

Introduced by Senator PavleyFebruary 23, 2012

An act to amend Sections 25411, 25415, 25421, 25443, and 25449.4 of the Public Resources Code, relating to energy, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1268, as introduced, Pavley. Energy: energy conservation assistance.

(1) The Energy Conservation Assistance Act of 1979 requires the State Energy Resources Conservation and Development Commission, until January 1, 2013, to administer the State Energy Conservation Assistance Account, a continuously appropriated account, to provide grants and loans to local governments and public institutions to maximize energy use savings. The act defines "energy conservation measures" to include measures primarily intended to reduce energy consumption or allow the use of a more desirable energy source. The act defines "unit of local government" to be a unit of general purpose government below the state or a special district. The act requires entities receiving a loan to repay the loan plus interest in not more than 30 equal semiannual payments with the first semiannual payment made on or before December 22 of the fiscal year following the year in which the project is completed. The act authorizes the commission to borrow moneys from specified entities from proceeds of revenue bonds issued by those entities. The act requires unencumbered funds in the account, on January 1, 2013, to revert back to the General Fund.

This bill would extend the act to January 1, 2028. The bill would additionally include measures primarily intended to reduce peak electricity demand as "energy conservation measures" and any

combination of units of local government below the state and special districts formed for the joint exercise of power as “units of local government” for the purposes of the act. The bill would provide instead that the loan repayments be made in accordance with a schedule established by the commission. The bill would require any unexpended funds from the proceeds of revenue bonds sold for the purposes of the act remaining in the account on January 1, 2028 to remain in the account until all bond obligations have been satisfied and thereafter revert the remaining unexpended funds to the General Fund. The bill would require unexpended funds from the federal American Recovery and Reinvestment Act of 2009 remaining in the account on January 1, 2028, to revert to the Federal Trust Fund. Because this bill would extend the operation of a continuously appropriated account and would expand the purpose and entities qualified for assistance from the account, this bill would make an appropriation.

(2) Existing law establishes, until January 1, 2016, the Local Jurisdiction Energy Assistance Account to provide funds administered by the commission for loans to local jurisdictions to reduce energy costs. Existing law requires the commission to periodically set interest rates on the loans based on surveys of existing financial markets and at rates not less than 3% per annum. Existing law requires that unencumbered funds in the account on January 1, 2028, be deposited in the Federal Trust Fund.

This bill would extend the operation of the account to January 1, 2028. The bill would require the act to set the interest rates on the loans at not less than 1% per annum. The bill, instead, would require unencumbered funds in the account on January 1, 2028, to be deposited in the Petroleum Violation Escrow Account.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 25411 of the Public Resources Code is
- 2 amended to read:
- 3 25411. As used in this chapter:
- 4 (a) “Allocation” means a loan of funds by the commission
- 5 pursuant to the procedures specified in this chapter.
- 6 (b) “Building” means any existing or planned structure that
- 7 includes a heating or cooling system, or both. Additions to an

1 original building shall be considered part of that building rather
2 than a separate building.

3 (c) “Eligible institution” means a school, hospital, public care
4 institution, or a unit of local government.

5 (d) “Energy audit” means a determination of the energy
6 consumption characteristics of a building or facility that does all
7 of the following:

8 (1) Identifies the type, size, and energy use level of the building
9 or facility and the major energy using systems of the building or
10 facility.

11 (2) Determines appropriate energy conservation maintenance
12 and operating procedures.

13 (3) Indicates the need, if any, for the acquisition and installation
14 of energy conservation measures.

15 (e) “Energy conservation maintenance and operating procedure”
16 means a modification or modifications in the maintenance and
17 operations of a building or facility, and any installations therein
18 (based on the use time schedule of the building or facility), which
19 are designed to reduce energy consumption in the building or
20 facility and that require no significant expenditure of funds.

21 (f) “Energy conservation measure” means an installation or
22 modification of an installation in a building or facility that is
23 primarily intended to reduce energy consumption *or peak electricity*
24 *demand*, or allow the use of a more desirable energy source.

25 (g) “Energy conservation project” means an undertaking to
26 acquire and to install one or more energy conservation measures
27 in a building or facility, and technical assistance in connection
28 with that undertaking.

29 (h) “Facility” means any major energy using system of an
30 eligible institution whether or not housed in a building.

31 (i) “Hospital” means a public or nonprofit institution that is both
32 of the following:

33 (1) A general hospital, tuberculosis hospital, or any other type
34 of hospital, other than a hospital furnishing primarily domiciliary
35 care.

36 (2) Duly authorized to provide hospital services under the laws
37 of this state.

38 (j) “Hospital building” means a building housing a hospital and
39 related operations, including laboratories, laundries, outpatient
40 departments, nurses’ home and training activities, and central

1 service operations in connection with a hospital, and also includes
2 a building housing education or training activities for health
3 professions personnel operated as an integral part of a hospital.

4 (k) “Local government building” means a building that is
5 primarily occupied by offices or agencies of a unit of local
6 government or by a public care institution.

7 (l) “Project” means a purpose for which an allocation may be
8 requested and made under this chapter. Those purposes shall
9 include energy audits, energy conservation and operating
10 procedures, and energy conservation measures in existing and
11 planned buildings and facilities, energy conservation projects, and
12 technical assistance programs.

13 (m) “Public care institution” means a public or nonprofit
14 institution that owns:

15 (1) A long-term care institution.

16 (2) A rehabilitation institution.

17 (3) An institution for the provision of public health services,
18 including related publicly owned services such as laboratories,
19 clinics, and administrative offices operated in connection with the
20 institution.

21 (4) A residential child care center.

22 (n) “Public or nonprofit institution” means an institution owned
23 and operated by:

24 (1) The state, a political subdivision of the state, or an agency
25 or instrumentality of either.

26 (2) An organization exempt from income tax under Section
27 501(c)(3) of the Internal Revenue Code of 1954.

28 (3) In the case of public care institutions, an organization also
29 exempt from income tax under Section 501(c)(4) of the Internal
30 Revenue Code of 1954.

31 (o) “School” means a public or nonprofit institution, including
32 a local educational agency, which:

33 (1) Provides, and is legally authorized to provide, elementary
34 education or secondary education, or both, on a day or residential
35 basis.

36 (2) Provides, and is legally authorized to provide, a program of
37 education beyond secondary education, on a day or residential
38 basis and meets all of the following requirements:

1 (A) Admits as students only persons having a certificate of
2 graduation from a school providing secondary education, or the
3 recognized equivalent of that certificate.

4 (B) Is accredited by a nationally recognized accrediting agency
5 or association.

6 (C) Provides an education program for which it awards a
7 bachelor's degree or higher degree or provides not less than a
8 two-year program that is acceptable for full credit toward a degree
9 at any institution that meets the requirements of subparagraphs
10 (A) and (B) and provides that program.

11 (3) Provides not less than a one-year program of training to
12 prepare students for gainful employment in a recognized occupation
13 and that meets the provisions of (2).

14 (p) "School building" means a building housing classrooms,
15 laboratories, dormitories, athletic facilities, or related facilities
16 operated in connection with a school.

17 (q) "Technical assistance costs" means costs incurred for the
18 use of existing personnel or the temporary employment of other
19 qualified personnel, or both, necessary for providing technical
20 assistance.

21 (r) "Technical assistance program" means assistance to schools,
22 hospitals, local government, and public care institutions and
23 includes, but is not limited to:

24 (1) Conducting specialized studies identifying and specifying
25 energy savings and related cost savings that are likely to be realized
26 as a result of:

27 (A) Modification of maintenance and operating procedures in
28 a building or facility, in addition to those modifications
29 implemented after the preliminary energy audit, or

30 (B) Acquisition and installation of one or more specified energy
31 conservation measures in the building or facility, or as a result of
32 both.

33 (C) New construction activities.

34 (2) Planning of specific remodeling, renovation, repair,
35 replacement, or insulation projects related to the installation of
36 energy conservation measures in the building or facility.

37 (3) Developing and evaluating alternative project
38 implementation methods and proposals.

39 (s) "Unit of local government" means a unit of general purpose
40 government below the state—~~or~~, a special district, *or any*

1 combination of that unit and special district formed for the joint
 2 exercise of power.

3 SEC. 2. Section 25415 of the Public Resources Code is
 4 amended to read:

5 25415. (a) Each eligible institution to which an allocation has
 6 been made under this chapter shall repay the principal amount of
 7 the allocation, plus interest, in not more than 30 equal semiannual
 8 payments, as determined by the commission. ~~The first semiannual~~
 9 ~~payment shall be made on or before December 22 of the fiscal~~
 10 ~~year following the year in which the project is completed~~ *Loan*
 11 *repayments shall be made in accordance with a schedule*
 12 *established by the commission.* The repayment period may not
 13 exceed the life of the equipment, as determined by the commission
 14 or the lease term of the building in which the energy conservation
 15 measures will be installed.

16 (b) Notwithstanding any other provision of law, the commission
 17 shall, unless it determines that the purposes of this chapter would
 18 be better served by establishing an alternative interest rate schedule,
 19 periodically set interest rates on the loans based on surveys of
 20 existing financial markets and at rates not less than 1 percent per
 21 annum.

22 (c) The governing body of each eligible institution shall annually
 23 budget an amount at least sufficient to make the semiannual
 24 payments required in this section. The amount shall not be raised
 25 by the levy of additional taxes but shall instead be obtained by a
 26 savings in energy costs or other sources.

27 SEC. 3. Section 25421 of the Public Resources Code is
 28 amended to read:

29 25421. (a) Except as provided in subdivision (b), this chapter
 30 shall remain in effect only until January 1, ~~2013~~ 2028, and as of
 31 that date is repealed, unless a later enacted statute, which is enacted
 32 before January 1, ~~2013~~ 2028, deletes or extends that date.

33 (b) ~~All~~ *Except as specified in subdivisions (c) and (d), all* loans
 34 outstanding as of January 1, ~~2013~~ 2028, shall continue to be repaid
 35 on a semiannual basis, as specified in Section 25415, until paid in
 36 full. All unexpended funds in the State Energy Conservation
 37 Assistance Account on January 1, ~~2013~~ 2028, and thereafter, ~~except~~
 38 ~~to the extent those funds are encumbered pursuant to Section~~
 39 ~~25417.5,~~ shall revert to the General Fund.

1 (c) To the extent required under applicable bond obligations,
2 unexpended funds from the proceeds of bonds sold pursuant to
3 Section 25417.5 that remain in the State Energy Conservation
4 Assistance Account on January 1, 2018, shall remain in the
5 account. These funds shall be expended pursuant to the applicable
6 requirements for bond proceeds. Once all applicable bond
7 obligations have been satisfied, unexpended funds shall revert to
8 the General Fund.

9 (d) Unexpended funds from the federal American Recovery and
10 Reinvestment Act of 2009 (Public Law No. 111-5) remaining in
11 the State Energy Conservation Assistance Account on January 1,
12 2028, shall revert to the Federal Trust Fund.

13 SEC. 4. Section 25443 of the Public Resources Code is
14 amended to read:

15 25443. (a) Principal and interest payments on loans under this
16 article shall be returned to the commission and shall be used to
17 make additional loans to local jurisdictions pursuant to Section
18 25442 or to provide financial assistance to local jurisdictions
19 pursuant to Section 25441.

20 (b) Notwithstanding any other provision of law, the commission
21 shall, unless it determines that the purposes of this chapter would
22 be better served by establishing an alternative interest rate schedule,
23 periodically set interest rates on the loans based on surveys of
24 existing financial markets and at rates not less than ~~3~~ 1 percent per
25 annum.

26 SEC. 5. Section 25449.4 of the Public Resources Code is
27 amended to read:

28 25449.4. (a) Except as provided in subdivision (b), this chapter
29 shall remain in effect until January 1, ~~2016~~ 2028, and as of that
30 date is repealed, unless a later enacted statute which is enacted
31 before January 1, ~~2016~~ 2028, deletes or extends that date.

32 (b) All loans outstanding as of January 1, ~~2016~~ 2028, shall
33 continue to be repaid in accordance with a schedule established
34 by the commission pursuant to Section 25442.7, until paid in full.
35 All unexpended funds in the Local Jurisdiction Energy Assistance
36 Account on January 1, ~~2016~~ 2028, and thereafter, except to the
37 extent that those funds are encumbered pursuant to Section
38 25443.5, shall be deposited in the ~~Federal Trust Fund~~ *Petroleum*
39 *Violation Escrow Account* and be available for the purposes for

- 1 which federal oil overcharge funds are available pursuant to court
- 2 judgment or federal agency order.

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