

AMENDED IN ASSEMBLY MAY 10, 2011

AMENDED IN ASSEMBLY APRIL 25, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 644

Introduced by Assembly Member Blumenfield

February 16, 2011

An act to add Chapter 6.2 (commencing with Section 25560) to Division 15 of the Public Resources Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 644, as amended, Blumenfield. Energy: renewable energy facility: siting.

~~(1) Existing~~

Existing law vests the State Energy Resources Conservation and Development Commission with the exclusive jurisdiction to certify the siting of a thermal powerplant with a generation capacity of 50 megawatts or more. Under existing law, a powerplant not under the jurisdiction of the commission is regulated by local jurisdictions through their land use authority.

This bill would require the commission, in consultation with the Department of Resources Recycling and Recovery, the Department of Toxic Substances Control, and the Department of Conservation, to establish criteria for identifying land with a high potential for use as a site of a renewable energy generation facility with a generation capacity of less than 50 megawatts in 3 specific types of parcels and to prepare a list identifying lands meeting the criteria. *The bill would require the commission, the Department of Resources Recycling and Recovery, the Department of Toxic Substances Control, and the Department of*

Conservation, to make best efforts to work with the United States Environmental Protection Agency under that agency’s RE-Powering America’s Land: Siting Renewable Energy on Potentially Contaminated Land and Mine Sites initiative.

~~(2) The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report (EIR) on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. Existing law authorizes the preparation of a program EIR.~~

~~This bill would authorize the commission to prepare a program EIR for the list of lands identified as having a high potential for use as a site of a renewable energy generation facility.~~

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. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Renewable energy promotes economic development and
- 4 provides opportunities to stimulate the creation of jobs for
- 5 Californians.
- 6 (b) California is seeking to increase renewable power generation
- 7 to help achieve the state’s climate change goals required by the
- 8 California Global Warming Solutions Act of 2006 (Division 25.5
- 9 (commencing with Section 38500) of the Health and Safety Code).
- 10 (c) The state has been seeking to revitalize and recycle
- 11 brownfields and provide for beneficial uses for closed landfills
- 12 and unproductive farmland that does not have access to water.
- 13 (d) Closed landfills and brownfields present a unique opportunity
- 14 for siting solar energy on land that has few reuses and is often
- 15 located close to roads and transmission lines.
- 16 (e) By identifying brownfields, closed landfills, and
- 17 unproductive farmland that does not have access to water and

1 creating incentives to use the land for renewable energy generation,
2 the state could put the land with limited reuses to beneficial use
3 while preserving undisturbed lands and advancing renewable
4 energy generation goals.

5 SEC. 2. Chapter 6.2 (commencing with Section 25560) is added
6 to Division 15 of the Public Resources Code, to read:

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CHAPTER 6.2. RENEWABLE ENERGY SITING

10 25560. (a) The commission, in consultation with the
11 Department of Resources Recycling and Recovery, the Department
12 of Toxic Substances Control, and the Department of Conservation,
13 shall do both of the following:

14 (1) Establish criteria for identifying land with a high potential
15 for use as a site for a renewable generation facility with a
16 generation capacity of less than 50 megawatts of electricity in the
17 following types of parcels:

18 (A) A closed disposal site as defined in Section 40115.5.

19 (B) A brownfield as defined in Section 44504.1 of the Health
20 and Safety Code.

21 (C) (i) Degraded agricultural land with no access to water.

22 (ii) As used in this subparagraph, “degraded agricultural land”
23 means land that has been mechanically disturbed, including land
24 that has been converted from native vegetation through plowing,
25 bulldozing, or other mechanical means in support of activities that
26 change the land cover, including, but not limited to, agricultural
27 activities, mining, and clearance for development purposes.
28 Degraded agricultural lands also includes land, based on
29 appropriate biological surveys, that has diminished value as habitat
30 for mitigation purposes for endangered, threatened, candidate, and
31 other sensitive species.

32 (2) The evaluation criteria shall include, but is not limited to,
33 low habitat value for rare, endangered, and sensitive species,
34 compatibility with neighboring land uses, geological compatibility,
35 absence of recorded cultural resources determined for listing on
36 the California Register for Historical Resources, and absence of
37 Native American tribal cultural sites, as recorded in the Sacred
38 Lands database of the Native American Heritage Commission.

39 (3) Prepare a list that identifies lands that meet the criteria
40 developed pursuant to this section.

1 ~~(b) The commission may prepare a program environmental~~
2 ~~impact report as described in Section 15168 of Title 14 of the~~
3 ~~California Code of Regulations for the purposes of the California~~
4 ~~Environmental Quality Act (Division 13 (commencing with Section~~
5 ~~21100)) to facilitate the siting of renewable energy projects on the~~
6 ~~sites identified pursuant to the list established pursuant to this~~
7 ~~section.~~
8 *(b) To avoid the duplication of effort, the commission, the*
9 *Department of Resources Recycling and Recovery, the Department*
10 *of Toxic Substances Control, and the Department of Conservation,*
11 *in implementing this section, shall make best efforts to work with*
12 *the United States Environmental Protection Agency pursuant to*
13 *that agency's RE-Powering America's Land: Siting Renewable*
14 *Energy on Potentially Contaminated Land and Mine Site initiative.*