

AMENDED IN ASSEMBLY MAY 4, 2020

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 3307

Introduced by Assembly Member Eduardo Garcia

February 21, 2020

An act to ~~amend Section 51298.5 of~~ amend Section 63050 of, and to add Article 5.5 (commencing with Section 63047.5) to Chapter 2 of Division 1 of Title 6.7 of, the Government Code, relating to economic development.

LEGISLATIVE COUNSEL'S DIGEST

AB 3307, as amended, Eduardo Garcia. ~~Capital investment incentive program—California Manufacturing Competitiveness Act of 2020.~~

The Bergeson-Peace Infrastructure and Economic Development Bank Act establishes the California Infrastructure and Economic Development Bank (I-Bank). Among other things, the act authorizes I-Bank to make loans, issue bonds, and provide financial assistance to economic development or public development facilities.

This bill, the California Manufacturing Competitiveness Act of 2020, would require I-Bank to establish the California Manufacturing Competitiveness Loan and Loan Guarantee Program for the purpose of attracting, retaining, and expanding manufacturing facilities, and would require I-Bank to establish guidelines for the implementation and oversight of the program. The bill would prohibit I-Bank from commencing the program until it adopts a resolution finding that there is sufficient funding in the account to cover the costs of implementing the program. The bill would require I-Bank to provide for the development and administration of the program application and evaluation process, and would require program applicants to

demonstrate satisfaction of specified requirements. The bill would also require each applicant to pay a nonrefundable application fee.

The bill would create the Manufacturing Program Account within the California Infrastructure and Economic Development Bank Fund, and would provide that the moneys in the account be made available to I-Bank, upon appropriation by the Legislature, for specified purposes. The bill would authorize moneys in the account to be allocated to a lending institution or financial company that will act as trustee of the funds, with the approval of the Department of Finance.

The bill would require the commission, beginning October 1, 2021, and annually thereafter, to post on its internet website or provide to the Legislature, as specified, a report on the program's activities and impact on the manufacturing industry, and on the state's economy generally.

The bill would further provide that the above described provisions will be implemented only to the extent that sufficient moneys are available to I-Bank to implement the California Manufacturing Competitiveness Loan and Loan Guarantee Program. The bill would provide that its provisions only remain in effect until January 1, 2026, and as of that date are repealed.

~~Existing law, until January 1, 2024, authorizes a county, city and county, or city to establish a capital investment incentive program. If an election has been made, the county, city and county, or city is required to pay, upon request, a capital investment incentive amount to the proponent of a qualified manufacturing facility for up to 15 years.~~

~~This bill would make nonsubstantive changes to the duration provision.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

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

- 1 *SECTION 1. Section 63050 of the Government Code is*
- 2 *amended to read:*
- 3 *63050. (a) There is hereby created in the State Treasury the*
- 4 *California Infrastructure and Economic Development Bank Fund*
- 5 *for the purpose of implementing the objectives and provisions of*
- 6 *this division. Within the fund there shall also be established a*
- 7 *Sponsor Revenue Bond Account, a Participating Party Revenue*
- 8 *Bond Account, a State Infrastructure Revolving Account, a*

1 *Manufacturing Program Account*, and additional accounts and
2 subaccounts that the bank may establish from time to time.

3 (b) Notwithstanding Section 13340 and except as provided in
4 ~~subdivision (e)~~, *subdivisions (c) and (f)*, all moneys in the
5 infrastructure bank fund are continuously appropriated without
6 regard to fiscal years for the support of the bank and shall be
7 available for expenditure for the purposes stated in this division.

8 (c) Moneys in the infrastructure bank fund shall be available
9 for expenditure for general administration only upon appropriation
10 by the Legislature. This subdivision shall not limit the authority
11 of the bank to expend funds directly related to the servicing of
12 approved debt. Moneys in the fund shall be available for the
13 purpose of general administration of the authority only upon
14 appropriation by the Legislature, but not more than 5 percent of
15 any bond proceeds administered by the authority may be expended
16 to cover the costs of issuance, as that terminology is defined under
17 Section 147 (G) of the Internal Revenue Code.

18 (d) Notwithstanding any other provision of this division, not
19 more than 15 percent of the financing annually approved by the
20 executive director that utilizes state funds from the infrastructure
21 bank fund may be expended upon educational facilities,
22 environmental mitigation measures, and parks and recreational
23 facilities.

24 (e) The executive director may transfer funds between the
25 infrastructure bank fund and the guarantee trust fund when
26 appropriate to accomplish the financing objectives of this division.

27 (f) *Moneys in the Manufacturing Program Account established*
28 *pursuant to Section 63047.54 shall be made available to the bank*
29 *only upon appropriation by the Legislature, for purposes of*
30 *administering the California Manufacturing Competitiveness Loan*
31 *and Loan Guarantee Program established pursuant to Article 5.5*
32 *(commencing with Section 63047.5) of Chapter 2.*

33 *SEC. 2. Article 5.5 (commencing with Section 63047.5) is added*
34 *to Chapter 2 of Division 1 of Title 6.7 of the Government Code,*
35 *to read:*

1
2 Article 5.5. California Manufacturing Competitiveness Act of
3 2020.

4
5 63047.5. This act shall be known, and may be cited, as the
6 California Manufacturing Competitiveness Act of 2020.

7 63047.51. The Legislature finds and declares all of the
8 following:

9 (a) California is one of the largest and most diverse economies
10 in the world, with a state gross domestic product of nearly \$3
11 trillion in 2018. Based on figures from the Department of Finance,
12 if California were an independent nation it would rank as the fifth
13 largest economy in the world.

14 (b) Historically, the state’s significance in the global
15 marketplace has resulted from a variety of factors, including:

16 (1) Its strategic west coast location that provides direct access
17 to the growing markets in Asia

18 (2) Its economically diverse regional economies and its large,
19 ethnically diverse population, representing both a ready workforce
20 and significant consumer base.

21 (3) Its access to a wide variety of venture and other private
22 capital.

23 (4) Its broad base of small- and medium-sized businesses that
24 support the global manufacturing supply chain.

25 (5) Its culture of innovation and entrepreneurship, particularly
26 in the area of high technology.

27 (c) Historically, economic growth in California has outpaced
28 the economic growth rate of the nation as a whole, and the state
29 has led the nation in export-related jobs, business startups, and
30 innovation. California leads the nation in the number of
31 manufacturers.

32 (d) California’s manufacturing sector, however, faces many
33 challenges in maintaining global and domestic competitiveness,
34 accessing a qualified workforce, and updating equipment and
35 processes to meet greenhouse gas emission reduction goals.

36 (e) A robust manufacturing sector offers many benefits to the
37 state, including high-wage jobs, a basis for international trade,
38 and one of the highest multiplier effects on other industries and
39 businesses. It has been estimated that for every job created in
40 manufacturing, 2.5 jobs are supported in other industry sectors.

1 *For instance, in the electronic computer manufacturing industry,*
2 *that multiplier effect is 16 to 1.*

3 *(f) It is therefore the intent of the Legislature to strengthen the*
4 *manufacturing capacity of California through the enactment and*
5 *implementation of the California Manufacturing Competitiveness*
6 *Act of 2020, provide the framework and focus to retool and expand*
7 *California’s manufacturing facilities, support a vibrant logistics*
8 *network, and retain and create more quality jobs.*

9 *63047.52. Unless the context requires otherwise, for the*
10 *purposes of this article, the following terms shall have the following*
11 *meanings:*

12 *(a) “Administration expenses” means the reasonable and*
13 *necessary expenses incurred by the bank in the administration of*
14 *this article, including, without limitation, the fees and costs of*
15 *paying agents, trustees, attorneys, consultants, and others.*

16 *(b) “Applicant” means a company, or a participating financial*
17 *institution on behalf of a company, that applies to the bank for a*
18 *loan, a loan guarantee, or a line of credit to finance a project*
19 *undertaken or proposed to be undertaken pursuant to this article.*
20 *“Applicant” may be comprised of more than a single entity.*

21 *(c) “Bank” means the California Economic Development and*
22 *Infrastructure Bank established pursuant to Chapter 1*
23 *(commencing with Section 63000).*

24 *(d) “Company” means a person, partnership, corporation,*
25 *whether for profit or not, limited liability company, trust, or other*
26 *private enterprise of whatever legal form, for which a project is*
27 *undertaken or proposed to be undertaken pursuant to this title.*
28 *“Company” may include more than a single enterprise.*

29 *(e) “Cost” as applied to any project, may include all of the*
30 *following:*

31 *(1) The cost of construction, improvement, repair, rehabilitation,*
32 *and reconstruction.*

33 *(2) The cost of acquisition, including rights in land and other*
34 *property, both real and personal and improved and unimproved,*
35 *and franchises, and disposal rights.*

36 *(3) The cost of demolishing, removing, or relocating any*
37 *building or structures on lands so acquired, including the cost of*
38 *acquiring any lands to which the buildings or structures may be*
39 *moved or relocated.*

1 (4) *The cost of machinery, equipment, and furnishings, of*
2 *engineering and architectural surveys, plans, and specifications,*
3 *and of transportation and storage until the facility is operational.*

4 (5) *The cost of agents or consultants, including, without*
5 *limitation, legal, financial, engineering, accounting, and auditing*
6 *costs, necessary or incident to a project and the determination as*
7 *to the feasibility or practicability of undertaking the project.*

8 (6) *The cost of acquiring or refinancing existing obligations*
9 *incident to the undertaking and carrying out, including the*
10 *financing, of a project, and the reimbursement to any governmental*
11 *entity or agency, or any company, of expenditures made by or on*
12 *behalf of the entity, agency, or company that are costs of the*
13 *project, without regard to whether or not the expenditures may*
14 *have been made before or after the adoption of a resolution of*
15 *intention with respect to that project by an authority.*

16 (7) *The cost of making relocation assistance payments as*
17 *provided by Chapter 16 (commencing with Section 7260) of*
18 *Division 7 of Title 1.*

19 (8) *The cost of procuring raw materials and finished goods that*
20 *become integral to the property as a result of construction,*
21 *improvement, repair, rehabilitation, or reconstruction.*

22 (9) *In the case of taxable bonds, loans, loan guarantees, or lines*
23 *of credit, the cost of refunding or refinancing any outstanding debt*
24 *or obligations with respect to any facilities, or the cost of working*
25 *capital.*

26 (f) *“Fund” means the California Infrastructure and Economic*
27 *Development Bank Fund created pursuant to Chapter 3*
28 *(commencing with Section 63050).*

29 (g) *“Loan” means a loan, a portion of a loan, a loan guarantee,*
30 *or a line of credit or portion of a line of credit made or extended*
31 *by the bank, or by a participating financial institution on behalf*
32 *of the bank, or by a participating financial institution pursuant to*
33 *the bank’s program, to a company for a project or for a portion*
34 *of a project encompassing one or more of the activities or uses set*
35 *forth in this article.*

36 (h) *“Manufacturing Program Account” means the account*
37 *established pursuant to Section 63047.54 within the California*
38 *Infrastructure and Economic Development Bank Fund for moneys*
39 *which are available for direct loans and loan guarantees under*
40 *this article.*

1 (i) "Project" means the acquisition, construction, improvement,
2 repair, rehabilitation, and reconstruction of facilities and the
3 acquisition and rehabilitation of machinery, equipment, and
4 furnishings, and the acquisition of engineering and architectural
5 surveys, plans, and specifications, and all other necessary and
6 related capital expenditures by the issuance of bonds, loans, loan
7 guarantees, or lines of credit upon the application of and to be
8 repaid by payments from a company for the purposes of this article.
9 For purposes of this article and the bank loan, loan guarantee,
10 and line of credit program, a project may also consist of working
11 capital expenditures.

12 (j) (1) "Property" means any land, air rights, water rights,
13 disposal rights, improvements, buildings or other structures, and
14 any personal property, tangible or intangible, and includes, but
15 is not limited to, machinery and equipment, whether or not in
16 existence or under construction, and interests in any of the
17 foregoing, or promissory notes or other obligations of any kind
18 respecting such interests.

19 (2) "Property" also means property suitable for one or more
20 of the following activities or uses:

21 (A) Industrial uses including, without limitation, assembling,
22 fabricating, manufacturing, or processing activities with respect
23 to any products of agriculture, forestry, mining, or manufacturing,
24 if these activities have demonstrated job-creation or retention
25 potential.

26 (B) Energy development, production, collection, or conversion
27 from one form of energy to another.

28 (C) Research and development activities relating to commerce
29 or industry, including, without limitation, professional,
30 administrative, and scientific office and laboratory activities or
31 uses.

32 (D) Processing or manufacturing recycled or reused products
33 and materials by manufacturing facilities.

34 (E) Business activities with the purpose of creating or producing
35 intangible property.

36 (F) Airport, dock, wharf, or mass commuting activities, or
37 storage or training activities related to any of those activities shall
38 be prohibited unless the property acquired is suitable for one or
39 more of the activities described in subparagraphs (A) to (E),
40 inclusive.

1 (G) Sewage or solid waste disposal activities or electric energy
2 or gas furnishing activities shall be prohibited unless the property
3 acquired is suitable for one or more of the activities described in
4 subparagraphs (A) to (E), inclusive.

5 (H) Water furnishing activities shall be prohibited unless the
6 property acquired is suitable for one or more of the activities
7 described in subparagraphs (A) to (E), inclusive.

8 (k) “Public agency” means any city, county, or city and county.

9 (l) “Revenues” means all rents, purchase payments, and other
10 income derived from, or with respect to, the sale, lease, or other
11 voluntary or involuntary disposition of, or repayment of loans with
12 respect to, property, bond proceeds, repayment of loans and lines
13 of credit, moneys received in recovery of defaulted loans, loan
14 guarantees, or lines of credit, and any receipts derived from the
15 deposit or investment of any income or proceeds in the account,
16 but does not include receipts designated to cover administration
17 expenses or expenses associated with the recovery activities on
18 defaulted loans, loan guarantees, and lines of credit.

19 63047.53. (a) The bank shall establish the California
20 Manufacturing Competitiveness Loan and Loan Guarantee
21 Program pursuant to this article for the purpose of attracting,
22 retaining, and expanding manufacturing facilities and other
23 companies in the state. The bank shall establish guidelines for the
24 implementation of this program consistent with this article. The
25 bank shall not commence operation of the program before adopting
26 a resolution finding that there is sufficient money in the
27 Manufacturing Program Account, established pursuant to Section
28 63047.54, to cover the costs of implementing the program,
29 including, but not limited to, appropriate oversight costs.

30 (b) The bank shall design the California Manufacturing
31 Competitiveness Loan and Loan Guarantee Program to meet all
32 of the following objectives:

33 (1) Encourage the development of the state’s long-term
34 manufacturing capacity.

35 (2) Create jobs through the support of retooling and expansion
36 of manufacturing facilities.

37 (3) Support quality manufacturing jobs that provide high wages,
38 including benefits.

1 (4) Allow manufacturers to access funds under terms and
2 conditions which would not otherwise be available in the private
3 market.

4 (5) Strengthen the supply chain of small businesses that support
5 this state's manufacturing competitiveness.

6 (6) Assist manufacturers in cost effectively responding to energy
7 efficiency regulations and new technologies.

8 (c) (1) The bank shall adopt procedures and criteria to
9 evaluate and approve applicants for loans, loan guarantees, or
10 lines of credit and to evaluate and certify the participating financial
11 institutions that may make loans, loan guarantees, or extend lines
12 of credit on its behalf or directly to companies pursuant to the
13 bank's program.

14 (2) The evaluation and approval of applicants shall include the
15 assessment of the applicant's creditworthiness and the valuation
16 of guarantees and collateral to be posted by the applicant to secure
17 payment of principal and interest on the loan, line of credit, or
18 extension of a loan guarantee.

19 (3) The evaluation and certification of participating financial
20 institutions shall include an assessment of the standards for due
21 diligence for each loan, loan guarantee, or line of credit made on
22 behalf of the bank or made directly to a company pursuant to the
23 bank's program.

24 (4) The bank shall provide for the development and
25 administration of the application, review, and evaluation process
26 for the program, including, but not limited to, defining the
27 eligibility standards, rating and ranking criteria, and other
28 appropriate policies and procedures for implementing and
29 overseeing the program pursuant to this article.

30 (5) Among other requirements, the loan, loan guarantee, and
31 line of credit shall be subject to all of the following provisions:

32 (A) Applicants shall demonstrate they are in compliance with
33 applicable federal, state, and local laws and regulations.

34 (B) Outstanding loans shall be paid in full six months before
35 the relocation of a facility outside of California. If the loan or loan
36 guarantee included a subsidized amount, that amount must also
37 be repaid subject to a sliding scale adopted by the bank.

38 (C) Applicants shall demonstrate where the facility or facilities
39 where the moneys will be expended are located and where the
40 direct benefits of the assistance will be realized in the state.

1 (D) Wages the applicant pays its employees in the state shall,
2 on average, be equal to or more than the average monthly wage
3 rate for similar workers in the same industry subsector.

4 (E) Upon the request of the bank, each applicant shall agree to
5 report to the bank in the year the funding was provided, and the
6 following years, on total capital investments made by the company,
7 the total employment at the project facility, and the wage levels
8 by type of work. The applicant shall also estimate the number of
9 jobs created or retained through the provision of this state
10 assistance, as well as provide other appropriate performance data,
11 as determined by the bank.

12 (d) (1) The bank shall develop a process for the ongoing
13 monitoring of current and outstanding loans, loan guarantees,
14 and lines of credit and develop and maintain a database on loans,
15 loan guarantees, or lines of credit from the fund, which shall
16 include data related to the applicant, participating financial
17 institution, the project, the terms of each loan, loan guarantee, or
18 line of credit, and the status of each loan, loan guarantee, or line
19 of credit.

20 (2) The bank shall adopt minimum standards for the
21 documentation, underwriting, and servicing of loans, loan
22 guarantees, or lines of credit made by the bank or made by
23 participating financial institutions on the bank's behalf or directly
24 by a participating financial institution pursuant to the bank's
25 program. The documentation, underwriting, and servicing
26 standards shall be designed to promote the integrity of the
27 program, the fund, and uniformity in the bank's process of
28 evaluation and due diligence.

29 (3) The bank shall provide technical assistance to participating
30 financial institutions in order to increase utilization of the minimum
31 documentation, underwriting, and servicing standards.

32 (e) The bank's evaluation criteria for reviewing applications
33 and determining financing approvals shall include all of the
34 following:

35 (1) Whether employment benefits arising out of the use of the
36 financing secures the employment of existing employees or
37 increases the overall number of full-time employees of the
38 company.

39 (2) Whether the company provides compensation for employees
40 at the project facility which exceeds the average compensation for

1 *similar employment within the company's jurisdiction or within*
2 *the state.*

3 *(3) Whether the company provides health benefits to employees*
4 *employed at the project facility or contributions to employee*
5 *retirement benefits.*

6 *(4) Whether the project will provide energy, mineral or natural,*
7 *or cultivated resource conservation benefits.*

8 *(5) Whether the project will include building certified*
9 *environmentally beneficial facilities, bringing existing facilities*
10 *up to certified environmentally beneficial status, or implementing*
11 *greenhouse gas reduction technologies, energy efficiency measures*
12 *and installing renewable energy equipment.*

13 *(6) Whether the company purchases raw materials or other*
14 *products from California-based companies.*

15 *(f) Priority for loans, loan guarantees, or lines of credit shall*
16 *be given to companies that do all of the following:*

17 *(1) Retain or create the greatest number of jobs compensated*
18 *at a wage rate above the average monthly wage rate for a similar*
19 *company in the project jurisdiction or in the state.*

20 *(2) Have the greatest beneficial economic impact on the state*
21 *and local economies as a result of the financing.*

22 *(3) Have the greatest negative economic impact on the state*
23 *and local economies and on other businesses in the state if it moved*
24 *its operations to another state or otherwise ceased operations*
25 *within the state.*

26 *(g) To cover the costs of administering the program, each*
27 *applicant shall pay a nonrefundable application fee, including a*
28 *proportional share of the costs of developing the program,*
29 *reviewing applications, and monitoring and overseeing the*
30 *program. Fee moneys shall be deposited directly into the*
31 *Manufacturing Program Account, established pursuant to Section*
32 *63047.54, for the purpose of ensuring that funds are available to*
33 *the state for the sole purpose of administration of the program.*

34 *63047.54. (a) There is hereby created within the California*
35 *Infrastructure and Economic Development Bank Fund an account*
36 *called the Manufacturing Program Account. Upon appropriation*
37 *by the Legislature, moneys in the account shall be expended to*
38 *pay for direct loans and defaulted loan guarantees issued pursuant*
39 *to this article, administrative costs of the bank, and those costs*
40 *necessary to protect a real property interest in a defaulted loan*

1 or guarantee. No moneys other than those moneys in the account
2 may be used to pay for the direct loans and defaulted loan
3 guarantees issued pursuant to this article.

4 (b) All moneys received from the federal government,
5 foundations, and other public or private funding sources for the
6 purpose of implementing the California Manufacturing
7 Competitiveness Loan and Loan Guarantee Program shall be
8 deposited in the Manufacturing Program Account. All loan
9 repayments, interest, and royalties shall be deposited back into
10 the Manufacturing Program Account.

11 (c) The bank shall not commence implementation of the program
12 before adopting a resolution finding that there is sufficient money
13 in the account to cover the costs of implementing the program,
14 including, but not limited to, appropriate oversight costs.

15 (d) Upon appropriation by the Legislature, all or a portion of
16 the funds in the account may be allocated by the bank, with the
17 approval of the Department of Finance, to a lending institution or
18 financial company that will act as trustee of the funds.

19 63047.55. (a) Beginning October 1, 2021, and annually
20 thereafter, the bank shall post on its internet website or provide
21 the Legislature with a report, whichever is more cost effective, on
22 the program's activities during the prior fiscal year and impact
23 on the manufacturing industry and on the state's economy, in
24 general.

25 (b) At a minimum, the information provided pursuant to
26 subdivision (a) shall include all of the following:

27 (1) The total amount of moneys in the Manufacturing Program
28 Account, at the beginning of the fiscal year and at the end of the
29 fiscal year.

30 (2) The number of projects funded and the number of
31 manufacturers and other businesses assisted.

32 (3) The number of jobs created and the number of jobs retained
33 through program assistance in each of the fiscal years.

34 (4) The amount of investments made by the manufacturer in the
35 prior year to their assistance and next two years.

36 (5) The amount of federal, state, and local taxes paid by the
37 companies in aggregate.

38 (6) Information on publicly held companies shall also be
39 reported separately.

1 63047.56. (a) *This article shall be implemented only to the*
2 *extent that sufficient moneys are available to the bank to administer*
3 *the California Manufacturing Competitiveness Loan and Loan*
4 *Guarantee Program.*

5 (b) *This article shall remain in effect only until January 1, 2026,*
6 *and as of that date is repealed.*

7 ~~SECTION 1. Section 51298.5 of the Government Code is~~
8 ~~amended to read:~~

9 ~~51298.5. (a) This chapter shall remain in effect only until~~
10 ~~January 1, 2024.~~

11 ~~(b) A capital investment incentive program that is established~~
12 ~~pursuant to this chapter before January 1, 2024, may remain in~~
13 ~~effect for the full term of that program, regardless of the repeal of~~
14 ~~this chapter.~~