



BizFed's Member Alliance
Action Apartment Association
AIA - Los Angeles
Airlines for America
Alhambra Chamber
American Beverage Association
American Hotel & Lodging Association
Antelope Valley Board of Trade
Apartment Association, California Southern Cities
Apartment Association of Greater Los Angeles
Arcadia Association of Realtors
Asian American Business Women Association
Asian Business Association
Association of Independent Commercial Producers
Aussa Chamber
Beverly Hills Chamber
Beverly Hills / Greater LA Association of Realtors
BNIA SUCCESS
Burbank Association of Realtors
Building Industry Association, LA / Ventura Counties
Building Owners & Managers Association, Greater LA
Business & Industry Council for Emergency Planning & Preparedness
CalAsian Chamber
California Apartment Association, Los Angeles
California Asphalt Pavement Association
California Business Roundtable
California Cannabis Industry Association
California Construction Industry and Materials Association
California Contract Cities Association
California Employers Association
California Fashion Association
California Grocers Association
California Hotel & Lodging Association
California Independent Oil Marketers
California Independent Petroleum Association
California Life Sciences Association
California Metals Coalition
California Restaurant Association
California Small Business Alliance
California Sportfishing League
California Trucking Association
CALInnovates
Carson Chamber of Commerce
Carson Dominguez Employers Alliance
CDC Small Business Finance
Central City Association
Century City Chamber of Commerce
Cerritos Chamber
Citrus Valley Association of Realtors
Construction Industry Air and Water Quality Coalitions
Consumer Healthcare Products Association
Council on Trade and Investment for Filipino Americans
Culver City Chamber
Downey Association of Realtors
Downtown Long Beach Alliance
Downtown Pomona Owners Association
El Monte/South El Monte Chamber
Employers Group
Engineering Contractor's Association
F.A.S.T. - Fixing Angeles' Stuck in Traffic
FilmLA
Foreign Trade Association
FuturePorts
Gateway to LA
Glendale Association of Realtors
Glendale Chamber
Glendora Chamber
Greater Antelope Valley AOR
Greater Lakewood Chamber
Greater Los Angeles African American Chamber
Greater Los Angeles New Car Dealers Association
Harbor Association of Industry and Commerce
Harbor Trucking Association
Hollywood Chamber
Hong Kong Trade Development Council
Hospital Association of Southern California
Hotel Association of Los Angeles
Independent Cities Association
Industry Manufacturers Council
Inglewood Airport Area Chamber
International Warehouse Logistics Association
Inglewood Airport Area Chamber
Investing in Place
Irwindale Chamber
Japan Business Association of Southern California
LA Canada Flintridge Chamber
LA Media Lab
LAX Coastal Area Chamber
Leadership for Urban Renewal Network
League of California Cities
Local Search Association
Long Beach Area Chamber
Los Angeles Area Chamber
Los Angeles Black MBA Association
Los Angeles Cleantech Incubator
Los Angeles County Bicycle Coalition
Los Angeles County Board of Realtors
Los Angeles County Waste Management Association
Los Angeles Gateway Chamber of Commerce
Los Angeles Gay & Lesbian Chamber of Commerce
Los Angeles Latino Chamber
Los Angeles Parking Association
Maple Business Council
Motion Picture Association of America
MoveLA
NAIFA - OC
NAIOP Southern California Chapter
National Association of Hospitality Owners
National Association of Tobacco Outlets
National Association of Women Business Owners
National Association of Women Business Owners, LA
National Hispanic Medical Association
National Latina Business Leaders Association
Netherlands-America Foundation
Orange County Business Council
Pacific Merchant Shipping Association
Pacific Palisades Chamber
Panorama City Chamber
Pasadena Chamber
Pasadena-Foothills Association of Realtors
PRIMA
Planned Parenthood Southern California Affiliates
Pomona Chamber
Rancho Southeast Association of Realtors
Recording Industry Association of America
Regional Black - San Fernando Valley Chamber
Regional San Gabriel Valley Chamber
Rosemead Chamber
Rotary Club of Los Angeles
San Gabriel Chamber
San Gabriel Valley Civic Alliance
San Gabriel Valley Economic Partnership
Santa Clarita Valley Chamber
Santa Clarita Valley Economic Development Corp.
San Pedro Peninsula Chamber
Santa Monica Chamber
Santa Monica Junior Chamber
SCALE LA
Sherman Oaks Chamber of Commerce
South Bay Association of Chambers
South Bay Association of Realtors
Southern California Contractors Association
Southern California Golf Association
Southern California Grantmakers
Southern California Minority Supplier Development Council Inc.
Southern California Water Committee
Southland Regional Association of Realtors
Torrance Area Chamber
Town Hall Los Angeles
Tri-Counties Association of Realtors
United Chambers San Fernando Valley
United States-Mexico Chamber
Unmanned Autonomous Vehicle Systems Association
Valley Economic Alliance
Valley Economic Development Corp.
Valley Industry & Commerce Association
Vernon Chamber
Vietnamese American Chamber
Warner Center Association
West Hollywood Chamber
West Los Angeles Chamber
West San Gabriel Valley Association
West Valley/Warner Center Chamber
Western Manufactured Housing Association
Western States Petroleum Association
Westside Council of Chambers
Westwood Village Rotary Club
Wilmington Chamber
World Trade Center
Young Professionals in Energy - LA Chapter

April 3, 2018

Supervisor Sheila Kuehl
Chair, Los Angeles County Board of Supervisors
500 West Temple St. Rm. 821
Los Angeles, CA 90012

Re: BizFed Official Comment Letter on the Los Angeles County Safe, Clean Water Program

Dear Honorable Sheila Kuehl,

We are contacting you on behalf of BizFed, the Los Angeles County Business Federation. We are an alliance of 176 business organizations who represent over 390,000 employers with over 3.5 million employees in Los Angeles County. As you know, we have been active and ongoing participants in Los Angeles County's efforts to develop a storm water fee or tax to support the water quality compliance requirements of the Los Angeles Regional Water Quality Control Board and its MS4 Permit and Basin Plan. Being the voice of business, BizFed has organized a broad coalition of property related businesses to serve as a resource in the development of the tax proposal and to analyze its impact on various types of property uses. Utilizing these vast resources, we have been providing comments and concerns regarding any tax or fee concepts. Unfortunately, many of the issues that have been raised, remain. We feel there is a great deal of more work that needs to be done on developing any kind of effective plan.

Furthermore; as previously mentioned, we have provided extensive written comment on this issue, and so we incorporate by reference as though fully set forth herein the letters of January 11 and March 4, 2013 as well as the letter of May 8, 2017. Additionally, as is outlined further below, there currently is very little information about what any plan might look like, tax amount and credits, project criteria, governance, and on and on. Until there is a more information covering all the necessary elements, BizFed cannot provide any type of real analysis, nor would we be able to support any proposal without far more information that makes it clear what the plan is and how the money will be spent. Thus, we fully reserve the right to make numerous additional verbal and written comments.

In saying that, below are some further thoughts based upon some of the most recent conversations.

Developing a Plan

Currently, there is still no plan for how the money will be spent and it appears that the County might not be able to develop one in time to qualify for the November 2018 ballot. There must be a precise plan of projects that will be completed, along with timelines and estimates of the water quality and water supply results that can be expected with the implementation of the plan. The failure to provide a plan, a map, a budget and expected results, portrays a message that the County has no commitment for the funds and will ultimately give reasoning for the business community to not support this tax.

From our experience, voters need to know exactly what they are funding and when they can expect results. Without some specific commitment to a result and an objective within a specific period of time, the voters are not likely to take such a tax seriously. The tax also needs to have a “sunset date” or “dusk date,” as the voters need to know that the plan will be completed at some point. There should be a 25-year limit on the tax after which the rate drops to 25% of the original rate in the subsequent years to fund maintenance of the facilities funded by the plan. If still necessary, the voters could be asked to extend the tax at some future date.

Proposed Tax Methodology

March 14, 2018 was the first time any discussion occurred with the Stakeholder Advisory Committee (SAC) regarding the tax methodology, and the SAC was advised the County was “leaning” towards a square foot parcel tax based upon the square footage of impermeable space on the parcel. Numerous points were made by the SAC members regarding the problems and difficulties with this type of approach. BizFed agrees this approach is very problematic and the County should consider a different approach.

For example, this tax is supposedly to address storm water runoff issues. As mentioned repeatedly, there is storm water runoff from permeable land, and it is only fair and appropriate that all land contributing to the storm water issue, and covered by the MS4 permits, be part of any tax to address the issue.

Additionally, the impermeable land concept is probably the most time consuming and difficult methodology to administer. While the County is saying there is some high-tech way of measuring the impermeable space on every single approximate 2.2 million parcels, there will be an untold number of appeals about the amount of impermeable land on the parcels. What happens when modifications are made to the parcel that change the amount of impermeable space. More appeals? How much money and staffing is going to be diverted to this effort from actually cleaning up the streams and beaches of Los Angeles County and meeting the mandates of the MS4 permits.

Using the impermeable definition also excludes the vast natural areas of the county which contribute as much, if not more, to storm water pollution as impermeable areas.

A flat rate parcel tax is clearly the easiest type of parcel tax to administer and also provides the voter with a clear statement of how much they will actually pay. Voters should be told what they will pay as opposed to having to go through some complicated calculation of impermeable space that will probably not be consistent with what the County may claim, thus, leading to having to appeal what the County will claim is impermeable. None of that will be known on Election Day, so the impermeable methodology would only leave voters to guess what they might be charged. BizFed continues to believe the flat rate parcel tax would be the best approach.

The per square foot of the parcel concept has some of the same concerns as the permeable space parcel tax but would be far easier to determine. The lot size is clearly determined already. Even as voters review the measure, they at least could have the potential of doing the calculation to determine what their annual tax could be, and there would be far less potential for appeals.

BizFed has indicated before the target annual revenue should be no more than \$300 million.

Additionally, a strong audit requirement needs to be included and an Independent Oversight Committee should be appointed by the board with the authority to conduct financial and performance audits of any funding recipient. With over 100 funded organizations the opportunity for waste and inefficiency is significant. There needs to be an audit provision to review funding utilization and assess project effectiveness after project completion as well.

Project Criteria

Projects should be subjected to a rigorous selection criterion that gives the most weight to water quality, cost effectiveness, pollution load reductions and co-funding to assure that high priority projects are implemented first and there is a means to compare projects objectively across the region. No tax can generate all the funding to meet the compliance mandates facing the County and Cities, so priority needs to be given to those projects which will produce the highest pollution load reductions.

Additional weight could be given to projects that also achieve permanent water supply increases. But, every project must primarily achieve some water quality objective. There also needs to be an additional cost benefit and cost effectiveness threshold applied to all projects. Life-cycle costs also need to be determined and assessed.

Community enhancements/multi-benefits, while desirable, multi benefits that don't lead directly to compliance should be funded by other available sources of funds such as local funds, park taxes, MTA taxes or state bond funds.

Given the sheer volume and the ease with which it can be captured, cleaned and reused, projects which divert dry-weather flow into the existing sewer treatment system should be given high priority. Redirection of dry weather flow to treatment facilities should be given a priority above other projects since these flows are manageable; year-round; the facilities have capacity and the outflows are currently used for ground water recharge and reuse as irrigation. Both of which benefit the local water supply.

Funds not used for compliance should be subjected to a more rigorous standard since they will do little to achieve compliance and reduce legal liability of the permittees or those who are paying the substantial portion of this tax.

Priority should be given to projects that achieve TMDL's, WMP's and EWMP's.

Additionally, a cap needs to be placed on how much of these funds can be expended on soft-costs such as administration, planning, design and overhead. It was agreed in the previous measure that the cap would be 5%.

The municipal program needs to have very specific criteria as well, although it may not need to be the same criteria as the regional program. Some programs could be identified for automatic funding such as street sweeping, storm drain inserts, projects in the adopted E/WMP, etc. With over 85 local jurisdictions receiving money there needs to be some standards to make sure that the highest priority water quality projects occur early in the program. There also needs to be a maintenance-of-effort provision to avoid this new funding being used to "backfill" funds already committed to compliance efforts.

To be eligible for funding, all projects must be part of the regional or municipal adopted plan. The scoring criteria must be rigorous and equally applied in an objective fashion. We would propose that the weighting of the criteria be allocated at 50% for water quality, 25% for water supply, 15% for co-funding and 10% for community enhancements/multi-benefits.

Funding Revisions to the Basin Plan

Provisions should be included in the County 10% set aside to assure a minimum of \$30 million spread over several years is available to fund scientific and technical analysis to substantially update the decades old Basin Plan. Many of the current beneficial uses and TMDLs are based on little or no science and are incorrect and inappropriate. This finding was also the conclusion of a recently completed state audit.

Such an effort will significantly reduce the cost to comply without endangering water quality. Without such a provision is it unlikely that the business community could support this tax. A recent state audit has found that many compliance costs are excessive and inappropriate, and there is insufficient science to support many of the beneficial use designations and Total Maximum Daily Load limitations.

Funding and completing this effort is a critical requirement for the business community.

Governance

The proposed Hybrid Map of regional watersheds and E/WMP boundaries would appear to be a reasonable way to begin establishing the regional authorities for input on the expenditure of the 50% portion of the tax. Some method should be established to adjust the boundaries if necessary over time.

The regional bodies appear disproportionally weighted to municipal agencies and lack sufficient business representation. There needs to be more private sector representation. We would propose that there be established a minimum list of "skills" that each board should contain such as, finance, legal, audit, construction, architectural, design, planning, engineering, water quality and that public members be appointed with these skills.

There also needs to be a clear definition of a "regional project" that is subject to the jurisdiction of the regional bodies.

Projects funded for NGO's should be subject to the same indemnification, hiring, wage, reporting and contracting requirements as the other funding recipients. Furthermore, agencies that fail to expend their funds in a timely manner should be at risk of losing their allocation.

Credit, Rebate and Incentive Programs

Properties that have already met their storm water requirements as a part of their new or redevelopment should be exempt from the tax. Anyone who decides to retrofit their property to meet storm water standards should also be exempt from the tax. Thus, there must be an efficient mechanism for individual property owners who have met their water quality requirements under the MS4 permit, at their own expense, to seek exemption from the tax. Properties that are paying a permit fee to the regional board should also be eligible for a reduction or exemption from the tax.

Additional issues of concern for BizFed is that every jurisdiction must allow the pass-thru of this tax to the tenants of the property in order to receive funds. All parcels which are exempt from the tax must purchase credits in order to have their waters included in a funded project. A credit trading program needs to be established to allow any developed parcels to join with developing parcels or regional projects to share the cost of facilities with credits or "In Lieu" fees to manage the storm water from all of the parcels.

Parcels in jurisdictions which have already established storm water taxes should be allowed to reduce their obligation by the amount of the current charges. Cities that have already adopted taxes and fees for storm water should have an option to opt-in or opt-out of the County tax.

Disadvantaged Communities, Equity & Ongoing Stakeholder Involvement.

A definition of "disadvantaged community" needs to be developed that has some direct nexus to the tax and a water quality disadvantage. The boundaries of the disadvantage communities also need to be addressed. Is it a neighborhood, or an entire city? Municipalities are already receiving an allocation of 90% of the dollars generated by their taxpayers. Increasing that allocation means taking a portion of someone else's share. No case has been made that a "disadvantaged" community would benefit from an additional allocation of storm water funds nor that they could put it to greater benefit for the community or the region.

Construction Authority

Many jurisdictions, including the regional funding bodies have no ability to plan, design or contract for delivery of a project. There should be a regional Construction Authority established to perform these tasks to avoid duplicative administrative costs. This Authority could also provide oversight and standardized designs to save money and minimize long term operating costs. The precedent for this has

already been established by the ACE Construction Authority and the Gold Line Construction Authority. Completed projects could then be turned over to the Flood Control District for operation and maintenance.

Statutory Changes

The Board of Supervisors needs to support Legislation which will exempt these projects from CEQA; authorize the Regional Board to accept funding to update the Basin Plan; and allow public agencies to award grants to CBO's for local projects. Many of these projects will face years of delay if there is no CEQA law suit abuse relief. These projects are pollution reduction measures that generate little or no other environmental impacts.

Further the County should support legislative action on the recommendations of a recent state audit of the Regional Boards which concluded that the Regional Water Boards should support changes that would reduce local jurisdictions costs. The audit recommended *"that the Legislature amend state law to direct the State Water Board to assess whether a study of a specific water body is justified and to require the appropriate regional board to ensure that the study is conducted....and seek additional funding from local jurisdictions to conduct studies if it believes additional resources are needed."*

Federal relief should also be sought to allow storm water transfer and conveyance using the existing flood control system for purposes of treatment or reuse. There should be a limit to legal action on compliance lawsuits for self-help counties by requiring a finding by the Regional Board that an agency is not acting in good faith or with due diligence in implementing their E/WMP before a third party may initiate an enforcement lawsuit. The Regional Board needs to be included in the discussions to provide assurances that the imposition of this tax will provide safe harbor for those jurisdictions that are working in good faith and with due diligence to implement their WMP's and EWMP's.

Up to this point the Advisory Committee process has generated considerable input and ideas but there has been little consensus or conclusion to any of the discussions. In the end, all that matters are the actual language of the ordinance and the ballot summary language to be submitted to the voters. Without viewing the actual language of the ordinance, it is impossible to know what the County intends to propose or to be able to provide a thoughtful response. It now appears that language will not be available until early May. That provides very limited time to prepare a thoughtful response before the deadline to place a measure on the ballot. It might be prudent to consider a different election date than November of 2018.

As always, BizFed is a committed partner and is willing to continue dialogue, provide feedback and commentary to help the County of Los Angeles to produce a measure that is beneficial to all stakeholders and the business community. If you have any questions, please contact BizFed's Advocacy Director, De'Andre Valencia @ DeAndre.Valencia@BizFed.Org.

Sincerely,



Hilary Norton
BizFed Chair
Fixing Angelenos
Stuck in Traffic (F.A.S.T)



David Fleming
BizFed Founding Chair



Tracy Hernandez
BizFed Founding CEO
Impower, Inc.

cc:
Supervisor Mark Ridley-Thomas
Supervisor Janice Hahn
Supervisor Hilda Solis
Supervisor Kathryn Barger
Mark Pestrella, Director of DPW