

**ASSEMBLY BILL**

**No. 39**

---

---

**Introduced by Assembly Members Skinner and John A. Pérez**

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 introduced, 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 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 to be funded from moneys in the Job Creation Fund relative to public schools, school districts, public 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  
17 private-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.

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

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

36 (i) It is the intent of the Legislature to establish guidelines for  
37 clean energy expenditures from the Clean Energy Job Creation  
38 Fund.

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

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

7

8 DIVISION 16.4. PROPOSITION 39 IMPLEMENTATION:  
9 UPGRADING OUR SCHOOLS AND CREATING CLEAN  
10 ENERGY JOBS

11

12 26225. For purposes of this division, the following terms have  
13 the following meanings:

14 (a) “Commission” means the State Energy Resources  
15 Conservation and Development Commission.

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

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

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

22 26230. (a) The commission shall administer grants, no-interest  
23 loans, or other financial assistance to eligible institutions for the  
24 purpose of projects that create jobs in California by reducing energy  
25 demand and consumption at eligible institutions in accordance  
26 with this section.

27 (b) Notwithstanding Section 13340 of the Government Code,  
28 for the purposes of this section, \_\_\_\_\_ dollars (\$\_\_\_\_\_) is  
29 continuously appropriated for fiscal years 2013–14 through  
30 2017–18, inclusive, from the Job Creation Fund to the commission  
31 in each year that money in at least that amount is transferred to  
32 the Job Creation Fund pursuant to Section 26205.

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

35 (1) Administer the grants, no-interest loans, or other financial  
36 assistance to ensure that projects satisfy the criteria in Section  
37 26206.

38 (2) Utilize existing resources, programs, and expertise to the  
39 extent possible.

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

- 6 (A) The age of the school facilities.
- 7 (B) The proportion of students receiving free and reduced-price  
8 meals.
- 9 (C) Whether the facilities have been recently modernized.
- 10 (D) Whether the facilities are operated as a year-round school.
- 11 (E) The potential for demand reduction.
- 12 (F) The school's score from an energy rating system such as  
13 the United States Environmental Protection Agency's Energy Star  
14 system.

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

19 (2) Each year, in accordance with a schedule established by the  
20 commission, an eligible institution that receives a grant, no-interest  
21 loan, or other financial assistance pursuant to this section shall  
22 report the amount of energy saved to the commission and compute  
23 the cost of energy saved as a result of implementing energy  
24 efficiency retrofit and clean energy installation projects funded by  
25 this section. The cost shall be calculated in a manner established  
26 by the commission.

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

32 (f) The commission shall use a net present value analysis or life  
33 cycle cost analysis when determining eligible measures for energy  
34 savings.

35 (g) This section shall not affect the eligibility of any eligible  
36 entity awarded a grant, no-interest loan, or other financial assistance  
37 pursuant to this section to receive other incentives available from  
38 federal, state, and local government, or from public utilities or  
39 other sources, or to leverage the grant from this section with any  
40 other incentive.

1 (h) It is the intent of the Legislature that monetary savings at  
2 eligible institutions from retrofit and installation projects pursuant  
3 to this section be used to benefit students and learning at those  
4 institutions.

5 26235. (a) Moneys for eligible colleges and universities, and  
6 other public buildings and facilities shall be available from the Job  
7 Creation Fund, upon appropriation by the Legislature, for projects  
8 that meet the requirements of Division 16.3 (commencing with  
9 Section 26200). Eligible projects are projects that create jobs in  
10 California by improving energy efficiency, installing clean energy  
11 technologies, or making other energy system improvements.

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

14 (1) The potential for job creation within California.

15 (2) The potential for energy demand reduction.

16 (3) The extent to which the project is coordinated with the  
17 commission or the Public Utilities Commission, or both, to achieve  
18 the maximum amount of job creation within California and energy  
19 benefits from available funds.

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

28 26245. Moneys for public-private partnerships shall be  
29 available from the Job Creation Fund, upon appropriation by the  
30 Legislature, for assistance in establishing and implementing  
31 Property Assisted Clean Energy (PACE) programs or similar  
32 financial and technical assistance for cost-effective retrofits and  
33 installations that include repayment requirements, consistent with  
34 the requirements of Division 16.3 (commencing with Section  
35 26200).

36 26250. (a) No later than one year after a person or entity  
37 receives a grant, loan, or other assistance from the Job Creation  
38 Fund, the person or entity shall submit a report to the Citizens  
39 Oversight Board created pursuant to Chapter 3 (commencing with

1 Section 26210) of Division 16.3 containing the following  
2 information, to the extent applicable:

- 3 (1) The number of jobs created.
- 4 (2) The amount of energy saved.
- 5 (3) The amount of new clean energy generation installed.
- 6 (4) The number of trainees.
- 7 (5) The portion of financial assistance provided that was used  
8 for administrative costs.

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

11 (b) The Citizens Oversight Board shall report the information  
12 it receives pursuant to subdivision (a) to the Legislature as part of  
13 its responsibilities pursuant to subdivision (d) of Section 26210.  
14 The board's report shall be submitted annually. The report shall  
15 also be posted on a publically accessible Internet Web site.

16 26255. Funding for clean energy, energy efficiency, or job  
17 creation programs from sources other than the Job Creation Fund  
18 shall not be reduced or eliminated as a result of the availability of  
19 moneys from the fund.