

**STATE CAPITOL**  
P.O. BOX 942849  
SACRAMENTO, CA 94249-0005  
TEL: (916) 319-2005  
FAX: (916) 319-2105

**DISTRICT OFFICE**  
4811 CHIPPENDALE DRIVE, STE. 501  
SACRAMENTO, CA 95841  
TEL: (916) 349-1995  
FAX: (916) 349-1999

Assemblymember.Niello@assembly.ca.gov  
www.assembly.ca.gov/niello

# Assembly California Legislature



**ROGER NIELLO**  
ASSEMBLYMAN, FIFTH DISTRICT

**COMMITTEES**  
VICE CHAIR, BUDGET  
ELECTIONS AND REDISTRICTING

**JOINT COMMITTEES**  
JOINT LEGISLATIVE BUDGET  
COMMITTEE  
EMERGENCY SERVICES AND  
HOMELAND SECURITY

**SELECT COMMITTEE**  
SELECT COMMITTEE ON  
FOSTER CARE

December 4, 2008

Ms. Mary Nichols, Chair  
Air Resource Board  
1001 I Street  
Sacramento, CA 95814

Dear Chairwoman Nichols,

Recently, Assembly Republican Leader Mike Villines and I asked the Legislative Analyst (LAO) to perform an analysis of the Air Resources Board (ARB) AB 32 Scoping Plan. I have attached a copy of the LAO response to our request.

Due in large part to the delays in receiving information from ARB, the LAO analysis was not completed in time for it to be considered during the public hearings that were held on the Scoping Plan in November. However, as you know, the LAO analysis and the subsequently released ARB-commissioned peer review raise significant questions about the methodology of the scoping plan and the conclusions that AB 32 implementation will be a net positive benefit to the economy.

Specifically, the LAO letter suggests "the plan's evaluation of the costs and savings of some recommended measures is inconsistent and incomplete and that the plan "fails to lay out an investment pathway..." to attain the AB 32 GHG emission reduction goals. Unfortunately, the LAO was not able to complete some elements of their analysis as they were not provided with some written responses from CARB even though, "it had been provided ample time to do so."

The peer review critique of the Scoping Plan goes even further in suggesting that the cost of the AB 32 Scoping Plan would be significant, and that CARB drastically underestimated these costs. Additionally, peer review comments suggest that there is some underlying manipulation of data in the Scoping Plan by stating that, "The economic analysis selectively includes or excludes various existing non-AB 32 policies in its baseline precisely in ways that lead systematically to under-estimating the costs of the Scoping Plan."

Ms. Mary Nichols, ARB Chairwoman  
Page 2

On behalf of the constituents and taxpayers of my district and the State of California who will have to bear any cost burden associated with full AB 32 implementation, I am requesting a response from you to the issues raised in the LAO report and the peer review. Specifically, I would appreciate knowing why you believe the ARB would want to move ahead with adoption of the scoping plan while two respected, comprehensive, and analytical sources have raised very serious questions about the methodology of the Scoping Plan.

AB 32 granted the ARB broad, unprecedented regulatory authority with minimal legislative oversight. As you may know, I am personally skeptical of the impacts on global warming that AB 32 may accomplish and voted against this bill as a member of the Assembly. I realize that you, on the other hand, are a strong advocate for the goals of AB 32. But no matter what your position or what you might think the impact of full implementation of AB 32 may have on global warming, as a committed public servant, it is your duty to ensure that we have a complete and accurate picture of the full economic impact of this measure.

Finally, in light of the very serious issues raised in both reports and the outstanding questions of the LAO, and given the fact that both documents were essentially not available to the public until after the opportunity for public input, I would urge the Board to delay the scheduled December 11<sup>th</sup> board vote to adopt the scoping plan and believe that these issues must be addressed before any adoption of the scoping plan is even considered.

Thank you in advance for your response.

Sincerely,



ROGER NIELLO  
Assemblyman, 5<sup>th</sup> District

cc: Governor Arnold Schwarzenegger  
Members of the California Legislature