

**ASSEMBLY BILL**

**No. 1551**

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**Introduced by Committee on Utilities and Commerce (Fuentes (Chair), Blakeslee, Buchanan, Carter, Fong, Furutani, Huffman, Krekorian, Smyth, and Torrico)**

March 10, 2009

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An act to amend Sections 26003 and 26011 of the Public Resources Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1551, as introduced, Committee on Utilities and Commerce. 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 act defines the term "alternative sources" to mean the application of cogeneration technology, the conservation of energy, and the use of specified renewable energy sources under 30 megawatts or other sources of energy that reduce the use of fossil and nuclear fuel and are intended primarily to offset part or all of a customer's own electrical requirements. The authority is authorized to purchase alternative source energy or projects for sale to a specified participating party and to make a loan to a participating party to purchase alternative source energy or projects by entering into various specified instruments including prepayment purchase contracts.

This bill would change the definition of "alternative sources" by deleting the requirement that the energy sources be intended primarily to offset part or all of a customer's own electrical requirements. The

bill would require the authority to enter into a prepayment contract with a participating party only for energy derived from an alternative source to the extent the prepayment is for energy intended to primarily offset part or all of the authority’s or a participating party’s own electrical requirements.

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~~ *of the project*  
12 financed under this division means all or part of the cost of  
13 construction and acquisition of all lands, structures, real or personal  
14 property or an interest ~~therein~~, *in the real or personal property*,  
15 rights, rights-of-way, franchises, easements, and interests acquired  
16 or used for a project; the cost of demolishing or removing any  
17 buildings or structures on land so acquired, including the cost of  
18 acquiring any lands to which those buildings or structures may be  
19 moved; the cost of all machinery, equipment, and furnishings,  
20 financing charges, interest prior to, during, and for a period after,  
21 completion of construction as determined by the authority; the cost  
22 of the purchase or sale of energy derived from an alternative source  
23 pursuant to subdivision (g) of Section 26011; provisions for  
24 working capital; reserves for principal and interest and for  
25 extensions, enlargements, additions, replacements, renovations,  
26 and improvements; the cost of architectural, engineering, financial,  
27 accounting, auditing and legal services, plans, specifications,  
28 estimates, administrative expenses, and other expenses necessary  
29 or incident to determining the feasibility of constructing any project

1 or incident to the construction, acquisition, or financing of a  
2 project.

3 (c) (1) “Alternative sources” means the application of  
4 cogeneration technology, as defined in Section 25134; the  
5 conservation of energy; or the use of solar, biomass, wind,  
6 geothermal, hydroelectricity under 30 megawatts, or any other  
7 source of energy, the efficient use of which will reduce the use of  
8 fossil and nuclear fuels, ~~and is intended primarily to offset part or~~  
9 ~~all of the customer’s own electrical requirements.~~

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

14 (d) “Advanced transportation technologies” means emerging  
15 commercially competitive transportation-related technologies  
16 identified by the authority as capable of creating long-term, high  
17 value-added jobs for Californians while enhancing the state’s  
18 commitment to energy conservation, pollution reduction, and  
19 transportation efficiency. Those technologies may include, but are  
20 not limited to, any of the following:

- 21 (1) Intelligent vehicle highway systems.
- 22 (2) Advanced telecommunications for transportation.
- 23 (3) Command, control, and communications for public transit  
24 vehicles and systems.
- 25 (4) Electric vehicles and ultralow-emission vehicles.
- 26 (5) High-speed rail and magnetic levitation passenger systems.
- 27 (6) Fuel cells.

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

30 (1) Loans, loan loss reserves, interest rate reductions, proceeds  
31 of bonds issued by the authority, insurance, guarantees or other  
32 credit enhancements or liquidity facilities, contributions of money,  
33 property, labor, or other items of value, or any combination thereof,  
34 as determined by, and approved by the resolution of, the board.

35 (2) Any other type of assistance the authority determines is  
36 appropriate.

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

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

1 (A) Applies for financial assistance from the authority for the  
2 purpose of implementing a project in a manner prescribed by the  
3 authority.

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

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

8 (A) Applies for financial assistance from the authority for the  
9 purpose of implementing a project in a manner prescribed by the  
10 authority.

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

13 (g) “Project” means a land, building, improvement to the land  
14 or building, rehabilitation, work, property, or structure, real or  
15 personal, stationary or mobile, including, but not limited to,  
16 machinery and equipment, whether or not in existence or under  
17 construction, that utilizes, or is designed to utilize, an alternative  
18 source, or that is utilized for the design, technology transfer,  
19 manufacture, production, assembly, distribution, or service of  
20 advanced transportation technologies, or an arrangement for the  
21 purchase, including prepayment, or sale of energy derived from  
22 an alternative source pursuant to subdivision (g) of Section 26011.

23 (h) “Public agency” means a federal or state agency, department,  
24 board, authority, state or community college, university, or  
25 commission, or a county, city and county, city, regional agency,  
26 public district, school district, or other political entity.

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

33 (A) Biomass.

34 (B) Solar thermal.

35 (C) Photovoltaic.

36 (D) Wind.

37 (E) Geothermal.

38 (2) For purposes of this subdivision, “conventional energy fuel”  
39 means any fuel derived from petroleum deposits, including, but

1 not limited to, oil, heating oil, gasoline, fuel oil, or natural gas,  
2 including liquefied natural gas, or nuclear fissionable materials.

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

7 (j) “Revenue” means all rents, receipts, purchase payments,  
8 loan repayments, and all other income or receipts derived by the  
9 authority from a project, or the sale, lease, or other disposition of  
10 alternative source or advanced transportation technology facilities,  
11 or the making of loans to finance alternative source or advanced  
12 transportation technology facilities, and any income or revenue  
13 derived from the investment of money in any fund or account of  
14 the authority.

15 SEC. 2. Section 26011 of the Public Resources Code is  
16 amended to read:

17 26011. The authority is authorized and empowered:

18 (a) To adopt an official seal.

19 (b) To sue and be sued in its own name.

20 (c) To issue bonds, notes, bond anticipation notes, and other  
21 obligations of the authority, including, at the option of the  
22 authority, obligations bearing interest that is taxable for purposes  
23 of federal income taxation, for any of its purposes and to fund or  
24 refund the same, all as provided in this division.

25 (d) To determine the location and character of a project to be  
26 financed under the provisions of this division, to lend financial  
27 assistance to a participating party, to enter into loan agreements  
28 with a participating party for the financing of a project including  
29 creating a lien or security interest in the property, to construct,  
30 reconstruct, renovate, replace, lease, as lessor or lessee, and  
31 regulate the same, and to enter into contracts for the sale of a  
32 project, including installment sales or sales under conditional sales  
33 contracts.

34 (e) To fix fees and charges for projects, and interest rates with  
35 respect to loans for projects, and to revise from time to time the  
36 fees and charges and interest rates, and to collect rates, rents, fees,  
37 and charges for the use of, and for a facility or service furnished,  
38 or to be furnished, by a project or part of the project and to contract  
39 with a person, partnership, association, corporation, or public  
40 agency with respect to the project, and to fix the terms and

1 conditions upon which a project may be sold or disposed of,  
2 whether upon installment sales contracts or otherwise.

3 (f) To employ and fix the compensation of bond counsel,  
4 financial consultants, and advisers as may be necessary in its  
5 judgment in connection with the issuance and sale of any bonds,  
6 notes, bond anticipation notes, or other obligations of the authority;  
7 to contract for engineering, architectural, accounting, or other  
8 services of appropriate state agencies as may be necessary in the  
9 judgment of the authority for the successful development of a  
10 project; and to pay the reasonable costs of consulting engineers,  
11 architects, accountants, and construction experts employed by a  
12 participating party if, in the judgment of the authority, the services  
13 are necessary to the successful development of a project, and the  
14 services are not obtainable from a state agency.

15 (g) To purchase alternative source energy or projects from a  
16 person or entity for sale to a participating party, or to make a loan  
17 to a participating party to purchase alternative source energy or  
18 projects, or to purchase from a person or entity that has contracted  
19 to sell alternative source energy to a participating party the right  
20 to receive purchase payments and related rights under that contract  
21 or any related contracts. Notwithstanding any other applicable law,  
22 the authority and a public agency, for purposes of a program or  
23 financing, shall have the power to enter into contractual  
24 arrangements and related agreements or instruments, including,  
25 without limitation, a prepayment purchase contract, lease, loan,  
26 construction, security, operation and maintenance, or other  
27 agreement or instrument, with the authority or with a participating  
28 party, upon the terms and subject to the conditions that may be  
29 necessary or convenient to accomplish the purposes of this  
30 subdivision. *The authority shall only enter into a prepayment*  
31 *contract with a participating party for energy derived from an*  
32 *alternative source to the extent the prepayment is for energy*  
33 *intended to primarily offset part or all of the authority's or a*  
34 *participating party's own electrical requirements.*

35 (h) To do all things generally necessary or convenient to carry  
36 out the purposes of this division.

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