

AMENDED IN ASSEMBLY APRIL 14, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 222

**Introduced by Assembly ~~Member Adams~~ Members Adams and Ma
(Coauthors: Assembly Members Blakeslee, Fletcher, Fuentes,
Galgiani, Gilmore, Mendoza, Smyth, and Torrico)**

February 4, 2009

An act to amend Sections 25741, 25806, 40194, and 40201 of, and to repeal Section 40117 of, the Public Resources Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 222, as amended, Adams. Energy: biofuels.

Existing

(1) Existing law establishes the Public Interest Research, Development, and Demonstration Fund in the State Treasury, and provides that the money collected by the public goods charge to support cost-effective energy efficiency and conservation activities and public interest energy research, development, and demonstration projects not adequately provided by competitive and regulated markets, be deposited in the fund for use by the State Energy Resources Conservation and Development Commission (Energy Commission). Existing law requires the Energy Commission to use those funds to develop, implement, and administer the Public Interest Research, Development, and Demonstration Program to develop technologies to, among other things, improve environmental quality, enhance electrical system reliability, increase efficiency of energy-using technologies, lower electrical system costs, or provide other tangible benefits to electric utility customers. Existing law defines "in-state renewable electricity generation facility"

for the purposes of the program to include, among other things, a facility that uses municipal solid waste conversion.

This bill would ~~state an intent of the Legislature to enact legislation to advance biofuels and green power production.~~ instead define “in-state renewable electricity generation facility” to include a facility that uses conversion at a biorefinery. The bill would define “biorefinery” to mean a facility that uses a noncombustion thermal, chemical, biological, or mechanical conservation process, or a combination of those processes, to produce marketable products from carbonaceous materials.

(2) The California Integrated Waste Management Act of 1989 requires cities and counties, on and after January 1, 2000, to divert 50% of all solid waste through source reduction, recycling, and composting activities. The act defines various terms, including “recycling” which means the process of collecting, sorting, cleansing, treating, and reconstituting solid waste and returning that solid waste to the economic mainstream in the form of raw material or new, reused, or reconstituted products, but excludes “transformation.” The act defines “transformation” to mean incineration, pyrolysis, distillation, or biological conversion, but excludes composting, gasification, and biomass conversion.

The bill would additionally define “solid waste facility” to include a biorefinery that primarily processes solid waste. The bill would revise and recast the definition of “transformation” to exclude, among other things, solid waste conversion at a biorefinery from the definition of “transformation.” The bill would repeal the provision defining “gasification.” The bill would also make conforming changes.

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

3 *25741. As used in this chapter, the following terms have the*
4 *following meaning:*

5 *(a) “Delivered” and “delivery” mean the electricity output of*
6 *an in-state renewable electricity generation facility that is used to*
7 *serve end-use retail customers located within the state. Subject to*
8 *verification by the accounting system established by the*

1 commission pursuant to subdivision (b) of Section 399.13 of the
2 Public Utilities Code, electricity shall be deemed delivered if it is
3 either generated at a location within the state, or is scheduled for
4 consumption by California end-use retail customers. Subject to
5 criteria adopted by the commission, electricity generated by an
6 eligible renewable energy resource may be considered “delivered”
7 regardless of whether the electricity is generated at a different time
8 from consumption by a California end-use customer.

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

11 (1) (A) The facility uses biomass, solar thermal, photovoltaic,
12 wind, geothermal, fuel cells using renewable fuels, small
13 hydroelectric generation of 30 megawatts or less, digester gas,
14 ~~municipal solid waste~~ conversion *at a biorefinery*, landfill gas,
15 ocean wave, ocean thermal, or tidal current, and any additions or
16 enhancements to the facility using that technology.

17 (B) *For the purposes of this paragraph, “biorefinery” means*
18 *a facility that uses a noncombustion thermal, chemical, biological,*
19 *or mechanical conversion process, or a combination of those*
20 *processes, to produce marketable products, including, but not*
21 *limited to, renewable fuels, chemicals, and electricity, from a*
22 *carbonaceous material, including, but not limited to, any of the*
23 *following:*

24 (i) *Dedicated energy crops.*

25 (ii) *Agricultural crop residues.*

26 (iii) *Bark, lawn, yard, and garden clippings.*

27 (iv) *Leaves, silvicultural residue, and tree and brush pruning.*

28 (v) *Wood, wood chips, and wood waste.*

29 (vi) *Nonrecyclable pulp or nonrecyclable paper materials.*

30 (vii) *Waste fat, oils, and greases.*

31 (viii) *Other types of solid waste.*

32 (C) *A “biorefinery” that receives solid waste feedstock shall*
33 *satisfy all of the following criteria:*

34 (i) *Meet or exceed standards set by the State Air Resources*
35 *Board, local air pollution control districts, or local air quality*
36 *management districts regarding air contaminants or emissions,*
37 *including greenhouse gases, as defined in subdivision (g) of Section*
38 *38505 of the Health and Safety Code.*

- 1 (ii) Meet or exceed standards set by the State Water Resources
2 Control Board or regional water quality control boards regarding
3 discharges to surface waters or groundwaters of the state.
- 4 (iii) Routinely test the ash or other residue from the facility at
5 least once quarterly, or on a more frequent basis as determined
6 by the agency responsible for regulating the testing and disposal
7 of ash or residue. Notwithstanding Section 25143.5 of the Health
8 and Safety Code, if hazardous wastes are present, the ash or
9 residue is sent to a class I hazardous waste disposal facility.
- 10 (iv) Preprocess the solid waste feedstock to remove, to the
11 maximum extent feasible, all recyclable materials prior to the
12 conversion process.
- 13 (v) Meet all of the requirements of this division for solid waste
14 handling prior to the conversion process, and convert the solid
15 waste feedstock into products that have market value.
- 16 (vi) Is in compliance with all applicable laws, regulations, and
17 ordinances.
- 18 (2) The facility satisfies one of the following requirements:
- 19 (A) The facility is located in the state or near the border of the
20 state with the first point of connection to the transmission network
21 within this state and electricity produced by the facility is delivered
22 to an in-state location.
- 23 (B) The facility has its first point of interconnection to the
24 transmission network outside the state and satisfies all of the
25 following requirements:
- 26 (i) It is connected to the transmission network within the
27 Western Electricity Coordinating Council (WECC) service
28 territory.
- 29 (ii) It commences initial commercial operation after January 1,
30 2005.
- 31 (iii) Electricity produced by the facility is delivered to an in-state
32 location.
- 33 (iv) It will not cause or contribute to any violation of a California
34 environmental quality standard or requirement.
- 35 (v) If the facility is outside of the United States, it is developed
36 and operated in a manner that is as protective of the environment
37 as a similar facility located in the state.
- 38 (vi) It participates in the accounting system to verify compliance
39 with the renewables portfolio standard by retail sellers, once

1 established by the Energy Commission pursuant to subdivision
2 (b) of Section 399.13 of the Public Utilities Code.

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

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

10 (ii) The facility has been part of the existing baseline of eligible
11 renewable energy resources of a retail seller established pursuant
12 to paragraph (2) of subdivision (b) of Section 399.15 of the Public
13 Utilities Code or has been part of the existing baseline of eligible
14 renewable energy resources of a local publicly owned electric
15 utility established pursuant to Section 387 of the Public Utilities
16 Code.

17 ~~(3) For the purposes of this subdivision, “solid waste~~
18 ~~conversion” means a technology that uses a nonecombustion thermal~~
19 ~~process to convert solid waste to a clean-burning fuel for the~~
20 ~~purpose of generating electricity, and that meets all of the following~~
21 ~~criteria:~~

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

24 ~~(B) The technology produces no discharges of air contaminants~~
25 ~~or emissions, including greenhouse gases as defined in Section~~
26 ~~38505 of the Health and Safety Code.~~

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

29 ~~(D) The technology produces no hazardous wastes.~~

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

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

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

39 ~~(H) The facility certifies that any local agency sending solid~~
40 ~~waste to the facility diverted at least 30 percent of all solid waste~~

1 ~~it collects through solid waste reduction, recycling, and~~
2 ~~composting. For purposes of this paragraph, "local agency" means~~
3 ~~any city, county, or special district, or subdivision thereof, which~~
4 ~~is authorized to provide solid waste handling services.~~

5 (c) "Procurement entity" means any person or corporation that
6 enters into an agreement with a retail seller to procure eligible
7 renewable energy resources pursuant to subdivision (f) of Section
8 399.14 of the Public Utilities Code.

9 (d) "Renewable energy public goods charge" means that portion
10 of the nonbypassable system benefits charge authorized to be
11 collected and to be transferred to the Renewable Resource Trust
12 Fund pursuant to the Reliable Electric Service Investments Act
13 (Article 15 (commencing with Section 399) of Chapter 2.3 of Part
14 1 of Division 1 of the Public Utilities Code).

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

19 (f) "Retail seller" means a "retail seller" as defined in Section
20 399.12 of the Public Utilities Code.

21 *SEC. 2. Section 25806 of the Public Resources Code is*
22 *amended to read:*

23 25806. (a) A person who submits to the commission an
24 application for certification for a proposed generating facility shall
25 submit with the application a fee of one hundred thousand dollars
26 (\$100,000) plus two hundred fifty dollars (\$250) per megawatt of
27 gross generating capacity of the proposed facility. The total fee
28 accompanying an application may not exceed three hundred fifty
29 thousand dollars (\$350,000).

30 (b) A person who receives certification of a proposed generating
31 facility shall pay an annual fee of fifteen thousand dollars
32 (\$15,000). The first payment of the annual fee is due on the date
33 this section takes effect. For a facility certified on or after the
34 effective date of this section, the first payment of the annual fee
35 is due on the date the commission adopts the final decision. All
36 subsequent payments are due by July 1 of each year in which the
37 facility retains its certification. The fiscal year for the annual fee
38 is July 1 to June 30, inclusive.

39 (c) The fees in subdivisions (a) and (b) shall be adjusted annually
40 to reflect the percentage change in the Implicit Price Deflator for

1 State and Local Government Purchases of Goods and Services, as
2 published by the United States Department of Commerce.

3 (d) No fee is required to accompany an application for
4 certification, and no annual fee is required thereafter, for a
5 generating facility that uses a renewable resource as its primary
6 fuel or power source. For purposes of this subdivision, a renewable
7 resource includes, but is not limited to, biomass, solar thermal,
8 geothermal, digester gas, ~~municipal solid waste conversion at a~~
9 ~~biorefinery as defined in subparagraphs (B) and (C) of paragraph~~
10 ~~(1) of subdivision (b) of Section 25741~~, landfill gas, ocean thermal,
11 and solid waste converted to a clean burning fuel by using a
12 noncombustion thermal process.

13 (e) The Energy Facility License and Compliance Fund is hereby
14 created in the State Treasury. All fees received by the commission
15 pursuant to this section shall be remitted to the Treasurer for
16 deposit in the fund. The money in the fund shall be expended, upon
17 appropriation by the Legislature, for processing applications for
18 certification and for compliance monitoring.

19 *SEC. 3. Section 40117 of the Public Resources Code is*
20 *repealed.*

21 ~~40117. "Gasification" means a technology that uses a~~
22 ~~noncombustion thermal process to convert solid waste to a clean~~
23 ~~burning fuel for the purpose of generating electricity, and that, at~~
24 ~~minimum, meets all of the following criteria:~~

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

27 ~~(b) The technology produces no discharges of air contaminants~~
28 ~~or emissions, including greenhouse gases, as defined in subdivision~~
29 ~~(g) of Section 38505 of the Health and Safety Code.~~

30 ~~(c) The technology produces no discharges to surface or~~
31 ~~groundwaters of the state.~~

32 ~~(d) The technology produces no hazardous waste.~~

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

38 ~~(f) The facility where the technology is used is in compliance~~
39 ~~with all applicable laws, regulations, and ordinances.~~

1 ~~(g) The facility certifies to the board that any local agency~~
2 ~~sending solid waste to the facility is in compliance with this~~
3 ~~division and has reduced, recycled, or composted solid waste to~~
4 ~~the maximum extent feasible, and the board makes a finding that~~
5 ~~the local agency has diverted at least 30 percent of all solid waste~~
6 ~~through source reduction, recycling, and composting.~~

7 *SEC. 4. Section 40194 of the Public Resources Code is*
8 *amended to read:*

9 40194. "Solid waste facility" includes a solid waste transfer
10 or processing station, a composting facility, ~~a gasification facility,~~
11 ~~a transformation facility, a biorefinery as defined in subparagraphs~~
12 ~~(B) and (C) of paragraph (1) of subdivision (b) of Section 25741~~
13 ~~that primarily processes solid waste, and a disposal facility. For~~
14 ~~purposes of Part 5 (commencing with Section 45000), "solid waste~~
15 ~~facility" additionally includes a solid waste operation that may be~~
16 ~~carried out pursuant to an enforcement agency notification, as~~
17 ~~provided in regulations adopted by the board.~~

18 *SEC. 5. Section 40201 of the Public Resources Code is*
19 *amended to read:*

20 40201. "Transformation" means ~~the incineration, pyrolysis,~~
21 ~~distillation, or biological conversion other than composting of solid~~
22 ~~waste, with or without the recovery of energy. "Transformation"~~
23 ~~does not include composting, gasification, or biomass conversion,~~
24 ~~or solid waste conversion at a biorefinery as defined in~~
25 ~~subparagraphs (B) and (C) of paragraph (1) of subdivision (b) of~~
26 ~~Section 25741.~~

27 ~~SECTION 1. It is the intent of the Legislature to enact~~
28 ~~legislation to advance biofuels and green power production in~~
29 ~~California.~~