
**SENATE COMMITTEE ON ENERGY, UTILITIES AND
COMMUNICATIONS**

**Senator Steven Bradford, Chair
2023 - 2024 Regular**

Bill No:	SB 746	Hearing Date:	4/24/2023
Author:	Eggman		
Version:	4/10/2023 Amended		
Urgency:	No	Fiscal:	Yes
Consultant:	Sarah Smith		

SUBJECT: Energy conservation contracts: alternate energy equipment: hydrogen

DIGEST: This bill adds hydrogen to the list of alternative energy resources for which a local agencies can enter into a service contract and adds transit districts to the list of local agencies authorized to enter into those contracts.

ANALYSIS:

Existing law:

- 1) Defines various types of contracts that a public agency may enter into for the purposes of developing alternative energy resources, including energy service contracts, facility financing contracts, and facility leasing contracts. (Government Code §4217.11)
- 2) Defines “alternative energy equipment” as equipment for the production or conversation of energy from alternate sources as its primary fuel, including solar, biomass, wind, geothermal, hydroelectricity under 30 megawatts, remote natural gas meeting specified standards or any other source of energy that reduces the use of fossil or nuclear fuels. (Government Code §4217.11)
- 3) Defines a “public agency” as the state, county, city, city and county, district, community college district, school district, joint powers authority, or other entity designated or created by a political subdivision relating to energy development projects. (Government Code §4217.11)
- 4) Authorizes a public agency to enter into an energy service contract or facility financing contract after making specified findings about the cost and energy savings achieved by the contracts and holding a public hearing. Existing law specifies that cost findings for facility financing must include a determination as to whether sales of the energy generated by the financed facility will cover the cost of the facility’s construction and operation. (Government Code §4217.12-4217.13)

- 5) Authorizes public agencies to enter into contracts for the sale of electricity, electric generation capacity, or thermal energy produced by an energy conservation facility. (Government Code §4217.14)
- 6) Specifies that existing law authorizing public energy service contracts is intended to be construed to provide the greatest flexibility to public agencies in structuring agreements to maximize economic benefits. (Government Code §4217.18)

This bill:

- 1) Adds hydrogen to the list of alternative energy resources for which local agencies can enter into energy service contracts.
- 2) Adds transit districts to the list of public agencies that may enter into energy service contracts.

Background

Energy service contracts. Existing law authorizes local governments to enter into energy service contracts as part of broader state policy to encourage energy savings and reduced fossil fuel use by local governments. These contracts are intended to provide local agencies with favorable financing terms for energy conservation projects by allowing these agencies to justify upfront expenditures on energy conservation projects through projected energy savings and avoided costs. Many local governments have used these contracts to facilitate energy efficient building retrofits and on-site generation. For example, Alameda County has used energy service contracts to establish multiple large-scale solar installations at various public facilities in the County. The County also established energy services contracts for the installation of components and upgrades to the fuel cell and microgrid energy system at the Santa Rita Jail.

Bill aims to allow transit districts to enter into hydrogen energy service contracts. To address the limited public transit options and growth of commuters traveling between the San Joaquin Valley and the Bay Area, the Legislature passed AB 758 (Eggman, Chapter 747, Statutes of 2017) to create the Tri-Valley San Joaquin Valley Regional Rail Authority and tasked the authority with overseeing the creation of connecting service between the Bay Area Rapid Transit (BART) and Altamont Corridor Express (ACE). This project is known as Valley Link.

In 2022, the Tri-Valley San Joaquin Valley Regional Rail Authority purchased a parcel of land in the city of Tracy and entered into an agreement with Linde Engineering to plan the development of an electrolytic hydrogen facility that can provide power for the Valley Link rail system and also fuel other hydrogen fuel cell transit vehicles and trucks. While it is not clear that existing law would prohibit a transit district from entering into an energy service contract, this bill would clarify that these districts can enter into these contracts, and this bill would add hydrogen to the list of alternative energy resources for which the contracts can be established.

Bill provides local agencies with broad discretion over contracts for different types of hydrogen. Currently, state law does not include a definition of renewable or green hydrogen. This bill does not establish a new hydrogen definition or limit the types of hydrogen projects for which an energy service contract can be established. As a result, this bill provides broad discretion to local agencies to propose projects with a wide range of feedstocks and attributes. This broad discretion may reflect existing law regarding energy service contracts which specifies that local government authority to create these contracts is intended to be construed to provide local agencies with maximum flexibility to structure these agreements to maximize local economic benefits.

Prior/Related Legislation

AB 758 (Eggman, Chapter 747, Statutes of 2017) established the Tri-Valley San Joaquin Valley Regional Rail Authority to administer the development of a connection between BART and the ACE in the Tri-Valley region.

SB 840 (Committee on Budget and Fiscal Review, Chapter 341, Statutes of 2016) among other provisions, authorized the Department of General Services (DGS) or another state or local agency that intends to enter into an energy retrofit contract to establish a pool of qualified energy service companies. The bill allowed until January 1, 2020, DGS and other state agencies to establish pools of qualified energy service companies that have made certain skilled and trained workforce commitments.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

SUPPORT:

Tri-Valley San Joaquin Valley Regional Rail Authority, Sponsor
California Hydrogen Coalition
California State Association of Electrical Workers

California State Pipe Trades Council
Coalition of California Utility Employees
San Joaquin Valley Regional Policy Council

OPPOSITION:

None received

ARGUMENTS IN SUPPORT: According to the author:

SB 746 will allow transit districts to engage in energy conservation moving us towards our goals as a state to reduce emissions, while also providing clean and efficient transportation to the people of California. SB 746 will also have a catalytic effect on the Valley Link Rail project, which will ultimately provide a rail connection among Stockton, Lathrop, Tracy and Dublin/Pleasanton. As part of that project, Valley Link intends to establish a hydrogen fuel generation facility in the City of Tracy. Ultimately the Valley Link train will be powered by hydrogen and even sooner will be able to provide a source of hydrogen fuel for buses and commercial trucks moving through the Tri-Valley/San Joaquin corridor.

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