



Board Report

File #: 2017-0114, File Type: Federal Legislation / State Legislation (Position)

Agenda Number: 19.

**REVISED**  
**EXECUTIVE MANAGEMENT COMMITTEE**  
**MARCH 16, 2017**

**SUBJECT: STATE LEGISLATION**

**ACTION: ADOPT STAFF RECOMMENDED POSITIONS**

**RECOMMENDATION**

ADOPT staff recommended positions:

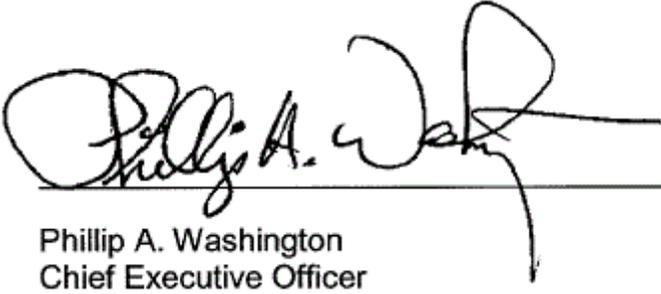
- A. **AB 287 (Holden)** - State Highway Route 710: Advisory Committee **OPPOSE UNLESS AMENDED**
- B. **AB 378 (C. Garcia)** - California Global Warming Solutions Act of 2006: Regulations **SUPPORT**
- C. **AB 408 (Chen)** - Eminent Domain: Final Offer of Compensation **OPPOSE**

**ATTACHMENTS**

- Attachment A – **AB 287 (Holden) Legislative Analysis**
- Attachment B - **AB 378 (C. Garcia) Legislative Analysis**
- Attachment C - **AB 408 (Chen) Legislative Analysis**

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Phillip A. Washington  
Chief Executive Officer

## ATTACHMENT B

**BILL:** ASSEMBLY BILL 378

**AUTHOR:** ASSEMBLYMEMBER CRISTINA GARCIA (D-BELL GARDENS)  
CO-AUTHORS ASSEMBLYMEMBERS C. HOLDEN (D-PASADENA), E. GARCIA (D-COACHELLA)

**SUBJECT:** CALIFORNIA GLOBAL WARMING SOLUTIONS ACT OF 2006:  
REGULATIONS

**STATUS:** REFERRED TO COMMITTEE ON NATURAL RESOURCES

**ACTION:** SUPPORT

### **RECOMMENDATION**

Staff recommends that the Board of Directors adopt a SUPPORT position on Assembly Bill 378 (Garcia). This bill would amend the California Global Warming Solutions Act of 2006, which authorizes the State Air Resources Board (CARB) to monitor and regulate the sources of greenhouse gasses.

The bill would amend the California Global Warming Solutions Act of 2006 to include new mechanisms for achieving the statewide greenhouse gas emission reduction targets of 40 percent below the 1990 level by 2030.

Specifically the bill would:

- Require CARB to consider and account for the social costs of emissions and greenhouse gases when adopting new rules and regulations;
- Authorize CARB to adopt or subsequently revise new regulations that establish a market-based compliance mechanism, applicable from January 1, 2021 through December 31, 2030; and
- Require CARB to adopt the most effective and equitable mix of emissions reduction measures, ensure that emissions reduction measures collectively and individually support achieving air quality and other environmental public health goals.

### **DISCUSSION**

Staff recommends that the Board adopt a support position on the measure, AB 378 (Garcia). As introduced, the bill would require CARB to consider environmental justice and social costs associated with greenhouse gas emissions. This bill is widely supported by a broad coalition of legislators, social justice and environmental groups. The bill aims to compliment last year's Senate Bill 32 (Pavley) and Assembly Bill 197 (E. Garcia), which set aggressive targets for greenhouse gas emission reductions and defined CARB's authority.

AB 387 (Garcia), in its current form, gives CARB the authority to revise current regulations to meet the 2030 targets set under SB 32, while considering social equity and a utilizing a market-based system. The author's intent for the legislation is to consider social justice and quality of life in regulating greenhouse gas emission reduction goals. This bill would require CARB to incorporate market-based mechanisms for reducing greenhouse gases during each step of regulation and Global Warming Solutions Act program implementation. The bill aims to give CARB the flexibility to introduce and amend regulations to meet reduction targets, without relying solely on the success of cap-and-trade.

Staff recommends that the Board adopt a SUPPORT position on the measure AB 378 (Garcia).

### **DETERMINATION OF SAFETY IMPACT**

There is no determined safety impact due to the enactment of the proposed legislation.

### **FINANCIAL IMPACT**

The estimated financial impact has yet to be determined.

### **ALTERNATIVES CONSIDERED**

Staff has considered adopting either an oppose or neutral position on the bill. An oppose or neutral position would be inconsistent with Metro's Board approved 2017 State Legislative Program Goal #6 which is to coordinate with local and state partners to incorporate the region's needs in emerging climate change and sustainability programs.

### **NEXT STEPS**

Should the Board decide to adopt a SUPPORT position on this measure; staff will communicate the Board's position to the author and work to ensure inclusion of the Board's priorities in the final version of the bill. Staff will continue to keep the Board informed as this issue is addressed throughout the legislative session.

## ATTACHMENT C

**BILL:** ASSEMBLY BILL 408

**AUTHOR:** ASSEMBLYMEMBER PHILLIP CHEN (R-DIAMOND BAR)

**SUBJECT:** EMINENT DOMAIN: FINAL OFFER OF COMPENSATION

**STATUS:** REFERRED TO COMMITTEE ON JUDICIARY  
HEARING SCHEDULED: MARCH 14, 2017

**ACTION:** OPPOSE

### **RECOMMENDATION**

Staff recommends that the Board of Directors adopt an OPPOSE position on Assembly Bill 408 (Chen). This bill would amend existing law related to final offers of compensation for eminent domain proceedings.

The bill would amend the Code of Civil Procedure relating to eminent domain to provide additional remedies for final compensation in proceedings.

Specifically the bill would:

- Provide that if a court finds, on motion of the defendant, that the offer of the plaintiff was lower than 90 percent of the compensation awarded in the proceeding, then the court would be required to include the defendant's litigation costs in the costs allowed;
- Authorize the court to include the defendant's litigation costs in the costs allowed if the court finds that the offer of the plaintiff was at least 90 percent and less than 100 percent of the compensation awarded in the proceeding.

### **DISCUSSION**

Staff recommends that the Board adopt an oppose position on the measure, AB 408 (Chen). As introduced, the bill would require courts to award litigation costs in eminent domain court proceedings under certain circumstances. This bill would substantively change the rules on when a property owner is entitled to attorney fees in an eminent domain matter.

If the measure is passed, in its current form, it would be highly detrimental to public entities such as Metro, significantly increasing the risk of the agency being required to pay a property owner's attorney fees in eminent domain court proceedings. The bill, as drafted could also incentivize property owners to pursue a trial in lieu of settlement to recoup additional fees and compensation.

David Graeler of Nossaman, LLP, in an e-alert issued on February 21, 2017 wrote that, “Fundamentally, it (AB 408) would cause right-of-way costs to go up dramatically and projects may take longer to build.” The measure would place an undue burden on Metro in eminent domain matters by increasing the cost of litigation and compensation should the final offer not be deemed sufficient.

Staff recommends that the Board adopt an OPPOSE position on the measure AB 408 (Chen).

### **DETERMINATION OF SAFETY IMPACT**

There is no determined safety impact due to the enactment of the proposed legislation.

### **FINANCIAL IMPACT**

The estimated financial impact has yet to be determined.

### **ALTERNATIVES CONSIDERED**

Staff has considered adopting either a support or neutral position on the bill. A support or neutral position would be inconsistent with Metro’s Board approved 2017 State Legislative Program goals. A support position on this legislation would be contrary to our agency’s goal of cost-effectively building highway and transit projects funded under Measure R and Measure M.

### **NEXT STEPS**

Should the Board decide to adopt an OPPOSE position on this measure, staff will communicate the Board’s position to the author and work to ensure inclusion of the Board’s priorities in the final version of the bill. Staff will continue to keep the Board informed as this issue is addressed throughout the legislative session.