

AMENDED IN SENATE AUGUST 21, 2001

CALIFORNIA LEGISLATURE—2001–02 SECOND EXTRAORDINARY SESSION

SENATE BILL

No. 87

Introduced by Senator Costa

(Coauthor: Senator Ortiz)

*(Coauthors: Assembly Members Alquist, Briggs, Dickerson, Florez,
and Matthews)*

June 18, 2001

~~An act to amend, repeal, and add Section 25678 of the Public Resources Code, relating to energy resources, and making an appropriation therefor.~~ *An act to add Chapter 7.6 (commencing with Section 25660) to Division 15 of the Public Resources Code, relating to energy resources, and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

SB 87, as amended, Costa. ~~Biomass~~ *Ethanol: biomass* resources.

Existing law requires the State Energy Resources Conservation and Development Commission to establish a grant program that provides a \$0.40 per gallon production incentive for liquid fuels fermented in this state from biomass and biomass-derived resources produced in this state.

~~This bill, until January 1, 2005, would make the \$0.40 per gallon production incentive available for an unspecified amount of fuel production and a \$0.20 per gallon production incentive for the next unspecified amount of fuel production, up to an unspecified total amount.~~ *would require the commission to adopt guidelines to establish a program to foster the development of new in-state production facilities to produce ethanol for use as an additive in California transportation fuel. The bill would require the commission to provide producers of*

ethanol and other liquid fuels a market-based production incentive, including a greater production incentive for the production of ethanol from cellulose biomass. The bill would create the continuously appropriated Ethanol Production Incentive Account in the General Fund.

This bill would appropriate \$25,000,000 from the General Fund to the *Ethanol Production Incentive Account for use by the* commission for the purpose of funding grants pursuant to the bill.

Vote: ²/₃. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

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

1 ~~SECTION 1. (a) The Legislature finds and declares that~~
 2 *SECTION 1. Chapter 7.6 (commencing with Section 25660)*
 3 *is added to Division 15 of the Public Resources Code, to read:*
 4
 5 *CHAPTER 7.6. ETHANOL PRODUCTION INCENTIVE PROGRAM*
 6
 7 *25660. The Legislature finds and declares all of the following:*
 8 *(a) The Governor of the State of California has found that “on*
 9 *balance, there is a significant risk to the environment from using*
 10 *MTBE in gasoline in California” and signed Executive Order*
 11 *D-5-99 banning its use beginning on January 1, 2003.*
 12 *(b) Ethanol is the only available oxygenate that has undergone*
 13 *full environmental review and has been approved by the California*
 14 *Environmental Policy Council as a substitute for MTBE in order*
 15 *to meet federal oxygen and State Air Resources Board*
 16 *requirements governing the use of California transportation fuel.*
 17 *(c) United States ethanol production capacity is concentrated*
 18 *in the Midwestern states and the planned expansion of that*
 19 *industry may not be sufficient to meet the cumulative ethanol*
 20 *demand resulting from the actions of California and other states.*
 21 *(d) California currently has little in-state ethanol production*
 22 *capability and is unable to supply the projected ethanol demand*
 23 *in California gasoline in 2003. California must compete with other*
 24 *states for Midwest ethanol supplies, creating the potential for*
 25 *future supply and demand imbalances, ethanol price volatility, and*
 26 *resultant gasoline price volatility in California.*



1 (e) California produces 350 commercial agricultural
2 commodities on over nine million acres of irrigated cropland,
3 many of which commodities can serve as suitable sources for
4 ethanol production, such as wheat, corn, barley, sugar beets, sugar
5 cane, sorghum, and other high starch and sugar sources.

6 (f) California also has large biomass resources in the form of
7 forest, agricultural, and urban waste that create landfill disposal
8 and forest health and other environmental problems, which could
9 be alleviated by converting these biomass wastes to ethanol.

10 (g) An in-state ethanol production industry will create jobs,
11 stimulate rural economies, return billion of dollars in economic
12 activity to the state's economy, and provide forest health, air
13 quality, and water quality benefits.

14 (h) It is in the State of California's interest to create a program
15 to provide incentives for the in-state production of ethanol. By
16 creating this program, it is the goal of the State of California to
17 create an industry that can supply at least 50 percent of the ethanol
18 needed for use in California transportation fuel by 2010.

19 25660.1. (a) The commission shall establish the Ethanol
20 Production Incentive Program to foster the development of new
21 in-state production facilities to produce ethanol for use as an
22 additive in California transportation fuel.

23 (b) The program shall provide producers of qualifying ethanol
24 and other liquid fuels a market-based production incentive.
25 Incentive mechanisms may include a program that will pay for the
26 difference between the market price of fuel per gallon and a target
27 price for the fuel established by the commission in its guidelines
28 to implement the program, and a competitive solicitation process
29 whereby production incentives are awarded. The commission shall
30 establish a tiered incentive approach to account for various
31 external factors, including a greater production incentive for
32 producing ethanol from cellulose biomass. The incentive for
33 producing ethanol from starch products may not exceed twenty
34 cents (\$0.20) per gallon, and the incentive for producing ethanol
35 from cellulose biomass may not exceed forty cents (\$0.40) per
36 gallon.

37 (c) To qualify for production incentives, the ethanol or other
38 liquid fuel shall be produced from agricultural products as well as
39 forestry, agricultural, and urban biomass waste, of which at least
40 50 percent originated in California and is produced in new or



1 enhanced facilities located in this state and placed in operation on
2 or after the effective date of this statute.

3 (d) The commission shall award production incentives to
4 producers of qualifying ethanol and other liquid fuels through an
5 auction or other competitive solicitation process whereby
6 production incentives are awarded to the lowest bidders, provided
7 that no single bidder or production facility shall receive
8 production incentives under any of the following circumstances:

9 (1) In excess of the maximum levels specified pursuant to
10 subdivision (b).

11 (2) For a period exceeding eight years from the date of the
12 facilities initial online operation.

13 (3) For any qualifying ethanol or other liquid fuel that was sold
14 at rates equal to or greater than a target price as determined by the
15 commission.

16 (4) For any qualifying ethanol or other liquid fuel produced
17 that was used onsite by the facility and not available for use as an
18 additive in California transportation fuel.

19 (5) For any qualifying ethanol or other liquid fuel that was
20 produced on or after January 1, 2011.

21 (6) For ethanol used as a California transportation fuel.

22 (e) The commission shall limit the amount of funding available
23 for any single bidder or production facility.

24 (f) The commission may require an applicant competing for
25 funding to place a forfeitable bid bond or other financial
26 guarantee as an assurance of the applicant's intent to move
27 forward with the proposed project. The amount of the bond or
28 guarantee may not exceed 10 percent of the total amount of
29 funding requested by the applicant.

30 (g) The commission shall develop and adopt guidelines
31 governing the grant program authorized under this section. The
32 guidelines shall be adopted at a publicly noticed meeting and all
33 interested parties shall be provided an opportunity to comment
34 either orally or in writing. The commission shall provide not less
35 than 30 days notice for the public meeting. Subsequent substantive
36 changes to adopted guidelines shall be adopted by the commission
37 at a public meeting upon written notice to the public of not less
38 than 10 days. Notwithstanding any other provision of law, the
39 guidelines are exempt from the requirements of Chapter 3.5



1 (commencing with Section 11340) of Part 1 of Division 3 of Title
2 2 of the Government Code.

3 (h) Funds to further the purposes of this section may be
4 committed for multiple years.

5 (i) Awards made pursuant to this section are grants, subject to
6 appeal to the commission upon a showing that factors other than
7 those described in the guidelines adopted by the commission were
8 applied in making the awards and payments. Any actions taken by
9 an applicant to apply for, or become or remain eligible and
10 certified to receive, payments or awards, including satisfying
11 conditions specified by the commission, do not constitute the
12 rendering of goods, services, or a direct benefit to the commission.

13 (j) Awards made pursuant to this section are exempt from the
14 provisions, including the repayment provisions, specified in
15 Chapter 7.4 (commencing with Section 25645).

16 25660.2. (a) The Ethanol Production Incentive Account is
17 hereby created in the General Fund for the purpose of funding the
18 grant program established in Section 25660.1.

19 (b) Notwithstanding Section 13340 of the Government Code,
20 the moneys deposited into the Ethanol Production Incentive
21 Account shall be continuously appropriated to the commission,
22 without regard to fiscal year, for the purposes of Section 25660.1.

23 (c) It is the intent of the Legislature to fully fund this program
24 through the 2010-11 fiscal year.

25 (d) The commission may use up to 2 percent of the funds
26 appropriated to the Ethanol Production Incentive Account to
27 develop guidelines and to implement the program.

28 (e) The commission shall provide the Governor and the
29 Legislature with an annual report that provides the status of the
30 program and the extent to which account funds have been used.
31 The commission shall produce a final report that describes the
32 success of the program and makes recommendations on additional
33 steps to foster the waste-based or other liquid transportation fuel
34 production industry in California.

35 SEC. 2. The sum of twenty-five million dollars (\$25,000,000)
36 is hereby appropriated from the General Fund to the Ethanol
37 Production Incentive Account for use by the State Energy
38 Resources Conservation and Development Commission for
39 purposes of implementing the grant program established by
40 Section 25660.1 of the Public Resources Code.



1 ethanol has multiple benefits for the citizens of California,
2 including assisting California in becoming more self-sufficient for
3 fuel, improving air and water quality, turning domestic
4 agricultural crops and byproducts into useable fuel, reducing
5 dependence on fossil fuels, meeting federal mandates, creating
6 in-state jobs, and assisting in strengthening local economies.

7 (b) The Legislature further finds and declares that California is
8 home to over nine million acres of irrigated cropland and over 150
9 million acres of forest and wildland resources that are available to
10 create indigenous resources for use in ethanol production.

11 SEC. 2. Section 25678 of the Public Resources Code is
12 amended to read:

13 25678. (a) (1) The commission shall establish a grant
14 program that provides a forty cent (\$0.40) per gallon production
15 incentive for liquid fuels fermented in this state from biomass and
16 biomass-derived resources produced in this state.

17 (2) The forty cent (\$0.40) per gallon production incentive
18 described in paragraph (1) shall be available for the first _____
19 million gallons of liquid fuels produced per calendar year at any
20 one facility. An additional twenty cent (\$0.20) per gallon
21 production incentive shall be available for the next _____ million
22 gallons produced per year up to a total of _____ million gallons per
23 year.

24 (b) Eligible liquid fuels include, but are not limited to, ethanol,
25 methanol, and vegetable oils. Eligible biomass resources include,
26 but are not limited to, agricultural products and byproducts,
27 forestry products and byproducts, and industrial wastes.

28 (c) The commission shall adopt rules and regulations necessary
29 to implement the program.

30 (d) Prior to determining an applicant eligible for participation
31 in the production incentive program, the commission shall find,
32 among other things, that the production techniques employed will
33 lead to a net increase in the amount of energy available for
34 consumption.

35 (e) This section shall remain in effect only until January 1,
36 2005, and as of that date is repealed, unless a later enacted statute,
37 that is enacted before January 1, 2005, deletes or extends that date.

38 SEC. 3. Section 25678 is added to the Public Resources Code,
39 to read:



1 ~~25678. (a) The commission shall establish a grant program~~
2 ~~that provides a forty cent (\$0.40) per gallon production incentive~~
3 ~~for liquid fuels fermented in this state from biomass and~~
4 ~~biomass-derived resources produced in this state.~~

5 ~~(b) Eligible liquid fuels include, but are not limited to, ethanol,~~
6 ~~methanol, and vegetable oils. Eligible biomass resources include,~~
7 ~~but are not limited to, agricultural products and byproducts,~~
8 ~~forestry products and byproducts, and industrial wastes.~~

9 ~~(c) The commission shall adopt rules and regulations necessary~~
10 ~~to implement the program.~~

11 ~~(d) Prior to determining an applicant eligible for participation~~
12 ~~in the production incentive program, the commission shall find,~~
13 ~~among other things, that the production techniques employed will~~
14 ~~lead to a net increase in the amount of energy available for~~
15 ~~consumption.~~

16 ~~(e) This section shall become operative January 1, 2005.~~

17 ~~SEC. 4. The sum of twenty-five million dollars (\$25,000,000)~~
18 ~~is hereby appropriated from the General Fund to the State Energy~~
19 ~~Resources Conservation and Development Commission for the~~
20 ~~purpose of funding grants for the production of liquid fuels derived~~
21 ~~from biomass and biomass-derived resources pursuant to Chapter~~
22 ~~7.7 (commencing with Section 25678) of Division 15 of the Public~~
23 ~~Resources Code.~~

O

