

AMENDED IN SENATE JULY 15, 2010

AMENDED IN SENATE JULY 15, 2009

AMENDED IN SENATE JUNE 25, 2009

AMENDED IN ASSEMBLY MAY 6, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1106

Introduced by Assembly Members Fuentes and Ruskin

(Coauthors: Senators Price and Padilla)

February 27, 2009

~~An act to amend Section 399.20 of, and to add Section 399.21 to, the Public Utilities Code, relating to energy. An act to amend Section 44272 of the Health and Safety Code, relating to alternative and renewable fuel and vehicle technology.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1106, as amended, Fuentes. ~~Renewable electric generation facilities: feed-in tariffs. Alternative and renewable fuel and vehicle technology.~~

The California Alternative and Renewable Fuel, Vehicle Technology, Clean Air, and Carbon Reduction Act of 2007 establishes the Alternative and Renewable Fuel and Vehicle Technology Program, which is administered by the State Energy Resources Conservation and Development Commission. The program is required to provide, upon appropriation by the Legislature, competitive grants, revolving loans, loan guarantees, or other appropriate funding measures to public agencies, vehicle and technology entities, businesses and projects, public-private partnerships, workforce training partnerships and

collaboratives, fleet owners, consumers, recreational boaters, and academic institutions to develop and deploy innovative technologies that transform the state's fuel and vehicle types to help attain the state's climate change policies. The commission is authorized, until January 1, 2012, to contract with the Treasurer to expend funds through programs implemented by the Treasurer, if that expenditure is consistent with all of the requirements of the act.

This bill would also authorize the commission, until January 1, 2012, to contract with small business financial development corporations established by the Business, Transportation and Housing Agency to expend funds through the Small Business Loan Guarantee Program, if the expenditure is consistent with all of the requirements of the program and the act.

~~Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations, as defined. The Public Utilities Act imposes various duties and responsibilities on the commission with respect to the purchase of electricity by electrical corporations and requires the commission to review and adopt a procurement plan and a renewable energy procurement plan for each electrical corporation pursuant to the California Renewables Portfolio Standard Program (RPS program). The RPS program requires that a retail seller of electricity, including electrical corporations, purchase a specified minimum percentage of electricity generated by eligible renewable energy resources, as defined, in any given year as a specified percentage of total kilowatthours sold to retail end-use customers each calendar year (renewables portfolio standard).~~

~~Existing law requires every electrical corporation to file with the commission a standard tariff for electricity generated by an electric generation facility, as defined, that is owned and operated by a retail customer of the electrical corporation. Existing law requires that the electric generation facility: (1) have an effective capacity of not more than 1.5 megawatts and be located on property owned or under the control of the customer, (2) be interconnected and operate in parallel with the electric transmission and distribution grid, (3) be strategically located and interconnected to the electric transmission system in a manner that optimizes the deliverability of electricity generated at the facility to load centers, and (4) meet the definition of an eligible renewable energy resource under the RPS program. Existing law requires that the tariff provide for payment for every kilowatthour of electricity~~

~~generated by an electric generation facility at a market price referent established by the commission pursuant to the program. Existing law requires the electrical corporation to make this tariff available to customers that own and operate an electric generation facility within the service territory of the electrical corporation, upon request, on a first-come-first-served basis, until the combined statewide cumulative rated generating capacity of those electric generation facilities equals 500 megawatts, or the electrical corporation meets its proportionate share of the 500 megawatt limit based upon the ratio of its peak demand to total statewide peak demand of all electrical corporations. Existing law authorizes the commission to modify or adjust the above-described requirements for any electrical corporation with less than 100,000 service connections, as individual circumstances merit. Existing law provides that the electricity generated by an electric generation facility counts toward the electrical corporation's renewables portfolio standard and provides that the physical generating capacity counts toward meeting the electrical corporation's resource adequacy requirements. Existing decisions of the commission refer to this tariff as a feed-in tariff.~~

~~This bill would make the existing feed-in tariff statute applicable to an electric generation facility that interconnects to the grid and commences initial operation on or before June 30, 2011. The bill would require an electrical corporation with 100,000 or more service connections to develop, and upon approval by the commission, implement a standard-offer contract and feed-in tariff, as defined, that requires payment for every kilowatthour of electricity delivered to the grid generated by a tariff-eligible generation facility, as defined. The bill would require that an electrical corporation obtain commission approval of the standard-offer contract and feed-in tariff by June 1, 2011, and to implement the contract and tariff by July 1, 2011. The bill would have different requirements for two separate tiers, as specified, of tariff-eligible generation facilities. For a tier one tariff-eligible generation facility with a nameplate capacity of not more than 5 megawatts, the price paid by the electrical corporation for electricity delivered to the grid would be based on the reasonable cost of production for each eligible renewable energy resource technology as determined by the commission, plus a reasonable profit commensurate to that authorized by the commission for the electrical corporation. For a tier 2 tariff-eligible generation facility with a nameplate capacity of more than 5 megawatts and not more than 10 megawatts, the price to be paid by the electrical corporation for electricity delivered to the grid would~~

~~be the total benefit of the electricity to ratepayers as determined by the commission. The bill would require the commission to establish the price to reflect the value of every kilowatthour of electricity generated on a time-of-delivery basis and any other attributes of renewable generation. The bill would require an electrical corporation to make the standard offer contract and feed-in tariff available to the owner or operator of a tariff-eligible generation facility upon request. The bill would authorize the commission to modify these requirements for an electrical corporation with less than 100,000 service connections in the state based upon the individual circumstances of that electrical corporation. The bill would provide that the electricity generated by a tariff-eligible generation facility counts toward the electrical corporation's renewables portfolio standard and that the purchase of electricity includes the purchase of all renewable and environmental attributes associated with the production of electricity by the tariff-eligible generation facility.~~

~~Under existing law, a violation of the Public Utilities Act or an order or direction of the commission is a crime. Because this bill would require an order or other action of the commission to implement its provisions and a violation of that order or action would be a crime, the bill would impose a state-mandated local program by creating a new crime.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

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

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

- 1 SECTION 1. Section 44272 of the Health and Safety Code is
- 2 amended to read:
- 3 44272. (a) The Alternative and Renewable Fuel and Vehicle
- 4 Technology Program is hereby created. The program shall be
- 5 administered by the commission. The commission shall implement
- 6 the program by regulation pursuant to the requirements of Chapter
- 7 3.5 (commencing with Section 11340) of *Part 1* of Division 3 of
- 8 Title 2 of the Government Code. The program shall provide, upon
- 9 appropriation by the Legislature, competitive grants, revolving

1 loans, loan guarantees, loans, or other appropriate funding
2 measures, to public agencies, vehicle and technology entities,
3 businesses and projects, public-private partnerships, workforce
4 training partnerships and collaboratives, fleet owners, consumers,
5 recreational boaters, and academic institutions to develop and
6 deploy innovative technologies that transform California’s fuel
7 and vehicle types to help attain the state’s climate change policies.
8 The emphasis of this program shall be to develop and deploy
9 technology and alternative and renewable fuels in the marketplace,
10 without adopting any one preferred fuel or technology.

11 (b) A project funded by the commission shall be approved at a
12 noticed public hearing of the commission and shall be consistent
13 with the priorities established by the investment plan adopted
14 pursuant to Section 44272.5.

15 (c) The commission shall provide preferences to those projects
16 that maximize the goals of the Alternative and Renewable Fuel
17 and Vehicle Technology Program, based on the following criteria,
18 as applicable:

19 (1) The project’s ability to provide a measurable transition from
20 the nearly exclusive use of petroleum fuels to a diverse portfolio
21 of viable alternative fuels that meet petroleum reduction and
22 alternative fuel use goals.

23 (2) The project’s consistency with existing and future state
24 climate change policy and low-carbon fuel standards.

25 (3) The project’s ability to reduce criteria air pollutants and air
26 toxics and reduce or avoid multimedia environmental impacts.

27 (4) The project’s ability to decrease, on a ~~life-eyele~~ *life cycle*
28 basis, the discharge of water pollutants or any other substances
29 known to damage human health or the environment, in comparison
30 to the production and use of California Phase 2 Reformulated
31 Gasoline or diesel fuel produced and sold pursuant to California
32 diesel fuel regulations set forth in Article 2 (commencing with
33 Section 2280) of Chapter 5 of Division 3 of Title 13 of the
34 California Code of Regulations.

35 (5) The project does not adversely impact the sustainability of
36 the state’s natural resources, especially state and federal lands.

37 (6) The project provides nonstate matching funds.

38 (7) The project provides economic benefits for California by
39 promoting California-based technology firms, jobs, and businesses.

- 1 (8) The project uses existing or proposed fueling infrastructure
2 to maximize the outcome of the project.
- 3 (9) The project’s ability to reduce on a ~~life-cycle~~ *life cycle*
4 assessment greenhouse gas emissions by at least 10 percent, and
5 higher percentages in the future, from current reformulated gasoline
6 and diesel fuel standards established by the state board.
- 7 (10) The project’s use of alternative fuel blends of at least 20
8 percent, and higher blend ratios in the future, with a preference
9 for projects with higher blends.
- 10 (11) The project drives new technology advancement for
11 vehicles, vessels, engines, and other equipment, and promotes the
12 deployment of that technology in the marketplace.
- 13 (d) Only the following shall be eligible for funding:
- 14 (1) Alternative and renewable fuel projects to develop and
15 improve alternative and renewable low-carbon fuels, including
16 electricity, ethanol, dimethyl ether, renewable diesel, natural gas,
17 hydrogen, and biomethane, among others, and their feedstocks
18 that have high potential for long-term or short-term
19 commercialization, including projects that lead to sustainable
20 feedstocks.
- 21 (2) Demonstration and deployment projects that optimize
22 alternative and renewable fuels for existing and developing engine
23 technologies.
- 24 (3) Projects to produce alternative and renewable low-carbon
25 fuels in California.
- 26 (4) Projects to decrease the overall impact of an alternative and
27 renewable fuel’s life cycle carbon footprint and increase
28 sustainability.
- 29 (5) Alternative and renewable fuel infrastructure, fueling
30 stations, and equipment. The preference in paragraph (10) of
31 subdivision (c) shall not apply to renewable diesel or biodiesel
32 infrastructure, fueling stations, and equipment used solely for
33 renewable diesel or biodiesel fuel.
- 34 (6) Projects to develop and improve light-, medium-, and
35 heavy-duty vehicle technologies that provide for better fuel
36 efficiency and lower greenhouse gas emissions, alternative fuel
37 usage and storage, or emission reductions, including propulsion
38 systems, advanced internal combustion engines with a 40 percent
39 or better efficiency level over the current market standard,
40 light-weight materials, energy storage, control systems and system

1 integration, physical measurement and metering systems and
2 software, development of design standards and testing and
3 certification protocols, battery recycling and reuse, engine and fuel
4 optimization electronic and electrified components, hybrid
5 technology, plug-in hybrid technology, battery electric vehicle
6 technology, fuel cell technology, and conversions of hybrid
7 technology to plug-in technology through the installation of safety
8 certified supplemental battery modules.

9 (7) Programs and projects that accelerate the commercialization
10 of vehicles and alternative and renewable fuels including buy-down
11 programs through near-market and market-path deployments,
12 advanced technology warranty or replacement insurance,
13 development of market niches, supply-chain development, and
14 research related to the pedestrian safety impacts of vehicle
15 technologies and alternative and renewable fuels.

16 (8) Programs and projects to retrofit medium- and heavy-duty
17 on-road and nonroad vehicle fleets with technologies that create
18 higher fuel efficiencies, including alternative and renewable fuel
19 vehicles and technologies, idle management technology, and
20 aerodynamic retrofits that decrease fuel consumption.

21 (9) Infrastructure projects that promote alternative and renewable
22 fuel infrastructure development connected with existing fleets,
23 public transit, and existing transportation corridors, including
24 physical measurement or metering equipment and truck stop
25 electrification.

26 (10) Workforce training programs related to alternative and
27 renewable fuel feedstock production and extraction, renewable
28 fuel production, distribution, transport, and storage,
29 high-performance and low-emission vehicle technology and high
30 tower electronics, automotive computer systems, mass transit fleet
31 conversion, servicing, and maintenance, and other sectors or
32 occupations related to the purposes of this chapter.

33 (11) Block grants administered by not-for-profit technology
34 entities for multiple projects, education and program promotion
35 within California, and development of alternative and renewable
36 fuel and vehicle technology centers.

37 ~~Life-cycle~~*Life cycle* and multimedia analyses, sustainability
38 and environmental impact evaluations, and market, financial, and
39 technology assessments performed by a state agency to determine
40 the impacts of increasing the use of low-carbon transportation fuels

1 and technologies, and to assist in the preparation of the investment
2 plan and program implementation.

3 (e) The commission may make a single source or sole source
4 award pursuant to this section for applied research. The same
5 requirements set forth in Section 25620.5 of the Public Resources
6 Code shall apply to awards made on a single source basis or a sole
7 source basis. This subdivision does not authorize the commission
8 to make a single source or sole source award for a project or
9 activity other than for applied research. ~~The commission may
10 pursuant to this subdivision make a single source or sole source
11 award for the applied research to be conducted by the Quiet
12 Motorized Road Vehicle and Safe Mobility Committee created
13 pursuant to Section 25227 of the Public Resources Code, if Senate
14 Bill 1174 of the 2007-08 Regular Session, which would add that
15 section, is enacted.~~

16 (f) Until January 1, 2012, the commission may ~~contract~~ *do both*
17 *of the following:*

18 (1) *Contract* with the Treasurer to expend funds through
19 programs implemented by the Treasurer, if ~~that~~ *the* expenditure is
20 consistent with all of the requirements of this chapter.

21 (2) *Contract with small business financial development*
22 *corporations established by the Business, Transportation and*
23 *Housing Agency to expend funds through the Small Business Loan*
24 *Guarantee Program if the expenditure is consistent with all of the*
25 *requirements of the program and this chapter.*

26
27
28
29
30
31

**All matter omitted in this version of the bill
appears in the bill as amended in the
Senate, July 15, 2009. (JR11)**