

AMENDED IN SENATE SEPTEMBER 2, 2009

AMENDED IN SENATE JUNE 23, 2009

AMENDED IN ASSEMBLY MAY 6, 2009

AMENDED IN ASSEMBLY APRIL 14, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1536

Introduced by Assembly Member Blakeslee

February 27, 2009

~~An act to amend Section 379.6 of the Public Utilities Code, relating to energy. An act to add and repeal Sections 6245 and 6246 of the Public Resources Code, relating to public resources, and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1536, as amended, Blakeslee. ~~Distributed energy resources incentive program. Public and gas leases.~~

(1) Existing law authorizes the State Lands Commission to enter into a lease for the extraction of oil or gas from state-owned tide and submerged lands in the California Coastal Sanctuary if the commission determines that those oil and gas deposits are being drained by means of producing wells upon adjacent federal lands and if the lease is in the best interests of the state.

This bill would create the Interim Resources Management Board, consisting of the Secretary of the Natural Resources Agency, the Secretary for Environmental Protection, and the Controller. The bill would authorize the board to consider a draft lease, lease application, or revised lease application filed with the State Lands Commission

pursuant to that provision and subsequently rejected by the commission. The bill would authorize the board to approve that lease if specified terms and conditions are met.

The bill would provide for the repeal of these provisions on January 1, 2011. The bill would set forth related declarations and findings.

(2) The bill would annually appropriate, commencing with the 2010–11 fiscal year, up to \$50,000,000 from the amounts received annually by the state from the royalty payments made pursuant to a lease entered into under the bill, as scheduled. The bill would provide that \$34,000,000 would be allocated to the Department of Conservation for purposes of making subvention payments under the Open Space Subvention Act of 1971 to eligible counties participating in the California Land Conservation Act of 1965, and that \$16,000,000 would be allocated to the Department of Parks and Recreation for the acquisition and operation of state parks along the coast.

(3) The bill would appropriate, for the 2009–10 fiscal year, up to \$50,000,000 from the amounts received during that fiscal year by the state from the royalty payments made pursuant to a lease entered into under the bill to the State Department of Public Health, as scheduled.

~~Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations, as defined. Existing law requires the PUC, in consultation with the State Energy Resources Conservation and Development Commission (Energy Commission), to administer, until January 1, 2012, a self-generation incentive program for distributed generation resources.~~

~~This bill would instead require the PUC, in consultation with the Energy Commission, to administer the distributed energy resources incentive program for distributed generation until January 1, 2012, for the purposes of deploying distributed generation technologies that the PUC determines produce benefits for ratepayers commensurate with their contribution to the costs of the program. The bill would additionally authorize incentives to be provided pursuant to the program for energy storage systems meeting certain requirements and would delete certain combustion-operated distributed generation projects from eligibility. The bill would delete the commission's existing authority to include other ultraclean and low-emission distributed generation technologies, as defined, in the program. The bill would limit program costs to no more than \$83,000,000 per year.~~

Vote: ~~majority~~^{2/3}. Appropriation: ~~no~~ yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. The Legislature finds and declares all of the*
2 *following:*

3 *(a) Since 1994, the State Lands Commission has been prohibited*
4 *by the California Coastal Sanctuary Act of 1994 (Chapter 3.4*
5 *(commencing with Section 6240) of Part 1 of Division 6 of the*
6 *Public Resources Code) from granting any new oil or gas leases*
7 *on state-owned tide and submerged lands, unless the state's oil or*
8 *gas resources are being drained from producing wells on adjacent*
9 *federal lands and the commission determines that a lease is in the*
10 *best interests of the state.*

11 *(b) Since 1994, no application for a lease has been granted*
12 *under this exception by the State Lands Commission.*

13 *(c) In the current fiscal emergency, it is in the public interest*
14 *to consider an application considered and rejected by the*
15 *commission prior to the effective date of this act, pursuant to*
16 *Section 6244 of the Public Resources Code, from an operator with*
17 *existing offshore drilling platforms on federal lands and with*
18 *existing and operating infrastructure that seeks to access state*
19 *offshore oil or gas reserves for a limited period.*

20 *(d) The provisions of this act are necessary for the promotion*
21 *of the public interest and are of statewide concern.*

22 *SEC. 2. Section 6245 is added to the Public Resources Code,*
23 *to read:*

24 *6245. (a) The Interim Resources Management Board is hereby*
25 *created for the limited purpose of considering an oil or gas lease*
26 *application meeting the criteria set forth in Section 6246 that was*
27 *denied by another state agency prior to the effective date of this*
28 *section.*

29 *(b) The members of the board shall be the Secretary of the*
30 *Natural Resources Agency, the Secretary for Environmental*
31 *Protection, and the Controller. The Secretary of the Natural*
32 *Resources Agency shall be the chairperson of the board.*

33 *(c) The board shall hold at least one public hearing when*
34 *considering an oil or gas lease application.*

35 *(d) If a majority of the members of the board determine pursuant*
36 *to Section 6246 that an oil or gas lease be entered into, the*
37 *chairperson of the board shall execute pursuant to Section 6246*
38 *the lease on behalf of the state.*

1 (e) *This section shall remain in effect only until January 1, 2011,*
2 *and as of that date is repealed, unless a later enacted statute, that*
3 *is enacted before January 1, 2011, deletes or extends that date.*

4 SEC. 3. *Section 6246 is added to the Public Resources Code,*
5 *to read:*

6 6246. (a) *Notwithstanding Section 6244, within 30 days after*
7 *the effective date of this section, the Interim Resources*
8 *Management Board shall meet for the purpose of considering a*
9 *draft lease, lease application, or revised lease application,*
10 *including the terms and conditions, that was filed with the*
11 *commission pursuant to Section 6244 and that meets all of the*
12 *following criteria:*

13 (1) *The lease, lease application, or revised lease application*
14 *was considered and rejected by the commission prior to the*
15 *effective date of this section, pursuant to Section 6244.*

16 (2) *The record before the commission demonstrates that state*
17 *oil or gas deposits are being drained by means of producing wells*
18 *upon adjacent federal lands.*

19 (3) *The lessee has an existing offshore platform on adjacent*
20 *federal lands from which the state oil or gas reserves will be*
21 *accessed.*

22 (4) *The lessee has existing and operating pipelines and other*
23 *infrastructure to transport and process the oil or gas.*

24 (5) *The board determines that the lease is in the best interest*
25 *of the state.*

26 (b) *The chairperson of the Interim Resources Management*
27 *Board may enter into a lease or leases on behalf of the State of*
28 *California if the lease or leases contain the following conditions*
29 *that are enforceable by the Attorney General:*

30 (1) *The lease has a fixed termination date that is no more than*
31 *14 years from the effective date of the lease.*

32 (2) *The lease requires the lessee to make a single prepaid royalty*
33 *payment to the State Treasury in the total amount of one hundred*
34 *million dollars (\$100,000,000) for the leases involved in the*
35 *application.*

36 (3) *The lease provides, at a minimum, the rental fee and royalty*
37 *payments as specified in the lease application considered and*
38 *rejected by the commission prior to the effective date of this section,*
39 *pursuant to Section 6244.*

1 (4) The lessee is required to avoid, reduce, or offset all direct
2 greenhouse gas emissions from project operations under the lease.

3 (5) Upon expiration of the lease, the lessee shall terminate all
4 oil and gas production operations offshore California, if any, and
5 remove all related onshore processing facilities, if any, that are
6 owned, controlled, or operated by the lessee at the time the lessee
7 accepted the lease, and shall clean up, restore, and donate not
8 less than 3,900 acres of land for public use and conservation,
9 including land on which the onshore processing facilities were
10 located.

11 (6) The lessee shall use all feasible efforts to remove four outer
12 continental shelf federal platforms and provide funds, in an amount
13 and manner to be determined by the Interim Resources
14 Management Board, in an escrow account, letter of credit, or
15 equivalent instrument, to be used to address any adverse
16 environmental effects of offshore oil drilling from the four
17 platforms, or for decommissioning or removal of the platforms, if
18 the platforms are not decommissioned or removed due to
19 circumstances beyond the control of the lessee.

20 (7) The terms and conditions of any agreement related to the
21 draft lease, lease application, or revised lease application identified
22 in subdivision (a) between the lessee and a nongovernmental third
23 party shall collectively constitute a condition of any lease. The
24 lessee shall provide a copy of any agreement to the Interim
25 Resources Management Board as soon as feasible, and the
26 agreement shall be made public in a conspicuous location on the
27 Natural Resources Management Agency's Internet Web site at
28 least 30 days prior to the reconsideration of any lease pursuant
29 to subdivision (a).

30 (8) The lease shall provide, without limitation, that the Attorney
31 General shall enforce the terms of the lease.

32 (c) The lease shall contain all other terms agreed to by the lessee
33 in a lease application considered and rejected by the commission
34 prior to the effective date of this section, pursuant to Section 6244,
35 that are not in conflict with the act that adds this section. Nothing
36 in this section precludes the board from requiring lease terms that
37 are more protective of the environment, or that will produce
38 greater revenue for the state, and that are not in conflict with this
39 act.

1 (d) Any action to challenge Section 6245 or this section may
2 only be filed and served within 60 days of the effective date of
3 those sections.

4 (e) Except as provided in paragraph (8) of subdivision (b), any
5 challenge to a lease executed pursuant to this section may only be
6 filed and served within 60 days following execution of the lease
7 and notification of its execution. The complaint or petition shall
8 also be served within that 60-day period on the lessee as a real
9 party in interest. Notification of the execution of the lease shall be
10 posted on the Natural Resources Agency's Internet Web site and
11 through a press release issued by the Natural Resources Agency.

12 (f) This section shall remain in effect only until January 1, 2011,
13 and as of that date is repealed, unless a later enacted statute, that
14 is enacted before January 1, 2011, deletes or extends that date.

15 SEC. 4. (a) Of the amounts received by the state annually from
16 the royalty payments made pursuant to a lease made pursuant to
17 Sections 6245 and 6246 of the Public Resources Code, up to fifty
18 million dollars (\$50,000,000) is hereby appropriated, commencing
19 with the 2010–11 fiscal year, in accordance with the following
20 schedule:

21 (1) Up to thirty-four million dollars (\$34,000,000) to the
22 Department of Conservation for purposes of making subvention
23 payments in accordance with Chapter 3 (commencing with Section
24 16140) of Part 1 of Division 4 of Title 2 of the Government Code
25 to eligible counties participating in the California Land
26 Conservation Act of 1965 (Chapter 7 (commencing with Section
27 51200) of Part 1 of Division 1 of Title 5 of the Government Code).

28 (2) Up to sixteen million dollars (\$16,000,000) to the
29 Department of Parks and Recreation for the acquisition and
30 operation of state parks along the coast.

31 (b) The one hundred million dollars (\$100,000,000) prepaid
32 royalty payment received by the state pursuant to paragraph (2)
33 of subdivision (b) of Section 6246 of the Public Resources Code
34 is not subject to appropriation pursuant to subdivision (a) of this
35 section.

36 SEC. 5. (a) Of the amounts received by the state during the
37 2009–10 fiscal year from the royalty payments made pursuant to
38 a lease made pursuant to Sections 6245 and 6246 of the Public
39 Resources Code, up to fifty million dollars (\$50,000,000) is hereby

1 *appropriated for the 2009–10 fiscal year, in accordance with the*
2 *following schedule:*

3 *(1) Up to twenty-one million six hundred sixty thousand dollars*
4 *(\$21,660,000) to the State Department of Public Health for various*
5 *programs administered by the Office of AIDS.*

6 *(2) Up to sixteen million three hundred thirty-seven thousand*
7 *dollars (\$16,337,000) to the State Department of Public Health*
8 *for the Domestic Violence Program.*

9 *(3) Up to nine million dollars (\$9,000,000) to the State*
10 *Department of Public Health for the Adolescent Family Life*
11 *Program.*

12 *(4) Up to three million three thousand dollars (\$3,003,000) to*
13 *the State Department of Public Health for the Black Infant Health*
14 *Program.*

15 *(b) The one hundred million dollars (\$100,000,000) prepaid*
16 *royalty payment received by the state pursuant to paragraph (2)*
17 *of subdivision (b) of Section 6246 of the Public Resources Code*
18 *is not subject to appropriation pursuant to this section.*

19 *SEC. 6. The State Lands Commission shall administer a lease*
20 *entered into pursuant to Sections 6245 and 6246 of the Public*
21 *Resources Code, as added by Sections 1 and 2 of this act.*

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23
24 **All matter omitted in this version of the bill**
25 **appears in the bill as amended in Senate,**
26 **June 23, 2009 (JR11)**
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