

AMENDED IN ASSEMBLY MAY 16, 2016

AMENDED IN ASSEMBLY MARCH 8, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1683

Introduced by Assembly Member Eggman

January 20, 2016

An act to amend ~~Section~~ *Sections 26004 and 26011.8* of the Public Resources Code, relating to alternative energy, to take effect immediately, tax levy: *energy*.

LEGISLATIVE COUNSEL'S DIGEST

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

The California Alternative Energy and Advanced Transportation Financing Authority Act establishes the California Alternative Energy and Advanced Transportation Financing Authority. *Authority, consisting of 5 specified state officials.* 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 *for these projects* 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. The bill would specify that if less than \$200,000,000 \$100,000,000 is granted in a calendar year, the unallocated amount may roll over to the following calendar year. The bill would increase the membership of the authority to 7, with~~

the Senate Committee on Rules and the Speaker of the Assembly each appointing one state legislator as a nonvoting member. The bill would declare the intent of the Legislature that the authority approve these project applications on a competitive basis.

~~This bill would take effect immediately as a tax levy.~~

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. *It is the intent of the Legislature that the*
- 2 *California Alternative Energy and Advanced Transportation*
- 3 *Financing Authority approve project applications pursuant to*
- 4 *Section 26011.8 of the Public Resources Code on a competitive*
- 5 *basis.*
- 6 SEC. 2. *Section 26004 of the Public Resources Code is*
- 7 *amended to read:*
- 8 26004. (a) There is in the state government the California
- 9 Alternative Energy and Advanced Transportation Financing
- 10 Authority. The authority constitutes a public instrumentality and
- 11 the exercise by the authority of powers conferred by this division
- 12 is the performance of an essential public function.
- 13 (b) The authority shall consist of ~~five~~ *seven* members, as follows:
- 14 (1) The Director of Finance.
- 15 (2) The Chairperson of the State Energy Resources Conservation
- 16 and Development Commission.
- 17 (3) The President of the Public Utilities Commission.
- 18 (4) The Controller.
- 19 (5) The Treasurer, who shall serve as the chairperson of the
- 20 authority.
- 21 (6) *One state legislator appointed by the Senate Committee on*
- 22 *Rules who shall serve as a nonvoting member.*
- 23 (7) *One state legislator appointed by the Speaker of the*
- 24 *Assembly who shall serve as a nonvoting member.*
- 25 (c) The members listed in paragraphs (1) to (5), inclusive, of
- 26 subdivision (b) may each designate a deputy or clerk in his or her
- 27 agency to act for and represent the member at all meetings of the
- 28 authority.
- 29 (d) The first meeting of the authority shall be convened by the
- 30 Treasurer.

1 SECTION 1.

2 SEC. 3. Section 26011.8 of the Public Resources Code is
3 amended to read:

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

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

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

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

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

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

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

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

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

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

9 (4) To the extent feasible, the extent to which the project, or the
10 product produced by the project, results in a reduction of
11 greenhouse gases, a reduction in air or water pollution, an increase
12 in energy efficiency, or a reduction in energy consumption, beyond
13 what is required by federal or state law or regulation.

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

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

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

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

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

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

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

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

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

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

39 (h) (1) The exclusions granted pursuant to Section 6010.8 of
40 the Revenue and Taxation Code for projects approved by the

1 authority pursuant to this section shall not exceed ~~two one~~ hundred
2 million dollars ~~(\$200,000,000)~~ *(\$100,000,000)* for each calendar
3 year.

4 (2) If less than ~~two one~~ hundred million dollars ~~(\$200,000,000)~~
5 *(\$100,000,000)* is excluded pursuant to Section 6010.8 of the
6 Revenue and Taxation Code in a calendar year, the unallocated
7 portion of that ~~two one~~ hundred million dollars ~~(\$200,000,000)~~
8 *(\$100,000,000)* may be granted the following calendar year, in
9 excess of the following year's ~~two-hundred-million-dollar~~
10 ~~(\$200,000,000)~~ *one-hundred-million-dollar* *(\$100,000,000)*
11 maximum. The unallocated amount for a particular calendar year
12 shall not roll over more than one calendar year.

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

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

31 (j) This section shall remain in effect only until January 1, 2021,
32 and as of that date is repealed, unless a later enacted statute, that
33 becomes operative on or before January 1, 2021, deletes or extends
34 that date. The sale or purchase of tangible personal property of a
35 project approved before January 1, 2021, shall continue to be
36 excluded from sales and use taxes pursuant to Section 6010.8 of
37 the Revenue and Taxation Code for the period of time set forth in
38 the authority's resolution approving the project pursuant to this
39 section.

1 ~~SEC. 2.—This act provides for a tax levy within the meaning of~~
2 ~~Article IV of the Constitution and shall go into immediate effect.~~

O