



# Housing, Land Use & Transportation Policy Committee

2013 CSAC Legislative Conference

Thursday, May 30, 2013 ■ 9:00 a.m. to 11:00 a.m.

Sheraton Grand Sacramento ■ Magnolia Room ■ Ballroom Level

Sacramento ■ California

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## AGENDA

Chair, Supervisor Phil Serna, Sacramento County  
Vice Chair, Supervisor John Benoit, Riverside County

- 9:00 a.m. I. **Welcome, Introductions & Approval of the Agenda**  
*Chair, Supervisor Phil Serna, Sacramento County*  
*Vice Chair, Supervisor John Benoit, Riverside County*
- 9:10 a.m. II. **Draft CEQA Reform Policy – ACTION ITEM**  
*Cara Martinson, CSAC Associate Legislative Representative*  
*Pete Parkinson, Planning Director, Sonoma County*  
Attachment One: Cover Memo and Draft CSAC Policy on CEQA Reform
- 9:45 a.m. III. **Transportation Financing Update**
  - Transportation System User Fee Proposal
  - California Transportation Infrastructure Priorities Working Group
  - Cap and Trade: Sustainable Communities Infrastructure Program
  - Reduced Voter Threshold Legislation*Mark Watts, Transportation California*  
*Kiana Buss, CSAC Associate Legislative Representative*  
Attachment Two: Transportation Coalition for Livable Communities Cap and Trade Proposal  
Attachment Three: Fact Sheet: AB 574 (Lowenthal): Sustainable Communities Infrastructure Program
- 10:20 a.m. IV. **Update on Federal Tribal Possessory Interest Regulation**  
*Jennifer Klein, Deputy County Counsel, Sonoma County*
- 10:40 a.m. V. **Go Rail Resolution – ACTION ITEM**  
*Roberta Mendonca, State Director, GoRail*  
Attachment Four: Cover Memo and GoRail Resolution in Support of Freight Rail
- 11:00 a.m. VI. **Adjournment**

## ATTACHMENTS

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Attachment One .....Cover Memo and Draft CSAC Policy on  
CEQA Reform

Attachment Two .....Transportation Coalition for Livable  
Communities Cap and Trade Proposal

Attachment Three .....Fact Sheet: AB 574 (Lowenthal):  
Sustainable Communities Infrastructure  
Program

Attachment Four .....Cover Memo and GoRail Resolution in  
Support of Freight Rail

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Attachment One  
Cover Memo and Draft CSAC Policy on CEQA Reform



May 16, 2013

To: CSAC Housing, Land Use & Transportation Policy Committee

From: Cara Martinson, CSAC Associate Legislative Representative

**RE: CSAC CEQA Reform Policy – ACTION ITEM**

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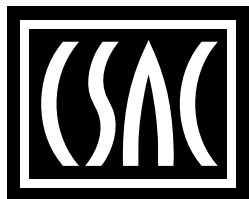
**Recommendation.** Staff is recommending that the CSAC Housing, Land Use and Transportation Policy Committee approve the draft CSAC CEQA Reform General Principles and Policy Statements document and recommend a support position to the CSAC Board of Directors.

**Background.** Last year, Senator Michael Rubio proposed significant reforms to the California Environmental Quality Act (CEQA) through a last minute legislative proposal in the waning days of the legislative session. His proposal would have taken a 'Standards Approach' alternative to CEQA, in essence relying on other regulatory standards in lieu of traditional CEQA project-level analysis. While his efforts were ultimately unsuccessful, the effort brought about a commitment from Senate President Pro Tem, Darrell Steinberg to work on the issue this year and bring stakeholders to the table for a meaningful reform discussion. In addition, Governor Brown has expressed an interest in reforming CEQA to streamline the approval of development and infrastructure projects and promote job creation in California. Despite Senator Rubio's unexpected resignation in February, progress on CEQA reform is moving forward, albeit at a slightly slower pace than previously expected. The Legislature is in the process of reviewing a number of different bills that would make changes to CEQA, both large and small. Most significantly is Senator Steinberg's bill, SB 731, which is expected to be the lead legislative vehicle on the topic and recently passed out of the Senate Environmental Quality Committee.

**Policy Consideration.** In order to weigh in on the numerous reform proposals, CSAC has convened a working group comprised of county counsels, planning directors and public works directors to draft a set of general principles and policy statements to guide CSAC's advocacy efforts in the reform discussion. The group has met and developed a draft document outlining a number of priorities for counties. The document includes policy statements on a number of reform proposals currently being entertained within the Legislature. It also identifies opportunities for enhancing key areas of CEQA, to improve its effectiveness and the efficiency of the environmental review process while also ensuring for environmental protection and public involvement.

**Action Requested.** CSAC staff is requesting that the CSAC Housing, Land Use, and Transportation Policy Committee approve the attached policy and recommend a support position to the CSAC Board of Directors.

**Contact.** For more information on this issue, please contact Cara Martinson, CSAC Associate Legislative Representative at 916-327-7500, ext. 504, or [cmartinson@counties.org](mailto:cmartinson@counties.org).



**California State Association of Counties  
CEQA Reform General Principles  
And Policy Statements**

**May 2013**

**Background**

The California Environmental Quality Act (CEQA), signed into law by Governor Ronald Reagan in 1970, establishes a process to incorporate scientific information and public input into the approval of development projects, both public and private. Viewed by many as California's landmark environmental law, CEQA has attracted controversy throughout its 43 years and the current discussion of reform is only the latest round in a long-standing debate.

In 2012, Governor Brown and members of the Legislature expressed an interest in reforming CEQA to streamline the approval of development and infrastructure projects and promote job creation in California. Since that time, Senate President Pro Tem, Darrell Steinberg has committed to working to draft a set of reforms that improve California's benchmark environmental protection law.

In order to respond to CEQA reform proposals, CSAC convened a Working Group of CEQA experts, including Planning Directors, County Counsels and Public Works Directors, to help draft general policy principles that will guide CSAC through the CEQA Reform debate.

**Introduction**

Counties acknowledge that CEQA provides essential environmental information to the local decision-making process. Its purpose is to ensure that governmental decisions take full account of environmental impacts, including reducing or avoiding significant environmental impacts wherever feasible, as well as fostering transparency in the decision making process.

The protection of our environment is a responsibility that counties take very seriously. Likewise, counties know that local governments must balance environmental protection and the need to complete necessary infrastructure projects and ensure the economic vitality of our communities. This balancing role is explicitly recognized in the CEQA statute and its Guidelines, which provide that CEQA must not be subverted into an instrument for the oppression and delay of social, economic, or recreational development or advancement. However, the CEQA process remains wrought with uncertainty, costly litigation, and project delays.

Counties believe there are several opportunities for enhancing key areas of CEQA to improve its effectiveness and the efficiency of the environmental review process while

ensuring that the law's environmental protection and public involvement purposes are fulfilled. As lead agencies with responsibility for a wide range of environmental resources, counties have a unique ability to provide meaningful input into the process. CSAC's focus is to identify improvements that will streamline our delivery of public works and other public projects and make our development review processes more efficient by enhancing CEQA in ways that apply our increasingly scarce resources to actions that actually protect the environment.

The following general principles and policy statements are CSAC's foundation for representing counties and the citizens they serve at both the administrative and legislative level.

### **General Principles**

- Counties support the balance of sound environmental protection with the need to complete projects that promote economic prosperity and social equity. Any proposed CEQA revisions should seek to modernize, simplify and streamline the law, and not dismantle it or create new and equally complicated processes resulting in litigation.
- General purpose local government performs the dominant role in the planning, development, conservation, and environmental processes. Counties have and should retain the primary responsibility for land use decisions in unincorporated territory. In addition, counties should act as the lead agency where projects are proposed in unincorporated territory requiring discretionary action by the county and other jurisdictions.
- The CEQA process should be integrated with the planning process wherever possible, including the preparation of programmatic or master environmental documents that allow the use of tiered environmental review (including negative declarations) to achieve a more streamlined CEQA process for subsequent development and infrastructure projects.
- Counties support State funding to update and implement general plans, specific plans, sustainable communities strategies, and smart growth plans, including programmatic CEQA review of these plans.
- CSAC encourages local agencies to resolve CEQA disputes without costly litigation and in a way that buoys public confidence in local government, for instance through non-binding mediation.
- CSAC acknowledges its role to provide educational forums, informational resources and communication opportunities for counties in relation to CEQA practice and reform efforts.

## Policy Statements

- Counties support statutory changes that provide lead agencies with the ability to find that de minimus contributions to a significant impact are not cumulatively considerable.
- Counties strongly support statutory changes to improve the defensibility of well-prepared mitigated negative declarations (MND), including but not limited to applying the substantial evidence standard of review to MNDs that meet certain criteria, such as those prepared for projects that are consistent with the existing General Plan and zoning.
- CEQA currently allows for potential issues to be raised late in the decision-making process, giving rise to disruptive and counterproductive tactics known as “late hits” and “document dumps” to stall the project review process. Counties support limits on the submittal of late input into the process. In order to raise an issue in court, counties assert that the issue with an EIR or MND must have been raised during the Draft EIR or MND public comment period, unless the new issue was not known and could not have been raised earlier.
- Counties support CEQA exemptions and streamlining for infill projects in both cities and existing urbanized areas in counties. Conditions for such exemptions and streamlining processes should be based on population densities or other objective measures of urban development, rather than arbitrary jurisdictional boundaries.
- Roadway infrastructure projects that protect the health and safety of the traveling public are subject to project delivery delays due to environmental review, even when a project replaces existing infrastructure. Counties support categorical and/or statutory exemptions and streamlining for road safety projects in the existing right-of-way.
- Counties support programmatic Environmental Impact Reports (EIRs) and standardized mitigation measures for the flood management system, levee maintenance and capital projects that fall under certain thresholds.
- Counties support providing the courts with more practical discretion to sever offending parts of a large project that is subject to CEQA litigation and allow the beneficial parts of a project to proceed when they are not relevant to the court’s CEQA decision.
- Counties support transparency in the preparation and distribution of environmental documents. To accomplish this, CSAC supports State funding and assistance for the electronic filing of documents. Further, counties believe they

are in the best position to decide how to make governmental information available to non-English speaking communities within their jurisdictions. Counties do not support state-mandated translation of CEQA documents.

- Counties believe that existing environmental laws and regulations can, in some circumstances, be used to streamline the CEQA process and avoid unnecessary duplication. However, Counties also believe that any such standards or thresholds must be found by the lead agency to be specifically applicable to the project where they are applied. If the use of existing environmental laws is intended to exempt a project from further CEQA review, it should be focused on specific impacts and limited to “qualified standards” that the lead agency reasonably expects will avoid significant impacts in the area addressed by the standard.
- Challenges to the contents of the administrative record have become a common way to create litigation delays and increased costs. Counties support a statutory clarification that the contents of an administrative record only include all documents that were submitted to the relevant decision making body before the challenged decision. Counties further support a statutory clarification allowing public agencies to certify both accuracy and completeness of an administrative record prepared by a petitioner. Counties support statutory clarification that resolution of disputes regarding preparation and certification of the administrative record occur through motions to supplement which run parallel to briefing on the merits, not prior.
- Counties support statutory revisions to increase the transparency of parties filing CEQA lawsuits, and limit CEQA actions to those brought by persons or entities with an environmental rather than solely economic interest in the project.
- Counties support statutory revisions to the private attorney general statute governing awards of attorneys’ fees, which are available to petitioners but not defendants. This low-risk, high-return imbalance in favor of petitioners is one of the primary drivers for CEQA litigation.
- Counties support the use of the substantial evidence standard for challenges to a categorical exemption.



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Attachment Two  
Transportation Coalition for Livable Communities Cap and Trade Proposal



## TRANSPORTATION COALITION PROPOSAL

Our unifying principle is that auction revenues derived from vehicle fuels should be used to fund transportation system needs in a way that implements the AB 32 regulatory program building on the framework of SB 375 and other GHG reduction strategies.

Based on research which illustrates the benefit of combined approaches to transportation investments, this proposed Livable Community Infrastructure Program would leverage a cost effective investment portfolio across transportation efficiency measures, land use incentives, and improved transportation options to yield the greatest GHG reductions associated with the transportation sector.

### Coalition Principles/Program Framework

1. Auction revenue from fuels should implement the AB 32 regulatory program to reduce GHG emissions from transportation
2. Favor cost-effective and integrated transportation and land use strategies
3. Project funding determinations should be done primarily at regional level under statewide criteria for evaluating GHG impacts. Criteria for project selection should be uniform statewide and developed by the State of California. Regions shall administer competitive funding processes and select projects based on these criteria.
4. Allow flexibility at the regional and local level to develop most cost effective projects
5. Assist local governments in meeting regional GHG reduction goals
6. Create performance-based approach to maximize regional flexibility with improved modeling and verification systems to ensure effective results
7. Promote innovation, collaboration, economic development and rural sustainability
8. Support co-benefits: air quality, public health, resource protection, equity, affordable housing, agriculture, and safety

### Additional Considerations for Program Framework

- Integrate interregional rail modernization and roadway operational improvements with regional investments that implement or enhance long-term GHG reduction strategies in statewide and regional transportation plans.
- Use statewide criteria to ensure compliance with SB 535.

### Program Design

- 1) Allocate transportation funds primarily on a regional basis:
  - Direct funds to MPO's or other regional transportation agency outside of an MPO.
  - Use an objective standard, such as population, as basis for funding allocation between regions to ensure all parts of the state have equitable funding.
  - Establish statewide modeling to allow region-to-region consistency in evaluating and verifying the effectiveness of all eligible projects, including those related to travel demand reduction, system efficiency and safety improvements, demographic characteristics and integrated land use and transportation strategies.
- 2) Allocate funding within regions to achieve optimum mix of GHG reductions and co-benefits:



- Structure program whereby regional agencies are required to establish competitive grants for local entities that incentivize integrated strategies that combine land use changes with infrastructure investment at the neighborhood scale to achieve greatest long term GHG benefits.
  - Funds must be used for local land use strategies and transportation investments that implement an approved Sustainable Communities Strategy/ Alternative Planning Strategy within existing urbanized or developed areas and reduce GHG emissions.
  - Allow areas outside of MPO regions to seek funding for long-term GHG reduction strategies contained in their Regional Transportation Plan.
  - Support rural sustainability through funding maintenance, farm to market and interconnectivity needs that implement the adopted regional strategy
- 3) Allocate funding to administer competitive grant program for intercity and interregional rail modernization, and roadway operational and maintenance improvements, that implement or enhance GHG reduction strategies in statewide and regional transportation plans.
- 4) CARB will establish minimum standards for the development of regional and interregional funding programs, including criteria for evaluating GHG impacts that ensure program compliance while retaining flexibility to meet transportation goals. CARB will periodically review each region's effectiveness in meeting the standards to ensure legal compliance with AB 32 requirements.

#### Eligible Uses of Funds

Implementing SB 375 and other GHG-reducing regional plans outside of metropolitan planning organizations (MPOs) requires Livable Community Infrastructure to rebuild aging infrastructure within urban infill and existing rural communities. This includes transportation efficiency measures such as network and demand management strategies, transit service and operating costs, road and bridge maintenance, retrofits for complete streets and urban greening, and clean technology infrastructure. All of these transportation investments yield greater and more cost-effective GHG reductions when co-implemented with land use incentives and improved transportation options, such as developing land use modifications to support regional plans, transit-oriented development, and other community infrastructure needed for infill development.

Keeping in mind that all expenditures must implement the AB 32 regulatory program to reduce GHG emissions, we support a broad array of eligible expenditures within existing urbanized or developed areas as follows:

1) Transportation efficiency measures:

- Network and demand management (e.g. transit/bike priority signalization; trip reduction programs; roundabouts/roadway modifications; congestion pricing)
- Transit service, maintenance and operating costs (e.g. Bus Rapid Transit)
- Road and bridge maintenance, operations and retrofits for complete streets and urban greening (e.g. pavement and striping conditions; streetscape enhancements; bike/ped safety enhancements)

- Clean technology infrastructure and planning (e.g. EV station planning and implementation)
- Multi-modal network connectivity to reduce travel distances and improve access to parks, schools, jobs, housing, and markets for rural and urban communities (e.g. neighborhood scale planning)

2) Land use incentives and improved transportation options:

- Funding to develop and implement land use modifications to support regional plans (e.g. updating zoning codes, parking standards, Level of Service policies)
- Other community infrastructure (e.g. water, sewer, greening) to support Transit Oriented Development, affordable housing, urban infill and small walkable communities in rural neighborhoods
- Transit infrastructure and clean technology conversion (e.g. hybrid busses; station enhancements)
- Multi-use facilities and accommodations for bicyclists, pedestrians and Neighborhood Electric Vehicles (e.g. multi-use trails)
- Multi-modal network connectivity within new development (e.g. street design)
- Livable Community Infrastructure to support interregional rail modernization and roadway operational investments (e.g. Capitol Corridor enhancements)

3) Administration/Evaluation Measures:

- Administrative costs and development and use of evaluation, monitoring and verification systems to validate AB 32 compliance, including modeling systems to evaluate regional proposals against program criteria, and verification and measurement systems for on-going evaluation and modification of regional and state programs.

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Attachment Three  
Fact Sheet: AB 574 (Lowenthal): Sustainable Communities Infrastructure  
Program

# AB 574 (Lowenthal)

## SUSTAINABLE COMMUNITIES STRATEGIES

### SUMMARY

AB 574 establishes a program to fund sustainable communities strategies (and equivalent greenhouse gas (GHG) reducing strategies in rural areas) using cap and trade auction proceeds.

### BACKGROUND

The largest source of GHG emissions in California is the transportation sector, and implementation of the California Global Warming Solutions Act of 2006 depends on achieving significant emission reductions from this sector.

A key method to reduce transportation emissions is the development of sustainable communities strategies and other regional plans that encourage more compact development and invest in alternatives to the automobile, thereby reducing the total amount of driving necessary to meet mobility needs. However, local governments tasked with implementing sustainable communities strategies, and other GHG-reducing regional plans, lack funds for the infrastructure necessary to accommodate patterns of growth consistent with the state's climate goals.

Integrating transportation and public infrastructure investments with changes in land use will provide significantly greater GHG emission reductions than single purpose investment strategies, and contribute to making communities more livable.

### PURPOSE

To this end, AB 574 establishes regional competitive grant programs for projects that combine transportation investments with local land use changes. It is designed to implement regional GHG reducing plans in the most cost effective way while encouraging innovation, collaboration, and flexibility to address local needs and achieve the greatest GHG emission reductions.

### AB 574

AB 574 provides a statutory framework for implementing the sustainable communities allocations from cap and trade revenues, including these key elements:

- Every region of the state receives its per capita share of sustainable communities funding.
- A competitive grant program, administered regionally and guided by state policy objectives, will incentivize local land use strategies to be integrated with a full range of transportation investments to achieve the highest GHG emission reductions and advance the objectives of SB 375.
- The program will feature a performance-based approach to maximize regional flexibility with improved modeling and verification systems approved CARB.
- Eligible investments under the program include:
  - ✓ Funding for transit operations, maintenance, and infrastructure;
  - ✓ Clean transportation fueling infrastructure;
  - ✓ Transportation demand management;
  - ✓ Road and bridge maintenance and retrofits for complete streets, bike and pedestrian enhancements;
  - ✓ Safe routes to schools;
  - ✓ Regional and interregional rail modernization;
  - ✓ Community infrastructure to support transit oriented developments, affordable housing, infill, and walkable communities, and
  - ✓ Other uses that reduce GHG emissions.
- The program includes annual reviews of the effectiveness of the program to ensure progress stays on track and important GHG reduction objectives are met.

### STAFF CONTACT

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4/16/13

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Attachment Four  
Cover Memo and GoRail Resolution in Support of Freight Rail



May 16, 2013

To: CSAC Housing, Land Use & Transportation Policy Committee

From: Kiana Buss, CSAC Associate Legislative Representative

**RE: GoRail Resolution – ACTION ITEM**

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**Recommendation.** GoRail is requesting that the CSAC Housing, Land Use, and Transportation Policy Committee take action in support of a resolution (attached) that freight rail offers viable economic, transportation, and environmental solutions in California. The resolution appears to fit within existing CSAC policy, outlined below.

**Background.** GoRail is an organization comprised of rail stakeholders, community leaders, and the public in support of freight rail as solutions to national transportation and economic challenges. According to their website, “Freight volumes have been forecast to grow approximately 92 percent by 2035 and many highways are already stretched beyond capacity. The nation faces a complex freight mobility challenge and it is essential that non-highway options are available to keep goods moving.” Further, GoRail maintains that, “Freight rail is an excellent alternative. Shipping more freight by rail saves taxpayers money, promotes cleaner air and greater fuel efficiency, improves safety, and lessens worsening highway congestion.” Since 2004, over 4,000 local, county and state government officials and business, academic, and community leaders in 30 states have joined GoRail in engaging policy makers in Washington on the importance of freight rail to our economy and our quality of life.

**Policy Consideration.** CSAC’s policy on transportation is one that supports a balanced, seamless, and multi-modal system that provides for the safe and efficient transport of people, while facilitating the movement of goods and services vital to the economic health of the state. CSAC’s transportation policy does not distinguish between freight rail and passenger rail, but it does recognize that rail in general plays a key role in a coordinated statewide transportation network, and that continued support for rail systems will help balance the state’s transportation needs. From an environmental perspective, CSAC’s policy on climate change recognizes that climate change will have a harmful effect on our environment, public health and economy. Recognizing the complexity involved with reducing greenhouse gases (GHGs), there is a need for a variety of approaches and strategies to reduce GHG emissions. According to GoRail, freight rail offers solutions for California’s transportation, economic, and environmental challenges consistent with the aforementioned CSAC policy.

**Action Requested.** CSAC staff is requesting that the CSAC Housing, Land Use, and Transportation Policy Committee take action on the resolution and make a recommendation to the CSAC Board of Directors.

**Contact.** For more information on this issue, please contact Kiana Buss, CSAC Associate Legislative Representative at 916-327-7500, ext. 566, or [kbuss@counties.org](mailto:kbuss@counties.org).



## **Resolution in Support for Rail Solutions to Economic and Transportation Challenges**

Whereas, a healthy freight rail network is a key to job growth in California and continued U.S. economic recovery;

Whereas, freight rail is a powerful job creation engine, generating \$265 billion of total economic activity annually and translates into jobs all across the country and in every sector of the economy;

Whereas, America’s freight railroads invest 40 cents of every dollar they earn back into the rail network, getting minimal support from the government;

Whereas, freight railroads have invested more than \$480 billion back into capital needs and expansion since 1980;

Whereas, America’s freight railroads move one third of American exports, playing a key role in U.S. international competitiveness while offering the lowest rail rates in the world and employing 175,000 workers directly and accounting for an additional 150,000 jobs in the railway supply industry;

Whereas, freight railroads in California employ 8,672 residents, operating over 5,307 miles of track;

Whereas, every direct railroad job also supports 4.5 additional jobs – on farms, in factories and mines, and throughout the economy,

Whereas, freight rail service is instrumental to retaining existing jobs and attracting new businesses to California communities;

Whereas, freight shared by trains and other transportation modes through rail intermodal service transports almost 12 million truck trailers or containers a year, meaning greater economic efficiency, less fuel consumed, lower emissions and less traffic on our roads;

Whereas, affordable and efficient transportation is critical to the California economy now and in the future,

Whereas, freight rail is the engine to keep our economy strong, hauling 43 percent of the nation’s intercity freight—more than any other transportation mode;

Resolved, the California State Association of Counties joins in lauding the freight rail industry for making infrastructure investments that are critical to sustaining jobs, building a stronger economy, reducing highway congestion, improving air quality and providing a better quality of life in California and for all Americans on this date, **month, day, year.**

**SIGNED:**

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**SIGNED:**

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