

MINUTES

**California Alternative Energy and Advanced
Transportation Financing Authority
915 Capitol Mall, Room 587
Sacramento, California
June 26, 2012**

1. CALL TO ORDER & ROLL CALL

Bettina Redway, Chairperson, called the California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA or Authority) meeting to order at 9:05 a.m.

Members Present: Bettina Redway for Bill Lockyer, State Treasurer
Alan Gordon for John Chiang, State Controller
Pedro Reyes for Ana J. Matosantos, Director,
Department of Finance

Member Present Via Teleconference: Paul Clanon for Michael R. Peevey, President,
Public Utilities Commission

Staff Present: Christine Solich, Executive Director
Deana Carrillo, Program Manager

Quorum: The Chairperson declared a quorum

2. EXECUTIVE DIRECTOR'S REPORT

Ms. Solich began her report by providing a legislative update. Senate Bill 1128 (SB 1128) would add advanced manufacturing to the SB 71 Sales and Use Tax Exclusion Program. SB 1128 was amended on May 29, 2012 with a rewrite of the CAEATFA statute that included clean-up language, deletion of old language and clarification of the statute. Staff will continue to work with the Author's office as the bill advances.

Ms. Solich then reported that the Senate Bill 99 audit for fiscal year 2011 has been completed and has been posted to the CAEATFA website.

She then ended her report.

Saul Gomez from the California Energy Commission (CEC) arrived at 9:08 a.m.

Ms. Redway asked if there any questions from the Board. There were none.

3. BUSINESS ITEMS

A. DISCUSSION AND CONSIDERATION OF REVISED EMERGENCY REGULATIONS FOR THE LOAN LOSS RESERVE PROGRAM UNDER THE CLEAN ENERGY UPGRADE FINANCING PROGRAM (ABX1 14)

Presented by: Martha Alvarez, Associate Treasury Program Officer

Assembly Bill 14 (Skinner, 2011) was signed into law on August 2, 2011, and authorizes CAEATFA to provide financial assistance in the form of credit enhancements to financial institutions making loans to finance the installation of distributed generation renewable energy sources, electric vehicle charging infrastructure, or energy or water efficiency improvements on homes or small commercial properties. In the initial development phase of the Clean Energy Upgrade Financing Program, and after undertaking an eight-month stakeholder engagement process, Staff developed a loan loss reserve program designed to help financial institutions make loans to California homeowners for energy efficiency and renewable energy retrofits. Integral to Staff's development of the program has been the promulgation of emergency regulations balancing stakeholder needs with statutory, legal and program administration framework and requirements.

CAEATFA approved the initial program emergency regulations on April 17, 2012 ("Regulations"), beginning the formal emergency rulemaking process. The Office of Administrative Law ("OAL") approved the regulations and subsequently filed them with the Secretary of State. The emergency regulations became effective on May 4, 2012 and will be valid until November 1, 2012 (180 days). In marketing the program to financial institutions, Staff continued to review and evaluate the Program's structure, and has determined that modifications and clarification of the regulations are necessary prior to approving financial institutions for participation in the program.

The key revisions to the regulations focus on three main areas: expanded eligibility criteria for financial institutions, removal of the rating requirement for financial institutions, and redaction of personal confidential information identifying the borrower from all loan enrollment documentation. Proposed revisions are made to the following sections of the regulations:

§10050 (f): Definitions.

The existing emergency regulations state that "Financial Institution" means any insured depository institution, insured credit union, or community development financial institution, as those terms are each defined in Section 103 of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4702)."

The proposed modification expands the definition of "Financial Institution," broadening the types of lenders eligible to participate in the Program to include a "municipal utility district as described in Section 12850 of the Public Utilities Code."

§10053 (a)(6): Application by Financial Institution.

The existing regulations state that a Financial Institution application shall include “*the Financial Institution’s rating from a recognized rating agency which assesses the financial soundness and stability of financial institutions.*”

The proposed modification removes the requirement for submitting a rating in the application materials.

§10054 (c): Loan Enrollment.

In order to enroll a Qualified Loan, the existing regulations require a Participating Financial Institution to submit: (1) a Loan Enrollment Application; (2) a Certificate of Completion signed by the Contractor and Borrower; (3) an Eligible Improvements Specification Report; (4) a copy of the pre-project energy efficiency assessment; and (4) a copy of the post-project energy assessment.

In Section 10054(c), the proposed modification specifies that the documents submitted with the Loan Enrollment Application to CAEATFA shall be “*redacted by the Participating Financial Institution to remove Borrower name, street address and any other personal identifying information.*” Additionally, the Loan Enrollment Application must include, according to Section 10054(d)(1), a “*Loan Identification Number that does not convey any personal identifying information about the Borrower.*”

§10056 (f) and (g): Claim for Reimbursement.

The existing regulation states that “*Except as provided in subdivision (g), if a Qualified Loan suffers a loss and at the time of the Participating Financial Institution’s claim there are insufficient funds in the Loss Reserve Account to cover the total amount of the claim, the Participating Financial Institution shall be able to withdraw all of the amount in the Loss Reserve Account at the time of the claim, to cover the loss to the fullest extent possible, but it shall thereafter not be eligible to obtain any further reimbursement relating to that claim.*”

Subsection (g) further states that “*If a Qualified Loan (or any part of it) is among the first two hundred fifty dollars (\$250,000) of Qualified Loans made by a Participating Financial Institution and it suffers a loss, and at the time of the claims there is not enough money in the Loss Reserve Account to fully cover the loss, the Participating Financial Institution shall be able to withdraw all of the amount in the Loss Reserve Account at the time of the claim, to cover the loss to the fullest extent possible. If the Participating Financial Institution then continues making Qualified Loans under the Program and the Loss Reserve Account is replenished, the Participating Financial Institution shall be authorized to withdraw funds from the Loss Reserve Account at a subsequent time in order to fully cover the earlier claim, provided that the amount subsequently withdrawn to cover the earlier claim cannot exceed seventy-five percent*

Agenda Item 2.

(75%) of the amount in the Loss Reserve Account immediately prior to such subsequent withdrawal.”

The revised provision in subsection (f) will read as follows: *“If a Qualified Loan suffers a loss and at the time of the Participating Financial Institution’s claim there are insufficient funds in the Loss Reserve Account to cover the total amount of the claim, the Participating Financial Institution shall be able to withdraw all of the amount in the Loss Reserve Account at the time of the claim, to cover the loss to the fullest extent possible. If the Participating Financial Institution then continues making Qualified Loans under the Program and the Loss Reserve Account is replenished, the Participating Financial Institution shall be authorized to withdraw funds from the Loss Reserve Account at a subsequent time in order to fully cover the earlier claim.”*

Staff recommended adoption of a resolution to approve the proposed revised emergency regulations modifying the Loan Loss Reserve Program under the AB X1 14 Clean Energy Upgrade Financing Program and authorizing Staff to undertake emergency and permanent rulemaking proceedings and other actions related to promulgation of the regulations.

Ms. Redway asked if there were any questions or comments from the Board or public.

Mr. Reyes asked if the Author’s office was aware of SMUD’s interest in becoming a financial institution.

Ms. Alvarez answered no.

Mr. Reyes asked if the Author’s office was aware what Staff is proposing to define as a financial institution through the regulatory process.

Ms. Alvarez answered that the Author’s office was not aware.

Ms. Redway added that it has gone through the public process, but Staff has not contacted the Author’s office.

Ms. Solich confirmed that the Author’s office had not been contacted.

Mr. Reyes commented that because Staff is going through the emergency regulatory process, the public process is limited as opposed to the regular regulatory process. He stated that he is slightly concerned with the broad definition of financial institutions that would include municipal utility districts because if Staff goes by the fact that they provide loans to consumers, auto makers that provide loans to consumers may be able to qualify. However, he would like to keep the program moving forward and asked Staff to work with the Author’s office and carryout any statutory changes that may be found necessary to define financial participants to include financial institutions and utilities districts so that the umbrella captures both groups and any other desired groups.

Ms. Redway asked if Mr. Reyes was suggesting that Staff not move ahead until there is a

Agenda Item 2.

statutory change or that Staff move ahead and then seek statutory change.

Mr. Reyes confirmed that Staff should move ahead with the program and contact the Author's office to pursue a statutory change.

Ms. Redway explained that within six months Staff has to begin permanent regulations. Staff will speak with the Author's office to explain the thought process. If the Author's office finds it necessary, it can pursue legislation next year.

Mr. Gordon commented that Assemblymember Skinner is the principal co-author of Senate Bill 1130, Green Building Program, which currently has a CAEATFA reference in it to sell bonds, and suggested it may be a possibility to place the statutory change related to the Loan Loss Reserve Program there.

Ms. Redway commented that there is nothing controversial about the potential legislative language and understands Mr. Reyes would like to be comfortable that it be specific to a public utility that is operating as a lender.

Mr. Reyes commented that he does not want to open the program up to everyone. He feels that SMUD wanting to participate is great for SMUD and for its customers.

Ms. Redway commented that Staff will speak with Assemblymember Skinner's office.

Ms. Solich commented that Staff is in the process of scheduling a meeting with Assemblymember Skinner's office.

Mr. Reyes commented that he feels Assemblymember Skinner would support the change.

Mr. Reyes moved approval of the item; upon a second, the item was approved by the following vote: Bettina Redway, aye; Pedro Reyes, aye; Alan Gordon, aye; Paul Clanon, aye; and, Saul Gomez, aye.

5. PUBLIC COMMENT

Ms. Redway asked if there were any comments from the public. There were none.

6. ADJOURNMENT

There being no further business, public comments, or concerns, the meeting adjourned at 9:19 a.m.

Respectfully submitted,

Christine Solich
Executive Director

Agenda Item 2.