

MINUTES OF THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA



3.30

(1)

On motion of Supervisor Benoit, seconded by Supervisor Tavaglione and duly carried by unanimous vote, IT WAS ORDERED that the recommendation from the EXECUTIVE OFFICE regarding Support of AB 2075 Energy: Powerplant Certification, An Act to Repeal Public Resources Code section 25502.3 is approved to oppose AB 2075.

(2)

On Motion of Supervisor Stone, seconded by Supervisor Ashley and duly carried, IT WAS ORDERED that the above matter be reconsidered.

Roll Call:

Ayes: Buster, Stone, Benoit and Ashley
Nays: None
Absent: Tavaglione

I hereby certify that the foregoing is a full true, and correct copy of an order made and entered on April 17, 2012 of Supervisors Minutes.

WITNESS my hand and the seal of the Board of Supervisors
Dated: April 17, 2012
Kecia Harper-Ihem, Clerk of the Board of Supervisors, in
and for the County of Riverside, State of California.

(seal)

By:  Deputy

AGENDA NO.
3.30

xc: EO, State Rep's.

434



**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 As a result, local permitting authority and ordinances are superseded.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

FINANCIAL DATA	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

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

C.E.O. RECOMMENDATION: **APPROVE**
 BY: *Christopher M. Hans*

 County Executive Office Signature Christopher M. Hans

Policy Policy
 Consent Consent

3)
MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Benoit, seconded by Supervisor Stone and duly carried, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Buster, Stone, Benoit and Ashley
 Nays: None
 Absent: Tavaglione
 Date: April 17, 2012
 xc: EO, State Rep's.

Kecia Harper-Ihem
 Clerk of the Board
 By: *Kecia Harper-Ihem*
 Deputy

Department Recommendation.:
 Per Executive Office:

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

3.30

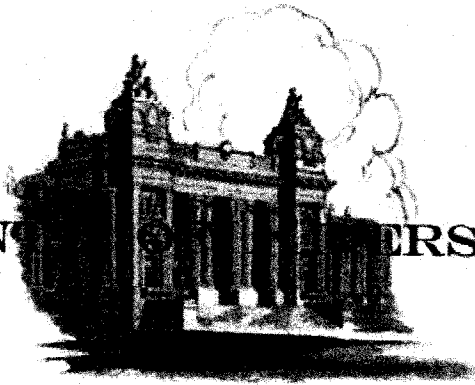
BACKGROUND continued: In connection with its Ridgecrest Solar Power Project in Kern County, Solar Trust of America (Solar Trust) has filed a motion seeking a ruling by the CEC that would allow an applicant for a wind or photovoltaic electrical generating facility to "opt in" to the CEC's jurisdiction. 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.

COUNTY OF RIVERSIDE



Board of Supervisors

District 1	Bob Buster 951-955-1010
District 2	John F. Tavaglione 951-955-1020
District 3	Jeff Stone 951-955-1030
District 4	John J. Benoit 951-955-1040
District 5	Marion Ashley 951-955-1050

April 23, 2012

The Honorable Paul Fong
California State Assembly
State Capitol, Room 5135
State Capitol, Sacramento, CA 95814

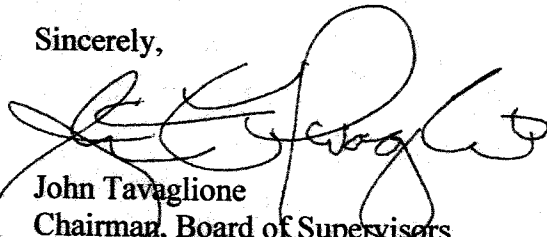
Re: Assembly Bill 2075 (Fong) – SUPPORT

Dear Assembly Member Fong:

On April 17, 2012, the Board of Supervisors of the County of Riverside voted to support your Assembly Bill 2075 which would repeal Public Resources Code section 25502.3. This section was enacted in 1974 as part of the original Warren-Alquist Act to authorize applicants for certain facilities to voluntarily submit to the California Energy Commission's jurisdiction. According to the California Energy Commission's staff counsel, the specific facilities authorized to use Public Resources Code section 25502.3 were identified in Public Resources Code sections 25501 and 25501.5.

Public Resources Code section 25501.5 was repealed in 1994. Public Resources Code section 25501 currently references only those facilities that the Public Utilities Commission or a municipal utility approved before January 1, 1975, over 37 years ago. If such facilities were ever going to be constructed, they would have been constructed by now and the applicants for those facilities would have no reason to voluntarily submit to the California Energy Commission's jurisdiction. As a result, Public Resources Code section 25502.3 is obsolete. The repeal of Public Resources Code section 25502.3 serves the public interest by clarifying the jurisdiction of the California Energy Commission and the jurisdiction of cities and counties over energy generation facilities.

Sincerely,



John Tavaglione
Chairman, Board of Supervisors
County of Riverside

Cc: John Moffat
Nielsen Merksamer
Parrinello Gross & Leoni LLP