MEETING OF THE

LEGISLATIVE/COMMUNICATIONS AND MEMBERSHIP COMMITTEE

SOUTHERN CALIFORNIA

ASSOCIATION of GOVERNMENTS

Main Office

818 West Seventh Street

12th Floor

Los Angeles, California

90017-3435

t (213) 236-1800

f (213) 236-1825

www.scag.ca.gov

Officers

President
Glen Becerra, Simi Valley

First Vice President
Greg Pettis, Cathedral City

Second Vice President
Carl Morehouse, San Buenaventura

Immediate Past President
Pam O'Connor, Santa Monica

Executive/Administration Committee Chair

Glen Becerra, Simi Valley

Policy Committee Chairs

Community, Economic and Human Development
Paula Lantz, Pomona

Energy & Environment
Cheryl Viegas-Walker, El Centro

Transportation
Keith Millhouse, Ventura County Transportation Commission

Tuesday, June 19, 2012
8:30 a.m. -10:00 a.m.
SCAG Offices
818 West 7th Street, 12th Floor
Policy Committee Room B
Los Angeles, CA 90017
(213) 236-1800

Videoconference Available
San Bernardino SCAG Office
1170 W. 3rd Street, Suite 140
San Bernardino, CA 92418

Coachella Valley SCAG Office
73-710 Fred Waring Dr. Suite 200
Palm Desert, Ca 92260

Imperial County SCAG Office
1405 N. Imperial Avenue, Suite 1
El Centro, CA 92243

Teleconference Also Available

If members of the public wish to review the attachments or have any questions on any of the agenda items, please contact Ruby Moreno at (213) 236-1840 or via email moreno@scag.ca.gov

Agendas & Minutes for the Legislative/ Communications and Membership Committee are also available at: www.scag.ca.gov/committees

SCAG, in accordance with the Americans with Disabilities Act (ADA), will accommodate persons who require a modification of accommodation in order to participate in this meeting. If you require such assistance, please contact SCAG at (213) 236-1993 at least 72 hours in advance of the meeting to enable SCAG to make reasonable arrangements. To request documents related to this document in an alternative format, please contact (213) 236-1928

The Regional Council is comprised of 84 elected officials representing 191 cities, six counties, six County Transportation Commissions and a Tribal Government representative within Southern California.

Legislative/Communications and Membership Committee

June 2012

Larry McCallon, District 7	***Chair***
Judy Mitchell, District 40	***Vice-Chair***

Member	**Representing**
Barrows, Bruce	District 23
Becerra, Glen	District 46
Carroll, Stan	District 31
Clark, Margaret	District 32
Daigle, Leslie	District 15
Daniels, Gene	District 24
Finlay, Margaret	District 35
Glaab, Paul	District 12
Martinez, Michele	District 16
Nelson, Shawn	Orange County
O'Connor, Pam	District 41
Pettis, Greg	District 2
Viegas-Walker, Cheryl	District 1
Wapner, Alan	SANBAG

Teleconference Locations

Hon. Margaret Clark
San Gabriel Basin WQA
1720 W. Cameron Avenue, #100
West Covina, CA 91790

LEGISLATIVE/COMMUNICATIONS & MEMBERSHIP COMMITTEE AGENDA
JUNE 19, 2012

The Legislative/Communications & Membership Committee may consider and act upon any of the items listed on the agenda regardless of whether they are listed as information or action items.

CALL TO ORDER & ROLL CALL
(Hon. Larry McCallon, Chair)

PUBLIC COMMENT PERIOD
*Members of the public desiring to speak on items on the agenda, or items not on the agenda, but within the purview of the Committee, must fill out and present a Public Comment Card to the Assistant prior to speaking. Comments will be limited to three (3) minutes, per speaker provided that the Chair has the discretion to reduce this time limit based upon the number of speakers. The Chair may limit the total time for all comments to twenty (20) minutes***.**

REVIEW AND PRIORITIZE AGENDA ITEMS

CONSENT CALENDAR

1. Minutes of May 15, 2012 Meeting **Attachment 1**

ACTION ITEMS

2. SB 1117 (DeSaulnier) – Statewide Passenger Rail Transportation Plan **Attachment 6**
   (Sharon Neely, Chief Deputy Executive Director)

3. ACA 23 (Perea) – Local government transportation projects: special taxes: voter approval **Attachment 9**
   (Sharon Neely, Chief Deputy Executive Director)

INFORMATION/DISCUSSION ITEMS

4. LCMC Meeting Time Change
   (LCMC Committee)

5. 2012 Ballot Initiative Update **Oral Update**
   (Sharon Neely, Chief Deputy Executive Director)

LEGISLATIVE/COMMUNICATIONS & MEMBERSHIP COMMITTEE AGENDA
JUNE 19, 2012

INFORMATION/DISCUSSION ITEMS CONT.

6. Cap & Trade Legislation Update **Attachment 12**
   (Sharon Neely, Chief Deputy Executive Director)

7. Federal & State Legislative Update **Oral Update**
   (Sharon Neely, Chief Deputy Executive Director)

8. Regional Services Update **Oral Update**
   (*Darin Chidsey, Acting Director)*

FUTURE AGENDA ITEMS

Any Committee member or staff desiring to place items on a future agenda may make such a request.

ANNOUNCEMENTS

ADJOURNMENT

The next meeting of the Legislative/Communications & Membership Committee is scheduled for 8:30 a.m., Tuesday, July 17, 2012 at the SCAG Los Angeles office.

LEGISLATIVE/COMMUNICATIONS & MEMBERSHIP COMMITTEE
of the
SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS
May 15, 2011
Minutes

THE FOLLOWING MINUTES ARE A SUMMARY OF ACTIONS TAKEN AND/OR DISCUSSIONS BY THE LEGISLATIVE/COMMUNICATIONS & MEMBERSHIP COMMITTEE. AUDIO OF THE ACTUAL MEETING IS AVAILABLE FOR LISTENING IN SCAG'S DOWNTOWN LOS ANGELES OFFICE.

The Legislative/Communications & Membership Committee held its May 15, 2012 meeting at SCAG's downtown Los Angeles Office.

Members Present
Hon. Bruce Barrows, District 23 **(Teleconference)**
Hon. Glen Becerra, District 46 **(Teleconference)**
Hon. Stan Carroll, District 31 **(Teleconference)**
Hon. Margaret Finlay, District 35 **(Teleconference)**
Hon. Paul Glaab, District 12 **(Teleconference)**
Hon. Larry McCallon, District 7
Hon. Judy Mitchell, District 40 **(Teleconference)**
Hon. Pam O'Connor, District 41 **(Teleconference)**
Hon. Greg Pettis, District 2

CALL TO ORDER

The meeting was called to order by Councilmember Larry McCallon at 8:31 a.m. There was a quorum.

PUBLIC COMMENT PERIOD

There were no public comments.

CONSENT CALENDAR

1. Minutes of April 17, 2012 Meeting

A motion was made (Barrows) to approve the Consent Calendar. The motion was SECONDED (Finlay) and unanimously APPROVED by roll call vote (1 Abstain: O'Connor)

ACTION ITEMS

2. SCAG Memberships and Sponsorships of Annual Events: 1) San Bernardino Associated Governments General Assembly ($1,500); 2) Coachella Valley Association of Governments General Assembly ($1,500); 3) Southern California Energy Summit ($1,500) 4) Rail-Volution Conference ($1,600); 5) California Contract Cities Association Membership ($3,000); and 6) California Connections Leadership Network/SCAG Partnership 2012 ($10,000)

A motion was made (Finlay) to recommend approval of $19,100 for the SCAG Sponsorship of Annual Events. Motion was SECONDED (Pettis) and unanimously APPROVED by roll call vote.

3. SB 1151 (Steinberg) – Long Range Asset Management Plan, SB 1156 (Steinberg) Community Development & Housing Joint Powers Authority.

Sharon Neely, Deputy Executive Director, briefed the Committee on the continuing legislation surrounding the suspension of the redevelopment Agencies (RDA). SB 1151 which establishes a Sustainable Economic Development and Housing Trust Fund ("trust fund") for cities and counties, and its companion measure SB 1156 would allow for the creation of a community development and housing Joint Powers Agreement (JPA) which function as voluntary mechanisms that will provide the cities and counties with alternatives to resolve what is remaining of the RDA's. At the previous Regional Council Meeting, Senate President pro tempore Darrel Steinberg spoke of the benefits of these two bills, and promised to work with Senator Bob Dutton on his RDA bill, SB 986, and possibly co-join the bills to work together.

A motion was made (Pettis) to recommend a support position for SB 1511 and SB 1156 to the Regional Council. Motion was SECONDED (Finlay) and APPROVED by roll call vote (1 No: Barrows, 1 Abstain: O'Connor)

4. AB 1444 (Feuer) – California Environmental Quality Act: Record of Proceedings

At the request of the Committee, AB 1444 was pulled from the agenda to be discussed at the next regularly scheduled LCMC meeting.

5. AB 1446 (Feuer) – Los Angeles County Metropolitan Transportation Authority: Transactions and Use Tax

Sharon Neely, Deputy Executive Director, updated the Committee on the status of AB 1446 and reported its passage through the Appropriation Committee on May 9th. Current law permits MTA (METRO) to adopt a ½ - cent sales tax in Los Angeles County for thirty (30) years, subject to a two-thirds vote. The new bill would indefinitely extend its existing ½ -cent transaction and sales tax related to transportation, subject to voter approval. The bill allows METRO to accelerate the completion of all of the current programs and ongoing projects which will free up additional funds from Measure R that can be allocated to projects approved by the METRO board in their Long Range Transportation Plan (LRTP), which include projects in the adopted SCAG Regional Transportation Plan (RTP).

The Committee raised some concern over AB 1446 because it appears that most of the new funds will be directly allocated and used primarily for transportation projects in Los Angeles County. However, the group was also in agreement that in order to help the SCAG region attain air quality and sustainability goals this measure would be beneficial overall to the region.

A motion was made (Mitchell) to recommend support for AB 1446 to the Regional Council. Motion was SECONDED (Pettis) and APPROVED by roll call vote (1 No: Barrows)

INFORMATION ITEMS

6. Update from Washington DC

Past President Pam O'Connor and Vice President Greg Pettis traveled to Washington DC to attend the Coalition for America's Gateways and Trade Corridors (CAGTC) annual conference. While attending the conference the councilmembers also met with the Environment and Public Works (EPW) Committee staff.

Senator Barbara Boxer spoke at the main conference, highlighting her commitment to pursuing the completion of Senate Bill 1813 Moving Ahead for Progress (MAP 21) before the gas tax expires on June 30, 2012. The Senator urged all of the participants to return to their leaders and encourage them to support SB 1813 given the significant impact on job creation to the region, and the small window of opportunity to accomplish this task. Ms. Neely reported that Councilmembers O'Connor and Pettis met with the EPW Committee to discuss a helpful strategy for the upcoming Conference Committee negotiations. One part of the strategy is working with the regions Chief Executive Officers (CEO's) to transmit a letter of support outlining the region's high priority clarifications that are expected to come out of the Conference Committee. Though the Conference is limited mostly to the provisions in Map 21, since HR 7 did not pass out of the House, there are clarifying issues common to both bills which can be pursued to enhance beneficial impacts to the region's transportation system and infrastructure.

Congresswoman Janice Hahn has created a bi-partisan PORT Caucus with Congressman Poe (TX-2) with sixty-five (65) members of the House that have signed on in support of the issue of a national freight policy and freight funding. Ms. Neely reported that the Congresswoman has emphasized the need to remain globally competitive which is in alignment with the goals of the Regional Council. Staff has pledged to work with the Congresswoman to advance these efforts.

7. 2012 Ballot Initiative Update

Sharon Neely, Deputy Executive Director, briefed the Committee that staff will be providing the councilmembers an update on the ballot initiatives based upon the measures that qualify for the ballot. The deadline for qualification for the 2012 November ballot is June 28. The Committee also recognized that it is SCAG policy that the agency avoids taking position on proposed ballot measures or initiatives unless it directly affects the core responsibilities of the agency.

8. Evaluation Results of SCAG General Assembly

Angela Rushen, Manager of Media and Public Affairs, reported on the survey results, sent to both registered attendees and sponsors, from the Regional Conference and General Assembly held on April 4-5, 2012. The questions on the survey asked for feedback on activities that went well, and areas where improvement was needed. The results indicated that the key factors rated good or excellent were the following: length of the conference, general sessions, panels,

reception, awards dinner, and the conference facility. Overall, both attendees and sponsors are looking forward to the next SCAG General Assembly.

9. Federal & State Legislative Update

Sharon Neely, Deputy Executive Director, provided a quick update on the current status of the Governor's May revised budget. One of the central concerns pertaining to the budget is the revenue/expenditure gap and its potential to significantly increase should the Governor's proposed tax package not be approved by voters in the November election. Ms. Neely noted that staff will continue to monitor and apprise the Committee of budget developments.

On another note, Ms. Neely reported that AB 2656, legislation which gives tax credits of up to $500 million for carriers that want to increase tonnage and create jobs, has passed out of Committee and is moving forward. Additionally, Chairman McCallon testified in support of SB 214 (Wolk), which gives cities financing tool options that want to create an infrastructure financing district. The Committee is releasing that bill to move forward without amendment. Another bill that SCAG has supported is the entertainment tax credit bill, which in the last session the legislature gave a one year extension of its provisions. That bill was reported to have been unanimously approved in policy committee, and will go to the appropriations committee.

10. Regional Services Update

Sylvia Patsaouras, Interim Director, informed the Committee of several upcoming events in the month of June: 1) Ventura County Annual dinner, held on June 7th; 2) San Bernardino Associated Governments (SANBAG), June 14th; 3) Western Riverside Council of Governments (WRCOG) General Assembly, June 21st; 4) and Coachella Valley Association of Governments (CVAG) General Assembly, June 25th. SCAG will be sponsoring three of the General Assembly events, and will be accepting reservations for events that are of interest to the councilmembers.

FUTURE AGENDA ITEMS

None.

ANNOUNCEMENTS

Chairman McCallon brought up the discussion of the potential to eliminate the teleconference option for all LCMC meetings. Concerns were voiced by the Committee members, and they agreed to send out a survey which would indicate how the members would like to participate in future meetings.

ADJOURNMENT

The next regular meeting of the Legislative/Communications & Membership Committee is scheduled for 8:30 am, Tuesday, June 19, 2012 at the SCAG Los Angeles office.

_____
Sharon Neely
Chief Deputy Executive Director

REPORT

DATE: June 19, 2012

TO: Legislative/Communications & Membership Committee

FROM: Sharon A. Neely, Chief Deputy Executive Director
neely@scag.ca.gov, (213) 236-1992

SUBJECT: SB 1117 (DeSaulnier) – Statewide Passenger Rail Transportation Plan

---

RECOMMENDED ACTION:

Support.

EXECUTIVE SUMMARY:

This bill would require the California Transportation Commission (CTC) to prepare a statewide passenger rail transportation plan relative to conventional and high-speed intercity passenger rail, commuter rail, and urban rail transit. The bill would require the Department of Transportation (Caltrans) to assist the CTC as specified. The CTC would have to adopt the statewide passenger rail transportation plan by September 2014, and update the plan every four (4) years thereafter. The bill would require the plan to contain goals for integrated passenger rail services and facilities, and to adopt policies and guidelines to be used by the department, the authority, and regional transportation agencies in the development of their plans, consequentially prohibiting those agencies from taking inconsistent actions.

STRATEGIC PLAN:

This item supports SCAG's Strategic Plan, Goal (2) Obtain Regional Transportation infrastructure Funding and Promote Legislative Solutions for Regional Planning Priorities; Objective b) Identify and support legislative initiatives.

BACKGROUND:

Existing law requires Caltrans to prepare a California State Rail Plan (CSRP) every two (2) years that includes a ten-year planning view of operations, marketing efforts, service expansions, and new routes for intercity passenger rail routes, and also includes a summary of capital and operations planning for commuter rail service and an overview of high-speed rail and freight rail programs. Caltrans submits the plan to the CTC for its "advice and consent", and then forwards it the Governor, Legislature, and the Public Utilities Commission. Caltrans is currently updating the plan consistent with federal requirements that each state prepare a state intercity passenger rail plan. This is the first passenger rail plan required by the federal government.

Existing state and federal law requires local commuter and rail transit agencies to prepare rail transit development plans in coordination with the preparation of the regional transportation plans to ensure the proposed investments are consistent with the forecasted available funding for investing in a region's multimodal regional transportation system. Capital investments in the intercity passenger rail plan and in regional and urban rail transit programs are included in the State Transportation Improvement Program

(STIP)—the state's five-year transportation capital outlay program—which the CTC updates and adopts every two (2) years.

SB 1117 would require the CTC to prepare and adopt a statewide passenger rail transportation plan that includes goals for an integrated rail passenger system consisting of high-speed intercity rail, conventional intercity rail, commuter rail, and urban rail transit services and facilities. The statewide passenger rail plan would include the following elements:

A. Goals for an integrated rail passenger system consisting of the four rail modes: high-speed intercity rail, conventional intercity rail, commuter rail, and urban rail transit.
B. Proposed regional and state investments in the four rail systems.
C. An assessment that the rail plans proposed by the regional transportation planning agencies are consistent with SB 375.
D. An assessment of transportation energy requirements for the four rail modes.
E. An assessment of the reduction in regional and intercity highway congestion due to the regional plans, and in the case of high-speed rail, an assessment of the ability of the service to reduce intercity airline travel and airport congestion.
F. Identification of rail corridors in which investments will be made and the expected impediments, if any, to their development, including right-of-way availability for facilities.
G. CTC-developed performance goals related to financial capacity, service performance and frequency, and the connections between rail modes to increase travel opportunities.
H. An estimate of the capital and operating revenue available for the development of the four rail services in 5-, 10-, and 20-year time horizons.

The bill would also require the CTC to develop policies and guidelines in consultation with Caltrans, the California High-Speed Rail Authority (CHSRA), regional transportation planning agencies, and urban transit and commuter rail operators. The policies and guidelines would be used by the responsible planning entities when developing their individual plans to measure specified performance goals and capital and operating revenue estimates for the various rail modes of 5-, 10-, and 20-year time horizons. The CHSRA would be directed to plan for the implementation of an incremental high-speed rail development program with specified features when developing its element of the statewide plan. The CHSRA must submit a draft of the incremental development program to the CTC by December 31, 2013.

SB 1117 would require Caltrans to assist the CTC in the preparation of the statewide plan, including the preparation of draft policies and the draft plan. The CTC would be required to hold public meetings and workshops and to submit a draft of the plan to the Legislature and stakeholders by April 30, 2014. The bill would require the CTC to adopt the final plan at the September 2014 meeting of the commission and every four (4) years thereafter.

California's rail network is likely to grow at an immense pace in the future. Along with planned investments in high-speed rail, the larger metropolitan areas are seeing growth in rail travel. Because of the growth in rail travel, it is important to have an overall policy framework for rail development. Such a plan will ensure that the public is obtaining the greatest return on its investments in the four modes of rail transit. The CTC will be required to incorporate regional rail plans into the statewide passenger rail transportation plan. This bill will also ensure that there is a statewide framework for rail development consistent with SB 375, which established a policy framework that integrates land use and transportation development.

The bill currently does not have any support or opposition on record. The California League of Cities currently maintains a “watch” position. The California State Association of Counties (CSAC) currently maintains a “no interest” position. SB 1117 passed out of the Senate on to the Assembly by a vote of 32-3 on May 30, 2012. The bill has been referred to the Assembly Committee on Transportation. No hearing has been scheduled (as of June 13, 2012).

ATTACHMENT(S):
None

Reviewed by:

Chief Deputy Executive Director

REPORT

DATE: June 19, 2012

TO: Legislative/Communications & Membership Committee

FROM: Sharon A. Neely, Chief Deputy Executive Director
neely@scag.ca.gov, (213) 236-1992

SUBJECT: ACA 23 (Perea) – Local government transportation projects: special taxes: voter approval

---

RECOMMENDED ACTION:

Support.

EXECUTIVE SUMMARY:

Proposed Assembly Constitutional Amendment (ACA) 23 by Asm. Henry Perea (D-Fresno) would lower the constitutional vote requirement for approval of a special tax to provide funding for local transportation projects from two-thirds to a 55 percent majority.

STRATEGIC PLAN:

This item supports SCAG's Strategic Plan, Goal 2: Obtain Regional Transportation Infrastructure Funding and Promote Legislative Solutions for Regional Planning Priorities; Objective b) Identify and support legislative initiatives.

BACKGROUND:

Constitutional requirements for voter approval of tax measures were initiated with the passage of Proposition 13 in 1978, and solidified with the passage of Proposition 218 in 1996. The latter measure clarified that general taxes for general governmental purposes require approval of a majority of voters, while special taxes for any specified purposes must be approved by two-thirds of voters. Proposition 39, which was narrowly approved by 53 percent of California voters in 2000, provided an exception to the two-thirds vote requirement for special taxes by authorizing the passage of local school bond measures by approval of 55 percent of the voters.

ACA 23 would specifically provide that the imposition, extension, or increase of a special tax by a local government for the purpose of providing funding for local transportation projects requires the approval of 55% of its voters voting on the proposition. The measure would also make other conforming and technical, nonsubstantive changes.

According to the bill's author, California's infrastructure funding mechanisms are falling short of meeting the costs of basic system maintenance, citing a report released in 2009 by The Road Information Program (TRIP) and the American Association of State Highway Transportation Officials (AASHTO):

- California's major urban roadways are the roughest in the nation, costing the average state driver at least $590 annually in extra vehicle operating costs;

- Thirty-five percent of major urban roads in California are in poor condition and seven cities in California with populations greater than 250,000 have roadway systems where more than 50 percent of pavements are considered to be in "poor" condition;

- More than two-thirds of California roads are rated poor to mediocre.

ACA was introduced on February 23, 2012, and referred to Assembly Committees on Local Government and Appropriations on June 11th. Hearing is scheduled before Assembly Local Government Committee on June 27, 2012. As a proposed legislative constitutional amendment, the measure requires two-thirds vote in both chambers.

Current supporting entities to ACA 23 include:

Kern Council of Governments (Sponsor)
American Council of Engineering Companies (ACEC)
City of Firebaugh
City of Fowler
City of Huron
City of Mendota
City of Merced
City of Parlier
City of Wasco
California Association of Councils of Government (CALCOG)
California State Association of Counties (CSAC)
Greater Bakersfield Chamber of Commerce
League of California Cities
Merced County Association of Governments (MCAG)
Metropolitan Transportation Commission
San Luis Obispo Council of Governments
Transportation Agency for Monterey County

There is currently no known opposition on-record, though it is presumed that groups traditionally opposed to any form of tax increase may oppose the measure.

RECOMMENDATION

As noted above, CALCOG supports ACA 23 and has asked that SCAG support the measure. Staff recommends the Legislative, Communications and Membership Committee forward a support recommendation to the Regional Council for ACA 23. This measure would provide local government with the flexibility to make investments in local transportation projects while state and federal resources are either shrinking or becoming less stable than in the past. Given the funding goals contained within the approved RTP/SCS, such flexibility contingent upon voter approval is consistent with SCAG adopted goals.

Additionally, in some jurisdictions, it is likely that despite having the support of a majority of the community, local, targeted tax measures for transportation can fail by narrow margins due to the two-thirds vote requirement. Lowering this threshold to 55%, consistent with what is currently required for local school bond measures, will provide greater opportunities for local passage and implementation of increased

funding for local transportation purposes, and is consistent with previous SCAG support positions for locally approved measures to increase funding for transportation.

ATTACHMENT(S):
None

Reviewed by:

Chief Deputy Executive Director

REPORT

DATE: June 19, 2012

TO: Legislative/Communications and Membership Committee

FROM: Sharon A. Neely, Chief Deputy Executive Director
neely@scag.ca.gov, (213) 236-1840

SUBJECT: Cap & Trade Revenue Summary

RECOMMENDED ACTION:
No action required; information only

EXECUTIVE SUMMARY
As part of the implementation of AB 32 (2006), the California Air Resources Board has adopted regulations to establish a new cap-and-trade program to cap greenhouse gas emissions statewide. AB 32 calls for the reduction of greenhouse gases to 1990 levels by the year 2020. Apart from the reduction of emissions, the cap-and-trade program stands to generate significant revenues. ARB plans to sell 66 million allowances in FY 2012-2013, generating an estimated $660 million to $3.3 billion (depending on the price per ton, which would range between a minimum of $10 and maximum of $50). There is currently legislation in both houses of the legislature focused on the allocation of cap-and-trade revenues.

BACKGROUND
The California Air Resources Board (ARB) has adopted regulations to establish a new cap-and-trade program to cap greenhouse gas (GHG) emissions statewide as part of the implementation of AB 32 (Núñez and Pavley), Chapter 488, Statutes of 2006, the Global Warming Solutions Act of 2006. AB 32 calls for the reduction of GHG emissions to 1990 levels by the year 2020.

According to ARB, a total reduction of 80 million metric tons (MMT), or roughly 16% is necessary to achieve the 2020 limit. Approximately 78% of the reductions will be achieved through identified regulatory measures. ARB proposes to achieve the balance of reductions necessary to meet the 2020 limit (approximately 18 MMT) through a cap-and-trade program. Producers of approximately 80 percent of the state's GHG emissions are subject to the cap, which reduces emissions by about 20 percent at a rate of two percent per year in 2013 and 2014 and three percent per year through 2020. Motor vehicle fuels will be subject to the cap starting in 2015. The remaining 20 percent of emissions derive from smaller entities and are uncapped sectors.

The first auction of emission allowances by the ARB is scheduled to be held in November 2012, with subsequent auctions to be held in February and May 2013. As part of its regulations, ARB has set a floor price of $10 per ton and a ceiling of $50 per ton. Based on the 66 million allowances that ARB plans to sell in FY 2012-13, this will generate between $660 million to $3.3 billion in FY 2012-13. Governor Brown's proposed 2012–13 budget assumes ARB will raise $1 billion from the auctions for the budget year. ARB estimates annual revenue from the auction of GHG emission

allowances to range from $2 billion to $5 billion in 2013, with that amount increasing to between $17 billion and $67 billion in later years.

Transportation comprises about 40% of the state's share of GHG emissions; thus, the sale of emissions allowances from cap-and-trade represent a significant new funding opportunity for the transportation sector, and low-carbon transportation improvements should receive a substantial share of proceeds from the cap-and-trade program.

LEGISLATION

The Assembly and Senate budget subcommittees have adopted language that would dedicate "at least $500 million" of cap-and-trade revenues towards General Fund (GF) expenditures to help reduce the deficit. Both houses rejected the Administration's proposal to appropriate the balance of funds to an expenditure plan that would be developed by the Administration at a later date on the grounds that it denies the Legislature the opportunity to adjust the expenditure plan. Instead, the draft budget includes language stating that the appropriation of additional funds beyond those used to offset GF expenditures will be contingent upon the enactment of future legislation. There are currently two primary cap-and-trade bills pending in the Legislature to guide this process:

- AB 1532 (Perez) would assign development of a three-year expenditure plan to the ARB, with input from an advisory body consisting of the secretaries of the Natural Resources Agency, the California Environmental Protection Agency, the Department of Food and Agriculture, and the Business, Transportation and Housing Agency. The board would submit the expenditure plan to the Legislature, which would have the ability to modify it before final adoption by ARB. The Legislature would be required to include appropriations for the final investment plan in its annual budget. The bill specifies that transportation projects and sustainable development would be eligible, among other categories. AB 1532 passed the Assembly by vote of 49-27 on 05/25/2012 and is referred to Senate Rules Committee for assignment. This bill is supported by a large array of environmental and other stakeholder groups, which include:

  Support

  American Federation of State, County and Municipal Employees
  AFL-CIO
  American Lung Association
  American Society of Landscape Architects - California Council
  Asian Pacific Environmental Network
  Audubon California
  Big Sur Land Trust
  Bolsa Chica Land Trust
  Breathe California
  California Association of Local Conservation Corps
  California Biomass Energy Alliance
  California Clean DG Coalition
  California Climate and Agriculture Network
  California ReLeaf

California Urban Forests Council
California Watershed Coalition
California Watershed Network
Californians Against Waste
CALSTART
Coalition for Clean Air
Ella Baker Center, Green Collar Jobs Campaign
Energy Independence Now
Environmental Defense Fund
Greenlining Institute
Land Trust of Santa Cruz County
Marin Agricultural Land Trust
Natural Resources Defense Council
Open Space District
Pacific Forest Trust
Peninsula Open Space Trust
Sonoma County Agricultural Preservation and Open Space District
Sunrun
The Nature Conservancy
The Wilderness Society
Trust for Public Land
Union of Concerned Scientists
Waste Management

On record opposition to the bill comes from:

American Council of Engineering Companies of California
California Chamber of Commerce
California Grocers Association
California Manufacturers & Technology Association
California Metals Coalition
California Taxpayers Association
Can Manufacturers Institute
Chemical Industry Council of California
Western State Petroleum Association

- SB 1572 (Pavley) would require the Governor to submit a draft expenditure plan to the Legislature but assigns final development of the plan to state agencies designated by the Governor. While the Legislature would receive the draft expenditure plan and appropriate funds, it would have no authority to make changes to the plan. The bill requires that funds appropriated from cap-and-trade revenue would be spent in accordance with the final plan. SB 1572 passed the Senate by vote of 23-13 on 05/31/2012, and is currently held at the Assembly desk.

COALITION AND ADVOCACY PROPOSALS

The Metropolitan Transportation Commission (MTC) on June 1 prepared a proposed set of legislative advocacy principles for the cap-and-trade program for consideration by its Legislation Committee, and has shared these principles with stakeholder agencies statewide and has invited comment from any such interested parties. In short summary, these principles support:

- Authority of the Legislature to adjust the expenditure plan;
- A similar share of cap-and-trade allowance revenue to be allocated to transportation projects as the total GHGs attributable to transportation (40%);
- Distribution of cap-and-trade allowance revenues for transportation to MPOs to help achieve GHG reduction targets included in each region's Sustainable Communities Strategy;
- Each region's share of allowance revenue determined by formula based on a geographically equitable distribution of funds.

A copy of the MTC staff report and proposed legislative advocacy principles is attached to this report. This item was passed by MTC's Legislation Committee on Friday, June 8, and is on agenda for adoption by the full Commission on June 27.

Additionally, another stakeholder group consisting of Transportation California, California Transit Association, California Alliance for Jobs, and the California State Association of Counties has just formed a coalition to provide input to determine how distribution of cap-and-trade revenues for transportation and infrastructure would be apportioned.

As part of the early stages of formation of such a coalition, a draft set of cap-and-trade principles has been circulated among the staff of these agencies. In short summary these principles include:

- Dedicate the allocation revenues related to fuels to transportation investments. This is consistent with the longstanding policy of state to dedicate revenues related to motor vehicle fuels to transportation;
- Invest a major portion of those dedicated revenues directly into transportation infrastructure, operations, and maintenance;
- Structure the investments to favor integrated transportation infrastructure investments, to encourage all parts of the system to work together more efficiently than they do today.
- Transportation investments that provide the *incentives* and assistance that local governments need to make SB 375 work;
- Flexibility at the regional and local level to develop the most cost effective ways to meet both transportation and greenhouse reduction goals;
- Improved modeling and verification systems and use those to provide assurance that local strategies meet both GHG and cost effectiveness goals.

CONCLUSION

The above principles are preliminary and subject to significant further input. Members of the coalition have sent a letter to the California Air Resources Board providing their input on broad areas of consensus concerning cap-and-trade revenue allocations. A copy of the letter is attached to this report. Additionally, CALCOG has requested that SCAG support these principles. Staff invites the LCMC to comment on the principles and provide any input or suggestions regarding their content.

ATTACHMENT(S):

1) MTC Letter – Cap-and-Trade Principles
2) Transportation Funding Coalition Cap-and Trade Letter to CARB

Reviewed by:

_____
Chief Deputy Executive Director

METROPOLITAN
TRANSPORTATION
COMMISSION

Joseph P. Bort MetroCenter
101 Eighth Street
Oakland, CA 94607-4700
TEL 510.817.5700
TDD/TTY 510.817.5769
FAX 510.817.5848
E-MAIL info@mtc.ca.gov
WEB www.mtc.ca.gov

Memorandum

TO: Legislation Committee DATE: June 1, 2012

FR: Executive Director W. I. 1131

RE: Cap-and-Trade: Update & Legislative Advocacy Principles

Background
As part of its implementation of AB 32 (the Global Warming Solutions Act of 2006), the California Air Resources Board (ARB) has adopted regulations to establish a new cap-and-trade program to cap the emission of greenhouse gas emissions (GHG) statewide. Producers of about 80 percent of the state's GHG emissions are subject to the cap, which reduces emissions by about 20 percent compared to business-as-usual, at a rate of two percent per year in 2013 and 2014 and three percent per year through 2020. Motor vehicle fuels will be subject to the cap starting in 2015. The remaining 20 percent of emissions derive from smaller entities, such as agriculture and forestry, and are referred to as the "uncapped" sectors. The first auction is scheduled to be held in November 2012, with subsequent auctions to be held in February and May 2013.

What's At Stake? Cap-and-Trade Revenues in FY 2012-13
As part of the regulation establishing the program, ARB has set a floor price of $10 per ton and a ceiling of $50 per ton. Based on the 66 million allowances that ARB plans to sell in FY 2012-13, this will generate between $660 million to $3.3 billion in FY 2012-13. Consistent with Governor Brown's budget request, the Assembly and Senate budget subcommittees have each adopted language that would dedicate "at least $500 million" towards eligible General Fund (GF) expenditures in order to help reduce the deficit. However, both houses rejected the Administration's proposal to appropriate the balance of funds to an expenditure plan that would be developed by the Administration at a later date on the grounds that it denied the Legislature the opportunity to adjust the expenditure plan. Instead, the draft budget includes language stating that the appropriation of additional funds beyond those used to offset GF expenditures will be contingent upon the enactment of future legislation.

Next Steps: Competing Legislative Approaches Proposed
Rather than rush through legislation that spells out use of the non- GF relief share of cap-and-trade revenues generated in FY 2012-13 in this year's budget, there appears to be a consensus that the Legislature will enact legislation *this* year that lays out a process for developing an expenditure plan, but will defer adoption of an expenditure plan and appropriation of funds until next year, for inclusion in the FY 2013-14 budget. There are two primary cap-and-trade bills pending in the Legislature:

- AB 1532 (Perez) would assign development of a three-year expenditure plan to the ARB, with input from an advisory body consisting of the secretaries of the Natural Resources Agency, the California Environmental Protection Agency, the Department of Food and Agriculture and the Business, Transportation and Housing Agency. The board would submit

the expenditure plan to the Legislature, which would have the ability to modify it before final adoption by ARB. The Legislature would be required to include appropriations for the final investment plan in its annual budget. The bill specifies that transportation projects and sustainable development would be eligible, among other categories.

- SB 1572 (Pavley) would require the Governor to submit a draft expenditure plan to the Legislature but assigns final development of the plan to state agencies designated by the Governor. While the Legislature would *receive* the draft expenditure plan, it would have no authority to make changes to the plan. The bill further requires that funds appropriated from cap-and-trade revenue would be spent in accordance with the final plan.

Legal Restrictions on Use of Cap-and-Trade Revenue

According to Legislative Counsel, revenue generated from the allowances is considered mitigation fee revenue subject to the legal nexus test established in the 1997 California Supreme Court case known as *Sinclair Paint, Co. v. State Board of Equalization.* Therefore, such revenue may only be used to mitigate GHG emissions or the harms caused by GHG emissions. In addition, according to an analysis conducted by the University of California Los Angeles (UCLA) School of Law, given that AB 32 is focused on reducing emissions to a certain level by 2020, a project will have a stronger legal justification if it reduces GHG emissions prior to that year, though reductions beyond 2020 are also considered eligible. Transportation projects that can meet this nexus requirement are widely viewed as an eligible category of expenditures, as indicated by the Brown Administration's original proposal to fund "low carbon transportation" projects, including public transportation and high-speed rail.

A Significant New Funding Opportunity for Transportation

Considering that transportation comprises about 40 percent of the state's share of GHGs, it is reasonable to assume that low-carbon transportation improvements should receive a substantial share of the proceeds from the cap-and-trade program. In addition, in view of SB 375 (Steinberg, 2008), which directs metropolitan planning organizations (MPOs) to work with local governments to reduce transportation-related GHG emissions by specified state targets by 2020 and 2035, staff believes it is appropriate that a significant share of the cap-and-trade revenues that are designated to transportation be distributed via formula to the MPOs on the basis of each area's share of GHGs. In partnership with local governments, MPOs would be responsible for ensuring that expenditures are limited to those that mitigate GHG emissions or the harms they cause.

In order for cap and trade to have the greatest impact, it is critical that California establish a model that other states and nations seek to replicate. By investing this revenue in transportation projects, the state will provide tangible benefits to California residents that will help generate public support for the cap-and-trade program.

Staff recommends adoption of the legislative advocacy principles in Attachment 1 to guide MTC's advocacy with regard to the current legislative session as well as the development of the expenditure plan next year.

Steve Heminger

Legislative Advocacy Principles for the State's Cap-and-Trade Program

1. A multi-year expenditure plan for the use of cap-and-trade revenue should be developed by the Administration, with ample opportunity for public input. The Legislature should be empowered to make adjustments to the plan before final adoption by the Air Resources Board.

2. In addition to meeting the legal nexus requirement, the expenditure plan should seek to maximize other benefits to California, including improved mobility, livability, public health and social equity.

3. Given that transportation contributes almost 40 percent of the state's GHG emissions, a similar share of the allowance revenue (remaining after General Fund-eligible expenditures are offset) should go towards projects that reduce emissions from the transportation sector.

4. To help implement SB 375, cap-and-trade revenue funds dedicated to transportation — other than those of a statewide nature, such as high-speed or intercity rail — should be distributed to MPOs to help them achieve the GHG reduction targets included in each region's Sustainable Communities Strategy (SCS).

5. Each region's share of allowance revenue should be determined on a formula basis that reflects a geographically equitable distribution of funds.

6. Project eligibility in the transportation sector should include any transportation project that can meet the legal nexus test for fees, including projects that reduce GHG emissions as well as those that mitigate the *effects* of GHG emissions, (such as climate adaptation projects). MPOs would be responsible for ensuring that projects funded by allowance proceeds satisfy all legal requirements.

7. Projects funded by MPOs must be consistent with each region's SCS. Project selection should be done competitively with priority given to projects that reduce GHG emissions in the near term, while also supporting other key state and regional goals.

June 7, 2012

Mary D. Nichols, Chairman
California Air Resources Board
1001 "I" Street
Sacramento, CA 95812

Re: Coalition Comments on Cap and Trade Auction Revenues; May 24th Hearing Follow Up

Dear Chairman Nichols,

The California Alliance for Jobs, Transportation California, California Transit Association, and more recently local and regional government associations have been exploring ways to invest cap and trade revenue to address both the greenhouse gas reduction goals of AB 32 and critical transportation system maintenance and operation needs identified in the California Transportation Commission's Statewide Transportation Needs Assessment over the next ten years.

Our uniting principle is that auction revenues derived from vehicle fuels should be used to fund transportation system needs in a way that achieves AB 32 objectives and builds on the framework of SB 375 and other GHG reduction strategies. We believe that by integrating investments in new mobility, new infrastructure, and new jobs we can create healthy communities and better quality of life for all – while measurably reducing greenhouse gas emissions consistent with AB 32 and legal requirements for spending allocation revenues.

By targeting revenues and incentives toward local governments in support of regional planning goals we can leverage a cost effective investment portfolio across both transportation infrastructure and efficiency measures to yield the greatest GHG reductions associated with the transportation sector. Allocating funding to promote combining strategies will maximize GHG reduction while reinforcing SB 375, regional blueprints, other regional plans and local innovation.

Implementing SB 375 and other GHG-reducing regional plans outside of metropolitan planning organizations (MPOs) requires rebuilding aging infrastructure within urban infill and rural areas targeted for more intense development. This includes the maintenance and operation needs of local roads and transit systems, as well as active transportation infrastructure for walking and bicycling. By investing in an integrated transportation system, cost effective GHG reductions can also be achieved from approaches like rural resource infrastructure, intercity rail, and roadway management strategies. All of these transportation investments can yield even greater GHG reductions when combined with supporting land use strategies.

All of these investments are consistent with AB 32 and with meeting California's transportation infrastructure needs. These investments will create jobs, improve the movement of goods and enhance the economic performance of the state. Overall, we think this program should:

- Create cost-effective greenhouse gas reduction investments
- Leverage infrastructure investments across transportation and related land use strategies
- Foster collaboration and performance measurement
- Promote innovation in GHG reduction beyond AB 32 regulations
- Invest in existing communities by offsetting the high cost of infill development
- Support co-benefits/goals related to health, equity, energy, jobs, water, and agriculture

We want to work with CARB to craft an effective strategy to achieve maximum GHG reductions and long term co-benefits under AB 32 by investing a major portion of revenues related to fuels in integrated transportation and land use strategies consistent with the SB 375, the California Regional Blueprint plans and other regional planning processes. As a starting point, we want to suggest a few concepts for consideration in the development of your investment strategy:

1. ***Dedicate the allocation revenues related to fuels to transportation investments*.**
   This is consistent with the longstanding policy of the state to dedicate revenues related to motor vehicle fuels to transportation. It also assures a political and legal nexus between the costs and benefits of the program.

2. ***Invest a major portion of revenues in a way that is consistent with AB 32, SB 375 and other regional plans to reduce GHGs.*** Dedicate revenues directly into transit and road operations and maintenance, as well as transit and complete streets infrastructure within existing urban infill and rural communities. These funds must be invested in a way that is consistent with AB 32, SB 375 where applicable (including sub-regional allocations in Southern California) and other legal tests applied for this revenue. In regions not within an MPO where SB 375 does not apply, other measurable greenhouse gas reduction strategies can be developed within regional transportation plans.

3. ***Structure the investments to favor integrated transportation and land use strategies.***
   An approach could be to allocate investments regionally by population, recognizing that different strategies are needed to achieve GHG reductions in different areas of the state. To maximize cost effective GHG reduction, additional incentives for regions with Sustainable Community Strategies that exceed GHG reduction targets, or equivalent Blueprint Plans or other regional plans,

4. ***Improve modeling and verification systems to evaluate GHG potential and co-benefits.***
   Funding should be allocated to the development of performance measurement tools for local and regional actions.

5. ***Allow flexibility at the regional and local level to develop the most cost effective ways to meet both transportation and GHG reduction goals.***

6. ***Provide the incentives and assistance that local governments need to make SB 375 work.***

7. ***Project-funding determinations should be done at the regional level under established statewide criteria to encourage local innovation and flexibility.***

We hope you will give us the opportunity to work with you to refine these concepts and take advantage of this opportunity to make AB 32 a key component of California's transportation investment program.

Sincerely,

California Alliance for Jobs
California Transit Association
Transportation California
California State Association of Counties

cc: Senator Fran Pavley, Assemblymember Richard Gordon, Daniel Sperling, Ken Yeager, Dorene D'Adamo, Dr. John Balmes, Sandra Berg, Hector De La Torre, Mrs. Barbara Riordan,Ron Roberts, Dr. Alexander Sherriffs, Ronald O. Loveridge