



**STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE ENROLLED BILL ANALYSIS**

DRAFT

Date:	Enrolled	Bill No:	<u>Senate Bill 1128</u>
Tax Program:	Sales and Use Tax	Author:	Padilla & Rubio
Sponsor:	Author	Code Sections:	RTC 6010.8
Related Bills:		Effective Date:	01/01/13

BILL SUMMARY

Among other things, until July 1, 2016, this bill provides the California Alternative Energy and Advanced Transportation Financing Authority (CAETFA) the ability to grant financial assistance in the form of a sales and use tax exclusion for tangible personal property utilized for the design, manufacture, production, or assembly of advanced manufacturing, as defined.

ANALYSIS

CURRENT LAW

CAEATFA. Under existing law certain “projects” may be approved for a state and local sales and use tax exclusion by the CAEATFA. SB 71 (Ch. 10, Stats. 2010, effective 3/24/10) amended Public Resources Code (PRC) Section 26003 and added PRC Section 26011.8 to include within the definition of “project” equipment used to manufacture products that produce energy from alternative sources such as solar, biomass, wind, and geothermal. Revenue and Taxation Code section 6010.8 allows CAEATFA to authorize a sales and use tax exclusion for transfers of tangible personal property constituting any project between any participating party and the CAEATFA. A project includes any tangible personal property utilized for the design, manufacture, production, or assembly of advanced transportation technologies or alternative source products, components, or systems, which includes renewable energy equipment, combined heat and power equipment, and alternative transportation equipment in California.

Participating parties apply to the CAEATFA to receive the sales and use tax exclusion. In approving qualifying projects, the law requires that the CAEATFA consider:

- The extent to which the project develops manufacturing facilities, or purchases equipment for manufacturing facilities, located in California.
- The extent to which the anticipated benefit to the state from the project equals or exceeds the projected benefit to the participating party from the sales and use tax exclusion.
- The extent to which the project will create new, permanent jobs in California.
- To the extent feasible, the extent to which the project, or the product produced by the project, results in a reduction of 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 any federal or state law or regulation.
- The extent of unemployment in the area in which the project is proposed to be located.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the BOE’s formal position.

- Any other factors the authority deems appropriate in accordance with this section.

When the total value of exclusions awarded reaches \$100 million annually, the law requires CAEATFA to provide a 20-day notice to the Legislature prior to approving additional projects.

Under CAEATFA's Regulation 10033, *Eligibility Requirements and Application Evaluation*, the criteria for evaluating and approving a project is identified more specifically. In general, the regulation provides that a project must receive both a total score greater than or equal to the threshold value of 1,000 (based on the project criteria as established in SB 71) and an environmental benefits score of greater than or equal to 100 to be recommended for a sales and use tax exclusion. In addition, in order for a facility to be eligible for a sales and use tax exclusion, the tangible personal property must be "used substantially" for the design, manufacture, production or assembly of an alternative source product, component or system. The regulation defines "used substantially" as used more than 75 percent for the design, manufacture, production or assembly of an alternative source product, component, or system during the longer of (1) one year, or (2) one-half of the weighted average of the estimated useful lifespan of the qualified property, as specified.

A listing of approved projects can be found on CAEATFA's website at <http://www.treasurer.ca.gov/caeatfa/sb71/applicants/considered.pdf>.

California's sales and use tax rates. Under various provisions of the Revenue and Taxation Code, and Article XIII of the State Constitution, the statewide sales and use tax rate of 7.25% is imposed on taxable sales and purchases of tangible personal property. This 7.25% is made up of the following components (additional transactions and use taxes, also known as "district taxes," ranging from 1/8% to 2.5% are levied in various local jurisdictions and are not reflected in this chart):

Rate	Jurisdiction	Purpose/Authority
5.00%	State (General Fund)	State general purposes (RTC Sections 6051, 6051.3, 6201, and 6201.3)
0.25%	State (Fiscal Recovery Fund)	Repayment of the Economic Recovery Bonds (RTC Sections 6051.5 and 6201.5, operative 7/1/04)
0.50%	State (Local Revenue Fund)	Local governments to fund health and welfare programs (RTC Sections 6051.2 and 6201.2)
0.50%	State (Local Public Safety Fund)	Local governments to fund public safety services (Section 35, Article XIII, State Constitution)
1.00%	Local (City/County) 0.75% City and County 0.25% County	City and county general operations (RTC Section 7203.1, operative 7/1/04); Dedicated to county transportation purposes
7.25%	Total Statewide Rate	

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the BOE's formal position.

PROPOSED LAW

This bill, among other things, amends PRC Section 26003 to define “advanced manufacturing” for purposes of authorizing CAEATFA to provide financial assistance to projects that promote the utilization of advanced manufacturing in the form of the sales and use tax exclusion established in Revenue and Taxation Code Section 6010.8 of the Sales and Use Tax Law, under specified criteria.

The bill amends Revenue and Taxation Code Section 6010.8 of the Sales and Use Tax Law to exclude from the terms “sale” and “purchase” any lease or transfer of title to tangible personal property constituting any project to any participating party, as specified and defined.

Until July 1, 2016, the bill defines “project” in PRC Section 26003 to include 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, terms also defined in this section.

Beginning July 1, 2016, the bill excludes advanced manufacturing from the term, “project” thereby eliminating that activity from the exclusion provided in Revenue and Taxation Code Section 6010.8 of the Sales and Use Tax Law.

The bill becomes effective January 1, 2013.

COMMENTS

- 1. Sponsor and Purpose.** This bill is sponsored by the author to encourage investment, job creation and economic growth in California by exempting advanced manufacturing companies from paying sales and use tax on their purchases of manufacturing equipment. According to the author’s website, “Manufacturing jobs are starting to return to the United States, but California must still compete with other states for these jobs. Being one of only three states that taxes the purchase of manufacturing equipment hurts our state.”
- 2. This bill would expand on CAEATFA’s current program.** This measure would expand CAEATFA’s authority to allow sale and use tax exclusions to include advanced manufacturing establishments in industries such as computers, appliances, machinery, furniture, fabricated metals and transportation goods. It would require CAEATFA to evaluate project applications based on specified criteria, including the extent to which the project develops manufacturing facilities and creates new, permanent jobs in California. It would also require the Legislative Analyst’s Office to report to the Legislature on the effectiveness of the program.
- 3. Any change to the PRC’s definition of “project” can have a direct sales and use tax implication.** The exclusion provided in Revenue and Taxation Code Section 6010.8 is linked directly with the term “project” as defined in the PRC. When that term is changed within the context of the PRC, it can result in a direct state and local sales and use tax revenue impact.
- 4. The administration of this exclusion falls primarily under the CAEATFA.** As a result, enactment of this bill would have a minimal effect on the BOE’s administrative duties.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the BOE’s formal position.

COST ESTIMATE

The BOE would incur some absorbable costs in notifications, changes to the BOE's website and publications, and answering inquiries.

REVENUE ESTIMATE

The bill limits the allowable sales and use tax exclusion for projects approved by CAEAFTA to \$100 million for each calendar year.

Analysis prepared by:	Sheila T. Waters	916-445-6579	09/12/12
Contact:	Robert Ingenito	916-322-2376	
ls			1128sbENRstw.doc

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the BOE's formal position.