

HOUSING, COMMUNITY & ECONOMIC DEVELOPMENT POLICY COMMITTEE

Friday, June 15, 2012

10:00 a.m. – 3:00 p.m.

Sacramento Convention Center, 1400 J Street, Rm. 204, 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. State Legislative Update (Attachment A)

- **AB 2273 (Wieckowski)- Common Interest Developments** (Action)
Skip Daum, Community Associations Institute
- **AB 1897 (Campos)- Food Element** (Informational)
- **AB 1627 (Dickenson)- Vehicle Miles Traveled** (Informational)
- **SB 1498 (Emmerson)- Local Agency Formation Commission: Powers** (Informational)
- **AB 2007 (Williams)- Alcohol and Drug Abuse Counselors** (Informational)
- **Infill Builders Proposal- Parking Standards: Transit-Intensive Areas** (Informational)

IV. Strategic Growth Council

- Heather Fargo, Executive Policy Officer

V. HSRA

- Jennifer Whiting, League Staff

(Informational)

VI. Cap and Trade Revenues (Attachment B)

- Jennifer Whiting, League Staff

(Action)

VII. Marijuana (Attachment C)

- Jonathan Hobbs, Member of Medical Marijuana Ad Hoc Committee (Informational)
Shareholder of Kronick Moskovitz Tiedemann and Girard

VII. Next Meeting: Annual Conference, San Diego, September 5, 10:30 – Noon

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 Website.

HOUSING, COMMUNITY, AND ECONOMIC DEVELOPMENT
Legislative Agenda
June 15, 2012

Staff: Lobbyist: Kirstin Kolpitke (916) 658-8250

1. AB 2273 (Wieckowski). Common interest developments: required documents

Bill Summary:

This bill would require the transfer, following the sale, of a property in a common interest development, executed under the power of sale contained in any deed of trust or mortgage to be recorded within 30 days after the date of sale in the office of the county recorder where the property is located. The bill would additionally require the mortgagee, trustee, or other authorized person to mail to any person desiring a copy of any notice of default and notice of sale under any deed of trust or mortgage within 15 days following the date of the trustee's sale, rather than 15 days after the deed is recorded.

Background:

This is one of many bills dealing with the foreclosure issue. While the League does not have Existing Policy and Guiding Principles on much of this area, this bill could tangentially help local jurisdictions identify owners of foreclosed properties.

Staff Recommendation:

The Committee should decide if it wishes to SUPPORT AB 2273 or continue to WATCH.

Some issues the Committee may want to consider is that this bill might help ensure that foreclosed properties in common interest developments are recorded in a timely manner. Potentially, by knowing who the foreclosing party is, local governments can collect property taxes.

In order to move the bill along in the process, the enforcement mechanism of the bill was removed. There is no penalty for banks that fail to record a document in a timely manner.

This bill only applies to properties in a common interest development.

Committee Recommendation:

Board Action:

Fiscal Impact:

Negligible.

Existing League Policy:

None.

Comments:

Support-Opposition:

Support: (as of May 14, 2012)

Community Associations Institute (Co-sponsor)

Conference of California Bar Associations (Co-sponsor)

California Association of Realtors

California Building Industry

Association Equity Management

California Association of Community Managers Executive Council of Homeowners

Congress of California Seniors

Executive Council of Homeowners

Southwest California Legislative Council

Opposition: *(as of May 14, 2012)*

California Bankers Association

California Land Title Association

California Mortgage Bankers Associations

United Trustees Association

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.

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 through 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.

Tracked Legislation – Marijuana
League of California Cities (May 2012)

ATTACHMENT C

Bill Number (Author)	Title/Subject	Summary	Status/ Location	League Position
AB 2284 (Chesbro)	Irrigation – Cultivation on State or Federal Lands	<p>Provides additional penalties to a person in violation of provisions of the Fish and Game Code relating to streambed alteration, water pollution, or refuse disposal in waters, in connection with marijuana cultivation in a state park system, state forest, or timberland.</p> <p>Also allocates associated penalty fines to county where violation occurred and investigating agency for related investigation costs and clean-up of site.</p> <p>Finally, allows sheriffs or CHP officers to pull over vehicles on unpaved roads within a state or federal park or forest lands carrying irrigation loads to determine the lawful possession and use of those loads.</p>	Senate Rules Committee	Watch
AB 2312 (Ammiano)	Controlled Substances - Medical Marijuana Regulation and Control Act	<p>Creates the Medical Marijuana Regulation and Control Act and a nine-member Board of nine-member Board of Medical Marijuana Enforcement within the Department of Consumer Affairs to regulate the medical marijuana industry, and authorizes local government to levy transaction and use taxes of up to 2.5% on the sale of marijuana.</p> <p>Establishes population-based formula for minimum required number of dispensaries in each city and county. Provides if there is no local regulation, the state Board may impose regulations. To change minimum dispensary requirements, cities or counties must pass voter approved ordinance in jurisdictions with populations over 50,000. In jurisdictions under 50,000, jurisdictions may ban dispensaries upon submitting reports to the Board showing proof of medical marijuana accessibility in nearby jurisdictions.</p>	Senate Rules Committee	Oppose
SB 1182 (Leno)	Medical Marijuana – Criminal Prosecution	Provides that a medical marijuana cooperative, collective or “other business entity” that operates within the Attorney General's 2008 guidelines shall not be subject to prosecution for marijuana possession or commerce.	Failed House of Origin Deadline	Oppose
SB 1506 (Leno)	Controlled Substances – Possession Penalties	Changes penalty associated with any controlled substance possession to a misdemeanor punishable by fine or county jail sentence. Also removes requirement for individuals convicted of marijuana possession, possession for sale, or selling to report and register to the chief of police or sheriff of the local jurisdictions.	Failed passage	Watch