

Date of Hearing: April 23, 2013

ASSEMBLY COMMITTEE ON JOBS, ECONOMIC DEVELOPMENT AND THE ECONOMY

Jose Medina, Chair

AB 1422 (Jobs, Economic Development and the Economy) – As Amended: April 15, 2013

SUBJECT: California Alternative Energy and Advanced Transportation Financing Authority

SUMMARY: Clarifies the definition of “participating parties,” as used by the California Alternative Energy and Advanced Transportation Financing Authority (Finance Authority) for qualifying applicants for its sales and use tax exclusion (SUTE) program. Also, this bill withdraws a requirement that the Governor’s Office of Economic Development (GO-Biz) issue a report on job creation and advanced manufacturing. Specifically, this bill:

- 1) Clarifies that an entity that is located outside the state, including those located overseas, is considered a participating party for the purpose of the Finance Authority’s SUTE program if they commit to, and demonstrate that they will be opening a manufacturing facility within the state.
- 2) Withdraws a requirement that GO-Biz review and identify efficient and cost-effective methods for the state to create jobs in advanced manufacturing and report their findings to the Legislature by January 1, 2017.
- 3) Modifies the definition of advanced manufacturing to include either of the following rather than both of the following.
 - a) Systems that result from substantive advancement, beyond the current industry standard, in the production of materials and products.
 - b) Sustainable manufacturing systems and manufacturing technologies that minimize the use of resources while maintaining or improving cost and performance. These systems and manufacturing technologies may not include those required to be undertaken pursuant to state or federal law or regulations, as specified.

EXISTING LAW:

- 1) Establishes the Finance Authority for the purpose of providing and promoting the establishment of facilities utilizing alternative sources of energy and facilities needed for the development and commercialization of advanced transportation technologies.
- 2) Authorizes the Finance Authority to administer a SUTE program for any tangible personal property that is utilized for the design, manufacture, production, or assembly of advanced manufacturing, advanced transportation technologies, or alternative source products, components, or systems. The SUTE program is capped at a total of \$100 million in tax exclusion benefits for all projects per calendar year.
- 3) Requires the Finance Authority to evaluate the SUTE Program project applications based on the extent to which: (a) the project develops manufacturing facilities or purchases equipment in California; (b) the benefits of the project to the state equal or exceed the benefits to the project applicant and other participants; (c) the project creates new permanent jobs in California; (d) the

project results in a reduction in greenhouse gases, a reduction in air or water pollution, an increase in energy efficiency, or a reduction in energy consumption, beyond what is required by state or federal law; (e) unemployment exists in the area in which the proposed project is to be located; and (f) any other factors deemed appropriate.

- 4) Requires GO-Biz to review and identify cost-effective methods for the state to create jobs in advanced manufacturing and report its findings to the Legislature on or before January 1, 2017.

FISCAL EFFECT: Unknown

COMMENTS:

- 1) Framing the Issue: This bill clarifies that the statutory term "participating party" used by the Finance Authority for the purpose of the sales and use tax exclusion program applies to both an in-state entities and an entity located outside the state, including an entity located overseas, if the entity commits to, and demonstrates that it will be opening a manufacturing facility in the state. The bill also repeals a GO-Biz reporting requirement pursuant to an agreement with the Governor in signing SB 1128 (Padilla), Chapter 677, Statutes of 2012.

The "participating party" issue was brought to the committee's attention by an economic development corporation that was trying to use the program to attract a business to California and was told the business would not be eligible. This is only a clarification of existing law.

- 2) Background on the Finance Authority: The Finance Authority was established in 1980 for the purpose of providing capital for facilities utilizing alternative methods and sources of energy and facilities needed for the development and commercialization of advanced transportation technologies. The Finance Authority oversees a range of financial products including conduit bond and revenue bond financings, loan guarantees, loan loss reserve accounts among other financial products that support the development and commercialization of technologies that conserve energy, reduce air pollution, and promote economic development and jobs.

Examples of some of the Finance Authority's more unique financial products include \$381 million in Qualified Energy Conservation Bonds authorized under the federal American Recovery and Reinvestment Act and the SB 77 Property Assessed Clean Energy (PACE) Bond Program. Governor Arnold Schwarzenegger used the Finance Authority to assist a joint venture between Tesla Motors and Toyota Motors to purchase the Nummi assembly plant in Fremont, California, where the two companies focus on manufacturing hybrid and electric vehicles, including the TESLA brand.

Most recently, the role of the Finance Authority was expanded to include administration of a state sales and use tax exclusion for property used in the "design, manufacture, production, or assembly" of either advanced transportation technologies or alternative energy source products, components or systems [SB 71 (Padilla), Chapter 10, Statutes of 2010]. Interest in the program was high at the program's inception but has since tapered off, as indicated by the fact that approximately 60% of the projects were approved within the first eight months of the program.

The Finance Authority is overseen by a five-member board of directors comprised of the Treasurer (Chair), Controller, Director of Finance, Chairperson of the Energy Commission, and President of the Public Utilities Commission. The Finance Authority meets on a monthly basis and members of the

board serve without compensation. The day-to-day activities of the Finance Authority are overseen by an executive director, who serves at the pleasure of the board.

- 3) The Finance Authority's SUTE Program: The purpose of the SUTE program is to promote the creation of California-based manufacturing jobs that will stimulate the economy and incentivize manufacturing of green technologies that will help reduce greenhouse gas emissions, air and water pollution, and energy consumption.

The SUTE Program provides eligible projects with financial assistance in the form of a sales and use tax exclusion on equipment and machinery ("qualified property") used for the "design, manufacture, production, or assembly" of advanced transportation technologies or alternative energy source products, components or systems.

All applications are evaluated to determine the extent to which the anticipated benefit to the state from the project exceeds the anticipated cost of the avoided sales and use tax by use of a net benefits test. Once approved, the applicant is required to purchase at least 25% of its approved qualified property within one year, and the remainder must be purchased within three years.

- 4) Performance of the SUTE Program in 2012: Since the inception of the SUTE program, the Finance Authority has approved a total of 50 applications, of which 40 are active. These 40 applications have been approved for \$1.16 billion in anticipated qualified purchases, with an estimated result of \$98.5 million in sales and use tax exclusions. These projects have produced an estimated \$72.5 million in environmental benefits and \$125.7 million in fiscal benefits across 14 counties, resulting in approximately \$99.7 million in net benefits.

12 applicants were added to the SUTE program in 2012. These new applicants provided a combined value of approximately \$433.9 million in anticipated qualified property purchases, which estimated to result in \$35.1 million in SUTE credits. The new applicants represented a variety of industries: solar photovoltaic manufacturing, biogas capture and production, biodiesel production, electric vehicle manufacturing, and biomass processing.

- 5) Manufacturing Incentives in other States: California communities are in competition to attract and retain manufacturers. Many states have developed economic development programs that target manufacturing generally, while others focus on sub-industry and sub-subindustry sections such as energy generation, information technology, biotechnology and food processing. As an example, the U.S. Department of Energy has taken a closer look at state incentives related to attracting renewable energy production and manufacturing and reports that 24 states have tax credits, 28 states authorize property assessed clean energy (PACE) programs, and 38 states offer property tax-based incentives. Below are examples of three nationally recognized state initiatives:
 - a) Michigan SmartZones: Michigan's 15 SmartZones include technology business accelerators and incubators that provide the critical entrepreneurial and commercialization support services essential to growing start-up ventures. The program consists of collaborations among universities, industry, research organizations, government and other local institutions and has resulted in regionally based high-tech zones which target growth in a specific economic sector that fits the geographic region's strengths and needs, creating clusters of high-skilled, high-paying jobs.
 - b) Arizona Clean Technology Property Tax Reduction and Tax Credit: The goal of the program (enacted in 2009) is to encourage business investment that will produce high quality employment

opportunities and enhance Arizona's position as a center for production and use of renewable energy products. The program offers two benefits: up to a 10% refundable income tax credit and up to a 75% reduction on property taxes for 10 years, for companies that are primarily engaged in manufacturing or have headquarters for producing systems and components that are used or useful in manufacturing renewable energy equipment. To be eligible for these benefits, companies must meet and maintain certain requirements, including paying wages above the state's annual median wage, paying certain health care costs and making annual investments in equipment.

c) Missouri TechLaunch: The Missouri Technology Corporation (MTC) is a public-private partnership created by the Missouri Legislature to "promote entrepreneurship and foster the growth of new and emerging high-tech companies." One MTC initiative is the Missouri TechLaunch which offers pre-seed funding to start-ups for intellectual property development and evaluation, including in-depth market analysis, competitive analysis, proof of concept, and prototype design and development. Individual awards cannot exceed \$100,000 and may be in the form of equity or convertible debt.

6) Related Legislation:

a) SB 1128 (Padilla) Energy: Alternative Energy Financing: This bill authorizes the Finance Authority to expand the SUTE program to include advanced manufacturing projects. This bill also caps the SUTE program benefit at \$100 million per year for all projects. Status: The bill was signed by the Governor, Chapter 677, Statutes of 2012.

b) SB 71 (Padilla) Sales and Use Tax Exemption: This bill authorizes the Finance Authority to administer a state and local sales tax exclusion program for tangible personal property that is used for the design, manufacture, production, or assembly of advanced transportation technologies or alternative source products, components or systems. Status: The bill was signed by the Governor, Chapter 10, Statutes of 2010.

7) Double Referral: This bill was double referred to the Assembly Committee on Jobs, Economic Development and the Economy (JEDE) and to the Assembly Committee on Revenue and Taxation (R&T). JEDE will hear the bill on April 23rd, 2013. Should the measure pass, it will be referred to R&T for further consideration.

REGISTERED SUPPORT / OPPOSITION:

Support

None received

Opposition

None received

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