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**SENATE COMMITTEE ON ENERGY, UTILITIES AND  
COMMUNICATIONS**

**Senator Steven Bradford, Chair  
2023 - 2024 Regular**

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<b>Bill No:</b>	SB 322	<b>Hearing Date:</b>	4/10/2023
<b>Author:</b>	Becker		
<b>Version:</b>	3/22/2023 Amended		
<b>Urgency:</b>	No	<b>Fiscal:</b>	Yes
<b>Consultant:</b>	Sarah Smith		

**SUBJECT:** Zero-Emission Vehicle Battery Manufacturing Block Grants Program

**DIGEST:** This bill establishes labor preferences that the California Energy Commission (CEC) and any third-party administrator must use when awarding funds for the Zero-Emission Vehicle (ZEV) Battery Manufacturing Block Grants Program.

**ANALYSIS:**

Existing law:

- 1) Establishes the Clean Transportation Program (CTP) at the CEC to provide grants, loans, and other funding opportunities to develop and deploy innovative fuel and vehicle technologies to support California's climate change policies. (Health and Safety Code §44272(a))
- 2) Establishes CTP grant prioritization criteria. These criteria include, but are not limited to, a project's ability to reduce certain air pollutants, provide in-state economic benefits, attract non-state matching funds, and deploy projects in non-attainment areas pursuant to the federal Clean Air Act. The CEC must rank projects based on each project's ability to meet the prioritization criteria. (Health and Safety Code §44272(c-d))
- 3) Specifies the types of projects eligible for funding from the CTP, including, but not limited to projects that develop and deploy alternative and renewable fuels, ZEV infrastructure and technologies, programs that help commercialize ZEV and alternative fuel vehicles, and workforce development projects that transition workers from fossil fuel industries to clean transportation jobs. (Health and Safety Code §44272 (e))
- 4) Allocates a portion of smog abatement fees to fund the CTP and sunsets the fee on January 1, 2024. (Health and Safety Code §44060.5)

This bill:

- 1) Establishes various definitions for the purposes of administering the ZEV Battery Manufacturing Block Grants Program, including but not limited to, the following definitions:
  - a) “Labor peace agreement” means an agreement between an applicant and any union that includes at least the following:
    - i) A prohibition on the union and its members from engaging in picketing, work stoppages, boycotts, and any other economic interference with the applicant’s business.
    - ii) A prohibition on the applicant from engaging in a lockout of its employees.
    - iii) An agreement by the applicant not to disrupt efforts by the union to communicate with, and attempt to organize and represent, the applicant’s employees.
    - iv) Union access at reasonable times to areas in which the applicant’s employees work for the purpose of meeting with employees to discuss their rights to representation, employment rights under state law, and terms and conditions of employment.
    - v) A methodology for determining whether the union has been chosen as the representative of particular job classifications of the applicant.
  - b) “Living wage” means at least 167 percent of the minimum wage set by state statute or local ordinance, if higher.
  - c) “Relevant public agency” means the commission and any entities with which it may contract to award or administer covered financial subsidies, evaluate applicants, or monitor compliance with conditions of covered financial subsidies pursuant to the program.
  - d) “Subcontractor” means a private entity performing a portion of the work of the awardee through a subcontract or subgrant.
- 2) Defines “Individual with employment barriers” as an individual with any characteristic that limits the individual’s ability to obtain employment, including indicators of poor work history, lack of work experience, employment in nontraditional occupations, long-term unemployment, lack of educational or occupational skills attainment, dislocation from high-wage and high-benefit employment, including those displaced or dislocated from jobs in the fossil fuel economy, low levels of literacy or English proficiency, disability status, or

welfare dependency. This bill specifies a number of individuals and groups included in the definition of “Individual with employment barriers.”

- 3) Requires block grant applicants to do all of the following in order to obtain a subsidy from the ZEV Battery Manufacturing Block Grants Program:
  - a) Include a specified environmental safety plan in the block grant application that identifies procedures for safe handling of materials, employee testing for chemical exposure, and environmental testing.
  - b) Include a workforce plan that requires specified commitments from the employer, including commitments to pay a living wage, hire individuals with employment barriers for at least 30 percent of its workforce, and offer employment to individuals in approved apprenticeships or offer specified training or compensated education. Applicants may satisfy the commitment to hire individuals with employment barriers by showing that the employer has made a good faith effort to hire those individuals.
  - c) Attest that the applicant has entered into a labor peace agreement covering its employees. Applicants that have not entered into a labor peace agreement must indicate whether they will enter into and abide by a labor peace agreement with any union that communicates its interest in representing any classification of the applicants’ employees.
  - d) Include in the application any current collective bargaining agreement between the applicant and a labor organization representing the project’s employees.
- 4) Requires the CEC and any third-party administrator to adopt a specified scoring process for evaluating applicants. This bill requires this scoring process to include five specified labor components, each worth 20 points. Applicants may receive a maximum score of 20 points, and no applicant that receives less than 80 points may receive an award from the block grant program.
- 5) Establishes certain workforce goals for recipients of block grant awards and prohibits any awardee that violates specified existing labor, employment, and antidiscrimination laws from obtaining a subsidy through the program.
- 6) Requires the CEC and any third-party administrator to adopt an annual reporting schedule for block grant awardees to submit documentation demonstrating their compliance with this bill. This bill specifies penalties for

non-compliant awardees, including awardees who fail to report compliance documentation.

- 7) Authorizes the CEC and any third-party administrator to adopt procedures and criteria to supplement the bill's requirements.

## **Background**

*CEC's ZEV Battery Manufacturing Block Grant.* The Budget Acts of 2021 and 2022 provided the CEC with funding to administer a block grant program to fund in-state manufacturing of ZEV battery electric vehicle (EV) components. While the CEC received funding to administer up to \$100 million for the block grant, the CEC issued a funding opportunity for a third-party administrator to oversee an initial \$25 million block grant program. In December 2022, the CEC awarded the administration of the \$25 million block grant to CALSTART for the PowerForward program.

*Bill would establish labor requirements for the ZEV Battery Manufacturing Block Grant Program.* This bill establishes a number of workforce and labor requirements for applicants seeking subsidies from the ZEV Battery Manufacturing Block Grant Program. These requirements, include establishing workforce plans to create high-road employment opportunities and provide employment options for workers who have been economically displaced or face certain employment barriers. This bill also includes requirements for awardees to have plans to ensure that battery manufacturing projects funded by the block grant do not create hazardous working environments for employees.

The establishment of labor and occupational health and safety requirements are consistent with efforts to ensure that in-state battery manufacturing does not create exploitative conditions occurring in other parts of the world where battery components are mined and processed. Cobalt is a major component of many rechargeable batteries, and more than half of the world's known supply of cobalt is located in mines in the Democratic Republic of Congo. These mines have been the site of substantial human rights abuses, including slavery. As California seeks to maximize its domestic battery manufacturing and lithium extraction in the Salton Sea, stakeholders are seeking mechanisms to ensure that domestic mineral extraction and battery supply chains do not replicate exploitative labor and environmental conditions. The federal government is also seeking to align tax incentives for EV batteries to domestic mineral extraction and processing. The Inflation Reduction Act of 2022 (IRA) aims to provide tax credits for EV manufacturing using minerals sourced within the United States. Under the IRA, an

EV would need to have a battery in which at least 80 percent of the market value of its minerals are sourced domestically to qualify for the tax credit.

*How will the CEC incorporate these labor requirements into the existing ZEV Battery Manufacturing Block Grant?* The CEC established a third-party administrator for the ZEV Battery Manufacturing Block Grant program by issuing a funding opportunity under the CEC's existing CTP authority. Under existing law, the CTP already includes a list of prioritization criteria for scoring applications and workforce considerations. While this block grant was issued under the CEC's CTP authority, it is not clear whether the existing CTP program guidelines would apply to the block grant program. In the absence of program rules that could be amended to incorporate this bill's labor requirements, this bill may require the CEC to amend or revise its existing contract with CALSTART to set and enforce the bill's labor requirements.

*Need for amendments.* As currently drafted, this bill defines an "individual with employment barriers," and provides non-exclusive list of groups and individuals who meet this definition. Since the bill's definition of "individual with employment barriers" is not exclusive and broadly encompasses individuals with workforce challenges, it is not clear that the subsequent enumeration of certain groups and individuals is necessary. *As a result, the author and committee may wish to strike the enumerated list and retain the broad definition of "individual with employment barriers."*

*Double Referral.* This bill is also referred to the Senate Committee on Labor, Public Employment and Retirement.

### **Prior/Related Legislation**

SCR 24 (Bradford, 2023) recognizes the human rights abuses, including child slave labor, occurring in cobalt mines in Africa and resolves that California should take steps to bring a greater proportion of mineral extraction for batteries in-state to reduce the state's reliance on foreign sources of these minerals. This resolution is currently pending in the Assembly

SB 84 (Gonzalez, 2023) and AB 241 (Reyes, 2023) would each extend and revise the CTP to prioritize projects that meet certain air quality improvement goals and provide equity-based investments in disadvantaged communities. The bill would have specified that at least 50 percent of CTP monies must be allocated for certain types of projects, including programs that promote ZEV car-sharing in low-income and disadvantaged communities. SB 84 is pending in the Senate Transportation Committee, and AB 241 is pending in the Assembly Transportation Committee.

SB 589 (Hueso, Chapter 732, Statutes of 2021) expanded the types of projects eligible for funding from the CTP to include projects that develop in-state supply chains and the workforce for raw materials and components needed for ZEV manufacturing. The bill also expanded the groups the CEC must consult as part of CTP workforce development efforts.

AB 1657 (E. Garcia, Chapter 271, Statutes of 2020) authorized the CEC to convene a blue ribbon commission on lithium extraction in California and submit a report to the Legislature by October 1, 2022, which must include findings and recommendations from the blue ribbon commission regarding actions to develop lithium extraction from geothermal brines.

AB 2127 (Ting, Chapter 365, Statutes of 2017) required the CEC to conduct a statewide assessment of the EV charging infrastructure needed to support the levels of EV adoption required for the state to meet its goals of putting at least five million ZEV on California roads by 2030 and of reducing emissions of GHG to 40 percent below 1990 levels by 2030.

AB 1697 (Bonilla, Chapter 446, Statutes of 2016) added prioritization criteria for the CTP to prioritize projects that transition workers to the alternative and renewable fuel and vehicle technology sector. The bill also added criteria for workforce development programs eligible for CTP funding.

**FISCAL EFFECT:** Appropriation: No Fiscal Com.: Yes Local: No

**SUPPORT:**

United Auto Workers-Region 6, Sponsor  
California Labor Federation  
California Teamsters Public Affairs Council  
Jobs to Move America  
Natural Resources Defense Council  
Sierra Club

**OPPOSITION:**

None received

**ARGUMENTS IN SUPPORT:** According to the author:

On both the federal and state level, there have been significant investments in providing quality, good paying jobs while establishing the battery manufacturing industry and transitioning to a clean energy future. To meet the clean energy goals outlined in SB 100 (de Leon, 2018), SB 1020 (Laird, 2022), and the EV adoption targets in the California Air Resources Board's Scoping Plan, California will need to manufacture and purchase large amounts of lithium batteries. As California increases its use and manufacturing of zero-emission vehicles, it is imperative that state incentives supporting this industry also support high quality, equitable jobs.

Historically marginalized communities and workers in the manufacturing industry are most impacted by the transition toward a non-fossil fuel future and would most benefit from additional high road job transition support. SB 322 will establish a ranking system to prioritize businesses who establish a workforce plan to employ individuals with employment barriers when applying for the Zero-Emission Vehicle Battery Manufacturing Grant. By doing so, this bill will simultaneously support business development and workers in underserved communities with high paying, stable jobs as California leads the transition to a green economy.

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