

AMENDED IN ASSEMBLY APRIL 9, 2013
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, loans, or other financial assistance to an eligible institution, defined as a public school providing instruction in kindergarten or grades 1 to 12, inclusive, *or a community college*, for the purpose of *eligible* projects, *as defined*, that create jobs in California by reducing energy demand and consumption at eligible institutions, *as defined*. ~~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, 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~~

This bill would require, for each fiscal year that revenue is deposited into the Job Creation Fund, that 75% of that revenue be provided to eligible institutions for grants for eligible projects. The bill would require the commission to develop a formula to ensure that each region of the state receives a share of the statewide allocation under this bill that is reasonable equivalent to its proportion of the statewide average daily attendance, and would further require the Energy Commission, in consultation with the Office of Public School Construction and the Chancellor of the California Community Colleges, to approve eligible projects proposed by eligible institutions, taking into consideration specified factors.

This bill would require an eligible institution that receives a grant, 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 eligible facilities to be funded from moneys in the Job Creation Fund, available~~

~~upon appropriation by the Legislature, for specified projects for eligible colleges and universities and other public buildings and facilities. This~~

This bill would require, for each fiscal year that revenue is deposited into the Job Creation Fund, that 25% of that revenue be allocated to eligible institutions, public universities, or public buildings, as defined, for low-interest or no-interest revolving loans for eligible projects and technical assistance for facilities, as specified.

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

1 renewable energy installations in public schools, universities, and
2 other public facilities.

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

6 (e) The United States Environmental Protection Agency
7 estimates that schools waste 30 percent of their energy
8 unnecessarily through inefficiencies. The financial savings from
9 more efficient buildings would provide schools with the flexibility
10 to pay for other upgrades and programs that enhance student
11 learning.

12 (f) In California, more than 70 percent of the state's kindergarten
13 and grades 1 to 12, inclusive, public school classrooms are over
14 25 years old and schools account for approximately 12 percent of
15 all commercial energy consumption. This represents a significant
16 cost to public schools and to California taxpayers.

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

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

24 (i) It is the intent of the Legislature to establish guidelines for
25 clean energy expenditures from the Clean Energy Job Creation
26 Fund.

27 (j) It is further the intent of the Legislature, ~~during the 2013–14~~
28 ~~fiscal year, to ensure that expenditures from the Clean Energy Job~~
29 ~~Creation Fund go toward “shovel-ready” clean energy projects~~
30 ~~with guidelines for future expenditures to be developed thereafter~~
31 *schools receive and prioritize high-quality facility retrofits and*
32 *installations that lead to persistent energy savings.*

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

1 DIVISION 16.4. PROPOSITION 39 IMPLEMENTATION:
2 UPGRADING OUR SCHOOLS AND CREATING CLEAN
3 ENERGY JOBS
4

5 26225. For purposes of this division, the following terms have
6 the following meanings:

7 (a) “Chancellor” means the Chancellor of the California
8 Community Colleges.

9 (a)

10 (b) “Commission” means the State Energy Resources
11 Conservation and Development Commission.

12 (b)

13 (c) “Eligible institution” means a public school or school district
14 providing instruction in kindergarten or grades 1 to 12, inclusive,
15 or a community college.

16 (d) “Eligible project” means a project that meets the
17 requirements of Division 16.3 (commencing with Section 26200)
18 and that creates jobs in California by improving energy efficiency,
19 installing clean energy technology, or making energy system
20 improvements consistent with that division.

21 (e)

22 (e) “Job Creation Fund” means the Clean Energy Job Creation
23 Fund established in Section 26205.

24 (e)

25 (f) “Public buildings” has the same meaning as in subdivision
26 (k) of Section 4217.11 of the Government Code.

27 26230. (a) The commission shall administer grants, loans, or
28 other financial assistance to eligible institutions for the purpose of
29 eligible projects that create jobs in California by reducing energy
30 demand and consumption at eligible institutions in accordance
31 with this section.

32 ~~(b) Notwithstanding Section 13340 of the Government Code,~~
33 ~~for the purposes of this section, _____ dollars (\$_____) is~~
34 ~~continuously appropriated for fiscal years 2013–14 through~~
35 ~~2017–18, inclusive, from the Job Creation Fund to the commission~~
36 ~~in each year that moneys in at least that amount are transferred to~~
37 ~~the Job Creation Fund pursuant to Section 26205.~~

38 ~~(c) To implement this section, the commission shall do all of~~
39 ~~the following:~~

- 1 ~~(1) Administer the grants, loans, or other financial assistance~~
 2 ~~to ensure that projects satisfy the criteria in Section 26206.~~
 3 ~~(2) Utilize existing resources, programs, and expertise to the~~
 4 ~~extent possible.~~
 5 ~~(3) Establish a system to prioritize eligible institutions for grants,~~
 6 ~~loans, and other financial assistance through this section in~~
 7 ~~consultation with the Superintendent of Public Instruction.~~
 8 ~~Prioritization shall take into consideration circumstances that shall~~
 9 ~~include, but not be limited to, the following:~~
 10 ~~(b) For each fiscal year that revenue is deposited into the Job~~
 11 ~~Creation Fund, 75 percent of that revenue shall be provided to~~
 12 ~~eligible institutions for grants for eligible projects.~~
 13 ~~(c) The commission shall develop a formula to ensure that each~~
 14 ~~region of the state receives a share of the statewide allocation~~
 15 ~~pursuant to this section that is reasonably equivalent to its~~
 16 ~~proportion of the statewide average daily attendance. Within that~~
 17 ~~share, the commission shall, in consultation with the Office of~~
 18 ~~Public School Construction and the chancellor, approve eligible~~
 19 ~~projects based on at least the factors in subdivision (d).~~
 20 ~~(d) Eligible institutions shall propose eligible projects to the~~
 21 ~~commission, taking into consideration at least the following~~
 22 ~~factors:~~
 23 ~~(A)~~
 24 ~~(1) The age of the school facilities.~~
 25 ~~(B)~~
 26 ~~(2) The proportion of students receiving free and reduced-price~~
 27 ~~meals.~~
 28 ~~(C)~~
 29 ~~(3) Whether the facilities have been recently modernized.~~
 30 ~~(D)~~
 31 ~~(4) Whether the facilities are operated as a year-round school.~~
 32 ~~(E)~~
 33 ~~(5) The project's potential for energy demand reduction.~~
 34 ~~(F)~~
 35 ~~(6) The school's score from an energy rating system such as the~~
 36 ~~United States Environmental Protection Agency's Energy Star~~
 37 ~~system.~~
 38 ~~(7) The project's ability to facilitate matriculation into certified~~
 39 ~~apprenticeship programs.~~
 40 ~~(d)~~

1 (e) (1) Any eligible institution may submit an application to
2 the commission for a grant, loan, or other financial assistance. The
3 commission shall award moneys pursuant to this section only to
4 eligible institutions.

5 (2) Each year, in accordance with a schedule established by the
6 commission, an eligible institution that receives a grant, loan, or
7 other financial assistance pursuant to this section shall report the
8 amount of energy saved to the commission and compute the cost
9 of energy saved as a result of implementing energy efficiency
10 retrofit and clean energy installation projects funded by this section.
11 The cost shall be calculated in a manner established by the
12 commission.

13 (e)

14 (f) The commission shall ensure that adequate energy audit,
15 measurement, and verification procedures are employed to ensure
16 that energy savings and greenhouse gas emissions reductions occur
17 as a result of any grants, loans, or other financial assistance
18 provided pursuant to this section.

19 ~~(f) The commission shall use a net present value analysis or~~
20 ~~life-cycle cost analysis when determining eligible measures for~~
21 ~~energy savings.~~

22 (g) This section shall not affect the eligibility of any eligible
23 entity awarded a grant, loan, or other financial assistance *grant*
24 pursuant to this section to receive other incentives available from
25 federal, state, and local government, or from public utilities or
26 other sources, or to leverage the grant from this section with any
27 other incentive.

28 (h) It is the intent of the Legislature that monetary savings at
29 eligible institutions from retrofit and installation projects pursuant
30 to this section be used to benefit students and learning at those
31 institutions.

32 ~~26235. (a) Moneys for eligible colleges and universities, and~~
33 ~~other public buildings and facilities shall be available from the Job~~
34 ~~Creation Fund, upon appropriation by the Legislature, for projects~~
35 ~~that meet the requirements of Division 16.3 (commencing with~~
36 ~~Section 26200). Eligible projects are projects that create jobs in~~
37 ~~California by improving energy efficiency, installing clean energy~~
38 ~~technologies, or making other energy system improvements.~~

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

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

7 26235. (a) *For each fiscal year that revenue is deposited into*
 8 *the Job Creation Fund, 25 percent of that revenue shall be*
 9 *allocated to eligible institutions, public universities, or public*
 10 *buildings for low-interest or no-interest revolving loans for eligible*
 11 *projects and technical assistance for facilities at public elementary*
 12 *or secondary schools, community colleges, public universities, or*
 13 *other public buildings.*

14 (b) *Funds remaining in this account after the 2017–18 fiscal*
 15 *year shall continue to be available for loans pursuant to this*
 16 *section in future years.*

17 26240. Moneys for job training and workforce development
 18 shall be available from the Job Creation Fund, upon appropriation
 19 by the Legislature, to the California Conservation Corps, Certified
 20 Community Conservation Corps, Youth Build, and other existing
 21 workforce development programs to train and employ
 22 disadvantaged youth, veterans, and others on energy efficiency
 23 and clean energy projects, consistent with the requirements of
 24 Division 16.3 (commencing with Section 26200).

25 26245. Moneys for public-private partnerships shall be
 26 available from the Job Creation Fund, upon appropriation by the
 27 Legislature, for assistance in establishing and implementing
 28 Property Assisted Clean Energy (PACE) programs or similar
 29 financial and technical assistance for cost-effective retrofits and
 30 installations that include repayment requirements, consistent with
 31 the requirements of Division 16.3 (commencing with Section
 32 26200).

33 26250. (a) No later than one year after a person or entity
 34 receives a grant, loan, or other assistance from the Job Creation
 35 Fund, the person or entity shall submit a report to the Citizens
 36 Oversight Board created pursuant to Chapter 3 (commencing with
 37 Section 26210) of Division 16.3 containing the following
 38 information, to the extent applicable:

- 39 (1) The number of jobs created.
- 40 (2) The amount of energy saved.

- 1 (3) The amount of new clean energy generation installed.
2 (4) The number of trainees.
3 (5) The portion of financial assistance provided that was used
4 for administrative costs.
5 (6) The amount of time between awarding of the financial
6 assistance and the completion of the project or training activities.
7 (b) The Citizens Oversight Board shall report the information
8 it receives pursuant to subdivision (a) to the Legislature as part of
9 its responsibilities pursuant to subdivision (d) of Section 26210.
10 The board's report shall be submitted annually. The report shall
11 also be posted on a publicly accessible Internet Web site.
12 26255. Funding for clean energy, energy efficiency, or job
13 creation programs from sources other than the Job Creation Fund
14 shall not be reduced or eliminated as a result of the availability of
15 moneys from the fund.

O