

SWCLC Southwest California Legislative Council

*A Coalition of
The Temecula Valley, Murrieta, Lake Elsinore Valley and Wildomar Chambers of Commerce*

MEETING AGENDA Monday, April 15, 2013

Ortega Adult School Multipurpose Room (West End)
520 Chaney Street, Lake Elsinore, CA 92530

Presiding: Dennis Frank, Chair

2013 Strategic Initiatives

Budget & Tax Reform / Job Creation and Retention / Healthcare Reform

Call to Order, Roll Call & Introductions:

Chair Report

Agenda Items

1. Approval of March 2013 Meeting Minutes **Action**
2. Legislative Report #4 **Action**
 1. [AB 756 \(Melendez\) CEQA: Judicial review; public works projects](#)
 2. [AB 1095 \(Nestande\) Junk Dealers and recyclers: nonferrous metals](#)
 3. [SB 7 \(Steinberg\) Public Works: Charter cities](#)
 4. [SB 594 \(Steinberg\) Career Investment Credit and Trust Fund](#)
 5. [HR 1165 \(Calvert\) MORE Act of 2013: Maximize Offshore Resources Exploration Act](#)
 6. [HR 994 \(Calvert\) ACCESS Act of 2013; ADA Compliance for Customer Entry to Stores & Services Act](#)
3. CalChamber 2013 Job Killer Bills Identified **Information**
4. Garcetti - Greuel Ontario Airport Response **Information**
5. SB 33 Revisit **Information**

Tom Stinson / Assemblymember Waldron Brian Ambrose / City of Murrieta
6. Bay Delta Conservation Plan Update **Information**

Patty Arlt / Metropolitan Water
7. Regional Legislator, Staff and Stakeholder Updates **Information**

Federal: Senators Feinstein & Boxer. Representatives Calvert & Hunter
State: Governor Brown, Senators Emmerson, Anderson & Roth, Assemblymembers Melendez, Waldron, Jones & Nestande
Local: County, Cities, Utilities, EDC, Healthcare, League of Cities
8. Chamber & Council Member Announcements **Information**
9. Lunch Sponsor [Simply Delicious Catering & The Corporate Room](#) **Eat There**

Adjourn – Next meeting May 20, 2013

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The Murrieta Temecula Group
Temecula Valley Chamber of
Commerce
Murrieta Chamber of
Commerce
Lake Elsinore Valley Chamber
of Commerce

Wildomar Chamber of
Commerce
Southern California Edison
Loma Linda University
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Chair Report

SWCLC

Southwest California
Legislative Council

A Coahynof
by the people of the State of California

Southwest California Legislative Council

**Murrieta Chamber of Commerce
Temecula Valley Chamber of Commerce
Lake Elsinore Chamber of Commerce
Wildomar Chamber of Commerce**

Meeting Minutes

March 18, 2013

Legislative Consultant: Gene Wunderlich

2013 Chair: Dennis Frank, D.R. Frank & Associates

Directors Attendance: Nicole Albrecht, Financial Accounting Services
Alex Braicovich, CR & R, Inc
Jeff George, Superior Quality Construction
Judy Guilimana, Town & Country Real Estate
Tony Lopicolo, LoPiccolo Consulting
Don Murray, Commerce Bank of Temecula Valley
Joan Sparkman, Mt. San Jacinto College
Gary Thornhill, Tierra Verde

Directors Absent: Steve Amante, Amante & Associates; Glen Daigle, Oakgrove Equities;
Isaac Lizarraga, Rancho Ford Lincoln; Shaura Olsen, Walmart;
Karie Reuther, The David Reuther Vocal Studio; Tommy Thompson,
Building Industry Association

Council Guests: Andrew Abeles, Coldwell Banker Residential Brokerage
Patty Arlt, Metropolitan Water District
Ben Benoit, City of Wildomar
Jeff Gibson, Corona Chamber of Commerce
Jeremy Goldman, Southern California Edison
Deni Horne, Assemblywoman Melissa Melendez 67th District
Natasha Johnson, City of Lake Elsinore
Tim Johnson, CAA-MGIE
Betsy Lawrey, City of Temecula
Shane Lesovsky, TVC, Inc.
Connie Lynch, SRCAR
David Madsen, South Coast AQMD
Greg Morrison, EVMWD
Jolyn Murphy, Congressman Ken Calvert
Morris Myers, EDC
Karen Pollock, Wildomar Chamber of Commerce
Yvonne A. Ruiz, Wine Country Notary
Erin Sass, League of Cities
Maggie Sleeper, Senator Joel Anderson
Jackie Steed, National Merchants Assoc.

Tom Stinson, Assemblywoman Marie Waldron 25th District
Allison Tilton, Reid & Hellyer APC
Rodger Ziemer, RC Ziemer & Associates

Staff Present: Kim Cousins, Michelle Simon-Lake Elsinore Valley Chamber of Commerce
Alice Sullivan, Laura Turnbow -Temecula Valley Chamber of Commerce
Patrick Ellis- Murrieta Chamber of Commerce

Meeting called to order at: 12:08 by Chairman Dennis Frank

1. Approval of Minutes Action

Directors reviewed the Minutes from the February 25, 2013 meeting. **The motion was made to approve the minutes as written. The motion was seconded and carried by a unanimous vote.**

2. Legislative Report # 2 Action

1. S6641(Anderson) Corporation taxes: minimum franchise tax: exemptions

Following discussion, the motion was made to SUPPORT S8641. The motion was seconded and carried by a unanimous vote.

2. A61203 (Gorrell) Taxation: interest: penalties.

Following discussion, the motion was made to SUPPORT A81203. The motion was seconded and carried by a unanimous vote.

3. A6152 (Yamada) Unemployment: Self-Employment Assistance Program.

Following discussion, the motion was made to OPPOSE A8152. The motion was seconded and carried by a unanimous vote.

4. S6626 (6ecall) Workers' compensation.

Following discussion, the motion was made to OPPOSE S8626. The motion was seconded and carried by a unanimous vote.

5. S633 (Wolk) Infrastructure financing districts: voter approval: repeal

Following discussion, the motion was made to take a WATCH POSITION. The motion was seconded and carried by a unanimous vote.

6. S6731(Steinberg) Environment: California Environment Quality Act and sustainable communities strategy

Following discussion, the motion was made to take a WATCH POSITION. The motion was seconded and carried by a unanimous vote.

7. S.344 (wicker) A bill to prohibit the Administrator of the Environmental Protection Agency from Approving the introduction into commerce of gasoline that contains greater than 10-volume-percent than 10-volume-percent ethanol. and for other purposes.

Following discussion, the motion was made to SUPPORT S.344. The motion was seconded and carried by a unanimous vote.

8. California Community Events Alliance-Saving Our Events

Following discussion, the motion was made to SUPPORT the Saving Our Events. The motion was seconded and carried by a unanimous vote.

3. Update on Ontario Airport local control Information

Gene Wunderlich provided the council with a brief overview of the Southwest Legislative Council position of support for local control for the Ontario Airport. A councilmember asked Deni Horne the representative for Assemblywoman Melissa Melendez 6th, what was the Assemblywoman's position on this and she said that the Ontario Airport was out of Melissa Melendez's area.

Congressman Ken Calvert

Report by Jolyn Murphy – District Director

Jolyn said that they are concentrating on oil production and energy independence for our country. The Congressman reintroduced the MOR Act/HR1165. The MOR Act gives the state the option to have off shore drilling, providing them with incentives if they choose *off* shore drilling. The congressman also introduced the Access Act/HR994, which protects businesses and allows them 60 days to respond and another 120 days beyond that to correct any problems before law suits are filed against the businesses for ADA compliance issues.

SenatorloeAnderson

Report by Maggie Sleeper – District Director

Senator Anderson was recently named the legislator of the year by the state collation probation officers for his work on public safety. Senator is really focused on what the super majority is doing as it relates to taxes/fees being proposed.

Assemblywoman Melissa A. Melendez

Report by Deni Horne

Assemblywoman Melendez is planning a meet and greet in Lake Elsinore at State Farm Insurance from 10 to 11 on March 27. A question was asked by the SW CA Legislative Board as to Assemblywoman Melendez position on local control for Ontario Airport. Deni indicated that there was no position, but she would check back with the Assemblywoman on her direction. Assemblywoman Melendez has introduced several pieces of legislation dealing with sales tax, CEQA streamlining and deferral of debt for military personnel active in reserves.

Assemblywoman Marie Waldron

Report by Tom Stenson

Assemblywoman Waldron has introduced several pieces of legislation dealing with various issues. He will keep us posted as needs are accessed.

City of Lake Elsinore

Report by Mayor Pro-Tem Natasha Johnson

The City of Lake Elsinore is in the process of their midyear budget review. In addition, she reported that for the fiscal year ending June 30, 2013 the City has 730 single family home permits issued.

City of Wildomar

Report by Councilman Ben Benoit

The City of Wildomar has been very busy in their planning department with numerous new projects.

Metropolitan Water District

Report by Patty Arlt

The Annual Solar Boat Race is coming up on May 17, 18, & 19 ¹hand they are in need of volunteers for 4 hours. We have reached a critical point in the Bay Delta Plan with four chapters being released.

Southern California Edison

Reported by Jeremy Goldman

SCE is preparing for a Public Hearing on 3/21/13 for the San Onofre Plant coming back online.

League of Cities

Report by Erin Sass

The League of Cities is opposing a Charter Cities Bill that is moving forward.

Lake Elsinore Valley Chamber of Commerce

Report by Kim Joseph Cousins

The Lake Elsinore Valley Chamber of Commerce will be hosting their luncheon at the Diamond club in Lake Elsinore on March 28th at 11:30AM. Topic: "A Conversation with Our New City Manager Grant Yates". The Lake Elsinore Valley Chamber of Commerce is having their first quarterly mixer of the year, hosted by Lake Elsinore Storm Baseball on March 28th@ 5:30PM at the Diamond Club.

Murrieta Chamber of Commerce

Report by Patrick Ellis

The Murrieta Chamber of Commerce will be having a Merchant Forum update on the Tour of CA-Stage 2 event. The Brew Master Golf Tournament is scheduled for 5/31.

Temecula Chamber of Commerce

Report by Alice Sullivan

The Temecula Chamber of Commerce will be hosting their 4th State of the City on 5/9. The next mixer is 3/20; a course on Facebook 101 on 4/9; Valley Young Professionals on 4/2 and 4/16. As always visit our website for more information on upcoming events.

EDC of Southwest CA

Report by Morris Myers

Morris updated us on his trip to Washington DC regarding the reauthorization of the Workforce Investment Act. The plan is to Consolidate 35 programs with 9 agencies.

6. Lunch Sponsor My Buddies Pizza Eat There

Motion to Adjourn at 1:26 P.M.

AB 756 (Melendez) CEQA: Judicial review; public works projects**Recommended action: SUPPORT****Presentation: Gene Wunderlich****Background:**

The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report (EIR) on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA establishes a procedure for the preparation and certification of the record of proceedings upon the filing of an action or proceeding challenging a lead agency's action on the grounds of noncompliance with CEQA.

The Jobs and Economic Improvement Through Environmental Leadership Act of 2011 requires that any action or proceeding alleging that a public agency has approved or is undertaking a leadership project certified by the Governor, as specified, in violation of CEQA be conducted in accordance with specified streamlining benefits. The act also requires the preparation and certification of the administrative record for a leadership project that is certified by the Governor to comply with certain procedures. The act requires the draft and final EIR of a leadership project to include a specific notice relating to required procedures for judicial actions challenging the certification of the EIR or the approval of a project described in the EIR.

Summary:

This bill would streamline key public works projects by having lawsuits heard directly by the Court of Appeals and a decision within 175 days of filing of the petition.

This bill would also apply these provisions to a public works project, defined to mean an infrastructure project carried out by the city, county, or state government or contracted out to a private entity by the local or state government. By requiring a lead agency to use these alternative procedures in preparing and certifying the administrative record, this bill would impose a state-mandated local program. The bill would also authorize the Judicial Council to adopt Rules of Court to implement these provisions.

"Public works project," for purposes of this chapter, means an infrastructure project carried out by the city, county, or state government, or contracted out to a private entity by a city, county, or state government. Infrastructure projects include projects relating to transportation, such as the construction and maintenance of roads, bridges, airports, and ports, and the placement of traffic signs and street lights, projects relating to public-health-related buildings such as hospitals and urgent care facilities, projects relating to public safety buildings such as law enforcement stations and correctional facilities, projects relating to water quality and water waste treatment facilities and their related infrastructures, and projects relating to electrical grid improvements, landscaping, seismic retrofitting, and technological retrofitting.

Notwithstanding any other law, any action or proceeding alleging that a public agency has approved or is undertaking a public works project in violation of this division shall be conducted in accordance with the following streamlining benefits:

- (1) The action or proceeding shall be filed in the court of appeal with geographic jurisdiction over the project.
- (2) Any party bringing a claim described in this section shall also file concurrently any other claims alleging that a public agency has granted land use approvals for the public works project in violation of the law. The court of appeal shall have original jurisdiction over all those claims.
- (3) The court of appeal shall issue its decision in the case within 175 days of the filing of the petition.
- (4) The court may appoint a master to assist the court in managing and processing the case.
- (5) The court may grant extensions of time only for good cause shown and in order to promote the interests of justice.

Supporting: None on file.

Opposing: None on file.

Status: Referred to Assembly Judiciary

Legislative Report Item 2

Action Item

AB 1095 (Nestande) Junk Dealers and recyclers: nonferrous metals

Recommended action: **SUPPORT**

Presentation: Gene Wunderlich

Background:

Existing law requires junk dealers and recyclers, as defined, to maintain written records of all sales and purchases made in the course of their business, and makes a violation of the recordkeeping requirements a misdemeanor. Existing law prohibits a junk dealer or recycler from providing payment for nonferrous material, as defined, unless the payment is made by cash or check, the check is mailed or the cash or check is provided no earlier than 3 days after the date of sale, and the dealer or recycler obtains a photograph or video of the seller and certain other identifying information, as specified, which information is to be retained by the dealer or recycler, as part of the written record of purchases, for a specified period of time. Existing law exempts from the payment by cash or check requirement those sellers of junk or recycling materials who conduct 5 or more separate transactions per month with the junk dealer or recycler, as specified.

Summary:

Last year's SB 1387 (Emmerson), SUPPORTED by the SWCLC, prohibited a junk dealer or recycler from possessing a reasonably recognizable, disassembled, or inoperative fire hydrant or fire department connection, including, but not limited to, bronze or brass fittings or parts, a manhole cover or lid, or any part of that cover or lid, or a backflow device and connections to that device, that was owned by a public agency, city, county, city and county, special district, or private utility, without a written certification on the letterhead of the entity that owns or previously owned the material that the entity has sold or is offering the material for sale, and that the person possessing the certificate and identified in the certificate is authorized to negotiate the sale of the material.

This bill would require a junk dealer or recycler to provide payment by check only, mailed or provided to the seller of the materials no earlier than 30 days after the date of sale, and would prohibit the junk dealer or recycler from recycling, selling, or disposing of the materials during that time period. The bill would delete the exemption from the check-only payment requirement of those sellers of junk or recycling materials who conduct 5 or more separate transactions per month with the junk dealer or recycler. The bill would exempt from the check-only payment requirement, and permit payment by check or cash on or after the 3rd business day from the date of sale, the sale of nonferrous materials under specified circumstances, including if the nonferrous materials were marked with an indicia of ownership, as defined. Under these circumstances, the bill would require the junk dealer or recycler to obtain specified documentation from the seller.

The bill would also exempt from the check-only payment requirement, and permit payment by check or cash on or after the 3rd business day from the date of sale, the sale of nonferrous materials that were removed from the home of the seller during construction, if the junk dealer or recycler obtained specified documentation from the seller, including a letter from a licensed contractor stating that the materials were removed from the home of the seller during construction. The bill would provide that a licensed contractor who willfully or knowingly makes a false or fictitious statement in that letter is guilty of a crime. The bill would also require the junk dealer or regular to retain the documentation obtained pursuant to these provisions as part of the written record of purchases.

Supporting: None on file.

Opposing: None on file.

Status: Referred to Assembly Business, Professions and Consumer Protection
Southwest California Legislative Council

SB 7 (Steinberg) Public Works: Charter cities**Recommended action: OPPOSE****Presentation: Gene Wunderlich****Background:**

Should the Legislature prohibit a charter city from receiving/using state funds for a construction project if the city has a provision or ordinance authorizing a contractor *to not comply* with prevailing wage requirements on any public works contract?

In general, the proponents of prevailing wage legislation wanted to prevent the government from using its purchasing power to undermine the wages of its citizens. It was believed that the government should set an example, by paying the wages prevailing in a locality for each occupation hired by government contractors to build public projects. Even today, prevailing wage laws are generally meant to ensure that wages commonly paid to construction workers in a particular region will determine the minimum wage paid to the same type of workers employed on publicly funded construction projects.

The California Constitution gives cities the power to become charter cities. For a charter city, the charter adopted constitutes state law and has the force of legislative enactment.

Summary:

As of July 1, 2011, there were 482 incorporated cities in California. Of California's 482 cities, 121 of them are charter cities.

Although California's prevailing wage law has been in the books since 1931, the question of whether something is a municipal affair versus one of statewide concern continues to spark much heated discussion. The many cases that have been before the courts on this issue are **a clear indication of the need for clarity on what are matters of statewide concern** - warranting the payment of prevailing wage.

This bill, however, does not focus on the issue of clarity for what is or isn't a "municipal affair," since that is a matter that would require amending the California Constitution, but it does **focus on providing clarity on how state funds can be used by charter cities**. This bill would prohibit a charter city from receiving or using state funding for a construction project if the city has a charter provision or ordinance that authorizes a contractor not to comply with prevailing wage requirements on any public works contract.

Proponent Arguments:

- The prevailing wage law is critical to the delivery of a quality construction product because it encourages contractors to perform the work with an efficient, skilled and streamlined workforce, ultimately creating long-term cost-savings to the taxpayers.
- This legislation is designed to provide incentives to charter cities to follow the prevailing wage law on municipal projects and thereby deter the underground economy and low-road construction models driven by unscrupulous contractors.
- A long list of academic studies and public policy research has confirmed that the prevailing wage continues to be a useful and effective driver for local economic growth.
- In charter cities with prevailing wage exemptions, new developments have failed to generate quality jobs and, in fact, these cities have not seen the cost savings promised by prevailing wage exemptions and instead have had their construction costs go up due to substandard construction performed by under-qualified contractors.
- Removing prevailing wage protections pushes workers into requiring more subsidies in healthcare, housing and other social services.
- This bill does not change the outcome of *State Building and Construction Trades Council v. City of Vista*; instead it helps protect other local governments, including all general law cities and the majority of charter cities, from the practices of a minority group of charter cities that wish to reward their allies with prevailing wage exemptions that consequently pass on the costs of healthcare and apprenticeship training to the surrounding cities.

- Cities that follow the prevailing wage law are furthering a policy that benefits the State, not just their own residents, so they are more deserving of state funds for their construction projects.
- This bill would not require charter cities to follow the prevailing wage law and, therefore does not prevent charter cities from having their own policies. As such, there is no conflict between this bill and the constitutional authority of charter cities. Instead, they argue, this bill will reward the majority of cities that currently follow the state prevailing wage law.

Opponent Arguments:

- Opposition rests on the fundamental principle of local control and the constitutional limits on state authority over charter cities, as recently upheld by the California Supreme Court in the Vista decision.
 - In Vista, the Court firmly protected the right of charter cities to determine whether they should pay prevailing wages when contracting for public works projects paid for with local funds.
 - This measure conflicts with Vista by attempting, via the Legislature, to leverage a different outcome than the Court's ruling by withholding vital state construction funds – derived from all of the state's taxpayers – from charter cities that fail to adopt prevailing wage requirements for projects built with local funds
 - While prevailing wage is the issue raised in this bill, the threat posed by the measure to local charter authority is much broader
 - If this framework is authorized, there will be no end to efforts to leverage compliance with other state edicts, while ignoring the constitutional legitimacy of the doctrine of municipal affairs.
 - Some cities writing in opposition argue that they already require the payment of prevailing wages for city funded projects, but fear that this legislative tactic could be used in the future to erode other local flexibility that is important to their communities
 - By saddling local taxpayers with higher costs, the state will guarantee less construction will take place on locally funded projects
 - Whether a charter city pays prevailing wage with local funds is up to each city and not the Legislature
 - According to the League of Cities, SB 7 violates the fundamental principle of local control and the charter cities doctrine of municipal affairs. A recent California Supreme Court decision in *State Building and Construction Trades Council of California, AFL-CIO v. City of Vista (2012) 54 Cal. 4th 547* held that prevailing wage issues are subject to a charter city's ability to manage its "municipal affairs."
 - The Legislature is seeking to achieve indirectly what the Court said it could not do directly, and that while many charter cities require the payment of prevailing wages on local projects, the League was protecting the flexibility of local agencies to make the decision
- As of March 13, opposition to SB 7 includes:

SUPPORT

State Building and Construction Trades Council of California, AFL-CIO (Sponsor)
 Bricklayers and Allied Craftworkers, AFL-CIO
 California Chapters of the National Contractors Association
 California Labor Federation
 California Legislative Conference of the Plumbing, Heating and Piping Industry
 California Sheet Metal and Air Conditioning Contractors National Association
 California State Council of Laborers
 Carpet Linoleum & Soft Tile Workers Local Union No. 12
 Cement Masons Local Union No. 500
 Contra Costa Building and Construction Trades Council
 District Council 16 Local Union 294
 Fresno, Madera, Kings and Tulare Counties Building & Construction Trades Council, AFL-CIO
 Glaziers, Architectural Metal and Glass Workers Union, Local 718, of San Francisco

Imperial County Building Trades and 16 Affiliate Unions
 International Brotherhood Electrical Workers
 International Brotherhood of Electrical Workers Local Union 234
 International Brotherhood of Electrical Workers Local Union No. 340
 International Union of Painters and Allied Trades Local Union 376
 Kern, Inyo and Mono Counties Building and Construction Trades Council
 Los Angeles/Orange Counties Building and Construction Trades Council
 Northern California Carpenters Regional Council
 Painters & Allied Trades District Council 36
 Painters & Allied Trades Local # 3
 Painters & Drywall Finishers Local 741 District Council 16
 Painters & Drywall Finishers Local Union 913
 Painters and Drywall Finishers Local 83
 Plaster Tenders of Southern California Local Union 1414

Plumbers & Steamfitters Local Union # 230
Plumbers, Steamfitters and Refrigeration Fitters
Local Union # 467
San Diego County Building & Construction Trades
Council, AFL-CIO
San Mateo County Building & Construction
Trades Council
Santa Clara & San Benito Counties Building &
Construction Trades Council
Sheet Metal, Air, Rail, Transportation Workers
Local Union 105

United Association of Journeymen and
Apprentices of the Plumbing and Pipe Fitting
Industry Underground Utility/Landscape Local
355
United Association of Journeymen and
Apprentices of the Plumbing and Pipe Fitting
Industry of the United States Local Union 114
Ventura County Plumbers and Pipefitters local #
484

OPPOSITION

Air Conditioning Trade Association
Associated Builders and Contractors of California
League of California Cities
Plumbing-Heating-Cooling Contractors
Association of California
The City of Arcadia
The City of Cerritos
The City of Folsom
The City of Glendora
The City of Grass Valley
The City of Indian Wells
The City of Norco

The City of Petaluma
The City of Pico Rivera
The City of Roseville
The City of Selma
The City of Shafter
The City of Solvang
The City of Torrance
The City of Wasco
Western Electrical Contractors Association
Western Electrical Contractors Association
Howard Jarvis Taxpayers Association

Status: Referred to Senate Appropriations

Legislative Report Item 4

Action Item

[SB 594 \(Steinberg\) Career Pathways Investment Credit and Trust Fund](#)

Recommended action: **SUPPORT**

Presentation: Gene Wunderlich

Background:

Existing law authorizes the governing board of a community college district to establish contract education programs within or outside the state by agreement with any public or private agency, corporation, association, or any other person or body, to provide specific educational programs or training to meet the specific needs of these bodies. Existing law authorizes the governing board of any school district to initiate and carry on any program or activity, or may otherwise act in any manner that is not in conflict with or inconsistent with, or preempted by, any law and that is not in conflict with the purposes for which school districts are established.

- After five years of deep recession and high rates of unemployment, the California economy has begun to recover.
- One of the most important actions California can take to hasten that recovery is to invest in the development of a skilled workforce to perform well-paying jobs in growing and emerging sectors of its regional economies.
- The fastest growing occupations are expected to be those that require scientific, technical, engineering, or mathematics (STEM) skills, such as jobs in biotechnology, digital media arts, green technology, or computer-related and health-related fields.
- California's systems of public education, which includes primary and secondary schools, technical training, apprenticeship, two-year and four-year colleges, and graduate schools, play a critical role in workforce preparation, one that could be significantly strengthened by a tighter focus on education and training that delivers the skills and capacities most called for in high-opportunity sectors.
- This kind of workforce preparation is best accomplished in concert with regional business and industry, so that students receive the most current and relevant education that

prepares them to compete for good jobs in their communities after graduation from high school or postsecondary education and training.

- Work-based educational and training opportunities enhance the employment prospects of low- and moderate-income individuals and contribute to the stability and economic development of their communities.

SUMMARY:

The Personal Income Tax Law and The Corporation Tax Law authorize various credits against the taxes imposed by those laws.

This bill, in accordance with legislative findings contained in this bill and for calendar years beginning on or after January 1, 2014, would, for a business entity, as described, that provides career technical education, authorize a credit against those taxes, subject to specified limitations, in an amount equal to that allocated by the California Career Pathways Investment Committee, a committee established by this bill.

This bill would require each school district and community district to create a Career Pathways Investment Trust Fund, the funds in which would be used for the purposes of financing program and administrative costs relating to the operation of career pathways programs, as provided.

This bill would impose specified duties on school districts with regard to career pathways programs.

This bill would authorize a school district or a community college district to enter into social impact bonds, as defined, in accordance with applicable laws, to fund career pathways programs, as defined.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement shall be made pursuant to these statutory provisions for costs mandated by the state pursuant to this act, but would recognize that local agencies and school districts may pursue any available remedies to seek reimbursement for these costs.

SACRAMENTO — We used to call it "shop." Wood shop. Auto shop. Then the educators got fancy and renamed it "vocational education."

Later, as the dot.com era dawned, it was rebranded "career tech."

Now, throughout much of California, you can just call it history — the victim of recession-rooted budget cuts in the state Capitol and **school districts**.

Career tech classes are expensive. Buying and updating machinery isn't for penny pinchers. So these courses are easy targets for the budget axe, even though they may be the most meaningful and relevant for many students, who otherwise might just get bored and drop out.

Shop isn't completely dead in California. There are exceptions. Such as in Long Beach. There, the school district offers an extensive career tech program in — you name it — auto mechanics, computer systems, health services, robotics, biotechnology, architecture.

It so inspired Senate President Pro Tem Darrell Steinberg (D-Sacramento) that he recently led legislators on a field trip there to meet the students — a reverse of the usual routine of students visiting the politicians in the Capitol.

"The students told us that with career academies and small learning communities they were more engaged and focused on their studies," Steinberg says.

"We're looking for a pragmatic way to get industry involved in education, combining academic rigor and career relevance. [This] will pay off with more success for our students and a stronger workforce in our state."

A generation ago, 7 in 10 California kids took at least one career tech class, according to its advocates. Today, only 3 in 10 do.

Steinberg on Tuesday held a news conference — surrounded by representatives of business, labor and academia — to propose legislation that would revive career tech in high schools.

"We hear consistently that California is not doing a good enough job preparing young people for the modern workforce," the Senate leader said. "This is about building the middle class."

Allan Zaremborg, president of the California Chamber of Commerce, noted that "not everybody needs a degree from Berkeley. Not every job requires a degree from Berkeley."

Steinberg's legislation is a bit convoluted — at least the financing part — and needs much work. But it's a very worthy project, unlike much of the trivia that is proposed in Sacramento.

Status: Referred to Senate Governance & Finance

Legislative Report Item 5

Action Item

**[HR 1165 \(Calvert\) MORE Act of 2013:
Maximize Offshore Resources Exploration Act](#)**

Recommended action: **SUPPORT**
Presentation: Gene Wunderlich

Background:

This bill was first introduced in the 110th Congress.

"Now, more than ever, we need energy independence," said Rep. Calvert. "The price of oil has spiked in recent weeks because of events far from our shores. We must have ways to develop and produce our own fossil fuels while we move towards an economy that is not oil-based. My legislation allows for federally-permitted development of resources beyond 25 miles off the coastline and provides a strong incentive for states to allow federal-lease exploration within 25 miles."

Under the MORE Act, states will receive 75% of the royalties for oil and natural gas production beyond 25 miles of the coastline and the U.S. Treasury would receive the remaining 25%. If states elect to allow exploration and production within 25 miles of their coastline, then their share of the royalties would increase to 90%. At 25 miles from the coast, no evidence of energy exploration is visible from the coast.

The MORE Act will provide:

- MORE offshore domestic energy production;
- MORE royalty revenue for producing states and the U.S. Treasury;
- MORE energy security for America; and
- MORE relief at the gas pump.

The MORE Act will increase oil and natural gas supplies by removing existing restrictions on offshore energy exploration and production in the Outer Continental Shelf (OCS). The bill establishes a state's choice on exploration and production for areas within 25 miles of the coastline.

"My bill respects the sovereignty of the state while providing a financial incentive to states for the development of resources off their coastline," said Rep. Calvert. "For states such as California, this could translate into billions of dollars for schools, law enforcement, transportation infrastructure, and environmental and renewable energy programs. The MORE Act benefits Americans at the gas pumps and rewards states who elect to be part of the solution to the U.S. energy problem."

SUMMARY:

The purpose of the bill is to greatly enhance the Nation's environmental, energy, economic, and national security by terminating long-standing Federal prohibitions on the domestic production of abundant offshore supplies of oil and natural gas, and for other purposes. The bill also contains measures to withdraw current revocations, including withdrawals by the President, with respect to leasing of areas for exploration, development and production.

The bill includes the right of state approval for any areas of the outer Continental Shelf located within 25 miles of a state's coastline, specifies revenue sharing parameters and establishes a renewable energy reserve account to fund further exploration and development of sustainable and renewable energy resources.

SHARING OF REVENUES.

12.5 percent shall be deposited in the general fund of the Treasury;

12.5 percent shall be deposited in the Renewable Energy Reserve established by section 5 of the MORE Act of 2013; and

75 percent shall be paid to the States that are producing States with respect to those submerged lands.

LEASE TRACTS WITHIN 25 MILES OF THE COASTLINE-

5 percent shall be deposited in the general fund of the Treasury;

5 percent shall be deposited in the Renewable Energy Reserve established by section 5 of the MORE Act of 2013; and

90 percent shall be paid to the States that are producing States with respect to those submerged lands.

RENEWABLE ENERGY RESERVE.

In General- For budgetary purposes, there is established a separate account in the Treasury to be known as the `Renewable Energy Reserve'.

Original co-sponsors of the bill include: Rep. Greg Harper (MS-3), Rep. Elton Gallegly (CA-24), Rep. Robert Latta (OH-5), Rep. Billy Long (MO-7), Rep. John Carter (TX-31), Rep. Jerry Lewis (CA-41), Rep. Daniel Lungren (CA-3), Rep. Gary Miller (CA-42), Rep. Bob Gibbs (OH-18), Rep. Devin Dunes (CA-21), Rep. David Dreier (CA-26), Rep. Buck McKeon (CA-25), Rep. Wally Herger (CA-02).

Status: Referred to House Committee on Appropriations

Legislative Report Item 6

Action Item

[HR 994 \(Calvert\) ACCESS Act of 2013: ADA Compliance for Customer Entry to Stores & Services Act](#)

Recommended action: **SUPPORT**

Presentation: Gene Wunderlich

Background:

"The Americans with Disabilities Act was created to protect the rights and access of disabled Americans, it was not created to penalize our small businesses," said Rep. Calvert. "In recent years we have seen a disturbing trend of frivolous lawsuits being filed against small businesses with the goal of obtaining financial settlements. Our goal should be improving access for disabled Americans to go about their day, not improving access for trial lawyers to the pockets of our small business owners."

SUMMARY:

Similar to last year's SB 1186 (Steinberg) and this year's AB 223 (Olsen), both aimed at reducing frivolous lawsuits against business and civic locations, both **SUPPORTED by the SWCLC**.

The ACCESS (ADA Compliance for Customer Entry to Stores and Services) Act would alleviate the financial burden small businesses are facing, while still fulfilling the purpose of the ADA. Any person aggrieved by a violation of the ADA would provide the owner or operator with a written notice of the violation, specific enough to allow such owner or operator to identify the barrier to their access. Within 60 days the owner or operator would be required to provide the aggrieved person with a description outlining improvements that would be made to address the barrier. The owner or operator would then have 120 days to remove the infraction. The failure to meet any of these conditions would allow the suit to go forward.

The purpose of the ADA is to ensure appropriate remedial action for those who have suffered harm. Although there are times when litigation by harmed individuals is necessary, there are an increasing number of lawsuits brought under the ADA that are based upon a desire to achieve financial settlements rather than to achieve the appropriate modifications. ADA lawsuits are especially prevalent in California. According to the California Chamber of Commerce, California has 40% of the nation's ADA lawsuits but only 12% of the country's disabled population. These lawsuits place exorbitant legal fees on small businesses and often times they are unaware of the specific nature of the allegations brought against them.

STRUCTURAL BARRIERS TO ENTRY INTO EXISTING PUBLIC ACCOMMODATIONS- A civil action for discrimination under section 302(b)(2) based on the failure to remove a structural barrier to entry into an existing public accommodation may not be commenced by a person aggrieved by such discrimination unless--

1. such person has provided to the owner or operator of such accommodation a written notice specific enough to allow such owner or operator to identify such barrier; and
2. beginning on the date such notice was received and--
 - a. before the expiration of 60 days after such date, such owner or operator failed to provide to such person a written description outlining improvements that will be made to remove such barrier; or
 - b. before the expiration of 60 days after such date, such owner or operator provided such description to such person; and
 - c. before the expiration of 120 days after such description is provided, such owner or operator failed to remove such barrier.'

Original co-sponsors of the bill include: Paul Cook (CA-8), Jeff Denham (CA-10), Duncan Hunter (CA-50), Darrell Issa (CA-49), Lynn Jenkins (KS-2), Doug LaMalfa (CA-1), Tom McClintock (CA-4), Devin Nunes (CA-22), Dana Rohrabacher (CA-48), Ed Royce (CA-39), Mike Simpson (ID-2), David Valadao (CA-21), Lynn Westmoreland (GA-3)

Status: Referred to House Committee on Judiciary

- ✓ Identifies bills the SWCLC has already adopted an OPPOSE position on.

Costly Workplace Mandates

AB 5 (Ammiano; D-San Francisco) Increased Exposure to Frivolous Litigation — Imposes costly and unreasonable mandates on employers that could jeopardize the health and safety of others by creating a new protected classification of employees and customers who are or are perceived to be homeless, low income, suffering from a mental disability, or physical disability, and establishing a private right of action for such individuals that includes statutory damages, punitive damages, and attorney's fees.

AB 10 (Alejo; D-Salinas) Automatic Minimum Wage Increase — Unfairly increases California employers' cost of doing business by raising the minimum wage \$1.25 over the next three years and thereafter indexing the minimum wage based on inflation, which fails to take into account the current economic status of the state or other fees and costs employers are required to pay.

AB 1138 (Chau; D-Alhambra) Massive Exposure to Civil Penalties and Liability — Inappropriately increases civil cases and civil penalties on employers by permitting civil action against those employers who fail to conspicuously post a list of every employee covered under an employer's workers' compensation insurance policy and to retain this list for five years.

- ✓ **SB 404 (Jackson; D-Santa Barbara) Expansion of Discrimination Litigation** — Makes it virtually impossible for employers to manage their employees and exposes them to a higher risk of litigation by expanding the Fair Employment and Housing Act to include a protected classification for any person who is, perceived, or associated with a family caregiver.
- ✓ **SB 626 (Beall; D-San Jose) Massive Workers' Compensation Cost Increase** — Unravels many of the employer cost-saving provisions in last year's workers' compensation reform package and results in employers paying nearly \$1 billion in benefit increases to injured workers without an expectation that the increases will be fully offset by system savings.
- ✓ **SB 761 (DeSaulnier; D-Concord) Paid Family Leave Protection** — Creates a new burden on small businesses and additional opportunities for frivolous litigation by transforming the paid family leave program, which is used as a wage replacement for an employee who is taking a separate leave of absence, into an additional paid protected leave.

Economic Development Barriers

AB 59 (Bonta; D-Alameda) Split Roll Parcel Tax — Potentially increases the tax burden on businesses by permitting local agencies to assess a higher parcel tax on commercial property than residential property overturning an appellate decision that determined such taxes were unconstitutional.

- ✓ **AB 188 (Ammiano; D-San Francisco) Split Roll Change of Ownership** — Unfairly targets commercial property by redefining "change of ownership" so that such property is more frequently reassessed, which will ultimately lead to higher property taxes that will be passed onto tenants, consumers, and potentially employees.

AB 288 (Levine; D-San Rafael) De Facto Moratorium on Hydraulic Fracturing — Imposes a de facto moratorium on the use of hydraulic fracturing in the state, driving up fuel and energy prices and harming the job market in these sectors, by basing approval of notices for well operations on a public health and safety standard that is impossible to meet.

AB 649 (Nazarian; D-Studio City) Moratorium on Hydraulic Fracturing — Substantially hinders oil and gas production in the state, driving up fuel and energy prices and harming the job market in these sectors, by prohibiting hydraulic fracturing and the use of fresh water in hydraulic fracturing until CalEPA re-authorizes the practice under a new regulatory scheme, if at all, in 2019.

AB 769 (Skinner; D-Berkeley) Creates Inequity in the Tax Structure — Harms struggling small businesses and start-ups by repealing the Net Operating Loss (NOL) carry back deduction, a lifeline that helps employers stay afloat, retain employees, and continue investing in their businesses in an economic downturn.

- ✓ **AB 823 (Eggman; D-Stockton) Infrastructure** — Adds additional costs and hurdles to critically needed new infrastructure and development projects by imposing unreasonable mitigation requirements.

AB 906 (Pan; D-Sacramento) Independent Contractors — Harms businesses that contract with the state by prohibiting the state from contracting for personal services unless specifically authorized by the Legislature and even then, significantly limits the duration of the contract.

✓ **AB 953 (Ammiano; D-San Francisco) Increases CEQA Litigation** — Invites more litigation over CEQA projects by overturning a recent court decision and allowing project opponents to challenge EIRs that don't adequately evaluate and mitigate impacts related to conditions and physical features in the environment like sea-level rise and fault-lines.

✓ **AB 1164 (Lowenthal; D-Long Beach) Inappropriate Wage Liens** — Creates a dangerous and unfair precedent in the wage and hour arena by allowing employees to file liens on an employer's personal property or real property where the work was performed, based on an alleged but unproven wage claim, that will take priority over other existing liens.

AB 1301 (Bloom; D-Santa Monica) Moratorium on Hydraulic Fracturing — Substantially hinders oil and gas production in the state, driving up fuel and energy prices and harming the job market in these sectors, by imposing a moratorium on the use of hydraulic fracturing until the Legislature re-authorizes it through subsequent legislation that limits the conditions under which it can be conducted.

AB 1323 (Mitchell; D-Los Angeles) Moratorium on Hydraulic Fracturing — Substantially hinders oil and gas production in the state, driving up fuel and energy prices and harming the job market in these sectors, by prohibiting hydraulic fracturing and the use of fresh water in hydraulic fracturing until CalEPA re-authorizes the practice under a new regulatory scheme, if at all, in 2019.

ACA 3 (Campos; D-San Jose) Lowers Vote Requirement for Tax Increases — Adds complexity and uncertainty to the current tax structure and pressure to increase taxes on commercial, industrial and residential property owners to support public safety services by giving local government new authority to enact a special tax, including parcel taxes, by lowering the vote threshold from two-thirds to only fifty-five percent.

SB 241 (Evans; D-Santa Rosa) Fuel Price Increase — Drives up fuel prices for businesses and consumers by imposing a severance tax at the 9.9% of the gross value of each barrel of oil severed, thereby discouraging production of such oil and gas in this state.

SB 365 (Wolk; D-Davis) Limitations on Tax Credits — Creates uncertainty for California employers making long-term investment decisions by requiring tax incentives end 10 years after its effective date.

SB 622 (Monning; D-Carmel) Targeted Tax — Threatens jobs in beverage, retail and restaurant industries by arbitrarily and unfairly targeting certain beverages for a new tax in order to fund Children's health programs.

SB 686 (Jackson; D-Santa Barbara) Safety Recalls — Exposes car dealers and rental car companies to significant liability and precludes them from renting, leasing, loaning, or selling a car despite the lack of actual knowledge that the car was subject to a recall, that may or may not pose any imminent harm to the consumer or renter.

SB 691 (Hancock; D-Berkeley) Dramatically Increases Pollution Penalties — Dramatically increases existing strict-liability penalties for nuisance-based, non-vehicular air-quality violations, and expands applicability of those penalties to a wide range of businesses previously not subject to the penalties without adequately defining what types and levels of pollution would trigger those penalties.

SCA 3 (Leno; D-San Francisco) Lowers Vote Requirement for Tax Increases — Adds complexity and uncertainty to the current tax structure and pressure to increase taxes on commercial, industrial and residential property owners for education programs by giving school districts and community colleges new authority to enact a parcel tax from two-thirds to fifty-five percent.

SCA 4 (Liu; D-La Cañada Flintridge) Lowers Vote Requirement for Tax Increases — Adds complexity and uncertainty to the current tax structure and pressure to increase taxes on commercial, industrial and residential property owners for local transportation projects by giving local government new authority to enact special taxes, including parcel taxes, by lowering the vote threshold from two-thirds to fifty-five percent.

SCA 7 (Wolk; D-Davis) Lowers Vote Requirement for Tax Increases — Adds complexity and uncertainty to the current tax structure and pressure to increase taxes on commercial, industrial and residential property owners to finance library construction by giving local government new authority to enact special taxes, including parcel taxes, by lowering the vote threshold from two-thirds to fifty-five percent.

SCA 8 (Corbett; D-San Leandro) Lowers Vote Requirement for Tax Increases — Adds complexity and uncertainty to the current tax structure and pressure to increase taxes on commercial, industrial and residential property owners for transportation projects by giving local government new authority to enact special taxes, including parcel taxes, by lowering the vote threshold from two-thirds to fifty-five percent.

SCA 9 (Corbett; D-San Leandro) Lowers Vote Requirement for Tax Increases — Adds complexity and uncertainty to the current tax structure and pressure to increase taxes on commercial, industrial and residential property owners to finance community and economic development projects by giving local government new authority to enact special taxes, including parcel taxes, by lowering the vote threshold from two-thirds to fifty-five percent.

SCA 11 (Hancock; D-Oakland) Lowers Vote Requirement for Tax Increases — Adds complexity and uncertainty to the current tax structure and pressure to increase taxes on commercial, industrial and residential property owners by giving local government new authority to enact special taxes, including parcel taxes, by lowering the vote threshold from two-thirds to fifty-five percent.

Expensive, Unnecessary Regulations

✓ **SB 529 (Leno; D-San Francisco) Disposable Fast-Food Container Ban** — Places an unworkable ban on disposable food services containers or single-use carryout bags, unless they can meet an increasing recycling threshold that will reach 75% on July 1, 2020.

SB 617 (Evans; D-Santa Rosa) Comprehensive CEQA Expansion — Inappropriately expands CEQA, slowing development and growth in the state, by increasing CEQA notice filing and publication requirements, inviting more litigation over CEQA projects by overturning a recent court decision and allowing project opponents to challenge EIRs that don't adequately evaluate and mitigate impacts related to conditions and physical features in the environment like sea-level rise and fault-lines, and eliminating several existing CEQA exemptions.

SB 747 (DeSaulnier; D-Concord) Unnecessary New Regulatory Scheme — Establishes a new, duplicative, and burdensome program that requires the Department of Public Health to regulate manufacturers of consumer products that the Department determines contribute to a significant public health epidemic, (ie: obesity, diabetes, cancer, heart disease) and allows the department to restrict or prohibit the sale of such products.

Garcetti - Greuel Ontario Airport Response

Information

The question was submitted via email to both campaigns at 6:40 pm, 3/19.

The Garcetti camp responded at 7:40 pm.

Dear Gene:

Thanks for your interest in the Garcetti for Mayor campaign and for your question on the Ontario Airport. Here's a response that Councilmember Garcetti gave to the LA Times on its questionnaire.

Would you sell or give up control over Ontario International Airport? If so, why?

LAWA is already in negotiations to sell Ontario to the city of Ontario and I fully support local ownership of Ontario if we can get revenues to help the city of LA, boost passenger use of Ontario, and better integrate the airport with the eastern part of LA County and the Inland Empire, which will reduce car traffic throughout the region.

(<http://graphics.latimes.com/towergraphic-where-they-stand-eric-garcetti/>)

Thanks!

Tina Oh
Garcetti for Mayor 2013
818-358-3484

The request was submitted again to Greuel on 2/23 and on 4/2.

SB 33 (Wolk) Infrastructure financing districts: voter approval: repeal

Presentation: Tom Stinson / Assemblymember Marie Waldron's office
Brian Ambrose / City of Murrieta

Background:

Cities and counties can create **Infrastructure Financing Districts (IFDs)** and issue bonds to pay for community scale public works: highways, transit, water systems, sewer projects, flood control, child care facilities, libraries, parks, and solid waste facilities. To repay the bonds, **IFDs divert property tax increment revenues from other local governments -- but not schools** -- for 30 years (SB 308, Seymour, 1990).

Unlike the property in former redevelopment project areas, the property in an IFD doesn't have to be blighted, but an IFD can't overlap a redevelopment project area. The Legislature has declared, but not required, that IFDs should include substantially undeveloped areas.

To form an IFD, the city or county must develop an infrastructure plan, send copies to every landowner, consult with other local governments, and hold a public hearing. Every local agency that will contribute its property tax increment revenue to the IFD must approve the plan. Once the other local officials approve, **the city or county must then get the voters' approval.**

Senate Bill 33 updates an existing financing mechanism for public works projects, while incorporating rigorous accountability measures to ensure local government diligence, positive project results, and healthier community development. SB 33 recognizes the potential for infrastructure financing districts to implement SB 375's (Steinberg, 2008) sustainable communities strategy and the benefits of rehabilitating brownfields from hazardous waste.

Local officials use tax increment financing to divert part of the property tax revenue stream to a separate IFD. A local government must consent and opt-in to the IFD's formation; if an agency doesn't want to participate, its tax increment revenue shares aren't touched. Although IFDs don't raise taxes or generate new revenue, the Legislature required voter approval of IFDs' plans, bonds, and appropriations limits.

SB 33 removes the voter-approval requirement, but still requires annual, independent audits and empowers local decision making. **Voters who have elected their local representatives should let local officials do their job—setting local priorities for spending local revenues.**

Summary:

SB 33 is identical to last year's B 214 (Wolk), which passed the state legislature but was vetoed by Governor Brown. While the **SWCLC did not adopt a position on SB 214**, **each of our local legislators voted against the bill.** In vetoing the bill, Gov. Brown said that *expanding the scope of infrastructure financing districts is premature. This measure would likely cause cities to focus their efforts on using the new tools provided by the measure instead of winding down redevelopment.* It is unclear how the landscape has changed since the Governor's veto seven months ago.

Voter approval.

After preparing an infrastructure financing plan, local officials must get voter approval to:

- Form the IFD, which requires 2/3-voter approval.
- Issue bonds, which requires 2/3-voter approval.
- Set the appropriations limit, which requires majority-voter approval.

SB 33 repeals the statutory requirement for 2/3-voter approval on IFDs' bonds.

Senate Bill 33 repeals the voter approval requirements to form an IFD, issue IFD bonds, and set the IFD's appropriations limit.

Types of projects.

IFDs are authorized to finance different types of projects, including:

The purchase, construction, expansion, improvement, seismic retrofit, or rehabilitation of any real or tangible property, and associated planning and design work of that property.

The purchase of a property, as long as construction has been completed.

Highways, sewage treatment, water treatment, flood control, libraries, child care facilities, parks, and open-space.

Senate Bill 33 expands the list of authorized projects to include levees, water-shed lands, and habitat restoration.

Currently, an IFD cannot finance routine maintenance, repair work, or costs of ongoing operation or services.

Senate Bill 33 repeals this prohibition.

Senate Bill 33 prohibits an IFD from compensating members of the local government's legislative body or members of the public financing authority.

Bond terms. The terms of IFDs' bonds can't be more than 30 years.

Senate Bill 33 extends the maximum term of IFDs' bonds from 30 years to 40 years.

Joint-powers authority. **Senate Bill 33** authorizes a public financing authority to enter into a joint powers agreement, only to exercise power other than taxing authority.

Supporting: *California Building Industry Association*; California Professional Fire-fighters; California State Association of Counties; California Special Districts Association; Cities of Benicia, Emeryville, West Sacramento, and Whittier; County of Yolo; East Bay Economic Development Agency; Economic Vitality Corporation of San Luis Obispo County; Emeryville Chamber of Commerce; *Inland Empire Economic Partnership*; *League of California Cities*; Los Angeles Area Chamber of Commerce; Los Angeles County Division, League of California Cities; Los Angeles County Economic Development Corporation; Long Beach Area Chamber of Commerce; Marin county Council of Mayors and Councilmembers; North Bay Leadership Council; Orange County Business Council; Palm Desert Area Chamber of Commerce ; Sacramento Metro Chamber of Commerce; San Francisco Chamber of Commerce; San Diego Regional Economic Development Corporation; San Gabriel Valley Economic Partnership; Tuolumne County Business Council

Opposing: California Taxpayers Association, Howard Jarvis Taxpayers Association.

Status: Referred to Senate Appropriations

Bay Delta Conservation Plan

Information

[Bay Delta Conservation Plan](#)

Presentation: Patty Arlt / Metropolitan Water District

Background:

The Bay Delta Conservation Plan (BDCP) is being prepared by a group of local water agencies, environmental and conservation organizations, state and federal agencies, and other interest groups.

The BDCP is being developed in compliance with the Federal Endangered Species Act (ESA) and the California Natural Communities Conservation Planning Act (NCCPA). When complete, the BDCP will provide the basis for the issuance of endangered species permits for the operation of the state and federal water projects. The plan would be implemented over the next 50 years. The heart of the BDCP is a long-term conservation strategy that sets forth actions needed for a healthy Delta.

Bay Delta Conservation Plan documents reveal details, stir concerns

By [Matt Weiser](#)
mweiser@sacbee.com

Published: Thursday, Mar. 28, 2013 - 12:00 am | Page 3A

The state's \$23 billion plan to restore native fish in the Delta would continue killing some of those fish at the same rate in drought years, according to a new pile of documents released Wednesday on the project.

The documents are part of the Bay Delta Conservation Plan, a project led by the [California Department of Water Resources](#). It aims to restore endangered fish and improve reliability of freshwater supplies diverted from the [Sacramento-San Joaquin Delta](#).

The project would divert a portion of the [Sacramento River](#) into two tunnels, 35 miles long, built beneath the delta. Diversions would occur at three massive new intakes proposed near Courtland in [Sacramento County](#).

The tunnels would route water to existing state and federal water diversion canals in the south Delta near Tracy. The canals serve 25 million Californians and 3 million acres of farmland from [San Jose](#) to [San Diego](#).

The plan has been in the works for seven years to resolve decades of conflict over Delta water supplies. Gov. Jerry Brown last year made it a centerpiece of his own political agenda.

The plan's goal, in part, is to reduce the number of fish killed now by Delta water diversions. Those diversions reverse the natural currents in the estuary, confusing fish such as Delta smelt and juvenile winter-run salmon, both endangered species.

Officials involved in the conservation plan assert that the new diversions would better protect fish because they would feature modern fish screens and would pump only when least harmful to fish.

Among many other findings, the new documents reveal that south Delta pumps near Tracy would still be used to divert water in dry years. Under those conditions, Delta smelt, a threatened native fish, would still be killed at a rate similar to today.

This is just one effect the project would have, and not necessarily the most significant.

Officials said readers must consider the entire range of effects. For instance, fewer smelt would be killed under other conditions when water diversions occur at the new northern intakes. And thousands of acres of restored habitat are expected to help breed more smelt and more food for them, reducing the significance of each smelt death.

"We don't expect to have improvement in every time period, every season, every life-history period for each species," said Mark Cowin, director of the state Department of [Water Resources](#). "But we do intend to have a net effect that provides for meeting the recovery standard."

Fishery advocates said there is uncertainty about whether the new habitat would produce sufficient benefits.

"Proponents of the peripheral tunnels are asking us to just trust them when it comes to keeping our salmon fishery alive," said John McManus, executive director of the Golden Gate Salmon Association. "We're skeptical, to say the least."

The new plumbing is estimated to cost \$14 billion, to be paid by farm and urban water ratepayers who rely on Delta water, via rate increases to repay bonds issued by DWR.

The plan also calls for converting many Delta islands into 145,000 acres of restored wildlife habitat. This is estimated to cost \$4 billion, which the planners expect all California taxpayers to fund.

The balance of the estimated \$23 billion cost consists of long-term operations and maintenance expenses, which recipients of the water would also pay.

The most crucial chapter released Wednesday is called "Effects Analysis," which describes how the diversion tunnels would alter the environment. The chapter is 656 pages long – not counting 18 appendices. Just one appendix, dealing with effects on fish migration, is 406 pages long.

Other unexpected effects are found deep in the details.

An appendix that deals with upstream environmental effects (656 pages) reveals potential negative effects on salmon and steelhead spawning in the [American River](#), which flows through the Sacramento metropolitan area upstream from the proposed tunnels.

The Bay Delta plan would cause small flow changes in the American River, altering the water available to these fish and the temperatures they can withstand. The changes are small, but potentially worrisome, especially in the fall months of drought years when the river can become too warm to sustain fish under present conditions.

"We're not seeing a pattern of any negative adverse change, although there could be some sporadic changes in some fall years," said consultant Jennifer Pierre of [ICF International](#), which conducted much of the analysis under contract with the state. "We think that's something we need to continue to investigate."

Tom Gohring, executive director of the Sacramento Water Forum, questioned this analysis. After skimming the appendix, he noted the analysis is based on a computer model that relies on temperature and flow data on a monthly scale. Which means, he said, that even if the documents show no ill effects, there could be days or weeks within a month that are deadly to fish which never show up in the results.

The Water Forum, a coalition of water agencies and environmental groups, is preparing its own study of American River flows. It relies on a computer model

from the U.S. Army Corps of Engineers that reveals detail on a daily or shorter time scale.

Gohring noted that steelhead, in particular, are affected by temperature cumulatively. If they get too warm on a hot day, their bodies don't reset overnight

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when the river cools down. If the next day is hot, the harmful effects keep adding up. "The fish don't experience temperature effects on a monthly-average basis," he said. "They experience it on an hour-by-hour, minute-by-minute basis."