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**SUBMITTAL TO THE BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



**FROM:** Executive Office

**SUBMITTAL DATE:**  
April 10, 2012

**SUBJECT:** Assembly Bill 2075 (Fong), An Act to Repeal Public Resources Code section 25502.3

**RECOMMENDED MOTION:** That the Board of Supervisors:

1. Support Assembly Bill 2075, which would repeal Public Resources Code section 25502.3; and
2. Authorize the Chairman of the Board to send a letter of support to the bill's author and our legislative advocates.

**BACKGROUND:** The California Energy Commission (CEC) currently has exclusive jurisdiction to site solar thermal power plants with a generating capacity of 50 megawatts or more pursuant to the Warren-Alquist Act (Public Resources Code section 25000 et seq.). As a result, local permitting authority and ordinances are superseded. Cities and counties, however, have historically regulated solar thermal power plants with a generating capacity of less than 50 megawatts and non-thermal electrical generating facilities such as wind facilities and photovoltaic solar power plants. The basis for this local regulation is that the term "thermal power plant" in the Warren-Alquist Act specifically excludes wind and photovoltaic electrical generating facilities.

*Alex Gann*

ALEX GANN  
Principal Management Analyst

<b>FINANCIAL DATA</b>	Current F.Y. Total Cost:	\$ 0	In Current Year Budget:	N/A
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	N/A
	Annual Net County Cost:	\$ 0	For Fiscal Year:	N/A

<b>SOURCE OF FUNDS:</b> N/A	<b>Positions To Be Deleted Per A-30</b>	<input type="checkbox"/>
	<b>Requires 4/5 Vote</b>	<input type="checkbox"/>

**C.E.O. RECOMMENDATION:** APPROVE  
 BY: *Christopher M. Hans*  
**County Executive Office Signature** Christopher M. Hans

Department Recommendation:  Policy  Consent  
 Per Executive Office:  Policy  Consent

**Prev. Agn. Ref.:** N/A | **District:** All | **Agenda Number:**

3.30

**BACKGROUND continued:** In connection with its Ridgecrest Solar Power Project in Kern County, Solar Trust of America (Solar Trust) has filed a motion seeking a ruling by the CEC that would allow an applicant for a wind or photovoltaic electrical generating facility to “opt in” to the CEC’s jurisdiction. Although Solar Trust’s motion is opposed by CEC staff counsel and a broad coalition of public entities, wind energy and environmental groups, a CEC hearing advisor has drafted a proposed decision recommending that the motion be granted. If the proposed decision is adopted by the CEC, it would set a precedent that applicants statewide could use to avoid the jurisdiction of cities and counties.

The purported basis for the “opt in” jurisdiction is Public Resources Code section 25502.3 which provides: “. . . [A]ny person proposing to construct a facility excluded from the provisions of this chapter may waive such exclusion by submitting to the commission a notice of intention to file an application for certification, and any and all of the provisions of this chapter shall apply to the construction of such facility.”

A facility “excluded” for purposes of Public Resources Code section 25502.3, however, includes only those facilities identified in original sections of the Warren-Alquist Act that have now been repealed. None of the previously repealed sections addressed wind or photovoltaic facilities.

In recognition of the fact that Public Resources Code section 25502.3 is obsolete because it no longer applies to any facilities, Assembly Member Fong has introduced AB 2075 which would repeal that code section. The repeal would ensure that cities and counties retain their constitutionally conferred land use authority to regulate wind and photovoltaic electrical generating facilities.