



BAY AREA  
AIR QUALITY  
MANAGEMENT  
DISTRICT

BOARD OF DIRECTORS  
LEGISLATIVE COMMITTEE MEETING

COMMITTEE MEMBERS

SUSAN GARNER – CHAIRPERSON

TOM BATES  
SCOTT HAGGERTY  
DAVID HUDSON  
NATE MILEY

CAROL KLATT – VICE CHAIRPERSON

CHRIS DALY  
JENNIFER HOSTERMAN  
ASH KALRA

**MONDAY  
DECEMBER 6, 2010  
9:45 A.M.**

**4<sup>TH</sup> FLOOR CONFERENCE ROOM  
939 ELLIS STREET  
SAN FRANCISCO, CA 94109**

**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 OCTOBER 4, 2010**

4. **POTENTIAL LEGISLATIVE AGENDA FOR 2011**

**T. Addison/5109**  
[taddison@baaqmd.gov](mailto:taddison@baaqmd.gov)

*The Committee will discuss and consider recommending a potential 2011 legislative agenda to the Board of Directors.*

5. **POSSIBLE IMPACTS OF PROPOSITION 26 ON THE DISTRICT**

**T. Addison/5109**  
[taddison@baaqmd.gov](mailto:taddison@baaqmd.gov)

*Staff will present an overview of the recently-approved Proposition 26, and its possible impacts.*

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 EXECUTIVE OFFICE - 939 ELLIS STREET  
SAN FRANCISCO, CA 94109**

**(415) 749-5130  
FAX: (415) 928-8560  
BAAQMD homepage:  
[www.baaqmd.gov](http://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 Executive Office should be given at least three working days prior to the date of the meeting so that arrangements can be made accordingly).
- Any writing relating to an open session item on this Agenda that is distributed to all, or a majority of all members of the body to which this Agenda relates shall be made available at the District's offices at 939 Ellis Street, San Francisco, CA 94941, at the time such writing is made available to all, or a majority of all members of that body. Such writing may also be posted on the District's website ([www.baaqmd.gov](http://www.baaqmd.gov)) at that time.

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
939 ELLIS STREET, SAN FRANCISCO, CALIFORNIA 94109  
(415) 771-6000**

**EXECUTIVE OFFICE:  
MONTHLY CALENDAR OF DISTRICT MEETINGS**

**DECEMBER 2010**

<b><u>TYPE OF MEETING</u></b>	<b><u>DAY</u></b>	<b><u>DATE</u></b>	<b><u>TIME</u></b>	<b><u>ROOM</u></b>
<b>Board of Directors Regular Meeting</b> <i>(Meets 1<sup>st</sup> &amp; 3<sup>rd</sup> Wednesday of each Month)</i>	Wednesday	1	9:45 a.m.	Board Room
<b>Board of Directors Legislative Committee</b> <i>(At the Call of the Chair)</i>	Monday	6	9:45 a.m.	4 <sup>th</sup> Floor Conf. Room
<b>Board of Directors Budget &amp; Finance Committee</b> <i>(At the Call of the Chair)</i>	Wednesday	8	9:30 a.m.	4 <sup>th</sup> Floor Conf. Room
<b>Board of Directors Stationary Source Committee Meeting</b> <i>(At the Call of the Chair)</i>	Monday	13	9:30 a.m.	Board Room
<b>Board of Directors Regular Meeting</b> <i>(Meets 1<sup>st</sup> &amp; 3<sup>rd</sup> Wednesday of each Month)</i>	Wednesday	15	9:45 a.m.	Board Room
<b>Joint Policy Committee Special Meeting</b>	Friday	17	10:00 a.m.	MTC Auditorium 101 – 8 <sup>th</sup> Street Oakland, CA 94607
<b>Board of Directors Mobile Source Committee</b> <i>(Meets 4<sup>th</sup> Thursday each Month)</i> - RESCHEDULED TO NOVEMBER 18, 2010 at 9:30 a.m.	Thursday	25	9:30 a.m.	4 <sup>th</sup> Floor Conf. Room

**JANUARY 2011**

<b><u>TYPE OF MEETING</u></b>	<b><u>DAY</u></b>	<b><u>DATE</u></b>	<b><u>TIME</u></b>	<b><u>ROOM</u></b>
<b>Board of Directors Regular Meeting</b> <i>(Meets 1<sup>st</sup> &amp; 3<sup>rd</sup> Wednesday of each Month)</i>	Wednesday	5	9:45 a.m.	Board Room
<b>Advisory Council Retreat</b> <i>(2<sup>nd</sup> Wednesday of each Month)</i>	Wednesday	12	9:00 a.m.	Board Room
<b>Board of Directors Personnel Committee</b> <i>(At the Call of the Chair)</i>	Wednesday	12	1:30 p.m.	4 <sup>th</sup> Floor Conf. Room
<b>Board of Directors Regular Meeting / Retreat</b> <i>(Meets 1<sup>st</sup> &amp; 3<sup>rd</sup> Wednesday of each Month)</i>	Wednesday	19	9:45 a.m.	David Brower Center 215 Alliston Way Berkeley, CA 94704
<b>Board of Directors Mobile Source Committee</b> <i>(Meets 4<sup>th</sup> Thursday each Month)</i>	Thursday	27	9:30 a.m.	4 <sup>th</sup> Floor Conf. Room

## FEBRUARY 2011

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
<b>Board of Directors Regular Meeting</b> <i>(Meets 1<sup>st</sup> &amp; 3<sup>rd</sup> Wednesday of each Month)</i>	Wednesday	2	9:45 a.m.	Board Room
<b>Board of Directors Regular Meeting</b> <i>(Meets 1<sup>st</sup> &amp; 3<sup>rd</sup> Wednesday of each Month)</i>	Wednesday	16	9:45 a.m.	Board Room
<b>Board of Directors Mobile Source Committee</b> <i>(Meets 4<sup>th</sup> Thursday each Month)</i>	Thursday	24	9:30 a.m.	4 <sup>th</sup> Floor Conf. Room

HL – 12/1/10 (12:50 p.m.)  
P/Library/Forms/Calendar/Calendar/Moncal

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

**Teleconference Location:**

City of Pleasanton Mayor's Office, 123 Main Street, Pleasanton, CA 94566

**DRAFT MINUTES**

Summary of Board of Directors  
Legislative Committee Meeting  
Monday, October 4, 2010

**Call to Order:** Chairperson Susan Garner called the meeting to order at 9:45 a.m.

**Roll Call:** Chairperson Susan Garner, Vice Chairperson Carol Klatt, and Committee Members Chris Daly, Scott Haggerty, Jennifer Hosterman, Ash Kalra and Nate Miley

**Absent:** Committee Members Tom Bates and David Hudson

**Also Present:** Board Chairperson Brad Wagenknecht

**Public Comments:** There were no public comments.

**Approval of Minutes of March 29, 2010:**

**Committee Action:** Director Klatt made a motion to approve the Minutes of March 29, 2010; Director Daly seconded the motion; carried unanimously without objection.

**Summary of 2010 Legislative Year**

Senior Advanced Projects Advisor, Tom Addison, gave a briefing on the current status of the 2010 legislative year and bills that the District had taken a position of support or opposition. He said that no single bill the District opposed made it into law. Many bills would have waived regulations, blocked GHG fees the District could impose, and rolled back diesel regulations and climate change programs. He noted that some legislative bills that did not pass may return as budget trailer bills.

The Committee received a status of major bills the District supported or opposed. Mr. Addison referred to the BAAQMD Bill Discussion List identifying outcomes, with the exception of SB1445 (DeSaulnier), listed as "chapters". This bill failed on the last night of the session.

Minor bills the District supported and which were signed into law include: AB2565 (Ammiano) which pertains to CEQA; AB1863 (Gaines) pertaining to diesel hospital generators; SB435 (Pavley) relating to tampering on motorcycles; and, SB1224 (Wright) which provides the District

the ability to look at regulations regarding nuisances of odors and prevent unwarranted complaints.

Committee Member Comments/Questions:

In response to questions of Directors, the Committee discussed the upcoming changes in State administration and the legislature, implications relating to passage of Proposition 26, bills to be revisited, and agreed to continue discussions at the December 6, 2010 Committee meeting.

Public Comments: None

**Committee Action:** None; received and filed.

**Update on State Budget**

Mr. Addison reported that both parties met over the weekend to review the general budget outline; however, specifics will not be known until October 11, 2010. Thereafter, hearings will be held in both houses and a vote will take place. The deal relies on \$5 billion from the federal government, \$7.5 billion in spending cuts, the sale of 12 state buildings which is expected to raise \$1.4 billion with lease back provisions, a forecast of revenues higher than anticipated, pension reform, \$1.4 billion for corporate tax breaks, and some smaller permanent tax breaks for businesses. A 10% Reserve or “rainy day fund” is proposed to be implemented over time and would go to voters in 2012.

Committee Member Comments/Questions:

Director Miley commented that Proposition 25 will most likely pass, which will have long-term impacts on the State.

Public Comments: None

**Committee Action:** None; received and filed.

**Position on Proposition 23**

Mr. Addison reported that the Metropolitan Transportation Commission (MTC) took an opposed position last month, as did the Sacramento Metropolitan Air Quality Management District last week, and recent polling indicates the “No on Proposition 23” campaign was up 12 points.

Committee Member Comments/Questions:

Committee members unanimously voiced support for taking an opposed position on Proposition 23.

Public Comments: None

**Committee Action:** Director Hosterman made a motion to oppose Proposition 23 and recommend the position to the Board of Directors; Director Haggerty seconded the motion; carried unanimously without objection.

**Committee Members' Comments:** None

**Time and Place of Next Meeting:** Monday, December 6, 2010, 9:45 a.m., 939 Ellis Street, 4<sup>th</sup> Floor Conference Room, San Francisco, CA 94109.

**Adjournment:** Meeting adjourned at 10:09 a.m.

Lisa Harper  
Clerk of the Boards

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Memorandum

To: Chairperson Garner and Members  
of the Legislative Committee

From: Jack P. Broadbent  
Executive Officer/APCO

Date: November 29, 2010

Re: Legislative Committee Draft Meeting Minutes

RECOMMENDED ACTION:

Approve attached draft minutes of the Legislative Committee meeting of October 4, 2010.

DISCUSSION

Attached for your review and approval are the draft minutes of the October 4, 2010 Legislative Committee meeting.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared By: Lisa Harper  
Reviewed by: Jennifer Chicconi



BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Memorandum

To: Chairperson Garner and Members  
of the Legislative Committee

From: Jack P. Broadbent  
Executive Officer/APCO

Date: November 23, 2010

Re: Potential Legislative Agenda for 2011

RECOMMENDED ACTION:

Recommend a legislative agenda to the Board of Directors.

BACKGROUND

The 2011-2012 session of the California Legislature begins on December 6, 2010. While there will be many new faces among the 120 members, some of the same issues that plagued the State in 2010 are expected to dominate affairs at the Capitol in 2011. Staff believes that the ongoing economic malaise and the huge budget deficit will have a huge effect both on what legislation is introduced, as well as its fate.

DISCUSSION

California's ongoing economic woes will mean that the Legislature will be reluctant to enact measures that have the potential to cause job loss, or hurt businesses that are perceived to be struggling financially. The business community will likely continue to have the ear of a generally sympathetic Legislature. Thus, bills that cut emissions but have high costs to businesses are unlikely to fare well this year.

California's budget problems will be an even more significant factor in deciding the fate of legislation. The Legislative Analyst has indicated that the deficit for the next fiscal year may be \$25.4 billion, and more probably \$28 billion. Given that the total General Fund is roughly \$90 billion, this is a problem of massive dimensions. Furthermore, the Legislative Analyst has warned that such deficits will likely continue for a number of years, and that many of the short-term tactics employed this year and last to address the deficit are no longer possible.

On November 2, 2010, voters passed Proposition 25, allowing a budget to be enacted with a simple majority vote of the Legislature (instead of a two-thirds vote). However, Proposition 26 also passed. As will be discussed in Agenda Item 5, Proposition 26 requires a two-thirds legislative vote on a host of revenue-raising measures that previously had only required a majority vote. Thus, budget cuts can be made with a

majority vote, but revenue increases require a two-thirds vote. Staff believes that this situation will result in unprecedented cuts to State programs, and a new effort to take or borrow any local government revenues that are not constitutionally protected. Thus staff recommends that the District's primary legislative agenda in the upcoming year be to protect existing programs and revenues from rollbacks and cuts.

Staff have begun investigating legislative proposals for the District to consider sponsoring in 2011, and will verbally present promising ideas to the Committee for its consideration.

BUDGET CONSIDERATION/FINANCIAL IMPACT:

None.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Thomas Addison  
Reviewed by: Jean Roggenkamp

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Memorandum

To: Chairperson Garner and Members  
of the Legislative Committee

From: Jack P. Broadbent  
Executive Officer/APCO

Date: November 23, 2010

Re: Possible Impacts of Proposition 26 on the District

RECOMMENDED ACTION:

None; informational item.

DISCUSSION

On November 2, 2010, over 52% of California voters passed Proposition 26. This constitutional amendment broadens the definition of what constitutes a tax, and would require a two-thirds vote of either the Legislature or the people to impose some fees that currently require a majority vote. Primary backers of the measure included oil companies such as Chevron and the California Chamber of Commerce. Supporters of the measure outspent opponents by roughly three to one.

The District, along with cities, counties, the State, legislators, lobbyists, and a host of interest groups, is attempting to understand just what the implications of this measure are for both its budget and existing and future programs. While some earlier analyses have been done, more are underway, and virtually all observers believe that ultimately it is the judicial system that will determine what the measure means in practice, and that this process will take years of litigation.

Nevertheless, District staff and counsel have begun the process of attempting to understand the consequences of Proposition 26. In the section of the measure applying to local governments, which includes the District, a tax is newly defined as any “levy, charge, or exaction of any kind” except for a list of things specifically exempted. These exemptions are:

- A charge imposed for a specific benefit, government service, or product directly to or for the payor that is not provided those not charged, and which does not exceed the reasonable costs to the local government of conferring the benefit
- A charge imposed for the reasonable regulatory costs for issuing licenses and permits, performing investigations, inspections, and audits, and the administrative enforcement and adjudication thereof
- A fine, penalty, or other monetary charge imposed as a result of a violation of law

- A charge imposed for the purchase, rental, or lease of local government property

Everything not on the list above would require a two-thirds vote of the people prior to its enactment. Furthermore, the District now “bears the burden of proving by a preponderance of evidence that any levy, charge, or exaction is not a tax, that the amount is no more than necessary to cover the reasonable costs of the governmental activity, and the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the payor’s burdens on, or benefits received from, the governmental activity.”

District staff will present to the Committee its preliminary thoughts on the possible implications of Proposition 26 on potential legislative proposals, as well as on the District’s current fees and programs, and potential new programs.

BUDGET CONSIDERATION/FINANCIAL IMPACT:

No direct impact.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Thomas Addison  
Reviewed by: Jean Roggenkamp