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May 3, 2013

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From: William T Fujioka  
Chief Executive Officer

## SACRAMENTO UPDATE

### Executive Summary

This memorandum contains reports on the following:

- **Pursuit of County Position on Proposition 39 Implementing Legislation**
  - Proposition 39, the California Clean Energy Jobs Act, approved by voters in November 2012, changes the way multi-state businesses calculate their income tax liability and dedicates up to \$550.0 million annually for five years beginning in FY 2013-14 to fund projects that create energy efficiency and clean energy jobs in California. Therefore, unless otherwise directed by the Board, consistent with existing policy to support funding to assist local government compliance with existing and pending regulations to reduce emissions from both mobile and fixed sources, **the Sacramento advocates will support implementing legislation which allocates Proposition 39 funding to public agencies, including counties, for eligible energy-efficiency projects.**
- **Status of County-Sponsored Legislation**
  - **County-sponsored AB 195 (Hall)** - related to the extension of the sunset date for design-build authority granted to counties from July 1, 2014 to July 1, 2020 passed the Assembly Local Government Committee on May 1, 2013.

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- **County-sponsored SB 804 (Lara)** - related to conversion technologies passed the Senate Environmental Quality Committee on May 1, 2013.
- **Status of County-Advocacy Legislation**
  - **County-supported AB 416 (Gordon)** - related to the creation of the Local Emission Reduction Program was placed in the Assembly Appropriations Committee Suspense File on May 1, 2013.
  - **County-supported SB 715 (Lara)** - related to classification of waste-to-energy facilities in the County of Los Angeles as renewable energy resources is now a two-year bill.
  - **County-supported SB 727 (Jackson)** - related to pharmaceutical drug waste is now a two-year bill.
  - **County-supported SB 785 (Wolk)** - related to design-build authority for specified public works projects passed the Senate Governance and Finance Committee on May 1, 2013.

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### **Pursuit of Position on Proposition 39 Implementing Legislation**

Proposition 39, the California Clean Energy Jobs Act approved, by voters in November 2012, requires multi-state businesses to calculate their California income tax liability based on the percentage of their sales in California and repeals existing law giving multi-state businesses an option to choose a tax liability formula that provides favorable tax treatment. Overall, this change is expected to generate up to \$1.0 billion annually for the State.

In addition, Proposition 39 dedicates up to \$550.0 million annually for five years beginning in FY 2013-14 for the purpose of funding projects that create energy efficiency and clean energy jobs in California. Specifically, Proposition 39 establishes the Clean Energy Job Creation Fund, which can be used to support: 1) energy efficiency retrofits and clean energy installations in schools, universities and colleges, and other public facilities; 2) local governments in establishing and financing energy retrofit financial assistance programs; and 3) existing job training and workforce development programs. The measure states that this funding shall be prioritized to maximize job creation, energy savings, geographical and economic equity.

The Governor's FY 2013-14 January Budget proposes to allocate Proposition 39 monies for energy-efficiency projects exclusively to schools and community colleges on a per-student basis. In addition, three bills have been introduced by the Legislature to address implementation of Proposition 39, including:

- **AB 39 (Skinner and Pérez)**, which as amended on April 24, 2013, would require the State to administer Proposition 39 grants, loans, or other financial assistance to an eligible institution, defined as a K-12 public school or a community college, for eligible projects that create jobs in California by reducing energy demand and consumption. In addition, the bill would, commencing in FY 2016-17, authorize 25 percent of Proposition 39 revenue to be allocated to projects at K-12 public schools, community colleges and other eligible institutions, public universities, or public buildings.
- **SB 39 (De León)**, which as amended on April 24, 2013, would allocate Proposition 39 funds to energy efficiency and clean energy projects at K-12 schools and community colleges exclusively.
- **SB 64 (Corbett)**, which as amended on April 23, 2013, would require the State to develop and administer Proposition 39 programs to provide financial assistance to school districts, cities, and counties to install energy efficiency or clean energy technology in public schools and municipal facilities.

According to the Legislative Analyst's Office (LAO), Proposition 39 specifically states that projects must be selected based on the number of in-state jobs they would create and their energy benefits. The LAO indicates that by dedicating all energy-related funding to school and community colleges and excluding other eligible projects that potentially could achieve a greater level of benefits, it is unlikely that State energy and job benefits would be maximized. The LAO states that a more effective approach would be to evaluate the relative benefits among all potential projects, including public buildings.

The Internal Services Department (ISD) indicates that a 2009 inventory found that the County has more than 2,600 buildings, and approximately 14,000 vehicles and pieces of equipment which use an estimated 14 million gallons of fuel per year. ISD found that the County's Green House Gas (GHG) emissions primarily come from: building energy use; employee commutes; cogeneration facilities; the vehicle fleet; and other sources such as owned landfills, wastewater treatment plants, water pumps, and water consumption. ISD indicates that without implementation of energy efficiency projects at the local level, the County's GHG emissions will continue to rise as the County's population and businesses grow.

The Internal Services Department also reports that a number of County programs could be eligible for Proposition 39 funding. Those include:

- Energy Upgrade California, Los Angeles County (EUCLA) - a residential, whole-house energy efficiency upgrade program;
- Private financing programs for building energy efficiency upgrades for residential, non-residential and municipal buildings; and
- Municipal building energy upgrade programs that provide technical support for local governments to enhance their abilities to implement more municipal building energy projects.

Additionally, the California State Association of Counties (CSAC) indicates that local governments have been at the forefront of providing energy efficiency and renewable programs to their communities. Energy programs managed by local governments are designed for maximum energy efficiency and conservation, and create jobs by leveraging local and regional job programs. CSAC states that providing Proposition 39 funds to all public agencies, including counties, would ensure an equitable and efficient approach, maximizing the potential for job creation and energy savings throughout the State.

Therefore, unless otherwise directed by the Board, consistent with existing policy to support funding to assist local government compliance with existing and pending regulations to reduce emissions from both mobile and fixed sources, **the Sacramento advocates will support legislation which allocates Proposition 39 funding to public agencies, including counties, for eligible energy-efficiency projects. Consistent with this position, the Sacramento advocates will support SB 64 (Corbett) and will take a support-if-amended position on AB 39 (Skinner and Pérez) and SB 39 (De León) if amended to include counties as eligible to receive Proposition 39 funding.**

#### **Status of County-Sponsored Legislation**

**County-sponsored AB 195 (Hall)**, which as introduced on January 28, 2013, would amend Section 20133 of the Public Contract Code to extend the existing sunset date for design-build authority granted to counties from July 1, 2014 to July 1, 2020, passed the Assembly Committee on Local Government by a vote 7 to 1 on May 1, 2013. This measure now proceeds to the Assembly Appropriations Committee.

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**County-sponsored SB 804 (Lara)**, which as amended on April 22, 2013, would adjust the definition of “biomass conversion” to include conversion technologies, passed the Senate Environmental Quality Committee by a vote of 6 to 1 on May 1, 2013. This measure now proceeds to the Senate Appropriations Committee.

**Status of County-Advocacy Legislation**

**County-supported AB 416 (Gordon)**, which as amended on April 4, 2013, would create the Local Emission Reduction Program to provide local assistance grants and other financial assistance to eligible local governments to develop and implement greenhouse gas emission reduction projects in the State, was placed on the Assembly Appropriations Committee Suspense File on May 1, 2013.

**County-supported SB 715 (Lara)**, which as amended on April 8, 2013, would classify a facility that is engaged in combustion of municipal solid waste as an eligible renewable energy facility if it meets certain criteria, was held in the Senate Energy, Utilities and Communications Committee at the request of the author. This measure is now a two-year bill.

**County-supported SB 727 (Jackson)**, which as amended on April 3, 2013, would require producers of pharmaceutical products sold in the State to develop and implement a program to collect, transport, and process home-generated pharmaceutical drug waste, was held in the Senate Environmental Quality Committee at the request of the author. This measure is now a two-year bill.

**County-supported SB 785 (Wolk)**, which as amended on April 23, 2013, would enact uniform provisions authorizing local agencies to utilize the design-build procurement process and lower the project cost threshold to \$1.0 million, passed the Senate Governance and Finance Committee by a vote of 7 to 0 on May 1, 2013. This measure now proceeds to the Senate Appropriations Committee.

We will continue to keep you advised.

WTF:RA  
MR:KA:AO:ma

c: All Department Heads  
Legislative Strategist