

Assembly Bill No. 1663

Passed the Assembly September 1, 1999

Chief Clerk of the Assembly

Passed the Senate August 30, 1999

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 1999, at _____ o'clock ____M.

Private Secretary of the Governor

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CHAPTER _____

An act to amend Section 15814.15 of the Government Code, and to amend Sections 25008.5, 25410.5, 25410.6, 25411, 25413, 25415, 25416, 25417.5, 25419, 25421, 25441, 25442, 25442.7, 25443.5, 25445, 25449.1, 25449.3, and 25449.4 of, and to repeal Sections 25412.5, 25442.5, 25446, and 25447.2 of, the Public Resources Code, relating to energy conservation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1663, Committee on Utilities and Commerce. Energy conservation assistance: loans and grants: energy and water projects.

(1) Existing law authorizes the State Public Works Board, until January 1, 2000, to issue revenue bonds, notes, and bond anticipation notes to finance the cost of cogeneration equipment, alternative energy equipment, and conservation measures in public buildings in an amount of \$50,000,000 in each of the 10 fiscal years beginning with the 1982–83 fiscal year, but provides that any portion of that authorization not used in any fiscal year may be used in any future fiscal year.

This bill would provide that the total amount of revenue bonds, notes, and bond anticipation notes issued by the board may not exceed a total amount of \$500,000,000, and would extend to January 1, 2005, the termination date of those provisions.

(2) Existing law, the Warren-Alquist State Energy Resources Conservation and Development Act, until January 1, 2000, declares that it is the policy of the state to encourage 3rd-party financing of energy and water projects at state-owned sites and that development of energy and water projects at state-owned sites can be accelerated where reasonable incentives are provided, and sets forth specified incentive benefits between the state and the institutions siting the energy and water projects.



This bill would extend to January 1, 2005, the termination date of those provisions.

(3) Existing law, the Energy Conservation Assistance Act of 1979, which is a part of the Warren-Alquist State Energy Resources Conservation and Development Act, creates the State Energy Conservation Assistance Account in the General Fund to provide grants and loans to eligible institutions, as defined, until January 1, 2001, for specified purposes relating to energy conservation assistance. The act authorizes the State Energy Resources Conservation and Development Commission to make loans to local governments owning, or leasing from entities other than privately owned electrical utilities, street lighting systems for purposes of converting those systems to improve energy efficiency.

This bill would delete those provisions.

(4) The energy conservation act authorizes the commission to contract for specified services to be performed for eligible institutions with respect to energy conservation assistance.

The energy conservation act requires the commission to provide loans to local jurisdictions for the purchase, maintenance, and evaluation of specified energy efficient equipment, small power production systems, and local transportation systems.

This bill would, instead, require the commission to provide loans to local jurisdictions for the purposes of financing energy audits, feasibility studies, financial analyses, energy conservation measures and projects, engineering and design, legal and technical assistance, and for improving the operating efficiency of local transportation systems. The bill would also make various changes with respect to the terms and conditions for the repayment of energy assistance loans and the criteria for funding grants and loans, and would revise certain of the commission's powers with respect to the administration of provisions of the act.

(5) This bill would extend to January 1, 2011, the termination date of the energy conservation act.

The people of the State of California do enact as follows:

SECTION 1. Section 15814.15 of the Government Code is amended to read:

15814.15. (a) The board may issue revenue bonds, notes, including commercial paper notes and other forms of negotiable short-term indebtedness, and bond anticipation notes pursuant to Chapter 5 (commencing with Section 15830) to finance the cost of cogeneration equipment, alternative energy equipment, and conservation measures constituting the public buildings authorized by this chapter. The total amount of revenue bonds, notes, including commercial paper notes and other forms of negotiable short-term indebtedness, and bond anticipation notes authorized to be issued pursuant to this section in each of the 10 fiscal years beginning with the 1982–83 fiscal year is fifty million dollars (\$50,000,000), for a total of five hundred million dollars (\$500,000,000). Any portion of the authorization not used in any fiscal year may be used in any future fiscal year.

(b) This section shall remain in effect only until January 1, 2005, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2005, deletes or extends that date.

SEC. 2. Section 25008.5 of the Public Resources Code is amended to read:

25008.5. (a) The Legislature hereby finds and declares that in order to maximize public benefit from private sector participation in state operations and to maximize the Legislature's ability to devote limited resources of the state to the responsibilities of state government that are less attractive to private sector investment, it is the policy of the state to encourage third-party financing of energy and water projects, including, but not limited to, cogeneration facilities, at state-owned sites.

(b) The Legislature further finds and declares that the development of energy and water projects at state-owned sites can be accelerated where reasonable incentives are provided to the siting institutions. These



incentives are necessary to offset the long-term administrative, operational, and technical complexities of energy and water projects developed under this section. Reasonable incentives for implementing the policy of this section shall include the sharing of benefits derived from energy and water projects between the state and the siting institution. The benefits to the state and siting institutions derived from projects implemented under this section may include, but are not limited to, annual cash revenues, avoided capital costs, reduced energy costs, reduced water costs, site improvements, and additional operations and maintenance resources. The annual cash revenues derived from those projects shall be shared equally between the state and the siting institution, if both of the following conditions are met:

(1) The use of cash and avoided cost benefits by siting institutions is to be limited to improvement of ongoing maintenance, deferred maintenance, cost-effective energy improvements, and other infrastructure improvements. To the extent an institution receives annual cash revenues under this section, the institution shall retain any money it receives, but not to exceed one-half of this amount, in a special deposit fund account, which shall be continuously appropriated to the institution for the purposes of this section. The state's benefit share, and the siting institution's benefit share that exceeds its needs, shall be deposited in the Energy and Resources Fund or, if this fund is not in existence, the General Fund for the purpose of investing in renewable resources programs and energy efficiency improvements at state facilities.

(2) The use of benefits shall be in addition to, and shall not supplant or replace, funding from traditional sources for a siting institution's normal operations and maintenance or capital outlay budgets.

(c) The Legislature further finds and declares that a benefit-sharing incentive is applicable to energy projects reported to, or authorized by, the Legislature pursuant to Section 13304 or 14671.6 of the Government Code. This section shall not apply to energy projects which are



constructed on or at facilities or property of the State Water Resources Development System.

(d) Notwithstanding Section 7550.5 of the Government Code, the Department of General Services shall submit annual reports to the Legislature on the cost benefit aspects in carrying out this section.

(e) This section shall remain in effect only until January 1, 2005, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2005, deletes or extends that date.

SEC. 3. Section 25410.5 of the Public Resources Code is amended to read:

25410.5. The Legislature finds and declares all of the following:

(a) Energy costs are frequently the second largest discretionary expense in a local government's budget.

(b) A variety of energy conservation measures are available to local governments. These measures are highly cost-effective, often providing a payback on the initial investment in three years or less.

(c) Many local governments lack energy management expertise and are often unaware of their high energy costs or the opportunities to reduce those costs.

(d) Local governments that desire to reduce their energy costs through energy conservation and efficiency measures often lack available funding.

(e) Since 1980, the Energy Conservation Assistance Account has provided \$60 million in loans, through a revolving loan account, to 510 schools, hospitals, and local governments.

(f) Local governments and public institutions need assistance in all aspects of energy efficiency improvements, including, but not limited to, project identification, project development and implementation, evaluation of project proposals and options, operations and maintenance training, and troubleshooting of problem projects.

SEC. 4. Section 25410.6 of the Public Resources Code is amended to read:



25410.6. (a) It is the intent of the Legislature that the commission shall administer the State Energy Conservation Assistance Account to provide grants and loans to local governments and public institutions to maximize energy use savings, including, but not limited to, technical assistance, demonstrations, and identification and implementation of cost-effective energy efficiency measures and programs.

(b) It is further the intent of the Legislature that the commission seek the assistance of others in providing energy audits for local governments and public institutions and in publicizing the availability of State Energy Conservation Assistance Account funds to qualified entities.

SEC. 5. Section 25411 of the Public Resources Code is amended to read:

25411. As used in this chapter:

(a) “Allocation” means a loan of funds by the commission pursuant to the procedures specified in this chapter.

(b) “Building” means any occupied structure which includes a heating or cooling system, or both. Additions to an original building shall be considered part of that building rather than a separate building.

(c) “Eligible institution” means a school, hospital, public care institution, or a unit of local government.

(d) “Energy audit” means a determination of the energy consumption characteristics of a building or facility that does all of the following:

(1) Identifies the type, size, and energy use level of the building or facility and the major energy using systems of the building or facility.

(2) Determines appropriate energy conservation maintenance and operating procedures.

(3) Indicates the need, if any, for the acquisition and installation of energy conservation measures.

(e) “Energy conservation maintenance and operating procedure” means a modification or modifications in the maintenance and operations of a building or facility, and any installations therein (based on the use time schedule

of the building or facility), which are designed to reduce energy consumption in the building or facility and which require no significant expenditure of funds.

(f) “Energy conservation measure” means an installation or modification of an installation in a building or facility that is primarily intended to reduce energy consumption or allow the use of a more desirable energy source.

(g) “Energy conservation project” means an undertaking to acquire and to install one or more energy conservation measures in a building or facility, and technical assistance in connection with any the undertaking.

(h) “Facility” means any major energy using system of an eligible institution whether or not housed in a building.

(i) “Hospital” means a public or nonprofit institution which is both of the following:

(1) A general hospital, tuberculosis hospital, or any other type of hospital, other than a hospital furnishing primarily domiciliary care.

(2) Duly authorized to provide hospital services under the laws of this state.

(j) “Hospital building” means a building housing a hospital and related operations, including laboratories, laundries, outpatient departments, nurses’ home and training activities, and central service operations in connection with a hospital, and also includes a building housing education or training activities for health professions personnel operated as an integral part of a hospital.

(k) “Local government building” means a building that is primarily occupied by offices or agencies of a unit of local government or by a public care institution.

(l) “Project” means a purpose for which an allocation may be requested and made under this chapter. Those purposes shall include energy audits, energy conservation and operating procedures, energy conservation measures, energy conservation projects, and technical assistance programs.



(m) “Public care institution” means a public or nonprofit institution that is any of the following:

(1) A long-term care institution.

(2) A rehabilitation institution.

(3) An institution for the provision of public health services, including related publicly owned services such as laboratories, clinics, and administrative offices operated in connection with the institution.

(4) A residential child care center.

(n) “Public or nonprofit institution” means an institution owned and operated by any of the following:

(1) The state, a political subdivision of the state, or an agency or instrumentality of either.

(2) An organization exempt from income tax under Section 501(c)(3) of the Internal Revenue Code of 1954.

(3) In the case of public care institutions, an organization also exempt from income tax under Section 501(c)(4) of the Internal Revenue Code of 1954.

(o) “School” means a public or nonprofit institution, including a local educational agency, which does any of the following:

(1) Provides, and is legally authorized to provide, elementary education or secondary education, or both, on a day or residential basis.

(2) Provides, and is legally authorized to provide, a program of education beyond secondary education, on a day or residential basis and does all of the following:

(A) Admits as students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of that certificate.

(B) Is accredited by a nationally recognized accrediting agency or association.

(C) Provides an education program for which it awards a bachelor’s degree or higher degree or provides not less than a two-year program that is acceptable for full credit toward such a degree at any institution which meets the requirements of subparagraphs (A) and (B) and which provides such a program.



(3) Provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and which meets the requirements of paragraph (2).

(p) “School building” means a building housing classrooms, laboratories, dormitories, athletic facilities, or related facilities operated in connection with a school.

(q) “Technical assistance costs” means costs incurred for the use of existing personnel or the temporary employment of other qualified personnel (or both those types of personnel) necessary for providing technical assistance.

(r) “Technical assistance program” means assistance to schools, hospitals, local government, and public care institutions, and includes, but is not limited to:

(1) Conducting specialized studies identifying and specifying energy savings and related cost savings that are likely to be realized as a result of either of the following:

(A) Modification of maintenance and operating procedures in a building or facility, in addition to those modifications implemented after the preliminary energy audit.

(B) Acquisition and installation of one or more specified energy conservation measures in the building or facility, or as a result of both.

(2) Planning of specific remodeling, renovation, repair, replacement, or insulation projects related to the installation of energy conservation measures in the building or facility.

(3) Developing and evaluating alternative project implementation methods and proposals.

(s) “Unit of local government” means a unit of general purpose government below the state or a special district.

SEC. 6. Section 25412.5 of the Public Resources Code is repealed.

SEC. 7. Section 25413 of the Public Resources Code is amended to read:

25413. Applications may be approved by the commission only in those instances where the eligible

institution has furnished information satisfactory to the commission that the costs of the project, plus interest on state funds loaned, calculated in accordance with Section 25415, will be recovered through savings in the cost of energy to such institution during the repayment period of the allocation.

SEC. 8. Section 25415 of the Public Resources Code is amended to read:

25415. (a) Each eligible institution to which an allocation has been made under this chapter shall repay the principal amount of the allocation, plus interest, in not more than 30 equal semiannual payments, as determined by the commission. The first semiannual payment shall be made on or before December 22 of the fiscal year following the year in which the project is completed. The repayment period shall not exceed the life of the equipment, as determined by the commission, or the lease term of the building in which the energy conservation measures will be installed.

(b) Notwithstanding any other provision of law, the commission shall, unless it determines that the purposes of this chapter would be better served by establishing an alternative interest rate schedule, periodically set interest rates on the loans based on surveys of existing financial markets and at rates not lower than the Pooled Money Investment Account.

(c) The governing body of each eligible institution shall annually budget an amount at least sufficient to make the semiannual payments required in this section. The amount shall not be raised by the levy of additional taxes but shall be obtained by a savings in energy costs or other services.

SEC. 9. Section 25416 of the Public Resources Code is amended to read:

25416. (a) The State Energy Conservation Assistance Account is hereby created in the General Fund. Notwithstanding Section 13340 of the Government Code, the account is continuously appropriated to the commission without regard to fiscal year.

(b) The money in the account shall consist of all money authorized or required to be deposited in the account by the Legislature and all money received by the commission pursuant to Sections 25414 and 25415.

(c) The money in the account shall be disbursed by the Controller for the purposes of this chapter as authorized by the commission.

(d) The commission may contract and provide grants for services to be performed for eligible institutions. Services may include, but are not limited to, feasibility analysis, project design, field assistance, and training. The amount expended for those services shall not exceed 10 percent of the balance in the account, as determined by the commission on July 1 of each year.

(e) The commission may make grants to demonstrate energy efficiency technologies and market transformation projects at appropriate locations throughout the state. The amount expended for grants shall not exceed 5 percent of the balance in the account, as determined by the commission on July 1 of each year.

(f) The commission may charge a fee for the services provided under subdivision (d) and those fees shall be deposited in the account.

SEC. 10. Section 25417.5 of the Public Resources Code is amended to read:

25417.5. (a) In furtherance of the purposes of the commission as set forth in this chapter, the commission may also do all of the following:

(1) Borrow money, for the purpose of obtaining funds to make loans pursuant to this chapter, from the California Economic Development Financing Authority or the California Infrastructure and Economic Development Bank, from the proceeds of revenue bonds issued by either of those agencies.

(2) Pledge, to provide collateral in connection with the borrowing of money pursuant to paragraph (1), loans made pursuant to this chapter or Chapter 5.4 (commencing with Section 25440), or the principal and interest payments on loans made pursuant to this chapter or Chapter 5.4 (commencing with Section 25440).



(3) Sell loans made pursuant to this chapter or Chapter 5.4 (commencing with Section 25440), at prices determined in the sole discretion of the commission, to the California Economic Development Financing Authority or the California Infrastructure and Economic Development Bank to raise funds to enable the commission to make loans to eligible institutions.

(4) Enter into loan agreements or other contracts necessary in connection with the pledge or sale of loans pursuant to paragraph (2) or (3), or the borrowing of money as provided in paragraph (1), containing any provisions that may be required by the California Economic Development Financing Authority or the California Infrastructure and Economic Development Bank as conditions of issuing bonds to fund loans to, or the purchase of loans from, the commission.

(b) In connection with the pledging of loans, or of the principal and interest payment on loans, pursuant to paragraph (2) of subdivision (a), the commission may enter into pledge agreements setting forth the terms and conditions pursuant to which the commission is pledging loans or the principal and interest payment on loans, and may also agree to have the loans held by bond trustees or by independent collateral or escrow agents and to direct that payments received on those loans be paid to those trustee, collateral, or escrow agents.

(c) The commission may employ financial consultants, legal advisers, accountants, and other service providers as may be necessary in its judgment in connection with activities pursuant to this chapter.

(d) Notwithstanding any other provision of law, this chapter provides a complete, separate, additional, and alternative method for the doing of things authorized by this chapter, including the authority of the eligible institutions or local jurisdictions to have borrowed and to borrow in the future pursuant to loans made pursuant to this chapter or Chapter 5.4 (commencing with Section 25440), and is supplemental and additional to powers conferred by other laws.



SEC. 11. Section 25419 of the Public Resources Code is amended to read:

25419. In addition to the powers specifically granted to the commission by the other provisions of this chapter, the commission shall have the following powers:

(a) To establish qualifications and priorities, and evaluation criteria consistent with the objectives of this chapter, for making allocations.

(b) To establish those procedures and policies as may be necessary for the administration of this chapter.

SEC. 12. Section 25421 of the Public Resources Code is amended to read:

25421. (a) Except as provided in subdivision (b), this chapter shall remain in effect only until January 1, 2011, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2011, deletes or extends that date.

(b) All loans outstanding as of January 1, 2011, shall continue to be repaid on a semiannual basis, as specified in Section 25415, until paid in full. All unexpended funds in the State Energy Conservation Assistance Account on January 1, 2011, and thereafter, except to the extent those funds are encumbered pursuant to Section 25417.5, shall revert to the General Fund.

SEC. 13. Section 25441 of the Public Resources Code is amended to read:

25441. The commission shall provide financial assistance to local jurisdictions for the purpose of providing staff training and support services, such as planning, design, permitting, energy conservation, comprehensive energy management, project evaluation, and development of alternative energy resources.

SEC. 14. Section 25442 of the Public Resources Code is amended to read:

25442. The commission shall provide loans to local jurisdictions for the purposes of financing energy audits, feasibility studies, energy conservation measures and projects, engineering and design, legal and financial analyses, and technical assistance as part of the Technical Assistance Program, as defined by subdivision (r) of



Section 25411, and for improving the operating efficiency of existing local transportation systems.

SEC. 15. Section 25442.5 of the Public Resources Code is repealed.

SEC. 16. Section 25442.7 of the Public Resources Code is amended to read:

25442.7. (a) Loans under this article may not exceed one million dollars (\$1,000,000) for any one local jurisdiction, unless the commission determines, by unanimous vote, that the public interest and objectives of this chapter would be better served at a higher loan amount.

(b) Loan repayments shall be made in accordance with a schedule established by the commission. Repayment of loans shall be made in full unless the commission determines, by unanimous vote, that the public interest and objectives of this chapter would be better served by negotiating a reduced loan repayment for a project which failed to meet the technical or financial performance criteria through no fault of the local jurisdiction.

SEC. 17. Section 25443.5 of the Public Resources Code is amended to read:

25443.5. (a) In furtherance of the purposes of the commission as set forth in this chapter, the commission may also do all of the following:

(1) Borrow money, for the purpose of obtaining funds to make loans pursuant to this chapter, from the California Economic Development Financing Authority or the California Infrastructure and Economic Development Bank, from the proceeds of revenue bonds issued by either of those agencies.

(2) Pledge, to provide collateral in connection with the borrowing of money pursuant to paragraph (1), loans made pursuant to this chapter or Chapter 5.2 (commencing with Section 25410), or the principal and interest payments on loans made pursuant to this chapter or Chapter 5.2 (commencing with Section 25410).

(3) Sell loans made pursuant to this chapter or Chapter 5.2 (commencing with Section 25410), at prices



determined in the sole discretion of the commission, to the California Economic Development Financing Authority or the California Infrastructure and Economic Development Bank to raise funds to enable the commission to make loans to eligible institutions.

(4) Enter into loan agreements or other contracts necessary in connection with the pledge or sale of loans pursuant to paragraph (2) or (3), or the borrowing of money as provided in paragraph (1), containing any provisions that may be required by the California Economic Development Financing Authority or the California Infrastructure and Economic Development Bank as conditions of issuing bonds to fund loans to, or the purchase of loans from, the commission.

(b) In connection with the pledging of loans, or of the principal and interest payment on loans, pursuant to paragraph (2) of subdivision (a), the commission may enter into pledge agreements setting forth the terms and conditions pursuant to which the commission is pledging loans or the principal and interest payment on loans, and may also agree to have the loans held by bond trustees or by independent collateral or escrow agents and to direct that payments received on those loans be paid to those trustee, collateral, or escrow agents.

(c) The commission may employ financial consultants, legal advisers, accountants, and other service providers as may be necessary in its judgment in connection with activities pursuant to this chapter.

(d) Notwithstanding any other provision of law, this chapter provides a complete, separate, additional, and alternative method for the doing of things authorized by this chapter, including the authority of the eligible institutions or local jurisdictions to have borrowed and to borrow in the future pursuant to loans made pursuant to this chapter or Chapter 5.2 (commencing with Section 25410), and is supplemental and additional to powers conferred by other laws.

SEC. 18. Section 25445 of the Public Resources Code is amended to read:



25445. The commission shall design a local jurisdiction energy assistance program for the purpose of providing financial assistance under Article 2 (commencing with Section 25441) and providing loans under Article 3 (commencing with Section 25442). A local jurisdiction's energy assistance program shall be funded through the commission's existing local government assistance programs, except that if a project is not eligible for funding under an existing program, the commission may fund the project under this chapter.

SEC. 19. Section 25446 of the Public Resources Code is repealed.

SEC. 20. Section 25447.2 of the Public Resources Code is repealed.

SEC. 21. Section 25449.1 of the Public Resources Code is amended to read:

25449.1. The commission shall expend petroleum violation escrow funds to supplement, and not supplant, other available funds in order to provide loans to school districts to purchase, maintain, and evaluate energy efficient equipment and small power production systems.

SEC. 22. Section 25449.3 of the Public Resources Code is amended to read:

25449.3. (a) The Local Jurisdiction Energy Assistance Account is hereby created in the General Fund. All money appropriated for purposes of this chapter and all money received from local jurisdictions from loan repayments shall be deposited in the account and disbursed by the Controller as authorized by the commission.

(b) The commission may charge a fee for the services provided under this chapter.

(c) The commission may contract for services to be performed by eligible institutions, as defined in subdivision (c) of Section 25411. Those services shall include, but are not limited to, performance of a feasibility analyses and providing project design, field, evaluation, and operation and training assistance. The amount expended for contract services shall not exceed 10 percent of the annual scheduled loan repayment to the



Local Jurisdiction Energy Assistance Account, as determined by the commission not later than July 1 of each fiscal year.

SEC. 23. Section 25449.4 of the Public Resources Code is amended to read:

25449.4. (a) Except as provided in subdivision (b), this chapter shall remain in effect until January 1, 2011, and as of that date is repealed, unless a later enacted statute which is enacted before January 1, 2011, deletes or extends that date.

(b) All loans outstanding as of January 1, 2011, shall continue to be repaid in accordance with a schedule established by the commission pursuant to Section 25442.7, until paid in full. All unexpended funds in the Local Jurisdiction Energy Assistance Account on January 1, 2011, and thereafter, except to the extent that those funds are encumbered pursuant to Section 25443.5, shall be deposited in the Federal Trust Fund and be available for the purposes for which federal oil overcharge funds are available pursuant to court judgment or federal agency order.



Approved _____, 1999

Governor

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