

VALLEY CLEAN ENERGY ALLIANCE**Staff Report – Item 14**

To: Board of Directors

From: Mitch Sears, Executive Officer

Subject: Update VCE Legislative and Regulatory Policy and Procedure

Date: June 9, 2022

RECOMMENDATION

Adopt the resolution updating VCE's Legislative and Regulatory Policy and Procedure.

BACKGROUND and ANALYSIS

Since the VCE Board adopted the original Legislative policies and procedures in March 2018 for how VCE adopts positions on proposed legislation and regulations, VCE's advocacy structure and capabilities have matured. The original 2018 policies and procedures are attached for reference (Attachment 1). The initial policy/procedure was adopted *before* VCE took the following steps to enhance its effectiveness in the legislative (and regulatory) arena:

- Contracted with a professional lobbyist to represent VCE's interests before the Legislature. The lobbyist meets regularly with staff and the Leg/Reg Task Group to consider proposed legislation, impacts on VCE and possible VCE positions.
- Engaged a law firm to monitor key regulatory issues impacting CCAs, including advising VCE and periodically helping VCE to engage.
- Adopted (2020), and annually updated, a Legislative Platform to help guide VCE's policy engagement. VCE also adopted a Strategic Plan and an Environmental Justice Statement in 2021 that help guide VCE's legislative and regulatory policy.
- Established regular twice-monthly meetings of the Community Advisory Committee's (CAC) Legislative and Regulatory Task Group (LRTG) to assist staff and VCE's lobbyist in analyzing proposed legislation and regulations and to suggest strategic approaches to advancing VCE's interests.
- Regularly connected with VCE's Assembly Member and Senator, including their staff, on issues critical to VCE.
- Involved members of VCE's board of directors to directly lobby on legislation critical to VCE.

In addition, since 2018, VCE has been a member of CalCCA which has enhanced its legislative and regulatory team over the past several years so that it has a stronger presence in the legislative and regulatory arenas. This allows VCE to join with other CCA's to give a focused, robust voice on issues before the Legislature and regulatory bodies. Information on CalCCA's policy activities and structure can be found on their website at: [Policy – CalCCA \(cal-cca.org\)](http://cal-cca.org)

Proposed Updated Policy and Procedures

In light of these changes and after four years of experience, the following updated policies and procedures are proposed to guide VCE's engagement on legislative and regulatory issues. Note: due to the time constraints of legislation and the need to frequently take action quickly, the majority of the following policies and procedures apply to legislation, unless otherwise mentioned.

Policy

1. Working with staff and in consultation with and input from the LRTG, each legislative session, VCE's lobbyist will identify proposed legislation that may impact VCE. The Bills selected by VCE for potential action/monitoring will consider those identified by CalCCA, as well as others that may impact VCE. They will be divided into Priority 1, Priority 2 and Priority 3 categories as generally defined below. Note: factors such as available staffing and resources will determine the number of bills and level of engagement during a legislative session.
 - a. Priority 1: Active Advocacy – Direct Connection to VCE Mission/Strategic Plan Goals. Bills that have a direct connection to VCE Mission/Strategic Plan Goals and thus warrant VCE taking a position and actively advocating for that position. These bills include those sponsored by CalCCA (or VCE), those authored by VCE's Assembly Member or Senator where VCE's engagement is strategically beneficial to VCE, and those where VCE anticipates the need for active involvement by VCE Board Members.
 - b. Priority 2: Engagement/Focused Monitoring – Issues Related to VCE Mission/Strategic Plan Goals. Bills that warrant focused monitoring and potential support or opposition as the bills may impact VCE's Mission/Strategic Plan Goals if amended or if amendments sought by CalCCA are not accepted. Priority 2 bills may become Priority 1 bills at any time.
 - c. Priority 3: Monitoring - Minimal direct or indirect impact on VCE Mission/Strategic Plan Goals but warrant monitoring as they address broader energy, utility, climate and/or sustainability topics. Priority 3 bills may become Priority 2 or 1 bills at any time.
2. Where appropriate, VCE will follow the positions adopted by CalCCA. In some instances VCE may choose to adopt a different position from that of CalCCA or may adopt positions on bills on which CalCCA has not adopted a position.

3. For CalCCA sponsored bills, and if time permits, those that CalCCA supports and opposes, as well as other Priority 1 bills, staff will seek CAC review and recommended VCE position prior to forwarding recommendations on the bill to the VCE board of directors for adoption of a VCE position.
4. The VCE board of directors will designate two board members (if not affirmatively designated then by default, Chair and Vice Chair) and the Executive Officer as having the authority to act on proposed legislation and regulations if time-sensitive action is necessary and it is not feasible to wait for the full board to consider the bill or regulation. The board will affirm the subcommittee's action at its next scheduled meeting. The LRTG and CAC will also be updated at their next meetings.

Procedures

- a. Where feasible time-wise, Priority 1 and 2 bills will be considered by the LRTG to provide technical, policy and strategic input and if appropriate, a suggested VCE position. This may be accomplished at the LRTG's regular meetings, or through email or special meetings when action is time critical.
- b. Staff will strive to refer the bills that have been considered by the LRTG to the CAC prior review by the VCE board for adopting a position. However, given the constraints that may impact VCE's effective legislative engagement, staff may bypass the CAC or LRTG in recommending a VCE position. If this occurs, staff will update the LRTG and CAC at their next meeting about the board's action.¹
- c. For proposed regulations, staff will work with CalCCA and VCE's regulatory consultant to determine whether VCE engagement is warranted. Because the regulatory process is typically not as compressed as the legislative process, regulations in which VCE may be involved, either as a party to a proceeding or as a commentor with CalCCA will, where possible, be considered by the LRTG, CAC and board of directors.
- d. Periodically, staff will report to the CAC and board of directors on VCE's legislative and regulatory activities.
- e. VCE's legislative letters and comments on regulatory proceedings will be posted on the [Legislation page](#) of the VCE website.

¹ Involving the LRTG, CAC and full VCE board in adopting a VCE legislative position may take 3-5 weeks, thus conflicting with the frequent need to act quickly due to recent amendments, failed negotiations to secure amendments or upcoming committee hearings. In such instances, staff may involve the board subcommittee described in #4 above to adopt a VCE position and implement follow-up action such as letters and lobbyist activities.

CAC Recommendation

Staff provided an updated Legislative and Regulatory Policy and Procedure to the CAC at their May 26, 2022 meeting. The policy and procedures were reviewed by the CAC and minor modifications were suggested which have been incorporated into the final recommended draft. The CAC recommend that the Board approve the attached updated Legislative and Regulatory Policy and Procedure (9-0-0).

CONCLUSION

Legislative and regulatory decisions have direct and indirect impacts on VCE and the CCA business model. Effective, timely, and efficient engagement by VCE is important to ensure that VCE is able to register it's views on critical issues. The proposed updated policy and procedures allow VCE to more effectively engage in legislative and regulatory issues.

Attachments

1. Resolution 2018-004 VCE Legislative and Regulatory Action Policy
2. Draft Legislative and Regulatory Policy and Procedure
3. Resolution 2022-XXX

VALLEY CLEAN ENERGY ALLIANCE

RESOLUTION NO. 2018-004

A RESOLUTION OF THE VALLEY CLEAN ENERGY ALLIANCE ADOPTING
A LEGISLATIVE AND REGULATORY ACTION POLICY

WHEREAS, the Valley Clean Energy Alliance (“VCEA”) is a joint powers agency established under the Joint Exercise of Powers Act of the State of California (Government Code Section 6500 et seq.) (“Act”), and pursuant to a Joint Exercise of Powers Agreement Relating to and Creating the Valley Clean Energy Alliance between the County of Yolo (“County”), the City of Davis (“Davis”), and the City of Woodland (“City”) (the “JPA Agreement”), to collectively study, promote, develop, conduct, operate, and manage energy programs; and

WHEREAS, in order to achieve its strategic goals, VCEA must monitor and respond to legislative and regulatory matters in a timely and effective manner.

NOW, THEREFORE, the Board of Directors of the Valley Clean Energy Alliance hereby adopts a Legislative and Regulatory Action Policy (Exhibit A).

ADOPTED, this eighth day of February 2018, by the following vote:

AYES: Chamberlain, Davis, Frerichs, Saylor, Stallard
NOES: None
ABSENT: Barajas
ABSTAIN: None



Lucas Frerichs, VCEA Board Chair



Zoe Mirabile, VCEA Board Secretary

Approved as to form;



Interim VCEA Counsel

EXHIBIT A - Legislative and Regulatory Action Policy

EXHIBIT A

Legislative and Regulatory Action Policy

**POLICY AND PROCEDURES RELATED TO VCEA POSITIONS ON
PROPOSED LEGISLATION AND REGULATIONS**

Subject: Policy and Procedure to identify and recommend positions on proposed legislation and regulatory matters

Purpose: The charge to the VCEA Community Advisory Committee (CAC) from the VCEA board states that the CAC should “Collaborate with VCEA staff with monitoring legislative and regulatory activities related to Community Choice Energy issues.”

This policy and procedure is designed to implement the Board’s direction by establishing a procedure for identifying the need for VCEA positions and for taking positions on identified proposed legislation and regulatory matters. This procedure is designed to enable VCEA to be nimble and to respond to requests for legislative or regulatory action in a timely manner, especially throughout the legislative session.

This policy and procedure is intended to work in conjunction with other policies allowing VCEA to respond to legislative and regulatory matters in an expedited manner .

Policy:

1. The CAC Legislative Task Group will monitor proposed regulatory and legislative actions to identify those on which a VCEA position is needed by reviewing the proposed legislation and regulations followed by CalCCA. The Task Group will also review positions recommended by CalCCA on those issues. If the CAC Task Group disagrees with a position recommended by CalCCA, the Task Group will forward its alternative recommendation, along with CalCCA’s recommended position for comparison, as well as the positions recommended by CalCCA on the remaining issues, to the CAC. The CAC will review the Task Group’s recommendations and forward its recommendations to the VCEA board. (VCEA is a member of CalCCA, a statewide trade-association representing CCAs throughout California, with a professional staff and legislative/regulatory expertise.)
2. The procedure outlined in Section 1 may be updated in the future (such as six months after launch of VCEA) to consider whether it would be beneficial to VCEA also to track and consider positions on proposed legislation and regulatory issues not included in the issues tracked by CalCCA, and if so, how VCEA would monitor the legislative and regulatory arenas to identify such issues.
3. The VCEA Board will designate two VCEA Board Members and the General Manager as having the authority to take action on proposed legislation and regulations, in consideration of the recommendations of the CAC and CalCCA, consistent with the policy adopted in Section 1 above.

4. The CAC legislative Task Group will review the materials provided by CalCCA and LEAN Energy throughout the year and will identify 2-4 high priority issues that VCEA may want to emphasize in its legislative and regulatory outreach efforts. The CAC will recommend criteria to explain why a bill or proposed regulation is considered a priority and will propose these criteria to the Board.

VALLEY CLEAN ENERGY

LEGISLATIVE AND REGULATORY POLICY AND PROCEDURE

(Updated _____ 20XX)

Purpose

Provide an updated guide to Valley Clean Energy's engagement in legislative and regulatory issues.

Policy

1. Working with staff and in consultation with and input from the LRTG, each legislative session, VCE's lobbyist will identify proposed legislation that may impact VCE. The bills selected by VCE for potential action/monitoring will consider those identified by CalCCA, as well as others that may impact VCE. They will be divided into Priority 1, Priority 2 and Priority 3 categories as generally defined below. Note: factors such as available staffing and resources will determine the number of bills and level of engagement during a legislative session.
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 - b. Priority 2: Engagement/Focused Monitoring – Issues Related to VCE Mission/Strategic Plan Goals. Bills that warrant focused monitoring and potential support or opposition as the bills may impact VCE's Mission/Strategic Plan Goals if amended or if amendments sought by CalCCA are not accepted. Priority 2 bills may become Priority 1 bills at any time.
 - c. Priority 3: Monitoring - Minimal direct or indirect impact on VCE Mission/Strategic Plan Goals but warrant monitoring as they address broader energy, utility, climate and/or sustainability topics. Priority 3 bills may become Priority 2 or 1 bills at any time.
2. Where appropriate, VCE will follow the positions adopted by CalCCA. In some instances VCE may choose to adopt a different position from that of CalCCA or may adopt positions on bills on which CalCCA has not adopted a position.

3. For CalCCA sponsored bills, and if time permits, those that CalCCA supports and opposes, as well as other Priority 1 bills, staff will seek CAC review and recommended VCE position prior to forwarding recommendations on the bill to the VCE board of directors for adoption of a VCE position.
4. The VCE board of directors will designate two board members (if not affirmatively designated then by default, Chair and Vice Chair) and the Executive Officer as having the authority to act on proposed legislation and regulations if time-sensitive action is necessary and it is not feasible to wait for the full board to consider the bill or regulation. The board will affirm the subcommittee's action at its next scheduled meeting. The LRTG and CAC will also be updated at their next meetings.

Procedures

- a. Where feasible time-wise, Priority 1 and 2 bills will be considered by the LRTG to provide technical, policy and strategic input and if appropriate, a suggested VCE position. This may be accomplished at the LRTG's regular meetings, or through email or special meetings when action is time critical.
- b. Staff will strive to refer the bills that have been considered by the LRTG to the CAC prior to review by the VCE board for adopting a position. However, given the constraints that may impact VCE's effective legislative engagement, staff may bypass the CAC or LRTG in recommending a VCE position. If this occurs, staff will update the LRTG and CAC at their next meeting about the board's action.¹
- c. For proposed regulations, staff will work with CalCCA and VCE's regulatory consultant to determine whether VCE engagement is warranted. Because the regulatory process is typically not as compressed as the legislative process, regulations in which VCE may be involved, either as a party to a proceeding or as a commentor with CalCCA will, where possible, be considered by the LRTG, CAC and board of directors.
- d. Periodically, staff will report to the CAC and board of directors on VCE's legislative and regulatory activities.
- e. VCE's legislative letters and comments on regulatory proceedings will be posted on the [Legislation page](#) of the VCE website.

¹ Involving the LRTG, CAC and full VCE board in adopting a VCE legislative position may take 3-5 weeks, thus conflicting with the frequent need to act quickly due to recent amendments, failed negotiations to secure amendments or upcoming committee hearings. In such instances, staff may involve the board subcommittee described in #4 above to adopt a VCE position and implement follow-up action such as letters and lobbyist activities.

VALLEY CLEAN ENERGY ALLIANCE

RESOLUTION NO. 2022- _____

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE VALLEY CLEAN ENERGY ALLIANCE APPROVING UPDATED VALLEY CLEAN ENERGY LEGISLATIVE AND REGULATORY POLICY AND PROCEDURE

WHEREAS, The Valley Clean Energy Alliance (“VCE”) was formed as a community choice aggregation agency (“CCA”) on November 16, 2016, Under the Joint Exercise of Power Act, California Government Code sections 6500 et seq., among the County of Yolo, and the Cities of Davis and Woodland, to reduce greenhouse gas emissions, provide electricity, carry out programs to reduce energy consumption, develop local jobs in renewable energy, and promote energy security and rate stability in all of the member jurisdictions. The City of Winters, located in Yolo County, was added as a member of VCE and a party to the JPA in December of 2019; and,

WHEREAS, on February 8, 2018, the Board via Resolution 2018-004 adopted a Legislative and Regulatory Action Policy; and,

WHEREAS, since the adoption of the Legislative and Regulatory Action Policy outlining procedures for how VCE adopts position proposed by legislation and regulations, VCE has contracted with a professional lobbyist, engaged a law firm to monitor key regulatory issues impacting CCAs, adopted and annually update a Legislative Platform to help guide VCE’s policy engagement, and, receive assistant with review and recommendations through VCE’s Community Advisory Committee; and,

WHEREAS, the Legislative and Regulatory Action Policy needs to be updated to guide VCE’s engagement on legislative and regulatory issues.

NOW, THEREFORE, the Board of Directors of the Valley Clean Energy Alliance hereby resolves as follows:

- 1. Adopt the Legislative and Regulatory Policy and Procedure as outlined in Attachment A.

PASSED, APPROVED AND ADOPTED, at a regular meeting of the Valley Clean Energy Alliance, held on the _____ day of _____ 2022, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Jesse Loren, VCE Chair

Alisa M. Lembke, VCE Board Secretary

ATTACHMENT A

LEGISLATIVE AND REGULATORY POLICY AND PROCEDURE