

**BENICIA CITY COUNCIL  
SPECIAL MEETING AGENDA**

**City Council Chambers  
April 29, 2014  
6:00 PM**

*Times set forth for the agenda items are estimates.  
Items may be heard before or after the times designated.*

**I. CALL TO ORDER (6:00 PM):**

**II. CONVENE OPEN SESSION:**

**A. ROLL CALL.**

**B. PLEDGE OF ALLEGIANCE.**

**C. REFERENCE TO THE FUNDAMENTAL RIGHTS OF THE PUBLIC: A plaque stating the fundamental rights of each member of the public is posted at the entrance to this meeting room per section 4.04.030 of the City of Benicia's Open Government Ordinance.**

**III. ANNOUNCEMENTS/PROCLAMATIONS/APPOINTMENTS/PRESENTATIONS:**

**A. ANNOUNCEMENTS.**

**1. Announcement of action taken at Closed Session, if any.**

**2. Openings on Boards and Commissions:**

Arts and Culture Commission  
1 full term  
1 unexpired term  
Open until filled

Historic Preservation Review Commission  
1 unexpired term  
Open until filled

3. **Mayor's Office Hours:**  
**Mayor Patterson will maintain an open office every Monday (except holidays) in the Mayor's Office of City Hall from 6:00 p.m. to 7:00 p.m. No appointment is necessary. Other meeting times may be scheduled through the City Hall office at 746-4200.**

**B. PROCLAMATIONS.**

1. **IN RECOGNITION OF LAW DAY - MAY 1, 2014.**
2. **IN MEMORY OF THE DEDICATION AND SERVICE OF BONNIE WEIDEL.**

**C. APPOINTMENTS.**

**D. PRESENTATIONS.**

1. **BENICIA UNIFIED SCHOOL DISTRICT MEASURE S PRESENTATION  
- JANICE ADAMS, SUPERINTENDENT**

**IV. ADOPTION OF AGENDA:**

**V. OPPORTUNITY FOR PUBLIC COMMENT:**

This portion of the meeting is reserved for persons wishing to address the Council on any matter not on the agenda that is within the subject matter jurisdiction of the City Council. State law prohibits the City Council from responding to or acting upon matters not listed on the agenda. Each speaker has a maximum of five minutes for public comment. If others have already expressed your position, you may simply indicate that you agree with a previous speaker. If appropriate, a spokesperson may present the views of your entire group. Speakers may not make personal attacks on council members, staff or members of the public, or make comments which are slanderous or which may invade an individual's personal privacy.

**A. WRITTEN COMMENT.**

**B. PUBLIC COMMENT.**

**VI. BUSINESS ITEMS (6:30 PM):**

A public hearing should not exceed one hour in length. To maximize public participation, the council requests that speakers be concise and avoid repetition of

the remarks of prior speakers. Instead, please simply state whether you agree with prior speakers.

**A. WATER USAGE AND SUPPLY UPDATE AND PUBLIC OUTREACH UPDATE. (City Manager)**

At the February 18, 2014 meeting, City Council approved a community-wide, voluntary water conservation program with the goal of reducing treated water consumption by 20%. Now a resolution is being brought to Council for consideration in an effort to make the request of the community more formal. A presentation will be given on the water source update by city staff. Additionally, the City's public outreach consultant will provide a presentation on the public outreach campaign, which will include the unveiling of the City's water conservation campaign slogan and graphic.

**Recommendation:**

**Adopt the resolution requesting that all City of Benicia water customers participate in a voluntary effort to reduce water use by twenty percent.**

**B. STUDY SESSION REGARDING THE ACCOUNTING, FINANCING, AND OPERATIONS OF THE ENERGY CONSERVATION MEASURE PROJECTS. (Interim Finance Director)**

In September 2010, the City Council approved a contract with Chevron Energy Solutions (CES) for energy projects primarily consisting of converting energy usage at City facilities from non-renewable to renewable resources through the installation of photovoltaic (PV), and interior lighting retrofits at seven City facilities. In April 2011, Council approved the issuance of \$13.2 Certificates of Participation to fund the projects approved above, in addition to funding PV-arrays at Pump Station #3 and a street light retrofit project. Since that time, all projects have been constructed and are operational, and the Council has requested an overview of the accounting, financing, and operational considerations of the project.

**Recommendation:**

**Receive the presentation reviewing the accounting, financing, and operational considerations related to the Energy Conservation Measure (EMC) Projects.**

**C. REQUEST BY MAYOR PATTERSON FOR CITY COUNCIL CONSIDERATION OF A POSITION OF OPPOSITION ON AB 2145 (BRADFORD) ELECTRICITY: COMMUNITY CHOICE AGGREGATION. (City Manager)**

Mayor Patterson is requesting that the City Council submit a letter of opposition on AB 2145 that proposes changes to the Public Utilities Act that governs the formation and operation of Community Choice Aggregation (CCA) programs. CCA is a program available within the service areas of investor-owned utilities, such as PG&E, which allows cities and counties to purchase and/or generate electricity for their residents and businesses. Specifically AB 2145 would change the current community aggregation customer “opt-out” process to an “opt-in” one.

**Recommendation:**

**Consider Mayor Patterson's request that the City Council take a position of opposition on AB 2145 (Bradford) Electricity: Community choice aggregation.**

**VII. ADJOURNMENT (8:30 PM):**

**Public Participation**

The Benicia City Council welcomes public participation.

Pursuant to the Brown Act, each public agency must provide the public with an opportunity to speak on any matter within the subject matter jurisdiction of the agency and which is not on the agency's agenda for that meeting. The City Council allows speakers to speak on non-agendized matters under public comment, and on agendized items at the time the agenda item is addressed at the meeting. Comments are limited to no more than five minutes per speaker. By law, no action may be taken on any item raised during the public comment period although informational answers to questions may be given and matters may be referred to staff for placement on a future agenda of the City Council.

Should you have material you wish to enter into the record, please submit it to the City Manager.

**Disabled Access or Special Needs**

In compliance with the Americans with Disabilities Act (ADA) and to accommodate any special needs, if you need special assistance to participate in this meeting, please contact Anne Cardwell, the ADA Coordinator, at (707) 746-4211. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to the meeting.

**Meeting Procedures**

All items listed on this agenda are for Council discussion and/or action. In accordance with the Brown Act, each item is listed and includes, where appropriate, further description

of the item and/or a recommended action. The posting of a recommended action does not limit, or necessarily indicate, what action may be taken by the City Council.

Pursuant to Government Code Section 65009, if you challenge a decision of the City Council in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City Council at, or prior to, the public hearing. You may also be limited by the ninety (90) day statute of limitations in which to challenge in court certain administrative decisions and orders (Code of Civil Procedure 1094.6) to file and serve a petition for administrative writ of mandate challenging any final City decisions regarding planning or zoning.

The decision of the City Council is final as of the date of its decision unless judicial review is initiated pursuant to California Code of Civil Procedures Section 1094.5. Any such petition for judicial review is subject to the provisions of California Code of Civil Procedure Section 1094.6.

### **Public Records**

The agenda packet for this meeting is available at the City Manager's Office and the Benicia Public Library during regular working hours. To the extent feasible, the packet is also available on the City's web page at [www.ci.benicia.ca.us](http://www.ci.benicia.ca.us) under the heading "Agendas and Minutes." Public records related to an open session agenda item that are distributed after the agenda packet is prepared are available before the meeting at the City Manager's Office located at 250 East L Street, Benicia, or at the meeting held in the Council Chambers. If you wish to submit written information on an agenda item, please submit to the City Clerk as soon as possible so that it may be distributed to the City Council. A complete proceeding of each meeting is also recorded and available through the City Clerk's Office.





# PROCLAMATION

IN RECOGNITION OF

## LAW DAY 2014

“American Democracy and Rule of Law”

**WHEREAS**, Law Day is an occasion of public acknowledgement of our nation’s and California’s heritage of justice, liberty and equality under the law, and May 1st has been declared “Law Day” by the United States Congress; and

**WHEREAS**, the American Bar Association has identified the theme for Law Day 2014 as “American Democracy and the Rule of Law: Why Every Vote Matters”; and

**WHEREAS**, citizens’ participation in the political process ensures that government is truly by the people and reinforces the legitimacy of the rule of law; and

**WHEREAS**, voting is the cornerstone of democratic government; and

**WHEREAS**, every eligible voter is entitled to have an equal opportunity to have his or her voice heard at the ballot box; and

**WHEREAS**, our Nation is preparing to commemorate the fiftieth anniversaries of the Civil Rights Act of 1964 and the Voting Rights Act of 1965, two landmark pieces of legislation protecting the civil, economic, and political rights of Americans; and

**WHEREAS**, local, state, and federal government all benefit when voters exercise their rights, thereby ensuring that government is truly reflective of the people whom it represents.

**NOW, THEREFORE, BE IT RESOLVED THAT I**, Elizabeth Patterson, Mayor of the City of Benicia on behalf of the City Council, do hereby proclaim May 1, 2014, as Law Day. I call upon the people of the City of Benicia to acknowledge the importance of our legal and judicial systems with appropriate ceremonies and activities, and to reflect upon the importance of equality for all.

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Elizabeth Patterson, Mayor  
April 29, 2014







# PROCLAMATION

## IN MEMORY OF THE DEDICATION AND SERVICE OF

### Ms. Bonnie Weidel

**WHEREAS**, Bonnie Weidel was a local artist who was passionate about teaching art to children and was a founding member and organizer of the Art in the Park annual event at the City Park; and

**WHEREAS**, Bonnie founded Benicia Community Arts in 1980, a non-profit arts organization; and

**WHEREAS**, Bonnie worked as an instructor for the Parks & Community Services Department for many years offering "A Lot of Art" art classes during the Summer; and

**WHEREAS**, Bonnie served on the Benicia Unified School District Board from 2007 to 2011; and

**WHEREAS**, Bonnie was a valued member of the artist community and will be greatly missed by all who loved her.

**NOW, THEREFORE, BE IT RESOLVED THAT I**, Elizabeth Patterson, Mayor of the City of Benicia, on behalf of the City Council, do hereby recognize the service and contribution that Bonnie Weidel has made to the community.

\_\_\_\_\_  
Elizabeth Patterson, Mayor  
April 29, 2014





**AGENDA ITEM**  
**CITY COUNCIL MEETING DATE - APRIL 29, 2014**  
**BUSINESS ITEMS**

**DATE** : April 22, 14

**TO** : Mayor & City Council

**FROM** : City Manager

**SUBJECT** : **WATER USAGE AND SUPPLY UPDATE AND PUBLIC OUTREACH UPDATE**

**RECOMMENDATION:**

Adopt the resolution requesting that all City of Benicia water customers participate in a voluntary effort to reduce water use by twenty percent.

**EXECUTIVE SUMMARY:**

At the February 18, 2014 meeting, City Council approved a community-wide, voluntary water conservation program with the goal of reducing treated water consumption by 20%. Now a resolution is being brought to Council for consideration in an effort to make the request of the community more formal. A presentation will be given on the water source update by city staff. Additionally, the City's public outreach consultant will provide a presentation on the public outreach campaign, which will include the unveiling of the City's water conservation campaign slogan and graphic.

**BUDGET INFORMATION:**

No budget information to report at this meeting.

**GENERAL PLAN:**

Relevant General Plan Goals:

- Overarching Goal of the General Plan: Sustainability
- Goal 2.36: Ensure an adequate water supply for current and future residents and businesses.

**STRATEGIC PLAN:**

Relevant Strategic Plan Issue and Strategy:

- Strategic Issue #1: Protecting Community Health and Safety
- Strategy #5: Promote community and personal health

**BACKGROUND:**

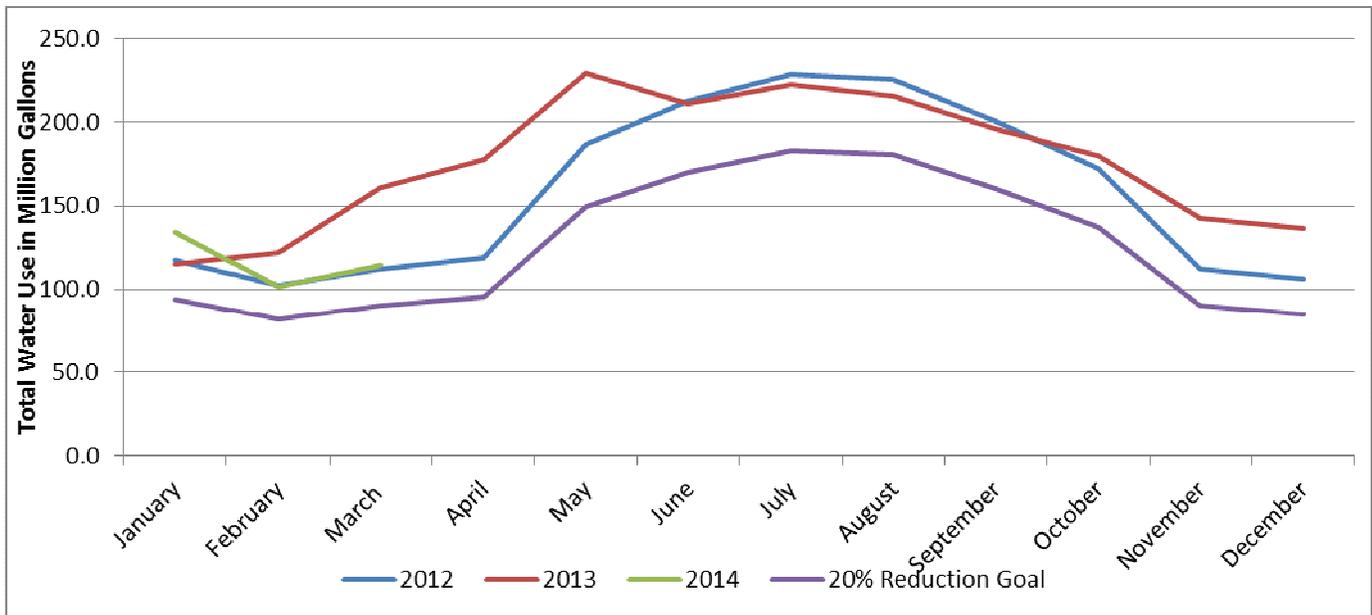
The Table and Graph below show the water used since January 1, 2014.

**Table 1**  
**2014 Source Water Update 1/1/2014 Through 4/15/2014**  
**in acre-feet (AF)**

Month	State Water Project	Solano Project	Lake Herman	Total Used
January	779	0		779
February	313	229	79	621
March	0	454	294	748
April	773	200		973
<i>Sub-Total</i>	<i>1,865</i>	<i>883</i>	<i>373</i>	<b><i>3,121</i></b>

- (1) State Water Project – 1,646 AF was delivered to the City from its 5,108 AF carryover water supply from 2013. 219 AF of the SWP was delivered to the City from its 2003 Settlement Agreement.
- (2) Solano Project Water – 229 AF was delivered to the City through its 2009 Solano Irrigation District agreement and 654 AF was delivered through its 1962 City of Vallejo agreement.

**Graph 1**  
**2014 Treated Water Demand**



**Public Outreach Campaign Plan**

The Public Works Department is working with a public outreach consultant, IN Communications, to assist the City in promoting water conservation. IN Communications is an award-winning public outreach firm with a proven track

record for building creative and innovative outreach strategies, programs and materials designed to change behavior, inform, educate and engage the public. The goal is to increase knowledge about using water wisely, especially outdoors where most water use occurs and to motivate customers to reduce water use by 20% or more.

The public outreach efforts will focus educating customers about where water is used at home, easy ways to effectively reduce water use and the collective impact of small actions. Primary emphasis will be placed on outdoor water use. However, materials will offer a menu of actions that also include indoor tips so that those without landscaping can also participate.

Priority activities include:

- **Slogan and graphic unveiling** (A banner will be displayed in the Council Chamber on April 29 to present the City's water conservation campaign slogan and graphic.)
- **Website enhancements** (New text and graphics will be created for the website.)
- **Yard signs** (50 signs will be designed and printed that can be displayed in yards as a display of commitment to using water efficiently.)
- **Direct mail postcards** (A postcard explaining why and how customers can reduce water use will be mailed to all water customers.)
- **Banner for the City Park entrance** (A water conservation banner will be displayed at the corner of First Street and Military at various times throughout the year.)
- **Banners for ball fields** (Four water conservation banners, each with a different message, will be displayed at ball fields around town.)
- **Vehicle magnets for City vehicles** (Magnets with a water conservation message will be designed for city vehicles to carry a water conservation message throughout Benicia.)
- **Online advertising** (An advertisement on Facebook will run for 20 weeks that is targeted to Benicia's service area. The City only pays if a viewer clicks on the advertisement, which takes them to the City's website.)
- **Community outreach and partnerships**
  - Working with City staff to identify and prioritize key Benicia business/residential/school district for targeted outreach.
  - Conducting outreach to targeted partners to educate them about the drought/water supply situation and ways they can reduce their water use and to provide them with city materials such as tip cards and window clings.)
  - Writing, designing and printing a tip card to promote water savings tips, rebates and key messages for distribution to partners. Tip card may also be used as a bill stuffer.

- Designing and printing window clings that uses the program's creative theme and identity for placement at partner locations and city sites. Clings may be placed in windows and/or bathroom mirrors.

### **Existing Water Conservation Programs**

The Solano County Water Agency (SCWA) has existing water conservation programs that are offered to residents and businesses within Solano County. As an agency partner, City of Benicia water customers are eligible to participate in the programs listed below:

- High Efficiency Washing Machine Rebates up to \$75
- High Efficiency Toilet Rebates up to \$100
- Turf Replacement Rebates - \$1 per square foot of turf replaced up to \$1,000
- Smart Irrigation Controller Rebates – 50% of the cost of the controller. Depending on the number of stations the controller has rebates are available up to \$300, \$700, or \$1,000
- Residential Survey Program – Direct marketed to the top 20% users of single family residential customers. All customers are eligible to participate.
- Business and Commercial water use surveys available for inside and outside water use
- Commercial Water Savings Incentive Program – Businesses are given a 50% rebate of expenditures, excluding labor, on a pre-approved basis up to \$2,500 for water conservation projects

SCWA also maintains the SolanoSavesWater.org website with water saving tips and rebate program details. SCWA created water conservation radio announcements that are now airing on KUIC 96.5 radio station.

For more information on water conservation programs, check out [solanosaveswater.org](http://solanosaveswater.org), email [water@ci.benicia.ca.us](mailto:water@ci.benicia.ca.us) or call 707-746-4380.

### **Other Water Conservation Outreach**

Additionally, City staff has posted a daily water saving tip on the homepage of the City's website that links to [saveourh2o.org](http://saveourh2o.org) (both courtesy of the statewide Save Our Water program), created a dedicated hotline phone number (746-4380) and email address ([water@ci.benicia.ca.us](mailto:water@ci.benicia.ca.us)) for questions, put a message on utility bills, has included several submittals in the monthly City Manager's Report, created a water conservation display case at City Hall and posted public service announcements on Channel 27. Staff is also working towards on water conservation displays for the Benicia Public Library and a second one for City Hall, and/or the City's website, and hosting a booth at the Farmers' Markets.

### **Information on how to reduce water use by 20 percent**

At the February 18, 2014 meeting, City Council approved a community-wide, voluntary water conservation program with the goal of reducing treated water consumption by 20%. The average Benicia household uses 300 gallons of water per day. Reducing water use by 20 percent translates into 60 gallons per day. This can be easily accomplished through several small changes, which can add up to big savings. For example:

- Adjusting sprinklers to avoid overspray and runoff can save more than 40 gallons every time you water (and also stop fertilizers and pesticides from washing into the storm drain, which leads directly to the Bay).
- Watering early in the morning or later at night to reduce evaporation from sun and wind can save 25 gallons each time you water.
- Cutting shower time in half to five minutes instead of 10 minutes would save 12.5 gallons per shower (which adds up to nearly 87 gallons per week).
- Fixing a leaky toilet would save 30 to 50 gallons per day.

Attachments:

- Proposed Resolution
- Frequently Asked Questions



**RESOLUTION NO. 14-**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA URGING ALL WATER CUSTOMERS TO PARTICIPATE IN A VOLUNTARY EFFORT TO REDUCE WATER USE BY TWENTY PERCENT**

**WHEREAS**, California is facing one of the most severe droughts on record and the governor has declared a statewide drought emergency; and

**WHEREAS**, this winter was one of the driest in decades and follows two consecutive years of abnormally dry weather; and

**WHEREAS**, Officials who operate the State Water Project, which typically delivers 85 percent of Benicia's water supply, announced in January that zero supply would be provided. In April the State announced that very limited amounts might be available at limited times and amounts. The supply situation remains very uncertain especially if the drought continues into 2015; and

**WHEREAS**, though Benicia has access to some other water supplies, the need to conserve water is urgent.

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council of the City of Benicia hereby urges all water customers to participate in a voluntary effort to reduce water use by twenty percent.

\* \* \* \* \*

On motion of Council Member \_\_\_\_\_, seconded by Council Member \_\_\_\_\_, the above resolution was introduced and passed by the City Council of the City of Benicia at a regular meeting of said Council held on the 29<sup>th</sup> day of April, 2014, and adopted by the following vote:

Ayes:

Noes:

Absent:

\_\_\_\_\_  
Elizabeth Patterson, Mayor

Attest:

\_\_\_\_\_  
Lisa Wolfe, City Clerk

\_\_\_\_\_  
Date



**City of Benicia Water Conservation  
Frequently Asked Questions  
April 22, 2014**

**Why is it important to conserve water?**

California is facing one of the most severe droughts on record, and the governor has declared a statewide drought emergency. This winter was one of the driest in decades and follows two consecutive years of abnormally dry weather. Officials who operate the State Water Project, which typically delivers 85 percent of Benicia's water supply, announced in January that zero supply would be provided. In April, the State announced that very limited amounts might be available at limited times and amounts. The supply situation remains very uncertain especially if the drought continues into 2015. Though Benicia has access to some alternate water supplies, the need to conserve water is urgent. Everyone needs to do their part to reduce water use.

**Why is this drought impacting Benicia so severely this year?**

The City of Benicia has a diverse water supply portfolio that usually serves the community well, even in dry years. While it is unusual for Benicia to receive its full allocation of water from the State Water Project in any given year, it is unprecedented for cities to receive such limited supplies. The current scenario reflects the severe drought conditions in California, as well as increased pressures on the statewide water supply system to meet the needs of both people and the environment.

**Will the City receive any water from the State Water Project?**

Even though the State has said Benicia and other contractors will receive very limited amounts of water from the State Water Project this year, the City will still receive some water from the State. The City is allowed to use water this year that was allocated but unused in a previous year. This water is called "carry-over water," and is also very limited.

**Where does Benicia get its water?**

The City of Benicia in a typical year receives the vast majority (85 percent or an average of 8,437 acre-feet) of its water from the State Water Project, which delivers the Sierra snowpack to cities and farms throughout California. The City receives the other 15 percent (an average of 2,641 acre-feet) from the Solano Project (Lake Berryessa). Lake Herman is used as an emergency back-up supply.

**Why is Benicia different from neighboring communities?**

Each water provider has a unique mix of water supplies. This influences whether and by how much customers are asked to cut back. The City of Benicia in a typical year receives 85 percent of its water from the State Water Project (SWP), which delivers the Sierra snowpack to cities and farms throughout California. Benicia's water supply is more dependent on the SWP than any other city within Solano County. Given the current drought conditions, SWP officials predict that Benicia will receive very limited amounts of its water allocation this year. With limited State Water Project water, Benicia has a larger water supply deficit to fill than other cities in Solano County. The City is currently working on contingency plans to purchase additional water from neighboring water providers, but water conservation will be essential to prolonging the City's water supplies through the long, dry summer.

### **What is the City of Benicia doing in response to drought conditions?**

The City has been closely monitoring drought conditions and potential impacts on Benicia's water supply, as well as taking action to secure additional water supplies. Short-term actions include purchasing water from neighboring communities. Longer-term solutions under consideration include using groundwater to irrigate parks and looking at the feasibility of using reclaimed water from the City's wastewater treatment plant. Should the drought continue, the City will need to consider mandatory restrictions, including an outdoor water use ordinance that will restrict landscape watering.

### **What are City of Benicia departments doing to reduce water use on City property?**

The City of Benicia is committed to doing its part by reducing water use by at least 20 percent at its own parks and facilities. The City has activated an internal Water Conservation Task Force to review water use, recommend reductions and monitor progress. Initial steps taken to conserve water include cutting back irrigation by 20 percent at city parks, reducing water use at the Wastewater Treatment Plant and reducing the City's water main flushing program. We appreciate the public's help with identifying broken or leaky sprinklers heads or other problems on City property. If you see water-wasting problems, please call 707-746-4380 or email [water@ci.benicia.ca.us](mailto:water@ci.benicia.ca.us).

### **I am a resident who wants to help. What can I do?**

The best place to start is outdoors. Studies show that most Californians think they use more water indoors than outdoors. But, actually, the opposite is true. More than 50 percent of the water we use daily goes on lawns and outdoor landscaping, and about 30 percent of that is lost due to overwatering and evaporation from wind and sun. There are lots of ways to save water at home, but reducing water use outdoors can make the biggest difference of all.

Here are some quick tips:

- Replace lawn with low water using plants and drip irrigation
- Adjust your sprinkler time monthly and according to the weather
- Dial back your sprinklers by two minutes
- Water early in the morning or later at night to reduce evaporation
- Adjust sprinklers to prevent overspray and runoff

### **What water conservation efforts are being asked of customers?**

At the February 18, 2014 City Council meeting the Council approved a 20 percent voluntary water reduction goal for the community. A 20 percent reduction in water use by the community would significantly reduce the amount of additional water the City needs to purchase from other agencies and help save water for next year if the drought continues.

### **How do I reduce my water use by 20 percent?**

The average Benicia household uses 300 gallons of water per day. Reducing your water use by 20 percent would translate into 60 gallons per day. This can be easily accomplished through several small changes in your daily routine, which can add up to big savings. For example:

- Adjusting sprinklers to avoid overspray and runoff can save more than 40 gallons every time you water (and also stop fertilizers and pesticides from washing into the storm drain, which leads directly to the Bay).
- Watering early in the morning or later at night to reduce evaporation from sun and wind can save 25 gallons each time you water

- Cutting your shower time in half to five minutes instead of 10 minutes would save 12.5 gallons per shower (which adds up to more than 87 gallons per week).
- Fixing a leaky toilet would save 30 to 50 gallons per day.

### **We already conserve, how can we cutback more?**

Thank you for making a commitment to using water efficiently! While it might seem like you're doing all that you can, we invite you to look around and double check, especially outdoors, where most water use and water waste occurs.

- Do you see any sprinkler overspray or runoff--water spraying onto the sidewalk or running from your property into the gutter?
- Are any of your sprinklers leaking or broken?
- Are there any leaks that need to be fixed?
- Are you keeping showers to five minutes or less?
- Are all of your appliances, such as toilets, showerheads and clothes washers high efficiency?

The City of Benicia offers free programs and services to help residents identify ways to save water. For example, a trained Water Efficiency Specialist will visit your home or business to identify potential water savings and discuss available rebates. Visit [BeniciaSavesWater.org](http://BeniciaSavesWater.org) to learn more.

### **What are the biggest water wasters to target inside my home?**

Inefficient fixtures are the biggest water wasters in your home, with an older leaky toilet at the top of the list. Toilets account for nearly 30 percent of a household's indoor water use with older leaky toilets using as much as six gallons per flush. If it's been a while since you have replaced your toilet, consider upgrading to a high-efficiency WaterSense-labeled toilet, which only uses 1.28 gallons per flush. A WaterSense toilet can save a household 13,000 gallons a year. For more information about WaterSense toilets, visit [www.epa.gov/watersense](http://www.epa.gov/watersense). The good news is that nearly all hardware and home improvement stores carry WaterSense products to make it easy for you to upgrade - just look for the label on the box.

### **What rebates are available to help residents use less water?**

We encourage residents to take advantage of the free water saving programs and rebates offered by the City of Benicia and Solano County Water Agency. These include rebates for toilets and clothes washers, for upgrading water-wasting sprinklers and controllers and for replacing thirsty lawn with low-water use plants. In addition to rebates, the City offers free at-home consultations for both residential and business customers with tailored information on how they can specifically use less water in the home and at work. Learn more at [BeniciaSavesWater.org](http://BeniciaSavesWater.org) or by e-mailing [water@ci.benicia.ca.us](mailto:water@ci.benicia.ca.us).

### **How can I know if an appliance or fixture is water efficient?**

One of the easiest ways is to look for the WaterSense label. WaterSense products are third-party certified to make sure they meet water efficiency and performance standards. These products include toilets, urinals, showerheads, faucets and irrigation controllers, with many more in the works. Good news is that nearly all hardware and home improvement stores carry WaterSense products to make it easy for you to upgrade, just look for the label on the box. You can learn more about WaterSense products at [www.epa.gov/watersense](http://www.epa.gov/watersense).

**My neighbor has a broken sprinkler. What should I do?**

We suggest that let your neighbor know that he/she has a broken sprinkler in a "neighborly" way. Otherwise, you are welcome to call the City of Benicia Water Conservation Team at 707-746-4380 or email [water@ci.benicia.ca.us](mailto:water@ci.benicia.ca.us).

**What is Valero, the largest water user, doing conserve water?**

The City of Benicia is collaborating with Valero to explore water conservation opportunities. The Valero Refinery is the City's largest water customer, predominately using untreated water that does not require processing by the City. Water is essential for the refining process.

Valero monitors water use closely to minimize water consumption and has a record of using significantly less water than it is contractually obligated. The refinery has a long history of implementing water conservation projects. Recently, they implemented a steam condensate recovery project with a verified savings of more than 23 million gallons of water a year. They have also made changes in other operations at the refinery to save water.

In response to the current drought Valero has pledged to reduce landscape watering, installed low-flow toilets, and will now only wash vehicles on an as-needed basis rather than on a regular schedule. Furthermore, Valero said they are now exploring another water conservation project that has the potential to conserve even more water than the condensate recovery project, reducing millions of gallons of water use annually.

**How do I check sprinklers every month for water-wasting problems?**

Especially in a drought, it's important to check your sprinklers each month for water-wasting problems. These include sprinklers that are broken, leaking, tilted, clogged, spraying the sidewalk, misting versus spraying from too much water pressure and runoff into the street.

Here's how:

- Turn on your sprinkler system one watering zone (valve) at a time and then walk and check each zone while the system is running.
- Look for problems (such as sprinklers that are watering the sidewalks, street, fence and any other area that shouldn't be watered; "geysers"--water shooting out of a sprinkler head; or water running off the lawn or planting bed and onto the pavement).
- Turn off water to any problem areas and make repairs within 48 hours.

Finally, adjust your timer to reflect the changing weather conditions to ensure your system operates at maximum efficiency. After all, if you set your timer once and let it run all season, you'll both waste water and potentially hurt your plants.

**Why should I water early in the morning or later at night?**

Watering early in the day or later at night allows water to soak into the soil before evaporation from sun and wind can whisk it away.

**How do I prevent overspray and runoff?**

Overspray happens when sprinklers are misaligned, spraying the sidewalk, street, house, driveway or other areas that don't need to be watered. You can stop overspray by simply redirecting misaligned sprinklers back to watering the lawn and plants.

Runoff happens when sprinkler systems water faster than the ground will absorb, causing water to runoff your landscape into the street and gutter. Here's how to stop runoff using the "soak and cycle" method:

- Turn on sprinklers and see how long it takes for water to begin running off.
- Adjust your sprinkler timer to water in three shorter segments. (If water begins running off after two minutes--but your landscape needs six minutes of watering time--set your timer to water in three shorter segments of two minutes each.
- Leave an hour between watering times to allow water to soak into the soil.

**Why should I limit showers to five minutes or less?**

Taking shorter showers is an easy, cost-free way to save water. Every minute in the shower uses 2.5 gallons of water with a standard showerhead. By cutting a 10-minute shower in half, you can save 12.5 gallons per shower (which adds up to more than 87 gallons per week!).

**Why is it important to check plumbing and appliances for leaks and make repairs within 48 hours?**

Steady faucet drips and running toilets are common sources of leaks that can waste thousands of gallons of water each month. When you find leaks, be sure to turn off water to the problem area until it can be repaired. To check your toilet for leaks place a few drops of food coloring in the tank. If the water in the bowl starts to change color without flushing your toilet is leaking. Fixing leaks can be as simple as replacing a washer or toilet flapper.

**Why is it important to install high-efficiency appliances such as toilets, showerheads, faucets, dishwashers and clothes washers?**

One of the best ways to save water indoors is to replace older, water-wasting fixtures with high-efficiency models. This is especially true for toilets, clothes washers and showerheads, which together account for the majority of indoor water use. By installing high efficiency fixtures you're making a long-term investment in water efficiency as well as your home or business.

**Where can I learn more?**

Visit [BeniciaSavesWater.org](http://BeniciaSavesWater.org) or call 707-746-4380 or email [water@ci.benicia.ca.us](mailto:water@ci.benicia.ca.us).

###



**AGENDA ITEM**  
**CITY COUNCIL MEETING DATE - APRIL 29, 2014**  
**BUSINESS ITEMS**

**DATE** : April 23, 2014

**TO** : City Manager

**FROM** : Interim Finance Director

**SUBJECT** : **STUDY SESSION REGARDING THE ACCOUNTING, FINANCING, AND OPERATIONS OF THE ENERGY CONSERVATION MEASURE PROJECTS**

**RECOMMENDATION:**

Receive the presentation reviewing the accounting, financing, and operational considerations related to the Energy Conservation Measure (EMC) Projects.

**EXECUTIVE SUMMARY:**

In September 2010, the City Council approved a contract with Chevron Energy Solutions (CES) for energy projects primarily consisting of converting energy usage at City facilities from non-renewable to renewable resources through the installation of photovoltaic (PV), and interior lighting retrofits at seven City facilities. In April 2011, Council approved the issuance of \$13.2 Certificates of Participation to fund the projects approved above, in addition to funding PV-arrays at Pump Station #3 and a street light retrofit project. Since that time, all projects have been constructed and are operational, and the Council has requested an overview of the accounting, financing, and operational considerations of the project.

**BUDGET INFORMATION:**

Not applicable - Information session only.

**GENERAL PLAN:**

The ECM projects contribute significantly to sustainability which is the overarching goal of the General Plan.

**STRATEGIC PLAN:**

Relevant Strategic Plan Goals and Strategies:

- Strategic Issue #2 Protecting and Enhancing the Environment
  - Strategy 2.1 Reduce greenhouse gas emissions and energy consumption
  - Strategy 2.3 Pursue and adopt sustainable practices
    - Action 2.3 (a) Pursue LEED certification for community center

- Strategy Issue #3: Strengthening Economic and Fiscal Conditions
  - Strategy #4: Manage City finances prudently

**BACKGROUND AND DISCUSSION:**

In September 2008, the City adopted greenhouse gas emissions reduction targets based on an inventory that included community-wide and City operations emissions. Adopted reduction targets were as follows:

GREENHOUSE GAS EMISSIONS TARGETS	Percent Below 2000 Levels	
	2010 Target Reduction	2020 Target Reduction
City Operations	25%	33%
Community Wide	Equal 2005 Level	10%

Concurrently, the City developed a Climate Action Plan (CAP) as a comprehensive strategy to achieve the greenhouse gas emissions targets. In 2009, the City issued a request for proposal (RFP) for professional assistance in transitioning from non-renewable energy sources to renewable energy sources “at no or very low cost to the City.” As a result of this initiative, the City ultimately hired Chevron Energy Solutions (CES) and issued certificates of participation in the amount of \$13,195,000 to fund the following energy conservation measures:

CITY SITES	PV (SOLAR)		LIGHTING RETROFIT
	MOUNTING METHOD	FINAL SIZE KILOWATT DC	NUMBER OF LIGHTS
City Hall	CANOPY	195.51	44
Aquatics Center	CANOPY	41.16	—
Community Center	CANOPY	129.36	—
Community Park	CANOPY	72.03	21
Fire Station #12	ROOF	24.01	—
Corporation Yard	CANOPY	87.36	22
Water Treatment Plant	GROUND	318.99	214
Pump Station #1	GROUND	144.06	—
Pump Station #2	GROUND	205.8	—
Pump Station #3	GROUND	456.19	—
Camel Barn	—	—	100
Library	—	—	546
Police Station	—	—	29
Wastewater Treatment Plant	—	—	451
Street Light Replacement	—	—	2,000
<b>TOTAL</b>		<b>1,674.47</b>	<b>3,427</b>

The ECM projects also included the City Hall Parking Lot improvement conceived as a demonstration of low-impact development techniques, and the installation of two wind turbines for meteorological conditions in anticipation of future wind generation projects.

Since the issuance of debt and the initiation of the energy construction project in April 2011, the understanding of the accounting for, and optimal operation and maintenance of, the ECM projects has evolved. The purpose of this report is to provide information regarding the following:

- 1) Energy Conservation Project Internal Service Fund
- 2) Introduction of Solar Production Concept
- 3) Accounting for Solar Energy Production
- 4) Solar Financial Analysis
- 5) Accounting for Lighting Retrofit
- 6) Lighting Financial Analysis
- 7) Financial Model Inputs
- 8) PV-System Function and Production

### **Energy Conservation Internal Service Fund**

The City created an “Energy Conservation” Fund whereby internal user-charges are developed and charged to ECM project sites based upon the related energy project. The user-charges received are utilized to pay for related debt and operating costs depending upon each of the energy project-types: **PV-Arrays (Solar) or Lighting Retrofit.**

### **SOLAR**

#### **Introduction of Solar Production Concept**

The concept of “avoided cost savings” is based on the premise that – with the aide of current government rebate incentive programs and existing California solar tariff rates – it is possible that the capital, financing, and operating costs associated with owning PV-arrays are, over a span of time, less than the costs that would be paid to a conventional energy-provider; resulting in “avoided cost savings” over the life of the system.

Theoretically, if an adequate level of conventional electric energy is displaced by the production of solar energy, the solar-owner will substantially or completely reduce conventional energy costs (payments to PG&E) and such savings will be greater than the costs incurred to construct, operate, and maintain the system over time.

## Accounting for Solar Energy Production

The accounting for the PV-arrays treats the 10-site system collectively as an “Internal Electric Utility Provider”. Under this philosophy the City “owns and distributes” the solar energy produced at each of the sites. Since the City incurs costs to produce and provide solar energy, an adequate level of solar utility user-fees are charged based upon the relative annual use of solar energy at each site.

This accounting model works in that the City’s solar operation costs are charged at sites located across both the City’s General Fund and the Water Enterprise Fund. Under California Proposition 218, staff interprets that the City may not charge the Water Fund PV-sites more than the calculated share of the City’s cost of operating and maintaining the collective PV-system. More specifically, Article XIII D Section 6 of Prop 218 relates to water consumption charges which states that revenue from the (water) fee or charge must not be used for any purpose other than that for which the fee or charge is imposed.

## Solar Financial Analysis

The goal of preparing a cash flow analysis is to compare the predicted avoided-cost for energy (i.e. savings achieved from not paying for conventional energy) against the debt service, maintenance, operations, and required component replacement costs related to operating the PV-arrays over a twenty-five year period. This analysis also is performed utilizing the “net present value” method on a predictive model as it is the preferred method for determining the financial viability of a project decision. The inputs to the cash flow analysis are:

**Baseline Avoided Costs (Savings):** Baseline cost at each site is the actual cost of energy in fiscal year 2010-11 per PG&E electricity bills. In that year, the cost of energy for the ten PV-sites was \$550,160. These baseline costs are assumed to grow at 4.5% as predicted in the original decision model. It is assumed that energy usage at each site will remain flat.

**CSI Rebates (Savings):** For the first five years of operation at each site, PG&E pays an additional 90¢ per Kwh of solar generated. This rebate defrays a significant portion of the cost of the system. The model assumes approximately \$2.3 million in CSI rebates.

**Financing, Operating, and Maintaining the System (Costs):** Cost inputs for building, financing, operating, and maintaining the system are:

Debt Service Payments: This cost represents the financing payments

required to fund the initial capital installation. Such payments are financed over a twenty-five year period at an average rate of 5.868%.

Operations and Maintenance: Costs are estimated at \$35,000 a year beginning in FY2014-15. This would include, among other tasks, monitoring the system for abnormalities associated with damaged panels, annual visual inspection and annual panel washing.

Replacement Reserve: This reserve is accumulated at approximately \$40,000 per year beginning in FY2014-15. This reserve is established to allow for complete inverter replacement every 15 years, which is recommended by the manufacturer, as well as some allowance for estimated repair costs.

Other Miscellaneous: This cost category includes administrative overhead costs of the system. Costs are currently estimated at \$2,500 annually.

**Net Present Value (NPV):** The table below combines the inputs: avoided cost savings and cost of solar-ownership to reflect the current predicted net present value of avoided cost savings.

<b>Solar System Costs and Savings</b>	
Net Avoided Savings: \$	12,228,789
Debt Costs: \$	11,546,502
Inverter Costs: \$	454,598
Other O&M Costs: \$	646,961
Total Cost: \$	12,648,061
Net Present Value: \$	(419,272)

Design and construction issues occurred that affected the net present value analysis; the major differences are as follows:

- Construction delays due to land acquisition issues at Pump Station #3, and panel design changes at the Swimming Pool, resulted in those sites beginning production approximately six months after the first eight sites. The estimated NPV cost for those two site delays total approximately \$200,000. Additionally, the fund incurred cash flow issues during FY 2012-13 due to the delay in CSI Rebates for those sites.

- Panel design changes required at the Swimming Pool and Pump Station #2 sites resulted in lower avoided savings. Panel design changes at both sites related primarily to either natural aesthetics (trees at the pool) or operational practicalities (access to water tanks). The reduced avoided savings at those sites is partially offset by additional capacity at the other sites.

## **LIGHTING RETROFIT**

### **Accounting for the Lighting Retrofit Project**

The lighting retrofit energy project is accounted for differently than the PV-arrays in that this project constitutes only capital financing costs incurred to retrofit lights in order to reduce the PG&E electricity and maintenance costs for the 3,427 lighting sites. Unlike the PV-system, there is no “production” occurring at the lighting retrofit sites; therefore, each site pays only the proportional debt service cost of the total debt issued to fund the ECM projects. The cost of the lighting retrofit project accounted for approximately 9.4% of the total cost of the project. Based on this, each year the lighting retrofit sites are charged an internal utility user-fee that represents 9.4% of the related energy conservation debt services costs.

This accounting model works in that the majority of the retrofitted lighting sites reside in restricted tax or Proposition 218-related assessment funds. As cited above, under Prop 218, staff interprets the City may not charge more than the proportionate share of the debt service costs related to the capitalized cost of retrofitting the lights. The lighting retrofit sites do not pay for any costs related to the PV-arrays.

### **Lighting Retrofit Financial Analysis**

This cash flow compares the predicted project savings against the allocated share of the debt service and future light-replacement costs. Again, this analysis is performed utilizing the “net present value” method on a predictive model. The inputs to the cash flow model include the predicted PG&E lighting and “call-out” maintenance savings offset by the allocated share of project debt service and predicted future costs of bulb replacement in approximately 20 years, as follows:

<b>Lighting Replacement Costs and Savings</b>	
Avoided Cost Savings: \$	2,812,588
Debt Costs: \$	1,126,118
Replacement Costs: \$	651,075
Total Costs: \$	1,777,193
Net Present Value: \$	1,035,395

As shown, on a net present value basis, the analysis confirms significant savings. Under the accounting described above, the savings will remain with the funds where the projects occurred. For the streetlight replacement, this consists of the Gas Tax and Landscape and Lighting District restricted funds.

## **FINANCIAL MODEL INPUTS**

### **Assumptions**

<b>Annual Energy Cost Increase</b>	<b>4.50%</b>
<b>Annual Inflation</b>	<b>2.50%</b>
<b>Percentage of Bond – Lighting</b>	<b>9.39%</b>
<b>Discount Rate Used for NPV – Bond Rate</b>	<b>5.87%</b>
<b>Baseline Energy Costs – 10 Sites</b>	<b>\$ 550,160</b>
<b>Panel Degradation Rate</b>	<b>0.80%</b>

The original ECM project cash flows involve engineering and cost calculations requiring a high degree of industry knowledge. While staff vetted cash flow assumptions with both CES and an independent solar expert, the model contains numerous assumptions and predictions which may vary from actual experience over the operating life of the system. The possibility that reality will differ from the predictions is known as model risk. The further into the future a cash flow is located, the greater the susceptibility to risk.

Given the highly predictive and static nature of the model inputs, the net present value gives an indication of the financial viability of the project, however, does not represent a risk-adjusted return on investment.

Staff considers that certain model inputs, such as production sampling and weather variability, are susceptible to a high degree of risk. For example, current energy metering contracts for PV-systems have been under scrutiny and the California Public Utilities Commission recently ruled that the current contracts would be grandfathered for a period of twenty-years from the time of system interconnection. This is excellent news in terms of cash flows for the next twenty-

years; however, no firm information exists regarding contract terms during the last five years of the City's project where a high degree of positive cash flow resides.

These examples illustrate that the risk-adjusted predictions and assumptions are complex to model and staff considers further analysis unproductive at this point given that the City owns the system and must focus attention on operating the system diligently and effectively. Furthermore, operating the panels beyond twenty-five years, which is highly probably, will offset a portion of the risks.

## **PV-SYSTEM FUNCTION AND PRODUCTION**

The City received a grant for an independent solar expert, Sage Renewables, to review the PV-arrays constructed. Sage Renewables reported that "the systems were installed in a professional manner and designed to generate maximum production within the constraints of aesthetic, structural and site limitations\*.....All system components were verified to be installed per final contract agreement."

To date, the system has produced approximately 4.8 million kilowatt hours (kWh) of electricity – which is better than predicted due to advantageous weather patterns over the past two years. This information may be accessed at [http://live.deckmonitoring.com/?id=city\\_of\\_benicia](http://live.deckmonitoring.com/?id=city_of_benicia).

## **CONCLUSION**

The City will clearly meet major strategic objectives and is on-track to achieve 2030 greenhouse gas reduction targets outlined in the adopted Climate Action Plan. The ECM projects were originally approved as a collective project to meet those strategic objectives at little or no cost to the City. Based upon the assumptions and information described above, the ECM projects collectively total an approximate net present value of \$0.6 million. The separate savings and costs related to the individual projects will reside within those funds where the site-construction occurred.

\*The report indicated that tree shading at Fire Station #12 would need to be addressed as the trees continue to grow.

**AGENDA ITEM**  
**CITY COUNCIL MEETING DATE - APRIL 29, 2014**  
**BUSINESS ITEMS**

**DATE** : April 22, 2014

**TO** : City Council

**FROM** : City Manager

**SUBJECT** : **REQUEST BY MAYOR PATTERSON FOR CITY COUNCIL  
CONSIDERATION OF A POSITION OF OPPOSITION ON AB 2145  
(BRADFORD) ELECTRICITY: COMMUNITY CHOICE  
AGGREGATION**

**RECOMMENDATION:**

Consider Mayor Patterson's request that the City Council take a position of opposition on AB 2145 (Bradford) Electricity: Community choice aggregation.

**EXECUTIVE SUMMARY:**

Mayor Patterson is requesting that the City Council submit a letter of opposition on AB 2145 that proposes changes to the Public Utilities Act that governs the formation and operation of Community Choice Aggregation (CCA) programs. CCA is a program available within the service areas of investor-owned utilities, such as PG&E, which allows cities and counties to purchase and/or generate electricity for their residents and businesses. Specifically AB 2145 would change the current community aggregation customer "opt-out" process to an "opt-in" one.

**BUDGET INFORMATION:**

N/A

**GENERAL PLAN:**

Overarching Goal of the General Plan: Sustainability

**STRATEGIC PLAN:**

Strategic Issue 2: Protecting and Enhancing the Environment  
Strategy 1) Reduce greenhouse gas emissions and energy consumption

**BACKGROUND:**

Community Choice Aggregation (CCA) is a program available within the service areas of investor-owned utilities, such as PG&E, which allows cities and counties to purchase and/or generate electricity for their residents and businesses. Under CCA, the investor owned utility continues to deliver the

electricity through its transmission and distribution system and provide meter reading, billing, maintenance, and outage response services.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations such as a community choice aggregator, which has the authority to aggregate the electrical load of interested electricity consumers within its boundaries. Among other provisions the Public Utilities Act requires the community choice aggregator to provide each customer an opportunity to opt out of his or her community's aggregation program. The act provides that customer participation in the community choice aggregation program does not require a positive written declaration for participation, but each customer shall be informed of his or her right to opt out of the program. The act provides that if no negative declaration is made by the customer regarding participation, the customer shall be served by the community choice aggregation program.

AB 2145 would instead provide that each customer be given an opportunity to opt in to his or her community's aggregation program. The bill would require a positive declaration from a customer for participation in the community choice aggregation program and that each customer be informed of his or her right to opt in to the program. The bill would provide that a customer shall be served by the community choice aggregation program if an affirmative declaration is made. The bill would require solicitations of customers by a community choice aggregator contain, and communication by the community choice aggregator to the public or prospective and existing customers to be consistent with, specified information and would require the implementation plan to include the disclosure of those specified information.

Interest groups in support of the expansion of Community Choice Aggregation (CCA) have contacted the City of Benicia and requested that the City take an opposed position on AB 2145. It is their opinion that the bill would limit a CCA's ability to viably exist at the local level due to several bill provisions, including mandatory customer opt-in. They believe this will severely hamper the ability of a CCA to achieve minimum scale, will increase costs, and thwart a local government's statutory right to pursue a CCA program for their community. The League of Cities has formally taken an opposed position on the bill (see attached letter).

In regards to the City's adopted programs and policies Strategy E-2.6 of the City's Climate Action Plan states the following:

**Community Choice Aggregation Feasibility Assessment**

*Community Choice Aggregation (CCA), created by State Assembly Bill 117, provides communities with the opportunity to 'opt-out' of power purchase*

*agreements with traditional energy utilities, such as PG&E. Under a CCA arrangement, the utility continues to own, operate and maintain the transmission lines; however, cities are free to purchase or generate power from sources of their own choosing. Cities can either build their own green energy infrastructure, purchase energy from energy service providers, and/or partner with private firms to develop such infrastructure. A CCA agreement allows all customers within the established CCA district to 'opt-in' to the program, providing customers with the ability to obtain locally produced green energy.*

*The City should consider a CCA feasibility study and financial analysis to determine viability. Economies of scale may require Benicia to partner with another local agency or jurisdiction.*

#### *Implementation Actions*

- o Secure funding for feasibility study;*
- o Commission feasibility study;*
- o Consider partnership opportunities with Solano County municipalities and public agencies;*
- o Initiate conversation with senior management and decision makers in neighboring jurisdictions;*
- o Implement CCA program.*

#### *Attachments:*

- AB 2145 (as amended 4-10-14)*
- League of Cities AB 2145 letter of opposition*



AMENDED IN ASSEMBLY APRIL 10, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2145**

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**Introduced by Assembly Member Bradford**

February 20, 2014

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An act to amend Section 366.2 of the Public Utilities Code, relating to electricity.

LEGISLATIVE COUNSEL'S DIGEST

AB 2145, as amended, Bradford. Electricity: community choice aggregation.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations, as defined. ~~Existing law~~ *The Public Utilities Act* authorizes a community choice aggregator, as defined, to aggregate the electrical load of interested electricity consumers within its boundaries and requires a community choice aggregator to file an implementation plan with the commission and requires that the plan include disclosures of certain information and describe other matter. ~~Existing law~~ *The act requires the community choice aggregator to provide each customer an opportunity to opt out of his or her community's aggregation program. The act provides that customer participation in the community choice aggregation program does not require a positive written declaration for participation, but each customer shall be informed of his or her right to opt out of the program. The act provides that if no negative declaration is made by the customer regarding participation, the customer shall be served by the community choice aggregation program. The act requires an electrical corporation to cooperate fully with any community choice aggregator that investigates, pursues, or implements*

community choice aggregation programs, including providing appropriate billing and electrical load data. ~~Existing law~~ *The act* requires an electrical corporation, when requested by, and at the expense of, a community choice aggregator, to install, maintain, and calibrate metering devices at mutually agreeable locations within or adjacent to the community choice aggregator's political boundaries. ~~Existing law~~ *The act* requires a community choice aggregator to register with the commission, which may require additional information to ensure compliance with basic consumer protection rules and other procedural matters.

*This bill would instead provide that each customer be given an opportunity to opt in to his or her community's aggregation program. The bill would require a positive declaration from a customer for participation in the community choice aggregation program and that each customer be informed of his or her right to opt in to the program. The bill would provide that a customer shall be served by the community choice aggregation program if an affirmative declaration is made. The bill would require solicitations of customers by a community choice aggregator contain, and communication by the community choice aggregator to the public or prospective and existing customers to be consistent with, specified information and would require the implementation plan to include the disclosure of those specified information. The bill would require that the implementation plan filed by a community choice aggregator ~~make full disclosure of certain information~~ and completely describe other matter required to be disclosed under existing law. The bill would authorize the commission to require that a community choice aggregator, when registering with the commission, provide additional information to ensure compliance with basic consumer protection and other rules and other procedural matters. The bill would make other technical, nonsubstantive revisions to the community choice aggregator provisions.*

*Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the commission is a crime.*

*Because the bill would impose requirements regarding communication by a community choice aggregator, a violation of which would be a crime, this bill would impose a state-mandated local program.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.*

*Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 366.2 of the Public Utilities Code is  
2 amended to read:

3 366.2. (a) (1) Customers shall be entitled to aggregate their  
4 electric loads as members of their local community with  
5 community choice aggregators.

6 (2) Customers may aggregate their loads through a public  
7 process with community choice aggregators, if each customer is  
8 given an opportunity to opt-out of in to his or her community's  
9 aggregation program.

10 (3) If a customer ~~opts out of~~ *does not opt in to* a community  
11 choice aggregator's program, or has no community choice  
12 aggregation program available, that customer shall ~~have the right~~  
13 ~~to~~ continue to be served by the existing electrical corporation or  
14 its successor in interest.

15 (4) The implementation of a community choice aggregation  
16 program shall not result in a shifting of costs between the customers  
17 of the community choice aggregator and the bundled service  
18 customers of an electrical corporation.

19 (5) A community choice aggregator shall be solely responsible  
20 for all generation procurement activities on behalf of the  
21 community choice aggregator's customers, except where other  
22 generation procurement arrangements are expressly authorized by  
23 statute.

24 (b) If a public agency seeks to serve as a community choice  
25 aggregator, it shall offer the opportunity to purchase electricity to  
26 all residential customers within its jurisdiction.

27 (c) (1) Notwithstanding Section 366, a community choice  
28 aggregator is hereby authorized to aggregate the electrical load of  
29 interested electricity consumers within its boundaries to reduce  
30 transaction costs to consumers, provide consumer protection, and  
31 leverage the negotiation of contracts. However, the community

1 choice aggregator may not aggregate electrical load if that load is  
2 served by a local publicly owned electric utility. A community  
3 choice aggregator may group retail electricity customers to solicit  
4 bids, broker, and contract for electricity and energy services for  
5 those customers. The community choice aggregator may enter into  
6 agreements for services to facilitate the sale and purchase of  
7 electricity and other related services. Those service agreements  
8 may be entered into by an entity authorized to be a community  
9 choice aggregator, as defined in Section 331.1.

10 (2) Under community choice aggregation, customer participation  
11 ~~may not shall~~ require a positive written ~~declaration, but~~ *declaration*  
12 *and* each customer shall be informed of his or her right to ~~opt-out~~  
13 ~~of in to~~ the community choice aggregation program. If ~~no negative~~  
14 *an affirmative* declaration is made by a customer, that customer  
15 shall be served through the community choice aggregation  
16 program. If an existing customer moves the location of his or her  
17 electric service within the jurisdiction of the community choice  
18 aggregator, the customer shall retain the same subscriber status as  
19 prior to the move, unless the customer affirmatively changes his  
20 or her subscriber status. If the customer is moving from outside to  
21 inside the jurisdiction of the community choice aggregator,  
22 customer participation shall ~~not~~ require a positive written  
23 ~~declaration, but~~ *declaration and* the customer shall be informed  
24 of his or her right to ~~elect not to receive service through the~~  
25 ~~community choice aggregator. opt in to the community choice~~  
26 *aggregation program.*

27 (3) A community choice aggregator establishing electrical load  
28 aggregation pursuant to this section shall develop an  
29 implementation plan detailing the process and consequences of  
30 aggregation. The implementation plan, and any subsequent changes  
31 to it, shall be considered and adopted at a duly noticed public  
32 hearing. The implementation plan shall contain all of the following:

33 (A) An organizational structure of the program, its operations,  
34 and its funding.

35 (B) Ratesetting and other costs to participants.

36 (C) Provisions for full disclosure *of all information specified*  
37 *in paragraph (15)* and due process in setting rates and allocating  
38 costs among participants.

39 (D) The methods for entering and terminating agreements with  
40 other entities.

1 (E) The rights and responsibilities of program participants,  
2 including, but not limited to, consumer protection procedures,  
3 credit issues, and shutoff procedures.

4 (F) Termination of the program.

5 (G) A description of the third parties that will be supplying  
6 electricity under the program, including, but not limited to,  
7 complete information about financial, technical, and operational  
8 capabilities.

9 (4) A community choice aggregator establishing electrical load  
10 aggregation shall prepare a statement of intent with the  
11 implementation plan. Any community choice load aggregation  
12 established pursuant to this section shall provide for the following:

13 (A) Universal access.

14 (B) Reliability.

15 (C) Equitable treatment of all classes of customers.

16 (D) Any requirements established by state law or by the  
17 commission concerning aggregated service, including, but not  
18 limited to, those rules adopted by the commission pursuant to  
19 paragraph (3) of subdivision (b) of Section 8341 for the application  
20 of the greenhouse gases emission performance standard to  
21 community choice aggregators.

22 (5) In order to determine the cost-recovery mechanism to be  
23 imposed on the community choice aggregator pursuant to  
24 subdivisions (d), (e), and (f) that shall be paid by the customers of  
25 the community choice aggregator to prevent shifting of costs, the  
26 community choice aggregator shall file the implementation plan  
27 with the commission, and any other information requested by the  
28 commission that the commission determines is necessary to develop  
29 the cost-recovery mechanism in subdivisions (d), (e), and (f).

30 (6) The commission shall notify any electrical corporation  
31 serving the customers proposed for aggregation that an  
32 implementation plan initiating community choice aggregation has  
33 been filed, within 10 days of the filing.

34 (7) Within 90 days after the community choice aggregator  
35 establishing load aggregation files its implementation plan, the  
36 commission shall certify that it has received the implementation  
37 plan, including any additional information necessary to determine  
38 a cost-recovery mechanism. After certification of receipt of the  
39 implementation plan and any additional information requested,  
40 the commission shall then provide the community choice

1 aggregator with its findings regarding any cost recovery that must  
2 be paid by customers of the community choice aggregator to  
3 prevent a shifting of costs as provided for in subdivisions (d), (e),  
4 and (f).

5 (8) No entity proposing community choice aggregation shall  
6 act to furnish electricity to electricity consumers within its  
7 boundaries until the commission determines the cost recovery that  
8 must be paid by the customers of that proposed community choice  
9 aggregation program, as provided for in subdivisions (d), (e), and  
10 (f). The commission shall designate the earliest possible effective  
11 date for implementation of a community choice aggregation  
12 program, taking into consideration the impact on any annual  
13 procurement plan of the electrical corporation that has been  
14 approved by the commission.

15 (9) An electrical corporation shall cooperate fully with any  
16 community choice aggregators that investigate, pursue, or  
17 implement community choice aggregation programs. Cooperation  
18 shall include providing the entities with appropriate billing and  
19 electrical load data, including, but not limited to, electrical  
20 consumption data as defined in Section 8380 and other data  
21 detailing electricity needs and patterns of usage, as determined by  
22 the commission, and in accordance with procedures established  
23 by the commission. The commission shall exercise its authority  
24 pursuant to Chapter 11 (commencing with Section 2100) to enforce  
25 the requirements of this paragraph when it finds that the  
26 requirements of this paragraph have been violated. Electrical  
27 corporations shall continue to provide all metering, billing,  
28 collection, and customer service to retail customers that participate  
29 in community choice aggregation programs. Bills sent by the  
30 electrical corporation to retail customers shall identify the  
31 community choice aggregator as providing the electrical energy  
32 component of the bill. The commission shall determine the terms  
33 and conditions under which the electrical corporation provides  
34 services to community choice aggregators and retail customers.

35 (10) If the commission finds that an electrical corporation *or*  
36 *community choice aggregator* has violated this section, the  
37 commission shall ~~consider the impact of the violation upon~~  
38 ~~community choice aggregators.~~ *order appropriate corrective*  
39 *action.*

1 (11) The commission shall proactively expedite the complaint  
2 process for disputes regarding an electrical corporation's *or*  
3 *community choice aggregator's* violation of its obligations pursuant  
4 to this section in order to provide for timely resolution of  
5 ~~complaints made by community choice aggregation programs,~~  
6 ~~complaints,~~ so that all complaints are resolved in no more than  
7 180 days following the filing of a ~~complaint by a community choice~~  
8 ~~aggregation program concerning the actions of the incumbent~~  
9 ~~electrical corporation.~~ *complaint.* This deadline may only be  
10 extended under either of the following circumstances:

11 (A) Upon agreement of all of the parties to the complaint.  
12 (B) The commission makes a written determination that the  
13 deadline cannot be met, including findings for the reason for this  
14 determination, and issues an order extending the deadline. A single  
15 order pursuant to this subparagraph shall not extend the deadline  
16 for more than 60 days.

17 (12) (A) An entity authorized to be a community choice  
18 aggregator, as defined in Section 331.1, that elects to implement  
19 a community choice aggregation program within its jurisdiction  
20 pursuant to this chapter, shall do so by ordinance. A city, county,  
21 or city and county may request, by affirmative resolution of its  
22 governing council or board, that another entity authorized to be a  
23 community choice aggregator act as the community choice  
24 aggregator on its behalf. If a city, county, or city and county, by  
25 resolution, requests another authorized entity be the community  
26 choice aggregator for the city, county, or city and county, that  
27 authorized entity shall be responsible for adopting the ordinance  
28 to implement the community choice aggregation program on behalf  
29 of the city, county, or city and county.

30 (B) Two or more entities authorized to be a community choice  
31 aggregator, as defined in Section 331.1, may participate as a group  
32 in a community choice aggregation program pursuant to this  
33 chapter, through a joint powers agency established pursuant to  
34 Chapter 5 (commencing with Section 6500) of Division 7 of Title  
35 1 of the Government Code, if each entity adopts an ordinance  
36 pursuant to subparagraph (A). Pursuant to Section 6508.1 of the  
37 Government Code, members of a joint powers agency that is a  
38 community choice aggregator may specify in their joint powers  
39 agreement that, unless otherwise agreed by the members of the  
40 agency, the debts, liabilities, and obligations of the agency shall

1 not be the debts, liabilities, and obligations, either jointly or  
2 severally, of the members of the agency. The commission shall  
3 not, as a condition of registration or otherwise, require an agency's  
4 members to voluntarily assume the debts, liabilities, and obligations  
5 of the agency to the electrical corporation unless the commission  
6 finds that the agreement by the agency's members is the only  
7 reasonable means by which the agency may establish its  
8 creditworthiness under the electrical corporation's tariff to pay  
9 charges to the electrical corporation under the tariff.

10 (13) Following adoption of aggregation through the ordinance  
11 described in paragraph (12), the program shall allow any retail  
12 customer to ~~opt out and to continue to be served as a bundled~~  
13 ~~service customer by the existing electrical corporation, or its~~  
14 ~~successor in interest.~~ *in to the community choice aggregation*  
15 *program.* Delivery services shall be provided at the same rates,  
16 terms, and conditions, as approved by the commission, for  
17 community choice aggregation customers and customers that have  
18 entered into a direct transaction where applicable, as determined  
19 by the commission. Once enrolled in the aggregated entity, any  
20 ratepayer that chooses to opt out within 60 days or two billing  
21 cycles of the date of enrollment may do so without penalty and  
22 shall be entitled to receive default service pursuant to paragraph  
23 (3) of subdivision (a). Customers that return to the electrical  
24 corporation for procurement services shall be subject to the same  
25 terms and conditions as are applicable to other returning direct  
26 access customers from the same class, as determined by the  
27 commission, as authorized by the commission pursuant to this  
28 code or any other provision of law, except that those customers  
29 shall be subject to no more than a 12-month stay requirement with  
30 the electrical corporation. Any reentry fees to be imposed after the  
31 opt-out period specified in this paragraph, shall be approved by  
32 the commission and shall reflect the cost of reentry. The  
33 commission shall exclude any amounts previously determined and  
34 paid pursuant to subdivisions (d), (e), and (f) from the cost of  
35 reentry.

36 (14) Nothing in this section shall be construed as authorizing  
37 any city or any community choice retail load aggregator to restrict  
38 the ability of retail electricity customers to obtain or receive service  
39 from any authorized electric service provider in a manner consistent  
40 with law.

1     ~~(15) (A) The community choice aggregator shall fully inform~~  
2 ~~participating customers at least twice within two calendar months,~~  
3 ~~or 60 days, in advance of the date of commencing automatic~~  
4 ~~enrollment. Notifications may occur concurrently with billing~~  
5 ~~cycles. Following enrollment, the aggregated entity shall fully~~  
6 ~~inform participating customers for not less than two consecutive~~  
7 ~~billing cycles. Notification may include, but is not limited to, direct~~  
8 ~~mailings to customers, or inserts in water, sewer, or other utility~~  
9 ~~bills. Any notification shall fully inform customers of both of the~~  
10 ~~following:~~

11     ~~(i) That they are to be automatically enrolled and that the~~  
12 ~~customer has the right to opt out of the community choice~~  
13 ~~aggregator without penalty.~~

14     ~~(ii) All terms and conditions of the services offered.~~

15     ~~(B) The community choice aggregator may request the~~  
16 ~~commission to approve and order the electrical corporation to~~  
17 ~~provide the notification required in subparagraph (A). If the~~  
18 ~~commission orders the electrical corporation to send one or more~~  
19 ~~of the notifications required pursuant to subparagraph (A) in the~~  
20 ~~electrical corporation's normally scheduled monthly billing~~  
21 ~~process, the electrical corporation shall be entitled to recover from~~  
22 ~~the community choice aggregator all reasonable incremental costs~~  
23 ~~it incurs related to the notification or notifications. The electrical~~  
24 ~~corporation shall fully cooperate with the community choice~~  
25 ~~aggregator in determining the feasibility and costs associated with~~  
26 ~~using the electrical corporation's normally scheduled monthly~~  
27 ~~billing process to provide one or more of the notifications required~~  
28 ~~pursuant to subparagraph (A).~~

29     ~~(C) Each notification shall also include a mechanism by which~~  
30 ~~a ratepayer may opt out of community choice aggregated service.~~  
31 ~~The opt out may take the form of a self-addressed return postcard~~  
32 ~~indicating the customer's election to remain with, or return to,~~  
33 ~~electrical energy service provided by the electrical corporation, or~~  
34 ~~another straightforward means by which the customer may elect~~  
35 ~~to derive electrical energy service through the electrical corporation~~  
36 ~~providing service in the area.~~

37     ~~(15) Every solicitation of customers by a community choice~~  
38 ~~aggregator shall contain, and communication by the community~~  
39 ~~choice aggregator to the public or to a prospective or existing~~  
40 ~~customer shall be consistent with, the following information:~~

1 (A) *The electric supply rate for the customer if the customer*  
2 *remains with the electrical corporation compared to the electric*  
3 *supply rate if the customer chooses to be served by the community*  
4 *choice aggregator. Rates shall be specific to the customer class*  
5 *of that customer and shall be provided for the next five years of*  
6 *service. The electrical corporation shall provide its projected*  
7 *electric supply rate to the community choice aggregator.*

8 (B) *The annual greenhouse gas emissions rate for electricity*  
9 *actually delivered to customers for the previous two years if the*  
10 *community choice aggregator has been serving customers and the*  
11 *projected annual greenhouse gas emissions rate for electricity to*  
12 *be actually delivered in the next five years of service. The projected*  
13 *greenhouse gas emissions rate for each year shall be calculated*  
14 *using the regulations and protocols established by the State Air*  
15 *Resources Board, and for previous years using the greenhouse*  
16 *gas emissions reported pursuant to Article 2 (commencing with*  
17 *Section 95100) of Subchapter 10 of Chapter 1 of Division 3 of*  
18 *Title 17 of the California Code of Regulations. The greenhouse*  
19 *gas emissions rate shall include any emissions otherwise*  
20 *attributable to any first importer supplying electricity to the*  
21 *community choice aggregator, whether or not the community*  
22 *choice aggregator is a first deliverer as defined in paragraph (175)*  
23 *of subdivision (a) of Section 95102 of Title 17 of the California*  
24 *Code of Regulations.*

25 (16) A community choice aggregator shall have an operating  
26 service agreement with the electrical corporation prior to furnishing  
27 electric service to consumers within its jurisdiction. The service  
28 agreement shall include performance standards that govern the  
29 business and operational relationship between the community  
30 choice aggregator and the electrical corporation. The commission  
31 shall ensure that any service agreement between the community  
32 choice aggregator and the electrical corporation includes equitable  
33 responsibilities and remedies for all parties. The parties may  
34 negotiate specific terms of the service agreement, provided that  
35 the service agreement is consistent with this chapter.

36 (17) The community choice aggregator shall register with the  
37 commission, which may require additional information to ensure  
38 compliance with basic consumer protection and other rules and  
39 other procedural matters.

1 (18) Once the community choice aggregator’s contract is signed,  
2 the community choice aggregator shall notify the applicable  
3 electrical corporation that community choice service will  
4 commence within 30 days.

5 (19) Once notified of a community choice aggregator program,  
6 the electrical corporation shall transfer all applicable accounts to  
7 the new supplier within a 30-day period from the date of the close  
8 of the electrical corporation’s normally scheduled monthly  
9 metering and billing process.

10 (20) An electrical corporation shall recover from the community  
11 choice aggregator any costs reasonably attributable to the  
12 community choice aggregator, as determined by the commission,  
13 of implementing this section, including, but not limited to, all  
14 business and information system changes, except for  
15 transaction-based costs as described in this paragraph. Any costs  
16 not reasonably attributable to a community choice aggregator shall  
17 be recovered from ratepayers, as determined by the commission.  
18 All reasonable transaction-based costs of notices, billing, metering,  
19 collections, and customer communications or other services  
20 provided to an aggregator or its customers shall be recovered from  
21 the aggregator or its customers on terms and at rates to be approved  
22 by the commission.

23 (21) At the request and expense of any community choice  
24 aggregator, an electrical corporation shall install, maintain, and  
25 calibrate metering devices at mutually agreeable locations within  
26 or adjacent to the community choice aggregator’s political  
27 boundaries. The electrical corporation shall read the metering  
28 devices and provide the data collected to the community choice  
29 aggregator at the aggregator’s expense. To the extent that the  
30 community choice aggregator requests a metering location that  
31 would require alteration or modification of a circuit, the electrical  
32 corporation shall only be required to alter or modify a circuit if  
33 that alteration or modification does not compromise the safety,  
34 reliability, or operational flexibility of the electrical corporation’s  
35 facilities. All costs incurred to modify circuits pursuant to this  
36 paragraph, shall be borne by the community choice aggregator.

37 (d) (1) It is the intent of the Legislature that each retail end-use  
38 customer that has purchased power from an electrical corporation  
39 on or after February 1, 2001, should bear a fair share of the  
40 Department of Water Resources’ electricity purchase costs, as well

1 as electricity purchase contract obligations incurred as of the  
2 effective date of the act adding this section, that are recoverable  
3 from electrical corporation customers in commission-approved  
4 rates. It is further the intent of the Legislature to prevent any  
5 shifting of recoverable costs between customers.

6 (2) The Legislature finds and declares that this subdivision is  
7 consistent with the requirements of Division 27 (commencing with  
8 Section 80000) of the Water Code and Section 360.5 of this code,  
9 and is therefore declaratory of existing law.

10 (e) A retail end-use customer that purchases electricity from a  
11 community choice aggregator pursuant to this section shall pay  
12 both of the following:

13 (1) A charge equivalent to the charges that would otherwise be  
14 imposed on the customer by the commission to recover  
15 bond-related costs pursuant to any agreement between the  
16 commission and the Department of Water Resources pursuant to  
17 Section 80110 of the Water Code, which charge shall be payable  
18 until any obligations of the Department of Water Resources  
19 pursuant to Division 27 (commencing with Section 80000) of the  
20 Water Code are fully paid or otherwise discharged.

21 (2) Any additional costs of the Department of Water Resources,  
22 equal to the customer’s proportionate share of the Department of  
23 Water Resources’ estimated net unavoidable electricity purchase  
24 contract costs as determined by the commission, for the period  
25 commencing with the customer’s purchases of electricity from the  
26 community choice aggregator, through the expiration of all then  
27 existing electricity purchase contracts entered into by the  
28 Department of Water Resources.

29 (f) A retail end-use customer purchasing electricity from a  
30 community choice aggregator pursuant to this section shall  
31 reimburse the electrical corporation that previously served the  
32 customer for all of the following:

33 (1) The electrical corporation’s unrecovered past  
34 undercollections for electricity purchases, including any financing  
35 costs, attributable to that customer, that the commission lawfully  
36 determines may be recovered in rates.

37 (2) Any additional costs of the electrical corporation recoverable  
38 in commission-approved rates, equal to the share of the electrical  
39 corporation’s estimated net unavoidable electricity purchase  
40 contract costs attributable to the customer, as determined by the

1 commission, for the period commencing with the customer's  
2 purchases of electricity from the community choice aggregator,  
3 through the expiration of all then existing electricity purchase  
4 contracts entered into by the electrical corporation.

5 (g) Estimated net unavoidable electricity costs paid by the  
6 customers of a community choice aggregator shall be reduced by  
7 the value of any benefits that remain with bundled service  
8 customers, unless the customers of the community choice  
9 aggregator are allocated a fair and equitable share of those benefits.

10 (h) (1) Any charges imposed pursuant to subdivision (e) shall  
11 be the property of the Department of Water Resources. Any charges  
12 imposed pursuant to subdivision (f) shall be the property of the  
13 electrical corporation. The commission shall establish mechanisms,  
14 including agreements with, or orders with respect to, electrical  
15 corporations necessary to ensure that charges payable pursuant to  
16 this section shall be promptly remitted to the party entitled to  
17 payment.

18 (2) Charges imposed pursuant to subdivisions (d), (e), and (f)  
19 shall be nonbypassable.

20 (i) The commission shall authorize community choice  
21 aggregation only if the commission imposes a cost-recovery  
22 mechanism pursuant to subdivisions (d), (e), (f), and (h). Except  
23 as provided by this subdivision, this section shall not alter the  
24 suspension by the commission of direct purchases of electricity  
25 from alternate providers other than by community choice  
26 aggregators, pursuant to Section 365.1.

27 (j) (1) The commission shall not authorize community choice  
28 aggregation until it implements a cost-recovery mechanism,  
29 consistent with subdivisions (d), (e), and (f), that is applicable to  
30 customers that elected to purchase electricity from an alternate  
31 provider between February 1, 2001, and January 1, 2003.

32 (2) The commission shall not authorize community choice  
33 aggregation until it has adopted rules for implementing community  
34 choice aggregation.

35 (k) (1) Except for nonbypassable charges imposed by the  
36 commission pursuant to subdivisions (d), (e), (f), and (h), and  
37 programs authorized by the commission to provide broader  
38 statewide or regional benefits to all customers, electric service  
39 customers of a community choice aggregator shall not be required  
40 to pay nonbypassable charges for goods, services, or programs

1 that do not benefit either, or where applicable, both, the customer  
2 and the community choice aggregator serving the customer.

3 (2) The commission, Energy Commission, electrical corporation,  
4 or third-party administrator shall administer any program funded  
5 through a nonbypassable charge on a nondiscriminatory basis so  
6 that the electric service customers of a community choice  
7 aggregator may participate in the program on an equal basis with  
8 the customers of an electrical corporation.

9 (3) Nothing in this subdivision is intended to modify, or prohibit  
10 the use of, charges funding programs for the benefit of low-income  
11 customers.

12 (l) (1) An electrical corporation shall not terminate the services  
13 of a community choice aggregator unless authorized by a vote of  
14 the full commission. The commission shall ensure that prior to  
15 authorizing a termination of service, that the community choice  
16 aggregator has been provided adequate notice and a reasonable  
17 opportunity to be heard regarding any electrical corporation  
18 contentions in support of termination. If the contentions made by  
19 the electrical corporation in favor of termination include factual  
20 claims, the community choice aggregator shall be afforded an  
21 opportunity to address those claims in an evidentiary hearing.

22 (2) Notwithstanding paragraph (1), if the Independent System  
23 Operator has transferred the community choice aggregator's  
24 scheduling coordination responsibilities to the incumbent electrical  
25 corporation, an administrative law judge or assigned commissioner,  
26 after providing the aggregator with notice and an opportunity to  
27 respond, may suspend the aggregator's service to customers  
28 pending a full vote of the commission.

29 (m) Any meeting of an entity authorized to be a community  
30 choice aggregator, as defined in Section 331.1, for the purpose of  
31 developing, implementing, or administering a program of  
32 community choice aggregation shall be conducted in the manner  
33 prescribed by the Ralph M. Brown Act (Chapter 9 (commencing  
34 with Section 54950) of Part 1 of Division 2 of Title 5 of the  
35 Government Code).

36 (n) *Amendments to this section made by Assembly Bill 2145 of*  
37 *the 2013–14 Regular Session do not affect the enrollment status*  
38 *of a customer already enrolled in a community choice aggregation*  
39 *program prior to January 1, 2015.*

1     *SEC. 2. No reimbursement is required by this act pursuant to*  
2     *Section 6 of Article XIII B of the California Constitution because*  
3     *the only costs that may be incurred by a local agency or school*  
4     *district will be incurred because this act creates a new crime or*  
5     *infraction, eliminates a crime or infraction, or changes the penalty*  
6     *for a crime or infraction, within the meaning of Section 17556 of*  
7     *the Government Code, or changes the definition of a crime within*  
8     *the meaning of Section 6 of Article XIII B of the California*  
9     *Constitution.*

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1400 K Street, Suite 400 • Sacramento, California 95814  
Phone: 916.658.8200 Fax: 916.658.8240  
www.cacities.org

April 15, 2014

The Honorable Steven Bradford  
Chair, Assembly Committee on Utilities and Commerce  
State Capitol, Room 5136  
Sacramento, CA 95814

**RE: AB 2145 (Bradford) Electricity: Community Choice Aggregation  
NOTICE OF OPPOSITION  
AS AMENDED 4/10/2014**

Dear Assembly Member Bradford,

On behalf of the League of California Cities (League), I write to express opposition to your AB 2145, which would adversely impact Community Choice Aggregation (CCA).

The League has been a strong supporter of CCA for many years. In fact, in 2002, the League worked closely with then Assembly Member Carol Migden and other stakeholders to help pass AB 117 (Migden), which changed the procedures governing CCA to, among other things, allow cities and counties to aggregate on an "opt-out" basis, rather than an "opt-in" basis. All other states with CCA statutes impose the same "opt-out" process as California. The "opt-out" approach gives customers full choice but also provides greater certainty in the market and helps level the playing field for small CCAs attempting to compete in a highly competitive market. It should also be noted that the final amended version of AB 117, as signed into law, received wide bipartisan support and had no opposition.

Under existing law, a CCA cannot be implemented without extensive and appropriate public notice and due process, ensuring full transparency. Existing law also mandates a formal "opt-out" process begin after months of local CCA development and public outreach. Every utility customer is given multiple opportunities over a minimum four-month public noticing process to "opt-out" of the CCA before it begins offering service in a new community. At least four "opt-out" notices are issued to each customer in a proposed CCA jurisdiction. Additionally, customers can "opt out" at any time after the formal public noticing process.

Finally, the League does not fully understand the need to alter the existing "opt-out" process, which seems to be operating in an effective and transparent manner with few, if any, customer complaints.

If you have any questions regarding the League's position on this bill, please do not hesitate to contact me at (916) 658-8264.

Sincerely,

A handwritten signature in black ink, appearing to read "Jason Rhine".

Jason Rhine  
Legislative Representative

cc: Chair and Members, Assembly Committee on Utilities and Commerce  
DaVina Flemings, Principal Consultant, Assembly Committee on Utilities and Commerce  
Daryl Thomas, Consultant, Assembly Republican Caucus

**VI.C.21**

