative energy projects in public schools, colleges, universities, and other public facilities;
- b) Financial and technical assistance for energy retrofits; and
- c) Job training and workforce development programs related to energy efficiency and alternative energy.

Proposition 39 also requires that funded programs be coordinated with the CEC and PUC in order to avoid duplication and leverage existing energy efficiency and alternative energy efforts. In addition, Proposition 39 states the funding is to be appropriated only to agencies with established expertise in managing energy projects and programs.

On December 19, 2013, the CEC adopted the Proposition 39 guidelines in accordance with Proposition 3 (2012) and Senate Bill 73 (Committee on Budget and Fiscal Review, Chapter 29, Statutes of 2013), as amended by Senate Bill 97 (Committee on Budget and Fiscal Review, Chapter 357, Statutes of 2013). These guidelines define how the State of California intends to implement the California Clean Energy Jobs Act Program.

PREVIOUS LEGISLATION:

AB 122 (Rendon, 2013 Legislative Year) Would have established the Nonresidential Building Energy Retrofit Financing Act of 2013 and required the California Energy Commission (CEC) to establish the Nonresidential Building Energy Retrofit Financing Program (Program) by July 1, 2014 to provide financial assistance through revenue bonds for owners of eligible buildings to implement energy efficiency improvements and renewable energy generation. Died in the Assembly Appropriations Committee.

AB 39 (Skinner, 2013 Legislative Year) requires the CEC to administer grants, loans, or other financial assistance to K-12 public schools and community colleges to reduce energy demand and requires moneys in the fund to be available for appropriation during specified fiscal years. The bill uses funds from Proposition 39. Gut and amended, on Senate Inactive.

SB 39 (De Leon & Steinberg, 2013 Legislative Year) establishes the Clean Energy Job Creation Fund and requires moneys in the fund to be available for appropriation during specified fiscal years for, among other things, the purposes of funding energy efficiency projects in school facilities. The bill uses funds from Proposition 39. Gut and amended, Chapter 775.

SB 1130 (De Leon, 2012 Legislative Year) Would have established the Nonresidential Building Energy Retrofit Financing Act of 2012 and required the California Energy Commission to

establish the Nonresidential Building Energy Retrofit Financing Program by July 1, 2013 to provide financial assistance through revenue bonds for owners of eligible buildings to implement energy efficiency improvements and renewable energy generation. Died in the Assembly Appropriations Committee.

AB 811 (Levine & Beall, Chapter 159, Statutes of 2008) This bill authorizes all cities and counties in California to designate areas within which city officials and willing property owners may enter into contractual assessments to finance the installation of distributed generation renewable energy sources and energy efficiency improvements.

### RECOMMENDED AMENDMENTS

The amendments recommended delete the BOE in its entirety from the bill. The amendments also delete the loan servicer entity. The board is one more entity involved in the bill which is not necessary. The commission is the dominant force throughout the measure and has the capability to collect payments and create agreements as seen through existing programs they oversee. In addition, the commission is able to promulgate rules and regulations as necessary stated in the bill; therefore, if the commission decides to contract out loan servicing, nothing in this measure prohibits it.

- 1) On page 4, delete line 28
- 2) On page 7, line 10 and 11, insert, "and" after commission, and delete, " and the State Board of Equalization"
- 3) On page 9, line 11, delete, " and board"
- 4) On page 10, line 23 and 24, delete, "The third party administrator shall provide a loan servicer to service the loans."
- 5) On page 13, line 4, delete, "that may include the requirement that the owner of eligible building obtain insurance issued by an A.M. Best "A" or better rated insurance carrier or a similar product as approved by the commission"
- 6) On page 13, line 33, delete, "loan servicer" and insert "commission"
- 7) On page 13, line 34 and 35, delete. "Funds collected shall be remitted to the commission."
- 8) On page 13, line 34, add after payable, "and repayment installments that are delinquent."
- 9) On page 13, on line 37 and 38, delete, "The loan servicer shall notify the board of the delinquency."
- 10) On page 13, delete lines 39-40
- 11) On page 14, delete lines 1-39
- 12) On page 15, delete, "board" and insert "commission"

- 13) On page 16, line 32, delete, "affected" and insert "eligible"
- 14) On page 16, line 40, insert "eligible" after the
- 15) On page 24, line 11 delete, " and the board" and insert "and" after commission
- 16) On page 24, line 13, delete "three" and insert "two"
- 17) On page 24, line 16 and 17, delete, "the loan servicer" and insert "commission"
- 18) On page 24, line 18, delete, "and service the loans"
- 19) On page 24, line 19, delete "board" and insert "commission"
- 20) On page 28, line 12, insert "and" after authority
- 21) On page 28, line 13, delete, "and the board"
- 22) On page 28, line 17, delete "the board"
- 23) On page 28, line 21, delete, "board"
- 24) On page 28, line 24, delete, "board"
- 25) On page 28, line 27, delete "board"

REGISTERED SUPPORT / OPPOSITION:

Support

California Municipal Utilities Association  
California Solar Energy Industry Association (CalSEIA)  
East Bay Municipal Utility District  
Environment California  
U.S. Green Building Council California

Opposition

None on file.

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