

DOCKETED

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Comment Received From: Randy J. Walsh

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**SmallBusinessesMatter: Request Immediate Intercession by Governor Brown in
Repeal of AB 1103**

Additional submitted attachment is included below.

Monday, February 8, 2016

The Honorable Jerry Brown
Governor, State of California
c/o State Capital, Suite 1173
Sacramento, California 95814

Re: SmallBusinessesMatter

Dear Governor Brown:

Since the surprising, expedited, unannounced and unwarranted repeal of AB 1103 in September 2015, I have spent a significant number of unbillable hours researching the process and parties involved in the ultimate demise of a very important piece of legislation – rather than providing necessary consulting services to the commercial real estate community that may help reduce greenhouse gases emitted by the commercial building stock in the State of California. Unfortunately, since the repeal of AB 1103, I have had the time to devote to this endeavor as the repeal of AB 1103 has significantly and negatively impacted my private consulting business built around guiding clients through the energy use disclosure requirements and generating AB 1103 compliance documents.

In the spirit of transparency and the importance of analysis – the two main pillars of AB 1103 - my research began with 2 basic assumptions; sufficiently conclusive analysis was conducted to justify the repeal of AB 1103 and that the resulting documentation on which the repeal was based, would be readily available so the justification of repeal of AB 1103 would be transparent to those of us who were directly impacted by, but not consulted in the decision to repeal.

My research continues with direct communication with your office, Assemblymember Das Williams' office, the California Energy Commission, the State of California Assembly Rules Committee and to a lesser degree, the California Business Properties Association. After more than 5 months of research, I am shocked at the complete lack of analysis to justify the repeal of AB 1103 and the lack of transparency demonstrated by each of these offices in providing clear communication and documentation that would allow me to draw an accurate timeline or identify the parties involved in the process resulting in the repeal of AB 1103. So far, I have found the following:

1. No evidence to support the necessity of the wholesale repeal of AB 1103 or the necessity of undertaking revisions to AB 802 in such an expedited manner that any opportunity for public notification, engagement or comment was foreclosed for anyone but those special interest groups involved in conversations and dialogue that took place outside of the public view.
2. No evidence to support the repeal of AB 1103 as having more benefit to the property owners in the State of California than would revisions and refinements to the then current laws and regulations – which according to internal CEC documents, were showing increased levels of compliance through February, 2015.

3. No evidence of formal and documented analysis or conclusive reporting to support Commissioner McAllister's very definitive comments made at the Senate Energy, Utilities and Communications Committee on September 10, 2015, in support of the revised language to AB 802 that repealed AB 1103.
4. No evidence of any sort of financial impact study to determine the extent of the expected negative financial impacts on the small business owners who, for several years, had been successfully assisting clients in meeting compliance requirements – in a timely manner and at reasonable costs.
5. No evidence that the continuation of AB 1103 through 2016 lacked any benefit, would prove so harmful, or be so unreasonably burdensome to commercial property owners, that complete repeal was urgently and secretly required, or that the same owners would benefit so greatly by the absence of any energy use disclosure programming that complete suspension of AB 1103 was merited.
6. No evidence that any individual or organization involved in the discussions and secret negotiations outside of public view that resulted in the repeal of AB 1103 had/has direct experience in the Energy Star Portfolio Manager tool or any experience in creating AB 1103 compliance documents equal to or greater than that achieved by any one of the independent consultants complying with AB 1103.
7. No evidence of any intentional effort – or even consideration of an effort - to reach out to those small business owners who have been deeply involved for a number of years in the development of AB 1103 and who continue to make good faith efforts to share our expertise and real world technical experience with the CEC in order to improve and refine any and all energy use disclosure programming.

I am reaching out to you today to ask for your immediate intercession in halting any further discussion, negotiation, planning or communication by anyone within your administration or within the California Energy Commission related to commercial building energy use disclosure programming that is not based on strong research, solid analysis and accurate facts and which does not include representation by small-business owners with direct and valuable field experience in generating and providing AB 1103 disclosure documents.

Additionally, I repeat my requests outlined in correspondence dated November 12, 2015 addressed to Chairman of the California Energy Commission, Robert B. Weisenmiller, Ph.D.:

“As a citizen, a taxpayer, a utility ratepayer, a small business owner and a key stakeholder for many years in the development and implementation of the state-wide commercial building energy use disclosure program, I submit the following comments in order to: put forth my complete opposition to the repeal of AB 1103; register my grave concern about the appropriateness of recent actions and decisions by Commissioner McAllister on behalf of the California Energy Commission resulting in repeal of AB 1103 and causing immediate economic hardship to a number of small business owners across the State of California; express my vote of “no-confidence” in the ability of the California Energy Commission to effectively manage any longer our collective resources in bringing to market a viable commercial building energy use disclosure program; and, finally, request the immediate defunding and dismantling of any internal organizational structures devoted to the energy use disclosure programming and the immediate resignation of Commissioner McAllister.”

Thank you for your prompt response to this correspondence and attention to this request.

Sincerely,

Randy, J. Walsh
San Diego Energy Desk