Housing, Land Use, & Transportation Policy Committee

Thursday, February 3, 2011 ▪ 3:00 p.m. – 4:30 p.m.
3rd Floor Conference Room ▪ CSAC Office
1100 K Street, Suite 101
Sacramento, California
Conference Call: (800) 867-2581 ▪ Passcode: 1452045

AGENDA

Supervisor Efren Carrillo, Sonoma County, Chair
Supervisor Matt Rexroad, Yolo County, Vice Chair

3:00 p.m. I. **Welcome, Introductions, and Opening Remarks**
Supervisor Efren Carrillo, Chair, Sonoma County
Supervisor Matt Rexroad, Vice Chair, Yolo County

3:05 p.m. II. **CSAC Platform Update – Action Item**
DeAnn Baker, Senior Legislative Representative, CSAC
Kiana Buss, Senior Legislative Analyst, CSAC
Attachment One: Planning & Land Use Chapter with Proposed Changes
Attachment Two: Transportation & Public Works Chapter with Proposed Changes
Attachment Three: Indian Gaming Chapter

3:35 p.m. III. **State Budget & Legislative Update**
DeAnn Baker, Senior Legislative Representative, CSAC
Kiana Buss, Senior Legislative Analyst, CSAC
Attachment Four: CSAC Transportation Tax Swap & Proposition 26 Analysis
Attachment Five: Transportation Coalition Comprehensive Tax Swap Solution
Attachment Six: AB 147 (Dickinson): Transportation Improvement Mitigation Fees

4:05 p.m. IV. **Indian Gaming Update**
Bruce Goldstein, County Counsel, Sonoma County

4:20 p.m. V. **Other Items & Adjournment**

ATTACHMENTS

Attachment One

Planning & Land Use Chapter with Proposed Changes

CHAPTER SEVEN

Planning, Land Use and Housing

Section 1: GENERAL PRINCIPLES

General purpose local government performs the dominant role in the planning, development, conservation, and environmental processes. Within this context it is essential that the appropriate levels of responsibility at the various levels of government be understood and more clearly defined. These roles at the state, regional, county, and city level contain elements of mutual concern; however, the level of jurisdiction, the scale of the problem/issue, available funding and the beneficiaries of the effort require distinct and separate treatment.

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The following policies attempt to capture these distinctions and are intended to assist government at all levels to identify its role, pick up its share of the responsibility, and refrain from interfering with the details of how other agencies carry out their responsibility.

The housing needs throughout the state, lack of revenue, and controversial planning law in the area of housing have resulted in the need for new focus on housing planning law. Housing principles are identified and included under a separate heading in this section.

Counties are charged with comprehensive planning for future growth, the management of natural resources and the provision of a variety of public services both within the unincorporated and incorporated areas.

Although Agriculture and Natural Resources are in this Platform as a separate chapter, there is a correlation between Planning and Land Use, and Agriculture and Natural Resources (Chapter III). These two chapters are to be viewed together on matters where the subject material warrants.

Additionally, climate change and the release of greenhouse gases (GHGs) into the atmosphere have the potential to dramatically impact our environment, land use, public health, and our economy. Due to the overarching nature of climate change issues this chapter should also be viewed in conjunction with Chapter XV, which outlines CSAC's climate change policy.

Counties have and should retain a primary responsibility for basic land use decisions.

Counties are concerned with the need for resource conservation and development, maintaining our economic and social well being, protecting the environment and guiding orderly population growth and property development.

Counties are responsible for preparing plans and implementing programs to address land use, transportation, housing, open space, conservation, air quality, water distribution and quality, solid waste, and liquid waste, among other issues.

Counties play a major role in facilitating inter-jurisdictional cooperation between all levels of government in order to achieve the balanced attainment of these objectives.

Counties must have sufficient funding from state sources to meet state mandated planning programs.

Counties define local planning needs based on local conditions and constraints.

Section 2: THE COUNTY ROLE IN LAND USE

A. General Plans and Development

Counties should protect vital resources and sensitive environments from overuse and exploitation. General and specific plans are policy documents that are adopted, administered, and implemented at the local level. State guidelines can serve as standards to insure uniformity of method and procedure, but should not mandate substantive or policy content.

State requirements for general plan adoption should be limited to major planning issues and general plan mandates should include the preparation of planning elements only as they pertain to each individual county. Zoning and other implementation techniques should be a logical consequence to well thought out and locally certified plans. Counties support a general plan judicial review process which first requires exhaustion of remedies before the Board of Supervisors, with judicial review confined to a reasonable statute of limitations and limited to matters directly related to the initial hearing record. Counties also support retaining the

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current judicial standard whereby the courts defer to the judgment of the local agency when that judgment is supported by substantial evidence in the record.

Land use and development problems and their solutions differ from one area to another and require careful analysis, evaluation, and appraisal at the local government level. Local government is the best level of government to equitably, economically and effectively solve such problems. Further, it is important that other public agencies, (e.g. federal, state, regional, cities, schools, special districts, etc.) participate in the local general planning process to avoid conflicts with future local decisions that are consistent with the general plan.

Policy development and implementation should include meaningful public participation, full disclosure and wide dissemination in advance of adoption.

B. Public Facilities and Service

Within the framework of the general plan, counties should protect the integrity and efficiency of newly developing unincorporated areas and urban cores by prohibiting fringe area development, which would require services and compete with existing infrastructure. Counties should accept responsibility for community services in newly developing unincorporated areas where no other appropriate entity exists.

In the absence of feasible incorporation, County Service Areas or Community Service Districts are appropriate entities to provide needed services for urbanizing areas. They work against proliferation of single purpose districts, allow counties to charge the actual user for the service, permit direct control by the Board of Supervisors, and set the basis of reformation of multi-purpose districts.
County authority to require land and/or in-lieu fees to provide public facilities in the amount needed to serve new development must be protected.

C. Environmental Analysis

The environmental review process under the California Environmental Quality Act (CEQA) provides essential information to be constructively used in local decision-making processes. Unfortunately, the CEQA process is too often used as a legal tool to delay or stop reasonable development projects.

The CEQA process and requirements should be simplified wherever possible including the preparation of master environmental documents and use of tiered EIRs and negative declarations. The length of environmental reports should be

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minimized without impairing the quality. Further, other public agencies (federal, state, regional, affected local jurisdictions, special districts, etc.) should participate in the environmental review process for plans and projects in order to provide a thorough review and analysis up front and avoid conflicts in future discretionary actions.

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Counties should continue to assume lead agency roles where projects are proposed in unincorporated territory requiring discretionary action by the county and other jurisdictions.

CEQA documents should include economic and social data when applicable; however, this data should not be made mandatory.

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D. Coastal Development

Preservation, protection, and enhancement of the California coastline is the planning responsibility of each county and city with shoreline within its boundaries. Planning regulation and control of land use are the implementation tools of county government whenever a resource is used or threatened.

Counties within the coastal zone are also subject to the California Coastal Act which is implemented via cooperative agreements between the California Coastal Commission and counties and cities. Most development in the coastal zone requires a coastal development permit issued by local agencies with a certified Local Coastal Plan or by the Commission in the absence of a cooperative agreement. LCPs link statewide coastal policies to local planning efforts in an attempt to protect the quality and environment of California's coastline.

Counties are committed to preserve and provide access to the coast and support where appropriate beach activities, boating activities, and other recreational uses in developing and implementing precise coastal plans and appropriate zoning. Comprehensive plans should also include preservation of open space, development of commercial and recreational small craft harbor facilities, camping facilities, and commercial and industrial uses.

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Local jurisdictions must have the statutory and legal authority to implement coastline programs.

E. Open Space Lands

Counties support open space policy that sets forth the local government's intent to preserve open space lands and ensures that local government will be responsible for developing and implementing open space plans and programs.

In order for counties to fully implement open space plans, it will be necessary to have:

1. Condemnation powers for open space purposes.
2. Additional revenues for local open space acquisition programs.
3. Reimbursement to local agencies for property tax losses.
4. Greater use of land exchange powers for transfer of development rights.
5. Protection of current agricultural production lands through the purchasing of development rights.

In some cases, open space easements should be created and used by local jurisdictions to implement open space programs. Timber preserve zones and timber harvesting rules should enhance protection of this long-term renewable resource.

F. Healthy Communities

Counties support policies and programs that aid in the development of healthy communities which are designed to provide opportunities for people of all ages and abilities to engage in routine daily physical activity. This encompasses promoting active living via bicycle- and pedestrian-oriented design, mixed-use development, providing recreation facilities, and siting schools in walkable communities.

Section 3: STATE ROLE IN LAND USE

Local government recognizes that state government has a legitimate interest in proper land use planning and utilization of those lands which are of critical statewide concern. The state interest shall be statutorily and precisely defined and strictly limited to those lands designated to be critical statewide concern in concert with attainable and specified state goals and policies.

The state's participation in land use decisions in those designated areas shall be strictly limited to insuring the defined state interest is protected at the local level. Any regulatory activity necessary to protect the state's interest, as defined in statute, shall be carried out by local government.

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In determining those lands of crucial statewide concern, a mechanism should be created which ensures significant local involvement through a meaningful state/local relationship. The state should prepare a statewide plan that reconciles the conflicts between the various state plans and objectives in order to provide local governments with greater certainty in areas of statewide concern. This is not intended to expand the State's authority over land use decisions; rather it should clarify the state's intent in relation to capital projects of statewide significance.

Climate change is a programmatic issue of statewide concern that requires a clear understanding of the roles and responsibilities of each level of government as well as the state's interest in land use decisions to ensure statewide climate change goals are met. Population growth in the state is inevitable, thus climate change strategies will affect land use decisions in order to accommodate and mitigate the expected growth in the state. Local government, as the chief land use decision-maker and integral part of the housing planning process, must have a clearly defined role and be supported with the resources to achieve the State's climate change goals.

Adequate financial resources shall be provided to insure local government has the ability to carry out state-mandated planning requirements.

Section 4: REGIONAL GOVERNMENTS

Counties support voluntary participation within regional agencies as appropriate to resolve regional problems throughout the State. Regional approaches to planning and resolution to issues that cross jurisdictional boundaries are increasingly important, particularly in light of California's expected population growth of 600,000 new residents annually.

Regional agencies in California play an important role in the allocation of regional housing need numbers, programming of Federal and State transportation dollars, in addressing air quality non-attainment problems, and climate change to name a few. Regional collaboration remains important to address issues associated with growth in California, such as revenue equity issues, service responsibilities, a seamless and efficient transportation network, reducing GHGs and tackling climate change, job creation, housing, agricultural and resource protection, and open space designation.

However, land use decisions shall remain the exclusive province of cities and counties based on zoning and police powers granted to them under the State Constitution. Further, cities and counties are responsible for a vast infrastructure system, which requires that cities and counties continue to receive direct allocations of revenues to maintain, operate and expand a variety of public

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facilities and buildings under their jurisdiction. As an example, cities and counties own and operate 82 percent of the state's publically maintained road miles, thus must retain direct allocations of transportation dollars to address the needs of this critical network and protect the public's existing investment.

Regional approaches to tax sharing and other financial agreements are appropriate and often necessary to address service needs of future populations; however, cities and counties must maintain financial independence and continue to receive discretionary and program dollars directly. Counties support voluntary revenue-sharing agreements for existing revenues at the regional level, and any mandated revenue sharing must be limited to new revenues.

Regional agencies must consider financial incentives for cities and counties that have resource areas or farmland instead of (or in addition to) high growth areas. For example, such incentives should address transportation investments for the preservation and safety of city and county road systems, farm to market transportation, and interconnectivity transportation needs.

Regional agencies should also consider financial assistance to address countywide service responsibilities in counties that contribute towards the GHG emissions reductions targets by implementing policies for growth to occur within their cities and existing urbanized areas.

Section 5: SPECIAL DISTRICTS

In recent years, Local Agency Formation Commissions (LAFCOs) have been generally successful at regulating incorporations, annexations, and the formation of new special districts. However, the state has a legacy of a large number of independent special districts that leads to fragmentation of local government. There are many fully justified districts that properly serve the purpose for which they were created. However, there are districts whose existence is no longer "defensible." Nothing is served by rhetorically attacking "fragmentation." LAFCOs should retain the authority to evaluate special districts to test their value to the community for whom they were initially formed to serve and identify those districts that no longer serve the purposes for which they were created.

Section 6: HOUSING

Housing is an important element of economic development and essential for the health and well being of our communities. The responsibility to meet the state's housing needs must be borne by all levels of government and the private sector.

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CSAC supports a role by the state Department of Housing and Community Development that focuses on assisting local governments in financing efforts and advising them on planning policies--both of which strive to meet the state's housing needs. HCD's role should focus on facilitating the production of housing, rather than an onerous planning and compliance process that detracts from local governments' ability to seek funding and actually facilitate housing production. Counties support the following principles in relation to housing:

1. Reform housing element law. Existing housing element law must be improved. A greater emphasis should be placed on obtaining financing and enabling production, rather than undertaking and meeting extensive planning requirements now found in state law. A sweeping reform of the current requirements should be undertaken. The fair share housing needs currently identified by the state and regional agencies often far exceed a city or county's ability to meet those needs. CSAC supports the allocation of housing needs consistent with infrastructure investment at the regional level, as well as consideration of planning factors and constraints.

   State law should contain uniform, measurable performance standards based on reasonable goals for housing construction, preservation and rehabilitation, meeting the needs of homeless and those with special needs, and land supply. In addition to the development of meaningful performance standards, state and federal laws, regulations and practices should be streamlined to promote local government flexibility and creativity in the adoption of local housing elements, comprehensive housing assistance strategies and other local plans and programs.

2. Identify and generate a variety of financing resources and subsidy mechanisms for affordable housing. These sources need to be developed to address California's housing needs, particularly with the reduction of federal and state contributions in recent years. The need for new housing units at all income levels exceeds the number of new units for which financing and subsidies will be available each year. Therefore, additional funding is necessary to insure (a) production of new subsidized units, and (b) adequate funds for housing subsidies to households. Policies should be established to encourage continued flow of capital to market rate ownership housing in order to assure an adequate supply of low-cost, low-down payment mortgage financing for qualified buyers. In addition, a need exists to educate the private building and financial communities on the opportunities that exist with the affordable housing submarket so as to encourage new investments.

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3. Restructure local government funding to support housing affordability. The current property and sales tax systems in California are not supportive of housing development and work against housing affordability because housing is not viewed as a "fiscal winner" by local governments as they make land use and policy decisions. Local government finance should be restructured at the state level to improve the attractiveness and feasibility of affordable housing development at the local level. At a minimum, there should be better mechanisms to allow and encourage local governments to share tax revenues.

4. Promote a full range of housing in all communities. Local governments, builders, the real estate industry, financial institutions and other concerned stakeholders should recognize their joint opportunities to encourage a full range of housing and should work together to achieve this goal. This will require a cooperative effort from the beginning of the planning and approval process as well as creatively applying incentives and development standards, minimizing regulations and generating adequate financing. Using this approach, housing will become more affordable and available to all income groups.

5. Establish federal and state tax incentives for the provision of affordable housing. The tax codes and financial industry regulations need to be revised to provide stimulus to produce affordable housing, particularly for median, low and very low-income households. The concept of household-based assistance, such as the current mortgage credit certificate, should be extended to all types of affordable housing.

These principles must be taken as a whole, recognizing the importance of their interdependence. These principles provide a comprehensive approach to address the production of housing, recognizing the role of counties, which is to encourage and facilitate the production of housing. They should not be misinterpreted to hold counties responsible for the actual production of housing, instead they should recognize the need for various interests to cooperatively strive to provide affordable housing to meet the needs of California.

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Attachment Two

Transportation & Public Works Chapter with Proposed Changes

CHAPTER ELEVEN

Transportation and Public Works

Section 1: GENERAL PRINCIPLES

Transportation services and facilities are essential for the future well-being of the State of California. A balanced transportation system utilizes all available means of travel cooperatively and in a mutually complimentary manner to provide a total service for the needs of the community.

Transportation services should also responsibly meet the competing future needs of all segments of industry and society with maximum coordination and reasonable amounts of free choice for the consumer of the transportation service.

Balanced transportation does not simply mean the provision of highways or public transit devices. A balanced transportation system is a method of providing services for the mobility requirements of people and goods according to rational needs.

Transportation systems must be fully integrated with planned land use; support the lifestyles desired by the people of individual areas; and be compatible with the environment by considering air and noise pollution, aesthetics, ecological factors, cost benefit analyses, and energy consumption measures.

Counties also recognize that climate change and the release of greenhouse gases (GHGs) into the atmosphere have the potential to dramatically impact our environment, land use decisions, transportation networks, and the economy. Due to the overarching nature of climate change issues, all sections in this chapter should be viewed in conjunction with Chapter XV, which outlines CSAC's climate change policy.

Transportation systems should be designed to serve the travel demands and desires of all the people of the state, recognizing the principles of local control and the unique restraints of each area. Local control recognizes that organizational and physical differences exist and that governments should have flexibility to cooperatively develop systems by which services are provided and problems resolved.

Section 2: BALANCED TRANSPORTATION POLICY

A. System Policy and Transportation Principles

Government belongs as close to the people and their related problems as possible. The system of transportation services, similarly, must recognize various levels of need and function.

It is of statewide interest to provide for a balanced, seamless, multi-modal transportation system on a planned and coordinated basis consistent with social, economic, political, and environmental goals within the state.

Rural and urban transportation needs must be balanced so as to build and operate a single transportation system.

Transportation systems should be an asset to present and future environmental and economic development of the state within a framework of its ability to invest. All people of the state bear a share of the responsibility to ensure proper environmental elements of the transportation system.

Maintenance needs of transportation systems must be met in order to protect existing public investment (current revenues are not keeping pace with needs of the local road or state highway or transit systems).

The local road system, a large component of the State's transportation network, is critical in order to address congestion, meet farm to market needs, address freight and goods movement, and provide access to other public transportation systems.

Public safety, particularly access for public safety services, is dependent on a well-maintained local road network.

Analysis of the cost effectiveness of all modes of transportation, existing and proposed, is needed in order to provide the most coordinated and efficient transportation system.

Additionally, repairs to local access roads that are damaged in the course of emergency operations (for example, in fighting a fire or flood) should be eligible for reimbursement under the same programs as roads which are directly damaged by the event.

System process modifications are needed to expedite project delivery and minimize project cost.

B. Financing Policy and Revenue Principles

Transportation financing needs exceed existing and foreseeable revenues despite growing recognition of these needs at all levels of government. Additional funding is required and should be supported and any new sources of funding should produce enough revenue to respond significantly to transportation needs.

As the owner and operator of a significant portion of the local system counties support continued direct funding to local governments for preservation and safety needs of that system. Further, counties support regional approaches for transportation investment purposes for capital expansion projects of regional significance and local expansion and rehabilitation projects through regional transportation planning agencies, both metropolitan planning organizations and countywide transportation agencies.

Single transportation funds--comprised of state and federal subventions--should be available at each of the local, regional and statewide levels for financing the development, operation, and/or maintenance of highways, public transit, airports or any other modal system as determined by each area in accordance with local, regional, and statewide needs and goals. The cooperative mechanisms established by counties and cities to meet multi-jurisdictional needs should be responsible for the financing, construction, operation and maintenance of regional transportation systems utilizing--as appropriate--existing transportation agencies and districts.

Federal and state funds for safety and preservation purposes should be sent directly to applicable operational levels without involvement of any intermediate level of government. Pass-through and block grant funding concepts are highly desirable.

The cost of transportation facilities and services should be fairly shared by the users and also by indirect beneficiaries.

Transportation funding should be established so that annual revenues are predictable with reasonable certainty over several years to permit rational planning for wise expenditure of funds for each mode of transportation.

Financing should be based upon periodic deficiency reports by mode to permit adjustment of necessary funding levels. Additional elements such as constituent

acceptance, federal legislative and/or administrative actions, programmatic flexibility, and cost benefit studies should be considered.

Efforts to obtain additional revenue should include an examination of administrative costs associated with project delivery and transportation programs.

Funding procedures should be specifically designed to reduce the cost of processing money and to expedite cash flow. Maximum use should be made of existing collection mechanisms when considering additional financing methods.

In the development of long-range financing plans and programs at all levels of government, there should be a realistic appreciation of limitations imposed by time, financing, availability, and the possibility of unforeseen changes in community interest.

Rural and urban transportation funding needs must be balanced so as to build and operate a single transportation system.

Existing funding levels must be maintained with historical shares of current funding sources ensured for counties (e.g. state and federal gas tax increases, etc.).

Although significant transportation revenues are raised at the local level through the imposition of sales taxes, additional state and federal revenue sources are needed such as additional gas and sales taxes, congestion pricing, public-private partnerships, and user or transaction fees to provide a diverse financing strategy. Further, additional revenue raising authority at the local and regional level is needed as well as other strategies as determined by individual jurisdictions and regions.

Transportation revenues must be utilized for transportation purposes only and purposes for which they are dedicated. They should not be diverted to external demands and needs not directly related to transportation activities.

Revenue needed for operational deficits of transit systems should be found in increased user fees, implementation of operating efficiencies and/or new sources, rather than existing sources depended upon by other modes of transportation.

Future revenues must be directed to meet mobility needs efficiently and cost effectively with emphasis on current modal use and transportation choices for the public.

C. Government Relations Policy

The full partnership concept of intergovernmental relations is essential to achieve a balanced transportation system. Transportation decisions should be made comprehensively within the framework of clearly identified roles for each level of government without duplication of effort.

Counties and cities working through their regional or countywide transportation agencies, and in consultation with the State, should retain the ability to program and fund transportation projects that meet the needs of the region.

No county or city should be split by regional boundaries without the consent of that county or city.

Counties and cities in partnership with their regional and state government, should attempt to actively influence federal policies on transportation as part of the full partnership concept.

D. Management Policy

Effective transportation requires the definite assignment of responsibility for providing essential services including fixed areas of responsibility based upon service output.

Greater attention should be devoted to delivery of overall transportation products and services in a cost-effective manner with attendant management flexibility at the implementation level of the management system.

Special transportation districts should be evaluated and justified in accordance with local conditions and public needs.

The State Department of Transportation should be responsible for planning, designing, constructing, operating, and maintaining a system of transportation corridors of statewide significance and interest. Detailed procedures should be determined in concert with regional and local government.

Restrictive, categorical grant programs at federal and state levels should be abandoned or minimized in favor of goal-oriented transportation programs which can be adjusted by effective management to best respond the to social and economic needs of individual communities.

Policies and procedures on the use of federal and state funds should be structured to minimize "red tape," recognize the professional capabilities of local agencies, provide post-audit procedures and permit the use of reasonable local standards.

Section 3: SPECIFIC MODAL TRANSPORTATION POLICIES

A. Aviation

Air transportation planning should be an integral part of overall planning effort and airports should be protected by adequate zoning and land use. Planning should also include consideration for helicopter and other short and vertical take-off aircraft.

State and federal airport planning participation should be limited to coordination of viable statewide and nationwide air transportation systems.

Local government should retain complete control of all airport facilities, including planning, construction, and operation.

B. Streets and Highways

Highway transit--in a coordinated statewide transportation system--will continue to carry a great percentage of the goods and people transported within the state. A program of maintenance and improvement of this modal system must be continued in coordination with the development of other modal components.

Efforts to maximize utilization of transportation corridors for multi-purpose facilities should be supported.

Non-motorized transportation facilities, such as pedestrian and bicycle facilities are proper elements of a balanced transportation system. Support efforts to design and build complete streets, ensuring that all roadway users – motorists, bicyclists, public transit vehicles and users, and pedestrians of all ages and abilities – have safe access to meet the range of mobility needs. Given that funding for basic maintenance of the existing system is severely limited however, complete streets improvements should be financed through a combination of sources best suited to the needs of the community and should not be mandated through the use of existing funding sources.

C. Public Transit

Counties and cities should be responsible for local public transit systems utilizing existing transportation agencies and districts as appropriate.

Multi-jurisdictional public transit systems should be the responsibility of counties and cities acting through mechanisms, which they establish for regional decision-making, utilizing existing transportation agencies, and districts as appropriate.

The State should be responsible for transportation corridors of statewide significance, utilizing system concepts and procedures similar to those used for the state highway system. Contracts may be engaged with existing transit districts and public transportation agencies to carry out and discharge these state responsibilities.

Consideration of public transit and intercity rail should be an integral part of a local agency's overall planning effort and should maximize utilization of land for multi-purpose transportation corridors.

Public transit planning should include a continuing effort of identifying social, economic, and environmental requirements.

D. Rail

Railroads play a key role in a coordinated statewide transportation system. In many communities, they form a center for intermodal transportation.

Rail carries a significant portion of goods and people within and out of the state. The continued support of rail systems will help balance the state's commuter, recreational, and long distance transportation needs. Support for a high-speed rail system in California is necessary for ease of future travel and for environmental purposes.

Rail should be considered, as appropriate, in any local agency's overall planning effort when rail is present or could be developed as part of a community.

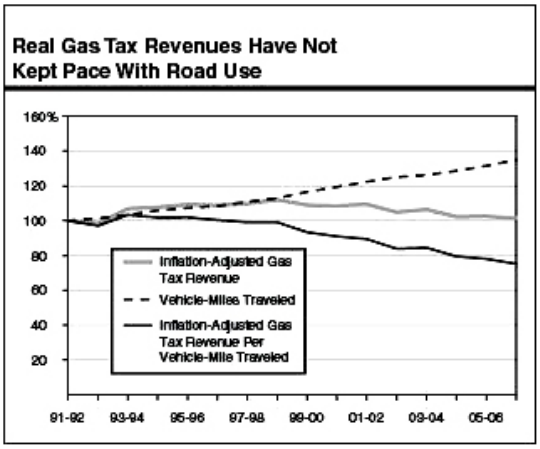
Research and development of innovative and safe uses of rail lines should be encouraged.

Section 4: CONCLUSION

Since 1970, transportation demands and needs have out-paced investment in the system. An examination of transportation revenues and expenditures compared to

population, travel and other spending in the state budget, adjusted for inflation, shows a long period of under-investment in transportation continuing through the 1990s and into the next decade.

Between 1990 (when the gas excise tax was increased) and 2004, California's population increased 20.6%, while travel in the state increased 36.3% and the number of registered vehicles in California increased 43.2%. According to the Legislative Analyst's Office, travel is outpacing gas tax revenue (see chart, below).



Source: Legislative Analyst's Office, Budget Analysis 2006

Further, inflation has seriously eroded the buying power of gas tax dollars. While revenues from the gas tax increase in the 1990s roughly kept pace with miles traveled, with no increases since 1994, travel has now outpaced revenues, creating not only chronic congestion but also extreme wear and tear on the state highway and local road system. Further, the sufficiency of gas tax revenues to fund transportation has declined over time as cars have become more fuel efficient and as project costs have increased. Inflation-adjusted gas tax revenues declined 8% just in the last seven years.

The gas tax once funded most transportation programs in the state, including operations and construction. Now the per-gallon fuel tax collected at both the state and federal levels and the state weight fees does not even provide enough revenue to meet annual maintenance, operations, and rehabilitation needs for the state highway system (the State Highway Operation and Protection Program or SHOPP). Counties and cities dependent upon a portion of the State's gas tax revenues are in the same situation in that revenues are short of meeting their preservation needs of the local system. Basic Maintenance programs for

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California's aging system now consume 100% of gas tax revenues in most local jurisdictions.

In 2010, the State enacted a historic transportation tax swap in which the excise tax on gasoline was increased by 17.3-cents and the sales tax on gasoline (Proposition 42) was eliminated. Counties, cities, and the State Transportation Improvement Program (STIP) will receive similar amounts from the increase in excise tax as would have been provided by the sales tax. However, the local and state systems are still woefully underfunded. The 2008 Local Streets and Roads Needs Assessment found that the Pavement Condition Index (PCI) which ranks roadway pavement conditions on a scale of zero (failed) to 100 (excellent), the statewide average for local streets and roads is 68, an "at risk" rating. The condition is projected to deteriorate to a PCI of 58 in 10 years, and further to 48 ("poor condition") in 2033. Furthermore, the funding shortfall considering all existing revenues is $71 billion over the next 10 years.

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The principle source of funding for improvements to the system and new capacity (the State Transportation Improvement Program or STIP) is now Proposition 42, the sales tax on gasoline. Just five years ago, the STIP was funded almost entirely from user fees. Proposition 42, however, provides no more than half the amount the State was making available for transportation improvements just a decade ago. .

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The bottom line is that the current revenue system is not providing the funding necessary to maintain existing transportation systems, much less to finance operation, safety, and expansion needs.

The citizens of California have invested significant resources in their transportation system. This $3 trillion investment is the cornerstone of the state's commerce and economic competitiveness. Virtually all vehicle, pedestrian, and bicycle trips originate and terminate on local streets and roads. Emergency response vehicles extensively use local roads to deliver public service. Public safety and mobility rely on a well-maintained transportation infrastructure. Transportation funding is important to the economy and the economic recovery of the state. Increased investment in the transportation network is essential to stimulate the economy, to improve economic competitiveness and to safeguard against loss of the public's existing $3 trillion investment in our transportation system.

(The source of information for the statistics provided is from the Transportation California website and includes reports from the: California Transportation Commission (CTC), Legislative Analyst Office (LAO), United States Department of Transportation (USDOT), and Federal Highway Administration (FHWA)).

Attachment Three

Indian Gaming Chapter

Chapter Sixteen

Native American Issues

Section 1: GENERAL PRINCIPLES

CSAC supports government-to-government relations that recognize the role and unique interests of tribes, states, counties, and other local governments to protect all members of their communities and to provide governmental services and infrastructure beneficial to all—Indian and non-Indian alike.

CSAC recognizes and respects the tribal right of self-governance to provide for tribal members and to preserve traditional tribal culture and heritage. In similar fashion, CSAC recognizes and promotes self governance by counties to provide for the health, safety and general welfare of all members of their communities. To that end, CSAC supports active participation by counties on issues and activities that have an impact on counties.

Nothing in federal law should interfere with the provision of public health, safety, welfare or environmental services by local government. CSAC to supports legislation and regulation that preserves—and does not impair—the ability of counties to provide these services to the community.

Section 2: TRIBAL-STATE GAMING COMPACTS

CSAC recognizes that Indian Gaming in California is governed by a unique structure that combines federal, state, and tribal law.

While the impacts of Indian gaming fall primarily on local communities and governments, Indian policy is largely directed and controlled at the federal level by Congress.

The Indian Gaming Regulatory Act of 1988 (IGRA) is the federal statute that governs Indian gaming. IGRA requires compacts between states and tribes to govern the conduct and scope of casino-style gambling by tribes. Those compacts may allocate jurisdiction between tribes and the state.

The Governor of the State of California entered into the first Compacts with California tribes desiring or already conducting casino-style gambling in September 1999. Since that time tribal gaming has rapidly expanded and created a myriad of significant economic, social, environmental, health, safety, and other impacts.

Some Compacts have been successfully renegotiated to contain most of the provisions recommended by CSAC including the requirement that each tribe negotiate with the appropriate county government on the impacts of casino projects, and impose binding “baseball style” arbitration on the tribe and county if they cannot agree on the terms of a mutually beneficial binding agreement

However, CSAC believes that the 1999 Compacts fail to adequately address these impacts and/or to provide meaningful and enforceable mechanisms to prevent or mitigate impacts.

The overriding purpose of the principles presented below is to harmonize existing policies that promote tribal self-reliance with policies that promote fairness and equity and that protect the health, safety, environment, and general welfare of all residents of the State of California and the United States.

In the spirit of developing and continuing government-to-government relationships between federal, tribal, state, and local governments, CSAC specifically requests that the State request negotiations with tribal governments pursuant to section 10.8.3, subsection (b) of the Tribal-State Compact, and that it pursue all other available options for improving existing and future Compact language.

Towards that end, CSAC urges the State to consider the following principles when it negotiates or renegotiates Tribal-State Compacts:

1. A Tribal Government constructing or expanding a casino or other related businesses that impact off-reservation land will seek review and approval of the local jurisdiction to construct off-reservation improvements consistent with state law and local ordinances including the California Environmental Quality Act (CEQA) with the tribal government acting as the lead agency and with judicial review in the California courts.

2. A Tribal Government operating a casino or other related businesses will mitigate all off-reservation impacts caused by that business. In order to ensure consistent regulation, public participation, and maximum environmental protection, Tribes will promulgate and publish environmental protection laws that are at least as stringent as those of the surrounding local community and comply with CEQA with the tribal government acting as the lead agency and with judicial review in the California courts.

3. A Tribal Government operating a casino or other related businesses will be subject to the authority of a local jurisdiction over health and safety issues including, but not limited to, water service, sewer service, fire inspection and protection, rescue/ambulance service, food inspection, and law enforcement, and reach written agreement on such points.

4. A Tribal Government operating a casino or other related businesses will pay to the local jurisdiction the Tribe's fair share of appropriate costs for local government services. These services include, but are not limited to, water, sewer, fire inspection and protection, rescue/ambulance, food inspection, health and social services, law enforcement, roads, transit, flood control, and other public infrastructure. Means of reimbursement for these services include, but are not limited to, payments equivalent to property tax, sales tax, transient occupancy tax, benefit assessments, appropriate fees for services, development fees, and other similar types of costs typically paid by non-Indian businesses.

5. The Indian Gaming Special Distribution Fund, created by section 5 of the Tribal-State Compact will not be the exclusive source of mitigation, but will ensure that counties are guaranteed funds to mitigate off-reservation impacts caused by tribal gaming.

6. To fully implement the principles announced in this document and other existing principles in the Tribal-State compact, Tribes will meet and reach a judicially enforceable agreement with local jurisdictions on these issues before a new compact or an extended compact becomes effective.

7. The Governor should establish and follow appropriate criteria to guide the discretion of the Governor and the Legislature when considering whether to consent to tribal gaming on lands acquired in trust after October 17, 1988 and governed by IGRA (25 U.S.C § 2719). The Governor should also establish and follow appropriate criteria/guidelines to guide his/her participation in future compact negotiations.

Section 3: FEDERAL TRIBAL LANDS POLICY/DEVELOPMENT ON TRIBAL LAND

The 1999 Compacts allow tribes to develop two casinos, expand existing casinos within certain limits, and do not restrict casino development to areas within a tribe's current trust land or legally recognized aboriginal territory.

Additionally, in some counties, land developers are seeking partnerships with tribes in order to avoid local land use controls and to build projects, which would not otherwise be allowed under the local land use regulations.

Some tribes are seeking to acquire land outside their current trust land or their legally recognized aboriginal territory and to have that land placed into federal trust and beyond the reach of a county's land use jurisdiction.

Furthermore, Congress continues to show an interest in the land-into-trust process and revisiting portions of IGRA.

The overriding principle supported by CSAC is that when tribes are permitted to engage in gaming activities under federal legislation, then judicially enforceable agreements between counties and tribal governments must be required in the legislation. These agreements would fully mitigate local impacts from a tribal government's business activities and fully identify the governmental services to be provided by the county to that tribe.

CSAC believes that existing law fails to address the off-reservation impacts of tribal land development, particularly in those instances when local land use and health and safety regulations are not being fully observed by tribes in their commercial endeavors.

The following provisions emphasize that counties and tribal governments need to each carry out their governmental responsibilities in a manner that respects the governmental responsibilities of the other.

1. Nothing in federal law should interfere with provision of public health, safety, welfare or environmental services by local governments, particularly counties.

   Consistent with this policy, CSAC is supportive of all federal legislation that gives counties an effective voice in the decision-making process for taking lands into trust for a tribe and furthers the overriding principle discussed above.

2. CSAC supports federal legislation to provide that lands are not to be placed into trust and removed from the land use jurisdiction of local governments without the consent of the State and the affected county.

   Federal legislation is deserving of CSAC's support if that legislation requires counties' consent to the taking of land into trust for a tribe.

3. CSAC reiterates its support of the need for enforceable agreements between tribes and local governments concerning the mitigation of off-reservation impacts of development on tribal land. CSAC opposes any federal or state limitation on the ability of tribes, counties and other local governments to reach mutually acceptable and enforceable agreements.

4. CSAC opposes the practice commonly referred to as "reservation shopping" where a tribe seeks to place land into trust outside its aboriginal territory over the objection of the affected county.

   CSAC will support federal legislation that addresses "reservation shopping" or consolidations in a manner that is consistent with existing CSAC policies, particularly the requirements of consent from Governors and local governments and the creation of judicially enforceable local agreements.

5. CSAC does not oppose the use by a tribe of non-tribal land for development provided the tribe fully complies with state and local government laws and regulations applicable to all other development, including full compliance with environmental laws, health and safety laws, and mitigation of all impacts of that development on the affected county.

   CSAC can support federal legislation that furthers the ability of counties to require and enforce compliance with all environmental, health and safety laws. Counties and tribes need to negotiate in good faith over what mitigation is necessary to reduce all off-Reservation impacts from an Indian gaming establishment to a less than significant level and to protect the health and safety of all of a county's residents and visitors.

6. CSAC supports the position that all class II and class III gaming devices should be subject to IGRA.

CSAC is concerned about the current definition of Class II, or bingo-style, video gaming machines as non-casino gaming machines. These machines are nearly indistinguishable from Class III, slot-style gaming machines, and thereby generate the same type of impacts on communities and local governments associated with Class III gaming.

CSAC believes that the operation of Class II gaming machines is in essence a form of gaming, and tribes that install and profit from such machines should be required to work with local governments to mitigate all impacts caused by such businesses.

Section 4: SACRED SITES

California's every increasing population and urbanization threatens places of religious and social significance to California's Native American tribes.

In the sprit of government-to-government relationships, local governments and tribal governments should work cooperatively to ensure sacred sites are protected.

Specifically, local governments should consult with tribal governments when amending general plans to preserve and/or mitigate impacts to Native American historical, cultural, or sacred sites.

Attachment Four

CSAC Transportation Tax Swap and Proposition 26 Analysis

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Proposition 26 and the Impact on the Transportation Tax Swap
November 24, 2010

Pursuant to County Counsel review, below is a brief outline of the impacts of Proposition 26 on the transportation tax swap adopted pursuant to AB 8X 6 (Chapter 11, Statutes of 2010), which eliminated the sales tax on gas and replaced it with an increased excise tax on gas and sales tax on diesel, and AB 8X 9 (Chapter 12, Statutes of 2010), which codified the allocation formula and other transit funding provisions. In summary, they are concerned that both the 17.3 cent gas tax or Highway User Tax Account (HUTA) funds and 1.75 percent rate increase of the sales tax on diesel for transit adopted to replace the sales tax on gas will be in jeopardy in November of 2011, within twelve months of enactment of Proposition 26, without a re-enactment of the replacement taxes by a two-thirds vote of the Legislature.

Counsel thinks there is a substantial risk that a court will disagree with the Legislative Analyst Office's (LAO) assumption that the sales tax is reinstated when the highway user tax and rate increase of the sales tax on diesel are voided. Although the LAO has articulated an equitable argument to reinstate the sales tax, counsel can not say with any certainty of success how the court might rule on this issue.

Their conclusion is to seek re-enactment of the taxes (AB 8X 6 provisions) by a two-thirds vote of the Legislature recognizing that Proposition 22 now precludes a simple re-enactment of the two bill package adopted in March of 2010. Any re-enactment of the provisions that includes allocation of these funds for General Fund relief (AB 8X 9 provisions) is now complicated by the fact that this is precluded by Proposition 22, which prohibits the use of transportation funds for General Fund relief or any other purpose other than for transportation whether through temporary borrowing or a permanent taking.

Real Life Implications
Without re-enactment of the replacement tax provisions of the swap, $2.5 billion generated annually from these revenue sources will be in jeopardy beginning in November 2011. This revenue would otherwise be distributed annually as follows:

- Approximately $1 billion for General Fund Relief (although Proposition 22 prohibits this expenditure into the future)
- 12% for the State Highway Maintenance, Safety and Protection or SHOPP
- 44% for the State Transportation Improvement Program or STIP
- 44% for local streets and roads allocated equally to counties and cities
- $120 million for transit from the sales tax on diesel increase.

This loss to transportation would equate to job losses estimated at 27,000 based on a $1.5 billion allocation for transportation and 45,000 jobs should the entire $2.5 billion be available for transportation purposes.

Below is a more detailed summary of the relevant provisions and counsel conclusions:

Summary of Relevant Provisions of Proposition 26
New Article XIII A § 3 (a) provides "Any change in state statute which results in any taxpayer paying a higher tax" must be imposed by a 2/3 vote of the Legislature. Notice that the language applies to "change in state statute" not to "any statute."

New XIII A § 3 (c) provides "any tax adopted after 1/1/2010, but prior to the effective dates of this Act, that was not adopted in compliance with the requirements of this section is void 12 months after the date of this Act unless the tax is reenacted by the Legislature and signed into law by the Governor in compliance with the requirements of this section."

Summary of Conclusions Regarding Impact of Proposition 26 on the Swap
The tax increase is not void until 12 months after the effective date of Proposition 26. Counsel believes this is self executing. In other words, it will not require someone to sue to have non-complying taxes repealed. However, since the tax increase went into effect immediately and the initiative does not specifically provide for return of monies collected under a tax declared to be void at a future date, they conclude local governments can continue to receive these funds for the 12 month period following the effective date of Proposition 26, and that local governments can not be compelled to return those funds it properly receives.

Assuming the Legislature does not re-enact the provisions of the tax swap by a 2/3 vote, what is voided by § 3 (c) is a tax that does not comply with § 3 (a) – that is, any part of AB x8 6 that results in any taxpayer paying a higher tax – the increases, not the decreases. The tax decreases do not have to be approved by a 2/3 vote. As such, counsel thinks it is very likely that a court will disagree with the LAO's assumption that the sales tax is reinstated when the highway user tax and sales tax on diesel are voided.

Counsel concluded that a legislative, rather than legal, solution to this problem should be the main focus. This would involve re-enactment of the replacement tax provisions using a 2/3 vote. This is the most expeditious and certain means of securing the funds for transportation into the future. However, there will be complications with re-enacting the entire two-bill package, given the new restrictions of Proposition 22 that prohibit the allocation of these funds for General Fund relief as provided for in AB 8X 9.

Attachment Five

Transportation Coalition Comprehensive Tax Swap Solution

CALIFORNIA STATE ASSOCIATION OF COUNTIES

LEAGUE OF CALIFORNIA CITIES

REGIONAL COUNCIL OF RURAL COUNTIES

ASSOCIATED GENERAL CONTRACTORS (AGC)

CALIFORNIA TRANSIT ASSOCIATION

California Alliance for Jobs

January 4, 2011

To: Members of the Legislature

From: Associated General Contractors
California Alliance for Jobs
California State Association of Counties
California Transit Association
League of California Cities
Regional Council of Rural Counties
Transportation California

Re: Comprehensive Fix to Address Propositions 22 & 26 and the March 2010 Transportation Tax Swap

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The Problem

The passage of Proposition 22 and Proposition 26 have many implications for the Transportation Tax Swap (AB 8X 6: Tax Provisions and AB 8X 9: Allocation Formulas) enacted in March 2010. Recall, the swap made the following major changes:

1. Eliminated the sales tax on gas and replaced it with a 17.3-cent excise tax increase on gasoline, indexed to keep pace with what the sales tax on gasoline would have generated in a given fiscal year to ensure true revenue neutrality. Revenues are allocated as follows:
   - 44% State Transportation Improvement Program (STIP)
   - 44% Local Streets and Roads
   - 12% State Highway Operation and Protection Program (SHOPP)
2. Reduced the excise tax on diesel to 13.6-cents and replaced it with an increase in the sales tax rate on diesel by 1.75 percent, and provided an exemption to hold harmless entities that would be impacted from the change (SB 70).

A primary reason for enacting the swap was to remove transportation funding from the general fund and the annual budget debate. Equally important is the state general fund savings estimated at approximately $1 billion annually from the replacement 17.3-cent excise tax or Highway User Tax Account (HUTA) dedicated to transportation bond debt service.

However, Prop 22 limits the use of HUTA funds for bond debt and general fund relief as required in the swap. Further, Proposition 26 invalidates the replacement taxes contained in AB 8X 6 within 12-months of its passage and is self-executing in November 2011.

The Solution

In order to address these issues with the Transportation Tax Swap, we urge the Legislature to enact a comprehensive solution that addresses state general fund, state and local transportation, and transit concerns. The comprehensive package should:

1. Validate the replacement tax provisions as contained in AB 8X 6 with a 2/3rds vote of the Legislature (Prop 26 fix);
2. Approve the transfer of Transportation Weight Fees from the State Highway Account (SHA) to a fund to provide the General Fund relief and backfill any losses to the SHA with a portion of the replacement 17.3-cent excise tax (Prop 22 fix); and
3. Reenact a revised AB 8X 9 (Allocations Formulas) that allows the new 17.3-cent gas excise tax and 1.75 percent sales tax rate increase on diesel to be allocated for its intended uses and achieves the same fiscal results anticipated in March 2010 (Prop 22 fix). This includes:
    a. Language to allocate the new Section 2103 Highway User Tax Account (HUTA) funds for the STIP, SHOPP, and Local Streets and Roads; and
    b. Language to achieve something closer to the originally-intended split of Public Transportation Account revenues that recognized the importance of funding local transit operations.

The Imperative

The loss of $2.5 billion in revenue jeopardizes transportation projects across California, threatens thousands of jobs, and negatively impacts the overall economic wellbeing of the State given the multiplier affects from infrastructure investment. This loss of transportation revenue would be devastating to California's transportation programs effecting state, regional and local projects across all systems and modes.

The most effective path to provide certainty and avoid the risk of losing these transportation funds and provide the State this much needed and promised general fund relief is to pass a comprehensive package to fix the issues with the Transportation Tax Swap from Propositions 22 and 26.

Contact Information

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Josh Shaw, California Transit Association – josh@caltransit.org or (916) 446-4656
Jennifer Whiting, League of California Cities – jwhiting@cacities.org or (916) 658-8249
Paul Smith, Regional Council of Rural Counties – psmith@rcrcnet.org or (916) 445-4806
Mark Watts, Transportation California – mwatts@smithwattsco.com or (916) 446-5508

cc: The Honorable Jerry Brown, Governor, State of California
Anna Manasantos, Director, Department of Finance
Mark Hill, Program Budget Manager, Department of Finance

Attachment Six

AB 147 (Dickinson): Transportation Impact Mitigation Fees

ASSEMBLY BILL No. 147

Introduced by Assembly Member Dickinson

January 14, 2011

An act to amend Section 66484 of the Government Code, relating to subdivisions.

LEGISLATIVE COUNSEL'S DIGEST

AB 147, as introduced, Dickinson. Subdivisions.

The Subdivision Map Act authorizes a local agency to require the payment of a fee as a condition of approval of a final map or as a condition of issuing a building permit for purposes of defraying the actual or estimated cost of constructing bridges or major thoroughfares if specified conditions are met.

This bill would authorize the fee to additionally be used for defraying the actual or estimated cost of other transportation facilities, as described.

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

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

SECTION 1. Section 66484 of the Government Code is amended to read:

66484. (a) A local ordinance may require the payment of a fee as a condition of approval of a final map or as a condition of issuing a building permit for purposes of defraying the actual or estimated cost of constructing bridges over waterways, railways, freeways, and canyons, ~~or~~ constructing major thoroughfares, *or*

constructing other transportation facilities, including, but not limited to, pedestrian, bicycle, transit, and traffic-calming facilities. The ordinance may require payment of fees pursuant to this section if all of the following requirements are satisfied:

(1) The ordinance refers to the circulation element of the general plan and, ~~in the case of bridges, to the transportation or flood control provisions thereof that identify railways, freeways, streams, or canyons for which bridge crossings are required on the general plan or local roads and in the case of major thoroughfares, to the provisions of the circulation element that identify those major thoroughfares whose primary purpose is to carry through traffic and provide a network connecting to the state highway system,~~ if the circulation element, transportation, or flood control provisions have been adopted by the local agency 30 days prior to the filing of a map or application for a building permit~~.~~*:*

(A) In the case of bridges, to the transportation or flood control provisions thereof that identify railroads, freeways, streams, or canyons for which bridge crossings are required on the general plan or local roads.

(B) In the case of major thoroughfares, to the provisions of the circulation element that identify those major thoroughfares whose primary purpose is to carry through traffic and provide a network connecting to the state highway system.

(C) In the case of other transportation facilities, to the provisions of the circulation element that identify those transportation facilities that are required to minimize the use of automobiles and minimize the traffic impacts of new development on existing roads.

(2) The ordinance provides that there will be a public hearing held by the governing body for each area benefited. Notice shall be given pursuant to Section 65091 and shall include preliminary information related to the boundaries of the area of benefit, estimated cost, and the method of fee apportionment. The area of benefit may include land or improvements in addition to the land or improvements that are the subject of any map or building permit application considered at the proceedings.

(3) The ordinance provides that at the public hearing the boundaries of the area of benefit, the costs, whether actual or estimated, and a fair method of allocation of costs to the area of benefit and fee apportionment are established. The method of fee

apportionment, in the case of major thoroughfares, shall not provide for higher fees on land that abuts the proposed improvement except where the abutting property is provided direct usable access to the major thoroughfare. A description of the boundaries of the area of benefit, the costs, whether actual or estimated, and the method of fee apportionment established at the hearing shall be incorporated in a resolution of the governing body, a certified copy of which shall be recorded by the governing body conducting the hearing with the recorder of the county in which the area of benefit is located. The apportioned fees shall be applicable to all property within the area of benefit and shall be payable as a condition of approval of a final map or as a condition of issuing a building permit for the property or portions of the property. Where the area of benefit includes lands not subject to the payment of fees pursuant to this section, the governing agency shall make provision for payment of the share of improvement costs apportioned to those lands from other sources.

(4) The ordinance provides that payment of fees shall not be required unless the major thoroughfares are in addition to, or a reconstruction of, any existing major thoroughfares serving the area at the time of the adoption of the boundaries of the area of benefit.

(5) The ordinance provides that payment of fees shall not be required unless the planned bridge facility is an original bridge serving the area or an addition to any existing bridge facility serving the area at the time of the adoption of the boundaries of the area of benefit. The fees shall not be expended to reimburse the cost of existing bridge facility construction.

(6) The ordinance provides that if, within the time when protests may be filed under the provisions of the ordinance, there is a written protest, filed with the clerk of the legislative body, by the owners of more than one-half of the area of the property to be benefited by the improvement, and sufficient protests are not withdrawn so as to reduce the area represented to less than one-half of that to be benefited, then the proposed proceedings shall be abandoned, and the legislative body shall not, for one year from the filing of that written protest, commence or carry on any proceedings for the same improvement or acquisition under the provisions of this section.

(b) Any protest may be withdrawn by the owner protesting, in writing, at any time prior to the conclusion of a public hearing held pursuant to the ordinance.

(c) If any majority protest is directed against only a portion of the improvement, then all further proceedings under the provisions of this section to construct that portion of the improvement so protested against shall be barred for a period of one year, but the legislative body may commence new proceedings not including any part of the improvement or acquisition so protested against. Nothing in this section prohibits a legislative body, within that one-year period, from commencing and carrying on new proceedings for the construction of a portion of the improvement so protested against if it finds, by the affirmative vote of four-fifths of its members, that the owners of more than one-half of the area of the property to be benefited are in favor of going forward with that portion of the improvement or acquisition.

(d) Nothing in this section precludes the processing and recordation of maps in accordance with other provisions of this division if the proceedings are abandoned.

(e) Fees paid pursuant to an ordinance adopted pursuant to this section shall be deposited in a planned bridge facility ~~or~~, major thoroughfare, *or transportation facility* fund. A fund shall be established for each planned bridge facility project ~~or~~, each planned major thoroughfare project, *or each planned transportation facility project*. If the benefit area is one in which more than one bridge ~~or~~, major thoroughfare, *or other transportation facility* is required to be constructed, a fund may be so established covering all of the bridge ~~and~~, major thoroughfare, *and other transportation facility* projects in the benefit area. Money in the fund shall be expended solely for the construction or reimbursement for construction of the improvement or improvements serving the area to be benefited and from which the fees comprising the fund were collected, or to reimburse the local agency for the cost of constructing the improvement or improvements.

(f) An ordinance adopted pursuant to this section may provide for the acceptance of considerations in lieu of the payment of fees.

(g) A local agency imposing fees pursuant to this section may advance money from its general fund or road fund to pay the cost of constructing the improvements and may reimburse the general fund or road fund for any advances from planned bridge facility

~~or~~, major thoroughfares, *or other transportation facility* funds established to finance the construction of those improvements.

(h) A local agency imposing fees pursuant to this section may incur an interest-bearing indebtedness for the construction of bridge facilities ~~or~~, major thoroughfares, *or other transportation facilities*. However, the sole security for repayment of that indebtedness shall be moneys in planned bridge facility ~~or~~, major thoroughfares, *or transportation facility* funds.

(i) (1) The term "construction," as used in this section, includes design, acquisition of rights-of-way, administration of construction contracts, and actual construction.

(2) The term "construction," as used in this section, with respect to the unincorporated areas of San Diego County and Los Angeles County only, includes design, acquisition of rights-of-way, and actual construction, including, but not limited to, all direct and indirect environmental, engineering, accounting, legal, administration of construction contracts, and other services necessary therefor. The term "construction," with respect to the unincorporated areas of San Diego County and Los Angeles County only, also includes reasonable administrative expenses, not exceeding three hundred thousand dollars ($300,000) in any calendar year after January 1, 1986, as adjusted annually for any increase or decrease in the Consumer Price Index of the Bureau of Labor Statistics of the United States Department of Labor for all Urban Consumers, San Diego, California (1967 = 100), and Los Angeles-Long Beach-Anaheim, California (1967 = 100), respectively, as published by the United States Department of Commerce for the purpose of constructing bridges ~~and~~, major thoroughfares, *and other transportation facilities*. "Administrative expenses" means those office, personnel, and other customary and normal expenses associated with the direct management and administration of the agency, but not including costs of construction.

(3) The term "construction," as used in this section, with respect to Los Angeles County only, shall have the same meaning as in paragraph (2) in either of the following circumstances:

(A) The area of benefit includes, and all of the bridge ~~and~~, major thoroughfare, *and other transportation facility* project improvements lie within, both a city or a portion of a city and adjacent portions of unincorporated area.

(B) All of the area of benefit and all of the bridge ~~and~~, major thoroughfare, *and other transportation facility* project improvements lie completely within the boundaries of a city.

(j) Nothing in this section precludes a county or city from providing funds for the construction of bridge facilities ~~or~~, major thoroughfares*, or other transportation facilities* to defray costs not allocated to the area of benefit.

O