

AMENDED IN ASSEMBLY MARCH 31, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 523

Introduced by Assembly Member Valadao

February 15, 2011

An act to amend Section 44272 of, and to repeal Section 44272.3 of, the Health and Safety Code, relating to ethanol.

LEGISLATIVE COUNSEL'S DIGEST

AB 523, as amended, Valadao. Ethanol: ~~subsidies~~—*Alternative and Renewable Fuel and Vehicle Technology Program.*

Existing law establishes the Alternative and Renewable Fuel and Vehicle Technology Program, administered by the State Energy Resources Conservation and Development Commission (Energy Commission), to provide to specified entities, upon appropriation by the Legislature, grants, loans, loan guarantees, revolving loans, or other appropriate measures, for the development and deployment of innovative technologies that transform California's fuel and vehicle types to help attain the state's climate change goals. Existing law specifies certain alternative and renewable fuel projects to develop and improve alternative and renewable low-carbon fuels, including ethanol, are eligible for funding. Existing law, until July 1, 2013, establishes requirements for biorefiners to receive loans from the California Ethanol Producer Incentive Program.

This bill would provide that alternative and renewable fuel projects to develop and improve alternative and renewable low-carbon fuels, including ethanol not derived from corn, are eligible for funding. The bill would repeal those provisions establishing requirements for

biorefiners to receive loans from the California Ethanol Producer Incentive Program.

~~Existing law requires the State Energy Resources Conservation and Development Commission, in partnership with the State Air Resources Board, and in consultation with the State Water Resources Control Board, the Department of Food and Agriculture, and other relevant state agencies, to develop and adopt a state plan to increase the use of alternative transportation fuels, including ethanol.~~

~~This bill would declare the intent of the Legislature to enact legislation to eliminate all subsidies in California for ethanol.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ 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) *In 2001, only 7 percent of the corn raised in the United*
4 *States was used to produce ethanol. By 2010, 39.4 percent of the*
5 *nation’s corn production was used for ethanol production. This*
6 *redirection in demand has lead to historic increases in the price*
7 *of corn.*

8 (b) *The use of corn for the production of ethanol has negatively*
9 *impacted food supplies, food prices, and agricultural industries*
10 *that provide more than 500,000 jobs for the people of California.*

11 (c) *Ethanol derived from corn has been shown to have little*
12 *positive environmental impact and has hindered the development*
13 *of a new generation of clean technologies with true environmental*
14 *benefits.*

15 SEC. 2. *Section 44272 of the Health and Safety Code is*
16 *amended to read:*

17 44272. (a) *The Alternative and Renewable Fuel and Vehicle*
18 *Technology Program is hereby created. The program shall be*
19 *administered by the commission. The commission shall implement*
20 *the program by regulation pursuant to the requirements of Chapter*
21 *3.5 (commencing with Section 11340) of Part 1 of Division 3 of*
22 *Title 2 of the Government Code. The program shall provide, upon*
23 *appropriation by the Legislature, competitive grants, revolving*
24 *loans, loan guarantees, loans, or other appropriate funding*
25 *measures, to public agencies, vehicle and technology entities,*

1 businesses and projects, public-private partnerships, workforce
2 training partnerships and collaboratives, fleet owners, consumers,
3 recreational boaters, and academic institutions to develop and
4 deploy innovative technologies that transform California’s fuel
5 and vehicle types to help attain the state’s climate change policies.
6 The emphasis of this program shall be to develop and deploy
7 technology and alternative and renewable fuels in the marketplace,
8 without adopting any one preferred fuel or technology.

9 (b) A project funded by the commission shall be approved at a
10 noticed public hearing of the commission and shall be consistent
11 with the priorities established by the investment plan adopted
12 pursuant to Section 44272.5.

13 (c) The commission shall provide preferences to those projects
14 that maximize the goals of the Alternative and Renewable Fuel
15 and Vehicle Technology Program, based on the following criteria,
16 as applicable:

17 (1) The project’s ability to provide a measurable transition from
18 the nearly exclusive use of petroleum fuels to a diverse portfolio
19 of viable alternative fuels that meet petroleum reduction and
20 alternative fuel use goals.

21 (2) The project’s consistency with existing and future state
22 climate change policy and low-carbon fuel standards.

23 (3) The project’s ability to reduce criteria air pollutants and air
24 toxics and reduce or avoid multimedia environmental impacts.

25 (4) The project’s ability to decrease, on a life cycle basis, the
26 discharge of water pollutants or any other substances known to
27 damage human health or the environment, in comparison to the
28 production and use of California Phase 2 Reformulated Gasoline
29 or diesel fuel produced and sold pursuant to California diesel fuel
30 regulations set forth in Article 2 (commencing with Section 2280)
31 of Chapter 5 of Division 3 of Title 13 of the California Code of
32 Regulations.

33 (5) The project does not adversely impact the sustainability of
34 the state’s natural resources, especially state and federal lands.

35 (6) The project provides nonstate matching funds.

36 (7) The project provides economic benefits for California by
37 promoting California-based technology firms, jobs, and businesses.

38 (8) The project uses existing or proposed fueling infrastructure
39 to maximize the outcome of the project.

1 (9) The project's ability to reduce on a life cycle assessment
2 greenhouse gas emissions by at least 10 percent, and higher
3 percentages in the future, from current reformulated gasoline and
4 diesel fuel standards established by the state board.

5 (10) The project's use of alternative fuel blends of at least 20
6 percent, and higher blend ratios in the future, with a preference
7 for projects with higher blends.

8 (11) The project drives new technology advancement for
9 vehicles, vessels, engines, and other equipment, and promotes the
10 deployment of that technology in the marketplace.

11 (d) Only the following shall be eligible for funding:

12 (1) Alternative and renewable fuel projects to develop and
13 improve alternative and renewable low-carbon fuels, including
14 electricity, ethanol *not derived from corn*, dimethyl ether,
15 renewable diesel, natural gas, hydrogen, and biomethane, among
16 others, and their feedstocks that have high potential for long-term
17 or short-term commercialization, including projects that lead to
18 sustainable feedstocks.

19 (2) Demonstration and deployment projects that optimize
20 alternative and renewable fuels for existing and developing engine
21 technologies.

22 (3) Projects to produce alternative and renewable low-carbon
23 fuels in California.

24 (4) Projects to decrease the overall impact of an alternative and
25 renewable fuel's life cycle carbon footprint and increase
26 sustainability.

27 (5) Alternative and renewable fuel infrastructure, fueling
28 stations, and equipment. The preference in paragraph (10) of
29 subdivision (c) shall not apply to renewable diesel or biodiesel
30 infrastructure, fueling stations, and equipment used solely for
31 renewable diesel or biodiesel fuel.

32 (6) Projects to develop and improve light-, medium-, and
33 heavy-duty vehicle technologies that provide for better fuel
34 efficiency and lower greenhouse gas emissions, alternative fuel
35 usage and storage, or emission reductions, including propulsion
36 systems, advanced internal combustion engines with a 40 percent
37 or better efficiency level over the current market standard,
38 light-weight materials, energy storage, control systems and system
39 integration, physical measurement and metering systems and
40 software, development of design standards and testing and

1 certification protocols, battery recycling and reuse, engine and fuel
2 optimization electronic and electrified components, hybrid
3 technology, plug-in hybrid technology, battery electric vehicle
4 technology, fuel cell technology, and conversions of hybrid
5 technology to plug-in technology through the installation of safety
6 certified supplemental battery modules.

7 (7) Programs and projects that accelerate the commercialization
8 of vehicles and alternative and renewable fuels including buy-down
9 programs through near-market and market-path deployments,
10 advanced technology warranty or replacement insurance,
11 development of market niches, supply-chain development, and
12 research related to the pedestrian safety impacts of vehicle
13 technologies and alternative and renewable fuels.

14 (8) Programs and projects to retrofit medium- and heavy-duty
15 on-road and nonroad vehicle fleets with technologies that create
16 higher fuel efficiencies, including alternative and renewable fuel
17 vehicles and technologies, idle management technology, and
18 aerodynamic retrofits that decrease fuel consumption.

19 (9) Infrastructure projects that promote alternative and renewable
20 fuel infrastructure development connected with existing fleets,
21 public transit, and existing transportation corridors, including
22 physical measurement or metering equipment and truck stop
23 electrification.

24 (10) Workforce training programs related to alternative and
25 renewable fuel feedstock production and extraction, renewable
26 fuel production, distribution, transport, and storage,
27 high-performance and low-emission vehicle technology and high
28 tower electronics, automotive computer systems, mass transit fleet
29 conversion, servicing, and maintenance, and other sectors or
30 occupations related to the purposes of this chapter.

31 (11) Block grants administered by not-for-profit technology
32 entities for multiple projects, education and program promotion
33 within California, and development of alternative and renewable
34 fuel and vehicle technology centers.

35 (12) Life cycle and multimedia analyses, sustainability and
36 environmental impact evaluations, and market, financial, and
37 technology assessments performed by a state agency to determine
38 the impacts of increasing the use of low-carbon transportation fuels
39 and technologies, and to assist in the preparation of the investment
40 plan and program implementation.

1 (13) A program to provide funding for homeowners who
 2 purchase a plug-in electric vehicle to offset costs associated with
 3 modifying electrical sources to include a residential plug-in electric
 4 vehicle charging station. In establishing this program, the
 5 commission shall consider funding criteria to maximize the public
 6 benefit of the program.

7 (e) The commission may make a single source or sole source
 8 award pursuant to this section for applied research. The same
 9 requirements set forth in Section 25620.5 of the Public Resources
 10 Code shall apply to awards made on a single source basis or a sole
 11 source basis. This subdivision does not authorize the commission
 12 to make a single source or sole source award for a project or
 13 activity other than for applied research.

14 (f) The commission may do both of the following:

15 (1) Contract with the Treasurer to expend funds through
 16 programs implemented by the Treasurer, if the expenditure is
 17 consistent with all of the requirements of this article and Article
 18 1 (commencing with Section 44270).

19 (2) Contract with small business financial development
 20 corporations established by the Business, Transportation and
 21 Housing Agency to expend funds through the Small Business Loan
 22 Guarantee Program if the expenditure is consistent with all of the
 23 requirements of this article and Article 1 (commencing with Section
 24 44270).

25 *SEC. 3. Section 44272.3 of the Health and Safety Code is*
 26 *repealed.*

27 ~~44272.3. (a) It is the Legislature's intent that, to the maximum~~
 28 ~~extent feasible, loan moneys provided by the state to refiners of~~
 29 ~~biofuels, also known as biorefiners, be awarded so as to increase~~
 30 ~~the efficiency and environmental sustainability of biofuel~~
 31 ~~production.~~

32 ~~(b) In order to reduce the carbon intensity equivalent value of~~
 33 ~~the fuel that biorefiners produce, biorefiners receiving loans from~~
 34 ~~the commission's California Ethanol Producer Incentive Program,~~
 35 ~~established under the authority of this chapter, shall meet all of~~
 36 ~~the following requirements:~~

37 ~~(1) Within six months of acceptance to the program, biorefiners~~
 38 ~~shall submit a draft plan to the commission that details one or more~~
 39 ~~projects that can be undertaken at the biorefinery that are designed~~

1 ~~to achieve compliance with either of two biorefinery operational~~
2 ~~enhancement goals established by the commission:~~

3 ~~(2) Within 12 months of acceptance to the program, biorefiners~~
4 ~~shall submit a detailed cost estimate for their target projects that~~
5 ~~can be undertaken at the biorefinery and that are designed to~~
6 ~~achieve compliance with the commission's enhancement goals.~~

7 ~~(3) Within 24 months of acceptance to the program, biorefiners~~
8 ~~shall complete and obtain all of the necessary permits or negative~~
9 ~~declarations sufficient to allow the project to move forward with~~
10 ~~financing, major equipment purchases, and hiring if project~~
11 ~~approval is executed by the company's officers.~~

12 ~~(4) Within 36 months of acceptance to the program, biorefiners~~
13 ~~shall obtain all of the necessary financing and initiate construction~~
14 ~~for their project associated with their elected enhancement goal~~
15 ~~pathway.~~

16 ~~(5) Within 48 months of acceptance to the program, biorefiners~~
17 ~~shall complete all modifications to the facility and begin modified~~
18 ~~operations that achieve compliance with either of the enhancement~~
19 ~~goal pathways selected by the project applicant.~~

20 ~~(e) This section does not limit the commission's ability to set~~
21 ~~more stringent guidelines for the California Ethanol Producer~~
22 ~~Incentive Program that further maximize the efficiency and~~
23 ~~environmental sustainability of biofuel production.~~

24 ~~(d) This section shall become inoperative on July 1, 2013, and,~~
25 ~~as of January 1, 2014, is repealed, unless a later enacted statute,~~
26 ~~that becomes operative on or before January 1, 2014, deletes or~~
27 ~~extends the dates on which it becomes inoperative and is repealed.~~

28 ~~SECTION 1. It is the intent of the Legislature to enact~~
29 ~~legislation to eliminate all subsidies in California for ethanol.~~