



Councilmember Ben Bartlett

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ACTION CALENDAR
February 11, 2020

To: The Honorable Mayor & Members of the City Council
From: Councilmember Ben Bartlett
Subject: Supplemental 2: Discussion and Direction Regarding Potential Ballot Measures for the November 3, 2020 General Municipal Election for Carbon Fee for Large Corporations

TITLE

Placing a Measure on the November 3, 2020 Ballot Taxing Large Carbon-Emitting Corporations to Support a Berkeley Climate Action Fund.

RECOMMENDATION

- 1) Adopt a Resolution submitting a measure to the November 3, 2020 general municipal ballot levying an annual flat tax of TEN THOUSAND DOLLARS (\$10,000) on carbon-emitting large delivery service companies and corporations operating in the City of Berkeley. We define corporations as business entities with more than 150 employees worldwide, as well as those with 10 or more owner controlled franchise corporations worldwide. We define carbon-emitting as consumption of non-renewable energy such as electricity generated from non-renewable sources, gasoline for transportation in local supply chain, corporate fleets, and other fossil fuels involved in the production process.
- 2) Revenues will support the Berkeley Climate Action Fund to help low-income residences and small businesses undertake carbon remediation and fund Electric Vehicle (EV) and renewable energy infrastructure. Corporations will be exempt from the tax if they can prove their presence in Berkeley does not yield a net increase of carbon into the atmosphere.
- 3) Determine whether to designate, by motion, specific members of the Council to file measure arguments on this measure as provided for in Elections Code Section 9282(b).

CURRENT SITUATION AND SUMMARY STATEMENT

On June 12, 2018 Berkeley City Council issued a Resolution declaring a Climate Emergency. This measure empowered the city to undertake extraordinary measures to combat Climate Change.

Climate experts agree that humanity must take drastic steps to reduce the emission of greenhouse gases into the atmosphere. Inaction at the federal level remains an impediment to shrinking the gap between the amount of greenhouse gases (GHGs) emitted and the lowest threshold necessary to stave off climate catastrophe. Corporations also make record-breaking profits, while wealth is concentrated among the very top percentage of income earners. Meanwhile, the Trump Administration has lowered corporate taxes while dismissing climate change as a hoax. While California has a cap-and-trade system to regulate carbon emissions, a separate municipal tax on carbon emitters is necessary to fully integrate the social cost of carbon (SCC) into the Berkeley economy.

The scope of this proposal will cover two major categories of emissions:.

1. **Onsite fossil fuel consumption for building heating and cooling as well as for any production, manufacturing, cooking, steam generation or other use of fossil fuels.**
2. **Transportation emissions** from vehicles owned and leased by corporations for business related activities.

A corporation may be exempted from the carbon fee by demonstrating zero carbon emissions related to onsite fossil fuel consumption and transportation emissions. Corporations can evidence this carbon neutrality by 1) Showing the building occupied or owned by the obligated corporation and any operations in the building do not consume fossil fuels and is otherwise all electric; or 2) showing that If the building or operations consumes some fossil fuels, an onsite renewable energy system such as a photovoltaic (PV) system off sets the fossil fuel use by producing surplus electricity in excess of electricity use ; and for transportation emissions 3) showing zero-emission vehicle (ZEV) conversion of their corporate automotive fleet.

In this way, corporations operating in Berkeley are incentivized to offset their local carbon footprint, move toward greater energy efficiency, and embrace carbon neutral commercial activity. Corporations have a myriad of innovative options to achieve carbon reduction including electrification, switching to rooftop solar, enrolling in East Bay Community Energy's Brilliant 100 or Renewable 100 Programs, worker shuttle and bicycle programs, installing electric vehicle charging stations, and ZEV fleet conversion through partnerships, leasing and procurement.

BACKGROUND

A. Climate Change Emergency: Present Status and Future Direction

The Industrial Revolution propelled society into a new age of technological progress and economic prosperity, but did so at the monumental cost of accelerated global warming due to greenhouse gas (GHG) emissions. This cost continues to grow and becomes more difficult to combat the longer it goes unchecked.

The Intergovernmental Panel on Climate Change (IPCC), an intergovernmental body of the United Nations dedicated to providing the world with an objective, scientific view of climate change, its impacts, and solutions, reports that human activities are estimated to have caused approximately 1.0°C (33.8°F) of global warming above pre-industrial levels, and global warming is likely to reach 1.5°C (34.7°F) between 2030 and 2052 if it continues to increase at the current rate.¹

Some potential impacts of global warming reaching 1.5°C will be irreversible, like the loss of some ecosystems² and endangered species. Additionally, there will be increases in mean temperature in most land and ocean regions, hot extremes in most inhabited regions, heavy precipitation, and the probability of drought and precipitation deficits in some regions.³

B. Federal Level: Concerning Inaction and the Need to Take Responsibility

While further research can potentially uncover solutions, it is imperative that we take action now to slow the rate of global warming to maximize time for planning, adaptation, and research. The need for developing zero-emissions technology and reducing the use of fossil fuels is immense. Models show that to avert dangerous levels of climate change, global carbon dioxide emissions must fall to zero later this century.⁴

Unfortunately, the Trump Administration continues to downplay the human-induced climate change and has loosened environmental sanctions.⁵ Many of the current administration's actions roll back Obama-era policies that aimed to curb climate change and limit environmental pollution. The Trump administration, which has rejected the Paris Agreement and an array of prior U.S. climate policies, has ended NASA's Carbon Monitoring System, a \$10-million-per-year effort to fund pilot programs intended to improve the monitoring of global carbon emissions. In December 2018, the EPA announced that it will lift some restrictions on greenhouse gas emissions from coal power plants.⁶ President Trump has nominated Andrew Wheeler, a former coal lobbyist, as the EPA Administrator, which Brett Hartl, the government affairs director at the Center for Biological Diversity, described as "the most dangerous EPA administrator of all time."⁷ The inaction -- and at times regression -- at the federal level makes it crucial for the state and local governments to take the initiative.

C. State of California: Cap-And-Trade Program

In 2013, the State of California launched its cap-and-trade program as one of several policy initiatives aimed at lowering greenhouse gas emissions. The program distributes

¹ <https://www.ipcc.ch/sr15/chapter/spm/> (A.1)

² Ibid (A.3.2)

³ Ibid (B.1)

⁴ <https://science.sciencemag.org/content/360/6396/eaas9793>

⁵ <https://www.nytimes.com/2019/05/27/us/politics/trump-climate-science.html>

⁶ <https://www.nationalgeographic.com/news/2017/03/how-trump-is-changing-science-environment/>

⁷ https://www.biologicaldiversity.org/news/press_releases/2019/andrew-wheeler-01-09-2019.php

free pollution “allowances” to electric power plants, industrial plants, and fuel distributors that emit 25,000 tons of carbon dioxide equivalent per year or more. Participants operate within their allowances by cutting back activities, installing antipollution equipment, or buying emission allowances at the cap-and-trade auctions or trading existing allowances with each other. Each year, the inventory of allowances offered for purchase is lowered, while the minimum price is raised.⁸

A proportion of funds raised from auctions are spent in accordance with AB 1532, which requires that the auction revenue be spent for environmental purposes, with an emphasis on improving air quality, and SB 535, which requires that at least 25 percent of the revenue be spent on programs that benefit disadvantaged communities, which tend to suffer disproportionately from air pollution.⁹

A key advantage of a cap-and-trade program is the increased certainty of reaching the established emissions target. California’s emissions trading system is expected to reduce greenhouse gas emissions from regulated entities by more than 16 percent between 2013 and 2020, and by an additional 40 percent by 2030. It is a central component of the state’s broader strategy to reduce total greenhouse gas emissions to 1990 levels by 2020 and 40 percent below 1990 levels by 2030.¹⁰

California’s greenhouse gas emission cap and business-as-usual (BAU) projections¹¹



D. California's Global Warming Solutions Act of 2006 (AB 32)

⁸ <https://www.latimes.com/business/hiltzik/la-fi-hiltzik-captrade-20180111-story.html>

⁹ <https://www.c2es.org/content/california-cap-and-trade/>

¹⁰ Ibid

¹¹ <https://ww3.arb.ca.gov/cc/inventory/data/bau.htm>

In 2006, the California State Assembly passed Assembly Bill 32, mandating drastic reductions of greenhouse gas (GHG) emissions to mitigate the negative effects of climate change. The stated goal of AB 32 is to reduce California's GHG emissions to 1990 levels by 2020.¹²

E. State of California: Greenhouse Gas Reduction Fund (GGRF) 2006

Revenues from California's Cap-and-Trade program are deposited into the GGFR, a major new source of funding for state programs designed to reduce greenhouse gas emissions and "maximize economic, environmental, and public health co-benefits to the state."¹³ The GGRF investments are required to further the main regulatory purpose of AB32. Senate Bill 535 directs GGRF investments and their associated benefits to disadvantaged communities, requiring at least 25 percent of the investments to go to programs that benefit those communities. Some of the programs that received funding from the GGRF include Affordable Housing and Sustainable Communities, Low Carbon Transportation, Urban Forestry, and Transit Capital and Operations.¹⁴

F. Local Level: Berkeley's Climate Action Plan (CAP)

Since the adoption of CAP in 2009, the City of Berkeley partnered with community organizations, residents, and corporations to achieve the CAP goals of reducing greenhouse gas emissions 33% below 2000 levels by 2020 and 80% by 2050.¹⁵ Vision for a more sustainable Berkeley outlined in the CAP include: new and existing Berkeley buildings achieve zero net energy consumption, personal vehicles run on electricity, use of sustainable mobility modes as primary means of transportation, and the majority of food consumed in Berkeley to be produced locally.¹⁶

REVIEW OF EXISTING PLANS, PROGRAMS, POLICIES, AND LAWS

The city is focused on strategic work like reducing energy use by encouraging less polluting modes of transportation and prohibiting natural gas infrastructure in new buildings. City of Berkeley's 2018 Annual Progress Update stated that Berkeley is significantly behind in achieving the Climate Action Plan 2020 reduction goals and doubling down to become 100% fossil free by 2030.¹⁷ While greenhouse gas emissions have reduced slightly, it certainly is not enough and more work needs to be done. Not only would the Carbon Tax fund the Climate Action Plan, it would also reduce the

¹² <https://ww3.arb.ca.gov/cc/ab32/ab32.htm>

¹³ https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201120120AB1532

¹⁴ https://innovation.luskin.ucla.edu/wp-content/uploads/2019/03/A_Guide_to_Greenhouse_Gas-Reduction_Fund_Program_Designs_Expenditures_and_Benefits.pdf

¹⁵

<https://www.cityofberkeley.info/recordsonline/api/Document/AS1qYEO88qcY6lps8nwbGgL4jGxxlSquza3ESIDOTS6DL2nW11jPxxzLJVhyvQgYDIIKPuJDdT3oigVB31dHEfM%3D/>

¹⁶ <https://www.cityofberkeley.info/climate/>

¹⁷ https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Energy_and_Sustainable_Development/2019-01-23_EC_LC_Fossil%20Fuel%20Berkeley%20Report.pdf

greenhouse gasses emitted by corporations operating in Berkeley by encouraging them to switch to greener energy.

ACTIONS/ALTERNATIVES CONSIDERED

Under a traditional carbon tax, the government sets a price that emitters must pay for each ton of greenhouse gas emissions. This incentivizes corporations to lower their emissions. Because the social cost of carbon emitted by corporations is not reflected in the cost of the corporate activities that emit carbon, it is necessary for governments to tax carbon emissions. By taxing carbon emissions, governments can force corporations to factor in the social cost of carbon they emit. In this way, carbon taxes incentivize corporations to move toward carbon-neutral alternatives. Furthermore, the revenue generated from carbon taxes can be used to fund projects focused on combating climate change or mitigating its harmful outcomes.

Carbon taxes have been enacted by other jurisdiction, generally countries and states. Canada implemented a revenue-neutral carbon tax in 2019. The country is charging \$20/ton in 2019, which will increase \$10 per year until it reaches \$50 in 2022. Revenue generated from the tax is distributed to Canadian provinces and then used to reimburse voters. Canada's carbon tax is meant to offset increases in energy costs for 70% of Canadian households.¹⁸

CONSULTATION/OUTREACH OVERVIEW AND RESULTS

Organizations including East Bay Community Energy and members of the Berkeley Energy Commission were consulted. Research conducted or employed by the United Nations Intergovernmental Panel on Climate Change, NASA, and the U.S. Environmental Protection Agency was consulted as well.

RATIONALE FOR RECOMMENDATION

The City of Berkeley's declaration of a climate emergency sent a message that could not be any clearer: human-induced climate change poses a threat to the well-being of the planet, this country, the State of California, and the City of Berkeley. Greenhouse gas (GHG) emissions are a prime contributor to climate change, and it is thus critical that we act now to reduce GHG emissions in Berkeley.

By the United States Environmental Protection Agency, transportation, electricity, and industry are the first, second, and third largest contributors to GHG emissions through the use of carbon-based energy sources.¹⁹

Due to their scale of operations, corporations and delivery services consume carbon for their daily operations at a much greater level than small businesses and households. Operating machinery necessitates use of electricity that may be generated from coal burning or other combustion processes. Transporting products from source to refinery, from refinery to factory, and from factory to retail outlets demands tremendous gasoline consumption. Delivery vehicles such as ships, trucks, and planes are large consumers of petroleum. The sheer scale of business operations underscores the severity of

¹⁸ <https://www.canlii.org/en/ca/laws/stat/sc-2018-c-12-s-186/139160/sc-2018-c-12-s-186.html>

¹⁹ <https://www.epa.gov/ghgemissions/sources-greenhouse-gas-emissions>

corporate operations as they are today, and their continuous growth emphasizes the need to take action quickly, as further postponement only lends the climate crisis time to fester.

Shifting away from corporations' reliance on non-renewable energy sources is necessary and achievable through the implementation of a flat carbon tax on corporations and delivery services. Such a tax would incentivize transitioning towards renewable energy by effectively raising the cost of continued carbon consumption.

A tax on corporations to fund a Climate Action Fund must be approved by voters via a ballot measure. If this measure passes, it will implement a flat tax on corporations of a certain size and direct the generated revenue to a Berkeley Climate Action Fund. This Climate Action Fund will invest in projects that move Berkeley toward realizing the goals of its Climate Action Plan.

IMPLEMENTATION, ADMINISTRATION AND ENFORCEMENT

The Council should refer to the City Manager to provide assistance to placing the measure on the ballot. Such procedures may provide for the appeal of confirmed special taxes to the Finance Director or other official of the City responsible for the collection of the special taxes (Chapter 7.98 Special Tax Financing Law Section 7.98.090).²⁰ Two-Thirds of voters are required to approve the ballot.

ENVIRONMENTAL SUSTAINABILITY

Unless corporations operating in Berkeley can prove they are carbon neutral, implementing a flat rate carbon fee on them will encourage those corporations to be carbon-neutral. Furthermore, the revenues generated from a fee placed on carbon-emitting corporations will be used to fund a Climate Action Fund. The Climate Action Fund will in turn invest in projects that allow Berkeley to achieve the goals of its Climate Action Plan.

FISCAL IMPACTS

Staff time to place this measure on the 2020 ballot. Revenue generated from the fee on large corporations will be directed to a Berkeley Climate Action Fund to be created in a separate item. Waiver exempting corporations from fee by proving they are carbon neutral will require staff time to process.

OUTCOMES AND EVALUATION

This item will place a measure on the 2020 ballot that enacts a carbon fee on large corporations to fund a Berkeley Climate Action Fund.

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²⁰ <https://www.codepublishing.com/CA/Berkeley/html/pdfs/Berkeley07.pdf>

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ATTACHMENTS AND MATERIALS
Resolution

RESOLUTION NO. ##,###-N.S.

SUBMITTING TO THE BERKELEY ELECTORATE A MEASURE PLACING A FEE UPON CERTAIN CARBON-EMITTING CORPORATIONS IN BERKELEY. REVENUES COLLECTED BY A CARBON FEE WILL FUND PROJECTS WHICH MOVE BERKELEY TOWARD SUSTAINABILITY, 100% RENEWABLE ENERGY, OR CLIMATE CHANGE MITIGATION.

WHEREAS, the Berkeley City Council has elected to submit to the voters at the November 3, 2020 General Municipal Election a Measure that places a fee upon carbon-emitting corporations of over 250 employees worldwide or 10 or more franchises with operations in Berkeley with revenues funding projects which move Berkeley toward sustainability, 100% renewable energy, or climate change mitigation; and

WHEREAS, in accordance with the provisions of Section 10002 and 10403 of the Elections Code of the State of California, the Alameda County Board of Supervisors is requested to consolidate the City of Berkeley General Municipal Election with the Statewide General Election to be held November 3, 2020; and

WHEREAS, the City of Berkeley hereby requests that the Alameda County Board of Supervisors permit the Registrar of Voters of Alameda County to perform services in connection with said election at the request of the City Clerk. These services to include all necessary services related to official ballot creation, sample ballot and voter information pamphlet preparation, vote-by-mail, polling places, poll workers, voter registration, voting machines, canvass operations, and any and all other services necessary for the conduct of the consolidated election; and

WHEREAS, the Council desires to submit this measure to be placed upon the ballot at said consolidated election.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Board of Supervisors of Alameda County is hereby requested to include on the ballots and sample ballots the measure enumerated above to be voted on by the voters of the qualified electors of the City of Berkeley.

BE IT FURTHER RESOLVED that the full text of the measure shall be printed in the Voter Information Pamphlet mailed to all voters in the City of Berkeley.

BE IT FURTHER RESOLVED that the above enumerated measure requires a 66% majority vote threshold for passage.

BE IT FURTHER RESOLVED that the City Clerk is hereby directed to cause the posting, publication and printing of notices, pursuant to the requirements of the Charter of the City of Berkeley, the Government Code and the Elections Code of the State of California.

BE IT FURTHER RESOLVED that the City Clerk is hereby directed to obtain printing, supplies and services as required.

BE IT FURTHER RESOLVED that the City Clerk is hereby authorized to enter into any contracts necessary for election consulting services, temporary employment services, printing services, and any such other supplies and services as may be required by the statutes of the State of California and the Charter of the City of Berkeley for the conduct of the November General Municipal Election.

BE IT FURTHER RESOLVED that pursuant to Elections Code Section 9285 (b), the City Council hereby adopts the provisions of Elections Code Section 9285 (a) providing for the filing of rebuttal arguments for city ballot measures.

BE IT FURTHER RESOLVED that said proposed measure shall appear and be printed upon the ballots to be used at said election as follows:

City of Berkeley Measure	
Should the People of the City of Berkeley establish a flat tax on corporations with over 250 employees worldwide or with over 10 franchises, with revenues used to fund a Berkeley Climate Action Fund?	Yes
	No