

Memorandum

To: ISO Board of Governors

From: Mary McDonald, Director of State Affairs
Terri Moreland, Director of Federal Affairs
Karen Edson, Vice President of External Affairs

Date: October 20, 2008

Re: *Status of State and Federal Legislative Matters*

This memorandum does not require Board action.

State Affairs

State Budget

Although the 2007-2008 Legislative Session was supposed to end on August 31st, Legislators stayed in Sacramento much longer because of the lengthy budget stalemate. When the Legislature enacted the state budget on September 19th, it was 85 days late, setting a new budget tardiness record for California. With no significant budget reform in sight and a projected drop in revenues from personal income tax and sales tax, similar problems are likely to arise again next year.

Key Legislation

The late budget was not the only record-breaker this session. Governor Schwarzenegger vetoed a record-high 35% of the bills that reached his desk. Energy bills were no exception. Throughout the session, the ISO tracked roughly 110 energy-related bills. Of the 35 bills that reached the Governor's desk, he signed 24 and vetoed eleven.

Among the signed bills were:

AB 811 (Levine) Contractual Assessments: energy efficiency improvements

Status: 7/21/2008 Chaptered by the Secretary of State, Chapter Number 159, Statutes of 2008
This bill authorizes all cities and counties in California to designate areas within which city officials and willing property owners may enter into contractual assessments to finance the installation of distributed generation renewable energy sources and energy efficiency improvements.

AB 2466 (Laird) Local government renewable energy self-generation program.

Status: 9/28/2008 Chaptered by the Secretary of State, Chapter Number 540, Statutes of 2008
Authorizes a local government entity to receive a credit on their electric bill for power generated from a renewable energy facility that generates more energy than is needed to serve the electrical load of the governmental entity owned or controlled site where the facility is located.

AB 2791 (Blakeslee) Energy: Waste Heat and Carbon Emissions Reduction Act.

Status: 8/1/2008 Chaptered by the Secretary of State, Chapter Number 253, Statutes of 2008
This bill expands the definition of eligible customer under the Waste Heat and Carbon Emissions Reduction Act to include a federal, state, or local government facility. This bill also prohibits any state agency's acquisition of a combined heat and power facility, financed pursuant to the Waste Heat and Carbon Emissions Reduction Act, until legislative notification, as specified, has been made by the Department of Finance.

Among the vetoed bills were:

SB 980 (Padilla) Energy: local publicly owned electric utilities: adequacy of electric distribution system.

Status: 9/28/2008 Vetoed by the Governor

This bill requires the California Energy Commission (CEC) to evaluate, by November 1, 2009, the adequacy of the electric distribution system of local publicly owned electric utilities that meet specific criteria as part of its integrated energy policy report (IEPR). The CEC shall compare the adequacy of the electric distribution systems of local utilities with investor-owned electric utilities (IOUs).

SB 1760 (Perata) Energy: greenhouse gas emissions.

Status: 9/30/2008 Vetoed by the Governor

This bill codifies the structure, membership, and responsibilities of the Climate Action Team (CAT), an entity the Governor created by executive orders in 2005 and 2006.

State Legislative Schedule

The new 2009-2010 Legislative Session will convene at 12:00 a.m. on December 1st (Article IV, Section 3(a) of the State Constitution). New chairs for the Assembly and Senate Utilities and Commerce Committees have yet to be named. Finally, the current session of the Legislature may reconvene prior to the start of the 2009-2010 Session in order to address the worsening fiscal situation in the State.

Federal Affairs

Renewable Tax Incentives

In the final days and hours before the pre-election congressional recess, the House and Senate both passed the long-sought alternative energy tax extenders as part of H.R. 1424, the financial rescue bill. Lawmakers have been debating the expiring tax incentives for most of the 110th Congress but have been at a stalemate about how to pay for them under House pay-as-you-go rules. The final package extends the tax credits for the production of, and investment in, alternative energy and energy efficiency projects and the development of new green and carbon-reduction technologies. It includes extensions of the tax credit for qualified wind facilities through 2009 and extensions of tax credits for geothermal, solar, closed/open loop biomass, municipal solid waste, trash combustion, and qualified hydropower through 2011. It also extends through 2014 the investment tax credits for solar, fuel cell, and micro-turbine properties. The bill will also allow new tax credits for the manufacture of plug-in electric vehicles and investment in clean renewable energy bonds by public entities such as state, federal and municipal utilities and rural electric cooperatives. The package is estimated to contain approximately \$150.6 billion in tax breaks and \$43.5 billion in offsets provided by revenues from the oil and gas industry and hedge fund managers. President Bush signed the measure into law on October 3.

Global Climate Legislation

Members of Congress have begun to stake out positions in anticipation of national global climate legislation in the 111th Congress.

In the House, congressmen Henry Waxman, Ed Markey (D-MA), and Jay Inslee (D-WA) circulated a letter to Speaker Pelosi setting forth principles for legislation to address global warming that was signed by 152 House Members, including 27 California Democrats. The four principles are 1) reduce emissions to avoid dangerous global warming; 2) transition America to a clean economy; 3) recognize and minimize economic impacts of global warming legislation; and 4) aid communities and ecosystems vulnerable to harm from global warming. The letter went on to outline key elements that must be included in legislation to meet these goals. The letter was not signed by Energy and Commerce Committee Chairman John Dingell (D-MI) or by Energy and Air Quality Subcommittee chairman Rick Boucher (D-VA), who will have primary jurisdiction over moving a global warming bill. Dingell and Boucher issued their own “discussion draft” of cap-and-trade legislation on October 7, 2008, and are currently seeking comments on the draft.

In the Senate, where the Lieberman-Warner climate bill failed to gain sufficient votes to avoid a filibuster during June, a group of moderate Democrats from the industrial Midwest have formed a “Gang of 16,” aimed at influencing Senate action on global warming next year. The group will focus on concerns of industry, including the overall costs of climate legislation and the potential for a “safety valve” to limit the price of a carbon allowance as well as a federal oversight board to regulate carbon markets. Senator Jeff Bingaman (D-NM), who chairs the Senate Energy and Natural Resources Committee, has been a proponent of these provisions.