



1400 K Street, Suite 400 • Sacramento, California 95814
Phone: 916.658.8200 Fax: 916.658.8240
www.cacities.org

NOTE: For city officials arriving early, please join us from 9 – 9:45 a.m for a **continental breakfast** at the League offices at 1400 K Street, 3rd floor, behind the Sacramento Convention Center

January 6, 2012

TO: Members: Transportation, Communication & Public Works Policy Committee

FROM: Tom Glancy, (Chair), Council Member, Thousand Oaks
Jennifer Whiting, League Staff (916) 658-8249

RE: **POLICY COMMITTEE MEETING**
DATE: **Thursday, January 19, 2012**
TIME: **10:00 a.m. – 3:00 p.m.**
PLACE: **Sacramento Convention Center**
1400 J Street, Room 202
Sacramento, CA

Attached are the agenda and background materials for the upcoming policy committee meeting. If you plan to attend, and have not yet returned the attendance form, please contact Meg Desmond at mdesmond@cacities.org. Registration for this meeting is not required; however, your response will help us determine the meal count.

In addition, if you will be in town on Wednesday night, **please join us for a reception on January 18, 2012**, 6:00 – 7:15 p.m., at the Mayahuel Restaurant located at 1200 K Street (corner of 12th & K), Sacramento. Come network and mingle with new mayors and council members, state legislators, League Partner company representatives, League leadership and staff. Please RSVP to Emily Cole at 916.658.8283 or ecole@cacities.org with your name, title and city/organization.

Travel Informaton: Air transportation, shuttle service, driving directions, parking and hotel information are provided on the back of this letter.

We look forward to seeing you at our first meeting in 2012!

League of California Cities Policy Committee Meetings - January 19 – 20, 2012

(The League office is located directly behind the Convention Center.)

Meeting Locations: Sacramento Convention Center: 1400 J Street, Sacramento 95814 or
League of California Cities: 1400 K Street, Sacramento 95814

AIR TRANSPORTATION:

Low, refundable airfares are available through the Enhanced Local Government Airfare Program. The program requires that a city be pre-registered; check with your city's travel coordinator. This program is ticketless and includes Southwest, United and United Express. For city pairs, rates, or if your city has not yet registered, please check the League Web site at <http://www.cacities.org/travel> for details.

TRANSPORTATION FROM AIRPORT:

YOLOBUS information - <http://www.yolobus.com/m3.html> - 530/ 666-BUSS (2877)

Cost: \$2.00 each way; seniors (62+) /disabled, \$1.00

Travel time: The bus ride is approximately 20-30 minutes.

From the Airport. (Bus 42A)

Buses run every hour (at approximately 19 minutes past the hour). After departing plane, go to the island outside and locate Public Transit. This is where you will catch YOLOBUS

SUPERSHUTTLE (1-800-BLUE VAN): Upon arrival at the airport, claim your luggage then proceed to the **SuperShuttle** ground transportation booth. A representative will arrange SuperShuttle transportation to your destination. Reservations not required. **One-way ticket per person: \$13.00. Round trip ticket per person: \$26.00.**

Please note: Downtown hotels do not provide shuttle service from the airport.

CABS are quoted between \$30.00 to \$40.00 from airport to downtown.

RETURN TO AIRPORT: SuperShuttle (1-800-BLUE VAN) makes regular stops every 1/2 hour in front of these hotels, both within walking distance of the Convention Center:

Hyatt Sacramento - 1209 L Street, Sacramento - (916) 443-1234

Sheraton Grand -1230 J Street, Sacramento - (916) 447-1700

YOLOBUS: Back to Airport (Bus 42B) Pickup location: L & 13th Streets

Buses run every hour (at 5 minutes past the hour). The bus ride is approximately 20-30 minutes.

DRIVING DIRECTIONS:

Below are suggested driving directions to the Convention Center and may not be the most efficient route from your home. There are many websites which offer assistance with driving directions. Here are two that may be helpful: www.mapquest.com, and <http://maps.yahoo.com>.

From I-5: Exit "J" Street. The Convention Center is located on "J" Street (one-way) between 13th & 15th Streets.

From I-80 (West traveling East): Take I-5 North, then follow the above directions.

From I-80 (East traveling West): Take I-80 to Capitol City Freeway (right lanes), Exit 160 Downtown (right lanes). When freeway ends, merge to near left lane. Turn left on "J" Street, go 1 block.

From the South on Highway 99: Take 99 North to Business 80 West (Capitol City Freeway). Exit at 16th Street. Continue on 16th Street, and turn left on "I", then left on 13th Street.

PARKING: *(Allow time for parking; the downtown area is congested.)*

There are numerous public parking garages in the vicinity. Those **closest to the Convention Center** are located at 13th and "J" Streets - directly across from the Sheraton Grand Hotel and the Convention Center. From "J" Street (one way), turn left on 13th Street; entrances to the parking lots are on both the left and the right. The Hyatt Hotel has its own parking garage and valet parking. From "J" Street, turn right on 13th Street, then right on "L" Street. The parking garages **closest to the League offices** are on "K" Street next to the Capitol Garage, corner of 15th & "K" Streets (enter from K Street).

HOTELS:

Hyatt Sacramento, 1209 L Street, Sacramento (\$165 + taxes and fees) - Please contact Megan Dunn at mdunn@cacities.org for the online housing link to get the discounted League rate. This rate is not available by phone or at Hyatt.com. This venue is the Headquarter Hotel for the League's New Mayors & Council Members Academy from January 18 -20. **THE DISCOUNTED RATE WILL NOT BE AVAILABLE AFTER JANUARY 6, 2012.**

TRANSPORTATION, COMMUNICATIONS AND PUBLIC WORKS POLICY COMMITTEE

Thursday, January 19, 2012

10:00 a.m. – 3:00 p.m.

Sacramento Convention Center, 1400 J Street, Room 202, Sacramento

Note: For city officials arriving early, please join us from 9 – 9:45 a.m. for a continental breakfast at the League offices at 1400 K Street, 3rd floor (behind the 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. SPECIAL ORDER: State Budget and Redevelopment Briefing for all policy committee members, 10:00 – 10:45 a.m., Room 204, Sacramento Convention Center

Upon adjournment, individual policy committee meetings will begin.

II. Welcome and Introductions

III. Public Comment

IV. Overview of Parliamentary Procedure and Roberts Rules (Handout) Information

V. Committee Orientation (Attachment A) Information

VI. Strategic Goals for 2012 (Attachment B) Information

VII. Review of Summary of Existing Policy & Guiding Principles Action
(Attachment C)

- Telecommunications Policy Update Action

VIII. Committee Work Program Information

- 2011 Work Program: Status *(Attachment D)* Information
- 2012 Draft Work Program *(Attachment E)* Action

IX. Legislative Update (Attachment F) Action

1. PID Response Standards Action
2. Water Board Fees and Permits Action
3. Weight Limits for Transit Action
4. Food Trucks – Local Authority to Regulate Action
5. AB 1050 (Ma) – Collecting UUTs on Prepaid Wireless Information
6. Transportation Revenues Working Group Discussion

X. Proposed Restructure of Regional Water Boards (Attachment G) Action
-Speaker: Martha Guzman-Aceves, Deputy Legislative Secretary

XI. Everyday Counts Initiative (Attachment H) Information
*-Speakers: Aimee Kratovil or Vince Mammano, Federal Highway Administration (invited)
Terry Abbott or Malcolm Dougherty, CalTrans (invited)*

XII. League Partner Webinar Program Discussion Discussion

- Speakers: Steve Gedestad, Executive Vice President, Keenan and Associates
Bismarck Obando, Public Affairs Manager, League
Mike Egan, Public Affairs Fundraiser, League*

XIII. CalTrans Business Logo Service Program
Speaker: Ted Link-Oberstar, CalTrans (invited)

Discussion

XIV. Federal Legislative Update

1. Transportation Reauthorization (*Attachment I & Handout*)
2. HR 1746 – The CAP Act (*Attachment J*)

*Action
Information*

XV. Next Meeting:

Thursday, March 29, 2012 - Doubletree Hotel in Ontario, CA

Policy Committee Compliance with State Laws

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.



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HOW LEAGUE POLICY COMMITTEES WORK

January 2012

Policy Committee Subject Matter

The League has eight (8) policy committees, each with its own subject matter jurisdiction. You may refer to the “*Summary of Existing Policy and Guiding Principles*” booklet (*Summary*) to find the subject matter for each committee. This document will be updated in January 2012 and again in January 2014. Policy in the *Summary* is used to determine League legislative and regulatory positions. The *Summary*, in its entirety, is located on the League’s Web site at www.cacities.org/summary. Individual sections are located on each policy committee’s Web page, which are available at www.cacities.org/polcomm.

Policy Committee Legislative Agenda Items

League policy committees review bills or regulatory proposals on issues for which the League does not have existing policy, or for which staff members feel a policy discussion needs to occur for greater clarity or background on an issue. Staff will lobby legislation, funding proposals, or regulatory changes where existing policy provides clear direction.

Role and Responsibility of Committee Members

The strength of the League’s policy process and ability to effectively engage in the legislative process is based on the active involvement of and the expertise of city officials. We rely on your technical and policy knowledge, thoughtfulness, strategic thinking, and political savvy. Your role is to engage in thoughtful discussions at the meeting. Members should review the agenda and background material prior to the meetings, attend each meeting, and stay for the entire duration of the meeting.

Committee Recommendations on Positions on Bills

The committee’s actions or positions are a recommendation to the League Board of Directors for a formal League position. Possible committee recommendations can be:

- Support
- Oppose
- Support-if-amended (as appropriate, specific amendments may be requested)
- Oppose-unless-amended (as appropriate, specific amendments may be requested)
- No position
- Neutral

There are nuanced differences between some of these positions. For example, “*support-if-amended*” sends a very different message than “*oppose-unless-amended*.” Both positions might seek the same change but the support-if-amended position means that the League would be listed with the “supporters”

of the bill in most legislative analysis. In addition, “*no position*” and “*neutral*” have different meanings and require different actions from staff. Selection of one or the other depends in part upon what type of message or political posture the League needs to take. Staff will advise the committee about the implications of each on a case-by-case basis.

Approval by League Board Needed for All Committee Recommendations

All committee actions are recommendations to the League Board, which has the final say on all positions. Under no circumstances are individual committee members nor the committee itself authorized to speak on behalf of the League. When a committee action is supported by a large majority (e.g., 32 to 3), the recommendation is placed on the Board’s consent calendar. When the committee vote is split (e.g., 15-13), the item will be presented as an action item for the Board’s discussion. Staff will also provide information about the reasons behind the committee’s recommendation to the Board.

Most of the time, the Board adopts the recommendation of the policy committee. When the Board adopts a different position, staff will notify the committee members of the reason for the different position. This likely will be done in the next regular communication with the committee.

Some issues cut across more than one committee. When this occurs, staff will coordinate and bring a bill to more than one committee for review and recommendation. The recommendations are then forwarded to the League Board and if there is a different recommendation, the League Board resolves the difference.

Role of the Committee Chair

The chair’s role is to balance the often competing needs of the membership to have a full and thoughtful discussion on the issues within the very real time constraint. The chair will often limit debate – either in the number of speakers or the amount of time each speaker has – in order to ensure that we can move ahead on our agenda and cover the items included. We ask that when you make comments on issues before the committee that you be brief and concise and that you not repeat what has already been stated. Also, if you have already spoken on an issue, the chair may ask you to hold your comments until after new speakers are able to share their comments.

Committee Schedule and Process

Committees generally meet three times a year (January and June in Sacramento, March in Ontario), plus an abbreviated meeting at the Annual Conference (September in San Diego) to review resolutions if any are assigned to it. (The September meeting schedule will be announced in mid-July). Meetings begin at 10:00 a.m. and conclude by 3:00 p.m., although some subcommittees may meet at 9:00 a.m. Please plan to be present for the full duration of the committee meetings.

Agendas/Disseminating Information

A meeting notice is mailed to committee members about a month to six weeks in advance of the meeting, containing travel and logistical information. An agenda packet is mailed at least one week before a meeting and also sent via e-mail. **(Note: Following the January meeting, agenda packets will only be sent via email and posted online. If you prefer a hard copy of the agendas and highlights, please contact Meg Desmond by email: mdesmond@cacities.org or phone: 916-658-8224)** Highlights that summarize committee actions are prepared by staff and provided to committee members about two to three weeks after the meetings. All materials are also available on the League’s Website: www.cacities.org/polcomm.

We encourage you to visit the League’s Web site: www.cacities.org. In addition to containing committee materials, the Website contains information on the League’s priorities and a link to track individual bills

and the League's position on them. You should also subscribe to the League's electronic newsletter *CA Cities Advocate*.

For meetings that are heavy in legislative review (generally in March/April and June), staff will try to find a balance between getting the agenda packet out early and the need to delay finalizing the agenda packet in order to include as many legislative items as possible and in their most current version. At some meetings, staff may use a supplemental agenda for last minute legislative issues. We will use e-mail as appropriate to send out late-breaking information or to gather committee input throughout the year. It is important that we have your preferred e-mail.

How to Get an Item on the Agenda

Because staff prepares background material in advance of the meeting, and prepares the agenda in consultation with the Chair and Vice Chair, it is difficult to add items at the last minute. In addition, the League tries to comply with the spirit of the Brown Act in its meetings. If you wish to have the committee discuss an item, you should contact staff well in advance of the meeting in order to determine the feasibility of including it on the agenda, and if so, allow staff time to prepare the appropriate background material. Because of time constraints and a full work program before the committee, it may not always be possible to respond to such requests.

Issues Should Have Statewide Impact

Although some of you may represent your division, your department, your affiliate organization, or simply yourself, we should all keep in mind that the League must address issues of statewide impact and interest. Thus, while an issue or bill may be of interest to your city or region, if it does not have broader, statewide implications, the League likely will not engage in that policy discussion or take a position. You should keep this in mind if you wish to suggest an item for discussion.

Brown Act and Roberts Rules of Order

The League tries to comply with the spirit of the Brown Act. Thus, when the committee discusses items not already on the agenda (e.g., supplemental legislative agenda), the Chair will ask for a vote of approval to add that item to the agenda. The League also follows Roberts Rules of Order and provides a brief overview of key procedural steps in Roberts Rules as they apply to committees.

Staffing for Committee

Each committee has a staff lobbyist assigned to it. This individual is your main point of contact for logistics or questions about the agenda. Generally, each lobbyist has a "main" committee and will remain with the committee throughout the meeting. Occasionally he/she may leave the meeting to make guest appearances in other committees to discuss issues or bills. Additional staff may also be present to support the committee's work.

League Partners and Other Guests

The League Partners have a non-voting representative assigned to each policy committee and are seated at the table with other committee members. In addition, city officials, other members of the League Partners Program, and interested members of the public are welcome to attend the meetings. We provide an opportunity for our League Partners and other members of the public to offer comment on items before the committee during the designated public comment period on the agenda.



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2012 LEAGUE STRATEGIC GOALS¹

Support Sustainable and Secure Public Employee Pensions and Benefits.

Work in partnership with state leaders and other stakeholders to promote sustainable and secure public pensions and other post-employment benefits (OPEBs) to help ensure responsive and affordable public services for the people of our state and cities.

Promote Local Control for Strong Cities. Support or oppose legislation and proposed constitutional amendments based on whether they advance maximum local control by city governments over city revenues, land use, redevelopment and other private activities to advance the public health, safety and welfare of city residents.

Build Strong Partnerships for a Stronger Golden State. Collaborate with other public and private groups and leaders to reform the structure and governance, and promote transparency, fiscal integrity and responsiveness of our state government and intergovernmental system.

¹ Adopted by the League Board of Directors in San Diego, November 18, 2011

SUMMARY OF EXISTING POLICIES AND GUIDING PRINCIPLES

Update – 2012 DRAFT

Every two years, the League updates its “summary of Existing Policies and Guiding Principles” to reflect new League policy adopted during the past two years. The purpose of this update is *not* to develop new League policy or revisit existing League policy. The document provided indicates new policy adopted during the past two years in **bold underlining** or ~~**bold strikeouts**~~. This is new policy that has been adopted through Annual Conference Resolutions, League positions on bills approved by the League Board of Directors, or broad League policy approved by the League Board of Directors over the last two years.

Committee members should review the proposed update and consider whether it accurately reflects the actions taken by the policy committee (and League Board) over the last two years, and whether there are any missing policy items or errors in describing policy. Committee members who wish to propose new League policy or to revisit existing League policy should suggest that the issue be placed on an agenda for a future policy committee meeting, as opposed to attempting to modify the policy through this update.

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Transportation, Communication and Public Works

Scope of Responsibility

The Committee on Transportation, Communication and Public Works reviews both state and federal legislation as it relates to issues of transportation funding, construction, public works, telecommunications, and other related areas.

Summary of Existing Policy and Guiding Principles

Transportation

- The League supports additional funding for local transportation and other critical unmet infrastructure needs. One of the League’s priorities is to support a continuous appropriation of new monies directly to cities and counties for the preservation, maintenance and rehabilitation of the local street and road system. The League also supports a permanent shift of the sales tax on gasoline for transportation purposes and an allocation formula equivalent to 40/40/20 split of 40 percent to cities and counties, 40 percent to STIP and 20 percent to transit.
- The League supports enhanced autonomy for local transportation decision-making and pursues transportation policy changes that move more dollars and decisions to local policy leaders. The League supports spending transportation moneys for transportation purposes.

The League will seek the maximum share of available funding for local transportation programs. The League supports implementation of federal transportation funding re-authorization legislation in a manner that supports these principles.

- The League supports bicycle and pedestrian access with maximum local flexibility to prioritize this transportation need, as long as funding is available directly for it and other transportation priorities are not affected. Furthermore, this funding should not compete with preservation of the road system in light of the identified \$71.4 billion in unmet needs on the city and county street and road system, as identified in the California Statewide Local Streets and Roads Needs Assessment completed in 2009.
- The League opposes requiring a city or parking processing agency to automatically cancel notices of parking violations, prior to a request from a vehicle owner, if the violation does not substantially match the corresponding information on the vehicle registration.

Public Works

- The League supports retaining maximum flexibility for timely and cost-effective completion of public works projects. The League supports innovative strategies including public private partnerships at the state and local levels to enhance public works funding.
- **The League supports efforts to divert products that contribute to decreased capacity and increased maintenance costs at wastewater treatment facilities.** (*AB 2256, Flushable Wipes, 2010*)

Vehicles

- The League opposes all efforts that allow vehicles **and vehicle operators** on the road that will jeopardize the integrity of the public infrastructure or the health and safety of the motoring public. The League supports all efforts to retain maximum control of the local street and road system. The League supports traffic safety enhancements such as motorcycle helmets, child restraints, seat belt and speed limit laws. (*AB 2294, Pedicabs, 2010*)
- The League opposes any efforts to increase truck size or weight. The size and weight of trucks is important because it affects the stability and control of the truck, the way it interacts with other traffic, and the impact it has when colliding with other vehicles. Truck safety is particularly important because these vehicles share city streets and county roads with users — such as, motorists, pedestrians, cyclists, motorcyclists, and bus riders.
- **The League encourages cities to promote safe driving across California and the education of the general public about the dangers of texting while driving.** (*Resolution 6, 2010 Annual Conference*)

Contracts

- The League supports maintaining maximum local flexibility in the area of contracting and contract negotiations. The League supports changes to law that allow cities options to use design-build contracting and other innovations designed to bring efficiency to public contracting. The League also supports contracting out with private entities to increase project delivery efficiency and affordability.

Telecommunications

- **The League supports a state tax levied on direct broadcast satellite television service providers if the proceeds are distributed to support local public safety programs consistent with a geographic distribution methodology that reflects households using this service, and provided that the tax is repealed should the revenues be diverted by the state for another purpose.** (SB 530, Satellite TV Tax, 2011)
- Traditional franchising at the local level has served the valuable purpose of tailoring service to unique local conditions and needs and assuring responsiveness of providers to consumers. The continued involvement of local government in any new state or federal regulatory scheme by way of locally negotiated agreements is an essential component of telecommunications regulations, best serves the needs of consumers, and is consistent with the goal of providing consumers greater choice in telecommunications options.

Any new state or federal standards must conform to the following principles:

1. Revenue Protection

- Protect the authority of local governments to collect revenues from telecommunications providers and ensure that any future changes are revenue neutral for local governments.
- Regulatory fees and/or taxes should apply equitably to all telecommunications service providers.
- A guarantee that all existing and any new fees/taxes remain with local governments to support local public services and mitigate impacts on local rights-of-way.
- Oppose any state or federal legislation that would pre-empt or threaten local taxation authority

2. Rights-of-Way

- To protect the public's investment, the control of public rights-of-way must remain local.
- Local government must retain full control over the time, place and manner for the use of the public right-of-way in providing telecommunications services, including the appearance and aesthetics of equipment placed within it.

3. Access

- All local community residents should be provided access to all available telecommunications services.
- Telecommunications providers should be required to specify a reasonable timeframe for deployment of telecommunications services that includes a clear plan for the sequencing of the build-out of these facilities within the entire franchise area.

4. Public Education and Government (PEG) Support

- The resources required of new entrants should be used to meet PEG support requirements in a balanced manner in partnership with incumbent providers.
- For cities currently without PEG support revenues, a minimum percentage of required support needs to be determined.

5. Institutional or Fiber Network (INET)

- The authority for interested communities to establish INET services and support for educational and local government facilities should remain at the local level.

6. Public Safety Services

- The authority for E-911 and 911 services should remain with local government, including any compensation for the use of the right-of-way. All E-911 and 911 calls made by voice over internet protocol shall be routed to local public safety answering points (PSAPs); i.e., local dispatch centers.
- All video providers must provide local emergency notification service.

7. Customer Service Protection

- State consumer protection laws should continue to apply as a minimum standard and should be enforced at the local level. Local governments should retain the authority to assess penalties to improve customer service.

8. Other Issues

- Existing telecommunications providers and new entrants shall adhere to local city policies on public utility undergrounding.
- The League supports the authority of cities to zone and plan for the deployment of telecommunications infrastructure. The League supports the ability of cities to maintain and manage the public right-of-way and receive compensation for its use. The League supports the innovation and economic development potential of the “information superhighway” and the many possible benefits in the areas of telecommuting and productivity it promises. The League will work with the California Public Utilities Commission, the various telephone companies and federal regulatory agencies to improve telephone area code planning in California.

Air Pollution

- The League will monitor developments and the ramifications of efforts to regulate air quality and related congestion strategies as it is related to transportation.

Note: The League will review new legislation to determine how it relates to existing League policies and guiding principles. In addition, because this document is updated every two years to include policies and guiding principles adopted by the League during the previous two years, there may be new, evolving policies under consideration or adopted by the League that are not reflected in the current version of this document. However, all policies adopted by the League Board of Directors or the League’s General Assembly become League policy and are binding on the League, regardless of when they are adopted and whether they appear in the current version of “Summary of Existing Policies and Guiding Principles.”



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COMMITTEE ON TRANSPORTATION, COMMUNICATION AND PUBLIC WORKS

2011 Work Program - UPDATE

1. LEAGUE 2011 STRATEGIC GOALS

The committee will focus on supporting the 2011 goals adopted by the League Board of Directors. The 2011 strategic goals include:

- **Strong Partnerships for a Stronger Golden State.** Collaborate and partner with other public and private groups and leaders to reform and revitalize the structure, governance, fiscal integrity and responsiveness of our state government and intergovernmental system.
- **Sustainable and Secure Public Pension Systems.** Work in partnership with other groups and stakeholders to promote sustainable and secure public pension systems to help ensure responsive and affordable public services for the people of our state and cities.
- **Responsive and Accessible League Services.** Implement distance learning, meeting and other cost-effective strategies to deliver even more responsive and accessible League educational, information and advocacy services to the city officials of California.

UPDATE: The TCPW Policy Committee provided agenda space and a discussion forum for updates and status reports from League staff members. The Committee also supported the League's goals through communications efforts and information sharing among committee members and constituents, advocating when necessary to further League priorities in these areas, evaluating and considering support or opposition for legislation.

2. TRANSPORTATION DELIVERY

Support Caltrans' use of outside contracts to accelerate completion of outstanding projects. Continue to work with Caltrans and other agencies to expedite project delivery and optimize transportation funds. Continue participation in the City-County-State-Federal Cooperative Committee (CCSFCC). The committee will also monitor and provide comments, as appropriate, on the federal transportation reauthorization program process and federal grant monies for local agencies.

UPDATE: In January the committee received a briefing on the interactions between the gas tax swap, Proposition 22, and Proposition 26 and discussed possible solutions so that transportation funding would not be negatively impacted. In addition, the committee received a briefing on the status of the federal transportation program reauthorization each time they met. The committee also received an update on the status of the Local Streets and Roads Needs Assessment. The committee received two briefings on the infrastructure challenges facing California as electric cars become more prevalent.

The committee also reviewed several bills related to this issue, including:

- AB 345: Traffic Control Devices
- AB 441: State Planning
- AB 475: Electric Vehicles Off-Street Parking and Charging Stations

3. TELECOMMUNICATIONS

Various telecommunications industry providers are calling for changes in how they are regulated and urging legislators and regulators to adopt laws and regulations that will create a level playing field. As necessary, the committee will take action on specific proposals that emerge to ensure that local government interests are protected.

UPDATE: The committee reviewed and recommended a support position on SB 530 regarding taxation of direct broadcast satellite services.

4. PREVAILING WAGES

Prevailing wages are a statewide concern. The committee will examine issues relating to prevailing wages as necessary.

5. ETHICS PROGRAM

The committee will monitor issues related to ethics and impacts on local government officials.

6. QUIET ZONES

The committee will continue to learn about quiet zones.

7. DIESEL ENGINES RETROFIT

The committee will be updated on diesel engines retrofit issues.

8. SAFETY FOR MOTORISTS AND TRAVELING PUBLIC

The committee will be updated on safety issues impacting motorists, cyclists, pedestrians, and other members of the traveling public.

UPDATE: In April reviewed AB 345 regarding the membership of the California Traffic Control Devices Commission.

9. WATER INFRASTRUCTURE

The committee will review and take action as appropriate on issues related to local government facilities that process or treat water resources including stormwater, wastewater, or recycled water. The committee will also hear updates from the League's Water Task Force.

UPDATE: The committee discussed and made a recommendation for action on the Proposed State Industrial Stormwater Permit.

10. NEIGHBORHOOD VEHICLES AND COMMON CARRIERS

The committee will study the safety and usage of neighborhood electric vehicles, alternative motorized means of transportation (such as Segways) and non-motorized common carriers (such as rickshaws and pedicabs). Action will be taken as needed on related legislation and regulatory proposals.

11. LEGISLATION

Review and monitor legislation as it relates to transportation, public works, ADA Compliance, Energy and High Speed Rail.

UPDATE: The committee reviewed many pieces of legislation, and made recommendations for action to the Board of Directors as appropriate. Bills reviewed include:

AB 83 (Jeffries) – CEQA exemption: recycled water pipeline

AB 147 (Dickinson) – Expanding Flexibility of Traffic Mitigation Under Subdivision Map Act

AB 345 (Atkins) – Traffic Control Devices: consultation

AB 441 (Monning) – State Planning.

AB 475 (Butler) – Vehicles: offstreet parking: electric vehicles

SB 530 (Wright) – Taxation: direct broadcast satellite television service
SB 907 (Evans) – Master Plan for Infrastructure Financing and Development
SB 1215 (Blumenfield) – Vehicles: electronic processing of documents
Proposal: Business Advertisements on CalTrans signs



COMMITTEE ON TRANSPORTATION, COMMUNICATION AND PUBLIC WORKS

2012 Work Program - DRAFT

1. LEAGUE 2012 STRATEGIC GOALS

The committee will focus on supporting the 2011 goals adopted by the League Board of Directors. The 2012 strategic goals include:

- **Support Sustainable and Secure Public Employee Pensions and Benefits.** Work in partnership with state leaders and other stakeholders to promote sustainable and secure public pensions and other post-employment benefits (OPEBs) to help ensure responsive and affordable public services for the people of our state and cities.
- **Promote Local Control for Strong Cities.** Support or oppose legislation and proposed constitutional amendments based on whether they advance maximum local control by city governments over city revenues, land use, redevelopment and other private activities to advance the public health, safety and welfare of city residents.
- **Build Strong Partnerships for a Stronger Golden State.** Collaborate with other public and private groups and leaders to reform the structure and governance, and promote transparency, fiscal integrity and responsiveness of our state government and intergovernmental system.

2. TRANSPORTATION DELIVERY

Support Caltrans' use of outside contracts to accelerate completion of outstanding projects. Continue to work with Caltrans and other agencies to expedite project delivery and optimize transportation funds. Continue participation in the City-County-State-Federal Cooperative Committee (CCSFCC). The committee will also monitor and provide comments, as appropriate, on the federal transportation reauthorization program process and federal grant monies for local agencies.

3. TELECOMMUNICATIONS

Various telecommunications industry providers are calling for changes in how they are regulated and urging legislators and regulators to adopt laws and regulations that will create a level playing field. As necessary, the committee will take action on specific proposals that emerge to ensure that local government interests are protected.

4. PREVAILING WAGES

Prevailing wages are a statewide concern. The committee will examine issues relating to prevailing wages as necessary.

5. ETHICS PROGRAM

The committee will monitor issues related to ethics and impacts on local government officials.

6. QUIET ZONES

The committee will continue to learn about quiet zones.

7. DIESEL ENGINES RETROFIT

The committee will be updated on diesel engines retrofit issues.

8. SAFETY FOR MOTORISTS AND TRAVELING PUBLIC

The committee will be updated on safety issues impacting motorists, cyclists, pedestrians, and other members of the traveling public.

9. WATER INFRASTRUCTURE

The committee will review and take action as appropriate on issues related to local government facilities that process or treat water resources including stormwater, wastewater, or recycled water. The committee will also hear updates from the League's Water Task Force.

10. NEIGHBORHOOD VEHICLES AND COMMON CARRIERS

The committee will study the safety and usage of neighborhood electric vehicles, alternative motorized means of transportation (such as Segways) and non-motorized common carriers (such as rickshaws and pedicabs). Action will be taken as needed on related legislation and regulatory proposals.

11. LEGISLATION

Review and monitor legislation as it relates to transportation, public works, ADA Compliance, Energy and High Speed Rail.

TRANSPORTATION, COMMUNICATIONS, AND PUBLIC WORKS POLICY COMMITTEE
Legislative Agenda
January 2012

Staff: Jennifer Whiting (916) 658-8249

1. Project Initiation Documents (PID)/Project Study Reports (PSR) Response Standards

Bill Summary:

This bill would:

- specify a maximum response time for submitted PID review documents;
- require CalTrans to develop a standard format Cooperative Agreement for PID oversight that includes both a commitment to meeting the agreed upon schedule and providing detailed backup documenting CalTrans staff resources billed under the CA; and,
- require CalTrans to develop a process for certifying outside firms to complete oversight when state staff is unavailable.

Background:

Project Initiation Documents (PIDs), also referred to as Project Study Reports, identify the purpose, need and feasibility of a project; serve as a record of agreement on project cost, scope and schedule; and, in used for programming funds.

PIDS are required for all state highway system projects, including any local project that impacts the state highway system. A project cannot be included in an Interregional Transportation Improvement Program or a Regional Transportation Improvement Program without a PID, or PID equivalent, first being completed.

After two governors in a row have line item vetoed the appropriation to pay for PIDs for non-state sponsored projects, CalTrans is now developing a standard cooperative agreement (CA) for receiving local dollars to pay for staff time. Unfortunately, the CAs that are imposed on local agencies have no requirement for CalTrans to meet the project delivery schedule (mostly by completing review in a reasonably prompt fashion), nor do they have any requirement for CalTrans to clearly demonstrate that staff billed as working on the CA project were actually working on that project.

As related specifically to oversight of PIDs for projects funded by others, CalTrans staffing, oversight budgetary resources, and unaccountable submittal response results in an unacceptably slow delivery of planning documents necessary for additions to the State Highway System, resulting in both slowed economic development (delay in starting projects that have anticipated SHS improvements as mitigations) and non-delivery of federal stimulus dollars (projects are not approved quickly enough to compete for these funds).

CalTrans has the authority to review all PIDs on the State Highway System.. The Government Code currently has language giving CalTrans 60 days to provide review comments on PIDs submitted by others. It is unclear how this factors in to large (typically, construction costs > \$1M) projects where a Project Study Report is completed, theoretically by a combined Project Development Team. The longest delay in review seems to come when consultants are preparing the PSR components for a local entity. It is this scenario where CalTrans should be required to not only respond within 30 calendar days, but if exceptions are noted, CalTrans should provide feasible alternatives for the consultant to review (the process should be collaborative).

Staff Recommendation:

Staff recommends that the committee support the Public Works Officers recommendation to sponsor this legislation.

Committee Recommendation:

Board Action:

Fiscal Impact:

There should be no additional costs to cities as the state has already decided to charge cities for the cost of the PID. There could be some savings in that this could help minimize unforeseen project delays.

There could be nominal costs to CalTrans for creating a standard cooperative agreement. In addition, the costs associated with developing a process for certifying outside firms to complete oversight is unknown.

Existing League Policy:

While the League does not have policy specific to this issue, protecting local revenues is well within the scope of the League mission.

Comments:

Example: Army Corp of Engineers Process. Approximately 20 years ago, only CalTrans staff or CalTrans hired consultants worked on SHS projects. That later developed into the PID development by others, with Caltrans in an oversight only role. Project development staff have been so reduced, and limits are being placed on the number of PIDs local agencies can request. As an example, in District 4 each Congestion Management Agency is only allowed to program 3 PIDs into Caltrans' Workplan for the year, regardless of the actual need. The Army Corp of Engineers has the ability to certify others to fulfill the role of ensuring planned projects meet federal requirements (including the advance consideration needed to comply with CEQA and NEPA) and generally follow design guidelines. CalTrans should have a similar process.

Potential Support-Opposition:

Potential Support:

- California State Association of Counties
- Regional Council of Rural Counties
- American Council of Engineering Companies

Potential Opposition:

- CalTrans

2. Water Board Fees and Permits

Summary:

Over the last several years, cities have faced steep increases in water quality fees. They are currently facing substantial compliance and enforcement costs for proposed updated statewide stormwater permits. Much of the increase in statewide fees has come from shifting support for State programs from the General Fund to fee-based funding. In Fiscal Year 2011-12, cities will face fee increases as high as 44 percent for National Pollutant Discharge Elimination System (NPDES) fees. In addition, this year three existing general permits issued by the State Water Resources Control Board (“State Board”) are in the

process of being updated. It will be exceedingly difficult for small cities to meet the estimated costs to comply with and enforce these permits.

While the League will continue to participate in legislative and regulatory discussions at the State Board hearings, legislative hearings and as budget negotiations begin for FY 2012-13, it is very likely that the League will be in a position early in 2012 to support, co-sponsor or sponsor legislation to address key water quality issues involving the State Board.

Staff Recommendation:

In order to position the League to take action, staff recommends discussion by the EQ and TCPW committees and authorization for staff to draft “spot bills” to give the League the option to sponsor legislation on this matter in early 2012.

Fiscal Impact:

Potentially significant fiscal impact to cities for increasing fees and permit compliance costs.

Existing League Policy:

Environmental Quality:

- Adequate water quality requirements for wastewater discharge into surface water and groundwater to safeguard public health and protect beneficial uses should be supported.
- The League supports the development of objectives and standards to assure high water quality throughout California.
- The League supports the development of economic protocols and guidelines to assist local governments and water boards in determining reasonably achievable, cost effective and environmentally sound regulations.
- The League encourages the water boards to issue permits that are reasonably achievable, based on the unique conditions of a city or region.
- The League supports public access to decision makers, including during the time that new proposed permits and permit terms are being proposed. The League also supports access to pending permittees, outside of the administrative process.
- The League supports legislation to develop economic protocols and guidelines to assist local government and the water boards in determining reasonably achievable, cost effective and environmentally sound regulations, as outlined in Porter-Cologne Sections 13000 and 13241
- The League supports legislation to provide funding for storm water, water and wastewater programs, including a constitutional amendment which would place storm water fees in the category of water and wastewater fees, for the purpose of Proposition 218 compliance.

Comments:

Background

Two federal and State laws-- the federal Clean Water Act (CWA) and the State's Porter-Cologne Water Quality Control Act (Porter-Cologne) provide the basic framework protecting California's water quality by regulating discharges to surface and ground water. Under authority of these acts, the State Board and nine semi-autonomous Regional Water Quality Control Boards ("regional boards") are responsible for protecting the water quality of 10,000 lakes, 200,000 miles of rivers and 1,100 miles of coastline.

The federal CWA seeks to restore and maintain the chemical, physical and biological integrity of the surface waters of the United States. A key provision of this federal law, the National Pollutant Discharge Elimination System (NPDES) prohibits discharge of pollutants from a point source into waters of the U.S. without a permit that complies with the CWA.

In California, both the State Board and regional boards ("boards") issue Waste Discharge Requirements (WDRs) to regulate discharges of waste to surface water and land; those that regulate point source discharges to waters of the U.S. serve as NPDES permits under the Clean Water Act and are issued, monitored and renewed every five years. The more than 50,000 discharge permits are a key enforcement mechanism as the boards regulate more than 100 contaminants.

Water quality regulation: Who does what? California enforces its clean water laws through the State and nine regional boards. Part of the California Environmental Protection Agency, these agencies are charged with assessing, managing, and regulating water quality. The State Board has five members, appointed by the Governor, with expertise in water quality. The State Board's main responsibilities are to set statewide policy, issue statewide permits, develop plans and standards, operate statewide monitoring programs and oversee regional boards as they use these standards to implement water quality programs. The State Board also determines rights to California's surface water.

The nine members of each regional board are also appointed by the Governor and have expertise in areas including water supply, irrigated agriculture, industrial water use, municipal government, county government, recreation, fish or wildlife. The boundaries of each regional board are defined by watersheds. Their main duties are to issue and enforce permits or waivers (NPDES/ Waste Discharge Permits mentioned above). While regional boards issue the majority of permits, in some cases the State Board may do so. Regional boards operate largely independent from one another, creating unique plans to protect water quality within their area. These water quality control or "basin plans" prescribe beneficial uses, water quality objectives and standards, and monitoring programs in the regions. They are core regulatory documents and serve as the basis for each regional board's permitting and enforcement actions.

The Legislature intended for basin plans to be updated every three years. However as highlighted in the Little Hoover Commission's January 2009 report, *Clearer Structure, Cleaner Water*, the plans are woefully outdated and regional boards rarely have the resources to conduct a full review. Noting the importance of the documents and lamenting the lack of funding, the Commission's report includes this prophetic statement: "Given the state's budget deficit, it seems unlikely that the state will be able to pay for the work needed to update basin plans. Thus, water users and others with a stake in clean water will need to contribute." And beginning this budget year, those contributions have increased dramatically.

Permits: What are they? The boards carry out their required NPDES regulatory activities by issuing five types of permits: Phase 1 and 2 MS4 permits, Construction, Industrial General Permit (IGP) and CalTrans MS4. The Phase 1 MS4 permits are issued by the regional boards; all others are issued by the State Board on a statewide basis. Each permit is to be renewed every five years, however the State is behind in that schedule. Three stormwater permits currently are awaiting renewal: Phase 2 MS4, IGP and CalTrans MS4. At an October 6 hearing of the California Senate Select Committee on California Job Creation and

Retention, the Committee heard about the requirements for, costs of, and problems with these new permits.

Since 1990 stormwater discharges in urban areas with populations greater than 100,000 have been regulated through a Phase 1 MS 4 permit issued by regional boards; as of 2003, operators of small municipal separate storm sewer systems are regulated by a State Board issued Phase II MS4 general permit. MS4 permits require dischargers to implement stormwater management programs using best management practices. Each permit must include minimum measures to detect and eliminate illicit discharges, to educate and engage the public, to ensure safe operations and to regulate construction sites.

The Phase II MS4 permit expired in 2008 and is now being reissued, and the draft includes new and costly State-required programs such as water quality monitoring, trash abatement, and business inspections. Of note, cities would be required to inventory a large and diverse number of commercial and industrial facilities for stormwater quality compliance.

The Industrial General Permit (IGP) expired in 2002. Reissuance began in 2003 but stalled as an expert panel was convened to examine the feasibility of numerical effluent limits. In 2006 the panel's report said such limits "may be feasible" and in 2011 a new IGP was finally released. It met with stiff opposition from business groups who argued that the new permit requirements for monitoring and inspection were excessive, the numeric effluent limits were not feasible, requirements for training were a burden to small companies and compliance costs were estimated to increase as much as 2000 percent. While a revised draft has not yet been released, it is expected that the Board will follow staff recommendations to delete the numeric effluent limitations and scale back the required inspections.

In terms of cost increases, the most dramatic are those associated with the new CalTrans MS4 permit which governs stormwater management for all CalTrans projects. Initially issued by regional boards, CalTrans requested a statewide approach and the permit has been so issued since 1999. CalTrans and the State Board have been discussing this permit since it expired in 2004. CalTrans believes complying with the vague and complex new requirements would cost an annual \$900 Million on top of the \$200 Million it already spends. With no new funds available, these costs would be taken from its \$1.7 Billion budget for highway maintenance and construction. The State Board believes that CalTrans misunderstands the new permit's requirements but has no cost estimates of its own. It promises more discussions and a new draft by early 2012.

State Board Core Regulatory Fees

Not only are cities and businesses facing skyrocketing compliance costs for these new permits, but the costs of the permits themselves continue to climb as the State increases programs and requirements and shifts costs from the General Fund under a policy called "beneficiary pays".

Funding and fees: the "beneficiary pays" policy: State law requires the Board to assess fees to persons discharging waste to State waters. Fees are charged for the National Pollutant Discharge Elimination System (NPDES), the Waste Discharge Requirement (WDR), and the Stormwater and Land Disposal programs and deposited in the Waste Discharge Permit Fund (WDPF) to fund various State Board and regional board water quality activities. While the boards have the authority to raise fees to meet program costs, they cannot raise fees above the amount set in the budget every year by the Legislature and Governor. Historically these "core" programs have been funded through a combination of fees and General Fund revenues. However, as the State budget has been squeezed, the Administration and the Legislature have increasingly sought more non-General Fund revenues to cover core regulatory programs.

In its analysis of the FY 2008-09 budget, the Legislative Analyst's Office (LAO) recommended instituting "beneficiary pays" and "polluter pays" policies under which all core program costs would be funded through fees paid by those who directly benefit from or violate the terms of water quality requirements. As the report noted, "We think that shifting funding for the board's core water quality management activities to fees would provide greater funding stability to these activities that are the foundation of much of the board's work."

This expansive interpretation of "beneficiary pays" argues that all core water quality management activities should be funded by a broad-based fee on statewide water users because all users, in some way, impact water quality. Specifically the LAO recommended that the NPDES program and basin planning be fully fee supported; the Governor and the Legislature finally agreed. In the FY 2011-12 budget, over \$18 million in costs for two programs were shifted from General Fund to fee support, with costs allocated across water quality programs: \$6.6 million for basin planning and \$11.5 million for the Total Maximum Daily Load program that allocates among users a "share" of pollution that can be discharged to an impaired surface water. Generating revenues from fees to support these programs means that cities will face significantly higher fees in 2011-12.

How are fees established? Setting user fees is a lengthy process. The State Board must adjust fees each year to match the revenue levels in the Budget Act; because the State Board cannot act until the Budget is passed, the fee schedule is adopted in the late fall by emergency regulations. Therefore the regulated community does not know what it will have to pay until well into the fiscal year. In fiscal year 2010-11 for example, the fee schedule was adopted on October 19, 2010.

The fee setting process for FY 2011-12 was further complicated by past overpayment of stormwater program fees. Between 2004 and 2009, these fees generated \$22 million over actual expenditures; the surplus was used to offset revenue shortfalls in other programs. For 2011-12 fees, the State Board adopted an average increase of 38 percent for all programs; however they also considered reducing the increases for the stormwater program, and requiring *even higher* fees for all other programs to cover the loss of fees from the stormwater program. With these lengthy deliberations, the final fee schedule for FY 2011-12 was not adopted until September 19, 2011.

This delay and unpredictability creates numerous problems for municipalities struggling to maintain their own balanced budgets. By the time the new fee schedule is available, the fiscal year is already underway, requiring even higher mid-year utility rate increases. And with stormwater program fees subject to the Proposition 218 requirement for two-thirds voter approval, increasing rates to cover escalating stormwater permit fees may not be an option even though it is as strictly regulated as wastewater. In addition, many in the regulated community argue that the State's current fee system provides little incentive for the State to control its own costs, or to prioritize its activities, leaving users at the mercy of ever-increasing fees.

The Little Hoover Commission report also noted this lack of priorities and focus, finding the boards concentrated on process rather than results. "It is difficult to determine if the boards' regulatory programs are effectively cleaning and protecting California's waters." At the October 6 hearing, Senator Dutton asked whether the additional regulatory burden was producing cleaner water, warning he did not support "bureaucracy without benefit." Chairman Wright echoed his concern, indicating that the Committee wants to examine the realities, costs and effectiveness of regulatory programs. As stakeholders articulate the problems of increasing regulation and ever-rising fees, it appears both Democrats and Republicans are listening. In fact, over the last several months more than a dozen legislative members have either testified before the State Board or signed letters indicating their concerns over economic impacts of permits and fees.

Stakeholders unite: the Legislature responds.

In response to concerns about the draft Phase II MS4 municipal stormwater permit, a group of over 60 local governments formed to advocate for a more realistic approach; as a member of this new Statewide Stormwater Coalition (SSC), the League is also advocating to protect clean water with a more feasible and cost-effective regulatory approach. And cities have powerful allies in the business community, which is also subject to the compliance costs and wildly-fluctuating fees. Recently a business group, the California Council for Environmental and Economic Balance, has joined the effort to lobby the Administration and the Governor on the impact of these permit fees and compliance costs.

The State Board seems to be responding to stakeholder criticism. Even as it raised fees at its September meeting, the Board also directed staff to prepare a report by March, 2012 that “aligns priorities with targets and details the resources necessary to fulfill its statutory obligations, including identifying any opportunities for cost savings.” The goal of the report is to show how the fees collected reflect the boards’ core program priorities, work conducted and outputs produced. This “Phase 1” report will evaluate funding sources and distribution of resources among State and regional boards and among all fee-funded programs, define the activities that constitute the NPDES and WDR programs and describe the resources for each. The report is also expected to establish methods to set performance targets for the NPDES and WDR programs for FY 2012-13 with a goal to implement management practices that ensure that work outputs are associated with workload standards and driven by established priorities. However cost factors and target-setting methods for the Stormwater and WDR Land Disposal Programs will not be reviewed until the expanded “Phase 2” report which will also evaluate costs associated with program activities and identify possible cost savings.

The Legislature also appears ready to act. At the Senate’s October hearing, representatives of business, labor and local government had a sympathetic audience as they expressed serious concerns about implementation problems, unnecessarily exceeding federal requirements, and significantly increasing costs without documented evidence of significant improvement in water quality. At the hearing, State Board Executive Officer Tom Howard acknowledged that the new permits required too much change, too quickly and at too much expense. He testified that in assessing the comments received, the permits need “substantial amendments.” As noted earlier, the Board has pledged to revise the Phase II MS4, IGP and CalTrans MS4 permits and restart the public comment process.

However, in order that stakeholders can have meaningful input into the boards’ rulemaking process, the process itself needs substantial reform. The Administrative Procedure Act (APA) sets minimum procedural requirements for quasi-legislative and quasi-judicial actions; notably, each type of action has different rules governing communication between stakeholders and State agencies—called “ex parte” contacts. In quasi-legislative actions, the APA allows interested persons to consult with agency staff prior to regulatory action. In addition, quasi-legislative process requires that a proposed action must be publicly noticed and must include justification for the regulatory action and identification of alternatives to decrease any adverse impact on small business. If the agency rejects those alternatives, it must state its reasons. The agency must also summarize each objection raised and justify its original position or explain how its actions have been changed. In short, the quasi-legislative approach ensures a high degree of agency accountability to the regulated community.

The quasi-judicial process is intended to be simpler and quicker. Quasi-judicial rulemaking allows for an informal hearing procedure which does not require consideration of costs, discussion of alternatives or detailed response to comments. While in past years, the Board regarded NPDES permits and waste discharge requirements as quasi-legislative, they now regard them as being exempt from APA requirements; the Board’s decision to use the quasi-judicial process has resulted in strict limits on ex-parte contacts.

As both permit holders and regulators at the local level, cities' expertise is a vital contribution to the rulemaking process. However once a regulatory proceeding begins, Government Code Section 11430.10(a) prohibits any communication, "direct or indirect regarding any issue in the proceeding, to the presiding officer from an employee or representative of an agency that is a party or from an interested person outside the agency, without notice and opportunity for all parties to participate in the communication." In practice, the Board's decision to use a quasi-judicial approach to statewide permits precludes a significant role for the regulated community; unfortunately, those with significant knowledge of the issues and challenges have little real opportunity to engage with the regulators.

In its 2009 report, the Little Hoover Commission called for reform of ex parte rules to allow more communication between decision-makers and stakeholders. "The regulated community should have greater opportunity to talk with board members who have such significant power to influence their activities." The Legislature may have reached the same conclusion. At October's Senate hearing, Chairman Rod Wright directed staff to ask Legislative Counsel to examine the Boards use of the quasi-judicial approach. He seemed to share the Commission's belief that rulemaking should consider cost and encourage input.

FUTURE LEAGUE ACTION

As noted above, while the League will continue to participate in legislative and regulatory discussions at State Board hearings, at legislative hearings and at negotiations for the FY 2012-13 budget, it is very likely that the League will be in a position early in 2012 to support, co-sponsor or sponsor legislation to address key water quality issues involving the State Board. The League will examine any proposals available early in the year and will participate in these legislative efforts so that cities can help shape solutions to the State's complex water quality problems and mitigate unwieldy impacts on municipalities.

Resources:

- State Water Quality Control Board (www.swrcb.ca.gov)
- State Water Board Maps of Regions (http://www.waterboards.ca.gov/waterboards_map.shtml)
- Further information on Water Board Core Regulatory Fee 2011 Schedule (http://www.cacities.org/resource_files/29974.WDPFStakeholderMeeting8-15-11Handout.pdf)
- Link to October 6th Hearing of the Senate Select Committee on Job Creation and Retention (http://www.stormwatercosts.com/?page_id=13)
- Statewide Stormwater Coalition www.stormwatercosts.com
- Read the original proposed Phase II MS4 permit here.: [The draft permit](#)

3. Increased Weight Limits for Transit

Bill Summary:

This bill would increase the weight limits for buses from 20,500 lbs per axle to a yet-to-be-defined weight.

Background:

The California Vehicle Code outlines weight limits for buses, stating that they must not exceed 20,500 lbs per axle. The current weight limit for buses was put into place in 1975, and has not been changed since that time. However, many other state and federal requirements for buses have changed significantly since 1975. The California Transit Association (sponsor) points to ADA requirements, increased safety

requirements, and more stringent environmental requirements as examples to why the weight of transit buses have increased significantly.

Some examples of changes that have led to heavier buses include:

- The Fleet Rule for Transit Agencies, 2000. Established by the CA Air Resources Board, this rule directed the state’s transit agencies to adopt either “alternative fuel” fleets or participate in zero emission bus demonstration projects. As a result, fleets transitioned to alternative fuel (CNG), and the equipment associated with that change added around 4,000 to each bus.
- Federal Americans with Disabilities Act (ADA), 1990. The ADA ensures equal access for persons with disabilities, requires public transit buses to be equipped with ADA-compliant tools, such as wheelchair lifts, ramps, kneelers, tie-downs, and other equipment. This gear also adds hundreds of pounds of weight to buses.

In addition to changes in law and regulations, buses today are designed to accommodate more passengers, especially standing passengers. Passenger weights are also increasing. The Federal Transit Administration is in the process of amending its bus testing regulation to more accurately reflect average passenger weights and actual transit vehicle loads.

As part of SAFETEA-Lu in 2005, federal law exempts public transit buses from the federal weight limit of 20,000 lbs per axle for buses traveling on interstate highways. The exemption was intended to give USDOT time to study the issue and develop more realistic weight limits. The exemption has been carried over in each extension of SAFETEA-Lu.

Staff Recommendation:

Discussion. The committee may want to reflect of the following questions (discussed more in comments):

- Should a distinction be made between public transit buses and privately operated buses?
- Should CA give an overall exemption similar to federal law, or should state law reflect only the current, real weight of buses on our streets?
- Is there any way to avoid this happening in the future?
- Does the committee’s recommendation reflect a change in League policy, or simply a one-time discussion?

Committee Recommendation:

Board Action:

Fiscal Impact:

Increased costs due to wear and tear on city streets.

Existing League Policy:

The League does not have direct policy for the size and weight of buses. However, the following policies are related.

The League opposes any efforts to increase truck size or weight. The size and weight of trucks is important because it affects the stability and control of the truck, the way it interacts with other traffic, and the impact it has when colliding with other vehicles. Truck safety is particularly important because these vehicles share city streets and county roads with users — such as, motorists, pedestrians, cyclists, motorcyclists, and bus riders.

The League opposes all efforts that allow vehicles on the road that will jeopardize the integrity of the public infrastructure or the health and safety of the motoring public. The League supports all efforts to retain maximum control of the local street and road system. The League supports traffic safety enhancements such as motorcycle helmets, child restraints, seat belt and speed limit laws.

Comments:

What triggered the legislation? Buses that violate the existing weight limits are already operating on city streets, likely in every jurisdiction. This has recently come to the attention of a few cities, and at least one of them issued citations to transit buses. Staff has been informed that the ticketing has been stopped until a legislative fix can be found.

What's the right amount? The sponsors of the bill are still compiling information on how much buses currently operating actually weigh. They have stated to staff that their intent is not to allow transit agencies to procure heavier buses; the sponsors simply want to change state law to reflect what is happening today.

Why did transit agencies procure buses that violated state law? According to the sponsors, lighter buses that meet state and federal regulations are simply not available. The committee may want to discuss with the sponsors what measures they have taken to confirm this information.

Public buses vs. Private buses. Current law does not distinguish between publicly and privately run buses. If the committee decides to support (or be neutral on) increased bus weight limits, should there be a distinction made?

How can we avoid this happening again? According to the sponsor, the weight of buses has gone up incrementally over many years due to changes in state and federal law and regulations. Should regulating agencies be required to consider the weight of new components on buses before passing a regulation? Staff believes this would be a tall order, but may be something that the committee wants to add to the legislative discussion, even if they do not require that it be part of the final bill.

Does this reflect a change in League policy? As noted in *Existing League Policy* above, current policy has strong language in opposition to weight limits for trucks being increased. Does the committee's recommendation reflect a change? If so, what is that change?

Support-Opposition:

Support:

California Transit Association (sponsor)

Opposition:

Unknown (CSAC is also reviewing)

4. Local Control of Mobile Food Trucks

Bill Summary:

This bill would amend the California Vehicle Code to allow local jurisdictions to regulate the location, time, and duration of stay for mobile food trucks.

Background:

The presence of mobile food trucks, especially those providing specialty items, has increased in the past few years. Jurisdictions throughout the state are grappling with the best way to regulate mobile food

trucks. While these food trucks may have a popular following among individuals, businesses complain that they block visibility and take up sometimes limited parking. Many brick and mortar restaurants claim that they create unfair competition. Some point out that mobile food trucks are businesses operating in the public right of way without paying the same fees, taxes, and assessments that normal storefront businesses are required to pay. Cities can require that mobile food trucks obtain vendor permits and/or business licenses.

Vehicle Code Section 22455 allows local jurisdictions to regulate the type of vending and the time, place, and manner of vending from vehicles upon any street for the public safety of the community. Because the vehicle code speaks specifically to public safety, cities cannot regulate food trucks – to their detriment – for any other reason. Courts have repeatedly struck down local ordinances that attempt to regulate mobile food trucks for reasons outside public safety, such as unfair competition. Interestingly, state law does allow local ordinances that favor mobile food trucks – such as designated parking areas for food trucks.

Mobile food trucks are also governed by the Health and Safety Code, which includes requirement for restroom facilities for employees and allows Health Departments to conduct periodic health and safety inspections. But the Health and Safety Code does not provide for regulation of time, place, and manner.

Staff Recommendation:

Support, and discuss possible sponsorship. The sponsor of the bill has approached staff to request that the League be a co-sponsor. While current League policy – specifically the League’s mission – already backs a position of support, staff is asking for direction from the committee regarding sponsorship.

Committee Recommendation:

Board Action:

Fiscal Impact:

Dependent on the requirements of each jurisdiction.

Existing League Policy:

Mission: The vitality of cities is dependent upon their fiscal stability and local autonomy.

HCED: Zoning. The League believes local zoning is a primary function of cities and is an essential component of home rule. The process of adoption, implementation and enforcement of zoning ordinances should be open and fair to the public and enhance the responsiveness of local decision-makers. State policy should leave local siting and use decisions to the city and not interfere with local prerogative beyond providing a constitutionally valid procedure for adopting local regulations. State agency siting of facilities, including campuses and office buildings, should be subject to local notice and hearing requirements in order to meet concerns of the local community.

Comments:

A note on zoning. Cities have the authority, and responsibility, to zone their cities. However, mobile food vending trucks are constantly on the move, and therefore cannot be zoned for. The committee may want to discuss if there are any negative impacts derived from this fact, and if there are any ways to compensate through legislation.

Community impacts. The community impact of mobile food vendors is different in every jurisdiction. It is not infrequent that mobile food trucks are considered an asset to a community, while many other

jurisdictions are struggling with increased loitering and unhappy businesses. It seems appropriate that local jurisdictions have more leeway in how they regulate this growing business sector.

Possible Support-Opposition:

Support:

City of Santa Monica (sponsor)

Business community – *possibly*

Opposition:

Food truck operators - *likely*

5. AB 1050 (Ma) – Collecting UUTs on Prepaid Wireless

This informational item will be provided as a handout at the meeting.

6. Transportation Revenues Working Group

Discussion item only – Following the implementation of the gas tax swap last year, staff expects to the conversation regarding transportation funding to again focus on future needs and how to pay for them. Staff is recommending that a small working group of TCPW members be formed to begin discussing options and exploring a possible policy platform for the League.

Regional Water Board Reorganization Proposal

Summary:

In early 2012, the Governor's office will be introducing legislation to reorganize the state's nine regional water quality control boards. Most of the suggested changes are in response to low quorums and lack of a quality pool of appointees for the regional boards. Specifically, the proposal would do the following:

1. Reduce from 9 to 7 Members, Remove Associational Requirements. Reduce the number of Regional Water Board members on each board from nine to seven. The proposal would eliminate the existing association requirements and instead use a modified version of the criteria that was proposed in SB 1001 (Perata, 2007) which would read:

Each member shall be appointed on the basis of his or her demonstrated interest and proven ability in the field of water quality, including water pollution prevention and related water resource management problems in their region or in the beneficial use of water by the region's nonpublic economic sectors. Insofar as practicable, appointments shall be made in such a manner as to result in members of each regional board being drawn from diverse experiential backgrounds.

Each member shall be appointed on the basis of his or her ability to attend substantially all meetings of the regional board, and to actively discharge all duties and responsibilities of a member of the regional board.

2. Adjust the 10-percent NPDES Income Rule to Apply on a Per-Region Basis. Expand the pool of candidates eligible to serve on the Regional Water Boards by revising provisions of state law pertaining to the 10-percent rule so the rule applies on a per-region basis. The 10-percent rule excludes members who receive more than 10-percent of their gross personal incomes from NPDES permittees from serving on a Regional Water Board.
3. Conform Conflict of Interest Rules to the Political Reform Act. Allow the State to fully benefit from the expertise of Water Board members and conform the Water Code's conflict of interest rules to the rules that apply to other state officials under the Political Reform Act.
4. Regional Water Board Chair Selected by Governor. Have the Governor select Chairpersons of the Regional Water Boards. Currently, the Regional Water Boards select their Chairpersons from among members serving on the board. This change will vest the selections of the Chairpersons of the Regional Water Boards in the Governor, and would be consistent with the current process in statute for selecting the Chairperson of the State Water Board.
5. Increase Per Diem for Regional Board Members. Increase the per diem compensation from \$100 per day to \$500 per day, and increase the annual cap from \$13,500 to \$60,000 for each Regional Water Board to better reflect the significant amount of time that

Regional Water Board members must invest to understand and access the complex water quality issues facing each region.

Staff Recommendation:

Discussion and feedback for League staff on a position based on outline of bill.

Existing League Policy:

- The League supports applying the 10-percent rule on a per-region basis.
- The League has no recommendation on reducing the size of the regional water board from nine members to seven, with the exception that at least one person on the regional board should have local government experience.
- The League has no position on confirmation of regional water board conflict of interest rules with the Political Reform Act (*Note: The League's Water Task Force Subcommittee asked for a legal opinion on this issue. The question that was asked was: What are the current conflict of interest rules pursuant to AB 1234. Staff and members of the subcommittee understood this general idea to be similar to what already exists for other state boards*).

Comments:

- *What's Old is New Again.* All but the last two provisions of the proposal were sections of a water quality proposal by the State Water Resources Control Board Water Quality Improvement Initiative in 2008. In 2009 and 10, the League's Water Task Force was able to look at the provisions of the Initiative and recommend positions. Those positions were adopted in 2010.
- *SB 900 (Steinberg).* Last year, Senate Pro Tem Steinberg introduced SB 900 to modify the conflict of interest requirements for appointees to the Regional Water Boards including modifying the 10-percent income rule to apply on a per-region basis. That bill was supported by a coalition of agricultural, business and local agencies. The bill was opposed by a coalition of environmental groups who raised issue with the 10-percent rule being a federal requirement, as well as not believing that it is truly a barrier to finding farmers eligible to be appointed. They noted that they believe that the lack of available members of Regional Water Boards stems from low pay and statewide permit conflicts. The League did not take a position on this bill when it came up last spring.



Federal Highway Administration Every Day Counts Innovation Initiative



Message from the Administrator



When I originally launched Every Day Counts I presented it as a broad concept to shorten project delivery and speed the deployment of proven, under-used technologies.

In the spring of 2010, we introduced the specific tools and technologies that gave life to that concept and now, one year later, I want to give you an update on where things stand.

After rolling out the initiatives we, in partnership with AASHTO, held a series of ten regional summits to introduce them to the people on the frontlines of project delivery, including folks from state and local government, contractors, consultants and others who make day-to-day project decisions.

The summits revealed a real hunger for achieving the EDC goal of better, faster, smarter project delivery. This enthusiasm helped fuel the next step in the process, which was for each state to decide on the specific initiatives it wanted to pursue and develop a plan for implementing them. The State Implementation Teams have done a terrific job and as a result all 50 states, the District of Columbia, Puerto Rico, the Virgin Islands and Federal Lands have identified EDC initiatives to move forward.

Over the past eighteen months, I have visited several projects throughout the nation where EDC strategies and technologies are being implemented. Everyone on the frontline is doing an excellent job moving these projects forward in a fast-paced manner!

Looking ahead, I have a couple of goals. The first, of course, is to continue seeing states turn their implementation plans into action, and for the public to experience the benefits. The second, more long-term goal, is to see a culture of innovation sink deeper roots in the transportation community.

Innovation is an ongoing process. And it's critical to achieving President Obama's goal of creating a transportation network that allows America to win the future by out-innovating and out-building the rest of the world.

Innovation didn't start with Every Day Counts and it won't end there. But it will play a vital role as we continue to meet the transportation needs of the American people.

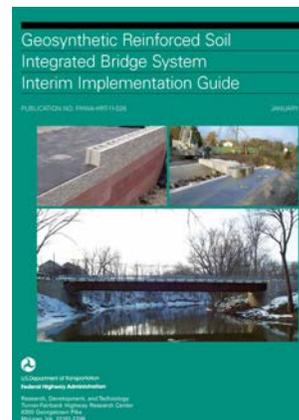
Thank you for joining us on this innovation journey into the future.

Victor Mendez
Administrator

EDC Initiative Updates

Geosynthetic Reinforced Soil (GRS)

Hot off the Presses – GRS Interim Implementation Guide Available!



Thinking about using Geosynthetic Reinforced Soil technology in your State? FHWA has published the Geosynthetic Reinforced Soil Integrated Bridge System Interim Implementation Guide to assist.

This guide outlines the state-of-the-art and recommended practice for designing and constructing Geosynthetic Reinforced Soil (GRS) technology for the application

of the Integrated Bridge System (IBS). The procedures presented in this manual are based on 40 years of State and Federal research focused on GRS technology as applied to bridge abutments and walls.

The guidance was developed to provide engineers with the necessary background knowledge of GRS technology and its fundamental characteristics as an alternative to other construction methods. The document presents step-by-step guidance on the design of GRS-IBS. Design methodologies for both Allowable Stress Design (ASD) and Load and Resistance Factor Design (LRFD) formats are provided. Material specifications for standard GRS-IBS are also provided. Detailed construction guidance is presented along with methods for the inspection, performance monitoring, maintenance, and repair of GRS-IBS. Quality assurance and quality control procedures are also covered.

You can find the guide on our website at:

<http://fhwatext/publications/research/infrastructure/structures/11026/index.cfm>

Shortening Project Delivery Toolkit

Legal Sufficiency Enhancements

Decisions made early in planning and project development are often the root cause of problems identified later in the environmental review process, when National Environmental Policy Act (NEPA) and Section 4(f) documents undergo legal scrutiny. Consultation with FHWA environmental attorneys at early decision points can help decision-makers avoid problems later, saving time and reducing costs.

There are currently 14 Divisions implementing the Legal Sufficiency Enhancements Initiative. Seven projects have been identified and formally accepted for early legal involvement; two of these have received legal reviews. Division Offices have also informally identified over 50 additional projects as potential candidates for implementing legal sufficiency at an early stage. These projects will be monitored during the early development phases so that the legal team can be brought at the earliest decision points, once these have been identified.

Equivalent Criteria for PEL Questionnaire – Get Counted!

FHWA acknowledges that several states have already developed processes and tools comparable to the Planning and Environmental Linkages (PEL) Questionnaire. A PEL questionnaire “equivalent” provides a standard method to identify equivalent approaches so they can be recognized and shared as effective practices. The criteria for determining an equivalent process is based on the following:

Criteria 1: The equivalent should be “institutionalized” (i.e., it should be a formal process or tool that is available statewide)

Criteria 2: The equivalent must provide information and documentation on:

1. Coordination with internal and external partners (e.g., Tribes, other agencies)
2. Coordination efforts with the public and stakeholders
3. Description of planning scope, vision statement, and project-level purpose and need
4. Alternatives analysis, including the criteria and process used for evaluation
5. Explanation of planning assumptions and consistency with long range transportation plans

Criteria 3: The equivalent may also provide information on:

1. Analysis of environmental impacts
2. Potential strategies for broad-scale mitigation
3. Description and/or analysis of potential cumulative effects
4. FHWA's acknowledgement that PEL principles were applied, thus supporting the use of planning information in NEPA

Enhanced Technical Assistance



FHWA Deputy Administrator Gregory Nadeau, FHWA Associate Administrator for Planning, Environment and Realty, Gloria Shepherd, and James H. Lecky Director - Office of Protected Resources National Marine Fisheries Service shake hands at the conclusion of work by an Enhanced Technical Assistance Team addressing issues on the EIS for the Knik Arm Bridge project in Alaska.

An important aspect of resolving issues with ongoing Environmental Impact Statements (EISs) can be determining when the scope of a project can be reduced, when impacts from a project are not significant, or when a project is no longer viable and should be cancelled.

By providing technical assistance in support of EDC's Enhanced Technical Assistance Initiative, FHWA has recently been able to report resolutions for 21 projects in 11 states. As a result, six projects are in the process of re-scoping, and six projects have been cancelled completely. Re-scoping two of these projects allowed them to be combined into a single project, thus reducing the project delivery time and costs that would have been associated with preparing separate EIS documents.

The efforts of all of the Division Offices, working with their state DOT counterparts, demonstrates a clear effort to address FHWA's environmental and fiscal stewardship responsibilities inherent with the project development process, while directly supporting the Every Day Counts initiative to shorten project delivery.

Flexibilities in Utility Accommodation and Relocation



Utilities often need relocation or accommodation during construction projects in order to avoid disruption of services.

The timely identification, verification, coordination, accommodation, and/or relocation of utilities is a key factor that State and local agencies identify as a cause for delays in the development and construction of highway projects.

Therefore, pursuing the innovative use of agreements, construction provisions, and/or reimbursable agreements to expedite the accommodation or relocation of utilities can yield many benefits.

The New Jersey Department of Transportation has been successful in the use of construction contract provisions that include using a pre-approved list of utility subcontractors to expedite the relocation of utilities on projects. These contract provisions also specify which work is to be completed by the subcontractor and which work will be performed by the prime contractor. In addition, the Missouri Department of Transportation (MoDOT) has a master reimbursable utility agreement that allows the MoDOT to manage utility relocations under one broad agreement that lists all the terms governing work between MoDOT and the utility owner.

Flexibilities in Right of Way

The right of way (ROW) process is currently a major part of the project development process. Significant time savings can be achieved by employing flexibilities that already exist in statutes and FHWA regulations. This initiative underlines opportunities for improved coordination of ROW activities with other key project development actions in preliminary design.

The Rhode Island Department of Transportation (RIDOT) has saved both time and money by sponsoring a Federal Land Transfer Right of Entry and implementing a Public Benefit Conveyance through the Aquidneck Island Planning Commission. In exchange for acquiring a much needed ROW from the Department of Defense, the RIDOT agreed to upgrade the defense highway known as the Burma Road corridor. Benefits of these upgrades include reduced congestion on the current Route 114; scenic access along Rhode Island's most significant natural resource, Narragansett Bay, and increased safety and better options for transit, bicyclists, and pedestrians. Along with the Federal land transfer, the U.S. Navy was able to provide several environmental and roadway studies to the RIDOT, which helped streamline the NEPA planning, and design processes.

Use of In-Lieu-Fees and Mitigation Banking



Stilt sandpipers at home in the Maxwell Wetland Mitigation Bank

This initiative proposes the expanded use of in-lieu fees and mitigation banking currently allowed under existing statute, FHWA regulations, state law, and court decisions to save time and expedite project delivery. Many state projects do not fall within the service area of an existing Mitigation Bank or In-Lieu-Fee program; this initiative encourages the establishment of banks and/or programs in these areas.

Discussion during the regional EDC summits revealed concerns regarding costs, site selection, long-term maintenance,

changing conditions associated with establishment of banks, and the risk associated with banking investments for credit. By applying best practices and developing a clearer understanding by Federal agencies, many of these concerns could be resolved. Local agency knowledge and efforts will be key to the successful application of this initiative, which is crucial in assisting DOTs in working together for the environment.

Expanding the Use of Programmatic Agreements

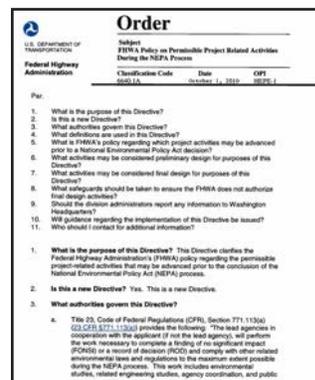
The goal of this initiative is to identify and assist in the expansion of new and existing programmatic agreements to a regional or national level. Five States are exploring options related to regional/multi-State programmatic approaches. While there are many challenges to accomplishing regional agreements, the investments and the payoff can be great.

Models for working together at the multi-State level support large scale programmatic approaches, including Endangered Species Act (ESA) compliance for the Indiana Bat and Oregon's Bridge Programmatic Agreement. The west coast States contributed to understanding the effects of pile-driving in the marine environment in cooperation with the National Marine Fisheries Service. Other sectors have successfully negotiated multi-State corridor programmatic approaches – the NiSource Gas pipeline project has received a program review by U.S. Fish and Wildlife Service (USFWS). The FHWA has invested in supporting the USFWS Information Planning and Conservation (IPaC) database, which represents best available science and conservation practices to support ESA consultations.

The Environmental Protection Agency has been compiling national and regional scale data layers via their NEPA assist tool to support NEPA scoping. The U.S. Army Corps of Engineers, via their Regional In-lieu-fee and Banking Information Tracking System (RIBITS) database, is compiling planning, project, and permitting data.

The capacity of Federal agencies to support programmatic approaches is growing. Working through State or Regional peer exchanges and technical assistance, the FHWA can help States explore how their needs and resources can align to expand the use of regional/multi-State programmatic approaches.

Clarifying Scope of Preliminary Design



This initiative will identify the amount of design work allowable under current law prior to NEPA completion, regardless of contracting mechanism, and develop guidance to allow this work to be done consistently. In October of 2010, FHWA issued Order 6640.1A Policy on Permissible Project Related Activities during the NEPA process. This document highlights the existing flexibilities in stat-

utes and regulations related to advancing project specific design activities. These flexibilities are available regardless of project delivery mechanism, prior to NEPA approval.

Accelerating Technology and Innovation Deployment

Florida's 1-2-3 Approach to Implementing GRS



Geosynthetic reinforced soil bridge abutment under construction

The Florida Department of Transportation (FDOT) decided to move forward immediately to develop a formal process for routine consideration of GRS using a 3-step approach.

One, the FDOT released a Structures Design Bulletin specifically addressing the expanded use of GRS for all single span bridge design projects with a "Notice to Proceed" after June 1, 2011. The specifications were developed using published FHWA documents (the *GRS Integrated Bridge System [IBS] Interim Implementation Guide* and *GRS Integrated Bridge System Synthesis Report*) and existing FDOT materials specifications.

Two, the team developed new construction specifications (Section 549) with specific material requirements for geo-textile, aggregate base, and concrete masonry blocks. These specific materials were selected because they have proven to be economical and durable in Florida based on previous use by the FDOT in the State. In addition, they meet the recommendations set forth in the *FHWA GRS-IBS Integrated Implementation Guide*.

Three, the FDOT is working with the FHWA to identify potential projects for GRS deployment. The criteria used for project selection are largely based on the recommendations of the FHWA *GRS-IBS Interim Implementation Guide*: 1. Single span bridges that are not at risk of movement due to sliding, uplift, etc., and 2. Sites where excessive scour or settlements are not anticipated. The FDOT is considering projects that will let before 2013 and are early in the project design phase where a change in the foundation type will not significantly delay the project letting.

Other ongoing activities include the development of GRS preferred details for inclusion in project plans that should be ready by September this year and the development of GRS standard drawings to help local governments utilize GRS in replacing off-system bridges.

Safety EdgeSM



Similar devices mount to the paver's screed

Two new manufacturers have entered the market with devices to construct the Safety EdgeSM on asphalt pavements. Currently, Advant-Edge Paving Equipment LLC, Transtech Systems, Inc., and Troxler Electronic Laboratories, Inc., have devices that are attached to the paver's screed near the end gate. The Carlson Paving Products device is part of the paver's end gate. Each of the devices extrude the asphalt into the Safety EdgeSM shape during the paving process. These manufacturers have been working on device enhancements to improve the target angle. Advant-Edge Paving Equipment LLC and Carlson Paving products can now set the angle at less than 30 degrees, which is expected to assist in achieving the desired 30-35 degree angle after compacting the asphalt.



Similar devices mount on the paver's end gate

Prefabricated Bridge Elements and Systems



Artist's rendering of placement of prefabricated superstructure elements on the MassDOT Fast 14 project

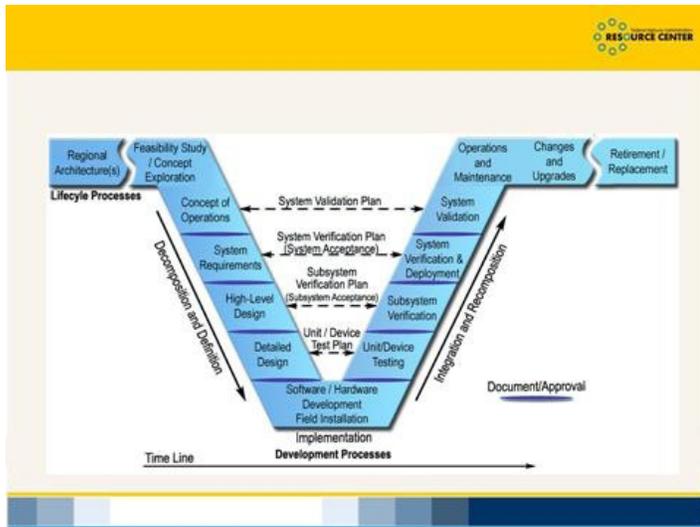
The Massachusetts Department of Transportation (MassDOT) is making Every Day Count on its 93 Fast 14 Project. This project will make use of several EDC Initiatives, including prefabricated bridge elements and systems (PBES), to replace the superstructures on 14 bridges along I-93 in the City of Medford. Typically, a project of this magnitude would take at least 5 years to complete. Using PBES will allow all 14 superstructures to be replaced in a single construction season, dramatically reducing project time.



Typical traffic crossover utilized as part of the MassDOT Fast 14 project

The MassDOT has planned this work for successive weekends in June, July, and August of 2011. The work affected just one local street each weekend. An extensive communications plan was also developed to provide continuity of emergency services as well as information to the public on ways to avoid delays and reach their destinations.

Adaptive Signal Control Technology



Typical systems engineering process diagram

Adaptive signal control technologies (ASCT) can use real-time traffic information to determine exactly which lights should be red and which should be green. ASCT is an effective, low cost solution that reduces travel time, travel delays, number of stops, and fuel consumption.

The capstone of the EDC ASCT program is providing agencies with a systematic process to guide ASCT implementation decisions. The EDC initiative created an immediate need for guidance and sustained technical assistance to help agencies and the FHWA division offices effectively navigate through a process that balances an agency's needs and priorities against its available resources. Within the transportation community, this process is known as Systems Engineering (SE).

Spearheaded by Rick Denney, members of the FHWA Resource Center Operations Technical Services Team developed a 1-day workshop to present SE concepts and requirements in the context of traffic signal operations and maintenance to guide ASCT implementation. The workshop has been delivered in five States, and delivery has been requested in six more in the coming months. A primer on the application of SE to ASCT is currently scheduled for completion in June and will become the basis for the workshop and a 2-day NHI course that will be available in early 2012.

A partnership has been forged between the EDC ASCT Implementation Team, vendors, consultants, and agencies that have implemented ASCT to showcase the SE approach and promote the awareness and the availability of specific ASCT products. These ASCT Showcases involving the FHWA and partners, including Rhythm Engineering, Iteris, Siemens, Delcan, Transcore, URS, PennDOT, NDOR, IDOT, City of Ann Arbor, MSHA, Baltimore Regional Traffic Signal Forum, and others have been extremely successful. Contact the FHWA division office in your state if you would like more information on participating in or scheduling ASCT workshops or showcases.

Warm Mix Asphalt



Warm mix asphalt typically requires lower temperatures which are friendlier to construction workers and to the environment

Warm Mix Asphalt (WMA) is the generic term for a variety of technologies that allow asphalt to be produced and then placed on the road at lower temperatures than the conventional hot-mix method.

With 33 States departments of transportation (DOTs) having already adopted specifications for using WMA on their projects, and 11 more State DOTs with specifications in the works, the FHWA is well on its way to achieving the national performance goal of 40 State DOTs having adopted specifications by December 2011. From a market use standpoint, the amount of WMA used in the United States doubled from 2009 to 2010 (<5% to over 10%). The FHWA expects this rapid trend to continue with EDC's and Industry's support of this innovative technology.



A design build workshop was held in the northeast attracting participants from several New England and northeastern states

Accelerated Project Delivery Methods

Design Build

Design Build (DB) is a method of project delivery in which the design and construction phases are combined into one contract, eliminating the separate bid phase and allowing certain aspects of design and construction to take place at the same time.

A DB contract can be awarded as either low-bid or best-value, which is an important advantage. While low bid is used for most traditional contracts, best-value selection permits the consideration of additional factors, such as experience, qualifications, innovation, technical approach, quality control methods, and project management processes. These factors can often reduce costs as well as increase quality. The Florida Department of Transportation successfully leveraged cost-effective and time-effective solutions for their Plantation Oaks Blvd project through the



Please visit our EDC Website for additional information on this and other EDC Initiatives:
<http://www.fhwa.dot.gov/everydaycounts>



U.S. Department of Transportation
Federal Highway Administration

implementation of this project delivery method. Although all the firms promised similar results, the chosen contractor proposed the best ideas to minimize impacts to the traveling public and to meet all environmental commitments.

Construction Manager/General Contractor (CM/GC)

The CM/GC contracting method has been in use in the vertical construction industry (i.e., buildings) but has rarely been used on heavy civil or transportation construction projects. Although there is some resistance in the contracting community, and many States specifically prohibit the use of CM/GC, a "buzz" is beginning to stir. Several States are in the process of changing laws or policies to allow the CM/GC method on their construction projects. Already four State DOTs have Special Experimental Project No. 14 (SEP-14) approval from FHWA to use CM/GC.

In 1998, Federal statute was changed to allow for the use of Design-Build (DB) on transportation construction projects; however, it does not specifically allow for CM/GC project delivery. Today, the FHWA is allowing the evaluation of CM/GC project delivery on a trial basis under SEP-14. This approval is necessary for any non-traditional construction contracting techniques that deviate from the competitive bidding provisions in Title 23 U.S.C. 112.

A request for SEP-14 approval for using the CM/GC method must be accompanied by a workplan that includes the following information:

- Purpose and scope
- Evaluation process/procedures
- Project Schedule
- Performance measuring and reporting process

SENATE INITIATES ACTION ON TRANSPORTATION REAUTHORIZATION

On November 9 the Senate Environment and Public Works Committee approved Moving Ahead for Progress in the 21st Century (MAP-21), a two-year \$86.3 billion bill that covers the highway title of the Senate's SAFETEA-LU reauthorization effort. The final Senate reauthorization package is set to include a total of \$109 billion to support federal transportation programs over the two-year life of the bill, however the Senate Finance Committee must first identify an additional \$12 billion in revenue sources. Additionally, the Senate Banking, Housing and Urban Affairs Committee, which holds jurisdiction over the transit and rail titles of the measure, as well as the Senate Commerce, Science and Transportation Committee, which will oversee the highway safety titles of the bill, must still act on their portions of the reauthorization before the combined package can be considered on the Senate floor. The Senate Banking Committee is expected to mark up the titles under its jurisdiction before Congress adjourns for the year in mid-December. Key components of the EPW-approved measure, S. 1813, include:

- A reauthorization of federal-aid highway programs at current funding levels plus inflation (\$42.3 billion for Federal Highway Administration (FHWA) programs in FY 2012 and \$43.0 billion for these programs in FY 2013) for two fiscal years.
- Consolidation of the number of federal transportation programs by two-thirds, from about 90 programs down to less than 30 programs to direct maximum funding to core needs, and reduction of the number of core FHWA programs from seven to five. These programs would include the National Highway Performance Program, Transportation Mobility Program, Congestion Mitigation and Air Quality Improvement Program, National Freight Network Program, Federal Lands and Tribal Transportation Program and the Projects of National and Regional Significance Program. Under the legislation, over 92 percent of FHWA funding would be apportioned via formula.
- Elimination of earmarks.
- Authorization of \$1 billion per year for the Transportation Infrastructure Finance and Innovation Program (TIFIA), up from the current \$122 million per year, and an increase in the federal share for the program from 33% to 49%.
- Provisions to expedite project delivery - (1) would expand to all states the opportunity to assume the responsibilities of the U.S. Secretary of Transportation to ensure projects comply with NEPA requirements (under SAFETEA-LU California participated in a successful pilot version of this program); (2) would expand the use of innovative contracting methods; (3) allow for early right-of-way acquisitions; (4) reduce bureaucratic hurdles for projects with no significant environmental impact; and (5) encourage early coordination between relevant agencies (state, regional, local) to avoid delays later in the review process.
- Creation of a new freight program to improve the movement of goods.
- Requirements for state DOTs and Metropolitan Planning Organizations (MPOs) to organize asset management plans.
- Greater control for state DOTs over funding to local governments and MPOs.

The five consolidated FHWA programs included in MAP-21 are as follows:

(1) National Highway Performance Program (NHPP) - New Program

The provisions in this section consolidate existing programs ([Interstate Maintenance](#), [National Highway System](#), and [Highway Bridge](#) programs) to create a one new program focused on investments to maintain and improve the conditions and performance of the National Highway System (NHS). The percentage of a state's NHPP apportionment that can be spent on new capacity

(excluding HOV lanes and certain bridge safety improvements) cannot exceed 40 percent of the state's apportionments. This is a new requirement, which reflects the bill's focus on funding existing infrastructure maintenance and preservation rather than new road and bridge construction since MAP-21's funding levels are lower than previous authorization bills.

Eligible Uses of Funding:

- Construction, rehabilitation, preservation, or operational improvement of the NHS.
- Construction, rehabilitation, preservation, and protection (including scour countermeasures - protects bridges from water damage, seismic retrofits, security countermeasures, and protection against extreme events) of bridges on the NHS.
- Construction, rehabilitation, or replacement of existing ferry boats and ferry boat facilities, including approaches that connect road segments of the NHS.
- Intelligent transportation systems (ITS) capital improvements. For more information, go to http://www.its.dot.gov/modal/modal_fhwa.htm.
- Environmental restoration and pollution abatement. For more information, go to <http://www.fhwa.dot.gov/hep/envrestorea1.htm>.
- For projects not on the NHS, funding may be used for construction of a transit project if the project is in the same corridor and in proximity to a highway on the NHS; enhances the level of service and improves regional flow for projects in the same corridor and in proximity to a highway on the NHS; and if the construction or improvement are more cost effective than improving the highway on the NHS.

State Performance Management:

States are required to develop asset management plans for the NHS. These plans should include conditions of roads on the NHS, performance gaps, financing strategies to improve roads and bridges, and performance targets for the condition of roads and bridges. If a state does not achieve or make significant progress in achieving its goals and targets, DOT requires it to transfer money from other programs to address the shortcomings. This is a new requirement designed to address concerns about state DOTs spending U.S. DOT funding without accountability. With less funding available, the Committee wanted to ensure that the states are spending federal money wisely. Further, under the current system, there is a lack of uniformity among states for bridges and pavement data which makes it difficult to determine deficiencies and how to prioritize funding among projects.

(2) Transportation Mobility Program (TMP) - New Program

The provisions of this section are based on the Surface Transportation Program (STP), which was a flexible formula program for local governments and Metropolitan Planning Organizations (MPOs) to use on a wide range of eligible projects. This new program's intent is to improve all federal-aid roads as well as bridges that are on or off the federal-aid system.

Eligible Uses of Funding:

- The new program keeps most of STP eligibilities, including allowing capital costs for transit projects that are used to provide intercity passenger service by buses.

- The eligibilities are broadened to include the following programs which are used by local governments and MPOs: congestion pricing, including electronic toll collection and travel demand management strategies; recreational trails projects; construction of ferry boats and ferry terminal facilities; and improvements to a freight railroad, marine highway, or intermodal facility.
- Although Transportation Enhancements (TE) projects are still eligible for funding under TMP at the state's discretion, the ten percent set-aside for this program has been eliminated. TE is now covered under CMAQ (see section below).
- Regarding funding allocation, 50 percent of a state's apportionment for TMP must be apportioned by population (which is primarily directed to MPOs), and 50 percent may be obligated in any area of the state. This is a dramatic change from current law, which allocated 62.5% of STP funding to MPOs.

(3) Congestion Mitigation and Air Quality Improvement Program (CMAQ) - Existing Program

The existing [CMAQ](#) program is used by states, local governments and MPOs for emissions reduction or congestion mitigation projects in areas with poor air quality. Under S. 1813, the new CMAQ program absorbs [TE](#), [Recreational Trails](#), and [Safe Routes to Schools](#) formula programs. It also requires states to set aside funding for the following activities: TE, Recreational Trails, Safe Routes to Schools, "planning, designing, or constructing boulevards, main streets, and other roadways", and "providing transportation choices." States can choose to spend no funding dollars on TE and instead devote all of the new set-aside to some combination of these other options.

Eligible Uses of Funding:

- Regarding funding allocation, states are required to set-aside an amount equivalent to the 10% that was set aside for TE in 2009 - for TE, Recreational Trails, Safe Routes to School, and other projects. After the set-aside, 50% of the CMAQ funds must be given to projects within nonattainment and maintenance areas distributed by population. Of these funds, 50% must be given to projects to address fine particulate matter (PM2.5), and 30% must be utilized to retrofit diesel engines. The remaining 50% of the funds can be obligated in any nonattainment or maintenance area in the state.
- Funds cannot be used to construct new travel lanes except for HOV or HOT lanes. Tier I MPOs that receive funds under this program are required to develop a performance plan that outlines baseline conditions, targets for each of the performance measures developed by DOT, and a description of projects to be funded, including how those projects will help meet the targets.
- Local governments' and MPOs' current CMAQ funding may change as MAP-21 requires funding to be prioritized to diesel retrofit projects and other PM2.5 reduction projects. Current law allows states and MPOs to give CMAQ funding to projects that reduce ozone and particulate matter.

(4) National Freight Network Program - New Program

This new program's goal is to "improve the movement of freight on the national freight network." It directs DOT to create a new Primary Freight Network which will be concentrated on 27,000 miles of existing roadways and up to 3,000 miles of existing or planned roads critical to future efficient freight movement. A state may obligate up to 10 percent of its total freight

program apportionment for 2012 and 2013 for public or private freight rail or maritime projects under certain conditions. This program was created because a national freight framework does not currently exist, and there are few funding mechanisms for states and local governments to use for freight projects. As a result states, MPOs, and local governments are paying for the maintenance on roads receiving wear and tear from truck traffic carrying freight to domestic and international destinations. This program can be useful for local governments, particularly for intermodal, freight rail, and port projects, which over the past several years have relied on the TIGER grant program to advance initiatives related to large-scale goods movement.

(5) Highway Safety Improvement Program - Existing Program

MAP-21 builds on the existing Highway Safety Improvement Program (HSIP) and requires states to develop and implement a safety plan that identifies highway safety programs and a strategy to address them. The legislation would also eliminate the rail-highway grade crossing program (currently a formula program) and the High Risk Rural Roads Program (currently a set-aside program within HSIP).

Additional programs and policy changes in the bill include:

Federal Lands and Tribal Transportation Program - Existing Programs

MAP-21 restructures federal lands and tribal highways programs. The existing [Indian Reservation Roads](#) program becomes the Tribal Transportation Program, the existing [Park Roads and Parkways](#), [Refuge Roads](#), and [Public Lands Highways](#) programs are combined into two new programs: a Federal Lands Transportation program and a Federal Lands Access program. The existing discretionary grants portion of the Federal Lands highways is eliminated, and would become a formula-driven public lands highways program under the bill.

Projects of National and Regional Significance - New Program

This new program's focus is to fund expensive surface transportation infrastructure projects that are difficult to complete with existing federal, state, local, and private funds. State departments of transportation, local governments, tribal governments, transit agencies, port authorities, and metropolitan planning organizations can apply for funding. The federal share of funding for projects under the program would be 50 percent, with intermodal facilities and ports being eligible funding entities in addition to traditional transportation agency applicants. S. 1813 authorizes \$1 billion from the general fund, not the Highway Trust Fund, to pay for the program in FY 2013. This program would also benefit local governments, which traditionally relied on the TIGER grant program for funding of large and cost prohibitive projects of this nature.

MPO Designation - Policy Change

Federal law currently requires that areas with populations of 50,000 or more establish a MPO, which is a transportation planning body comprised of local elected officials, representatives of agencies that operate alternative modes of transportation, and state transportation officials. A MPO is responsible for the development of the 20-year Long Range Transportation Plan and the five-year Transportation Improvement Program (TIP) for its metropolitan planning area. The adoption of these documents is a prerequisite for the receipt of both federal transit and federal highway funding.

MAP-21 changes the definition of MPOs, and designates that these entities serve areas with populations of at least 200,000, which is an increase from the current designation of 50,000 in population. The legislation further defines Tier I MPOs as those that serve populations of one million

and over, and Tier II MPOs as those that serve populations of 200,000 and over. MPOs that serve populations under 200,000 would be terminated within three years after DOT issues its rules under the bill. However, these MPOs would be permitted to operate for one year on a probationary basis to allow it to attempt to meet the minimum Tier II regulations. These MPOs would also be able to request, within two years after planning rules are published, a designation as Tier II. If DOT does not allow the MPO to be designated as a Tier II, it is given 180 days to submit a plan to dissolve in six months and transfer its responsibilities.

HOUSE ORGANIZES TRANSPORTATION AND ENERGY LEGISLATION

On November 17 House Speaker John Boehner announced plans to move forward with the development of a measure that would pair a multi-year SAFETEA-LU reauthorization measure with legislation to expand offshore oil and gas drilling, oil shale production and oil exploration and drilling in the Arctic National Wildlife Reserve (ANWR). This legislation, H.R. 7 - the American Energy & Infrastructure Jobs Act, is designed to increase the amount of revenue that can be steered toward a full six-year surface transportation reauthorization measure than the level that the House Transportation and Infrastructure (T&I) Committee originally indicated it would move forward earlier this year. Under the House's original plan T&I would advance a six-year SAFETEA-LU reauthorization funded at current levels. However, maintaining overall funding at current levels, after accounting for inflation, would actually require \$339 billion over that same period, which is a significantly greater level than the House originally planned on directed toward the measure. Recognizing the need for additional funding to support federal transportation programs, the House is now organizing a reauthorization package that could be funded by money raised from the sale or lease of the mineral rights on federal lands, together with some kind of possible new taxes on the oil and gas industry negotiated in advance with the industry in exchange for new drilling rights.

However such a bill would face significant obstacles due to the controversial nature of drilling in ANWR, as well as a great many questions about how and when revenue could be diverted from these energy sources to fund national transportation initiatives. Several House and Senate members as well as the Bipartisan Policy Center have raised questions about how much money drilling will raise, with estimates varying widely from less than \$1 billion per year to as much as \$7 billion annually. The Congressional Budget Office also believes that the money could take years to materialize, as production and the resulting payments of royalties typically begin several years after the issuance of a lease because of the time needed to prepare exploration and development plans and bring any discovered oil or gas resources into production.

Last week House leaders indicated that they would delay a T&I markup of any such measure until Congress returns from its holiday break in January. In the meantime federal surface transportation programs are being maintained through a six month extension that was signed into law in September. The extension runs through March 31, 2012, and is the eighth extension of SAFETEA-LU since the law expired two years ago.



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July 7, 2011

The Honorable Mary Bono Mack
 U.S. House of Representatives
 104 Cannon House Office Building
 Washington, DC 20515

RE: The Community Access Preservation Act (HR 1746)

Dear Representative Bono Mack:

I am writing on behalf of the League of California Cities (League), which represents California's 482 cities, to request your support of the Community Access Preservation Act (HR 1746) to preserve and protect Public, Educational and Government (PEG) community access television stations. HR 1746 is co-sponsored by Congresswoman Tammy Baldwin (D-WI) and Congressman Steven LaTourette (R-OH).

California's cities have a long history of supporting PEG access television. These local channels are the voice of the community and an important voice for democratic media, especially in an era of increased media consolidation.

The Cap Act (HR 1746) will address some detrimental and critical issues facing local PEG channels. Specifically the bill will:

- Eliminate the distinction between "capital" and "operational" expenses when it comes to using existing PEG support fees. Right now, PEG support fees that are being collected can only be used for "capital" expenses. This distinction is unnecessary and wasteful of the subscriber's money.
- Restore a community's ability to collect PEG support. Many states passed statewide franchising laws that either eliminated PEG support or will eliminate PEG support by 2012. That means that hundreds of these channels will be eliminated in the next year.
- Allow a community that does not have a PEG channel to get one if they so choose.
- Prevent video providers from charging expensive channel transmission fees to local communities.

These modifications to PEG regulation are greatly needed and we urge you to join us in support of these local channels by cosponsoring HR 1746. Thank you for your consideration of this request. Please feel free to call me at (916) 658-8240, or our Washington representatives, Eve M. O'Toole and Dustin McDonald at (202) 419-2505 and (202) 419-2511 respectively if you have any questions or would like additional information about the League's position on this legislation.

Sincerely,

A handwritten signature in cursive script that reads "Chris McKenzie".

Christopher McKenzie
 Executive Director

Cc: John Rocco, President, American Community Television