



California Energy Commission

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Robert P. Oglesby, Executive Director  
California Energy Commission  
1516 Ninth Street, MS-29  
Sacramento, CA 95814-5512

**Docket#: 13-CCEJA-1  
Comments on Proposition 39 Draft Guidelines**

Dear Mr. Oglesby:

The undersigned organizations from the K-12 public education community respectfully submit the following comments for consideration by the California Energy Commission (CEC) and the agencies with which it consulted in the development of the *Proposition 39 Draft Guidelines*.

We commend the CEC for promulgating the *Draft Guidelines* under tremendous time constraints as school districts statewide eagerly await their funding allocations in order to reduce energy consumption and/or generate energy to offset energy use of their facilities. We appreciate the opportunity to comment and to provide the perspective of school districts that will be charged with deploying the funds consistent with the ballot initiative. The comments below are intended to provide broad feedback that we believe will help expedite the disbursement of funds in order to meet the broader provisions of the Proposition 39 initiative of improving energy efficiency and creating jobs statewide.

***Proposition 39 Guidelines should provide for the timely disbursement of funds***

The *Draft Guidelines* develop a cumbersome, complex process for submitting the required expenditure plan as a condition of Proposition 39 funding and fail to recognize the other processes school districts are required to go through in order to realize their projects. We are concerned that the proposed process will unnecessarily delay the disbursement of funds to school districts, which in turn will delay project commencement and job creation.

We understand the statutory obligations to substantiate projects that are consistent with the statewide initiative; however, we believe the requirements in the *Draft Guidelines* are unnecessarily onerous as requisites for the release of funds. Furthermore, we believe that backend reporting and project audit requirements will ensure compliance with the intent of Proposition 39 and related laws, sufficiently justifying the deployment of these resources without causing delays.

We encourage the CEC to revise the proposed frontend requirements to provide a simpler project substantiation process that will expedite fund disbursement.

***Proposition 39 Guidelines should be simple and comprehensible by school district staff***

The *Draft Guidelines*, while thorough and comprehensive, are likely to be beyond the expertise of school district staff. Consequently, we believe that school districts - in order to access their reserved funds - will turn to and rely on private consultants. We make two points here. First, that the *Proposition 39 Guidelines* should be drafted *in such a way* that enables school district administrators to meet the requirements for fund disbursement without having to contract with a third party if they determine that to be in the best interest of their districts. Second, without a simpler process for accessing funds, there will be an increase in demand for third party energy consultants, which can result in a dearth of qualified experts that can delay projects and/or increase costs consistent with supply-and-demand market forces.

There certainly may be Proposition 39 projects that warrant the acquisition of industry experts and the *Proposition 39 Guidelines* should accommodate them. However, to avoid potentially diverting funds from projects for which energy expertise is unnecessary, such as projects that have historically and reliably demonstrated effective energy conservation like HVAC and lighting replacements, building envelope and cool roof improvements, and upgrades to Energy Management Systems, the *Proposition 39 Guidelines* should include an expedited process - perhaps even pre-approval - for review and approval for fund disbursement.

We encourage the CEC to revise the *Draft Guidelines* to include a simplified expenditure plan submittal or pre-approval process for energy conservation projects that are known to achieve energy savings, while retaining an appropriate process for more sophisticated and complex energy conservation and/or generation projects.

***Proposition 39 Guidelines should provide the greatest discretion for school districts to meet their unique needs***

We believe that Proposition 39 and implementing statutes provide for local discretion and local decision-making to prioritize energy-related projects while meeting the intent of the initiative. We are concerned that the *Draft Guidelines* are overly prescriptive with regard to benchmarking and project prioritization requirements fail to consider other variables school districts will evaluate to determine which projects are best suited for Proposition 39 funding.

Moreover, the *Draft Guidelines* do not account for two significant initiatives school districts are currently undertaking that will no doubt require greater demands on their facilities, including energy consumption. First, school districts are beginning to restore core and supplemental educational programs, which were appreciably reduced during the Great Recession. Second, school districts have begun to implement an academic initiative to improve student achievement that requires a level of technological support not required in the past. It is important that the state recognizes these shifts in academic programs and the impact they will have on facilities and energy use.

We ask that the *Proposition 39 Guidelines* be revised to state clearly that school districts retain the full discretion to determine how best to allocate Proposition 39 funds to meet their unique needs.

***Proposition 39 Guidelines should provide for the greatest opportunities to leverage all resources to achieve energy efficiency***

We appreciate that the *Draft Guidelines* support school district efforts to leverage other fiscal resources to optimize the opportunities provided by Proposition 39. However, we are concerned that the overly prescriptive provisions related to benchmarking, project prioritization, and expenditure plan submittals will significantly curb these opportunities. The Proposition 39 funding options and the requirements to access Proposition 39 funds should be sufficiently flexible to allow school districts to manage their program needs and optimize other local, state and federal fiscal resources available to them. Additionally, the *Draft Guidelines* should allow for the pooling of Proposition 39 funds, regardless of the size of local educational agency, in order to maximize fiscal efficiencies.

We encourage the CEC to simplify the Proposition 39 application process to allow districts to maximize all project funding sources.

Again, we commend the CEC for promulgating the *Draft Guidelines* under tremendous time constraints and appreciate the opportunity to comment and provide a school district perspective on the proposed regulations.

Sincerely,



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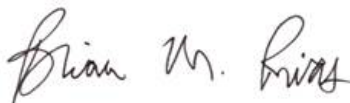
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