



**REGULAR BOARD MEETING
MARCH 27, 2008**

SUBJECT: STATE LEGISLATION

ACTION: ADOPT STAFF RECOMMENDED POSITIONS

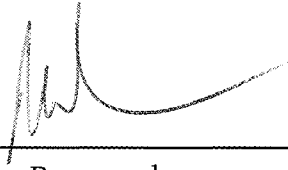
RECOMMENDATION

- A. AB 1815 (Feuer)** – Would create the California Transportation Infrastructure Funding Task Force; - **SUPPORT**
- B. AB 1836 (Feuer)** – Would eliminate the voter approval requirement for establishing Infrastructure Financing Districts; - **SUPPORT**
- C. AB 2558 (Feuer)** - Would authorize Metro to implement a greenhouse gas mitigation fee and would require that the revenue be used for public transit and congestion management projects and programs. - **SUPPORT**

ATTACHMENTS

Attachments A-1 Legislative Analysis of AB 1815
A-2 AB 1815 Bill language
B-1 Legislative Analysis of AB 1836
B-2 AB 1836 Bill language
C-1 Legislative Analysis of AB 2558
C-2 AB 2558 Bill language

Prepared by: Michael Turner, Government Relations Manager
Patricia Torres Bruno, Government Relations Administrator



Matthew Raymond
Chief Communications Officer



Roger Snoble
Chief Executive Officer

BILL: AB 1815

AUTHOR: ASSEMBLY MEMBER MIKE FEUER
(D – LOS ANGELES)

SUBJECT: CALIFORNIA TRANSPORTATION INFRASTRUCTURE FUNDING
TASK FORCE

STATUS: ASSEMBLY TRANSPORTATION COMMITTEE

ACTION: SUPPORT

RECOMMENDATION

Adopt a “SUPPORT” position on AB 1815 (Feuer), which establishes the California Transportation Infrastructure Funding Task Force.

ISSUE

Assembly Member Mike Feuer has introduced AB 1815 that would establish the California Transportation Infrastructure Funding Task Force. This taskforce would address the need to establish long-term funding alternatives that could be implemented in addition to the current per-gallon fuel tax system.

PROVISIONS

Existing law provides various sources of revenue to fund state highway and local road maintenance, operation, and improvement, including a state-imposed per-gallon fuel tax of 18 cents.

Specifically, AB 1815 would:

- Create, until January 1, 2010, the California Transportation Infrastructure Funding Task Force, with 14 members appointed by the Legislature, Governor, California Transportation Commission, city and county organizations, and other specified entities;
- Require the task force to hold at least three public hearings around the state and to report to the Legislature and Governor by January 1, 2010, on alternatives to the current system of taxing road users through per-gallon fuel taxes.

IMPACT ANALYSIS

Currently, the State's primary source of transportation funding is a per-gallon tax on gasoline and diesel fuel and truck weight fees. However, the combination of advances in fuel efficiency, energy conservation, increases in construction costs and inflation will require additional revenue sources in order to meet the significant needs of the State's transportation infrastructure.

As part of a broader legislative package, Assembly Member Mike Feuer has introduced AB 1815 that would establish a statewide transportation funding taskforce that would study long term viable alternatives to fund transportation infrastructure. The taskforce would be comprised of 14 members, two members appointed by the Senate Committee on Rules, two members appointed by the Speaker of the Assembly, two members appointed by the Governor, three members appointed by the California Transportation Commission, one member appointed by the League of California Cities, one member appointed by the California State Association of Counties, one member appointed by the California Transit Association, one representative from the California State Automobile Association, and one representative from the Automobile Club of Southern California.

The taskforce would conduct at least three public hearings on alternative road user funding mechanisms. The three hearings would be conducted in Southern California, the Central Valley, and Northern California.

According to the author, between 1994, when fuel taxes were last adjusted, and 2006, travel on the state highway system increased by 27 percent, from 144.2 billion to 183.4 billion vehicle miles traveled. Similarly, travel on the local street and road system over the same period increased by 12 percent, from 127.6 billion to 143 billion vehicle miles traveled. Collectively, both the state and local systems support nearly 20 percent more traffic today than just 12 years ago. The current transportation funding structure is becoming less effective over time.

Last year, Senator Tom Torlakson introduced a similar measure, SB 445, which did not proceed through the entire legislative process. There is no registered support or opposition for the bill since it was recently introduced.

Staff has communicated the concerns of the Board to Assemblymember Feuer's office to ensure that there is proportionate representation on the Taskforce. The bill currently includes language that requires that the composition of the taskforce reflect the ethnic and geographic composition of the State. Assemblymember Feuer has been a champion for Los Angeles County to obtain our fair share of state funds and is equally concerned about proportionate representation on key commissions. Staff will continue to work with Assemblymember Feuer's office to address the Board's concerns.

Staff recommends a support position on AB 1815.

BILL NUMBER: AB 1815 INTRODUCED
BILL TEXT

INTRODUCED BY Assembly Member Feuer

JANUARY 17, 2008

An act to add and repeal Section 87 of the Streets and Highways Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1815, as introduced, Feuer. California Transportation Infrastructure Funding Task Force.

Existing law provides various sources of revenue to fund state highway and local road maintenance, operation, and improvement, including a state-imposed per-gallon fuel tax of 18 cents.

This bill would create, until January 1, 2010, the California Transportation Infrastructure Funding Task Force, with 14 members appointed by the Legislature, Governor, California Transportation Commission, city and county organizations, and other specified entities. The bill would require the task force to hold at least 3 public hearings around the state and to report to the Legislature and Governor by January 1, 2010, on alternatives to the current system of taxing road users through per-gallon fuel taxes. The bill would make legislative findings and declarations in that regard.

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

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares all of the following:

(a) An efficient transportation system is critical for California's economy and quality of life.

(b) Per-gallon taxes on gasoline and diesel fuel and truck weight fees are the dominant sources of funding for highway system maintenance and expansion.

(c) The revenues currently available for state highways and local roads are inadequate to preserve and maintain existing infrastructure and to provide funds for improvements that would reduce congestion and improve mobility.

(d) State transit programs, including the State Transit Assistance program that funds local transit services, as well as the state's own intercity rail program, are directly dependent on the Public Transportation Account, which derives revenues from sales taxes on gasoline and diesel fuel. The revenues available for these programs are also inadequate to preserve and maintain existing transit infrastructure and to sustain current levels of transit operations that both reduce congestion and serve the nonmotorist public.

(e) Increased vehicle fuel efficiency provides valuable energy

conservation and environmental benefits. However, per-gallon fuel taxes will steadily generate less revenue as vehicles become more fuel efficient and alternative sources of fuel are identified. Declining revenues per vehicle mile traveled, coupled with inflation and increasing construction costs, causes this revenue source to fall short of meeting the state's transportation revenue needs.

(f) Between 1994, when fuel taxes were last adjusted, and 2006, travel on the state highway system increased by 27 percent, from 144.2 billion to 183.4 billion vehicle miles traveled. Similarly, travel on the local street and road system over the same period increased by 12 percent, from 127.6 billion to 143 billion vehicle miles traveled. Collectively, both the state and local systems support nearly 20 percent more traffic today than just 12 years ago.

(g) Thus, the trend is not favorable and, over time, the per-gallon fuel tax will become a less effective mechanism for meeting California's long-term transportation needs.

(h) It is therefore appropriate to convene a task force to consider and make recommendations concerning alternatives to the current system of taxing highway users through per-gallon fuel taxes.

SEC. 2. Section 87 is added to the Streets and Highways Code, to read:

87. (a) There is hereby created the California Transportation Infrastructure Funding Task Force, which shall consist of 14 members, as follows:

(1) Two members appointed by the Senate Committee on Rules.

(2) Two members appointed by the Speaker of the Assembly.

(3) Two members appointed by the Governor.

(4) Three members appointed by the California Transportation Commission. In making appointments under this paragraph, the commission shall consider individuals who are representative of highway users' groups, including transit providers, the California transportation research community and national transportation research and transportation policy bodies.

(5) One member appointed by the League of California Cities.

(6) One member appointed by the California State Association of Counties.

(7) One member appointed by the California Transit Association.

(8) One representative from the California State Automobile Association, on behalf of the motoring public.

(9) One representative from the Automobile Club of Southern California, on behalf of the motoring public.

(b) The California Transportation Infrastructure Funding Task Force shall conduct at least three public hearings on alternative road user funding mechanisms. One hearing each shall be conducted in southern California, the central valley, and northern California.

(c) The California Transportation Infrastructure Funding Task Force shall submit a report to the Legislature and Governor by January 1, 2010, with recommendations on alternatives to the current system of taxing road users through per-gallon fuel taxes.

(d) Appointees to the California Transportation Infrastructure Funding Task Force shall receive no salary or compensation other than reimbursement of actual and necessary expenses for attendance at meetings and hearings.

(e) Strict conflict-of-interest provisions shall be applicable for each appointed member of the California Transportation Infrastructure Funding Task Force and the appointed members shall

reflect the ethnic, cultural, and geographic diversity of this state.

(f) The department shall provide any staffing needed for the California Transportation Infrastructure Funding Task Force from existing transportation resources made available to the department for transportation planning purposes.

(g) This section shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends that date.

BILL: AB 1836

AUTHOR: ASSEMBLY MEMBER MIKE FEUER
(D – LOS ANGELES)

SUBJECT: INFRASTRUCTURE FINANCING DISTRICTS

STATUS: ASSEMBLY LOCAL GOVERNMENT COMMITTEE

ACTION: SUPPORT

RECOMMENDATION

Adopt a “SUPPORT” position on AB 1836 (Feuer), which would eliminate the voter approval requirement for establishing Infrastructure Financing Districts (IFD).

ISSUE

Assembly Member Mike Feuer has introduced AB 1836 that would eliminate the voter approval requirement for establishing an IFD. Under this program, local governments may form such districts for the development of large scale public works projects.

PROVISIONS

Existing law allows a legislative body, as defined, to create an IFD, adopt an infrastructure financing plan, and issue bonds, for which only the district is liable, to finance specified public transit facilities, upon voter approval. Existing law also outlines a lengthy approval process concluded by the vote of the qualified electors in the district.

Specifically, AB 1836 would:

- Eliminate the requirement of voter approval and allow the legislative body to create the district, adopt the plan, and issue the bonds by resolutions.

IMPACT ANALYSIS

Existing law allows local governments to create infrastructure financing districts. Under this program local governments may form such districts for the development of large scale public works projects. Districts are authorized to issue bonds which are then paid from local property tax increment revenues. Although these districts are similar to redevelopment areas, they do not require an area to be blighted. IFD’s also may not overlap redevelopment areas and may not use school district property tax increment revenues.

The process for creating such a district is cumbersome and inhibits the use of this mechanism. A local agency must develop an infrastructure plan, send copies to every property owner, consult with other local governments, and hold a public hearing. In addition, every local agency that will contribute its revenue must consent to participation in the district. After all of these actions have been taken, the formation of the district must also be approved by a vote of all the qualified electors in the district.

AB 1836 would remove the requirement that the formation of the district be approved by a vote. The formation of an IFD involves the reallocation of property tax increment revenue. The creation of the IFD does not, in and of itself, raise property taxes. IFD's can be distinguished from Benefit Assessment Districts where a local agency imposes an additional assessment on property due to the benefit that accrues from the public investment in infrastructure. IFD's only reallocate property tax increment revenue that results in the district area.

Fundamentally, the IFD is a question of the allocation of property tax revenue amongst governmental entities. Since these entities are involved in the formation of the district and have to approve its formation, each entity has the ability to approve or disapprove the district. Since the process does not involve an increase in property taxes, requiring a vote after a lengthy public process, is less warranted than it would be in a Benefit Assessment District.

AB 1836 is one of a series of measures introduced by Assembly Member Feuer to develop local funding options for transportation. There is no registered support or opposition to AB 1836 since the measure was recently introduced.

The Board raised concerns regarding the role of the individual taxing jurisdictions in forming the IFD. Specifically the Board expressed the concern that each taxing jurisdiction must clearly approve the allocation of its tax revenue to the district. AB 1836 includes language that identifies the process for approving the district. In forming a district, the legislative body that forms the district must submit a financing plan to each taxing jurisdiction that could participate in the district (meaning allocate its tax increment revenue to the district.) The legislative body, forming the district cannot approve a financing plan, and form the district using each taxing jurisdictions revenue, without a resolution from the governing body of the district, approving the allocation of its tax revenue. Additionally, a legislative body may form a district without the revenue of each taxing entity if the taxing entities do not consent to the formation of the district.

The only existing IFD is in the city Carlsbad in the County of San Diego. The City of Carlsbad formed an IFD to pay for public work infrastructure that would assist in the development of a hotel near LEGOLAND. The County voted not to participate in the formation of the IFD and to therefore retain their share of the tax increment revenue. The city of Carlsbad decided to continue with the formation of the district and is the only participating agency in the IFD. Only the city's share of tax increment revenue has been reallocated for the IFD.

With respect to the role of private developers in the formation of the district, current law requires that a legislative body create an IFD. Therefore only the public entities that receive

a percentage of the tax increment revenue can create or vote on the creation of an IFD. However, existing law does not prohibit the public entities that form the IFD from reallocating their share of the tax increment for public works projects that may benefit a development project. This decision would then be a policy decision of the public entity relating to how the would the tax increment revenues would be utilized.

The Board also raised concerns regarding a decrease in property value and the resulting risk to the financing of the district. The formation of an IFD is analogous to the formation of a redevelopment area. In the process of forming the IFD, the district would create a bond reserve, as is done in redevelopment area. Should the district experience a decline in the value of property the IFD could utilize reserves to meet its obligations.

Staff will continue to work with County Counsel and Assemblymember Feuer's office to address these concerns. Staff recommends a support position on AB 1836.

BILL NUMBER: AB 1836 INTRODUCED
BILL TEXT

INTRODUCED BY Assembly Member Feuer
(Principal coauthor: Senator Negrete McLeod)

JANUARY 24, 2008

An act to amend Sections 53395.5, 53395.6, 53395.7, 53395.8, 53395.14, 53395.19, 53395.20, 53396, 53397.1 and 53397.2 of, and repeal Sections 53395.21, 53395.22, 53395.23, 53395.24, 53395.25, 53397.4, 53397.5, 53397.6, and 53397.7 of, the Government Code, relating to infrastructure financing districts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1836, as introduced, Feuer. Infrastructure Financing Districts: voter approval: repeal.

Existing law allows a legislative body, as defined, to create an infrastructure financing district, adopt an infrastructure financing plan, and issue bonds, for which only the district is liable, to finance specified public facilities, upon voter approval.

This bill would eliminate the requirement of voter approval and allow the legislative body to create the district, adopt the plan, and issue the bonds by resolutions.

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 53395.5 of the Government Code is amended to read:

53395.5. It is the intent of the Legislature that ~~the area of the districts created be substantially undeveloped, and~~ the establishment of a district should not ordinarily lead to the removal of existing dwelling units. If, however, any dwelling units are proposed to be removed or destroyed in the course of private development or public works construction within the area of the district, the legislative body shall do all of the following:

(a) Within four years of the removal or destruction, cause or require the construction or rehabilitation, for rental or sale to persons or families of low or moderate income, of an equal number of replacement dwelling units at affordable housing cost, as defined in Section 50052.5 of the Health and Safety Code, within the territory of the district if the dwelling units removed were inhabited by persons or families of low or moderate income, as defined in Section 50093 of the Health and Safety Code.

(b) Within four years of the removal or destruction, cause or require the construction or rehabilitation, for rental or sale to persons of low or moderate income, a number of dwelling units which

is at least one unit but not less than 20 percent of the total dwelling units removed at affordable housing cost, as defined in Section 50052.5 of the Health and Safety Code, within the territory of the district if the dwelling units removed or destroyed were not inhabited by persons of low or moderate income, as defined in Section 50093 of the Health and Safety Code.

(c) Provide relocation assistance and make all the payments required by Chapter 16 (commencing with Section 7260) of Division 7 of Title 1, to persons displaced by any public or private development occurring within the territory of the district. This displacement shall be deemed to be the result of public action.

(d) Ensure that removal or destruction of any dwelling units occupied by persons or families of low or moderate income not take place unless and until there are suitable housing units, at comparable cost to the units from which the persons or families were displaced, available and ready for occupancy by the residents of the units at the time of their displacement. The housing units shall be suitable to the needs of these displaced persons or families and shall be decent, safe, sanitary, and otherwise standard dwellings.

SEC. 2. Section 53395.6 of the Government Code is amended to read:

53395.6. Any action or proceeding to attack, review, set aside, void, or annul the creation of a district, adoption of an infrastructure financing plan, including a division of taxes thereunder, ~~or an election pursuant to this chapter~~ shall be commenced within 30 days after ~~the enactment of the ordinance creating the district pursuant to Section 53395.23~~ *the date the legislative body adopted the resolution adopting the infrastructure finance plan pursuant to Section 53395.20*. Consistent with the time limitations of this section, such an action or proceeding with respect to a division of taxes under this chapter may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure, except that Section 869 of the Code of Civil Procedure shall not apply.

SEC. 3. Section 53395.7 of the Government Code is amended to read:

53395.7. An action to determine the validity of the issuance of bonds pursuant to this chapter may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure. However, notwithstanding the time limits specified in Section 860 of the Code of Civil Procedure, the action shall be commenced within 30 days after ~~adoption of the resolution pursuant to Section 53397.6 providing for issuance of the bonds~~ *the date the legislative body adopted the resolution authorizing the issuance of the bonds pursuant to Section 53397.1*, if the action is brought by an interested person pursuant to Section 863 of the Code of Civil Procedure. Any appeal from a judgment in that action or proceeding shall be commenced within 30 days after entry of judgment.

SEC. 4. Section 53395.8 of the Government Code is amended to read:

53395.8. (a) This section applies only to the City and County of San Francisco. For the purposes of this chapter, the City and County of San Francisco is a city.

(b) In addition to the findings and declarations in Section 53395, the Legislature further finds and declares that consolidating in a

single public agency the responsibility to administer waterfront lands in the City and County of San Francisco that are subject to the public trust and the ability to capture property tax increment revenues to finance needed public infrastructure improvements in those areas will further the objectives of the public trust and enjoyment of those trust lands by the people of the state.

(c) Notwithstanding subdivision (c) of Section 53395.1, for the purposes of this section, "debt" includes commercial paper and variable rate demand notes.

(d) In addition to the purposes provided in subdivision (a) of Section 53395.3, a district subject to this section may finance the environmental remediation of any real or tangible property that the district may finance pursuant to Section 53395.3. The district may also finance planning and design work that is directly related to the improvement, seismic retrofit, or environmental mediation of that property. The district may not finance routine nonstructural repair work.

(e) In addition to the public capital facilities of communitywide significance that a district may finance pursuant to subdivision (b) of Section 53395.3, a district subject to this section may finance all of the following:

(1) Seismic and life-safety improvements to existing buildings and other structures.

(2) Rehabilitation, restoration, and preservation of structures, buildings, or other facilities having special historical, architectural, or aesthetic interest or value and that are either eligible for listing on the National Register of Historic Places, both individually or because of their location within an eligible registered historic district, or are locally designated landmarks.

(3) Structural repairs and improvements to piers, seawalls, and wharves.

(4) Remediation of hazardous materials.

(5) Storm water management facilities, other utility infrastructure, or public access improvements.

(f) Notwithstanding Section 53395.4, a district subject to this section may include tidelands and submerged lands, including filled lands, subject to the public trust for commerce, navigation, and fisheries, and the applicable statutory trust grant or grants. Where a district includes tidelands and submerged lands, whether filled or unfilled, and finances facilities located on these tidelands and submerged lands, these facilities shall serve and promote uses and purposes consistent with the public trust and applicable statutory trust grants. These facilities shall be public trust assets subject to the administration and control of the legislative trust grantee of the public trust lands on which they are constructed. However, if these facilities are among the public capital facilities listed in paragraphs (1) to (4), inclusive, of subdivision (b) of Section 53395.3 or paragraph (5) of subdivision (e) of this section and are not owned by the public agency administering the public trust lands, but are owned and operated by another entity pursuant to a license from or an agreement with the public agency administering the public trust lands, then these facilities are not required to become public trust assets. The district shall maintain accounting procedures in accordance, and otherwise comply, with Section 6306 of the Public Resources Code.

(g) Notwithstanding Section 53395.5, nothing in this chapter shall prohibit the formation of a district on urban waterfront property,

nor the financing of needed public infrastructure projects located on public trust lands, pursuant to this section.

(h) Notwithstanding subdivision (c) of Section 53395.14, infrastructure improvements that increase public access to, or use or enjoyment of, public trust lands pursuant to this section shall be deemed to satisfy the requirements of that subdivision.

(i) ~~Notwithstanding Section 53395.20 or any other provision of law, if all of the land in a district subject to this section would be publicly owned, no election shall be required to form the district, and the~~ The legislative body may, by ordinance, adopt the infrastructure financing plan and create the district, upon recommendation of the public agency with jurisdiction over the land.

(j) (1) Notwithstanding any other provision of this chapter, the legislative body may amend an infrastructure financing plan subject to this section to extend the time limitations for receipt of property tax increment beyond the 30-year period from adoption of the ordinance for the district for a period not to exceed 10 years to pay bonded indebtedness, if the district does all of the following:

(A) Includes an amendment, if necessary, to increase the total number of dollars to be allocated to the district.

(B) Prepares an analysis of the projected fiscal impact on each affected taxing entity.

(C) Sets a time and date for a public hearing on the matter.

(2) The amendment to the infrastructure financing plan shall be mailed by the clerk to each affected taxing entity for its review. Each affected taxing entity shall review and consent to or disapprove the amended infrastructure financing plan within 60 days of the receipt thereof.

(k) (1) The legislative body shall hold a public hearing regarding the amendment to the infrastructure financing plan within 60 days after each affected taxing entity has approved the extension.

(2) The public hearing, and notice thereof, shall be conducted in accordance with Sections 53395.17 and 53395.18. At the conclusion of the hearing, the legislative body may adopt an ordinance adopting the infrastructure financing plan, as modified, or it may abandon the proceedings.

SEC. 5. Section 53395.14 of the Government Code is amended to read:

53395.14. After receipt of a copy of the resolution of intention to establish a district, the official designated pursuant to Section 53395.13 shall prepare a proposed infrastructure financing plan. The infrastructure financing plan shall be consistent with the general plan of the city within which the district is located and shall include all of the following:

(a) A map and legal description of the proposed district, which may include all or a portion of the district designated by the legislative body in its resolution of intention.

(b) A description of the public facilities required to serve the development proposed in the area of the district including those to be provided by the private sector, those to be provided by governmental entities without assistance under this chapter, those public improvements and facilities to be financed with assistance from the proposed district, and those to be provided jointly. The description shall include the proposed location, timing, and costs of the public improvements and facilities.

(c) A finding that the public facilities are of communitywide

significance and provide significant benefits to an area larger than the area of the district.

(d) A financing section, which shall contain all of the following information:

(1) A specification of the maximum portion of the incremental tax revenue of the city and of each affected taxing entity proposed to be committed to the district for each year during which the district will receive incremental tax revenue. The portion need not be the same for all affected taxing entities. The portion may change over time.

(2) A projection of the amount of tax revenues expected to be received by the district in each year during which the district will receive tax revenues, including an estimate of the amount of tax revenues attributable to each affected taxing entity for each year.

(3) A plan for financing the public facilities to be assisted by the district, including a detailed description of any intention to incur debt.

(4) A limit on the total number of dollars of taxes which may be allocated to the district pursuant to the plan.

(5) A date on which the district will cease to exist, by which time all tax allocation to the district will end. The date shall not be more than 30 years from the date ~~on which the ordinance forming the district is adopted pursuant to Section 53395.23~~

the legislative body adopted the resolution adopting the infrastructure finance plan pursuant to Section 53395.20 .

(6) An analysis of the costs to the city of providing facilities and services to the area of the district while the area is being developed and after the area is developed. The plan shall also include an analysis of the tax, fee, charge, and other revenues expected to be received by the city as a result of expected development in the area of the district.

(7) An analysis of the projected fiscal impact of the district and the associated development upon each affected taxing entity.

(e) If any dwelling units occupied by persons or families of low or moderate income are proposed to be removed or destroyed in the course of private development or public works construction within the area of the district, a plan providing for replacement of those units and relocation of those persons or families consistent with the requirements of Section 53395.5.

SEC. 6. Section 53395.19 of the Government Code is amended to read:

53395.19. (a) The legislative body shall not enact a resolution ~~proposing formation of~~ *forming* a district and providing for the division of taxes of any affected taxing entity pursuant to Article 3 (commencing with Section 53396) unless a resolution approving the plan has been adopted by the governing body of each affected taxing entity which is proposed to be subject to division of taxes pursuant to Article 3 (commencing with Section 53396) has been filed with the legislative body at or prior to the time of the hearing.

(b) Nothing in this section shall be construed to prevent the legislative body from amending its infrastructure financing plan and adopting a resolution ~~proposing formation of~~ *forming* the infrastructure financing district without allocation of the tax revenues of any affected taxing entity ~~which~~ *that* has not approved the infrastructure financing plan by resolution of the governing body of the affected

taxing entity.

SEC. 7. Section 53395.20 of the Government Code is amended to read:

53395.20. ~~(a) - At the conclusion of the hearing required by Section 53395.17 , the legislative body may adopt a resolution ~~proposing adoption of~~ adopting the infrastructure financing plan, as modified, and approving the formation of the infrastructure financing district in a manner consistent with Section 53395.19, or it may abandon the proceedings. ~~If the legislative body adopts a resolution proposing formation of the district, it shall then submit the proposal to create the district to the qualified electors of the proposed district in the next general election or in a special election to be held, notwithstanding any other requirement, including any requirement that elections be held on specified dates, contained in the Elections Code, at least 90 days, but not more than 180 days, following the adoption of the resolution of formation. The legislative body shall provide the resolution of formation, a certified map of sufficient scale and clarity to show the boundaries of the district, and a sufficient description to allow the election official to determine the boundaries of the district to the official conducting the election within three business days after the adoption of the resolution of formation. The assessor's parcel numbers for the land within the district shall be included if it is a landowner election or the district does not conform to an existing district's boundaries and if requested by the official conducting the election. If the election is to be held less than 125 days following the adoption of the resolution of formation, the concurrence of the election official conducting the election shall be required. However, any time limit specified by this section or requirement pertaining to the conduct of the election may be waived with the unanimous consent of the qualified electors of the proposed district and the concurrence of the election official conducting the election.~~~~

~~(b) If at least 12 persons have been registered to vote within the territory of the proposed district for each of the 90 days preceding the close of the hearing, the vote shall be by the registered voters of the proposed district, who need not necessarily be the same persons, with each voter having one vote. Otherwise, the vote shall be by the landowners of the proposed district and each landowner who is the owner of record at the close of the protest hearing, or the authorized representative thereof, shall have one vote for each acre or portion of an acre of land that he or she owns within the proposed district. The number of votes to be voted by a particular landowner shall be specified on the ballot provided to that landowner.~~

~~(c) Ballots for the special election authorized by subdivision (a) may be distributed to qualified electors by mail with return postage prepaid or by personal service by the election official. The official conducting the election may certify the proper mailing of ballots by an affidavit, which shall be exclusive proof of mailing in the absence of fraud. The voted ballots shall be returned to the election officer conducting the election not later than the hour specified in the resolution calling the election. However, if all the qualified voters have voted, the election shall be closed.~~

SEC. 8. Section 53395.21 of the Government Code is repealed.

~~53395.21. (a) Except as otherwise provided in this chapter, the provisions of law regulating elections of the local agency that calls an election pursuant to this chapter, insofar as they may be applicable, shall govern all elections conducted pursuant to this chapter. Except as provided in subdivision (b), there shall be prepared and included in the ballot material provided to each voter, an impartial analysis pursuant to Section 9160 or 9280 of the Elections Code, arguments and rebuttals, if any, pursuant to Sections 9162 to 9167, inclusive, and 9190 of the Elections Code or pursuant to Sections 9281 to 9287, inclusive, and 9295 of the Elections Code.~~

~~(b) If the vote is to be by the landowners of the proposed district, analysis and arguments may be waived with the unanimous consent of all the landowners and shall be so stated in the order for the election.~~

SEC. 9. Section 53395.22 of the Government Code is repealed.

~~53395.22. (a) If the election is to be conducted by mail ballot, the election official conducting the election shall provide ballots and election materials pursuant to subdivision (d) of Section 53326 and Section 53327, together with all supplies and instructions necessary for the use and return of the ballot.~~

~~(b) The identification envelope for return of mail ballots used in landowner elections shall contain the following:~~

~~(1) The name of the landowner.~~

~~(2) The address of the landowner.~~

~~(3) A declaration, under penalty of perjury, stating that the voter is the owner of record or the authorized representative of the landowner entitled to vote and is the person whose name appears on the identification envelope.~~

~~(4) The printed name and signature of the voter.~~

~~(5) The address of the voter.~~

~~(6) The date of signing and place of execution of the declaration pursuant to paragraph (3).~~

~~(7) A notice that the envelope contains an official ballot and is to be opened only by the canvassing board.~~

SEC. 10. Section 53395.23 of the Government Code is repealed.

~~53395.23. After the canvass of returns of any election pursuant to Section 53395.20, the legislative body may, by ordinance, adopt the infrastructure financing plan and create the district with full force and effect of law, if two-thirds of the votes upon the question of creating the district are in favor of creating the district.~~

SEC. 11. Section 53395.24 of the Government Code is repealed.

~~53395.24. After the canvass of returns of any election conducted pursuant to Section 53395.20, the legislative body shall take no further action with respect to the proposed infrastructure financing district for one year from the date of the election if the question of creating the district fails to receive approval by two-thirds of the votes cast upon the question.~~

SEC. 12. Section 53395.25 of the Government Code is repealed.

~~53395.25. The legislative body may submit a proposition to establish or change the appropriations limit, as defined by subdivision (h) of Section 8 of Article XIII B of the California~~

~~Constitution, of a district to the qualified electors of a proposed or established district. The proposition establishing or changing the appropriations limit shall become effective if approved by the qualified electors voting on the proposition and shall be adjusted for changes in the cost of living and changes in populations, as defined by subdivisions (b) and (c) of Section 7901, except that the change in population may be estimated by the legislative body in the absence of an estimate by the Department of Finance, and in accordance with Section 1 of Article XIII B of the California Constitution. For purposes of adjusting for changes in population, the population of the district shall be deemed to be at least one person during each calendar year. Any election held pursuant to this section may be combined with any election held pursuant to Section 53395.20 in any convenient manner.~~

SEC. 13. Section 53396 of the Government Code is amended to read:

53396. Any infrastructure financing plan may contain a provision that taxes, if any, levied upon taxable property in the area included within the infrastructure financing district each year by or for the benefit of the State of California, or any affected taxing entity after the effective date of the ~~ordinance~~ resolution adopted pursuant to Section ~~53395.23~~

53395.20 to create the district, shall be divided as follows:

(a) That portion of the taxes which would be produced by the rate upon which the tax is levied each year by or for each of the affected taxing entities upon the total sum of the assessed value of the taxable property in the district as shown upon the assessment roll used in connection with the taxation of the property by the affected taxing entity, last equalized prior to the effective date of the ~~ordinance~~ resolution adopted pursuant to Section ~~53395.23~~ 53395.20 to create the district, shall be allocated to, and when collected shall be paid to, the respective affected taxing entities as taxes by or for the affected taxing entities on all other property are paid.

(b) That portion of the levied taxes each year specified in the adopted infrastructure financing plan for the city and each affected taxing entity which has agreed to participate pursuant to Section 53395.19 in excess of the amount specified in subdivision (a) shall be allocated to, and when collected shall be paid into a special fund of, the district for all lawful purposes of the district. Unless and until the total assessed valuation of the taxable property in a district exceeds the total assessed value of the taxable property in the district as shown by the last equalized assessment roll referred to in subdivision (a), all of the taxes levied and collected upon the taxable property in the district shall be paid to the respective affected taxing entities. When the district ceases to exist pursuant to the adopted infrastructure financing plan, all moneys thereafter received from taxes upon the taxable property in the district shall be paid to the respective affected taxing entities as taxes on all other property are paid.

SEC. 14. Section 53397.1 of the Government Code is amended to read:

53397.1. The legislative body may, by majority vote, ~~initiate proceedings to issue bonds~~ authorize the issuance of bonds pursuant to this chapter by adopting a resolution ~~stating its intent to issue the bonds~~ .

SEC. 15. Section 53397.2 of the Government Code is amended to read:

53397.2. The resolution adopted pursuant to Section 53397.1 shall contain all of the following information:

(a) A description of the facilities to be financed with the proceeds of the ~~proposed~~ bond issue.

(b) The estimated cost of the facilities, the estimated cost of preparing and issuing the bonds, and the principal amount of the ~~proposed~~ bond issuance.

(c) The maximum interest rate and discount on the ~~proposed~~ bond issuance.

~~(d) The date of the election on the proposed bond issuance and the manner of holding the election.~~

~~(e)~~

(d) A determination of the amount of tax revenue available or estimated to be available, for the payment of the principal of, and interest on, the bonds.

~~(f)~~

(e) A finding that the amount necessary to pay the principal of, and interest on, the ~~proposed~~ bond issuance will be less than,

or equal to, the amount determined pursuant to subdivision

~~(e)~~ (d) .

(f) *The issuance of the bonds in one or more series.*

(g) *The date the bonds will bear.*

(h) *The denomination of the bonds.*

(i) *The form of the bonds.*

(j) *The manner and execution of the bonds.*

(k) *The medium of payment in which the bonds are payable.*

(l) *The place or manner of payment and any requirements for registration of the bonds.*

(m) *The terms or call of redemption, with or without premium.*

SEC. 16. Section 53397.4 of the Government Code is repealed.

~~53397.4. The clerk of the legislative body shall publish the resolution adopted pursuant to Section 53397.1 once a day for at least seven successive days in a newspaper published in the city or county at least six days a week, or at least once a week for two successive weeks in a newspaper published in the city or county less than six days a week.~~

~~If there are no newspapers meeting these criteria, the resolution shall be posted in three public places within the territory of the district for two succeeding weeks.~~

SEC. 17. Section 53397.5 of the Government Code is repealed.

~~53397.5. The legislative body shall submit the proposal to issue the bonds to the voters who reside within the district. The election shall be conducted in the same manner as the election to create the district pursuant to Section 53395. 20 and the two elections may be consolidated.~~

SEC. 18. Section 53397.6 of the Government Code is repealed.

~~53397.6. (a) The bonds may be issued if two-thirds of the voters voting on the proposition vote in favor of issuing the bonds.~~

~~(b) If the voters approve the issuance of the bonds as provided by~~

~~subdivision (a), the legislative body shall proceed with the issuance of the bonds by adopting a resolution which shall provide for all of the following:~~

- ~~(1) The issuance of the bonds in one or more series.~~
- ~~(2) The principal amount of the bonds, which shall be consistent with the amount specified in subdivision (b) of Section 53397.2.~~
- ~~(3) The date the bonds will bear.~~
- ~~(4) The date of maturity of the bonds.~~
- ~~(5) The denomination of the bonds.~~
- ~~(6) The form of the bonds.~~
- ~~(7) The manner of execution of the bonds.~~
- ~~(8) The medium of payment in which the bonds are payable.~~
- ~~(9) The place or manner of payment and any requirements for registration of the bonds.~~
- ~~(10) The terms of call or redemption, with or without premium.~~

SEC. 19. Section 53397.7 of the Government Code is repealed.

~~53397.7. If any proposition submitted to the voters pursuant to this chapter is defeated by the voters, the legislative body shall not submit, or cause to be submitted, a similar proposition to the voters for at least one year after the first election.~~

BILL: AB 2558

AUTHOR: ASSEMBLY MEMBER MIKE FEUER
(D – LOS ANGELES)

SUBJECT: CLIMATE CHANGE MITIGATION & ADAPTATION FEE

STATUS: ASSEMBLY TRANSPORTATION COMMITTEE & ASSEMBLY
LOCAL GOVERNMENT COMMITTEE

ACTION: SUPPORT

RECOMMENDATION

Adopt a “SUPPORT” position on AB 2558 (Feuer) which would provide us with the authority to place a Climate Change Mitigation & Adaptation Fee (CCMAF) initiative on the ballot. The fee revenues would pay for public transit and congestion management projects and programs.

ISSUE

As part of his broader legislative package, Assembly Member Mike Feuer has introduced AB 2558 that would provide us with the authority to place a Climate Change Mitigation & Adaptation Fee initiative on the ballot to pay for public transit and congestion management projects and programs. Given the limited State transportation funding, this measure would provide us with the option of creating an additional local revenue source and fund critical transportation projects.

PROVISIONS

Existing law provides the Los Angeles County Metropolitan Transportation Authority, with specified powers and duties relative to transportation planning, programming, and operations in the County.

Specifically, AB 2558 would:

- Provide us with the authority to place a climate change and mitigation and adaptation fee on the ballot subject to approval of an ordinance by majority of the Board and majority of the electorate;
- Would allow Metro to place on the ballot one of two fees:
 - 1.) A fee on all motor vehicle fuels sold in the County of Los Angeles. The fee shall be established by the authority but not to exceed 3 percent
 - 2.) An annual per-vehicle fee for each vehicle registered in the County of Los Angeles that would vary based on the emissions produced by the vehicle.

The authority shall consult with the Department of Motor Vehicles and other appropriate state and federal agencies for applicable data to determine the amount of the fee for each vehicle. The rate shall not exceed \$90.

- Would use the fee proceeds to fund public transit and congestion management projects and programs. A minimum of 2/3 of the fee revenues must be used for public transit projects and programs;
- Create or augment our existing Call for Projects with a portion of the fee proceeds.

IMPACT ANALYSIS

As part of his legislative bill package, Assemblyman Mike Feuer has introduced a CCMAF bill that would provide us with the authority to place a fee on the ballot to address the impacts of green house gas emissions. The measure requires that 2/3 of the fee revenues must be used for public transit projects and programs. The balance would pay for congestion management projects and programs.

Los Angeles County's transportation infrastructure and air quality are greatly impacted by vehicle traffic congestion. The bill's intent is to address the impacts of greenhouses gas emissions by investing in public transit and congestion management projects and programs. By investing in our public transit system, we can provide commuters options other than driving.

In addition, with the State budget deficit and dwindling Federal transportation dollars, we must look at local revenue sources. This authority would provide the Board with another revenue enhancing option while encouraging public transit commuting options. **Staff estimates that a fee of this type could generate approximately \$400 million per year. There is no registered support or opposition for the bill since it was recently introduced.**

Staff continues to work with Assembly Member Feuer and recommends a support position on AB 2558.

BILL NUMBER: AB 2558 INTRODUCED
BILL TEXT

INTRODUCED BY Assembly Member Feuer

FEBRUARY 22, 2008

An act to add Article 6.5 (commencing with Section 130356) to Chapter 4 of Division 12 of the Public Utilities Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2558, as introduced, Feuer. Los Angeles County Metropolitan Transportation Authority: climate change mitigation and adaptation fee.

Existing law creates the Los Angeles County Metropolitan Transportation Authority, with specified powers and duties relative to transportation planning, programming, and operations in the County of Los Angeles.

This bill would authorize the authority to impose a climate change mitigation and adaptation fee in the County of Los Angeles, subject to approval of an ordinance by a majority of the board of the authority and majority voter approval of a ballot measure containing the fee and an expenditure plan. The bill would specify 2 alternative options for imposing the fee, which would be either a motor vehicle fuel tax or a vehicle fee, subject to specified maximum amounts. Revenues from the fee would be used for public transit and congestion management projects and programs.

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. Article 6.5 (commencing with Section 130356) is added to Chapter 4 of Division 12 of the Public Utilities Code, to read:

Article 6.5. CLIMATE CHANGE MITIGATION AND ADAPTATION FEE

130356. (a) Subject to approval of an ordinance pursuant to Section 130357 and majority voter approval pursuant to Section 130358, the Los Angeles County Metropolitan Transportation Authority may impose a countywide climate change mitigation and adaptation fee. The fee shall be in addition to any other levies that the authority is authorized to impose. In implementing the fee, the authority shall utilize one of the following mechanisms:

(1) A fee on all motor vehicle fuels sold in the County of Los Angeles. As used in this paragraph, "motor vehicle" does not include aircraft. The fee shall be established by the authority at a rate determined by the authority, but not to exceed 3 percent of the retail sales price of motor vehicle fuel.

(2) An annual per-vehicle fee for each vehicle registered in the County of Los Angeles that would vary based on the emissions produced by the vehicle. If the authority imposes the fee under this

mechanism, the authority shall consult with the Department of Motor Vehicles and other appropriate state or federal agencies for applicable data to determine the amount of the fee for each vehicle. The rate of the fee shall not exceed ninety dollars (\$90).

(b) As part of the ordinance under Section 130357, the authority shall adopt a climate change mitigation and adaptation expenditure plan. The expenditure plan shall describe the specific projects and programs that would be eligible for the revenues from the fee, consistent with subdivision (e). The expenditure plan shall also describe funds other than revenues from the fee that the authority anticipates will be expended on those projects and programs, and a schedule for anticipated availability of funds for the projects and programs.

(c) The authority shall use no more than 2 percent of fee revenues to administer the fee and the projects and programs funded by fee revenues.

(d) Fee revenues shall be deposited in the Climate Change Mitigation and Adaptation Fund, to be created by the authority. Revenues in the fund shall be available to the authority to fund projects and programs that advance the goals of the expenditure plan. Fee revenues may be used in conjunction with other funds available to the authority for these purposes. The authority may distribute a portion of revenues through a competitive grant program for the county and cities within the jurisdiction of the authority through the authority's existing call for projects program.

(e) (1) Net fee revenues, after administrative costs as described in subdivision (c), shall be used to fund both of the following:

(A) Public transit projects and programs.

(B) Congestion management projects and programs.

(2) A minimum of two-thirds of net fee revenues shall be used for the purposes in subparagraph (A) of paragraph (1).

(f) The authority may issue bonds payable from fee revenues. Proceeds from the bonds shall be used for the purposes in subdivision (e).

130357. To impose the fee authorized under this article, both of the following shall be required:

(a) An ordinance proposing the fee and the expenditure plan and submitting the fee and the expenditure plan to the voters for approval is approved by a majority vote of the board.

(b) A majority of the voters in the County of Los Angeles approve a ballot measure pursuant to Section 130358.

130358. The authority may call a special election for the purposes of submitting the ordinance containing the fee and the expenditure plan to the voters of the County of Los Angeles. The election shall be consolidated with a statewide primary or general election specified by the authority.