REPORT

DATE: December 1, 2005

TO: The Energy and Environment Committee (EEC)

FROM: Charlotte Pienkos, Government Affairs Analyst
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SUBJECT: 2006 State and Federal Legislative Program

EXECUTIVE DIRECTOR'S APPROVAL

RECOMMENDED ACTION: Approve the 2006 State and Federal Legislative Program

SUMMARY:
The 2006 State and Federal Legislative Program is adopted annually by the Regional Council following approval by the policy committees. A draft legislative program was reviewed by the EEC in November. The Committee requested a few clarifications and additions in the areas of CEQA reform and environmental streamlining, solid waste, and water. Those changes have been made and are noted in the attached legislative program. Staff recommends approval. The Regional Council is scheduled to consider the legislative program at its meeting today. If adopted, the legislative program will be implemented in January at the beginning of the 2006 state and federal legislative sessions.

BACKGROUND:

The EEC, at its November meeting, considered the 2006 State and Federal Legislative Program. A new legislative program is contemplated every year in anticipation of the upcoming legislative sessions in Sacramento and Washington. This year's program contained few modifications and strongly resembled the 2005 program because 2006 marks the mid-point of the two-year legislative cycle, and broad policy changes are not contemplated at this time.

The EEC did not approve the legislative program but asked to have it brought back as a consent calendar approval item when their requests for changes had been made. Specifically, the Committee requested 1) clarification of the environmental streamlining section; 2) the removal of "transformation" from the item that references SCAG's support of AB 1090 (Matthews) and conversion technologies; 3) the addition of an item monitoring federal legislation on solid waste; and 4) the relocation of two water items on stormwater, non-point source pollution and total maximum daily loads (TMDLs) from the *Monitoring* section to the *Advocacy* section. The requested clarifications and changes have been made. They are highlighted in the attached legislative program with explanatory remarks appearing in the bubbles along the right margin.

In regard to the Committee's fourth point, Government Affairs staff consulted with Planning and Policy staff and together they crafted the item which is highlighted in the program. It is broad

enough to permit advocacy on stormwater, non-point source pollution and TMDLs, among other topics, while reflecting the Committee's commitment to comprehensive planning.

Lastly, to clarify the CEQA reform/environmental streamlining section: On July 7th, the Regional Council approved a policy to direct SCAG's participation in on-going CEQA reform discussions. The guiding principles of the policy state that CEQA reform should:

- Ease the development of housing in appropriate, strategic locations (e.g. urban infill and transit oriented areas);
- Pursue environmental outcomes that are preferable to current conditions or "no-plan" future scenarios;
- Ensure that CEQA is used as intended rather than abused in order to stop/delay good projects;
- Promote regional planning; and
- Address a number of environmental impacts at the regional, rather than project, scale.

Additionally, the Regional Council stipulated the any CEQA procedure created through legislation should contain the following limitations:

- The program must be implemented voluntarily at the local level;
- The regional analysis, combined with the streamlined in-fill EIR, should form the functional equivalent of an EIR; and
- The program must be limited geographically to specific locations identified in the regional growth plan, known as the 2% areas.

Staff has encapsulated these adopted principles in the revised CEQA Reform/Environmental Streamlining section.

FISCAL IMPACT: HC

Because the SCAG fiscal year runs from July 1st through June 30th, while the legislative year runs from January 1st through December 31st, each SCAG budget covers the last half of the previous legislative session and the first half of the upcoming legislative session. The cost of adopting the recommended action is covered by the FY05-06 SCAG budget for the first half of the 2006 legislation session and requires no additional resources. No funds will be spent to implement the 2006 State and Federal Legislative Program from July 1st through December 31st without the approval of the FY06-07 SCAG budget.

CP#115958

For Regional Council Adoption 12/1/05

THE SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS (SCAG) 2006 STATE AND FEDERAL LEGISLATIVE PROGRAM

INTRODUCTION

Each year, the Regional Council adopts a state and federal legislative program to direct SCAG's legislative activities. The 2006 Legislative Program, which contains highlights from 2005, will guide SCAG's legislative activities in the coming year.

As in past years, SCAG legislative staff will continue to take action on Regional Council policies where they exist and will communicate Regional Council positions to legislators, administrators and others. SCAG legislative staff will also undertake new initiatives as they arise at the direction of the Regional Council.

SCAG's top federal legislative priority in 2006 is the amendment and fair implementation of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 (SAFETEA-LU), the nation's surface transportation program. SCAG will also continue to advocate innovative financing and public/private partnerships for transportation projects, AIR-21, and improved pre-deployment planning in the Transportation Infrastructure Finance and Innovation Act (TIFIA).

On the state level, SCAG will focus on the ongoing, collaborative efforts to protect Proposition 42 revenues from reallocation to the state's General Fund. SCAG will also advocate innovative financing and public/private partnerships for transportation projects and design-build and design-sequencing legislation to expedite project delivery.

In the area of housing and land use, SCAG will continue its collaboration with the Legislature, the Governor, and housing stakeholders to develop and support initiatives that permit local governments and regions to plan for the provision of a 20-year site inventory and allow neighboring jurisdictions to share responsibilities for increasing the housing supply. California Environmental Quality Act (CEQA) reform will also remain a related, top priority.

The 2006 Legislative Program will continue to further the Compass Implementation Framework, which was approved by the Regional Council in June 2004. This framework, or 2% Strategy, is guided by four key principles—mobility, livability, prosperity and sustainability—and addresses the challenges associated with future growth in the SCAG region. Because the 2% Strategy is interdisciplinary, its ideas are incorporated throughout the transportation, housing, growth and land use, habitat and open space, and sustainability sections of the 2006 Legislative Program and are marked with a $^{2\%}$ symbol.

Upon its adoption by the Regional Council, SCAG's legislative staff will implement the 2006 Legislative Program. The timeframe for implementation is the 2006 calendar year. The 2006 Legislative Program is outlined following the 2005 program highlights.

2005 PROGRAM HIGHLIGHTS

Federal Issues

After 12 extensions and 3 years of debate, SAFETEA-LU was passed by Congress on July 29, 2005 and subsequently signed by President Bush on August 10, 2005. The bill operates from August 10, 2005 through September 30, 2009, authorizes $286.4 billion in funding, including $52.6 billion for transit programs, and includes more than 6,300 earmarked projects.

Of the 6,300 earmarks nationwide, the SCAG region received approximately 310 earmarks totaling $1.4 billion. $916 million of those earmarks will fund projects featured in the Southern California Consensus Program, a collaborative effort led for the last three years by SCAG and joined by:

- Los Angeles County Metropolitan Transportation Authority
- Orange County Transportation Authority
- Ventura County Transportation Commission
- Riverside County Transportation Commission
- San Bernardino Associated Governments
- Imperial Valley Associated Governments
- Southern California Regional Rail Authority

Consensus Program projects receiving funding include:

- Alameda Corridor East grade separation improvements: $178,640,000
- Desmond Bridge expansion: $100,000,000
- I-405 high-occupancy vehicle lane (HOV) improvements: $130,000,000
- Eastside Light Rail: $399,520,000
- Los Angeles Metro Gold Line extension: $15,040,000
- SR-78/Brawley Bypass: $7,600,000

In trips to Washington, the Consensus Program delegation emphasized that the bottleneck at the Ports of Long Beach and Los Angeles negatively impacts the economy and quality of life of both Southern Californians and the nation. The delegation was instrumental in the creation of several new provisions in SAFETEA-LU designed to address this and other transportation challenges:

- Projects of Regional and National Significance for 25 projects nationally up to $1.7 billion
- Private activity bonds or "exempt facility bonds" up to $15 billion nationally
- A public-private partnership pilot program for up to 3 new fixed guideway capital projects
- Design-build contracting that eliminate the $50 million threshold for contract size and allows a design-build contractor to become involved during the NEPA project definition phase

- A value pricing pilot program to collect tolls on new interstate construction and the interstate construction pilot program to permit tolls on interstate highways to fund construction of new lanes/highways.

SCAG also succeeded in SAFETEA-LU in improving the reimbursement process for metropolitan planning organizations, ensuring repayment within 30 days of invoice.

State Issues

SCAG worked throughout the 2005 session to influence the enactment of new laws and the amendment of existing laws in the areas of housing, transportation, and the environment. SCAG continued its participation in the Housing Element Working Group (HEWG), in which discussions were conducted over many months in an effort to improve the housing approval process and to identify new sources of funding that cities need to pay for local services and infrastructure. These reform discussions will continue in 2006.

Related to the subject of housing reform was the Administration's decision to allocate $5 million in State Planning and Research (SP&R) funds to regional blueprint planning and reimbursement for mandated work on the Regional Housing Needs Assessment. Although the Governor ultimately vetoed the use of SP&R funds for RHNA, an administrative solution is expected that will assist SCAG in the performance of the mandate. SCAG has also submitted a $2.4 million application for regional blueprint planning funds.

Thanks to the advocacy of SCAG and transportation stakeholders statewide, the Legislature passed and the Governor signed an FY05-06 State Budget that fully funded Proposition 42 to the amount of $1.3 billion. The full funding of Proposition 42 was a major legislative success; more work remains to be done, however, to amend the State Constitution to prohibit future suspensions of transfers from the General Fund to transportation projects and programs in times of financial crisis.

SCAG also advocated actively on behalf of GoCalifornia, the Governor's transportation package, which included AB 850 (Canciamilla) on public/private partnerships. In the last days of the session, SCAG was asked by the administration to submit technical amendments on AB 850 and did after circulating them among the commissions and AAA. Although the recommendations were not amended into AB 850 due to an impasse between the Governor and Senate President Pro Tempore Perata, the administration may use SCAG's ideas as the basis for 2006 negotiations.

Lastly, SCAG participated in the 2005 CEQA Working Group. Among members of the group, there were commonly held beliefs on streamlining and the exercise of CEQA within streamlined alternatives. No specific, detailed proposal on CEQA streamlining emerged in the session, however, and the effort will continue in 2006.

2006 LEGISLATIVE PROGRAM

The SCAG 2006 Legislative Program describes Regional Council federal and state legislative and administrative priorities that SCAG will pursue during the coming year. The 2006 program is a continuation of last year's program, which included the input of our state and regional planning partners like the California Association of Councils of Government (CALCOG) and the county transportation commissions.

Throughout this section, issues are categorized by subject matter (e.g., Housing, Air Quality) and are grouped into one of three subcategories: Advocacy, Monitoring, or Development.

Issues subcategorized under *Advocacy* are of foremost concern to the Regional Council and will be advocated by SCAG. Issues subcategorized under *Monitoring* are of interest to the Regional Council and will be tracked by SCAG; policy committees and the Regional Council will be alerted to relevant proposed changes in those areas. Issues included under the subcategory *Development* are those in which the Regional Council or its policy committees have asked SCAG staff to further develop ideas, to begin or continue efforts, or to provide more information. They are inventoried here for the Regional Council's information and should not be read as requests for federal or state legislative or administrative action.

SCAG

Roles and Leadership

Working in coordination with the county transportation commissions, Metrolink, and local transportation agencies, SCAG will pursue the following advocacy goals.

Advocacy

- Provide regional leadership in seeking federal and state funding for projects and programs that implement SCAG's adopted 2004 RTP and 2004 RTIP and in advocating for projects needed to maintain air quality conformity in the SCAG region.

- Coordinate advocacy efforts to advance the Southern California Consensus Program and continue consensus building among local transportation commissions, cities, counties, and subregional organizations.

- Advocate federal legislation that facilitates the ability of metropolitan planning organizations (MPOs) to fulfill their roles and responsibilities.

- Advocate state legislation that facilitates the ability of regional transportation planning agencies (RTPAs) and councils of governments (COGs) to fulfill their roles and responsibilities.

- Advocate a stronger role for regions and MPOs in planning for America's global economic competitiveness.

- With the interstate highway system nearing completion, participate in a national discussion about the role of the federal government in transportation planning and funding to ensure effective participation by the United States in the global economy.

Homeland Security

Development

- Serve as a forum where operations and plans can be discussed and coordinated.

- In coordination with local agencies and other stakeholders, engage as an MPO in a more active role in security and disaster planning.

Tribal Governments

Development

- Based on the adopted tribal governments work plan, and with their consent and assistance, offer state legislation if necessary providing that federally recognized tribal governments in the SCAG region are government entities for the limited purpose of participating in the SCAG joint powers authority.

Comment [p1]: This item has been added to further the tribes' abilities to participate in SCAG, per the adopted Ten Year Strategic Plan and in furtherance of the adopted tribal governments work plan.

TRANSPORTATION

SAFETEA-LU

Advocacy

- Advocate amendments necessary to refine SAFETEA-LU's provisions regarding, among other issues, diesel retrofitting in the Congestion Mitigation Air Quality Program (CMAQ).

- Advocate implementation procedures that are favorable to the SCAG region in the SAFETEA-LU rulemaking process.

Development

- Continue Southern California Consensus Program consensus-building meetings, visits, and outreach with Members of Congress, state and federal administration officials, the county transportation commissions, cities, counties, subregional organizations and key stakeholders.

Appropriations

Advocacy

- Advocate congressional support for SCAG's FY 2007 appropriations requests as approved by the Regional Council.

- Advocate appropriations for projects contained in the Southern California Consensus Program.

- Support earmarks or discretionary funding applications of jurisdictions within the SCAG region consistent with the Southern California Consensus Program, the adopted 2004 RTP, the adopted 2004 RTIP and SCAG policies.

Maglev

Advocacy

- Advocate predeployment planning and environmental review funding for the California Maglev Deployment Program.

- Seek FY 2007 appropriations to continue predeployment planning and environmental review.

- Seek federal, state and local funds and policy maker and community support to complete predeployment planning and environmental review for the Initial Operating System (IOS) stated for completion by 2018.

Aviation

Advocacy

- Support legislation to promote and implement a decentralized aviation system including interconnecting high-speed ground transportation.

- Advocate regional airport systems and improved ground access program funding in the reauthorization of the Aviation Investment and Reform Act for the 21st Century (AIR-21).

Transportation Financing

Advocacy

- Advocate a constitutional amendment to protect Proposition 42 revenues from reallocation to the state's General Fund.

- Advocate addressing the allocation of the state's transportation funds to ensure an equitable distribution throughout the state.

- Support design-build and design-sequencing procurement procedures to expedite project delivery.

- Support local ballot initiatives to fund local transportation projects with local sales tax measures.

- Support legislation that promotes the use of public/private partnerships and other innovative financing mechanisms.

Development

- Continue face-to-face discussions with state and federal legislators from the region about Southern California's long-term transportation requirements and the funding options needed to address these requirements.

- Participate in the development of revenue mechanisms and strategies to finance major regional projects contained in the adopted 2004 RTP, including proposals to increase transportation funding through user fees and sales taxes on motor vehicle fuels and by adjusting the fuel excise tax rate to maintain historical purchasing power.

- Participate in the development of innovative financing proposals such as tax credit bonds, tax credit equity, tax-exempt bonds, TIFIA grants and TIFIA loans repaid with project-generated revenues.

- Expand consensus building and outreach efforts to the general public to educate regional residents about the unmet cost of the adopted 2004 RTP.

- Evaluate the merits of a regional gas tax/user fee measure and the institutional framework necessary to implement and manage it.

Goods Movement

Advocacy

- Support efforts of the West Coast Corridor Coalition to improve goods movement and reduce congestion along the I-5 from Vancouver, B.C. to Ensenada, Mexico.

- Urge the state and federal government to take action to limit the mobile source emissions arising from goods movement.

- Support regional efforts underway by transportation agencies that develop goods movement projects through the use of financing concepts including user fees and other revenue generating mechanisms to service debt instruments.

Development

- With the participation and input of the county transportation commissions, Metrolink, and local agencies, develop the concept of user-supported dedicated facilities that offer a viable and potentially self-financing solution for mitigating congestion, reduce mobile source emissions arising from goods movement in Southern California, and ensure the safe and efficient movement of goods essential to the nation's economy.

Southwest Compact

Advocacy

- Advocate legislation that corresponds with SCAG's ongoing efforts to develop the Southwest Passage, a multi-state goods movement trade corridor along the I-10, and the Southwest Compact, a coalition of states sharing goods movement and economic development interests.

COMMUNITY, ECONOMIC AND HUMAN DEVELOPMENT

Housing

Advocacy

- Working with the administration, develop a state-funded reimbursement program for the Regional Housing Needs Assessment (RHNA) mandate at the regional and subregional levels.

- Working with housing and CEQA task forces conducted by the Legislature and the administration and with other housing stakeholders, develop and support legislation that redefines the local and regional responsibilities in implementing state housing goals in a manner favorable to local governments and the region.

Comment [p2]: "... In a manner favorable to local governments and the region" added at the request of the CEHD.

- Support initiatives that call for local governments and regions to plan for the provision of a 20-year site inventory, based on natural increases in population and job growth, and that allow neighboring jurisdictions to share responsibilities for increasing the housing supply.

- Advocate the use of state and federal funding to incentivize jobs/housing balance, infrastructure, and environmental mitigation programs in local jurisdictions [2%].

- Encourage the U.S. Department of Housing and Urban Development's participation in the development of housing strategies with the U.S. Department of Transportation.

Growth and Land Use

Advocacy

- Support federal and state funding initiatives designed to promote mixed-use and multi-modal development [2%].

Development

- Participate in the development of legislation related to the jobs-housing balance including, but not limited to, CALCOG growth policies, construction defect litigation and water availability [2%].

- Encourage cities and counties to adopt land use policies that help the SCAG region achieve air quality conformity and transportation system performance [2%].

- Foster a dialogue with the education community about addressing the physical needs of schools in relationship to SCAG's growth and land use policies.

Comment [p3]: This item was added at the request of the CEHD.

CEQA Reform and Environmental Streamlining

Comment [p4]: This section was relocated from within Transportation to Community, Economic and Human Development to reflect both its emphasis on housing and regional planning and its role in the Regional Comprehensive Plan, a project under the jurisdiction of the CEHD.

Advocacy

- Support CEQA reform that, when implemented voluntarily at the local level, promotes regional planning and eases the development of housing in appropriate, strategic locations identified in the regional growth plan and known as 2% Strategy areas [2%].

- Support CEQA reform that addresses environmental impacts at the regional, rather than project, scale and promotes environmental outcomes that are preferable to current conditions or "no-plan" future scenarios.

- Support CEQA reform that combines the regional analysis and the streamlined in-fill EIR to form the functional equivalent of an EIR.

Comment [p5]: The subject of CEQA reform has been clarified in the Legislative Program at the request of the TCC and the EEC. These three items are consistent with the July 7, 2005 adopted Regional Council policy on SCAG's participation in the ongoing CEQA reform discussions in Sacramento.

Development

- Build federal, state and local stakeholder support, including public and private interests, for environmental streamlining.

Local Finance

Monitoring

- Via CALCOG, CSAC, the League of Cities and other organizations, monitor legislation pertaining to local finance, including bills and constitutional amendments regarding local sales taxes, property taxes, and gaming fees.

ENERGY AND ENVIRONMENT

Air Quality

Advocacy

- Advocate community impact and air quality mitigation programs for goods movement projects.

- Support air quality programs that incentivize the acceleration of private and public fleet turn-over to help reduce total regional emissions from on-road mobile sources.

- Support programs that incentivize cost-effective, market-based approaches that promote air-quality beneficial urban form, including incentive programs to encourage pedestrian/bike-friendly redevelopment projects that will help reduce vehicle miles traveled, congestion, and associated emissions [2%].

- Support programs that fund outreach, education, and incentive programs to encourage behavioral change needed to help reduce vehicle miles traveled, congestion, and associated emissions.

- Urge the state and federal government to take action to reduce mobile source emissions under their jurisdictions or to delegate authority over these mobile sources to local governments.

Monitoring

- Monitor air quality issues affecting the SCAG region.

- Monitor legislation or regulations pertaining to power plants located on the Mexican side of the U.S./Mexico border and to their negative effect on air quality in the SCAG region.

Energy

Monitoring

- Track energy legislation relating to the formation, aggregation, and siting of utilities, energy efficient building standards, and renewable energy resources.

Development

- Encourage state efforts to develop energy goals and coordinate local initiatives to provide reliable, secure and safe energy at the lowest possible cost.

- Encourage efforts by the federal, state and local governments of the United States and Mexico to formulate an agreement establishing common environmental standards for the US/Mexico border.

- Encourage the installation and maintenance of California Best Available Control Technologies (BACT) on power plants in neighboring states and on the Mexican side of the US/Mexico border.

Habitat and Open Space

Advocacy

- Advocate market-based, incentive approaches to habitat management at the urban-rural interface, such as easement rights acquisition.

Monitoring

- Monitor state and federal legislation that affects the management of wilderness habitat, urban habitat, endangered species, and recreational open space.

Development

- Encourage the development of state and federal legislation that better integrates habitat conservation planning with regional transportation and land use development plans [2%].

- Encourage the development of state legislation that supports the better integration of science into habitat and open space management.

- Encourage the development of state legislation that incentivizes the preservation of agricultural lands subject to urbanization pressures [2%].

Sustainability

Advocacy

- Support state legislation that promotes sustainability and environmental justice in local and regional planning [2%].

- Support state legislation that incentivizes the development of brownfield sites in urban areas [2%].

- Support state legislation that incentivizes the adoption of green building standards [2%].

Development

- Encourage the development of state and federal incentives to promote urban infill development, as proposed in the Compass Implementation Framework [2%].

Waste Management

Advocacy

- Support legislation that removes impediments to the adoption of conversion technologies that will help municipalities maintain or exceed their requirement to divert 50% of their solid waste away from landfills.

Comment [p6]: The reference to "transformation" was removed from this item at the request of the EEC.

Monitoring

- Track state legislation that proposes changes to solid waste diversion mandates, establishes new mandates for solid waste management including electronic waste, or changes municipal recycling procedures.

- Track state legislation that proposes changes to the management and handling of hazardous waste.

- Track federal legislation that proposes changes to the management and handling of solid waste.

Comment [p7]: This item was added at the request of the EEC.

- Track California Integrated Waste Management Board (CIWMB) regulatory actions, including issues regarding specific types of waste, alternative daily cover, tipping fees, and markets for recyclable materials.

Development

- Encourage the development of state legislation and regulations to incentivize the deployment of innovative recycling and conversion technology projects.

- Encourage the development of state legislation that incentivizes the recycling and reuse of building demolition debris.

Water

Advocacy

- Support state and federal legislation and other government actions that encourage comprehensive planning and implementation of water quality and supply measures, such as those relating to stormwater, non-point source pollution, and total maximum daily loads (TMDLs), including the creation and operation of local agency initiatives for collaborative management of regional water resources [2%].

Comment [p8]: This item combines two items previously shown under *Monitoring* into a single *Advocacy* item. The EEC requested the two items be moved to *Advocacy*. One of the two items had called for tracking amendments to the Clean Water Act regarding stormwater and non-point source pollution. The second item called for tracking state legislation on total maximum daily loads (TMDLs). This item reflects the EEC's desire that stormwater, non-point source pollution and TMDLs, among other water quality measures, be handled comprehensively and collaboratively.

Monitoring

- Monitor developments in the Bay Delta and on the Colorado River to ensure that the quantity and quality of Southern California water supplies are appropriately protected.

- Track state legislation and regulatory action and litigation concerning regional water impairments and water supplies.