

STATE CAPITOL
P.O. BOX 942849
SACRAMENTO, CA 94249-0009
(916) 319-2009
FAX (916) 319-2109
DISTRICT OFFICE
9250 LAGUNA SPRINGS DRIVE, SUITE 220
ELK GROVE, CA 95758
(916) 670-7888
FAX (916) 670-7893

Assembly California Legislature



JIM COOPER
ASSISTANT MAJORITY LEADER
ASSEMBLYMEMBER, NINTH DISTRICT

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June 9, 2016

The Honorable Anthony Rendon
Speaker, California State Assembly
State Capitol, Room 219
Sacramento, CA 95814

RE: Proposed Budget Trailer Bill Language: DTSC: Elimination of Flat Fees for Permits

Dear Mr. Speaker:

We are writing to express our strong opposition to the Administration's efforts to enact, through budget trailer bill language, a proposal to eliminate the Department of Toxic Substances Control (DTSC) flat fee option that has existed in state law for decades as a predictable and reliable way to pay for hazardous waste permit applications. The budget trailer language will instead require applicants to enter into an uncapped reimbursement agreement with the Department which we believe is the equivalent of handing a "blank check" to the very same state agency that has been roundly criticized in recent years by stakeholders, the Legislature, and even independent third parties for employing poor management practices with respect to processing permit applications.

This proposed language would result in unlimited cost to obtain a permit renewal or modification, add further delays to the permitting process, and impose extraordinary, unjustified, and unpredictable costs on the permit applicant. Moreover, the proposed language would inevitably invite intractable and costly disputes over various fees charged to the applicant by DTSC. Paradoxically, DTSC would likely assess additional fees on the applicants for staff time spent on resolving the fee disputes. These combined costs would discourage applicant interaction with DTSC, including further investment in critical hazardous waste infrastructure and would hinder, rather than help, DTSC's ongoing efforts to overcome its current challenges with processing permits.

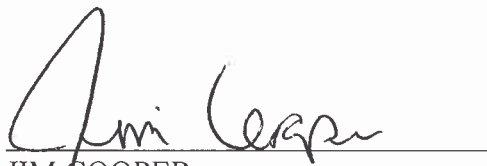
California's extensive manufacturing sector and the larger California economy – including many small businesses located in our respective districts – depend upon the existence of a sustainable, affordable hazardous waste system that can efficiently manage wastes generated in state in a manner that protects both Californians and their environment. By way of example, hazardous waste permits are directly relied upon by, among others, the aerospace, recycling and waste disposal, and energy sectors, and indirectly relied upon by a numerous small businesses, including retail stores, dry cleaners, high technology, alternative energy manufacturing, paint stores, auto repair and machine shops, lube oil shops and used oil collection centers, auto parts retailers, auto, truck, recreational and machinery dealerships, auto rental and leasing dealerships, and the transportation industry, including long and short haul commercial trucking, rail, air and marine.



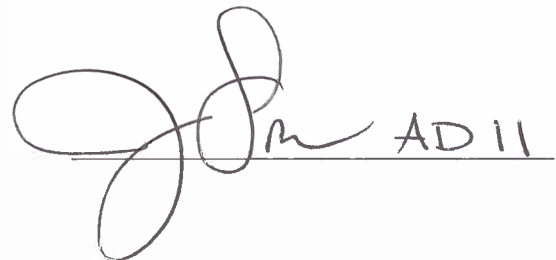
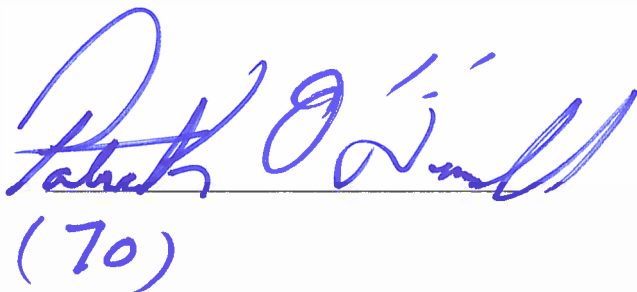
Fortunately, there is a viable alternative, which would ensure DTSC could recoup a significant amount of its costs directly from the permit application process while also maintaining the transparency, certainty and predictability that hazardous waste permit applicants need. Specifically, this alternative includes (1) retaining but increasing by 100% the current flat fees; (2) allowing DTSC to enter into a capped reimbursement agreement not to exceed the amount of the new flat fee in instances where a "significant modification" of the permit is required, such as where the application filed is substantially incomplete, or where the application is required to be rewritten in its entirety; and (3) allowing DTSC to impose a secondary flat fee above the initial flat fee in instances where DTSC determines that the applicant has submitted the application in bad faith.

Based on the concerns we've identified, coupled with the reasonable alternative we've proposed, we respectfully request that you replace the Administration's proposal with this commonsense alternative. Thank you for your consideration of our request. Please feel free to contact me if you have any questions.

Sincerely,



JIM COOPER
Assemblymember, 9th District



Bill Oddy #04

Ally AD 21

Ken Cooley AD 08

Cheryl Brown AD 47
