Date of Hearing: April 21, 2021

ASSEMBLY COMMITTEE ON UTILITIES AND ENERGY
Chris Holden, Chair
AB 33 (Ting) – As Amended March 16, 2021

**SUBJECT**: Energy Conservation Assistance Act of 1979: energy storage systems and transportation electrification infrastructure

**SUMMARY**: Expands the eligibility of projects under the California Energy Commission's (CEC) Energy Conservation Assistance Account (ECCA) to include installation of energy storage systems and electric vehicle (EV) infrastructure, and makes other technical changes.

**EXISTING LAW**:

1) Establishes ECAA, administered by the CEC, 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 in existing and planned buildings or facilities. (Public Resources Code §§ 25410-25422)

2) Sunsets the ECAA on January 1, 2028, and thereafter reverts the remaining unexpended funds to the General Fund. (Public Resources Code § 25421)

3) Requires each eligible institution to repay the principle amount of the loan, plus interest, in no more than 40 equal semiannual payments, as determined by the CEC. The loan repayments shall not exceed the life of the equipment or the lease term of the building in which the energy conservation measures will be installed. (Public Resources Code § 25415 (a))

4) Requires each eligible institution to pay back the amount of the loan through savings in energy costs or other sources, and prohibits the institution from levying additional taxes to cover the payments. (Public Resources Code § 25415 (c))

5) Authorizes the CEC to borrow money, for the purpose of obtaining funds to make specified loans, from the California Economic Development Financing Authority, the California Infrastructure and Economic Development Bank (IBank), and the California Consumer Power and Conservation Financing Authority from the proceeds of revenue bonds issued by any of those agencies. Authorizes the CEC to pledge, to provide collateral in connection with the borrowing of money, loans, or the principal and interest payments on loans, as specified. (Public Resources Code § 25417.5)

6) Establishes an Education Subaccount within ECAA to allocate a portion of funds from Proposition 39, the Clean Energy Jobs Act of 2012. Allocation to this subaccount sunset in the 2017-2018 fiscal year, but any funds remaining may continue to be used for specified purposes. The CEC created the ECAA-Ed program to implement this subaccount. (Public Resources Code § 26227)

**FISCAL EFFECT**: This bill is keyed fiscal and will be referred to the Committee on Appropriations for its review.

**BACKGROUND**:

*ECAA* – The ECAA program was established by the Energy Conservation Assistance Act of 1979. The CEC administers two ECAA programs: the ECAA Low-Interest Loan (ECAA-LIL) and the ECAA-Ed programs. The ECAA-LIL program provides low-interest (currently 1%) loans to cities, counties, special districts, public colleges and universities (except community colleges), public care institutions, and public hospitals. Loans finance energy efficiency and energy generation projects. The ECAA-Ed program provides zero-interest loans to public school districts, classroom-based charter schools, county offices of education, and state special schools. Like ECAA-LIL, ECAA-Ed finances energy efficiency and energy generation projects. Applicants to the ECAA-LIL program are received on a "first-come, first-served" basis, whereas the ECAA-Ed program has provided loans via a competitive loan application process since 2019. This bill expands the qualifications for the overall ECAA program, encompassing both ECAA-LIL and ECAA-Ed.

Typical energy efficiency measures that qualify for funding under the ECAA programs include lighting system upgrades, building insulation, HVAC upgrades, and energy generation (such as solar photovoltaics). Maximum funding for both ECAA programs is $3 million per loan. A loan repayment amount cannot exceed the estimated energy savings from a funded project. Despite its long history, the ECAA program has never experienced a default on a loan repayment.

The ECAA program is a revolving loan program; that is, funding of new loans is approved using monies receipted twice a year from current loan repayments. However, the state has also supplemented overall ECAA funding from a variety of sources over the years, including the General Fund and tax-exempt revenue bonds.[1] According to the CEC, since 1979 more than $472 million for 923 loans have been lent by the CEC to fund energy efficiency improvements under ECAA-LIL.[2] Currently, ECAA-LIL has $9.5 million in funding available for projects.[3] For ECAA-Ed, the CEC reports approximately $21.4 million outstanding for project loan funding. The CEC has approved approximately $82.4 million for ECAA-Ed loans since the program's inception in 2013.

ECAA has received six legislative extensions since its enactment in 1979. SB 1207 (Hueso, Chapter 675, Statutes of 2016) enacted the most recent sunset extension from January 1, 2018 to January 1, 2028.

**COMMENTS**:

1) *Author's Statement.* "AB 33 expands a successful low interest loan program that allows our schools and local governments to pay back energy efficiency upgrades over time as they realize lower bills. This bill allows the loan program to include energy storage and transportation electrification infrastructure. This will help schools and local governments

---

[1] In 2009, the American Recovery and Reinvestment Act provided approximately $59 million to the CEC for ECAA. SB 679 (Pavley, Chapter 597, Statutes of 2011) appropriated an additional $25 million to the CEC for ECAA loans that originated as ratepayer funds deposited into the Renewable Resource Trust Fund. Proposition 39, the Clean Energy Jobs Act of 2012, has provided funding to the ECAA-Ed program for zero percent interest loans for public schools. As of June 30 of this year, all Proposition 39 projects must be fully installed and completed.
[2] From a data request of the CEC by this Committee.
[3] From a data request of the CEC by this Committee but also reported here: Linda Dailey Paulson; "CEC Ends Fiscal Year with $93 Million in Grants, Loans in a Single Meeting;" *California Energy Markets*; June 12, 2020.

comply with zero-emission bus and truck mandates while reducing costs and greenhouse gas emissions. Additionally, allowing investments in energy storage will make our communities more resilient when faced with power outages."

2) *Should Additional Projects be Included in ECAA?* As noted above, the ECAA program is a revolving loan program where participants pay back the loan in two annual installments that then are pooled to fund additional loans. Statute requires each eligible institution to pay back the amount of the loan through savings in energy costs or other sources, and prohibits the institution from levying additional taxes to cover the payments.[4] This statutory requirement limits which projects qualify under ECAA – only projects that can generate a return on investment through energy savings. Many energy efficiency projects, like updated lighting, easily clear this threshold. Similarly, depending on climate zone and current electricity rates, other technologies like demand responsive air conditioning, building insulation, or even solar generation may also generate energy savings.

   Yet the two technologies proposed by this bill – energy storage and transportation electrification infrastructure – may have difficulty meeting this qualifying threshold. Both technologies increase load; they both *consume* energy. Should energy storage be bundled with on-site generation or participate in rate arbitrage, it may result in net energy savings, especially if the project cost is supplemented with other state rebates or incentives like the California Public Utilities Commission's Self-Generation Incentive Program. Yet it is unclear how transportation electrification, which only increases a project's overall electricity consumption, would produce energy savings to enable qualifying institutions the ability to pay back their loans.

   Furthermore, the CEC has prioritized transportation electrification funding through other programs. The CEC's Clean Transportation Program (CTP), formerly known as the Alternative and Renewable Fuels and Vehicle Technology Program, funds accelerated development and deployment of advanced transportation and fuel technologies, principally EV charging infrastructure.[5] According to the CEC, CTP funding allocations for 2020-2021 are over $100 million for charging infrastructure.[6] Importantly the CTP is a grant, not a loan. Unlike ECAA, participating institutions need not pay back CTP funds nor show energy savings as a condition of receipt.

   Yet, CTP's EV charging grants have been oversubscribed, with demand far outpacing funding.[7] CTP is soon to launch its medium- and heavy-duty charging investments, which seek to fund school buses, public transit, and fleet vehicle charging infrastructure. The CEC estimates approximately $20 million available for funding these grants. Until this additional CTP money becomes available, many of the qualifying institutions under ECAA may find the loans proposed by this bill an attractive alternative.

---

[4] PR Code § 25415 (c)
[5] CEC's project website; "Clean Transportation Program Overview;" as accessed on April 15, 2021.
[6] CEC presentation to committee staff in February 2021.
[7] *Ibid.*

3) *Need for Further Statutory Clean-up.* As noted above, the CEC principally funds energy efficiency upgrades through ECAA, but also energy generation projects like renewable and combined-heat-and-power technologies.

   The statutory direction for ECAA project eligibility is broad. Public Resources Code § 25410.6, in establishing the ECAA program, specifies the loans should "maximize energy use savings…including, but not limited to …cost-effective energy efficiency measures." Yet, in the program definitions only "energy conservation measure" and "energy conservation project" are listed, and specify these as projects that "reduce energy consumption or peak electricity demand, or allow the use of a more desirable energy source."[8]

   In drafting this update to ECAA, this bill attempts to more explicitly align statute with program implementation; specifically, in referencing the projects and measures that are eligible for ECAA throughout the Public Resources Code. However, in relying on the term "energy conservation" this bill not only makes it unclear that energy efficiency projects are, in fact, eligible but also relies on an outdated definition. *The committee may wish to consider technical amendments to further update the 1979 ECAA program in this bill with current practice and definitional usage.*

4) *Prior Legislation.*

   SB 1207 (Hueso) extends the sunset on ECAA from January 1, 2018 to January 1, 2028, and makes other technical and clarifying changes. Status: Chapter 675, Statutes of 2016.

   SB 73 (Committee on Budget and Fiscal Review) implemented Proposition 39 from the November 2012 general election, and established a subaccount of ECAA to fund the ECAA-Ed program. Status: Chapter 29, Statutes of 2013.

   SB 1268 (Pavley) extends the sunsets of the ECAA from 2013 to 2018. Status: Chapter 615, Statutes of 2012.

**REGISTERED SUPPORT / OPPOSITION**:

**Support**

California Energy Storage Alliance
Elders Climate Action, NorCal and SoCal Chapters
Electric Vehicle Charging Association
Natural Resources Defense Council

**Oppose**

Los Angeles County Solid Waste Management Committee/Integrated Waste Management Task Force – *opposed to bill in print on December 7, 2020.*

**Analysis Prepared by**: Laura Shybut / U. & E. / (916) 319-2083

[8] PR Code § 25411