



CAC Item C5
Staff Report Item 12

TO: East Bay Community Energy Board of Directors

FROM: Melissa Brandt, Senior Dir. of Public Policy and Deputy General Counsel

SUBJECT: Approval of Legislative Positions (Action Item)

DATE: March 17, 2021

Recommendation

Receive an update on EBCE’s Legislative Program and Senate Bill (“SB”) 612, and take a “support” position on Assembly Bill (“AB”) 427 (Bauer-Kahan), AB 525 (Chiu), AB 843 (Aguiar-Curry), AB 1539 (Levine), anticipated budget bill (Ting), SB 31 (Cortese), SB 52 (Dodd), SB 99 (Dodd), SB 345 (Becker), and SB 551 (Stern), and a “support if amended” position on AB 1087 (Chiu).

Background and Discussion

In July 2018 the EBCE Board approved a Legislative Program which outlined three general legislative principles and five more specific public policy positions, as well as guidance for legislative policy coordination. The Legislative Program has been updated with a few clarifications and edits to names/addresses, however the principles and positions are the same. EBCE’s updated Legislative Program is provided for reference as an attachment to this item.

At the February 26, 2021 EBCE Board Executive Committee Meeting, the committee approved taking a “support” position on SB 612 (Portantino). SB 612 was amended as anticipated, on March 9, 2021, and is sponsored by the California Community Choice Association (“CalCCA”). The bill language will ensure fair and equal access to the benefits of legacy resources held in investor-owned utility (“IOU”) portfolios and address the management of the resources to maximize value for all customers. SB 612 aims ensure that Community Choice Aggregation (“CCA”) customers receive the benefits associated with the departed load costs they bear. EBCE sent a letter in support of SB 612 to the author’s office on March 1, 2021.

Recommended EBCE Bill Positions:

- **SUPPORT:** AB 427 (Bauer-Kahan) would require the California Public Utilities Commission (“CPUC”) to establish rules around resource adequacy (“RA”) counting for resources that are not participating in the wholesale energy market. It would allow behind-the-meter distributed energy resources (“DERs”) to deliver RA and require the establishment of a capacity valuation methodology for behind-the-meter energy storage and hybrid resources. Many of our DER partners have been seeking changes to the CPUC’s RA counting methodology to ensure their resources get full credit for the reliability value they provide. Bauer-Kahan is a member of EBCE’s legislative delegation. Supporting her bill would potentially enable local DER providers to produce and sell more qualifying RA.
- **SUPPORT:** AB 525 (Chiu) would require the California Energy Commission (“CEC”) to develop a strategic plan to achieve at least 10,000 MW of offshore wind off the California coast by 2040, with at least 3,000 MW by 2030. It would also require the CPUC to include offshore wind in its IRP analysis. Sen Eggman, a member of EBCE’s legislative delegation, is a co-author. The bill is sponsored by the American Clean Power - California Association and the Coalition of Utility Employees. The state may be able to leverage federal activity and funding in support of increased offshore wind development. EBCE could benefit from the development of additional renewables options in California that support grid reliability and from reductions in the cost of offshore wind energy products as the technology matures.
- **SUPPORT:** AB 843 (Aguiar-Curry) would allow CCAs to enter into Bioenergy Market Adjusting Tariff (“BioMAT”) contracts and recover related costs through the existing nonbypassable charge for the CPUC’s BioMAT program. This bill is sponsored by several CCAs. EBCE is not interested in contracting for BioMAT at the moment. However, allowing CCAs to utilize the same cost recovery mechanism that the IOUs use for public purpose-oriented procurement on behalf of the public good sets a positive precedent; EBCE staff accordingly recommends supporting this bill.
- **SUPPORT IF AMENDED:** AB 1087 (Chiu) would reallocate funding from the California Climate Credit towards a new streamlined grant program for climate resiliency oriented building upgrades to “community hubs”. This bill is sponsored by the Asian Pacific Environmental Network, Natural Resources Defense Council, and California Environmental Justice Alliance, and the goal is to assist disadvantaged community customers through increased access to resilience programs. The bill currently relies on the IOUs or a third-party administrator to administer the grants and provide technical assistance to customers; EBCE would seek an amendment that would allow CCAs to administer grants and provide technical assistance to the communities that the CCA serves, streamlining the grant process and providing value due to the CCA’s deeper connections with its customers and communities.

- SUPPORT: AB 1539 (Levine) would require that the Electric Vehicle Infrastructure Training Program courses remain available in an online format indefinitely instead of through 12/31/2024. The CEC would be required to reasonably assess the reasonableness of the fees assessed by the program. EBCE is expecting its CALeVIP grantees to utilize the training program for contractor certification and finds value in ensuring the training remains available post-2024.
- SUPPORT: Anticipated draft budget bill (bill number TBD) (Ting) would reallocate funds collected and unencumbered for the New Solar Homes Partnership (“NSHP”) Program to two programs to be administered by the Energy Commission: Grid-Smart New Solar Homes Program (72%) and the Local Permitting Support Program (28%). The Grid-Smart program would offer incentives for residential buildings with grid-responsive technology or energy storage systems. The Local Permitting Support program would offer local governments grants to adopt automated permitting systems, including remote inspections and trainings, to support reducing GHG emissions from homes. The NSHP funds are unused, and this bill would ensure that the funds are applied towards supporting residential building decarbonization. This bill language is in draft form and hasn’t gone to Leg Counsel yet; NRDC appears to be a sponsor. EBCE staff is recommending supporting the bill once it is in print assuming it doesn’t change substantially from the draft form.
- SUPPORT: SB 31 (Cortese) would require the CEC to identify and implement programs to promote existing and new building decarbonization. It would authorize expending federal funds for these projects. Furthermore, it would require the CEC under its EPIC program to award funds for projects benefiting electric ratepayers and leading to development of building decarbonization technologies and investments to reduce greenhouse gases in those buildings. EBCE staff recommend support as the bill would support additional funding, which is one of the biggest obstacles to building decarbonization efforts today.
- SUPPORT: SB 52 (Dodd) would expand the definition of sudden and severe energy shortage to include deenergization events. This would make a deenergization event a condition constituting a state of emergency and a local emergency, enabling state and local government action and resources. EBCE staff recommends supporting as deenergization events can be disruptive for our communities and this change in definition would give our local governments enhanced tools for responding.
- SUPPORT: SB 99 (Dodd) would require the CEC to develop and implement a grant program for local governments to develop community energy resilience plans. EBCE staff recommends supporting, as our cities may benefit from the technical guidance and financial assistance enabled by the CEC grants.

- **SUPPORT:** SB 345 (Becker) would require the CPUC to establish common definitions of nonenergy benefits, and incorporate those common definitions into DER programs and projects. Importantly, the bill would require that the nonenergy benefits produced are tracked in DER program evaluations. This bill is supported by Greenlining Institute, 350 Silicon Valley, California Housing Partnership, California League of Conservation Voters, Courage California, Environmental Defense Fund, GRID Alternatives, Menlo Spark, NRDC, People Organizing to Demand Env. & Economic Rights, Rising Sun Center for Opportunity, Self-help Enterprises, and Voices for Progress. EBCE staff recommends supporting because a more rigorous and sustained commitment to measuring and assessing nonenergy benefits of DER programs could ensure that environmental justice communities have more equitable access to programs, and aligns well with EBCE's Local Development Business Plan which also takes into account nonenergy benefits of EBCE's investments.
- **SUPPORT:** SB 551 (Stern) would establish a new California Electric Vehicle Authority in the Governor's office, enabling better state agency coordination on deployment of EVs and zero emission charging infrastructure. The authority would also be tasked with creating funding and financing tools to support deployments, and with prioritizing equity. This bill is sponsored by Los Angeles Cleantech Incubator (LACI) and Transportation Electrification Partnership (TEP). EBCE staff helped participate in the development of the bill idea through its participation in the TEP. As many agencies are implementing EV programs but without much central coordination, EBCE staff believe that funding and effectiveness of deployment could be improved through additional coordination in the Governor's office.

Fiscal Impact

SB 31 may result in additional funding for building decarbonization through the CEC. SB 99 may result in additional grant funding for local governments. SB 551 may result in additional funding and financing tools to support deployment of electric vehicles.

Attachments:

- A. March 17, 2021 Legislative Update
- B. EBCE Legislative Program

MARCH 17, 2021

Legislative Update



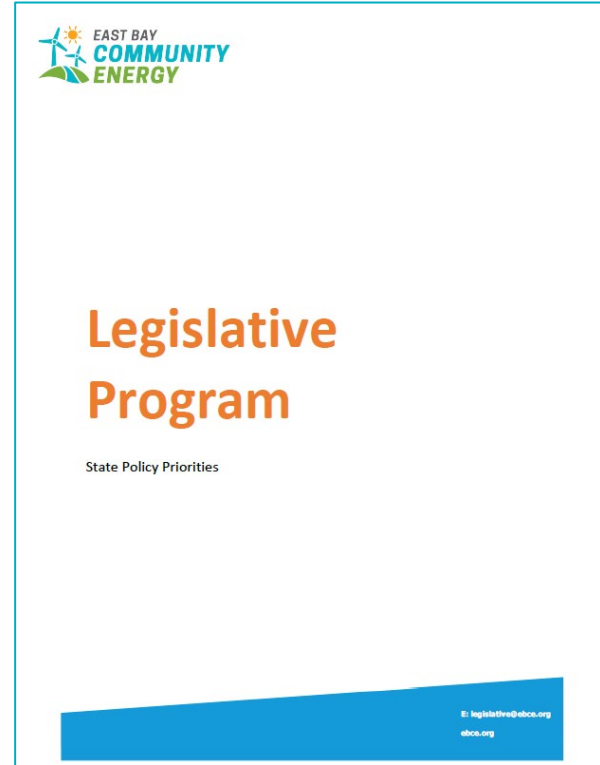
EBCE's Legislative Program

First Approved by the EBCE Board in 2018

Updated March 2021 with clarifying edits and updates to EBCE Board
Members and staff contact information

General Legislative Principles

- Accelerating Decarbonization
- Promoting Local Development
- Stabilizing Community Choice



EBCE's Legislative Program

EBCE Public Policy Positions

Nonbypassable Charges

Disadvantaged Communities

Environmental Sustainability

Finance

Educational, Neighborhood, and Social Services

Key Deadlines for the 2021 Legislative Year

- 1/8: Governor submitted budget
- 1/11: Legislature reconvened
- 2/19: Bill introduction deadline
- 4/30: Policy cmtes to move fiscal bills to fiscal cmtes (1st house)
- 5/7: Policy cmtes to move nonfiscal bills to floor (1st house)
- 5/21: Fiscal cmtes must move bills to floor (1st house)
- 6/4: Each house to pass bills introduced in that house
- 6/15: Budget bill must be passed
- 7/14: Policy cmtes to meet and report bills (2nd house)
- 8/27: Fiscal cmtes to move bills to floor (2nd house)
- 9/10: Last day for each house to pass bills
- 10/10: Last day for Governor to sign/veto bills

Key Energy Themes Emerging in 2021

Building Decarbonization

Clean Energy + Storage – technologies, counting rules, tariffs

De-Energization

Grid Reliability / Resource Adequacy

Central Procurement

Equity

Adopted Bill Positions

Bill #	Author	Description	Status	EBCE Position
SB 612	Portantino	CalCCA-sponsored bill: Requires electrical corporations to annually offer for the following year an allocation of each product arising from legacy resources that departed load customers currently bear cost responsibility for through the PCIA. Requires the CPUC to recognize and account for the value of all products in the legacy portfolio in determining the PCIA. Requires electrical corporations to conduct an annual solicitation to seek modifications from any willing parties to existing electricity purchase agreements to reduce the total procurement costs on a present value basis over the remaining life of the agreements.	Amended 3/9; awaiting cmte referral	SUPPORT: letter sent 3/1

Recommended Bill Positions – Assembly

Bill #	Author	Description	Status	Recommended EBCE Position
AB 427	Bauer-Kahan	Requires CPUC to establish rules governing the intersection of demand response, energy storage including customer-sited distributed generation plus storage, and RA.	Asm U&E Cmte	SUPPORT
AB 525	Chiu	Requires CEC to develop plan to achieve 10,000 MW offshore wind by 2040; requires CPUC to include offshore wind in IRP.	Asm U&E Cmte	SUPPORT
AB 843	Aguiar-Curry	Allows CCAs to enter into Bioenergy Market Adjusting Tariff (BioMAT) contracts and recover related costs through the existing nonbypassable charge for the BioMAT program.	Asm U&E Cmte	SUPPORT
AB 1087	Chiu	EJ Community Resilience Hubs. Reallocates funding from CA Climate Credit towards streamlined grant program for climate resiliency improvements to buildings that constitute community hubs. Building upgrades such as improved bldg insulation, clean energy microgrids installation for backup power, and air filtration systems to combat wildfire smoke.	Asm U&E Cmte	SUPPORT IF AMENDED
AB 1539	Levine	Requires CEC's EV infrastructure training course to remain available in an online format indefinitely.	Asm U&E Cmte	SUPPORT
TBD	Ting	Draft – not yet in print. Bill concept is to reallocate unused funds from the New Solar Homes Partnership Program and apply them to two new programs to be administered by the CEC for residential building decarbonization efforts and grants to local governments to adopt automated permitting systems to support reducing home GHG emissions.	Budget Bill – likely to be heard in cmte week of 3/22	SUPPORT

Recommended Bill Positions – Senate

Bill #	Author	Description	Status	Recommended EBCE Position
SB 31	Cortese	Requires CEC to identify/implement programs to promote existing & new building decarb. Would authorize expending fed funds for these projects. Would require CEC under EPIC to award funds for projects benefiting electric ratepayers & leading to development of building decarbonization technologies and investments to reduce GHG in those bldgs.	Sen EUC Cmte hearing 3/15	SUPPORT
SB 52	Dodd	Expands sudden and severe energy shortage definition to include deenergization events, constituting state of emergency and local emergency.	Sen Approps Cmte hearing 3/22	SUPPORT
SB 99	Dodd	Community Energy Resiliency Act of 2021. Requires the CEC to develop and implement a grant program for local govts to develop community energy resilience plans.	Sen EUC Cmte	SUPPORT
SB 345	Becker	Requires the CPUC to establish common definitions of nonenergy benefits, incorporate into DER programs and projects, and track nonenergy benefits produced in DER program evals.	Sen EUC Cmte hearing 3/15	SUPPORT
SB 551	Stern	Establishes California EV Authority in the Governor's office, responsible for coordinating state agency activities to deploy EV and zero emission charging infrastructure, create funding/financing tools to support deployments, prioritize equity	Sen Governmental Org Cmte	SUPPORT

Bill Tracker Highlights - Assembly

Bill #	Author	Description	Status	EBCE Position
AB 64	Quirk	Requires agencies to develop strategy to achieve zero-carbon electricity policy in cost-effective and environmentally friendly manner, including energy storage methods/technologies.	Asm U&E Cmte	WATCH
AB 965	Levine	Requires Dept of Housing and Community Devel to update CALGreen to ensure EV charging infrastructure for parking spaces in existing multifamily dwellings and nonresidential development.	Awaiting referral	WATCH
AB 1088	Mayes	Establishes CA Procurement Authority to fill in procurement gaps if LSEs lack adequate RA and IRP resources; serves as POLR if IOU exits retail service.	Asm U&E Cmte	WATCH
AB 1139	Gonzalez	Increases avg CARE discount level. Repeals current NEM tariff and requires new NEM tariff based on wholesale rates.	Asm U&E Cmte	WATCH
AB 1161	E.Garcia	Requires Dept of Water Resources (DWR) to procure 100% of electricity for state agencies by 12/31/2030. Requires LSEs to provide confidential pricing info to DWR.	Asm U&E Cmte	WATCH
AB 1317	Berman	SPOT BILL: Intent to accelerate state's progress towards 100% renewable/zero-carbon electricity.	Awaiting amendments	WATCH
AB 1389	Reyes	SPOT BILL: intent to modify the Alternative and Renewable Fuel and Vehicle Technology Program (AB 8).	Awaiting amendments	WATCH

Bill Tracker Highlights - Senate

Bill #	Author	Description	Status	EBCE Position
SB 18	Skinner	Requires ARB to prepare strategic plan for accelerating green hydrogen.	Sen EUC Cmte hearing 3/15	WATCH
SB 32	Cortese	Requires cities/counties to amend elements of general plans to decarbonize newly constructed commercial & residential bldgs.	Sen Governance & Finance Cmte	WATCH
SB 67	Becker	Accelerates 100% renewable/zero-carbon goals on a 24/7 basis.	Sen EUC Cmte	WATCH
SB 68	Becker	Requires CEC to develop guide for electrification of bldgs and report on barriers. Authorizes EPIC \$ for reducing costs of bldg elec. Requires CPUC to est timeframe for EDUs to respond to elec service upgrades/extensions, and report on failure to meet timeframes. CPUC to assess penalties for failures.	Awaiting referral	WATCH
SB 204	Dodd	Clarifies that an IOU can allow anyone in their service territory to enroll in its Base Interruptible Program (BIP). Allows the CPUC to increase incentive levels. CPUC should consider revising from supply-mod DR to a load-mod DR resource.	Sen EUC Cmte hearing 3/15	WATCH
SB 423	Stern	Requires CPUC and CEC to bolster reliability and resiliency of grid & reduce local air pollutants & GHG emissions. CPUC to ensure reliability during multi-day extreme or atypical weather events. CPUC to encourage development of renewable energy resources at the necessary pace.	Sen EUC Cmte	WATCH
SB 533	Stern	Requires IOU collaboration with CCAs on microgrid development. Requires CPUC/CAISO to develop methodology for counting RA from distributed energy storage.	Sen EUC Cmte	WATCH
SB 582	Stern	Accelerates statewide GHG emissions reduction goals	Awaiting amends	WATCH
SB 617	Wiener	Requires local jurisdictions to provide online instant solar permitting process and remote inspections for residential solar or solar+storage	Sen Governance & Finance Cmte	WATCH

Next Steps

- Continue to review and analyze bills and amendments
- Send position letters for bills once EBCE formally takes a position
- Monitor existing bills on our watch list; determine when EBCE should formally take a position
- Monitor Governor's Budget request: \$1.5B for Zero Emission Vehicles (ZEV):
- Engage with CalCCA on legislative efforts
 - Collaborate with CalCCA on SB 612



Legislative Program

State Policy Priorities

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Introduction

The East Bay Community Energy Legislative Program outlines the legislative priorities and stances of East Bay Community Energy (“EBCE”) with the intent to inform customers, representatives, and policymakers of EBCE’s stances on the myriad of public policies that intersect with EBCE’s priorities, programs, and services. These priorities are applicable to legislation, statewide referenda, grant funding opportunities, and local ballot initiatives.

EBCE has three major legislative priorities: Accelerating Decarbonization, Promoting Local Development, and Stabilizing Community Choice. EBCE support of legislation will be contingent upon that legislation adhering to these priorities as well as EBCE’s priorities.

Moreover, EBCE supports any and all policies that will preserve or enhance the ability of EBCE to promote these priorities at the local level.

This document provides direction to EBCE’s legislative advocates in Sacramento. Additionally, this document serves as the foundation for any EBCE Board action regarding Federal or State legislation or funding opportunity. Staff may draft letters, direct our legislative advocates, or speak on behalf of EBCE regarding the legislative priorities this document outlines.

Any correspondence signifying EBCE’s support or opposition of a given bill must be approved by the EBCE Board of Directors, the Board’s Executive Committee, or the CEO in accordance with the delegation of authority provided by the Board to the CEO on time-sensitive matters.

Any questions regarding this Legislative Program can be directed to Melissa Brandt, Senior Director of Public Policy and Deputy General Counsel, at 510-570-5110 or mbrandt@ebce.org.

Sincerely,
Nick Chaset

Chief Executive Officer, EBCE



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General Legislative Principles

EBCE has three general legislative principles. These priorities serve as the foundation for all actions EBCE will take, including the lobbying for policies that promote those same guiding priorities.

Public policy encompasses a myriad of subject and topic areas. However, as these policies intersect at the local level, they have the ability to impact EBCE revenues, programs, and/or administrative discretion and control. EBCE will support policies that accelerate decarbonization, promote local development, stabilize community choice, or any combination thereof. If a given policy does not meet these criteria, EBCE will oppose, support with amendments, or in some cases take no stance on that policy or legislation.

The General Legislative Principles for EBCE are:

Accelerating Decarbonization

- Support the creation or expansion of federal, state, and local policies and programs that enable EBCE to contribute to the State's efforts to reduce greenhouse gas emissions.
- Oppose any legislation, policies, programs, referenda, unfunded mandates and budgets that would have an adverse impact on EBCE's ability to advance decarbonization through its procurement, programs, projects, and services.

Promoting Local Development

- Support any legislation, policy, referenda, and budgets that enhance community choice energy providers' ability to invest in local clean energy, distributed energy resources, and zero-emission transportation, and promote equity in the communities that it serves.
- Oppose any legislation, policy, referenda, and budgets that limit or undermine EBCE's ability to invest in local clean energy, distributed energy resources, and zero-emission transportation, and promote equity in the communities that it serves.

Stabilizing Community Choice

- Support any legislation, policies, referenda, and budgets that maintain or improve the stability of community choice energy providers by ensuring regulatory structure is equitable and enables CCE to meet its mission and goals.
- Oppose any legislation, policies, referenda, and budgets that undermine or circumvent community choice energy and impede the ability of the agency to achieve its mission and goals or its value proposition.



EBCE Public Policy Positions

The General Legislative Priorities help identify which public policy positions EBCE will take.

The list of policy positions below is by no means exhaustive. In addition to the general legislative priorities, EBCE takes the following more specific public policy positions:

1.1 Nonbypassable Charges

- A. Oppose legislation that restricts or limits EBCE's ability to procure its own energy products to meet state policy goals.
- B. Oppose legislation that increases or is likely to lead to an increase in nonbypassable charges.
- C. Support legislation that promotes a level playing field between community choice aggregators and other market participants.
- D. Support legislation that enhances the flexibility of community choice energy providers to support statewide procurement policy and develop and expand programs, local options, and rate design to support EBCE's community and customers.

1.2 Disadvantaged Communities

- A. Support legislation and initiatives that boost funding for new energy projects that support disadvantaged communities and low-income customers within EBCE's service territory.
- B. Support legislation and initiatives that increase access and funding for energy-related programs serving disadvantaged communities.
- C. Support legislation and initiatives that would reduce local air pollution, reduce other negative local impacts associated with energy production, and boost adoption of distributed energy resources within disadvantaged communities.
- D. Oppose legislation and initiatives that have the potential to disproportionately and negatively impact EBCE's disadvantaged communities and/or low-income customers.

1.3 Environmental Sustainability

- A. Support legislation and initiatives that increase funding for the creation of sustainable and stable energy supply infrastructure.
- B. Support legislation and initiatives that encourage the conservation of energy resources as well as the development of dynamic load-shifting capabilities.
- C. Support legislation and funding for renewable and advanced energy technology that increase efficient consumption.
- D. Support legislation and funding for pilot energy and resource efficiency programs.
- E. Support legislation and initiatives with the goal of reducing and mitigating the effects of climate change and building local resiliency.



1.4 Finance

- A. Support legislation that enhances the financial standing of community choice aggregators and their ability to receive a positive credit rating.
- B. Oppose legislation that reduces or removes the tax-exempt status of municipal bonds.
- C. Oppose any legislation that would divert community choice energy revenues to the State or other governmental entities.

1.5 Educational, Neighborhood and Social Services

- A. Support legislation that aids or helps to fund EBCE to provide energy support services, education, and opportunities for reducing energy costs to people who are low-income, seniors, veterans, and/or people with disabilities.
- B. Support legislation and initiatives that increase funding for energy efficiency, demand response, solar plus storage, and transportation electrification programs, and energy literacy services.



Legislative Program Coordination

Legislation can be brought to the attention of EBCE through a variety of channels:

- State Legislative Advocates
- Elected Representatives
- CalCCA
- EBCE Board Members
- EBCE Staff
- EBCE Community Advisory Committee
- EBCE Customers and Community Members
- Other Governmental Associations

All legislative requests for support or opposition will be directed toward EBCE's Public Policy department. EBCE staff will then review the legislation in coordination with any relevant departments to analyze whether or not the legislation aligns with EBCE's general legislative priorities. Staff will then monitor and track the legislation, providing updates when necessary.

Concurrent with this evaluation, EBCE's Public Policy department will recommend a position and course of action. There are six main levels of action, which may be taken independently or in combination, but all of which are coordinated by the Senior Director of Public Policy or their designee:

- 1. Direction to lobbyists to advocate in support, support with changes, or opposition to legislation**
 - Pursuant to direction from the EBCE Board of Directors, the Board's Executive Committee, or the CEO in accordance with the delegation of authority provided by the Board to the CEO on time-sensitive matters, EBCE staff will notify lobbyists of EBCE's stance on legislation and direct them to take appropriate action with legislators. EBCE may remain neutral on a given piece of legislation.
- 2. EBCE correspondence with relevant legislators**
 - In conjunction with providing direction to lobbyists once EBCE has determined its stance on legislation, EBCE staff will send a support or opposition letter to the appropriate legislators.
- 3. EBCE Board-approved resolution**
 - EBCE staff will draft a staff report and resolution for consideration by the full EBCE Board of Directors. Approved resolutions will be forwarded along with a letter signed by the Chief Executive Officer or his/her designee to the appropriate legislators.
- 4. EBCE Board outreach**
 - EBCE staff will draft talking points and other relevant information for individual Board Members to personally contact appropriate legislators to advocate on behalf of EBCE.
- 5. Travel to Sacramento or Washington, D.C**
 - EBCE staff and/or Board Members may decide to advocate in person. Staff will coordinate with the appropriate lobbyists to organize meetings or attendance at other lobbying events.
- 6. Draft or Sponsor Specific Legislation**
 - EBCE staff and legislative advocates will work with EBCE's legislative representatives to articulate EBCE's stance on a policy and to ensure said stance is codified in statute.