

AMENDED IN ASSEMBLY MAY 13, 2009

AMENDED IN ASSEMBLY APRIL 22, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1111

Introduced by Assembly Member Blakeslee

February 27, 2009

An act to amend Section 26003 of, and to add Section ~~26029.2~~
26011.7 to, the Public Resources Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1111, as amended, Blakeslee. Energy: California Alternative Energy and Advanced Transportation Financing Authority.

The California Alternative Energy and Advanced Transportation Financing Authority Act established the California Alternative Energy and Advanced Transportation Financing Authority. The authority is authorized to do all things necessary and convenient to carry out the purposes of the act. The authority is also required to establish a renewable energy program to provide financial assistance, as defined, to certain entities for projects to generate new and renewable energy sources, develop clean and efficient distributed generation, and demonstrate the economic feasibility of new technologies. *Existing law provides that the transfer of title of tangible personal property constituting a project under the act to the authority by a participating party or the lease or transfer of tangible personal property constituting a project under the act by the authority to a participating party pursuant to the act is not a "sale" or "purchase" for the purposes of the Sales and Use Tax Law.*

This bill would include as a project, machinery or equipment that is utilized for the design, technology transfer, manufacture, production, assembly, distribution, or service of an alternative source component. The bill would ~~authorize the authority to recommend to the Board of Equalization that projects be exempt from sales and use tax, which the bill would~~ include as “financial assistance” for the purposes of the act *purchases, sales, or lease arrangements that qualify for exclusion from the Sales and Use Tax Law. The bill would require the authority to consider specified criteria in approving a project for which the purchase, sale, or lease of tangible personal property qualifies for the sales and use tax exclusion.* The bill would require, when the sales and use tax ~~exemptions granted by the board~~ *exclusion for projects approved by the authority* exceed \$100,000,000 annually, the authority to provide a 20-day notice to the Legislature for additional ~~recommendation for exemption~~ *project approval.*

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

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

- 1 SECTION 1. Section 26003 of the Public Resources Code is
- 2 amended to read:
- 3 26003. As used in this division, unless the context otherwise
- 4 requires:
- 5 (a) “Authority” means the California Alternative Energy and
- 6 Advanced Transportation Financing Authority established pursuant
- 7 to Section 26004, and any board, commission, department, or
- 8 officer succeeding to the functions of the authority, or to which
- 9 the powers conferred upon the authority by this division shall be
- 10 given.
- 11 (b) “Cost” as applied to a project or portion thereof financed
- 12 under this division means all or part of the cost of construction
- 13 and acquisition of all lands, structures, real or personal property
- 14 or an interest therein, rights, rights-of-way, franchises, easements,
- 15 and interests acquired or used for a project; the cost of demolishing
- 16 or removing any buildings or structures on land so acquired,
- 17 including the cost of acquiring any lands to which those buildings
- 18 or structures may be moved; the cost of all machinery, equipment,
- 19 and furnishings, financing charges, interest prior to, during, and
- 20 for a period after, completion of construction as determined by the

1 authority; the cost of the purchase or sale of energy derived from
2 an alternative source pursuant to subdivision (g) of Section 26011;
3 provisions for working capital; reserves for principal and interest
4 and for extensions, enlargements, additions, replacements,
5 renovations, and improvements; the cost of architectural,
6 engineering, financial, accounting, auditing and legal services,
7 plans, specifications, estimates, administrative expenses, and other
8 expenses necessary or incident to determining the feasibility of
9 constructing any project or incident to the construction, acquisition,
10 or financing of a project.

11 (c) (1) “Alternative sources” means the application of
12 cogeneration technology, as defined in Section 25134; the
13 conservation of energy; or the use of solar, biomass, wind,
14 geothermal, hydroelectricity under 30 megawatts, or any other
15 source of energy, the efficient use of which will reduce the use of
16 fossil and nuclear fuels, and is intended primarily to offset part or
17 all of the customer’s own electrical requirements.

18 (2) “Alternative sources” does not include a hydroelectric facility
19 that does not meet state laws pertaining to the control,
20 appropriation, use, and distribution of water, including, but not
21 limited to, the obtaining of applicable licenses and permits.

22 (d) “Advanced transportation technologies” means emerging
23 commercially competitive transportation-related technologies
24 identified by the authority as capable of creating long-term, high
25 value-added jobs for Californians while enhancing the state’s
26 commitment to energy conservation, pollution reduction, and
27 transportation efficiency. Those technologies may include, but are
28 not limited to, any of the following:

- 29 (1) Intelligent vehicle highway systems.
- 30 (2) Advanced telecommunications for transportation.
- 31 (3) Command, control, and communications for public transit
32 vehicles and systems.
- 33 (4) Electric vehicles and ultralow-emission vehicles.
- 34 (5) High-speed rail and magnetic levitation passenger systems.
- 35 (6) Fuel cells.

36 (e) “Financial assistance” includes, but is not limited to, either,
37 or any combination, of the following:

- 38 (1) Loans, loan loss reserves, interest rate reductions, proceeds
39 of bonds issued by the authority, insurance, guarantees or other
40 credit enhancements or liquidity facilities, contributions of money,

1 property, labor, or other items of value, or any combination thereof,
2 as determined by, and approved by the resolution of, the authority.

3 ~~(2) Purchases, sales, or lease arrangements approved by the
4 State Board of Equalization to qualify an advanced transportation
5 or alternative source component project for sales and use tax
6 exemption pursuant to Section 6010.8 of the Revenue and Taxation
7 Code.~~

8 *(2) Purchases, sales, or lease arrangements that qualify for
9 exclusion from sales and use tax pursuant to Section 6010.8 of the
10 Revenue and Taxation Code.*

11 (3) Any other type of assistance the authority determines is
12 appropriate.

13 (f) “Participating party” means either of the following:

14 (1) A person or an entity or group of entities engaged in business
15 or operations in the state, whether organized for profit or not for
16 profit, that does either of the following:

17 (A) Applies for financial assistance from the authority for the
18 purpose of implementing a project in a manner prescribed by the
19 authority.

20 (B) Participates in the purchase or sale of energy derived from
21 an alternative source pursuant to subdivision (g) of Section 26011.

22 (2) A public agency or nonprofit corporation that does either of
23 the following:

24 (A) Applies for financial assistance from the authority for the
25 purpose of implementing a project in a manner prescribed by the
26 authority.

27 (B) Participates in the purchase or sale of energy derived from
28 an alternative source pursuant to subdivision (g) of Section 26011.

29 (g) “Project” means a land, building, improvement to the land
30 or building, rehabilitation, work, property, or structure, real or
31 personal, stationary or mobile, including, but not limited to,
32 machinery and equipment, whether or not in existence or under
33 construction, that utilizes, or is designed to utilize, an alternative
34 source, or that is utilized for the design, technology transfer,
35 manufacture, production, assembly, distribution, or service of
36 advanced transportation technologies, alternative source
37 components, or an arrangement for the purchase, including
38 prepayment, or sale of energy derived from an alternative source
39 pursuant to subdivision (g) of Section 26011.

1 (h) “Public agency” means a federal or state agency, department,
2 board, authority, state or community college, university, or
3 commission, or a county, city and county, city, regional agency,
4 public district, school district, or other political entity.

5 (i) (1) “Renewable energy” means a device or technology that
6 conserves or produces heat, processes heat, space heating, water
7 heating, steam, space cooling, refrigeration, mechanical energy,
8 electricity, or energy in any form convertible to these uses, that
9 does not expend or use conventional energy fuels, and that uses
10 any of the following electrical generation technologies:

- 11 (A) Biomass.
- 12 (B) Solar thermal.
- 13 (C) Photovoltaic.
- 14 (D) Wind.
- 15 (E) Geothermal.

16 (2) For purposes of this subdivision, “conventional energy fuel”
17 means any fuel derived from petroleum deposits, including, but
18 not limited to, oil, heating oil, gasoline, fuel oil, or natural gas,
19 including liquefied natural gas, or nuclear fissionable materials.

20 (3) Notwithstanding paragraph (1), for purposes of this section,
21 “renewable energy” also means ultralow-emission equipment for
22 energy generation based on thermal energy systems such as natural
23 gas turbines and fuel cells.

24 (j) “Revenue” means all rents, receipts, purchase payments,
25 loan repayments, and all other income or receipts derived by the
26 authority from a project, or the sale, lease, or other disposition of
27 alternative source or advanced transportation technology facilities,
28 or the making of loans to finance alternative source or advanced
29 transportation technology facilities, and any income or revenue
30 derived from the investment of money in any fund or account of
31 the authority.

32 SEC. 2. Section ~~26029.2~~ 26011.7 is added to the Public
33 Resources Code, to read:

34 ~~26029.2.~~

35 26011.7. (a) To promote the creation of jobs and reduction of
36 greenhouse gases, the authority may ~~recommend that~~ *approve* a
37 project ~~be exempted from sales and use tax and forward the~~
38 ~~recommendation to the State Board of Equalization for~~
39 ~~consideration of granting an exemption for which the purchase,~~
40 ~~sale, or lease of tangible personal property qualifies for the sales~~

1 *and use tax exclusion* pursuant to Section 6010.8 of the Revenue
2 and Taxation Code.

3 ~~(b) In recommending a project for the sales and use tax~~
4 ~~exemption~~

5 *(b) In approving a project for which the purchase, sale, or lease*
6 *of tangible personal property qualifies for the sales and use tax*
7 *exclusion pursuant to Section 6010.8 of the Revenue and Taxation*
8 *Code, the authority shall consider all of the following criteria:*

9 (1) The extent to which the anticipated benefit to the state from
10 the project equals or exceeds the projected benefit to the
11 participating party from the sales and use tax ~~exemption~~ *exclusion*.

12 (2) The extent to which the project will create new, permanent
13 jobs in California.

14 (3) The extent to which the project is consistent with local and
15 state planning.

16 (4) The extent to which the project will produce quantifiable,
17 verifiable, and sustainable reductions in the emissions of
18 greenhouse gases as defined in subdivision (g) of Section 38505
19 of the Health and Safety Code.

20 (5) Any other factors that the authority deems appropriate.

21 ~~(c) Once exemptions granted~~ *exclusions* pursuant to Section
22 6010.8 of the Revenue and Taxation Code for projects
23 ~~recommended~~ *approved* by the authority pursuant to this section
24 exceed one hundred million dollars (\$100,000,000) annually, the
25 authority shall provide a 20-day notice to the Legislature for
26 additional ~~recommendations~~ *approvals* made pursuant to this
27 section.

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30 **CORRECTIONS:**

31 **Text—Page 6.**

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