

AMENDED IN SENATE MAY 12, 2009

AMENDED IN SENATE APRIL 23, 2009

SENATE BILL

No. 400

Introduced by Senator Corbett

February 26, 2009

~~An act to amend Section 26003 of the Public Resources Code, relating to energy.~~ *An act to amend Section 8869.82 of the Government Code, relating to bonds.*

LEGISLATIVE COUNSEL'S DIGEST

SB 400, as amended, Corbett. ~~Energy: green vehicles.~~ *Bonds.*

Existing law establishes in state government the California Debt Limit Allocation Committee, with duties that include annually determining a state ceiling on the aggregate amount of private activity bonds that can be issued, and allocating that amount among state and local agencies. Existing law defines the term "state ceiling" for those purposes with regard to an amount specified in federal law.

This bill would revise the definition of "state ceiling" for these purposes to also include certain amounts reserved to the state for qualified energy conservation bonds and recovery zone economic development bonds.

~~The California Alternative Energy and Advanced Transportation Financing Authority provides industries in the state with alternative methods of financing in providing and promoting the establishment of facilities needed for the development and commercialization of advanced transportation technologies, and other facilities. The act defines "advanced transportation technologies" to include, among other things, electric vehicles and ultralow emission vehicles.~~

This bill instead, would define “advanced transportation technologies” to include, among other things, “California green vehicles,” as defined.

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 8869.82 of the Government Code is
 2 amended to read:
 3 8869.82. (a) As used in this chapter, unless the context
 4 otherwise requires, the terms defined in this section shall have the
 5 following meanings:
 6 (a)
 7 (1) “Committee” means the California Debt Limit Allocation
 8 Committee established pursuant to Section 8869.83.
 9 (b)
 10 (2) “Fund” means the California Debt Limit Allocation
 11 Committee Fund created pursuant to Section 8869.90.
 12 (c)
 13 (3) “Internal Revenue Code” means the Internal Revenue Code
 14 of 1986, as amended from time to time (*26 U.S.C. Sec. 1 et seq.*).
 15 (d)
 16 (4) “Issuer” means any local agency or state agency authorized
 17 by the Constitution or laws of the state to issue private activity
 18 bonds.
 19 (e)
 20 (5) “Local agency” means any political subdivision of the state
 21 within the meaning of Section 103 of the Internal Revenue Code,
 22 (*26 U.S.C. Sec. 103*) or any entity that has the power to issue
 23 private activity bonds ~~“on behalf of” any such~~ *on behalf of that*
 24 political subdivision.
 25 (f)
 26 (6) “MBTCAC” means the ~~Mortgage Bond and California Tax~~
 27 Credit Allocation Committee created by Section ~~50185~~ *50199.8*
 28 of the Health and Safety Code.
 29 (g)
 30 (7) “Private activity bond” means a part or all of any bond ~~(or,~~
 31 ~~or other instrument)~~ *instrument*, required to obtain a portion of the
 32 state’s volume cap pursuant to Section 146 of the Internal Revenue
 33 Code (*26 U.S.C. Sec. 146*) in order to be tax exempt, including,

1 generally, *all of the following* ~~(as such, as those bonds are defined~~
2 ~~in the Internal Revenue Code) Code: (1) exempt~~
3 (A) *Exempt* facility bonds ~~(except, except~~ bonds for airports,
4 docks and wharves, and certain solid waste ~~facilities), (2) qualified~~
5 *facilities*.
6 (B) *Qualified* mortgage bonds, ~~(3) qualified~~.
7 (C) *Qualified* small issue bonds, ~~(4) qualified~~.
8 (D) *Qualified* student loan bonds, ~~(5) qualified~~.
9 (E) *Qualified* redevelopment bonds, ~~and (6) the~~.
10 (F) *The* nonqualified amount of an issue of governmental bonds
11 (including advance refunds) exceeding fifteen million dollars
12 (\$15,000,000), as provided in Section 141(b)(5) of the Internal
13 Revenue Code (26 U.S.C. Sec. 141(b)(5)).
14 ~~(h)~~
15 (8) “Private activity bond limit” means any portion of the state
16 ceiling allocated or transferred to a state agency or local agency
17 pursuant to this chapter.
18 ~~(i)~~
19 (9) “State” means the State of California.
20 ~~(j)~~
21 (10) “State agency” means the state and all state entities,
22 including joint powers authorities of which the state or agency or
23 instrumentality thereof is a member, empowered to issue private
24 activity bonds, the interest on which is exempt from income tax
25 under Section 103(a) of the Internal Revenue Code (26 U.S.C. Sec.
26 103(a)), including nonprofit corporations described in Section
27 150(d) (26 U.S.C. Sec. 150(d)) of the Internal Revenue Code
28 authorized to issue qualified scholarship funding bonds.
29 ~~(k)~~
30 (11) “State ceiling” ~~shall be the~~ *includes both of the following:*
31 (A) *The* amount specified by Section 146(d) of the Internal
32 Revenue Code (26 U.S.C. Sec. 146(d)) for each calendar year
33 commencing in 1986.
34 (B) *The* amount reserved to the state pursuant to Sections 1112
35 and 1401 of the American Recovery and Reinvestment Act of 2009
36 (26 U.S.C. Secs. 54a and 1400U-2).
37 Pursuant
38 (b) Pursuant to Section 146(e) of the Internal Revenue Code
39 (26 U.S.C. Sec. 146(e)), this chapter ~~shall govern~~ *governs* the
40 allocation of the state ceiling among the state agencies and local

1 agencies in this state having authority to issue private activity
2 bonds. ~~Any~~

3 (c) ~~Any~~ portion of the state ceiling allocated or transferred by
4 or under the authority of this chapter shall become the private
5 activity bond limit for the issuer of which ~~such~~ *that* portion is
6 allocated or transferred for any private activity bonds issued by
7 that issuer.

8 SECTION 1. ~~Section 26003 of the Public Resources Code is~~
9 ~~amended to read:~~

10 26003. ~~As used in this division, unless the context otherwise~~
11 ~~requires:~~

12 (a) ~~“Authority” means the California Alternative Energy and~~
13 ~~Advanced Transportation Financing Authority established pursuant~~
14 ~~to Section 26004, and any board, commission, department, or~~
15 ~~officer succeeding to the functions of the authority, or to which~~
16 ~~the powers conferred upon the authority by this division shall be~~
17 ~~given.~~

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

38 (c) (1) ~~“Alternative sources” means the application of~~
39 ~~cogeneration technology, as defined in Section 25134; the~~
40 ~~conservation of energy; or the use of solar, biomass, wind,~~

1 geothermal, hydroelectricity under 30 megawatts, or any other
2 source of energy, the efficient use of which will reduce the use of
3 fossil and nuclear fuels, and is intended primarily to offset part or
4 all of the customer's own electrical requirements.

5 (2) "Alternative sources" does not include a hydroelectric facility
6 that does not meet state laws pertaining to the control,
7 appropriation, use, and distribution of water, including, but not
8 limited to, the obtaining of applicable licenses and permits.

9 (d) "Advanced transportation technologies" means emerging
10 commercially competitive transportation-related technologies
11 identified by the authority as capable of creating long-term,
12 high-value-added jobs for Californians while enhancing the state's
13 commitment to energy conservation, pollution reduction, and
14 transportation efficiency. Those technologies may include, but are
15 not limited to, any of the following:

16 (1) Intelligent vehicle highway systems.

17 (2) Advanced telecommunications for transportation.

18 (3) Command, control, and communications for public transit
19 vehicles and systems.

20 (4) California green vehicles.

21 (5) High-speed rail and magnetic levitation passenger systems.

22 (6) Fuel cells.

23 (e) A "California green vehicle" means a motor vehicle that
24 meets any of the following criteria:

25 (1) Meets or exceeds California's super-ultralow emission
26 vehicle standard of exhaust emissions and the federal inherently
27 low-emission vehicle evaporative emission, as defined in Part 88
28 (commencing with Section 88.101-94) of Title 40 of the Code of
29 Federal Regulations.

30 (2) Is a plug-in hybrid motor vehicle propelled by an internal
31 combustion engine or heat engine using a combustible fuel, an
32 on-board rechargeable storage device, and a means of using an
33 off-board source of electricity.

34 (3) Meets or exceeds the California advanced technology partial
35 zero-emission vehicle standard for criteria pollutant emissions and
36 that is rated at 45 miles per gallon or greater according to the
37 federal highway fuel economy test procedure.

38 (4) Is a gas-electric hybrid vehicle that has a combined fuel
39 economy rating of 45 miles per gallon or greater according to the
40 federal highway fuel economy test procedure and meets or exceeds

1 California's ultralow emission vehicle standard for exhaust
2 emissions:

3 (f) "Financial assistance" includes, but is not limited to, either,
4 or any combination, of the following:

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

10 (2) Any other type of assistance the authority determines is
11 appropriate.

12 (g) "Participating party" means either of the following:

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

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

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

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

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

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

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

38 (i) "Public agency" means a federal or state agency, department,
39 board, authority, state or community college, university, or

1 commission, or a county, city and county, city, regional agency,
2 public district, school district, or other political entity.

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

9 (A) ~~Biomass.~~

10 (B) ~~Solar thermal.~~

11 (C) ~~Photovoltaic.~~

12 (D) ~~Wind.~~

13 (E) ~~Geothermal.~~

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

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

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