

July 5, 2011

The Honorable Sandré Swanson
Chair, Assembly Labor and Employment Committee
California State Assembly
State Capitol, Room 6012
Sacramento, CA 95814

**Senate Bill 136 (Yee)
Oppose Unless Amended**

Dear Assembly Member Swanson:

As members of a coalition of school districts, county offices of education, local agencies and energy service companies, we are respectfully writing to express our opposition to Senate Bill 136 (Yee), as amended on June 22, 2011, unless the legislation is further amended. This bill is scheduled to be heard by the Assembly Labor and Employment Committee on July 6, 2011.

The coalition has identified a potential consequence of the current draft of the bill that, as we understand, is unintended.

Currently, the law is unclear as to whether prevailing wage must be paid during the construction development of an energy services plan. Energy services companies (ESCOs) typically pay prevailing wages for construction.

However, in seeking to ensure prevailing wage is always paid by defining energy service contracts as public works projects for this purpose, SB 136 could be interpreted to extend the reach of the prevailing wage obligation to include *non-construction* services in the energy services contract. ESCOs employ engineers and others to analyze the energy savings opportunities for a public agency and develop a plan to achieve those savings.

SB 136 could unintentionally capture those engineers and other employees in the prevailing wage requirement.

The coalition would remove its opposition if the bill was amended to clearly apply the prevailing wage requirement only to the construction phase of the energy services plan.

Please call any of the representatives undersigned with any questions you may have about this communication.

Thank you for your consideration.

Sincerely,

Anna Ferrera, School Energy Coalition
Brian Rivas, California School Board Association
Dennis Meyers, California Association of School Business Officials
Jennifer Whiting, League of California Cities
Rand Martin, National Association of Energy Service Companies
Tom Duffy, Coalition for Adequate School Housing

cc: The Honorable Leland Yee
Ben Ebbink, Labor and Employment Committee