



SWANA[®]

SOLID WASTE ASSOCIATION
of North America

CALIFORNIA CHAPTERS

FOUNDING

SIERRA

GOLDRUSH

LEGISLATIVE TASK FORCE

www.swanacal-leg.org

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**MINUTES OF SWANA CALIFORNIA
LEGISLATIVE TASK FORCE MEETING, SACRAMENTO**

October 7, 2010

By: Mark Urquhart, Secretary

The Legislative Task Force (LTF) meeting started at about 10:00 AM. A quorum was present as there were 12 voting members present, including at least one voting member from each chapter. The agenda is Attachment A. A sign-in list of the attendees is Attachment B. The items from the agenda below were not all discussed in the order listed.

I. BUSINESS ITEMS AND LTF ACTIVITIES

Approval of Minutes from September 2, 2010 LTF Meeting

William Merry asked for comments on these minutes. Hearing none he noted a typo on page 2 and asked for a motion to approve the minutes with that correction.

Motion:

A motion was made by Mike Mohajer; seconded by Rod Andrews to approve the minutes from the September 2, 2010 meeting. The motion carried; all in favor.

Treasurer's Update and Reports

Nancy Ewert presented the treasurer's reports for August and September 2010 (Attachment C). She said that there is a little over a \$67,000 balance at this time. She added that dues surcharges and Western Regional Symposium funds came in well. There was discussion to try to contact City of LA and San Joaquin County to see if they would again contribute as they had last year.

Motion:

A motion was made by Mike Mohajer; seconded by Mark Urquhart, to approve the treasurer's reports from August and September 2010. The motion carried; all in favor.

Next Meeting Date

The next meeting will be the annual workshop on November 4 and 5, 2010 in Sacramento. Tressa Wallace noted that the date for the hotel group rate has passed.

Workshop Planning - Workplan

It was discussed that CalRecycle (CR) would be invited for a one hour discussion at workshop. Lisa Wood has already started cleaning up the workplan language that can be circulated prior to the meeting. Comments on the draft workplan should be sent to Lisa Wood, with cc to Tressa.

Other

SWANA LTF Legislative Sponsorship Ability

John Gullledge noted that founding chapter board voted that LTF should not sponsor legislation. Rod Andrews said the issue was not formally taken up at central chapter meeting. William Merry asked Rod Andrews if he could place the item on the Central Chapter agenda so that a vote on the issue could be taken. Rod Andrews said he would do that. William Merry noted that the Gold Rush voted no regarding LTF ability to sponsor legislation. It was noted that this is majority of chapters opposing LTF authority to sponsor legislation and whether or not formally made unanimous by the future Sierra Chapter vote it does not have Chapter support.

II. REVIEW OF 2010 LEGISLATION

Tressa Wallace discussed that there was a bill matrix attached to the agenda. She said that the governor signed 726 and vetoed 298 bills. In summary she said that the LTF did well on bills as acted on by governor.

Sharon Green noted that there may be a reduction in water quality fees as part of the legislative budget process; it was not clear which fees but probably not ones related to solid waste.

Regarding the failure of the plastic bag ban bill, Mark Bowers noted that Sunnyvale and some other local agencies are moving ahead with plastic bag bans given that legislation failed in senate. It was also discussed that CEQA documents are being promulgated and that some are even considering Mitigated Negative Declarations (MND), although it is not clear if the process of a MND would be challenged and struck down at some locations as in the past. Marine life discussion in the CEQA documents seems to be a main item of contention for plastic industry that challenges CEQA documents, their attorneys citing their industry does not believe that language is not based on science. It was noted that City of San Jose has an EIR out in circulation. It received a 215 page comment from a plastics industry attorney

Following is summary of brief discussions on some of the bills listed in the agenda. The discussion notes, if included, are listed below the veto message links.

AB 737 (Chesbro) Solid waste: diversion – Vetoed

http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab_0701-0750/ab_737_bill_20100913_enrolled.pdf

Veto message - http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab_0701-0750/ab_737_vt_20100928.html

Tressa Wallace said that Changes to address business concerns were not included in the bill and one of the main reasons for the veto

AB 1858 (Blumenfield) Hypodermic needles and syringes: exchange services – Support if Amended – Vetoed

http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab_1851-1900/ab_1858_bill_20100903_enrolled.pdf

Veto message - http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab_1851-1900/ab_1858_vt_20100930.html

Maintaining local control was an issue cited in the governor's veto, which was an issue the LTF raised.

AB 2398 (Perez) Product stewardship: carpet – Support – **Signed by Governor**
http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab_2351-2400/ab_2398_bill_20100930_chaptered.pdf

Tressa Wallace noted that the governor also signed product stewardship lighting and brake pad bills.

SB 390 (Kehoe) Solid waste: recycling market development. – Support – **Signed by Governor**
http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0351-0400/sb_390_bill_20100924_chaptered.pdf

SB 1029 (Yee) Hypodermic needles and syringes – Support if Amended – **Vetoed**
http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_1001-1050/sb_1029_bill_20100902_enrolled.pdf

Veto message - http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_1001-1050/sb_1029_vt_20100930.html

III REGULATORY MATTERS

Proposition 26

The LTF discussed that the affect on many fees compared to language on “taxes” is a complicated issue, and this is not a good item for a proposition. Landfill imposed fees in many instances would be affected and could not be raised without 2/3 majority public vote. Franchise fees are a cost of doing business and often passed through to local agencies but may be subject to this proposition. A key word may be “imposed” in that existing CPI increases are probably “grandfathered”; compared to raising or imposing new fees. There was considerable discussion on various fees such as tire fees and many other pollution fees and there are legal opinions noting that these would probably require 2/3 public majority vote.

It was discussed that Mark Bowers had circulated an independent analysis of the potential effects of Proposition 26 to the LTF, including mention of franchise and other regulatory fees. A copy of this analysis is included as Attachment D

Proposition 23

Mark Bowers noted that Sunnyvale Council voted to oppose the proposition, generally over its environmental concerns and support of AB32.

CalRecycle – Landfill Financial Assurances (FA)

Glenn Acosta discussed that he had circulated a follow-up letter to the SWIG letter regarding seismic issues (Attachment E, initial SWIG letter regarding seismic). The letter in progress proposes framework on the issue that indicates what CR is proposing is not reasonable. So far Waste Management Inc., Orange County and others have signed on to the letter. The letter includes scientific arguments in somewhat plain English that follows up to the last letter to also include other items beyond seismic issues. It was discussed that the deadline for comments is next Weds.

Motion:

A motion was made by NE; seconded by Mike Mohajer to have the LTF sign on to the SWIG letter being drafted by Glenn Acosta. The motion carried; all in favor.

State Water Resources Control Board (SWRCB) – Water Quality Regulatory Fee

Sharon Green discussed that AB 1515, a budget trailer bill, has elements pertaining to additional fees (raise \$2M on active landfills) for open landfills. Requires SWRCB to report back to legislature later at what it costs its agency and regional boards to regulate active landfills. The SWRCB cannot bill for the fee until later in the fiscal year.

Sharon Green noted that there was only 3 day period that this item was open for comment prior to the latest round. The SWRCB feels that they may even be able to get additional fees for monitoring above the \$2M proposed in the bill. She said the comment period for the latest version will only be a few days. Larry Sweetser noted that closed site fees would also be raised about 23%. It was generally discussed that active landfills may have to pay on the order of an additional \$20,000 per year but right now it is hard to tell the figures at this time as the language is too general.

It was discussed that the LTF could ask the SWRCB staff for the database used for the fee schedule. William Merry authorize Sharon Green to request the SWRCB, in writing on behalf of the LTF, provide the database if her informal methods with staff fail.

CARB AB 32 and Cap and Trade Update

Chris Hanson noted that an update was emailed to the group. (Attachment F). She noted that there was a mandatory commercial recycling regulations workshop on 9/23 that was attended by Shaw/Yoder. Chris Hanson said that cost impacts did not receive a lot of feedback to CARB. Feedback was received by CARB saying that additional recycling and composting would meet the goals. Cap and trade has not received much development after the initial draft was circulated.

Chris Hanson noted that the plan includes that 1/3 of energy must be from renewable sources by 2020. Unfortunately landfill energy did not qualify as renewable.

Chris Hanson said there was not much activity on cap and trade on the federal level.

It was noted that Prop 23 may also remove this and all the new aspects of AB 32 if AB 32 is suspended. Mike Mohajer noted that there could be significant costs to comply with AB 32 mandatory commercial recycling just on a tracking level and these and many elements are not being considered in the cost analysis by CARB. There was considerable discussion that the LTF needs to get on the record regarding many of the cost implications of AB 32.

It was decided that Tressa Wallace would send an email to Howard Levinson asking for extension of the deadline for comments on mandatory commercial recycling regulations beyond 10/8/10 (tomorrow). Mike Mohajer will circulate letter for review and potential use by LTF with concerns on AB 32/commercial recycling issues.

IV FEDERAL INFORMATION

Sharon Green noted that there was a pharmaceutical drug take back bill passed (HR 5809 and SB 3397 combined) and on its way to president.

It was also discussed that local HHW programs may see more prescriptions being brought and also controlled substances, which they are not authorized to handle (only law enforcement) given the recent programs that law enforcement has implemented to provide take back for controlled substance prescriptions. There is concern that if these items are turned away from the HHW facilities that they will probably be put down toilets, which is a water quality issue. It was discussed this it is going to be costly for HHW programs and prescriptions should become a producer responsibility item. There was discussion that local solid waste/HHW agencies are not being notified of the Drug Enforcement Agency (DEA) take back programs by law enforcement. As examples it was noted that DEA did not even notify local solid waste agencies about some events, which does not make sense given local HHW events and the confusion of citizens regarding prescriptions that are or are not controlled substances.

Although it was discussed that CR could do a better job of informing local agencies when it finds out about DEA collection events, it was decided that this is more of a local issue and not one the LTF needs to get involved with.

IV ADJOURNMENT

The meeting was adjourned about 11:51 AM.

SWANA LTF AGENDA

Call in number 1-800-867-2581 access code 1006105

THURSDAY, 7th October 10:00 P.M. – 12:00 P.M.

I. Business Items

- Next Meeting Date – November 4th-5th (Annual Meeting in Sacramento)
- Approval of Minutes (see attached)
- Treasurer's Update (August, September)
- Other
 - Annual meeting
 - 1. Has everyone made their arrangements?
 - 2. CalRecycle – ½ hour or 1 hour
 - Update on LTF legislation sponsorship

II. Legislative Matters (Bill Matrix attached)

AB 737 (Chesbro) Solid waste: diversion – **Vetoed**

http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab_0701-0750/ab_737_bill_20100913_enrolled.pdf

Veto message - http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab_0701-0750/ab_737_vt_20100928.html

AB 1858 (Blumenfield) Hypodermic needles and syringes: exchange services – Support if Amended – **Vetoed**

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Veto message - http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab_1851-1900/ab_1858_vt_20100930.html

AB 2398 (Perez) Product stewardship: carpet – Support – **Signed by Governor**

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SB 1029 (Yee) Hypodermic needles and syringes – Support if Amended – **Vetoed**

http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_1001-1050/sb_1029_bill_20100902_enrolled.pdf

Veto message - http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_1001-1050/sb_1029_vt_20100930.html

III. Regulatory Matters

Propositions 23 and 26

SWIG – next Corrective Action letter – Glenn

SWRCB – Water Quality Regulatory fee – on agenda for October 19th – Sharon Green

- ARB Cap and Trade – see attachment – Chris Hanson

IV. Federal Information - FYI

- See attachments from SWANA National

ATTENDANCE LIST
SWANA LEGISLATIVE TASK FORCE TELEPHONE MEETING OCTOBER 7, 2010

| VOTING MEMBER CHAPTER | NAME | ORGANIZATION | PHONE | EMAIL |
|-----------------------------------------------|-----------------------|--------------------------------------------|-----------------------------------|----------------------------------------------------------------------------|
| VM/Gold Rush | Mark Urquhart (S) | HDR Engineering, Inc. | 916-817-4933 | mark.urquhart@hdrinc.com |
| VM/Gold Rush | Christina Hanson | Placer County | 530-886-4965 | CHanson@placer.ca.gov |
| Gold Rush | Allison Hudson | San Joaquin County | 209-468-3066 | |
| VM/Gold Rush | William Merry (Ch) | Monterey RWMD | 831-384-5313 | wmerry@mrwmd.org |
| VM/Gold Rush | Larry Sweetser | Sweetser and Associates/ESJPA | 510-703-0898 | sweetser@aol.com |
| VM/Gold Rush | Mark Bowers | City of Sunnyvale | 408- 730-7421 | mbowers@ci.sunnyvale.ca.us |
| Gold Rush | Jami Aggers | Stanislaus County | | |
| VM/Founding | Lisa Wood (VC) | City of San Diego | 858-573-1236 | lwood@sandiego.gov |
| VM/Founding | Mike Mohajer | Southern California Waste Management Forum | 909-592-1147 | mikemohajer@yahoo.com |
| VM/Founding | Glenn Acosta | LA County Sanitation Districts | 562-699-7411 | gacosta@lacsds.org |
| VM/Founding | Constance Hornig | Law Offices | 323-934-4601 | hornigesq@comcast.net |
| Founding | Sharon Green | LA County Sanitation Districts | 562-699-7411 | sgreen@lacsds.org |
| VM/Founding | John Gullede | LA County Sanitation Districts | 562-699-7411 ext 2401 | jgullede@lacsds.org |
| Founding | Rogelio Gamino | County of Los Angeles | | |
| VM/Sierra | Nancy Ewert (T) | Kern County | 661-862-8933 | nancye@co.kern.ca.us |
| VM/Sierra | Rod Andrews | Merced County DPW Solid Waste Division | 209-385-7388 | randrews@co.merced.ca.us |
| <i>SWANA LTF Legislative Advocate</i> | <i>Tressa Wallace</i> | <i>Shaw / Yoder / Antwih, Inc.</i> | <i>916-446-4656 Ext. 1025</i> | Tressa@shawyoderantwih.com |

VM= Voting Member

Ch = Chair

VC = Vice Chair

T = Treasurer

S = Secretary

| SWANA LEGISLATIVE TASK FORCE - 2010 BUDGET | | | |
|---------------------------------------------------|---------------------|----------------|--------------------|
| August 2010 Treasurer's Report | | | |
| BEGINNING ACCOUNT BALANCE - 1/1/2010 | \$ 67,424.17 | | |
| Release from Reserves | \$ 14,915.00 | | |
| Starting Cash Balance | \$ 52,509.17 | | |
| REVENUES | | | |
| | Annual | Monthly | YTD |
| DUES SURCHARGE (\$30 / MEMBER) | \$ 25,000.00 | | |
| Jan Dues | | \$1,140.00 | |
| Feb Dues | | \$1,830.00 | |
| Mar Dues | | \$1,380.00 | |
| Apr Dues | | \$1,590.00 | |
| May Dues | | \$3,300.00 | |
| June Dues | | \$660.00 | |
| July Dues | | \$2,160.00 | |
| Aug Dues | | \$0.00 | |
| Sept Dues | | | |
| Oct Dues | | | |
| Nov Dues | | | |
| Dec Dues | | | \$12,060.00 |
| WESTERN REGIONAL SYMPOSIUM | \$ 7,500.00 | | |
| | | | \$0.00 |
| MOLO COURSE REVENUES | \$ 5,000.00 | | |
| | | | \$0.00 |
| AGENCY CONTRIBUTIONS | \$ 15,000.00 | | |
| CH2M-Hill | | | |
| Kern County | | \$1,500.00 | |
| San Joaquin County | | | |
| City of Folsom | | \$750.00 | |
| Merced County | | \$1,000.00 | |
| LA County | | \$2,500.00 | |
| City of Sunnyvale | | \$750.00 | |
| City of San Diego | | \$2,500.00 | |
| Monterey RWMD | | \$2,000.00 | |
| Placer County | | \$1,500.00 | |
| LA City | | | |
| Salinas IVMA | | | \$12,500.00 |
| INTEREST | \$ 25.00 | | |
| Jan-10 | **(-0.75) | \$1.92 | |
| Feb-10 | **(-0.69) | \$1.79 | |
| Mar-10 | | \$2.84 | |
| Apr-10 | | \$2.62 | |
| May-10 | | \$2.36 | |
| Jun-10 | | \$3.00 | |
| Jul-10 | | \$2.44 | |
| Aug-10 | | \$0.54 | |
| Sep-10 | | | |
| Oct-10 | | | |
| Nov-10 | | | |
| Dec-10 | | | \$17.51 |
| RELEASE FROM RESERVES | \$14,915.00 | | |
| Check Image Fee (reversed Feb-01) | | \$2.00 | |
| Interest Repayment | | \$2.27 | \$4.27 |
| TOTAL BUDGETED REVENUES | \$ 67,440.00 | | \$24,581.78 |

| EXPENSES | | | |
|---------------------------------------------|---------------------|----------------|--------------------|
| | Annual | Monthly | YTD |
| REGULATORY REVIEW | \$ 7,000.00 | | |
| Dec-09 | | | |
| Jan-10 | | \$1,000.00 | |
| Feb-10 | | \$1,000.00 | |
| Mar-10 | | \$1,000.00 | |
| Apr-10 | | \$1,000.00 | |
| May-10 | | \$1,000.00 | |
| Jun-10 | | \$1,000.00 | |
| Jul-10 | | \$1,000.00 | |
| Aug-10 | | | |
| Sep-10 | | | |
| Oct-10 | | | |
| Nov-10 | | | \$7,000.00 |
| SHAW / YODER, INC. CONTRACT | \$ 38,940.00 | | |
| Dec-09 | | \$3,245.00 | |
| Jan-10 | | \$3,245.00 | |
| Feb-10 | | \$3,245.00 | |
| Mar-10 | | \$3,245.00 | |
| Apr-10 | | \$3,245.00 | |
| May-10 | | \$3,245.00 | |
| Jun-10 | | \$3,245.00 | |
| Jul-10 | | \$3,245.00 | |
| Aug-10 | | | |
| Sep-10 | | | |
| Oct-10 | | | |
| Nov-10 | | | \$25,960.00 |
| SHAW / YODER, INC. ADMIN. EXPENSES | \$ 4,000.00 | | |
| Dec-09 | | \$166.65 | |
| Jan-10 | | \$65.55 | |
| Feb-10 | | \$45.00 | |
| Mar-10 | | \$45.00 | |
| Apr-10 | | \$45.00 | |
| May-10 | | \$45.00 | |
| Jun-10 | | \$45.00 | |
| Jul-10 | | \$45.00 | |
| Aug-10 | | | |
| Sep-10 | | | |
| Oct-10 | | | |
| Nov-10 | | | \$502.20 |
| WEBSITE DEV/MAINTENANCE & ROSTER | \$ 2,000.00 | | |
| Dec-09 | | \$72.00 | |
| Jan-10 | | \$0.00 | |
| Feb-10 | | \$0.00 | |
| Mar-10 | | \$0.00 | |
| Apr-10 | | \$0.00 | |
| May-10 | | \$0.00 | |
| Jun-10 | | \$60.00 | |
| Jul-10 | | | |
| Aug-10 | | | |
| Sep-10 | | | |
| Oct-10 | | | |
| Nov-10 | | | \$132.00 |
| MTGS/TELECONFERENCE/WORKSHOP | \$ 5,000.00 | | |
| Dec-09 | | \$0.00 | |
| Jan-10 | | \$0.00 | |
| Feb-10 | | \$0.00 | |
| Mar-10 | | \$0.00 | |
| Apr-10 | | \$0.00 | |
| May-10 | | \$0.00 | |
| Jun-10 | | \$62.47 | |
| Jul-10 | | \$96.97 | |
| Aug-10 | | | |
| Sep-10 | | | |
| Oct-10 | | | |
| Nov-10 | | | \$159.44 |
| CONTINGENCIES / SPECIAL PROJECTS | \$ 4,000.00 | | |
| Check Image Fee (to be reversed) | | \$2.00 | |
| Gift Certificate | | \$250.00 | \$252.00 |
| TOTAL BUDGETED EXPENSES | \$ 60,940.00 | | \$34,005.64 |
| August Account Balance | | | \$58,000.31 |
| PROJECTED CARRY OVER TO 2011 | \$ 59,009.17 | | |

SWANA LEGISLATIVE TASK FORCE - 2010 BUDGET
September 2010 Treasurer's Report

| | | | |
|---------------------------------------------|---------------------|----------------|--------------------|
| BEGINNING ACCOUNT BALANCE - 1/1/2010 | \$ 67,424.17 | | |
| Release from Reserves | \$ 14,915.00 | | |
| Starting Cash Balance | \$ 52,509.17 | | |
| REVENUES | | | |
| | Annual | Monthly | YTD |
| DUES SURCHARGE (\$30 / MEMBER) | \$ 25,000.00 | | |
| Jan Dues | | \$1,140.00 | |
| Feb Dues | | \$1,830.00 | |
| Mar Dues | | \$1,380.00 | |
| Apr Dues | | \$1,590.00 | |
| May Dues | | \$3,300.00 | |
| June Dues | | \$660.00 | |
| July Dues | | \$2,160.00 | |
| Aug Dues | Deposit 9/8 | \$2,040.00 | |
| Sept Dues | Deposit 9/22 | \$1,950.00 | |
| Oct Dues | | | |
| Nov Dues | | | |
| Dec Dues | | | \$16,050.00 |
| WESTERN REGIONAL SYMPOSIUM | \$ 7,500.00 | | |
| | | \$7,938.32 | \$7,938.32 |
| MOLO COURSE REVENUES | \$ 5,000.00 | | |
| | | | \$0.00 |
| AGENCY CONTRIBUTIONS | \$ 15,000.00 | | |
| CH2MHill | | | |
| Kern County | | \$1,500.00 | |
| San Joaquin County | | | |
| City of Folsom | | \$750.00 | |
| Merced County | | \$1,000.00 | |
| LA County | | \$2,500.00 | |
| City of Sunnyvale | | \$750.00 | |
| City of San Diego | | \$2,500.00 | |
| Monterey RWMD | | \$2,000.00 | |
| Placer County | | \$1,500.00 | |
| LA City | | | |
| Salinas IWMA | | \$1,500.00 | \$14,000.00 |
| INTEREST | \$ 25.00 | | |
| Jan-10 | **(-0.75) | \$1.92 | |
| Feb-10 | **(-0.69) | \$1.79 | |
| Mar-10 | | \$2.84 | |
| Apr-10 | | \$2.62 | |
| May-10 | | \$2.36 | |
| Jun-10 | | \$3.00 | |
| Jul-10 | | \$2.44 | |
| Aug-10 | | \$0.54 | |
| Sep-10 | | \$0.54 | |
| Oct-10 | | | |
| Nov-10 | | | |
| Dec-10 | | | \$18.05 |
| RELEASE FROM RESERVES | \$14,915.00 | | |
| Check Image Fee (reversed Feb-01) | | \$2.00 | |
| Interest Repayment | | \$2.27 | \$4.27 |
| TOTAL BUDGETED REVENUES | \$ 67,440.00 | | \$38,010.64 |

| EXPENSES | | | |
|---------------------------------------------|---------------------|----------------|--------------------|
| | Annual | Monthly | YTD |
| REGULATORY REVIEW | \$ 7,000.00 | | |
| Dec-09 | | | |
| Jan-10 | | \$1,000.00 | |
| Feb-10 | | \$1,000.00 | |
| Mar-10 | | \$1,000.00 | |
| Apr-10 | | \$1,000.00 | |
| May-10 | | \$1,000.00 | |
| Jun-10 | | \$1,000.00 | |
| Jul-10 | | \$1,000.00 | |
| Aug-10 | | \$1,000.00 | |
| Sep-10 | | | |
| Oct-10 | | | |
| Nov-10 | | | \$8,000.00 |
| SHAW / YODER, INC. CONTRACT | \$ 38,940.00 | | |
| Dec-09 | | \$3,245.00 | |
| Jan-10 | | \$3,245.00 | |
| Feb-10 | | \$3,245.00 | |
| Mar-10 | | \$3,245.00 | |
| Apr-10 | | \$3,245.00 | |
| May-10 | | \$3,245.00 | |
| Jun-10 | | \$3,245.00 | |
| Jul-10 | | \$3,245.00 | |
| Aug-10 | | \$3,245.00 | |
| Sep-10 | | | |
| Oct-10 | | | |
| Nov-10 | | | \$29,205.00 |
| SHAW / YODER, INC. ADMIN. EXPENSES | \$ 4,000.00 | | |
| Dec-09 | | \$166.65 | |
| Jan-10 | | \$65.55 | |
| Feb-10 | | \$45.00 | |
| Mar-10 | | \$45.00 | |
| Apr-10 | | \$45.00 | |
| May-10 | | \$45.00 | |
| Jun-10 | | \$45.00 | |
| Jul-10 | | \$45.00 | |
| Aug-10 | | \$45.00 | |
| Sep-10 | | | |
| Oct-10 | | | |
| Nov-10 | | | \$547.20 |
| WEBSITE DEV/MAINTENANCE & ROSTER | \$ 2,000.00 | | |
| Dec-09 | | \$72.00 | |
| Jan-10 | | \$0.00 | |
| Feb-10 | | \$0.00 | |
| Mar-10 | | \$0.00 | |
| Apr-10 | | \$0.00 | |
| May-10 | | \$0.00 | |
| Jun-10 | | \$60.00 | |
| Jul-10 | | \$0.00 | |
| Aug-10 | | \$0.00 | |
| Sep-10 | | | |
| Oct-10 | | | |
| Nov-10 | | | \$132.00 |
| MTGS/TELECONFERENCE/WORKSHOP | \$ 5,000.00 | | |
| Dec-09 | | \$0.00 | |
| Jan-10 | | \$0.00 | |
| Feb-10 | | \$0.00 | |
| Mar-10 | | \$0.00 | |
| Apr-10 | | \$0.00 | |
| May-10 | | \$0.00 | |
| Jun-10 | | \$62.47 | |
| Jul-10 | | \$96.97 | |
| Aug-10 | | \$0.00 | |
| Sep-10 | | | |
| Oct-10 | | | |
| Nov-10 | | | \$159.44 |
| CONTINGENCIES / SPECIAL PROJECTS | \$ 4,000.00 | | |
| Check Image Fee (to be reversed) | | \$2.00 | |
| Gift Certificate | | \$250.00 | \$252.00 |
| TOTAL BUDGETED EXPENSES | \$ 60,940.00 | | \$38,295.64 |
| September Account Balance | | | \$67,139.17 |
| PROJECTED CARRY OVER TO 2011 | \$ 59,009.17 | | |

INCLUDE PDF OF OF LEGAL ANALYSIS REGARDING PROP 26

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Prop. 26: New Supermajority Requirements for Regulatory Fees

by

Michael G. Colantuono, Esq.

And

Michael Coleman¹

A statewide initiative on the November 2010 ballot is the latest threat to local control in government finance and might further complicate State budget negotiations. Proposition 26 would recategorize a swath of state and local fees as taxes, imposing supermajority approval hurdles for what are now regulatory and impact fees that can be adopted by simple majorities of the State Legislature, city councils, and county boards of supervisors. This paper summarizes the measure, the campaign arguments for and against it and identifies what we know and what remains open to question about its impact on California's local governments.

Background. In 1997 the California Supreme Court ruled in *Sinclair Paint Co. v State Board of Equalization*,² that a fee imposed on businesses that made products containing lead to fund health services to children and to otherwise mitigate the social and environmental consequences of lead contamination. The challengers argued unsuccessfully that the measure should have been imposed as a tax with $\frac{2}{3}$ approval of each chamber of the Legislature under Proposition 13 rather than as a majority-vote regulatory fee. The Court ruled that the use of the proceeds of a fee need not benefit those charged to avoid characterization as a tax as long as the fee bears a reasonable relationship to the burden imposed by those charged. Fees of this kind are called "regulatory fees." In recent years, California courts have upheld such fees imposed to regulate point-source emitters of air pollution³ and an air quality district's

¹ Michael Coleman is an independent financial consultant whose work appears at www.CaliforniaCityFinance.com.

² 15 Cal.4th 866.

³ *San Diego Gas & Elec. Co. v. San Diego County Air Pollution Control District*, 203 Cal.App.3d 1132 (1988) (air pollution permit fees based on volume of pollutants emitted by permittee rather than cost of staff time devoted to issuance of permit).

fee on new development to mitigate the impacts of that development on air quality.⁴ Fees have been proposed to mitigate the adverse social or environmental consequences of other products and economic activities, too, such as fees on sweetened beverages to fund anti-obesity programs, fees on alcohol vendors to fund police services and public education efforts to address the adverse consequences of alcohol consumption.⁵

In addition, the state budget struggles of recent years led to a number of proposals in the State Legislature to avoid the need for two-thirds approval of new revenues, such as a proposed surcharge on vehicle license fees (VLF) to fund state parks,⁶ and a December 2008 proposal to reduce state taxes on gasoline, but to increase fees on gasoline to fund public transportation and other programs.

The Measure. Proposition 26 would recategorize as taxes many regulatory fees that benefit the public broadly rather than providing a direct and distinct benefit to the business owner or other fee payor. Among these are regulatory fees and assessments to address the health, environmental and other social effects of business activities.

| Approval Requirements: State & Local Fees & Taxes <i>Proposition 26 would recategorize many fees as taxes</i> | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | Fee | Tax |
| State | Majority of each house of the Legislature and Governor's approval | For measures increasing state revenues,* $\frac{2}{3}$ of each house of the Legislature and Governor's approval or initiative constitutional amendment approved by simple majority of voters |
| City or County | Majority of the city council or board of supervisors | $\frac{2}{3}$ voter approval for a special tax, majority voter approval for a general tax |
| <i>*Proposition 26 would require a $\frac{2}{3}$ vote for any law that increase the taxes of any taxpayer, regardless of its overall effect on state revenues.</i> | | |

The measure also broadens the $\frac{2}{3}$ legislative vote requirement for increases in any state tax. The California Constitution currently requires $\frac{2}{3}$ approval of each house of the Legislature for laws enacted “for the purpose of increasing revenues.” Proposition 26 substantially expands this supermajority requirement by requiring $\frac{2}{3}$ approval of each house of the legislature for any law that will increase the taxes of any taxpayer, regardless of its overall effect on state revenues.⁷ This is comparable to the requirements of Proposition 218 for local government taxes.⁸

⁴ *California Building Industry Ass’n v. San Joaquin Valley Air Pollution Control District*, 178 Cal.App.4th 120 (2009) (indirect source rule did not impose a fee regulated by A.B. 1600 or exceed district’s authority, but was valid regulatory fee under *Sinclair Paint*).

⁵ *City of Oakland v. Superior Court*, 45 Cal. App. 4th 740 (1996) (pre-*Sinclair Paint* case upholding fee on liquor stores to fund city services made necessary by alcohol consumption).

⁶ This proposal appears on the November 2, 2010 ballot as Proposition 21, but will be voided by Prop. 26 unless Prop. 26 is defeated or Prop. 21 obtains more “yes” votes than Prop. 26.

⁷ Proposed California Constitution, Art. XIII A, § 3(a).

⁸ *Cf.* Government Code § 53750(h) (defining tax “increase” for purposes of Prop. 218).

Proposition 26 would require any state fee approved in 2010 that violates its terms to expire by late 2011 unless re-enacted in compliance with the new $\frac{2}{3}$ -vote requirement. No similar “window period” is established for local governments fees and, if approved by California’s voters, the measure will be effective as to local governments only from November 3, 2010.

Fees Proponents Say Proposition 26 will Address

- Health inspection / monitoring fees
- Public safety cost mitigation fees
- Traffic, parking, noise abatement, and air quality impact fees for education, cleanup, health or other programs of general benefit
- Water quality impact fees for education, cleanup, health or other programs of general benefit
- Solid waste, tires, canned beverages, food packaging, computer hardware and toxic waste disposal fees used for education, cleanup, recycling / reuse, health or other programs of general benefit
- Alternative energy fees and energy use surcharges
- Fees on alcohol to litigate public nuisances associated with sale or consumption
- Fees on soda, unhealthy foods, fats, or sugar to mitigate obesity and other negative health effects
- Trenching fees for diminution in durability or longevity of roads, traffic congestion mitigation, mitigate potential damage to existing infrastructure
- Environmental mitigation and eco-impairment fees including carbon consumption fees, oil severance fees, and hazardous waste fees to support programs of general public benefit
- Vehicle registration or gasoline fees for transportation programs or environmental cleanup of general benefit
- Fees on tobacco for mitigating the adverse health effects of tobacco products (including evaluation, screening, and necessary follow-up services to those deemed potential victims of tobacco-related injuries) or to discourage consumption (by increasing cost of product) and/or to educate the general public on the consequences of tobacco consumption. Fees to prevent illegal consumption by minors
- Fees on wireless telecommunications to reduce the impacts of DWTs (Driving While Talking),

burdens on the 911 system, potential future effects of close proximity radio frequency exposure

- Fees on “altered food” products (chemical, gene, hormone, etc.) for research, screening, testing and treatment or education.
- Fees on television and movie programming to mitigate effects of violence on youth or similar anti-social consequences linked to programming
- Fees on gambling activities to treat compulsive gambling including screening, education, and treatment
- Fees on pharmaceuticals to treat subsequently discovered health risks associated with a particular drug product, for drug education, health research, treatment, emergency care, covering the costs of the uninsured or underinsured or for immunizations for children
- Fees on 4-wheel drive and all-terrain vehicles to offset eco-damage of off-road automobile use
- Fees on pesticides and other chemicals fees to treat the adverse health effects, for chemical use or alternative product education, research, treatment, or emergency response, cleanup or care.
- Fees on property casualty insurers for firefighting, earthquake and flood, uninsured drivers and auto case court costs.⁹

A state fee deemed a tax under Prop. 26 would require the approval of ⅔ of each house of the Legislature and the Governor.¹⁰ A local fee made a tax by Prop. 26 would be a special tax (because it would be used for a specific purpose) and would require ⅔ voter approval unless restructured to fund general government services.¹¹

The ballot arguments regarding Proposition 26 also identify a number of fees which may be affected by the measure such as oil spill mitigation fees, hazardous waste clean-up fees, fees on tobacco products to fund health programs, fees on alcohol to fund police services and efforts to prevent youth drinking and road impact fees.¹²

⁹ This listing is taken from “Specific Industry Examples” an undated flyer produced by Stop Hidden Taxes, the campaign organization supporting Proposition 26.

¹⁰ Proposed California Constitution, Art. XIII A, § 3(a).

¹¹ *Id.*, Art. XIII C, § 1(e) (defining “tax”) and existing California Constitution, Art. XIII C, § 2(d) (requiring ⅔ voter approval for special taxes).

¹² The ballot arguments are available on the Secretary of State’s website at www.sos.ca.gov/elections/ballot-measures/qualified-ballot-measures.htm.

Exceptions to the Definition of “Tax.” Proposition 26 excludes from its new definition of “tax” the following kinds of fees:

- for a benefit of privilege conveyed (like a professional license or a land use approval)
- for a service or product (like a park and recreation fee)
- to cover certain costs of regulation
- entrance fees for state or local property (but not vehicle license fee surcharges like that proposed by Proposition 21 on the November 2, 2010 ballot) and such entrance fees are not limited to cost
- fines imposed by a court or a local government
- development impact fees imposed by a local government
- assessments and property related fees governed by Proposition 218.

Burden of Proof. Proposition 26 states that governments must bear the burden to prove by a preponderance of evidence that challenged revenue measures are not taxes; that the amount of a fee reflects the reasonable cost of providing the permit, privilege, or regulatory program for which it is imposed; and that it is allocated among fee payors so as to “bear a fair or reasonable relation to the payor’s burdens on, or benefits received from, the governmental activity.”¹³ Much of this reflects the requirements of existing law and this language might actually be helpful in giving meaning to the burden of proof rule of Proposition 218, which also makes government bear the burden to defend fees and assessments, but does not specify that the preponderance of evidence standard – the lowest of the standards applied by our courts – controls.¹⁴

Open Questions. There are a number of unknowns about the measure that seem certain to generate litigation. These include:

What does it mean that a fee must be proportionate to the benefit from or burden on a service or program with respect to which a fee is imposed? Would a fee for gas service, for example, depend on whether the person using the gas used it to warm a hospital (large benefit from the service) or run a gas grill (smaller benefit)? Probably not, but we do not know what this phrase means.¹⁵

The measure requires that fees for permits, privileges and services be imposed only when that permit, privilege or service is not provided to those not charged.¹⁶ Does this mean an end to free and discounted passes and fees for low-income households and seniors?

How much of the traditional cost of a regulatory program is now permitted to be covered by regulatory fees is now in question, especially as to rule-making by regulators – such as the advance planning services of local planning agencies.¹⁷

¹³ Proposed California Constitution, Art. XIII A, § 3(d); Art. XIII C, § 1(e) (trailing paragraph).

¹⁴ California Constitution, Art. XIII d, § 4(f) (burden of proof in assessment disputes); § 6(b)(5) (burden of proof in disputes regarding property related fees).

¹⁵ *Id.*

¹⁶ Proposed California Constitution, Art. XIII A, § 3(b)(1) & (2); Art. XIII D, § 1(e)(1) & (2).

There are minor language differences between the exemptions from the definition of “taxes” imposed by the state government as compared to those imposed by local governments. The meaning of these small differences (such as costs “incident to” issuing a permit instead of “for” issuing a permit)¹⁸ will require judicial clarification.

Proposition 218 exempted local government fees for gas and electric service from its requirements.¹⁹ Proposition 26 does not include any similar exemption and it therefore appears that such fees will now have to fall within the exemption from the definition of tax for

“[a] charge imposed for a specific government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of providing the service or product.”²⁰

Thus, if Proposition 26 is approved, local gas and electric utilities would have a cost-of-service limit on fees that their for-profit competitors do not.

Like Proposition 218, Proposition 26 uses the word “impose” in a crucial way – it defines as a tax “any levy, charge, or exaction of any kind **imposed** by a local government” except as provided by the measure’s exceptions.²¹ We have no definition of this term, but we do know from a case involving Proposition 62, a 1987 statutory initiative involving local taxes, that it does not refer to mere continued collection of an existing revenue measure.²²

Major Impacts. There will be some significant impacts if Proposition 26 is approved by the voters. First, and most obviously, **regulatory fees** to mitigate the social and other consequences of economic activity such as those upheld in *Sinclair Paint* and its progeny will now be defined as taxes requiring $\frac{2}{3}$ voter or legislative approval. Second, **franchise fees** may now be defensible only to the extent they are a charge for the use of government property – and this might require the government have the power to exclude users from the property if the fee is not paid. This might affect fees on pipeline franchises, cable television franchises, solid waste collection franchises, etc. California Department of **Fish & Game fees** for the cost to review documents prepared by local governments under the California

¹⁷ The measure allows State regulatory fees to recover only “the reasonable regulatory costs to the State incident to issuing licenses and permits, performing investigations, inspections, and audits, enforcing agricultural marketing orders, and the administrative enforcement and adjudication thereof.” Proposed California Constitution, Art. XIII A, § 3(b)(3). Similar, but not identical, language is provided for local fees. *Id.*, Art. XIII C, § 1(e)(3) (“incident to” is changed to “for”).

¹⁸ Compare proposed California Constitution Art. XIII A, § 3(b)(1) & (2) with Art. XIII C, § 1(e)(1) & (2) (“to the payor” deleted from the latter); and proposed California Constitution Art. XIII A, § (3)(b)(3) with Art. XIII C, § 1(e)(3) (“incident to” vs. “for”).

¹⁹ California Constitution, Art. XIII D, § 3(b).

²⁰ Proposed California Constitution, Art. XIII C, § 1(e)(2).

²¹ Proposed California Constitution, Art. XIII C, § 1(e).

²² *McBrearty v. City of Brawley*, 59 Cal.App.4th 1441 (1997) (continued collection of tax is not “imposition” of tax requiring voter approval under Prop. 62).

Environmental Quality Act (CEQA) might no longer be permissible. Finally, as noted above, **low-income and senior discounts** for various fees and charges might not longer be permitted.

Conclusion. The League of California Cities has taken an “oppose” position on Proposition 26 and other local government organizations, public health and environmental groups can be expected to do so as well. Business interests are supporting the measure. More information about Proposition 26 can be found on the Secretary of State’s website (<http://www.sos.ca.gov/elections/ballot-measures/qualified-ballot-measures.htm>) and on the sites of the “yes” and “no” campaigns: no25yes26.com (“yes” campaign) and www.stoppolluterprotection.com (“no” campaign).

Plainly, there is much of interest to local government on the November 2, 2010 ballot!

INCLUDE PDF OF SWIG LETTER REGARDING FA/SEISMIC

Solid Waste Industry Group

**Sanitation Districts of Los Angeles County
San Bernardino County Department of Public Works Solid Waste Division
Recology
Ventura Regional Sanitation District
OC Waste & Recycling
Rural Counties' Environmental Services Joint Powers Authority
Waste Management
Republic Services
Riverside County Waste Management Department
Waste Connections
Salinas Valley Solid Waste Authority
Kern County Waste Management Department
Fresno County Public Works & Planning
San Joaquin County Department of Public Works, Solid Waste Division
Monterey Regional Waste Management District
League of California Cities
California State Association of Counties
Solid Waste Association of North America, California Chapters
City of Sunnyvale**

October 4, 2010

Mr. Watson Gin
Project Manager
CalRecycle
1001 I Street
P.O. Box 4025
Sacramento, CA 95812

Dear Mr. Gin:

**Proposal for Best Management Practice (BMP) Covering Seismic
Events in Site-Specific Non-Water Quality Corrective Action Plans**

The Solid Waste Industry Group (SWIG) appreciates the opportunity to participate in the development of the guidance document that will be used by landfill operators in California to prepare non-water quality corrective action plans. These plans will be the basis for landfill operators to provide any additional financial assurance to the state beyond that already provided to the Regional Water Quality Control Boards for known releases to groundwater or reasonably foreseeable water quality corrective action. The draft guidance document outlines

how the non-water quality corrective action cost estimate should be derived. The extent of corrective action (repair) that may be needed is determined by the severity of the catastrophic (causal) event that is assumed to someday impact the landfill. The draft guidance document specifies what causal events should be used to estimate the potential damage that may occur at a landfill and, therefore, the cost of corrective action. Each causal event is described in the form of a BMP. The BMPs contained in CalRecycle's draft guidance document use causal events that we believe are not "reasonably foreseeable" and are, therefore, unacceptable as proposed.

The signatories to this letter, which collectively represent the majority of the solid waste management infrastructure in California, propose an alternative BMP for earthquakes which meets the intent of the financial assurance regulations adopted by CalRecycle in 2009, and incorporates the current standard of practice in geotechnical engineering for evaluating seismic hazards or risks and for structural design. SWIG will send a separate letter proposing alternative BMPs for the other causal events identified in CalRecycle's draft guidance document. *This letter only addresses the seismic BMP.*

Intent of Financial Assurance Regulations

In lieu of providing financial assurance for the complete replacement of the final cover, the regulations allow landfill operators to submit a site-specific non-water quality corrective action plan that evaluates the potential damage that can be caused by a "reasonably foreseeable" causal event that exceeds the landfill's existing design standard. Based on the potential damage, the cost to restore the landfill back to the existing design standard is estimated. Given that each landfill is different, the specific setting, geological profile, and other local characteristics need to be taken into account or considered in the corrective action plans.

Class III Landfill Seismic Design Standard

As described in Title 27, the current minimum seismic design standard for Class III landfills is the maximum probable earthquake (MPE). The MPE is the largest earthquake that is likely to occur during a 100-year time period. The level of ground shaking that is likely to impact the landfill is typically estimated using a deterministic method. The vast majority of Class III landfills in California are designed to the MPE standard.

The premise that seismic events that exceed these well-established design standards are somehow "reasonably foreseeable" is troubling to the solid waste industry in California. Establishing financial assurance for such an extreme event that, by any measure, is so rare and improbable and so far above the established Class III design standards in California strains credibility. While a seismic event may be "theoretically foreseeable" it is not necessarily "reasonably foreseeable."

Methods for Assessing Seismic Hazards

The seismic hazard or risk that a building or structure may have depends on the likely ground motion or shaking that can occur from an earthquake. The greater the ground motion, the

more structural damage can occur. There are two methods used to assess seismic hazards or risks, which, in turn, can be used to estimate the extent of potential structural damage:

- *Deterministic*: This method uses the location and magnitude of the largest known earthquake source closest to the site and estimates the maximum ground shaking (peak ground acceleration) that a site will experience from this particular seismic event. This is an older method that is often used for determining the MPE and always used for estimating the maximum credible earthquake (MCE).
- *Probabilistic*: This method uses the information from all historic earthquakes, plus geologically inferred earthquake sources (faults, locations, and magnitudes) around the site, and computes the peak ground acceleration that a site may experience during a certain return period. This method represents the current standard of practice for evaluating seismic hazards for most civil and structural engineering design projects.

Proposed Seismic BMP

We propose that there be two tiers of evaluation in the corrective action plan for seismic events:

- If the landfill feature, such as the final refuse-fill slope or final cover system, is designed to the MCE, then no corrective action cost estimation or analysis is required. It is certainly not “reasonably foreseeable” that a landfill feature designed to the MCE will have any significant damage from the seismic event.
- For landfill features not designed to the MCE, operators would evaluate the potential damage caused by a seismic event with a return period ranging from 200 to 475 years using the probabilistic method. The earthquakes associated with this range of return period are, in most cases, significantly greater than an MPE. The third party involved in developing the corrective action plan would determine the specific return period after evaluating all site-specific factors, some of which may include risk factors identified in the AB 2296 study¹.

Technical Rationale for Proposed BMP

The intent of the proposed BMP is to use the current standard of practice for evaluating seismic hazards to determine a site-specific and reasonable foreseeable seismic event that is appropriate for landfills and relevant to estimating corrective action costs.

Seismic Hazard Classification of Landfills

At CalRecycle’s seismic workshop on August 30, 2010, the current standard of practice for designing various types of facilities and evaluating seismic hazards was presented. When determining the relative hazard that a facility or structure bears, the standard practice is to consider the consequence of structural failure or damage, such as:

¹ Study to Identify Potential Long-Term Threats and Financial Assurance Mechanisms for Long-Term Postclosure Maintenance and Corrective Action at Solid Waste Landfills, November 2007.

SWIG Proposal for the Seismic BMP

- Loss of human life
- Disruption of essential services, such as medical and other lifeline facilities
- Property losses
- Environmental impacts

Using these criteria, earthquakes represent a high risk or hazard to dams, levees, hospitals, schools, and nuclear power plants given the potential loss of life that could occur as a consequence of structural failure. Class III landfills, which are not built for human occupancy, are considered a relatively low hazard since there would generally be no potential for loss of life, no likely disruption of essential services, and typically minimal to no property losses. The environmental impacts would be limited for several reasons: monolithic final covers can be quickly repaired by adding dirt, landfill gas collection systems can be restored in a relatively short amount of time, and structures on the landfill, for the most part, are not critical to the day-to-day operation of the landfill and would have minimal impact on the environment. Many landfills also have impervious barriers underground to prevent any contaminated groundwater from migrating offsite. Additionally, leachate generation and landfill gas production rates typically decline rapidly after landfill closure, lessening the risk over time.

Seismic Standards Used Today

The following are examples of seismic standards used to design facilities, all of which have a higher hazard risk level than Class III landfills:

- The United States Army Corps of Engineers, which oversees a wide range of facilities (mostly water-bearing) ranging from minimal to extremely high seismic hazards, uses the probabilistic method and a 144-year return period as their operating basis earthquake.
- As part of the Urban Levee Geotechnical Evaluations Program, the California Department of Water Resources (DWR) uses the probabilistic method and ground motions associated with a 200-year return period to evaluate the seismic stability of critical levees in the Sacramento-San Joaquin Valley and to identify areas in need of repair. This is also used by DWR to develop mitigation measures and corrective action cost estimates.
- In simple terms, the California Building Code (CBC) essentially requires that ground motions associated with a 475-year return period be used for designing buildings for human occupancy.
- The Office of Statewide Health Planning and Development has historically required hospitals to use ground motions associated with 475-year return period as a seismic design requirement for maintaining the building operational after an earthquake.

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SWIG Proposal for the Seismic BMP

Based on the body of current engineering practices, a probabilistically derived earthquake with a return period ranging from 200 to 475 years is the appropriate standard for estimating reasonably foreseeable corrective action costs for landfills.

Your consideration of our proposed seismic BMP is very much appreciated.

Yours very truly,

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SWG Proposal for the Seismic BMP

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SWIG Proposal for the Seismic BMP

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SUMMARY OF CLIMATE CHANGE LEGISLATION October 7, 2010

State Climate Change Legislation

- *Mandatory Commercial Recycling* – (Regulations pending) This AB 32 Scoping Plan measure promotes emission reductions by recovering and recycling materials from the commercial waste stream thus reducing extraction of raw materials.

On September 21, CalRecycle held stakeholder workshop on the draft regulations, emission factors, and cost data. Sabrina Means emailed a summary to the LTF.

Anticipated timeline:

- Spring 2011 -- ARB hearing to consider the adoption of regulation
- January 1, 2012 -- Effective date of the regulation.
- July 1, 2012 -- Effective date for jurisdictions and businesses to implement

General program info: <http://www.calrecycle.ca.gov/climate/Recycling/default.htm>

- *Cap and Trade* – (Regulations pending) The ARB released preliminary draft regulations in November 2009 but held off on further development to get more stakeholder feedback; the goal is to adopt regulations by the end of 2010 with program implementation in 2012.

On August 23, ARB held a CEQA scoping meeting. The workshop notice and presentation can be viewed at: <http://www.arb.ca.gov/cc/capandtrade/meetings/meetings.htm>

There have been no revisions to the proposed regulations and a rulemaking timeline has not yet been posted. General program info: <http://www.arb.ca.gov/cc/capandtrade/capandtrade.htm>

- *Renewable Electricity Standard* – On September 23, the ARB adopted regulations that would require that one-third of the electricity sold in the state in 2020 come from clean, green sources of energy. This standard was a major component of the AB 32 Scoping Plan.

Renewable energy must meet the criteria of California's RPS program; currently waste to energy does not qualify.

For more info on the Standard: <http://www.arb.ca.gov/energy/res/res.htm>

- *Proposition 23* – This proposition would suspend the requirements of AB 32 (Global Warming Solutions Act) until the unemployment rate in California is 5.5 percent or less for four consecutive calendar quarters.

Interesting information on the development of Prop 23, and the full text of the proposition, can be found at: [http://ballotpedia.org/wiki/index.php/California_Proposition_23_\(2010\)](http://ballotpedia.org/wiki/index.php/California_Proposition_23_(2010))

- *ARB Scoping Plan Progress Report* – The ARB released a new progress report, stating that “40 percent of reductions identified in the Scoping Plan have been secured through ARB actions.” <http://www.arb.ca.gov/board/books/2010/092310/10-8-3pres.pdf>

Federal Climate Change Legislation

- *Federal Climate Bill* – In July, Senator Reid announced that there would be no climate bill this year.
- *EPA GHG Reporting* - EPA will host web-based training sessions for those required to report under the Greenhouse Gas (GHG) Reporting Program. These sessions will provide information on the electronic GHG reporting tool (e-GGRT) as well as information on registration, designated representatives, how to use the web forms, and other topics.

Webinars have been scheduled for October 6, 2010, 1:00-2:30 pm EST, October 20, 2010, 1:00-2:30 pm EST, November 3, 2010, 1:00-2:30 pm EST, and November 17, 2010, 1:00-2:30 pm EST. Additional sessions are expected to be scheduled.

Additional information is available at: <http://epa.gov/climatechange/emissions/training.html>

- *Other EPA Climate Change Initiatives* – The EPA is working on several global warming initiatives including passenger car regulations, renewable fuel standards, energy recovery registry, and others. If interested in more information:

<http://www.epa.gov/climatechange/initiatives/index.html>