

BOARD OF EDUCATION  
OF THE  
OAKLAND UNIFIED SCHOOL DISTRICT

Resolution No. 1213-0087

**Endorsing Use of Proposition 39 Funds to Create Energy Management Capacity Within K-12 Public School Systems**

**WHEREAS**, California voters on November 6, 2012 passed Proposition 39, the California Clean Energy Jobs Act, which is expected to generate \$550 million over five years (fiscal year 2013-2014 through fiscal year 2017-2018) for the purpose of funding projects that create jobs in California improving energy efficiency and expanding clean energy generation, including in schools and public facilities, and

**WHEREAS**, K-12 public schools have lost \$20 billion in the last four years, which funding will be held flat as a result of the passage of Proposition 30 on November 6, 2012, and

**WHEREAS**, the current model of using contractors to the utilities to try to engage individual school districts – which usually do not have the staff, expertise, time, or funding to fully understand energy management – cannot adequately drive participation by school districts, and

**WHEREAS**, California's taxpayers often pay more for and see decreased results when schools do not address energy use policies and behavior, procurement, and adequate maintenance of new mechanical/technical systems, and

**WHEREAS**, a recent report by the U.C. Berkeley Center for Cities and Schools, *California's K-12 Educational Infrastructure Investments: Leveraging the State's Role for Quality School Facilities in Sustainable Communities*, prepared at the request of State Superintendent of Public Instruction Tom Torlakson, finds that California's K-12 schools have facilities needs that total \$117 billion, and

**WHEREAS**, County Offices of Education play a central role in regionally organizing California's K-12 schools; have fiscal oversight of and approve local school district budgets; coordinate certain curricular initiatives; work with children who fall into the juvenile justice system; and also often manage Regional Occupation Programs for adult and high school Career and Technical Education, and

**WHEREAS**, County Offices of Education and local school districts have existing, strong working relationships, and County Offices of Education have their own facilities managers and can or do already provide central services in the facilities area to local districts, and

**WHEREAS**, funding is the most common reason that County Offices of Education do not offer energy management of facilities or aggregated purchasing of efficiency technologies and mechanicals at this time, and

**WHEREAS**, funding from Proposition 39 could finance these positions, drawing on the experiences of the Alameda and San Diego County Offices of Education.

**NOW, THEREFORE, BE IT RESOLVED** that the Oakland Unified School District Board of Education urges the California Legislature to appropriate a start-up investment of \$5.00 per ADA/student enrolled, thereby investing \$31.5 million of Proposition 39 Funds annually for five years (\$5 x 6.3 million K-12 students per the California Department of Education). This will cover the initial costs to invest in Schools Energy Resource Management, professionally supplied and aggregated via County Offices of Education, to uniquely ensure:

- 1) That **every district** can adopt operating policies **and** have the internal resources necessary to launch projects at their schools, something many do not have today, and
  - 2) A data-driven, expert program that enables an aggregation of energy and water use benchmarks, on-the ground audits, and Facilities Condition Indexing reports,
- Thereby launching projects quickly and tracking them in their entirety, including technical, mechanical, new building, and/or retrofits that save energy and water and reduce emissions.

This will further:

- Focus on an area not covered by any other taxpayer-funded program: Operational Efficiency. Operational Efficiency goes beyond one-time fixes to institute sustainable policies and practices, realize economies of scale, and use data for continuous improvement.
- Create local jobs doing work locally.
- Provide a truly equitable investment, regardless of a district or county's rising or shrinking enrollment, community wealth or diversity.
- Use just 6% of the total Prop 39 annual allocations for Energy Efficiency at schools.

Passed by the following vote:


AYES: Jody London, Gary Yee, Roseann Torres, Christopher Dobbins, James Harris,  
Vice President Jumoke Hinton Hodge and President David Kakishiba

NOES: None

ABSTAINED: None

ABSENT: None

I certify that the foregoing is a true and correct copy of a resolution adopted by the Board of Education of the Oakland Unified School District at a Regular Meeting held January 9, 2013 at Oakland, CA.

  
Edgar Rakestraw  
Secretary, Board of Education  
Oakland Unified School District

File ID Number: 13-0066  
Introduction Date: 1/9/13  
Enactment Number: 13-0026  
Enactment Date: 1/9/13  
By: e

## THE CALIFORNIA CLEAN ENERGY JOBS ACT

**SECTION 1.** The people of the State of California do hereby find and declare all of the following:

(1) California is suffering from a devastating recession that has thrown more than a million Californians out of work.

(2) Current tax law both discourages multistate companies from locating jobs in California, and puts job-creating California companies at a competitive disadvantage.

(3) To address this problem, most other states have changed their laws to tax multistate companies on the percent of sales in that state, a tax approach referred to as the "single sales factor."

(4) If California were to adopt the single sales factor approach, the independent Legislative Analyst's Office estimates that state revenues would increase by as much as \$1.1 billion per year and create a net gain of 40,000 California jobs.

(5) In addition, by dedicating a portion of increased revenue to job creation in the energy efficiency and clean energy sectors, California can create tens of thousands of additional jobs right away, reducing unemployment, improving our economy, and saving taxpayers money on energy.

(6) Additional revenue would be available to public schools consistent with current California law.

**SEC. 2.** Division 16.3 (commencing with Section 26200) is added to the Public Resources Code, to read:

### DIVISION 16.3. CLEAN ENERGY JOB CREATION

#### Chapter 1. General Provisions

26200. This division shall be known and may be cited as the California Clean Energy Jobs Act.

26201. This division has the following objectives:

(a) Create good-paying energy efficiency and clean energy jobs in California.

(b) Put Californians to work repairing and updating schools and public buildings to improve their energy efficiency and make other clean energy improvements that create jobs and save energy and money.

(c) Promote the creation of new private sector jobs improving the energy efficiency of commercial and residential buildings.

(d) Achieve the maximum amount of job creation and energy benefits with available funds.

(e) Supplement, complement, and leverage existing energy efficiency and clean energy programs to create increased economic and energy benefits for California in coordination with the California Energy Commission and the California Public Utilities Commission.

(f) Provide a full public accounting of all money spent and jobs and benefits achieved so the programs and projects funded pursuant to this division can be reviewed and evaluated.

## Chapter 2. Clean Energy Job Creation Fund

26205. The Clean Energy Job Creation Fund is hereby created in the State Treasury. Except as provided in Section 26208, the sum of five hundred fifty million dollars (\$550,000,000) shall be transferred from the General Fund to the Job Creation Fund in fiscal years 2013-14, 2014-15, 2015-16, 2016-17, and 2017-18. Moneys in the fund shall be available for appropriation for the purpose of funding projects that create jobs in California improving energy efficiency and expanding clean energy generation, including all of the following:

(a) Schools and public facilities:

(1) Public schools: Energy efficiency retrofits and clean energy installations, along with related improvements and repairs that contribute to reduced operating costs and improved health and safety conditions, on public schools.

(2) Universities and colleges: Energy efficiency retrofits, clean energy installations, and other energy system improvements to reduce costs and achieve energy and environmental benefits.

(3) Other public buildings and facilities: Financial and technical assistance including revolving loan funds, reduced interest loans, or other financial assistance for cost-effective energy efficiency retrofits and clean energy installations on public facilities.

(b) Job training and workforce development: Funding to the California Conservation Corps, Certified Community Conservation Corps, YouthBuild, and other existing workforce development programs to train and employ disadvantaged youth, veterans, and others on energy efficiency and clean energy projects.

(c) Public-private partnerships: Assistance to local governments in establishing and implementing Property Assessed Clean Energy (PACE) programs or similar financial and technical assistance for cost-effective retrofits that include repayment requirements. Funding shall be prioritized to maximize job creation, energy savings, and geographical and economic equity. Where feasible, repayment revenues shall be used to create revolving loan funds or similar ongoing financial assistance programs to continue job creation benefits.

26206. The following criteria apply to all expenditures from the Job Creation Fund:

(a) Project selection and oversight shall be managed by existing state and local government agencies with expertise in managing energy projects and programs.

(b) All projects shall be selected based on in-state job creation and energy benefits for each project type.

(c) All projects shall be cost effective: total benefits shall be greater than project costs over time. Project selection may include consideration of non-energy benefits, such as health and safety, in addition to energy benefits.

(d) All projects shall require contracts that identify the project specifications, costs, and projected energy savings.

(e) All projects shall be subject to audit.

(f) Program overhead costs shall not exceed 4 percent of total funding.

(g) Funds shall be appropriated only to agencies with established expertise in managing energy projects and programs.

(h) All programs shall be coordinated with the California Energy Commission and the California Public Utilities Commission to avoid duplication and maximize leverage of existing energy efficiency and clean energy efforts.

(i) Eligible expenditures include costs associated with technical assistance, and with reducing project costs and delays, such as development and implementation of processes that reduce the costs of design, permitting or financing, or other barriers to project completion and job creation.

26208. If the Department of Finance and the Legislative Analyst jointly determine that the estimated annual increase in revenues as a result of the amendment, addition, or repeal of Sections 25128, 25128.5, 25128.7, and 25136 of the Revenue and Taxation Code is less than one billion one hundred million dollars (\$1,100,000,000), the amount transferred to the Job Creation Fund shall be decreased to an amount equal to one-half of the estimated annual increase in revenues.

#### Chapter 3. Accountability, Independent Audits , Public Disclosure

26210. (a) The Citizens Oversight Board is hereby created.

(b) The board shall be composed of nine members: three members shall be appointed by the Treasurer, three members by the Controller, and three members by the Attorney General. Each appointing office shall appoint one member who meets each of the following criteria:

(1) An engineer, architect, or other professional with knowledge and expertise in building construction or design.

(2) An accountant, economist, or other professional with knowledge and expertise in evaluating financial transactions and program cost-effectiveness.

(3) A technical expert in energy efficiency, clean energy, or energy systems and programs.

(c) The California Public Utilities Commission and the California Energy Commission shall each designate an ex officio member to serve on the board.

(d) The board shall do all of the following:

(1) Annually review all expenditures from the Job Creation Fund.

(2) Commission and review an annual independent audit of the Job Creation Fund and of a selection of projects completed to assess the effectiveness of the expenditures in meeting the objectives of this division.

(3) Publish a complete accounting of all expenditures each year, posting the information on a publicly accessible Internet Web site.

(4) Submit an evaluation of the program to the Legislature identifying any changes needed to meet the objectives of this division.

#### Chapter 4. Definitions

26220. The following definitions apply to this division:

(a) "Clean energy" means a device or technology that meets the definition of "renewable energy" in Section 26003, or that contributes to improved energy management or efficiency.

(b) "Board" means the Citizens Oversight Board established in Section 26210.

(c) "Job Creation Fund" means the Clean Energy Job Creation Fund established in Section 26205.

(d) "Program overhead costs" include staffing for state agency development and management of funding programs pursuant to this division, but excluding technical assistance, evaluation, measurement, and validation, or costs related to increasing project efficiency or performance, and costs related to local implementation.

**SEC. 3.** Section 23101 of the Revenue and Taxation Code is amended to read:

23101. (a) "Doing business" means actively engaging in any transaction for the purpose of financial or pecuniary gain or profit.

(b) For taxable years beginning on or after January 1, 2011, a taxpayer is doing business in this state for a taxable year if any of the following conditions has been satisfied:

(1) The taxpayer is organized or commercially domiciled in this state.

(2) Sales, as defined in subdivision (e) or (f) of Section 25120 as applicable for the taxable year, of the taxpayer in this state exceed the lesser of five hundred thousand dollars (\$500,000) or 25 percent of the taxpayer's total sales. For purposes of this paragraph, sales of the taxpayer include sales by an agent or independent contractor of the taxpayer. For purposes of this paragraph, sales in this state shall be determined using the rules for assigning sales under Sections 25135 and 25136, and the regulations thereunder, as modified by regulations under Section 25137.

(3) The real property and tangible personal property of the taxpayer in this state exceed the lesser of fifty thousand dollars (\$50,000) or 25 percent of the taxpayer's total real property and tangible personal property. The value of real and tangible personal property and the determination of whether property is in this state shall be determined using the rules contained in Sections 25129 to 25131, inclusive, and the regulations thereunder, as modified by regulation under Section 25137.

(4) The amount paid in this state by the taxpayer for compensation, as defined in subdivision (c) of Section 25120, exceeds the lesser of fifty thousand dollars (\$50,000) or 25 percent of the total compensation paid by the taxpayer. Compensation in this state shall be determined using the rules for assigning payroll contained in Section 25133 and the regulations thereunder, as modified by regulations under Section 25137.

(c) (1) The Franchise Tax Board shall annually revise the amounts in paragraphs (2), (3), and (4) of subdivision (b) in accordance with subdivision (h) of Section 17041.

(2) For purposes of the adjustment required by paragraph (1), subdivision (h) of Section 17041 shall be applied by substituting "2012" in lieu of "1988."

(d) The sales, property, and payroll of the taxpayer include the taxpayer's pro rata or distributive share of pass-through entities. For purposes of this subdivision, "pass-through entities" means a partnership or an "S" corporation.

**SEC. 4.** Section 25128 of the Revenue and Taxation Code is amended to read:

25128. (a) Notwithstanding Section 38006, for taxable years beginning before January 1, 2013, all business income shall be apportioned to this state by multiplying the business income by a fraction, the numerator of which is the property factor plus the payroll factor plus twice the sales factor, and the denominator of which is four, except as provided in subdivision (b) or (c).

(b) If an apportioning trade or business derives more than 50 percent of its "gross business receipts" from conducting one or more qualified business activities, all business income of the apportioning trade or business shall be apportioned to this state by multiplying business income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is three.

(c) For purposes of this section, a "qualified business activity" means the following:

(1) An agricultural business activity.

(2) An extractive business activity.

(3) A savings and loan activity.

(4) A banking or financial business activity.

(d) For purposes of this section:

(1) "Gross business receipts" means gross receipts described in subdivision (e) or (f) of Section 25120 (other than gross receipts from sales or other transactions within an apportioning trade or business between members of a group of corporations whose income and apportionment factors are required to be included in a combined report under Section 25101, limited, if applicable, by Section 25110), whether or not the receipts are excluded from the sales factor by operation of Section 25137.

(2) "Agricultural business activity" means activities relating to any stock, dairy, poultry, fruit, fur bearing animal, or truck farm, plantation, ranch, nursery, or range. "Agricultural business activity" also includes activities relating to cultivating the soil or raising or harvesting any agricultural or horticultural commodity, including, but not limited to, the raising, shearing, feeding, caring for, training, or management of animals on a farm as well as the handling, drying, packing, grading, or storing on a farm any agricultural or horticultural commodity in its unmanufactured state, but only if the owner, tenant, or operator of the farm regularly produces more than one-half of the commodity so treated.

(3) "Extractive business activity" means activities relating to the production, refining, or processing of oil, natural gas, or mineral ore.

(4) "Savings and loan activity" means any activities performed by savings and loan associations or savings banks which have been chartered by federal or state law.

(5) "Banking or financial business activity" means activities attributable to dealings in money or moneyed capital in substantial competition with the business of national banks.

(6) "Apportioning trade or business" means a distinct trade or business whose business income is required to be apportioned under Sections 25101 and 25120, limited, if applicable, by Section 25110, using the same denominator for each of the applicable payroll, property, and sales factors.

(7) Paragraph (4) of subdivision (c) shall apply only if the Franchise Tax Board adopts the Proposed Multistate Tax Commission Formula for the Uniform Apportionment of Net Income from Financial Institutions, or its substantial equivalent, and shall become operative upon the same operative date as the adopted formula.

(8) In any case where the income and apportionment factors of two or more savings associations or corporations are required to be included in a combined report under Section 25101, limited, if applicable, by Section 25110, both of the following shall apply:

(A) The application of the more than 50 percent test of subdivision (b) shall be made with respect to the "gross business receipts" of the entire apportioning trade or business of the group.

(B) The entire business income of the group shall be apportioned in accordance with either subdivision (a) or (b), or Section 25128.5 or 25128.7, as applicable.

**SEC. 5.** Section 25128.5 of the Revenue and Taxation Code is amended to read:

25128.5. (a) Notwithstanding Section 38006, for taxable years beginning on or after January 1, 2011, and before January 1, 2013, any apportioning trade or business, other than an apportioning trade or business described in subdivision (b) of Section 25128, may make an irrevocable annual election on an original timely filed return, in the manner and

form prescribed by the Franchise Tax Board to apportion its income in accordance with this section, and not in accordance with Section 25128.

(b) Notwithstanding Section 38006, for taxable years beginning on or after January 1, 2011, and before January 1, 2013, all business income of an apportioning trade or business making an election described in subdivision (a) shall be apportioned to this state by multiplying the business income by the sales factor.

(c) The Franchise Tax Board is authorized to issue regulations necessary or appropriate regarding the making of an election under this section, including regulations that are consistent with rules prescribed for making an election under Section 25113.

(d) This section shall not apply to taxable years beginning on or after January 1, 2013, and as of December 1, 2013, is repealed.

**SEC. 6.** Section 25128.7 is added to the Revenue and Taxation Code, to read:

25128.7. Notwithstanding Section 38006, for taxable years beginning on or after January 1, 2013, all business income of an apportioning trade or business, other than an apportioning trade or business described in subdivision (b) of Section 25128, shall be apportioned to this state by multiplying the business income by the sales factor.

**SEC. 7.** Section 25136 of the Revenue and Taxation Code is amended to read:

25136. (a) For taxable years beginning before January 1, 2011, and for taxable years beginning on or after January 1, 2011, and before January 1, 2013, for which Section 25128.5 is operative and an election under subdivision (a) of Section 25128.5 has not been made, sales, other than sales of tangible personal property, are in this state if:

(1) The income-producing activity is performed in this state; or

(2) The income-producing activity is performed both in and outside this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on costs of performance.

(3) This subdivision shall apply, and subdivision (b) shall not apply, for any taxable year beginning on or after January 1, 2011, and before January 1, 2013, for which Section 25128.5 is not operative for any taxpayer subject to the tax imposed under this part.

(b) For taxable years beginning on or after January 1, 2011, and before January 1, 2013:

(1) Sales from services are in this state to the extent the purchaser of the service received the benefit of the service in this state.

(2) Sales from intangible property are in this state to the extent the property is used in this state. In the case of marketable securities, sales are in this state if the customer is in this state.

(3) Sales from the sale, lease, rental, or licensing of real property are in this state if the real property is located in this state.

(4) Sales from the rental, lease, or licensing of tangible personal property are in this state if the property is located in this state.

(5) (A) If Section 25128.5 is operative, then this subdivision shall apply in lieu of subdivision (a) for any taxable year for which an election has been made under subdivision (a) of Section 25128.5.

(B) If Section 25128.5 is not operative, then this subdivision shall not apply and subdivision (a) shall apply for any taxpayer subject to the tax imposed under this part.

(C) Notwithstanding subparagraphs (A) or (B), this subdivision shall apply for



purposes of paragraph (2) of subdivision (b) of Section 23101.

(c) The Franchise Tax Board may prescribe those regulations as necessary or appropriate to carry out the purposes of subdivision (b).

(d) This section shall not apply to taxable years beginning on or after January 1, 2013, and as of December 1, 2013, is repealed.

**SEC. 8.** Section 25136 is added to the Revenue and Taxation Code, to read:

25136. (a) Notwithstanding Section 38006, for taxable years beginning on or after January 1, 2013, sales, other than sales of tangible personal property, are in this state if:

(1) Sales from services are in this state to the extent the purchaser of the service received the benefit of the services in this state.

(2) Sales from intangible property are in this state to the extent the property is used in this state. In the case of marketable securities, sales are in this state if the customer is in this state.

(3) Sales from the sale, lease, rental, or licensing of real property are in this state if the real property is located in this state.

(4) Sales from the rental, lease, or licensing of tangible personal property are in this state if the property is located in this state.

(b) The Franchise Tax Board may prescribe regulations as necessary or appropriate to carry out the purposes of this section.

**SEC. 9.** Section 25136.1 is added to the Revenue and Taxation Code, to read:

25136.1. (a) For taxable years beginning on or after January 1, 2013, a qualified taxpayer that apportions its business income under Section 25128.7 shall apply the following provisions:

(1) Notwithstanding Section 25137, qualified sales assigned to this state shall be equal to 50 percent of the amount of qualified sales that would be assigned to this state pursuant to Section 25136 but for the application of this section. The remaining 50 percent shall not be assigned to this state.

(2) All other sales shall be assigned pursuant to Section 25136.

(b) For purposes of this section:

(1) "Qualified taxpayer" means a member, as defined in paragraph (10) of subdivision (b) of Section 25106.5 of Title 18 of the California Code of Regulations as in effect on the effective date of the act adding this section, of a combined reporting group that is also a qualified group.

(2) "Qualified group" means a combined reporting group, as defined in paragraph (3) of subdivision (b) of Section 25106.5 of Title 18 of the California Code of Regulations, as in effect on the effective date of the act adding this section, that satisfies the following conditions:

(A) Has satisfied the minimum investment requirement for the taxable year.

(B) For the combined reporting group's taxable year beginning in calendar year 2006, the combined reporting group derived more than 50 percent of its United States network gross business receipts from the operation of one or more cable systems.

(C) For purposes of satisfying the requirements of subparagraph (B), the following rules shall apply:

(i) If a member of the combined reporting group for the taxable year was not a

member of the same combined reporting group for the taxable year beginning in calendar year 2006, the gross business receipts of that nonincluded member shall be included in determining the combined reporting group's gross business receipts for its taxable year beginning in calendar year 2006 as if the nonincluded member were a member of the combined reporting group for the taxable year beginning in calendar year 2006.

(ii) The gross business receipts shall include the gross business receipts of a qualified partnership, but only to the extent of a member's interest in the partnership.

(3) "Cable system" and "network" shall have the same meaning as defined in Section 5830 of the Public Utilities Code, as in effect on the effective date of the act adding this section. "Network services" means video, cable, voice, or data services.

(4) "Gross business receipts" means gross receipts as defined in paragraph (2) of subdivision (f) of Section 25120 (other than gross receipts from sales or other transactions between or among members of a combined reporting group, limited, if applicable, by Section 25110).

(5) "Minimum investment requirement" means qualified expenditures of not less than two hundred fifty million dollars (\$250,000,000) by a combined reporting group during the calendar year that includes the beginning of the taxable year.

(6) "Qualified expenditures" means any combination of expenditures attributable to this state for tangible property, payroll, services, franchise fees, or any intangible property distribution or other rights, paid or incurred by or on behalf of a member of a combined reporting group.

(A) An expenditure for other than tangible property shall be attributable to this state if the member of the combined reporting group received the benefit of the purchase or expenditure in this state.

(B) A purchase of or expenditure for tangible property shall be attributable to this state if the property is placed in service in this state.

(C) Qualified expenditures shall include expenditures by a combined reporting group for property or services purchased, used, or rendered by independent contractors in this state.

(D) Qualified expenditures shall also include expenditures by a qualified partnership, but only to the extent of the member's interest in the partnership.

(7) "Qualified partnership" means a partnership if the partnership's income and apportionment factors are included in the income and apportionment factors of a member of the combined reporting group, but only to the extent of the member's interest in the partnership.

(8) "Qualified sales" means gross business receipts from the provision of any network services, other than gross business receipts from the sale or rental of customer premises equipment. "Qualified sales" shall include qualified sales by a qualified partnership, but only to the extent of a member's interest in the partnership.

(c) The rules in this section with respect to qualified sales by a qualified partnership are intended to be consistent with the rules for partnerships under paragraph (3) of subdivision (f) of Section 25137-1 of Title 18 of the California Code of Regulations.



## **Prop 39 and California K-12 Schools Energy Resource Management<sup>1</sup>**

December 20, 2012

### **Summary**

For schools to integrate energy efficiency and renewables generation into day-to-day operations, we need to focus on Local Education Associations (“LEAs” or school districts) measurably improving their own operations. Currently, energy savings and efficiency projects are delayed in most of California’s 1000+ school districts because of limits in staff time, knowledge, and expertise. California’s taxpayers often pay more for and see decreased results when schools do not address energy use policies and behavior, procurement and adequately maintaining new mechanical/technical systems. From addressing changing plug-loads and time-of-day usage demands to adequately managing state-of-the-art buildings and technologies, assuring schools use energy and water efficiently should no longer be treated as outside LEAs’ expertise.

Tapping Prop 39 funds to cover the “start-up” costs to invest in Schools Energy Resource Management, professionally supplied and aggregated via County Offices of Education, uniquely ensures:

- 1) That **every district** can adopt operating policies **and** have the internal resources necessary to launch projects at their schools. Many don’t have this today.
- 2) A data-driven, expert program that enables an aggregation of energy and water use benchmarks, on-the-ground audits, and Facilities Condition Indexing reports.
- 3) Projects are launched quickly and tracked “cradle to grave,” including technical, mechanical, new building and/or retrofits that save energy and water and reduce emissions.

One-time audits or rebates cannot be as effective as someone working daily with school leaders, such as principals, teachers and parents, and as part of the facilities management operations. A more efficient model would be to establish within all 58 County Offices of Education, affordable energy management and/or sustainability expertise and resources for the school districts in that region.

### **Prop 39 as Seed Funding**

Proposition 39 is expected to generate more than \$500 million/year over five years for energy projects in the public sector, some portion of which must be directed to public schools. Five years allows enough time to launch and proliferate energy management as a cost-effective, aggregated service provided by County Offices of Education. Part of the energy management function should be strong encouragement for all local districts to adopt energy and water conservation and landfill mitigation policies that align with State mandates in these areas, as well as High Performance building policies.<sup>2</sup>

The five year transfer should also allow sufficient time for County Offices and school districts to begin seeing benefits to their bottom line, and realize the value in continuing the programs with general purpose or successor funds in Year Six. This is an unprecedented opportunity to jump-start energy

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<sup>1</sup> Jody London is a member of the Board of Education of the Oakland Unified School District. She has no financial interest in the adoption of this proposal.

<sup>2</sup> California has a matching grant program that provides additional matching grants for school districts that build schools that are certified by the CHPS. Only 45 out of over 1000 districts in California use CHPS as their green building metric. The State recently increased the initial matching grant for CHPS construction as an additional incentive to encourage districts to adopt CHPS.

management within California's public schools. As happens with other government entities that embrace energy management, those school districts that have adopted initial "green" policies over time expand the scope of their sustainability initiatives in an ongoing revolving cycle of success.

### **Funding Energy Resource Management**

To get Schools' Energy Resource Management off the ground, the Legislature should appropriate a start-up investment of **\$5.00 per ADA/student** enrolled.

Investing **\$31.5 million of Prop 39 Funds annually for five years** (\$5 x 6.3 million K-12 students per the California Department of Education):

- Focuses on an area NOT covered by any other taxpayer-funded program: Operational Efficiency. Operational Efficiency goes beyond one-time fixes to institute sustainable policies and practices, realize economies of scale, and use data for continuous improvement.
- Is just 6% of the total Prop 39 annual allocations for Energy Efficiency at schools.
- Creates local jobs doing work locally.
- Provides a truly equitable investment, regardless of a district or county's rising or shrinking enrollment, community wealth or diversity.

### **Expected Results**

#### **Better Return on Investment that Sustainably Funds the Program Itself**

The investment of \$31 million annually to create and manage Energy Resource Management at California Schools can, following initial 24 months "start-up" time, pay for itself. Based on EPA EnergyStar averages, with as little as 2% reduction in energy use by students in California, this program will break even. However, school Operational Efficiency successes typically range between 10% and 40% savings. Thus, to make the program sustainable, it is recommended that a 10% reduction goal within 3 years is set for all California schools with stipulation that:

- 1) Half (50%) of the utility bill, group purchasing and other savings resulting from this program goes directly into the school districts' that cut costs general operating funds
- 2) Half (50%) of the savings then goes into a local "Sustainable Endowment" to fund the Energy Resources Management program after the Prop 39 monies are depleted in 5 years
- 3) Thus
  - a. Districts receive savings as generated and more instant gratification
  - b. A fund is built to sustain Operational Efficiency and build on results beyond 2018

In addition, if additional funding – say another \$2 per student – were tied to counties that cut energy use while concurrently improving attendance and/or student performance, this would further improve the measurable effectiveness of energy efficiency at schools. Both are proven in school case examples to be the result of investing in Green Retrofits and Practices that include better day lighting, improved air quality, better temperature controls and so on.

Thank you for this opportunity and for supporting more effective investment that directly benefits our schools, students and their communities!

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## Appendix: Further Detail and Analysis

### **Energy Efficiency and Schools**

California's more than 1,000 K-12 local school districts are not realizing opportunities to take advantage of energy efficiency and related sustainability programs. Of \$3 billion spent by investor-owned utilities on energy efficiency from 2010-2012, about \$265 million went to local government programs. Programs focused on K-12 schools were significantly less. For 2013-2014, programs targeting K-12 schools will be funded at under \$10 million, out of an overall statewide budget for the investor-owned utilities of just under \$2 billion. The majority of school energy efficiency programs are directed at curriculum. While some of the programs perform energy audits, very few focus on implementing audit recommendations, maintaining change, ongoing data analysis/reporting, and behavioral motivation, which would lead to consistent energy savings and the whole building retrofits that are California's policy under AB 758. With over 1000 school districts in the State, the current model of using contractors to the utilities to try to engage individual districts – which usually do not have the staff, expertise, time, or funding to fully understand energy management – cannot adequately drive participation by school districts.

The challenges confronting California's public education system are well-known and daunting. Over the past four years, the budget for K-12 education has decreased by \$20 billion. Funding per pupil in California is among the lowest in the entire country. A large percentage of a local school district's budget comes from the State; in some cases, particularly large urban districts with higher levels of poverty, it is over 80 percent. As budgets have been slashed and payments from the State deferred, many school districts have responded by eliminating the very facilities staff whose work helped reduce utility bills.

A recent report by the U.C. Berkeley Center for Cities and Schools, prepared at the request of State Superintendent of Public Instruction Tom Torlakson, finds that California's K-12 schools have facilities needs that total \$117 billion.<sup>3</sup> Utility programs that invest less than \$10 million on K-12 energy efficiency programs, most of that on curriculum, are not on track to meet this challenge.

### **Operational Efficiency in High Demand**

Operational Efficiency differs from one-time energy audits, mechanical/technical purchase rebates, high performance building grants, mechanical/technical loans and other programs targeted at schools because the expertise and services focus on what inhibits projects from being launched with sustainable, year over year savings. Operational Efficiency at schools includes:

- 1) Plug Load Reduction
- 2) Optimal facilities and equipment maintenance
- 3) Time of Day use policies/Demand Side Management  
(e.g. energy use reduction by walking facilities prior to holidays to ensure everything is "off,"

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<sup>3</sup> *California's K-12 Educational Infrastructure Investments: Leveraging the State's Role for Quality School Facilities in Sustainable Communities*, Center for Cities and Schools, UC Berkeley, 2012. See <http://citiesandschools.berkeley.edu/reports/CCS2012CAK12facilities.pdf>



adapt HVAC, lighting and EMS schedules to changing school schedules, etc)

- 4) Heat Island Reduction, particularly in urban environments
- 5) Professional Development & Training  
(e.g. schools facilities staff, teachers, principals, etc)
- 6) Financing and Purchase Program Consultation  
(eg. with school boards, principals, business officers, PTAs, etc.)
- 7) Consistent Results Reporting and Data Aggregation  
(e.g. tracking and reporting of actual savings results to school boards and State)
- 8) Cross-agency collaboration
  - o Break down silos & tap governmental programs/finance effectively
  - o Better leverage for all schools non-profit and NGOs
  - o Tap local employer and corporate relationships better county-wide
- 9) Collaborative and/or group purchase (e.g. bulbs, windows, skylights, EMS, etc.)
- 10) Workforce Development  
(tapping Career & Technical Education and Community College students as interns, leveraging campus Service Learning projects, etc)

#### **Advantages of an Energy Management Program Focused Within – Not Outside – Schools**

To date, the vast majority of monies targeted at school energy efficiency have been held or managed by organizations that are not local education associations (“LEAs”). The utilities, cities, or counties control the funds. And although most Climate Action Plans include schools, which studies prove are major contributors to housing choices and traffic plans, LEAs have no financing tied directly to performance objectives in AB32 or other mandates than other local government entities. In addition, schools are ruled by very different funding and building codes. Along with complying with rulings from the California Energy Commission and other agencies, schools must comply with rules promulgated by the State Architect, and obtain approval for all construction from the Division of the State Architect. Local governments and IOUs are usually disconnected from DSA mandates.

Contrast these non-LEAs with the role that County Offices of Education (“COE”) play in California’s K-12 schools. County Offices have fiscal oversight and approve local school district budgets. COEs coordinate certain curricular initiatives, and work with children who fall into the juvenile justice system. They also often manage Regional Occupation Programs for adult and high school Career and Technical Education. COEs and local school districts have existing, strong working relationships. COEs have their own facilities managers and can or do already provide central services in the facilities area to local districts. Funding is the most common reason that COEs do not offer energy management of facilities or aggregated purchasing of efficiency technologies and mechanicals at this time. Funding from Prop 39 could finance these positions, drawing on the experiences of the Alameda, San Diego, and other County Offices of Education.

County Offices of Education can provide a range of energy management services to school districts, including but not limited to: energy benchmarks, energy audits, screening vendors, developing master



agreements with vendors and/or pro forma contracts that districts can adopt, proper maintenance of mechanicals, programming electronic energy information systems, ongoing data analysis and reporting, purchasing pools, managing installation of energy efficient technology, identifying funding opportunities, and promoting efficient behavior. Managing this stream of work is virtually impossible under current K-12 district staffing models and funding. Most cities and counties do not have the personnel capacity, nor do they have the embedded expertise of day-to-day schools management. Thus, it is not realistic to suggest local districts partner with cities and counties.

### **Why Energy Resource Management at County Offices of Education?**

Today's K-12 schools operate differently than a decade ago.

The advent of technology -- from Smart Boards to tablets to students and staff commandeering every available outlet to recharge their personal devices -- is radically changing plug-load in schools. The concept of a "computer lab" is disappearing. And there are no clear numbers as to how many computers in classrooms have power saving features turned on.

Plug load is as much a policy issue determined principal by principal as it is an energy issue. If not stated and enforced policy, the constant influx of personal espresso makers, refrigerators, foot massagers, heaters, Vitamin D sunlamps, smoothie makers, air filtration or humidifiers, electric kettles and other devices added to classrooms create dramatic plug-load creep.

Schools schedules are also in flux. Today's schools serve as 18-hour-a-day community gyms, pools, and parks/playgrounds. They are now early morning, late evening and summer school learning centers. Thus, the traditional "9 month" school calendar and 8:00 to 3:00 operating hours are a thing of the past, particularly as schools seek to augment slashed budgets by renting out facilities off-hours, summers and weekends.

In addition, changing building materials, portables, facilities automation, slashing of facilities staff and reduction of facilities staff training all combine to decrease formal maintenance and energy efficiency at schools. Decreased staffing also means virtually no one "owns" tracking, reporting and problem solving daily to reduce the utility bills.

School finance and business officers admit they do not understand the fees or rates on utility bills. Unless there is a radical difference year over year, they ignore the bills. They simply don't have the time or expertise.

Very few schools can afford professionals to manage energy use. Even in the case of schools that have installed solar, the lack of focused energy expertise is killing generation finance models. One facilities director, for example, said that when they installed solar, their energy use actually increased dramatically. The reason? Students, parents and faculty thought that with solar, their energy was now "free" to use as much as they wanted with no conservation restrictions. Their behavior actually changed for the worse.

And when it comes to measuring Greenhouse Gas Emissions reductions or targets, it is rare for a school district or schools to have a sense of their emissions or even their county's goals for GHG reductions.

What is measured gets valued. What is valued gets done. So if a program is not directly tied to either general funds, such as average daily attendance (ADA) improvement, or improved student performance





scores, energy efficiency will remain ineffective at schools. Developing Operational Efficiency expertise directly integrated into LEAs ensures that efficiency becomes tied to schools' success.

### **Proposed Job Responsibilities**

The Energy Resource Manager position will operate mostly from the field, spending as much as 90% of the time visiting school and district sites versus working from an office. The following skill sets are recommended for COE Energy Resources Manager(s) & Programs:

- 1) Cross Functional Leadership
  - a. Business development and partnership experience
  - b. Ability to engage effectively with wide variety of titles and roles – from Superintendents and Mayors to teachers, principals, custodians, utility managers, engineers, vendors, schools boards, PTAs and other parent foundations, etc.
- 2) Program and “Product” Management skills
  - a. Managing the entire efficiency resource spectrum, from strategic planning to tactical activities
  - b. Specify customer requirements
  - c. Build partnerships and strong relationships with schools staff, students & communities
  - d. Ability to market, manage to timeline, and achieve consistent results
- 3) Data Analytics savvy
  - a. Ability to benchmark and track results
    - i. Example: start with something like EPA’s Portfolio Manager
    - ii. Meld into a dashboard that school management uses daily. Example: <http://greenthenextgen.org/#>
  - b. Daily tracking and ability to predict and/or react appropriately to trends
  - c. Executive reporting
- 4) Excellent verbal and written communication skills
  - a. New programs or financing
  - b. Professional Development Opportunities
  - c. Best Practices aggregation and dissemination (e.g. Quarterly meetings of schools facilities professionals)
- 5) Resource Management skills
  - a. Break down silos of all resources available from utilities, government agencies, non-profits, corporations, foundations, NGOS, etc
  - b. Job Training and Workforce Development coordination (e.g. manage High School Career and Technical Education and Community College student interns)
  - c. Group or Collaborative Purchase Coordination
- 6) Energy Efficiency Expertise

As this position and any staff and programs that go with it are strategic, it is recommended that reporting structure be directly to the County Superintendent of Schools or to the County Office of Education’s Finance/Chief Business Officer. This position needs to be at a peer level with traditional facilities management to be most effective.





## **Ultimate Goals**

### **Better ROI that Sustainably Funds Program Itself**

The investment of \$31 million annually to create and manage Energy Resource Management at California Schools can, following initial 24 months “start-up” time, pay for itself.

With as little as 2% reduction in energy use by each student in California, this program breaks even. However, we recommend the target by year 3 – allowing time for hiring, implementation and local-driven programs to fit each school's needs – should focus on ensuring all schools energy use activities are effective and more in line with State goals under AB32. Case examples prove that schools that drive their own programs can realistically achieve 10% reductions within 3 years of Energy Resource Management program launch. However, to make the program sustainable, it is recommended that:

- 1) Half (50%) of the utility bill, group purchasing and other savings resulting from this program goes directly into the school districts’ achieving the savings general operating funds
- 2) Half (50%) of the savings then goes into a local “Sustainable Endowment” to fund the Energy Resources Manager program after the Prop 39 monies are depleted in 5 years
- 3) Thus
  - c. Districts receive savings and more instant gratification
  - d. A fund is built to sustain and build on results

In addition, if additional funding – say another \$2 per student – were tied to counties that cut energy use while concurrently improving attendance/ADA and/or student performance, this would further improve the measurable effectiveness of energy efficiency at schools. Both are proven in school case examples to be the result of healthier school environments including better day lighting, improved air quality, better temperature controls and so on.

## **Program Oversight**

Any projects would have to be coordinated with the California Public Utilities Commission, California Department of Education, and the California Energy Commission, and ultimately report results to a nine-member oversight board responsible for annual reviews and audits. This is in accordance with Prop 39 stipulations.

No additional or new bureaucracy required.

And it’s a great way to break down silos and truly track the effectiveness of tax-payers investments in energy efficiency and renewables generation at our K-12 schools.

