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AMENDED IN ASSEMBLY APRIL 24, 2013
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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 *Clean Energy* 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 *Clean Energy Job Creation Fund*. Existing law creates the Citizens Oversight Board with specified responsibilities relative to the review of expenditures from the *Clean Energy 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~~), *commonly known as the 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, for each fiscal year that revenue is deposited into the *Clean Energy 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, with 11% of grant funds to be awarded to community college districts, and would further require the Energy Commission, in consultation with the State Department of Education 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. *The bill would also require an eligible institution applying to the commission for a grant, loan, or financial assistance to install solely a clean energy technology to demonstrate the institution has implemented all cost-effective energy efficiency and demand response improvements.*

This bill would require, for each fiscal year before the 2016–17 fiscal year that revenue is deposited into the *Clean Energy* Job Creation Fund, that 25% of that revenue be allocated to eligible institutions, as defined, for low-interest or no-interest revolving loans or loan loss reserves for eligible projects and technical assistance for facilities at public schools and community colleges, as specified, and commencing with the 2016–17 fiscal year, would authorize that revenue to be allocated to those and other eligible institutions, public universities, or public buildings.

This bill would require moneys for job training and workforce development to be available from the *Clean Energy* Job Creation Fund, upon appropriation by the Legislature to the California Workforce Investment Board, for allocation to the California Conservation Corps, Certified Community Conservation Corps, Youth Build, preapprenticeship partnerships with state-certified apprenticeship programs, local educational agencies, community benefit organizations, 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 *Clean Energy* 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 *Clean Energy* 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.

1 (b) Between the 2013–14 and 2017–18 fiscal years, Proposition
2 39 will dedicate up to \$550,000,000 annually to the Clean Energy
3 Job Creation Fund.

4 (c) Proposition 39 establishes objectives for clean energy job
5 creation, including funding energy efficiency projects and
6 renewable energy installations in public schools, universities, and
7 other public facilities.

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

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

17 (f) In California, more than 70 percent of the state’s kindergarten
18 and grades 1 to 12, inclusive, public school classrooms are over
19 25 years old and schools account for approximately 12 percent of
20 all commercial energy consumption. This represents a significant
21 cost to public schools and to California taxpayers.

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

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

29 (i) It is the intent of the Legislature to establish guidelines for
30 clean energy expenditures from the Clean Energy Job Creation
31 Fund.

32 (j) It is further the intent of the Legislature to ensure that schools
33 receive and prioritize high-quality facility retrofits and installations
34 that lead to persistent energy savings.

35 SEC. 2. Division 16.4 (commencing with Section 26225) is
36 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 (b) “Commission” means the State Energy Resources
10 Conservation and Development Commission.

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

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

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

21 (f) “Public buildings” ~~has the same meaning as in subdivision~~
22 ~~(k) of Section 4217.11 of the Government Code~~ *include structures,*
23 *buildings, facilities, or works that a public agency is authorized*
24 *to construct or use, and automobile parking lots, landscaping, and*
25 *other facilities, including furnishings and equipment, incidental*
26 *to the use of any structures, buildings, facilities, or works, and*
27 *also includes the sites, any easements, and rights-of-way*
28 *appurtenant thereto, or necessary for their full use.*

29 26230. (a) (1) The commission shall administer grants, loans,
30 or other financial assistance to eligible institutions for the purpose
31 of eligible projects that create jobs in California by reducing energy
32 demand and consumption at eligible institutions in accordance
33 with this section.

34 (2) *The commission shall establish criteria applicable to all*
35 *contracts, including, but not limited to, all of the following:*

36 (A) *Standard methods for estimating energy benefits, including*
37 *reasonable assumptions for current and future costs of energy.*

38 (B) *Contractor qualifications, licensing, and certifications*
39 *appropriate for the work to be performed, provided that the*

1 *commission shall not create any new qualification, license, or*
2 *certification pursuant to this subparagraph.*

3 *(C) Limits for grants or loans for each type of eligible*
4 *improvement.*

5 (b) For each fiscal year that revenue is deposited into the Job
6 Creation Fund, 75 percent of that revenue shall be provided to
7 eligible institutions for grants for eligible projects.

8 (c) The commission shall develop a formula to ensure that each
9 region of the state receives a share of the statewide allocation
10 pursuant to this section that is reasonably equivalent to its
11 proportion of the statewide average daily attendance, with 11
12 percent of grant funds to be awarded to community college
13 districts. Within that share, the commission shall, in consultation
14 with the State Department of Education and the chancellor, approve
15 eligible projects based on at least the factors in subdivision (d).

16 (d) Eligible institutions shall propose eligible projects to the
17 commission, taking into consideration at least the following factors:

- 18 (1) The age of the school facilities.
- 19 (2) The proportion of students receiving free and reduced-price
20 meals.
- 21 (3) Whether the facilities have been recently modernized.
- 22 (4) Whether the facilities are operated as a year-round school.
- 23 (5) The project’s potential for energy demand reduction.
- 24 (6) The school’s score from an energy rating system such as the
25 United States Environmental Protection Agency’s Energy Star
26 system.

27 (7) The project’s ability to facilitate matriculation into certified
28 apprenticeship programs.

29 (e) (1) Any eligible institution may submit an application to
30 the commission. The commission shall award moneys pursuant to
31 this section only to eligible institutions.

32 *(2) Any eligible institution applying to the commission for a*
33 *grant, loan, or financial assistance to install solely clean energy*
34 *technology shall demonstrate to the commission that the institution*
35 *has implemented all cost-effective energy efficiency and demand*
36 *response improvements.*

37 ~~(2)~~

38 (3) Each year, in accordance with a schedule established by the
39 commission, an eligible institution that receives a grant, loan, or
40 other financial assistance pursuant to this section shall report the

1 amount of energy saved to the commission and compute the cost
2 of energy saved as a result of implementing energy efficiency
3 retrofit and clean energy installation projects funded by this section.
4 The cost shall be calculated in a manner established by the
5 commission.

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

11 (g) (1) This section shall not affect the eligibility of any eligible
12 entity awarded a grant pursuant to this section to receive other
13 incentives available from federal, state, and local government, or
14 from public utilities or other sources, or to leverage the grant from
15 this section with any other incentive.

16 (2) (A) *Any incentives available from federal, state, local*
17 *government, public utilities, or other sources used by the entity*
18 *that is awarded a grant, loan, or financial assistance shall be used*
19 *to reduce the amount of the grant awarded to that entity.*

20 (B) *The sum of all incentives, grants, loans, or financial*
21 *assistance received by the entity, including grant, loan, or financial*
22 *assistance awarded pursuant to this chapter shall not exceed the*
23 *total cost of the eligible project.*

24 (h) It is the intent of the Legislature that monetary savings at
25 eligible institutions from retrofit and installation projects pursuant
26 to this section be used to benefit students and learning at those
27 institutions.

28 26233. *The commission shall maintain a public database of*
29 *the eligible entities that receive grants, loans, or other financial*
30 *assistance under this division. The database shall include relevant*
31 *metrics, to be determined by the commission, for electric, gas, and*
32 *cost savings of the projects.*

33 26235. (a) (1) For each fiscal year prior to the 2016–17 fiscal
34 year that revenue is deposited into the Job Creation Fund, 25
35 percent of that revenue shall be allocated to eligible institutions
36 for low-interest or no-interest revolving loans or for loan loss
37 reserves for eligible projects and technical assistance for facilities
38 at public elementary or secondary schools or community colleges.

39 (2) Commencing with the 2016–17 fiscal year, for each fiscal
40 year that revenue is deposited into the Job Creation Fund, 25

1 percent of that revenue shall be allocated to eligible institutions,
 2 public universities, or public buildings for low-interest or
 3 no-interest revolving loans or for loan loss reserves for eligible
 4 projects and technical assistance for facilities at public elementary
 5 or secondary schools, community colleges, public universities, or
 6 other public buildings.

7 (b) Funds remaining in this account after the 2017–18 fiscal
 8 year shall continue to be available for loans pursuant to this section
 9 in future years.

10 26240. Moneys for job training and workforce development
 11 shall be available from the Job Creation Fund, upon appropriation
 12 by the Legislature to the California Workforce Investment Board,
 13 for allocation to the California Conservation Corps, Certified
 14 Community Conservation Corps, Youth Build, preapprenticeship
 15 partnerships with state-certified apprenticeship programs, local
 16 educational agencies, community benefit organizations, and other
 17 existing workforce development programs to train and employ
 18 disadvantaged youth, veterans, and others on energy efficiency
 19 and clean energy projects, consistent with the requirements of
 20 Division 16.3 (commencing with Section 26200).

21 26245. Moneys for public-private partnerships shall be
 22 available from the Job Creation Fund, upon appropriation by the
 23 Legislature, for assistance in establishing and implementing
 24 Property Assisted Clean Energy (PACE) programs or similar
 25 financial and technical assistance for cost-effective retrofits and
 26 installations that include repayment requirements, consistent with
 27 the requirements of Division 16.3 (commencing with Section
 28 26200).

29 26250. (a) ~~No later~~ *sooner* than one year ~~after~~, *but no later*
 30 *than 15 months after* a person or entity receives a grant, loan, or
 31 other assistance from the Job Creation Fund, the person or entity
 32 shall submit a report to the Citizens Oversight Board created
 33 pursuant to Chapter 3 (commencing with Section 26210) of
 34 Division 16.3 containing the following information, to the extent
 35 applicable:

- 36 (1) The number of *direct full-time* jobs created *and the number*
 37 *of job years for each job created.*
- 38 (2) The amount of energy saved.
- 39 (3) The amount of new clean energy generation installed.
- 40 (4) The number of trainees.

1 (5) The portion of financial assistance provided that was used
2 for administrative costs.

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

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

10 26255. Funding for clean energy, energy efficiency, or job
11 creation programs from sources other than the Job Creation Fund
12 shall not be reduced or eliminated as a result of the availability of
13 moneys from the fund.