

ASSEMBLY BILL

No. 1683

Introduced by Assembly Member Eggman

January 20, 2016

An act to amend Section 26011.8 of the Public Resources Code, relating to alternative energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1683, as introduced, Eggman. Alternative energy financing.

The California Alternative Energy and Advanced Transportation Financing Authority Act establishes the California Alternative Energy and Advanced Transportation Financing Authority. The act authorizes, until January 1, 2021, the authority to provide financial assistance in the form of a sales and use tax exclusion for projects, including those that promote California-based manufacturing, California-based jobs, advanced manufacturing, the reduction of greenhouse gases, or the reduction in air and water pollution or energy consumption. The act prohibits the sales and use tax exclusions from exceeding \$100,000,000 for each calendar year.

This bill would instead prohibit the sales and use tax exclusions from exceeding \$200,000,000 for each calendar year. By increasing the limit on the sales and use tax exclusion, this bill would include a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature. The bill would specify that if less than \$200,000,000 is granted in a calendar year, the unallocated amount may roll over to the following calendar year.

Vote: 2/3. 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 26011.8 of the Public Resources Code
2 is amended to read:
3 26011.8. (a) The purpose of this section is to promote the
4 creation of California-based manufacturing, California-based jobs,
5 advanced manufacturing, the reduction of greenhouse gases, or
6 reductions in air and water pollution or energy consumption. In
7 furtherance of this purpose, the authority may approve a project
8 for financial assistance in the form of the sales and use tax
9 exclusion established in Section 6010.8 of the Revenue and
10 Taxation Code.

11 (b) For purposes of this section, the following terms have the
12 following meanings:

13 (1) "Project" means tangible personal property if at least 50
14 percent of its use is either to process recycled feedstock that is
15 intended to be reused in the production of another product or using
16 recycled feedstock in the production of another product or soil
17 amendment, or tangible personal property that is used in the state
18 for the design, manufacture, production, or assembly of advanced
19 manufacturing, advanced transportation technologies, or alternative
20 source products, components, or systems, as defined in Section
21 26003. "Project" does not include tangible personal property that
22 processes or uses recycled feedstock in a manner that would
23 constitute disposal as defined in subdivision (b) of Section 40192.

24 (2) "Recycled feedstock" means materials that would otherwise
25 be destined for disposal, having completed their intended end use
26 and product lifecycle.

27 (3) "Soil amendments" may include "compost," as defined in
28 Section 14525 of the Food and Agricultural Code, "fertilizing
29 material," as defined in Section 14533 of the Food and Agricultural
30 Code, "gypsum" or "phosphatic sulfate gypsum," as those terms
31 are defined in Section 14537 of the Food and Agricultural Code,
32 or a substance distributed for the purpose of promoting plant
33 growth or improving the quality of crops by conditioning soils
34 through physical means.

1 (c) The authority shall publish notice of the availability of
2 project applications and deadlines for submission of project
3 applications to the authority.

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

6 (1) The extent to which the project develops manufacturing
7 facilities, or purchases equipment for manufacturing facilities,
8 located in California.

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

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

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

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

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

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

25 (f) Notwithstanding subdivision (j), and without regard to the
26 actual date of any transaction between a participating party and
27 the authority, any project approved by the authority by resolution
28 for the sales and use tax exclusion pursuant to Section 6010.8 of
29 the Revenue and Taxation Code before March 24, 2010, shall not
30 be subject to this section.

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

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

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

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

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

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

5 (h) (1) The exclusions granted pursuant to Section 6010.8 of
6 the Revenue and Taxation Code for projects approved by the
7 authority pursuant to this section shall not exceed ~~one~~ two hundred
8 million dollars ~~(\$100,000,000)~~ (\$200,000,000) for each calendar
9 year.

10 (2) *If less than two hundred million dollars (\$200,000,000) is*
11 *excluded pursuant to Section 6010.8 of the Revenue and Taxation*
12 *Code in a calendar year, the unallocated portion of that two*
13 *hundred million dollars (\$200,000,000) may be granted the*
14 *following calendar year, in excess of the following year's two*
15 *hundred million dollar (\$200,000,000) maximum. The unallocated*
16 *amount for a particular calendar year shall not roll over more*
17 *than one calendar year.*

18 (i) (1) The authority shall study the efficacy and cost benefit
19 of the sales and use tax exemption as it relates to advanced
20 manufacturing projects. The study shall include the number of jobs
21 created, the costs of each job, and the annual salary of each job.
22 The study shall also consider a dynamic analysis of the economic
23 output to the state that would occur without the sales and use tax
24 exemption. Before January 1, 2017, the authority shall submit to
25 the Legislature, consistent with Section 9795 of the Government
26 Code, the result of the study.

27 (2) Before January 1, 2015, the authority shall, consistent with
28 Section 9795 of the Government Code, submit to the Legislature
29 an interim report on the efficacy of the program conducted pursuant
30 to this section. The study shall include recommendations on
31 program changes that would increase the program's efficacy in
32 creating permanent and temporary jobs, and whether eligibility
33 for the program should be extended or narrowed to other
34 manufacturing types. The authority may work with the Legislative
35 Analyst's Office in preparing the report and its recommendations.

36 (j) This section shall remain in effect only until January 1, 2021,
37 and as of that date is repealed, unless a later enacted statute, that
38 becomes operative on or before January 1, 2021, deletes or extends
39 that date. The sale or purchase of tangible personal property of a
40 project approved before January 1, 2021, shall continue to be

1 excluded from sales and use taxes pursuant to Section 6010.8 of
2 the Revenue and Taxation Code for the period of time set forth in
3 the authority's resolution approving the project pursuant to this
4 section.

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