ENVIRONMENTAL QUALITY POLICY COMMITTEE

Thursday, June 14, 2012
10:00 a.m. – 3:00 p.m.
Sacramento Convention Center, 1400 J Street, Rm. 203, Sacramento

Special Order of Business
Post Redevelopment & State Budget Update
10:00 a.m., Room 204, Sacramento Convention Center

Individuals who wish to review the full text of bills included in this packet are encouraged to do so by visiting the League's Web site at www.cacities.org/billsearch. Be sure to review the most recent version of the bill.

A G E N D A

I. Welcome and Introductions

II. Public Comment

III. *California's New Goal: 75% Recycling* *Informational*
Speaker: Mark Leary, Chief Deputy Director, CalRecycle
A copy of this report can be found at: http://www.calrecycle.ca.gov/75Percent/

IV. Draft League Energy Policies (Attachment A) *Action Item*

V. Legislative Update
a. Cap and Trade Auction Revenues (Attachment B & C) *Action Item*

VI. Next Meeting: Annual Conference, San Diego, September 5, 9:00 – 10:30 A.M.
Staff will notify committee members after July 7th if the policy committee will be meeting in September.

Brown Act Reminder: The League of California Cities' Board of Directors has a policy of complying with the spirit of open meeting laws. Generally, off-agenda items may be taken up only if:

1) *Two-thirds of the policy committee members find a need for immediate action exists and the need to take action came to the attention of the policy committee after the agenda was prepared (Note: If fewer than two-thirds of policy committee members are present, taking up an off-agenda item requires a unanimous vote); or*
2) *A majority of the policy committee finds an emergency (for example: work stoppage or disaster) exists.*

A majority of a city council may not, consistent with the Brown Act, discuss specific substantive issues among themselves at League meetings. Any such discussion is subject to the Brown Act and must occur in a meeting that complies with its requirements.

NOTE: Policy committee members should be aware that lunch is usually served at these meetings. The state's Fair Political Practices Commission takes the position that the value of the lunch should be reported on city officials' statement of economic interests form. Because of the service you provide at these meetings, the League takes the position that the value of the lunch should be reported as income (in return for your service to the committee) as opposed to a gift (note that this is not income for state or federal income tax purposes—just Political Reform Act reporting purposes). The League has been persistent, but unsuccessful, in attempting to change the FPPC's mind about this interpretation. As such, we feel we need to let you know about the issue so you can determine your course of action.

If you would prefer not to have to report the value of the lunches as income, we will let you know the amount so you may reimburse the League. The lunches tend to run in the $30 to $45 range. To review a copy of the FPPC's most recent letter on this issue, please go to www.cacities.org/FPPCletter on the League's

ATTACHMENT A

Energy Policies
FINAL REVIEW DRAFT
Version: 6/1/12

Preamble/Statement of Local Control

The League supports the fundamental right of cities to operate municipal utilities and to be exempt from the jurisdiction or control of the California Public Utilities Commission and the California Energy Commission. Therefore in considering State legislative and regulatory actions, the League will uphold the rights of cities to form municipal utilities and the autonomy of municipal utilities to operate independently in all areas.

Renewables - Completed March, 2011 and adopted.

Siting Energy Infrastructure

New energy infrastructure is needed: The League recognizes that additional generation and transmission infrastructure must be created to ensure adequate, reliable and environmentally responsible energy supplies. New transmission infrastructure is critical to ensuring reliable energy, reducing congestion and meeting the State's renewable resource goals. When financing energy infrastructure, the League supports legislation that promotes a "beneficiary pays" philosophy.

Local governments must be involved: The League supports a wide variety of solutions to improve transmission capacity, including both Regional Transmission Organizations and non-regional transmission organizations. The League supports transmission and siting legislation that respects local land use authority and planning processes as well as private property rights. When placing or expanding energy infrastructure, energy utilities must partner and consult with local governments to determine areas for infrastructure that best meet the needs of the community and the need for an efficient network of energy infrastructure.

Energy infrastructure must be consistent with city General Plans and SB 375 Sustainable Communities Plans. Since cities are responsible for this planning, the League encourages transmission developers to engage early with cities in the infrastructure siting process. Cities also play a vital role in coordinating with county, regional and State governments in long range, area-wide planning for energy infrastructure.

Siting should be streamlined: To ensure reliable energy supplies and reduce unnecessary delays, the League supports streamlining of environmental reviews for the CEQA process for siting transmission and energy facilities. Financial incentives should be available to cities to streamline the siting process at the local level.

Rates and Prices

The League recognizes that escalating energy prices affect the economic health of California, as well as city budgets. The League also recognizes that as part of meeting legislative and regulatory mandates, cities must be able to fully leverage creative partnerships with other jurisdictions, private businesses and developers.

The League believes that any legislation that would increase energy prices should take into account key criteria:

Legislation or regulations must consider the rate impacts on low-income residents: Prices and rates are tools that can be used to influence consumer behavior (ex. Conservation). At the same time, California must be mindful of the impact mandated pricing structures so that they do not disadvantage low income residents and small businesses. Energy policies should not be required, through legislation or regulation, which create subsidies for programs that benefit the few while impacting low income residents and small businesses.

Reserve accounts must be prioritized: Utilities must be encouraged to build and maintain sufficient reserves to address aging infrastructure, as needed, and to account for future needs, ensuring that grid reliability is not compromised.

New mandates must assess their impacts on rates: California already has some of the highest energy prices in the country. Increasing legislative and regulatory mandates on the state and federal levels will continue to exert upward pressures on electric and water rates for California consumers and businesses. Therefore, in adopting positions on bills and regulations, the League seeks to ensure tangible and proportional benefits for ratepayers from the rate increase—both from the individual bill or regulation and also the cumulative effect of changes over time.

Energy Efficiency

The League recognizes that energy efficiency is the most cost-effective way to create energy resources, reduce greenhouse gases and manage demand. When financing energy infrastructure, the League acknowledges that most facilities have widespread benefits. The League is supportive of legislation that encourages cost-sharing amongst project participants, including public-private partnerships and user fees, for energy infrastructure projects.

The League supports energy efficiency measures as key strategies to:

- help stabilize rates for California residential and business consumers;
- manage growth in demand;
- reduce the need for additional generation capacity; and
- allow California's utilities flexibility to comply with renewable portfolio standard requirements in the most cost-effective manner possible.

The League supports policies that:

- prioritize conservation;
- respect and advance local government's flexibility to comply with efficiency goals;
- encourage the establishment or continuation of local funding mechanisms to facilitate energy efficiency (ex. public goods charge, PACE); and
- provide State financial incentives and funding mechanisms.

Reliability

Utilities prioritize and balance the reliable delivery of high quality, environmentally-appropriate and sustainable power in a cost-competitive manner. Protecting the integrity of the power grid is fundamental to ensuring this reliability.

The League supports a culture of compliance and encourages all utilities to follow applicable mandatory reliability standards. Reliability depends on multiple factors, including adequate infrastructure and a rate structure sufficient to maintain and upgrade that infrastructure as it ages.

A Smart Grid can be one avenue to increase reliability by leveling power loads through empowering consumer demand side management and enables consumers to achieve the maximum benefits from time-of-use rates. In order to ensure consumer trust and acceptance of Smart Grid, utilities must respect and give a high priority to protecting confidential consumer data.

Alternative Fuel Vehicles

Alternative fuel vehicles (AFVs), including, but not limited to: Plug-in Electric Vehicles (PEVs), plug-in hybrid vehicles, (PHEVs), and Compressed Natural Gas (CNG) vehicles, are an important strategy for ensuring national energy security, reducing greenhouse gas emissions, and meeting regional air quality standards . Local governments can play a role in ensuring that consumer safety and grid reliability are protected as AFVs become more widely utilized within their communities.

Widespread and sustainable deployment of a wide array of AFVs requires coordinated, region-wide infrastructure planning. The League supports measures to facilitate ongoing communication among all public and private stakeholders to promote success of AFVs, protect the integrity of the grid and ensure consumer and public safety.

Electricity Markets

Exit fees: The League agrees that exit fees are appropriate to fairly apportion costs when customers shift from an investor owned utility (IOU) to a newly-formed or exiting municipal utility. The calculation of exit fees should be transparent. Exit fees should be charged only to those newly-annexed into territories actually served by an IOU, not to "greenfield" development. In addition, the League supports exempting photovoltaic systems from exit fees.

The League recommends that an entity other than the California Public Utilities Commission (CPUC) should calculate and impose exit fees in order to prevent the appearance of CPUC jurisdiction over municipal utilities.

Electricity Markets: Local governments, as traditional regulators of municipal utilities, should continue to be key decision makers in restructuring electricity markets. The League believes that any restructuring of electricity markets must maintain the authority of municipal utilities and not restrict the existing authority of municipal utilities to operate or the ability of cities to form municipal utilities or compete in the future.

The League supports the following principles in any attempts to restructure the delivery of electricity. Restructuring should:

- Ensure that electricity remains affordable for all communities and ratepayers;

- Be based on a thorough economic analysis of the full costs and potential benefits of the alternatives under consideration;
- Result in all ratepayers sharing equitably in the benefits of a restructured environment; and
- Maintain cities ability to become aggregators for municipal operations or the community at large by combining the electric loads of various users and negotiating the purchase of electricity for those users.

Community Choice Aggregation (CCA's): Cities, either individually or on a regional basis, must retain the ability to voluntarily form a public electric service (CCA) within a territory served by an investor owned utility (IOU) to provide an additional option for negotiating the purchase of energy for municipal operations, residential or commercial customers who wish to participate. The League encourages IOU's to cooperate and form partnerships with cities in this effort without opposing or acting as hindrance to CCA efforts initiated by municipalities.

As aggregators, the League agrees that cities should follow the same consumer protection standards as other aggregators.

ATTACHMENT B

Cap and Trade Policy Discussion- June 2012
Briefing/Agenda Item for EQ, HC&ED, TC&PW, and Rev and Tax

Cap and Trade Auction Revenues

Summary:
Beginning this fall, the State Air Resources Board will be running a Cap and Trade program that is projected to provide a multi-billion annual revenue stream. A significant portion of these funds will likely be available to local government. Staff is seeking input from the Environmental Quality; Transportation, Communication & Public Works; Housing, Community & Economic Development; and, Revenue and Taxation Committees on the Cap and Trade Auction revenues.

Background:
A key element of California's greenhouse gas reduction program under AB 32 is the State's "Cap and Trade" program. The program works by establishing a hard cap on about 85 percent of the total statewide greenhouse gas emissions. This includes industries like mining, oil production and energy production, manufacturing plants, transportation fuels and others. The State Air Resources Board will issue emission "allowances" equal to the total amount of allowable emissions over a given compliance period. Then, entities that are regulated under the program will be able to "trade" or buy and sell a portion of these allowances. Each allowance is equal to one ton of greenhouse gases. As the overall cap declines, fewer allowances will be available.

This August, the Air Resources Board will hold a practice auction, which will be followed by the first real auction on November 14th. In 2013, the Air Board will begin its regular quarterly auctions *(expected to be held in January, March, August and November)*

Over time, the auctions are estimated to generate into the billions annually for the state. It is estimated the first auction (November 2012) will raise between $660 million and $3 billion in the 2012-13 fiscal year. In future years, it's estimated that the auctions may raise between $3 and $14 billion annually. There are still questions surrounding exactly how much the auctions will raise until they actually happen. It's also important to note that the bulk of the money will be raised after 2015 when the transportation fuel and residential and natural gas sectors are included in the auctions.

The current proposed Governor's budget assumes the state will receive $1 billion from the auctions and assumes that $500 million of that money will go to offsetting existing greenhouse gas mitigation activities and the other $500 million for new or expanded programs intended to reduce greenhouse gas emissions. Potential areas that revenue could be directed to include low carbon transportation and infrastructure, clean and efficient energy, and natural resources protection.

There are also four bills *(AB 2404 (Fuentes), AB 1532 (Perez), AB 1186 (Skinner) and SB 1572 (Pavley))* that all outline ways to spend the auction revenues. AB 2404 was held on the

Assembly Appropriations Suspense File (dead) while the remaining three are in the second house but are considered "works-in-progress" and will likely be changing over the next few months.

While AB 2404 (Fuentes) was held on the Assembly Appropriations Suspense File, League staff remains concerned that the language may end up in one of the other remaining bills. Of particular concern is the requirement that all Cap and Trade Auction revenues would be given out as competitive grants from the State Strategic Growth Council (regardless of issue area) and only counties or groups of counties would be eligible for the funds. Because of this, League staff is recommending an oppose position on AB 2404 to stop the provisions of the bill from reemerging in another bill.

Staff Recommendation:
Staff recommends an oppose position on AB 2404 (Fuentes) and a discussion on the broader areas of potential revenue from Cap and Trade auctions.

Fiscal Impact: Potentially billions in new revenue for programs and policies at the local level.

Existing League Policy:

From Environmental Quality:

- Green Technology Investment Assistance. Support tax credits, grants, loans and other incentives to assist the public, businesses, and local agencies that invest in energy efficient equipment and technology, and fuel efficient low emission vehicles.

From Revenue and Taxation:

- Additional revenue is required in the state/local revenue structure. There is not enough money generated by the current system or allocated to the local level by the current system to meet the requirements of a growing population and deteriorating services and facilities.

From Transportation, Communication and Public Works:

- The League supports additional funding for local transportation and other critical unmet infrastructure needs.

Comments:

1. *AB 2404 (Fuentes).* AB 2404 was held on the Assembly Suspense File and is effectively dead. However, as with many bills, it is likely that pieces of AB 2404 will end up in other proposals. The League did not take a formal position on the bill, but did convey concerns to the author's office regarding the money going out through the State Strategic Growth Council and the bill's provisions that would not allow individual cities to apply for any of the funds. Staff recommends an oppose position on AB 2404, even though the bill is dead, to allow staff to fend off the two concerning provisions noted above.

2. *Sinclair Nexus Test.* Revenues from Cap and Trade auctions are considered mitigation fee revenues and therefore will need to be strictly held to what's known as the Sinclair nexus test, based on the 1997 California Supreme Court Case, *Sinclair Paint vs. State Board of Equalization*, which requires that a clear nexus exist between an activity for which a mitigation fee is used and the adverse effects related to the activity on which that fee is levied. This will be an important point going forward as both the administration and legislature are making sure that any revenue coming from the auction and going out to the community will be strictly held to this test.

3. *Proposal for Transportation Fuels Revenues.* Motor vehicle fuels comprise approximately 40 percent of the state's GHG emissions and will fall under the cap beginning in 2015. There is an argument that a corresponding amount of the Cap and Trade Auction revenues should be dedicated to transportation programs that would reduce GHG emissions. Some draft principles for use of the transportation-related revenues are:
    a. *Dedicate the allocation revenues related to fuels to transportation investments.*
    b. *Invest a major portion of those dedicated revenues directly into transportation infrastructure, operations, and maintenance.*
    c. *Structure the investments to favor integrated transportation infrastructure investments.*
    d. *Use these transportation investments to provide the incentives and assistance that local governments need to make SB 375 work.*
    e. *Allow flexibility at the regional and local level to develop the most cost effective ways to meet both transportation and greenhouse reduction goals.*
    f. *Invest in improved modeling and verification systems and use those to provide assurance that local strategies meet both GHG and cost effectiveness goals.*

4. *Lots of Programs to Fund.* Under the various proposals for Cap and Trade Auction revenues a multitude of proposals for programs to fund have emerged. They range from funding solar panels for schools, to transportation planning, to water infrastructure. A few key areas have emerged that may be helpful as guidelines for types of programs that may ultimately be funded:
    a. *Revenues directed towards low-carbon transportation infrastructure.*
    b. *Clean and efficient energy.*
    c. *Natural resources protection.*

5. *Regional Governments vs. Individual Cities or Counties and Other Questions on Revenue Delivery*. Many of the discussions League staff has had on new revenues have suggested the funds should go out through regional government bodies to encourage regional projects and planning. One area of discussion for the committee is whether or not there is a preference for how revenues from Cap and Trade Auctions are delivered. Should they be on a regional basis? Available to individual cities, or both options? What if the funds are connected to the completion of a Sustainable Communities Strategy or some other plan related to GHG emission reductions? Should those plans be certified or approved by a state agency?

6. *Program Accountability.* With such a significant amount of money at stake from the auctions, a number of groups in Sacramento are calling for some kind of reporting or other form of

accountability to show that the programs and policies the auction revenues are funding are reducing GHG emissions. Is annual or bi-annual reporting on programs and policies receiving funding from auction revenues appropriate? If not, why? What should happen if the programs funded by auction revenues don't achieve the results expected?

7. *Will the revenues remain stable over time?* At this point it's still unclear. Until the November 2012 auction (which is the first real auction), no one knows exactly what revenues will be available. The Administration has suggested the revenues for 2012-2013 may be in the range of $600 million to $3 billion and ultimately could go as high as $14 billion per year. However, auction revenues are intended to lessen each year. This is because as we get closer to 2020, our overall amount of GHG's should be lower so there should be fewer allocations in the auction, thus less revenue coming in. Additionally, with up to 4 auctions per year proposed, auction revenues may vary from auction to auction.

8. *Is there an end date for the revenues?* AB 32 requires the State meet 1990 levels of GHG emission by 2020. It remains unclear exactly what will happen as we get closer to 2020, but the State has done some planning. In 2005, then Governor Schwarzenegger issued an Executive Order that established a state target for GHG emission reductions to 80 percent below 1990 levels by 2050. Additionally, ARB in its Scoping Plan looked well past 2020 to 2030 and 2050 and provided thoughts as to what might be possible in the future. Regional targets required by SB 375 and set by the ARB included target dates for both 2020 and 2035. Finally, it is also highly likely that the next update of the ARB Scoping Plan or a future legislative measure will extend the provisions of both AB 32 (with a new goal and new date) as well as the Cap and Trade program.

ATTACHMENT C

Cap and Trade Auction Revenue Proposals

Bill/Proposal	AB 2404 (Fuentes)	AB 1532 (Perez)	SB 1572 (Pavley)	AB 1186 (Skinner)	Governor's Budget	Legislative Budget Response
Summary	Creates the Local Emission Reduction Program to provide local assistance grants to develop and implement multi-benefit greenhouse gas emission reduction projects in California's communities funded by Cap and Trade auction revenues	Establishes policy and procedures for fee revenues derived from Cap and Trade auctions.	Sets up the Greenhouse Gas Reduction Fund within the Air Resources Board to allocate Cap and Trade Auction revenues. Funds will only be available to go out upon appropriation of the Legislature through the annual Budget process.	Directs California Public Utilities Commission (CPUC) to require Investor Owned Utilities (IOU's) that receive auction revenues to designate a portion of the funds to go toward cost-effective school energy efficiency improvements. This would be done through the CPUC's oversight of the IOU's expenditure plan.	The Governor's January Budget proposal provides $1 billion total in 2012-13. $500 million for existing GHG mitigation activities, $500 million for investments in 1) clean and efficient energy, 2) low carbon transportation, 3) natural resources protection, and 4) sustainable infrastructure.	Creates the Greenhouse Gas Reduction Fund in the State Treasury for auction revenues.
Who gives out money?	Strategic Growth Council	Various State Agencies through existing programs	ARB, upon appropriation of the Legislature though the annual Budget process.	CPUC	Unknown.	Unknown.
Grants/Loans?	Grants	Competitive grants, revolving loans, loan guarantees, loans or other appropriate funding measures.	Unknown.	Neither, CPUC direction to IOU's in revenue plans.	Unknown.	Unknown.
Money on Regional or city basis?	Only counties or groups of counties are eligible for funds.	Both options are likely.	Unknown.	n/a	Unknown.	Unknown.
Competitive grants?	All grants awarded on competitive basis	Yes, see above.	Unknown.	n/a	Unknown.	Unknown.
Additional Notes	In order to receive funds, counties must complete a GHG emission reduction plan certified by the State ARB, and that enters into a MOU with cities in its jurisdiction and others that choose to participate.	Funds will be available to a wide array of projects, through existing programs (EECBG, AB 118 are examples) to a number of different groups. Planning funds for SB 375 implementation are likely to be a part of this proposal.	Bill is still a work-in-progress. Senate members have a "working group" working on ideas for the bill.	Funds are available for schools only.	Under Budget proposal, after the first auction, the Governor would submit an expenditure plan to the Legislature	Identical language was passed in both Senate and Assembly Sub-Committees. Requires funds to meet AB 32 and Sinclair Fee nexus. Absent legislation passing on revenues, directs the Administration to submit a bill for expenditure of the revenues no later than January 10, 2013.