

MINUTES

**California Alternative Energy and Advanced
Transportation Financing Authority
915 Capitol Mall, Room 587
Sacramento, California
October 19, 2021**

1. CALL TO ORDER AND ROLL CALL

Fiona Ma, CPA, Chair, called the California Alternative Energy and Advanced Transportation Financing Authority (“CAEATFA” or the “Authority”) meeting to order at 10:30 a.m.

Members Present: Fiona Ma, CPA, State Treasurer
Tony Sertich for Betty T. Yee, State Controller
Gayle Miller for Keely Martin Bosler, Director, Department of Finance
Ken Rider for David Hochschild, Chair, California Energy Commission
Grant Mack for Marybel Batjer, President, Public Utilities Commission

Staff Present: Derek Chernow, Executive Director

Quorum: The Chair declared a quorum.

Due to the recommended precautions and public health recommendations resulting from the novel coronavirus (COVID-19), members of the Board were instructed by the Governor’s Office that they may attend the meeting remotely, which is an exception to the usual requirement (Bagley-Keene Open Meeting Act – 1967) that they attend in person. CAEATFA staff (“Staff”) has implemented additional social distancing measures, and participants have been asked to also participate remotely. Jennifer Baldwin, Board Counsel and Ms. Ma attended the meeting in person. Mr. Sertich, Ms. Miller, Mr. Rider, and Mr. Mack all attended the meeting via internet conference line.

2. MINUTES

Ms. Ma asked if there were any questions or comments from the Board or the public concerning the September 21, 2021, meeting minutes. There were none.

Ms. Ma asked if there was a motion.

Ms. Miller moved for approval of the minutes; upon a second by Mr. Sertich, the minutes were approved.

The item was passed by the following vote:

Fiona Ma, CPA, State Treasurer	Aye
Tony Sertich for the State Controller	Aye
Gayle Miller for the Director of Finance	Aye
Ken Rider for the California Energy Commission	Aye
Grant Mack for the Public Utilities Commission	Aye

3. EXECUTIVE DIRECTOR'S REPORT

Mr. Chernow gave his report, highlighting CAEATFA activity and news since the September 21, 2021, Board meeting, which included:

- The 2022 tentative schedule for CAEATFA meetings is set, with meetings to take place on the third Tuesday of each month, except for the November and December meetings, in order to accommodate the holidays that take place in those months. This tentative schedule was included as Agenda Item 3 of the Board materials.
- Last month, Mr. Chernow attended a groundbreaking of California Dairies, Inc., in Bakersfield, on behalf of Treasurer Ma. He stated that it is slated to be the most sustainable dairy processing facility in California, if not the nation.
- This month, Mr. Chernow toured the Los Angeles Cleantech Incubator ("LACI"). LACI has been a leader in electrifying transportation and helping foster startup companies in the alternative energy sector.
- Mr. Chernow also served as a panelist at the California Energy Commission's Electric Vehicle and Battery Day, and had a chance to hear from battery companies, original equipment manufacturers, and others in that industry on impediments to developing and expanding their businesses in California. Mr. Chernow stated he was able to share information on the Sales and Use Tax Exclusion Program with many companies that were not previously aware of the program.

Mr. Chernow also reported:

- David Gibbs, Program Manager for the California Hub for Energy Efficiency Financing ("CHEEF"), has left after more than three years working at CAEATFA. Mr. Gibbs has joined the California Public Utilities Commission's legal office. Mr. Gibbs has been an incredible asset to CAEATFA, providing wonderful leadership as the CHEEF's programs have grown and improved, and Staff hopes to work with him in his new role.
- Jennifer Baldwin is leaving the Treasurer's Office to join the California Energy Commission. Ms. Baldwin has played an integral role in providing legal counsel to CAEATFA.

Mr. Chernow then concluded his report. Ms. Ma asked if there were any questions or comments from the Board or the public. There were none.

4. BUSINESS ITEMS

A. REQUEST TO APPROVE EMERGENCY REGULATIONS FOR THE SALES AND USE TAX EXCLUSION PROGRAM (ARTICLE 2 (COMMENCING WITH SECTION 10030) OF DIVISION 13 OF TITLE 4 OF THE CALIFORNIA CODE OF REGULATIONS)

Presented by Ashley Emery, Program Manager

CAEATFA Staff (“Staff”) requested approval of emergency regulations for the Sales and Use Tax Exclusion Program to improve and streamline program administration and incorporate lessons learned from program implementation.

This was the first year CAEATFA reviewed applications under the emergency regulations that became effective in early November 2020, which involved implementation of the \$20 million in sales and use tax exclusion set-aside for smaller projects and \$15 million in sales and use tax exclusion for larger projects. Staff has been assessing the benefits and challenges of the modifications and is now proposing further amendments to the program regulations as emergency regulations.

The following is a brief summary of the recommended amendments:

- switching to application periods that are announced by the Executive Director prior to each calendar year to adapt and respond to program demand, provide more certainty to applicants as to when their applications will be heard, and avoid accepting applications before knowing how much sales and use tax exclusion is available from a previous application period;
- considering all applicants in order based on competitive criteria scores and specifying small project pool applicants will be considered first at Board meetings so that Staff can more quickly and easily determine the order of consideration for applications among the different pools and sales and use tax exclusion;
- specifying that applicants may not reduce qualified property amounts after an application is submitted to qualify for consideration in the small project pool, and that applicants may not increase qualified property amounts if the program is oversubscribed to help limit qualified property amounts changes from extending the application review time period;
- simplifying the language that awards 100 competitive criteria points for projects that produce a product with quantifiable environmental benefits;
- adding a new competitive criterion that awards 75 points for projects that are in an emerging strategic industry;
- reducing the estimated increase in sales tax revenue based on the fraction of production that does not generate sales tax revenue to more accurately estimate the fiscal benefits;
- reducing the points earned for having an environmental sustainability plan from 20 points to five points to better scale the points relative to the minimum point threshold of 21 points and the points earned for the facility’s environmental impact reductions;
- specifying that 75% of the application fee will be refunded if the application is (1) reviewed to only determine its competitive criteria ranking and (2) not fully

reviewed by Staff due to the applicant's competitive criteria ranking and the oversubscription of the statutory cap;

- establishing an administrative fee of \$2,250 if an applicant requests an extension of the 15% purchase requirement timeframe and the three-year initial term for consideration at the same CAEATFA Board meeting; and
- making several clarifying and technical changes, such as:
 - updating language to reflect that the program will have specific application periods;
 - clarifying that if an applicant fixes an incomplete application, the date of submission will be considered the date of the resubmitted application; and
 - adding "Statutory Cap" as a defined term rather than referring to the existing \$100 million statutory cap.

Staff recommended approval of a resolution to authorize the Executive Director to make effective emergency regulations for the Sales and Use Tax Exclusion Program.

Ms. Ma asked if there is an Office of Administrative Law ("OAL") process for these regulations. Ms. Emery confirmed that the regulations must be approved by OAL. Ms. Ma stated that if the Board approves the regulations, Staff must still meet OAL timelines to get the regulations in effect.

Ms. Ma asked if there were any questions or comments from the Board. Mr. Rider expressed his gratitude for the work of Staff, Mr. Chernow, and the Chair on improving the Sales and Use Tax Exclusion Program.

Ms. Ma asked if there were any questions or comments from the public. There were none.

Ms. Miller moved for approval, and there was a second by Mr. Sertich. Ms. Miller and Mr. Sertich also thanked Staff for their work.

Ms. Ma stated there was a motion and a second and called for a vote.

The item was approved by the following vote:

Fiona Ma, CPA, State Treasurer	Aye
Tony Sertich for the State Controller	Aye
Gayle Miller for the Director of Finance	Aye
Ken Rider for the California Energy Commission	Aye
Grant Mack for the Public Utilities Commission	Aye

B. REQUEST TO APPROVE SECOND READOPTION OF EMERGENCY REGULATIONS FOR THE SALES AND USE TAX EXCLUSION PROGRAM (ARTICLE 2 (COMMENCING WITH SECTION 10030) OF DIVISION 13 OF TITLE 4 OF THE CALIFORNIA CODE OF REGULATIONS) INITIALLY EFFECTIVE ON NOVEMBER 4, 2020

Presented by Ashley Emery, Program Manager

Staff requested approval of a second readoption of the emergency regulations for the Sales and Use Tax Exclusion Program that initially became effective on November 4, 2020, before they repeal on November 30, 2021. The readoption is necessary to ensure the amendments remain in effect until the regular rulemaking is complete.

Staff recommended the adoption of a resolution to authorize the Executive Director to readopt the emergency regulations for the STE Program that initially became effective on November 4, 2020.

Mr. Sertich moved for approval, and there was a second by Ms. Miller. Ms. Ma stated there was a motion and a second and asked if there were any questions or comments from the Board or the public. There were none. Ms. Ma called for a vote.

The item was approved by the following vote:

Fiona Ma, CPA, State Treasurer	Aye
Tony Sertich for the State Controller	Aye
Gayle Miller for the Director of Finance	Aye
Ken Rider for the California Energy Commission	Aye
Grant Mack for the Public Utilities Commission	Aye

C. REQUEST TO APPROVE A REGULAR RULEMAKING FOR AMENDMENTS TO THE SALES AND USE TAX EXCLUSION PROGRAM (ARTICLE 2 (COMMENCING WITH SECTION 10030) OF DIVISION 13 OF TITLE 4 OF THE CALIFORNIA CODE OF REGULATIONS)

Presented by Ashley Emery, Program Manager

Staff requested authorization for the Executive Director to conduct a regular rulemaking for the Sales and Use Tax Exclusion Program to include the emergency regulations that became effective in November 2020 as detailed under Agenda Item 4.B and the emergency regulations proposed as detailed under Agenda Item 4.A.

In November 2020, emergency regulations for the Sales and Use Tax Exclusion Program went into effect addressing the program's oversubscription and the unprecedented impact of the COVID-19 pandemic. Staff has been addressing the benefits and challenges of the November 2020 regulatory language and, under Agenda Item 4.A, requested the Board approve further regulatory amendments as emergency regulations for the program to help improve and streamline program administration and incorporate lessons learned.

Staff recommended the adoption of a resolution to authorize the Executive Director to conduct a regular rulemaking for the Sales and Use Tax Exclusion Program to include (1) the emergency

regulations that became effective in November 2020 as detailed under Agenda Item 4.B and (2) the emergency regulations proposed as detailed under Agenda Item 4.A.

Ms. Ma asked if there were any questions or comments from the Board or the public. There were none.

Ms. Miller moved for approval, and there was a second by Mr. Sertich.

Ms. Ma stated there was a motion and a second and called for a vote.

The item was approved by the following vote:

Fiona Ma, CPA, State Treasurer	Aye
Tony Sertich for the State Controller	Aye
Gayle Miller for the Director of Finance	Aye
Ken Rider for the California Energy Commission	Aye
Grant Mack for the Public Utilities Commission	Aye

5. PUBLIC COMMENT

Ms. Ma asked if there were any comments from the public, and there were none.

6. ADJOURNMENT

There being no further business, public comments, or concerns, the meeting adjourned at 10:47 a.m.

Respectfully submitted,

Derek Chernow
Executive Director