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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 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. *Existing law establishes the State Energy Conservation Assistance Account, a continuously appropriated account, for the purposes of funding loans to schools, hospitals, public care institutions, and units of local government to maximize energy savings.*

~~This bill would require the State Energy Resources Conservation and Development 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 revenues are deposited into the Clean Energy Job Creation Fund, that 75% of that revenue those revenues 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. The bill would require the State Department of Education to administer 89% of those revenues for local educational agencies for the purposes of eligible projects, as specified. The bill would require the Chancellor of the California Community Colleges to administer 11% of those revenues for the California Community Colleges. The bill would require the~~

department or the Office of the Chancellor of the California Community Colleges, as applicable, in consultation with the State Energy Resources Conservation and Development Commission, to evaluate proposals from eligible institutions taking into account specified factors. The bill would require 25% of the revenues deposited into the Clean Energy Job Creation Fund to be transferred to the State Energy Conservation Assistance Account, thereby making an appropriation. For the 2013–14 fiscal year, the bill would allocate the moneys transferred to the account for loans, loan loss reserves, and technical assistance to schools and community college districts.

~~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~~

The bill would require, to the extent moneys are available, 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~~ *The bill would require, to the extent moneys are available, 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~~ *completing an eligible project with* 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.

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

1 all commercial energy consumption. This represents a significant
2 cost to public schools and to California taxpayers.

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

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

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

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

16 (k) *In addition to energy efficiency retrofits and clean energy*
17 *installations, it is the intent of the Legislature that funds be*
18 *available for allocation to local educational agencies to develop*
19 *expertise in energy management capability. Energy managers can*
20 *provide schools, particularly the smallest and neediest, with*
21 *resources and best practices to implement energy efficiency and*
22 *clean energy installations across California's more than 1000*
23 *school districts with schools having kindergarten or grades 1 to*
24 *12, inclusive, as well as oversight to ensure proper reporting and*
25 *data analysis for eligible projects.*

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

28

29 DIVISION 16.4. PROPOSITION 39 IMPLEMENTATION:
30 UPGRADING OUR SCHOOLS AND CREATING CLEAN
31 ENERGY JOBS

32

33 26225. For purposes of this division, the following terms have
34 the following meanings:

35 (a) "Chancellor" means the Chancellor of the California
36 Community Colleges.

37 (b) "Commission" means the State Energy Resources
38 Conservation and Development Commission.

39 (c) "Department" means the State Department of Education.

40 (e)

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

4 ~~(d)~~

5 (e) “Eligible project” means a project that meets the
 6 requirements of Division 16.3 (commencing with Section 26200)
 7 and that creates jobs in California by improving energy efficiency,
 8 installing clean energy technology, or making energy system
 9 improvements consistent with that division.

10 ~~(e)~~

11 (f) “Job Creation Fund” means the Clean Energy Job Creation
 12 Fund established in Section 26205.

13 ~~(f)~~

14 (g) “Public buildings” ~~include~~ *includes* structures, buildings,
 15 facilities, or works that a public agency is authorized to construct
 16 or use, and automobile parking lots, landscaping, and other
 17 facilities, including furnishings and equipment, incidental to the
 18 use of any structures, buildings, facilities, or works, and also
 19 includes the sites, any easements, and rights-of-way appurtenant
 20 thereto, or necessary for their full use.

21 26230. (a) ~~(1) The commission~~ *For each fiscal year that*
 22 *revenues are transferred to the Job Creation Fund pursuant to*
 23 *Section 26205, 75 percent of those revenues shall, upon*
 24 *appropriation by the Legislature, be provided to eligible*
 25 *institutions for grants for eligible projects.*

26 (1) *The department shall administer* ~~grants, loans, or other~~
 27 ~~financial assistance to eligible institutions~~ *89 percent of the funds*
 28 *transferred pursuant to this subdivision for local educational*
 29 *agencies for the purpose of eligible projects that create jobs in*
 30 *California by reducing energy demand and consumption at eligible*
 31 *institutions in accordance with this section.*

32 (2) *The chancellor shall administer 11 percent of the funds*
 33 *transferred pursuant to this subdivision for the California*
 34 *Community Colleges.*

35 ~~(2)~~

36 (3) *The department, in consultation with the commission and*
 37 *the Public Utilities Commission, shall establish criteria applicable*
 38 *to all contracts awarded using grant funding pursuant to paragraph*
 39 *(1), including, but not limited to, all of the following:*

1 (A) Standard methods for estimating energy benefits, including
2 reasonable assumptions for current and future costs of energy, *and*
3 *guidelines to compute the cost of energy saved as a result of*
4 *implementing eligible projects funded by this division.*

5 (B) Contractor qualifications, licensing, and certifications
6 appropriate for the work to be performed, provided that the
7 commission shall not create any new qualification, license, or
8 certification pursuant to this subparagraph.

9 (C) Limits for grants or loans for each type of eligible
10 improvement.

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

14 (4) *The department, in consultation with the commission and*
15 *the Public Utilities Commission, shall propose guidelines for*
16 *eligible projects in each climate zone for the purpose of paragraph*
17 *(1).*

18 ~~(e)~~

19 ~~(b) The ~~commission~~ department and the chancellor shall develop~~
20 ~~a formula formulas to ensure that each region of the state receives~~
21 ~~a share of the statewide allocation pursuant to this section that is~~
22 ~~reasonably equivalent to its proportion of the statewide average~~
23 ~~daily attendance, with 11 percent of grant funds to be awarded to~~
24 ~~community college districts. Within that share, the commission~~
25 ~~shall, in consultation with the State Department of Education and~~
26 ~~the chancellor, attendance. Within that share, the department and~~
27 ~~the chancellor, in consultation with the commission, shall approve~~
28 ~~eligible projects based on at least the factors in subdivision ~~(d)~~ (c).~~

29 ~~(d)~~

30 (c) Eligible institutions shall propose eligible projects to the
31 ~~commission, department or the Office of the Chancellor of the~~
32 ~~California Community Colleges, as applicable. The department~~
33 ~~or the Office of the Chancellor of the California Community~~
34 ~~Colleges, in consultation with the commission, shall evaluate the~~
35 ~~proposals taking into consideration at least the following factors:~~

36 (1) The age of the school facilities, *as well as any plans to close*
37 *or demolish the facility.*

38 (2) The proportion of students receiving free and reduced-price
39 meals.

40 (3) Whether the facilities have been recently modernized.

- 1 (4) ~~Whether~~ *The facilities' hours of operation, including whether*
- 2 *the facilities are operated as a year-round school.*
- 3 (5) *The project's potential for energy demand reduction.*
- 4 (6) *The school's score from an energy rating system such as the*
- 5 *United States Environmental Protection Agency's Energy Star*
- 6 *system.*
- 7 (7) *The project's ability to facilitate matriculation into certified*
- 8 *apprenticeship programs.*
- 9 (8) *The expected number of trainees and direct full-time*
- 10 *employees.*
- 11 ~~(e) (1) Any eligible institution may submit an application to~~
- 12 ~~the commission. The commission shall award moneys pursuant to~~
- 13 ~~this section only to eligible institutions.~~
- 14 ~~(2) Any eligible institution applying to the commission for a~~
- 15 ~~grant, loan, or financial assistance to install solely clean energy~~
- 16 ~~technology shall demonstrate to the commission that the institution~~
- 17 ~~has implemented all cost-effective energy efficiency and demand~~
- 18 ~~response improvements.~~
- 19 ~~(3) Each year, in accordance with a schedule established by the~~
- 20 ~~commission, an eligible institution that receives a grant, loan, or~~
- 21 ~~other financial assistance pursuant to this section shall report the~~
- 22 ~~amount of energy saved to the commission and compute the cost~~
- 23 ~~of energy saved as a result of implementing energy efficiency~~
- 24 ~~retrofit and clean energy installation projects funded by this section.~~
- 25 ~~The cost shall be calculated in a manner established by the~~
- 26 ~~commission.~~
- 27 ~~(f)~~
- 28 ~~(d) The department, in consultation with the commission shall~~
- 29 ~~and the Public Utilities Commission, shall do both of the following:~~
- 30 ~~(1) Propose guidelines for schools to ensure that adequate~~
- 31 ~~energy audit, measurement, and verification procedures are~~
- 32 ~~employed to ensure that energy savings and greenhouse gas~~
- 33 ~~emissions reductions occur as a result of any grants, loans, or other~~
- 34 ~~financial assistance provided pursuant to this section.~~
- 35 ~~(2) Develop a simple application form, that includes project~~
- 36 ~~description, estimated energy savings, expected number of jobs~~
- 37 ~~created, current energy usage, and costs.~~
- 38 ~~(g)~~
- 39 ~~(e) (1) This section shall not affect the eligibility of any eligible~~
- 40 ~~entity awarded a grant pursuant to this section to receive other~~

1 incentives available from federal, state, and local government, or
2 from public utilities or other sources, or to leverage the grant from
3 this section with any other incentive.

4 (2) (A) Any incentives available from federal, state, local
5 government, public utilities, or other sources used by the entity
6 that is awarded a grant, loan, or financial assistance ~~shall~~ *may* be
7 used to reduce the amount of the grant awarded to that entity.

8 (B) The sum of all incentives, grants, loans, or financial
9 assistance received by the entity, including grant, loan, or financial
10 assistance awarded pursuant to this chapter shall not exceed the
11 total cost of the eligible project.

12 ~~(h)~~

13 (f) It is the intent of the Legislature that monetary savings at
14 eligible institutions from retrofit and installation projects pursuant
15 to this section be used to benefit students and learning at those
16 institutions.

17 ~~26233. The commission shall maintain a public database of
18 the eligible entities that receive grants, loans, or other financial
19 assistance under this division. The database shall include relevant
20 metrics, to be determined by the commission, for electric, gas, and
21 cost savings of the projects.~~

22 ~~26235.~~

23 ~~26233. (a) (1) For each fiscal year prior to the 2016–17 fiscal
24 year that revenue is deposited into transferred to the Job Creation
25 Fund, 25 percent of that revenue shall be allocated to eligible
26 institutions for low-interest or no-interest revolving loans or for
27 loan loss reserves for eligible projects and technical assistance for
28 facilities at public elementary or secondary schools or community
29 colleges transferred to the State Energy Conservation Assistance
30 Account for low-interest and no-interest revolving loans and loan
31 loss reserves for eligible projects and technical assistance.~~

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

1 (2) For the 2013–14 fiscal year, funds in the State Energy
 2 Conservation Assistance Account transferred pursuant to this
 3 section shall be available for schools having kindergarten or
 4 grades 1 to 12, inclusive, or community colleges. If a school having
 5 kindergarten or grades 1 to 12, inclusive, has an eligible project,
 6 and the sum of a grant awarded pursuant to Section 26230 and
 7 any state, federal, or local incentives is less than the cost of the
 8 eligible project, then that school shall be eligible to receive a loan
 9 from the State Energy Conservation Assistance Account pursuant
 10 to Chapter 5.2 (commencing Section 25410) of Division 15 to make
 11 up the difference.

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

15 26234. *The commission shall maintain a public database of*
 16 *the eligible entities that receive grants, loans, or other financial*
 17 *assistance under this division. The database shall include relevant*
 18 *metrics, to be determined by the commission, for electric, gas, and*
 19 *cost savings of the projects.*

20 26240. ~~Moneys~~ *To the extent moneys are available, moneys*
 21 *for job training and workforce development shall be available from*
 22 *the Job Creation Fund, upon appropriation by the Legislature to*
 23 *the California Workforce Investment Board, for allocation to the*
 24 *California Conservation Corps, Certified Community Conservation*
 25 *Corps, Youth Build, preapprenticeship partnerships with*
 26 *state-certified apprenticeship programs, local educational agencies,*
 27 *community benefit organizations, and other existing workforce*
 28 *development programs to train and employ disadvantaged youth,*
 29 *veterans, and others on energy efficiency and clean energy projects,*
 30 *consistent with the requirements of Division 16.3 (commencing*
 31 *with Section 26200).*

32 26245. ~~Moneys~~ *To the extent moneys are available, moneys*
 33 *for public-private partnerships shall be available from the Job*
 34 *Creation Fund, upon appropriation by the Legislature, for assistance*
 35 *in establishing and implementing Property Assisted Clean Energy*
 36 *(PACE) programs or similar financial and technical assistance for*
 37 *cost-effective retrofits and installations that include repayment*
 38 *requirements, consistent with the requirements of Division 16.3*
 39 *(commencing with Section 26200).*

1 26250. (a) No sooner than one year, but no later than 15
2 months after a person or entity ~~receives~~ *completes an eligible*
3 *project with a grant, loan, or other assistance from the Job Creation*
4 *Fund, the person or entity shall submit a report to the Citizens*
5 *Oversight Board created pursuant to Chapter 3 (commencing with*
6 *Section 26210) of Division 16.3 containing the following*
7 *information, to the extent applicable:*

8 (1) The number of direct full-time jobs created and the number
9 of job years for each job created.

10 (2) The amount of energy saved, *including the cost of energy*
11 *saved as determined by a methodology established by the*
12 *commission.*

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.