# MEMO

**DATE:** October 4, 2007

**TO:** Regional Council
Community, Economic, and Human Development Committee
Energy and Environment Committee
Transportation and Communications Committee

**FROM:** Donald A. Rhodes
Legislative Affairs Manager

**SUBJECT:** End of 2007 Legislative Session Report

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**SUMMARY:**

This memorandum summarizes significant legislative actions during 2007 in Congress and the California State Legislature on SCAG-sponsored and supported legislation and other legislation, including bond implementation legislation, of interest to SCAG.

Each year, prior to the commencement of Congress and the California State Legislature, the Regional Council adopts a State and Federal Legislative Program that contains the Regional Council's positions on policies and legislative initiatives that need the leadership and support of Congress and the California State Legislature to successfully meet the major transportation, housing, and environmental challenges facing the SCAG region. The most recent program was adopted in December 2007.

As of this writing the California State Legislature has adjourned, but has been called into special session by the Governor to deal with health care and water issues. The Congress is still in the last month or so of its session and focused on the Iraq War. Pending issues of interest to SCAG include Aviation Reauthorization and transportation appropriations.

SCAG's state legislative priorities for the 2007 session included: Regional Housing Needs Assessment (RHNA) Pilot Program legislation; legislation addressing the air quality crisis in the SCAG region; legislation permitting Tribes to join the SCAG Joint Powers Authority; legislation to enhance the movement of goods and to mitigate or eliminate harmful environmental impacts; innovative financing and public/private partnerships for transportation projects; design-build/design-sequencing authority to expedite project delivery; and implementation of the housing, transportation and water bonds approved by the voters in November 2006.

SCAG's 2007 federal legislative priorities focused upon funding for goods movement projects and efforts to move the environmental clearance process; reauthorization and appropriations under SAFETEA-LU, the nation's surface transportation program; reauthorization of the Federal Aviation Administration legislation; and continued advocacy for innovative financing and public/private partnerships for transportation projects.

Attachment A to this memorandum is a summary listing of legislation for which SCAG supported or took positions and significant measures implementing bond legislation passed by the voters in November 2006.

**BACKGROUND:**

## STATE ISSUES

*SB 12 – RHNA Legislation- SCAG Sponsored*

A major legislative victory for SCAG during this legislative session was the passage of SB 12 (Lowenthal-D), which establishes a RHNA pilot program for the region. At SCAG's request Senator Alan Lowenthal carried the bill, which was passed by the State Legislature and signed by the Governor as an urgency measure, meaning that it took effect immediately. The passage of the bill was a major success for SCAG, and required extensive consultation with the League of California Cities, the California State Association of Counties and other organizations.

*AJR 40 – Air Quality/Health Crisis State of Emergency- SCAG Sponsored*

The Regional Council adopted Resolution No. 07-487-2 on May 3, 2007. This resolution addresses the Council's concern about the air quality health crisis in the South Coast Air Quality Basin related to emissions of PM 2.5, caused in major part by diesel emissions from the movement of goods. The SCAG resolution calls upon the Governor to declare a state of emergency and to direct steps necessary to address the emergency. As a further step, SCAG requested that Assembly Member Kevin De Leon author SCAG-sponsored Assembly Joint Resolution (AJR) No. 40, introduced on August 23, 2007. This measure memorializes the President of the United States to declare the existing conditions related to PM 2.5 exposure in the South Coast Air Basin a state of emergency, and urges that immediate steps be taken to rectify the emergency. AJR 40 was assigned to the Assembly Transportation Committee. It is anticipated it will be considered when the legislature reconvenes for the 2008 legislative session. The South Coast Air Quality Management District (SCAQMD) has expressed support for AJR 40. SCAG staff will work during the legislative recess to obtain additional support for AJR 40 from local health and environmental organizations in order to assist swift passage of Assembly Joint Resolution No. 40 in early 2008.

*AB 169 – Indian Tribal Governments/JPA- SCAG Sponsored*

SCAG sponsored AB 169 (Levine-D) provides for the sixteen federally recognized tribes in the SCAG region to join the SCAG Joint Powers Authority (JPA) to participate in the Southern California Association of Governments by voting at the SCAG General Assembly. AB 169 represents SCAG's 2nd attempt to get this type of legislation passed, following the Governor's veto of AB 2762 in September 2006. AB 169 has passed the Assembly and resides in the Senate Local Government Committee, where it is scheduled to be heard during the 2008 legislative session. The Governor, in his veto message, directed his Office of Planning and Research to work with SCAG and its tribal partners to draft legislation that would authorize tribal participations in SCAG. SCAG has had preliminary discussions with the Governor's staff to address any issues related to tribal governments entering into a JPA with SCAG. SCAG staff and lobbyist will meet with the Governor's staff this fall to proffer language that responds to the Governor's concerns and work to move the bill early in the '08 session.

*SB 1028 – Air Quality- SCAG supported*

As part of its efforts to address the air quality crisis, SCAG formed an alliance with SCAQMD and supported SB 1028 (Padilla-D). Existing law designates the State Air Resources Board as the state agency responsible for the preparation of the state implementation plan required by the federal Clean Air Act, and requires the state board to coordinate the activities of local air districts to comply with the act. This bill requires the state board to adopt and implement motor vehicle emission standards, in-use

performance standards, and motor vehicle fuel specifications for the control of air contaminants and sources of air pollution which the state board has found to be necessary, cost effective, and technologically feasible. The bill requires the state board to adopt rules and regulations pursuant to these provisions that, in conjunction with other measures adopted by the state board, the districts, and the United States Environmental Protection Agency, will achieve ambient air quality standards, and if necessary to carry out this duty. The bill passed the legislature on September 5, 2007, and is at the Governor's office as of September 11, 2007.

*SB 974 – Port Container Fee Legislation- SCAG Supported – work with author*

SB 974 (Lowenthal-D) requires the Ports of Los Angeles, Long Beach, and Oakland to collect a user fee to fund congestion management and air quality improvement projects. The fee will be assessed to the owner of container cargo moving through the respective ports at a rate not to exceed $30 per TEU. The Regional Council directed staff to take a 'Support – Work with Author' position. SCAG staff worked with the author's staff to encourage amendment of the bill to include more local control and input on the use and allocation of the fees in the region. SB 974 was subsequently amended on September 5, 2007, to provide for much greater local control on fee allocation, including a consulting role for SCAG in the process. SB 974 is a two-year bill and resides in the Assembly 3rd Reading file where it will be taken up in 2008. SCAG will continue to monitor and support the measure.

*SB 61 – Public-Private Partnerships- SCAG Supported*

SCAG has worked closely at both the state and federal levels to encourage the expanded use of public-private partnerships to fund needed transportation infrastructure as public funding for those projects has become scarcer. It supported SB 61, (G.Runner-R) which 1) expands the use of public private partnerships to include toll roads; 2) eliminates the four-project limit (provided by AB 1467 - Chapter 32- Nunez of the 2005-2006 legislative session) to the number of lease agreements that Caltrans or an agency, as defined, may sign with public and private entities for the construction of additional highway or rail transportation projects designed to improve goods movement; and 3) removes the requirement that a proposed lease agreement be approved by the Legislature. SB 61 is a two-year bill; it has passed the first house and is held in the Senate Transportation Committee where it will be heard next year.

Of significance to SCAG is that certain of the concepts in public-private partnerships that SCAG has advocated related to performance reviews and other criteria are contained in SB 82, which is a budget trailer bill that makes various statutory changes to implement programmatic and technical changes to the Judicial Branch and the Department of Justice (DOJ) to implement the 2007-08 Budget package. SB 82, (Committee on Budget and Fiscal Review) which has been signed into law, says, in part:

> (b) In reviewing any court facility proposal that includes a public-private partnership component, the Director of Finance shall take into consideration any terms in the proposal that could create long-term funding commitments and how those terms may be structured to minimize risk to the state's credit ratings. Following the approval of any court facility proposal of the Director of Finance, the Judicial Council shall notify the Joint Legislative Budget Committee of the performance expectations and benchmark criteria for the proposal at least 30 days prior to the release of initial solicitation documents for a court facility project. If the Joint Legislative Budget Committee does not express any opposition or concerns, the Judicial Council may proceed with the solicitation 30 days after giving that notice.

*Bond Legislation*

During the previous legislative session SCAG closely worked with the state legislature on the transportation and housing bonds that were subsequently approved by voters in November 2006. During this session of the legislature SCAG worked with the State Legislature to provide that the implementing legislation contained SCAG's legislative priorities.

*SB 9 & 19 -Transportation related*

SB 9 and SB 19 (Lowenthal – D) – are the current primary legislative vehicles guiding the allocation of bond monies for trade corridors for both project selection and emissions reduction. SCAG legislative staff worked closely with legislative and committee staff to ensure that regional interests were represented in these bills, including specifically amending SB 9 to include SCAG and the Ventura County Transportation Commission, among the listed entities in the bill, for consultative roles. Both these measures are two year bills and will be considered when the state legislature reconvenes. SCAG will continue to monitor these measure and work to implement positions identified in the adopted State and Federal Legislative Program.

*SB 88 – Transportation related*

SB 88 (Senate Budget and Fiscal Review Committee), which has been signed by the Governor, appropriates $350,000,000 from the Local Street and Road Improvement, Congestion Relief and Traffic Safety Account, created by the transportation bond act, for allocation by the Controller to cities and counties. It designates administrative agencies for each of the programs funded by the bond act, including the California Transportation Commission, the State Air Resources Board, the Controller, the Office of Homeland Security, the Office of Emergency Services, or the Department of Transportation. The bill imposes requirements on these agencies relative to adopting program guidelines, making of allocations of bond funds, and reporting on projects funded by the bond funds.

*SB 86 – Housing related*

The Housing and Emergency Shelter Trust Fund Act of 2006 authorizes the issuance of bonds in the amount of $2,850,000,000 pursuant to the State General Obligation Bond Law. Proceeds from the sale of these bonds are required to be used to finance various existing housing programs, capital outlay related to infill development, brown field cleanup that promotes infill development, and housing-related parks.

SB 86 (Senate Budget and Fiscal Review Committee), which has been signed into law by the Governor, establishes the Infill Incentive Grant Program of 2007, which requires the Department of Housing and Community Development, upon appropriation by the Legislature of the funds in the Regional Planning, Housing, and Infill Incentive Account, to establish and administer a competitive grant program to allocate funds to selected capital improvements projects related to qualifying infill projects or qualifying infill areas. The bill requires the California Pollution Control Financing Authority, in consultation with the Department of Housing and Community Development, upon appropriation by the Legislature of the funds in the regional Planning, Housing and Infill Incentive Account, to administer loans or grants under the California Recycle Underutilized Sites (CALReUSE) Program for the purpose of brown field cleanup that promotes infill residential and mixed-use development, consistent with regional and local land use plans. The bill appropriates $240,000,000 and $60,000,000, respectively, from the Budget Act of 2007 for the Infill Incentive Grant Program of 2007 and for CALReUSE in the 2007–08 fiscal year.

*SB 586- Housing related*

As noted above, the Housing and Emergency Shelter Trust Fund Act of 2006, authorizes the issuance of bonds in the amount of $2,850,000,000. The act also establishes the Housing and Emergency Shelter Trust Fund of 2006 in the State Treasury and requires the sum of $1,500,000,000 to be deposited in the Affordable Housing Account, which the act establishes in the fund. The act continuously appropriates the money in the account in accordance with a specified schedule that requires, among other things, the transfer of the sum of $100,000,000 to the Affordable Housing Innovation Fund, which the act establishes in the State Treasury, to be administered by the Department of Housing and Community Development and expended for competitive grants or loans to sponsoring entities that develop, own, lend, or invest in affordable housing, and to create pilot programs to demonstrate innovative, cost-saving approaches to creating or preserving affordable housing.

SB 586 requires the funds in the Affordable Housing Innovation Fund to be allocated in the amount of $50,000,000 for the Affordable Housing Revolving Development and Acquisition Program, of which $25,000,000 would be made available to the Loan Fund and $25,000,000 would be made available to the Practitioner Fund; $5,000,000 for the Construction Liability Insurance Reform Pilot Program, which this bill establishes within the department; $35,000,000 for a local housing trust fund matching grant program established under a provision of existing law; and $10,000,000 for the Innovative Homeownership Program, which the bill requires the department to develop and implement.

*AB 1457- Parks and recreation: state parks: roads – SCAG Opposed*

AB 1457 (Huffman –D) would have prohibited a state or local agency from funding the construction of, seeking funding to construct, or authorizing or approving the construction of, a road, that will physically encroach upon a state park. AB 1457 removed the long-established and federally mandated transportation planning process from the hands of regional transportation agencies.

Further, AB 1457 would have specifically prevented the construction of the SR-241 Foothill Transportation Corridor South, a project contained in SCAG's Regional Transportation Plan. This project would extend the SR-241 from its current terminus at Oso Parkway in Rancho Santa Margarita south to Interstate 5 near San Clemente. This route will involve traversing San Onofre State Park. This project represents the final piece of the Orange County toll road system, and is a Transportation Control Measure that is part of the SCAG region's effort to seek air quality conformity.

Based upon the foregoing, the Southern California Association of Governments urged the Assembly Water, Parks & Wildlife Committee to oppose AB 1457. The bill remained in committee.

## FEDERAL ISSUES

*USDOT EIS Grant Application*

On the federal legislative front, SCAG held a very successful meeting with U.S. Secretary of Transportation Mary Peters in June of 2007. SCAG elected officials Dennis Washburn, Harry Baldwin, and Jon Edney, accompanied by SCAG staff, met with Secretary Peters and senior USDOT staff to request specific, grant funding for advance planning, alternatives analysis, EIS and preliminary engineering work for a new, regional goods movement infrastructure system. SCAG seeks $50M this year of a $200M total request for system improvements, which will likely include truck-ways along the 710

corridor and an extensive high-speed regional transport freight delivery system. The goal of this massive system design is to meet the challenges of the burgeoning demand to move more goods through the region to the rest of the country while reducing emissions as required by federal law. SCAG legislative staff is seeking assistance of California members of Congress, including Senators Boxer and Feinstein and the Southern California Regional Congressional Delegation, to urge the USDOT to approve and fund this grant request.

*Federal Tax Credit Equity Finance Legislation*

SCAG has successfully secured the commitment of Congressman Xavier Becerra to carry tax credit equity finance legislation that has been in development over the past few years, modeled closely on the New Market Tax Credit legislation passed by the Congress and established by the Community Renewal Tax Relief Act of 2000, to provide financial incentives for private investment in goods movement and mitigation projects. Tax Credit Equity financing allows for investors to contribute up-front capital to fund a portion of project costs (roughly 1/3 of total project costs), and in return receive annual tax credits. The balance would be debt financed and/or financed through flexible TIFIA loan structures as well as local project sponsor contributions. SCAG is working through its federal lobbyist to receive technical assistance to render the bill in final form for delivery to Congressman Becerra's staff this fall, whereupon we will work with the Congressman to introduce as soon as possible.

*SAFETEA-LU Reauthorization and '09 Appropriations Request*

SCAG Legislative staff has identified a number of potential provisions for inclusion in the coming State and Federal Legislative Program related to the next federal transportation reauthorization measure. These include existing and prior reauthorization policies, such as establishment of a dedicated Goods Movement Trust Fund, Improved Environmental Clearance Process, Regional Airport System with Improved Off-Airport Ground Access, and Flexible Financing Strategies; along with new policy objectives such as Enhanced Technologies Deployment, Hybrid and Alternative Technology Vehicle fees, and greater use and authority to pursue Urban Partnership Agreements. During development of the 2008 Legislative Program proposals will be brought to the policy committees in November and the Regional Council in December.

The Safe, Accountable, Flexible, Efficient Transportation Equity Act—A Legacy for Users (SAFETEA-LU) created two commissions to study the nations surface transportation system and its financing.

The National Surface Transportation Policy and Revenue Study Commission was created in 2005 under Section 1909 of SAFETEA-LU. The Commission was created, in part, to develop a conceptual plan with alternative approaches, to ensure that the surface transportation system will continue to serve the needs of the United States, including specific recommendations regarding design and operational standards, Federal policies, and legislative changes. The Commission is comprised of 12 members, representing: federal, state and local governments; metropolitan planning organizations; transportation-related industries; and public interest organizations. The Commission is working to examine not only the condition and future needs of the nation's surface transportation system, but also short and long-term alternatives to replace or supplement the fuel tax as the principal revenue source to support the Highway Trust Fund over the next 30 years. The commission is expected to report its recommendations in December of 2007.

Section 11142(a) of SAFETEA-LU established the National Surface Transportation Infrastructure Financing Commission and charged it with analyzing future highway and transit needs and the finances of the Highway Trust Fund and making recommendations regarding alternative approaches to financing transportation infrastructure. These recommendations must address, but are not limited to, the following topics:

(a) the levels of revenue that the Federal Highway Trust Fund will require to maintain and improve the condition and performance of the Nation's highway and transit systems and to ensure that Federal levels of investment in highways and transit do not decline in real terms; and (b) the extent, if any, to which the Highway Trust Fund should be augmented by other mechanisms or funds as a Federal means of financing highway and transit infrastructure investments.

The Commission will have 2 years to complete its work, and its final product will be a report that provides both analysis and recommendations to the Secretary of Transportation, the Secretary of the Treasury, and the Committee on Finance of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Environment and Public Works of the Senate, and the Committee on Banking, Housing, and Urban Affairs of the Senate.

SCAG will monitor the reports of these Commissions to determine how their recommendations affect the SCAG region and potential provisions in the next transportation reauthorization measure. Staff will be preparing an appropriations request for the '09 Transportation Appropriations bill consistent with the adopted legislative program.

**FISCAL IMPACT:**

All work related to this information item is contained within the adopted FY 07/08 budget, WBS# 08-810.SCGS1.

**Reviewed by:** _____
*Division Manager*

**Reviewed by:** _____
*Department Director*

**Reviewed by:** _____
*Chief Financial Officer*

**Attachment A**
**Legislation SCAG supported or took positions on**
**and significant measures implementing bond legislation**

**SCAG Sponsored Legislation**

| Bill | Topic | Status |
|---|---|---|
| AB 169 (Levine-D) | Tribal JPA | AB 169 has passed the Assembly and currently at the Senate Local Government Committee where it is expected to be considered in early 2008. |
| AJR 40 (De Leon- D) | Addressing air quality crisis | Introduced 8/23, TBD, Assembly Transportation |

**SCAG Supported or Opposed Legislation**

| Bill | Topic | Status |
|---|---|---|
| AB 630 (Price - D) | Air emissions standards: EPA waiver | SUPPORT - 5/31, Assembly Appropriations, held |
| AB 1240 (Benoit - R) | RCTC, Design Build, Parris Line | SUPPORT - TBD Assembly Transportation, 2-year |
| AB 1457 (Huffman - D) | OCTA, Trans. Corridor, Foothill South | OPPOSE - TBD, Assembly Water, Parks & Wildlife |
| SB 61 (Runner - R) | Transportation, PPP | SUPPORT - TBD, Assembly Transportation - 2-year |
| SB 375 (Steinberg - D) | Transportation Planning: Models | NO POSITION - 8/22, Assembly Appropriations - 2-year |
| SB 442 (Ackerman - R) | OCTA, Design Build, SR-22 Phase II | SUPPORT - Failed passage, reconsideration granted, Senate Transportation & Housing |
| SB 974 (Lowenthal - D) | Container Fee | SUPPORT AND WORK WITH AUTHOR - 9/11 Placed on inactive file. |
| SB 1028 (Padilla - D) | AQMD, ambient air quality regulation | SUPPORT - 9/11 - Enrolled and sent to Governor |
| SCR 16 (Negrete McLeod - D) | Gary Moon memorial | SUPPORT - 7/10, Chaptered |

**Other Legislation of Interest - Bond Implementation**

**Transportation Bond Legislation**

| Bill | Topic | Status |
|---|---|---|
| SB 9 (Lowenthal- D) | Trade corridors - Project selection | 8/30, Assembly Appropriations - 2-year |
| SB 19 (Lowenthal- D) | Trade Corridors - Emission reduction | TBD, Assembly Appropriations |
| SB 45 (Perata- D) | Transit safety | 9/12, Enrolled and sent to Governor |
| SB 88 (Senate Budget & Fiscal Review Cmt) | Statutory changes - 07/08 Budget - Prop 1B | 8/24 - Signed by Governor, Chapter 181 |
| SB 286 (Lowenthal- D) | Local Streets and Road Improvements | TBD, Assembly Appropriations, 2-year |

| Bill | Topic | Status |
|---|---|---|
| SB 716 (Perata-D) | Transit bond | TBD, Assembly Transportation to Appropriations |
| SB 748 (Corbett-D) | State-Local Partnership | 8/30, Assembly Appropriations - 2-year |
| AB 1350 (Nunez- D) | Transit bond | TBD, Senate Appropriations |

**Other Legislation of Interest - Bond Implementation**

**Housing Bond Legislation**

| Bill | | Status |
|---|---|---|
| SB 46 (Perata) | Statutory framework for Prop 1C | TBD, Assembly Appropriations Committee |
| SB 86 (Senate Budget & Fiscal Review Cmt) | Budget trailer - housing | 8/24 - Signed by Governor, Chapter 179 |
| SB 586 (Dutton) | Programs $100 million of Prop 1C | 9/11 - Sent to enrollment |
| AB 1053 (Nunez) | Statutory framework for Prop 1C | 9/12, Enrolled and sent to Governor |
| AB 1252 (Caballero) | Low income housing | 8/30, Senate Appropriations Committee - 2-year |

**Water Bond Legislation**

| Bill | | Status |
|---|---|---|
| SB 1002 (Perata) | Funding for Delta | 9/12, Enrolled and sent to Governor |
| SB 732 (Steinberg) | Creates and implements several new water programs | 9/10 Placed on inactive file, Assembly Appropriations - 12 to 4 |
| AB 1253 (Caballero) | Greening & forestry projects | 8/30, Senate Appropriations Committee - 2-year |
| AB 1489 (Huffman) | Standards and guidance for water bond | 8/30, Senate Appropriations Committee - 2-year |

**Other Significant Legislation**

| Bill | | Status |
|---|---|---|
| SB 303 (Ducheny) | Local government: land use planning | TBD, Assembly Local Government |