

LEGISLATION & GOVERNMENTAL ORGANIZATION COMMITTEE

Committee Chair: Councilmember Julie Pierce—City of Clayton

Committee Vice Chair: Supervisor David Rabbit—Sonoma County

Staff: Patricia Jones – Assistant Executive Director 510/ 464-7933; FAX 510/464-7970; PatJ@abag.ca.gov

Kathleen Cha – Senior Communications Officer 510/ 464-7922; KathleenC@abag.ca.gov

Thursday, July 19, 2012 – 3:30 p.m. to 5:00 p.m.
ABAG Large Conference Room B, MetroCenter, 101 Eighth Street, Oakland

AGENDA*

1.	OPEN AGENDA Committee members may raise issues for consideration; members of the public may speak.	Information/ Action
2.	APPROVAL OF MINUTES Committee will review and approve the minutes of the May 15, 2012, L&GO meeting.	Information/ Action
3.	2012 STATE LEGISLATION FOR CONSIDERATION ** AB 693 (Huffman) Local Government: Sonoma County Regional Climate Protection Authority SB 1130 (De Leon) Energy: Energy Assessment—Nonresidential Buildings—Financing SB 1572 (Pavley) California Global Warming Solutions Act of 2006: AB 32 Investment Fund Review Position on SB 1366 (DeSaulnier) Firearms: Lost or Stolen—Reports Review of Bills Previously Considered for Updates/Amendments	Information/ Action
4.	REVIEW OF BUDGET TRAILER BILLS IMPACTING LOCAL GOVERNMENT AB 1484 Redevelopment SB 1018 Resources and Environmental Protection SB 1023 Public Safety Realignment	Information
	ADJOURNMENT Next meeting is scheduled for September 20, 2012.	Action
	Agenda and other written materials are available at ABAG/Front Desk, 101 8th Street, Oakland, or at http://www.abag.ca.gov/meetings --	

* The Committee may take any action on any item on the agenda

** Full California Bill Texts and actions can be read and printed out from state website: www.leginfo.ca.gov.



LEGISLATION
2012 State Legislative Session
Legislation & Governmental Organization Committee
July 10, 2012

Bill Author	Subject	Status	Staff Recommendation	L&GO Position	Legislation Summary
-------------	---------	--------	----------------------	---------------	---------------------

*NEW BILLS					Bold Face/Shading in Legislation Summary indicates change/ amendments.
-------------------	--	--	--	--	---

Bills to be reviewed are listed in numeric order with Assembly bills listed first, followed by Senate bills

	New Bills				
*AB 693 (Huffman)	Local Government: Sonoma County Regional Climate Protection Authority	SEN Read Second time and amended; ordered to Third Reading	Support		Existing law, until December 1, 2015, creates the Sonoma County Regional Climate Protection Authority (authority). This bill would instead make the above provisions inoperative and extend Authority to 2020. By extending the addition of new duties on local governments participating in the Sonoma County Regional Climate Protection Authority, this bill would impose a state-mandated local program.
*SB 1130 (De Leon)	Energy: Energy Assessment— Nonresidential Buildings— Financing	ASM Natural Resources Committee passed as amended and re-referred to Committee Appropriations.	Support		Would provide financing for commercial energy efficiency retrofit projects: Establishes the Nonresidential Building Energy Retrofit Financing Act of 2012 (Act) and requires the California Energy Commission (CEC) to establish the Nonresidential Building Energy Retrofit Financing Program (Program) by July 1, 2013 to provide financial assistance through revenue bonds for owners of eligible buildings to implement energy efficiency improvements and renewable energy generation. Purpose is to purpose is to facilitate private financing to enable private, nonresidential building owners and <u>eligible public entities</u> to invest in clean energy improvements, renewable energy, and conservation to incentivize private equity managers to invest in clean energy improvements, integrate the smart energy economy, and to stimulate the state economy by directly creating jobs.
*SB 1572 (Pavley)	California Global Warming Solutions Act of 2006: <u>AB 32 Investment Fund</u>	ASM Re-referred to Appropriations Com	Support		Specifies expenditures of up to \$250 million in the 2012-13 fiscal year derived from the auction of greenhouse gas (GHG) allowances pursuant to the cap-and-trade program adopted by ARB pursuant to AB 32.

					<p>1)Creates the Greenhouse Gas Reduction Account and requires all revenues, except for fines and penalties, collected by ARB from the auction or sale of allowances pursuant to a market-based compliance mechanism to be deposited in the Account and available, upon appropriation by the Legislature, for the purposes of this bill.</p> <p>Requires projects funded by the bill to comply with the following criteria:</p> <ul style="list-style-type: none"> a) Achieve greenhouse gas emissions reductions at a reasonable cost. b) Rapidly achieve budgetary savings for families, small businesses, schools, universities, companies regulated under the cap-and-trade program, community institutions, <u>and state, local, and regional governments.</u> c) Advance the purposes of the cap-and-trade program, in particular the purpose of the auction to reduce the risk of market manipulation and windfall profits. d) Protect existing jobs in the state by minimizing leakage. e) Benefit the most adversely impacted and disadvantaged communities to the maximum extent feasible. <p>--Provide opportunities, where appropriate, for small businesses, schools, local governments, not-for-profit entities, state and local certified conservation corps, state conservancies, and other community institutions to participate in and benefit from statewide and regional efforts to reduce greenhouse gas emissions.</p> <p>--Requires allocation of funds according to the following categories: K-12 energy projects Public university projects, Rapid transition assistance for industrial facilities, Residential energy efficiency, Energy in agriculture priority projects and includes:</p> <p><u>Sustainable land use and transportation - The greater of 20 percent or \$30 million to the Strategic Growth Council (SGC) for allocation to metropolitan planning organizations, or, within the Southern California Association of Governments region, to a county transportation commission, or to other local governmental entities in regions not within a metropolitan planning organization, that further the purposes of specified regional planning processes.</u></p> <ul style="list-style-type: none"> i) <u>Project funding determinations shall be made at the regional level in accordance with statewide criteria developed by the SGC that prioritize investments in projects that:</u> <ul style="list-style-type: none"> <u>(1) Cost-effectively reduce GHG emissions and provide other co-benefits.</u> <u>(2) Integrate transportation, land use, and water and other</u>
--	--	--	--	--	--

					<p><u>resource conservation strategies.</u> <u>(3) Occur in regions with sustainable community strategies that meet GHG emission reduction targets, or in other regions, for equivalent blueprint plans or other regional plans.</u> <u>ii) Funds allocated by the SGC may be used for integrated infrastructure development, design, construction, or planning, including modeling and verification systems that impose GHG emission reduction performance measurement tools for local and regional actions, and operation and maintenance of transportation infrastructure, provided that the integrated infrastructure development, design, construction, or planning or operation and maintenance measures are part of a comprehensive regional or local plan that directly results in overall GHG emission reduction and co-benefits.</u></p>	
SB 1366 DeSaulnier	Firearms: Lost or Stolen-- Reports	ASM Appropriations	Support	<p>Position to be reviewed:</p> <p>Support with amendment</p>	<p>This bill would require that every person must report the theft or loss of a firearm he or she owns or possesses to a local law enforcement agency in the jurisdiction in which the theft or loss occurred within 48 hours of the time he or she knew or reasonably should have known that the firearm had been stolen or lost, and:</p> <p>--provide that, for purposes of this requirement, a "firearm" includes the frame or receiver of the weapon;</p> <p>--require that every person who has reported a firearm lost or stolen, as required above, shall notify the local law enforcement agency in the jurisdiction in which the theft or loss occurred within 48 hours if the firearm is subsequently recovered by the person;</p> <p>-- require firearms dealers to conspicuously post within the licensed premises the requirement that firearms owners report lost and stolen firearms, as detailed above; and</p> <p>--provide specified exceptions to the reporting requirement.</p>	
	BILLS PREVIOUSLY CONSIDERED					
AB 57 Beall	Metropolitan Transportation Commission	Enrolled and presented Governor for signature 7/5	Support	<p>Continue Support as written</p>	<p>This bill would, instead, require the Metropolitan Transportation Commission to consist of 21 members, including one member appointed by the Mayor of the City of Oakland and one member appointed by the Mayor of the City of San Jose. The bill would require the initial term of those 2 members to end in February 2015. The bill would, effective with the commission term commencing</p>	

Bill Author	Subject	Status	Staff Recommendation	L&GO Position	Legislation Summary Page 4
					February 2015, prohibit more than 3 members of the commission from being residents of the same county, as specified. By imposing new requirements on a local agency, this bill would impose a state-mandated local program.
AB 441 Monning	State Planning	SEN Third Reading	Watch	Oppose	<p>Amended: This bill would require CTC to attach a summary of the policies, practices, or projects that have been employed by metropolitan planning organizations that promote health and health equity to the commission's next revision of specified regional transportation planning guidelines.</p> <p>Originally: Requires the California Transportation Commission (CTC) to include voluntary health issues in guidelines promulgated by CTC for the preparation of regional transportation Plans. Requires CTC to include at the next revision voluntary health and health equity factors, strategies, goals, and objectives in the regional transportation plan (RTP) guidelines.</p>
AB 484 Alejo	Enterprise Zones: Expiration of Designation	SEN Governance and Finance Hearing postponed	Support	Support	<p>Amended: Clarifies that funds set aside for the long-term management of mitigation lands conveyed to a nonprofit organization may also be conveyed to the nonprofit, and authorizes the nonprofit to hold, manage, invest, and disburse the funds for management and stewardship of the land or easement for which the funds were set aside.</p> <p><i>This bill would authorize the jurisdiction of an expiring enterprise zone to send a letter to the department expressing the intent of the jurisdiction to reapply for a new enterprise zone designation prior to the expiration of the designation of the enterprise zone. The bill would provide that if that letter is sent and, if prior to the expiration of the designation of the enterprise zone, the department has not issued a request for proposal and has not conditionally designated the maximum number of enterprise zones within the state, then businesses within the geographic boundaries of the existing enterprise zone may continue to be eligible to receive all enterprise zone benefits until the department completes any regulatory or administrative review, issues a request for proposal, and issues conditional designation letters to the maximum number of enterprise zones within the state.</i></p>
AB 1532 John A. Perez	California Global Warming Solutions Act of 2006: Greenhouse Gas Reduction Account	SEN re-refer to Appropriations Com.	Watch	Support With suggested amendment	<p>Amended: 4/30 and 5/1: Establishes procedures for deposit and expenditure of regulatory fee revenues derived from the auction of GHG allowances pursuant to the cap and trade program adopted by ARB pursuant to AB 32.</p> <p>This bill would create the Greenhouse Gas Reduction Account within the Air Pollution Control Fund. The bill would require</p>

Bill Author	Subject	Status	Staff Recommendation	L&GO Position	Legislation Summary Page 5
					<p>moneys, as specified, collected pursuant to a market-based compliance mechanism be deposited in this account. The bill also would require those moneys, upon appropriation by the Legislature, be used for purposes of carrying out the California Global Warming Solutions Act of 2006. The bill would require the state board to award those moneys to measures and programs. This means measures and programs that reduce greenhouse gas emissions consistent with this division to achieve any of the following:</p> <p>(1) Clean and efficient energy, through energy efficiency, clean and renewable distributed energy generation, and related activities.</p> <p>(2) Low-carbon transportation, through the development of state-of-the-art systems to move goods and freight, deploy advanced technology vehicles and vehicle infrastructure, produce and use advanced biofuels, and increase the availability of low-carbon and public transportation.</p> <p>(3) Natural resource protection, through measures associated with water use and supply, land and natural resource conservation and management, and sustainable agriculture.</p> <p>(4) <i>Sustainable infrastructure development, through strategic planning and development of major infrastructure, including transportation and housing.</i></p>
AB 1555 Norby	Redevelopment: Debt Forgiveness Agreements	ASM Inactive File	Watch	Watch	Prohibits the oversight board responsible for the wind-down of a redevelopment agency (RDA) to require the successor agency to forgive a loan, advance, or indebtedness that is owed to the dissolved RDA by a private entity. (amended 5/2/12)
AB 1585 Perez, Atkins, Dickinson, Hill, Mitchell, Perea, and Torres	Redevelopment	SEN Appropriations Hearing 8/6	Support	Support	<p>Makes changes to the process of dissolving redevelopment agencies (RDAs), including requiring the funds on deposit in the Low-and Moderate-Income Housing Fund (L&M Fund) of the former RDA to remain with the entity that assumes the housing functions rather than being distributed as property tax revenue.</p> <p>This bill would modify the scope of the term “enforceable obligation” and modify provisions relating to the transfer of housing funds and responsibilities associated with dissolved redevelopment agencies. The bill would provide that any amounts on deposit in the Low and Moderate Income Housing Fund of a dissolved redevelopment agency be transferred to specified entities. The bill would make conforming changes.</p> <p>Existing law provides that, upon a specified date, agreements, contracts, or arrangements between the city or county, or city and county that created the redevelopment agency and the redevelopment agency are invalid. Notwithstanding this provision, an agreement that provided loans or other startup funds for the</p>

Bill Author	Subject	Status	Staff Recommendation	L&GO Position	Legislation Summary Page 6
					<p>agency that was entered into within 2 years of the formation of the agency is valid and binds the successor agency. The bill would expand this exception to include an agreement involving a loan specific to a project area and other specified obligations.</p> <p>--The bill would provide that other loan agreements entered into between the redevelopment agency and the city, county, or city and county that created it are deemed to be enforceable obligations, except as specified.</p> <p>--The bill would further expand upon, and clarify, the scope of the successor agency's and the oversight board's responsibilities. This bill would declare that it is to take effect immediately as an urgency statute.</p>
AB 1627 Dickinson	Energy: Vehicle Miles Traveled	ASM Business, Professions, and Consumer Protection Hearing cancelled	Oppose LCC Oppose	Oppose	<p>Amended 4/10/12: CEQA requires the Office of Planning and Research to prepare guidelines to assist state and local agencies in implementing the requirements of CEQA. This bill would require the office, not later than January 1, 2014, to prepare and make available a manual containing specified information designed to be used by local governments, local agencies, and project developers to evaluate and incorporate measures and strategies to reduce vehicle miles traveled (VMT) in new residential and commercial building projects. The bill would require the office, not later than January 1, 2014, to make recommendations to the Legislature and local policymakers of measures to improve the reduction of VMT related to residential and commercial building projects.</p> <p><i>This bill has raised critical concerns because it would prohibit local governments from issuing local building permits until it has been confirmed that the building satisfied standards designed to reduce vehicle miles traveled (VMT) by occupants of residential and nonresidential buildings. A key element in the SB 375 negotiations was to make sure that cities retained the flexibility they needed to meet the goals identified in the bill while recognizing that every city has unique local conditions, priorities and resources.</i></p>
AB 1656 Fong	San Francisco Bay Restoration Authority	SEN Read Second time; ordered to Third Reading	Support	Support	<p>This bill extends, from January 1, 2029, to January 1, 2036, the sunset on the San Francisco Bay Restoration Authority; expands the jurisdiction of the authority's East Bay board member to include all of Contra Costa County; and expands the eastern boundary within with projects are eligible for grants and awards from the authority. Sponsored by the San Francisco Bay Restoration Authority.</p> <p><i>Technical corrections to the enabling legislation (AB 2954-San Francisco Restoration Authority act) to extend the sunset date and</i></p>

Bill Author	Subject	Status	Staff Recommendation	L&GO Position	Legislation Summary Page 7
					<p><i>adding back the northeastern portion of Contra Costa County shoreline to allow funding raised to be spent on projects in that area.</i></p>
<p>AB 1672 Torres</p>	<p>Housing-Related Parks Program</p>	<p>SEN Appropriations</p> <p>Hearing August 6</p>	<p>Support</p>	<p>Support</p>	<p><i>Existing law establishes the Housing-Related Parks Program, administered by the Department of Housing and Community Development, which provides grants for the creation, development, or rehabilitation of park and recreation facilities to cities, counties, and cities and counties that meet certain criteria for housing starts, as defined, for newly constructed units that are affordable to very low or low-income households.</i></p> <p>Amended: This bill would instead provide that the program provide the grants to local entities based on the issuance of building permits for new housing units, or housing units substantially rehabilitated, acquired, or preserved with committed assistance from the city, county, or city and county, that are affordable to very low or low-income households. The bill would provide for substantial and additional bonus funds to specified jurisdictions and qualifying units.</p> <p>Originally: Would change the threshold for accessing funds from the Housing-Related Parks Program from housing starts (which currently need to be proven by foundation inspections and occupancy certifications) to the issuing of building permits. The program has about \$160-170 million remaining out of an initial \$200 million. The author hopes that simplifying the application process will make it easier for jurisdictions to access the funds, which are intended to incentivize the production of affordable homes by awarding additional parks funding for doing so.</p>
<p>AB 1951 Atkins</p>	<p>Housing Bonds</p>	<p>SEN Appropriations</p> <p>Hearing August 6</p>	<p>Support LCC Watch</p>		<p>Would reallocate \$30 million from unutilized programs in the Affordable Housing Innovation Fund to the Multifamily Housing Program (MHP). This bill would repeal the provisions relating to the Practitioner Fund and make conforming changes. This bill would delete the provisions establishing the Construction Liability Insurance Reform Pilot Program:</p> <p><i>The \$100 million for the Affordable Housing Innovation fund was created in SB 586 (Dutton) in 2007. The Practitioner fund and Construction Liability Reform Pilot Program have yet to make any awards, and the \$30 million remaining in those funds would be transferred to MHP.</i></p>
<p>AB 2231 Fuentes</p>	<p>Sidewalks: Repairs</p>	<p>SEN Appropriations</p>	<p>Oppose CSAC</p>	<p>Oppose</p>	<p>Amended 5/25, 5/31, 7/5</p> <p>This bill would provide that if a city, county, or city and county has an ordinance in place that requires that local</p>

		<p>Hearing August 6</p>	<p>Oppose LCC Oppose</p>		<p>entity to repair sidewalks, a repeal of that ordinance shall become effective only if the repealing ordinance is approved by the majority of voters voting on that measure in a consolidated or general election. <i>The bill would prohibit a city, county, or city and county that has an ordinance in place that requires that local entity to repair sidewalks, from imposing a fee, charge, or assessment, except a voluntary contractual assessment, for sidewalk repairs against an owner of private property fronting on any portion of a sidewalk, unless a repeal of that local entity's sidewalk repair ordinance is approved by the voters, as specified. The bill would make these provisions applicable to charter cities and counties. By imposing new duties on cities, counties, and cities and counties, the bill would impose a state-mandated local program.</i></p> <p><i>Existing law: Requires the owners of lots or portions of lots fronting on any portion of a public street or place to maintain any sidewalk in such condition that the sidewalk will not endanger persons or property and maintain it in a condition that will not interfere with the public convenience in the use of those works or areas, except as to those conditions created or maintained by persons other than the owner.</i></p> <p><i>--Requires the superintendent of streets, as defined, to provide specified notice to the owner or person in possession of the property fronting on that portion of the sidewalk so out of repair or pending reconstruction, to repair the sidewalk.</i></p> <p><i>--Under existing law, if the repair is not commenced within two weeks after the notice has been provided, the superintendent of streets shall make the repair and the cost of the repair shall be imposed as a lien on the property.</i></p> <p>Originally: This bill would shift responsibility and liability for dangerous or inoperable sidewalks from adjacent property owners to local agencies, and prohibits local agencies from imposing assessments on adjacent property owners for repairs. Imposes a state mandated local program.</p> <p>Specifically, the bill requires that when any portion of any sidewalk is out of repair or pending reconstruction and is in a condition to endanger persons or property or is in a condition to interfere with the public convenience in the use of that sidewalk, a city, county, or city and county shall repair that sidewalk, if a) that sidewalk is owned by that city, county, or city and county, or b) the repairs are required as a result of damage caused by plants or trees.</p> <p>--Imposes liability on the city, county, or city and county for any</p>
--	--	-----------------------------	------------------------------	--	---

					<p>injury resulting from that entity's failure to perform the required repairs.</p> <p>--Prohibits any city, county, or city and county from imposing an assessment against the private owner of the property fronting on any portion of a sidewalk for sidewalk repairs under this section.</p>
<p>AB 2447 Skinner & Perez</p>	<p>California Neighborhood Revitalization Partnership Act of 2012.</p>	<p>SEN Appropriations Com</p>	<p>Support LCC Watch CSAC Support</p>	<p>Watch</p>	<p>Would establish a state version of the Neighborhood Stabilization Program to be called the California Neighborhood Revitalization Fund. The fund would be capitalized by a one-time transfer of \$25 million from the California Homebuyer's Downpayment Assistance Program (CHDAP), which currently has \$87 million remaining.</p> <p>--Requires the California Housing Finance Agency (CalHA) to administer the Act in consultation with the Department of Housing and Community Development (HCD) to finance affordable housing for low- to moderate-income households and to revitalize neighborhoods damaged by the foreclosure crisis.</p> <p><i>According to bill authors, this bill is being proposed because "the state lacks a centralized entity to facilitate the interaction and negotiation between financial institutions, private investors, local governments and non-profits in the identification and acquisition of foreclosed properties for re-sell, rental, or lease-to-own structures for low-and moderate-income families. The state does not have a program in place to assist local governments who are struggling with the unique and intensive needs of repairing foreclosed properties and reintegrating them into the housing market."</i></p>
<p>SB 654 Steinberg</p>	<p>Redevelopment</p>	<p>ASM Housing and Community Development</p>	<p>Watch</p>	<p>Watch</p>	<p>Amended 1/31/12. This bill would allow the host city or county of a dissolving redevelopment agency to retain the funds on deposit in the agency's housing fund and expands the types of agency loans from the host city or county that are considered enforceable obligations. Senate deleted urgency clause.</p> <p>Would revise the definition of the term "enforceable obligation" and modify provisions relating to the transfer of housing funds and responsibilities associated with dissolved redevelopment agencies. The bill would provide that any amounts on deposit in the Low and Moderate Income Housing Fund of a dissolved redevelopment agency be transferred to specified entities, such as city, county, or city and county. Bill would make conforming changes</p>
<p>SB 659 Padilla</p>	<p>Immunizations: disclosure of information: tuberculosis screening.</p> <p><i>(was Community Redevelopment)</i></p>	<p>ASM Rules Com</p>	<p>No Position</p>	<p>Support</p>	<p>Gutted and amended</p> <p>Would postpone the current February 1st deadline for dissolution of Redevelopment Agencies to April 15, 2012.</p>

Bill Author	Subject	Status	Staff Recommendation	L&GO Position	Legislation Summary Page 10
SB 878 DeSaulnier	California Transportation Commission <i>(was Regional Planning: Bay Area)</i>	ASM Committee-Appropriations	Watch	Watch	<p>Amended June 25, 2012: Directs the California Transportation Commission (CTC) to study the appropriateness of establishing an office of inspector general within state government to oversee transportation. This is to ensure that Caltrans and transportation agencies with projects funded completely or in part from funds in STIP are operating efficiently, effectively and in compliance with federal and state laws government the performance of transportation agencies. Requires written report on advisability of creating an office of inspector general by January 31, 2014.</p> <p>Originally: Would require the Joint Policy Committee – a subcommittee of representatives from the Metropolitan Transportation Commission, the Association of Bay Area Governments, the Bay Area Air Quality Management District and the Bay Conservation & Development Commission — as well as its individual member agencies — to prepare a number of new reports related to the Sustainable Communities Strategy (SCS), including recommendations on organizational reform (such as the creation of a new agency by statute or through a joint exercise of powers agreement or another institutional arrangement), regional economic development, and public and community outreach.</p>
SB 986 Dutton	Redevelopment: Bond Proceeds	SEN Amendments by Senator Huff tabled on motion of Senator Corbett. (Ayes 21. Noes 13. Page 3747.) Read third time. Urgency clause refused adoption.	Support LCC Support CRA Support	Support	<p>Allows successor agencies to keep former redevelopment agencies' bond proceeds and enter into new enforceable obligations funded by bond proceeds. Prohibits unspent proceeds derived tax exempt bonds from being redistributed and provides successor agencies with alternative ways to use funds.</p>
SB 1149 DeSaulnier	Bay Area Regional Commission (BARC)	SEN Committee on Appropriations Hearing Cancelled	Watch	Oppose and Withdraw	<p>This bill creates the Bay Area Regional Commission (BARC) as the successor to the JPC. Defines the regional entities as MTC, AQMD, BCDC, ABAG, and BATA. Authorizes BARC to employ an interim executive director who shall serve until June 30, 2015. Authorizes BARC to review and comment on draft and final plans, including the SCS, of the regional entities. --Establishes a 15-member governing board, the members will be elected from apportioned districts that conform to applicable state and federal law. Establishes the term of office for BARC commissioners at four years, with seven commissioners initially having a term of two years and eight commissioners having terms of four years. Requires the initial</p>

Bill Author	Subject	Status	Staff Recommendation	L&GO Position	Legislation Summary Page 11
					<p>commission elections, including both primary and general, to take place in 2014. Provides that the elected commissioners shall take office the first Monday after January 1, 2015, at which time the terms of the previous commissioners expire. The commissioners shall appoint an executive director, legal counsel, and a chief financial officer by June 30, 2015.</p> <p>--Requires the regional entities to submit their functional plans to BARC for adoption. If BARC finds a functional plan inadequate, it shall submit findings underlying its decision to the regional entity, and the regional entity must redraft its plan in conformance with the findings. .</p>
SB 1151 Steinberg	Sustainable Economic Development and Housing Trust Fund: Long-range Asset Management Plan	ASM Housing and Community Development	Support CSAC Support	Support	<p>This bill creates an alternative process by which communities can use their former redevelopment agencies assets for specified economic development and housing purposes. The alternative process requires a Sustainable Communities Investment Authority to develop a long-range asset management plan to govern the disposition and use of former redevelopment agency assets that are placed into a Sustainable Economic Development and Housing Trust Fund.</p> <p><i>Originally:</i> This bill permits local jurisdictions to use an alternative process to administer the assets of their former redevelopment agencies for economic development and housing purposes. To do so, the bill authorizes a Community Development and Housing Joint Powers Authority to place redevelopment assets in a Sustainable Economic Development and Housing Trust Fund and requires a long-range asset management plan to govern that trust fund.</p>
SB 1156 Steinberg	Sustainable Communities Investment Authority <i>(was Community Development and Housing Joint Powers Authority)</i>	SEN Appropriations	Support CSAC Support	Support	<p>Amended 6/27/12: This bill would authorize the legislative bodies of the city and county of a sustainable communities investment area, as described, to form a Sustainable Communities Investment Authority (authority) to carry out the Community Redevelopment Law in a specified manner. The bill would authorize <i>require</i> the authority to adopt a plan for a sustainable communities investment area and <i>authorize the authority</i> to include in that plan a provision for the receipt of tax increment funds provided that specified requirements are met. The bill would establish prequalification requirements for construction contracts that will receive more than \$1,000,000 from the Sustainable Communities Investment Authority and would require the Department of Industrial Relations to monitor and enforce compliance with prevailing wage requirements for specified projects. The bill would deposit</p>

Bill Author	Subject	Status	Staff Recommendation	L&GO Position	Legislation Summary Page 12
-------------	---------	--------	----------------------	---------------	--

					<p>moneys received by the department from developer charges related to the costs of monitoring and enforcement in the State Public Works Enforcement Fund. By depositing a new source of revenue in the State Public Works Enforcement Fund, a continuously appropriated special fund, the bill would make an appropriation.</p> <p>Originally: This bill authorizes a city and county that included the territory of a redevelopment agency to form a Community Development and Housing Joint Powers Authority (after July 1, 2012) to carry out Community Redevelopment Law, using the assets of a former redevelopment agency as well as new revenues that the bill authorizes.</p>
<p>SB 1220 Steinberg and DeSaulnier</p>	<p>Housing Opportunity and Market Stabilization (HOMeS) Trust Fund Act of 2012</p>	<p>SEN Read Third time; refused passage</p>	<p>Watch</p>	<p>Watch</p>	<p>Amended 4/16/12: This bill imposes a fee of \$75 on the recording of each real-estate related document, <u>except for those documents recorded in connection with a transfer subject to a documentary transfer tax</u>, and directs the money to <i>the Housing Opportunity and Market Stabilization (HOMeS) Trust Fund</i>. (new title) The Legislature may then appropriate these funds for the development, acquisition, rehabilitation, and preservation of homes affordable to low- and moderate-income households, including emergency shelters, transitional and permanent rental housing, foreclosure mitigation, and homeownership opportunities.</p> <p>Previously: <i>This bill would enact the Housing Opportunity Trust Fund Act of 2012. The bill would make several legislative findings and declarations relating to the need for establishing permanent, ongoing sources of funding dedicated to affordable housing development. The bill would impose a fee of \$75 to be paid at the time of the recording of every real estate instrument, paper, or notice required or permitted by law to be recorded. By imposing new duties on counties with respect to the imposition of the recording fee, the bill would create a state-mandated local program.</i></p> <p><i>--The bill would require revenues from this fee be sent quarterly to the Department of Housing and Community Development for deposit in the Housing Opportunity Trust Fund, which the bill would create within the State Treasury. The bill would provide that moneys in the fund may be expended for the purpose of supporting affordable housing, as specified. The bill would impose certain auditing and reporting requirements.</i></p> <p><i>--This bill would result in a change in state taxes for the purpose of increasing state revenues within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of 2/3 of the membership of each house of the</i></p>

Bill Author	Subject	Status	Staff Recommendation	L&GO Position	Legislation Summary Page 13
SB 1335 Pavley	Redevelopment: Brownfield Sites	SEN Appropriations Held under submission	Watch LCC Support		<i>Legislature.</i> This bill would authorize a successor agency to retain <i>property obtained by the former redevelopment agency, for specified remediation or removal purposes of the release of hazardous substances, as defined, at a brownfield site using available financing, funds, and grants, subject to approval of the oversight board pursuant to specified procedures.</i> Upon completion of remediation, the bill would require the successor agency to dispose of the <i>property</i> pursuant to existing asset disposition provisions. The bill would make conforming changes.
SB 1545 DeSaulnier -CoAuthor Hancock	Bay Area Toll Bridges	ASM Transportation Failed passage out of Com. 7/2/12	Watch	Watch	This bill would prohibit public money from being used on the development or improvement of an office building at 390 Main Street, San Francisco, until after the State Auditor has completed a specified audit relating to the move of the headquarters of the Metropolitan Transportation Commission. Upon completion of the audit, the bill would require the issues raised in the audit to be addressed and a report in that regard to be submitted to the Legislature prior to future expenditure of public money on the headquarters project. These provisions would apply to the Bay Area Toll Authority, the Metropolitan Transportation Commission, and the Bay Area Headquarters Authority. The bill would thereby impose a state-mandated local program.
	FEDERAL LEGISLATION				
S.97 Feinstein	San Francisco Bay Restoration Act	SEN Legislative Calendar under General Orders	Support	Support	To amend the Federal Water Pollution Control Act to establish a grant program to support the restoration of San Francisco Bay.
H.R. 3034 Speier	San Francisco Bay Restoration Act of 2011	Referred to the Subcommittee on Water Resources and Environment	Support	Support	To amend the Federal Water Pollution Control Act to establish a San Francisco Bay restoration grant program.

To: Legislation and Governmental Organization Committee (L&GO)

**Subject: SB 1366 (DeSaulnier) Firearms: Lost or Stolen
(Current ABAG position is “support with proposed amendment”)
Request to Reconsider Position**

At the May L&GO meeting, the committee recommended support of SB 1366 with amendment. Currently the bill language reads "must report the theft.....to a local law enforcement agency in the jurisdiction in which the theft or loss occurred within 48 hours of the time he or she knew or reasonably should have known that the firearm had been stolen or lost." The Committee recommendation was to amend the bill and strike out the phrase "or reasonably should have known."

In follow-up discussion with Pat Jones, ABAG Acting Executive Director, Juliet A. Leftwich, Legal Director, Legal Community Against Violence, requested that ABAG reconsider our position with a request for amendment, to unqualified support. The attached e-mail explanation outlines the reasons for full support and is presented for your consideration at our next L&GO meeting on July 19th:

“As we discussed over the phone, there seems to be some confusion about the meaning of the bill language. The “knew or reasonably should have known” language is included in the bill to make it EASIER for the prosecution. If the standard was only whether a gun owner knew about a gun being lost or stolen, that person could always escape liability by simply claiming that he or she didn’t know about the loss or theft. In other words, proving a person’s subjective knowledge (i.e., what is in his or her head) is much more difficult than proving what a reasonable person should have objectively known under the circumstances.”

“The “knew or should have known” standard is included in many local ordinances requiring the reporting of lost or stolen guns in California, and in the model ordinance which ABAG circulated to its members a few years ago (I believe that was in 2008 or 2009). In 2010, Oakland amended its local ordinance, which originally required actual knowledge, to include the “knew or reasonably should have known language” to facilitate enforcement. The amended ordinance included the following findings:

WHEREAS, IN 2003 the City Council approved Ordinance No. 12529 C.M.S. establishing penalties for failing to report the loss or theft of a firearm in Oakland; and

WHEREAS, the original language utilized a restrictive standard that might prevent prosecution in cases where a firearm owner did not report the loss or theft of a weapon; and

WHEREAS, a court should be allowed to reasonably infer from the evidence presented when a firearm owner knew or should have known a firearm has been stolen or lost.”

“I hope that this additional information clarifies the meaning of the SB 1366 language so that ABAG can feel comfortable supporting the bill without reservation. I would greatly appreciate it

if you could forward my email to the appropriate individuals, and let them know that I would be happy to discuss this issue further with anyone who continues to have questions.”

“I attach the most recent list of support for SB 1336. As you can see, the bill is co-sponsored by the LA Sheriff Baca, and has the support of the California Police Chiefs Association, as well as numerous police chiefs statewide. None of those law enforcement officials/organizations objected to the “knew or reasonably should have known language.”

*Juliet A. Leftwich, Legal Director
Legal Community Against Violence
268 Bush Street, #555
San Francisco, CA 94104
415-433-2062, ext 306; fax: 415-433-3357*



Background Information on the “Knew or Reasonably Should Have Known” Standard in SB 1366

6/25/12

Under SB 1366 (DeSaulnier), commencing January 1, 2013, any person whose firearm is lost or stolen would be required to report the loss or theft to a local law enforcement agency within 48 hours of the time he or she knew or reasonably should have known that the firearm had been stolen or lost. As discussed below, the “knew or reasonably should have known” standard is used in a significant number of places in California’s criminal laws and has repeatedly been upheld by California courts. Law enforcement’s ability to enforce SB 1366 is significantly enhanced by the inclusion of that standard.

I. A “knew or reasonably should have known” standard is often used in California’s criminal laws and has been repeatedly upheld by the courts.

As a California appellate court observed in 2003, “The concept of reasonableness in criminal statutes is not new.”¹ In fact, the “knew or reasonably should have known” standard is employed in a number of areas of California’s criminal laws. In legal challenges to these laws, California courts have repeatedly found that “knew or reasonably should have known” is an objective standard, and have rejected claims that the standard is unreasonably vague.

One such case involved the state law that makes a murderer eligible for the death penalty if the victim was a peace officer engaged in the performance of his or her duties when killed and the killer knew “or reasonably should have known” the victim was such an officer.² In rejecting the defendant’s legal challenge, the California Supreme Court noted that his request for additional jury instructions about the meaning of “reasonably should have known” would not bring any additional clarity to the self-explanatory concept:

Appellant also suggests the statute is vague and overbroad because the word “reasonable” does not provide “an ascertainable and fixed standard of guilt.”...

This argument is troubling only if one believes the average juror is unable to ascertain and apply the meaning of “reasonably should have known” in the instruction reiterating the statutory language. We doubt this is the case. First, any instruction elaborating on the term “reasonable” would add little, if anything, to the understanding of most jurors.* Moreover, the average juror has the ability to cull from everyday experience a standard by which to assess the ability of a defendant to know the status of his or her victim.

* Such an instruction could do little more than inform the jury that “‘reasonable’ means ‘what an average person of average intelligence would have known under the circumstances.’”³

Additionally, the Penal Code defines rape to include sexual intercourse “where a person is prevented from resisting by any intoxicating or anesthetic substance, or any controlled substance, and this condition was

¹ *People v. Linwood*, 129 Cal. Rptr. 2d 73, 78 (Cal. Ct. App. 2003).

² Cal. Penal Code § 190.2(a)(7).

³ *People v. Rodriguez*, 726 P.2d 113, 146-47 (Cal. 1986) (internal citations omitted).

known, or reasonably should have been known by the accused.”⁴ The California Court of Appeal upheld the use of this standard in *People v. Linwood*, where the court remarked:

The use of such a standard does not make a statute uncertain; it requires either actual or constructive knowledge of the risk. Imputed knowledge of the risk is tested on an objective basis: “[I]f a reasonable person in defendant’s position would have been aware of the risk involved, then defendant is presumed to have had such an awareness.”⁵

California courts have also upheld state laws:

- Prohibiting the drawing or exhibition of a firearm “in a rude, angry, or threatening manner” while in the immediate presence of a peace officer, where the gun possessor “knows, or reasonably should know” that the person is a peace officer engaged in the performance of his or her duties.⁶
- Providing for a sentence enhancement for the commission of certain crimes where the victim is under the age of 14, age 65 or older, or disabled, and “that disability or condition is known or reasonably should be known to the person committing the crime.”⁷
- Prohibiting the possession of assault weapons. While the statute prohibiting the possession of assault weapons does not specify a mental state,⁸ the California Supreme Court held that prosecutors would be required to show that a defendant “knew or reasonably should have known” that the firearm in his possession had the characteristics that made it an assault weapon.⁹ The court rejected the defendant’s argument that actual knowledge of those characteristics ought to be required.

II. The “knew or reasonably should have known” standard facilitates effective enforcement.

SB 1366 uses the “knew or reasonably should have known” standard in order to facilitate enforcement of the statute. Without the inclusion of “reasonably should have known,” defendants could escape liability by simply claiming that they did not actually know that their firearms were missing.

Concerns about enforceability influenced the California Supreme Court’s decision to require prosecutors seeking to enforce the state’s ban on the possession of assault weapons to show that the defendant “knew or reasonably should have known” that the firearm in his possession had the characteristics that brought it within the scope of the ban. Rejecting an “actual knowledge” standard, the court stated:

An actual knowledge element has significant potential to impair effective enforcement. Although knowledge may be proven circumstantially, in many instances a defendant’s direct testimony or prior statement that he or she was actually ignorant of the weapon’s salient characteristics will be sufficient to create reasonable doubt. Although the People could rebut a claim of actual ignorance by evidence of the defendant’s long and close acquaintance with the particular weapon or familiarity with firearms in general, production of such evidence would predictably constitute a heavy burden for the prosecution.¹⁰

For more information, please contact Ben Van Houten at bvanhouten@smartgunlaws.org.

⁴ Cal. Penal Code § 261(a)(3).

⁵ *Linwood*, 129 Cal. Rptr. 2d at 78 (internal citations omitted).

⁶ Cal. Penal Code § 417(c). See *People v. Mathews*, 30 Cal. Rptr. 2d 330, 334 (Cal. Ct. App. 1994).

⁷ Cal. Penal Code § 667.9(a). See *People v. Smith*, 16 Cal. Rptr. 2d 820, 824 (Cal. Ct. App. 1993).

⁸ Cal. Penal Code § 30605(a) (formerly § 12280(b)).

⁹ *In re Jorge M.*, 4 P.3d 297, 311 (Cal. 2000).

¹⁰ *In re Jorge M.*, 4 P.3d at 309.