

State of California's Proposition 39

Clean Energy Job Creation Fund

On November 6, 2012, California voters approved Proposition 39, which creates a clean energy fund that could receive \$2.75 billion. Prop 39 amends California's Public Resources Code and the Revenue and Taxation Code to close a tax loophole for multistate businesses, increasing state revenues by an estimated \$1.1 billion dollars per year. Half of this sum is to be transferred to the Clean Energy Job Creation Fund created by this proposition. After a five-year period, all generated revenues will go to California's General Fund.

Closing the Tax Loophole

Prior to Proposition 39, multistate businesses – those that operate in California as well as in other states or countries – could select one of two tax payment options when calculating their California taxes. Multistate taxpayers could choose between the “single sales factor method,” in which liability was determined by only the percentage of in-state sales, and the “three-factor method,” which based tax liability on the company's sales, property, and payroll.

The recently adopted proposition claims that the three-factor method placed job-creating companies at a disadvantage and discouraged multistate companies from locating jobs in state. Following the example set by many other states, Prop 39 amends the law to tax multistate companies based only on the “single sales factor method” starting on January 1, 2013. Prop 39 estimates that this will increase state revenues by approximately \$1.1 billion per year and create a net gain of 40,000 in-state jobs.

The Clean Energy Job Creation Fund

Prop 39 establishes the Clean Energy Job Creation Fund as a means to fund projects that create jobs, improve energy efficiency and expand clean energy generation. For fiscal years 2013 to 2018, the State has estimated approximately \$550 million in annual revenues would be transferred to the Job Creation Fund each year. If the projected total revenue is less than \$1.1 billion, the Fund would receive half of that amount. Energy efficiency projects that would be eligible to receive funding include retrofits in public schools and universities, assisting local governments in establishing Property Assessed Clean Energy programs, and workforce development and training.

Expenditures from the Job Creation Fund must meet certain criteria such as achieving cost-effectiveness and maintaining overhead costs under 4% of total funding. Additionally, Prop 39 creates a 9-person Citizens Oversight Board to review and evaluate annual expenditures. Decisions on how to allocate the resources generated from Prop 39 must be determined by the State Legislature, which has scheduled hearings in early 2013 to discuss the process. Lawmakers will pass a bill to create new programs in state agencies, such as the California Energy Commission. These agencies will in turn establish grant programs through which school districts and local governments can compete for funding.

What does Prop 39 Aim to Accomplish?

- Use funds to maximize job creation and energy benefits
- Create in-state jobs in repairing and updating schools and public buildings to improve their energy efficiency
- Promote new private sector jobs advance the energy efficiency of commercial and residential buildings
- Coordinate with the California Energy Commission and the California Public Utilities Commission to supplement and leverage existing energy efficiency and clean energy programs to create increased economic and energy benefits
- Effectively review and evaluate all money spent and jobs and benefits achieved

Source: Text of California Proposition 39 (November 2012).