

AMENDED IN SENATE APRIL 26, 2011

AMENDED IN ASSEMBLY MARCH 1, 2011

CALIFORNIA LEGISLATURE—2011–12 FIRST EXTRAORDINARY SESSION

ASSEMBLY BILL

No. 13

**Introduced by Assembly Members V. Manuel Pérez, Bradford, and
Skinner
(Coauthor: Assembly Member John A. Pérez)**

February 7, 2011

An act to amend Sections 2069 and 2099 of, and to add Sections 2099.10 and 2840 to, the Fish and Game Code, and to amend Section 25524 of, and to add Section 25619 to, the Public Resources Code, relating to renewable energy resources, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 13, as amended, V. Manuel Pérez. Energy: renewable resources: endangered species: environmental impact reports.

(1) The California Endangered Species Act (CESA) requires the Fish and Game Commission to establish a list of endangered species and a list of threatened species, and requires the Department of Fish and Game to recommend, and the commission to adopt, criteria for determining if a species is endangered or threatened. CESA authorizes the department to authorize the take of threatened species, endangered species, or candidate species by permit if certain requirements are met. CESA authorizes the department, in consultation with the State Energy Resources Conservation and Development Commission (Energy Commission) and, to the extent practicable, the United States Fish and Wildlife Service and the United States Bureau of Land Management,

to design and implement actions to protect, restore, or enhance the habitat of plants and wildlife that can be used to fully mitigate the impacts of the take of endangered, threatened, or candidate species (mitigation actions) resulting from certain solar thermal and photovoltaic powerplants in the planning area of the Desert Renewable Energy Conservation Plan.

This bill additionally would authorize the department to design and implement these mitigation actions for proposed wind and geothermal powerplants in the planning area subject to the Desert Renewable Energy Conservation Plan.

(2) Existing law requires the department to collect, and requires the owner or developer of an eligible project to pay, a one-time permit application fee of \$75,000 to the department for deposit into the Fish and Game Preservation Fund. Existing law requires the department to utilize the permit application fee to pay for all or a portion of the department's cost of processing incidental take permit applications pursuant to CESA.

This bill would additionally require the department to collect, and an owner or developer of an eligible project to pay, a one-time permit application fee of ~~\$75,000~~ \$50,000 to the department for deposit into the Fish and Game Preservation Fund, to pay for all or a portion of the department's cost of processing incidental take permit applications. The bill would define "eligible project" to mean an eligible renewable energy resource, as defined in the California ~~renewables portfolio standard program~~ *Renewables Portfolio Standard Program*. If the permit application fee is insufficient to complete permitting work due to the complexity of a project or timeline delays, the bill would authorize the department to collect an additional fee from the owner or developer to pay for its actual costs, not to exceed an additional ~~\$75,000~~ \$200,000. The bill would limit the fee collected by the department, if the department's cost of processing an incidental take permit application is limited to activities relating to a consistency determination, to an amount that does not exceed the anticipated full costs to the department for those activities.

Existing law establishes the Renewable Energy Resources Development Fee Trust Fund as a continuously appropriated fund in the State Treasury to serve, and be managed, as an optional, voluntary method for developers or owners of eligible projects, as defined, to deposit fees sufficient to complete mitigation actions established by the department and thereby meet their requirements pursuant to CESA or

the certification authority of the Energy Commission. The definition of eligible projects, for purposes of these provisions and fees, is limited to certain solar thermal powerplants and photovoltaic powerplants proposed to be constructed in the planning area subject to the Desert Renewable Energy Conservation Plan.

This bill would expand the definition of eligible projects to include wind and geothermal powerplants proposed to be constructed in the planning area subject to the Desert Renewable Energy Conservation Plan. By expanding the purposes for which moneys in this continuously appropriated fund may be used, this bill would make an appropriation.

(3) The Natural Community Conservation Planning Act authorizes the Department of Fish and Game to enter into agreements with any person or public entity for the purpose of preparing a natural community conservation plan, in cooperation with a local agency that has land use permit authority over the activities proposed to be addressed in the plan, to provide comprehensive management and conservation of multiple wildlife species.

This bill would require the department to enter into one or more planning agreements with appropriate plan participants, including, but not limited to, the Energy Commission, one or more counties within the San Joaquin Valley, as defined, and other persons or public entities for the purpose of preparing one or more natural community conservation plans, if certain conditions are met with regard to the plan and the parties to the planning agreement.

(4) The Warren-Alquist State Energy Resources Conservation and Development Act establishes the State Energy Resources Conservation and Development Commission (Energy Commission), and requires it to certify sufficient sites and related facilities that are required to provide a supply of electricity sufficient to accommodate projected demand for power statewide. The act grants the Energy Commission the exclusive authority to certify any stationary or floating electrical generating facility using any source of thermal energy, with a generating capacity of 50 megawatts or more, and any facilities appurtenant thereto.

Existing law requires the Energy Commission to establish a process for certain applicants for certification of a solar thermal powerplant that is proposed to be constructed in the planning area subject to the Desert Renewable Energy Conservation Plan, as defined, that allows the applicant to elect to pay additional fees to be used by the Energy Commission to contract with 3rd parties to assist the Energy

Commission staff in performing the analysis otherwise performed by staff in determining whether or not to issue a certification.

This bill would expand this process to include any applicant for certification of an eligible renewable energy resource.

The bill would require the Energy Commission, upon appropriation by the Legislature, to provide \$7,000,000 in grants to qualified counties for the development or revision of rules and policies, including, *but not limited to*, general plan elements, zoning ordinances, and a natural community conservation plan as a plan participant, to facilitate the development of eligible renewable energy resources, and their associated electric transmission facilities, on disturbed lands, as defined, *and the processing of permits for eligible renewable energy resources*. The bill would require a general plan element or zoning ordinance that is adopted or revised pursuant to a grant to be completed within 2 years of receipt of the grant and be consistent with the conservation strategies of any natural community conservation plan, if one ~~had~~ *has* been approved or is under development ~~in the county~~. *The bill would prohibit the commission from awarding a grant to a county that is not a “plan participant,” as defined, in the Desert Renewable Energy Conservation Plan. The bill would require the Energy Commission, in its initial round of grant funding, to establish a preference for a grant to a qualified county in an amount that is adequate to develop a renewable energy element in its general plan that will facilitate the development and siting of multiple renewable energy technologies, and to also establish a preference for a grant for those counties that have experience in geothermal energy development and have adopted a geothermal element, as defined, to its general plan.*

(5) This bill would provide that it would be operative only if SB 2 of the 2011–12 First Extraordinary Session is enacted and becomes effective on or before January 1, 2012.

(6) The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. Governor Schwarzenegger issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on December 6, 2010. Governor Brown issued a proclamation on January 20, 2011, declaring and reaffirming that a fiscal emergency exists and stating that his proclamation supersedes the earlier proclamation for purposes of that constitutional provision.

This bill would state that it addresses the fiscal emergency declared and reaffirmed by the Governor by proclamation issued on January 20, 2011, pursuant to the California Constitution.

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

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

1 SECTION 1. Section 2069 of the Fish and Game Code is
2 amended to read:

3 2069. (a) For purposes of this section, the following terms
4 have the following meanings:

5 (1) “Desert Renewable Energy Conservation Plan” means the
6 completed conservation plan in the Mojave and Colorado Desert
7 regions adopted pursuant to the Natural Community Conservation
8 Planning Act (Chapter 10 (commencing with Section 2800)), and
9 covers the geographical area described in Section 4 of, and depicted
10 in Exhibit A to, the ~~“Draft Planning Agreement by and among~~
11 ~~California Department of Fish and Game, California Energy~~
12 ~~Commission, United States Bureau of Land Management, and~~
13 ~~United States Fish and Wildlife Service for the Desert Renewable~~
14 ~~Energy Conservation Plan,” document REAT-1000-2009-034,~~
15 ~~dated October 2009; covers the geographical area described in~~
16 ~~the Draft Planning Agreement, as amended, by, and among, the~~
17 ~~Department of Fish and Game, California Energy Commission,~~
18 ~~United States Bureau of Land Management, and United States~~
19 ~~Fish and Wildlife Service for the Desert Renewable Energy~~
20 ~~Conservation Plan.~~

21 (2) “Energy Commission” means the State Energy Resources
22 Conservation and Development Commission.

23 (b) The department, in consultation with the Energy Commission
24 and, to the extent practicable, the United States Fish and Wildlife
25 Service and the United States Bureau of Land Management, may
26 design and implement actions, including the purchase of land and
27 conservation easements, to protect, restore, or enhance the habitat
28 of plants and wildlife that can be used to fully mitigate the impacts
29 of the take of endangered species, threatened species, or candidate
30 species, for purposes of paragraph (2) of subdivision (b) of Section
31 2081 and Chapter 6 (commencing with Section 25500) of Division
32 15 of the Public Resources Code, resulting from solar thermal,

1 photovoltaic, wind, and geothermal powerplants in the Desert
2 Renewable Energy Conservation Plan planning area that meet ~~each~~
3 *either* of the following requirements:

4 (1) Either the Energy Commission determines that the
5 application for certification ~~was complete by February 1, is~~
6 *complete by December 31, 2011*, or the local government in which
7 the project is located has determined the project permit application
8 is complete or has issued a notice of preparation of an
9 environmental impact ~~statement~~ *report* pursuant to Division 13
10 (commencing with Section 21000) of the Public Resources Code
11 ~~by February 1, December 31, 2011.~~

12 (2) The developer or owner of the proposed powerplant or
13 generation facility has applied for, and would qualify for, funding
14 under the federal American Recovery and Reinvestment Act of
15 2009 (Public Law 111-5). For purposes of this paragraph,
16 “funding” means a loan guarantee made pursuant to Section 406
17 of the act (42 U.S.C. Sec. 16516) or a grant for specified energy
18 property in lieu of a tax credit provided pursuant to Section 1603
19 of Division B of the act, which division is titled the American
20 Recovery and Reinvestment Tax Act of 2009.

21 (c) A mitigation action may only be used for the mitigation
22 purposes described in subdivision (b) if it meets one of the
23 following conditions:

24 (1) The department has implemented the mitigation action and
25 determined that the action has resulted in the protection, restoration,
26 or enhancement of the habitat of one or more species that are
27 proposed to be covered by the Desert Renewable Energy
28 Conservation Plan, and that are located in the planning area, and,
29 based upon that determination, can be used, for purposes of
30 paragraph (2) of subdivision (b) of Section 2081, to fully mitigate
31 ~~the impacts of the take of the~~ *for the impacts of the take of those*
32 ~~species from one or more projects identified in that meet the~~
33 *requirement of subdivision (b).*

34 (2) The mitigation action is included in an interim mitigation
35 strategy for projects ~~identified in that meet the requirement of~~
36 *subdivision (b).* An interim mitigation strategy pursuant to this
37 paragraph shall be developed by the department, in consultation
38 with the Energy Commission and, to the extent practicable, the
39 United States Fish and Wildlife Service and the United States
40 Bureau of Land Management, and shall include all of the following:

1 (A) A description of specific mitigation areas and specific
2 actions on public or private land within the Desert Renewable
3 Energy Conservation Plan planning area that are to be
4 implemented, including a focus on habitat preservation, while also
5 including enhancement or restoration actions that will do all of the
6 following:

7 (i) Contribute to the conservation of each candidate species,
8 threatened species, or endangered species for which a permit is
9 issued.

10 (ii) Adopt a regional planning perspective that provides a
11 foundation for, or that will complement, any conservation strategy
12 to be developed for the Desert Renewable Energy Conservation
13 Plan.

14 (iii) Implement mitigation actions within a reasonable period
15 of time relative to the impact to the affected candidate species,
16 threatened species, or endangered species, including, where
17 feasible, advance mitigation. For purposes of this clause, “advance
18 mitigation” means mitigation implemented before, and in
19 anticipation of, future impacts to natural resources.

20 (iv) Include a description of the species that would be benefited
21 by each mitigation action and how it would be benefited.

22 (B) A cost estimate for each action, whether on public or private
23 land, using total cost accounting, including, as applicable, land
24 acquisition costs, conservation easement costs, monitoring costs,
25 transaction costs, restoration costs, the amount of a nonwasting
26 endowment account for land management or easement stewardship
27 costs by the department or other management entity, and
28 administrative costs.

29 (d) The interim mitigation strategy shall be based on best
30 available science and shall be reviewed by the Desert Renewable
31 Energy Conservation Plan independent science advisers. The
32 department shall seek and consider comments from the Desert
33 Renewable Energy Conservation Plan independent science advisers
34 in the design and location of each mitigation action implemented
35 pursuant to this section. If the department elects to not incorporate
36 comments of the independent science advisers into mitigation
37 actions, the department shall explain the reasons for that decision
38 in writing.

(e) The interim mitigation strategy shall be completed by the department no later than 60 days following the operative date of the act adding this section.

(f) (1) This section does not modify the requirements of Section 2081, including the requirement to avoid and minimize impacts, where feasible, or the requirements of Division 13 (commencing with Section 21000) of, or Chapter 6 (commencing with Section 25500) of Division 15 of, the Public Resources Code, or affect the existing authority of the department to authorize mitigation actions to comply with this chapter.

(2) With respect to the Energy Commission, in the case of an applicant seeking certification for a solar thermal or geothermal powerplant pursuant to Chapter 6 (commencing with Section 25500) of Division 15 of the Public Resources Code, or a lead agency, as defined in Section 21067 of the Public Resources Code, in the case of an applicant seeking approval of a renewable energy powerplant not subject to the Energy Commission's jurisdiction, the sole effect of a mitigation action described in subdivision (c), and paid for through the deposit of fees as described in Section 2099, is to relieve an applicant of the obligation to directly take actions that are taken instead by the department or its contractor or designee pursuant to subdivision (b) to meet the applicant's obligations with respect to *mitigating* the powerplant's impacts to species and habitat. The mitigation action and deposit of fees shall not relieve the applicant of any other obligation, or the Energy Commission or the lead agency of any of its existing requirements of Division 13 (commencing with Section 21000) of, or the requirements of Chapter 6 (commencing with Section 25500) of Division 15 of, the Public Resources Code to analyze, avoid, minimize, or mitigate impacts to species and habitat, or make the findings required by those statutes.

(g) The mitigation actions implemented pursuant to this section shall be incorporated into the Desert Renewable Energy Conservation Plan upon the finalization of the plan, to the extent the mitigation actions are consistent with the plan's conservation strategy.

SEC. 2. Section 2099 of the Fish and Game Code is amended to read:

2099. (a) For purposes of this section, the following terms have the following meanings:

(1) “Eligible project” means a solar thermal powerplant, photovoltaic powerplant, wind powerplant, or geothermal powerplant meeting the requirements of ~~paragraphs (1) and paragraph (1) or (2)~~ of subdivision (b) of Section 2069 *or meeting the definition of a “covered activity” in the final Desert Renewable Energy Conservation Plan, as approved by the department.*

(2) “Energy Commission” means the State Energy Resources Conservation and Development Commission.

(b) (1) The Renewable Energy Resources Development Fee Trust Fund is hereby established in the State Treasury. The department shall collect a fee from the owner or developer of an eligible project that elects to use mitigation actions developed and approved by the department pursuant to Section 2069, and all moneys received for purposes of mitigation actions pursuant to Section 2069 shall be deposited in the fund and shall be held in trust and be expended solely for the purposes of, and in conformity with, that section, applicable permit or certification requirements for eligible projects, and any contractual agreement between the Energy Commission or department and the owner or developer of an eligible project. The department may contract with, or award grants to, third parties to implement mitigation actions in conformity with Section 2069 and this section.

(2) Upon direction by the department, the Controller shall create any accounts or subaccounts within the fund that the department determines are necessary or convenient to facilitate management of the fund.

(3) The fund shall serve, and be managed, as an optional, voluntary method for developers or owners of eligible projects to deposit fees to complete mitigation actions meeting the conditions of subdivision (c) of Section 2069 and for the purpose of meeting the requirements of this chapter or the requirements of Chapter 6 (commencing with Section 25500) of Division 15 of the Public Resources Code *by funding mitigation actions implemented by the department or third parties in a contractual relationship with the department.* Notwithstanding Section 13340 of the Government Code, the money in the fund is hereby continuously appropriated to the department, without regard to fiscal years, for the purposes enumerated in this section and Section 2069. An expenditure shall not be made from the fund except as authorized by the department.

(4) The sum of ten million dollars (\$10,000,000) is hereby transferred, as a loan, from the Renewable Resource Trust Fund to the fund. This loan shall be repaid from the fund to the Renewable Resource Trust Fund no later than December 31, 2012. The department shall use these funds, pursuant to paragraph (1) of subdivision (c) of Section 2069, to purchase mitigation lands or conservation easements, and to cover related restoration, monitoring, and transaction costs incurred in advance of the receipt of fees pursuant to paragraph (5) and to cover the department's administrative costs for the program.

(5) A developer or owner of an eligible project that elects to use mitigation actions developed and authorized by the department pursuant to Section 2069 shall remit fees to the department for deposit into the fund for those mitigation actions in an amount that reflects the determination by the Energy Commission, with respect to a solar thermal or geothermal powerplant subject to its jurisdiction, or the department, with respect to a renewable energy powerplant not subject to the Energy Commission's jurisdiction, of the costs attributable to the mitigation actions that meet the standards of this chapter. The amount of fees to be paid by a developer or owner of an eligible project to meet the standards of this chapter shall be calculated on a per acre basis, using total cost accounting, and shall include, as applicable, land acquisition or conservation easement costs, monitoring costs, restoration costs, transaction costs, the amount of a nonwasting endowment account for land management or easement stewardship costs by the department or other management entity, and administrative costs and funds sufficient to repay any expenditure of state funds made pursuant to paragraph (4). To ensure the funds deposited pursuant to this section are sufficient to meet the standards of this chapter, the project developer or owner, in addition to payment of those funds, shall provide security, in a form and amount, not to exceed 5 percent of the amount of the funds, excluding any portion of the funds to be used for a nonwasting endowment, to be determined by the Energy Commission, with respect to a solar thermal or geothermal powerplant subject to its jurisdiction, or to be determined by the department, with respect to a renewable energy powerplant not subject to the Energy Commission's jurisdiction.

(c) The department shall monitor the implementation of the mitigation actions and the progress of the construction of the

eligible projects. The department shall report all deposits, and the source of those deposits, on its Internet Web site. The department shall also report all expenditures from the fund on its Internet Web site and identify the mitigation activities or programs that each expenditure funded and its relationship to the permitted project. The Energy Commission, with respect to a solar thermal or geothermal powerplant subject to its jurisdiction, and the department, with respect to a renewable energy powerplant not subject to the Energy Commission's jurisdiction, shall ensure that moneys paid pursuant to this section are used only for purposes of satisfying the standards of paragraph (2) of subdivision (b) of Section 2081. Where moneys are used to fund mitigation actions, including the acquisition of lands or conservation easements, or the restoration of lands, that use shall be in addition to, and not duplicative of, mitigation obtained through any other means.

(d) The department and the Energy Commission shall not allow any use of the interim mitigation strategy subsequent to a determination by the department that the time and extent of mitigation actions are not being implemented in rough proportion to the impacts of those projects. The department shall reinstitute the use of the interim mitigation strategy when the department determines the rough proportionality between mitigation actions and impacts of eligible projects has been reestablished by the completion of additional mitigation actions.

SEC. 3. Section 2099.10 is added to the Fish and Game Code, to read:

~~2099.10. (a) The department shall collect a permit application fee from the owner or developer of an eligible project to support its permitting of eligible projects pursuant to this chapter. Except as provided in subdivision (c), the owner or developer of a proposed eligible project shall pay a one-time permit application fee of seventy-five thousand dollars (\$75,000) to the department.~~

2099.10. (a) The department, pursuant to subdivisions (b) and (c), shall collect a permit application fee from the owner or developer of an eligible project to support the permitting or certification of eligible projects pursuant to this chapter. Except as provided in paragraph (2) of subdivision (b), the owner or developer of a proposed eligible project shall pay a on-time permit application fee of fifty thousand dollars (\$50,000) to the department. For purposes of this section, an "eligible project"

1 means an eligible renewable energy resource as defined in the
2 California ~~renewables portfolio standard program~~ *Renewables*
3 *Portfolio Standard Program* (Article 16 (commencing with Section
4 399.11) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities
5 Code).

6 ~~(b) The department shall collect the permit application fee, at~~
7 ~~the time the owner or developer submits its permit application or,~~
8 ~~for eligible projects for which an application has already been~~
9 ~~submitted, on or before January 30, 2012. The department shall~~

10 *(b) (1) The department shall collect the permit application fee*
11 *at the time the owner or developer submits its permit application.*
12 *For eligible projects for which an application was submitted before*
13 *January 1, 2012, but which application has not yet been deemed*
14 *complete, the department shall not deem the application complete*
15 *until it has collected the permit application fee. The department*
16 *shall utilize the permit application fee to pay for all or a portion*
17 *of the department's cost of processing incidental take permit*
18 *applications pursuant to subdivision (b) of Section 2081 and*
19 *Section 2080.1. If the permit application fee is insufficient to*
20 *complete permitting work due to the complexity of a project or*
21 *timeline delays, the department may collect an additional fee from*
22 *the owner or developer to pay for its actual costs, not to exceed*
23 *an additional seventy-five thousand dollars (\$75,000); two hundred*
24 *thousand dollars (\$200,000). This additional fee shall be collected*
25 *before a final decision on the project by the department or the*
26 *Energy Commission.*

27 ~~(c) Notwithstanding subdivisions (a) and (b), if the department's~~

28 *(2) Notwithstanding subdivision (a), if the department's cost of*
29 *processing an incidental take permit application is limited to*
30 *activities pursuant to Section 2080.1, the department shall collect*
31 *a fee from the owner or developer of an eligible project in an*
32 *amount that does not exceed the anticipated full costs to the*
33 *department for those activities.*

34 ~~(d)~~

35 *(c) For an eligible project seeking site certification, pursuant to*
36 *Chapter 6 (commencing with Section 25500) of Division 1 of the*
37 *Public Resources Code, by the Energy Commission, the owner or*
38 *developer shall pay the permit application fee directly to the*
39 *department. The permit application fee paid to the department shall*
40 *fund the department's participation in the Energy Commission's*

1 site certification process as the state's trustee for natural resources.
2 The permit application fee shall be in addition to any application
3 fees collected by the Energy Commission. The permit application
4 fee shall be due and payable within 30 days of the operative date
5 of this section. As used in this subdivision, "Energy Commission"
6 has the same meaning as defined in Section 2099.

7 ~~(e) The permit application fees paid pursuant to this section~~
8 ~~shall be proportional to the cost incurred by the department, and~~
9 ~~shall be annually reviewed and adjustments recommended to the~~
10 ~~Legislature in an amount necessary to pay the full costs of~~
11 ~~department programs as specified. The fees shall be deposited in~~

12 *(d) The permit application fees paid pursuant to this section*
13 *shall be annually reviewed and adjustments recommended to the*
14 *Legislature in an amount necessary to pay the full costs of*
15 *processing the project's incidental take permit. The fees paid to*
16 *the department pursuant to this section shall be deposited in the*
17 *Fish and Game Preservation Fund, and shall be eligible for*
18 *expenditure by the department pursuant to subdivision (b) of*
19 *Section 2081 and Section 2080.1.*

20 ~~(f)~~

21 *(e) If an owner or developer withdraws a project within 30 days*
22 *after paying the permit application fee, the department shall refund*
23 *any unused portion of the fee to the owner or developer.*

24 SEC. 4. Section 2840 is added to the Fish and Game Code, to
25 read:

26 2840. (a) Consistent with this chapter and to the extent
27 practicable, the department shall enter into one or more planning
28 agreements with appropriate plan participants, including, but not
29 limited to, the State Energy Resources Conservation and
30 Development Commission (Energy Commission), one or more
31 counties within the San Joaquin Valley, and other persons or public
32 entities for the purpose of preparing one or more natural community
33 conservation plans, if all of the following conditions are met:

34 (1) The plan meets all the requirements of this chapter and
35 appropriate financial assurances for adequate funding for those
36 plans, as required by this chapter, are provided to the department.

37 (2) The parties to the planning agreement include both of the
38 following:

1 (A) One or more local agencies with land use permit authority
2 sufficient to allow for comprehensive management and
3 conservation of multiple wildlife species.

4 (B) One or more parties that are renewable energy developers
5 proposing to construct, in total, at least 2,000 megawatts of eligible
6 renewable energy resources, as defined in the California ~~renewables~~
7 ~~portfolio standard program~~ *Renewables Portfolio Standard*
8 *Program* (Article 16 (commencing with Section 399.11) of Chapter
9 2.3 of Part 1 of Division 1 of the Public Utilities Code).

10 (b) “San Joaquin Valley,” for purposes of this section, means
11 lands within the Counties of Fresno, Kern, Kings, Madera, Merced,
12 San Joaquin, Stanislaus, and Tulare, as determined by each county
13 in consultation with the department.

14 SEC. 5. Section 25524 of the Public Resources Code is
15 amended to read:

16 25524. (a) “Qualified applicant” for purposes of this section
17 means an applicant for certification of
18 an eligible renewable energy resource, as defined in the
19 California Renewables Portfolio Standard Program (Article 16
20 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of
21 Division 1 of the Public Utilities Code).

22 (b) The commission shall establish a process to allow a qualified
23 applicant to elect to pay additional fees to be used by the
24 commission to contract with a third party, or more than one third
25 party, to assist commission staff in performing the analysis
26 otherwise performed by commission staff in determining whether
27 or not to issue a certification. The commission shall retain
28 discretion as to when this option will be offered to a qualified
29 applicant.

30 (c) The amount of the fees charged by the commission pursuant
31 to this section shall be conditioned upon the qualified applicant
32 agreeing to that amount and electing to proceed with the retention
33 of the third party or parties pursuant to subdivision (b).

34 (d) All fees paid by a qualified applicant shall be used
35 exclusively for analysis of that applicant’s application for
36 certification.

37 SEC. 6. Section 25619 is added to the Public Resources Code,
38 to read:

39 25619. (a) For purposes of this section, the following
40 definitions shall apply:

(1) “Disturbed lands” means lands that have been mechanically disturbed, including lands that have been converted from native vegetation through plowing, bulldozing, or other mechanical means in support of activities that change the land cover, including, but not limited to, agriculture, mining, and clearance for development purposes. These lands, based on appropriate biological surveys, may also have diminished value as habitat for mitigation purposes for endangered, threatened, candidate, and other sensitive species.

(2) “Qualified counties” means the Counties of Fresno, Imperial, Inyo, Kern, Kings, Los Angeles, Madera, Merced, Riverside, San Bernardino, San Diego, San Joaquin, Stanislaus, and Tulare.

(b) The commission shall provide, upon appropriation by the Legislature, up to seven million dollars (\$7,000,000) in grants to qualified counties for the development or revision of rules and policies, including, *but not limited to*, general plan elements, zoning ordinances, and a natural community conservation plan as a plan participant, that facilitate the development of eligible renewable energy resources, and their associated electric transmission facilities, on disturbed lands *and the processing of permits for eligible renewable energy resources. The commission may allocate not more than 1 percent of appropriated funds to provide training to county planning staff to facilitate the siting and permitting of renewable energy resources.* A general plan element or zoning ordinance that is adopted or revised pursuant to this section shall be completed within two years of receipt of the grant and shall be consistent with the conservation strategies of any natural community conservation plan, ~~if one had been approved or is under development in the county,~~ *plan if one has been approved, or is under development,* pursuant to the Natural Community Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code). *For counties within the Desert Renewable Energy Conservation Plan planning area, the commission shall not award a grant to a county that is not a “plan participant,” as defined by paragraph (1) of subdivision (j) of Section 2805 of the Fish and Game Code, in the Desert Renewable Energy Conservation Plan.*

(c) *In its initial round of grant funding, the commission shall establish a preference for a grant to a qualified county in an amount that is adequate to develop a renewable energy element in its general plan that will facilitate the development and siting*

1 *of multiple renewable energy technologies. The commission shall*
2 *also establish a preference for a grant for those counties that have*
3 *experience in geothermal energy development and have adopted*
4 *a geothermal element, as defined in Section 25133, to its general*
5 *plan.*

6 SEC. 7. This bill shall become operative only if Senate Bill 2
7 of the 2011–12 First Extraordinary Session is enacted and becomes
8 effective on or before January 1, 2012.

9 SEC. 8. This act addresses the fiscal emergency declared and
10 reaffirmed by the Governor by proclamation on January 20, 2011,
11 pursuant to subdivision (f) of Section 10 of Article IV of the
12 California Constitution.

O