



BAY AREA  
AIR QUALITY  
MANAGEMENT  
DISTRICT

BOARD OF DIRECTORS  
LEGISLATIVE COMMITTEE MEETING

COMMITTEE MEMBERS

SUSAN GARNER – CHAIRPERSON  
TOM BATES  
SCOTT HAGGERTY  
DAVID HUDSON  
NATE MILEY

CAROL KLATT – VICE CHAIRPERSON  
CHRIS DALY  
JENNIFER HOSTERMAN  
ASH KALRA

**MONDAY**  
**OCTOBER 4, 2010**  
**9:30 A.M.**

**4<sup>TH</sup> FLOOR CONFERENCE ROOM**  
**939 ELLIS STREET**  
**SAN FRANCISCO, CA 94109**

**TELECONFERENCE LOCATION:**

City of Pleasanton Mayor's Office, 123 Main Street, Pleasanton, CA 94566

**AGENDA**

1. **CALL TO ORDER - ROLL CALL**

2. **PUBLIC COMMENT PERIOD**

*(Public Comment on Non-Agenda Items Pursuant to Government Code § 54954.3) Members of the public are afforded the opportunity to speak on any agenda item. All agendas for regular meetings are posted at District headquarters, 939 Ellis Street, San Francisco, CA, at least 72 hours in advance of a regular meeting. At the beginning of the regular meeting agenda, an opportunity is also provided for the public to speak on any subject within the Committee's subject matter jurisdiction. Speakers will be limited to five (5) minutes each.*

3. **APPROVAL OF MINUTES OF MARCH 29, 2010**

4. **SUMMARY OF 2010 LEGISLATIVE YEAR**

**T. Addison/5109**  
[taddison@baaqmd.gov](mailto:taddison@baaqmd.gov)

*The Committee will receive a briefing on the 2010 legislative year, including bills on which the District took a position in support or opposition.*

5. **UPDATE ON STATE BUDGET**

**T. Addison/5109**  
[taddison@baaqmd.gov](mailto:taddison@baaqmd.gov)

*Staff will brief the committee on the current status of the Fiscal Year 2010/2011 budget, including potential implications for the District.*

6. **POSITION ON PROPOSITION 23**

**T. Addison/5109**  
[taddison@baaqmd.gov](mailto:taddison@baaqmd.gov)

*Staff will present a recommended position on Proposition 23 for the Committee's consideration.*

7. **COMMITTEE MEMBERS' COMMENTS**

*Any member of the Committee, or its staff, on his or her own initiative or in response to questions posed by the public, may; ask a question for clarification, make a brief announcement or report on his or her own activities, provide a reference to staff regarding factual information, request staff to report back at a*

*subsequent meeting concerning any matter or take action to direct staff to place a matter of business on a future agenda. (Gov't Code § 54954.2)*

8. **TIME AND PLACE OF NEXT MEETING** –At the call of the Chair
9. **ADJOURNMENT**

**CONTACT EXECUTIVE OFFICE - 939 ELLIS STREET  
SAN FRANCISCO, CA 94109**

**(415) 749-5130  
FAX: (415) 928-8560  
BAAQMD homepage:  
[www.baaqmd.gov](http://www.baaqmd.gov)**

- To submit written comments on an agenda item in advance of the meeting.
- To request, in advance of the meeting, to be placed on the list to testify on an agenda item.
- To request special accommodations for those persons with disabilities (notification to the Executive Office should be given at least three working days prior to the date of the meeting so that arrangements can be made accordingly).
- Any writing relating to an open session item on this Agenda that is distributed to all, or a majority of all members of the body to which this Agenda relates shall be made available at the District's offices at 939 Ellis Street, San Francisco, CA 94941, at the time such writing is made available to all, or a majority of all members of that body. Such writing may also be posted on the District's website ([www.baaqmd.gov](http://www.baaqmd.gov)) at that time.

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**  
**939 ELLIS STREET, SAN FRANCISCO, CALIFORNIA 94109**  
**(415) 771-6000**

**EXECUTIVE OFFICE:**  
**MONTHLY CALENDAR OF DISTRICT MEETINGS**

**OCTOBER 2010**

<b><u>TYPE OF MEETING</u></b>	<b><u>DAY</u></b>	<b><u>DATE</u></b>	<b><u>TIME</u></b>	<b><u>ROOM</u></b>
<b>Board of Directors Legislative Committee</b> <i>(At the Call of the Chair)</i>	Monday	4	9:45 a.m.	4 <sup>th</sup> Floor Conf. Room
<b>Board of Directors Regular Meeting</b> <i>(Meets 1<sup>st</sup> &amp; 3<sup>rd</sup> Wednesday of each Month)</i>	Wednesday	6	9:45 a.m.	Board Room
<b>Advisory Council Regular Meeting</b>	Wednesday	13	9:00 a.m.	Board Room
<b>Board of Directors Regular Meeting</b> <i>(Meets 1<sup>st</sup> &amp; 3<sup>rd</sup> Wednesday of each Month)</i>	Wednesday	20	9:45 a.m.	Board Room
<b>Board of Directors Public Outreach Committee</b> <i>(At the Call of the Chair)</i>	Monday	25	9:30 a.m.	4 <sup>th</sup> Floor Conf. Room
<b>Board of Directors Mobile Source Committee</b> <i>(Meets 4<sup>th</sup> Thursday each Month)</i> - CANCELLED	Thursday	28	9:30 a.m.	4 <sup>th</sup> Floor Conf. Room

**NOVEMBER 2010**

<b><u>TYPE OF MEETING</u></b>	<b><u>DAY</u></b>	<b><u>DATE</u></b>	<b><u>TIME</u></b>	<b><u>ROOM</u></b>
<b>Board of Directors Regular Meeting</b> <i>(Meets 1<sup>st</sup> &amp; 3<sup>rd</sup> Wednesday of each Month)</i>	Wednesday	3	9:45 a.m.	Board Room
<b>Advisory Council Regular Meeting</b>	Wednesday	10	9:00 a.m.	Board Room
<b>Joint Policy Committee Special Meeting</b>	Friday	12	10:00 a.m.	MTC Auditorium 101 – 8 <sup>th</sup> Street Oakland, CA 94607
<b>Board of Directors Regular Meeting</b> <i>(Meets 1<sup>st</sup> &amp; 3<sup>rd</sup> Wednesday of each Month)</i>	Wednesday	17	9:45 a.m.	Board Room
<b>Board of Directors Mobile Source Committee</b> <i>(Meets 4<sup>th</sup> Thursday each Month)</i>	Thursday	18	9:30 a.m.	4 <sup>th</sup> Floor Conf. Room
<b>Board of Directors Mobile Source Committee</b> <i>(Meets 4<sup>th</sup> Thursday each Month)</i> - RESCHEDULED TO NOVEMBER 18, 2010 at 9:30 a.m.	Thursday	25	9:30 a.m.	4 <sup>th</sup> Floor Conf. Room

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Garner and Members  
of the Legislative Committee

From: Jack P. Broadbent  
Executive Officer/APCO

Date: September 22, 2010

Re: Legislative Committee Draft Meeting Minutes

RECOMMENDED ACTION:

Approve attached draft minutes of the Legislative Committee meeting of March 29, 2010.

DISCUSSION

Attached for your review and approval are the draft minutes of the March 29, 2010 Legislative Committee meeting.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared By: Lisa Harper  
Reviewed by: Jennifer Chicconi

Bay Area Air Quality Management District  
939 Ellis Street  
San Francisco, California 94109  
(415) 749-5000

**DRAFT MINUTES**

Summary of Board of Directors  
Legislative Committee Meeting  
Monday, March 29, 2010

**Call to Order:** Chairperson Susan Garner called the meeting to order at 10:00 a.m.

**Roll Call:** Chairperson Susan Garner, Vice Chairperson Carol Klatt, and Committee Members Tom Bates, Chris Daly, Scott Haggerty, Jennifer Hosterman, David Hudson, Ash Kalra and Nate Miley

**Absent:** None

**Also Present:** Directors Eric Mar, Mark Ross and Ken Yeager

**Public Comments:** There were no public comments.

**Approval of Minutes of November 12, 2009 and January 21, 2010:**

**Committee Action:** Director Haggerty made a motion to approve the Minutes of November 12, 2009 and January 21, 2010; Director Klatt seconded the motion; carried unanimously without objection.

**Consideration of New Bills**

Senior Advanced Projects Advisor, Tom Addison, gave the staff presentation, stating that since the Committee last met, the Legislature has included resolutions of over 1500 different measures and several bills deal with issues relevant to the Air District. The primary legislative goal for 2010 is to hold onto existing air quality programs. There are many bills this year that are specifically targeting diesel regulations, looking for delays or rollbacks, and targeting AB 32 and climate change programs.

Having heard the Committee’s goal, he reviewed each of the bills and their corresponding staff recommended positions, as follows:

<b>BILL AND AUTHOR</b>	<b>SUBJECT</b>	<b>STAFF RECOMMENDATION</b>
AB 1672 Jeffries	Changes ARB Board from appointed to elected positions	Oppose

<b>BILL AND AUTHOR</b>	<b>SUBJECT</b>	<b>STAFF RECOMMENDATION</b>
AB 1692 B. Berryhill	Puts penalty revenues collected by ARB (and other state environmental agencies) into the General Fund, instead of directly into ARB programs	Oppose
AB 1740 Jeffries	Eliminates the 500 vehicle cap on kit cars, and ends environmental and financial requirements for amnesty program for fraudulently registered kit cars	Oppose
AB 1863 Gaines	Extends current reduction in testing requirements for hospital's diesel backup generators	Support
AB 1949 Logue	Requires extensive new reports on environmental regulations 5 years after adoption or modification	Oppose
AB 2289 Eng	Allows major changes to smog check testing procedures	Support and seek amendments
AB 2311 Mendoza	Requires triennial review of ARB greenhouse gas fuel regulations, and delay to avoid impacts on fuel prices, small businesses, the economy etc.	Oppose
AB 2469 B. Berryhill	Establishes new dispute resolution process for businesses seeking relief from ARB's AB 32 regs.	Oppose
AB 2565 Ammiano	Reduces CEQA paperwork for lead agencies by allowing increased internet use in CEQA process	Support
AB 2691 Hall	Prohibits AQMDs, cities, counties, or others from imposing GHG fees	Oppose
SB 942 Dutton	Requires repeal of regulations if analysis by State Auditor indicates costs outweigh benefits	Oppose
SB 960 Dutton	Requires ARB regulations to be analyzed by Office of Administrative Law for feasibility and costs	Oppose
SB 1114 Florez	Allows districts to create ERCs from marine and locomotive emission reduction projects that are partly public funded	Oppose

<b>BILL AND AUTHOR</b>	<b>SUBJECT</b>	<b>STAFF RECOMMENDATION</b>
SB 1120 Dutton	Prohibits ARB from adopting AB 32 cap-and-trade program unless it is part of a required federal or regional program	Oppose
SB 1194 Hollingsworth	Prohibits air districts from banning installation of wood burning devices in new & existing residences	Oppose
SB 1263 Wyland	Eliminates AB 32	Oppose
SB 1299 Lowenthal	Requires DMV to assess feasibility of VMT fee	Support
SB 1340 Kehoe	Requires CEC to establish a program to reduce costs for in-home electric vehicle charging	<b>Support and Seek Amendments</b>
SB 1402 Dutton	Requires ARB to detail how each penalty amount was calculated, and takes penalty revenues away from ARB	Oppose
SB 1433 Leno	Ties air penalty ceilings to inflation	Co-Sponsor
SB 1445 DeSaulnier	Increases vehicle registration fees by \$1 to fund SB 375 implementation	<b>Support and Seek Amendments</b>
SBX8 57 Cox	Delays ARB on-road diesel regulation by 2 years	Oppose
AB 846 Torrico	Ties air penalty ceilings to inflation, requires calculation of economic advantage to violators	<b>Oppose Unless Amended</b>

Committee Member Comments/Questions:

Directors referred to AB 2289 (Eng) and discussed vehicles that initially pass smog check, but then fail afterwards within a short period of time. The bill will address fraud by increasing penalties for people who break the law. Directors discussed the Bureau of Automotive Repair’s test procedures, deadlines, and the need for requirements in the testing procedures that reduce emissions. The Committee requested Mr. Addison keep the Committee updated with proposed amendments.

Director Hudson asked if the Committee would consider changing its position on AB 2469 from oppose to support with amendments, and require individuals to pay the fine within 30 days and then

ask for a hearing before the Administrative Law Judge. The consensus of the Committee was to oppose the bill, noting there is a process in place to request a change by the California Air Resources Board (ARB).

Directors referred to AB 2691 (Hall), discussed the District's fee on regulated entities and the need to maintain fees imposed by the District, questioned the status of development of CARB's inventory and the overall GHG program, and the role of the Air District. Ms. Roggenkamp discussed air districts' roles with ARB and setting the fee, noting the districts provide technical expertise for stationary source measures. Further discussion will occur at the next Climate Protection Committee regarding verifiers of emission inventory data.

Regarding SB 942 (Dutton), Director Daly agreed to an opposed position, referred to cost and benefits, and suggested continuing to talk about not only costs of hospitalization and health but also climate change and the costs of not moving aggressively on air quality regulations. Chairperson Garner agreed, and suggested the District not be afraid of financial accountability for its programs, and Mr. Addison noted the benefits of the bill accrue over a long period of time.

Director Daly referred to SB 1299, a bill currently under study for transitioning from a gas tax to a Vehicle Miles Traveled (VMT) fee, and questioned the possibility of a negative impact on higher fuel efficiency because of paying less with fuel efficient vehicles, versus taxing VMT. Mr. Addison said there absolutely is potential negative impact from that aspect of VMT fees. On the other hand, there is not a negative aspect of the bill.

Director Garner confirmed that the goal is to think through the host of issues associated with a VMT fee. Director Kalra cited possible impacts on lower income communities and he confirmed that any disproportionate effects would be considered in the bill. Director Bates agreed with support for the bill, but questioned its feasibility.

Regarding SB 1340 (Kehoe), Mr. Addison noted the bill serves to help ease the introduction of plug-in and pure battery vehicles by reducing the price of the infrastructure. Director Hudson likened the bill to putting solar onto houses and hoped cities could more easily install public charging stations. Director Daly questioned and confirmed there was not an emphasis on new construction, which he supported adding, and Directors requested revising the recommendation to "Support and Seek Amendments."

Directors noted that SB 1445 is almost identical to a bill from last year which provides funding to local jurisdictions to implement SB 375; however, the amount is \$1 versus \$2. Staff noted that last year's bill was vetoed by the Governor, and Directors requested revising the recommendation to "Support and Seek Amendments to \$2".

Directors discussed the concept of a bill that would impose San Joaquin Valley Air Pollution Control District's (APCD) greenhouse gas thresholds of significance for California Environmental Quality Act (CEQA) statewide. The bill would not allow the approach considered by the Board for adoption later this year, but instead allow the approach adopted by the San Joaquin Valley APCD statewide. Director Hudson asked to see the bill's language and voiced his abstention on the matter. Director Bates voiced the need to discuss the introduction of the bill with its author. The Committee recommended an "Oppose" position on the proposed bill.



In addition, the Committee discussed a bill the District is co-sponsoring this year with Breathe California to tie air penalty ceilings to inflation moving forward known as SB 1433. The bill is authored by Senator Leno and there is a wide range of support from the environmental community.

Mr. Addison said another bill not included in the March 29, 2010 Committee staff report which staff is concerned about is AB 846 (Torricono). It ties air penalty ceilings to inflation moving forward. The bill not only deals with air quality penalties but with all media. For air penalties, it would mandate that any penalty or violation that the District writes a ticket for, the District must calculate the benefits to the violator in not complying with the District's rules and regulations. If the District wants to penalize someone less than the maximum amount allowed by law, given many factors, the District would have to calculate the economic advantage to the violator. He said this is an impossible task and would result in a large percentage of the District's inspectors not being able to look for violations but instead conduct economic analyses. Therefore, staff recommends the Committee recommend an "Oppose Unless Amended" position on the bill.

Director Hudson added that amendments should also include exemption for Communities Air Risk Evaluation (CARE) communities. Directors agreed with an "Oppose Unless Amended" position on SB 846.

Public Comments:

Francisco DaCosta, Director of Environmental Justice Association, discussed involvement in Sacramento and suggested the District develop an on-line legislative digest.

**Committee Action:** Director Bates made a motion to recommend Board of Directors' approval of staff recommendations, as outlined in the summary of bills contained in the agenda staff report in the packet, as modified, by revising its position on SB 1340 (Kehoe) and SB 1445 (DeSaulnier) to "Support and Seek Amendments", recommend an "Oppose" position on the concept of a bill that would impose San Joaquin Valley AQMD's greenhouse gas thresholds of significance for CEQA statewide, and recommend an "Oppose Unless Amended" position on AB 846 (Torricono); which carried by a vote of 8-0-1: Ayes: Bates, Daly, Garner, Haggerty, Hosterman, Kalra, Klatt, and Miley. Noes: None: Abstain: Hudson.

**Committee Members' Comments:** Chairperson Garner thanked Mr. Addison for his work. She noted that during a Climate Protection Committee meeting, there was a request that the Legislative Committee discuss the Waxman Markley bill, and she reported it would be agendaized for the next Committee meeting.

**Time and Place of Next Meeting:** At the Call of the Chair.

**Adjournment:** Meeting adjourned at 11:32 a.m.

Lisa Harper  
Clerk of the Boards

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Memorandum

To: Chairperson Garner and  
Members of the Legislative Committee

From: Jack P. Broadbent  
Executive Officer/APCO

Date: September 27, 2010

Re: Summary of 2010 Legislative Year

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RECOMMENDED ACTION: None; informational item

BACKGROUND

With the exception of the State Budget, the Legislature concluded its business for the 2010 Legislative Year shortly after midnight on August 31, 2010. The Governor has until September 30, 2010 to act on the roughly 600 bills remaining on his desk. Thus, by our October 4, 2010 Committee meeting, the fate of all bills that the District took positions on this year will be determined, and staff will brief the Committee on this information.

DISCUSSION

Generally, California's ongoing fiscal crisis, brought on by the faltering economy, had an overwhelming influence on the legislative climate in 2010. A host of measures to curb air quality regulations and programs were introduced this year. The proponents of these bills claimed that such regulations were either responsible for, or were hampering the recovery from, California's poor business climate. The District took an oppose position on such bills, and we and our colleagues were quite successful at fending off such negative measures. In fact, not a single bill the District opposed passed out of the Legislature this year.

Unfortunately, far fewer major measures to advance a clean air agenda were introduced this year, in large part because of the poor business climate. The bill that the District co-sponsored, Senator Mark Leno's SB 1433, passed the Legislature in the face of significant business opposition and is now before the Governor. This bill ties air penalty ceilings going forward to inflation. Staff will update the Committee verbally on the fate of this measure at our meeting. Perhaps the most significant air quality bill of the year was AB 2289, authored by Assemblymember Mike Eng. This measure was sponsored by the Air Resources Board (ARB) and the Bureau of Automotive Repair, and would make significant changes to the Smog Check program. This bill was signed into law by the Governor, and should cut roughly 70 tons per day of ozone precursors statewide as a result of its passage.

The following table lists the bills the District took positions on this year, and their fate.

BILL AND AUTHOR	SUBJECT	POSITION	OUTCOME
AB 1672 Jeffries	Changes ARB Board from appointed to elected positions	Oppose	Failed passage
AB 1692 B. Berryhill	Puts penalty revenues collected by ARB (and other state environmental agencies) into the General Fund, instead of directly into ARB programs	Oppose	Failed passage
AB 1740 Jeffries	Eliminates the 500 vehicle cap on kit cars, and ends environmental and financial requirements for amnesty program for fraudulently registered kit cars	Oppose	Failed passage
AB 1863 Gaines	Extends current reduction in testing requirements for hospital's diesel backup generators	Support	Chaptered
AB 1949 Logue	Requires extensive new reports on environmental regulations 5 years after adoption or modification	Oppose	Failed passage
AB 2289 Eng	Allows major changes to smog check testing procedures	Support and seek amendments	Chaptered
AB 2311 Mendoza	Requires triennial review of ARB greenhouse gas fuel regulations, and delay to avoid impacts on fuel prices, small businesses, the economy etc.	Oppose	Failed passage
AB 2469 B.Berryhill	Establishes new dispute resolution process for businesses seeking relief from ARB's AB 32 regs.	Oppose	Failed passage
AB 2565 Ammiano	Reduces CEQA paperwork for lead agencies by allowing increased internet use in CEQA process	Support	Chaptered
AB 2691 Hall	Prohibits AQMDs, cities, counties, or others from imposing GHG fees	Oppose	Failed passage
SB 435 Pavley	Would allow enforcement against tampering of motorcycle emissions controls for 2013 and later bikes	Support	To the Governor
SB 942 Dutton	Requires repeal of regulations if analysis by State Auditor indicates costs outweigh benefits	Oppose	Failed passage

SB 960 Dutton	Requires ARB regulations to be analyzed by Office of Administrative Law for feasibility and costs	Oppose	Failed passage
SB 1114 Florez	Allows districts to create ERCs from marine and locomotive emission reduction projects that are partly public funded	Oppose	Failed passage
SB 1120 Dutton	Prohibits ARB from adopting AB 32 cap-and-trade program unless it is part of a required federal or regional program	Oppose	Failed passage
SB 1194 Hollingsworth	Prohibits air districts from banning installation of wood burning devices in new & existing residences	Oppose	Failed passage
SB 1263 Wyland	Eliminates AB 32	Oppose	Failed passage
SB 1299 Lowenthal	Requires DMV to assess feasibility of VMT fee	Support	Failed passage
SB 1340 Kehoe	Requires CEC to establish a program to reduce costs for in-home electric vehicle charging	Support	To the Governor
SB 1402 Dutton	Requires ARB to detail how each penalty amount was calculated, and takes penalty revenues away from ARB	Oppose	To the Governor, but amended to address our concerns
SB 1433 Leno	Ties air penalty ceilings to inflation	Co-Sponsor	To the Governor
SB 1445 DeSaulnier	Increases vehicle registration fees by \$1 to fund SB 375 implementation	Support	To the Governor
SBX8 57 Cox	Delays ARB on-road diesel regulation by 2 years	Oppose	Failed passage

Also, staff will present to the Committee on October 4, 2010 a longer list of bills of air quality significance and their final resolution. Staff can also answer questions about these bills as well.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Thomas Addison

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Memorandum

To: Chairperson Garner and  
Members of the Legislative Committee

From: Jack P. Broadbent  
Executive Officer/APCO

Date: September 27, 2010

Re: Update on State Budget

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RECOMMENDED ACTION: None; informational item

DISCUSSION

As of the date of preparation of this memorandum, California still has no adopted budget for the 2010-2011 Fiscal Year. While the first three months of the fiscal year have already passed, budget negotiations in Sacramento have been delayed to a record late date. However, the Governor and minority and majority party leaders in both the Assembly and Senate have recently announced that they have agreed on the framework of a budget deal. Thus, on October 4, 2010 staff hope to be able to verbally present to the Committee the implications to the District of a recently-adopted State budget.

BUDGET CONSIDERATION/FINANCIAL IMPACT

To be discussed.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Thomas Addison

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Memorandum

To: Chairperson Garner and  
Members of the Legislative Committee

From: Jack P. Broadbent  
Executive Officer/APCO

Date: September 27, 2010

Re: Position on Proposition 23

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RECOMMENDED ACTION: Oppose Proposition 23, and recommend position to full Board of Directors

DISCUSSION

This November, Californians will vote on Proposition 23, called by the sponsors the California Jobs Initiative. The Secretary of State's official summary of the ballot measures is that it: "Suspends State laws requiring reduced greenhouse gas emissions that cause global warming, until California's unemployment rate drops to 5.5% or less for four consecutive quarters. Requires State to abandon implementation of comprehensive greenhouse-gas-reduction program that includes increased renewable energy and cleaner fuel requirements, and mandatory emission reporting and fee requirements for major polluters such as power plants and oil refineries, until suspension is lifted."

More simply, it would put California's Global Warming Solutions Act (AB 32 of 2006) on hold until unemployment is at or below 5.5% for a full year. Since 1970, the state has experienced only three episodes where unemployment was below this level for four quarters. Thus, the Legislative Analyst's Office (LAO) has found that if the proposition is approved by the voters, "it appears likely that AB 32 would remain suspended for many years". The LAO's description and analysis of the proposition is attached for the Committee's consideration.

This Committee and the Board have examined within the last year the issue of the Board taking positions on initiatives. The decision reached by the Board was that the Board will only consider taking positions on initiatives that are specifically about air quality issues. Staff believe that taking a position on Proposition 23 is clearly consistent with this Board decision.

Given the Board's commitment to and leadership on reducing greenhouse gases, staff recommend an oppose position on this measure. Practically, staff concur with the LAO's findings that it will largely halt most of the measures to cut greenhouse gases laid out in the Air Resource Board's scoping plan developed pursuant to AB 32.

Much of the funding for the Yes on 23 campaign has come from the Valero Energy Corporation, Tesoro Corporation, and Koch Industries. Much of funding for the No on 23 campaign has come from clean energy companies and, to a lesser extent, environmental organizations.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Thomas Addison



### **Proposition 23**

## **Suspends Air Pollution Control Laws Requiring Major Polluters to Report and Reduce Greenhouse Gas Emissions That Cause Global Warming Until Unemployment Drops Below Specified Level for Full Year. Initiative Statute.**

### **BACKGROUND**

*Global Warming and Greenhouse Gases.* Greenhouse gases (GHGs) are gases that trap heat from the sun within the earth's atmosphere, thereby warming the earth's temperature. Both natural phenomena (mainly the evaporation of water) and human activities (principally burning fossil fuels) produce GHGs. Scientific experts have voiced concerns that higher concentrations of GHGs resulting from human activities are increasing global temperatures, and that such global temperature rises could eventually cause significant problems. Such global temperature increases are commonly referred to as global warming, or climate change.

As a populous state with a large industrial economy, California is the second largest emitter of GHGs in the United States and one of the largest emitters of GHGs in the world. Climate change is a global issue necessitating an international approach. Actions in California regarding GHGs have been advocated on the basis that they will contribute to a solution and may act as a catalyst to the undertaking of GHG mitigation policies elsewhere in our nation and in other countries.

*Assembly Bill 32 Enacted to Limit GHGs.* In 2006, the state enacted the California Global Warming Solutions Act of 2006, commonly referred to as Assembly Bill 32 or

"AB 32." This legislation established the target of reducing the state's emissions of GHGs by 2020 to the level that emissions were at in 1990. It is estimated that achieving this target would result in about a 30 percent reduction in GHGs in 2020 from where their level would otherwise be in the absence of AB 32.

Assembly Bill 32 requires the state Air Resources Board (ARB) to adopt rules and regulations to achieve this reduction. The law also directs ARB, in developing these rules and regulations, to take advantage of opportunities to improve air quality, thereby creating public health benefits from the state's GHG emission reduction activities.

*Other Laws Would Reduce GHG Emissions.* In addition to AB 32, a number of other state laws have been enacted by the Legislature that would reduce GHG emissions. In some cases, the main purpose of these other laws is specifically to reduce GHG emissions. For example, a 2002 law requires the ARB to adopt regulations to reduce GHG emissions from cars and smaller trucks. Other laws have authorized various energy efficiency programs that could have the effect of reducing GHG emissions, although this may not have been their principal purpose.

*"Scoping Plan" to Reach GHG Emission Reduction Target.* As required by AB 32, the ARB in December 2008 released its plan on how AB 32's GHG emission reduction target for 2020 would be met. The plan—referred to as the AB 32 Scoping Plan—encompasses a number of different types of measures to reduce GHG emissions. Some are measures authorized by AB 32, while others are authorized by separately enacted

laws. Some of these measures have as their primary objective something other than reducing GHGs, such as reducing the state's dependency on fossil fuels.

The plan includes a mix of traditional regulatory measures and market-based measures. Traditional regulations, such as energy efficiency standards for buildings, would require individuals and businesses to take specific actions to reduce emissions. Market-based measures provide those subject to them greater flexibility in *how* to achieve GHG emission reductions. The major market-based measure included in the Scoping Plan is a "cap-and-trade" program. Under such a program, the ARB would set a limit, or *cap*, on GHG emissions; issue a limited number of emission allowances to emitters related to the amount of GHGs they emit; and allow emitters covered by the program to buy, sell, or *trade* those emission allowances.

Some measures in the Scoping Plan have already been adopted in the form of regulations. Other regulations are either currently under development or will be developed in the near future. Assembly Bill 32 requires that all regulations for GHG emission reduction measures be adopted by January 1, 2011 and in effect by January 1, 2012.

*Fee Assessed to Cover State's Administrative Costs.* As allowed under AB 32, the ARB has adopted a regulation to recover the state's costs of administering the GHG emission reduction programs. Beginning in fall 2010, entities that emit a high amount of GHGs, such as power plants and refineries, must pay annual fees that will be used to offset these administrative costs. Fee revenues will also be used to repay various state

special funds that have made loans totaling \$83 million to the AB 32 program. These loans have staggered repayment dates that run through 2014.

*The Economic Impact of Implementing the Scoping Plan.* The implementation of the AB 32 Scoping Plan will reduce levels of GHG emissions and related air pollutants by imposing various new requirements and costs on certain businesses and individuals. The reduced emissions and the new costs will both affect the California economy. There is currently a significant ongoing debate about the impacts to the California economy from implementing the Scoping Plan. Economists, environmentalists, and policy makers have voiced differing views about how the Scoping Plan will affect the gross state product, personal income, prices, and jobs. The considerable uncertainty about the Scoping Plan's "bottom-line" or net impact on the economy is due to a number of reasons. First, because a number of the Scoping Plan measures have yet to be fully developed, the economic impacts will depend heavily on how the measures are designed in the public regulatory process. Second, because a number of the Scoping Plan measures are phased in over time, the full economic impacts of some measures would not be felt for several years. Third, the implementation of the Scoping Plan has the potential to create both positive and negative impacts on the economy. This includes the fact that there will be both "winners" and "losers" under the implementation of the Scoping Plan for particular economic sectors, businesses, and individuals.

A number of studies have considered the economic impacts of the Scoping Plan implementation in 2020—the year when AB 32's GHG emission reduction target is to be

met. Those studies that have looked at the economic impacts from a relatively broad perspective have, for the most part, found that there will be some modest reduction in California's gross state product, a comprehensive measure of economic activity for the state. These findings reflect how such things as more expensive energy, new investment requirements, and costs of regulatory compliance combine to increase the costs of producing materials, goods, and services that consumers and businesses buy. Given all of the uncertainties involved, however, the net economic impact of the Scoping Plan remains a matter of debate.

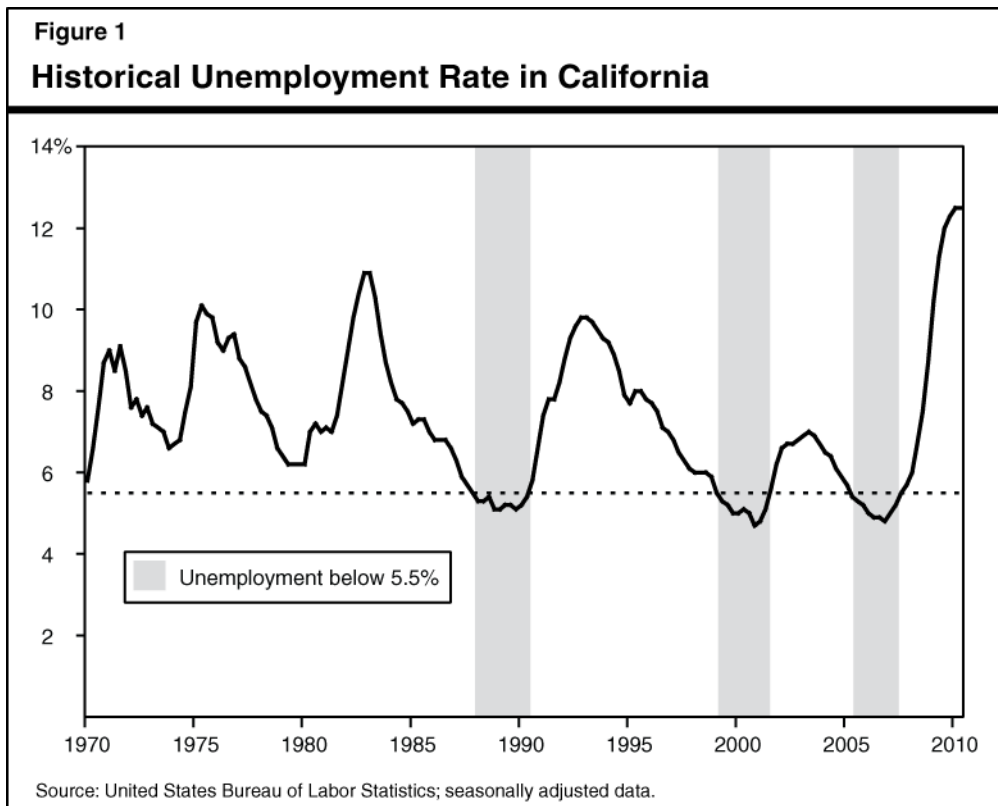
## **PROPOSAL**

This proposition suspends the implementation of AB 32 until the unemployment rate in California is 5.5 percent or less for four consecutive quarters. During the suspension period, state agencies are prohibited from proposing or adopting new regulations, or enforcing previously adopted regulations, that would implement AB 32. (Once AB 32 went back into effect, this measure could not suspend it again.)

## **IMPACTS OF THIS PROPOSITION ON CLIMATE CHANGE REGULATION**

*AB 32 Would Be Suspended, Likely for Many Years.* Under this proposition, AB 32 would be suspended immediately. It would remain suspended until the state's unemployment rate was 5.5 percent or less for four consecutive quarters (a one-year period). We cannot estimate when the suspension of AB 32 might end. Figure 1 provides historical perspective on the state's unemployment rate. It shows that, since 1970, the state has had three periods (each about ten quarters long) when the

unemployment rate was at or below 5.5 percent for four consecutive quarters or more. The unemployment rate in California for the first two quarters of 2010 was above 12 percent. Economic forecasts for the next five years have the state's unemployment rate remaining above 8 percent. Given these factors, it appears likely that AB 32 would remain suspended for many years.



*Various Climate Change Regulatory Activities Would Be Suspended.* This proposition would result in the suspension of a number of measures in the Scoping Plan for which regulations either have been adopted or are proposed for adoption. Specifically, this proposition would likely suspend:

- The proposed cap-and-trade regulation discussed above.

- The “low carbon fuel standard” regulation that requires providers of transportation fuel in California (such as refiners and importers) to change the mix of fuels to lower GHG emissions.
- The proposed ARB regulation that is intended to require privately and publicly owned utilities and others who sell electricity to obtain at least 33 percent of their supply from “renewable” sources, such as solar or wind power, by 2020. (The current requirement that 20 percent of the electricity obtained by privately owned utilities come from renewable sources by 2010 would not be suspended by this proposition.)
- The fee to recover state agency costs of administering AB 32.

*Much Regulation in the Scoping Plan Would Likely Continue.* Many current activities related to addressing climate change and reducing GHG emissions would probably not be suspended by this proposition. That is because certain Scoping Plan regulations implement laws other than AB 32. The regulations that would likely move forward, for example, include:

- New vehicle emission standards for cars and smaller trucks.
- A program to encourage homeowners to install solar panels on their roofs.
- Land-use policies to promote less reliance on vehicle use.
- Building and appliance energy efficiency requirements.

We estimate that more than one-half of the emission reductions from implementing the Scoping Plan would come because of laws enacted separately from AB 32.

## **FISCAL EFFECTS**

### **Potential Impacts on California Economy and State and Local Revenues**

There would likely be both positive and negative impacts on the California economy if AB 32 were suspended. These economic impacts, in turn, would affect state and local government revenues. We discuss these effects below.

*Potential Positive Economic Impacts.* The suspension of AB 32 would likely have several positive impacts on the California economy. Suspending AB 32 would reduce the need for new investments and other actions to comply with new regulations that would be an added cost to businesses. Energy prices—which also affect the state's economy—would be lower in 2020 than otherwise. This is because the proposed cap-and-trade regulation, as well as the requirement that electric utilities obtain a greater portion of their electricity supplies from renewable energy sources, would otherwise require utilities to make investments that would increase the costs of producing or delivering electricity. Such investments would be needed to comply with these regulations, such as by obtaining electricity from higher-priced sources than would otherwise be the case. The suspension of such measures by this proposition could therefore lower costs to businesses and avoid energy price increases that otherwise would largely be passed on to energy consumers.



*Potential Negative Economic Impacts.* The suspension of AB 32 could also have negative impacts on the California economy. For example, the suspension of some Scoping Plan measures could delay investments in clean technologies that might result in some cost savings to businesses and consumers. Investment in research and development and job creation in the energy efficiency and clean energy sectors that support or profit from the goals of AB 32 might also be discouraged by this proposition, resulting in less economic activity in certain sectors than would otherwise be the case. Suspending some Scoping Plan measures could halt air quality improvements that would have public health benefits, such as reduced respiratory illnesses. These public health benefits translate into economic benefits, such as increased worker productivity and reduced government and business costs for health care.

*Net Economic Impact.* As discussed previously, only a portion of the Scoping Plan measures would be suspended by the proposition. Those measures would have probably resulted in increased compliance costs to businesses and/or increased energy prices. On the other hand, those measures probably would have yielded public health-related economic benefits and increased profit opportunities for certain economic sectors. Considering both the potential positive and negative economic impacts of the proposition, we conclude that, on balance, economic activity in the state would likely be modestly higher if this proposition were enacted than otherwise.

*Economic Changes Would Affect State and Local Revenues.* Revenues from taxes on personal and business income and on sales rise and fall because of changes in the level

of economic activity in the state. To the extent that the suspension of AB 32 resulted in somewhat higher economic activity in the state, this would translate into an unknown but potentially significant increase in revenues to the state and local governments.

### **Other Fiscal Effects**

*Impacts of Suspension of the Cap-and-Trade Regulation.* The suspension of ARB's proposed cap-and-trade regulation could have other fiscal effects depending on how this regulation would otherwise have been designed and implemented. One proposed approach provides for the auctioning of emission allowances by the state to emitters of GHGs. This approach would increase costs to affected firms doing business in the state, as they would have to pay for allowances. Such auctions could result in as much as several billion dollars of new revenues annually to the state that could be used for a variety of purposes. For example, depending on future actions of the Legislature, the auction revenues could be used to reduce other state taxes or to increase state spending for purposes that may or may not be related to efforts to prevent global warming. Thus, the suspension of AB 32 could preclude the collection by the state of potentially billions of dollars in new allowance-related payments from businesses.

*Potential Impacts on State and Local Government Energy Costs.* As noted above, the suspension of certain AB 32 regulations would likely result in lower energy prices in California than would otherwise occur. Because state and local government agencies are large consumers of energy, the suspension of some AB 32-related regulations would reduce somewhat state and local government energy costs.

*Impacts on State Administrative Costs and Fees.* During the suspension of AB 32, state administrative costs to develop and enforce regulations pursuant to AB 32 would be reduced significantly, potentially by the low tens of millions of dollars annually. However, during a suspension, the state would not be able to collect the fee authorized under AB 32 to pay these administrative costs. As a result, there would no longer be a dedicated funding source to repay loans that have been made from certain state special funds to support the operation of the AB 32 program. This would mean that other sources of state funds, potentially including the General Fund, might have to be used instead to repay the loans. These potential one-time state costs could amount to tens of millions of dollars. Once AB 32 went back into effect, revenues from the AB 32 administrative fee could be used to pay back the General Fund or other state funding sources that were used to repay the loans.

In addition, once any suspension of AB 32 regulations ended, the state might incur some additional costs to reevaluate and update work to implement these measures that was under way prior to the suspension.

**Proposition 23**

**Suspends Air Pollution Control Laws Requiring Major Polluters to Report and Reduce Greenhouse Gas Emissions That Cause Global Warming Until Unemployment Drops Below Specified Level for Full Year. Initiative Statute.**

**Yes/No Statement**

A **YES** vote on this measure means: Certain existing and proposed regulations authorized under state law ("Assembly Bill 32") to address global warming would be suspended. These regulations would remain suspended until the state unemployment rate drops to 5.5 percent or lower for one year.

A **NO** vote on this measure means: The state could continue to implement the measures authorized under Assembly Bill 32 to address global warming.