

AMENDED IN SENATE JUNE 4, 2013

AMENDED IN ASSEMBLY APRIL 15, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1422

**Introduced by Committee on Jobs, Economic Development, and
the Economy (Medina (Chair), Daly, Fong, Fox, and V. Manuel
Pérez)**

March 21, 2013

An act to amend ~~Section~~ *Sections 26003 and 26011.8* of the Public Resources Code, and to repeal Section 1 of Chapter 677 of the Statutes of 2012, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1422, as amended, Committee on Jobs, Economic Development, and the Economy. California Alternative Energy and Advanced Transportation Financing Authority: participating party.

(1) Existing law, the California Alternative Energy and Advanced Transportation Financing Authority Act, establishes the California Alternative Energy and Advanced Transportation Financing Authority and requires the authority to establish programs to provide financial assistance to participating parties for projects related to sustainable and renewable energy sources, energy efficiency, and advanced transportation projects. The act provides financial assistance, in the form of a sales and use tax exclusion, to participating parties for these types of projects.

This bill would clarify that for purposes of the sales and use tax exclusion, an entity located outside of the state, including an entity located overseas, is considered to be a participating party and is eligible

to apply for financial assistance if the participating party commits to, and demonstrates that the participating party will be opening a manufacturing facility in the state. This bill would also make technical, nonsubstantive changes to these provisions.

(2) Existing law requires the authority to evaluate project applications based on certain criteria, including, but not limited to, the extent the project will create new, permanent jobs in California and the extent the project results in a reduction in greenhouse gases, a reduction in air or water pollution, an increase in energy efficiency, or a reduction in energy consumption. Existing law requires the authority to work with the University of California or the California State University to perform a peer review of this criteria, as specified.

This bill would repeal the requirement to perform a peer review.

(2)

(3) Existing law requires the Governor’s Office of Business and Economic Development to review and identify efficient and cost-effective methods for the state to create jobs in advanced manufacturing, as specified, and to report its findings to the Legislature on or before January 1, 2017.

This bill would repeal this reporting requirement.

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, as
2 amended by Section 5 of Chapter 677 of the Statutes of 2012, is
3 amended to read:

4 26003. (a) As used in this division, unless the context
5 otherwise requires:

6 (1) (A) “Advanced manufacturing” means manufacturing
7 processes that improve existing, or create entirely new materials,
8 products, and processes through the use of science, engineering,
9 or information technologies, high-precision tools and methods, a
10 high-performance workforce, and innovative business or
11 organizational models utilizing any of the following technology
12 areas:

13 (i) Micro- and nanoelectronics, including semiconductors.

14 (ii) Advanced materials.

15 (iii) Integrated computational materials engineering.

1 (iv) Nanotechnology.

2 (v) Additive manufacturing.

3 (vi) Industrial biotechnology.

4 (B) “Advanced manufacturing” includes any of the following:

5 (i) Systems that result from substantive advancement, whether
6 incremental or breakthrough, beyond the current industry standard,
7 in the production of materials and products. These advancements
8 include improvements in manufacturing processes and systems
9 that are often referred to as “smart” or “intelligent” manufacturing
10 systems, which integrate computational predictability and
11 operational efficiency.

12 (ii) (I) Sustainable manufacturing systems and manufacturing
13 technologies that minimize the use of resources while maintaining
14 or improving cost and performance.

15 (II) Sustainable manufacturing systems and manufacturing
16 technologies do not include those required to be undertaken
17 pursuant to state or federal law or regulations, air district rules or
18 regulations, memoranda of understanding with a governmental
19 entity, or legally binding agreements or documents. The State Air
20 Resources Board shall advise the authority to ensure that the
21 requirements of this clause are met.

22 (2) (A) “Advanced transportation technologies” means
23 emerging commercially competitive transportation-related
24 technologies identified by the authority as capable of creating
25 long-term, high value-added jobs for Californians while enhancing
26 the state’s commitment to energy conservation, pollution and
27 greenhouse gas emissions reduction, and transportation efficiency.

28 (B) “Advanced transportation technologies” does not include
29 those projects required to be undertaken pursuant to state or federal
30 law or regulations, air district rules or regulations, memoranda of
31 understanding with a governmental entity, or legally binding
32 agreements or documents. The State Air Resources Board shall
33 advise the authority regarding projects that are excluded pursuant
34 to this subparagraph.

35 (3) (A) “Alternative sources” means devices or technologies
36 used for a renewable electrical generation facility, as defined in
37 paragraph (1) of subdivision (a) of Section 25741, a combined
38 heat and power system, as defined in Section 2840.2 of the Public
39 Utilities Code, distributed generation and energy storage
40 technologies eligible under the self-generation incentive program

1 pursuant to Section 379.6 of the Public Utilities Code, as
2 determined by the Public Utilities Commission, or a facility
3 designed for the production of renewable fuels, the efficient use
4 of which reduce the use of fossil or nuclear fuels, and energy
5 efficiency devices or technologies that reduce the need for new
6 electric generation and reduce emissions of toxic and criteria
7 pollutants and greenhouse gases.

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

12 (4) “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 (5) “Cost” as applied to a project or portion of the project
19 financed under this division means all or part of the cost of
20 construction and acquisition of all lands, structures, real or personal
21 property or an interest in the real or personal property, rights,
22 rights-of-way, franchises, easements, and interests acquired or
23 used for a project; the cost of demolishing or removing any
24 buildings or structures on land so acquired, including the cost of
25 acquiring any lands to which those buildings or structures may be
26 moved; the cost of all machinery, equipment, and furnishings,
27 financing charges, interest prior to, during, and for a period after,
28 completion of construction as determined by the authority;
29 provisions for working capital; reserves for principal and interest
30 and for extensions, enlargements, additions, replacements,
31 renovations, and improvements; the cost of architectural,
32 engineering, financial, accounting, auditing and legal services,
33 plans, specifications, estimates, administrative expenses, and other
34 expenses necessary or incident to determining the feasibility of
35 constructing any project or incident to the construction, acquisition,
36 or financing of a project.

37 (6) “Financial assistance” includes, but is not limited to, loans,
38 loan loss reserves, interest rate reductions, proceeds of bonds issued
39 by the authority, bond insurance, loan guarantees or other credit
40 enhancements or liquidity facilities, contributions of money, or a

1 combination thereof, as determined by, and approved by the
2 resolution of, the board.

3 (7) (A) “Participating party” means a person, federal or state
4 agency, department, board, authority, or commission, state or
5 community college, or university, or a city or county, regional
6 agency, public district, school district, or other political entity
7 engaged in the business or operations in the state, whether
8 organized for profit or not for profit, that applies for financial
9 assistance from the authority for the purpose of implementing a
10 project.

11 (B) (i) For the purposes of Section 6010.8 of the Revenue and
12 Taxation Code, “participating party” means an entity specified in
13 subparagraph (A) that seeks financial assistance pursuant to Section
14 26011.8.

15 (ii) For purposes of Section 6010.8 of the Revenue and Taxation
16 Code, an entity located outside of the state, including an entity
17 located overseas, is considered to be a participating party and is
18 eligible to apply for financial assistance pursuant to Section
19 26011.8 if the participating party commits to, and demonstrates
20 that, the party will be opening a manufacturing facility in the state.

21 (iii) It is the intent of the Legislature by adding clause (ii) to
22 clarify existing law and ensure that an out-of-state entity or
23 overseas entity is eligible to apply for financial assistance pursuant
24 to Section 26011.8.

25 (8) (A) “Project” means a land, building, improvement to the
26 land or building, rehabilitation, work, property, or structure, real
27 or personal, stationary or mobile, including, but not limited to,
28 machinery and equipment, whether or not in existence or under
29 construction, that utilizes, or is designed to utilize, an alternative
30 source, or that is utilized for the design, technology transfer,
31 manufacture, production, assembly, distribution, or service of
32 advanced transportation technologies or alternative source
33 components.

34 (B) “Project,” for purposes of Section 26011.8 and Section
35 6010.8 of the Revenue and Taxation Code, means tangible personal
36 property that is utilized for the design, manufacture, production,
37 or assembly of advanced manufacturing, advanced transportation
38 technologies, or alternative source products, components, or
39 systems.

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

9 (b) This section shall become inoperative on July 1, 2016, and,
10 as of January 1, 2017, is repealed, unless a later enacted statute,
11 that becomes operative on or before January 1, 2017, deletes or
12 extends the dates on which it becomes inoperative and is repealed.

13 SEC. 2. Section 26003 of the Public Resources Code, as added
14 by Section 6 of Chapter 677 of the Statutes of 2012, is amended
15 to read:

16 26003. (a) As used in this division, unless the context
17 otherwise requires:

18 (1) (A) “Advanced transportation technologies” means
19 emerging commercially competitive transportation-related
20 technologies identified by the authority as capable of creating
21 long-term, high value-added jobs for Californians while enhancing
22 the state’s commitment to energy conservation, pollution and
23 greenhouse gas emissions reduction, and transportation efficiency.

24 (B) “Advanced transportation technologies” does not include
25 those projects required to be undertaken pursuant to state or federal
26 law or regulations, air district rules or regulations, memoranda of
27 understanding with a governmental entity, or legally binding
28 agreements or documents. The State Air Resources Board shall
29 advise the authority regarding projects that are excluded pursuant
30 to this subparagraph.

31 (2) (A) “Alternative sources” means devices or technologies
32 used for a renewable electrical generation facility, as defined in
33 paragraph (1) of subdivision (a) of Section 25741, a combined
34 heat and power system, as defined in Section 2840.2 of the Public
35 Utilities Code, distributed generation and energy storage
36 technologies eligible under the self-generation incentive program
37 pursuant to Section 379.6 of the Public Utilities Code, as
38 determined by the Public Utilities Commission, or a facility
39 designed for the production of renewable fuels, the efficient use
40 of which reduce the use of fossil or nuclear fuels, and energy

1 efficiency devices or technologies that reduce the need for new
2 electric generation and reduce emissions of toxic and criteria
3 pollutants and greenhouse gases.

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

8 (3) “Authority” means the California Alternative Energy and
9 Advanced Transportation Financing Authority established pursuant
10 to Section 26004, and any board, commission, department, or
11 officer succeeding to the functions of the authority, or to which
12 the powers conferred upon the authority by this division shall be
13 given.

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

33 (5) “Financial assistance” includes, but is not limited to, loans,
34 loan loss reserves, interest rate reductions, proceeds of bonds issued
35 by the authority, bond insurance, loan guarantees or other credit
36 enhancements or liquidity facilities, contributions of money, or a
37 combination thereof, as determined by, and approved by the
38 resolution of, the board.

39 (6) (A) “Participating party” means a person, federal or state
40 agency, department, board, authority, or commission, state or

1 community college, or university, or a city or county, regional
2 agency, public district, school district, or other political entity
3 engaged in the business or operations in the state, whether
4 organized for profit or not for profit, that applies for financial
5 assistance from the authority for the purpose of implementing a
6 project.

7 (B) (i) For the purposes of Section 6010.8 of the Revenue and
8 Taxation Code, “participating party” means an entity specified in
9 subparagraph (A) that seeks financial assistance pursuant to Section
10 26011.8.

11 (ii) For purposes of Section 6010.8 of the Revenue and Taxation
12 Code, an entity located outside of the state, including an entity
13 located overseas, is considered to be a participating party and is
14 eligible to apply for financial assistance pursuant to Section
15 26011.8 if the participating party commits to, and demonstrates
16 that, the party will be opening a manufacturing facility in the state.

17 (iii) It is the intent of the Legislature by adding clause (ii) to
18 clarify existing law and ensure that an out-of-state entity or
19 overseas entity is eligible to apply for financial assistance pursuant
20 to Section 26011.8.

21 (7) (A) “Project” means a land, building, improvement to the
22 land or building, rehabilitation, work, property, or structure, real
23 or personal, stationary or mobile, including, but not limited to,
24 machinery and equipment, whether or not in existence or under
25 construction, that utilizes, or is designed to utilize, an alternative
26 source, or that is utilized for the design, technology transfer,
27 manufacture, production, assembly, distribution, or service of
28 advanced transportation technologies or alternative source
29 components.

30 (B) “Project,” for purposes of Section 26011.8 and Section
31 6010.8 of the Revenue and Taxation Code, means tangible personal
32 property that is utilized for the design, manufacture, production,
33 or assembly of advanced transportation technologies or alternative
34 source products, components, or systems.

35 (8) “Revenue” means all rents, receipts, purchase payments,
36 loan repayments, and all other income or receipts derived by the
37 authority from a project, or the sale, lease, or other disposition of
38 alternative source or advanced transportation technology facilities,
39 or the making of loans to finance alternative source or advanced
40 transportation technology facilities, and any income or revenue

1 derived from the investment of money in any fund or account of
2 the authority.

3 (b) This section shall become operative on July 1, 2016.

4 *SEC. 3. Section 26011.8 of the Public Resources Code, as*
5 *amended by Section 12 of Chapter 677 of the Statutes of 2012, is*
6 *amended to read:*

7 26011.8. (a) The purpose of this section is to promote the
8 creation of California-based manufacturing, California-based jobs,
9 advanced manufacturing, the reduction of greenhouse gases, or
10 reductions in air and water pollution or energy consumption. In
11 furtherance of this purpose, the authority may approve a project
12 for financial assistance in the form of the sales and use tax
13 exclusion established in Section 6010.8 of the Revenue and
14 Taxation Code.

15 (b) For purposes of this section, “project” means a project as
16 defined in subparagraph (B) of paragraph (8) of subdivision (a) of
17 Section 26003.

18 (c) The authority shall publish notice of the availability of
19 project applications and deadlines for submission of project
20 applications to the authority.

21 (d) The authority shall evaluate project applications based upon
22 all of the following criteria:

23 (1) The extent to which the project develops manufacturing
24 facilities, or purchases equipment for manufacturing facilities,
25 located in California.

26 (2) The extent to which the anticipated benefit to the state from
27 the project equals or exceeds the projected benefit to the
28 participating party from the sales and use tax exclusion.

29 (3) The extent to which the project will create new, permanent
30 jobs in California.

31 (4) To the extent feasible, the extent to which the project, or the
32 product produced by the project, results in a reduction of
33 greenhouse gases, a reduction in air or water pollution, an increase
34 in energy efficiency, or a reduction in energy consumption, beyond
35 what is required by any federal or state law or regulation.

36 (5) The extent of unemployment in the area in which the project
37 is proposed to be located.

38 (6) Any other factors the authority deems appropriate in
39 accordance with this section.

- 1 (e) At a duly noticed public hearing, the authority shall approve,
- 2 by resolution, project applications for financial assistance.
- 3 (f) Notwithstanding subdivision ~~(k)~~ (j), and without regard to
- 4 the actual date of any transaction between a participating party
- 5 and the authority, any project approved by the authority by
- 6 resolution for the sales and use tax exclusion pursuant to Section
- 7 6010.8 of the Revenue and Taxation Code prior to March 24, 2010,
- 8 shall not be subject to this section.
- 9 (g) The Legislative Analyst’s Office shall report to the Joint
- 10 Legislative Budget Committee on the effectiveness of this program,
- 11 on or before January 1, 2019, by evaluating factors, including, but
- 12 not limited to, the following:
- 13 (1) The number of jobs created by the program in California.
- 14 (2) The number of businesses that have remained in California
- 15 or relocated to California as a result of this program.
- 16 (3) The amount of state and local revenue and economic activity
- 17 generated by the program.
- 18 (4) The types of advanced manufacturing, as defined in
- 19 paragraph (1) of subdivision (a) of Section 26003, utilized.
- 20 (5) The amount of reduction in greenhouse gases, air pollution,
- 21 water pollution, or energy consumption.
- 22 (h) The exclusions granted pursuant to Section 6010.8 of the
- 23 Revenue and Taxation Code for projects approved by the authority
- 24 pursuant to this section shall not exceed one hundred million dollars
- 25 (\$100,000,000) for each calendar year.
- 26 (i) (1) The authority shall study the efficacy and cost benefit
- 27 of the sales and use tax exemption as it relates to advanced
- 28 manufacturing projects. The study shall include the number of jobs
- 29 created, the costs of each job, and the annual salary of each job.
- 30 The study shall also consider a dynamic analysis of the economic
- 31 output to the state that would occur without the sales and use tax
- 32 exemption. Before January 1, 2017, the authority shall submit to
- 33 the Legislature, consistent with Section 9795 of the Government
- 34 Code, the result of the study.
- 35 ~~(2) Before January 1, 2014, and within six months of any~~
- 36 ~~significant change to the net benefits test as described in~~
- 37 ~~subdivision (d), the authority shall work with the University of~~
- 38 ~~California or the California State University to perform a peer~~
- 39 ~~review of the net benefits test currently used to evaluate applicants~~
- 40 ~~applying pursuant to this section.~~

1 ~~(3)~~

2 (2) Before January 1, 2015, the authority shall, consistent with
3 Section 9795 of the Government Code, submit to the Legislature
4 an interim report on the efficacy of the program conducted pursuant
5 to this section. The study shall include recommendations on
6 program changes that would increase the program’s efficacy in
7 creating permanent and temporary jobs, and whether eligibility
8 for the program should be extended or narrowed to other
9 manufacturing types. The authority may work with the Legislative
10 Analyst’s Office in preparing the report and its recommendations.

11 (j) (1) Except as provided in paragraph (2), this section shall
12 become inoperative on July 1, 2016, and, as of January 1, 2017,
13 is repealed, unless a later enacted statute, that becomes operative
14 on or before January 1, 2017, deletes or extends the dates on which
15 it becomes inoperative and is repealed. The sale or purchase of
16 tangible personal property of a project approved prior to June 30,
17 2016, shall continue to be excluded from sales and use taxes
18 pursuant to Section 6010.8 of the Revenue and Taxation Code for
19 the period of time set forth in the authority’s resolution approving
20 the project pursuant to this section.

21 (2) Notwithstanding paragraph (1), the authority’s obligation
22 to submit to the Legislature a report pursuant to paragraph~~(3)~~ (2)
23 of subdivision (i) shall remain operative until the submission of
24 the report.

25 *SEC. 4. Section 26011.8 of the Public Resources Code, as*
26 *added by Section 13 of Chapter 677 of the Statutes of 2012, is*
27 *amended to read:*

28 26011.8. (a) The purpose of this section is to promote the
29 creation of California-based manufacturing, California-based jobs,
30 the reduction of greenhouse gases, or reductions in air and water
31 pollution or energy consumption. In furtherance of this purpose,
32 the authority may approve a project for financial assistance in the
33 form of the sales and use tax exclusion established in Section
34 6010.8 of the Revenue and Taxation Code.

35 (b) For purposes of this section, “project” means a project as
36 defined in subparagraph (B) of paragraph (7) of subdivision (a) of
37 Section 26003.

38 (c) The authority shall publish notice of the availability of
39 project applications and deadlines for submission of project
40 applications to the authority.

- 1 (d) The authority shall evaluate project applications based upon
2 a net benefits test that includes all of the following criteria:
- 3 (1) The extent to which the project develops manufacturing
4 facilities, or purchases equipment for manufacturing facilities,
5 located in California.
- 6 (2) The extent to which the anticipated benefit to the state from
7 the project equals or exceeds the projected benefit to the
8 participating party from the sales and use tax exclusion.
- 9 (3) The extent to which the project will create new, permanent
10 jobs in California.
- 11 (4) To the extent feasible, the extent to which the project, or the
12 product produced by the project, results in a reduction of
13 greenhouse gases, a reduction in air or water pollution, an increase
14 in energy efficiency, or a reduction in energy consumption, beyond
15 what is required by any federal or state law or regulation.
- 16 (5) The extent of unemployment in the area in which the project
17 is proposed to be located.
- 18 (6) Any other factors the authority deems appropriate in
19 accordance with this section.
- 20 (e) At a duly noticed public hearing, the authority shall approve,
21 by resolution, project applications for financial assistance.
- 22 (f) Notwithstanding subdivision ~~(k)~~ (j), and without regard to
23 the actual date of any transaction between a participating party
24 and the authority, any project as defined in paragraph (7) of
25 subdivision (a) of Section 26003 approved by the authority by
26 resolution for the sales and use tax exclusion pursuant to Section
27 6010.8 of the Revenue and Taxation Code prior to March 24, 2010,
28 shall not be subject to this section.
- 29 (g) The Legislative Analyst's Office shall report to the Joint
30 Legislative Budget Committee on the effectiveness of this program,
31 on or before January 1, 2019, by evaluating factors, including, but
32 not limited to, the following:
- 33 (1) The number of jobs created by the program in California.
- 34 (2) The number of businesses that have remained in California
35 or relocated to California as a result of this program.
- 36 (3) The amount of state and local revenue and economic activity
37 generated by the program.
- 38 (4) The amount of reduction in greenhouse gases, air pollution,
39 water pollution, or energy consumption.

1 (h) The exclusions granted pursuant to Section 6010.8 of the
2 Revenue and Taxation Code for projects approved by the authority
3 pursuant to this section shall not exceed one hundred million dollars
4 (\$100,000,000) for each calendar year.

5 (i) The authority shall make every effort to expedite the
6 operation of this section, and shall adopt regulations for purposes
7 of implementing the section as emergency regulations in
8 accordance with Chapter 3.5 (commencing with Section 11340)
9 of Part 1 of Division 3 of Title 2 of the Government Code. For
10 purposes of that Chapter 3.5, including Section 11349.6 of the
11 Government Code, the adoption of the regulations shall be
12 considered by the Office of Administrative Law to be necessary
13 for the immediate preservation of the public peace, health and
14 safety, and general welfare.

15 ~~(j) If any significant changes are made to the net benefits test,
16 as described in subdivision (d), the authority shall work with the
17 University of California or the California State University to
18 perform a peer review of the net benefits test currently used to
19 evaluate applicants applying pursuant to this section.~~

20 ~~(k)~~

21 (j) This section shall become operative on July 1, 2016, and
22 shall remain in effect only until January 1, 2021, and as of that
23 date is repealed. The sale or purchase of tangible personal property
24 of a project approved prior to January 1, 2021, shall continue to
25 be excluded from sales and use taxes pursuant to Section 6010.8
26 of the Revenue and Taxation Code for the period of time set forth
27 in the authority's resolution approving the project pursuant to this
28 section.

29 ~~SEC. 3.~~

30 ~~SEC. 5.~~ Section 1 of Chapter 677 of the Statutes of 2012 is
31 repealed.

O