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May 15, 2009

To: Supervisor Don Knabe, Chairman
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Supervisor Michael D. Antonovich

From: William T Fujioka
Chief Executive Officer

COUNTYWIDE ENERGY EFFICIENCY AND RENEWABLES FINANCING PROGRAM – AB 811 - UPDATE

On April 14, 2009, your Board directed the Chief Executive Officer (CEO), in coordination with the Treasurer-Tax Collector (TTC) and the Energy and Environmental Policy Team, to report back on a monthly basis on its progress in establishing a countywide energy efficiency and renewables financing program pursuant to AB 811, Chapter 159 Statutes of 2008. Your Board also directed that the report should include a schedule (with the explicit goal of utilizing American Recovery and Reinvestment (ARRA) Federal Energy Efficiency and Conservation Block Grant (EECBG) or other Stimulus-related funding and having a program in place by July 2009), an assessment of financial viability, and an inventory of other appropriate funding sources.

Summary of Activities

AB 811 was signed into law in 2008 and allows local governments (counties and cities) to finance energy efficiency and renewable energy projects on private property. The financing is to be paid back through an assessment on the property tax bill. The assessment stays with the property should the owner sell the property. A lien is filed against the property as security. A more detailed description of AB 811 is attached.

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This legislation mitigates two key barriers to implementing greater energy efficiency and renewables projects on private structures throughout the state: 1) the upfront cost of these measures, and 2) the identification/provision of a lending source for property owners wishing to install energy efficient improvements/equipment but requiring the ability to finance them.

AB 811 has the potential to greatly advance the energy efficiency and renewable power industry. An AB 811 program would also have a significant role in reducing greenhouse gases in the entire Los Angeles County region. Given this, and consistent with your Board's direction, various County departments/agencies, led by the CEO, are actively investigating how an AB 811 program may be implemented as quickly as possible. The key issues currently being investigated are summarized below.

1. How would the County finance such a program?
2. Is it clear that AB 811 has no outstanding legal questions that may impact the County's ability to borrow or sell bonds to provide for the long-term financing of such a program?
3. How would the County develop the program, who would manage the program and how would the County collaborate with cities?

Current Activities Status

AB 811 modifies existing law to allow local governments to finance energy projects on private development to be installed directly by the property owner or a private contractor. Some bond counsel have questioned whether the AB 811 language clearly delineates the priority status of the contractual assessment liens that would result from this process. The answers to this and other legal questions could impact a County decision to move forward with obtaining long-term financing or selling bonds using the AB 811 authorization. The TTC has initiated a study by one of its bond counsel which will be completed in about two months.

Based on the issues and information identified above, the following milestone activities indicate an initial, rough timeline for implementation of a County program under AB 811. More detailed estimates for the cost of each activity and the timeframe are being developed and will be provided in next month's update report.

Activity	Estimated Completion Date
Legal Analysis of Financing Options	June 2009
Begin Contractor Selection Process	June 2009
Receive Block Grant Funds	September 2009
Complete Program Development and Implementation Plan	December 2009
Funding/Financing Plan Completed	December 2009
Complete Engineering Study	February 2010
Contractors On Board (e.g., Turnkey Program Management, individual contractors)	March 2010
Authorizing Resolutions Completed	April 2010
Implementation of a County AB 811 Program	April 2010

Key questions as to how the County would implement and manage an AB 811 program, what County agency(s) would implement the program and how cities may participate in a County program are being evaluated. Initial funding and program start-up costs are proposed to be included in the County's allocation of the ARRA EECBG funding. This funding will not be available until around September of 2009. It is anticipated that the AB 811 program assessments will include ongoing administrative costs to maintain the program in the future after the ARRA monies are expended.

It is not feasible at this point to use EECBG funds for a "pilot" grant program, however, given the timeline for submitting the ARRA application and the current investigation as to how the County would structure bond financing to support the program. Rather, the County should propose under its EECBG application to develop a "phased-in" AB 811 program that will be implemented in conjunction with a community-based environmental services program as directed by your Board on May 12, 2009. This program will provide a number of energy efficiency and environmental services to County residents through the creation of a centralized "one-stop shop" program and utilization of appropriate County field offices to provide local support. The community-based environmental services program will assist in establishing the framework for implementing and administering the County AB 811 program when it is developed.

Next Steps

The County's EECBG application, due in late June 2009, will propose funding for the initial steps to implement an AB 811 program. In addition, the State Energy Program (competitive ARRA grants administered by the California Energy Commission (CEC)) may possibly provide additional AB 811 program

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development funding. The County and other local governments have been advocating to the CEC that a portion of competitive grant funding should be set aside for local governments who are moving forward with developing AB 811 programs.

The Internal Services Department (ISD) participates on a Green Technology Committee led by the Los Angeles Economic Development Corporation. The Committee includes regional and local governments; utilities, academia, local and international business interests, and investment firms all seeking to develop green industries and jobs in Los Angeles County. ISD will propose that an AB 811 presentation be made at the next committee meeting (in June) to stimulate interest and support among many stakeholders for development and implementation of a region-wide AB 811 program. In addition, as soon as the County receives input from TTC bond counsel, the CEO will send an outreach letter to all cities in the County inviting them to a discussion about the AB 811 and community-based environmental services programs to solicit region-wide participation.

If you have any questions, or require further information on this matter, please contact Ellen Sandt, Deputy Chief Executive Officer at (213) 974-1186 or esandt@ceo.lacounty.gov.

WTF:EFS
SAW:ef

Attachment

c: Internal Services Department
Treasurer and Tax Collector

Assembly Bill No. 811

CHAPTER 159

An act to amend Sections 5898.12, 5898.20, 5898.22, and 5898.30 of, and to add Sections 5898.14 and 5898.21 to, the Streets and Highways Code, relating to contractual assessments, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 21, 2008. Filed with
Secretary of State July 21, 2008.]

LEGISLATIVE COUNSEL'S DIGEST

AB 811, Levine. Contractual assessments: energy efficiency improvements.

Existing law authorizes the legislative body of any city, as defined, to determine that it would be convenient and advantageous to designate an area within which authorized city officials and free and willing property owners may enter into contractual assessments and make arrangements to finance public improvements to specified lots or parcels under certain circumstances. Existing law requires the legislative body to make these determinations by adopting a resolution indicating its intention to do so and requires the resolution to include certain information, including, but not limited to, identification of the kinds of public works that may be financed, a description of the boundaries of the area within which contractual assessments may be entered into, and a description of the proposed arrangements for financing the program. Existing law also directs an appropriate city official to prepare a report to include, among other things, the terms and conditions that would be agreed to by a property owner within the contractual assessment area and the city and identification of the types of facilities that may be financed through the use of contractual assessments.

This bill would additionally authorize a legislative body of any city, as defined, to determine that it would be in the public interest to designate an area within which authorized city officials and free and willing property owners may enter into contractual assessments to finance the installation of distributed generation renewable energy sources or energy efficiency improvements that are permanently fixed to real property, as specified. The bill would require the resolution of intention to include, among other things, the kinds of distributed generation renewable energy sources or energy efficiency improvements that may be financed as well as a statement specifying that it is in the public interest to finance those distributed generation renewable energy sources or energy efficiency improvements. The bill would further require the report to include, among other things, the types of distributed generation renewable energy sources or energy efficiency improvements that may be financed through the use of contractual

assessments. The bill would authorize a property owner, upon written consent of an authorized city official, to purchase directly the related equipment and materials for the installation of distributed generation renewable energy sources or energy efficiency improvements and to contract directly for the installation of those sources or improvements. The bill would make findings and a declaration in this regard.

This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 5898.12 of the Streets and Highways Code is amended to read:

5898.12. (a) It is the intent of the Legislature that this chapter should be used to finance public improvements to lots or parcels which are developed and where the costs and time delays involved in creating an assessment district pursuant to other provisions of this division or any other law would be prohibitively large relative to the cost of the public improvements to be financed.

(b) It is also the intent of the Legislature that this chapter should be used to finance the installation of distributed generation renewable energy sources or energy efficiency improvements that are permanently fixed to residential, commercial, industrial, or other real property.

(c) This chapter shall not be used to finance facilities for parcels which are undergoing development.

(d) This chapter shall not be used to finance the purchase or installation of appliances that are not permanently fixed to residential, commercial, industrial, or other real property.

(e) Assessments may be levied pursuant to this chapter only with the free and willing consent of the owner of each lot or parcel on which an assessment is levied at the time the assessment is levied.

SEC. 2. Section 5898.14 is added to the Streets and Highways Code, to read:

5898.14. (a) The Legislature finds all of the following:

(1) Energy conservation efforts, including the promotion of energy efficiency improvements to residential, commercial, industrial, or other real property are necessary to address the issue of global climate change.

(2) The upfront cost of making residential, commercial, industrial, or other real property more energy efficient prevents many property owners from making those improvements. To make those improvements more affordable and to promote the installation of those improvements, it is necessary to authorize an alternative procedure for authorizing assessments to finance the cost of energy efficiency improvements.

(b) The Legislature declares that a public purpose will be served by a contractual assessment program that provides the legislative body of any city with the authority to finance the installation of distributed generation

renewable energy sources and energy efficiency improvements that are permanently fixed to residential, commercial, industrial, or other real property.

SEC. 3. Section 5898.20 of the Streets and Highways Code is amended to read:

5898.20. (a) (1) The legislative body of any city may determine that it would be convenient and advantageous to designate an area within the city, which may encompass the entire city or a lesser portion, within which authorized city officials and property owners may enter into contractual assessments for public improvements and to make financing arrangements pursuant to this chapter.

(2) The legislative body of any city may also determine that it would be convenient, advantageous, and in the public interest to designate an area within the city, which may encompass the entire city or a lesser portion, within which authorized city officials and property owners may enter into contractual assessments to finance the installation of distributed generation renewable energy sources or energy efficiency improvements that are permanently fixed to real property pursuant to this chapter.

(b) The legislative body shall make these determinations by adopting a resolution indicating its intention to do so. The resolution of intention shall include a statement that the city proposes to make contractual assessment financing available to property owners, shall identify the kinds of public works, distributed generation renewable energy sources, or energy efficiency improvements that may be financed, shall describe the boundaries of the area within which contractual assessments may be entered into, and shall briefly describe the proposed arrangements for financing the program. The resolution of intention shall state that it is in the public interest to finance the installation of distributed generation renewable energy sources or energy efficiency improvements, or both, pursuant to paragraph (2) of subdivision (a), if applicable. The resolution shall state that a public hearing should be held at which interested persons may object to or inquire about the proposed program or any of its particulars, and shall state the time and place of the hearing. The resolution shall direct an appropriate city official to prepare a report pursuant to Section 5898.22 and to enter into consultations with the county auditor's office or county controller's office in order to reach agreement on what additional fees, if any, will be charged to the city or county for incorporating the proposed contractual assessments into the assessments of the general taxes of the city or county on real property.

(c) As used in this chapter, each of the following terms has the following meaning:

(1) Notwithstanding Section 5005, "city" means a city, county, or city and county.

(2) "Legislative body" has the same meaning as defined in Section 5006.

SEC. 4. Section 5898.21 is added to the Streets and Highways Code, to read:

5898.21. Notwithstanding any other provision of this chapter, upon the written consent of an authorized city official, the proposed arrangements

for financing the program pertaining to the installation of distributed generation renewable energy sources or energy efficiency improvements that are permanently fixed to real property may authorize the property owner to purchase directly the related equipment and materials for the installation of distributed generation renewable energy sources or energy efficiency improvements and to contract directly for the installation of distributed generation renewable energy sources or energy efficiency improvements that are permanently fixed to the property owner's residential, commercial, industrial, or other real property.

SEC. 5. Section 5898.22 of the Streets and Highways Code is amended to read:

5898.22. The report shall contain all of the following:

(a) A map showing the boundaries of the territory within which contractual assessments are proposed to be offered.

(b) A draft contract specifying the terms and conditions that would be agreed to by a property owner within the contractual assessment area and the city.

(c) A statement of city policies concerning contractual assessments including all of the following:

(1) Identification of types of facilities, distributed generation renewable energy sources, or energy efficiency improvements that may be financed through the use of contractual assessments.

(2) Identification of a city official authorized to enter into contractual assessments on behalf of the city.

(3) A maximum aggregate dollar amount of contractual assessments.

(4) A method for setting requests from property owners for financing through contractual assessments in priority order in the event that requests appear likely to exceed the authorization amount.

(d) A plan for raising a capital amount required to pay for work performed pursuant to contractual assessments. The plan may include amounts to be advanced by the city through funds available to it from any source. The plan may include the sale of a bond or bonds or other financing relationship pursuant to Section 5898.28. The plan shall include a statement of or method for determining the interest rate and time period during which contracting property owners would pay any assessment. The plan shall provide for any reserve fund or funds. The plan shall provide for the apportionment of all or any portion of the costs incidental to financing, administration, and collection of the contractual assessment program among the consenting property owners and the city.

(e) A report on the results of the consultations with the county auditor's office or county controller's office concerning the additional fees, if any, that will be charged to the city or county for incorporating the proposed contractual assessments into the assessments of the general taxes of the city or county on real property, and a plan for financing the payment of those fees.

SEC. 6. Section 5898.30 of the Streets and Highways Code is amended to read: