SENATE BILL No. 22

Introduced by Senators Padilla and Strickland
(Coauthor: Senator Dutton)

February 1, 2010

An act to amend Section 26003 of, and to add Section 26011.7 to, the Public Resources Code, relating to energy.

legislative counsel's digest

SB 22, as introduced, Padilla. Energy: California Alternative Energy and Advanced Transportation Financing Authority.

The California Alternative Energy and Advanced Transportation Financing Authority Act established the California Alternative Energy and Advanced Transportation Financing Authority. The authority is authorized to do all things necessary and convenient to carry out the purposes of the act. The authority is also required to establish a renewable energy program to provide financial assistance, as defined, to certain entities for projects to generate new and renewable energy sources, develop clean and efficient distributed generation, and demonstrate the economic feasibility of new technologies. Existing law provides that the transfer of title of tangible personal property constituting a project under the act to the authority by a participating party or the lease or transfer of tangible personal property constituting a project under the act by the authority to a participating party pursuant to the act is not a "sale" or "purchase" for the purposes of the Sales and Use Tax Law.

This bill would include as a project, machinery or equipment that is utilized for the design, technology transfer, manufacture, production, assembly, distribution, or service of an alternative source component.

The bill would include as “financial assistance” for the purposes of the act purchases, sales, or lease arrangements that qualify for exclusion from the Sales and Use Tax Law. The bill would require the authority to consider specified criteria in approving a project for which the purchase, sale, or lease of tangible personal property qualifies for the sales and use tax exclusion. The bill would require, when the sales and use tax exclusion for projects approved by the authority exceeds $100,000,000 annually, the authority to provide a 20-day notice to the Legislature for additional project approval.

The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. The Governor issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on January 8, 2010.

This bill would state that it addresses the fiscal emergency declared by the Governor by proclamation issued on January 8, 2010, pursuant to the California Constitution.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

SECTION 1. Section 26003 of the Public Resources Code is amended to read:

26003. As used in this division, unless the context otherwise requires:

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

(b) “Cost” as applied to a project or portion of the project financed under this division means all or part of the cost of construction and acquisition of all lands, structures, real or personal property or an interest in the real or personal property, rights, rights-of-way, franchises, easements, and interests acquired or used for a project; the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which those buildings or structures may be moved; the cost of all machinery, equipment, and furnishings, financing charges, interest prior to, during, and for a period after, completion of construction as determined by the authority; the cost of the purchase or sale of energy derived from an alternative source pursuant to subdivision (g) of Section 26011; provisions for working capital; reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations, and improvements; the cost of architectural, engineering, financial, accounting, auditing and legal services, plans, specifications, estimates, administrative expenses, and other expenses necessary or incident to determining the feasibility of constructing any project or incident to the construction, acquisition, or financing of a project.

(c) (1) "Alternative sources" means the application of cogeneration technology, as defined in Section 25134; the conservation of energy; or the use of solar, biomass, wind, geothermal, hydroelectricity under 30 megawatts, or any other source of energy, the efficient use of which will reduce the use of fossil and nuclear ~~fuels.~~ *fuels, and is intended primarily to offset part or all of the customer's own electrical requirements.*

(2) "Alternative sources" does not include a hydroelectric facility that does not meet state laws pertaining to the control, appropriation, use, and distribution of water, including, but not limited to, the obtaining of applicable licenses and permits.

(d) "Advanced transportation technologies" means emerging commercially competitive transportation-related technologies identified by the authority as capable of creating long-term, high value-added jobs for Californians while enhancing the state's commitment to energy conservation, pollution reduction, and transportation efficiency. Those technologies may include, but are not limited to, any of the following:

(1) Intelligent vehicle highway systems.

(2) Advanced telecommunications for transportation.

(3) Command, control, and communications for public transit vehicles and systems.

(4) Electric vehicles and ultralow-emission vehicles.

(5) High-speed rail and magnetic levitation passenger systems.

(6) Fuel cells.

(e) "Financial assistance" includes, but is not limited to, either, or any combination, of the following:

(1) Loans, loan loss reserves, interest rate reductions, proceeds of bonds issued by the authority, insurance, guarantees or other credit enhancements or liquidity facilities, contributions of money, property, labor, or other items of value, or any combination thereof, as determined by, and approved by the resolution of, the ~~board.~~ *authority.*

(2) Purchases, sales, or lease arrangements that qualify for exclusion from sales and use tax pursuant to Section 6010.8 of the Revenue and Taxation Code.

~~(2)~~

(3) Any other type of assistance the authority determines is appropriate.

(f) "Participating party" means either of the following:

(1) A person or an entity or group of entities engaged in business or operations in the state, whether organized for profit or not for profit, that does either of the following:

(A) Applies for financial assistance from the authority for the purpose of implementing a project in a manner prescribed by the authority.

(B) Participates in the purchase or sale of energy derived from an alternative source pursuant to subdivision (g) of Section 26011.

(2) A public agency or nonprofit corporation that does either of the following:

(A) Applies for financial assistance from the authority for the purpose of implementing a project in a manner prescribed by the authority.

(B) Participates in the purchase or sale of energy derived from an alternative source pursuant to subdivision (g) of Section 26011.

(g) "Project" means a land, building, improvement to the land or building, rehabilitation, work, property, or structure, real or personal, stationary or mobile, including, but not limited to, machinery and equipment, whether or not in existence or under construction, that utilizes, or is designed to utilize, an alternative source, or that is utilized for the design, technology transfer, manufacture, production, assembly, distribution, or service of advanced transportation technologies, *alternative source components,* or an arrangement for the purchase, including prepayment, or sale of energy derived from an alternative source pursuant to subdivision (g) of Section 26011.

(h) "Public agency" means a federal or state agency, department, board, authority, state or community college, university, or commission, or a county, city and county, city, regional agency, public district, school district, or other political entity.

(i) (1) "Renewable energy" means a device or technology that conserves or produces heat, processes heat, space heating, water heating, steam, space cooling, refrigeration, mechanical energy, electricity, or energy in any form convertible to these uses, that does not expend or use conventional energy fuels, and that uses any of the following electrical generation technologies:

(A) Biomass.

(B) Solar thermal.

(C) Photovoltaic.

(D) Wind.

(E) Geothermal.

(2) For purposes of this subdivision, "conventional energy fuel" means any fuel derived from petroleum deposits, including, but not limited to, oil, heating oil, gasoline, fuel oil, or natural gas, including liquefied natural gas, or nuclear fissionable materials.

(3) Notwithstanding paragraph (1), for purposes of this section, "renewable energy" also means ultralow-emission equipment for energy generation based on thermal energy systems such as natural gas turbines and fuel cells.

(j) "Revenue" means all rents, receipts, purchase payments, loan repayments, and all other income or receipts derived by the authority from a project, or the sale, lease, or other disposition of alternative source or advanced transportation technology facilities, or the making of loans to finance alternative source or advanced transportation technology facilities, and any income or revenue derived from the investment of money in any fund or account of the authority.

SEC. 2. Section 26011.7 is added to the Public Resources Code, to read:

26011.7. (a) To promote the creation of jobs and reduction of greenhouse gases, the authority may approve a project for which the purchase, sale, or lease of tangible personal property qualifies for the sales and use tax exclusion pursuant to Section 6010.8 of the Revenue and Taxation Code.

(b) In approving a project for which the purchase, sale, or lease of tangible personal property qualifies for the sales and use tax exclusion pursuant to Section 6010.8 of the Revenue and Taxation Code, the authority shall consider all of the following criteria:

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

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

(3) The extent to which the project is consistent with local and state planning.

(4) The extent to which the project will produce quantifiable, verifiable, and sustainable reductions in the emissions of greenhouse gases as defined in subdivision (g) of Section 38505 of the Health and Safety Code.

(5) Any other factors that the authority deems appropriate.

(c) Once exclusions granted pursuant to Section 6010.8 of the Revenue and Taxation Code for projects approved by the authority pursuant to this section exceed one hundred million dollars ($100,000,000) annually, the authority shall provide a 20-day notice to the Legislature for additional approvals made pursuant to this section.

SEC. 3. This act addresses the fiscal emergency declared by the Governor by proclamation on January 8, 2010, pursuant to subdivision (f) of Section 10 of Article IV of the California Constitution.

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