



## MEETING OF THE

# LEGISLATIVE/COMMUNICATIONS AND MEMBERSHIP COMMITTEE

**Tuesday, May 16, 2017**

*8:30 a.m. - 10:00 a.m.*

**SCAG Offices**

**818 West 7th Street, 12th Floor**

**Policy Committee Room B**

**Los Angeles, CA 90017**

**(213) 236-1800**

**Videoconference Available**

**San Bernardino SCAG Office**

**1170 W. 3rd Street, Suite 140**

**San Bernardino, CA 92418**

**Riverside SCAG Office**

**3403 10th Street, Suite 805**

**Riverside, CA 92501**

**Imperial County SCAG Office**

**1405 North Imperial Avenue, Suite 1**

**El Centro, CA 92243**

**Teleconference Is Available**

If members of the public wish to review the attachments or have any questions on any of the agenda items, please contact Jane Embry at (213) 236-1826 or via email [embry@scag.ca.gov](mailto:embry@scag.ca.gov).

Agendas and Minutes for the Legislative/Communications and Membership Committee are also available at:

<http://www.scag.ca.gov/committees/Pages/default.aspx>.

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SOUTHERN CALIFORNIA  
ASSOCIATION OF GOVERNMENTS

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Transportation  
Curt Hagman, San Bernardino County

## Legislative/Communications and Membership Committee

*May 2017*

Clint Lorimore, District 4  
Greg Pettis, District 2

**Chair**  
**Vice-Chair**

### **Member**

Becerra, Glen  
Clark, Margaret  
Finlay, Margaret  
Hagman, Curt  
Martinez, Michele  
Mitchell, Judy  
Murray, Kris  
O'Connor, Pam  
Viegas-Walker, Cheryl  
Wapner, Alan

### **Representing**

District 46  
District 32  
District 35  
San Bernardino County  
District 16  
District 40  
District 18  
District 41  
District 1  
SANBAG

# LEGISLATIVE/COMMUNICATIONS & MEMBERSHIP COMMITTEE AGENDA MAY 16, 2017

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*The Legislative/Communications & Membership Committee may consider and act upon any of the items listed on the agenda regardless of whether they are listed as information or action items.*

## **CALL TO ORDER & ROLL CALL**

*(Hon. Pam O'Connor, Chair)*

## **PUBLIC COMMENT PERIOD**

*Members of the public desiring to speak on items on the agenda, or items not on the agenda, but within the purview of the Committee, must fill out and present a Public Comment Card to the Assistant prior to speaking. Comments will be limited to three (3) minutes per speaker provided that the Chair has the discretion to reduce this time limit based upon the number of speakers. The Chair may limit the total time for all comments to twenty (20) minutes.*

## **REVIEW AND PRIORITIZE AGENDA ITEMS**

### **CONSENT CALENDAR**

	<b>Attachment</b>	<b>Page</b>
1. Minutes of April 18, 2017 Meeting		<b>1</b>

### **ACTION ITEMS**

2. SCAG Membership <ul style="list-style-type: none"><li>• Los Angeles County Business Federation (BizFed) - \$5,000 <i>(Darin Chidsey, Chief Operating Officer)</i></li></ul>	<b>Attachment</b>	<b>5</b>
3. AB 805 (Gonzalez Fletcher) – County of San Diego: Transportation Agencies <i>(Jeffrey Dunn, Senior Legislative Analyst)</i>	<b>Attachment</b>	<b>7</b>
4. AB 686 (Santiago) – Housing Discrimination: Affirmatively Further Fair Housing <i>(Jeffrey Dunn, Senior Legislative Analyst)</i>	<b>Attachment</b>	<b>10</b>
5. SB 768 (Allen) – Transportation Projects: Public Private Partnerships (P3s) <i>(Jeffrey Dunn, Senior Legislative Analyst)</i>	<b>Attachment</b>	<b>14</b>
6. SB 268 (Mendoza) – Los Angeles County Metropolitan Transportation Authority <i>(Jeffrey Dunn, Senior Legislative Analyst)</i>	<b>Attachment</b>	<b>16</b>

### **INFORMATION ITEMS**

7. AB 871 (Santiago) – Office of Emergency Services: Disaster Programs <i>(Jeffrey Dunn, Senior Legislative Analyst)</i>	<b>Attachment</b>	<b>19</b>
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# LEGISLATIVE/COMMUNICATIONS & MEMBERSHIP COMMITTEE AGENDA MAY 16, 2017

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|--|--------------------|-----------|
| 8. SB 775 (Wieckowsky) – California Global Warming Solutions Act of 2006:<br>Market-Based Compliance Mechanisms<br><i>(Jeffrey Dunn, Senior Legislative Analyst)</i> | <b>Attachment</b>  | <b>21</b> |
| 9. AB 302 (Gipson) – South Coast Air Quality Management District:<br>Fleets<br><i>(Jeffrey Dunn, Senior Legislative Analyst)</i>                                     | <b>Attachment</b>  | <b>23</b> |
| 10. Federal Budget<br><i>(Darin Chidsey, Chief Operating Officer)</i>  | <b>Oral Report</b> |           |
| 11. Bills of Interest<br><i>(Jeffrey Dunn, Senior Legislative Analyst)</i>   | <b>Oral Report</b> |           |

## **FUTURE AGENDA ITEMS**

Any Committee member or staff desiring to place items on a future agenda may make such a request.

## **ANNOUNCEMENTS**

## **ADJOURNMENT**

The next meeting of the Legislative/Communications & Membership Committee is scheduled for 8:30 AM, Tuesday, June 20, 2017 at the SCAG Los Angeles Office.

**LEGISLATIVE/COMMUNICATIONS & MEMBERSHIP COMMITTEE  
of the  
SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS**

**April 18, 2017  
Minutes**

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The Legislative/Communications & Membership Committee held its April 18, 2017 meeting at SCAG's downtown Los Angeles Office.

**Members Present**

Hon. Margaret Clark, District 32 (**Teleconference**)  
Hon. Curt Hagman (**Teleconference**)  
Hon. Clint Lorimore, District 4 (**Videoconference**)  
Hon. Larry McCallon, District 7 (**Videoconference**)  
Hon. Judy Mitchell, District 40 (**Videoconference**)  
Hon. Pam O'Connor, District 41  
Hon. Greg Pettis, District 2 (**Teleconference**)  
Cheryl Viegas-Walker (**Videoconference**)  
Hon. Alan Wapner, SANBAG (**Videoconference**)

**CALL TO ORDER**

The meeting was called to order by the Hon. Pam O'Connor at approximately 8:40 a.m. A quorum was confirmed and roll-call was taken.

**PUBLIC COMMENT PERIOD**

There were no public comments presented.

**REVIEW AND PRIORITIZE AGENDA ITEMS**

Information Item #7, Legislative Tracking Report/Bills of Interest, was heard first due to lack of a quorum. Once a quorum was established the Chair proceeded with the Action Items. For purposes of the Minutes, the agenda will remain in order as presented.

**CONSENT CALENDAR**

1. Minutes of March 21, 2017 Meeting

A MOTION was made (Hagman) to approve the Consent Calendar. The MOTION was SECONDED (Viegas-Walker) and APPROVED by a majority vote. A roll-call vote was taken and recorded as follows:

**AYES:** Clark, Hagman, Lorimore, McCallon, Mitchell, O'Connor, Pettis, Viegas-Walker, Wapner

**NOES:** None

**ABSTAIN:** None

**ACTION ITEMS**

## Legislative/Communications & Membership Committee Minutes

### 2. SCAG Memberships

Darin Chidsey, Chief Operating Officer, provided a brief overview of the five (5) memberships, as follows: METRANS Transportation Center Associates Program, \$25,000; California Contract Cities Association, \$5,000; FuturePorts, \$5,000; Eno Center for Transportation, \$11,500; American Public Transportation Association, \$5,686.

A MOTION was made (Hagman) to APPROVE the memberships as presented. The MOTION was SECONDED (Clark) and APPROVED by a majority vote. A roll-call vote was taken and recorded as follows:

**AYES:** Clark, Hagman, Lorimore, McCallon, Mitchell, O'Connor, Pettis, Viegas-Walker, Wapner

**NOES:** None

**ABSTAIN:** None

### 3. AB 91 (Cervantes) – High Occupancy Vehicle Lanes

Jeff Dunn, Senior Legislative Analyst, stated that AB 91 would require carpool lanes in Riverside County to convert to “part-time” operation, meaning that any vehicle could access the lanes during non-peak traffic hours. Riverside County Transportation Commission (RCTC) opposed this bill on several grounds, including that it potentially jeopardizes federal funds used to construct HOV lanes in Riverside County, and it will jeopardize the region’s efforts to meet federally mandated air-quality attainment goals. Staff recommends opposing this bill.

A MOTION was made (Wapner) to oppose AB 91 (Cervantes) – High Occupancy Vehicle Lanes. The MOTION was SECONDED (McCallon) and APPROVED by a majority vote. A roll-call vote was taken and recorded as follows:

**AYES:** Clark, Hagman, Lorimore, McCallon, Mitchell, O'Connor, Pettis, Viegas-Walker, Wapner

**NOES:** None

**ABSTAIN:** None

### 4. AB 1189 (Garcia) – Riverside County Transportation Commission: Transactions and Use Tax

Jeff Dunn, Senior Legislative Analyst, stated that AB 1189 revises Section 240306 of the Public Utilities Code to authorize the Riverside County Transportation Commission (RCTC) to place before the Riverside county voters an additional one-half or one-quarter of one-cent sales tax measure (in addition to the one-half cent tax previously approved by voters) providing for a maximum tax rate of one-percent for transportation projects and programs in Riverside County. Staff recommends support of this bill.

## **Legislative/Communications & Membership Committee Minutes**

A MOTION was made (Wapner) to support AB 1189 (Garcia) – Riverside County Transportation Commission: Transactions and Use Tax. The MOTION was SECONDED (Pettis) and APPROVED by a majority vote. A roll-call vote was taken and recorded as follows:

**AYES:** Clark, Hagman, Lorimore, McCallon, Mitchell, O’Connor, Pettis, Viegas-Walker, Wapner

**NOES:** None

**ABSTAIN:** None

### 5. AB 1523 (Oberholte) – Local Agencies: Contracts: Design-Build Projects

Jeff Dunn, Senior Legislative Analyst, stated that AB 1523 sponsored by SCAG partner agency, San Bernardino County Transportation Authority (SBCTA), would authorize local transportation agencies, cities, and counties to utilize the design-build procurement process for local street and road projects. Staff recommends support consistent with long-standing board support of innovative procurement methods, including design-build, under the policy umbrella supporting expedited delivery of transportation projects.

A MOTION was made (McCallon) to support AB 1523 (Oberholte) – Local Agencies: Contracts: Design-Build Projects. The MOTION was SECONDED (Hagman) and APPROVED by a majority vote. A roll-call vote was taken and recorded as follows:

**AYES:** Clark, Hagman, Lorimore, McCallon, Mitchell, O’Connor, Pettis, Viegas-Walker, Wapner

**NOES:** None

**ABSTAIN:** None

### 6. SB 150 (Allen) – Regional Transportation Plans

Jeff Dunn, Senior Legislative Analyst, stated that SB 150 would require the Air Resources Board (ARB) to update greenhouse gas (GHG) emission reduction targets it provides to regional transportation planning agencies that must be included within its sustainable communities’ strategy (SCS) to be consistent with applicable state law or executive order, including meeting the 40% below 1990 level by December 31, 2030 target, among others. The bill would further require that the SCS include an appendix outlining the region’s transportation planning and programming activities, with transportation projects to be prioritized based on a project’s ability to meet certain criteria and objectives relative to reduction in criteria air pollutants and vehicle miles traveled, in addition to maximization of co-benefits such as public health, social equity, and conservation. The bill also requires ARB to monitor each metropolitan planning organization’s (MPO’s) SCS and to submit a progress report every 4 years to the California Transportation Commission, which would include an assessment of whether the MPO is on track to achieve a 15% reduction in vehicle miles traveled (VMT) by 2050 and the GHG emissions reductions target in the SCS. Staff recommends oppose.

**Legislative/Communications & Membership Committee Minutes**

A MOTION was made (Hagman) to oppose SB 150 (Allen). The MOTION was SECONDED (McCallon) and APPROVED by a majority vote. A roll-call vote was taken and recorded as follows:

**AYES:** Clark, Hagman, Lorimore, McCallon, Mitchell, O’Connor, Pettis, Viegas-Walker, Wapner

**NOES:** None

**ABSTAIN:** None

**INFORMATION ITEMS**

7. Legislative Tracking Report/Bills of Interest

Jeff Dunn, Senior Legislative Analyst, reported on key bills being monitored by staff.

8. 2017 General Assembly Update

Darin Chidsey, Chief Operating Officer, provided an update on the 2017 Regional Conference and General Assembly being held on May 4 & 5, 2017 at the J.W. Marriott in Palm Desert.

**FUTURE AGENDA ITEMS**

There were no future agenda items presented.


**ANNOUNCEMENTS**

Hon. Larry McCallon was celebrated and honored for his service to SCAG and District 7.

**ADJOURNMENT**

Chair Pam O’Connor adjourned the meeting at approximately 9:00 a.m. The next regular meeting of the Legislative/Communications & Membership Committee is scheduled for 8:30 a.m. – 10:00 a.m., Tuesday, May 16, 2017.

**Reviewed by:**

  
\_\_\_\_\_  
Darin Chidsey  
Chief Operating Officer



**REPORT**

**DATE:** May 16, 2017

**TO:** Legislative/Communications & Membership Committee (LCMC)

**FROM:** Darin Chidsey; Chief Operating Officer; (213) 236-1836; [chidsey@scag.ca.gov](mailto:chidsey@scag.ca.gov)

**SUBJECT:** SCAG Membership

**RECOMMENDED ACTION:**

Approve

**EXECUTIVE SUMMARY:**

*The Legislative/Communications & Membership Committee (LCMC) is asked to approve up to \$5,000 in memberships for the Los Angeles County Business Federation.*

**STRATEGIC PLAN:**

This item supports SCAG's Strategic Plan: Goal 1: Improve Regional Decision Making by Providing Leadership and Consensus Building on Key Plans and Policies; and Goal 2: Obtain Regional Transportation infrastructure Funding and Promote Legislative Solutions for Regional Planning Priorities.

**BACKGROUND:****Los Angeles County Business Federation (BizFed) – \$5,000**

The Los Angeles County Business Federation (BizFed) is made up of more than 160 business organizations representing over 325,000 employers throughout Los Angeles County, along with Southern California's leading civic-minded corporations and public agencies. The organization advocates for policies and projects that strengthen the regional economy. This membership will allow SCAG access to utilize BizFed's massive business networks to actively promote SCAG's initiatives such as the 2016-2040 Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS), Southern California Economic Summit, and other planning activities.

SCAG staff is again recommending that the agency maintain its long-time membership in BizFed at the "Bronze" level in the amount of \$5,000, which will provide the agency with the following benefits:

- One (1) seat on the BizFed Board of Directors;
- Up to five (5) seats on the BizFed Advocacy Committee;
- A link on the BizFed website;
- BizFed intelligence communications and notices.

# REPORT

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**FISCAL IMPACT:**

\$5,000 for memberships is included in the approved FY 16-17 General Fund budget.

**ATTACHMENTS:**

None.

**Reviewed by:**



\_\_\_\_\_  
*Darin Chidsey, Chief Operating Officer*

**Reviewed by:**



\_\_\_\_\_  
*Basil Panas, Chief Financial Officer*

**REPORT**

**DATE:** May 16, 2017

**TO:** Legislative/Communications & Membership Committee (LCMC)

**FROM:** Jeffrey Dunn; Sr. Legislative Analyst; (213)-236-1880; [dunn@scag.ca.gov](mailto:dunn@scag.ca.gov)

**SUBJECT:** AB 805 (Gonzalez Fletcher) - County of San Diego: transportation agencies

**RECOMMENDED ACTION:**

Oppose

**EXECUTIVE SUMMARY:**

*Makes changes to the governance and financing authority of the San Diego Association of Governments (SANDAG), the San Diego Metropolitan Transit System (MTS), and the North County Transit District (NCTD), and adds requirements to SANDAG's regional comprehensive plan. The bill also adds an audit committee to the list of standing policy advisory committees within SANDAG and prescribes numerous duties and authorities to the committee. Staff recommends oppose.*

**STRATEGIC PLAN:**

This item supports SCAG's Strategic Plan: Goal 1: Improve Regional Decision Making by Providing Leadership and Consensus Building on Key Plans and Policies; and Goal 2: Obtain Regional Transportation Infrastructure Funding and Promote Legislative Solutions for Regional Planning Priorities.

**BACKGROUND:**

Current law creates a consolidated transportation agency in San Diego that includes the San Diego Association of Governments (SANDAG), the San Diego Metropolitan Transit System (MTS), and the North County Transit District (NCTD), and authorizes that agency to assume certain responsibilities including the development of a regional transportation plan. Existing law also defines the governance structures of the SANDAG, MTS, and NCTD boards, including membership and voting. Current law also authorizes cities, counties and some transportation agencies such as SANDAG to impose transactions and use taxes in 0.125% increments in addition to the state's 7.5% sales tax, provided that the combined rate in the county does not exceed 2%.

AB 805 would revise the SANDAG board of directors as follows:

- Requires the mayors of the largest city and the second-largest city to alternate between serving as chairperson and vice chairperson for four-year terms;
- Provides that terms of office for the SANDAG board, other than for the chairperson and vice chairperson, may be established by the board;
- Requires the two directors from the City of San Diego to be the mayor and the president of the city council;
- Requires the chair of the San Diego County Board of Supervisors (BOS) to be one of the two SANDAG Board members from the County of San Diego;

# REPORT

- Requires the weighted vote allocated to the two representatives from the BOS and City of San Diego to be equal, instead of authorizing each agency to apportion the weighted vote among their two members; and,
- Requires each director to be a mayor, councilmember, or supervisor of the governing body which selected him or her. Requires the alternate director from each city and the County to be a mayor, councilperson or supervisor.

In addition, the bill removes a provision in existing law that requires both a majority vote of the members present on the basis of one vote per agency and a majority of the weighted vote of the member agencies present in order to act on any item. It removes the cap in existing law that allocates 40 votes to any agency with 40% or more of the total population of the County and provided a formula to allocate the remaining 60 votes.

The bill adds an audit committee to the list of standing policy advisory committees within SANDAG, and specifies the membership and numerous duties and authorities of the audit committee with respect to SANDAG board actions and activities. The author's stated purpose of these audit provisions are to create new financial controls at SANDAG by requiring that it employ an independent auditor who would report to the newly formed Audit Committee comprised of members of the public to oversee the agency's spending plans, financial forecasts and annual budget.

The bill also revises the composition and action authorities of the Metropolitan Transit System Board (MTS) board, and makes changes to various action authorities and procedures of the North County Transit District (NCTD) board. Included among these provisions is authority to MTS and NCTD to levy local sales tax measures to support transit capital and operations in their service areas. However under the bill's provisions it is unclear how the transit agencies would exercise this new authority.

AB 805 is introduced in response to concerns by the authors that SANDAG may have misled voters in San Diego (whether or not intentional) on how much revenue a proposed sales tax increase that failed this past November, Measure A, was expected to raise for transportation projects. The authors assert that out-of-date cost estimates were used in the official long term plans for the transportation infrastructure program in San Diego which may have obscured an \$8.4 billion cost increase facing the projects until after the Measure A tax increase had failed. As a result, according to the authors the San Diego region is now facing a situation where there is no real way to hold the board accountable, which has precipitated the changes in structure, authority, and procedures to the SANDAG board proposed in AB 805.

SANDAG opposes the provisions of the bill. The SANDAG Board of Directors is composed of the 18 cities and County of San Diego, with each jurisdiction represented by an elected official selected by their governing body. The City of San Diego and County of San Diego are provided with two representatives to provide for appropriate representation of their respective populations.

SANDAG in opposing this bill notes that the current voting structure balances the interests of small and large cities to ensure regional participation and accountability. Each item before the SANDAG Board must pass two voting thresholds. One is a tally vote — a single vote for each jurisdiction, giving the small cities a meaningful seat at the table. The other is a weighted vote based on population, protecting the interests of the largest cities. SANDAG notes that over time the checks and balances provided by this system have shown to support regional collaboration, coalition-building, and transparency.

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SANDAG is very concerned that the bill, if passed, would disrupt this balance by permanently empowering certain jurisdictions over others and pitting local jurisdictions against each other.

In opposing the bill, other local cities have argued the proposed voting changes would supplant regional cooperation with urban domination by giving San Diego and Chula Vista an unfair advantage in votes, and asserts that the regional voice is lost when you give the largest cities the ability to control the organizations' agendas. Local government opponents to AB 805 contend the current voting structure at SANDAG and MTS is effective and ensures that all member agency voices and votes count, and that if enacted the bill's provisions would effectively usurp local decision-making authority by mandating which member of each City Council shall serve on the board of directors of each agency.

SCAG staff, too, recommends opposition to AB 805 on local control grounds. Staff recommends for consideration two things: 1) the importance of maintaining a structure that ensures opportunity for a balanced and equal voice from all parts of the region, large and small, whether or not all parts of the region participate equally; and 2) as a matter of policy the decision to change board structure, membership, authority, procedures, etc., should be made at the local level with as much local input as possible rather than prescriptively from the state legislature. Collaborative decision making authority and local control are the *raison d'être* of regional agencies such as these and this bill is an overreach that could further encourage the state legislative system increasingly and into the future to attempt to impose change on regional government rather than effecting change through a deliberative, local consensus approach.

AB 805 is supported by American Federation of Teachers Guild; Local 1931 Association of Local Government Auditors; Bike San Diego ;California Bicycle Coalition; California Environmental Justice Alliance; California Nurses Association/National Nurses United; Cleveland National Forest Foundation; Climate Action Campaign; Coastal Environmental Rights Foundation; Environmental Center of San Diego; Environmental Health Coalition; Governing Board Member Roberto C. Alcantar; Southwestern Community College District; Governing Board Member Nora E. Vargas; Southwestern Community College District; International Brotherhood of Electrical Workers Local 569; Preserve Calavera; San Diego 350; San Diego County Building and Construction Trades Council; and San Diego Metropolitan Transit System

AB 805 is opposed by City of El Cajon; City of National City; City of Solana Beach; City of Poway; City of San Marcos; City of Vista; San Diego Association of Governments; and San Diego County Board of Supervisors.

AB 805 has passed the Assembly Local Government Committee (5-4) on April 19, 2017, and Assembly Transportation Committee (10-4) on April 24, 2017. Currently the bill is in Assembly Appropriation Committee, no hearing set.

## **ATTACHMENTS:**

None

**REPORT**

**DATE:** May 16, 2017

**TO:** Legislative/Communications & Membership Committee (LCMC)

**FROM:** Jeffrey Dunn; Sr. Legislative Analyst; (213)-236-1880; [dunn@scag.ca.gov](mailto:dunn@scag.ca.gov)

**SUBJECT:** AB 686 (Santiago) – Housing discrimination: affirmatively further fair housing.

**RECOMMENDED ACTION:**

Oppose

**EXECUTIVE SUMMARY:**

*AB 686 would require a public agency to administer its programs and activities relating to housing and community development in a manner that affirmatively furthers fair housing consistent with this obligation under federal law. The bill would make it unlawful under the California Fair Employment and Housing Act for a public agency to fail to meet its obligation to affirmatively further fair housing, and would provide that failure would constitute housing discrimination under the act. The bill would authorize the Director of Fair Employment and Housing to investigate or bring a civil action based on an alleged violation of these provisions. Staff recommends oppose.*

**STRATEGIC PLAN:**

This item supports SCAG’s Strategic Plan: Goal 1: Improve Regional Decision Making by Providing Leadership and Consensus Building on Key Plans and Policies; and Goal 2: Obtain Regional Transportation Infrastructure Funding and Promote Legislative Solutions for Regional Planning Priorities.

**BACKGROUND:**

This bill would amend California’s Fair Employment and Housing Act to include an explicit obligation to ‘affirmatively further fair housing’ (AFFH) consistent with the existing federal obligation. The federal Fair Housing Act of 1968 contains a mandate requiring that federal agencies actively work to dismantle segregation and create equal housing opportunities. This is known as the obligation to “affirmatively further fair housing”. In 2015, the Obama Administration issued an AFFH rule that requires states, local governments, and public housing authorities that receive HUD funds to conduct an Assessment of Fair Housing—a planning process with community input—and to affirmatively further fair housing by taking “meaningful actions in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics.” The California Fair Employment and Housing Act (FEHA)-- the state counterpart to the federal FHA--prohibits housing discrimination based upon race, color, religion, sex, and many other protected characteristics, but does not explicitly include an AFFH obligation.

Considering the stated policies of President Trump and HUD Secretary Ben Carson, however, many advocates have reason to believe the Department will take steps to nullify or extinguish the AFFH obligation under federal law. Accordingly, in order to preserve an AFFH rule in state law, this bill would add a new section to FEHA requiring all public agencies in California to administer their programs and activities related to housing and community development in a manner that affirmatively furthers fair

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housing, and not to take any action inconsistent with that obligation. The bill would also amend FEHA to make the failure of a public agency to comply with its obligation to affirmatively further fair housing a discriminatory housing practice.

Specifically, the bill's definition of “affirmatively further fair housing” is drawn from the Federal Fair Housing Act and the 2015 AFFH rule; which defines it as follows: Taking meaningful actions, in addition to combating discrimination, that: overcome patterns of segregation; address disparities in housing needs and in access to opportunity based on protected characteristics; promote fair housing choice both within and outside of areas of concentrated poverty; foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics; and that transform racially and ethnically concentrated areas of poverty into areas of opportunity, while protecting existing residents from displacement.

The sponsors of the bill, including Public Advocates, National Housing Law Project, and Western Center on Law and Poverty, contend that the bill provides a great deal of flexibility to public agencies for how to meet their AFFH obligations and thus will not lead to a flood of new litigation. Proponents note that historic patterns of segregation persist, with many people of color living in neighborhoods with severe environmental health burdens and suffering acutely from the statewide affordable housing crisis. Proponents assert the bill would play a key role in tackling issues of segregation and inclusion, as well as displacement and disinvestment in low-income communities.

Proponents further assert that it is not likely the bill would result in a significant amount of new litigation for several reasons. Public Advocates notes that federal law already requires many state agencies to affirmatively further fair housing as a condition of receiving HUD funding (See, e.g., 42 U.S.C. § 5304(b)(2), providing that states and local governments that receive HUD Community Development Block Grant funds must certify that they will affirmatively further fair housing). According to proponents, this obligation applies to the Affordable Housing Sustainable Communities (AHSC) program, and therefore a party wishing to challenge the AHSC program for failing to affirmatively further fair housing would already be able to do so under existing law by filing a complaint with HUD.

Additionally, proponents contend that AFFH claims would generally take the form of additional claims in litigation, such as a disparate impact claim under the FEHA, or as a claim brought under other civil rights laws. In other words, any arising claims would not be “new” litigation, but additional claims to litigation that is already being brought. Next, they contend that significant new litigation is unlikely because fair housing and land use cases are particularly time-consuming and complex for plaintiffs’ attorneys. By their own estimate, they contend there are likely fewer than 50 lawyers in the state who litigate these types of cases, many in the nonprofit legal services sector. According to their legal research, proponents estimate that in the last 49 years, only about 200 legal cases were brought statewide under the federal AFFH requirement—again, a likely reflection of the complexity of those cases and the difficulty in preparing such litigation.

The bill presently is opposed by the California Association of Councils of Governments (CALCOG), which contends that the scope of the bill is too broad and creates unnecessary liability for public agencies when they take certain actions arguably not intended to be covered by this bill. CALCOG contends that the bill is likely to result in a wave of new litigation for various reasons but particularly

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because the plaintiff need only make a basic evidentiary showing before the burden of proof shifts to the public agency. As a result, it anticipates the broad language of the bill will disrupt many of the transportation and climate goals in which regional agencies and branches of state government are responsible.

CALCOG asserts as a specific example that provisions of the bill could be used to challenge the Strategic Growth Council's administration of the Affordable Housing Sustainable Communities (AHSC) program as a "discriminatory housing practice" because it is inconsistent with the obligation to affirmatively further fair housing by noting that the AHSC program has mostly funded affordable housing projects, and most the AHSC projects are in disadvantaged communities because the program's scoring criteria favors investments in traditionally under-invested communities. But under AB 686 provisions all public agencies would have to 'affirmatively further fair housing' with each individual action because no action can be 'inconsistent with this obligation' with affirmative action defined to require public agencies to "foster inclusive communities free from barriers that restrict access to opportunity." The bill defines a "barrier" any "investment by a public agency that affects where a person may live . . . and the degree of access that person has to opportunity," which includes "education, jobs, health care, social services, features of a healthy environment including clean water, air, and secure and affordable housing and community conditions."

As a result, a court could be reasonably expected to at least consider, and possibly uphold, an action that the Strategic Growth Councils AHSC program amounts to discrimination because the state agency was making investments that caused a barrier to opportunity because it encouraged development in a disadvantaged (low opportunity) community—a location that otherwise lacks opportunity as defined by AB 686.

Staff overlays its concerns to those presented by CALCOG noting that, regardless of whether it is asserted to be likely or unlikely that additional litigation or challenge would occur as a result of the bill's provisions, nor whether any such challenge would take form of new litigation or additional claims to existing litigation as asserted by bill proponents, it is indisputable that additional litigation or claims on housing developments or projects is both possible and possibly likely. It is also reasonable to assume such additional challenge could be substantial given that the language is broad, that there are indisputably 'NIMBY' constituencies that will consider challenging projects simply because they do not want them nearby or wish to use delay as a means to defeat, and that provisions of this bill will in some measure make more difficult, expensive, and uncertain the development of housing in California where there is already an extraordinarily acute shortage of housing and particularly affordable housing. Staff asserts the policy merits of arguably making meaningful reduction of segregation patterns in California are trumped by the reasonable possibility of additional litigation or claims that will delay and make more expensive the development of housing in an environment of extreme housing supply shortage that begs for policies of an opposite nature to encourage both faster and lower costs of housing development. Staff recommends oppose.

AB 686 is supported by:

National Housing Law Project (co-sponsor); Public Advocates (co-sponsor); Western Center on Law & Poverty (co-sponsor); AFSCME; Alliance of Californians for Community Empowerment (ACCE); Bay Area Legal Aid; California Environmental Justice Alliance; California Housing Partnership Corporation;





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California Reinvestment Coalition Communities for a Better Environment; Courage Campaign; Disability Rights California; Enterprise Community Partners; Equal Justice Society; Fair Housing Advocates of Northern California; Fair Housing Council of Orange County; Grounded Solutions Network; Human Equality Law Project (HELP); Housing and Economic Rights Advocates (HERA); Law Foundation of Silicon Valley; Lawyers' Committee for Civil Rights Under Law; Leadership Counsel for Justice and Accountability; Legal Aid Association of California (LAAC); Legal Aid Foundation of Los Angeles; Legal Aid Society of San Diego; Legal Services of Northern California; Little Tokyo Service Center; Mission Economic Development Agency; National Association of Social Workers (NASW); Non-Profit Housing Association of Northern California; Peace and Freedom Party of California; Policy Link Project; Sentinel Public Counsel; Public Interest Law Project; Tenants Together.

AB 686 is opposed by the California Association of Councils of Government (CALCOG)

The bill passed the Assembly Housing and Community Development Committee (5-2) on April 5, and the Assembly Judiciary Committee (8-2-1) on April 25. It is referred to Assembly Appropriations Committee, no hearing scheduled.

**ATTACHMENTS:**

None

**REPORT**

**DATE:** May 16, 2017

**TO:** Legislative/Communications & Membership Committee (LCMC)

**FROM:** Jeffrey Dunn; Sr. Legislative Analyst; (213)-236-1880; [dunn@scag.ca.gov](mailto:dunn@scag.ca.gov)

**SUBJECT:** SB 768 (Allen) - Transportation Projects: Public Private Partnerships (P3s)

**RECOMMENDED ACTION:**

Support

**EXECUTIVE SUMMARY:**

*This bill would indefinitely extend authorization of the Department of Transportation and regional transportation agencies to enter into comprehensive development lease agreements with public and private entities for certain transportation projects that may charge users of those projects tolls and user fees subject to various terms and requirements. These arrangements are commonly known as public-private partnerships. Under existing law that authority sunsets on January 1, 2017. Staff recommends support.*

**STRATEGIC PLAN:**

This item supports SCAG's Strategic Plan: Goal 1: Improve Regional Decision Making by Providing Leadership and Consensus Building on Key Plans and Policies; and Goal 2: Obtain Regional Transportation Infrastructure Funding and Promote Legislative Solutions for Regional Planning Priorities.

**BACKGROUND:**

Existing law granted until January 1, 2017, the State Department of Transportation (Caltrans) and regional transportation agencies (RTPAs) authority to enter into public private partnership (P3) agreements which are comprehensive development lease agreements with public or private entities, under certain conditions:

- The California Transportation Commission must review and approve proposed P3 projects;
- Proposed projects must be primarily designed to improve mobility, improve the operations or safety of the affected corridor, and provide quantifiable air quality benefits; and,
- Proposed projects must also address known forecast demands.

Additionally, P3s are required to authorize use of tolls and user fees to pay for their construction, maintenance and operation. For projects on the state highway system, existing law requires Caltrans to be the responsible agency for performance of project development work, including the development of performance specifications, preliminary engineering, pre-bid services, environmental documents, and construction inspection services; and authorizes Caltrans to do the work using in-house employees or contractors.

Authority for Caltrans and RTPAs to enter into P3 agreements expired on January 1, 2017.

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The bill deletes the January 1, 2017 sunset provision of this authority and, thus, would permit RTPAs and Caltrans to enter into Public-Private Partnerships (P3s) with no restrictions on the number or type of projects that could be undertaken.

According to the author, P3s are mutually beneficial collaborations between a public agency and the private sector that, when carefully negotiated, utilizes the skills and assets of each party in a shared manner to deliver a service or facility for the use of the general public. Each entity shares the risks and potential rewards by partnering to build, maintain and operate a service and/or facility. Classic P3 transportation project examples are toll roads. Rather than Caltrans assuming all of the costs and risks attached the project, it splits expenses with a private partner, who is typically also required to help build, maintain and operate the road for a specified period of time. In return, the private party gets a limited opportunity to make a reasonable return from the revenue collected by the toll road. At the end of the partnership, the toll road is turned over to the public in a state of good repair.

Projects with the greatest likelihood of success are those high priority projects that are clearly defined and have a demonstrated public sector commitment. P3's are typically used in transportation infrastructure projects such as highways, airports, railroads, bridges and tunnels. Projects delivered through a P3 must allocate the risks fairly between the parties, with each sector assuming the risks that they are best able to manage. The public agency usually assumes the project definition risk by undertaking the environmental clearance effort, assessing financial feasibility and garnering stakeholder and political commitment. The private sector often can best assume the financial risk, such as project financing, construction and potentially facility management.

Staff recommends support of the bill consistent with its 2017 adopted legislative priorities and long standing board policy supporting P3 authority to help expedite project development where appropriate. SB 768, too, is supported by LA Metro, Associated General Contractors (AGC), California and San Diego chapters, California Conference of Carpenters and California State Council of Laborers.

The bill is opposed by the Professional Engineers in California Government (PECG) unless the bill is amended to restore the requirement that the state perform construction inspection. PECG notes that this requirement was nullified in the existing statutory language by a court decision in 2011. In 2013, the design-build statute was reauthorized in AB 401 (Daly), and language to address the 2011 court decision was included in the bill to specifically mandate that the state perform construction inspection on design-build projects. PECG asserts it is appropriate now to adopt identical corrective language in the P3 reauthorization to ensure that P3 projects are also inspected by the state. PECG believes the role of inspection is a critical government function that is necessary on public works project, particularly on P3 projects which are designed and constructed by the private sector for profit.

SB 758 passed Senate Transportation and Housing Committee (12-0-1) on April 25, 2017, and is referred to Senate Appropriations Committee. Hearing is scheduled May 15, 2017.

## ATTACHMENTS:

None

**REPORT**

**DATE:** May 16, 2017

**TO:** Legislative/Communications & Membership Committee (LCMC)

**FROM:** Jeffrey Dunn; Sr. Legislative Analyst; (213)-236-1880; [dunn@scag.ca.gov](mailto:dunn@scag.ca.gov)

**SUBJECT:** SB 268 (Mendoza) – Los Angeles County Metropolitan Transportation Authority

**RECOMMENDED ACTION:**

Oppose

**EXECUTIVE SUMMARY:**

*SB 268 would reduce among the members of the Los Angeles County Metropolitan Transportation Authority (LA Metro) board of directors from 5 to 2 the members that are county supervisors, and would require that one supervisor represent the largest population in the unincorporated area of Los Angeles County. The bill would delete the appointment of the current 2 public members and require the Mayor of the City of Los Angeles to appoint 5 members of the Los Angeles City Council who represent contiguous clusters of 3 council districts. The bill would require the city council to determine contiguity. The bill would require every appointee to serve a 4-year term without limitation or until the expiration of the term of his or her elected office. Staff recommends oppose.*

**STRATEGIC PLAN:**

This item supports SCAG's Strategic Plan: Goal 1: Improve Regional Decision Making by Providing Leadership and Consensus Building on Key Plans and Policies; and Goal 2: Obtain Regional Transportation Infrastructure Funding and Promote Legislative Solutions for Regional Planning Priorities.

**BACKGROUND:**

Existing law provides for the creation of county transportation commissions including LA Metro in Los Angeles County and provides commissions with various powers and duties relative to transportation planning and funding. Existing law specifies the LA Metro Board of Directors is comprised of 14 members consisting of:

- Five members of the Los Angeles Board of Supervisors;
- The Mayor of Los Angeles;
- Two public members and one Los Angeles City Council Member, appointed by the Mayor of Los Angeles;
- Four members selected by the Los Angeles County City Selection Committee;
- One non-voting member appointed by the Governor.

SB 268 contains the following provisions:

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- Deletes LA Metro's requirement under existing law to draft a plan and submit it to the Legislature within 60 days relative to Board composition if the Los Angeles County Board of Supervisor's membership increases;
- Adds the Los Angeles County Auditor-Controller as a non-voting member to the LA Metro Board;
- Reduces the number of County Supervisors on the LA Metro Board from five to two Supervisors with one Supervisor representing the largest population of the unincorporated area within Los Angeles County;
- Removes the appointment of two public members to the LA Metro Board;
- Increases Los Angeles Councilmember appointments by the Los Angeles Mayor from one to five. The bill further specifies that each Councilmember must represent three contiguous groups of council districts. Additionally specifies the Los Angeles City Council is to determine the grouped council districts;
- Requires all appointed members to the LA Metro board to serve four-year terms.

In introducing this bill, the author asserts that it will provide proportional representation, improved access, and accountability within the LA Metro board and ensure that all areas of LA County are represented fairly during the allocation of local, state, and federal funds. The author further asserts that under the current distribution of MTA Board members, the 87 cities outside of the City of Los Angeles, which represent 51% of the county's total population, only account for 31% of the MTA Board. Thus the author claims the current distribution of the MTA Board is unrepresentative of LA County and has resulted in uneven allocation of resources and services. SB 268 is the author's effort to realign and expand the LA Metro Board to provide better representation for the entire County of Los Angeles, including the unincorporated areas.

LA Metro is opposed to this bill and has asked its transportation partners, including SCAG, to join in opposition to the bill. LA Metro notes that composition of the Metro Board was the result of a lengthy, local process in which all local stakeholders were brought together to develop a consensus. Cities within Los Angeles County are represented through their local Councils of Governments and each has a voice in Metro's priority setting, planning and decision making for the over 10 million constituents of the County of Los Angeles. LA Metro remains committed to a principle to support the current composition of the Board and its locally derived governance structure.

LA Metro asserts the bill represents an attempt to restructure its Board of Directors without any significant discussion with local stakeholders, and remains concerned that attempts to mandate a Board structure from Sacramento rather than through a bottoms-up, consensus driven process, would only perpetuate conflicts rather than seek compromise.

In addition to the concerns offered by LA Metro, SCAG recognizes that there exists within the present LA Metro Board structure a procedure whereby existing board members representing their jurisdictions can initiate a process to change its membership; a process that has thus far not been exercised by any of its Board members, which gives paucity to any claim that members are not responsive to their constituencies or are dissatisfied with the present Board structure. Accordingly, staff recommends the Legislative/Communications and Membership Committee forward a recommendation to the Regional Council to oppose this bill for local control reasons and at the request of a partner agency.

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**ATTACHMENTS:**

None

**REPORT**

**DATE:** May 16, 2017

**TO:** Legislative/Communications & Membership Committee (LCMC)

**FROM:** Jeffrey Dunn; Sr. Legislative Analyst; (213)-236-1880; [dunn@scag.ca.gov](mailto:dunn@scag.ca.gov)

**SUBJECT:** AB 871 (Santiago) – Office of Emergency Services: Disaster Programs

**RECOMMENDED ACTION:**

No Action – for information only

**EXECUTIVE SUMMARY:**

*AB 871 would appropriate \$3 million from the General Fund (GF) to the Governor’s Office of Emergency Services (CalOES) to fund current disaster preparedness, resiliency, and response programs in vulnerable underserved neighborhoods and communities that may be subject to disasters. CalOES must distribute the funds on or before June 31, 2018, to a qualified charitable organization that meet certain criteria, including that it provides a regional disaster preparedness, response, and resilience program to underserved neighborhoods and communities.*

**STRATEGIC PLAN:**

This item supports SCAG’s Strategic Plan: Goal 1: Improve Regional Decision Making by Providing Leadership and Consensus Building on Key Plans and Policies; and Goal 2: Obtain Regional Transportation Infrastructure Funding and Promote Legislative Solutions for Regional Planning Priorities.

**BACKGROUND:**

Existing law requires CalOES, in coordination with all interested state agencies with designated response roles in the State Emergency Plan and interested local emergency management agencies, to jointly establish by regulation a Standardized Emergency Management System for use by all emergency response agencies. Existing law requires all state agencies to use the Standardized Emergency Management System to coordinate multiple jurisdiction or multiple agency emergency and disaster operations.

Existing law also requires CalOES, in coordination with the Office of the State Fire Marshal, the Department of the California Highway Patrol, the Commission on Peace Officer Standards and Training, the Emergency Medical Services Authority, and all other interested state agencies with designated response roles in the State Emergency Plan to jointly develop an approved course of instruction for use in training all emergency response personnel, consisting of the concepts and procedures associated with the Standardized Emergency Management System.

AB 871 would appropriate \$3 million from the General Fund to CalOES to fund current disaster preparedness, resiliency, and response programs in vulnerable underserved neighborhoods and communities that may be subject to disasters. AB 871 will support program implementation in underserved communities and provide residents with lifesaving information, supplies, and skills, by providing funding to a nonprofit that meets criteria similar to programs that the American Red Cross has

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deployed called PrepareLA and Prepare San Diego. These two programs aim to help underserved communities prepare for disasters, small and large – from home fires to earthquakes. Under AB 871, similar programs would be expanded throughout the state.

AB 871 is sponsored by the American Red Cross and staff is bringing the bill to the attention of the committee at the request of committee member Michele Martinez. AB 871 passed the Assembly Committee on Governmental Organization (14-2-4) on April 19, 2017. It is referred to the Assembly Appropriations Committee, and is on the suspense file.

## **ATTACHMENTS:**

AB 871



**REPORT**

**DATE:** May 16, 2017

**TO:** Legislative/Communications & Membership Committee (LCMC)

**FROM:** Jeffrey Dunn; Sr. Legislative Analyst; (213)-236-1880; [dunn@scag.ca.gov](mailto:dunn@scag.ca.gov)

**SUBJECT:** SB 775 (Wieckowsky) - California Global Warming Solutions Act of 2006: Market-Based Compliance Mechanisms

**RECOMMENDED ACTION:**  
No Action – for information only

**EXECUTIVE SUMMARY:**

*SB 775 requires the California Air Resources Board (CARB), in administering a market-based compliance mechanism (commonly referred to as ‘Cap-and-Trade’) to assist the state in meeting its mandated greenhouse gas (GHG) emissions reduction goals, to set an initial minimum reserve price of \$20 per allowance, and an initial auction offer price of \$30 per allowance when auctioning allowances. The bill would require the program to increase the minimum reserve price each quarter and the auction offer price each quarter, as specified, to achieve greater certainty and predictability of auction revenues over time. The bill also contains provisions related to free allowances, offsets, and other provisions.*

**STRATEGIC PLAN:**

This item supports SCAG’s Strategic Plan: Goal 1: Improve Regional Decision Making by Providing Leadership and Consensus Building on Key Plans and Policies; and Goal 2: Obtain Regional Transportation Infrastructure Funding and Promote Legislative Solutions for Regional Planning Priorities.

**BACKGROUND:**

The California Global Warming Solutions Act of 2006 designates CARB as the state agency charged with monitoring and regulating sources of emissions of greenhouse gases. The act authorizes CARB to include use of market-based compliance mechanisms to achieve the GHG emissions reduction goals. The law requires CARB to approve a statewide GHG emissions limit equivalent to the statewide GHG emissions level in 1990 to be achieved by 2020 and to ensure that statewide GHG emissions are reduced to at least 40% below the 1990 level by 2030.

Existing law prohibits a state agency from linking a market-based compliance mechanism with any other state, province, or country unless the state agency notifies the Governor.

The bill requires CARB to adopt a regulation establishing a market-based program of emissions limits, applicable on and after January 1, 2021, thus extending the ‘Cap-and-Trade’ program beyond its current 2020 lifetime. The bill would require the program to set an initial minimum reserve price of \$20 per allowance and an initial auction offer price of \$30 per allowance when auctioning allowances (i.e., price collar). The bill would require the program to increase the minimum reserve price each quarter by \$1.25 plus any increase in the Consumer Price Index, and the auction offer price each quarter by \$2.50 plus

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any increase in the Consumer Price Index. The price increases are staggered such that there is a \$20 spread between the floor and ceiling after one year of market operation and a \$60 spread between the floor and the ceiling in 2030.

Additionally, the bill provides for:

- CARB to set declining annual caps on emissions consistent with achieving the 2030 statewide emissions goal;
- Allows CARB to link the new Cap-and-Trade program to external market programs (such as from other states or countries – this is prohibited under the current program);
- Requires annual (as opposed to 3-year) compliance for all covered entities (emitting industries);
- Prohibits banking of allowances for use outside of the year they are issued.

The bill also *prohibits the use of carbon offsets* (emphasis added), banked allowances from the pre-2020 market, and allowances from external market programs that have not yet linked to the new post-2020 program. These provisions are likely to be controversial – particularly the offset prohibition - because they will make it difficult for covered entities to comply with the aggressive targets set forth in state law or be required to pay for substantially more allowances in order to meet their carbon emissions target.

SB 775 purportedly has the support of Senate Leadership. The bill is referred to the Senate Committee on Environmental Quality; its initial policy hearing on May 10, 2017 was postponed by the author with no pending hearing scheduled.

## **ATTACHMENTS:**

None

**REPORT**

**DATE:** May 16, 2017

**TO:** Legislative/Communications & Membership Committee (LCMC)

**FROM:** Jeffrey Dunn; Sr. Legislative Analyst; (213) 236-1880; [dunn@scag.ca.gov](mailto:dunn@scag.ca.gov)

**SUBJECT:** AB 302 (Gipson) - South Coast Air Quality Management District: Fleets

**RECOMMENDED ACTION:**

No Action – for information only

**EXECUTIVE SUMMARY:**

*AB 302 would to grant new authority to the South Coast Air Quality Management District (SCAQMD) to impose accelerated purchase requirement of near-zero and zero-emission vehicles by public and private fleets within South Coast. The bill is sponsored by the Natural Gas Vehicle Coalition and the SCAQMD has not yet taken position on this bill. AB 302 is currently being evaluated by SCAG's partner agencies throughout the region and is presented by staff to update the committee as to its provisions and status; staff will continue to monitor and may bring the bill back to the committee for further consideration at a future meeting.*

**STRATEGIC PLAN:**

This item supports SCAG's Strategic Plan: Goal 1: Improve Regional Decision Making by Providing Leadership and Consensus Building on Key Plans and Policies; and Goal 2: Obtain Regional Transportation Infrastructure Funding and Promote Legislative Solutions for Regional Planning Priorities.

**BACKGROUND:**

Existing law under the federal Clean Air Act requires the U.S. Environmental Protection Agency (EPA) to establish National Ambient Air Quality Standards (NAAQS) for certain air pollutants due to their negative impact on public health above specified concentrations and provides that regions that do not meet any one of the standards are designated as non-attainment areas. The southern California region under jurisdiction of the SCQAMD is a non-attainment area.

Current law also requires operators of public and commercial fleet vehicles consisting of 15 or more vehicles operating within the district to purchase vehicles capable of operating on methanol or an equivalently clean burning alternative fuel when vehicles are added or replaced in an existing fleet or new vehicles when purchased to form a new fleet.

AB 302 specifically would authorize the SCAQMD to apply fleet regulations to public and commercial fleets consisting of *one* (emphasis added) or more vehicles, rather than to fleets of 15 or more vehicles as authorized in existing law. The bill deletes the requirement that fleet regulations apply only when fleet operators are adding or replacing existing fleet vehicles or purchasing vehicles to form a new fleet and instead authorizes SCAQMD to require fleet operators to upgrade vehicles as directed. It deletes the requirement that fleet vehicles be replaced with vehicles that are capable of operating on methanol or

other equivalently burning alternative fuel and instead requires that fleet operators purchase zero-emission or near-zero-emission vehicles.

The bill further defines zero-emission or near-zero-emission vehicles as a vehicle, fuel, or related technology that substantially reduces emissions of oxides of nitrogen (NO<sub>x</sub>) by 90% or greater when compared with engines certified at the 2010 model year baseline emission standard for NO<sub>x</sub>, as established by the California Air Resources Board (ARB) and provides that that zero-emission and near-zero-emission technologies include enabling technologies that provide a pathway to emissions reductions, advanced or alternative fuel engines for long-haul trucks, and hybrid or alternative fuel technologies for trucks and off-road equipment.

## Discussion

SCAG staff has reached out to the professional staffs of transportation commissions throughout the region as well as SCAQMD and has compiled a list of issues and potential concerns brought about by this legislation, as well as recommendations for further action as the bill is contemplated by the Legislature. Some of the concerns of the commissions within the South Coast include, with respect to heavy duty trucks:

- The high cost of near-zero and zero-emission bus purchase and infrastructure construction;
- A lack of available funding;
- Present technology results in lower reliability and a shorter range of zero-emission buses;
- A potential to result in reduced and less reliable transit service;
- A potential waste of tax dollars due to stranded assets of current buses that are not near-zero or zero-emission;

Other more general concerns not specific to heavy duty trucks include:

- Additional financial burden on tax payers, transit riders, and transit providers;
- Potential competitive disadvantage to private fleets within South Coast;
- Not yet sufficient vetting for such authority/requirement; and
- Requirements are potentially more stringent than ARB regulation.

Staff has identified other considerations which may need to be considered and/or explored as this bill moves through the legislative process. These include:

- Authority to regulate public (not private) fleets is a direction to SCAQMD staff by SCAQMD Governing Board as part of its adoption of 2016 AQMP;
- Environmental groups are in support of the SCAQMD Governing Board's direction;
- ARB has been undertaking the Advanced Clean Transit rulemaking process while SCAQMD just started the process of seeking authority for such rulemaking;
- Even if granted authority under provisions of the bill, SCAQMD would still need to obtain a waiver from U.S. EPA to regulate private fleets;
- SCAQMD has not yet taken a position on AB 302 because its proposed legislation is still under debate, consideration and potential amendment in the legislature.

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SCAG staff recommends the following steps to inform the discussion and process of moving AB 302 further through the legislative process:

- Support an open and inclusive public fleet Working Group process by SCAQMD;
- Encourage all stakeholders to join and actively participate in the Working Group process, including SCAG staff;
- Urge SCAQMD staff not to seek authority to regulate private fleets without an open and inclusive process.

AB 302 is in Assembly Transportation Committee; no hearing scheduled.

**ATTACHMENTS:**

None