

MEMORANDUM

ASSOCIATION OF BAY AREA GOVERNMENTS

Representing City and County Governments of the San Francisco Bay Area

FM: Gerald Lahr, Energy Programs Manager, ABAG
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RE: Water Efficiency Legislation

Summary

ABAG to consider proposing legislation that would allow Joint Power Authorities (JPAs) to raise funds that subsequently would be loaned to local agencies to finance water and energy efficiency measures on residential and commercial property.

Background

As part of the Bay Area Regional Energy Network (BayREN), ABAG and the participating nine county agencies have been assisting a limited number of local water utilities to implement the Pay As You Save (PAYS™) program within their agencies. These programs install water efficiency and energy efficiency measures on the property of customers that choose to participate, and the cost of the measures is then repaid through a surcharge on their monthly water bills.

While these programs have proven successful for the participating water agencies to date, this model is limited to agencies that have the ability to provide financing from internal sources. Therefore ABAG/BayREN have initiated a new ‘on-bill’ program model to allow for regional implementation and financing that will create broader impact and greater efficiencies of operation. In order to implement this model, new legislation is required.

Need and Purpose of Legislation

California is experiencing the effects of climate change. As a result, in December of 2013, the Governor formed a Drought Task Force to review expected water allocations and California’s preparedness for water scarcity. In reaction to the findings produced by this body the Governor, on January 17th of 2014, declared a state of emergency in California due to severe drought conditions, and on April 1, 2015 the Governor signed executive order B 29-15 mandating water conservation measures statewide. One section in particular calls out the necessity of regional collaboration as a means to redress some of the negative effects produced by the drought, i.e.:

“... the magnitude of the severe drought conditions continues to present threats beyond the control of the services, personnel, equipment, and facilities of any single local government and require the combined forces of a mutual aid region or regions to combat.”

In addition, the Governor signed a subsequent executive order on April 19, 2015 (B-30-15) that establishes a new greenhouse gas reduction target of 40 percent below 1990 levels by 2030.

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Water conservation efforts are an indispensable core element in local government's efforts to respond aggressively to the governor's executive orders that our citizenry adapt to California's ongoing drought and respond to climate change. The proposed bill recognizes the vital importance of ensuring that a broad scale regional response to water scarcity be realizable and adequately funded. It is the intent of this legislation to create a mechanism suitable to meet the challenge of creating and funding large scale and rapidly deployable water efficiency programs on a regional scale.

As the upfront costs of installing and repairing water efficiency improvements are a barrier that may prevent customers from installing water efficiency measures, it is also the intent of this bill to make water efficiency improvements fundamentally more accessible, and therefore stimulate large scale installation and repair of such improvements by allowing local agencies to establish a mechanism by which their water utility customers may finance the installation and repair of water efficiency improvements on privately owned properties by placing voluntary efficiency charges on their bills. This bill will provide local governments the ability to act collectively in an effort to scale up, statewide, water efficiency capacity to meet the challenge of adapting to an increasingly resource constrained reality.

Existing Law

Joint powers authorities are created under the Joint Exercise of Powers Act (Gov. Code §6500 et seq.) by agreement between two public agencies. In general, a joint powers authority may exercise the common powers of its members, subject to the restrictions on the manner of exercising the power of one of the contracting parties. In addition, a joint powers authority may exercise a variety of powers expressly given to it under the act, including most notably Article 4 of the Joint Exercise of Powers Act (Gov. Code §6584 et seq.), which is known as the Marks-Roos Local Bond Pooling Act of 1985. This act authorizes joint powers authorities, among other powers, to issue bonds and loan the proceeds to local agencies to finance specified types of projects and programs.

Proposed Bill Summary

The proposed bill would declare the intent of the Legislature to amend the Marks-Roos Local Bond Pooling Act of 1985 to include the capacity to permit joint powers agencies to affordably finance voluntary installation of water efficiency measures - physical and programmatic - on private, and or, public, properties through the issuance of pooled finance bonds meant to provide monies at a scale and cost sufficient to fund the large scale deployment of vitally important water efficiency measures. Specifically the bill:

- Calls for a specific category of Marks Roos Pooled Finance that is not, at present, adequately defined or covered in law so as to allow issuance of pooled finance bonds specific to the funding of installed efficiency measures and program management to be repaid through a surcharge on water utility bills.

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- Creates a municipal funding capacity specific to efficiency program finance whose existence is meant to hasten the installation of water efficiency/conservation measures among a large portion of the state's individual water rate payers by reducing the formidable cost and implementation hurdles faced by individual communities and their water utility departments.