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## **Association of Bay Area Governments**

### **LEGISLATIVE HIGHLIGHTS 2011 LEGISLATIVE YEAR**

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These “Legislative Highlights” consist of both a general overview highlighting some of the key issues addressed during this legislative year and a more comprehensive “Legislative Status Report” generated by our bill tracking system. The status report is attached at the end of the highlights and shows the final status of all the legislation we followed during the year. As you will note, the status report includes the following information on all of the bills we followed:

Bill Number, Author, and Title  
Our Final Position on the Measure  
Final Location or Chapter Number  
Brief Summary

Importantly, the status report reflects the final position taken on the bill. The final position may be different from the position taken on the bill as originally introduced. Amendments to a bill frequently lead to a new position. This is especially true when the amendments are made at our request. For example, we frequently adopt a position of “Oppose Unless Amended” and move to a “Watch” position after our amendments are adopted.

#### **Two-Year Bills**

Since this was the first year of the biennial session, bills not passed to the Governor’s desk remain alive for consideration during next year. The rules provide that these measures must pass the house of origin by the end of January to remain alive for additional consideration. Thus, January will be a busy month. Proponents of two-year bills will be attempting to move them through the house of origin prior to the January deadline.

## **Effective Dates of New Legislation**

The bills that were passed by the Legislature and signed by the Governor will take effect on January 1, unless they include an urgency clause or contain a provision calling for some other effective date. Urgency measures take effect immediately upon chaptering by the Secretary of State. Bills are normally chaptered on the day following their signature by the Governor.

## **2011-2012 Biennial Session**

The 2011 legislative year was the first year of the 2011-2012 biennial legislative session. The State Legislature will return to Sacramento on Wednesday, January 4, 2012. During the interim between the 2011 and 2012 legislative years, the Legislature will be holding interim hearings on two-year bill topics for consideration in 2012. We will monitor these hearings and participate as appropriate.

We must immediately begin planning for the 2012 legislative year. The proposed State Budget for the 2011-2012 fiscal year will be released in January. Next year's budget is predicted to be in even worse shape than this past year. Mix into that the fact that it is an election year and it is impossible to predict how things will unfold. The Legislature will be very distracted with the Presidential primary election in addition to the California state Legislative races. In addition, the new district lines and open primary will be used for the first time. The primary and general elections, together with the budget, will dominate and influence every issue next year. We will carefully monitor the session as it unfolds. We wish to thank you for the support and assistance provided.

## **Key Issues of Interest During 2011**

### **2011-2012 State Budget**

Last year, the voters passed Proposition 25 to reduce the budget vote requirement from two-thirds to a simple majority. The measure's drafters included a provision to punish lawmakers for late budgets by taking away their salaries and per diem payments if a budget is not passed by the Constitutional deadline of June 15<sup>th</sup>. Thus, this year's budget was the first under the new majority vote requirement.

In March, the Legislature attempted to pass an early budget. There were discussions between the Governor and a group of moderate Republicans: "the GOP Five" in the Senate. The GOP Five demanded public employee pension reform, a spending cap, and other items in exchange for their vote to put the tax increase extension question on a June special election ballot. At the same time, a number of trailer bills were being considered in both houses to implement budget cuts. Ultimately, no deal was reached between the Governor and the GOP Five, but the Legislature approved 8 of 20 budget trailer bills. The Legislature did not pass the actual budget bill itself or the trailer bill calling for the special election on taxes. Both houses would have needed 2 Republican votes to pass the urgency special election trailer bill or any other tax increases.

In early June, Democrats tested Proposition 25 by passing a gimmick-ridden budget just before the June 15th deadline. Governor Jerry Brown promptly vetoed it as being unbalanced. Controller John Chiang, supported the Governor's position and invoked the intertwined provisions of two measures, 2004's Proposition 58 and last year's Proposition 25, to cut off salaries and per diem payments to state legislators because they failed to pass a "balanced budget" by the June 15th constitutional deadline. Chiang decreed

that legislators would not be paid because they failed to comply with Proposition 58, which requires that spending not exceed estimated revenues.

The Legislature then passed a revised version of the 2011-2012 state budget which closed a \$26.6 billion budget gap on June 29. With very little debate on the Floors, both Houses of the State Legislature adopted the budget bill and seven additional budget trailer bills. These proposals were passed by majority vote with only Democrats supporting. The “budget deal” was cobbled together by the Governor and the Democratic leadership in the Legislature. The deal came together after the Governor acknowledged he was not going to obtain the two Republican votes he needed in each House to extend tax rates scheduled to expire, and the announcement that an extra \$4 billion in revenues was anticipated to come in during the final months of the fiscal year. Automatic cuts in the form of a “trigger” were put into place in case the anticipated new revenues do not materialize. At this point, revenues have been less than anticipated and many are predicting that the triggers will be implemented.

The “Democratic Budget” relies on a series of three tiers of possible new spending cuts that may be triggered. The “trigger” component depends on Department of Finance Director verifying how much of the \$4 billion in higher than anticipated revenues has been received. The Director could have as long as December 15 to determine how much of the funds have been received. The state will need at least \$2 billion in additional revenue to prevent further “trigger cuts,” which would affect education (including school year reductions), public safety, corrections, library grants, social services, and other programs.

The budget includes a major realignment of public safety programs from the state to local governments. The realignment moves program and fiscal responsibility to the locals. The budget funds the \$5.6 billion realignment using two fund sources: (1) dedication of 1.0625 cents of the existing sales tax rate (\$5.1 billion) and (2) redirection of vehicle license fee revenue (\$453.4 million).

The budget also includes two trailer bills which severely impact local redevelopment agencies. The two-bill scheme eliminates redevelopment agencies and allows them to come back to life in exchange for so-called “voluntary” payments to the state. Shortly after the bills were signed by the Governor, the League of California Cities, along with others, filed a lawsuit. The court ordered a stay on the dissolution of the redevelopment agencies pending the resolution of the lawsuit.

### **AB 57 (Beall) Metropolitan Transportation Commission**

AB 57 increases the membership of the Metropolitan Transportation Commission (MTC) from 19 to 21 members. This bill enlarges the membership of MTC to twenty-one by adding two new voting members, the mayor of Oakland and the mayor of San Jose. The mayors may appoint a member of their respective city councils as alternates. AB 57 prohibits more than three members of MTC from being residents of the same county after February 2015 (Currently ABAG's representative to MTC is from Alameda County, but his term expires in 2015). The bill also requires that the initial terms of the appointed commissioners, including self-appointments, by the mayors of the cities of Oakland and San Jose terminate in February 2015. We supported AB 57. The bill was held in the Senate Transportation and Housing committee as a two-year bill. The Chairman of the committee, Senator DeSaulnier asked the author to make this a two-year bill. Senator DeSaulnier thinks there is opportunity for larger discussion about regional government in the Bay Area. He pledged to have informational hearings in San Jose and Oakland during the interim recess.

### **AB 144 (Portantino) Firearms**

This bill makes it a misdemeanor for any person to carry an exposed and unloaded handgun outside a vehicle upon his or her person while in any public place or on any public street in an incorporated city, or in any public place or public street in a prohibited area of an unincorporated county. We supported this bill. AB 144 was passed by the Legislature and sent to the Governor's desk. The Governor signed the measure as Chapter 725, Statutes of 2011.

### **AB 184 (Swanson) Contractual Assessment Programs: Seismic Safety Improvements**

AB 184 adds seismic strengthening improvements to the types of improvements to private property that can be financed with voluntary contractual assessments. A benefit assessment is an involuntary charge that property owners pay for a public improvement or service that provides a special benefit to their property. The amount of the assessment must be directly related to the amount of the benefit that the property receives. Benefit assessments can finance public projects like flood control, street improvement, streetlights, and public landscaping. As an alternative to benefit assessments, and only with the free and willing consent of affected property owners, public agencies can use "voluntary contractual assessments." The bill was passed by both houses of the Legislature and sent to the Governor. The Governor signed the measure as Chapter 28, Statutes of 2011.

### **AB 255 (Wieckowski) Hazardous Waste: Latex Paint**

This bill removes quantity and source restrictions on household hazardous waste facilities. Specifically, this bill adds permissive language to Health and Safety Code (HSC) Section 25217.2, stating that if the household hazardous waste facility has been authorized to accept hazardous waste from a conditionally exempt small quantity generator, then that facility may accept recyclable latex paint not only from a conditionally exempt small quantity generator, but from any generator, and AB 255 removes the 100 kilogram per-month cap on a household hazardous waste facility operating under HSC Section 25217.2. AB 255 is aimed both at making it easier and less expensive for businesses to manage their latex paint waste and at encouraging proper disposal. We supported AB 255. The bill was passed by the Legislature and sent to the Governor. The Governor signed the bill as Chapter 213, Statutes of 2011.

### **AB 809 (Feuer) Firearms**

This bill applies the same regulations relating to the reporting and retention of records for handguns to long guns. Law enforcement efforts to investigate and prosecute gun crimes are aided by the Automated Firearm System (AFS) database, which contains records of all handgun transfers. However, state law requires that records of long gun sales be destroyed by DOJ. AB 809 would stop the needless destruction of long gun records, which prevents law enforcement from using this information to quickly identify the owners of crime guns and expose channels of illegal gun trafficking. We supported AB 809. AB 809 was passed by both houses of the Legislature and sent to the Governor. The Governor signed the measure as Chapter 745, Statutes of 2011.

### **AB 913 (Feuer) Hazardous Waste: Source Reduction; Certified Green Business Program**

AB 913 requires the Department of Toxic Substances Control (DTSC) to develop a California Green Business Program (Program) and specifies requirements for the Program. Green business certification programs give businesses a consolidated process to adopt environmentally preferable business practices. In addition to helping small businesses adopt environmentally-preferable practices, green business programs reduce government enforcement costs by requiring compliance with all federal, state and local environmental regulations and encourage a coordinated and cohesive approach to environmental regulation. This bill is intended to build upon the current Green Business Program by promoting standardization; helping local governments build new programs; and, providing Program coordinators with technical guidance for updating and designing standards. For all of these reasons we supported AB 913. The bill was passed by the Legislature to the Governor's desk. The Governor signed the measure as Chapter 578, Statutes of 2011.

### **AB 1103 (Huffman) Land Use: Housing Elements**

This bill adds units on foreclosed property to the types of existing units a local government can count towards meeting housing element obligations if it provides funding to make the units affordable to low- and very low-income households for at least 40 years. The bill also specifies that for the units on foreclosed property to count, at least an equal number of new-construction multifamily rental units affordable to lower income households must have been constructed in the city or county within the same planning period. We supported this bill as it moved through the legislative process. AB 1103 was signed by the Governor as Chapter 210, Statutes of 2011.

### **SB 186 (Kehoe) The Controller**

SB 186 sought to expand, until January 1, 2017, the State Controller's authority to perform audits or investigations of counties, cities, special districts, joint powers authorities, and redevelopment agencies, if the State Controller has reason to believe, supported by documentation, that a local government is violating specified financial requirements. This bill, sponsored by State Controller John Chiang, builds upon existing law by expanding the Controller's authority to audit the finances and internal controls of counties, cities, special districts, JPAs, and RDAs, if the Controller has reason to believe that a local agency is not complying with specified financial requirements and if the Controller decides to conduct an audit or investigation and has credible documentation to justify the decision. We strongly opposed this bill. We were successful, working with other groups, in stopping SB 186 in the Assembly Local Government Committee. SB 186 is now a two-year bill.

### **SB 310 (Hancock) Local Redevelopment**

This bill allows cities and counties to create incentives for transit priority projects. SB 310 states that it is the intent of the Legislature to provide a process for cities and counties to create development patterns in the form of transit priority projects that comply with the implementation of a sustainable communities strategy (SCS). SCS create jobs, reduce vehicle miles traveled, expand the availability of accessible open-space, build the density needed for transit viability, and meet regional housing targets. SB 375 (Steinberg, 2008) pointed the way to this future by linking transportation and land use planning programs. SB 375 contained incentives for developers who want to build projects that fit state, regional, and local growth policies. This bill encourages builders with projects that meet these goals by allowing local officials to use funds from infrastructure financing districts to pay for the developer's processing fees and the costs of

affordable housing. We supported this bill. SB 310 was passed by the Legislature and sent to the Governor's desk. The Governor signed the measure as Chapter 446, Statutes of 2011.

### **SB 555 (Hancock) Local Government: Community Facilities Districts**

This bill adds the acquisition, installation, and improvement of energy efficiency, water conservation, and renewable energy improvements that are affixed to the types of facilities that a community facilities district (CFD) may finance, or refinance, regardless of whether the buildings or property are privately or publicly owned. SB 555 enables cities and counties to establish a voluntary community facility district to help finance energy efficiencies, renewable energy, and water conservation. Property owners who opt in to pay Mello-Roos taxes will be able to leverage utility bill savings against their financing costs over time on their property tax bills. This bill will help accelerate conservation savings throughout the state. We supported this bill as it moved through the legislative process. The bill was signed by the Governor as Chapter 493, Statutes of 2011.

### **SB 790 (Leno) Electricity**

This bill revises and expands the definition of Community Choice Aggregation (CCA), require the California Public Utilities Commission (PUC) to initiate a Code of Conduct rulemaking, and allow CCAs to receive Public Purpose funds to administer energy efficiency programs. Cities and counties have become increasingly involved in implementing energy efficiency programs, advocating for their communities in power plant and transmission line siting cases, and developing distributed generation and renewable resource energy supplies. The CCA program takes these efforts one step further by enabling communities to purchase power on behalf of the community. SB 790 strengthens existing law by clarifying, amending and adding key provisions that enable CCA to function as originally intended, foster fair market competition, and allow jurisdictions to pursue CCA without undue barriers and excessive burdens. SB 790 seeks to level the playing field for local governments seeking to establish a CCA program. We supported this measure as it moved through the legislative process to the Governor's desk. The Governor signed the bill as Chapter 599, Statutes of 2011.