

AMENDED IN ASSEMBLY FEBRUARY 27, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 39

Introduced by Assembly Members Skinner and John A. Pérez
(Principal coauthor: Assembly Member Perea)
(Coauthors: Assembly Members Bloom, Brown, Ian Calderon, Dickinson, Frazier, Garcia, Gordon, Quirk-Silva, Rendon, Ting, Wieckowski, and Williams)

December 3, 2012

An act to add Division 16.4 (commencing with Section 26225) to the Public Resources Code, relating to energy efficiency, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 39, as amended, Skinner. Proposition 39: implementation.

The California Clean Energy Jobs Act, an initiative approved by the voters as Proposition 39 at the November 6, 2012, statewide general election, made changes to corporate income taxes and, except as specified, provides for the transfer of \$550,000,000 annually from the General Fund to the Clean Energy Job Creation Fund (Job Creation Fund) for 5 fiscal years beginning with the 2013–14 fiscal year. Moneys in the Job Creation Fund are available, upon appropriation by the Legislature, for purposes of funding eligible projects that create jobs in California improving energy efficiency and expanding clean energy generation. Existing law provides for the allocation of available funds to public school facilities, university and college facilities, other public buildings and facilities, as well as job training and workforce development, and public-private partnerships, for eligible projects, as specified. Existing law establishes prescribed criteria that apply to all

expenditures from the Job Creation Fund. Existing law creates the Citizens Oversight Board with specified responsibilities relative to the review of expenditures from the Job Creation Fund, including the submission of an evaluation to the Legislature.

This bill would require the State Energy Resources Conservation and Development Commission (Energy Commission) to administer grants, ~~no-interest~~ loans, or other financial assistance to an eligible institution, defined as a public school providing instruction in kindergarten or grades 1 to 12, inclusive, for the purpose of projects that create jobs in California by reducing energy demand and consumption at eligible institutions. *This bill would require the Energy Commission to establish a prescribed system to prioritize eligible institutions for these grants, loans, and other financial assistance, in consultation with the Superintendent of Public Instruction.* This bill would continuously appropriate for prescribed fiscal years an unspecified amount to the Energy Commission for this purpose in each year that at least that amount of money is transferred to the Job Creation Fund. This bill would require the Energy Commission to administer the grants, ~~no-interest~~ loans, or other financial assistance program to ensure that projects satisfy the prescribed criteria that apply to all expenditures from the Job Creation Fund. This bill would require an eligible institution that receives a grant, ~~no-interest~~ loan, or other financial assistance to report the amount of energy saved to the Energy Commission and to compute the cost of energy saved as a result of implementing projects funded by the grant, as prescribed.

This bill would set forth certain criteria to be used to prioritize ~~projects~~ *eligible facilities* to be funded from moneys in the Job Creation Fund ~~relative to public schools, school districts, public colleges and universities,~~ *available upon appropriation by the Legislature, for specified projects for eligible colleges and universities* and other public buildings and facilities. This bill would require moneys for job training and workforce development to be available from the Job Creation Fund, upon appropriation by the Legislature, to the California Conservation Corps, Certified Community Conservation Corps, Youth Build, and other existing workforce development programs, as specified, consistent with the requirements of the California Clean Energy Jobs Act. This bill would require moneys for public-private partnerships to be available from the Job Creation Fund, upon appropriation by the Legislature, for assistance to certain local governments to establish and implement Property Assisted Clean Energy programs or similar financial and

technical assistance consistent with the requirements of the California Clean Energy Jobs Act.

The bill would require a person or entity receiving financial assistance from the Job Creation Fund to report certain information to the Citizens Oversight Board. The bill would require this information to be included in an annual report by the board to the Legislature.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

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

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) With the passage of Proposition 39 at the November 6, 2012,
4 statewide general election, the people of California declared their
5 intent to have multistate businesses treated equally under the
6 Revenue and Taxation Code and to establish a path forward for
7 schools and clean energy jobs.

8 (b) Between the 2013–14 and 2017–18 fiscal years, Proposition
9 39 will dedicate up to \$550,000,000 annually to the Clean Energy
10 Job Creation Fund.

11 (c) Proposition 39 establishes objectives for clean energy job
12 creation, including funding energy efficiency projects and
13 renewable energy installations in public schools, universities, and
14 other public facilities.

15 (d) Proposition 39 identifies energy efficiency retrofits and clean
16 energy installations at public schools as one way to promote private
17 sector jobs to save energy and money.

18 (e) The United States Environmental Protection Agency
19 estimates that schools waste 30 percent of their energy
20 unnecessarily through inefficiencies. The financial savings from
21 more efficient buildings would provide schools with the flexibility
22 to pay for other upgrades and programs that enhance student
23 learning.

24 (f) In California, more than 70 percent of the state’s kindergarten
25 and grades 1 to 12, inclusive, public school classrooms are over
26 25 years old and schools account for approximately 12 percent of
27 all commercial energy consumption. This represents a significant
28 cost to public schools and to California taxpayers.

1 (g) With the passage of Proposition 39, the state will be able to
2 reduce energy demand at public schools and provide long-term
3 savings and budgetary flexibility so schools can concentrate their
4 limited resources on education and not utility bills.

5 (h) Proposition 39 also establishes a Citizens Oversight Board
6 to review expenditures, audit the Clean Energy Job Creation Fund,
7 and maintain accountability of the fund.

8 (i) It is the intent of the Legislature to establish guidelines for
9 clean energy expenditures from the Clean Energy Job Creation
10 Fund.

11 (j) It is further the intent of the Legislature, during the 2013–14
12 fiscal year, to ensure that expenditures from the Clean Energy Job
13 Creation Fund go toward “shovel-ready” clean energy projects
14 with guidelines for future expenditures to be developed thereafter.

15 SEC. 2. Division 16.4 (commencing with Section 26225) is
16 added to the Public Resources Code, to read:

17
18 DIVISION 16.4. PROPOSITION 39 IMPLEMENTATION:
19 UPGRADING OUR SCHOOLS AND CREATING CLEAN
20 ENERGY JOBS
21

22 26225. For purposes of this division, the following terms have
23 the following meanings:

24 (a) “Commission” means the State Energy Resources
25 Conservation and Development Commission.

26 (b) “Eligible institution” means a public school or school district
27 providing instruction in kindergarten or grades 1 to 12, inclusive.

28 (c) “Job Creation Fund” means the Clean Energy Job Creation
29 Fund established in Section 26205.

30 (d) “Public buildings” has the same meaning as in subdivision
31 (k) of Section 4217.11 of the Government Code.

32 26230. (a) The commission shall administer grants, ~~no-interest~~
33 loans, or other financial assistance to eligible institutions for the
34 purpose of projects that create jobs in California by reducing energy
35 demand and consumption at eligible institutions in accordance
36 with this section.

37 (b) Notwithstanding Section 13340 of the Government Code,
38 for the purposes of this section, ____ dollars (\$____) is
39 continuously appropriated for fiscal years 2013–14 through
40 2017–18, inclusive, from the Job Creation Fund to the commission

1 in each year that ~~money moneys~~ in at least that amount ~~is are~~
2 transferred to the Job Creation Fund pursuant to Section 26205.

3 (c) To implement this section, the commission shall do all of
4 the following:

5 (1) Administer the grants, ~~no-interest~~ loans, or other financial
6 assistance to ensure that projects satisfy the criteria in Section
7 26206.

8 (2) Utilize existing resources, programs, and expertise to the
9 extent possible.

10 (3) Establish a system to prioritize eligible institutions for grants,
11 ~~no-interest~~ loans, and other financial assistance through this section
12 in consultation with the Superintendent of Public Instruction.
13 Prioritization shall take into consideration circumstances that shall
14 include, but not be limited to, the following:

15 (A) The age of the school facilities.

16 (B) The proportion of students receiving free and reduced-price
17 meals.

18 (C) Whether the facilities have been recently modernized.

19 (D) Whether the facilities are operated as a year-round school.

20 (E) The potential for *energy* demand reduction.

21 (F) The school's score from an energy rating system such as
22 the United States Environmental Protection Agency's Energy Star
23 system.

24 (d) (1) Any eligible institution may submit an application to
25 the commission for a grant, ~~no-interest~~ loan, or other financial
26 assistance. The commission shall award moneys pursuant to this
27 section only to eligible institutions.

28 (2) Each year, in accordance with a schedule established by the
29 commission, an eligible institution that receives a grant, ~~no-interest~~
30 loan, or other financial assistance pursuant to this section shall
31 report the amount of energy saved to the commission and compute
32 the cost of energy saved as a result of implementing energy
33 efficiency retrofit and clean energy installation projects funded by
34 this section. The cost shall be calculated in a manner established
35 by the commission.

36 (e) The commission shall ensure that adequate energy audit,
37 measurement, and verification procedures are employed to ensure
38 that energy savings and greenhouse gas emissions reductions occur
39 as a result of any grants, ~~no-interest~~ loans, or other financial
40 assistance provided pursuant to this section.

1 (f) The commission shall use a net present value analysis or
2 life-cycle cost analysis when determining eligible measures for
3 energy savings.

4 (g) This section shall not affect the eligibility of any eligible
5 entity awarded a grant, ~~no-interest~~ loan, or other financial assistance
6 pursuant to this section to receive other incentives available from
7 federal, state, and local government, or from public utilities or
8 other sources, or to leverage the grant from this section with any
9 other incentive.

10 (h) It is the intent of the Legislature that monetary savings at
11 eligible institutions from retrofit and installation projects pursuant
12 to this section be used to benefit students and learning at those
13 institutions.

14 26235. (a) Moneys for eligible colleges and universities, and
15 other public buildings and facilities shall be available from the Job
16 Creation Fund, upon appropriation by the Legislature, for projects
17 that meet the requirements of Division 16.3 (commencing with
18 Section 26200). Eligible projects are projects that create jobs in
19 California by improving energy efficiency, installing clean energy
20 technologies, or making other energy system improvements.

21 (b) Eligible facilities shall be prioritized based on the
22 requirements of Section 26206 and all of the following criteria:

- 23 (1) The potential for job creation within California.
- 24 (2) The potential for energy demand reduction.
- 25 (3) The extent to which the project is coordinated with the
26 commission or the Public Utilities Commission, or both, to achieve
27 the maximum amount of job creation within California and energy
28 benefits from available funds.

29 26240. Moneys for job training and workforce development
30 shall be available from the Job Creation Fund, upon appropriation
31 by the Legislature, to the California Conservation Corps, Certified
32 Community Conservation Corps, Youth Build, and other existing
33 workforce development programs to train and employ
34 disadvantaged youth, veterans, and others on energy efficiency
35 and clean energy projects, consistent with the requirements of
36 Division 16.3 (commencing with Section 26200).

37 26245. Moneys for public-private partnerships shall be
38 available from the Job Creation Fund, upon appropriation by the
39 Legislature, for assistance in establishing and implementing
40 Property Assisted Clean Energy (PACE) programs or similar

1 financial and technical assistance for cost-effective retrofits and
2 installations that include repayment requirements, consistent with
3 the requirements of Division 16.3 (commencing with Section
4 26200).

5 26250. (a) No later than one year after a person or entity
6 receives a grant, loan, or other assistance from the Job Creation
7 Fund, the person or entity shall submit a report to the Citizens
8 Oversight Board created pursuant to Chapter 3 (commencing with
9 Section 26210) of Division 16.3 containing the following
10 information, to the extent applicable:

- 11 (1) The number of jobs created.
- 12 (2) The amount of energy saved.
- 13 (3) The amount of new clean energy generation installed.
- 14 (4) The number of trainees.
- 15 (5) The portion of financial assistance provided that was used
16 for administrative costs.

17 (6) The amount of time between awarding of the financial
18 assistance and the completion of the project or training activities.

19 (b) The Citizens Oversight Board shall report the information
20 it receives pursuant to subdivision (a) to the Legislature as part of
21 its responsibilities pursuant to subdivision (d) of Section 26210.
22 The board's report shall be submitted annually. The report shall
23 also be posted on a publicly accessible Internet Web site.

24 26255. Funding for clean energy, energy efficiency, or job
25 creation programs from sources other than the Job Creation Fund
26 shall not be reduced or eliminated as a result of the availability of
27 moneys from the fund.