AMENDED IN ASSEMBLY MARCH 31, 2011

california legislature—2011–12 regular session

ASSEMBLY BILL No. 642

Introduced by Assembly Member Charles Calderon

February 16, 2011

~~An act to relating to economic development.~~ *An act to amend Sections 25741 and 26003 of, and to add Chapter 6 (commencing with Section 7100) to Part 2 of Division 6 of, the Public Resources Code, relating to renewable energy.*

legislative counsel's digest

AB 642, as amended, Charles Calderon. ~~California Business Development Authority.~~ *Renewable energy: biomass: algae.*

(1) Existing law authorizes the State Lands Commission to negotiate various types of leases for public lands, including grazing leases, recreational leases, oil and gas leases, and mineral leases.

This bill would authorize the commission to enter into a lease for the development of algae-producing energy and agricultural products. The bill would require the lease to include specified provisions.

(2) Existing law requires the State Energy Resources Conservation and Development Commission to administer the Renewable Energy Resources Program, which provides financial assistance for the development of renewable electricity generation facilities including facilities that use biomass.

Existing law requires the California Alternative Energy and Advanced Transportation Financing Authority to establish a renewable energy program to provide financial assistance to specified entities to generate new and renewable energy sources. Existing law defines "renewable *energy" to mean a device or technology that, among other things, uses biomass for electrical generation.*

The California Renewables Portfolio Standard Program requires a retail seller of electricity to purchase a specified minimum percentage of electricity generated by eligible renewable energy resources, including electricity generated through the use of, among other things, biomass, in any given year as a specified percentage of total kilowatthours sold to retail end-use customers each calendar year.

This bill would expressly provide that "biomass" for the above provisions includes algae.

~~Existing law provides for various economic development programs within the state.~~

~~This bill would express the intent of the Legislature to enact legislation to create the California Business Development Authority in state government.~~

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

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

SECTION 1. Chapter 6 (commencing with Section 7100) is added to Part 2 of Division 6 of the Public Resources Code, to read:

CHAPTER 6. LEASES FOR ALGAE PRODUCTION FOR ENERGY AND AGRICULTURAL USES

7100. The commission may, when it appears to be in the public interest, negotiate and enter into a lease for the development of algae-producing energy and agricultural products. The lease shall include all of the following:

(a) Terms, conditions, and provisions that will protect the interests of the state with reference to securing payment to the state of the proper amount or the value of production.

(b) Provisions specifying the methods of operation and standard requirements for carrying on operations in a proper and workmanlike manner, the prevention of waste, the protection of the safety and health of worker, and the liability of the lessee for personal injury and property damage.

(c) Security for faithful performance of the lessee, including provisions for the forfeiture of the lease as set forth in Section 6805, and the requirement that the lessee shall, at the time of execution of the lease, furnish and thereafter maintain a good and sufficient bond in an amount specified by the commission, in favor of the state, guaranteeing faithful performance by the lessee of the terms, covenants, and conditions of the lease and compliance with this chapter.

(d) Other covenant, conditions, requirements, and reservations as may be deemed advisable by the commission in effecting the purpose of this chapter and not inconsistent with any of its provisions.

(e) A provision providing that any provision of the lease executed under this chapter that purports to deprive the state or a lessee of a right or benefit secured by law, or that is otherwise inconsistent with this chapter, is void, and shall be deemed separable from and without effect upon the valid provision of the lease.

7101. The commission, in issuing a lease under this chapter, shall reserve to the state the right to lease, sell, or otherwise dispose of the subsurface rights in the land.

SEC. 2. Section 25741 of the Public Resources Code is amended to read:

25741. As used in this chapter, the following terms have the following meaning:

(a) "Delivered" and "delivery" mean the electricity output of an in-state renewable electricity generation facility that is used to serve end-use retail customers located within the state. Subject to verification by the accounting system established by the commission pursuant to subdivision (b) of Section 399.13 of the Public Utilities Code, electricity shall be deemed delivered if it is either generated at a location within the state, or is scheduled for consumption by California end-use retail customers. Subject to criteria adopted by the commission, electricity generated by an eligible renewable energy resource may be considered "delivered" regardless of whether the electricity is generated at a different time from consumption by a California end-use customer.

(b) "In-state renewable electricity generation facility" means a facility that meets all of the following criteria:

(1) The facility uses biomass, *including algae*, solar thermal, photovoltaic, wind, geothermal, fuel cells using renewable fuels, small hydroelectric generation of 30 megawatts or less, digester gas, municipal solid waste conversion, landfill gas, ocean wave, ocean thermal, or tidal current, and any additions or enhancements to the facility using that technology.

(2) The facility satisfies one of the following requirements:

(A) The facility is located in the state or near the border of the state with the first point of connection to the transmission network within this state and electricity produced by the facility is delivered to an in-state location.

(B) The facility has its first point of interconnection to the transmission network outside the state and satisfies all of the following requirements:

(i) It is connected to the transmission network within the Western Electricity Coordinating Council (WECC) service territory.

(ii) It commences initial commercial operation after January 1, 2005.

(iii) Electricity produced by the facility is delivered to an in-state location.

(iv) It will not cause or contribute to any violation of a California environmental quality standard or requirement.

(v) If the facility is outside of the United States, it is developed and operated in a manner that is as protective of the environment as a similar facility located in the state.

(vi) It participates in the accounting system to verify compliance with the renewables portfolio standard by retail sellers, once established by the Energy Commission pursuant to subdivision (b) of Section 399.13 of the Public Utilities Code.

(C) The facility meets the requirements of clauses (i), (iii), (iv), (v), and (vi) in subparagraph (B), but does not meet the requirements of clause (ii) because it commences initial operation prior to January 1, 2005, if the facility satisfies either of the following requirements:

(i) The electricity is from incremental generation resulting from expansion or repowering of the facility.

(ii) The facility has been part of the existing baseline of eligible renewable energy resources of a retail seller established pursuant to paragraph (2) of subdivision (b) of Section 399.15 of the Public

Utilities Code or has been part of the existing baseline of eligible renewable energy resources of a local publicly owned electric utility established pursuant to Section 387 of the Public Utilities Code.

(3) For the purposes of this subdivision, "solid waste conversion" means a technology that uses a noncombustion thermal process to convert solid waste to a clean-burning fuel for the purpose of generating electricity, and that meets all of the following criteria:

(A) The technology does not use air or oxygen in the conversion process, except ambient air to maintain temperature control.

(B) The technology produces no discharges of air contaminants or emissions, including greenhouse gases as defined in Section 38505 of the Health and Safety Code.

(C) The technology produces no discharges to surface or groundwaters of the state.

(D) The technology produces no hazardous wastes.

(E) To the maximum extent feasible, the technology removes all recyclable materials and marketable green waste compostable materials from the solid waste stream prior to the conversion process and the owner or operator of the facility certifies that those materials will be recycled or composted.

(F) The facility at which the technology is used is in compliance with all applicable laws, regulations, and ordinances.

(G) The technology meets any other conditions established by the commission.

(H) The facility certifies that any local agency sending solid waste to the facility diverted at least 30 percent of all solid waste it collects through solid waste reduction, recycling, and composting. For purposes of this paragraph, "local agency" means any city, county, or special district, or subdivision thereof, which is authorized to provide solid waste handling services.

(c) "Procurement entity" means any person or corporation that enters into an agreement with a retail seller to procure eligible renewable energy resources pursuant to subdivision (f) of Section 399.14 of the Public Utilities Code.

(d) "Renewable energy public goods charge" means that portion of the nonbypassable system benefits charge authorized to be collected and to be transferred to the Renewable Resource Trust Fund pursuant to the Reliable Electric Service Investments Act

(Article 15 (commencing with Section 399) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code).

(e) "Report" means the report entitled "Investing in Renewable Electricity Generation in California" (June 2001, Publication Number P500-00-022) submitted to the Governor and the Legislature by the commission.

(f) "Retail seller" means a "retail seller" as defined in Section 399.12 of the Public Utilities Code.

SEC. 3. 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.

(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.

(2) 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) (1) "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, or an arrangement for the purchase, including prepayment, or sale of energy derived from an alternative source pursuant to subdivision (g) of Section 26011.

(2) "Project," for the purposes of Section 26011.8, means any tangible personal property that is utilized for the design, manufacture, production, or assembly of advanced transportation technologies or alternative source products, components, or systems.

(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, *including algae*.

(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.

~~SECTION 1. It is the intent of the Legislature to enact legislation to create the California Business Development Authority in state government.~~

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