AMENDED IN ASSEMBLY AUGUST 13, 2012

AMENDED IN ASSEMBLY AUGUST 7, 2012

AMENDED IN ASSEMBLY JUNE 25, 2012

AMENDED IN SENATE MAY 1, 2012

AMENDED IN SENATE APRIL 10, 2012

SENATE BILL No. 1268

Introduced by Senator Pavley

February 23, 2012

An act to amend Sections 25411, 25415, 25421, 25443, and 25449.4 of, and to add Sections 25412.5 and 25442.8 to, the Public Resources Code, relating to energy, *and making an appropriation therefor*.

LEGISLATIVE COUNSEL'S DIGEST

SB 1268, as amended, 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~~ *In regard to the timing of loan repayment under 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 the commission to take steps to solicit loan applications to encourage an equitable distribution of loans statewide, to award loans in specified regions, and to place an emphasis on offering these loans in disadvantaged communities. 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 purposes of, 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 administrated 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 would require the commission to take steps to solicit loan applications to encourage an equitable

distribution of loans statewide, to award loans in specified regions, and to place an emphasis on offering these loans in disadvantaged communities. The bill~~, instead~~, would require unencumbered funds in the account on January 1, 2028, to be deposited in the Petroleum Violation Escrow Account.

Vote: ~~majority~~ *2/3*. Appropriation: ~~no~~ *yes*. Fiscal committee: yes. State-mandated local program: no.

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

SECTION 1. Section 25411 of the Public Resources Code is amended to read:

25411. As used in this chapter:

(a) "Allocation" means a loan of funds by the commission pursuant to the procedures specified in this chapter.

(b) "Building" means any existing or planned structure that includes a heating or cooling system, or both. Additions to an original building shall be considered part of that building rather than a separate building.

(c) "Eligible institution" means a school, hospital, public care institution, or a unit of local government.

(d) "Energy audit" means a determination of the energy consumption characteristics of a building or facility that does all of the following:

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

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

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

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

(f) "Energy conservation measure" means an installation or modification of an installation in a building or facility that is

primarily intended to reduce energy consumption or peak electricity demand, or allow the use of a more desirable energy source.

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

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

(i) "Hospital" means a public or nonprofit institution that is both of the following:

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

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

(j) "Hospital building" means a building housing a hospital and related operations, including laboratories, laundries, outpatient departments, nurses' home and training activities, and central service operations in connection with a hospital, and also includes a building housing education or training activities for health professions personnel operated as an integral part of a hospital.

(k) "Local government building" means a building that is primarily occupied by offices or agencies of a unit of local government or by a public care institution.

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

(m) "Public care institution" means a public or nonprofit institution that owns:

(1) A long-term care institution.

(2) A rehabilitation institution.

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

(4) A residential child care center.

(n) "Public or nonprofit institution" means an institution owned and operated by:

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

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

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

(o) "School" means a public or nonprofit institution, including a local educational agency, which:

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

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

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

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

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

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

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

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

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

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

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

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

(C) New construction activities.

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

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

(s) "Unit of local government" means a unit of general purpose government below the state, a special district, or any combination of that unit and special district formed for the joint exercise of power.

SEC. 2. Section 25412.5 is added to the Public Resources Code, to read:

25412.5. ~~(a)~~ The commission shall take steps to *solicit loan applications to* do all of the following:

~~(1) Solicit loan applications to encourage~~

(a) Encourage an equitable distribution of loans statewide.

~~(2)~~

(b) Award loans in regions with high summer peak loads, with high heating costs, or that have electrical or natural gas system distribution constraints.

~~(3)~~

(c) Place an emphasis on offering these loans in disadvantaged communities.

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

25415. (a) Each eligible institution to which an allocation has been made under this chapter shall repay the principal amount of the allocation, plus interest, in not more than 30 equal semiannual payments, as determined by the commission. Loan repayments shall be made in accordance with a schedule established by the commission. The repayment period may not exceed the life of the

equipment, as determined by the commission or the lease term of the building in which the energy conservation measures will be installed.

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

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

SEC. 4. Section 25421 of the Public Resources Code is amended to read:

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

(b) Except as specified in subdivisions (c) and (d), all loans outstanding as of January 1, 2028, shall continue to be repaid on a semiannual basis, as specified in Section 25415, until paid in full. All unexpended funds in the State Energy Conservation Assistance Account on January 1, 2028, and thereafter shall revert to the General Fund.

(c) To the extent required under applicable bond obligations, unexpended funds from the proceeds of bonds sold pursuant to Section 25417.5 that remain in the State Energy Conservation Assistance Account on January 1, 2028, shall remain in the account. These funds shall be expended pursuant to the applicable requirements for bond proceeds. Once all applicable bond obligations have been satisfied, unexpended funds shall revert to the General Fund.

(d) Unexpended funds from the federal American Recovery and Reinvestment Act of 2009 (Public Law 111-5) remaining in the State Energy Conservation Assistance Account on January 1, 2028, shall revert to the Federal Trust Fund.

SEC. 5. Section 25442.8 is added to the Public Resources Code, to read:

25442.8. ~~(a)~~ The commission shall take steps to *solicit loan applications to* do all of the following:

~~(1) Solicit loan applications to encourage~~

(a) Encourage an equitable distribution of loans statewide.

~~(2)~~

(b) Award loans in regions with high summer peak loads, with high heating costs, or that have electrical or natural gas system distribution.

~~(3)~~

(c) Place an emphasis on offering these loans in disadvantaged communities.

SEC. 6. Section 25443 of the Public Resources Code is amended to read:

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

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

SEC. 7. Section 25449.4 of the Public Resources Code is amended to read:

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

(b) All loans outstanding as of January 1, 2028, shall continue to be repaid in accordance with a schedule established by the commission pursuant to Section 25442.7, until paid in full. All unexpended funds in the Local Jurisdiction Energy Assistance Account on January 1, 2028, and thereafter, except to the extent that those funds are encumbered pursuant to Section 25443.5, shall be deposited in the Petroleum Violation Escrow Account and be

available for the purposes for which federal oil overcharge funds are available pursuant to court judgment or federal agency order.

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