

**ASSEMBLY BILL**

**No. 2334**

---

---

**Introduced by Assembly Members Mullin and Ting**

February 18, 2016

---

---

An act to amend Section 26011.8 of the Public Resources Code and to amend Section 6010.8 of the Revenue and Taxation Code, relating to alternative energy, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 2334, as introduced, Mullin. 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 any lease or transfer of title of tangible personal property constituting a project to any participating party, and defines a project and participating party for those purposes. The act limits the sales and use tax exclusion to \$100,000,000 for each calendar year.

This bill would extend the sales and use tax exclusion to any contractor for use in the performance of a construction contract for the participating party that will use that property as an integral part of the approved project. This bill would provide for an additional sales and use tax exclusion amount of \$475,000,000 for the 2016 calendar year and \$250,000,000 for each calendar year thereafter, plus any amounts not granted or amounts granted but unused from the previous calendar year beginning in the 2017 calendar year.

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. 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) (A) The exclusions granted pursuant to *paragraph (1)*  
6 *of subdivision (a) of Section 6010.8 of the Revenue and Taxation*  
7 *Code for projects approved by the authority pursuant to this section*  
8 *shall not exceed one hundred million dollars (\$100,000,000) for*  
9 *each calendar year before the 2017 calendar year.*

10 (B) *For the 2017 calendar year and each calendar year*  
11 *thereafter, the exclusions granted pursuant to paragraph (1) of*  
12 *subdivision (a) of Section 6010.8 of the Revenue and Taxation*  
13 *Code for projects approved by the authority pursuant to this section*  
14 *shall not exceed one hundred million dollars (\$100,000,000) plus*  
15 *any amounts not granted or amounts granted but unused from the*  
16 *previous calendar year.*

17 (2) *In addition to the amount described in paragraph (1), the*  
18 *amount of exclusions that may be granted pursuant to paragraphs*  
19 *(1) and (2) of subdivision (a) of Section 6010.8 of the Revenue and*  
20 *Taxation Code for projects approved by the authority pursuant to*  
21 *this section per calendar year shall be as follows:*

22 (A) *For the 2016 calendar year, four hundred seventy five*  
23 *million dollars (\$475,000,000).*

24 (B) *For the 2017 calendar year and each calendar year*  
25 *thereafter, two hundred fifty million dollars (\$250,000,000) plus*  
26 *any amounts not granted or amounts granted but unused from the*  
27 *previous calendar year.*

28 (i) (1) The authority shall study the efficacy and cost benefit  
29 of the sales and use tax exemption as it relates to advanced  
30 manufacturing projects. The study shall include the number of jobs  
31 created, the costs of each job, and the annual salary of each job.  
32 The study shall also consider a dynamic analysis of the economic  
33 output to the state that would occur without the sales and use tax  
34 exemption. Before January 1, 2017, the authority shall submit to  
35 the Legislature, consistent with Section 9795 of the Government  
36 Code, the result of the study.

37 (2) Before January 1, 2015, the authority shall, consistent with  
38 Section 9795 of the Government Code, submit to the Legislature  
39 an interim report on the efficacy of the program conducted pursuant  
40 to this section. The study shall include recommendations on

1 program changes that would increase the program’s efficacy in  
2 creating permanent and temporary jobs, and whether eligibility  
3 for the program should be extended or narrowed to other  
4 manufacturing types. The authority may work with the Legislative  
5 Analyst’s Office in preparing the report and its recommendations.

6 (j) This section shall remain in effect only until January 1, 2021,  
7 and as of that date is repealed, unless a later enacted statute, that  
8 becomes operative on or before January 1, 2021, deletes or extends  
9 that date. The sale or purchase of tangible personal property of a  
10 project approved before January 1, 2021, shall continue to be  
11 excluded from sales and use taxes pursuant to Section 6010.8 of  
12 the Revenue and Taxation Code for the period of time set forth in  
13 the authority’s resolution approving the project pursuant to this  
14 section.

15 SEC. 2. Section 6010.8 of the Revenue and Taxation Code, as  
16 amended by Section 5 of Chapter 788 of the Statutes of 2015, is  
17 amended to read:

18 6010.8. (a) (1) “Sale” and “purchase” do not include any lease  
19 or transfer of title of tangible personal property constituting any  
20 project to any participating party. ~~As~~

21 (2) *On and after the operative date of the act adding this*  
22 *paragraph, “sale” and “purchase” do not include any lease or*  
23 *transfer of title of tangible personal property constituting any*  
24 *project to any contractor for use in the performance of a*  
25 *construction contract for the participating party that will use that*  
26 *property as an integral part of the approved project.*

27 (b) As used in this section, “project” has the meaning specified  
28 in subparagraph (B) of paragraph (8) of subdivision (a) of Section  
29 26003 of the Public Resources Code and “participating party” has  
30 the meaning specified in subparagraph (B) of paragraph (7) of  
31 subdivision (a) of Section 26003 of the Public Resources Code.

32 ~~(b)~~

33 (c) This section shall remain in effect only until January 1, 2021,  
34 and as of that date is repealed, unless a later enacted statute, that  
35 is enacted before January 1, 2021, deletes or extends that date.

36 SEC. 3. This act provides for a tax levy within the meaning of  
37 Article IV of the Constitution and shall go into immediate effect.