

AMENDED IN SENATE JUNE 19, 2013

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 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. *The act prohibits the sales and use tax exclusions granted from exceeding \$100,000,000 for each calendar year.*

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. *The bill would require that any portion of the \$100,000,000 not granted through the sales and use tax exclusions be available to be granted in the subsequent calendar year, provided that the total amount available in any year does not exceed \$200,000,000.* 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.

(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

1 high-performance workforce, and innovative business or
2 organizational models utilizing any of the following technology
3 areas:

- 4 (i) Micro- and nanoelectronics, including semiconductors.
- 5 (ii) Advanced materials.
- 6 (iii) Integrated computational materials engineering.
- 7 (iv) Nanotechnology.
- 8 (v) Additive manufacturing.
- 9 (vi) Industrial biotechnology.

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

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

18 (ii) (I) Sustainable manufacturing systems and manufacturing
19 technologies that minimize the use of resources while maintaining
20 or improving cost and performance.

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

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

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

1 (3) (A) “Alternative sources” means devices or technologies
2 used for a renewable electrical generation facility, as defined in
3 paragraph (1) of subdivision (a) of Section 25741, a combined
4 heat and power system, as defined in Section 2840.2 of the Public
5 Utilities Code, distributed generation and energy storage
6 technologies eligible under the self-generation incentive program
7 pursuant to Section 379.6 of the Public Utilities Code, as
8 determined by the Public Utilities Commission, or a facility
9 designed for the production of renewable fuels, the efficient use
10 of which reduce the use of fossil or nuclear fuels, and energy
11 efficiency devices or technologies that reduce the need for new
12 electric generation and reduce emissions of toxic and criteria
13 pollutants and greenhouse gases.

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

18 (4) “Authority” means the California Alternative Energy and
19 Advanced Transportation Financing Authority established pursuant
20 to Section 26004, and any board, commission, department, or
21 officer succeeding to the functions of the authority, or to which
22 the powers conferred upon the authority by this division shall be
23 given.

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

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

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

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

17 (B) (i) For the purposes of Section 6010.8 of the Revenue and
18 Taxation Code, “participating party” means an entity specified in
19 subparagraph (A) that seeks financial assistance pursuant to Section
20 26011.8.

21 (ii) For purposes of Section 6010.8 of the Revenue and Taxation
22 Code, an entity located outside of the state, including an entity
23 located overseas, is considered to be a participating party and is
24 eligible to apply for financial assistance pursuant to Section
25 26011.8 if the participating party commits to, and demonstrates
26 that, the party will be opening a manufacturing facility in the state.

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

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

1 (B) “Project,” for purposes of Section 26011.8 and Section
 2 6010.8 of the Revenue and Taxation Code, means tangible personal
 3 property that is utilized for the design, manufacture, production,
 4 or assembly of advanced manufacturing, advanced transportation
 5 technologies, or alternative source products, components, or
 6 systems.

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

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

22 26003. (a) As used in this division, unless the context
 23 otherwise requires:

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

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

37 (2) (A) “Alternative sources” means devices or technologies
 38 used for a renewable electrical generation facility, as defined in
 39 paragraph (1) of subdivision (a) of Section 25741, a combined
 40 heat and power system, as defined in Section 2840.2 of the Public

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

10 (B) “Alternative sources” does not include a hydroelectric
11 facility 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 (3) “Authority” means the California Alternative Energy and
15 Advanced Transportation Financing Authority established pursuant
16 to Section 26004, and any board, commission, department, or
17 officer succeeding to the functions of the authority, or to which
18 the powers conferred upon the authority by this division shall be
19 given.

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

39 (5) “Financial assistance” includes, but is not limited to, loans,
40 loan loss reserves, interest rate reductions, proceeds of bonds issued

1 by the authority, bond insurance, loan guarantees or other credit
2 enhancements or liquidity facilities, contributions of money, or a
3 combination thereof, as determined by, and approved by the
4 resolution of, the board.

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

13 (B) (i) For purposes of Section 6010.8 of the Revenue and
14 Taxation Code, “participating party” means an entity specified in
15 subparagraph (A) that seeks financial assistance pursuant to Section
16 26011.8.

17 (ii) For purposes of Section 6010.8 of the Revenue and Taxation
18 Code, an entity located outside of the state, including an entity
19 located overseas, is considered to be a participating party and is
20 eligible to apply for financial assistance pursuant to Section
21 26011.8 if the participating party commits to, and demonstrates
22 that, the party will be opening a manufacturing facility in the state.

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

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

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

1 (8) “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 operative on July 1, 2016.

10 SEC. 3. Section 26011.8 of the Public Resources Code, as
11 amended by Section 12 of Chapter 677 of the Statutes of 2012, is
12 amended to read:

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

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

24 (c) The authority shall publish notice of the availability of
25 project applications and deadlines for submission of project
26 applications to the authority.

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

29 (1) The extent to which the project develops manufacturing
30 facilities, or purchases equipment for manufacturing facilities,
31 located in California.

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

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

37 (4) To the extent feasible, the extent to which the project, or the
38 product produced by the project, results in a reduction of
39 greenhouse gases, a reduction in air or water pollution, an increase

1 in energy efficiency, or a reduction in energy consumption, beyond
2 what is required by any federal or state law or regulation.

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

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

7 (e) At a duly noticed public hearing, the authority shall approve,
8 by resolution, project applications for financial assistance.

9 (f) Notwithstanding subdivision (j), and without regard to the
10 actual date of any transaction between a participating party and
11 the authority, any project approved by the authority by resolution
12 for the sales and use tax exclusion pursuant to Section 6010.8 of
13 the Revenue and Taxation Code prior to March 24, 2010, shall not
14 be subject to this section.

15 (g) The Legislative Analyst's Office shall report to the Joint
16 Legislative Budget Committee on the effectiveness of this program,
17 on or before January 1, 2019, by evaluating factors, including, but
18 not limited to, the following:

19 (1) The number of jobs created by the program in California.

20 (2) The number of businesses that have remained in California
21 or relocated to California as a result of this program.

22 (3) The amount of state and local revenue and economic activity
23 generated by the program.

24 (4) The types of advanced manufacturing, as defined in
25 paragraph (1) of subdivision (a) of Section 26003, utilized.

26 (5) The amount of reduction in greenhouse gases, air pollution,
27 water pollution, or energy consumption.

28 (h) The exclusions granted pursuant to Section 6010.8 of the
29 Revenue and Taxation Code for projects approved by the authority
30 pursuant to this section shall not exceed one hundred million dollars
31 (\$100,000,000) for each calendar year. *Any portion of the one*
32 *hundred million dollars (\$100,000,000) in exclusions not granted*
33 *in the assigned calendar year shall be available to be granted in*
34 *the subsequent calendar year provided that the total amount*
35 *available in any year does not exceed two hundred million dollars*
36 *(\$200,000,000).*

37 (i) (1) The authority shall study the efficacy and cost benefit
38 of the sales and use tax exemption as it relates to advanced
39 manufacturing projects. The study shall include the number of jobs
40 created, the costs of each job, and the annual salary of each job.

1 The study shall also consider a dynamic analysis of the economic
2 output to the state that would occur without the sales and use tax
3 exemption. Before January 1, 2017, the authority shall submit to
4 the Legislature, consistent with Section 9795 of the Government
5 Code, the result of the study.

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

15 (j) (1) Except as provided in paragraph (2), this section shall
16 become inoperative on July 1, 2016, and, as of January 1, 2017,
17 is repealed, unless a later enacted statute, that becomes operative
18 on or before January 1, 2017, deletes or extends the dates on which
19 it becomes inoperative and is repealed. The sale or purchase of
20 tangible personal property of a project approved prior to June 30,
21 2016, shall continue to be excluded from sales and use taxes
22 pursuant to Section 6010.8 of the Revenue and Taxation Code for
23 the period of time set forth in the authority's resolution approving
24 the project pursuant to this section.

25 (2) Notwithstanding paragraph (1), the authority's obligation
26 to submit to the Legislature a report pursuant to paragraph (2) of
27 subdivision (i) shall remain operative until the submission of the
28 report.

29 SEC. 4. Section 26011.8 of the Public Resources Code, as
30 added by Section 13 of Chapter 677 of the Statutes of 2012, is
31 amended to read:

32 26011.8. (a) The purpose of this section is to promote the
33 creation of California-based manufacturing, California-based jobs,
34 the reduction of greenhouse gases, or reductions in air and water
35 pollution or energy consumption. In furtherance of this purpose,
36 the authority may approve a project for financial assistance in the
37 form of the sales and use tax exclusion established in Section
38 6010.8 of the Revenue and Taxation Code.

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

4 (c) The authority shall publish notice of the availability of
5 project applications and deadlines for submission of project
6 applications to the authority.

7 (d) The authority shall evaluate project applications based upon
8 a net benefits test that includes all of the following criteria:

9 (1) The extent to which the project develops manufacturing
10 facilities, or purchases equipment for manufacturing facilities,
11 located in California.

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

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

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

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

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

26 (e) At a duly noticed public hearing, the authority shall approve,
27 by resolution, project applications for financial assistance.

28 (f) Notwithstanding subdivision (j), and without regard to the
29 actual date of any transaction between a participating party and
30 the authority, any project as defined in paragraph (7) of subdivision
31 (a) of Section 26003 approved by the authority by resolution for
32 the sales and use tax exclusion pursuant to Section 6010.8 of the
33 Revenue and Taxation Code prior to March 24, 2010, shall not be
34 subject to this section.

35 (g) The Legislative Analyst’s Office shall report to the Joint
36 Legislative Budget Committee on the effectiveness of this program,
37 on or before January 1, 2019, by evaluating factors, including, but
38 not limited to, the following:

39 (1) The number of jobs created by the program in California.

1 (2) The number of businesses that have remained in California
2 or relocated to California as a result of this program.

3 (3) The amount of state and local revenue and economic activity
4 generated by the program.

5 (4) The amount of reduction in greenhouse gases, air pollution,
6 water pollution, or energy consumption.

7 (h) The exclusions granted pursuant to Section 6010.8 of the
8 Revenue and Taxation Code for projects approved by the authority
9 pursuant to this section shall not exceed one hundred million dollars
10 (\$100,000,000) for each calendar year. *Any portion of the one*
11 *hundred million dollars (\$100,000,000) in exclusions not granted*
12 *in the assigned calendar year shall be available to be granted in*
13 *the subsequent calendar year provided that the total amount*
14 *available in any year does not exceed two hundred million dollars*
15 *(\$200,000,000).*

16 (i) The authority shall make every effort to expedite the
17 operation of this section, and shall adopt regulations for purposes
18 of implementing the section as emergency regulations in
19 accordance with Chapter 3.5 (commencing with Section 11340)
20 of Part 1 of Division 3 of Title 2 of the Government Code. For
21 purposes of that Chapter 3.5, including Section 11349.6 of the
22 Government Code, the adoption of the regulations shall be
23 considered by the Office of Administrative Law to be necessary
24 for the immediate preservation of the public peace, health and
25 safety, and general welfare.

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

34 SEC. 5. Section 1 of Chapter 677 of the Statutes of 2012 is
35 repealed.

O