CITY COUNCIL AGENDA REPORT

MEETING DATE: May 18, 2010 **ITEM NUMBER: IX-4**

SUBJECT: **RESOLUTION IN SUPPORT OF THE CALIFORNIA JOBS INITIATIVE TO SUSPEND THE IMPLEMENTATION OF AB 32**

DATE: **APRIL 29, 2010**

FROM: **CITY MANAGER'S OFFICE/ADMINISTRATION**

PRESENTATION BY: **MAYOR PRO TEM WENDY LEECE**

FOR FURTHER INFORMATION, CONTACT: **Thomas Hatch, Assistant City Manager – (714) 754-5288**
Carol Proctor, Management Analyst – (714) 754-5688

RECOMMENDATION:

That the City Council consider whether to adopt a resolution supporting the California Jobs Initiative, a state measure aimed to temporarily suspend the implementation of the California Global Warming Solutions Act (AB 32), and support the Initiative when it appears on the November 2, 2010 State Ballot.

BACKGROUND:

This report and resolution (see Attachment 1) is before you at the request of Mayor Pro Tem Wendy Leece.

ANALYSIS:

In January of 2006, AB 32 became law. This statute required that the California Air Resources Board (CARB) develop a plan to reduce California's greenhouse gas emissions (carbon dioxide) to 1990 levels by 2020. This equates to a roughly 30% decrease in greenhouse gas emissions from current levels. In addition, Governor Schwarzenegger issued an Executive Order requiring an 80% reduction in greenhouse gas emissions by 2050.

The CARB adopted an AB 32 Scoping Plan in December 2008, which was a blueprint for the regulations and strategies that would be required to meet AB 32's greenhouse gas emission reduction goals. The Scoping Plan incorporated a number of existing state laws, including SB 375 (dealing with regional land use), new regulations, guidelines and building code rules. Implementation is to be phased in using a complex "cap-and-trade" system in which businesses pay for emission quotas. The text of the California Jobs Initiative notes under statement of Findings that AB 32 will greatly impact jobs and the State economy. The Initiative includes research from the State and several respected reports (see Attachment 2). The Initiative will not repeal AB 32 or weaken any of the state's existing environmental laws. The measure proposes to suspend the implementation of AB 32 until the economy recovers from the current recession, providing local governments, businesses, and the state the ability to better handle higher energy costs, additional fees and regulations triggered by AB 32.

Mayor Pro Tem Leece is requesting that the Costa Mesa City Council adopt the attached resolution. As of April 28, 2010, approximately 150 organizations, local governments (including the City of Tulare and County of San Bernardino), elected officials (including 12 from Orange County), and businesses are in support of the California Jobs Initiative (see Attachment 3). The League of California Cities and the Orange County Division of the League of California Cities are neutral on this.

As of May 3, 2010, 807,946 petition signatures have been submitted to qualify for the November ballot to suspend AB 32. This is well above the 435,000 signatures required for a ballot initiative. The Secretary of State has until June 28, 2010 to formally approve the measure for the November ballot. It is wholly expected that California voters will decide the fate of AB 32.

ALTERNATIVES CONSIDERED:

Do not adopt the resolution. The City Council could chose not to support this ballot measure. However, their will be additional costs associated with the implementation of AB 32. These new mandated costs will only add to the financial dilemma the City is currently facing.

FISCAL REVIEW:

No fiscal review is required. However, the impartial fiscal analysis by the California Legislative Analyst's Office of the proposed initiative, sent to the California Attorney General is attached for reference (Attachment 4).

LEGAL REVIEW:

The City Attorney's Office has reviewed the resolution and approved it as to form.

CONCLUSION:

The City Council must decide whether they will adopt the Resolution in support of the California Jobs Initiative.

Carol C Proctor
CAROL C. PROCTOR
Management Analyst

Thomas R. Hatch
THOMAS R. HATCH
Assistant City Manager

DISTRIBUTION: Susan M. Allen, Yes on the California Jobs Initiative

ATTACHMENTS:
1 Support Resolution
2 California Jobs Initiative Information
3 California Jobs Initiative Supporters as of April 28, 2010.
4 Impartial Fiscal Analysis by CA Legislative Analyst's Office

Staff_Rpt-CA_Jobs_Initiative_5-18-10 5/10/10 3:44 pm

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, SUPPORTING THE CALIFORNIA JOBS INITIATIVE

THE CITY COUNCIL OF THE CITY OF COSTA MESA DOES HEREBY RESOLVE AS FOLLOWS:

WHEREAS, California's economy is still suffering from a severe economic recession with an unemployment rate of more than 12% with more than two million out of work; and

WHEREAS, local governments are facing budget deficits and potential spending cuts as a result of reduced revenues due to the recession; and

WHEREAS, California's global warming law (AB 32) would impose significant additional costs on California cities and counties, specifically, up to 60% increase in electricity rates, increased natural gas costs and increased transportation fuel costs; and

WHEREAS, AB 32 would also burden many local governments with a new state-mandated fee on some local facilities such as waste-treatment plants, landfills, co-generation facilities and other operations totaling several billion dollars; and

WHEREAS, the increased costs resulting from AB 32 would reduce economic activity and result in more than one million lost jobs; and

WHEREAS the California Air Resources Board and others have determined that AB 32's higher energy costs and job losses will disproportionately impact low-income families and small businesses; and

WHEREAS, the reduced economic activity resulting from AB 32 would reduce revenues to local governments and the state which could equal between $2.2 billion to

$5.8 billion per year; and

WHEREAS, according to the California Air Resources Board and other experts, the greenhouse gas emission reductions from AB 32 would have no measurable impact on global warming; and

WHEREAS, the California Jobs Initiative would temporarily suspend AB 32 until such time as the economy recovers, specifically when the unemployment rate returns to 5.5% for four consecutive quarters; and

WHEREAS, the California Jobs Initiative would be a prudent strategy for local governments to avoid higher costs and reduced revenues so that they would have more resources to dedicate for delivering vital public services; and

WHEREAS, according to the independent Legislative Analyst, "During the likely suspension of AB 32, state administrative costs to develop and enforce regulations pursuant to AB 32 would be reduced significantly. We estimate that the resulting state administrative cost savings and ultimately lower fees-could be in the low tens of millions of dollars annually;" and

WHEREAS, according to the independent Legislative Analyst, "The suspension of the proposed cap-and-trade regulations could result in lower energy prices for consumers, including state and local government agencies that are large consumers of energy, than would be the case if AB 32 regulations were allowed to take effect. These lower energy prices, in turn, also would have positive economic impacts on the state;" and

WHEREAS, the California Jobs Initiative does not have any impact on existing environmental laws in California.

NOW THEREFORE, BE IT RESOLVED that the City of Costa Mesa endorses

the California Jobs Initiative to temporarily suspend implementation of AB 32 (The Global Warming Solutions Act).

PASSED AND ADOPTED this ____ day of May, 2010.

ATTEST:

_____ _____

Deputy City Clerk of the City of Costa Mesa Mayor of the City of Costa Mesa

APPROVED AS TO FORM

_____

City Attorney

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF COSTA MESA)

I, JULIE FOLCIK, City Clerk and ex-officio Clerk of the City Council of the City of Costa Mesa, hereby certify that the above and foregoing Resolution No._____ was duly and regularly passed and adopted by the said City Council at a regular meeting thereof held on the ___ day of May, 2010, by the following roll call vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Costa Mesa this ____ day of _____, 2010.

_____

City Clerk and ex-officio Clerk of
the City Council of the City of Costa Mesa

California Jobs Initiative: Issue Backgrounder

The California Jobs Initiative, a state measure headed for the November 2010 ballot, would temporarily suspend implementation of the California Global Warming Solutions Act (AB 32) until such time as the economy recovers from the current recession, specifically when the state's unemployment rate decreases to 5.5% for four consecutive quarters. The unemployment rate was 4.8% when AB 32 became law. Here is the text of the initiative:

SECTION 1. STATEMENT OF FINDINGS

A. In 2006, the Legislature and Governor enacted a sweeping environmental law, AB 32. While protecting the environment is of utmost importance, we must balance such regulation with the ability to maintain jobs and protect our economy.

B. At the time the bill was signed, the unemployment rate in California was 4.8%. California's unemployment rate has since skyrocketed to more than 12%.

C. Numerous economic studies predict that complying with AB 32 will cost Californians billions of dollars with massive increases in the price of gasoline, electricity, food and water, further punishing California consumers and households.

D. California businesses cannot drive our economic recovery and create the jobs we need when faced with billions of dollars in new regulations and added costs; and

E. California families being hit with job losses, pay cuts and furloughs cannot afford to pay the increased prices that will be passed onto them as a result of this legislation right now.

SECTION 2. STATEMENT OF PURPOSE

A. The people desire to temporarily suspend the operation and implementation of AB 32 until the state's unemployment rate returns to the levels that existed at the time of its adoption.

SECTION 3. SUSPENSION OF AB 32

Division 25.6 (commencing with section 38600) of the Health and Safety Code is hereby added to read:

§38600(a) From and after the effective date of this measure, Division 25.5(commencing with section 38500) of the Health and Safety Code is suspended until such time as the unemployment rate in California is 5.5% or less for four consecutive calendar quarters.

(b) While suspended, no state agency shall propose, promulgate, or adopt any regulation implementing Division 25.5(commencing with section 38500) and any regulation adopted prior to the effective date of this measure shall be void and unenforceable until such time as the suspension is lifted.

Highlights of AB 32 (Global Warming Solutions Act):

AB 32 became law in 2006. The statute required that the California Air Resources Board (CARB) develop a plan to reduce California's greenhouse gas emissions (carbon dioxide) to 1990 levels by 2020. This equates to a roughly 30% decrease in greenhouse gas emissions from current levels. In addition, Governor Schwarzenegger issued an Executive Order requiring an 80% reduction in greenhouse gas emissions by 2050.

Even if the AB 32 greenhouse gas emission reduction goals are achieved, it would have no measurable impact on "global warming" because California's GHG emissions comprise only a

minuscule fraction of the world's GHG emissions. According to CARB, "California acting alone cannot reduce emissions sufficiently to change the course of climate change worldwide."

CARB adopted an AB 32 Scoping Plan in December 2008 which was a blueprint for the regulations and strategies that would be required to meet AB 32's greenhouse gas emission reduction goals. The Scoping Plan incorporated a number of existing state laws including SB 375 (Regional Land Use), fuel economy standards, one-million solar roofs legislation and the renewable fuels portfolio standard requiring that 33% of the electricity used in the state come from renewable sources.

In addition, the AB 32 Scoping Plan includes a number of new regulations, guidelines, and other recommendations including a low carbon fuel standard for gasoline and diesel fuel, additional rules for the trucking industry, a cap-and-trade program, air conditioning and refrigeration regulations, energy efficiency requirements, and zoning and building code rules ... to name just a few. Some of these regulations have already been adopted and some are pending. A copy of the Scoping Plan, AB 32 regulations and other materials are available on the CARB website (www.arb.ca.gov).

Local Government and Other Costs Resulting From AB 32:

Reducing GHG emissions from municipal buildings, facilities, vehicles, wastewater, landfills and other government operations will require enormous expenditures by local governments. Here are some examples:

- Up to 60% higher electricity costs (Source: Southern California Public Power Authority, representing Los Angeles Department of Water and Power, Pasadena, Burbank, Azuza, Banning, Cerritos, Colton, Glendale, Riverside, Vernon and the Imperial Irrigation District).

- Increased gasoline and diesel costs of $3.7 billion a year. (Source: Sierra Research)

- Increased costs of $50,000 for a new home. (Based on National Renewable Energy Laboratory estimates for the cost of a zero net energy home.)

- Increased vehicle costs from $1,000 to $3,000. (Source: CARB and auto maker estimates)

- A proposed AB 32 cap-and-trade auction tax in the range of $143 billion between 2012 and 2020 . (CARB, Economic and Allocation Advisory Committee), in the form of direct costs to some cities and indirect costs equivalent to as much as a 53 cent per gallon increase in the cost of gasoline.

- More than one million lost jobs (Varshney and Associates)

AB 32's costs will come on top of federal regulations currently being developed, which could carry enormous price tags and possibly conflict with state GHG reduction requirements.

According to the California Legislative Analyst, suspending AB 32 will help local government budgets:

"During the likely suspension of AB 32, state administrative costs to develop and enforce regulations pursuant to AB 32 would be reduced significantly. We estimate that the resulting state administrative cost savings—and ultimately lower fees—could be in the low tens of millions of dollars annually."

"The suspension of the proposed cap-and-trade regulations could result in lower energy prices for consumers, including state and local government agencies that are large consumers of energy, than would be the case if AB 32 regulations were allowed to take effect. These lower energy prices, in turn, also would have positive economic impacts on the state."

Impact on Local Government:

Higher Costs:

Local governments will be impacted by the higher energy costs that AB 32 would impose for electricity, natural gas and transportation fuel. In addition, many local governments would face additional costs under AB 32's cap-and-trade program if they operate facilities that generate more than 25,000 metric tons a year of carbon dioxide. These could be waste-water facilities, landfills, and cogeneration facilities for example. Here are some examples of the AB 32 cap-and-trade costs that local governments would be forced to pay if allowances were auctioned at $60 per ton.

Examples of AB 32 Cap and Trade Costs for Cities and Counties

Facility	GHG Tons Reported for 2008	AB 32 Cap-and-Trade Cost for 1 year	AB 32 Cap-and-Trade Cost for Ten Years
Central Contra Costa Sanitation	61,358	$3,692, 280	$36,922,800
City of Anaheim Turbine Generator	26,011	$1,562,460	$15,624,000
City of Corona Water and Power	46,324	$2,779,440	$27,794,400
City of Los Angeles, Dept. of Airports	44,333	$2,659,980	$26,599,800
Los Angeles County Civic Center Cogen	92,886	$5,573,160	$55,731,600
Orange County Waste &Recycling, Frank Bowerman Landfill	149,936	$8,996,160	$89,961,600
Orange County Waste & Recycling, Olinda Alpha Landfill	118,495	$7,109,700	$71,097,000
Pasadena Water & Power	61,283	$3,676,980	$36,769,800
Port of Stockton District Energy Facility	360,556	$21,633,360	$216,333,600
Redding Electric Utility	82,350	$4,941,000	$49,410,000
Ripon Co-Generation	146,054	$8,763,240	$87,632,400
Riverside Public Utility Energy Resource Center	49,124	$2,947,440	$29,474,400
San Bernardino County Waste Mgt.	31,000	$1,860,000	$18,600,000
San Jose/Santa Clara Water Pollution Control Plant	72,906	$4,374,360	$43,743,600
City of Santa Clara/Silicon Valley Power	217,742	$13,048,320	$130,483,200
Stockton Co-generation	570,768	$34,246,000	$342,460,800

Reduced Revenues:
Higher energy costs and fees resulting from AB 32 will reduce economic activity in California, force more employers to leave the state and ultimately lead to reduced state and local government revenues. The expected loss in government revenues would range from $2.2 billion to nearly $6 billion per year according to one study. These additional lost revenues resulting from AB 32 will force already cash-strapped governments to either raise taxes or reduce the services they provide.

Impact On Local Government Authority:

Locally elected leaders are the most familiar with the needs and resources of their communities, and best equipped to make decisions for the good of their constituents. AB 32 would shift local control to the state in such critical areas as:

- Land use
- Transportation
- Waste management
- Building codes

Municipal climate change policies would not be subject to the provisions of the California Jobs Initiative, so local leaders would retain the ability to develop and implement climate change policies that make sense for their communities.

The California Jobs Initiative Impact on Environmental Protection Laws

California already has the strictest air and water quality protection laws in the country. The California Jobs Initiative will not weaken those laws in any way. AB 32 could actually have a negative impact on air quality. According to CARB's Economic Allocation and Advisory Committee: "AB 32 is likely to change the geographical pattern of emissions of greenhouse gases and local pollutants. Some have suggested that the initiative could in fact lead to an increase in emissions in certain areas."

In addition, AB 32 would actually increase greenhouse gas emissions because carbon emissions do not respect borders, AB 32 might actually increase greenhouse gas emissions. That's because AB 32's higher costs will force California companies to shut down their operations here and move them to locations elsewhere in the country or the world which have less stringent environmental controls.

Who is for and Against the California Jobs Initiative?

Support:
More than 100 local government officials, cities, counties, taxpayer and business organizations support the California Jobs Initiative including among others the San Bernardino County Board of Supervisors, California Small Business Association, California Manufacturers & Technology Association, California Hispanic Chambers of Commerce, California Trucking Association, California Small Business Alliance, Hispanic Chamber of Commerce, Silicon Valley, Howard Jarvis Taxpayers Association, Silicon Valley Black Chamber of Commerce, National Tax Limitation Committee, Nisei Farmers League, California Taxpayer Protection Committee,

American GI Forum of California, California Citrus Mutual, California Coalition of Filipino American Chambers, Butte County Farm Bureau, California League of Food Processors, Lumber Association of California and Nevada, Printing Industries of California, Southern California Rock Products Association, San Diego Urban Economic Corporation, California Automotive Wholesalers Association, National Federation of Independent Business – California (NFIB), California Cotton Ginners and Growers Associations, Associated California Loggers, Los Angeles Metropolitan Hispanic Chamber of Commerce, Americans for Prosperity, Alliance of Contra Costa Taxpayers, Waste Watchers, California Dump Truck Owners Association, Kern County Black Chamber of Commerce, Western Agricultural Processors Association, California Tomato Growers Association, California Association of Business and Property Owners, Stockton/San Joaquin County Filipino Chamber of Commerce, California Dairy Campaign, National Taxpayers Union, Fontana Hispanic Chamber of Commerce, California Poultry Federation, and the Hispanic Chamber of Commerce of Contra Costa County.

Opposition:
More than ten organizations oppose the California Jobs Initiative including the California Lung Association, Natural Resources Defense Fund, Audubon California, Technet and the California League of Conservation Voters.

San Diego Union Tribune Editorial

Monday, April 28, 2010

The real world weighs in / AB 32's likely effects have cities worried about revenue, jobs

Reports that the League of California Cities is considering asking the state government to delay implementation of AB 32 are only the latest real-world reminder that the state's landmark 2006 anti-global warming law is downright scary to those who take a hard look at its likely effects on the economy.

The law forces California to shift to cleaner but much costlier forms of energy by 2020 to reduce the greenhouse-gas emissions believed to heat up the atmosphere. It will do so through phased-in implementation of a complex "cap-and-trade" system in which companies pay for emission quotas.

Gov. Arnold Schwarzenegger said California would inspire the rest of the world to adopt similar laws. It didn't. He also touted the glories of green jobs and pooh-poohed the idea of AB 32 having any economic downside.

But a study by a UC Berkeley think tank devoted to green causes said even if California becomes the world leader in cleaner-energy technologies, relatively few jobs would be created. This finding was affirmed in a new report from the respected McKinsey consulting firm which concludes the clean-energy industry is far more akin to the employee-light semiconductor industry than to labor-heavy manufacturing. McKinsey is skeptical green jobs will ever make up much more than their present 0.6 percent of the U.S. work force.

Meanwhile, the state's own research shows AB 32 will raise energy costs by 40 percent to 60 percent.

No wonder city officials fear AB 32. Their budgets largely depend on sales tax revenue, which will never rebound unless the state's record unemployment recedes and more Californians have money to spend. But unemployment is likely to increase, not decrease, if California businesses suddenly have another competitive disadvantage with rival states and nations because of higher energy costs. Because of its heavy taxes and regulations, California already has one of the most hostile business climates of any state.

It doesn't take a rocket scientist to figure out the threat AB 32 poses to California's economy. Any politician who worries about a green backlash for opposing its implementation should look at recent events in Los Angeles, long seen as a green bastion. Residents there forced Mayor Antonio Villaraigosa to drop his push for sharply higher municipal electricity rates to pay for an accelerated city version of AB 32.

They probably did so for pocketbook reasons. But even if the economy were booming, the AB 32 approach doesn't make sense. What does is a national or international strategy to address climate change – not a law that saddles Californians and the state economy with a unique burden.

California Jobs Initiative Supporters

(As of April 28, 2010)

Organizations

California Small Business Association
California Manufacturers & Technology Association
California Hispanic Chambers of Commerce
California Small Business Alliance
Hispanic Chamber of Commerce, Silicon Valley
Howard Jarvis Taxpayers Association
Silicon Valley Black Chamber of Commerce
Regional Hispanic Chamber of Commerce
National Tax Limitation Committee
Nisei Farmers League
California Taxpayer Protection Committee
Carson Black Chamber of Commerce
American GI Forum of California
California Citrus Mutual
California Republican Party
California Coalition of Filipino American Chambers
Butte County Farm Bureau
California League of Food Processors
Lumber Association of California and Nevada
Printing Industries of California
Southern California Rock Products Association
American GI Forum, Modesto Chapter
Santa Maria Valley Contractors Association
California Independent Oil Marketers Association (CIOMA)
San Diego Urban Economic Corporation
Antelope Valley Black Chamber of Commerce
California Trucking Association
California Automotive Wholesalers Association
National Federation of Independent Business – California (NFIB)
Long Beach Chamber of Commerce
California Cotton Ginners and Growers Associations
Associated California Loggers
Chemical Industry Council of California
Filipino Progress
National Petrochemical and Refiners Association
Los Angeles Metropolitan Hispanic Chamber of Commerce
Americans for Prosperity
Los Angeles Regional Homeless Restoration Advisory Coalition
Independent Oil Producers Agency
Moreno Valley Black Chamber of Commerce
Los Angeles Regional Homeless Restoration Advisory Coalition
Alliance of Contra Costa Taxpayers
Waste Watchers
California Dump Truck Owners Association
Kern County Black Chamber of Commerce
Western Agricultural Processors Association
Central Solano Taxpayers Association
Santa Maria Valley Chamber of Commerce
Sacramento County Taxpayers League
Kern County Black Chamber of Commerce,

California Jobs Initiative | 1215 K Street, Suite 2260, Sacramento, CA 95814
Phone: 866 511-4196| **www.jobs2010ca.com** | **info@jobs2010ca.com**

California Jobs Initiative Committee, a Coalition of Taxpayers, Employers, Food Producers, Energy, Transportation and Forestry Companies, with major funding provided by Valero & The Adam Smith Foundation

Organizations cont'd

Development Foundation
American GI Forum Women of California
Kern County Taxpayers Association
San Diego Tax Fighters
California Tomato Growers Association
California Association of Business and Property Owners
Stockton/San Joaquin County Filipino Chamber of Commerce
California Dairy Campaign
National Taxpayers Union
Fontana Hispanic Chamber of Commerce
California Poultry Federation
Hispanic Chamber of Commerce of Contra Costa County

Local Governments and Elected Officials

San Bernardino County
City of Tulare
Jerry Amante, Mayor of Tustin
Anthony Botelho, San Benito County Supervisor
Donald Callison, American Canyon Council Member
Joe Carchio, City of Huntington Beach Council Member
Jim DeMartini, Stanislaus County Supervisor
Richard Dixon, Mayor Pro-Tem of Lake Forest
Peter Foy, Ventura County Supervisor
Matthew Harper, Trustee, Huntington Beach Union High School District
Peter Herzog, Mayor of Lake Forest
Frank Hilliker, Director, Lakeside Water District
Mike Hudson, Suisun City Council Member
Steve Jones, Guadalupe Council Member
Janice Keating, former Modesto City Council Member
Joel Lautenschleger, Laguna Hills Council Member
Wendy Leece, Mayor Pro-Tem, Costa Mesa
L. Dennis Michael, Mayor Pro-Tem, Rancho Cucamonga
Robert Ming, Laguna Niguel Council Member
Brad Mitzelfelt, San Bernardino County Supervisor
Reb Monaco, San Benito County Supervisor
Vern Moss, Madera County Supervisor
Steve A. Nagel, Fountain Valley City Council Member
Scott Nelson, Placentia Council Member
Ray Nutting, El Dorado County Supervisor
Kristin Olsen, Modesto City Council Member
Allen Settle, San Luis Obispo Council Member
Frank Ury, Mission Viejo Council Member
Andy Vasquez, Yuba County Supervisor
Craig Vejvoda, Tulare Council Member
Joe Vinatieri, Whittier Council Member
Acquanetta Warren, Fontana Council Member
Jeremy Yamaguchi, Placentia Council Member
Kim K. Yamaguchi, Butte County Supervisor

Businesses

Advanced Composite Tooling
Altraco, Inc.
Bishop-Wisecarver Corporation
Boyett Petroleum
Broadview Co-op Gin
Buttonwillow Ginning Company
Cobb's Pescadero Travel
Con10U
CRI Appraisals and Real Estate
Cross Petroleum
J.B. DeWar, Inc.
J.E. DeWitt, Inc.
Dion & Sons
Elm Communications
GCM Farms
Glove USA
Hernandez Sewing, Inc.
Huley Enterprises, Inc.

Businesses cont'd.

Huron Ginning Company
Krueger & Company
Mid-Valley Cotton Growers
Miller Geosciences
Poma Holding Company, Inc.
Prado Farms
Products Engineering Corporation
Professional Small Business Services, Inc.
Riverside Truck & Equipment, Inc.
Rood & Dax Advanced Insurance Services
Scolari Ranches
SDSW Consulting
Sierra Valley Almonds
Smothers and Associates
Square One Enterprises
Supreme Steel Treating, Inc.
Taylor Trucking
TBS Petroleum
Team Heating and Air Conditioning
Terranova Ranch
Teixeira and Sons
Titus & Associates
TC Two Creative Studios
Touchstone Industrial Supply
Tuppan Cabinets
David A. Turner Homes, Inc.
Ugalde Trucking Company
Water Stewards, Inc.
West Island Cotton Growers, Inc.
Westside Farmers Cooperative
Yadari Enterprises

February 2, 2010

Hon. Edmund G. Brown Jr.
Attorney General
1300 I Street, 17th Floor
Sacramento, California 95814

Attention: Ms. Krystal Paris
Initiative Coordinator

Dear Attorney General Brown:

Pursuant to Elections Code Section 9005, we have reviewed a proposed initiative relating to the California Global Warming Solutions Act of 2006, commonly referred to as "Assembly Bill 32" (A.G. File No. 09-0105).

Background

Assembly Bill 32 establishes the goal of reducing, by 2020, the state's emissions of greenhouse gases (GHGs) to the level those emissions were in 1990. The law requires the state Air Resources Board (ARB) to adopt rules and regulations to achieve the targeted reduction in emissions and to monitor and enforce this program. As required by law, the ARB in December 2008 released its scoping plan for AB 32 implementation. This plan is a blueprint for meeting the statutory GHG emission reduction goal, and it encompasses a range of GHG emission reduction measures. These include, as allowed under AB 32, traditional regulatory measures to directly order reductions in emissions, market-based compliance measures (namely, a "cap-and-trade" system), and voluntary measures. Regulations have already been adopted for some of these measures. For others, regulations are either currently under development or will be developed in future years.

As allowed under AB 32, the ARB has adopted a regulation with a schedule of fees to be paid by parties that emit GHGs to fund state agency administrative costs to implement AB 32. Under current law, revenues from the AB 32 administrative fee are also to be used to repay various state special funds that have made loans totaling $83 million to the AB 32 program. These loans have staggered repayment dates that run through 2014.

Other Statutes Have Been Enacted That Could Reduce GHG Emissions. In addition to AB 32, a number of other state statutes have been enacted that could reduce GHG emissions. In some cases, the main purpose of the statute is to reduce GHG emissions, such as in the case of legislation enacted by Chapter 200, Statutes of 2002 (AB 1493, Pavley),

that requires the ARB to adopt regulations to reduce GHG emissions from light-duty vehicles. Other statutes authorized various energy efficiency programs that could have the effect of reducing GHG emissions.

State Currently Has High Unemployment Rate. Each month, the state Employment Development Department (EDD) publishes an estimate of the unemployment rate for California. The preliminary non-seasonally-adjusted unemployment rate for November 2009, as found in EDD's *Monthly Labor Force Data for Counties* report, is 12.2 percent.

Proposal

This measure would suspend the implementation of AB 32 until such time that the unemployment rate in California is 4.8 percent or less for four consecutive calendar quarters. During the suspension period, state agencies would be prohibited from proposing or adopting new regulations, or enforcing previously adopted regulations, implementing AB 32.

Fiscal Effects

Some Regulatory Activities Would Be Suspended. California's current unemployment rate is much higher than the 4.8 percent level. The state's unemployment rate has not been that low for four consecutive calendar quarters for at least 40 years. Unemployment is forecast to remain high for the next several years. Given this, it is probable that the measure's suspension mechanism would go into effect immediately and stay in effect indefinitely. The specific fiscal impacts of this measure on state and local governments, therefore, would depend largely on the particular regulatory activities that would be suspended. These would likely include:

- The proposed cap-and-trade system.
- A low carbon fuel standard that would require a significant reduction in the carbon intensity of, and thus the GHG emissions from, the state's transportation fuels.
- A requirement that all retail sellers of electricity procure at least 33 percent of their electricity by 2020 from "renewable" sources, such as solar or wind power. (A current standard that renewable sources constitute 20 percent of the electricity procured by investor-owned utilities by 2010 would still apply.)
- The fee to recover state agency costs of administering AB 32.

However, the majority of activities related to addressing climate change and reducing GHG emissions would probably not be suspended by this measure. That is because certain regulations, such as the light-duty vehicle emission regulations adopted under AB 1493, implement statutes enacted separately from AB 32. We estimate that more than one-half of the emission reductions intended from implementing the scoping plan are scheduled to come from programs that derive their authority outside of AB 32.

As discussed below, the suspension of AB 32 regulatory activities would have several impacts. These include potential effects on the California economy and related impacts on state revenues, as well as effects on the administrative costs of state regulatory agencies.

Potential Impacts on California Economy and Government Revenues. A suspension of AB 32 would have various economic impacts. Generally speaking, the suspension of regulatory activity under the measure means that business would avoid costs required to comply with the suspended regulations. For example, the suspension of AB 32 regulations might allow some businesses to avoid significant investments they might otherwise be mandated to make in new energy technologies. This could potentially lead to larger net profits for these firms, at least in the short term, than would otherwise occur. To the extent that such impacts occurred, the state could collect greater state corporate tax revenues than would otherwise be the case.

Similarly, the suspension of the proposed cap-and-trade regulations could result in lower energy prices for consumers, including state and local government agencies that are large consumers of energy, than would be the case if AB 32 regulations were allowed to take effect. These lower energy prices, in turn, also would have positive economic impacts on the state. As a result, the measure would likely have a positive impact on state and local government revenues, at least in the near term.

The longer-term economic impact of the measure is less certain. This is because the suspension of AB 32 could also have some negative impacts. For example, it could delay investments in energy technologies or in so-called "green jobs" reaping longer-run savings or dampen additional investment in clean energy technologies by private firms, thereby resulting in less economic activity than otherwise would be the case.

State Administrative Cost Savings. During the likely suspension of AB 32, state administrative costs to develop and enforce regulations pursuant to AB 32 would be reduced significantly. We estimate that the resulting state administrative cost savings—and ultimately lower fees—could be in the low tens of millions of dollars annually. If the suspension were lifted because of an improvement in the state's unemployment rate, these savings would end.

During any period that AB 32 would be suspended, the ARB would lack the authority to collect the administrative fee authorized under AB 32. As a result, there would no longer be a dedicated funding source to repay loans that have been made from certain state special funds to support the operation of the AB 32 program. This would mean that other sources of state funds, potentially including the General Fund, might have to be used instead to repay the loans. These state costs could amount to tens of millions of dollars.

Other Fiscal Effects. There are other potential fiscal effects of the measure that relate specifically to a suspension of ARB's proposed cap-and-trade regulation. One feature of

this proposed regulation that is currently under discussion relates to whether, and to what extent, emission allowances are allocated free of charge or instead auctioned by state government to emitters of GHGs. The AB 32 scoping plan developed by ARB provides for the auction of at least some emission allowances initially, with this proportion increasing over time. Depending upon the specific approach ultimately determined by ARB, the resulting state revenues from the auction of emission allowances could be up to billions of dollars annually. (These revenues could be used to reduce other state taxes or increase state spending—either related to GHG emissions or not.) If this measure suspends the future implementation of such a cap-and-trade regulation, the state would therefore forego these revenues, at least until the state's unemployment rate dropped to the level specified in this measure for four consecutive quarters.

Summary

In summary, the initiative would likely have the following major fiscal effects:

- Potential positive, short-term impacts on state and local government revenues from the suspension of regulatory activity, with uncertain longer-run impacts.
- Potential foregone state revenues from the auctioning of emission allowances by state government, by suspending the future implementation of cap-and-trade regulations.

Sincerely,

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