



CITY OF  
**HAYWARD**  
HEART OF THE BAY

**COUNCIL SUSTAINABILITY  
COMMITTEE**

**JANUARY 30, 2013**

---

## Table of Contents

Agenda . . . . .	2
Meeting Minutes for October 3, 2012 CSC Meeting	
Meeting Minutes October 3 2012 . . . . .	4
Update on City Partnerships with PG&E	
Staff Report . . . . .	7
Attachment I Programs . . . . .	10
Energy Council JPA Report	
Staff Report . . . . .	24
Clean Energy and Energy Efficiency Funding – Proposition 39 and AB 32 “Cap and Trade” Revenue	
Staff Report . . . . .	28
Attachment I Prop 39 Text . . . . .	34
Attachment II Leg Analysis Prop 39. . . . .	47
Attachment III San Jose Mercury Article 12 01 12 . . . . .	53
Attachment IV AB 1532. . . . .	56
Attachment V San Jose Mercury Article 12 02 12. . . . .	60
Solar Powered Public Trash Receptacles	
Solar Powered Public Trash Receptacles. . . . .	65
Attachment I Placement at Watkins & B Street . . . . .	67
Single-Use Bag Reduction Compliance in the City of Hayward	
Staff report . . . . .	68
Attachment I Single Use Store Visit Photos. . . . .	70
2013 Council Sustainability Committee Meeting Topics	
CSC Meeting Topics for 2013. . . . .	71



---

**CITY COUNCIL SUSTAINABILITY COMMITTEE MEETING**  
**Wednesday, January 30, 2013**  
**Conference Room 2A**  
**4:30 – 6:30 PM**

**CALL TO ORDER**

**ROLL CALL**

---

**PUBLIC COMMENTS:** *(The Public Comment section provides an opportunity to address the City Council Committee on items not listed on the agenda. The Committee welcomes your comments and requests that speakers present their remarks in a respectful manner, within established time limits, and focus on issues which directly affect the City or are within the jurisdiction of the City. As the Committee is prohibited by State law from discussing items not listed on the agenda, your item will be taken under consideration and may be referred to staff.)*

---

1. Approval of Minutes of October 3 2012

[Meeting Minutes October 3 2012](#)

2. Update on City Partnerships with PG&E

[Staff Report](#)  
[Attachment I Programs](#)

3. Energy Council JPA Report

[Staff Report](#)

4. Clean Energy and Energy Efficiency Funding – Proposition 39 and AB 32 “Cap and Trade” Revenue

[Staff Report](#)  
[Attachment I Prop 39 Text](#)  
[Attachment II Leg Analysis Prop 39](#)  
[Attachment III San Jose Mercury Article 12 01 12](#)  
[Attachment IV AB 1532](#)  
[Attachment V San Jose Mercury Article 12 02 12](#)

5. Solar Powered Public Trash Receptacles

[Solar Powered Public Trash Receptacles](#)  
[Attachment I Placement at Watkins & B Street](#)

6. Single-Use Bag Reduction Compliance in the City of Hayward

[Staff report](#)  
[Attachment I Single Use Store Visit Photos](#)

7. Review Future Agenda Topics

[CSC Meeting Topics for 2013](#)

## COMMITTEE MEMBER ANNOUNCEMENTS AND REFERRALS

## ADJOURNMENT

NEXT REGULAR MEETING – 4:30 PM, WEDNESDAY, APRIL 3, 2013

---

*\*\*\*Materials related to an item on the agenda submitted to the Council after distribution of the agenda packet are available for public inspection in the City Clerk's Office, City Hall, 777 B Street, 4<sup>th</sup> Floor, Hayward, during normal business hours. An online version of this agenda and staff reports are available on the City's website.*

---

*Assistance will be provided to those requiring accommodations for disabilities in compliance with the Americans Disabilities Act of 1990. Interested persons must request the accommodation at least 48 hours in advance of the meeting by contacting the Assistant City Manager at (510) 583-4300 or TDD (510) 247-3340.*

---

CITY HALL, 777 B STREET, HAYWARD, CA 94541  
[HTTP://WWW.HAYWARD-CA.GOV](http://www.hayward-ca.gov)



CITY COUNCIL SUSTAINABILITY COMMITTEE MEETING  
Hayward City Hall – Conference Room 2A  
777 B Street, Hayward, CA 94541-5007

October 03, 2012  
4:30 p.m.

**MEETING MINUTES**

**CALL TO ORDER:** Meeting called to order at 4:35 p.m. by Al Mendall, Council Member.

**ROLL CALL:**

**Members:**

- Al Mendall, Council Member/CSC Chair
- Barbara Halliday, Council Member
- Francisco Zermeño, Council Member
- Dianne McDermott, Planning Commissioner
- Elisa Marquez, Planning Commissioner
- Vishal Trivedi, Planning Commissioner
- Laura Oliva, Keep Hayward Clean and Green Task Force/CSC Vice Chair

**Staff:**

- Kelly McAdoo, Assistant City Manager
- Alex Ameri, Director of Public Works - Utilities & Environmental Services
- David Rizk, Development Services Director
- Erik Pearson, Senior Planner
- Katy Ramirez, Administrative Secretary (Recorder)
- Angel Groves, Secretary

Council Member Mendall welcomed the Committee's new member, Planning Commissioner, Vishal Trivedi.

**PUBLIC COMMENTS:**

Council Member Mendall thanked everyone for accommodating his need to stand and use the podium during the meeting.

Francisco Zermeño, Council Member, reminded the Committee that effective January 1, 2013, the City of Hayward's ban on Single-Use Plastic Bags and free paper bags will go into effect.

Alex Ameri, Director of Public Works - Utilities & Environmental Services, explained the details of the ban, which prohibits the use of single-use bags and encourages the use of re-usable bags. David Rizk, Development Services Director, asked how many cities within Alameda County are participating in this ban. Mr. Ameri responded that all 14 cities in Alameda County are participating.

1. Election of Chair and Vice Chair

Barbara Halliday, Council Member, nominated Council Member Mendall as Chair. There were no noted objections from the Committee.

Al Mendall, Council Member, nominated Barbara Halliday who respectfully declined due to being new to the Committee and indicated that she would prefer the Vice Chair not be a Council Member. Diane McDermott, Planning Commissioner, nominated Laura Oliva as Vice Chair. Ms. Oliva accepted; there was no opposition from the Committee.

2. Approval of Minutes of July 11, 2012 – minutes approved.

Mr. Rizk commented that it was a pleasure to have the full Committee present. Council Member Mendall acknowledged new staff coming into the Committee, in particular, the upcoming new position of Environmental Services Manager.

3. Overview of Climate Action Plan (CAP)

Council Member Mendall asked to make a few comments. He noted that work on the Climate Action Plan started five years ago (2007) and the Committee has had many accomplishments. Council Member Mendall noted that progress has slowed due to the initial progress made in the first two years and then challenges stemming from staff shortages within the last year. He also reflected on the initial stance of being a leader and acknowledged the recent initiatives at the County level, such as the Single-Use Plastic Ban and the Multi-Family Recycling Ordinance. Council Member Mendall emphasized that in this transition period, things need to speed up and any comments from Committee Members on how to accomplish this, are encouraged.

Mr. Rizk talked about PG&E & QuEST's work and their plans to visit small businesses to aide them in identifying energy savings. He wanted to remind all, of the amount of work being done behind the scenes, reaching out to the community and the future plans to update the General Plan and incorporate policies from the CAP into the General Plan.

Erik Pearson, Senior Planner, provided an overview of the staff report and presented a PowerPoint presentation and overview of key items from the CAP to refresh current Committee members and bring new members up to speed. The presentation explicated key points such as: the steps the City is taking towards adding solar panels to City facilities and parking structures; the Single-Use Plastic Bag Ordinance and Multi-Family Recycling Ordinance initiative at the County level; the nine strategies and forty specific actions that will enable that City to meet its adopted emission reduction targets. Comments were also made regarding budgetary challenges associated with these actions by Mr. Rizk and Mr. Ameri.

Dianne McDermott, Planning Commissioner, conveyed to all that Thomas Williams, City Manager for the City of Milpitas, complimented the City of Hayward for its implementation of the Climate Action Plan.

#### 4. Sustainability Committee Agenda Topics for 2013

Council Member Mendall and other Committee members offered suggestions and agreed that the topic of Green incentives for City employees should be discussed at a future meeting. Suggestions included: telecommuting, carpooling and assistance and encouragement in purchasing electric cars.

Council Member Mendall also suggested that Mr. Ameri research and provide for the Committee, information regarding solar powered trash receptacles and other types of receptacles to further promote and encourage recycling throughout the City.

Council Member Mendall emphasized the importance of reviewing current and proposed efforts for City-wide water conservation. Mr. Ameri agreed and will prepare this information for discussion during the April 3 meeting.

Committee members unanimously agreed that CAP Action Number 6.2, Waste Reduction Report, be moved and discussed during the April 3, 2013 Sustainability Committee meeting.

The following Meeting Topics will remain on the Agenda for the January 9 meeting: Update on formation of Alameda County Energy Council; Financing for Energy Efficiency and Renewable Energy; and an update on City and PG&E partnerships.

#### **COMMITTEE MEMBER/STAFF ANNOUNCEMENTS AND REFERRALS:**

Laura Oliva, Keep Hayward Clean and Green Task Force, announced that the Hayward Education Foundation in production with TriCED Community Recycling will be hosting the Second Annual Science at the Park Event on Saturday, October 6, 2012 from 9:00am to 4:30pm at Alden E. Oliver Sports Park of Hayward. This event is a great opportunity to raise funds for the Hayward & New Haven Unified School Districts.

Dianne McDermott, Planning Commissioner, also announced that SPUR (San Francisco Planning & Urban Research) is hosting an event on Monday, October 15 in San Jose and on Tuesday, October 16, at the SPUR facilities. Mr. Rizk requested that the details of the event be sent to him and he will forward to all.

Council Member Mendall recommended that at least one Committee Member attend the SPUR event; Laura Oliva noted that she would try to attend.

Committee Members discussed moving the date of the January meeting from the second to a later date that better accommodates all; members agreed and a new date will be presented.

Council Member Mendall kindly requested that all members make a greater effort to ensure they are on time to all meetings.

**ADJOURNMENT:** 6:28 p.m.



**DATE:** January 30, 2013  
**TO:** Council Sustainability Committee  
**FROM:** Development Services Director  
**SUBJECT:** Update on City Partnerships with PG&E

## **RECOMMENDATION**

That the Committee reviews and comments on this report.

## **BACKGROUND**

Hayward has partnered with PG&E for the last several months to encourage energy efficiency in both residential and commercial properties. PG&E offers a variety of incentives, assistance, and programs to promote efficient energy use and associated reduction of greenhouse gas emissions.

## **DISCUSSION**

Andrea Schumer, *CSBA, Certified Sustainable Building Advisor*, and PG&E Customer Relationship Manager, has been involved with various programs and activities in Hayward over the last several months, including those listed below. Ms. Schumer has been invited to attend tonight's meeting and give a short presentation on these and other PG&E programs. Following is a summary of some of the more significant activities over the last several months.

*Green Hayward Campaign (campaign period ran October 8-December 31, 2012):* The campaign involved:

- Letters sent out from Hayward City Manager Fran David announcing the partnership with PG&E to assist small & medium sized businesses with various energy saving projects;
- Direct phone number provided in letter for customers to call in to request a site visit;
- Hayward Small Business Expo where PG&E reps were available to schedule energy assessments for interested customers;
- Hayward Chamber of Commerce emailed notices to members

### Targeted Customer Outreach:

- Free energy assessments;
- Retrofit of outdated lighting technology, especially discontinued T12 fluorescent lamps;
- Free HVAC tune-ups;

- Free LED exit signs;
- Referrals to other beneficial energy saving programs per customer's need;
- Assistance with PG&E's "My Energy" web-based usage tool, billing & rate questions

The results from the campaign so far have been encouraging:

- 572 businesses contacted by PG&E reps throughout campaign period, with visits still being made;
- Approximately 312 energy audits performed (this process is on-going);
- 11 completed projects with savings over 600,000 KWh and 150 KW

Hayward Case Studies - In conjunction with the Green Hayward Campaign, the City's former Sustainability Coordinator consultant, Quantum Energy Services and Technologies, Inc. (Quest), created a collection of small business case studies (see six copies attached) to distribute throughout the community that provide information and specific measures businesses have taken/can take to be more energy efficient. These case studies highlight energy efficiency projects in various business sectors: Hotel and Hospitality; Manufacturing; Churches and Places of Worship; Automotive and Warehouse; Auto Shop; and Community-Based and Non-Profit Organizations. Staff will be working to distribute this information throughout the community, including distributing to the Chamber.

Hayward Unified School District - Through Hayward's Nonprofit and Governmental Agency (NGA) Energy Efficiency Incentive Program, federal energy efficiency and conservation block grant funds were allocated to the Hayward Unified School District (HUSD) to perform lighting retrofits at several schools. This initial investment from the City of Hayward to assist the School District prompted a larger HUSD discussion to use PG&E's On Bill Financing Program in order to fund other much-needed lighting projects. As a result, 32 schools have been retrofitted with efficient lighting with a total savings of 1,748,149 KWh and 775 KW.

## **ECONOMIC IMPACT**

Partnering with PG&E to promote energy efficiency will help businesses and residents in Hayward reduce their costs, which will help promote business growth through cost savings.

## **FISCAL IMPACT**

There are no known fiscal impacts to the City for such programs. The referenced program incentives for HUSD, as well as the case study work by QuEST, utilized federal energy efficiency and conservation block grant funds.

## **PUBLIC CONTACT**

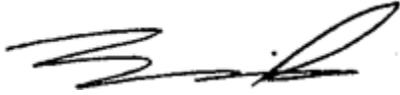
Several outreach efforts have been undertaken, as described in this report.

## **NEXT STEPS**

Staff will distribute information from the case studies, and continue to work with PG&E to promote energy efficiency.

*Recommended by:* Alex Ameri, Director of Public Works – Utilities & Environmental Services  
David Rizk, AICP, Development Services Director

Approved by:



---

Fran David, City Manager

Attachments:

Attachment I: Case Studies for following six business types/sectors: Hotel and Hospitality; Manufacturing; Churches and Places of Worship; Automotive and Warehouse; Auto Shop; and Community-Based and Non-Profit Organizations

# ENERGY EFFICIENCY PROGRAMS THAT CAN REDUCE COSTS



## Imperial Truck and Trailer Repair

**CASE STUDY:** Air-compressors are one of the most important pieces of equipment in an auto shop; they provide all of the power to the air-tools that get the jobs done. They are also typically the most neglected piece of equipment when it comes to maintenance which can lead to sub-standard performance and higher electric bills. A poorly maintained air-compressor will have a poor efficiency and can end up costing shop-owners a lot of money in energy and lost productivity of workers.

# CUSTOMIZED ENERGY EFFICIENCY PROGRAMS

## CUSTOMIZED ENERGY ASSESSMENTS

Imperial Truck and Trailer Repair is a local Hayward auto shop that performs maintenance on commercial trucks. Mander Singh, the manager of the shop, was interested in knowing how much money he could save by optimizing his compressed air systems. Here is what is in Mander is working with:

A Champion 7.5 HP compressor with a 120 gallon tank that provides compressed air to approximately 10 different outlets throughout the shop. There is an air dryer that is used during cold weather when the owner deems it necessary. Both the air compressor and the dryer are turned on and off manually. The compressor is set to run between 140 and 175 psi. When it first turns on, the compressor takes the tank pressure all the way up to 175 before turning off. When the tank pressure drops below 140 the compressor turns back on. The main use of compressed air at this facility is hand tools. Usage data was collected and analyzed on operating pressure and compressor power through independent data loggers. The following opportunities were identified and implemented in order to save energy and money:

- Performed routine maintenance on the compressor - Changed the belts, oil, and filter
- Repaired a significant leak in the compressed air line right before the air dryer
- Turned down the operating pressure of the tank to 140psi



The baseline annual energy use of the compressor was 7,566 kWh. After installation the new usage data was trended to project energy use over the next year. The result was 6,226 kWh – which is 1,340 kWh of savings that resulted from the work mentioned above. **The result of the audit and repair was an increase in efficiency of the compressed air system and annual utility savings of about \$200.**

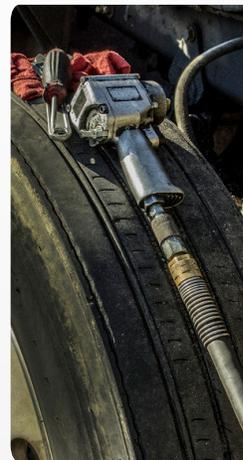
## FIRST STEPS TO ENERGY EFFICIENCY

Doing energy efficiency projects in your auto shop is straightforward and easy.

Check out the other ways that auto shops are saving energy around the East Bay:

- Installing an isolation valve for the paint shop helps to reduce unnecessary leakage from the system when the paint shop isn't in use. The valve should be closed on days that the paint shop is not in operation.
- Replace leaky hoses and/or leaky fittings.

Small improvements add up to bigger savings in energy costs at the end of the year.



Have you already considered these opportunities? If so call Carla Dowell of the East Bay Energy Watch at 510.540.7200 to find out what steps you might want to look at next.



## Churches and Places of Worship

**CASE STUDY:** Churches and faith-based organizations are important members in every community. Expenses related to serving communities have continued to rise, including energy. A simple retrofit like replacing older, inefficient bulbs with more efficient bulbs not only saves money but can also improve the quality of light. Recently a church in the East Bay was looking to reduce its energy expenses. The church signed up for a free energy assessment through the East Bay Energy Watch. The project led them to significant energy-saving opportunities. In total, the church reduced its electric bill by \$2,400 per year. The total cost to the church was \$8,289, after receiving more than \$5,200 in rebates. Now the congregation can keep facilities up and running with dramatically lower energy expenditures. Decreasing the burden of utility bills on the annual operating budget leaves more funds available to carry out the church's mission..

# CUSTOMIZED ENERGY EFFICIENCY PROGRAMS

## CUSTOMIZED ENERGY ASSESSMENTS

Energy efficiency means managing your energy use so that you're using the least amount of energy while still providing all the lighting, heating, and cooling that one needs to be comfortable. An energy assessment identifies the opportunities to conserve power and reduce expenses, providing you clear direction on which specific actions you should take and the resulting cost and benefit. As an example, installing occupancy sensors ensures that lights are only in use when they need to be, no matter what time of day it is. The East Bay Energy Watch offers free energy assessments and cash incentives to help defray project costs. Call today to schedule a free energy assessment.



## FIRST STEPS TO ENERGY EFFICIENCY

Doing energy efficiency projects in your church is straightforward and easy. Check out the top 3 projects that churches are implementing around the East Bay:

1. **Linear Fluorescent Retrofit.** Many older buildings still have highly inefficient outdated fluorescent fixtures. You can recognize the fixtures, they're long bulbs that are larger in diameter than a quarter. Participate in a free energy audit to determine how much you can save!
2. **Compact fluorescents.** Still have incandescent bulbs? Replace them easily with energy-saving bulbs (CFLs) and reap the rewards. The lighting is much warmer than earlier versions of the CFL, and they've never be cheaper.
3. **Lighting Controls, Motion Sensors.** Don't rely on people to manage your light switches. With motion sensors, your lights will be on when you need them and will automatically turn off when you don't. Classrooms, meeting rooms, and bathrooms are good places to put these switches, which can be picked up from most hardware stores.



Considering these opportunities? If interested, call Carla Dowell of the East Bay Energy Watch at 510.540.7200 to find out more.



## Hotel and Hospitality

**CASE STUDY:** The hotel and hospitality industry offers numerous opportunities for cost-effective energy efficiency upgrades. Energy efficiency projects lead to reduced utility expenses and can help improve guest experiences through increased comfort and aesthetic appeal. From improved lighting to optimized temperature control, efficiency goes hand in hand with guest satisfaction

# CUSTOMIZED ENERGY EFFICIENCY PROGRAMS

## CUSTOMIZED ENERGY ASSESSMENTS

Several Bay Area hotels have taken advantage of the Lodging Savers program that offers free comprehensive energy surveys and incentives that “typically range from 60-80% of or more of lighting costs, 100% of guestroom energy management system costs, and all of the costs for vending machine controllers, low-flow showerheads and aerators.” According to Aaron Glade, program specialist for Ecology Action, “oftentimes, we will see a job costing \$20,000 to complete but the cost to the hotel owner will be just a few hundred dollars.” This program simplifies the process of energy efficiency projects for your hotel and covers a large percentage of the total program cost.



Energy efficiency refers to the process of ensuring that your hotel’s energy-consuming systems meet guest needs at the least possible cost. The goal of every energy assessment is to identify the opportunities to save you money and ensure that your facility’s equipment is meeting the needs of your customers. For example, hotel management may consider installing guest room energy management capabilities to save money and improve the guest’s experience. This upgrade ensures that the lights are on when guests need them and off when the room is unoccupied. Along with lighting, temperature control is central to energy management and arguably influences customer comfort more than anything else. Allowing guest access to a prescribed range of temperatures gives them control while preventing wasteful practices. Current technologies provide wireless options making retrofit projects less expensive and less disruptive.

## FIRST STEPS TO ENERGY EFFICIENCY

Doing energy efficiency projects in your hotel is straightforward and easy. Take the first step and call Lodging Savers for your free comprehensive energy survey at **888.846.5050** or visit their website to learn more: [www.lodgingsavers.org](http://www.lodgingsavers.org)

Check out the top 3 projects that hotels are implementing around the East Bay:

1. **Lighting.** There are a comprehensive range of lighting measures for guest rooms, common areas and exterior lighting, which can be customized for your hotel.
2. **Guest Room Energy Management.** Intelligent control of existing Air Conditioner units using occupancy sensors and smart thermostats to reduce energy use while ensuring guest comfort.
3. **Soda Machine and Snack Vending Machine Controllers.** Shuts down non-essential lighting and reduces compressor run time during periods of low activity. The cost of these units are usually fully-covered by the Lodging Savers program.



Have you already considered these opportunities? If so call Carla Dowell of the East Bay Energy Watch at 510.540.7200 to find out what steps you might want to look at next.



## Hotel and Hospitality

**CASE STUDY:** The hotel and hospitality industry offers numerous opportunities for cost-effective energy efficiency upgrades. Energy efficiency projects lead to reduced utility expenses and can help improve guest experiences through increased comfort and aesthetic appeal. From improved lighting to optimized temperature control, efficiency goes hand in hand with guest satisfaction

# CUSTOMIZED ENERGY EFFICIENCY PROGRAMS

## CUSTOMIZED ENERGY ASSESSMENTS

Several Bay Area hotels have taken advantage of the Lodging Savers program that offers free comprehensive energy surveys and incentives that “typically range from 60-80% of or more of lighting costs, 100% of guestroom energy management system costs, and all of the costs for vending machine controllers, low-flow showerheads and aerators.” According to Aaron Glade, program specialist for Ecology Action, “oftentimes, we will see a job costing \$20,000 to complete but the cost to the hotel owner will be just a few hundred dollars.” This program simplifies the process of energy efficiency projects for your hotel and covers a large percentage of the total program cost.



Energy efficiency refers to the process of ensuring that your hotel’s energy-consuming systems meet guest needs at the least possible cost. The goal of every energy assessment is to identify the opportunities to save you money and ensure that your facility’s equipment is meeting the needs of your customers. For example, hotel management may consider installing guest room energy management capabilities to save money and improve the guest’s experience. This upgrade ensures that the lights are on when guests need them and off when the room is unoccupied. Along with lighting, temperature control is central to energy management and arguably influences customer comfort more than anything else. Allowing guest access to a prescribed range of temperatures gives them control while preventing wasteful practices. Current technologies provide wireless options making retrofit projects less expensive and less disruptive.

## FIRST STEPS TO ENERGY EFFICIENCY

Doing energy efficiency projects in your hotel is straightforward and easy. Take the first step and call Lodging Savers for your free comprehensive energy survey at **888.846.5050** or visit their website to learn more: [www.lodgingsavers.org](http://www.lodgingsavers.org)

Check out the top 3 projects that hotels are implementing around the East Bay:

1. **Lighting.** There are a comprehensive range of lighting measures for guest rooms, common areas and exterior lighting, which can be customized for your hotel.
2. **Guest Room Energy Management.** Intelligent control of existing Air Conditioner units using occupancy sensors and smart thermostats to reduce energy use while ensuring guest comfort.
3. **Soda Machine and Snack Vending Machine Controllers.** Shuts down non-essential lighting and reduces compressor run time during periods of low activity. The cost of these units are usually fully-covered by the Lodging Savers program.



Have you already considered these opportunities? If so call Carla Dowell of the East Bay Energy Watch at 510.540.7200 to find out what steps you might want to look at next.



## Manufacturing

CASE STUDY: Hayward's manufacturers have reduced their utility expenses through energy efficiency projects while also improving workplace safety by ensuring optimal lighting levels throughout the facility. These efforts have reduced their overall cost of production. The City of Hayward boasts a large number of manufacturing businesses that are ideal candidates for energy efficiency projects. As you know, ensuring adequate lighting and a reliable compressed air system is vital to production efficiency. The compressed air systems that drive the manufacturing process must be properly maintained and optimized to ensure production reliability and prevent unnecessary energy use.

# CUSTOMIZED ENERGY EFFICIENCY PROGRAMS

## CUSTOMIZED ENERGY ASSESSMENTS

Unless recently retrofitted, lighting arrangements found in manufacturing plants tend to be energy intensive. The goal of a lighting retrofit is to improve light quality and ensure adequate light output while minimizing energy costs. New overhead lighting may be a more efficient alternative to your current fixtures, cutting costs up to 25% or more in some cases.

One East Bay manufacturing facility decided to retrofit their low bay overhead fixtures with more efficient replacements. The project cost \$10,500, after the East Bay Energy Watch covered nearly 70% of the total project cost. Light quality was increased and annual savings exceeded \$8,700, while providing an improved work environment and reducing operating expenses – a clear win, win.



## FIRST STEPS TO ENERGY EFFICIENCY

Compressed air optimization is one of the most cost-effective projects a facility can undertake. A simple energy audit of compressed air systems can identify upgrades that lead to thousands of dollars in annual savings. In a recent case, a manufacturing facility invested \$12,000 into compressed air system upgrades which amounted to nearly \$45,000 in savings each year. Energy audits also identify potential scheduling changes that can help relieve higher demand charges, ultimately lowering operating costs.

1. **Custom Lighting of High Bay Fixtures.** Retrofitting high bay metal halide fixtures with T8 fluorescent fixtures can result in savings up to 50% while increasing the quality and amount of light provided to the space. Low bay retrofits are also cost-effective in most cases.
2. **Compressed Air Optimization.** Often the most cost-effective approach to energy efficiency in the manufacturing industry. You may be able to generate thousands in savings by reducing the system's cycling time and system pressure. Watch the savings go back into your budget at the flip of a switch!
3. **Lighting controls & Motion Sensors.** Don't rely on people to manage your light switches. With motion sensors, your lights will be on when you need them and will automatically turn off when you don't. Meeting rooms and bathrooms are good places to put these switches, which can be picked up from most hardware stores.



Considering these opportunities? If interested, call Carla Dowell of the East Bay Energy Watch at 510.540.7200 to find out more.



## Automotive and Warehouse

**CASE STUDY:** As manager of the Wilson Way Tire Company, Mike Pruitt knows his trade, "Anything that deals with tires, we do it." From general tire sales to 24 hour roadside service, Mike is dedicated to increased sales and excellent customer service. As soon as he learned about the free energy assessments provided by the East Bay Energy Watch, he took advantage of the opportunity. Once the report came back, Mike shared the savings recommendations with the ownership and they decided to move forward with project and see if they could save some money.

# CUSTOMIZED ENERGY EFFICIENCY PROGRAMS

## CUSTOMIZED ENERGY ASSESSMENTS

Mike was pleased with the new lights, saying, "Our warehouse is normally a pretty dark place, especially in the winter. We used to have to shuffle around the stack of tires with a flashlight in order to read the tire specs. Now we don't need flashlights!" The total project cost for Wilson Way Tires was just over \$5,000, after receiving rebates covering 43 percent of the project cost. The savings generated from the project exceed \$2,700 each year, not to mention



the increases in workplace efficiency and safety resulting from increasing light levels. This case study demonstrates that efficiency is not always about reducing light levels; in fact it aims to optimize lighting systems to meet your needs by achieving the greatest efficiency while saving money.



## FIRST STEPS TO ENERGY EFFICIENCY

Energy efficiency refers to the process of ensuring that a building's energy-consuming systems meet occupants' needs at the least possible cost. The goal of every energy assessment is to identify the opportunities to save money and ensure that a facility's equipment meets the needs of employees and customers. Current technologies provide a variety of efficient options at affordable prices, especially with the East Bay Energy Watch incentive program.

1. **Custom Lighting of High Bay Fixtures.** Retrofitting high bay metal halide fixtures with T8 fluorescent fixtures can result in savings up to 50% while increasing the amount and quality of light provided to your space.
2. **Linear Fluorescent Retrofit.** Many facilities still have older fluorescent fixtures providing inefficient light. You can recognize the fixtures, they're long bulbs that are larger than a quarter in diameter. Participate in a free energy audit to determine how much you can save!
3. **Lighting Controls, Motion Sensors.** Don't rely on people to manage your light switches. With motion sensors, your lights will be on when you need them and will automatically turn off when you don't. Classrooms, meeting rooms, and bathrooms are good places to put these switches, which can be picked up from most hardware stores.



Considering these opportunities? If interested, call Carla Dowell of the East Bay Energy Watch at 510.540.7200 to find out more.



## Community-based and Non-Profit Organizations

**CASE STUDY:** The Arc in Hayward has been committed to helping people with intellectual and development disabilities live rich, fulfilling lives since 1950. Organizations like The Arc provide vital services in Hayward but often must manage the ups and downs of funding streams. The Arc has been able to manage expenses by upgrading the lighting system throughout its facility. The lighting project not only eliminated energy waste, but saved over \$27,000 per year! By working with energy experts to analyze their facility's energy use, The Arc improved the quality of lighting while also reducing their energy expenses.

# CUSTOMIZED ENERGY EFFICIENCY PROGRAMS

## CUSTOMIZED ENERGY ASSESSMENTS

Hayward organizations are able to take advantage of customized energy assessments that tailor lighting solutions to their buildings' specific demands. These assessments often lead to significant dollar savings that allow organizations to reallocate budget to other, non-energy needs. Organizations have been hit hard in the recent recession: general donations are down, while the need for financial resources has increased. While energy expenses are just a portion of an organization's overall operating cost, it's an expense that can often be reduced. Driving down energy expenditure cuts waste, providing more resources for the community and helping Hayward meet its Climate Action Goals.

Energy efficiency refers to the process of meeting its occupants' needs for lighting, heating, cooling, etc, at the least possible cost. The goal of an energy assessment is to identify the opportunities to save money and to ensure that lights meet occupants' specific needs. For example, many people find their lights are too bright, creating a harsh glare on their computer screens. In other cases lights may be too dim or may be flickering, creating an uninviting environment. These issues can be fixed and save you money, today.

## SIMPLE PROJECTS THAT SAVE MONEY

Doing energy efficiency projects for your organization is straightforward and easy. Many individuals have said that they're not sure what steps to take, but we've made it simple. Check out the top 3 projects that organizations like The Arc are implementing around the East Bay:

1. **Linear Fluorescent Retrofit.** Many facilities still use older tubular fluorescent fixtures that provide inefficient light. You'll recognize these in-efficient bulbs because they're larger in diameter than a quarter. Participate in a free energy audit to determine if you can cut your bills in half!
2. **Power Strips.** An often overlooked yet simple way to combat energy waste. Purchase a few for your electronics or one for each computer desk. These prevent 'energy leakage' when your equipment is not in use and can be picked up in most hardware stores.
3. **Exterior Lighting Retrofits.** What about the lights outside your building? These stay on all night long. Install bi-level fixtures with occupancy sensors to ensure that you are paying for the light you need when you need it.



Have you already considered these opportunities? If so call Carla Dowell of the East Bay Energy Watch at 510.540.7200 to find out what steps you might want to look at next.



**DATE:** January 30, 2013  
**TO:** Council Sustainability Committee  
**FROM:** Director of Public Works – Utilities & Environmental Services  
**SUBJECT:** Update on the Energy Council

## **RECOMMENDATION**

That the Committee reviews and comments on this report.

## **SUMMARY**

The Alameda County Waste Management Authority (ACWMA) is establishing an Energy Council for the purpose of securing funding for energy-related programs and implementing such programs on a regional basis. The mechanism for forming the Council is a Joint Exercise of Powers Authority (JPA). Staff has been actively engaged in the discussions, and while supportive of the Energy Council goals, has concerns about the governance structure as described below. This item will be brought to the City Council for consideration in late February or early March. The effective date of the JPA is March 29, 2013.

## **BACKGROUND**

The ACWMA is a public agency operating under the terms of a 1992 JPA, and represents fourteen cities, the unincorporated areas of Alameda County, and two sanitary sewer districts that provide garbage and recycling collection services. Among other responsibilities, the ACWMA administers a variety of programs in the areas of source reduction and recycling, as well as provides technical assistance and public education related to solid waste.

Due in part to the resources available from this agency, member entities have succeeded in achieving a fifty percent or more diversion rate of materials from landfills. Currently, the average diversion rate for all jurisdictions in the County is about seventy percent. As these programs have matured, the ACWMA is seeking a way to utilize its staff expertise and organizational structure to advance other sustainability goals of its members, and has identified a link between solid waste management and reduced energy use and emissions.

The ACWMA is inviting its member agencies to join a separate JPA to establish an Energy Council for the purpose of pursuing and administering energy-specific grants and other related funding on

behalf of its member agencies. The rationale behind this type of approach is that many energy related initiatives may be more effectively implemented on a regional basis. A JPA would allow member agencies to jointly obtain outside funding to support Climate Action Plan implementation measures by coordinating the grant process and regional implementation of energy efficiency and sustainable energy initiatives. The JPA would also assist members with strengthening staff capacity by providing technical expertise.

On September 26, 2012, the ACWMA Board directed its staff to solicit its member agencies with land use authority to sign the JPA to become members of the Energy Council. As of the writing of this report, the Cities of Union City and Emeryville have adopted resolutions to become members and more cities are likely to join. The JPA will be effective on March 29, 2013, and all agencies that sign will be members as of that date. This does not mean that the door will close however: cities that wish to join the JPA after March 2013 may do so with an affirmative vote of the Energy Council Board.

## **DISCUSSION**

The primary purpose of the Energy Council is to coordinate grant proposals and regional implementation of energy efficiency programs and sustainable energy development initiatives. Regional cooperation may increase the competitiveness of some grant proposals, and certain types of programs, such as consumer incentives, may be more efficiently implemented on a regional basis. An energy-focused JPA would demonstrate that Alameda County prioritizes energy management and sustainable energy initiatives and has established a dedicated governance structure for this purpose.

The Energy Council would not have the power to impose taxes or fees, but would have the power to adopt countywide ordinances. However, any adopted ordinances would only apply within a member agency if the agency adopted a resolution to “opt in.” In other words, only if an action is taken by the legislative body of a member jurisdiction would an ordinance be applicable to that jurisdiction. Membership in the JPA will not require contributions or payments from member agencies other than staff resources to participate in the Technical Advisory Group and assist in implementing grants.

City staff has been engaged in staff-level discussions with ACWMA regarding formation of the Energy Council. While generally supportive of ACWMA’s goals, staff has concerns regarding governance of the new entity, specifically pertaining to the voting structure. Along with the cities of Oakland and Fremont, staff submitted comments to the ACWMA recommending a weighted voting structure based on population or some other reasonable measure to ensure appropriate representation. At its September 26, 2012 meeting, at which the representatives from neither Oakland nor Berkeley were present, the ACWMA Board opted for a simple voting structure, whereby each member agency has one equally weighted vote. This approach may not most effectively advance Hayward’s interests.

ACWMA staff acknowledged concerns about the voting structure, and brought the matter back to its Board on December 19. The Board agreed to consider modifications to the structure at its January 23 meeting, including a proposal put forth by the City of Oakland, by which Oakland, as the largest entity would receive three votes, the cities of Hayward and Fremont would have two votes, as would unincorporated Alameda County, and the remaining cities would have one vote each. This would result in a total of twenty votes, assuming that all agencies join. This structure, if approved, is a reasonable means of providing larger population centers with a greater voice without disenfranchising

smaller cities. The Authority staff has requested that member agencies hold off on taking action until there is more certainty about the voting structure. Staff expects to bring the item to the City Council in late February or early March, by which time the approved voting structure and decisions from other cities will be known.

Staff will utilize this time to monitor the actions of other larger cities in the County and to assess the potential impact of joining the Energy Council on the City's ability to pursue and manage grant funds separately and independently. Regardless of the City Council's final decision on this matter, staff wants to ensure that membership on the Energy Council will not in any way hinder the City's pursuit of grant funding, either individually or in cooperation with other entities, for implementation of local energy conservation and efficiency programs, and development of renewable energy sources.

### **ECONOMIC IMPACT**

The Energy Council will not have the power to impose taxes or fees on member agencies. The community may benefit economically from grant funding or other monies obtained through participation on the Council, such as California Public Utilities Commission grants or funds available as a result of the recently approved Proposition 39. However, the City is not precluded from competing for those funds individually or in cooperation with other agencies.

### **FISCAL IMPACT**

There are no known direct costs to the City in the way of fees or charges for membership on the Energy Council. Staff resources would be required for participation on the Technical Advisory Group and in obtaining and implementing grants.

### **PUBLIC CONTACT**

The City has not implemented public contact efforts at this time. Regardless of whether Hayward joins the JPA or not, appropriate outreach to consumers would be conducted to market energy efficiency and conservation programs as funding becomes available.

### **NEXT STEPS**

The Energy Council will be officially effective on March 29, 2013. Staff anticipates bringing this item before the City Council in late February or early March. In the meantime, staff will continue to monitor the formation of the JPA, including actions by other Alameda County cities, particularly the larger jurisdictions, such as Oakland, Fremont, and Berkeley. If the Council decides not to join the JPA in March, the option would still be available at a later date upon an affirmative vote by the Energy Council Board.

*Prepared by:* Marilyn Mosher, Administrative Analyst III

*Recommended by:* Alex Ameri, Director of Public Works – Utilities & Environmental Services  
David Rizk, Director of Development Services

Approved by:

A handwritten signature in black ink, appearing to read 'Fran David', written over a horizontal line.

Fran David, City Manager



**DATE:** January 30, 2013

**TO:** Council Sustainability Committee

**FROM:** Director of Public Works – Utilities & Environment Services

**SUBJECT:** Clean Energy and Energy Efficiency Funding – Proposition 39 and AB 32  
“Cap and Trade” Revenue

### **RECOMMENDATION**

That the Committee reviews and comments on this report.

### **SUMMARY**

This report consolidates information about two potential energy efficiency revenue sources: Proposition 39 and “cap and trade” revenue.

California State Proposition 39 was approved in November 2012 and requires that multi-state businesses use a formula proportional to their total sales in California (“single sales factor”) to pay state income tax. The measure is estimated to generate \$1 billion in annual revenue for the State. The measure also mandates the establishment of the Clean Energy Job Creation fund to support projects to improve energy efficiency and expand the use of alternative energy. Half of the revenue raised (up to \$550 million per year) will be transferred to the Fund over five years (totaling \$2.75 billion). These monies will be used to fund clean energy projects. The State Legislature will determine the final guidelines for fund allocation in 2013.

“Cap and trade” revenue is derived from State auctions of greenhouse gas (GHG) allowances. The auctions are in place to comply with AB 32, which was enacted in 2006 and requires the California Air Resource Board (ARB) to adopt a statewide GHG emissions limit equivalent to 1990 levels by 2020. State revenue from the market based system is estimated to be \$1 billion in 2012-13, with half of the revenue placed in a “GHG Reduction Fund,” to be used to support the achievement of the GHG reduction goal. The State Legislature will determine how the GHG Reduction Fund revenue will be allocated.

### **BACKGROUND**

#### Proposition 39 – Clean Energy and Energy Efficiency Funding

Passed in November 2012 by 60% of the voters, Proposition 39 is effective on January 1, 2013 and is estimated to generate state-wide revenues of around \$1 billion annually by requiring multi-state

businesses to use a “single-factor” method to determine their taxable income liability in California. This measure modifies the 2009 law that allowed multi-state businesses the ability to choose between two formulas (“three-factor method” or a “single-factor method”) to calculate income tax liability. The “three-factor method” used the location of the company’s sales, property and employees as criteria, while the single-factor method only used the location of the company’s sales. The “three-factor method” permitted multi-state businesses with fewer employees and less property in California to lower their state income tax, regardless of sales, thus costing the state approximately \$1 billion year annually in lost revenue.

The measure also mandates the establishment of the Clean Energy Job Creation Fund (“the Fund”) to support projects to improve energy efficiency and expand the use of alternative energy. The proposition specifies that for the first five fiscal years, half of the revenue raised (up to \$550 million) will be transferred to the Fund, and that the Legislature, in coordination with the California Energy Commission (CEC) and the California Public Utilities Commission (CPUC), will determine how the monies are spent. After the \$550 million transfer to the Fund, the remaining monies will be considered State General Fund revenue. After five years have passed, all revenue generated from the measure will be included as State General Fund revenue.

Proposition 39 identifies that the \$550 million allocated to the Fund is to be appropriated by the Legislature to fund projects that improve energy efficiency and expand clean energy generation while creating jobs in these fields. Qualifying projects include:

- a. Energy efficiency retrofits and alternative energy installations in public schools, colleges, universities, and other public facilities;
- b. Local governments-private partnership programs to finance Property Assessed Clean Energy (PACE) programs for energy retrofits; and
- c. Job training and workforce development programs that focus on energy efficiency and clean energy projects.

The full text for Proposition 39 and analysis by the State Legislative Analyst can be found at <http://voterguide.sos.ca.gov/propositions/39/>.

### Cap and Trade

AB 32, enacted in 2006, requires the Air Resource Board (ARB) to adopt a statewide Green House Gas emissions limit equivalent to 1990 levels by 2020 (approximately 80 million metric tons of carbon dioxide), as well as regulations to achieve the reduction goal. This measure authorized the ARB to utilize market based compliance mechanisms (“cap and trade”) for approximately 18 million metric tons of the reduction goal.

In short, “cap and trade” means that an emissions limit (*cap*) is placed on a business, which can only be exceeded if the business buys emission allowances from the State or another business that no longer needs the allowance (*trade*). In California, businesses that emit more than 25,000 metric tons of carbon dioxide are subject to an individual cap. Each allowance is equivalent to one metric ton of carbon dioxide. The number of allowances available for purchase each year is equal to the aggregate cap of total emissions. As the State decreases the allowable GHG emission limit, companies will be buying and selling a declining number of permits with the marketplace

determining the price. Higher prices could act as incentives for investing in more efficient systems with lower GHG emissions.

State revenue from GHG allowance auctions is estimated to be \$1 billion in 2012-13, with half of the revenue placed in a “GHG Reduction Fund.” The Fund will then be used to support the achievement of the GHG reduction goal. The other half of the State’s revenue would be transferred to the Air Pollution Control Fund to be used to offset existing General Fund costs of GHG mitigation activities.

## **DISCUSSION**

### Proposition 39

While the exact terms of how the monies will be allocated to individual agencies have yet to be determined, it is anticipated that the \$550 million per year would be spent on (1) grants and low-interest loans to encourage participation in clean energy programs that meet the qualified project criteria listed above, and (2) workforce training to increase the skilled workers available to install the new technologies. In early January 2013, the Senate Select Committee on Energy Efficiency will hold hearings to explore how the funds generated can be distributed to qualified projects.

Hayward may benefit from this funding through assistance with energy efficiency retrofits, such as the installation of new windows, improved insulation, modern lighting, and more efficient heating, ventilation and air conditioning (HVAC) systems, alternative energy installations, and with creating and funding an energy retrofit financial assistance program for property owners. While some of these measures may seem routine, they can result in improved air quality and significant reductions in greenhouse gas emissions and offer meaningful investments in energy efficiency.

The California legislature will appropriate the funds through the State budget process. Staff anticipates that competitive grant programs will be set up to encourage public entities to develop cost effective proposals. Staff will closely monitor progress of discussions at the Legislature. Once the program details are known, staff will evaluate energy usage at City facilities, assess the condition of windows, insulation, lighting, and HVAC systems, and determine which facilities may benefit most from upgrades or retrofits. Staff will also stay connected to local agencies (particularly the Hayward Unified School District and Hayward Area Recreation and Park District) that may be potential partners. Depending on the types of community programs supported by Proposition 39 funds, Hayward may also have the opportunity to pursue funding to assist homeowners and businesses in increasing building energy efficiency. The *San Jose Mercury News* published a very good article regarding Proposition 39 and its potential for funding cost effective energy efficiency projects. A copy of the article is attached to this report and available online at: [http://www.mercurynews.com/science/ci\\_22102553/tidal-wave-money-coming-make-california-schools-greener?source=rss](http://www.mercurynews.com/science/ci_22102553/tidal-wave-money-coming-make-california-schools-greener?source=rss)

### Cap and Trade

Actual revenues from cap and trade will not be known until later in FY2013; therefore, planned expenditures are not specified by program in the 2012-13 State budget per AB 32. However, the

Legislature is required to submit an expenditure plan after the first cap and trade auction, held on November 14, 2012. At that auction, there were 23.1 million permits offered at the auction to cover 2013-2014 emissions, all of which were purchased, raising \$233 million. 2015 emissions permits were also sold, and of the 39.6 million permits available, approximately 5.6 million were sold, raising approximately \$55 million.

AB 1532, signed by Governor Brown on September 30, 2012, formally establishes an investment plan for the GHG Reduction Fund, setting procedures for the investment of revenues derived from the cap and trade auction. The full text of AB 1532 can be found as an attachment to this report, as well as at [http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201120120AB1532](http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201120120AB1532). The bill identified that this revenue, upon appropriation by the Legislature, may be utilized to reduce GHG emissions in the following areas:

- a. Energy efficiency, transmission and storage, and other related actions at public universities, state and local public buildings, and industrial and manufacturing facilities;
- b. Development of state-of-the-art systems to move goods and freight, advanced technology vehicles and vehicle infrastructure, advanced biofuels, and low-carbon and efficient public transportation;
- c. Water use and supply, land and natural resource conservation and management, forestry, and sustainable agriculture;
- d. Strategic planning and development of sustainable infrastructure projects, including transportation and housing;
- e. Increased in-state diversion of municipal solid waste from disposal through waste reduction, diversion, and reuse;
- f. Investments in programs implemented by local and regional agencies, local and regional collaboratives, and nonprofit organizations coordinating with local governments; and,
- g. Research, development, and deployment of innovative technologies, measures, and practices related to programs and projects funded by the GHG Reduction fund.

There may be an opportunity for the City to apply for funding for public projects, as well as assist local businesses in accessing funding for clean energy projects. The Bay Area Regional Energy Network, as well as the East Bay Energy Watch may also benefit from funding. The City is actively participating in both organizations. A key difference between this revenue and Proposition 39 revenue is that cap and trade revenue would be available to both private and public entities for a wider variety of project types, making the process more competitive.

The *San Jose Mercury News* published an article titled “13 Things to Know about California’s Cap and Trade Program,” which is attached to this report and available online at: [http://www.mercurynews.com/business/ci\\_22092533/13-things-know-about-california-cap-trade-program?IADID=Search-www.mercurynews.com-www.mercurynews.com](http://www.mercurynews.com/business/ci_22092533/13-things-know-about-california-cap-trade-program?IADID=Search-www.mercurynews.com-www.mercurynews.com)

## **ECONOMIC IMPACT**

With the implementation of Proposition 39, there is a potential for clean energy job creation in Hayward. However, until the Legislature defines the exact spending terms and criteria of the Clean Energy Job Creation fund, the specific economic impacts to the City have yet to be

determined. A similar case exists with cap and trade revenue, where the process for allocating the funding received from the auctions has yet to be determined.

### **FISCAL IMPACT**

The fiscal impact of both Proposition 39 and cap and trade revenue is unknown at this time, as the method for allocation of specific dollar amounts has yet to be determined by the Legislature. Factors that may affect the fiscal impact to the City will be whether grants versus low-interest loans are utilized for project funding, the allocation of staff time and potentially consultant resources to prepare grant applications in order to partner with outside agencies (school district, e.g.). The total amount of revenue from cap and trade auctions is difficult to predict, given the price of each allocation is market driven. In addition, this cap and trade revenue will be available for both public and private entities, whereas Proposition 39 monies are available only to public entities.

### **PUBLIC CONTACT**

Staff will bring major future developments related to Proposition 39 or cap and trade to this Committee for discussion, public input, and direction. As monies from the Clean Energy Job Creation fund or the GHG Reduction fund become available to Hayward, the resultant programs will be marketed to the community accordingly.

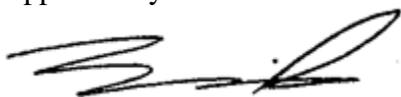
### **NEXT STEPS**

City staff will continue to monitor the progress of the discussions in the Legislature, and guidelines for implementing the expenditure of the clean energy related funds. Staff will bring to the Committee information about the guidelines and staff efforts to access the funding.

*Prepared by:* Corinne Ferreyra, Administrative Analyst I

*Recommended by:* Alex Ameri, Director of Public Works – Utilities & Environmental Services  
David Rizk, Development Services Director

Approved by:



---

Fran David, City Manager

Attachments:

Attachment I	Proposition 39
Attachment II	Proposition 39 – Legislative Analysis
Attachment III	<i>San Jose Mercury News</i> Article December 1, 2012
Attachment IV	AB 1532
Attachment V	<i>San Jose Mercury News</i> Article December 2, 2012

Office of Attorney General  
ATTN: Dawn McFarland, Initiative Coordinator  
1300 I Street  
Sacramento, CA 95814

**RECEIVED**  
NOV 18 2011

INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICE

November 18, 2011

Re: Request for Title and Summary of Proposed Initiative

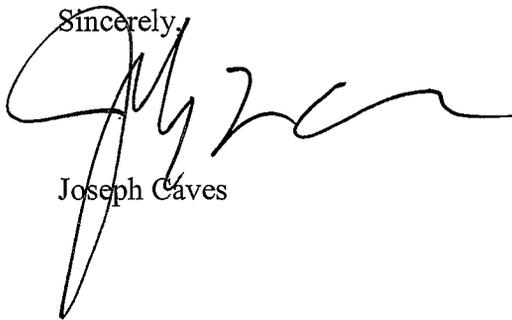
Dear Ms. McFarland,

I am submitting the "The California Clean Energy Jobs Act" for a proposed statewide ballot measure. I hereby request the Attorney General prepare a circulating title and summary of the chief purpose and point of the initiative measure, pursuant to Elections Code Section 9001 (a).

Enclosed please find a draft of the initiative, a \$200 check payable to the State of California, my signed statements and home address.

Thank you.

Sincerely,



Joseph Caves

## THE CALIFORNIA CLEAN ENERGY JOBS ACT

**Section 1.** The People of the State of California do hereby find and declare all of the following:

(1) California is suffering from a devastating recession that has thrown more than a million Californians out of work.

(2) Current tax law both discourages multistate companies from locating jobs in California, and puts job-creating California companies at a competitive disadvantage.

(3) To address this problem, most other states have changed their laws to tax multistate companies on the percent of sales in that state, a tax approach referred to as the “single sales factor.”

(4) If California were to adopt the single sales factor approach, the independent Legislative Analyst’s Office estimates that state revenues would increase by as much as \$1.1 billion per year and create a net gain of 40,000 California jobs.

(5) In addition, by dedicating a portion of increased revenue to job creation in the energy efficiency and clean energy sectors, California can create tens of thousands of additional jobs right away, reducing unemployment, improving our economy, and saving taxpayers money on energy.

(6) Additional revenue would be available to public schools consistent with current California law.

**Section 2:** Division 16.3 is added to the Public Resources Code to Read:

### Division 16.3 CLEAN ENERGY JOB CREATION

#### Chapter 1. General Provisions

26200. This Division shall be known and may be cited as the California Clean Energy Jobs Act.

26201. This Division has the following objectives:

(a) Create good paying energy efficiency and clean energy jobs in California.

(b) Put Californians to work repairing and updating schools and public buildings to improve their energy efficiency and make other clean energy improvements that create jobs and save energy and money.

(c) Promote the creation of new private sector jobs improving the energy efficiency of commercial and residential buildings.

(d) Achieve the maximum amount of job creation and energy benefits with available funds.

(e) Supplement, complement and leverage existing energy efficiency and clean energy programs to create increased economic and energy benefits for California in coordination with the California Energy Commission and the California Public Utilities Commission.

(f) Provide a full public accounting of all money spent and jobs and benefits achieved so the programs and projects funded pursuant to this division can be reviewed and evaluated.

## **Chapter 2. Clean Energy Job Creation Fund**

26205. The Clean Energy Job Creation Fund is hereby created in the State Treasury. Except as provided in Section 26208, the sum of five hundred fifty million dollars (\$550,000,000) shall be transferred from the General Fund to the Job Creation Fund in fiscal years 2013-2014, 2014-2015, 2015-2016, 2016-2017, and 2017-2018. Moneys in the fund shall be available for appropriation for the purpose of funding projects that create jobs in California improving energy efficiency and expanding clean energy generation including all of the following:

(a) Schools and Public Facilities:

(1) Public Schools: Energy efficiency retrofits and clean energy installations, along with related improvements and repairs that contribute to reduced operating costs and improved health and safety conditions, on public schools.

(2) Universities and Colleges: Energy efficiency retrofits, clean energy installations and other energy system improvements to reduce costs and achieve energy and environmental benefits.

(3) Other public buildings and facilities: Financial and technical assistance including revolving loan funds, reduced interest loans or other financial assistance for cost effective energy efficiency retrofits and clean energy installations on public facilities.

(b) Job training and workforce development: Funding to the California Conservation Corps, Certified Community Conservation Corps, YouthBuild, and other existing workforce development programs to train and employ disadvantaged youth, veterans and others on energy efficiency and clean energy projects.

(c) Public-private partnerships: Assistance to local governments in establishing and implementing Property Assessed Clean Energy (PACE) programs or similar financial and technical assistance for cost effective retrofits that include repayment requirements. Funding shall be prioritized to maximize job creation, energy savings and geographical and economic

equity. Where feasible, repayment revenues shall be used to create revolving loan funds or similar on-going financial assistance programs to continue job creation benefits.

26206. The following criteria apply to all expenditures from the Clean Energy Job Creation Fund:

(a) Project selection and oversight shall be managed by existing state and local government agencies with expertise in managing energy projects and programs.

(b) All projects shall be selected based on in-state job creation and energy benefits for each project type.

(c) All projects shall be cost effective: total benefits shall be greater than project costs over time. Project selection may include consideration of non-energy benefits such as health and safety in addition to energy benefits.

(d) All projects shall require contracts that identify the project specifications, costs and projected energy savings.

(e) All projects shall be subject to audit.

(f) Program overhead costs shall not exceed 4% of total funding.

(g) Funds shall be appropriated only to agencies with established expertise in managing energy projects and programs.

(h) All programs shall be coordinated with the California Energy Commission and the California Public Utilities Commission to avoid duplication and maximize leverage of existing energy efficiency and clean energy efforts.

(i) Eligible expenditures include costs associated with technical assistance, and with reducing project costs and delays, such as development and implementation of processes that reduce the costs of design, permitting or financing or other barriers to project completion and job creation.

26208. If the Department of Finance and the Legislative Analyst jointly determine that the estimated annual increase in revenues as a result of the amendment, addition or repeal of Revenue and Taxation Sections 25128, 25128.5, 25136, and 25128.7, is less than one billion one hundred million dollars (\$1,100,000,000), the amount transferred to the Job Creation Fund shall be decreased to an amount equal to one half of the estimated annual increase in revenues.

### **Chapter 3. Accountability, Independent Audits, Public Disclosure**

26210. (a) The Citizens Oversight Board is hereby created.

(b) The board shall be composed of nine members, three members shall be appointed by the State Treasurer, three members by the State Controller, and three members by the Attorney General. Each appointing office shall appoint one member who meets each of the following criteria:

(1) An engineer, architect or other professional with knowledge and expertise in building construction or design.

(2) An accountant, economist, or other professional with knowledge and expertise in evaluating financial transactions and program cost effectiveness.

(3) A technical expert in energy efficiency, clean energy, or energy systems and programs.

(c) The California Public Utilities Commission and the California Energy Commission shall each designate an ex officio member to serve on the Board.

(d) The Board shall do all of the following:

(1) Annually review all expenditures from the Job Creation Fund.

(2) Commission and review an annual independent audit of the Job Creation Fund and of a selection of projects completed to assess the effectiveness of the expenditures in meeting the objectives of this Division.

(3) Publish a complete accounting of all expenditures each year, posting the information on a publicly accessible website.

(4) Submit an evaluation of the program to the Legislature identifying any changes needed to meet the objectives of this Division.

#### **Chapter 4. Definitions**

26220. The following definitions apply to this division:

(a) "Clean Energy" means a device or technology that meets the definition of "renewable energy" in Section 26003, or that contributes to improved energy management or efficiency.

(b) "Board" means the Citizens' Oversight Board established in Section 26210.

(c) "Job Creation Fund" means the Clean Energy Job Creation Fund established in Section 26205.

(d) "Program overhead costs" include staffing for state agency development and management of funding programs pursuant to this division, but excluding technical assistance,

evaluation, measurement and validation, or costs related to increasing project efficiency or performance, and costs related to local implementation.

**Section 3.** Section 23101 of the Revenue and Taxation Code is amended to read:

23101. (a) "Doing business" means actively engaging in any transaction for the purpose of financial or pecuniary gain or profit.

(b) For taxable years beginning on or after January 1, 2011, a taxpayer is doing business in this state for a taxable year if any of the following conditions has been satisfied:

(1) The taxpayer is organized or commercially domiciled in this state.

(2) Sales, as defined in subdivision (e) or (f) of Section 25120 as applicable for the taxable year, of the taxpayer in this state exceed the lesser of five hundred thousand dollars (\$500,000) or 25 percent of the taxpayer's total sales. For purposes of this paragraph, sales of the taxpayer include sales by an agent or independent contractor of the taxpayer. For purposes of this paragraph, sales in this state shall be determined using the rules for assigning sales under ~~Section~~ Sections 25135 and ~~subdivision (b) of Section~~ 25136, and the regulations thereunder, as modified by regulations under Section 25137.

(3) The real property and tangible personal property of the taxpayer in this state exceed the lesser of fifty thousand dollars (\$50,000) or 25 percent of the taxpayer's total real property and tangible personal property. The value of real and tangible personal property and the determination of whether property is in this state shall be determined using the rules contained in Sections 25129 to 25131, inclusive, and the regulations thereunder, as modified by regulation under Section 25137.

(4) The amount paid in this state by the taxpayer for compensation, as defined in subdivision (c) of Section 25120, exceeds the lesser of fifty thousand dollars (\$50,000) or 25 percent of the total compensation paid by the taxpayer. Compensation in this state shall be determined using the rules for assigning payroll contained in Section 25133 and the regulations thereunder, as modified by regulations under Section

25137.

(c) (1) The Franchise Tax Board shall annually revise the amounts in paragraphs (2), (3), and (4) of subdivision (b) in accordance with subdivision (h) of Section 17041.

(2) For purposes of the adjustment required by paragraph (1), subdivision (h) of Section 17041 shall be applied by substituting "2012" in lieu of "1988."

(d) The sales, property, and payroll of the taxpayer include the taxpayer's pro rata or distributive share of pass-through entities. For purposes of this subdivision, "pass-through entities" means a partnership or an "S" corporation.

**Section 4.** Section 25128 of the Revenue and Taxation Code is amended to read:

25128. (a) Notwithstanding Section 38006, for taxable years beginning before January 1, 2013, all business income shall be apportioned to this state by multiplying the business income by a fraction, the numerator of which is the property factor plus the payroll factor plus twice the sales factor, and the denominator of which is four, except as provided in subdivision (b) or (c).

(b) If an apportioning trade or business derives more than 50 percent of its "gross business receipts" from conducting one or more qualified business activities, all business income of the apportioning trade or business shall be apportioned to this state by multiplying business income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is three.

(c) For purposes of this section, a "qualified business activity" means the following:

- (1) An agricultural business activity.
- (2) An extractive business activity.
- (3) A savings and loan activity.
- (4) A banking or financial business activity.

(d) For purposes of this section:

(1) "Gross business receipts" means gross receipts described in subdivision (e) or (f) of Section 25120 (other than gross receipts from sales or other transactions within an apportioning trade or business between members of a group of corporations whose income and apportionment factors are required to be included in a combined report under Section 25101, limited, if applicable, by Section 25110), whether or not the

receipts are excluded from the sales factor by operation of Section 25137.

(2) "Agricultural business activity" means activities relating to any stock, dairy, poultry, fruit, furbearing animal, or truck farm, plantation, ranch, nursery, or range. "Agricultural business activity" also includes activities relating to cultivating the soil or raising or harvesting any agricultural or horticultural commodity, including, but not limited to, the raising, shearing, feeding, caring for, training, or management of animals on a farm as well as the handling, drying, packing, grading, or storing on a farm any agricultural or horticultural commodity in its unmanufactured state, but only if the owner, tenant, or operator of the farm regularly produces more than one-half of the commodity so treated.

(3) "Extractive business activity" means activities relating to the production, refining, or processing of oil, natural gas, or mineral ore.

(4) "Savings and loan activity" means any activities performed by savings and loan associations or savings banks which have been chartered by federal or state law.

(5) "Banking or financial business activity" means activities attributable to dealings in money or moneyed capital in substantial competition with the business of national banks.

(6) "Apportioning trade or business" means a distinct trade or business whose business income is required to be apportioned under Sections 25101 and 25120, limited, if applicable, by Section 25110, using the same denominator for each of the applicable payroll, property, and sales factors.

(7) Paragraph (4) of subdivision (c) shall apply only if the Franchise Tax Board adopts the Proposed Multistate Tax Commission Formula for the Uniform Apportionment of Net Income from Financial Institutions, or its substantial equivalent, and shall become operative upon the same operative date as the adopted formula.

(8) In any case where the income and apportionment factors of two or more savings associations or corporations are required to be included in a combined report under Section 25101, limited, if applicable, by Section 25110, both of the following shall apply:

(A) The application of the more than 50 percent test of subdivision (b) shall be made with respect to the "gross business receipts" of the entire apportioning trade or

business of the group.

(B) The entire business income of the group shall be apportioned in accordance with either subdivision (a) or (b), or ~~subdivision (b) of Section 25128.5, Section 25128.5 or 25128.7,~~ as applicable.

**Section 5.** Section 25128.5 of the Revenue and Taxation Code is amended to read:

25128.5. (a) Notwithstanding Section 38006, for taxable years beginning on or after January 1, 2011, and before January 1, 2013, any apportioning trade or business, other than an apportioning trade or business described in subdivision (b) of Section 25128, may make an irrevocable annual election on an original timely filed return, in the manner and form prescribed by the Franchise Tax Board to apportion its income in accordance with this section, and not in accordance with Section 25128.

(b) Notwithstanding Section 38006, for taxable years beginning on or after January 1, 2011, and before January 1, 2013, all business income of an apportioning trade or business making an election described in subdivision (a) shall be apportioned to this state by multiplying the business income by the sales factor.

(c) The Franchise Tax Board is authorized to issue regulations necessary or appropriate regarding the making of an election under this section, including regulations that are consistent with rules prescribed for making an election under Section 25113.

d) This section shall not apply to taxable years beginning on or after January 1, 2013, and as of December 1, 2013, is repealed.

**Section 6.** Section 25128.7 is added to the Revenue and Taxation Code, to read:

25128.7. Notwithstanding Section 38006, for taxable years beginning on or after January 1, 2013, all business income of an apportioning trade or business, other than an apportioning trade or business described in subdivision (b) of Section 25128, shall be apportioned to this state by multiplying the business income by the sales factor.

**Section 7.** Section 25136 of the Revenue and Taxation Code is amended to read:

25136. (a) For taxable years beginning before January 1, 2011, and for taxable years beginning on or after January 1, 2011, and before January 1, 2013, for which Section 25128.5 is operative and an election under subdivision (a) of Section 25128.5 has not been made, sales, other than sales of tangible personal property, are in this state if:

(1) The income-producing activity is performed in this state; or  
(2) The income-producing activity is performed both in and outside this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on costs of performance.

(3) This subdivision shall apply, and subdivision (b) shall not apply, for any taxable year beginning on or after January 1, 2011, and before January 1, 2013, for which Section 25128.5 is not operative for any taxpayer subject to the tax imposed under this part.

(b) For taxable years beginning on or after January 1, 2011, and before January 1, 2013:

(1) Sales from services are in this state to the extent the purchaser of the service received the benefit of the service in this state.

(2) Sales from intangible property are in this state to the extent the property is used in this state. In the case of marketable securities, sales are in this state if the customer is in this state.

(3) Sales from the sale, lease, rental, or licensing of real property are in this state if the real property is located in this state.

(4) Sales from the rental, lease, or licensing of tangible personal property are in this state if the property is located in this state.

(5) (A) If Section 25128.5 is operative, then this subdivision shall apply in lieu of subdivision (a) for any taxable year for which an election has been made under subdivision (a) of Section 25128.5.

(B) If Section 25128.5 is not operative, then this subdivision shall not apply and subdivision (a) shall apply for any taxpayer subject to the tax imposed under this part.

(C) Notwithstanding subparagraphs (A) or (B), this subdivision shall apply for purposes of paragraph (2) of subdivision (b) of Section 23101.

(c) The Franchise Tax Board may prescribe those regulations as necessary or appropriate to carry out the purposes of subdivision (b).

(d) This section shall not apply to taxable years beginning on or after January 1, 2013, and as of December 1, 2013, is repealed.

**Section 8.** Section 25136 is added to the Revenue and Taxation Code, to read:

25136. (a) Notwithstanding Section 38006, for taxable years beginning on or after January 1, 2013, sales, other than sales of tangible personal property, are in this state if:

(1) Sales from services are in this state to the extent the purchaser of the service received the benefit of the services in this state.

(2) Sales from intangible property are in this state to the extent the property is used in this state. In the case of marketable securities, sales are in this state if the customer is in this state.

(3) Sales from the sale, lease, rental, or licensing of real property are in this state if the real property is located in this state.

(4) Sales from the rental, lease, or licensing of tangible personal property are in this state if the property is located in this state.

(b) The Franchise Tax Board may prescribe regulations as necessary or appropriate to carry out the purposes of this section.

**Section 9.** Section 25136.1 is added to the Revenue and Taxation Code, to read:

25136.1. (a) For taxable years beginning on or after January 1, 2013, a qualified taxpayer that apportions its business income under Section 25128.7 shall apply the following provisions:

(1) Notwithstanding Section 25137, qualified sales assigned to this state shall be equal to 50 percent of the amount of qualified sales that would be assigned to this state pursuant to Section 25136 but for the application of this section. The remaining 50 percent shall not be assigned to this state.

(2) All other sales shall be assigned pursuant to Section 25136.

(b) For purposes of this section:

(1) "Qualified taxpayer" means a member, as defined in paragraph (10) of subdivision (b) of Section 25106.5 of Title 18 of the California Code of Regulations as in effect on the effective date of the act adding this section, of a combined reporting group that is also a qualified group.

(2) "Qualified group" means a combined reporting group, as defined in paragraph

(3) of subdivision (b) of Section 25106.5 of Title 18 of the California Code of Regulations, as in effect on the effective date of the act adding this section, that satisfies the following conditions:

(A) Has satisfied the minimum investment requirement for the taxable year.

(B) For the combined reporting group's taxable year beginning in calendar year 2006, the combined reporting group derived more than 50 percent of its United States network gross business receipts from the operation of one or more cable systems.

(C) For purposes of satisfying the requirements of subparagraph (B), the following rules shall apply:

(i) If a member of the combined reporting group for the taxable year was not a member of the same combined reporting group for the taxable year beginning in calendar year 2006, the gross business receipts of that nonincluded member shall be included in determining the combined reporting group's gross business receipts for its taxable year beginning in calendar year 2006 as if the nonincluded member were a member of the combined reporting group for the taxable year beginning in calendar year 2006.

(ii) The gross business receipts shall include the gross business receipts of a qualified partnership, but only to the extent of a member's interest in the partnership.

(3) "Cable system" and "network" shall have the same meaning as defined in Section 5830 of the Public Utilities Code, as in effect on the effective date of the act adding this section. "Network services" means video, cable, voice, or data services.

(4) "Gross business receipts" means gross receipts as defined in paragraph (2) of subdivision (f) of Section 25120 (other than gross receipts from sales or other transactions between or among members of a combined reporting group, limited, if applicable, by Section 25110).

(5) "Minimum investment requirement" means qualified expenditures of not less than two hundred fifty million dollars (\$250,000,000) by a combined reporting group during the calendar year that includes the beginning of the taxable year.

(6) "Qualified expenditures" means any combination of expenditures attributable to this state for tangible property, payroll, services, franchise fees, or any intangible property distribution or other rights, paid or incurred by or on behalf of a member of a combined reporting group.

(A) An expenditure for other than tangible property shall be attributable to this state if the member of the combined reporting group received the benefit of the purchase or expenditure in this state.

(B) A purchase of or expenditure for tangible property shall be attributable to this state if the property is placed in service in this state.

(C) Qualified expenditures shall include expenditures by a combined reporting group for property or services purchased, used, or rendered by independent contractors in this state.

(D) Qualified expenditures shall also include expenditures by a qualified partnership, but only to the extent of the member's interest in the partnership.

(7) "Qualified partnership" means a partnership if the partnership's income and apportionment factors are included in the income and apportionment factors of a member of the combined reporting group, but only to the extent of the member's interest in the partnership.

(8) "Qualified sales" means gross business receipts from the provision of any network services, other than gross business receipts from the sale or rental of customer premises equipment. "Qualified sales" shall include qualified sales by a qualified partnership, but only to the extent of a member's interest in the partnership.

(c) The rules in this section with respect to qualified sales by a qualified partnership are intended to be consistent with the rules for partnerships under paragraph (3) of subdivision (f) of Section 25137-1 of Title 18 of the California Code of Regulations.

**Proposition 39**  
**Tax Treatment for Multistate Businesses.**  
**Clean Energy and Energy Efficiency Funding. Initiative Statue.**

**Background**

*State Corporate Income Taxes.* The amount of money a business owes the state in corporate income taxes each year is based on the business' taxable income. For a business that operates both in California and in other states or countries (a multistate business), the state taxes only the part of its income that was associated with California. While only a small portion of corporations are multistate in nature, multistate corporations pay the vast majority of the state's corporate income taxes. This tax is the state's third largest General Fund revenue source, raising \$9.6 billion in 2010-11.

*Multistate Businesses Choose How Their Taxable Income Is Determined.* Currently, state law allows most multistate businesses to pick one of two methods to determine the amount of their income associated with California and taxable by the state:

- *“Three-Factor Method” of Determining Taxable Income.* One method uses the location of the company's sales, property, and employees. When using this method, the more sales, property, or employees the multistate business has in California, the more of the business' income is subject to state tax.
- *“Single Sales Factor Method” of Determining Taxable Income.* The other method uses only the location of the company's sales. When using this method, the more sales the multistate business has in California, the more of the business' income is taxed. (For example, if one-fourth of a company's product was sold in California and

the remainder in other states, one-fourth of the company's total profits would be subject to California taxation.)

Multistate businesses generally are allowed to choose the method that is most advantageous to them for tax purposes.

***Energy Efficiency Programs.*** There are currently numerous state programs established to reduce energy consumption. These efforts are intended to reduce the need to build new energy infrastructure (such as power plants and transmission lines) and help meet environmental quality standards. For example, the California Public Utilities Commission (CPUC) oversees various types of energy efficiency upgrade and appliance rebate programs that are funded by monies collected from utility ratepayers. In addition, the California Energy Commission (CEC) develops building and appliance standards that are intended to reduce energy consumption in the state.

***School Funding Formula.*** Proposition 98, passed by voters in 1988 and modified in 1990, requires a minimum level of state and local funding each year for public schools and community colleges (hereafter referred to as schools). This funding level is commonly known as the Proposition 98 minimum guarantee. Though the Legislature can suspend the guarantee and fund at a lower level, it typically decides to provide funding equal to or greater than the guarantee. The Proposition 98 guarantee can grow with increases in state General Fund revenues (including those collected from state corporate income taxes). Accordingly, a measure—such as this one—that results in higher revenues also can result in a higher school funding guarantee. Proposition 98 expenditures are the largest category of spending in the state's budget—totaling roughly 40 percent of state General Fund expenditures.

## **Proposal**

### ***Eliminates Ability of Multistate Businesses to Choose How Taxable Income Is***

***Determined.*** Under this measure, starting in 2013, multistate businesses would no longer be allowed to choose the method for determining their state taxable income that is most advantageous for them. Instead, most multistate businesses would have to determine their California taxable income using the single sales factor method. Businesses that operate only in California would be unaffected by this measure.

This measure also includes rules regarding how all multistate businesses calculate the portion of some sales that are allocated to California for state tax purposes. These include a set of specific rules for certain large cable companies.

***Provides Funding for Energy Efficiency and Alternative Energy Projects.*** This measure establishes a new state fund, the Clean Energy Job Creation Fund, to support projects intended to improve energy efficiency and expand the use of alternative energy. The measure states that the fund could be used to support: (1) energy efficiency retrofits and alternative energy projects in public schools, colleges, universities, and other public facilities; (2) financial and technical assistance for energy retrofits; and (3) job training and workforce development programs related to energy efficiency and alternative energy. The Legislature would determine spending from the fund and be required to use the monies for cost-effective projects run by agencies with expertise in managing energy projects. The measure also (1) specifies that all funded projects must be coordinated with CEC and CPUC and (2) creates a new nine-member oversight board to annually review and evaluate spending from the fund.

The Clean Energy Job Creation Fund would be supported by some of the new revenue raised by moving to a mandatory single sales factor. Specifically, half of the revenues so raised—up to a maximum of \$550 million—would be transferred annually to the Clean Energy Job Creation Fund. These transfers would occur for only five fiscal years—2013-14 through 2017-18.

**Fiscal Effects**

*Increase in State Revenues.* As shown in the top line in Figure 1, this measure would increase state revenues by around \$1 billion annually starting in 2013-14. (There would be a roughly half-year impact in 2012-13.) The increased revenues would come from some multistate businesses paying more taxes. The amounts generated by this measure would tend to grow over time.

<b>Figure 1</b>			
<b>Estimated Effects of Proposition 39 on State Revenues and Spending</b>			
	2012-13	2013-14 Through 2017-18	2018-19 And Beyond
<b>Annual Revenues</b>	\$500 million	\$1 billion, growing over period	Over \$1 billion
<b>Annual Spending</b>			
Amount dedicated to energy projects	None	\$500 million to \$550 million	None
Increase in school funding guarantee	\$200 million to \$500 million	\$200 million to \$500 million, growing over period	\$500 million to over \$1 billion

*Some Revenues Used for Energy Projects.* For a five-year period (2013-14 through 2017-18), about half of the additional revenues—\$500 million to \$550 million annually—would be transferred to the Clean Energy Job Creation Fund to support energy efficiency and alternative energy projects.

*School Funding Likely to Rise Due to Additional Revenues.* Generally, the revenue raised by the measure would be considered in calculating the state's annual Proposition 98 minimum

guarantee. The funds transferred to the Clean Energy Job Creation Fund, however, would not be used in this calculation. As shown in the bottom part of Figure 1, the higher revenues likely would increase the minimum guarantee by at least \$200 million for the 2012-13 through 2017-18 period. In some years during this period, however, the minimum guarantee could be significantly higher. For 2018-19 and beyond, the guarantee likely would be higher by at least \$500 million. As during the initial period, the guarantee in some years could be significantly higher. The exact portion of the revenue raised that would go to schools in any particular year would depend upon various factors, including the overall growth in state revenues and the size of outstanding school funding obligations.

**Proposition 39**  
**Tax Treatment for Multistate Businesses.**  
**Clean Energy and Energy Efficiency Funding. Initiative Statue.**

**Yes/No Statement**

A **YES** vote on this measure means: Multistate businesses would no longer be able to choose the method for determining their state taxable income that is most advantageous for them. Some multistate businesses would have to pay more corporate income taxes due to this change. About half of this increased tax revenue over the next five years would be used to support energy efficiency and alternative energy projects.

A **NO** vote on this measure means: Most multistate businesses would continue to be able to choose one of two methods to determine their California taxable income.

# Tidal wave of money coming to make California schools greener

By Paul Rogers

[progers@mercurynews.com](mailto:progers@mercurynews.com)

Posted: 12/01/2012 03:57:37 PM PST

Updated: 12/01/2012 08:13:28 PM PST



A green classroom uses natural light to cut down on energy costs. (Bill Lovejoy/MediaNews file)

During the fall campaign, California's attention was focused on the presidential race and Gov. Jerry Brown's tax measure. But in a historic, largely overlooked environmental shift, the state's voters also triggered a multibillion-dollar tidal wave of new green spending.

By overwhelmingly passing Proposition 39, voters closed a tax loophole on out-of-state corporations that will generate \$1.1 billion a year. But the measure, buried in a crowded ballot, also required that half of that money fund projects to install new windows, better insulation, modern lighting and more efficient heating and air conditioning at thousands of public schools and other government buildings over the next five years.

That windfall, roughly \$550 million a year, or \$2.75 billion before it sunsets in 2018, dwarfs anything that California or any other state has ever spent on energy efficiency for public buildings.

The new program is on par with the \$3 billion that voters approved in 2004 for stem cell research and the \$3.3 billion that former Gov. Arnold Schwarzenegger committed to his "Million Solar Roofs" plan in 2006.

Critics worry, however, that lawmakers will fritter the Proposition 39 money away because they have too much power to decide the details.

While not as flashy as money for solar or wind projects, many experts say such seemingly routine changes as weatherizing buildings and replacing leaky windows is actually one of the cheapest ways to reduce smog, greenhouse gases and utility bills.

"If we do this well and people see it as money well spent, as an investment that should be

mimicked in the private sector, then this could really be a very big deal," said Tom Steyer, a San Francisco financier who spent \$32 million bankrolling Proposition 39.

U.S. schools spend \$8 billion a year on energy bills. If those were cut 25 percent, it would save \$2 billion, enough to buy 40 million new textbooks. Steyer sees that as easy money for cash-strapped schools, and views his ballot measure as a demonstration project for other property owners.

A 55-year-old Stanford MBA with a net worth of \$1.3 billion, Steyer cofounded Farallon Capital Management in 1986 and built the company into the world's 17th largest hedge fund. In 2010, he funded a large part of the campaign to defeat a ballot measure by Texas oil companies that would have suspended California's global warming law.

His latest campaign is energy efficiency.

One of Steyer's favorite examples is the Empire State Building. Two years ago, a Sunnyvale company, Serious Materials, replaced all 6,500 windows on the New York City landmark. It was part of a \$13.2 million upgrade with new insulation, lighting and ventilation, which the building's owners calculate will cut energy costs 38 percent and pay for itself in three years.

"People in the public sector often confuse expenditures and investments," Steyer said. "If you go out to dinner that's an expenditure. If you send your kid to college, that's an investment. If this money is used wisely, we will get multiples of it back in savings down the road that can be used for schools."

All the new money has some Sacramento observers nervous, however.

"Look at the High-Speed Rail Authority, the stem cell money, the tobacco tax funds and the state recycling fund," said Jon Coupal, president of the Howard Jarvis Taxpayers Association. "There have been slush funds and corruption in all of them. We have very little confidence this money will be spent effectively unless there is a sea change in Sacramento."

Proposition 39 does not spell out in much detail where the \$550 million a year should be spent. It says the money should pay to retrofit schools, colleges, universities and other public buildings; it can also be used to fund job-training programs in energy efficiency -- and incentives to put solar panels on homes.

Joe Caves, a longtime environmental lobbyist who wrote the measure, said the lack of specifics is on purpose. The measure notes that the Legislature must appropriate the money, which means next year lawmakers will pass a bill to create new programs in one or more agencies like the state Department of Education or the California Energy Commission, he said. Those agencies will set up grant programs for school districts and other local governments to compete for the money.

"It's got to go through existing public agencies, and the projects have to be evaluated as cost effective," Caves said. "It's not like legislators are going to be able to say, 'I want \$100,000 to go

this project or \$50,000 to that one.' And they can't make the grants to private businesses. We built in a lot of controls."

The measure also creates a new nine-member oversight committee of engineers, architects and economists to commission yearly audits and post the results online.

For now, Steyer said, he'd like to see much of the money go to schools.

"When you drive around California and look at the physical condition of some of the schools, it can be a little shocking, don't you think?" he said.

As soon as next week, state Sen. Kevin de Leon, D-Los Angeles, will introduce a bill to spell out how to spend the money. De Leon said he would like to see most of it go to schools, with strict criteria, such as ranking schools by kilowatt hours of electricity used.

"It's not going to be a program of pork," he said. "We are going to go to schools of highest need, schools that don't have the resources to move forward with energy-efficiency projects, and do the work there and create jobs."

De Leon said that for roughly \$500,000 each, crews could retrofit half of California's 10,000 public schools using Proposition 39 money. For that amount, they could replace windows, boost insulation, and fix leaks and lighting. In some cases, they could upgrade heating and cooling systems.

A study last year by the EPA found that public schools can easily save 20 to 40 percent on utility bills -- which run in the tens of thousands of dollars a year -- through simple energy-efficiency work.

Since 2009, the California Energy Commission has doled out \$132 million to retrofit public buildings. But much of that came from federal stimulus dollars that have now run out.

There are success stories: The Sacramento City Unified School District, for example, replaced lighting, put in LED exit signs and made other upgrades, saving the average high school \$53,000 a year, with a payback of seven years.

One of the state's top energy experts, Stanford University engineering professor Jim Sweeney, said he's watching the rollout carefully.

"Fixing insulation and leaky windows isn't as sexy as saying, 'Look at our new solar installation,'" he said. "But for every \$1 spent you will save more on energy efficiency than a solar array."



*California*  
LEGISLATIVE INFORMATION

AB-1532 California Global Warming Solutions Act of 2006: Greenhouse Gas Reduction Fund. (2011-2012)

**Assembly Bill No. 1532**

CHAPTER 807

**An act to amend Section 12894 of the Government Code, and to add Chapter 4.1 (commencing with Section 39710) to Part 2 of Division 26 of the Health and Safety Code, relating to greenhouse gas emissions.**

[ Approved by Governor September 30, 2012. Filed Secretary of State September 30, 2012. ]

LEGISLATIVE COUNSEL'S DIGEST

AB 1532, John A. Pérez. California Global Warming Solutions Act of 2006: Greenhouse Gas Reduction Fund.

The California Global Warming Solutions Act of 2006 designates the State Air Resources Board as the state agency charged with monitoring and regulating sources of emissions of greenhouse gases. The state board is required to adopt a statewide greenhouse gas emissions limit equivalent to the statewide greenhouse gas emissions level in 1990 to be achieved by 2020, and to adopt rules and regulations in an open public process to achieve the maximum, technologically feasible, and cost-effective greenhouse gas emissions reductions. The act authorizes the state board to include use of market-based compliance mechanisms.

Existing law imposes limitations on any link, as defined, between the state and another state, province, or country for purposes of a market-based compliance mechanism by, among other things, prohibiting any state agency, including the state board, from taking any action to create such a link unless the state agency notifies the Governor, and the Governor issues specified written findings on the proposed link that consider the advice of the Attorney General.

This bill would prohibit the Governor's written findings on the proposed link from being subject to judicial review.

Existing law requires all moneys, except for fines and penalties, collected by the state board from the auction or sale of allowances as part of a market-based compliance mechanism to be deposited in the Greenhouse Gas Reduction Fund and to be available upon appropriation by the Legislature.

This bill would require the moneys in the Greenhouse Gas Reduction Fund to be used for specified purposes. The bill would require the Department of Finance, in consultation with the state board and any other relevant state entity, to develop, as specified, a 3-year investment plan that includes specified analysis and information and to submit the plan to the Legislature, as specified. The bill would require the Department of Finance to submit a report no later than March 1, 2014, and annually thereafter, to the appropriate committees of the Legislature containing specified information.

This bill would make its provisions contingent on the enactment of other legislation, as specified.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

**SECTION 1.** Section 12894 of the Government Code is amended to read:

**12894.** (a) (1) The Legislature finds and declares that the establishment of nongovernmental entities, such as the Western Climate Initiative, Incorporated, and linkages with other states and countries by the State Air Resources Board or other state agencies for the purposes of implementing Division 25.5 (commencing with Section 38500) of the Health and Safety Code, should be done transparently and should be independently reviewed by the Attorney General for consistency with all applicable laws.

(2) The purpose of this section is to establish new oversight and transparency over any such linkages and related activities undertaken in relation to Division 25.5 (commencing with Section 38500) of the Health and Safety Code by the executive agencies in order to ensure consistency with applicable laws.

(b) (1) The California membership of the board of directors of the Western Climate Initiative, Incorporated, shall be modified as follows:

(A) One appointee or his or her designee who shall serve as an ex officio nonvoting member shall be appointed by the Senate Committee on Rules.

(B) One appointee or his or her designee who shall serve as an ex officio nonvoting member shall be appointed by the Speaker of the Assembly.

(C) The Chairperson of the State Air Resources Board or her or his designee.

(D) The Secretary for Environmental Protection or his or her designee.

(2) Sections 11120 through 11132 do not apply to the Western Climate Initiative, Incorporated, or to appointees specified in subparagraphs (C) and (D) of paragraph (1) when performing their duties under this section.

(c) The State Air Resources Board shall provide notice to the Joint Legislative Budget Committee, consistent with that required for Department of Finance augmentation or reduction authorizations pursuant to subdivision (e) of Section 28.00 of the annual Budget Act, of any funds over one hundred fifty thousand dollars (\$150,000) provided to the Western Climate Initiative, Incorporated, or its derivatives or subcontractors no later than 30 days prior to transfer or expenditure of these funds.

(d) The Chairperson of the State Air Resources Board and the Secretary for Environmental Protection, as the California voting representatives on the Western Climate Initiative, Incorporated, shall report every six months to the Joint Legislative Budget Committee on any actions proposed by the Western Climate Initiative, Incorporated, that affect California state government or entities located within the state.

(e) For purposes of this section, "link," "linkage," or "linking" means an action taken by the State Air Resources Board or any other state agency that will result in acceptance by the State of California of compliance instruments issued by any other governmental agency, including any state, province, or country, for purposes of demonstrating compliance with the market-based compliance mechanism established pursuant to Division 25.5 (commencing with Section 38500) of the Health and Safety Code and specified in Sections 95801 to 96022, inclusive, of Title 17 of the California Code of Regulations.

(f) A state agency, including, but not limited to, the State Air Resources Board, shall not link a market-based compliance mechanism established pursuant to Division 25.5 (commencing with Section 38500) of the Health and Safety Code and specified in Sections 95801 to 96022, inclusive, of Title 17 of the California Code of Regulations with any other state, province, or country unless the state agency notifies the Governor that the agency intends to take such action and the Governor, acting in his or her independent capacity, makes all of the following findings:

(1) The jurisdiction with which the state agency proposes to link has adopted program requirements for greenhouse gas reductions, including, but not limited to, requirements for offsets, that are equivalent to or stricter than those required by Division 25.5 (commencing with Section 38500) of the Health and Safety Code.

(2) Under the proposed linkage, the State of California is able to enforce Division 25.5 (commencing with Section 38500) of the Health and Safety Code and related statutes, against any entity subject to regulation under those statutes, and against any entity located within the linking jurisdiction to the maximum extent permitted under the United States and California Constitutions.

(3) The proposed linkage provides for enforcement of applicable laws by the state agency or by the linking jurisdiction of program requirements that are equivalent to or stricter than those required by Division 25.5 (commencing with Section 38500) of the Health and Safety Code.

(4) The proposed linkage and any related participation of the State of California in Western Climate Initiative, Incorporated, shall not impose any significant liability on the state or any state agency for any failure associated with the linkage.

(g) The Governor shall issue findings pursuant to subdivision (f) within 45 days of receiving a notice from a state agency, and shall provide those findings to the Legislature. The findings shall consider the advice of the Attorney General. The findings to be submitted to the Legislature shall not be unreasonably withheld. The findings shall not be subject to judicial review.

**SEC. 2.** Chapter 4.1 (commencing with Section 39710) is added to Part 2 of Division 26 of the Health and Safety Code, to read:

**CHAPTER 4.1. Greenhouse Gas Reduction Fund Investment Plan and Communities Revitalization Act**

**39710.** For purposes of this part, fund means the Greenhouse Gas Reduction Fund, created pursuant to Section 16428.8 of the Government Code.

**39712.** (a) (1) It is the intent of the Legislature that moneys shall be appropriated from the fund only in a manner consistent with the requirements of this part and Article 9.7 (commencing with Section 16428.8) of Chapter 2 of Part 2 of Division 4 of Title 2 of the Government Code.

(2) The state shall not approve allocations for a measure or program using moneys appropriated from the fund except after determining, based on the available evidence, that the use of those moneys furthers the regulatory purposes of Division 25.5 (commencing with Section 38500) and is consistent with law. If any expenditure of moneys from the fund for any measure or project is determined by a court to be inconsistent with law, the allocations for the remaining measures or projects shall be severable and shall not be affected.

(b) Moneys shall be used to facilitate the achievement of reductions of greenhouse gas emissions in this state consistent with this division and, where applicable and to the extent feasible:

- (1) Maximize economic, environmental, and public health benefits to the state.
- (2) Foster job creation by promoting in-state greenhouse gas emissions reduction projects carried out by California workers and businesses.
- (3) Complement efforts to improve air quality.
- (4) Direct investment toward the most disadvantaged communities and households in the state.
- (5) Provide opportunities for businesses, public agencies, nonprofits, and other community institutions to participate in and benefit from statewide efforts to reduce greenhouse gas emissions.
- (6) Lessen the impacts and effects of climate change on the state's communities, economy, and environment.

(c) Moneys appropriated from the fund may be allocated, consistent with subdivision (a), for the purpose of reducing greenhouse gas emissions in this state through investments that may include, but are not limited to, any of the following:

- (1) Funding to reduce greenhouse gas emissions through energy efficiency, clean and renewable energy generation, distributed renewable energy generation, transmission and storage, and other related actions, including, but not limited to, at public universities, state and local public buildings, and industrial and manufacturing facilities.
- (2) Funding to reduce greenhouse gas emissions through the development of state-of-the-art systems to move goods and freight, advanced technology vehicles and vehicle infrastructure, advanced biofuels, and low-carbon and efficient public transportation.
- (3) Funding to reduce greenhouse gas emissions associated with water use and supply, land and natural resource conservation and management, forestry, and sustainable agriculture.
- (4) Funding to reduce greenhouse gas emissions through strategic planning and development of sustainable infrastructure projects, including, but not limited to, transportation and housing.
- (5) Funding to reduce greenhouse gas emissions through increased in-state diversion of municipal solid waste from disposal through waste reduction, diversion, and reuse.

(6) Funding to reduce greenhouse gas emissions through investments in programs implemented by local and regional agencies, local and regional collaboratives, and nonprofit organizations coordinating with local governments.

(7) Funding in research, development, and deployment of innovative technologies, measures, and practices related to programs and projects funded pursuant to this part.

**39716.** (a) The Department of Finance, on behalf of the Governor, and in consultation with the state board and any other relevant state entity, shall develop and submit to the Legislature at the time of the department's adjustments to the proposed 2013–14 fiscal year budget pursuant to subdivision (e) of Section 13308 of the Government Code a three-year investment plan. Commencing with the 2016–17 fiscal year budget and every three years thereafter, with the release of the Governor's budget proposal, the Department of Finance shall include updates to the investment plan following the public process described in subdivisions (b) and (c). The investment plan, consistent with the requirements of Section 39712, shall do all of the following:

(1) Identify the state's near-term and long-term greenhouse gas emissions reduction goals and targets by sector.

(2) Analyze gaps, where applicable, in current state strategies to meeting the state's greenhouse gas emissions reduction goals by sector.

(3) Identify priority programmatic investments of moneys that will facilitate the achievement of feasible and cost-effective greenhouse gas emissions reductions toward achievement of greenhouse gas reduction goals and targets by sector, consistent with subdivision (c) of Section 39712.

(b) (1) The state board shall hold at least two public workshops in different regions of the state and one public hearing prior to the Department of Finance submitting the investment plan.

(2) The state board shall, prior to the submission of each investment plan, consult with the Public Utilities Commission to ensure the investment plan is coordinated with, and does not conflict with or unduly overlap with, activities under the oversight or administration of the Public Utilities Commission undertaken pursuant to Part 5 (commencing with Section 38570) of Division 25.5 or other activities under the oversight or administration of the Public Utilities Commission that facilitate greenhouse gas emissions reductions consistent with this division. The investment plan shall include a description of the use of any moneys generated by the sale of allowances received at no cost by the investor-owned utilities pursuant to a market-based compliance mechanism.

(c) The Climate Action Team, established under Executive Order S-3-05, shall provide information to the Department of Finance and the state board to assist in the development of each investment plan. The Climate Action Team shall participate in each public workshop held on an investment plan and provide testimony to the state board on each investment plan. For purposes of this section, the Secretary of Labor and Workforce Development shall assist the Climate Action Team in its efforts.

**39718.** (a) Moneys in the fund shall be appropriated through the annual Budget Act consistent with the investment plan developed and submitted pursuant to Section 39716.

(b) Upon appropriation, moneys in the Greenhouse Gas Reduction Fund shall be available to the state board and to administering agencies for administrative purposes in carrying out this chapter.

(c) Any repayment of loans, including interest payments and all interest earnings on or accruing to any money, resulting from implementation of this chapter shall be deposited in the Greenhouse Gas Reduction Fund for the purposes of this chapter.

**39720.** (a) Notwithstanding Section 10231.5 of the Government Code, the Department of Finance shall submit a report on or before March 1, 2014, and annually thereafter, to the appropriate committees of the Legislature on the status of projects funded pursuant to this part and their outcomes.

(b) A report submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.

**SEC. 3.** This act shall not become operative unless Senate Bill 535 of the 2011–12 Regular Session is enacted.

# 13 things to know about California's cap-and-trade program

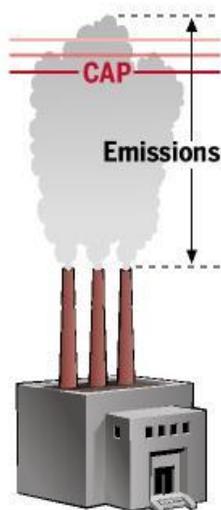
By Dana Hull  
[dhull@mercurynews.com](mailto:dhull@mercurynews.com)

Posted: 12/02/2012 03:39:02 PM PST

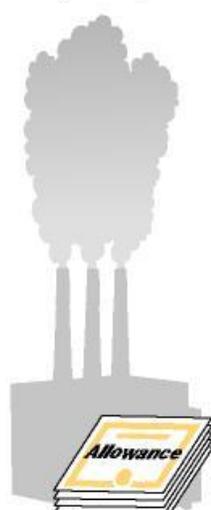
Updated: 12/02/2012 03:39:09 PM PST

## How California's cap-and-trade will work

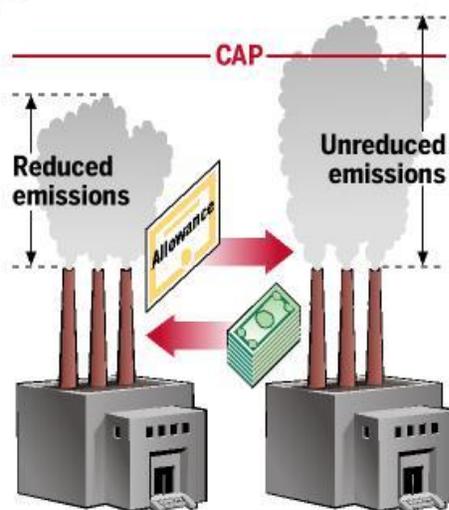
Rather than having a strict government mandate, like a carbon tax, to reduce pollution, a cap-and-trade system uses market mechanisms to reward companies that figure out ways to reduce pollution below the level the government sets. California's cap-and-trade rules, which will affect oil refineries, power plants and large factories, take effect Jan. 1.



**1** Starting in 2013, a statewide cap on greenhouse gases will be put in place. Through 2020, it will drop each year by 2 to 3 percent.



**2** Industries must obtain a permit, known as an "allowance," for every ton of carbon dioxide and other greenhouse gases they emit.



**3** As the cap goes down, companies must decide each year how they will get enough allowances to cover their emissions. Their choices: Operate more efficiently, burn less fossil fuel, or buy allowances from another company.



**4** Sacramento makes money by holding an electronic auction four times a year to distribute the pollution allowances. At first, 90 percent will be given away free and 10 percent auctioned for sale. By 2020, 50 percent will be auctioned. The first auction is scheduled for Wednesday.

Source: Mercury News reporting

BAY AREA NEWS GROUP

State regulators are celebrating California's first-ever auction of greenhouse gas emissions allowances held Nov. 14. So what exactly happened? Why does it matter? And what happens next? We've gotten many questions about the cap-and-trade program from our readers at the San Jose Mercury News; here's answers to several of them.

**Q: What is AB 32 and what is CARB?**

A: AB 32, also known as the Global Warming Solutions Act, is the Assembly Bill number for a landmark piece of legislation signed by former Gov. Arnold Schwarzenegger in 2006. AB 32 commits California to reduce its greenhouse gas emissions to 1990 levels by 2020, or roughly 17 percent from where we would be if we took no action and continued on our current course. AB 32 did not prescribe specific strategies on how to reduce greenhouse gas emissions; it designated the California Air Resources Board, or CARB, as the lead regulatory agency responsible for designing a comprehensive plan for the state to comply with AB 32. California's cap-and-trade program is the cornerstone of the larger plan (known as the "Scoping Plan"), which includes a suite of policies designed to reduce greenhouse gas emissions and transition California to a cleaner economy. These include performance standards for cleaner cars, fuels, energy efficiency and renewable energy requirements such as solar and wind. The chairman of CARB, Mary Nichols, widely recognized as one of the most influential climate and clean air policy leaders in the United States.

**Q: Where do California's carbon emissions come from?**

A: California emits 447 million metric tons of carbon dioxide a year, according to CARB, which has been collecting and monitoring emissions data since 2008. The biggest chunk, 38 percent, comes from the transportation sector, largely from cars and trucks. 21 percent comes from electric power plants. 19 percent comes from industrial factories. 10 percent comes from commercial and residential buildings; the rest comes from agriculture and natural events like wildfires. A graph presenting these figures can be seen at <http://www.arb.ca.gov/cc/inventory/data/graph/graph.htm>

**Q: What is the "cap" and who is regulated?**

A. The cap is the mandatory, statewide limit on greenhouse gas emissions set by CARB and based on verified emissions data. That limit declines 2-3% year, ensuring the overall level of emissions statewide is steadily reduced. Large businesses that emit more than 25,000 metric tons of carbon dioxide are covered under the program. That includes 360 businesses representing 600 facilities across the state. In the first phase of the program (2013-2014), the cap covers electricity suppliers and large industrial sources like refineries and cement companies. Chevron's Richmond refinery is the largest emitter of greenhouse gases in California, emitting 4.5 million tons of carbon dioxide each year. After the first phase, the program will expand to include gasoline, diesel, and natural gas providers. Those regulated are the fuel providers that distribute fuel, not local gas stations.

**Q: What is an allowance?**

A: An allowance (sometimes called a permit) is like a permit to pollute. It authorizes the holder to emit one ton of carbon. Under the rules of the cap-and-trade program, every regulated facility must turn in allowances equal to their emissions at periodic check-ins. So Chevron's Richmond refinery will need to turn in 4.5 million allowances to cover their annual greenhouse gas emissions. The total number of allowances available in the program in any year is exactly equal

to the cap for that year. As the cap declines, so too does the number of allowances. As allowances become scarcer, their value will tend to increase--creating an incentive in the market to find ways to reduce emissions in the most cost-effective manner.

**Q: Why is CARB selling allowances in an auction?**

A: At the start of the program, CARB will distribute most of the allowances for free to give companies time to transition, adjust to carbon pricing and implement



Century City and downtown Los Angeles are seen through the smog in this December 31, 2007 file photo. California unveiled a new weapon in its fight against global climate change last month with its first sale of carbon emissions permits.

REUTERS/Lucy Nicholson/Files (LUCY NICHOLSON)  
cost-effective strategies to reduce their emissions. Building off lessons learned from other cap-and-trade programs, such as the

world's largest in the European Union, CARB is also auctioning a portion of the allowances. For instance, in the auction that took place on November 14, CARB auctioned off 10 percent of all allowances. Auctions ensure everyone has equal access to allowances and establish a clear price in the market. Auctions are also transparent, which helps expose potential market manipulation.

**Q: What exactly happened during California's first cap-and-trade auction, held Nov. 14?**

A: The bidding and buying of pollution allowances occurred online during a three hour window. There was no jam-packed auction house or frenetic trading floor: bids were placed quietly and electronically, from computers around the country. Those that participated submitted bids to purchase three times the available supply of allowances. All of the 23.1 million allowances offered at the auction to cover 2013 emissions were purchased, calming fears that the market would be under-subscribed. A 2013 allowance sold for \$10.09, slightly above the \$10 floor price. The state also auctioned 39.5 million allowances that cover 2015 emissions; of those 5.6 million allowances were sold, at \$10. All told, the auction raised \$289 million.

**Q: Where does the auction money go?**

A: The money goes into two buckets. Publicly-owned utilities like PG&E and Southern California Edison auctioned their allowances under one program, and proceeds from these sales must be used for the exclusive benefit of those utilities' ratepayers. The California Public Utilities Commission has proposed giving residential ratepayers a twice-a-year "climate dividend" worth about \$30 and credits to small businesses; that proposal is expected to be voted on Dec. 20 at the CPUC. The second bucket includes proceeds from the industrial and transportation sectors. These will be deposited in a new special fund in the state treasury that will be used to further the state's clean energy goals. Legislation signed last September will require at least 25 percent of the proceeds benefit the state's most disadvantaged communities.

**Q: Isn't \$10.09 for a ton of carbon a low price? Does a low price mean the program is not working?**

A: Some analysts had expected a higher price, of between \$11 and \$12 a ton, and were disappointed that the settlement price was not higher. Others say that merely having a price on carbon, for the first time, is a huge milestone. And a low price on carbon is not necessarily a bad thing: its a sign that the market doesn't think it will be hugely expensive to reduce emissions (since the price of an allowance represents the market value of the cost of reducing one ton of carbon). Many speculate that allowance prices will go up in future auctions as the market begins to take shape. CARB put in a floor price of \$10 to prevent prices from falling too low. The floor price simply sets a minimum that ensures that companies will incorporate that price into their business planning, as they do all costs associated with running their business. This will help drive their decisions about investing in new and more efficient technologies, processes and infrastructure. It also provides certainty to investors and entrepreneurs looking to pencil out projects to help businesses reduce their carbon footprint.

**Q: When is the next auction? How many allowances will be available then?**

A: There are four auctions a year, held in February, May, August and November. The next auction will be February 19, 2013. ARB estimates the minimum number of 2013 allowances available in February will be 13.6 million. It is expected there will be 9.6 million 2016 allowances available.

**Q: Are companies required to participate in the auction? Who participated?**

A: Participation in an auction is entirely a matter of choice. Companies who emit large amounts of carbon can either purchase allowances in the market (either in the auction from each other or in the secondary market) or try to reduce their carbon emissions on their own. Those that reduce emissions below their cap, or that are already emitting less carbon than allowed under the cap, can sell or trade their unused allowances to companies that exceed their limits. If the system works as designed, the most efficient companies will be rewarded, polluters will pay and statewide greenhouse gases will be significantly reduced. CARB did not disclose which companies participated in the auction, as that could reveal sensitive information about a company's emissions profile and reduction opportunities. But several of the state's largest entities, including Chevron, ConAgra, the Regents of the University of California and Valero were among the list of 73 "qualified bidders," which meant they registered for the auction and were approved to participate. The bids themselves are sealed and will not be made public, because each company is making critical strategic decisions about bidding strategy. (Full results of the November auction can be found at:

[http://www.arb.ca.gov/cc/capandtrade/auction/november\\_2012/auction1\\_results\\_2012q4nov.pdf](http://www.arb.ca.gov/cc/capandtrade/auction/november_2012/auction1_results_2012q4nov.pdf))

**Q: I'm worried that this whole thing is a scam — how can we be sure this won't turn into another Enron boondoggle?**

A: CARB has put a number of safeguards in place to deter and detect any attempts to manipulate the market. Every market participant must register with CARB and submit to California's

jurisdiction. CARB will track every transaction in the market in a central database (each allowance contains a unique serial number). Hoarding rules and purchase limits prevent any one actor from cornering the market. CARB also uses an independent market monitor, Market Analytics. They have extensive experience monitoring energy markets which are similar to carbon markets, especially in terms of analyzing the bids and activities of participants. Market Analytics won the contract through the standard, public contracting procedures used by the State of California.

**Q: I keep hearing about a possible carbon tax at the national level. What's the difference between a carbon tax and a cap-and-trade program?**

A: Both are designed to put a price on carbon and reduce the amount of greenhouse gases pumped into the atmosphere. Fossil fuels like coal, oil and natural gas each emit carbon dioxide when they are burned, and the overwhelming majority of the world's scientists agree that carbon dioxide emissions are warming the earth and disrupting global weather patterns.

A carbon tax is a straight tax on fossil fuels, with the idea that polluters will have to internalize the actual costs of pollution if this tax is added to their operating costs; in theory, they will then have an incentive to reduce emissions. But a carbon tax does not actually guarantee greenhouse gas reductions; the tax could be passed onto consumers, and the incentive hinges on the level of the tax. There's been some talk in Washington about using a carbon tax to raise revenue and lower the national debt, but that seems unlikely, especially since some conservative members of Congress have said they will only support a carbon tax if it is "revenue-neutral." President Obama shot down the idea of a carbon tax at his first news conference after being re-elected.

A cap-and-trade program, in contrast, specifically requires carbon emissions to go down over time, because there is an actual declining cap set on those emissions. This type of program does not set a price on carbon, but allows the market to determine the price through the trading system. California's program sets a limit on the amount of carbon dioxide affected entities are allowed to emit. Companies that reduce emissions can sell or trade unused allowances to companies that exceed theirs. Over time the total cap decreases, making allowances scarcer and providing an incentive to find cost-effective ways to cut emissions.

**Q: Isn't the California Chamber of Commerce opposed to the cap-and-trade program?**

A: The CalChamber filed a lawsuit in Sacramento Superior Court Nov. 13 challenging CARB's authority under AB 32 to withhold emission allocations for the purpose of generating revenue for the state. The CalChamber argues that the auction will raise energy costs in the state, harm the economy and impact California's competitiveness.

Contact Dana Hull at 408-920-2706. Follow her at [Twitter.com/danahull](https://twitter.com/danahull).

DATE: January 30, 2013  
TO: City Council Sustainability Committee  
FROM: Director of Public Works - Utilities & Environmental Services  
SUBJECT: Solar Powered Public Trash Receptacles

### **RECOMMENDATION**

That the Committee reviews and comments on this report.

### **BACKGROUND**

At its October 3, 2012 meeting, members of the Council Sustainability Committee expressed interest in obtaining information about solar-powered receptacles that store trash and recyclables. These units are typically placed in high-pedestrian traffic areas and are useful tools to mitigate litter and promote recycling. These units have performed satisfactorily in several local cities, including Albany, Fremont, Oakland, San José, and San Francisco where these units are used to supplement standard litter containers already available for pedestrians. Units may also be used at parks and beaches, college and university campuses, and transit locations, for example.

### **DISCUSSION**

Solar-powered receptacles are available to store trash, recyclables and organics; units are locked and compact the trash, but not the recyclables or organics. Waste is compacted using a twelve-volt battery that is continuously charged via the solar panels located on the top of each unit. The compaction function works best when the unit is located in direct or minimally obstructed sunlight. The lid includes a panel of three lights: green to indicate that the unit can accept more items; amber when the unit should be emptied; and red when the unit is full. The fill rate is recorded when the contents have reached the level of an electric beam near the top of the interior storage unit.

Three solar-powered units were purchased using unspent grant funds from the U.S. Department of Energy's Energy Efficiency and Conservation Block Grant Program. Each unit includes two separate storage containers: one for compacted trash and the other for mixed recyclables, (e.g., beverage containers and paper.) Following is a link with more information about the solar-powered units: <http://www.photovoltaik.org/sites/default/files/news/bigbelly-solar.jpg>

As part of this pilot program, the units are located at the northwest corner of B Street and Watkins, the northeast corner of B Street and Mission Boulevard near Newman Park, and at the northwest corner of Foothill Boulevard and B Street. If the program is successful and we wish to

continue using the solar-powered units, permanent placement may be slightly different. These units replace the black-domed trash receptacles at each location.

Separate water-tight side panels will be ordered for use to insert posters promoting recycling, City-sponsored events, or other activities. Staff is seeking suggested promotional ideas or events to advertise on the sides of these test units; literature inserted in the panels can be altered as desired. Waste Management of Alameda County (WMAC) has scheduled service for each of the units.

### **ECONOMIC IMPACT**

Placement of these units will help to mitigate litter along sidewalks, reinforce the importance of recycling to pedestrians and promote local events or activities. WMAC will service these containers at no additional charge.

### **FISCAL IMPACT**

These units were purchased using grant funds totaling \$13,670; no General Fund monies were used.

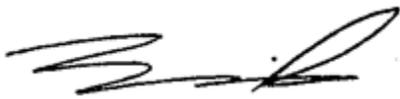
### **NEXT STEPS**

Panels will be ordered and bolted to the sides of each unit. City staff will also work with a graphic artist to incorporate ideas from Committee members to design promotional literature for the panels.

*Prepared by:* Vera Dahle-Lacaze, Solid Waste Manager

*Recommended by:* Alex Ameri, Director of Public Works – Utilities & Environmental Services

Approved by:



---

Fran David, City Manager

Attachments:

Attachment I      Receptacle Placement at Watkins/B Street



Big Belly Solar Compactor at Corner of B Street and Watkins Street



**DATE:** January 30, 2013  
**TO:** Council Sustainability Committee  
**FROM:** Director of Public Works – Utilities & Environmental Services  
**SUBJECT:** Single-Use Bag Reduction Compliance in the City of Hayward

**RECOMMENDATION**

That the Committee reviews and comments on this report.

**BACKGROUND**

On January 1, 2013, a single-use bag reduction ordinance went into effect throughout Alameda County. The enabling ordinance was authored and will be enforced by the Alameda County Waste Management Authority Board and Source Reduction and Recycling Board. The City opted-in to the ordinance by Council Resolution 12-024, approved on February 28, 2012.

The ordinance does the following:

- Prohibits distribution of single-use carryout plastic bags at checkout as well as free distribution of paper bags (and other bags) beginning January 1, 2013
- Allows stores to offer for sale a paper bag or a reusable bag for a minimum price of ten cents (\$0.10). The purpose of the fee is to discourage the use of single-use carryout bags of any kind.
- Applies to retail stores that: (1) sell packaged foods, (e.g., milk, bread, soda, or snack foods) including supermarkets, drug stores, grocers, and convenience food stores; or (2) have at least 10,000 square feet of retail space, or (3) generate gross annual sales of two million dollars (\$2,000,000) or more
- Includes about 1,900 businesses Countywide (about 400 businesses in Hayward)

Additional information, including frequently asked questions for businesses and shoppers, is available at this link: <http://reusablebagsac.org/>.

**DISCUSSION**

On January 3, staff visited ten affected larger stores to assess compliance. Staff found all of them in compliance. No single-use plastic bags were being distributed at any of the stores visited; nor were single-use paper bags being offered for free. The names and locations of stores visited and information on compliance is as follows:

**Table 1: January 3, 2013 Single-Use Bag Reduction Store Visit Findings**

Store Name	Address	Compliant	External Signage	Internal Signage	Reusable Bags for Sale?
Lucky	22555 Mission Blvd	Yes	Yes	Yes	Yes
Safeway	231 West Jackson St	Yes	No	Yes	Yes
Smart and Final	1094 Sueirro	Yes	Yes	Yes	Yes
CVS	22501 Foothill Blvd	Yes	Yes	No	No
Walgreens	164 West Jackson St	Yes	Yes	Yes	No
Food Maxx	27300 Hesperian Blvd	Yes	Yes	Yes	No
Fresh & Easy	19691 Hesperian Blvd	Yes	No	No	No
Mi Pueblo	20812 Hesperian Blvd	Yes	No	Yes	Yes
Target	19661 Hesperian Blvd	Yes	Yes	Yes	Yes
Grocery Outlet	426 W. Harder Rd	Yes	Yes	Yes	Yes

Reusable bags were not for sale at all locations, although in some cases, they may have been temporarily out of stock. Paper bags were available at a cost at all locations. With the bag ban in effect for just over forty-eight hours, many shoppers were likely learning of the ban for the first time while in line to make their purchase. Many cashiers were observed telling customers about the ban and their options to purchase paper or reusable bags. Some customers were observed wheeling carts to their cars with loose groceries or groceries in cardboard boxes provided by the store. Some customers left stores carrying a few items in their hands to their cars. Other customers were observed bringing their own bags (cloth, laminated, paper, or even old single-use plastic bags).

City staff will identify and visit smaller affected Hayward businesses to verify and to assist with compliance.

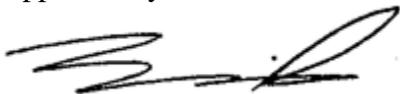
**NEXT STEPS**

The degree of compliance at this early stage is encouraging. Staff will continue to monitor compliance periodically in the future.

*Prepared by:* Paul Rosenbloom, Recycling Specialist

*Recommended by:* Alex Ameri, Director of Public Works – Utilities & Environmental Services

Approved by:



Fran David, City Manager

Attachment: January 3, 2013 Single-Use Bag Reduction Store Visit Photos

January 3, 2013 Single-Use Bag Reduction Store Visit Photos



External Signage at Food Maxx



Internal Signage at Grocery Outlet



Reusable bags for sale at Safeway



External Signage at Target



Customer with loose groceries at Food Maxx



Target customers bringing their own bags

### Suggested Sustainability Committee Quarterly Meeting Topics for 2013

Presenting Department	Date	Topics	Climate Action Plan Action Number (Priorities are per Appendix D in the Climate Action Plan)
DS	April 2013	Revision to Green Business Ordinance	4.1 (9), 4.2 (7), 5.3 (8)
U&ES		Waste Reduction Report – Annual Update on Recycling Programs	6.2 (13)
DS		Consideration of New Priorities for CAP actions in General Plan	NA
U&ES		City-wide Water Conservation Efforts	NA
DS	July 2013	Revisions to Green Building Ordinance	4.1(9), 4.2 (7), 5.3 (8)
U&ES		Update on Renewable Energy Generation at City Facilities	5.5 (4)
U&ES		Update on Plastic Bag Ban	6.4 (25)
U&ES		Mandatory recycling ordinance for Multi-family residential and commercial properties	6.5 (7)
DS	October 2013	Draft Transportation Policies for General Plan Update	1.4 (16), 1.6 (24), 1.7 (13)
U&ES		Annual Waste Reduction Report	6.1 (14), 6.2 (13), 6.3 (6), 6.6 (19), 6.7 (6)
DS		Assist businesses in providing commuter benefits programs	1.1 (21)
U&ES		Update on the Building Asset Rating Pilot Study with StopWaste.org	3.1 (11), 3.2 (12), 3.3 (2)
U&ES		Discussion of Agenda Topics for 2014	
Standing Committee	January 2014	Environmentally Preferred Purchasing Policy Annual Report	

\*Municipal Actions Priority per Appendix D in the Climate Action Plan.

## **Unscheduled Meeting Topics for 2013**

- Update on Portfolio Manager Benchmarking Tool
- Update on education and outreach to our schools
- Update on CECO (Commercial Energy Conservation Ordinance) outreach
- Monthly clean-up events – further discussions/ideas
- Providing incentives to encourage businesses to install solar panels
- Green incentives for City employees
- Update on Financing for Energy Efficiency and Renewable Energy