

# ENVIRONMENTAL QUALITY POLICY COMMITTEE

Thursday, March 29, 2012

10:00 a.m. – 3:00 p.m.

DoubleTree Hotel, Vineyard Room, Ontario, CA

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

## REVISED A G E N D A

<b>Special Order of Business Post Redevelopment &amp; State Budget Update 10:00 – 10:45 a.m., Harvest Room, Doubletree Hotel, Ontario</b>
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**I. Welcome and Introductions**

**II. Public Comment**

**III. 2012 Committee Work Program**

*Informational*

**IV. State Legislative Agenda \* ( Revised Attachment A )**

*\*Due to the significant load of legislation recently introduced, a supplemental State Legislative Update will be provided prior to the meeting.*

1) AB 1627 (Dickinson)

*Informational*

2) Water Quality Bill Package

*Informational*

3) Governor's Budget Proposal to Eliminate Local Coastal Plans

*Informational*

4) ~~CEQA Bills~~ **SB 984 (Simitian) CEQA**

*Informational*

5) Metal Theft Legislation

*Informational*

**V. Municipal Solar Programs: The City of Lancaster and SolarCity**

*Jason Caudle, Deputy City Manager, City of Lancaster, speaker*

**VI. Next Meeting: THURSDAY, June 14, 2012, Sacramento Convention Center**

<p><i>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:</i></p>
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<p><i>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</i></p>
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<p><i>2) A majority of the policy committee finds an emergency (for example: work stoppage or disaster) exists.</i></p>
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<p><i>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.</i></p>
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<p><i>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 <u>not</u> 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.</i></p>
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<p><i>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 can 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 <a href="http://www.cacities.org/FPPCletter">www.cacities.org/FPPCletter</a> on the League's Web site.</i></p>
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**Environmental Quality Policy Committee  
Supplemental Legislative Agenda- March 2012**

**1. AB 1627 (Dickinson) – Environmental quality: building standards: vehicle miles traveled.**

**Bill Summary:**

- Requires the California Energy Commission (CEC) to prescribe regulatory standards for reducing vehicle miles traveled (VMT) for occupants of a building for new residential and nonresidential buildings as well as modification of existing residential and nonresidential buildings.
- Prohibits local governments from issuing building permits unless it can confirm that the building plan complies with those standards developed by the CEC.

**Background:**

In 2008, the League supported SB 375 (Steinberg) after a year and a half of grueling negotiations that resulted in local governments, the business community, and regions working together to adopt strategies that reflect available resources, unique local conditions and priorities. Critical to the agreement was the need for local flexibility; a reduction in greenhouse gases was through incentives, not mandates; and the California Air Resources Board established the greenhouse reduction target and confirmed that the plan adopted by the region would achieve the target, but the details of the specific strategies was left to local governments.

**Staff Recommendation:**

The League has taken an oppose position on this bill based upon existing principles and guidelines. However, the issue surrounding infill has become very popular among environmental groups and the infill builders. Not only has AB 1627 been introduced, but there have been efforts through developing guidelines for SB 226 (Simitian) in the Governor's Office of Planning and Research (OPR), and the Strategic Growth Council's (SGC) Strategic Plan to promote infill and remove the barriers to infill. While the League is not opposed to infill development, we would like to participate in the discussions and provide our expertise in removing barriers to infill. In addition, because of the long and arduous negotiations involving SB 375, the League feels that AB 1627 will unravel that agreement between the parties involved, scarcely after SB 375 has begun to be implemented.

**Fiscal Impact:**

The costs to implement AB 1627 on cities will be substantial. The regulations adopted by the CEC are required to be enforced by the building department of every city, county, or city and county. Cities will be required to review the plans for the proposed building and confirm that the building satisfies the minimum standards for VMT. The bill provides cities by ordinance or resolution to prescribe a schedule of fees to pay the costs incurred by enforcement. No reimbursement is required by this bill because local governments have the ability to levy fees sufficient to pay for the program mandated by this bill.

**Existing League Policy:**

HCED- Scope of Responsibility- The principle behind the policies reviewed by the Committee on Housing, Community and Economic Development is to foster local control of community planning decisions as they relate to land use and economic development.

Planning and Zoning- General Plans- The League supports guidance by expert state agencies in a consultation format but opposes granting mandatory review, certification or other approval authority to another level of government.

Planning and Zoning- Zoning- 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.

TCPW- Transportation- 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.

**Comments:**

For the committee's information, also included in the discussion of AB 1627, the League has included: a copy of a sample oppose letter, a letter that was written in the Western Cities magazine about SANDAG's Sustainable Communities Strategy (SCS), and a cover letter that was sent to all 120 members of the Legislature along with the Western Cities article. These documents are attached to the back of this package.

**Support-Opposition:**

Support: *(as of March 14, 2012)*

Planning and Conservation League (Sponsors)

Victoria Transport Policy Institute

The College of Environmental Design City and Regional Planning at UC Berkeley

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

League of California Cities

California Building Industry Association



March 9, 2012

Members of the California Legislature,

Please find attached a reprint of the article by Gary Gallegos on the San Diego Association of Government's (SANDAG) experience as the first metropolitan planning organization (MPO) to adopt a sustainable communities strategy pursuant to SB 375 (Steinberg). This article was published in the March, 2012 issue of the League's Western City magazine.

We wanted to share this information with you because it provides a good case study. SB 375 set a framework for reducing greenhouse gas emissions, but it also encourages greater coordination of transportation, housing, and land use planning. Understanding how San Diego met both objectives is important to all of us as policy makers.

Many legislators and staff will remember the controversy that surrounded the legislation and the successful effort by Senator Darrell Steinberg to craft a final compromise, which enabled the League of California Cities, the California State Association of Counties, the American Planning Association, California Chapter and major business organizations to support the measure.

Absolutely critical to that agreement was the framework whereby the California Air Resources Board (CARB) established a greenhouse gas reduction target for each region. Regions and their local governments were then provided complete flexibility to craft local approaches and strategies that would achieve the target. CARB was further empowered to confirm that the plan adopted by the region would achieve the target; but the details of the specific strategies were left to local governments acting through their MPOs.

SANDAG completed that process; including securing the confirmation by CARB that the adopted plan would achieve the assigned target. Regrettably, some local groups filed a lawsuit against SANDAG, in part, because they are unhappy with some of the details of the locally adopted plan. Such second guessing can be expected, because anything this large and comprehensive is bound to attract its critics. That litigation should be allowed to run its course.

We would like to once again commend Senator Steinberg for designing legislation that allowed for regional flexibility and ask that the Legislature resist attempts to change this model in light of the litigation. This is not the time for that. In the infancy of this law, when 17 other regions of the state are following in the footsteps of SANDAG within the next three years, we urge restraint. With SANDAG, the SB 375 process worked as it was designed, and must be maintained. All of the state's other regions should have the identical flexibility to adopt strategies that match local resources, preferences and practical realities.

We hope you find the attached article helpful. Please let us know if we can be of any assistance.

Sincerely,



Dan Carrigg, Legislative Director  
League of California Cities



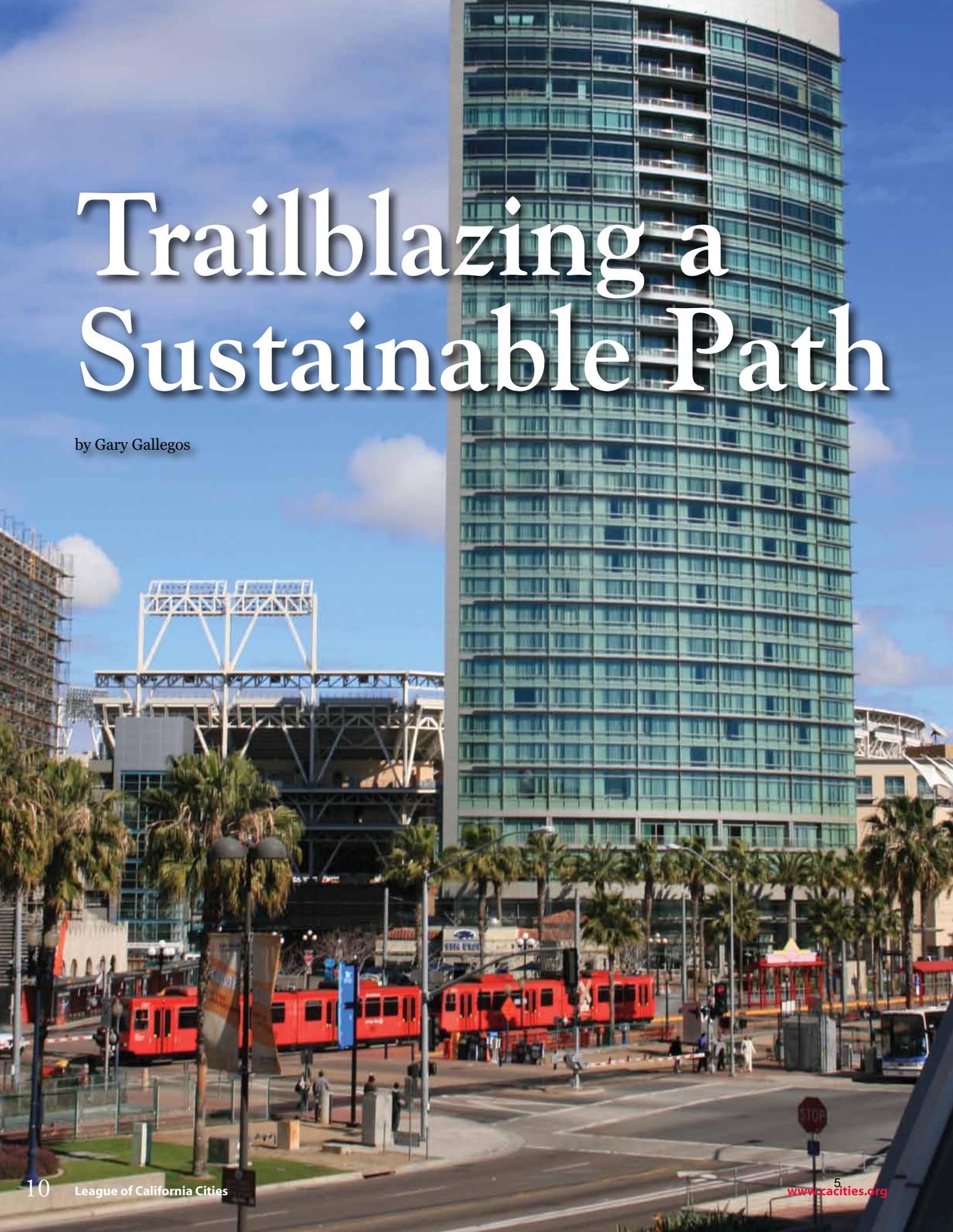
DeAnn Baker, Legislative Representative  
California State Association of Counties



Bill Higgins, Executive Director  
California Association of  
Councils of Governments



Sande George, Legislative Representative  
American Planning Association,  
California Chapter



# Trailblazing a Sustainable Path

by Gary Gallegos



*Increasing the percentage of housing within a half-mile of transit is a key strategy.*

A new era of transportation planning — centered around the mandate to cut greenhouse gas (GHG) emissions — has dawned in California as metropolitan planning organizations throughout the state work to comply with Senate Bill 375. Hailed by environmental advocates as a game changer, SB 375 requires metropolitan planning organizations to include a Sustainable Communities Strategy in their Regional Transportation Plan as part of the statewide effort to combat climate change.

**I**n October 2011 the San Diego Association of Governments (SANDAG), one of the four largest metropolitan planning organizations in California, became the first to adopt a transportation plan with a sustainability component. Our 40-year blueprint, known formally as the 2050 Regional Transportation Plan, was the result of more than two years of careful work and extensive public input.

As a trailblazer, SANDAG bore the brunt of public scrutiny, but ultimately succeeded in producing a viable plan that meets the carbon-emissions reduction targets set for our region by the California Air Resources Board. Three major reasons account for our success:

1. Our history of progressive land-use planning;
2. Collaboration with all 18 cities, the

county government and other regional planning agencies; and

3. The flexibility built into SB 375 regulations.

### **Progressive Land-Use Planning**

Long before SB 375 took effect in 2009, local governments in San Diego County

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Gary Gallegos is executive director of the San Diego Association of Governments (SANDAG). For more information about SANDAG, visit [www.sandag.org](http://www.sandag.org).

had been working toward creating sustainable communities. That made our job of complying with SB 375 much easier because we weren't starting from scratch.

The San Diego region has had natural resource preservation plans in place since the 1990s. We adopted the Multiple Species Conservation Program in 1997 and launched our Multiple Habitat Conservation Program in 2003. Together these two plans established a regional "greenprint" that limits sprawl.

For the past decade we have also integrated housing, land-use and transportation planning to create compact, walkable and transit-oriented communities, although without focusing specifically on GHG emissions. In 2004 SANDAG adopted a Regional Comprehensive Plan, which sets forth a strategy to locate higher-density and mixed-used development near existing and planned transportation infrastructure. The strategy focused on elevating the role of public transit by making it competitive with the car in terms of travel time, thus giving people realistic travel choices.

With these prior efforts in place, SANDAG was able to combine the General Plans of the 18 cities and the county government in our jurisdiction to create a land-use pattern for our Sustainable Communities Strategy that achieves the desired results. The land-use pattern shows that the vast majority — 84 percent — of the new homes projected to be built between now and 2050 will be multifamily units concentrated in urban and community centers. In addition, the land-use pattern protects and preserves 1.3 million acres of open space, more than half of the land in our county.

We are fortunate because our area's geography naturally limits sprawl. To the north sits Camp Pendleton, a huge Marine Corps base made up largely of open land. On the south we have the U.S.-Mexico border, and to the west lies the Pacific Ocean. To our east are mountains and deserts. For the most part, development is concentrated in the western third of our county.



*Creating compact, walkable and transit-oriented communities has been a major focus in the San Diego region for more than a decade.*

***One element was crucial to our success: the state left it to the metropolitan planning organizations to decide on the best strategies for meeting the targets in their particular jurisdictions.***

### **Extensive Regional Collaboration**

With a long-standing track record as a planning agency, SANDAG had the advantage of having all of its local governments at the table as we went about developing our Regional Transportation Plan. Elected officials from all 18 cities and the county government in our region sit on the SANDAG Board of Directors, and they all took part in the process.

The challenges we faced as the first in the state to adopt a Sustainable Communities Strategy were also eased by the bonds we forged with other metropolitan planning organizations in our collective struggle to understand how to implement SB 375.

Along with other metropolitan planning organization leaders, I was appointed to serve on the Regional Targets Advisory Committee formed by the California Air Resources Board. The committee was

charged with making recommendations on methodologies to be used for setting GHG targets and also included diverse representation from other stakeholders.

The committee had many open, honest discussions on a wide range of technical and policy issues that were helpful as SANDAG went about developing its Sustainable Communities Strategy. Committee members studied regional scenarios for testing the effectiveness of various land-use and transportation policies in reducing GHG emissions.

Having this stakeholder group work out a common approach for calculating carbon reductions was critically important, because otherwise the law would not be implemented consistently statewide. For example, just having a different assumption for the price of gasoline in the future

*continued on page 14*

## Regional Flexibility and Local Control Are Critical to Success of SB 375

by Dan Carrigg

The California Air Resources Board concurred in November 2011 that the San Diego Association of Governments' (SANDAG) Sustainable Communities Strategy will achieve the region's greenhouse gas (GHG) reduction targets assigned as part of the SB 375 implementation process. Shortly afterward, the Cleveland National Forest Foundation and the Center for Biological Diversity filed a lawsuit in San Diego Superior Court that brought a California Environmental Quality Act (CEQA) challenge to SANDAG's 2050 Regional Transportation Plan and Sustainable Communities Strategy. The lawsuit claims that the Regional Transportation Plan and Sustainable Communities Strategy will worsen air quality, climate change and urban sprawl. The Sierra Club and California Attorney General Kamala Harris joined the suit in January 2012.

This is a troubling development. One of SB 375's crucial elements is that once a target is established, the regions have flexibility in determining how they will achieve their respective targets. The state's only role is for the Air Resources Board to agree or disagree with the region on whether the region's plan will achieve the targeted reduction — not to micromanage the methods and strategies developed by the region.

Preserving regional flexibility and local control was a critical factor for the League, business groups, homebuilders and other organizations in the final agreement on SB 375. Although meeting the state's GHG reduction goals does not relieve a metropolitan planning organization from complying with other requirements under CEQA, using CEQA to challenge the way in which SANDAG chose to meet the goals is contrary to the spirit of the regional control built into SB 375.

SANDAG was the first region to adopt a plan in compliance with SB 375, and other regions are now following in its footsteps. It's essential that all regions will have the same flexibility that SANDAG experienced in developing a plan to achieve their assigned GHG reduction targets. Efforts to undermine local flexibility — the cornerstone of SB 375's framework — will serve only to sour the good will and col-



*Efforts to undermine local flexibility will serve only to sour the good will and collaboration needed to achieve the regional targets.*

laboration needed to achieve the regional targets, which are designed to improve land-use patterns that help reduce GHG emissions.

Moreover, achieving GHG reduction targets via SB 375 has now become much more difficult. The elimination of redevelopment agencies and reductions in federal programs supporting infrastructure leave local agencies practically nothing to work with to resolve the challenges of infill: cleaning up brownfields; small lot assembly; upgrading sewer, water and other infrastructure to support higher-density development; providing affordable housing; and other issues. How will this now be accomplished?

As regions move forward with developing and implementing Sustainable Communities Strategies they need flexibility to develop plans that reflect local realities, which are now even starker. Those groups clamoring for additional progress would be more helpful if they focused their efforts on understanding the practical challenges faced by local agencies and the marketplace and working to develop the financial and other resources to match desired goals.

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Dan Carrigg is legislative director for the League and can be reached at <[dcarrigg@cacities.org](mailto:dcarrigg@cacities.org)>.

could dramatically change projections of GHG emissions.

After the committee wrapped up its work, the staff at different metropolitan planning organizations formed their own groups to share ideas on the fine details of implementing SB 375. Planning directors of the metropolitan planning organizations created their own group, and so did the legal staff and modeling specialists.



*Extensive outreach and public input played a vital role in the planning process.*

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### Flexible Regulations

The implementation of SB 375 could have easily become a colossal failure if it weren't for the fact that flexibility was built into the regulations and idealism was tempered with pragmatism.

Regulators were wise enough to know that one-size-fits-all GHG reduction targets would not work because of the Golden State's incredible diversity. As a

*continued on page 16*

**Next 10**

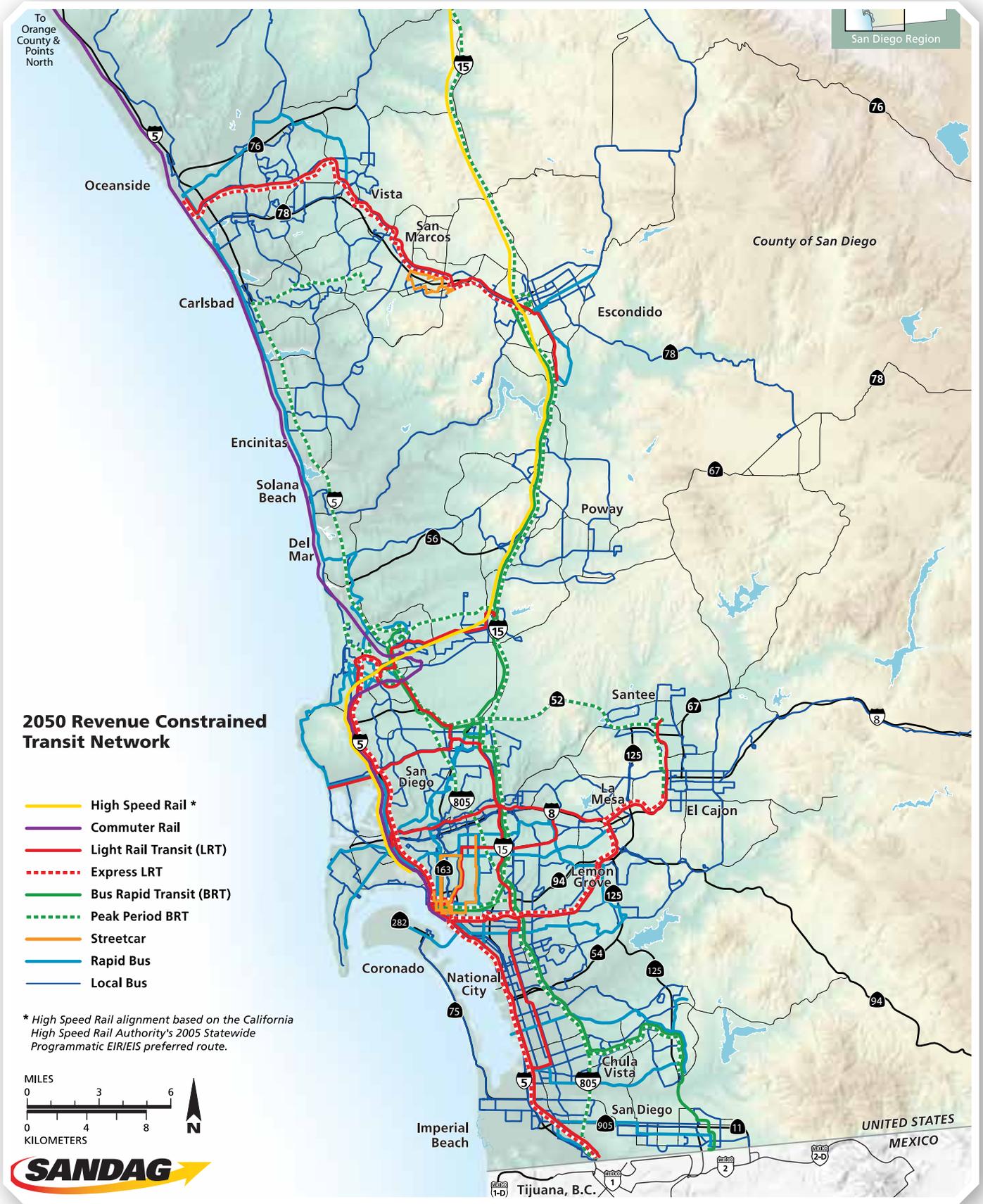
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*As a trailblazer, SANDAG bore the brunt of public scrutiny, but ultimately succeeded in producing a viable plan that meets the carbon-emissions reduction targets set for our region by the California Air Resources Board.*



result, the California Air Resources Board set unique targets for each region. The San Diego County targets include a 7 percent per-capita reduction by 2020 and a 13 percent reduction by 2035, both measured against a 2005 baseline. These targets are ambitious yet achievable.

For SB 375 to succeed and make a difference, the targets must be realistic. If pie-in-the-sky goals are set and no metropolitan planning organization can meet them, then the law is just rhetoric.

Equally crucial to our success is the fact that the state left it to the metropolitan planning organizations to decide on the best strategies for meeting the targets in their particular jurisdictions. Depending on geographic, funding and political factors, different regions are likely to explore different options. A thousand ideas will bloom.

For SANDAG, one of our key strategies for cutting per-capita emissions from cars and light trucks is to invest heavily in

transit systems. Over the next 40 years, our region plans to:

- Add 156 new miles of trolley and Sprinter (diesel) rail service;
- Expand and speed up Coaster commuter rail service by double-tracking the coastal rail corridor; and
- Construct 130 miles of managed lanes to facilitate premium bus services, car pools and van pools.

### Housing Near Public Transit



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— Cathleen Garnand, Civil Engineering Associate,  
County of Santa Barbara Water Resources Division

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— Brian Dougherty, FAIA,  
Dougherty + Dougherty Architects LLP



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By mid-century we will have more than doubled transit service miles, with increased service frequency in key corridors.

Our 2050 Regional Transportation Plan calls for progressively larger investments in transit in each decade of the plan. In the first decade, \$10 billion is slated for transit improvements, with nearly \$16 billion in the second decade, \$25 billion in the third decade, and \$55 billion in the final decade.

When the plan is fully carried out, the number of homes in San Diego County located within a half-mile of public transit services will increase to 64 percent, up from 45 percent in 2008.

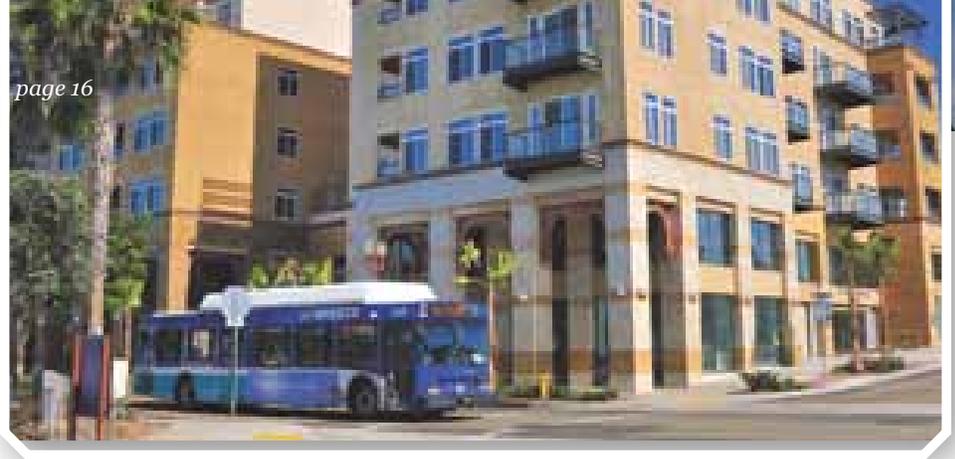
Along with a deep commitment to public transit, the San Diego region plans to invest heavily in bicycle and pedestrian

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projects and programs, new car pool and telework incentive programs to reduce solo driving, and advanced technology to better manage traffic.

### Looking Ahead

Although SANDAG has won both state and federal approval for its 2050 Regional



*By mid-century the region will have doubled transit service miles.*

## J O B O P P O R T U N I T I E S

### CITY OF BENICIA

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### Fire Chief, Peoria, AZ

Established in the 1880's, Peoria is a fast-growing city of 160,000 residents located in the Phoenix metropolitan area. The City of Peoria is currently seeking a new Fire Chief to oversee a staff of 180 full-time, benefitted employees and a FY2012 budget of \$19.6 million. The City is seeking a Fire Chief who operates in an open, approachable, and collaborative manner. A successful candidate will not only demonstrate experience in Fire Operations and familiarity with the use of data-driven and predictive fire and emergency management techniques, but also be able to mentor and coach others in their most effective uses. A strong candidate will have substantial municipal fire service experience, including at least four years of experience at the command level. A Bachelor's degree in Public Administration, Justice Studies, Political Science, Fire Science, Emergency Management, or a closely related field of study is required; a Master's degree in a related field of study is highly desirable. The hiring range for the Fire Chief position is \$120,000-\$145,000, dependent on qualifications. If you are interested in this outstanding opportunity, please apply on line at [www.bobmurrayassoc.com](http://www.bobmurrayassoc.com). Please contact **Bob Murray** at (916) 784-9080 should you have any questions. Brochure available. **Closing date March 16, 2012.**



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Transportation Plan, our work is far from over. Just about every week, our staff receives calls from their counterparts at other metropolitan planning organizations who want to find out how we did it. We at SANDAG are also closely following what other metropolitan planning organizations are doing to comply with SB 375. It will be interesting to see the variety of strategies used to meet the reduction targets and which ones will prove over time to be the most effective.

The next SANDAG Regional Transportation Plan won't be adopted for another four years, but we are already on the lookout for transportation modeling technology that will enable us to make more sophisticated analyses. Next year we plan to implement an advanced activity-based model that simulates individual and household travel decisions. The model can predict whether, where, when and how people travel, as well as with whom they will travel, offering great insights for regional transportation planning. This technology will give us the ability to analyze vehicle miles traveled by household, giving us more information about primary emitters of GHGs.

As a trailblazer in implementing SB 375, we want to be at the forefront of developing next-generation modeling to deliver superior data analysis. ■

Please add your City Letterhead

Date

The Honorable Roger Dickinson  
California State Assembly  
State Capitol Building, Room 3126  
Sacramento, CA 95814  
Fax: (916) 319-2109

**RE: AB 1627 (Dickinson). Building Prohibitions: building standards; vehicle miles traveled.**  
*(as introduced February 9, 2012)*  
**Notice of Opposition**

Dear Assembly Member Dickinson:

The City/Town of \_\_\_\_\_ regrets to inform you of our opposition to AB 1627. This bill would prohibit local governments from issuing local building permits until the building has satisfied standards being developed by California Energy Commission (CEC) designed to reduce vehicle miles traveled (VMT) by occupants of residential and nonresidential buildings.

The City/Town of \_\_\_\_\_ has concerns with the following aspects of AB 1627:

Please choose 3-4 examples that apply to your city and add specific examples.

- **The intent of AB 1627 unravels carefully negotiated SB 375 agreements and micromanagers solutions.** Stakeholders, like the League of California Cities, businesses and local government organizations carefully negotiated agreements in order to support the final version of SB 375. Critical to that agreement was the framework whereby the California Air Resources Board (CARB) established a greenhouse gas reduction target for each region. After CARB confirms that a plan will achieve its target, regions and their local governments are provided complete flexibility to craft local approaches and strategies that would achieve the target. State micromanagement was specifically excluded from the measure. The stated intent of AB 1627 is to “ensure that the promise of SB 375 is realized.” By attempting to impose an overbearing state regulatory framework on all new development, this measure undermines that delicate balance.
- **Adds mandates while local government tools have been depleted:** Redevelopment was the most powerful tool the state had to promote affordable housing, transit-oriented development, and renovate urban cores. With the devastating loss of redevelopment, local agencies have virtually no tools left to resolve the challenges of infill: cleaning up brownfields; small lot assembly; upgrading sewer, water and other infrastructure to support high-density development; providing affordable housing; and other issues. Saddling these communities with costly mandates at this time is ill considered and will not achieve desired outcomes.
- **Broad mandate to regulate individual choice:** AB 1627 specifically seeks to reduce VMT by the *occupants* of residential and nonresidential buildings through “*all feasible and attainable means.*” This is a shockingly broad mandate to empower a state agency to regulate the choices of individuals. How will these restrictions be ultimately measured? How will they be enforced?
- **Restricting economic growth:** Local agencies will be prohibited from issuing a building permit until the agency can confirm that the project meets the minimum VMT standards set by the CEC. Overly restrictive and intrusive requirements imposed on new units and their occupants will further exacerbate California’s economy by making new construction in the state less marketable and desirable.
- **Freedom of Personal Choice:** A prized feature of the American political system is the belief in free markets and freedom of individual choice. These choices include: where one chooses to work, live, how many children to have, how many cars to own, whether to sign up for a traveling soccer team and countless other benefits of a free society. This bill attempts to limit <sup>13</sup>

personal choice through legislation and there are limits to how much government can impose on individual choice.

- **No guarantee to reduce VMT:** AB 1627 can't force people live near their job or get rid of their car. Once a building permit is issued there is no way - other than having the state tracking and enforcing limitations on automobile use by individuals - to guarantee that VMT will be reduced. Carpool incentives and transit investments can be made, but resources and conditions differ. Every city is unique and will not be able to use the same manner to reduce VMT.
- **Strays beyond CEC's expertise:** CEC's primary function is to look at energy needs, promote energy efficiency, and support energy research, not land use planning or VMT. The CEC is an illogical and inappropriate choice to establish standards to reduce VMT. SB 375's wisely constructed framework allows regions and local agencies, which have expertise in these matters, to have flexibility to develop local solutions.
- **Costs imposed on individuals not a factor:** In previous regulatory efforts the CEC was charged with balancing the cost of a new energy efficiency standard against the lifecycle cost imposed on the individual. That is not the case for AB 1627. AB 1627 requires the CEC to determine the feasibility and attainability of the standards based on the economic, social and environmental costs for the "state as a whole" not the costs to individuals or businesses that may be particularly detrimentally impacted by the requirements.
- **The burden of VMT reduction will be carried by the few.** For those that are not fortunate enough to already own a home, this bill will unfairly impact their future opportunities to purchase or rent housing by dramatically increasing the costs. AB 1627 does not consider the increased costs to the building industry as a result of the mandates of the CEC, or the burden of paying local governments to hire staff to confirm that the development meets the CEC standards.
- **Excludes more cost effective measures.** AB 1627 requires the use of costly compliance options to reduce VMT, but specifically precludes cost-effective measures such as the energy efficiency of structures, use of alternative fuels, or fuel efficient vehicles.

For these reasons, the **City/Town of \_\_\_\_\_** opposes AB 1627.

Sincerely,

Name

Title

cc: Joanna Gin, Consultant, Assembly Business, Professions and Consumer Protection Committee;  
FAX (916) 319-3739  
Ted Blanchard, Republican Consultant, Assembly Business, Professions and Consumer  
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**Your Assembly Member**  
**Your Senator**

## **2. Water Quality Bill Package- Update**

A verbal update on the water quality bill package (SB 964 (Wright) and SB 965 (Wright)) will be given at the meeting. A full write-up on the issues behind the two bills can be found here:

<http://www.cacities.org/advo/policy/comm/env/index.jsp>

## **3. Governor's Proposal to Eliminate Local Coastal Program**

### **Proposal Summary:**

As part of the Governor's budget proposal, the Administration has indicated that some local government mandates that have been suspended for a more than two years be repealed. One of those mandates is repealing the existing mandate on local governments in the coastal zone to have a certified Local Coastal Program (LCP).

### **Background:**

The Commission on State Mandates is charged with the duties of examining claims and determining if local agencies and school districts are entitled to reimbursement for increased costs for carrying out activities mandated by the State. As part of the budget proposal, a number of existing mandates have been slated for suspension. Many of the mandates have been suspended for a number of years, but the suspension has not been subject to a thorough policy review that would result in the costs and benefits of the mandate, but instead have been suspended solely for the purpose of budgetary savings.

In addition to the propose suspension of 56 mandates, the Administration has proposed the repeal of 32 of the mandates. One of the mandates proposed for repeal is the mandate for a local government to have a certified LCP.

As drafted by the Administration, the repeal of the LCP would quite literally eliminate the LCP from statute. Without the LCP language in place, all proposed development within the Coastal Zone would be reviewed by the California Coastal Commission on a case-by-case basis when a coastal development permit for an individual project is submitted. All authority for issuing coastal development permits (currently issued by the local government) would now be transferred to the California Coastal Commission.

### **Staff Recommendation:**

Staff recommends additional discussion given the gravity of the loss of local control with the Administration's proposed repeal of the LCP. The League has joined with the American Planning Association and the California State Association of Counties in a joint effort to oppose the repeal of the LCP in the Administration's proposal.

### **Fiscal Impact:**

Unknown.

### **Existing League Policy:**

The League opposes legislation that would permit the state to impose conditions on Local Coastal Plans developed by cities and counties.

The League affirms its commitment to local control by requesting the Coastal Commission to defer to the elected officials of a City with respect to choices in the implementation of a Local Coastal Plan that complies with the requirements of state law and regulation.

**Comments:**

*The Coastal Zone and Coastal Cities Issue Group (CCIG)*

The coastal zone, which includes 61 cities, varies in width from several hundred feet in highly urbanized areas up to five miles in certain rural areas, and offshore the coastal zone includes a three-mile-wide band of ocean. The coastal zone established by the Coastal Act does not include San Francisco Bay, where development is regulated by the Bay Conservation and Development Commission.

In 2006, the League formed the CCIG to address issues brought to the group by coastal cities. CCIG has been working diligently over the last five years to successfully work with the Coastal Commission on communication surrounding the development, update and amendments to LCP's. The work of CCIG would be significantly undermined by the Governor's proposal to repeal LCP's.

*General Background*

Cities and the Coastal Commission share a statutory duty to implement the Coastal Act, and each is given different roles. Cities must prepare a Coastal Land Use Plan (LUP), which is similar to a General Plan, and an Implementation Plan (IP), which consists of ordinances and policies. The LUP and IP do not become effective until the Commission has certified each. Under the Coastal Act, the Coastal Commission's sole role is to determine whether the proposed LCP (or amendment to the LCP) is consistent with policies in Chapter 3 of the Coastal Act.

Once an LCP is certified, the city issues a "coastal development permit" for projects in the portion of the Coastal Zone governed by the certified LCP. Until a coastal city has a certified LCP, the Coastal Commission is the permitting authority under the Coastal Act. Thus, the Coastal Commission plays two different roles: (1) as a permitting agency, it exercises the broader policy-making roles that local governments employ in setting and using land use policy, and (2) as the agency charged with certifying LCPs, it is constrained by the Coastal Act to a limited role of reviewing the policies set by local governments.

If LCPs are removed within the statute (as is the proposal by the Administration) then all permitting authority for coastal development permits reverts from the city to the Coastal Commission.



March 20, 2012

The Honorable Joe Simitian  
Senate Budget Subcommittee #2  
State Capitol, Room 5019  
Sacramento, CA 95814

**RE: Item 8885- State Mandates: Opposition to Repeal of Local Coastal Program Mandate  
OPPOSITION**

Dear Senator Simitian:

On behalf of the League of California Cities and the American Planning Association, California Chapter, we must inform you that we respectfully oppose the repeal of the Local Coastal Program (LCP) mandate (CSM-4431). We understand this item will be heard in the Senate Budget Subcommittee #2 on April 11th.

We are strongly opposed to the proposed repeal of the LCP mandate as it is a direct undermining of local land use authority. Under current law, local governments develop a LCP and submit this program to the California Coastal Commission (Commission) to ensure its compliance with the Coastal Act. Upon Commission approval, the local government applies the requirements as they relate to most new development. The process ensures that the city or county maintains planning authority within the coastal zone. It also enables the local government to make sure that any local requirements that are unique to the community are adhered to.

This proposal to repeal the LCP mandate will force the transfer of local planning and permitting authority and any judicial review on pending proposals to the Commission, which is not now or likely in the near term, to be staffed to sufficient levels to take on the added responsibility.

For these reasons, the League and APA-CA must strongly oppose this proposal. Should you have any questions, please do not hesitate to contact us.

Sincerely,

Kyra Emanuel Ross, Legislative Representative  
League of California Cities

Sande George, Legislative Representative  
American Planning Association, California Chapter

DeAnn Baker, Legislative Representative  
California State Association of Counties

#### **4. SB 984 (Simitian) – California Environmental Quality Act: Record of Proceedings**

##### **Bill Summary:**

This bill creates an expedited process for CEQA, for EIR's, negative declarations, mitigated negative declarations, and other environmental projects (i.e., projects of statewide, regional, or areawise significance, environmental documents prepared under SB 375, and infill projects under SB 226 (Simitian, 2011)), as follows:

- Requires the lead agency for a project to prepare and certify the record of proceedings concurrently with the administrative process;
- Requires documents placed in the record of proceedings to be posted on the lead agency's Internet website, or provide a link on the agency's website to the information if the lead agency cannot maintain a website with the information;
- Requires the lead agency to make any comment available to the public in a readily accessible format within 5 business days of its receipt;
- Requires the lead agency to certify the record of proceedings within 30 days after the filing of the notice of determination for the project;
- Requires the project applicant to reimburse the lead agency for costs incurred to comply with the requirements of SB 984 and clarifies that the plaintiff or petitioner, if any, is not required to pay these costs (because the record of proceedings is being prepared during the administrative process at the request of the applicant); and,
- Contains a sunset of January 1, 2016.

##### **Background:**

Last year, two bills became law that allowed for expedited judicial proceedings for CEQA cases dealing with environmental projects (SB 292 on the Los Angeles Stadium Project and AB 900 on Environmental Leadership Projects). After the passage of those two bills, several interest groups have wanted to get their projects in on the expedited judicial proceedings for CEQA cases. This bill is one of several bills that are essentially "take-offs" from the original two bills and provide for expedited portions of the CEQA process for project proponents that want to speed up the CEQA process and are willing to pay for the extra time and staff needed.

Cities and counties can already concurrently prepare the record of proceedings with the administrative process, post items to their website and more expeditiously prepare and certify the record of proceedings. No bill is needed to do these actions.

##### **Staff Recommendation:**

Discussion on the bill and broader issue of expediting the record and posting items to websites.

##### **Fiscal Impact:**

With appropriate fee language only minor costs, if any, to the city. Without appropriate fee language, potentially significant costs to lead agencies to comply with the provisions of the bill.

##### **Existing League Policy:**

The League has no direct existing policy on this issue, although generally supports CEQA. Additionally, the League did not take a position on either SB 292 or AB 900 last year. We did however; verbally communicate to staff on AB 900 the inability of local agencies to meet the 5 day deadline for preparation of the record required in the bill.

## **Comments:**

### *Need for the bill*

According to the author's office "AB 900 enacted The Jobs and Economic Improvement Through Environmental Leadership Act of 2011, to set procedures relating to an "environmental leadership development project" (ELDP) selected by the Governor. Since enactment of AB 900 there is interest by various parties to provide for the record of proceedings to be prepared concurrently with the administrative process for certain other projects at the request of the applicant to save a great deal of time in the event that a party challenges the project. Because SB 984 applies to a broader range of environmental documents and projects, amendments were needed that are not part of the AB 900 procedures to address concerns of various interests."

Additionally, the author notes, "By posting information on the lead agency's website and making written comments available in an electronic format, SB 984 also avoids the potential for late project comments."

### *Background on CEQA*

The California Environmental Quality Act (CEQA) provides a process for evaluating the environmental effects of a project. If a project is not exempt (either through a categorical or statutory exemption) from CEQA, the lead agency is required to prepare an initial study to determine whether a project may have a significant effect on the environment. If the initial study shows that there will not be a significant effect on the environment, the lead agency must prepare a negative declaration. If the initial study shows that the project may have a significant effect on the environment, the lead agency must prepare an Environmental Impact Report (EIR).

Current law set requirements relating to the preparation, review, comment, approval and certification of environmental documents, as well as procedures relating to an action or proceeding to attack, review, set aside, void, or annul various actions of a public agency on the grounds of noncompliance with CEQA. If there is a At the time an action or proceeding is filed, the plaintiff must file a request with the respondent public agency to prepare the record of proceedings, which must be served personally upon the public agency no later than 10 business days from the date the action or proceeding was filed.

Current law provides that the public agency must prepare and certify the record of proceedings no later than 60 days from the date the request was made by the plaintiff, and upon certification the public agency must lodge a copy of the record with the court. The plaintiff may elect to prepare the record of proceedings or the parties may agree to an alternative method of preparation of the record.

### *We Can Do This Already*

Existing law does not prohibit a lead agency from concurrently preparing the record and/or preparing the record in an expedited manner. In fact, a number of communities have concurrently prepared a record and/or expedited the preparation of the record when requested and paid for by a project proponent.

## **Support-Opposition:**

**Support:** (as of April 1, 2011)

None on file

**Opposition:** (as of April 1, 2011)

None on file

### **3. Metal Theft Legislation Discussion**

#### **Summary:**

Numerous bills have been introduced this year to address the on-going problem of stolen nonferrous materials and goods. (See matrix on following page). The various bills seeks to increase total fine and sentencing penalties, expand the types of goods that carry an increased “metal theft” penalty, and further restrict payment for non-ferrous goods between a hauler and the recycler or junk dealer.

#### **Background:**

Cities, counties, and service districts are reporting continued problems in their local jurisdictions with metal theft. Recent trends show a growth in stolen goods that include fire hydrants and their fittings, man hole covers, drinking fountain parts, and general wiring. A March 2012 insurance industry report showed metal thefts rose by 81% in the last three years, as have the value of recyclable goods like copper, bronze, brass and aluminum.

Prior to 2008, there were a myriad of local policies and ordinances creating a patchwork of regulation on metal recycling. As a result, jurisdictions with strict policies and strong enforcement could be evaded by simply taking scrap metals to neighboring areas with less stringent requirements.

AB 844 (Berryhill; 2008) successfully established statewide requirements for junk dealers and recyclers. Local jurisdictions retained the authority to override the state-wide preemption with a two-thirds majority vote.

Through AB 844 ((Berryhill; 2008) and subsequent legislation, there are now significant regulation and mandated information gathering and reporting for recyclers and junk dealers. Key changes were as follows:

- Required junk dealers and recyclers are required to report to the chief of police or sheriff, upon request of the chief of police or sheriff and on a monthly basis, personal identifying information regarding any seller of specified metals.
- The chief of police or sheriff may request the junk dealer or recycler report the seller's identification information on a weekly basis if there is an ongoing investigation of the junk dealer or recycler concerning possible criminal activity, as specified.
- Double fines may be imposed, in addition to jail sentences, for a junk dealer or recycler who fails to properly collect and maintain the required written records, or refuses to exhibit the written record as required and require that the court order the defendant to stop engaging in business as a junk dealer or recycler for not less than one year;
- Required that payment for the specified metals be made by check mailed to the seller's documented address or by cash or check on the third business day after the date of sale.
- Required the junk dealer or recycler to obtain a copy of a government-issued ID containing a photograph and address of the seller.
- Required the junk dealer or recycler to obtain a photograph or video of the junk metal items being sold.
- Required the junk dealer or recycler to obtain a thumbprint of the seller, as prescribed by the Department of Justice, retain the thumbprint for two years and provide it to specified law enforcement agents if that agent has probable cause to believe.

Additional legislation has also added specific items, such as catalytic converters, to have mandated record-keeping and reporting, while others have provided that specific items carry additional fines or penalties, such as fire hydrants and their fittings. Junk dealers also must comply with the same reporting requirements as secondhand dealers and coin dealers.

Policy makers are unclear at this time where gaps exist in either regulation or enforcement that has allowed the incidence of metal theft to proliferate.

**Staff Recommendation:**

Because this item is informational, the committee should consider what broader policies should be applied to reviewing the package of metal theft related legislation. The committee should also identify questions for the authors of current legislation, and, make recommendations for League staff to pursue a registered position on specific legislation.

**Existing League Policy:**

Under waste management, the League supports legislation and other efforts to increase markets for recycled materials, and supports national efforts to address the e-waste problem.

Under public safety, the League supports increased penalties for metal theft, and recognizes that statewide regulation is needed to discourage “jurisdiction shopping.” The League also supports increased record-keeping and reporting requirements for junk dealers, including the collection of thumbprints from sellers.

**Comments:**

*Burden verse Benefit of Record Keeping Requirements*

There is some concern that if the process of recycling metal goods becomes too burdensome, items will not be recycled at all and end up in the general waste stream. In addition, some local jurisdictions that operate recycling centers, and are subject to many of the same restrictions as “junk dealers” may not be able to operate cost-effectively if restrictions and regulations go unchecked.

*Is Punishment Enough?*

Several of the bills seek to increase the monetary fine or incarceration period. Other bills in the past have also increased associated penalties in recent years for specific non-ferrous goods or materials. It’s unclear if the current penalty structure serves as an effective deterrent to prevent metal thefts.

*A Law is Only as Good As its Enforcement*

One possibility that has been considered relates to enforcement. While there is ample regulation, the ability for local agencies to enforce the provisions may be the disconnect in the theft prevention formula. The committee should consider what tools are needed locally to effectively enforce current provisions.

### Metal Theft Legislation

Measure	Author	Topic	Summary
<u>AB 1508</u>	Carter	Junk dealers and recyclers: nonferrous materials.	<p>This measure would remove reporting and payment exemptions for sellers of junk or recycled materials who conduct five or more separate transactions per month. Currently, those sellers are not required to wait three days for payment by cash or check, and are not required to provide identifying information at each selling point for transactions valued at \$20 or less.</p> <p>The author cites the purpose of AB 1508 is to close a loop-hole that has allowed sellers to break up larger, valuable metal materials into smaller sales to avoid payment delays and reporting requirements. While the intent of this exemption was to allow for beverage container collectors to avoid onerous reporting and receive timely payment, sellers are using the exemption to provide mixed loads of materials that may include copper, aluminum, or other more valuable materials. The San Bernardino Sheriff's Department is the sponsor.</p>
<u>AB 1971</u>	Buchanan	Theft: junk, metals, and secondhand materials.	This bill would state theft of nonferrous materials from a transit vehicle or station constitutes an act of vandalism. It would also increase associated penalties for sellers seeking to recycle stolen materials from transit vehicles or stations.
<u>AB 2003</u>	Torres	Junk dealers and recyclers: nonferrous materials: payment.	Current law prohibits a junk dealer or a recycler from providing payment for nonferrous material, such as copper, unless the payment is made by cash or check, the check is mailed or the cash or check is provided no earlier than 3 days after the date of sale, and other specified requirements are met. This bill would allow payment for nonferrous materials by check only. The author offers that legitimate recyclers/sellers would easily accept a check payment while others may be deterred.
<u>AB 2454</u>	Pan	Copper theft. Penalty assessment.	While still in draft form, this measure will seek to change how penalties are levied for copper theft. Current law provides that the penalties levied for metal theft charges correspond to the amount paid for the goods. This bill would change current statute and provide that the fine amount and imprisonment duration would reflect the replacement cost of the goods, which can be substantially greater. This bill was introduced in light of the growing costs to local agencies for replacing stolen materials from public areas and buildings.

<u>SB 1387</u>	Emmerson	Metal theft.	This bill would prohibit any junk dealer or recycler from possessing a public fire hydrant, fire department connection, including, but not limited to, bronze or brass fittings or parts, a public manhole cover or lid, or any part of that cover or lid, or a public backflow device and connections to that device without a written certification on the letterhead of the public agency or utility that owns or previously owned the material and that the entity has sold or is offering the material for sale, and that the person possessing the certificate and identified in the certificate is authorized to negotiate the sale of the material. Would also make junk dealers and recyclers civilly liable and provide that if a junk dealer or recycler lacks the certification described above the lack of that certification would give rise to the presumption that the property was stolen. This bill was introduced following an inland empire sanitation district reporting that a stolen manhole cover resulted in a pedestrian injury when they fell through the open manhole.
<u>SB 1045</u>	Emmerson	Metal theft.	This bill enhances the civil penalties for the unlawful possession of a public fire hydrant, fire department connection, public manhole cover or public backflow device, as defined to reflect three times the cost of replacement and damages to the public agency.