

DOCKETED

Docket Number:	23-ALT-01
Project Title:	2023-2024 Investment Plan Update for the Clean Transportation Program
TN #:	254381
Document Title:	California Energy Commission Clean Transportation Program Advisory Committee Roles and Responsibilities
Description:	N/A
Filer:	Spencer Kelley
Organization:	California Energy Commission
Submitter Role:	Commission Staff
Submission Date:	2/8/2024 10:14:32 AM
Docketed Date:	2/8/2024

California Energy Commission Clean Transportation Program Advisory Committee Roles and Responsibilities

I. Background and Purpose

Assembly Bill 118 (Núñez, Chapter 750, Statutes of 2007) created the Clean Transportation Program (formerly known as the Alternative and Renewable Fuel and Vehicle Technology Program). The statute authorizes the California Energy Commission (CEC) to develop and deploy alternative and renewable fuels and advanced transportation technologies to help attain the state's climate change policies. Assembly Bill 8 (Perea, Chapter 401, Statutes of 2013) reauthorized the Clean Transportation Program through January 1, 2024. Most recently, Assembly Bill 126 (Reyes, Chapter 319, Statutes of 2023) reauthorized the Clean Transportation Program to July 1, 2035.

The Energy Commission has an annual Clean Transportation Program budget of approximately \$100 million and provides financial and technical support for projects that:

- Develop and deploy zero-emission technology and fuels in the marketplace where feasible and near-zero-emission technology and fuels elsewhere.
- Reduce criteria and toxic air pollutant emissions from vehicles.
- Reduce dependence on petroleum transportation fuels.
- Produce sustainable alternative and renewable low-carbon fuels in California.
- Deploy fuel infrastructure, fueling stations, and equipment (zero-emission where feasible and near-zero-emission elsewhere), including for existing fleets and public transit.
- Retrofit medium- and heavy-duty on-road fleet and nonroad freight vehicles to alternative technologies or fuel use.
- Establish workforce training programs and conduct public outreach on the benefits of alternative transportation fuels and vehicle technologies.

Statute requires the CEC to annually update an investment plan that communicates the CEC's strategic vision; determines the funding priorities and opportunities for the upcoming fiscal year; and provides an analytical rationale for proposed

expenditures (Investment Plan). The Investment Plan update also highlights and explains the rationale for any year-to-year changes to the Clean Transportation Program strategy and funding priorities. Projects funded by the CEC under the Clean Transportation Program must be consistent with the priorities established in the plan.

Statute directs the CEC to create and consult with an advisory body (hereinafter "Advisory Committee") as the CEC develops the investment plan. The investment plan update will establish priorities and opportunities for the Program and describe how funding will complement existing public and private investments, including existing state programs. The 2024–2027 term of the Advisory Committee will end on December 31, 2027.

II. Advisory Committee Membership

By law, Advisory Committee membership must include, but is not limited to, representatives of fuel and vehicle technology entities, labor organizations, environmental organizations, community-based justice and public health organizations, recreational boaters, consumer advocates, academic institutions, workforce training groups, and private industry. The Advisory Committee shall also include representatives from the Resources Agency, the Transportation Agency, the Labor and Workforce Development Agency, and the California Environmental Protection Agency.

- a. Advisory Committee members are restricted from appearing in funding applications to the CEC.

The CEC is sensitive to the perception that, by serving on the Advisory Committee, members could unfairly influence Program funding decisions. Government Code section 87104 prohibits members of advisory bodies from communicating with the CEC or appearing in a funding application to influence a decision on a contract, grant, or loan. However, it is important to ensure that the Advisory Committee includes the technical expertise of representatives of fuel and vehicle technology entities. To balance these interests, individuals participating on the Advisory Committee may be ineligible to apply for or receive funding from the CEC, or appear as a signatory, project manager, or participant in an application, through the Clean Transportation Program (formerly ARFVTP). However, the organizations they are compensated by remain eligible to apply for and potentially receive Program funding if the organization ensures that the individual who serves on the Advisory Committee:

- does not appear as a signatory, project manager, or participant in the application;

- does not receive compensation from the CEC-funded project;
- and otherwise avoids communications with the CEC intended to influence the CEC's decision on a funding application in favor of the organization.

Members and entities should contact the CEC if they have questions about these requirements. Also, other entities that have received financial support from organizations and individuals participating on the Advisory Committee are eligible to apply for and potentially receive Program funding.

- b. The Advisory Committee is subject to the Bagley-Keene Open Meeting Act.

The Advisory Committee will hold public meetings that are subject to the Bagley-Keene Open Meeting Act (Bagley-Keene). Bagley-Keene is a law that requires that meetings of public agencies be conducted openly, with opportunity for public participation. Two key aspects of the law, of which Advisory Committee members must be aware, are what constitutes a meeting and how meetings must be noticed.

First, a meeting is defined by the law as any congregation of a majority of Advisory Committee members at the same time and place to hear, discuss, or deliberate on any item within the Advisory Committee's subject matter jurisdiction. Meetings can occur by a majority of Advisory Committee members being physically present and discussing Clean Transportation Program business, or they can be serial, such as occurring through a series or intermediaries or electronic means. For example, if an e-mail goes out to the entire Advisory Committee, and members start replying all in such a way that a majority of members end up hearing or discussing Clean Transportation Program business via e-mail, that would constitute a meeting.

All meetings must be open and publicly accessible, including to members of the public who have a disability.

The second key aspect of the law is that meetings must be noticed. The law requires CEC staff to publish the notice at least 10 days in advance of the meeting date. Generally the notice may not be changed after public posting. Meeting location must be included in the notice.

Some Bagley-Keene requirements are modified temporarily due to Senate Bill 544 (Laird, Chapter 216, Statutes of 2023). Among other requirements, under SB 544, if a member calls into a public meeting of the Advisory Committee, that member must visibly appear on camera for the duration of the meeting; and if the member does not appear on camera due to challenges with internet connectivity, the member must announce the reason for their nonappearance when they turn off

the camera. Also, Advisory Committee members must be ready to return to more stringent requirements in 2026, **including in-person attendance requirements.**

More stringent requirements that return in 2026 include the following. If an Advisory Committee member cannot participate in a public meeting in person, the member can call in to the meeting only if the location from which the member calls in is publicly accessible, including to members of the public who have a disability, and was included in the public notice. For example, if an Advisory Committee meeting is scheduled to occur in Sacramento, and an Advisory Committee member cannot be physically present at the Sacramento location but plans to call in from an office in Los Angeles, then the member must select a location in the office that is publicly accessible, such as a conference room. The member must also let CEC staff know the location, including address and room number, in sufficient time to be included in the notice, and must anticipate that members of the public could potentially attend while the member calls in.

Any Advisory Committee member who attends a meeting of a state body in violation of Bagley-Keene requirements, and where the member intends to deprive the public of information to which the member knows or has reason to know the public is entitled under this article, is guilty of a misdemeanor.

c. Frequency of meetings and attendance

The Advisory Committee will meet at least twice per year, or more often as needed.

Regular attendance and participation at Advisory Committee meetings is essential for effective participation. Each Advisory Committee member is responsible for attending and actively participating in meetings, reviewing and being familiar with materials provided before meetings, and soliciting and sharing input with other members. By accepting an invitation to serve on the Advisory Committee, the Advisory Committee member agrees to fulfill these responsibilities to the best of their ability.

III. Advisory Committee Role and Responsibilities

The Advisory Committee is composed of individuals from a wide range of interests that can provide advice and guidance to the CEC on matters relative to their respective interests. The CEC will consult with the Advisory Committee as the CEC develops the investment plan in accordance with Health and Safety Code section 44272.5 to determine priorities and opportunities for the Program. All CTP decision-making rests with the CEC, including the determination of priorities and

opportunities in the Investment Plan and the scoring, ranking and selection of proposals for funding awards.

Information provided by the Advisory Committee members shall be advisory only. Members of the Advisory Committee shall not serve in the capacity of staff of the CEC and shall have no authority to negotiate or otherwise act on behalf of the CEC.

Advice and guidance from the Advisory Committee shall be provided in public meetings of the Advisory Committee. Please see the section above on the Bagley-Keene Open Meeting Act. The Advisory Committee may provide advice on the following topics as related to the Investment Plan:

- Public and private sources of funding, availability and applicability of these sources for the purposes of the Program, and contact information;
- Other financial tools that are available besides grants and loans that can be used to support the objectives of the Program, and the most effective application of grants, loans and other measures to advance the market penetration of zero-emission and other innovative fuel and vehicle technology options;
- State of technological development of zero-emission and other innovative fuel and vehicle technologies, current level of research, development and demonstration support for these technologies, and need for Program support to move these technologies into the market place;
- The effectiveness and magnitude of individual zero-emission and other innovative fuel and vehicle technologies to reduce petroleum use, improve air quality and lower greenhouse gas emissions;
- Market applications for zero-emission and other innovative fuel and vehicle technologies that can simultaneously maximize petroleum reduction, air quality improvement, and greenhouse gas reduction;
- Market niche applications for zero-emission and other innovative fuel and vehicle technologies;
- Coordination with other states to increase the synergy of reducing petroleum use, expanding the use of zero-emission fuels, improving air quality and lowering greenhouse gas emissions;

- The state of commercial use of zero-emission and other innovative fuel and vehicle technologies and the need for Program support to expand their use;
- Analytical and other technical support that will be needed to more clearly delineate the issues and opportunities associated with zero-emission and other innovative fuel and vehicle technologies;
- Job skills needed to support an expanding zero-emission transportation market and current availability of training for these skills; and
- Public and private sources of funding available for job training, applicability to the purpose of the Program, contact information, and the need for Program support to help expand the skilled job pool needed for the future transportation market.
- Clean transportation and project funding needs for tribal, underserved, and other communities.

The CEC may seek advice and guidance from the Advisory Committee on other topics related to the Investment Plan.

IV. CEC Responsibilities

The presiding member of the Clean Transportation Program Policy Committee will chair the meetings of the Advisory Committee. The CEC will provide proper notice of and an agenda for all Advisory Committee meetings and conference calls, provide Advisory Committee members necessary materials, and ensure that stakeholders and the public have ample opportunity to comment at all Advisory Committee meetings. The CEC will record transcripts of Advisory Committee meetings, which will be publicly available.

The CEC shall establish a docket as a public record for transcripts, other documents from or provided to the Advisory Committee, stakeholders and public. The CEC will provide logistical support related to attending and distributing materials for Advisory Committee meetings and conference calls and will assist the Advisory Committee to better understand existing policies and programs. The CEC will review, analyze, and synthesize advice and guidance from the Advisory Committee, stakeholders and public to develop the draft Investment Plan. The CEC will provide an opportunity for comment on the draft Investment Plan by the Advisory Committee, stakeholders and public before it is adopted by the CEC.

V. Applicability of the Political Reform Act

The disclosure requirements and conflict of interest prohibition apply only to public officials serving as employees or members of state or local government agencies, or consultants thereto. The Advisory Committee is not a state agency or local government agency as defined in the Political Reform Act. Additionally, its members are not considered "consultants" under the Political Reform Act as that term is defined in regulation, because:

- they are not authorized to make decisions, enter into contracts, negotiate, or otherwise act on behalf of the CEC;
- they are not serving in the capacity of staff;
- and they are not performing the duties of an individual who is holding a position that is designated in the CEC's conflict of interest code.

Advisory Committee members are thus neither decision-makers nor staff for the CEC. They shall not serve in the capacity of staff of the CEC and shall have no authority to negotiate or otherwise act on behalf of the CEC. They are, specifically, members of an advisory body created by statute for the discrete task of providing input to the CEC in the development of an Investment Plan. Therefore, members of the Advisory Committee are not subject to the Act's restrictions or the requirement to file an annual economic interest statement.