C/CAG

CITY/COUNTY ASSOCIATION OF GOVERNMENTS OF SAN MATEO COUNTY

Atherton • Belmont • Brisbane • Burlingame • Colma • Daly City • East Palo Alto • Foster City • Half Moon Bay • Hillsborough • Menlo Park Millbrae • Pacifica • Portola Valley • Redwood City • San Bruno • San Carlos • San Mateo • San Mateo County • South San Francisco • Woodside

AGENDA

The next meeting of the Legislative Committee
will be as follows.

PLEASE NOTE THAT WE WILL BE MEETING AT 5:00 P.M.

in the 2nd Floor Auditorium !!

Date: Thursday, April 13, 2006 – 5:00 p.m. to 6:00 p.m.
Dinner will be served as part of the C/CAG Retreat that will begin at 6:00 p.m.

Place: San Mateo County Transit District Office[1]
1250 San Carlos Avenue
2nd Floor Auditorium
San Carlos, California

PLEASE CALL WALTER MARTONE (599-1465) IF YOU ARE UNABLE TO ATTEND.

1.	Public comment on items not on the agenda.	Presentations are limited to 3 minutes.		5:00 p.m. 5 minutes.
2.	Approval of minutes from March 9, 2006.	Action (Martone)	Pages 1-3	5:05 p.m. 5 minutes
3.	Briefing from C/CAG's Lobbyist in Sacramento (via conference call). A position may be taken on any legislation, including legislation not previously identified.	Potential Action (Wes Lujan)		5:10 p.m. 20 minutes

[1]From Route 101 take the Holly Street (west) exit. Two blocks past El Camino Real go left on Walnut. The entrance to the parking lot is at the end of the block on the left, immediately before the ramp that goes under the building. Enter the parking lot by driving between the buildings and making a left into the elevated lot. Follow the signs up to the levels for public parking.

For public transit access use SamTrans Bus lines 390, 391, 292, KX, PX, RX, or take CalTrain to the San Carlos Station and walk two blocks up San Carlos Avenue.

4.	Consideration of positions on various bills: 1. SB 1627 – Preemption of local land use authority for wireless telecommunications facilities. The bill is currently in the Senate Environmental Quality Committee. Staff recommends an "oppose" position. 2. League of California Cities principles for telecommunications reform. Staff recommends approval. 3. AB 2987 – Telecommunications reform. An early "oppose" position may be warranted even though the recently developed amendments to the bill are still not in print. 4. Federal Communications, Promotion, and Enhancement Act of 2006. Staff recommends that C/CAG send a letter supporting the concerns outlined by SAMCAT. 5. AB 2681 and SB 1225 – Abandoned Vehicle Abatement Program. Jim Granucci, Administrator of this program for C/CAG, will be providing a recommendation directly to the Committee. 6. SB 369 – Rubberized asphalt concrete grants. Staff recommends a "support" position. 7. AB 2503 – Affordable housing. Staff recommends a "support" position. 8. SB 1611 – Congestion management fees. Staff recommends a "support" position. 9. AB 2444 - Congestion management and environmental mitigation fees. Staff recommends a "neutral" position.	Potential Action (Martone)	Pages 5-59	5:30 p.m. 20 minutes
5.	Establish date and time for next meeting (May 11, 2006).	Action (Gordon)		5:50 p.m. 5 minutes
6.	Other Items/Comments from Guests.	Potential Action (Gordon)		5:55 p.m. 5 minutes

7.	Adjournment.	Action (Gordon)	6:00 p.m.

NOTE: All items appearing on the agenda are subject to action by the Committee. Actions recommended by staff are subject to change by the Committee.

Other enclosures/Correspondence

- None

CITY/COUNTY ASSOCIATION OF GOVERNMENTS
LEGISLATIVE COMMITTEE

MINUTES
MEETING OF MARCH 9, 2006

At 5:07 p.m. Temporary Chair Deborah Gordon called the meeting to order in the Second Floor Auditorium at the San Mateo Transit District Office.

Members Attending: Judith Christensen, Deborah Gordon, Marc Hershman, Tom Kasten, Linda Koelling, Irene O'Connell, Rosalie O'Mahony, and Jim Vreeland.

Staff/ Guests Attending: David Burruto (Speaker Pro Tem Leland Yee's Office), Richard Napier (C/CAG Executive Director), Brian Moura (Assistant City Manager – San Carlos), Walter Martone and Geoff Kline (C/CAG Staff), Jessica Sanfill (Assemblyman Mullin's Office), Sara Rosendahl (Senator Simitian's Office), and Wes Lujan and Chuck Cole – by conference call (Advocation).

1. Election of a Chair and Vice Chair.

Motion: To elect Deborah Gordon as Chair. O'Connell/Hershman, unanimous.
Motion: To elect Tom Kasten as Vice Chair. O'Connell/Hershman, unanimous.

2. Public comment on items not on the agenda.

- Richard Napier and Tom Kastin reported on the passing of former Hillsborough Mayor and C/CAG Chairman Pat Kelly.

3. Approval of minutes from February 9, 2006.

Motion: To approve the minutes as presented. O'Connell/Hershman, unanimous.

4. Update from C/CAG's Lobbyist in Sacramento (via conference call).

Wes Lujan and Chuck Cole reported:

a) Negotiations on an infrastructure bond for schools, levies, and water appear to be getting close to resolution. There is still concern over the charging of fees for water use.
b) Negotiations on the bond for transportation infrastructure are not going as well. The Republicans are pushing for certain policy issues (CEQA exemptions, etc.) to be included as part of the approval of the bond, and the Democrats are resisting these changes.
c) The deadline for approving a bond package bill has been extended by five days to late Monday (February 13th) in order to be placed on the June 2006 ballot.
d) ACA 13, the bill that C/CAG is supporting, is currently designed to allow parcel taxes to be levied (or increased) to support flood control projects without having to get a two-thirds vote of the electorate. The original author of the bill had agreed to expand the bill to also included stormwater pollution prevention programs to be eligible for these taxes. It appears that this issue is now being tied to the passage

of the infrastructure bonds. The Republicans are objecting to the relaxing of the voting requirements to increase a parcel tax.

e) The Republicans are also very concerned that there will be numerous trailer bills that will be passed with a simple majority vote. These bills will detail how the bonds will be implemented, and will be controlled by the Democrats who already have a majority.

f) Assemblyman Ira Ruskin recently introduced a bill to halt any further studies/proposals to restore the Hetch-Hetchy Valley. C/CAG staff has been in contact with the Bay Area Water Supply and Conservation Agency and will be following the actions that this body recommends on this legislation.

g) Housing and land use: There are two bills that are being followed closely for C/CAG. SB 1800 will require local governments to adopt a housing opportunity plan. Assemblyman Gene Mullin has introduced AB 2503 that would authorize cities, counties, and cities and counties to enter into a joint powers agreement to form an affordable housing pooling arrangement for the acquisition, construction, or development of housing that is affordable to lower income families.

h) Eminent Domain: SB 120 would revise the definition of "predominantly urbanized" and revise the conditions that characterize a blighted area. The bill would prohibit the inclusion of nonblighted parcels in a redevelopment project area for the purpose of obtaining property tax revenue from the area without substantial justification for their inclusion. This bill appears to be gaining momentum as a way of partially addressing the eminent domain issue. The Howard Jarvis Association has announced that it will sponsor an initiative that will greatly restrict the use of eminent domain and will also end rent control.

i) Senator Simitian has introduced SB 1611 to allow all Congestion Management Agencies to levy a $20 vehicle registration fee to support congestion management programs. It is modeled after C/CAG's AB 1546 program.

5. Transportation Infrastructure Bond.

Richard Napier reported:

a) It appears clear that the Legislature is not going to allow Caltrans to be the final say on the selection of projects. It is likely the that local and regional agencies will have an opportunity to propose projects to the California Transportation Commission, and that Board will make the allocations.

6. Update on telecommunications and local control issue.

Brian Moura reported:

a) The League has passed its Telecommunications Framework that sets forth the principles that it will be advocating for in any telecommunications reform legislation.

b) There are two bills that should be closely watched:
   - AB 2987 by Assemblymembers Levine and Nunez is a placeholder at this point, and is sponsored by the phone companies.
   - SB 850 by Senator Escutia was recently amended and has been sponsored by the phone companies. This bill allows the Cable Companies to get out of their current franchises. Senator Simitian sits on the Committee that is hearing this bill.

- The League's Telecommunications Principles should be supported by all local jurisdictions.
- At the national level there is talk of creating a national franchise agreement. Congresswoman Eshoo is on the Committee considering federal bills on this topic.
- The preferred approach by local jurisdictions is to create a model franchise agreement that can still be administered by local jurisdictions, instead of vesting this authority in the State or Federal governments.
- SAMCAT is developing a Request for Proposals for Countywide telecom services. Because it is covering such a large population base, it will hopefully create a good competitive situation where some of the larger providers will be interested in providing services.

Motion: To recommend that the C/CAG Board assign the two telecommunications bills to our lobbyist Advocation to monitor for C/CAG. Vreeland/O'Connell, unanimous.

7. Consideration of positions on various bills:

a) All mail ballot for the June 2006 Gubernatorial Primary (AB 707).

Motion: To recommend that the C/CAG Board support this bill on the condition that it be limited to the June 2006 Primary Election. Hershman/Koelling, approved with one abstention (Christensen).

b) Abandoned Vehicle Abatement (SB 1225). After discussion it was decided to poll the cities to determine if the existing one-dollar vehicle registration fee is sufficient to cover the cost of their local programs.

c) Restoration of the Hetch Hetchy Valley (AB 2659). Staff was instructed to stay in contact with the Bay Area Water Supply and Conservation Agency and report back to the Committee on the actions that this body takes on this legislation.

8. Establish date and time for next meeting (April 13, 2006).

9. Other items/Comments from Guests.

David Burruto – continues to be optimistic that the Legislature and the Governor will reach a compromise on the infrastructure bond in time for the June 2006 election.

Richard Napier – the April 13th C/CAG meeting will be its annual retreat.

Tom Kasten – notified the Committee of the passing of former Hillsborough Councilman Pat Kelly. Mr. Kelly also had served as the Chairman of the C/CAG Board.

10. Adjournment.

The meeting was adjourned at 6:43 p.m.

C/CAG AGENDA REPORT

Date: April 13, 2006

To: C/CAG Legislative Committee

From: Richard Napier, C/CAG Executive Director

Subject: REVIEW AND APPROVAL OF C/CAG LEGISLATIVE POSITIONS

A position may be taken on any legislation, including legislation not previously identified.

(For further information contact Walter Martone at 599-1465 or Richard Napier at 599-1420)

RECOMMENDATION

That the Legislative Committee consider developing recommendations for positions on specific bills/issues.

1. SB 1627 – Preemption of local land use authority for wireless telecommunications facilities. The bill is currently in the Senate Environmental Quality Committee. Staff recommends an "oppose" position.
2. League of California Cities principles for telecommunications reform. Staff recommends approval.
3. AB 2987 – Telecommunications reform. An early "oppose" position may be warranted even though the recently developed amendments to the bill are still not in print.
4. Federal Communications, Promotion, and Enhancement Act of 2006. Staff recommends that C/CAG send a letter supporting the concerns outlined by SAMCAT.
5. AB 2681 and SB 1225 – Abandoned Vehicle Abatement Program. Jim Granucci, Administrator of this program for C/CAG, will be providing a recommendation directly to the Committee.
6. SB 369 – Rubberized asphalt concrete grants. Staff recommends a "support" position.
7. AB 2503 – Affordable housing. Staff recommends a "support" position.
8. SB 1611 – Congestion management fees. Staff recommends a "support" position.
9. AB 2444 - Congestion management and environmental mitigation fees. Staff recommends a "neutral" position.

FISCAL IMPACT

Not applicable.

SOURCE OF FUNDS

Not applicable.

BACKGROUND/DISCUSSION

1. SB 1627 (Kehoe): This bill would require a city, including a charter city, or county to administratively approve an application to collocate a wireless telecommunications facility, as defined, through the issuance of a building permit or similar nondiscretionary permit. C/CAG staff recommends an "oppose" position on this bill.

2. League principles for telecommunications reform: Telecommunication reform measures are being considered at both the State and Federal levels. Some of these proposals are included for consideration by the C/CAG Legislative Committee for the April 13, 2006 meeting. It may not be possible to keep current will all of these developments and the likely amendments that will occur. Therefore it is probably more feasible to adopt a set of principles that can be advocated for and used as a basis for making quick decisions on whether a bill and/or policy is in the best interest of the C/CAG Member Agencies. The League of California Cities has used its considerable expertise in this area to develop and adopt a set of principles that represent the issues, concerns, and desires of its members in considering any reforms to the current rules governing telecommunications. Staff strongly encourages that these principles be adopted by C/CAG.

3. AB 2987 (Levine/Nunez): Although the latest amendments to this bill (currently it is just a spot bill) are not yet in print, the proposal is to create a new statewide franchise for cable and video service providers. It willl potentially have devastating impacts on local governments. AT & T appears to be the main architect of this bill. Brian Moura will have more information on this bill to present to the Legislative Committee, including pending actions by the League of California Cities. The Committee may want to take an early "oppose" position based on this information, because it appears that the bill is scheduled to move rapidly though the Legislature.

4. Federal Communications, Promotion, and Enhancement Act of 2006 (Barton/Upton/ Rush/ Pickering): SAMCAT and the League of California Cities have been monitoring Federal efforts to reform telecommunications law. These organizations strongly feel that the proposal currently being considered in Congress is extremely flawed and immediate action should be taken to lobby for modifications. Staff recommends that C/CAG support the efforts of SAMCAT and the League by sending a letter to our Congressional Delegation similar to the attached letter that has already been sent by SAMCAT.

5. AB 2681 (Pavley) and SB 1225 (Chesbro): Existing law authorizes a county to establish a service authority for the abatement of abandoned vehicles and impose a $1 vehicle registration fee and an additional $2 fee upon all commercial motor vehicles that are subject to the permanent trailer identification program. The net amount of money collected from these fees is deposited in the Abandoned Vehicle Trust Fund for allocation to participating service authorities. C/CAG is the authority for San Mateo County. This bill would adjust the amount of these fees to $2 and $4, respectively. The C/CAG Legislative Committee requested staff to survey the cities to determine if the increase was warranted. Only five cities responded to the survey. Four of them (Foster City, San Mateo, Millbrae, and Woodside) indicated that the current fee fully covers the city's

costs. One city (Menlo Park) indicated that they are currently spending more than twice the revenue received. Therefore the doubling of the fee would almost cover their cost.

6. SB 369 (Simitian): Existing law authorizes the California Integrated Waste Management Board to implement a program to award grants to cities, counties, districts, and other local governmental agencies for the funding of public works projects that use rubberized asphalt concrete. The grants are funded by an appropriation in the annual Budget Act from the California Tire Recycling Management Fund. Existing law becomes inoperative on June 30, 2006, and is repealed on January 1, 2007. This bill would recommence the grant program on January 1, 2007 and would make the program inoperative on June 30, 2010. The bill would extend the repeal date to January 1, 2011.

   The Congestion Management and Air Quality Committee (CMAQ) of C/CAG discussed this program at its recent meeting while considering a staff proposal for the allocation of funds for local streets and roads funds. It was noted that although the use of rubberized asphalt is an environmentally friendly way of maintaining streets (by using recycled vehicle tires), it sometimes adds substantial cost to repaving projects. This bill would continue the provision of state grants to offset these added costs. Staff recommends a "support" position on the bill.

7. SB 1505 (Lowenthal): This bill would declare the legislature's intent that, when the California Hydrogen Highway Blueprint Plan, is implemented, it be done so in a clean and environmentally responsible and advantageous manner. The bill would require the state board to adopt regulations that will ensure that state funding for the production and use of hydrogen fuel contributes to the reduction of greenhouse gas emissions, criteria air pollutants, and toxic air contaminants. The regulations would be required to include measures to ensure that greenhouse well-to-wheel emissions, from average hydrogen based vehicles, fueled by hydrogen from fueling stations that receive state funds, are at least 30% lower than emissions from the average new gasoline vehicle in California when measured on a per-mile basis. The bill would require the state board to adopt regulations to ensure that no less than 33.3% of the hydrogen produced for, or dispensed by, fueling stations that receive state funds be made from eligible renewable sources, and that the renewable sources of electricity used to produce this hydrogen fuel not be counted towards meeting the renewables portfolio standard. Staff recommends a "

8. AB 2503 (Mullin): This bill would authorize cities, counties, and cities and counties to enter into a joint powers agreement to form an affordable housing pooling arrangement for the acquisition, construction, or development of housing that is affordable to lower income families, as defined, within the jurisdiction of the joint powers agency, created by the agreement. The bill would specify how the public agencies may contribute funds to a housing trust fund of the joint powers agency and how the funds may be used. The bill would similarly authorize a local government to include in its housing element a program that establishes a housing trust fund for the same purposes and subject to similar conditions. Staff recommends a "support" position. The Legislative Committee of the Housing Leadership Council will be considering this bill at its meeting on April 11, 2006. A summary of their action will be provided at our meeting on April 13th.

9. SB 1611 (Simitian): This bill would authorize a congestion management agency to impose an annual fee of up to $20 on each motor vehicle registered within the county for transportation projects and programs with a relationship or benefit to the persons paying

the fee. The bill would require a specific transportation program with performance measures and a budget to be adopted before the fee is imposed. The bill would require the resolution imposing the fee to incorporate the specific transportation program to be funded by the fee and specified findings of fact. The bill would require the resolution to be adopted by a 2/3 vote of the governing board. The bill would require the agency to have an independent audit conducted annually on the program and to provide a specified report to the Legislature.

This bill is very similar to C/CAG's bill, AB 1546, that was carried by Senator Simitian two years ago. The main differences are: 1) the amount of the fee is up to $20 instead of the $4 limit in C/CAG's bill, 2) all of the funds in this bill must be used for congestion management programs instead of being split between congestion and stormwater pollution prevention as allowed in the C/CAG bill, 3) this bill has no sunset provision, while the C/CAG bill will sunset on January 1, 2009, and 4) the authorization to levy the fee is extended to all Congestion Management Agencies, whereas the C/CAG bill was limited to only C/CAG.

If this bill were to become law, C/CAG would not have to go through the process of trying to have its current authorization under AB 1546 extended after it expires. This new bill would also provide significantly greater authorization to levy the vehicle registration fee for congestion management programs. Although it does not provide funding for stormwater pollution prevention, the increased congestion funding would allow C/CAG to reduce its requirement for its Member Agencies to be assessed for these services; thereby saving funds for the Cities and the County that potentially could be used instead for stormwater programs. Staff recommends a "support" position.

10. AB 2444 (Klehs): This bill would authorize the congestion management agencies in the 9 Bay Area counties, by a 2/3 vote of all of the members of the governing board, to impose an annual fee of up to $5 on motor vehicles registered within those counties for a program for the management of traffic congestion. The bill would require a program with performance measures and a budget to be adopted before the fee may be imposed. The bill would require the agency to have an independent audit performed on the program and to submit a report to the Legislature on the program by July 1, 2011.

    This bill is also very similar to C/CAG's vehicle registration fee bill that was approved two years ago. However it authorizes up to a $5 fee for the Bay Area Congestion Management Agencies to be used solely for congestion management programs and another fee of up to $5 to be levied by the Bay Area Regional Air and Water Quality Boards for programs to mitigate the environmental impacts of vehicles. The environmental sections of this bill are similar to a bill from a few years ago that C/CAG had objections to because the funding was provided to the regional agencies without any requirement that the local agencies have a voice in the allocation of funds. As such it would not provide any relief to local cities and counties for the financial burden of the state and federal unfunded mandate to support a comprehensive stormwater pollution prevention program. Staff recommends a "neutral" position.

11. SB 1431 (Cox): Existing law, until January 1, 2011, permits cities in the Counties of Solano and Yolo, with the approval of the city council, to enter into specified design-build contracts in accordance with specified provisions. This bill would instead permit <u>any</u> city, until January 1, 2017, with the approval of the city council, to enter into

specified design-build contracts, in accordance with specified provisions, and requires that contracts costing more than $2,500,000 be awarded by those cities to the lowest responsible bidder or by best value, and would require the Legislative Analyst's office to report to the Legislature regarding the effectiveness of the design-build program.

Last year C/CAG supported a similar bill (AB 1329 - Wolk); however that bill was later amended to limit this authority to only the cities in Yolo and Solano Counties. The bill subsequently became law. Staff recommends a "support" position on SB 1431 because it will expand that authority to all cities.

12. SB 1800 (Ducheny): This bill would require the legislative body of a local agency, as defined, to adopt the general plan, would define the term "long-term," with respect to the general plan, and would require the local government at the same time it revises its housing element to adopt a housing opportunity plan, as described, as a part of the housing element, thereby imposing a state-mandated local program. The bill would establish the Housing Opportunity Plan Fund, to be administered by the Pooled Money Investment Board. Upon appropriation by the Legislature, moneys in the fund shall be used for the purpose of providing loans from the Pooled Money Investment Account to cities, counties, and cities and counties to prepare and adopt plans that provide housing pursuant to the housing opportunity plans. The bill would revise procedures for the adoption of local and regional housing needs.

ATTACHMENTS

Where available the bill analysis is being provided instead of a complete copy of the bill. This is because some of these bills are very long, and the analysis of the bill generally provides better information and is in a more readable format.

- Analysis of SB 1627 prepared for Senate Local Government Committee.
- Sample Resolution developed by the League of California Cities adopting principles for telecommunications reform.
- Sample Op Ed piece on telecommunications reform developed by the League of California Cities.
- Talking points on telecommunications reform developed by the League of California Cities.
- League of California Cities press release on AB 2987.
- Analysis of AB 2987.
- Letter from SAMCAT to Congresswoman Anna Eshoo outlining concerns with the Federal Communications, Promotion, and Enhancement Act of 2006.
- Complete copy of AB 2681.
- Analysis of SB 369 prepared for Senate Rules Committee.
- Complete copy of AB 2503.
- Complete copy of SB 1611.
- Complete copy of AB 2444.

SENATE LOCAL GOVERNMENT COMMITTEE
Senator Christine Kehoe, Chair

BILL NO: SB 1627
AUTHOR: Kehoe
VERSION: 3/29/06
Weinberger

HEARING: 4/5/06
FISCAL: Yes
CONSULTANT:

PERMITS FOR WIRELESS TELECOMMUNICATIONS FACILITIES

Background and Existing Law

The 1977 Permit Streamlining Act requires public agencies to act fairly and promptly on applications for development permits. Public agencies must compile lists of information that applicants must provide and explain the criteria they will use to review permit applications. Public agencies have 30 days to determine whether applications for development projects are complete; failure to act results in an application being "deemed complete." The Act requires public officials to act on projects after completing the environmental review documents:

180 days after certifying an environmental impact report (EIR).

90 days after certifying an EIR for an affordable housing project.

60 days after completing a negative declaration.

60 days after determining that a project is exempt from review.

Providers of wireless telecommunications services must apply to cities and counties for permits to build structures that support wireless telecommunications equipment, like antennae and related devices. Similarly, wireless carriers must seek local approval to place additional telecommunications equipment on structures where that equipment already exists.

The Permit Streamlining Act currently requires local officials to act upon applications for the construction of wireless structures within either 60 days or 180 days. Federal law requires local governments to act within a "reasonable period of time" on applications relating to wireless communications facilities and prohibits any local regulation that has the effect of prohibiting the provision of wireless services. The carriers contend that, despite existing laws, local delays and inconsistent standards prevent them from building sufficient infrastructure to keep pace with Californians' growing demand for wireless services.

Proposed Law

Senate Bill 1627 directs cities and counties to administratively approve, through the issuance of a building permit or other nondiscretionary permit, applications to place telecommunications equipment on structures where such equipment already exists. Local officials' reviews of these applications must be limited to health and safety requirements.

The bill requires a city or county to approve or disapprove an application for development of a wireless telecommunications facility within 90 days of the date of

completion of an Environmental Impact Report (EIR).

SB 1627 prohibits cities and counties from:

Requiring escrows or sureties for removal of telecommunications equipment;

Placing unreasonable limits on the duration of permits (limits of less than 10 years are presumed to be unreasonable absent compelling land use or public safety reasons);

Limiting telecommunications facilities to certain geographic areas or sites owned by particular parties within the city or county's jurisdiction; or,

Conditioning approval of a permit on an agreement to reserve space on the facility for the telecommunications needs of the city or county.

SB 1627 prohibits a development project for a wireless telecommunications facility from being subject to a permit to operate.

SB 1627 specifies that a review of the environmental affects of radio frequency emissions must conform to applicable provisions of the Federal Telecommunications Act.

SB 1627 defines the terms "wireless telecommunications facility" and "collocation."

Comments

1. Responding to popular demand . The demand for reliable wireless telecommunications services throughout California is growing rapidly. Cell phones, Blackberries, and similar devices are increasingly ubiquitous for business, government, and personal use. Wireless service providers find it difficult to keep pace with this demand due to delays and inconsistencies in the local review of proposals to deploy new telecommunications towers and equipment. SB 1627 eliminates obstacles to the deployment of the technology that is needed to support Californians' growing reliance on wireless services.

2. Local control . By limiting the review of applications to "collocate" wireless equipment to the consideration of health and safety issues, SB 1627 nearly eliminates local discretion over the placement of antennae and similar devices on structures that already support such equipment. For example, local communities would not be able to consider whether adding additional equipment to an existing tower could harm local aesthetics or property values. The Committee may wish to consider whether SB 1627 substitutes the state's preference for more wireless facilities for local officials' judgments about their neighborhoods.

3. Special category . By requiring a local decision on applications for construction of a new wireless telecommunications structures within 90 days, SB 1627 places those projects in a special category which current law reserves for affordable housing projects. The Committee may wish to consider whether telecommunications structures are as deserving of expedited review as affordable housing projects.

4. Statewide response to a localized obstacles ? While anecdotes about unreasonable local obstruction of new

telecommunications facilities are plentiful, the scope of this problem is difficult to quantify. While some "NIMBY" obstructionism undoubtedly exists, other communities are faithfully adhering to applicable state and federal laws. The Committee may wish to consider an amendment establishing a 2013 sunset date and requiring that a report on the impacts of SB 1627 be submitted to the legislature in 2012 by the Office of Planning and Research, which has unique expertise relating to this subject.

5. Double referral . Because SB 1627 affects how local governments review the environmental impacts of telecommunications development projects, the Senate Rules Committee has also referred SB 1286 to the Senate Environmental Quality Committee.

Support and Opposition (3/30/06)

Support : T-Mobile USA, Inc.

Opposition : Unknown.

RESOLUTION ____

City of _____
Telecommunications Services and Vital City Interests

WHEREAS, technological advances in telecommunications services are outpacing the current state and federal regulatory framework for those services; and

WHEREAS, the new telecommunications services will be vital to the businesses, households and the public safety of local communities; and

WHEREAS, Congress and the California state legislature are beginning a serious debate on a new regulatory framework for telecommunications services in the 2006 legislative session; and

WHEREAS, financial resources that cities receive under the current regulatory framework for telecommunications services are vital to support local public services such as public safety and transportation; and

WHEREAS, the taxpayers have a financial interest to protect in the public's right-of-way; and

WHEREAS, fair, level playing-field competition among telecommunications providers is important to delivering telecommunications services at the best price for our citizens, the consumers; and

WHEREAS, telecommunications industry services to a local community such as Public Education and Government (PEG) channels, INET services to local schools and E911 and 911 public safety services to local citizens are important services to maintain; now there fore be it

RESOLVED, that the City of _____, this _____ day of _____, 2006 does hereby adopt the following principles for Congress and the state legislature to consider in its debate over a new telecommunications regulatory framework:

REVENUE PROTECTIONS

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

RIGHTS-OF-WAY

- To protect the public's investment, the control of public rights-of-way must remain local.

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

ACCESS

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

PUBLIC EDUCATION AND GOVERNMENT (PEG) SUPPORT

- The resources required of new entrants should be used to meet PEG support requirements in a balanced manner in partnership with incumbent providers.

- For cities currently without PEG support revenues, a minimum percentage of required support needs to be determined.

INSTITUTIONAL OR FIBER NETWORK (INET)

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

PUBLIC SAFETY SERVICES

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

- All video providers must provide local emergency notification service.

CUSTOMER SERVICE PROTECTION

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

OTHER ISSUES

- Existing telecommunications providers and new entrants shall adhere to local city policies on public utility undergrounding.

and be it further

RESOLVED, that copies of this resolution be transmitted to the Congressional Representative and all state legislative representatives for the City of _____ as well as all appropriate local media outlets.

California Community Leaders – the Telecommunications Revolution is Coming. Will the Citizens in our Communities be Left Behind?

Each new day brings an announcement from some sector of the telecommunications industry about a new and often revolutionary change in telecommunications technology that will be in homes and businesses before the end of the year. Telephone companies want to provide you video services and cable companies want to provide you with phone service.

The technologies are sometimes confusing, especially for those who have not grown up in the technology information age, but the technologies are at the same time exciting. "Visionaries" in your community talk about the tremendous promise this technology holds for a community. The technology will enhance business opportunities, connect households with data, video and voice communications services and establish new, improved, faster and more accurate data for public safety emergency services.

While it is true that all of these wonderful services will be available, somewhere, a more critical eye needs to be turned to the reality in how these services will be deployed in your community. Will all of your citizens be receiving these services? At what cost will these services be available? Will rural and more isolated areas of the state be forgotten in the deployment of these services? These are all important questions that require local communities and their city governments to do some critical analysis.

The Congress of the United States and the legislature of the State of California are just beginning the debate about how this new telecommunications technology will be deployed. The technological revolution that brings promise will also require a fairly substantial revamp of the current regulatory laws that govern telecommunications services. The convergence of all these new technologies has outpaced the last regulatory law passed by Congress in 1996. It is time to make some major changes and this is where a community can either benefit from the changes or be left behind. For those communities left behind, it will mean a step backward in the race to remain competitive for businesses and their residents.

To help guide the City of _____ in this upcoming and crucial debate in Congress and the California state legislature, the city has adopted a set of principles that has also been endorsed the League of California Cities. This is the organization that represents city governments in California when trying to influence the decisions of Congress and the state legislature. The principles are simple and worth serious consideration in your community. The principles are:

REVENUE PROTECTIONS. Protect the current authority of local governments to collect revenues from telecommunications providers in an equitable manner to support local public services.

RIGHTS-OF-WAY. Protect the taxpayer's investment in the public right-of-way. Maintain the local government's authority to control the time, place and manner for the use of the public right-of-way in providing telecommunications services.

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

PUBLIC EDUCATION AND GOVERNMENT (PEG) SUPPORT. Telecommunications providers should be required in an equitable and fair manner to invest in local communities through support of PEG services to the communities.

INSTITUTIONAL OR FIBER NETWORK (INET). The authority for interested communities to establish INET services and support for educational and local government facilities should remain at the local level.

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

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

OTHER ISSUES. Existing telecommunications providers and new entrants shall adhere to local city policies on public utility undergrounding.

These principles are needed to give cities and their residents a voice in this technological revolution. A city that is active and engaged in this debate will be able to shape the telecommunications services the community will receive for maybe the next 30 years. A city that is not engaged will have the services to their citizens shaped entirely by the industry. The choice is yours.

League of CA Cities Telecomm
Talking Points

The following are suggested talking points developed by the League for city officials to use when discussing proposed changes in the regulatory laws for telecommunications services. The year 2006 is expected to be very busy with legislative activity at both the state and federal levels. City officials can fully expect, and many have already had contacts from, industry officials, legislators and congressional representatives as well as leaders on this issue within their local communities. These talking points are intended to better focus those discussions and deliver a coherent message from California's cities.

The cities of California support competition for telecommunications services in cities because it produces more affordable services and improves the quality of telecommunications services to city residents.

- Fair and equitable competition among all telecommunications providers will competitively drive down the consumer's cost for telecommunications services.
- The availability of new technologies to local residents will improve services from all telecommunications providers.
- Robust telecommunications services will be a necessity for economic development, public safety and quality education services.
- Competition on a "level playing field" will reduce the consumer's cost for services, reduce the digital divide for low income families and ensure that telecommunications providers do not "cherry pick" affluent areas and ignore lower income areas of the state or a local community.

The revenues from city franchises are necessary to support important city programs including public safety and transportation programs.

- Revenues from city franchise fees are a substantial and important resource that supports public services such as public safety and transportation.
- These revenues have to be maintained in any new regulatory framework for telecommunications services.
- In California, any revenue loss to local government is very difficult to replace under constitutional provisions enacted by the voters.

The taxpayer's investment in the public's right-of-way (PROW) must be protected with clear city authority over the "time, manner and place" for any telecommunications company to use the PROW for deployment of its equipment and services.

- The public right-of-way is first and foremost the taxpayer's investment in a transportation system that is vital to a local economy and necessary to mobility.
- The taxpayer's investment in the public right-of-way must be protected in any new regulatory framework.
- The deployment of any utility services in the public right-of-way contributes to the deterioration of the public's investment and therefore must remain be directed by the local governments in charge of that investment for the public.
- Don't federalize local streets! It results in no accountability to the taxpayer over their investment.
- Access to the public right-of-way is a privilege granted by the taxpayer's to telecommunications providers.

Public, education and government (PEG) channels are an important asset to a community and its key public programs and must be established and maintained at a reasonable level that meets considerations of size, community needs and demands.

- Public, education and government (PEG) channels bring the local democratic process closer to the public.
- PEG channels are a powerful tool for a community to use to define its goals, reinforce its cohesiveness and open the democratic dialogue to those who may not otherwise be able to participate.
- All telecommunications providers should participate in the delivery of PEG channels to local communities.
- Support of PEG channels by telecommunications providers strengthens the ties between the telecommunications industry and the local communities.

Local governments should retain the authority to provide telecommunications services to its citizens to ensure access to these services when private sector telecommunications providers choose not to serve a community.

- Where private sector telecommunications providers cannot or refuse to provide services to a community, the appropriate local governing body should retain the authority to choose provide those services.
- Local governments should retain the authority to partner in any manner appropriate with private sector telecommunications providers to ensure access to these services by all community residents.

LEAGUE OF CALIFORNIA CITIES

1400 K Street, Suite 400 • Sacramento, California 95814
Phone: (916) 658-8200 Fax: (916) 658-8240
www.cacities.org

For Immediate Release

April 6, 2006

Contact: Megan Taylor, (916) 658-8228
Cell: (916) 705-6679

League of California Cities Statement
Regarding AB 2987 (Nunez): Cable and Video Service

SACRAMENTO, Calif. – The League of California Cities today issued the following statement regarding AB 2987 (Nunez), a bill that would create a new statewide franchise for cable and video service providers:

"The League and California cities strongly support greater competition in the delivery of video and Internet services. We understand that competition will produce more affordable services and improve the quality of telecommunications services to city residents.

"We have deep concerns, however, about a number of issues in AB 2987.

'We appreciate the leadership of Assembly Speaker Nunez and Assemblymember Levine in introducing legislation designed to address the "speed to market" concerns of new video and Internet providers," said Alex Padilla, President of the League and councilmember in the city of Los Angeles. "We stand ready to work with these leaders and other legislators to address our concerns and ensure that Californians are provided the kind of cutting edge telecommunication services that our state needs.'"

League of California Cities Concerns with AB 2987 (Nunez)

Build Out of Telecommunications Services. We are concerned that the build out provisions in AB 2987 will not ensure that video services will be equally available throughout a community. The bill allows video service providers three years to build out video service, and to self-define the area they will service. While they are prohibited from discriminating on the basis of income, they could gerrymander their service area and thereby avoid low income areas. Local governments will not have the authority to challenge the adequacy of the service area "footprint."

Some areas may only be provided satellite or "another alternative technology" – an option provided in the bill when the video service provider is not able to physically build out service to all areas of their service area footprint. The League is concerned that these alternatives may not be comparable to service offered in other parts of the service area.

Consumer Protection and Customer Service. The bill effectively preempts local government from adopting and enforcing customer service standards for those operators who have received a statewide franchise. This would create a two-tiered customer

service standard, with local cable operators subject to local customer service standards, and new statewide franchisees exempt from these standards.

Video Services to Libraries and Schools. Currently, most local franchises require cable companies to provide services to schools and libraries. This bill would eliminate this obligation. As a result, children and community members who can't afford the services at home will lose access to these advanced broadband services.

PEG Channels and PEG Support. Local agencies would lose control over the determination of the number of public, education and government (PEG) channels needed to properly meet a community's needs.

Public Rights-of-Way. It is not clear that local communities would retain their full control over access to local right-of-way. The League believes that the taxpayers' investment in the public right-of-way must be protected with clear city authority over access to the right-of-way.

Revenues. AB 2987 does not ensure that cities will be "kept whole" in regard to franchise revenues. While the bill upholds a city's ability to impose a utility user tax, local agencies appear to be prohibited from imposing other local fees and taxes, such as business license taxes, encroachment permit fees and building permit fees.

###

SAMCAT BOARD OF DIRECTORS

San Mateo County Telecommunications Authority
c/o CITY OF SAN CARLOS
600 ELM STREET
SAN CARLOS, CA 94070
Phone: 650-802-4229 FAX:650-595-6729

Members:

City of Brisbane	City of Daly City	City of Millbrae	City of San Bruno	City of South San Francisco
City of Belmont	City of Foster City	City of Pacifica	City of San Carlos	Town of Woodside
City of Burlingame	City of Half Moon Bay	Town of Portola Valley	City of San Mateo	
City of Colma	Town of Hillsborough	City of Redwood City	County of San Mateo	

April 4, 2006

Congresswoman Anna Eshoo
House of Representatives
205 Cannon Building
Washington, D.C. 20515

Re: COPE (Barton/Upton/Rush/Pickering) – Preemption of Local Franchising, Reduction of Franchise Fees, PEG Access & Facilities for Cities, Counties, Schools & Homeland Security

Dear Congresswoman Eshoo:

The San Mateo County Telecommunications Authority (SAMCAT) is a Joint Powers Authority that represents 18 agencies in San Mateo County (the cities of Belmont, Brisbane, Burlingame, Daly City, Foster City, Hillsborough, Millbrae, Portola Valley, Redwood City, San Carlos, San Mateo, South San Francisco, Woodside and San Mateo County) with a combined population base of over 580,000.

We have reviewed the proposed so-called "COPE" legislation sponsored by Congress Members Barton, Upton, Rush and Pickering that will be heard by the House Committee on Energy and Commerce this Wednesday. While we rarely are impacted by Federal Legislation, the COPE legislation as drafted presents serious problems for the cities of San Mateo County and the County itself and must be amended in committee.

Here are some of our key concerns:

- **COPE Reduces Right of Way fees and revenues to cities and counties**
  COPE talks about the 5% gross revenue fees that cities and counties receive today for the use of the public right of way. However, it reduces the amount of money that we receive today by a) its more narrow definition of gross receipts than what is typical today, b) by excluding a number of items from gross revenue payments and c) by deducting from gross revenues "any requirements or changes for managing the public rights-of-way with respect to a franchise under this section, including payments for bonds, security funds, letters of credit, insurance, indemnification, penalties, or liquidated damages". COPE fails to compensate cities and counties for this loss of revenue.

- **No Local Role In Franchising, Customer Service & ROW Disputes**
  By declaring that Cable Services are subject to exclusive Federal jurisdiction, are renewed automatically forever unless revoked by the FCC and there is no local role in dealing with right-of-way disputes and customer service standards, it is difficult to understand how local agencies will be able to insure adherence to the rules and standards set out in this proposal.

  A more logical approach would be to allow cities and counties to continue to enforce State and Federal Customer Service standards as they do today under COPE. Similarly, cities and counties should be the arbiter of disputes about construction matters and the use of the public right of way. One can only imagine how flooded the FCC and Congressional Offices would get in the future by local residents if COPE remains silent on these issues.

- **COPE Violates the Commitment by the Committee and the Telephone Industry That Local Government Will Be Kept Whole**
  At the start of the discussions around the national and state legislation revising the Telecom Act of 1996 and the existing Cable TV and Video Franchising process, both the Committee and the Telephone Industry has represented that Local Governments will be kept whole.

  COPE violates that commitment by allowing the incumbent Cable Operator to abandon existing cable franchise agreements with cities and counties after the COPE franchisee gets their first customer. COPE also enables both the incumbent cable operator and the new cable and video operator to provide less compensation and facilities to the cities and counties.

- **Compensation for Public, Educational & Government Access (PEG) & I-Nets**
  The proposed COPE legislation talks about compensation of 1% of gross revenues for PEG equipment and I-Net costs. This is apparently modeled on the Texas State Franchise bill, yet the Texas bill uses a formula of 1% of gross revenues or the per subscriber formula that the franchising city or county is receiving today at the agency's choice. It would seem that COPE should at least rise to that standard.

- **Initial Franchise Term Compensation (IFTC) for PEG & I-Nets by COPE Franchisees**
  COPE also fails to offer cities and counties initial or up-front grants for the purchase of PEG equipment as current franchise agreements do. Our recommendation is that if COPE were to pass, it should require all companies that take out a COPE cable/video franchise (be they new entrants or current operators converting to the COPE franchises) to compensate each city and/or county they franchise with an initial PEG and I-Net grant equal to five dollars ($5.00) per resident. This Initial Franchise Term Compensation (IFTC) would be payable at the start of each 10 year COPE franchise term and would insure that cities and counties will have some up-front funds to buy their PEG and I-Net equipment when these COPE franchises are awarded.

- **Prevents Construction of Fiber I-Nets by New Entrants & Current Cable Operators**
  By making all franchise terms automatically renewable and stating that Fiber Institutional Networks (I-Nets) can no longer be requested as part of right-of-way compensation by cities and counties under COPE, cities in San Mateo County (and elsewhere) that do not have I-Nets to their city, county, school and emergency facility buildings today will <u>never get them</u>. That is the truly sad and scary legacy that is promised under the COPE proposal.

It also raises questions about what will happen to San Mateo County and the 7 cities that now have a fiber I-Net in their recently signed Comcast franchises. If Comcast changes to the national franchise envisioned in COPE, will this Fiber I-Net to County Center and the City, Police, Fire and Schools in your district (slated for the end of 2007) also disappear?

- **City & Counties Need Continuing Role in Insuring Interconnecting Cable Systems**
  In the area of Interconnecting Cable Systems, either from the same operator providing services in neighboring cities or multiple operators in one area or County, how will these matters be arbitrated when there is disagreement? In the past, SAMCAT and its member cities and the counties have facilitated two successful multi-company interconnections. Under COPE, the local agencies appear to have no role in such dispute resolutions. How will we bring these matters to resolution in this model?

- **No Build Out Requirements & Weak Redlining Language**
  COPE contains no requirement that over a period of years that a video provider will bring competitive service to all residents of a city or county. This is particularly ironic given that Verizon has proposed build out of all residential areas within 5 years in their State of New Jersey legislative proposal and they have entered into Cable, Video and Broadband franchise agreements with agencies across the Country such as Fairfax County, Virginia which includes multi-year full build out terms. It's puzzling that fewer residents in your district than in areas on the East Coast with franchise agreements with a telephone company will get a chance to see competitive Cable TV, Video and Broadband choices. This will occur if COPE is adopted as drafted.

- **Allocating Precious Right of Way Space & Qualified Applicants**
  Reading through the COPE draft legislation raises several other questions as well. How will the FCC determine which applicants for COPE cable service franchises in a city or county are serious and financially qualified applicants? How do cities and counties allocate precious right of way space in City streets when a potentially unlimited number of individuals and firms could come into a community through COPE?

- **COPE Franchisees – Construction Notice & Failure to Build**
  The bill envisions a world where anyone could obtain a COPE cable services franchise. However, it fails to include a subsequent notice by the new franchise holder when they actually plan to apply for permits to start construction. And there is no timetable under which the COPE franchise expires if construction does not occur. This puts cities and counties in the position of wondering how many of the COPE franchisees may be coming into their public right of way – and when!

- **COPE Fails to Clarify the Status of IPTV Providers**
  While much is made of the need for new legislation for telephone companies to enter the video market, COPE only refers to providers of "cable services". The bill completely fails to state whether it will cover telephone and cable companies (such as AT&T, for example) that use so-called IPTV technologies to deliver video services. How can such a major proposal have such a glaring omission? COPE should be amended so that it is crystal clear that IPTV providers ARE covered by the bill and that they are treated the same as other Cable Services providers. (See suggested amendment language attached.)

- **Minimum Number of PEG Channels**
  COPE talks about providing the same number of Public, Education and Government (PEG) channels to cities and counties as the incumbent cable operator provides. However, this does not take into account older cable franchise agreements which may not have a sufficient number of these channels or agreements where PEG channels are yet to be provided. We suggest that a minimum of 4 PEG channels be provided in the COPE proposal vs. leaving this critical item up to the whims of the FCC.

- **PEG Channel Adjustment Every 10 Years**
  We support the notion of an adjustment to the allocation of PEG channels included in the COPE draft on page 13. Two notes – first, as noted above, an increase of 10% every ten years only works if the city or county starts with an allocation of PEG channels. (Ten percent times Zero is still Zero.) Second, we would suggest changing the word "higher" to "lower" so that the upgrade every ten years would at least equal one PEG channel (or equivalent bandwidth) vs. a fraction of a PEG channel (or equivalent bandwidth).

- **PEG and I-Net Funds Usable for Capital and Operating Costs**
  We believe that PEG and I-Net funds provided by COPE, including the IFTC funds described above, should be available for both PEG and I-Net equipment and PEG and I-Net operating costs. We would suggest amending COPE to accomplish that update. (See attached suggested amendment).

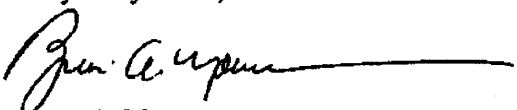
- **Franchising Is Not A Barrier to Entry or a "Time to Market" Issue**
  As cities in San Mateo County and the County itself demonstrated during the entry of RCN into the Cable TV, Video and Broadband services market in your district, local franchising is not a barrier to entry to this market. In fact, last year (in February 2005) the SAMCAT agencies offered video franchise agreements to both AT&T and Verizon that are identical to those signed by the incumbent cable operator (Comcast) only to be told AT&T and Verizon were "not ready" for such agreements at that time!

- **SAMCAT Continues to Encourage Competition But It Must Be Done On A Level Basis**
  As you know, a number of the cities as well as San Mateo County granted the first competitive Cable TV, Video and Broadband Services franchises in California to RCN. We would like to do the same with the local telephone company (AT&T/SBC) and other future broadband and video providers. But this must be done on a fair and equivalent basis to what the incumbent cable operators (such as Comcast) and the existing cable competitors in the County (such as RCN) have done to date.

- **Meeting Public, Local Agency, School and Homeland Security Needs**
  Over the years, cities and counties have provided Cable TV in the school classroom, emergency alert service, Public, Educational and Government (PEG) Access Channels (such as the Emmy winning Peninsula TV in San Mateo County) and high speed fiber optic based, Institutional Networks (I-Nets) through the franchising process with Comcast and RCN. At a time when the public wants better quality in our schools and more from the cities and counties in terms of local information and homeland security systems and interconnects, it would be tragic if many or all of these things went away due to short sighted legislation like COPE as it is currently drafted.

We know you have always had the best of the public and your constituents throughout San Mateo County in the past. We hope that you will demonstrate that same wisdom and courage once again on Wednesday when COPE is heard in the House Committee on Energy and Commerce.

Very Truly Yours,



Brian A. Moura
Chairman
San Mateo County Telecommunications Authority (SAMCAT) Board of Directors

cc: San Mateo County Telecommunications Authority (SAMCAT) Board of Directors
Rich Napier, Executive Director, City/County Association of Governments (C/CAG)
Anthony Thomas, Legislative Representative, League of California Cities
Rebecca Elliot, Regional Representative, League of California Cities
Elizabeth Beatty, Executive Director, NATOA
Eve O' Toole, Federal Legislative Representative, League of California Cities

"CABLE SERVICE" DEFINITION AMENDMENT FOR IPTV FIRMS AND AMENDMENT TO PEG COST EXCEPTION TO "FRANCHISE FEE" DEFINITION

SEC. ____. CONFORMING AMENDMENTS.

(a) CABLE SERVICE. Section 602(6) of the Federal Communication Act (47 U.S.C. § 522(6)) is amended by:

(1) inserting after "video programming" at the end of Section 602(A)(i) the following: ", including interactive on-demand services"; and

(2) inserting after "other programming service" at the end of Section 602(6)(B) the following: ", regardless of the technology or transmission protocol used to transmit, select, or interact with such video programming or other programming service."

(b) FRANCHISE FEE. Section 622(g)(2) of the Federal Communications Act (47 U.S.C. § 542(g)(2)) is amended by:

(1) striking "in the case of any franchise in effect on the date of enactment of this title," from subparagraph (B);

(2) striking subparagraph (C); and

(3) re-numbering subparagraphs (D) and (E) as subparagraphs (C) and (D).

From: "Brian Moura" <bmoura@cityofsancarlos.org>
To: <rnapier@co.sanmateo.ca.us>, "Walter Martone" <wmartone@co.sanmateo.ca.us>
Date: 4/6/2006 4:30:33 PM
Subject: AB 2987 (Nunez/Levine) - Analysis

Wow! I thought Nunez and Levine said there were things Local Government might "like" in the bill. Where ?!

==========
==========
========

STATEWIDE FRANCHISING BILL
AB 2987 (Nunez/Levine)
Analysis by Paul Valle-Riestra
This bill will benefit only the wealthiest Californians while harming the average citizen by reducing competition, eliminating most consumer protections and limiting the ability of the public to receive information about government, education and local disasters. The bill:
-Preempts buildout requirements
Currently local cable franchise agreements require cable companies to service all residents, not just the wealthiest neighborhoods. AT&T has publicly stated that it will provide its new services in 90% of the wealthiest neighborhoods, but only 5% of the lower income neighborhoods. This bill would preempt local buildout requirements, clearing the way for AT&T to bypass all but the wealthiest customers. The average citizen will never see the new services being proposed by AT&T.
-Eliminates most consumer protections
Currently local governments are the only agencies that adopt and enforce most of the consumer protection regulations that require cable companies to treat customers fairly. This bill would eliminate local consumer protection regulations and local authority to enforce any regulations, leaving in place only a few weak regulations that would be enforced by the Department of Corporations, which has no experience or resources to provide enforcement. Consumers will be left with no real protection.
-Eliminates local emergency notification systems
Currently many local governments require cable companies to carry emergency messages in the event of local disasters. This bill would eliminate these local emergency notification systems. In an era of terrorist attacks and Katrina-type disasters, we need to increase the ability of public safety officers to communicate with the public, not eliminate it.
-Eliminates some or all community programming
Currently many local governments require cable companies to carry and help produce community programming, including programming from our public schools, public safety programming and coverage of City Council meetings. This bill would limit the channels provided for this purpose, preempt requirements for equipment to ensure that the programming can be put on the air, and limit funding. The result will be the elimination of community programming in some areas that will be unable to afford to continue such programming.
-Eliminates cable services to schools and libraries
Currently most local franchises required cable companies to provide service to public schools and libraries. This bill would eliminate this obligation. As a result, our children and community members who can't

afford the services at home will lose access to these advanced broadband services.
-Threatens public safety and other local services by reducing local government revenues
Cable companies pay franchise fees to local agencies in return for the commercial use of public streets. This bill would reduce the amount of franchise fees paid by cable companies, thereby threatening the funding of public safety and other vital services.
-Reduces competition and innovation and increases prices for most Californians by creating an unlevel playing field between competitors
In addition to eliminating the buildout requirements that apply to cable companies, the bill would require cable companies to continue to comply with various franchise requirements while limiting these requirements for telephone companies that provide the same services. While competition may increase in the wealthy areas, competition will not occur in other areas. Incumbent cable companies may reduce prices in those wealthy areas, but they will be forced to increase prices in other areas to make up for the losses, thus stifling the resources available for innovation in those areas.

CC: "Wes Lujan" <wlujan@advocation-inc.com>

ASSEMBLY BILL No. 2681

Introduced by Assembly Member Pavley

February 24, 2006

An act to amend Sections 9250.7, 22710, and 40225 of the Vehicle Code, relating to vehicles, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2681, as introduced, Pavley. Vehicles: registration fees: fines.

(1) Existing law authorizes a county to establish a service authority for the abatement of abandoned vehicles and impose a $1 vehicle registration fee and an additional $2 fee upon all commercial motor vehicles that are subject to the permanent trailer identification program. These fees are collected by the Department of Motor Vehicles. The net amount of money collected from these fees is required to be deposited in the Abandoned Vehicle Trust Fund, which is continuously appropriated to the Controller for allocation to participating service authorities, as specified.

This bill would adjust the amount of these fees to an amount not to exceed $2, and not to exceed $4, respectively, rather than $1 and $2. Because this bill would allow for an increase in revenues in a continuously appropriated fund, this bill would thereby make an appropriation.

(2) Existing law allows the money that is received by an abatement authority to be used for the abatement, removal, and disposal, as a public nuisance of an abandoned, wrecked, dismantled, or inoperative vehicle or part thereof from private or public property.

This bill would provide, if a county that establishes a service authority for the abatement of abandoned vehicles has also adopted a service fee to fund programs that enforce the capacity of local police

and prosecutors to deter, investigate, and prosecute vehicle theft crimes, up to 50% of the additional fees received as a result of a fee increase imposed under paragraph (1) after January 1, 2007, may be used to fund those vehicle theft programs. Because this bill would authorize the expenditure of money for a new purpose from a continuously appropriated fund, this bill would thereby make an appropriation.

(3) Existing law provides that the civil penalty for each equipment violation is the amount established for that violation in the Uniform Bail and Penalty Schedule except upon proof of correction, the penalty shall be reduced to $10.

This bill, upon proof of correction, would require the reduction be to $20 rather than $10.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 9250.7 of the Vehicle Code is amended
2 to read:
3 9250.7. (a) (1) A service authority established under Section
4 22710 may impose a service fe~~e of one dollar ($1)~~, *not to exceed*
5 *two dollars ($2),* on all vehicles, except vehicles described in
6 subdivision (a) of Section 5014.1, registered to an owner with an
7 address in the county that established the service authority. The
8 fee shall be paid to the department at the time of registration, or
9 renewal of registration, or when renewal becomes delinquent,
10 except on vehicles that are expressly exempted under this code
11 from the payment of registration fees.
12 (2) In addition to the~~ one dollar ($1)~~ service fee *imposed under*
13 *paragraph (1)*, and upon the implementation of the permanent
14 trailer identification plate program, and as part of the
15 Commercial Vehicle Registration Act of 2001, all commercial
16 motor vehicles subject to Section 9400.1 registered to an owner
17 with an address in the county that established a service authority
18 under this section shall pay an additional service fe~~e of two~~, *not*
19 *to exceed four* dollars~~ ($2)~~ *($4)*.
20 (b) The department, after deducting its administrative costs,
21 shall transmit, at least quarterly, the net amount collected
22 pursuant to subdivision (a) to the Treasurer for deposit in the

Abandoned Vehicle Trust Fund, which is hereby created. All money in the fund is continuously appropriated to the Controller for allocation to a service authority that has an approved abandoned vehicle abatement program pursuant to Section 22710, and for payment of the administrative costs of the Controller. After deduction of its administrative costs, the Controller shall allocate the money in the Abandoned Vehicle Trust Fund to each service authority in proportion to the revenues received from the fee imposed by that authority pursuant to subdivision (a). If any funds received by a service authority pursuant to this section are not expended to abate abandoned vehicles pursuant to an approved abandoned vehicle abatement program that has been in existence for at least two full fiscal years within 90 days of the close of the fiscal year in which the funds were received and the amount of those funds exceeds the amount expended by the service authority for the abatement of abandoned vehicles in the previous fiscal year, the fee imposed pursuant to subdivision (a) shall be suspended for one year, commencing on July 1 following the Controller's determination pursuant to subdivision (e).

(c) ~~Every~~ *A* service authority that imposes a fee authorized by subdivision (a) shall issue a fiscal year-end report to the Controller on or before October 31 of each year summarizing all of the following:

(1) The total revenues received by the service authority during the previous fiscal year.

(2) The total expenditures by the service authority during the previous fiscal year.

(3) The total number of vehicles abated during the previous fiscal year.

(4) The average cost per abatement during the previous fiscal year.

(5) Any additional, unexpended fee revenues for the service authority during the previous fiscal year.

(d) ~~Each~~ *A* service authority that fails to submit the report required pursuant to subdivision (c) by October 31 of each year shall have its fee pursuant to subdivision (a) suspended for one year commencing on July 1 following the Controller's determination pursuant to subdivision (e).

(e) On or before January 1 annually, the Controller shall review the fiscal year-end reports, submitted by each service authority pursuant to subdivision (c) and due no later than October 31, to determine if fee revenues are being utilized in a manner consistent with the service authority's approved program. If the Controller determines that the use of the fee revenues is not consistent with the service authority's program as approved by the California Highway Patrol, or that an excess of fee revenues exists, as specified in subdivision (b), the authority to collect the fee shall be suspended for one year pursuant to subdivision (b). If the Controller determines that a service authority has not submitted a fiscal year-end report as required in subdivision (c), the authorization to collect the service fee shall be suspended for one year pursuant to subdivisions (b) and (d). The Controller shall inform the Department of Motor Vehicles on or before January 1 annually, that the authority to collect the fee is suspended. A suspension shall only occur if the service authority has been in existence for at least two full fiscal years and the revenue fee surpluses are in excess of those allowed under this section, the use of the fee revenue is not consistent with the service authority's approved program, or the required fiscal year-end report has not been submitted by October 31.

(f) On or before January 1 annually, the Controller shall prepare and submit to the Legislature a revenue and expenditure summary for each service authority established under Section 22710 that includes, but is not limited to, all of the following:

(1) The total revenues received by each service authority.

(2) The total expenditures by each service authority.

(3) The unexpended revenues for each service authority.

(4) The total number of vehicle abatements for each service authority.

(5) The average cost per abatement as provided by each service authority to the Controller pursuant to subdivision (c).

(g) The fee imposed by a service authority shall remain in effect only for a period of 10 years from the date that the actual collection of the fee commenced unless the fee is extended pursuant to this subdivision. The fee may be extended in increments of up to 10 years each if the board of supervisors of the county, by a two-thirds vote, and a majority of the cities

having a majority of the incorporated population within the county adopt resolutions providing for the extension of the fee.

SEC. 2. Section 22710 of the Vehicle Code is amended to read:

22710. (a) A service authority for the abatement of abandoned vehicles may be established, and a ~~one dollar ($1)~~ vehicle registration fee imposed *pursuant to subdivision (a) of Section 9250.7*, in ~~any~~ *a* county if the board of supervisors of the county, by a two-thirds vote, and a majority of the cities having a majority of the incorporated population within the county have adopted resolutions providing for the establishment of the authority and imposition of the fee *authorized by subdivision (a) of Section 9250.7*. The membership of the authority shall be determined by concurrence of the board of supervisors and a majority vote of the majority of the cities within the county having a majority of the incorporated population.

(b) The authority may contract and may undertake any act convenient or necessary to carry out any law relating to the authority. The authority shall be staffed by existing personnel of the city, county, or county transportation commission.

(c) (1) Notwithstanding any other provision of law, a service authority may adopt an ordinance establishing procedures for the abatement, removal, and disposal, as a public nuisance, of any abandoned, wrecked, dismantled, or inoperative vehicle or part thereof from private or public property; and for the recovery, pursuant to Section 25845 or 38773.5 of the Government Code, or assumption by the service authority, of costs of administration and that removal and disposal. The actual removal and disposal of a vehicle shall be undertaken by an entity that may be a county or city or the department, pursuant to contract with the service authority as provided in this section.

(2) *(A)* The money received by an authority pursuant to Section 9250.7 and this section shall be used only for the abatement, removal, and disposal as a public nuisance of ~~any~~ *an* abandoned, wrecked, dismantled, or inoperative vehicle or part thereof from private or public property.

(B) A county that has adopted a resolution pursuant to subdivision (a) of Section 9250.14, may expend up to 50 percent of the additional money received by the service authority as a result of the increase in the fees under Section 9250.7 that

become operative on and after January 1, 2007, to instead fund programs pursuant to Section 9250.14.

(d) (1) An abandoned vehicle abatement program and plan of a service authority shall be implemented only with the approval of the county and a majority of the cities having a majority of the incorporated population.

(2) The department shall provide guidelines for an abandoned vehicle abatement program. An authority's abandoned vehicle abatement plan and program shall be consistent with those guidelines, and shall provide for, but not be limited to, an estimate of the number of abandoned vehicles, a disposal and enforcement strategy including contractual agreements, and appropriate fiscal controls.

The department's guidelines provided pursuant to this paragraph shall include, but not be limited to, requiring each service authority receiving funds from the Abandoned Vehicle Trust Fund to report to the Controller on an annual basis pursuant to subdivision (c) of Section 9250.7, in a manner prescribed by the department, and pursuant to an approved abandoned vehicle abatement program.

(3) After a plan has been approved pursuant to paragraph (1), the service authority shall, not later than August 1 of the year in which the plan was approved, submit it to the department for review, and the department shall, not later than October 1 of that same year, either approve the plan as submitted or make recommendations for revision. After the plan has received the department's approval as being consistent with the department's guidelines, the service authority shall submit it to the Controller.

(4) Except as provided in subdivision (e), the Controller shall make no allocations for a fiscal year, commencing on July 1 following the Controller's determination to suspend a service authority when a service authority has failed to comply with the provisions set forth in Section 9250.7.

(5) No governmental agency shall receive any funds from a service authority for the abatement of abandoned vehicles pursuant to an approved abandoned vehicle abatement program unless the governmental agency has submitted an annual report to the service authority stating the manner in which the funds were expended, and the number of vehicles abated. The governmental agency shall receive that percentage of the total

funds collected by the service authority that is equal to its share of the formula calculated pursuant to paragraph (6).

(6) Each service authority shall calculate a formula for apportioning funds to each governmental agency that receives funds from the service authority and submit that formula to the Controller with the annual report required pursuant to paragraph (2). The formula shall apportion 50 percent of the funds received by the service authority to a governmental agency based on the percentage of vehicles abated by that governmental agency of the total number of abandoned vehicles abated by all member agencies, and 50 percent based on population and geographic area, as determined by the service authority. When the formula is first submitted to the Controller, and each time the formula is revised thereafter, the service authority shall include a detailed explanation of how the service authority determined the apportionment between per capita abatements and service area.

~~(7) Notwithstanding any other provision of this subdivision, the Controller may allocate to the service authority in the County of Humboldt the net amount of the abandoned vehicle abatement funds received from the fee imposed by that authority, as described in subdivision (b) of Section 9250.7, for calendar years 2000 and 2001.~~

(e) ~~Any~~ *A* plan that has been submitted to the Controller pursuant to subdivision (d) may be revised pursuant to the procedure prescribed in that subdivision, including compliance with ~~any~~ dates described therein for submission to the department and the Controller, respectively, in the year ~~in which~~ *that* the revisions are proposed by the service authority. Compliance with that procedure shall only be required if the revisions are substantial.

(f) For purposes of this section, "abandoned vehicle abatement" means the removal of a vehicle from public or private property by towing or any other means after the vehicle has been marked as abandoned by an official of a governmental agency that is a member of the service authority.

(g) A service authority shall cease to exist on the date that all revenues received by the authority pursuant to this section and Section 9250.7 have been expended.

SEC. 3. Section 40225 of the Vehicle Code is amended to read:

40225. (a) An equipment violation entered on the notice of parking violation attached to the vehicle under Section 40203 shall be processed in accordance with this article. All of the violations entered on the notice of parking violation shall be noticed in the notice of delinquent parking violation delivered pursuant to Section 40206, together with the amount of civil penalty.

(b) Whether or not a vehicle is in violation of any regulation governing the standing or parking of a vehicle but is in violation of subdivision (a) of Section 5204, a person authorized to enforce parking laws and regulations shall issue a written notice of parking violation, setting forth the alleged violation. The violation shall be processed pursuant to this section.

(c) The civil penalty for each equipment violation, including failure to properly display a license plate, is the amount established for the violation in the Uniform Bail and Penalty Schedule, as adopted by the Judicial Council, except that upon proof of the correction to the processing agency, the penalty shall be reduced to ~~ten~~ *twenty* dollars ~~($10)~~ *($20)*. The reduction provided for in this subdivision involving failure to properly display license plates shall only apply if, at the time of the violation, valid license plates were issued for that vehicle in accordance with this code. The civil penalty for each violation of Section 5204 is the amount established for the violation in the Uniform Bail and Penalty Schedule, as adopted by the Judicial Council, except that upon proof of the correction to the processing agency, the penalty shall be reduced to ~~ten~~ *twenty* dollars ~~($10)~~ *($20)*.

(d) Fifty percent of any penalty collected pursuant to this section for registration or equipment violations by a processing agency shall be paid to the county for remittance to the State Treasurer and the remaining 50 percent shall be retained by the issuing agency and processing agency subject to the terms of the contract described in Section 40200.5.

(e) Subdivisions (a) and (b) do not preclude the recording of a violation of subdivision (a) or (b) of Section 4000 on a notice of parking violation or the adjudication of that violation under the civil process set forth in this article.

O

THIRD READING

Bill No: SB 369
Author: Simitian (D), et al
Amended: 1/19/06
Vote: 21

SENATE ENV. QUALITY COMMITTEE : 6-0, 1/9/06
AYES: Simitian, Chesbro, Cox, Escutia, Kuehl, Lowenthal
NO VOTE RECORDED: Runner, Figueroa, Vacancy

SENATE APPROPRIATIONS COMMITTEE : 10-1, 1/19/06
AYES: Murray, Alquist, Battin, Dutton, Escutia, Florez, Ortiz, Poochigian, Romero, Torlakson
NOES: Aanestad
NO VOTE RECORDED: Alarcon, Ashburn

SUBJECT : Solid waste: tire recycling

SOURCE : Author

DIGEST : This bill extends the inoperative date on the rubberized asphalt concrete grant program from June 30, 2006, to June 30, 2010, and the sunset date from January 1, 2007, to January 1, 2011.

ANALYSIS : Existing law, under the California Tire Recycling Act of the California Integrated Waste Management Act of 1989:

1. Requires the Integrated Waste Management Board (IWMB) to administer a tire recycling program that promotes and develops alternatives to the landfill disposal of used tires.

2. Authorizes a tire recycling program that includes awarding of grants to local governments for funding public works projects using rubberized asphalt concrete (RAC). This grant program also requires RAC technology centers to post a data base regarding RAC public works projects on each center's Internet web site. This grant program is inoperable June 30, 2006, and sunsets January 1, 2007.

This bill extends the inoperative date on the rubberized asphalt concrete grant program from June 30, 2006, to June 30, 2010, and the sunset date from January 1, 2007, to January 1, 2011.

Comments

According to the Senate Environmental Quality Committee analysis, SB 1346 (Kuehl) Chapter 671, Statutes of 2002, enacted the RAC grant program under the California Tire Recycling Act. The IWMB adopted the "Five-Year Plan for Waste Tire Recycling Management Program, 3rd Edition Covering Fiscal Years 2005/06, 2009/10 (Five Year Plan)" at its May 11, 2005, meeting. The plan allocates $1,663,000 for fiscal year (FY) 2005/06 to fund the RAC program. The IWMB subsequently considered eligibility criteria, priority categories and the evaluation process for the program. The

IWMB awarded grants totaling $1,189,480 in FY 2003/04 and $1,255,653 in FY 2004/05 for the RAC program. This bill strikes the inoperative and sunset dates on the RAC grant program so that the program will continue to assist local governments in using RAC for public works projects.

FISCAL EFFECT : Appropriation: No Fiscal Com.: Yes
Local: No

Fiscal Impact (in thousands)

Major Provisions	2006-07	2007-08	2008-09	
Fund				
Grants	$650	$1,500	$1,500	SF*
IWMB Admin.	$35	$70	$70	SF*

* California Tire Recycling Management Fund

SUPPORT/OPPOSITION: NONE RECEIVED

**** END ****

ASSEMBLY BILL No. 2503

Introduced by Assembly Member Mullin

February 23, 2006

An act to add Sections 6537 and 65583.3 to the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 2503, as introduced, Mullin. Affordable housing.

Existing law requires that a redevelopment agency allocate 20% of tax-increment revenues for housing available at affordable housing cost.

Existing law provides that 2 or more public agencies, as defined, by agreement may jointly exercise any power common to the contracting parties. Existing law also requires the legislative body of each county and city to adopt a comprehensive, long-term general plan for the physical development of the county or city consisting of various elements such as a housing element.

This bill would authorize cities, counties, and cities and counties to enter into a joint powers agreement to form an affordable housing pooling arrangement for the acquisition, construction, or development of housing that is affordable to lower income families, as defined, within the jurisdiction of the joint powers agency, created by the agreement. The bill would specify how the public agencies may contribute funds to a housing trust fund of the joint powers agency and how the funds may be used. The bill would similarly authorize a local government to include in its housing element a program that establishes a housing trust fund for the same purposes and subject to similar conditions.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 6537 is added to the Government Code,
2 to read:
3 6537. (a) Cities, counties, and cities and counties may enter
4 into a joint powers agreement to form an affordable housing
5 pooling arrangement for the acquisition, construction, or
6 development of housing that is affordable to lower income
7 families within the jurisdiction of the joint powers agency. For
8 purposes of this section, "lower income families" is defined as
9 provided in by Section 50079.5 of the Health and Safety Code.
10 The parties to the agreement may provide all of the following:
11 (1) That contributions from the treasuries may be made for the
12 purpose set forth in the agreement.
13 (2) That payments of public funds may be made to defray the
14 cost of that purpose.
15 (3) That advances of public funds may be made for the
16 purpose set forth in the agreement, and that the advances shall be
17 repaid as provided in the agreement.
18 (4) That personnel, equipment, or property of one or more of
19 the parties to the agreement may be used in lieu of other
20 contributions or advances.
21 The parties to the agreement also may provide that if a party
22 agrees to accept a portion of another party's regional housing
23 allocation received pursuant to Section 65584, this agreement
24 may be used in lieu of other contributions or advances. On or
25 before June 30 of each fiscal year, the treasurer designated in the
26 joint powers agreement pursuant to Section 6505.5 or Section
27 6505.6 shall report the amount of each party's contribution
28 pursuant to this subdivision.
29 (b) A joint powers agency created pursuant to this section shall
30 hold all funds collected for the acquisition, construction, or
31 development of housing that is affordable to lower income
32 families, including funds received pursuant to subdivision (i), in
33 a separate Housing Trust Fund, as established in the agreement
34 no later than June 30, 2013, until used. Any interest earned by the
35 fund and any repayments or other income to the joint powers

agency for loans, advances, or grants, of any kind from the fund, shall accrue to and be deposited in, the fund and may only be used in the manner prescribed for the fund in this section and in the joint powers agreement entered into pursuant to subdivision (a).

(c) Eighty percent of the moneys in the Housing Trust Fund established pursuant to the agreement shall be used to the maximum extent possible to defray the costs of production, improvement, and preservation of housing that is affordable to lower income households and the amount of money spent for planning and general administrative activities associated with the development, improvement, and preservation of that housing not be disproportionate to the amount actually spent for the costs of production, improvement, or preservation of that housing. Housing that is affordable to lower income households may include housing developed in conjunction with a mixed-use development that includes both commercial and residential uses.

(d) Twenty percent of the moneys in the Housing Trust Fund may be used to the maximum extent possible to defray the costs of construction, maintenance, and improvement of public facilities that benefit housing funded by the Housing Trust Fund. The public facilities include, but are not limited to, streets, sanitary sewer, water treatment and delivery, and parks and other recreation facilities.

(e) The joint powers agency formed pursuant to subdivision (a) shall adopt a plan for the expenditure of all moneys in the Housing Trust Fund. The plan may be general and need not be site specific, but shall include objectives respecting the number and type of housing to be assisted, identification of the entities which will administer the plan, alternative means of ensuring the affordability of housing units for the longest feasible time, and a schedule by fiscal year for the expenditure of the funds.

(f) For each interest in real property acquired using moneys in the Housing Trust Fund, the joint powers agency shall, within five years from the date it first acquires the property interest for the development of housing, initiate activities consistent with the development of the property for that purpose. These activities may include, but are not limited to, zoning changes or agreements entered into for the development and disposition of the property.

(g) Notwithstanding any other provision of law, in the first fiscal year following the creation of a joint powers agency pursuant to this section and in each fiscal year thereafter until the dissolution of the agency, the total amount of ad valorem property tax revenue otherwise required to be allocated to a county's Educational Revenue Augmentation Fund shall be reduced by the housing adjustment amount. The housing adjustment amount shall be deposited in the Housing Compensation Fund that shall be established in the treasury of each county.

(h) For purposes of this section the "housing adjustment amount" means the combined total amount of revenue deposited into the Housing Trust Fund pursuant to subdivision (b) for that fiscal year by each of the parties to the joint powers agreement entered into pursuant to subdivision (a). The housing adjustment amount shall not exceed the Annual Educational Revenue Augmentation Fund Amount. For purposes of this section, the "Annual Educational Revenue Augmentation Fund Amount" means the difference between the combined total amount of ad valorem property tax revenue allocated to a county's Educational Revenue Augmentation Fund on behalf of each of the parties to joint powers agreement in the prior fiscal year and the combined total amount of ad valorem property tax revenue otherwise required to be allocated to a county's Educational Revenue Augmentation Fund in the fiscal year in which the deposit is made pursuant to subdivision (g).

(i) In the first fiscal year in which the housing adjustment amount is deposited in the Housing Compensation Fund, and in each fiscal year thereafter, the county auditor shall distribute the revenue in the Housing Compensation Fund by augmenting the allocation of property tax revenues to each party to the joint powers agreement apportioned pursuant to Section 96.1 of the Revenue and Taxation Code by an amount equal to that party's contribution to the Housing Trust Fund pursuant to subdivision (a).

(j) The joint powers agreement shall provide for strict accountability for all funds and report of all receipts and disbursements as required by Section 6505.

(k) On or before June 30 of each fiscal year, a county auditor shall report to the Controller the amount of revenue deposited

1 into the Housing Compensation Fund pursuant to a joint powers
2 agreement formed pursuant to subdivision (a).
3 SEC. 2. Section 65583.3 is added to the Government Code, to
4 read:
5 65583.3. (a) A local government may include a program in
6 its housing element that establishes a Housing Trust Fund no
7 later than June 30, 2013, for the acquisition, construction, or
8 development of housing that is affordable to lower income
9 families within the jurisdiction of the local government and
10 requires the local government to make a contribution of money
11 or real property to the Housing Trust Fund annually. For
12 purposes of this section, "lower income families" shall be
13 defined by Section 50079.5 of the Health and Safety Code. Any
14 interest earned by the fund and any repayments or other income
15 to the local government for loans, advances, or grants, of any
16 kind from the fund, shall accrue to and be deposited in, the fund
17 and may only be used in the manner prescribed for the fund in
18 this section and in the local government's housing element.
19 (b) Eighty percent of the moneys in the Housing Trust Fund
20 shall be used to the maximum extent possible to defray the costs
21 of production, improvement, and preservation of housing that is
22 affordable to lower income households and the amount of money
23 spent for planning and general administrative activities
24 associated with the development, improvement, and preservation
25 of that housing not be disproportionate to the amount actually
26 spent for the costs of production, improvement, or preservation
27 of that housing. Housing that is affordable to lower income
28 households may include housing developed in conjunction with a
29 mixed-use development which includes both commercial and
30 residential uses.
31 (c) Twenty percent of the moneys in the Housing Trust Fund
32 may be used to the maximum extent possible to defray the costs
33 of construction, maintenance, and improvement of public
34 facilities that benefit housing funded by the Housing Trust Fund.
35 The public facilities may include, but are not limited to, streets,
36 sanitary sewer, water treatment and delivery, and parks and other
37 recreation facilities.
38 (d) The local government shall adopt a plan for the
39 expenditure of all moneys in the Housing Trust Fund. The plan
40 may be general and need not be site specific, but shall include

1 objectives respecting the number and type of housing to be
2 assisted, identification of the entities which will administer the
3 plan, alternative means of ensuring the affordability of housing
4 units for the longest feasible time, and a schedule by fiscal year
5 for the expenditure of the funds.
6 (e) For each interest in real property acquired using moneys in
7 the Housing Trust Fund, the local government shall, within five
8 years from the date it first acquires the property interest for the
9 development of housing, initiate activities consistent with the
10 development of the property for that purpose. These activities
11 may include, but are not limited to, zoning changes or
12 agreements entered into for the development and disposition of
13 the property. If these activities have not been initiated within this
14 period, the board of directors of the joint powers agency may, by
15 resolution extend the period during which the agency may retain
16 the property for one additional period not to exceed five years.
17 (f) Notwithstanding any other provision of law, in the first
18 fiscal year following the adoption of a housing element which
19 establishes a Housing Trust Fund and in each fiscal year
20 thereafter until the fiscal year in which a revision of the housing
21 element is required pursuant to subdivision (e) of Section 65588,
22 the total amount of ad valorem property tax revenue otherwise
23 required to be allocated to a county's Educational Revenue
24 Augmentation Fund shall be reduced by the housing adjustment
25 amount. The housing adjustment amount shall be deposited in the
26 Housing Compensation Fund that shall be established in the
27 treasury of each county on behalf of the local government that
28 establishes a Housing Trust Fund pursuant to subdivision (a).
29 (g) For purposes of this section, the housing adjustment
30 amount means the amount of revenue deposited in a Housing
31 Trust Fund by the local government pursuant to subdivision (a)
32 for that fiscal year, provided that the housing adjustment amount
33 shall not exceed the Annual Educational Revenue Augmentation
34 Fund Amount. For purposes of this section, the "Annual
35 Educational Revenue Augmentation Fund" Amount means the
36 difference between the amount of ad valorem property tax
37 revenue allocated to a county's Educational Revenue
38 Augmentation Fund on behalf of that local government in the
39 prior fiscal year and the amount of ad valorem property tax
40 revenue otherwise required to be allocated to a county's

1 Educational Revenue Augmentation Fund in the fiscal year in
2 which the deposit is made pursuant to subdivision (f).
3 (h) In the first fiscal year in which the housing adjustment
4 amount is deposited in the Housing Compensation Fund, and in
5 each fiscal year thereafter, the county auditor shall augment the
6 amount of property tax apportioned to that local government
7 pursuant to Section 96.1 of the Revenue and Taxation Code by
8 the housing adjustment amount.
9 (j) The housing element shall provide for strict accountability
10 for all funds and report of all receipts and disbursements from the
11 Housing Trust Fund.
12 (k) On or before June 30 of each fiscal year, a county auditor
13 shall report to the Controller the amount of revenue deposited
14 into the Housing Compensation Fund on behalf of a local
15 government pursuant to this section.

O

SENATE BILL No. 1611

Introduced by Senator Simitian

February 24, 2006

An act to add Section 9250.6 to the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 1611, as introduced, Simitian. Congestion management fees.

Existing law provides for creation of congestion management agencies in various counties with specified powers and duties relative to management of transportation congestion. Existing law provides for the imposition by air districts and certain other local agencies of fees on the registration of motor vehicles in certain areas of the state that are in addition to the basic vehicle registration fee collected by the Department of Motor Vehicles.

This bill would authorize a congestion management agency to impose an annual fee of up to $20 on each motor vehicle registered within the county for transportation projects and programs with a relationship or benefit to the persons paying the fee. The bill would require a specific transportation program with performance measures and a budget to be adopted before the fee is imposed. The bill would require the resolution imposing the fee to incorporate the specific transportation program to be funded by the fee and specified findings of fact. The bill would require the resolution to be adopted by a 2/3 vote of the governing board. The bill would require the agency to have an independent audit conducted annually on the program and to provide a specified report to the Legislature. The bill would require the Department of Motor Vehicles, if requested, to collect the fee and distribute the proceeds, after deduction of specified administrative costs, to the agency, and would enact other related provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 9250.6 is added to the Vehicle Code, to
2 read:
3 9250.6. (a) A county congestion management agency created
4 pursuant to Chapter 2.6 (commencing with Section 65088) of
5 Division 1 of Title 7 of the Government Code may, impose an
6 annual fee of up to twenty dollars ($20) on each motor vehicle
7 registered in the county, with the net revenues to be used for
8 transportation-related programs that have a relationship or benefit
9 to the persons that pay the fee, including the provision of
10 required matching funds for funding made available for
11 transportation from state general obligation bonds. The agency
12 may impose the fee only if the governing board adopts a
13 resolution providing both for the fee and the specific
14 transportation program in subdivision (b). The resolution shall
15 also contain a finding of fact that the projects and programs to be
16 funded by the fee have a relationship or benefit to the persons
17 who will be paying the fee. Adoption of the fee, the program, and
18 the finding of fact shall all require a two-thirds vote of the
19 governing board at a noticed public hearing.
20 (b) Prior to imposition of the fee, the governing board shall
21 adopt a specific program for expenditure of fee revenues, with
22 performance measures and a budget. The program shall be
23 adopted by the governing board at a noticed public hearing.
24 (c) The congestion management agency shall arrange for an
25 independent audit to be conducted annually on the specific
26 program adopted pursuant to subdivision (b), with the auditor's
27 review and report to be provided annually to the governing board
28 at a noticed public hearing.
29 (d) The congestion management agency shall provide a report
30 to the Legislature on the specific program adopted pursuant to
31 subdivision (b). The report shall include, but need not be limited
32 to, an evaluation of the impact and performance improvements
33 funded by the fee and the cost effectiveness of the program.
34 (e) The department shall, if requested by a congestion
35 management agency, collect the fee imposed pursuant to this

1 section upon the registration or renewal of registration of any
2 motor vehicle registered in the county, except those vehicles that
3 are expressly exempt under this code from the payment of
4 registration fees. The agency shall pay for the initial setup and
5 programming costs identified by the department through a direct
6 contract with the department. Any direct contract payment shall
7 be repaid, with no restriction on the use of funds, to the agency as
8 part of the initial net revenues distributed. After deducting all
9 nonreimbursed costs incurred by the department pursuant to this
10 section, the department shall distribute the net revenues to the
11 agency.

O

AMENDED IN ASSEMBLY APRIL 6, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL No. 2444

Introduced by Assembly Member Klehs
(Coauthors: Assembly Members Lieber and Nation)

February 23, 2006

An act to add Chapter 2.66 (commencing with Section 65089.20) and Chapter 2.67 (commencing with Section 65089.30) to Division 1 of Title 7 of the Government Code, and to add Sections 9250.3 and 9250.4 to the Vehicle Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2444, as amended, Klehs. Congestion management and motor vehicle environmental mitigation fees.

Existing law provides for the imposition by air districts and other local agencies of fees on the registration of motor vehicles in certain areas of the state that are in addition to the basic vehicle registration fee collected by the Department of Motor Vehicles.

This bill would authorize the congestion management agencies in the 9 Bay Area counties, by a ⅔ vote of all of the members of the governing board, to impose an annual fee of up to $5 on motor vehicles registered within those counties for a program for the management of traffic congestion. The bill would require a program with performance measures and a budget to be adopted before the fee may be imposed. The bill would require the agency to have an independent audit performed on the program and to submit a report to the Legislature on the program by July 1, 2011. The bill would require the Department of Motor Vehicles, if requested, to collect the fee and distribute the net revenues, after deduction of specified costs, to the

agency. The bill would require that the fees collected may only be used to pay for programs bearing a relationship or benefit to the owners of motor vehicles paying the fee, and would require the agency to make a specified finding of fact in that regard by a ⅔ vote.

This bill would also authorize the ~~Metropolitan Transportation Commission~~ *Bay Area Air Quality Management District*, which is the ~~regional transportation planning agency~~ *air pollution control district* for the 9-county Bay Area, to impose an annual fee of up to $5 on motor vehicles registered with its jurisdiction for programs that mitigate the impacts of motor vehicles on the environment, including, but not limited to, storm water runoff mitigation projects, water quality improvement projects, and air quality improvement projects. The bill would require a program with performance measures and a budget to be adopted by the Bay Area Air Quality Management District and the California Regional Water Quality Control Board for the San Francisco Bay Region before the fee may be imposed, and would require the fee to be adopted by a ⅔ vote of ~~all of the commissioners~~ *the governing board of the district*. The bill would require the Department of Motor Vehicles, if requested, to collect the fee and to distribute the net revenues, after deduction of specified costs, to the Bay Area Air Quality Management District and to the California Regional Water Quality Control Board for the San Francisco Bay Region based on a specified formula. The bill would require the recipient agencies to have an independent audit performed on the program and to submit a report to the Legislature on the program by July 1, 2011. The bill would require that the fees collected may only be used to pay for programs bearing a relationship or benefit to the owners of motor vehicles paying the fee, and would require the ~~commission~~ *board to* make a specified finding of fact in that regard by a ⅔ vote.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 2.66 (commencing with Section
2 65089.20) is added to Division 1 of Title 7 of the Government
3 Code, to read:

Chapter 2.66. Management of Traffic Congestion in the Bay Area

65089.20. (a) As used in this chapter, "county transportation agency" means an agency designated pursuant to Section 66531 to develop the county transportation plan.

(b) A county transportation agency may impose a fee of up to five dollars ($5) on motor vehicles registered within the county if the board of the county transportation agency adopts a resolution providing for both the fee and a corresponding program for the management of traffic congestion as set forth in Sections 65089.21 to 65089.24, inclusive. Adoption by the board requires a vote of approval by two-thirds of all the members of the board.

(c) A fee imposed pursuant to this section shall not become operative until six months after the effective date of this section and pursuant to the resolution adopted by the board in subdivision (b).

(d) A county transportation agency may adopt a resolution by a majority vote of the board to cease collection of the fee commencing on a date determined by the county transportation agency in consultation with the Department of Motor Vehicles.

65089.21. (a) The net revenues from the fee distributed to the county transportation agency pursuant to Section 9250.3 of the Vehicle Code shall be used for purposes of congestion management consistent with the objectives of Section 65089.

(b) (1) The revenues may be used to pay for programs with a relationship or benefit to the owners of motor vehicles that are paying the fee. ~~However, the revenues may not be used for the purposes of new road construction.~~ *Eligible projects include, but are not limited to, roadway operations and improvements (not including the construction of through freeway lanes), public transit capital improvements and operations, and bicycle and pedestrian safety projects and programs.*

(2) Prior to imposing the fee, the board of the county transportation agency shall make a finding of fact by two-thirds of all the members of the board of that county transportation agency that those programs bear a relationship or benefit to the motor vehicles that will pay the fee.

(c) The purpose of the congestion management program is to address motor vehicle congestion.

(d) Not more than 5 percent of the fees distributed to the county transportation agency shall be used by the agency for its administrative costs associated with the program.

65089.22. Prior to the imposition of the fee by the county transportation agency, a specific program with performance measures and a budget shall first be developed and adopted by the county transportation agency at a noticed public hearing.

65089.23. The county transportation agency shall have an independent audit performed on the specific program adopted pursuant to Section 65089.22 with the review and report provided to the board at a noticed public hearing.

65089.24. The county transportation agency shall provide a report to the Legislature on the specific program adopted pursuant to Section 65089.22 by July 1, 2011.

SEC. 2. Chapter 2.67 (commencing with Section 65089.30) is added to Division 1 of Title 7 of the Government Code, to read:

CHAPTER 2.67. ENVIRONMENTAL MITIGATION OF MOTOR VEHICLES IN THE BAY AREA

65089.30. (a) As used in this chapter, ~~"commission" means the Metropolitan Transportation Commission.~~ *"board" means the governing body of the Bay Area Air Quality Management District.*

(b) The ~~commission~~ *board* may impose a fee of up to five dollars ($5) on motor vehicles registered within the counties in its jurisdiction if the ~~commissioners~~ *members of the board* adopt a resolution providing for both the fee and a corresponding program for the mitigation of the impacts of motor vehicles on the environment submitted to the ~~commission~~ *board* as set forth in Sections 65089.31 to 65089.34, inclusive. Adoption by the commission requires a vote of approval of two-thirds of all the ~~commissioners~~ *members of the board.*

(c) A fee imposed pursuant to this section shall not become operative until six months after the effective date of this section and pursuant to the resolution adopted by the ~~commission~~ *board* in subdivision (b).

(d) The ~~commission~~ *board* may adopt a resolution by majority vote to cease collection of the fee commencing on a date

determined by the ~~commission~~ *board* in consultation with the Department of Motor Vehicles.

65089.31. (a) The net revenues available pursuant to Section 9250.4 of the Vehicle Code shall be distributed as follows:

(1) Fifty percent to the Bay Area Air Quality Management District. Of these revenues, ~~50~~ *75* percent shall be expended on projects in the county of origin, as determined by the district, and ~~50~~ *25* percent shall be expended on regional projects.

(2) Fifty percent to the California Regional Water Quality Control Board for the San Francisco Bay Region. Of these revenues, ~~50~~ *75* percent shall be expended on projects in the county of origin, as determined by the board, and ~~50~~ *25* percent shall be expended on regional projects.

(b) (1) The revenues may be used to pay for programs that mitigate the impacts of motor vehicles on the environment, including, but not limited to, storm water runoff mitigation projects, water quality improvement projects, and air quality improvement projects*, including those that address emissions that contribute to climate change*. The programs shall have a relationship or benefit to the owners of motor vehicles that are paying the fee.

(2) Prior to the imposition of the fee, the ~~commission~~ *board* shall make a finding of fact by a two-thirds vote of all of the ~~commissioners~~ *members of the board* that those programs bear a relationship or benefit to the motor vehicles that will pay the fee.

65089.32. Prior to the imposition of the fee by the ~~commission~~ *board*, a specific program with performance measures and a budget shall first be developed and adopted by the Bay Area Air Quality Management District and the California Regional Water Quality Control Board for the San Francisco Bay Region for the anticipated revenues each agency is expected to receive pursuant to Section 65089.31. The adoption shall occur at a noticed public hearing of each agency. Each agency shall submit the program and budget to the ~~commission~~ *board*.

65089.33. The Bay Area Air Quality Management District and the California Regional Water Quality Control Board for the San Francisco Bay Region shall have an independent audit performed on the specific program adopted pursuant to Section 65089.32 with the review and report provided to each agency at a noticed public hearing.

65089.34. The Bay Area Air Quality Management District and the California Regional Water Quality Control Board for the San Francisco Bay Region shall provide a report to the Legislature on the specific program adopted pursuant to Section 65089.32 by July 1, 2011.

SEC. 3. Section 9250.3 is added to the Vehicle Code, to read:

9250.3. (a) The department shall, if requested by a county transportation agency, collect the fee imposed pursuant to Section 65089.20 of the Government Code upon the registration or renewal of registration of any motor vehicle registered in the county, except those vehicles that are expressly exempted under this code from the payment of registration fees.

(b) A county transportation agency shall pay for the initial setup and programming costs identified by the Department of Motor Vehicles through a direct contract with the department. Any direct contract payment by the county transportation agency shall be repaid, with no restriction on the funds, to the county transportation agency as part of the initial revenues distributed. Regular Department of Motor Vehicles collection costs shall be in accordance with subdivision (c). These costs shall not be counted against the 5-percent administration cost limit specified in subdivision (d) of Section 65089.21.

(c) After deducting all costs incurred pursuant to this section, the department shall distribute the net revenues to the county transportation agency.

(d) As used in this section, "county transportation agency" has the same meaning as in subdivision (a) of Section 65089.20 of the Government Code.

SEC. 4. Section 9250.4 is added to the Vehicle Code, to read:

9250.4. (a) The department shall, if requested by the ~~Metropolitan Transportation Commission~~ *governing board of the Bay Area Air Quality Management District*, collect the fee imposed pursuant to Section 65089.30 of the Government Code upon the registration or renewal of registration of any motor vehicle registered in a county within the jurisdiction of the ~~commission~~ *board*, except those vehicles that are expressly exempted under this code from the payment of registration fees.

(b) Th~~e commission~~ *board* shall pay for the initial setup and programming costs identified by the Department of Motor Vehicles through a direct contract with the department. Any

1 direct contract payment by the ~~commission~~ *board* shall be repaid,
2 with no restriction on the funds, to the ~~commission~~ *board* as part
3 of the initial revenues available for distribution. Regular
4 Department of Motor Vehicles collection costs shall be in
5 accordance with subdivision (c).
6 (c) After deducting all costs incurred pursuant to this section,
7 the department shall distribute the net revenues pursuant to
8 subdivision (a) of Section 65089.31 of the Government Code.

O

98