

“RESIDENTIAL ENERGY FINANCING”

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CRITICAL ISSUES FOR LAUNCHING AN AB 811 PROGRAM

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Introduction

In preparing this handout, I am heavily indebted first to **Ted Flanagan, President, EcoMotion, Irvine, California**. At the first AB 811 program I attended, a conference in Palm Desert in June, 2009, and hosted by EcoMotion, Ted distributed and reviewed his version, entitled “What Works for You – a 20-Point Guide to AB 811 Implementation.” The substance of this list of “critical issues” is derived from Ted’s handout.

Then, for an October, 2009, program of the California Debt and Investment Advisory Commission, entitled “Financing Solar Energy: Public Financing Options for California’s Local Governments,” I coordinated with **Kathy Larocque, Deputy County Counsel for Sonoma County** and long-time acquaintance and colleague, to structure a presentation about Sonoma County’s AB 811 program, which they call the “Sonoma County Energy Independence Program” or “SCEIP.” For that presentation, we rewrote and reformatted Ted’s 20 points to become a list of “critical issues” and then used the list as a means of providing a summary about SCEIP for those in attendance. Accordingly, I am secondarily indebted to Kathy for her considerable contributions to assembling the list.

As I have continued to counsel staff and other interested persons in the California cities where our firm is providing legal services, this list of critical issues has stood the test of time as a helpful introduction to the preliminary considerations and as a coordinating tool for discussion in determining whether sufficient support and resources appear to be available and a critical mass of consensus appears to exist about program objectives in a given community to motivate some group of proponents to initiate the work of establishing an AB 811 program.

I hope you find the list helpful. For convenience only, I have assumed that a city is the local agency considering the establishment of a program. It could also be a county, and for limited categories of improvements, it could be a special district.

The Critical Issues

1. Is there political support at the Council level?
2. Is there support from the senior staff?
 - City Manager or Administrator
 - City Treasurer/Finance Director
 - City Public Works Director or Utility Manager
 - City Attorney
3. Is City Attorney okay with key legal issues?
 - Validity and enforceability of payment obligation
 - Lien priority
4. Is City Treasurer/Finance Director willing to take ownership on funding?
 - Initial funding provided internally
 - Leadership in external long-term financing
5. How will you finance preliminary and on-going program admin. costs?
 - Grants or local agency advances for program startup costs
 - Loan interest rate spread for on-going program costs
 - What level of participation do you want to plan for?
 - Maximum authorization of financing
 - Function of sources of short-term and long-term funding
 - What level of outreach are you prepared to implement?
6. How will you staff program start-up and on-going administration?
 - Go it alone (in-house)
 - Engage outside service providers to assist
 - Use a turn-key approach
 - Enroll in someone else's program

7. Which land-use categories will be eligible to participate?
 - Residential
 - Commercial
 - Industrial
8. Will you allocate by land-use?
 - Percentages of program funding by land-use category
 - Dollar caps on loan amounts by land-use category
9. What kinds of improvements will you authorize?
 - Focus has been on solar PV panels
 - Energy efficiency improvements generally most effective
 - Other renewable energy sources (wind, solar thermal)
 - Water conservation/efficiency improvements
10. Oversight/certification of installers and/or equipment
 - CEC-posted list of State-approved solar installers and equipment
 - Requiring an energy audit
11. Incorporating elements of “performance-based” project approvals
 - Take cost-effective projects first or first come, first served
 - Property owner freedom of choice vs. maximizing emission reduction goals with the limited funding resources
12. Minimum and maximum loan amounts
 - Given processing costs, minimum may be in order
 - Maximum loan amounts to manage credit risk and to expand program participation
13. How will you handle inquiries from interested property owners?
 - Knowledgeable people to answer the phone
 - Having consistent responses to the frequently-asked questions

14. How will you process program applications?
 - Where are applications received
 - Checking title and reviewing credit issues
 - Establishing the lien of the contractual assessment
15. Tracking program benefits
 - Who will take responsibility for tracking benefits
 - What methods for monitoring monetary savings and/or emissions reductions
16. Reinforcing loan security
 - Will you validate the assessment and the lien priority
 - Requiring notice to or approval from an existing mortgage lien holder
 - Loan-to-value requirements
17. Two-phase financing program
 - Initial funding of individual loans
 - Aggregated long-term funding
18. Structuring a marketing program
 - Getting the local press on board
 - Co-marketing with vendors
 - Engaging local climate action activists
19. Critical elements of a work plan for getting started
 - identify and assemble supporters
 - establish program policies and basic structural approach
 - determine staffing requirements
 - prepare a budget and a timeline

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