

## Senate Energy, Utilities & Communications Committee - Prop 39 Hearing

Wednesday, January 20, 2016  
9:30a.m. – Room 112

### **Written Statement of Arno Harris:**

Committee members and staff, good morning and thank you for the invitation to join you this morning for this oversight hearing on the progress of Proposition 39.

My name is Arno Harris. I am an appointee to the Proposition 39 Citizens Oversight Board. Kate Gordon, our Board Chair, who was originally invited here was unable to attend. I am attending at her request. I'm here today to update you on the progress of the Board since our first meeting last Fall and to answer any questions you have about our activities to date. All of the information I will be sharing today is available on the Prop 39 California Clean Energy Jobs Act website at <http://www.energy.ca.gov/efficiency/proposition39/>.

As you know, the Citizens Oversight Board was established through the California voters' approval of Prop 39 in 2012 and clarifying legislation that was signed by Governor Brown in June 2013. The Board's role is to review fund expenditures and conduct independent audits of the Job Creation Fund and selected projects. The Board then publishes an accounting of annual expenditures from the Job Creation Fund and submits a program evaluation to the Legislature. The board is afforded one staff member and has a \$300K maximum annual budget to pay for auditors, legal, administrative, and travel expenses.

The Board consists of nine voting members and two ex-officio members. The State Controller, the State Treasurer, and the State Attorney General appoint three board members each. The Energy Commission and the California Public Utilities Commission each designate an ex-officio member. The appointees represent a broad cross section people who bring their diverse experience in energy, contracting, schools, environment, labor, business, and other important stakeholder groups:

Appointed on October 18, 2013, by former State Treasurer Bill Lockyer:

- Kate Gordon, Board Chair – vice-chair, Climate and Sustainable Urbanization, The Paulson Institute
- James “Walkie” Ray – engineer and partner, Sanderson J. Ray Development
- Steven Sakurai – chief financial officer, Yocha Dehe Wintun Nation and adjunct professor, California State University, Sacramento

Appointed on January 16, 2014, by former State Controller John Chiang:

- Dana Cuff – professor of architecture and urban design, University of California, Los Angeles
- Gary Kremen – Clean technology engineer, entrepreneur, and inventor
- Erik Emblem, recently deceased, will be replaced by new appointment

Appointed on October 29, 2014, by Attorney General Kamala D. Harris:

- Arno Harris – founder and former chief executive officer, Recurrent Energy
- Chelina Odbert – cofounder and executive director, Kounkuey Design Initiative
- Randall Martinez – executive vice president and chief operating officer, Cordoba Corporation

Ex Officio Members:

- Robert Weisenmiller, Chair, California Energy Commission
- Michael Picker, President, California Public Utilities Commission

The Citizens Oversight Board was first convened on September 8, 2015. Since then we have had two additional meetings. Detailed meeting agendas and minutes are all available on the Prop 39 website.

Our first meeting was primarily focused on getting the Board up to speed with a joint agency presentation on Prop 39 that covered their activities to date and an overview of the role and responsibilities of the Board. We also selected our chair, Kate Gordon, and vice-chair, James Ray. We were also briefed on the restrictions placed on Board members by Bagley-Keene and the Brown Act. While these restrictions serve important purposes, I'm sure you understand they also place a significant burden on the Board and create the need for formal notice and meeting procedures that limit our ability to act quickly. And finally, during the comment period, we heard from a number of Local Educational Agencies about qualitative aspects of the Prop 39 process, the opportunities it has provided and some of the challenges they have encountered.

One question that came up was with regard to the perception that a significant amount of time had elapsed since the passage of Prop 39 and the Board's first meeting. CEC staff explained that while Prop 39 was passed in 2012, clarifying legislation was not signed until June of 2013. Final program guidelines were not adopted by the CEC until December 2013, which is actually quite fast if you consider the notification and comment periods required by CEC procedures. However, this means that the program was not open to schools until January of 2014 and it wasn't until June of 2014 that the first round of applications were approved for the first 33 schools. As this was too late for most schools' summer construction window, almost all the projects were not actually begun until late 2014 or early 2015. Expenditures of Prop 39 funds are made post-completion, so no funds were disbursed until 2015. As the Board does not review applications, but instead is tasked with auditing expenditures on completed projects, we were not convened until 2015 when the first spending reports are due from applicants and program agencies.

Our second meeting was held on November 11, 2015. At this meeting we heard from Dept of Education, California Conservation Corps, and California Workforce Development on various aspects of Prop 39 funds and job creation. Again, these were high-level presentations intended to give the Board an overview of the workings of Prop 39 and the various related agency activities. Board Chair, Kate Gordon, also informed the Board that we were facing challenges finding legal advisors. The CEC legal office, AG's office, and several other agencies are conflicted as they represent administrative or applicant agencies involved in Prop 39 or subject to oversight by the Board. I highlight this because it has continued to be an issue for us. As I'm sure you can understand, without clear legal advice, the Board is hesitant to take bold or quick actions and

there remain a number of issues we are seeking to clarify with regard to our role and responsibilities under statute.

Our third and most recent meeting was held on January 11, 2016. At this meeting we heard from stakeholders -- schools, associations, and energy consultants -- about their experiences working with the Prop 39 program. Overall we heard very positive anecdotal stories about the improvements and opportunities afforded schools by the program. And we heard about some of the challenges that arise from school planning timelines, unintended consequences of the cost-effective scoring calculation to ensure projects meet program guidelines, and limits placed on solar project sizes under the program.

At this meeting, we also officially accepted our first report from the California Community College Chancellor's office on their first round of Prop 39 projects and expenditures. This is the first of three total reports we are waiting to receive that we will then draw upon to make our first report on Prop 39 progress. We also heard from Sarah White of the Workforce Development Board on the data collection and reporting processes they have devised in order to prepare their report to the Board next month.

In order to work more efficiently, the Board took the action at this meeting to form committees. These are: an Audit Committee that will recommend the scope of audit services and ultimately an auditor for the Board to hire and a Reports Committee that will review incoming agency reports and draft the various Board reports required of us under statute. It's becoming very clear that the schedule for our first report will be challenging given the difficulties finding legal advisors, the process of hiring an auditor, and the short time between when we receive reports from Prop 39 agencies.

Overall, the Prop 39 Citizens Oversight Board is quickly getting up to speed and we are working diligently towards meeting our obligations to California's citizens and the Legislature. Much of the challenges we face are those you would expect when convening and launching a new body. We're digging into our first reports from state agencies and we look forward to delivering our first reports to the Legislature later this year.

Thank you again for the invitation to join you today. I am happy answer any questions you have about the Board and our activities to date.