



LEGISLATIVE ACTION COMMITTEE AGENDA
AUGUST 9, 2018 | 6 PM
SUNNYVALE CITY HALL | WEST CONFERENCE ROOM
456 WEST OLIVE AVENUE | SUNNYVALE, CA

1. Call to order & roll call (Sayoc) 6:00 PM
2. Consent Agenda- recommendation to approve the following: 6:05 PM
 - a. Minutes of the June 2018 meeting
3. Legislation: updates, discussions and recommendations related to state legislation on housing, transportation, clean energy, regional and state-wide measures and other areas of interest (information and action items) 6:10 PM

Diesel Free by 2033 (BAAQMAD) – action

SB 237 – CCA

SB 827

SB 828

AB 1771

AB 1912

AB 2353

AB 1775

AB 2268

AB 2812

AB 3162

SB 833

SB 834

AB 3

AB 3121

SB 1302

AB 2923

AB 1771

SB 831

AB 2890

Federal Legislation: HR 620

Proposition 6

SB 1383 (2016) -rule making (RWRC)

4. Public Comment 6:50 PM
5. Adjournment 6:55 PM



DRAFT MINUTES – JUNE 14, 2018

LEGISLATIVE ACTION COMMITTEE

Meeting convened at 6:09 PM by Legislative Action Committee Chair Marico Sayoc.

Attending:

Campbell – Jeff Reznikof (6:20PM)
Gilroy – Peter Leroé-Muñoz
Los Altos – Jan Pepper
Los Altos Hills – Gary Waldeck
Los Gatos – Marico Sayoc
Monte Sereno - Burton Craig (6:15PM)
Morgan Hill – Steve Tate
Mountain View – Pat Showalter (6:20 PM)
Palo Alto – Greg Scharff
San Jose – Charles “Chappie” Jones
Santa Clara – Debi Davis – (6:35PM)
Saratoga – Mary-Lynne Bernald
Sunnyvale – Larry Klein
Andi Jordan, Executive Director

The consent agenda consisting of April LAC meeting minutes and confirmation of RM3 votes, was approved with a motion from Peter Leroe-Muñoz (Gilroy) and second by Larry Klein (Sunnyvale). The motion carried by unanimous consent.

Patrick Ahrens from Assemblymember Evan Low’s office gave an update on the budget package:

The Legislature passed the main FY 2018–19 State Budget Act and some of the associated trailer bills on Thursday, June 14, a day before the constitutional budget deadline establishing the state’s financial plan for the fiscal year that begins July 1.

- The final budget largely tracked with Gov. Jerry Brown’s May Budget Revise with total spending of \$137.7 billion in General Fund spending, out of a total budget of \$199.7 billion.
- The Rainy-Day Fund is projected to grow to \$13.8 billion by the end of the upcoming budget year, which is its constitutional maximum.
- The budget also addresses homelessness, one of the League’s 2018 strategic priorities, with \$500 million in one-time Homeless Emergency Aid Block Grants.

Discussion on bills:

- SB 828 (Wiener) (Passed Senate, in Assembly) Send letter to *Housing and Community Development Committee* to oppose. Motion by Greg Scharff (Palo Alto), second by Steve Tate (Morgan Hill).
 - Ayes: Greg Scharff (Palo Alto), Peter Leroé-Muñoz (Gilroy), Steve Tate (Morgan Hill), Marico Sayoc (Los Gatos), Larry Klein (Sunnyvale), Jeannie Bruins (Los Altos), Mary-Lynne Bernald (Saratoga), Paul Resnikoff (Campbell).
 - Nays: Rod Sinks (Cupertino), Burton Craig (Monte Sereno)
 - Abstention: Pat Showalter (Mountain View)

- Absent: Chappie Jones (San José), Gary Waldeck (Los Altos Hills), Anthony Phan (Milpitas), Debi Davis (Santa Clara)
- AB 1912 (JPA & pension) liability of JPA with a pension goes to cities. (SVCE does not have a pension.) League opposes. Jan Pepper motions to make an oppose position if the bill becomes active again. Greg Scharff seconds the motion. Unanimous consent to oppose.
- SB 834 (state lands - leasing oil or gas) Rod Sinks motions to support, second unanimously supports
- SB 831 ADUs: Motion by Rod Sinks, second by Pat Showalter. Unanimous consent approved to send letter to author that we are interested in bill that incentives production of ADUs but are concerned with:
 - floor area ratio and lot coverage
 - many of our cities are interested in having the owner as the occupant of the house of which the ADU sits
 - minimums to be smaller to increase the possibility of more affordable ADU
 - owner occupancy

RESOLUTION NO. 2018-003

RESOLUTION ENDORSING THE DIESEL FREE BY '33 STATEMENT OF PURPOSE

WHEREAS, climate change, caused by the emission of greenhouse gases including carbon dioxide and black carbon, represents a profound threat to the Bay Area's air quality, public health, environment, water supplies, and economy; and

WHEREAS, diesel engines emit significant amounts of black carbon, a short-lived climate pollutant that is contributing significantly to global climate change; and

WHEREAS, the Intergovernmental Panel on Climate Change (IPCC) Fifth Assessment Report estimates that black carbon is the third most important individual contributor to warming after carbon dioxide and methane (IPCC 2013); and

WHEREAS, The California Air Resources Board concludes that *"Diesel exhaust includes over 40 substances that are listed by the United States Environmental Protection Agency as hazardous air pollutants and by the CARB as toxic air contaminants. Fifteen of these substances are listed by the World Health Organization as carcinogenic to humans, or as a probable or possible human carcinogen"* [California Air Resources Board Scientific Review Panel on: California Air Resources Board's report titled "Proposed Identification of Diesel Exhaust as a Toxic Air Contaminant." 1998]; and

WHEREAS, the California Environmental Protection Agency's Office of Environmental Health Hazard Assessment has determined that exposure to diesel exhaust can have significant health effects, including damage to lung tissue and increased risk of cancer; and

WHEREAS, the California Air Resources Board estimates that on-road and off-road mobile sources powered by diesel engines comprise 54% of the state of California's total black carbon emissions; and

WHEREAS, the negative public health and environmental effects from climate change will fall most heavily on the communities and populations that are already most heavily impacted by air pollution, other environmental hazards, and economic inequality; and

WHEREAS, many alternatives to diesel-fueled vehicles and equipment are already commercially available, with purchase costs comparable to traditional diesel technologies; and

WHEREAS, *[name of jurisdiction]* has established its role as a leader in the fight against global climate change, through *[optional: add local examples]*; and

WHEREAS, the Bay Area Air Quality Management District has established a challenge to engage with public agencies to reduce diesel emissions in local communities throughout California and beyond, reflected in the *Diesel Free By '33 Statement of Purpose*;

NOW, THEREFORE BE IT RESOLVED, the Cities Association of Santa Clara County endorses the *Diesel Free By '33 Statement of Purpose*, reflecting a goal of eliminating diesel pollution by December 31, 2033.

NOES:

ABSENT:

ABSTAIN:

Rod Sinks, President

ATTEST:

DATE:

Andi Jordan, Executive Director



Staff Report Item 14

TO: East Bay Community Energy Board of Directors
FROM: Melissa Brandt, Senior Director of Public Affairs and Deputy General Counsel
SUBJECT: Approve Legislative Position on Senate Bill (SB) 237 (Action Item)
DATE: July 18, 2018

Recommendation

Approve EBCE taking a formal "Oppose" position on SB 237 (Hertzberg)

Background and Discussion

SB 237, introduced by Senator Hertzberg, would lift the existing cap on service provided by private electric re-sellers called Direct Access (DA) providers such that all nonresidential customers could depart a utility or community choice aggregator (CCA)'s electric supply service and be served instead by DA providers.

DA was originally viewed as providing lower cost supplies to customers who could choose among competitors. AB 1890 allowed customers to directly access an energy service provider to save costs. Immediately after the Energy Crisis, in AB 1x, the program was capped and all new DA suspended. The program resumed in 2010 with passage of SB 695, but the legislation instituted a cap at pre-crisis levels that was phased in over three years. Participation in DA is currently limited to non-residential customers and is currently at capacity, with DA providers serving about 13% of statewide load. DA providers are not subject to the CPUC's ratemaking jurisdiction but are required to meet other statewide mandates such as the Renewable Portfolio Standard (RPS).

In 2015, the reopening of DA was proposed in SB 286 (Hertzberg 2015), requiring 75% renewable sources at the outset and expanding to 100% renewable sources within three years, with a cap of 8,000 GWh. The bill was held in Assembly Appropriations Committee, 2015.

EBCE Staff is recommending that EBCE take an oppose position on SB 237 for three primary reasons related to the bill's impact on: EBCE Local Development, EBCE Decarbonization Efforts, and EBCE's Disadvantaged Communities.

Impact of SB 237 on Local Development

EBCE has budgeted \$2,000,000 for Local Development activities in 2018-2019. As the local development business plan is implemented, EBCE expects to invest hundreds of millions of dollars in Alameda County clean energy projects. EBCE's contribution to local development is the cornerstone of why EBCE was formed in the first place. Under the DA rules proposed in SB 237, any commercial customer could opt to leave EBCE service for a private DA provider. These DA providers face no obligation to contribute to EBCE's local development efforts. Instead, DA providers tend to focus on providing the lowest possible cost energy. As a result of customers opting to take retail electricity service from a DA provider, EBCE could see significant reduction in sales and revenues, thereby diminishing EBCE's ability to make investments in local development.

Impact of SB 237 on Decarbonization

EBCE has set near-term goals to exceed both state renewable energy and greenhouse gas (GHG) reduction targets. EBCE expects to set even more aggressive goals after it completes a full study of long-term energy and GHG-free options. EBCE's commitment to decarbonization means that EBCE's rates are higher than they might otherwise be if EBCE sought only to minimize costs and minimally comply with State law. SB 237 does not include any renewable source requirements for DA providers beyond existing RPS standards. While DA providers are subject to the greenhouse gas reduction requirements of the electric sector under AB 32, DA providers and their customers are under no obligation to accelerate voluntary actions to decarbonize. Opening up DA, as contemplated under SB 237, would likely mean that DA providers in Alameda County would supply energy that is less renewable and has higher GHG content than EBCE but is less expensive. Unlimited reopening of DA to all nonresidential energy users is likely to lead to backsliding on the progress the state and local communities are making toward achieving California's decarbonization goals, making it harder for our local governments to meet their Climate Action Plan goals.

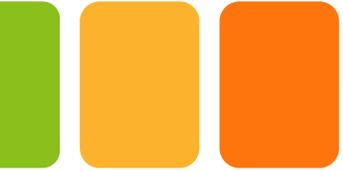
Impact of SB 237 on Disadvantaged Communities

EBCE is committed to serving all customers, and in particular, developing programs that support our low-income and disadvantaged communities. Under SB 237, DA providers have no obligation to serve any particular customer, specifically low-income residential customers, and can cherry-pick preferred commercial and industrial customers. The impact of this cherry-picking large customers would be detrimental to low-income consumers and disadvantaged communities in that EBCE could see a significant reduction in revenues, and as a result, be hindered in its ability to continue to pursue initiatives that seek to provide benefits to low-income and disadvantaged communities.

SB 237 was most recently amended in the Assembly on June 13, and will be voted on in the Assembly Appropriations Committee in August. If this legislative position is approved, EBCE will send a formal letter of opposition to the bill to Senator Hertzberg's office and to the Assembly Appropriations Committee.

Fiscal Impact

SB 237 could cause significant nonresidential load departure from EBCE. This could cause a reduction in revenues, but also a reduction in costs since EBCE would no longer be serving customers that depart for DA. The reduction in revenues could reduce funds available for local development. There is a risk of stranded costs associated with over-procurement and EBCE may incur greater risk management costs should EBCE load substantially fluctuate, particularly if load volatility continues over time.



SB 1383 Rulemaking Overview

Recycling and Waste Reduction Commission of Santa Clara County
Study Session – June 20, 2018





Key Points of SB 1383 (Lara)

- Signed 2016 by Governor Brown
- Codifies CARB Short-lived Climate Pollutants (SLCP) Strategy
- Statewide goals
 - 50% “organics” disposal reduction by 2020 (2014 baseline)
 - 75% reduction by 2025
 - 20% reduction in “current” edible food disposal by 2025
- Authorizes CalRecycle/CARB rulemaking to meet goals



CalRecycle Rulemaking Steps

- Seven informal workshops
- First informal draft, comments by Nov. 15, 2017
- Second informal draft in May 2018
 - May 8 Workshop – “*Regs 90% complete*” – CalRecycle staff
 - Comments by May 16
- Formal Draft Regs – Date TBD



Second Informal Draft

- 93 pages, very prescriptive
 - Standard colors, labels statewide for carts, dumpsters, debris boxes, compactors for garbage, recycling, organics
 - Rigid rules on which items may/may not go in containers
- 34 reasons CalRecycle may cite, fine jurisdictions
 - Process “fails,” not goal “fails”
- 32 reasons cities/counties must cite and fine residents, businesses
 - Changes from service provider/customer to cop/criminal



Jurisdiction concerns - Definitions

Definitions

- “Organic waste generator” – person, entity responsible for initial creation of organic waste – i.e. every person, entity in CA
- “Organic” definition – narrow, e.g. remove carpet, plastics, biosolids, sludge
- Separate multi-family homes from Commercial Business category
 - More differences than similarities
- Add “mulch” definition – made from post-consumer materials, aged and/or composted material



Jurisdiction concerns – cont'd.

- Requires source-separation or “high diversion processing facility”
 - Combination is best path to goal—not allowed
 - Allow measurement of combined system, not just one or the other
 - Staff biased against use of technology?
- Standardized colors of entire containers impractical
 - Split carts, dumpsters, debris boxes
- 75% in 2025 probably not achievable
- Cost of replacing/standardizing container colors better spent on programs, outreach
- Color standards not possible for split cart bodies (just lids).



Jurisdiction concerns - Compliance and Enforcement

- Too prescriptive, process-, punishment-focused
- Electronic record keeping template should be provided; reporting should be summarized in AB 939 reports;
- Fold reporting in existing Annual Report; Quarterly reporting within 30 days not feasible
- High staff cost to track, implement process steps
 - Inspections
 - Re-inspections
 - Reporting
 - Enforcement, etc.



Jurisdiction concerns - Compliance and Enforcement

- Goal is good – verify diversion claims, tighten tracking
 - But methods not science-based
- Requires multiple very large, daily samples/analysis for each process, material type
 - Large daily space needs at processing facilities, additional staff
- Information has little value
- CalRecycle should revise with assistance from statistics expert



Summary of jurisdiction's concerns – Local Procurement Requirement

- New concept in second informal draft
- City/county must procure compost, RNG based on employee head count
 - Reduce or remove procurement requirement for city/county compost/RNG fuel procurement
 - Allow existing reuse by jurisdiction to count toward its requirement
- If requirement stays, use blend of factors to calculate (e.g. population, land area, climate type)
- Allowable renewable Natural Gas (RNG) sources should include landfill gas, POTW methane



Summary of jurisdiction's concerns - Education and Outreach

- CalRecycle should provide sample, compliant outreach material annually, present on public website and through statewide media campaign
- Translated material required by this section shall be available via website; web address and statement of availability of translated materials should accompany English version of outreach materials.



Summary of jurisdiction's concerns - Food Recovery

- Rules require tracking, reporting by jurisdiction, but sources and hungry people are often in different jurisdictions
- Countywide programs such as the Food Rescue Initiative currently underway should count towards food recovery requirement for each jurisdiction.



Discussion/Next Steps

Staff recommendations

- Ask each jurisdiction to closely review current draft, prepare to review/comment to CalRecycle on next/final(?) draft
- Inform CalRecycle that at a strategic level these regulations will require resources that are out of scale with the benefit. Proposed process steps not related to the outcome.



RWRC Options for Action on Formal Draft

- Inform your jurisdiction and those you represent
- Have individual jurisdictions comment to legislators or Governor?
- Agendize for Cities Association?
- Send joint letter from Commission?

County of Santa Clara

Recycling and Waste Reduction Commission of Santa Clara County
Recycling and Waste Reduction Division

1555 Berger Drive, Building 2, Suite 300
San Jose, CA 95112-2716
(408) 282-3180 FAX (408) 280-6479
www.ReduceWaste.org



Mr. Scott Smithline, Director
California Department of Resources Recycling and Recovery (CalRecycle)
P.O. Box 4025
Sacramento, CA 95812-4025

Transmittal Via Email: SLCP.Organics@calrecycle.ca.gov

Re: Comments on Senate Bill 1383 Proposed Regulations – Dated May 2018

Dear Mr. Smithline:

The Recycling and Waste Reduction Commission of Santa Clara County held a study session on SB 1383 Second Informal Draft Rulemaking on Wednesday, June 20, 2018. The Commissioners expressed several concerns regarding the current draft and wish to provide comments.

While we understand and agree with the urgency and importance that CalRecycle and the Air Resources Board attach to the goal of increasing diversion of organics, we remain concerned that the very prescriptive and process-oriented approach taken by the May 18, 2018 version of the draft regulations does not support achievement of the goal. The proposed regulations:

- Fail to acknowledge variations in climate, organics generation, markets, and financial resources and block cities and counties from designing diversion programs tailored to match those local variations.
- Require resources that are out of scale with the benefit and the proposed mandatory process steps are not directly related to the desired outcome.
- Take a punitive approach to residents and businesses that will dissuade many customers from making the behavior changes needed to reach the very ambitious goals set by SB 1383 and damages the historically strong relationship between local government and ratepayers.
- Force jurisdictions to procure specified amounts of recycled organic waste products and use an inappropriate metric for quantifying the amount required—a flawed concept. A better approach would be to simply require that jurisdictions' purchases of landscape materials include recycled content.

The Recycling and Waste Reduction Commission of Santa Clara County has a long history of being at the forefront of environmental programs to protect, preserve and enhance our Region and our State and we look forward to reviewing revisions to these regulations we can truly support to achieve the shared desired objective of organics diversion.

Thank you for taking the time to consider these comments. If you have any questions, please feel free to contact me at susanl@cityofcampbell.com.

Very truly yours,

Susan M. Landry, Chair
Recycling and Waste Reduction Commission of Santa Clara County

Commissioners: Susan M. Landry, Chair ~ James R. Griffith, Vice-Chair ~ Mary-Lynne Bernald ~ Lan Diep ~ Linda J. LeZotte
Pat Showalter ~ Rod Sinks ~ Cat Tucker ~ Mike Wasserman ~ Kathy Watanabe