



BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT

BOARD OF DIRECTORS
LEGISLATIVE COMMITTEE MEETING

COMMITTEE MEMBERS

BRAD WAGENKNECHT – CHAIRPERSON
DAN DUNNIGAN
CAROL KLATT
MICHAEL SHIMANSKY

ERIN GARNER–VICE CHAIRPERSON
SCOTT HAGGERTY
JANET LOCKHART
TIM SMITH

MONDAY
NOVEMBER 26, 2007
9:30 A.M.

FOURTH FLOOR CONFERENCE ROOM
DISTRICT OFFICES

AGENDA

1. **CALL TO ORDER - ROLL CALL**

2. **PUBLIC COMMENT PERIOD**

(Public Comment on Non-Agenda Items Pursuant to Government Code § 54954.3) Members of the public are afforded the opportunity to speak on any agenda item. All agendas for regular meetings are posted at District headquarters, 939 Ellis Street, San Francisco, CA, at least 72 hours in advance of a regular meeting. At the beginning of the regular meeting agenda, an opportunity is also provided for the public to speak on any subject within the Committee's subject matter jurisdiction. Speakers will be limited to five (5) minutes each.

3. **APPROVAL OF MINUTES OF APRIL 23, 2007 AND JULY 23, 2007**

4. **SUMMARY OF 2007 LEGISLATIVE YEAR**

J. Broadbent/5052
jbroadbent@baaqmd.gov

Staff will present a summary of the recently-concluded year in Sacramento, highlighting the outcome of measures on which the District adopted positions.

5. **POTENTIAL LEGISLATIVE PROPOSALS FOR 2008**

J. Broadbent/5052
jbroadbent@baaqmd.gov

The Committee will discuss potential legislative proposals for the District's legislative agenda for 2008.

6. **COMMITTEE MEMBERS' COMMENTS**

Any member of the Committee, or its staff, on his or her own initiative or in response to questions posed by the public, may; ask a question for clarification, make a brief announcement or report on his or her own activities, provide a reference to staff regarding factual information, request staff to report back at a subsequent meeting concerning any matter or take action to direct staff to place a matter of business on a future agenda. (Gov't Code § 54954.2)

7. **TIME AND PLACE OF NEXT MEETING:** *At the Call of the Chair*

8. **ADJOURNMENT**

**CONTACT CLERK OF THE BOARDS - 939 ELLIS STREET
SAN FRANCISCO, CA 94109**

**(415) 749-4965
FAX: (415) 928-8560
BAAQMD homepage:
www.baaqmd.gov**

- To submit written comments on an agenda item in advance of the meeting.
- To request, in advance of the meeting, to be placed on the list to testify on an agenda item.
- To request special accommodations for those persons with disabilities (notification to the Clerk's Office should be given at least three working days prior to the date of the meeting so that arrangements can be made accordingly).

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Brad Wagenknecht and Members
of the Legislative Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: November 15, 2007

Re: Legislative Committee Draft Minutes

RECOMMENDED ACTION:

Approve attached draft minutes of the Legislative Committee meetings of April 23, 2007 and July 23, 2007.

DISCUSSION

Attached for your review and approval are the draft minutes of the April 23, 2007 and July 23, 2007, Legislative Committee meetings.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

**Bay Area Air Quality Management District
939 Ellis Street
San Francisco, California 94109
(415) 749-5000**

DRAFT MINUTES

Summary of Board of Directors
Legislative Committee Meeting
9:30 a.m., Monday, April 23, 2007

1. **Call to Order - Roll Call:** Chairperson Brad Wagenknecht called the meeting to order at 9:32 a.m.

Present: Brad Wagenknecht, Chairperson, Carol Klatt, Patrick Kwok, Michael Shimansky, Tim Smith, Erin Garner (9:40 a.m.), Janet Lockhart (9:42 a.m.), Scott Haggerty (9:42 a.m.).

Absent: Dan Dunnigan.

Also Present: Mark Ross (9:40 a.m.), Pamela Torliatt (9:48 a.m.).

2. **Public Comment Period:** There were none.
3. **Approval of Minutes of March 12, 2007:** Director Smith moved approval of the minutes; seconded by Director Klatt; carried without objection.

Director Erin Garner and Board Chair Mark Ross arrived at 9:40 a.m.

4. **Consideration of New Bills and Corresponding Agency Position:** *Staff presented newly-introduced air quality bills for the Committee's deliberation.*

Jack Broadbent, Executive Officer/APCO, introduced the item.

Directors Janet Lockhart and Scott Haggerty arrived at 9:42 a.m.

Tom Addison, Senior Advanced Projects Advisor, discussed the following 2 new bills and recommended positions for consideration by the Committee.

Bill	Brief Description	Staff Recommendations
AB 619 (Emmerson)	Establishes an amnesty program for vehicles that have fraudulently reported the elements that determine a vehicle's registration fees and sales taxes	Oppose
SB 509 (Simitian)	Addresses formaldehyde emission from composite wood products.	Support

Director Pamela Torliatt arrived at 9:48 a.m.

During discussion of AB 619, Director Kwok questioned if there would be any additional impacts of continuing fraudulent registrations. Mr. Addison responded that fraudulent registrations reduce revenues to the State and local governments.

Committee Action: Director Garner moved that the Committee recommend an Oppose position on AB 619; seconded by Director Kwok; carried unanimously without objection.

Mr. Addison also provided the Committee with background information pertaining to SB 509, which addresses formaldehyde emission from composite wood products.

There were numerous questions about the bill, which staff answered, and much discussion by the Committee.

Committee Action: Director Haggerty moved that the Committee recommend a Support position on SB 509; seconded by Director Smith carried unanimously without objection.

5. Update on Status of Bills on which Air District has Adopted Positions: *Staff provided an update on the status of the bills on which the Air District has previously adopted positions.*

Mr. Broadbent turned the item over to Mr. Addison for the update. Mr. Addison discussed the current status of and recent developments with the various bills the Committee is supporting and opposing.

Mr. Broadbent mentioned that he is currently working with staff on bond monies and how to make a case for them. CARB feels that the monies should be spent on the cleanup of diesel trucks, and retrofit projects.

Director Wagenknecht suggested that staff schedule a meeting with the various ports. Mr. Broadbent responded that the Air District will continue to work with the ports and will meet with them to discuss bond funding.

Committee Action: None. This report provided for information only.

Speaker: The following individual spoke on SB 587:

Rita Loof
RadTech International
P.O. Box 1953
Upland, CA 91784

6. **Committee Members' Comments:** There were none.
7. **Time and Place of Next Meeting:** 9:30 a.m., Monday, June 25, 2007 – 939 Ellis Street, San Francisco, CA 94109.
8. **Adjournment:** The meeting was adjourned at 10:23 a.m.

Vanessa Johnson
Acting Clerk of the Boards

**Bay Area Air Quality Management District
939 Ellis Street
San Francisco, California 94109
(415) 749-5000**

DRAFT MINUTES

Summary of Board of Directors
Legislative Committee Meeting
9:30 a.m., Monday, July 23, 2007

1. **Call to Order - Roll Call:** Director Scott Haggerty called the meeting to order at 9:37 a.m.
Present: Scott Haggerty, Carol Klatt, Janet Lockhart, Michael Shimansky.
Absent: Dan Dunnigan, Erin Garner, Patrick Kwok, Tim Smith, Brad Wagenknecht.
Also Present: Pamela Torliatt.
2. **Public Comment Period:** There were none.
3. **Approval of Minutes of April 23, 2007:** Due to the lack of a quorum, approval of the minutes was deferred to a future meeting.
4. **Discussion on Solar Empowerment and Green Power Requirements:** Jack Broadbent, Executive Officer/APCO, stated that this item was placed on the agenda at Director Garner's request. Due to Director Garner's absence, the item was deferred to a future meeting.
5. **Consideration of New Bills and Corresponding Agency Position:** *Staff presented newly-introduced air quality bills for the Committee's deliberation.*

Tom Addison, Senior Advanced Projects Advisor, discussed and provided an overview of several bills likely to be introduced in the aftermath of recent leadership changes at the California Air Resources Board (CARB) that were made by the Governor. Mr. Addison stated that one bill will likely change the nature of ARB appointments from pleasure appointments to term appointments, and may add appointees by Legislative leadership. Another bill that may be introduced will likely require disclosure of communications between the CARB Board and the Governor and legislature.

Mr. Addison stated that there are currently five air district seats on the ARB board. There has been discussion regarding the possible elimination of air district representation on the CARB board. After a brief discussion, the consensus of the Committee is for Board Chair Ross to send a letter to key legislators indicating the need to maintain the five air district positions on the CARB board.

Mr. Addison then discussed the following recently-introduced bills:

AB 1610 (Nunez) would establish a new California Petroleum Refineries Facilities Standards Board. Mr. Addison stated that this bill would give air districts a new and different role to play at refineries. Mr. Addison recommended that this bill should be watched.

AB 118 (Nunez) would create the Air Quality Improvement Program and Fund, and the Alternative and Renewable Fuel, Vehicle Technology, Carbon Reduction, and Clean Air Program and Fund. Mr. Addison reported that this bill is intended to help the state achieve the goals of AB 32, but the bill does not include a role for air districts. Mr. Addison recommended that this bill should be watched.

AB 1470 (Huffman) establishes a \$250 million program to subsidize the installation of solar hot water systems. Mr. Addison noted that the California Solar Initiative program established last year did not include solar thermal systems. Staff is recommending a “support” position.

Committee Action: The consensus of the Committee is for the Board of Directors to consider taking a “support” position on AB 1470.

6. Update on Bills on Which the Air District Previously Adopted Positions: *Staff provided an update on the bills on which the District has previously adopted positions.*

Mr. Addison stated that the container fee legislation (SB 974) should do well on the Assembly floor and noted that both the Port of Oakland and the City of Oakland are not opposing the bill. In response to questions from Director Shimansky, Mr. Addison stated that the Air District is not supporting AB 463 since it has been amended and is taking a neutral position on AB 619.

In response to additional inquires, Mr. Addison stated that SB 75 is dead and that the Air District has not taken a position on SB 375, which is a land use bill and it addresses GHG emissions. Director Haggerty requested staff report back on the status of the bill at a future meeting.

Committee Action: None. This report provided for information only.

7. Committee Members’ Comments: Director Haggerty requested that staff explore the feasibility of changing the legislation that governs the amount of per diem the Board receives and receiving the per diem for each meeting attended in a day. Director Haggerty also requested that staff conduct a survey of other agencies on the amount of per diem paid to their board members.

8. **Time and Place of Next Meeting:** At the Call of the Chair.
9. **Adjournment:** The meeting was adjourned at 10:25 a.m.

Mary Romaidis
Clerk of the Boards

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Wagenknecht and
 Members of the Legislative Committee

From: Jack P. Broadbent
 Executive Officer/APCO

Date: November 13, 2007

Re: Summary of 2007 Legislative Year

RECOMMENDED ACTION: None (informational item)

BACKGROUND

The 2007 legislative year has ended, although the two-year session continues in 2008. Of the thousands of bills introduced this year, 964 were passed by the Legislature. Of these, the Governor signed 750, and vetoed 214. This report touches on both the air quality measures that became law as well as those that did not.

DISCUSSION

From an air quality perspective, 2007 was substantially less notable than 2006. Nothing near the magnitude of last year’s AB 32 (on climate change) became law this year. The most significant air bill that was signed into law was AB 118, authored by Assembly Speaker Nunez. This bill was essentially crafted in the last week of the legislative session, and thus received little public and legislative review. Through a variety of increased fees, it funds three air quality programs: an enhanced state vehicle scrappage program, the Alternative and Renewable Fuel and Vehicle Program, and the Air Quality Improvement Program. Cumulatively, this bill will generate over \$210 million annually through 2016. The funds come from an increase in vehicle fees, such as the annual registration fee, drivers’ license fees, and the smog check exemption fee that new vehicles pay. While the bill is generous with fees and funds, it is much less generous with the specifics of how these programs will work. These details will be fleshed out in regulations still to be developed, primarily by the Air Resources Board and the Energy Commission.

The following table highlights the 14 bills that the District adopted positions on.

<i>Bill</i>	<i>Brief Description</i>	<i>BAAQMD Position</i>	<i>Outcome</i>
AB 218 Saldana	Eliminates current loophole allowing vehicle registration without smog certificate	Support	Failed to pass Legislature

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AB 463 Huffman	California Clean Ferry Act of 2007	Support	Dropped by author
AB 493 Ruskin	Establishes fees and rebates respectively at the time of sale of high and low-emitting new motor vehicles	Support	Failed to pass Legislature
AB 575 Arambula	Prioritizes Proposition 1B air quality bond funding to South Coast and San Joaquin	Oppose	Failed to pass Legislature
AB 616 Jones	Requires annual (instead of biennial) smog checks for cars at least 15 years old currently in the program	Support	Failed to pass Legislature
AB 619 Emmerson	Amnesty for vehicles that committed title fraud	Oppose	Failed to pass Legislature
AB 846 Blakeslee	Clean Marine Fuels Tax Incentive Act	Support	Failed to pass Legislature
AB 934 Duvall	Would prohibit air districts from adopting airborne toxic control measures for non-stationary sources	Oppose	Failed to pass Legislature
AB 1077 Lieber	California Plug-in Hybrid Electric Vehicle Leadership Act of 2007	Support	Failed to pass Legislature
AB 1209 Karnette	Establishes health-based criteria for distribution of Prop 1B air quality funds	Oppose	Failed to pass Legislature
AB 1470 Huffman	Solar Water Heating & Efficiency Act of 2007	Support	Chaptered
SB 509 Simitian	Requires ARB to adopt regulations to limit formaldehyde emissions from composite wood to EU standards	Support	Failed to pass Legislature
SB 587 Runner	Establishes exemptions from air district permit requirements for certain printing, coating, adhesive application, and laminating operations, subject to specified criteria	Oppose	Failed to pass Legislature
SB 974 Lowenthal	Establishes a container fee of \$30 per twenty-foot equivalent unit at LA, Long Beach, and Oakland ports	Support	Failed to pass Legislature

On the positive side, none of the bills the District opposed passed the Legislature.

On the other hand, most measures that we supported that would have improved air quality were defeated. Some, such as SB 974, AB 616, AB 1077, and AB 218, made it virtually all of the way through the Legislature. These measures are still alive, and could still become law in 2008. In particular, the container fee bill, which would fund substantial emissions reductions at the ports, is the subject of ongoing negotiations between the Governor's office and Senator Lowenthal.

A list of all the bills of potential air quality significance that the District tracked, and their outcomes, is attached to this memorandum.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Thomas Addison

BAAQMD BILL DISCUSSION LIST

November 26, 2007

* Bill significantly amended since District adopted position

BILL NO.	AUTHOR	SUBJECT	BAAQMD, OTHER AGENCY POSITIONS	STATUS
AB 6	Houston	Would require (instead of allow) ARB to adopt market-based programs to implement AB 32		Failed passage
AB 94	Levine	Would increase current goals for renewable electricity production to 33% of total power by 2020		Failed passage
AB 99	Feuer	Expresses legislative intent that 50% of new cars sold in California by 2012 use clean alternative fuels		Failed passage
AB 109	Nunez	Requires ARB to annually report to the Legislature on the implementation of AB 32 of 2006		Failed passage
AB 114	Blakeslee	Requires CEC by 2010 to develop a program to encourage, for industrial sources, containment, scrubbing, and capture technologies for carbon dioxide		Failed passage
AB 118	Nunez	Funding for emission reductions and alternative fuels		Chaptered
AB 217	Beall	Would change current annual vehicle license fee to biennial, with total amounts paid not changing		Failed passage
AB 218	Saldana	Eliminates current loophole allowing vehicle registration without smog certificate without penalty	BAAQMD, MTC Support	Failed passage
AB 233	Jones	Increases penalties for idling diesels		Chaptered
AB 236	Lieu	Revises purchasing criteria for state fleet		Chaptered
AB 242	Blakeslee	States legislative intent that early reducers of carbon emissions be rewarded with credits, in effect promoting a market-based implementation of AB 32		Failed passage
AB 255	DeLeon	Establishes Clean Air and Energy Independence Fund, funded with a \$4 annual increase in fees paid by vehicles less than 7 years old currently exempted from smog check; administered by ARB		Failed passage

AB 294	Adams	Addresses manganese particulate matter in the air		Chaptered
AB 307	Hayashi	Exempts fuel cell transit buses bought by public agencies from sales tax		Failed passage
AB 391	Lieu	Increases size of SCAQMD Board from 12 to 13; new member from a west side city other than LA		Failed passage
AB 444	Hancock	Authorizes Alameda and Contra Costa congestion management agencies to impose an annual \$10 vehicle registration fee surcharge for congestion mitigation		Failed passage
AB 463 *	Huffman	<i>Previously California Clean Ferry Act of 2007; now disabled persons parking measure</i>	BAAQMD Support	N/A
AB 493	Ruskin	Establishes fees and rebates respectively at the time of sale of high and low-emitting new motor vehicles	BAAQMD Support	Failed passage
AB 505	Plescia	Income tax credits for hybrid vehicles		Failed passage
AB 532	Wolk	Requires solar electric installation by 2009 on all state buildings where feasible		Chaptered
AB 534	Smyth	Increases Bicycle Transportation Account funding		Failed passage
AB 568	Karnette	Requires establishment of Port Community Advisory Committees		Failed passage
AB 575	Arambula	Prioritizes Proposition 1B air quality bond funding to South Coast and San Joaquin	BAAQMD Oppose	Failed passage
AB 616	Jones	Requires annual (instead of biennial) smog checks for cars at least 15 years old currently in the program	BAAQMD, MTC Support	Failed passage
AB 619 *	Emmerson	Amnesty for vehicles that committed title fraud (<i>amended to address BAAQMD concerns</i>)	BAAQMD Oppose	Failed passage
AB 630	Price	Requires ARB to submit local district waiver request to EPA		Failed passage
AB 631	Horton	Requires new fueling stations by 2010 to be able to provide ethanol (E-85)		Failed passage
AB 657	Jeffries	Spot bill on greenhouse gas emissions		Failed passage
AB 700	Lieu	ARB study of air pollution from Santa Monica airport		Failed passage
AB 705	Huffman	Requires state regulations for geologic carbon sequestration		Failed passage
AB 712	DeLeon	Bill to provide funding for trash trucks to comply with ARB pending off-road regulations		Failed passage
AB 746	Krekorian	Expedited processing of renewable power plants		Failed passage

AB 747	Levine	Requires ARB to develop regulations to cut carbon in transportation fuels, using market approaches		Failed passage
AB 785	Hancock	Addresses urban heat islands		Vetoed
AB 829	Duvall	Affects after-market motorcycle parts certified by the ARB and their use		Chaptered
AB 842	Jones	States intent to award Prop 1B funds to jurisdictions that have a plan to reduce vehicle miles traveled	MTC, ABAG Oppose	Failed passage
AB 846	Blakeslee	Clean Marine Fuels Tax Incentive Act	BAAQMD Support	Failed passage
AB 934	Duvall	Would prohibit air districts from adopting airborne toxic control measures for non-stationary sources	BAAQMD Oppose	Failed passage
AB 995	Nava	Prop 1B bond funding of trade corridor and air quality improvements		Failed passage
AB 1077	Lieber	California Plug-in Hybrid Electric Vehicle Leadership Act of 2007	BAAQMD Support	Failed passage
AB 1083	Huffman	Tax credits for sale of biodiesel fuel		Failed passage
AB 1094	Arambula	Tax credits for biodiesel vendors		Failed passage
AB 1119	Fuller	Affects ARB requirements for particulate traps		Failed passage
AB 1138	Brownley	Requires ARB to resolve questions regarding local AQMD boundaries		Failed passage
AB 1209 *	Karnette	Establishes health-based criteria for distribution of Prop 1B air quality funds	BAAQMD Oppose	Failed passage
AB 1225	DeSaulnier	Requires guidelines on environmental factors to guide state fleet purchases, and local government fleets of more than 100 vehicles		Failed passage
AB 1455	Arambula	Would establish California Air Quality Zones, and allow loans for entities within these areas		Failed passage
AB 1488	Mendoza	Requires a pilot program to integrate light-duty diesel vehicles into smog check		Chaptered
AB 1613	Blakeslee	Waste Heat and Carbon Emissions Reduction Act		Failed passage
AB 1651	Alarcon	Tax credits for 'green' businesses acquiring 'green' machinery		Failed passage
SB 9	Lowenthal	Criteria for expenditure of trade corridor funds from Prop 1B		Failed passage
SB 19	Lowenthal	Criteria for expenditure of air quality funds from Prop 1B		Failed passage

SB 23	Cogdill	Establishes a SJVUAQMD program to replace gross polluters with donated cleaner vehicles		Chaptered
SB 70	Florez	Establishes standards for biodiesel and biodiesel blends		Vetoed
SB 71	Florez	Requires ARB to administer a program to ensure that diesel vehicles owned by the State, cities, counties, and mass transit districts use B20 biodiesel		Failed passage
SB 72	Florez	Requires ARB to see that diesel schoolbuses (public and private contractors) use B20 biodiesel		Failed passage
SB 73	Florez	Establishes tax credits for producers of biodiesel		Failed passage
SB 74	Florez	Exempts biodiesel from sales tax		Failed passage
SB 75	Florez	Requires state diesel vehicles to be warranted to use B20 biodiesel		Failed passage
SB 140	Kehoe	Requires California diesel to increase its renewable content first to at least 2%, and then to 5%		Failed passage
SB 210	Kehoe	Requires ARB to develop a program to reduce carbon content of California transportation fuels by 10% by 2020, and implement a low-carbon fuel standard		Failed passage
SB 240	Florez	Authorizes SJVUAQMD to increase vehicle registration fee to \$30		Failed passage
SB 494	Kehoe	Requires ARB to adopt a program so that by 2020 half of new vehicles sold use clean alternative fuels		Failed passage
SB 509	Simitian	Requires ARB to adopt regulations to limit formaldehyde emissions from composite wood to EU standards	BAAQMD Support	Failed passage
SB 531	Oropeza	Declares legislative intent to reform regulation of air toxics		Failed passage
SB 532	Oropeza	Spot bill on port air pollution		Failed passage
SB 572	Cogdill	Declares legislative intent to consider carbon emissions from wildfire, and forest carbon sequestration		Failed passage
SB 587	Runner	Establishes exemptions from air district permit requirements for certain printing, coating, adhesive application, and laminating operations, subject to specified criteria	BAAQMD Oppose	Failed passage
SB 613	Simitian	Extends sunset of local San Mateo \$4 vehicle registration fee surcharge from 2009 to 2019		Vetoed
SB 719	Machado	Increases SJVUAQMD Board to 15, with 2 Governor's appointees and 5 city council members		Chaptered

SB 842	Scott	Adds air protective requirements to gasification (conversion of solid waste to fuel)		Failed passage
SB 857	Correa	Authorizes study of tax credits for air pollution reduction equipment in SCAQMD and SJVUAQMD		Failed passage
SB 871	Kehoe	Reestablishes through 2012 the expedited review process for new powerplants		Failed passage
SB 876	Calderon	Requires ARB to consider economic impacts of diesel fleet rules on small businesses		Failed passage
SB 886	Negrete McLeod	Ends term limits for South Coast, Sacramento, and Mojave air district board chairs; increases SCAQMD Board from 12 to 13		Chaptered
SB 974	Lowenthal	Establishes a container fee of \$30 per twenty-foot equivalent unit at LA, Long Beach, and Oakland ports	BAAQMD Support	Failed passage

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Wagenknecht and
Members of the Legislative Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: November 19, 2007

Re: Potential Legislative Proposals for 2008

RECOMMENDED ACTION:

Consider potential legislative proposals, including possible joint legislative action with the Metropolitan Transportation Commission

BACKGROUND

At the November 19, 2007 meeting of the Executive Committee, the Committee recommended exploring sponsoring legislation jointly with the Metropolitan Transportation Commission (MTC) on placing before the voters a regional gasoline fee to help reduce the region's contribution to climate change. This follows a November 9, 2007 meeting of MTC's Legislative Committee where a regional gasoline fee was discussed. MTC's committee had a generally favorable discussion of the idea, and recommended that the full Commission consider the idea as part of its 2008 legislative agenda at its next meeting December 14, 2007. In addition, the Legislative Committee may have additional proposals for critical legislative issues.

DISCUSSION

Two recent Bay Area polls have been conducted asking questions about a regional gas fee and climate change. One was sponsored by the Bay Area Council and the Transportation and Land Use Coalition. Essentially, it found that 55% of likely voters would support a regional gas tax of 10 cents per gallon with the revenues being used to help address climate change. The second poll was funded by the Metropolitan Transportation Commission. It found that 46% of those questioned would be willing to pay 25 cents more per gallon if the money would be used to limit global warming, and an additional 23% would possibly be willing.

The Commission has had statutory authority since 1997 to seek voter approval of a regional gas tax of up to 10 cents per gallon. While taxes require a two-thirds supermajority vote of the public, fees require a simple majority. While much has been written about the differences between a fee and a tax under the California Constitution, in essence fees must have a clear nexus between the payer's activities and the alleged adverse effects addressed by the fee. The fee cannot be levied for unrelated purposes, and the fee amount must bear a reasonable relationship to the burden created by the actions of the fee-payers. The Executive Committee, and MTC's Legislative Committee,

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discussed co-sponsoring a bill to change MTC's existing authority to place a gas tax on the ballot to include a gas fee.

The Board has consistently shown leadership in working to address climate change. The consumption of gasoline in motor vehicles in the Bay Area is our largest source of greenhouse gases. There are multiple programs that could cost-effectively cut climate-changing emissions from vehicles if funds were available. Both the Bay Area Council and the Transportation and Land Use Committee have expressed support for the concept, and an interest in working with MTC and the District on such a measure.

The Executive Committee will bring this proposal to the full Board for its consideration at its December 5, 2007 meeting. If endorsed by the Board, staff recommends that sponsoring such legislation jointly with MTC would constitute the bulk of our legislative agenda in 2008. Staff will of course bring all significant air quality bills introduced in 2008 to the Committee for its consideration through the course of the year. If the Legislative Committee identifies other critical legislative proposals for 2008, the Committee will need to provide direction to staff on priorities among the proposals.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Thomas Addison