FINAL AGENDA
Technical Advisory Committee on Aeronautics

Wednesday, August 3, 2011

1:00 P.M. – 3:00 P.M.

SACRAMENTO INTERNATIONAL AIRPORT
TERMINAL A – Media Conference Room
6900 AIRPORT BOULEVARD
SACRAMENTO, CALIFORNIA

http://www.catc.ca.gov

1:00 PM	1.	Welcome and Introductions	Chris Kunze
1:05 PM	2.	Approval of May 25, 2011 Minutes	Chris Kunze
1:10 PM	3.	Status Reports	
		3a. Caltrans Aeronautics Division • State Budget update	Gary Cathey
		3b. CTC	Robert Chung
		3c. TACA • Establish sub-committee for Nominations for Chair and Vice-Chair	Chris Kunze
1:25 PM	4.	Annual Reports to the Commission 4a. Issues 4b. Accomplishments	
2:00 PM	5.	Legislation	
		5a. Legislative Status Report	Philip Crimmins
		5b. State Legislation 1. AB 81 2. AB 511 3. AB 662 4. AB 731 5. SB 194 6. SB 295 7. SB 446 8. SB 619	John Pfeifer
		5c. Federal Legislation Re-Authorization 1. HR 658 2. S 223	Robert Chung
		5d. Legislative Briefings	
2:35 PM	6.	6a. Center for Environmental Health Notice of Pending Litigation Against AvGas Suppliers	TACA members
2:45 PM	7.	7a. California Aviation System Plan Policy Element Approve Policy Element for submittal to CTC .	Terry Barrie/Derek Kantar
3:00 PM	8.	Other Business/Adjournment	

The next meeting of TACA will be on October 19th at the Sacramento International Airport.

Technical Advisory Committee on Aeronautics
Minutes
Wednesday, May 25, 2011

Sacramento International Airport
Media Conference Room
6900 Airport Boulevard
Sacramento, California

http://www.catc.ca.gov

1. Welcome and Introductions

Chris Kunze, TACA Chair, convened the meeting at 1:03 PM. TACA member attendees made self introductions.

TACA Members Present:
Dan Burkhart, Robin Hunt, Harry Krug, Chris Kunze, Barry Rondinella, Sandy Waters and Tom Weil

Commissioners Present:
Commissioner Joe Tavaglione

Commission Staff Present:
Robert Chung, Maura Twomey, Teresa Favila

Caltrans Staff Present:
Jeff Brown, Terry Barrie, Philip Crimmins and Derek Kantar.

Others Present: Jim Lites of Schott & Lites representing California Airport Council (CAC) and Ted Anasis, San Diego County Regional Airport Authority.

2. Approval of April 13, 2011 Minutes

Mr. Kunze requested that the minutes be clarified regarding several items. Agenda Item 3a.refers to the Division of Aeronautics bringing the Policy Element of the California Aviation System Plan to the June meeting in several places for action rather the August 2011 meeting and should be changed. Agenda Item 6. Left out the word "Development" and should refer to the "Acquisition and Development Match" in the first sentence. TACA members approved the amended minutes on a motion by Mr. Krug and seconded by Mr. Burkhart. Motion carried 6-0.

Mr. Barry Rondinella arrived after the minutes were approved and requested that TACA consider further clarifications. Mr. Krug agreed to amend the motion to include additional changes. Mr. Burkhart, who seconded the motion, agreed to amend the motion. Mr. Rondinella asked that Agenda Item 4b regarding legislation on SB 446 be modified to accurately reflect his statements. Rather than "Mr. Rondinella noted on SB 446 that it seemed the city of Ontario …" the text should read "Mr. Rondinella noted on SB 446 that it seemed ***that to some*** the city of Ontario …". Further he asked that the statement attributed to him that SB 446 represented a taking without compensation was actually a legal interpretation by counsel that opined that SB 446 represented at taking without compensation. With the

recommended clarifications, the minutes were passed 7-0 on the amended motion by Mr. Krug and second by Mr. Burkhart.

3. Status Reports and Upcoming Actions

3a Caltrans Division of Aeronautics

Mr. Jeff Brown reported that Division Chief Gary Cathey was still in Japan in his role as a reserve USAF officer. Mr. Cathey should be back for the next TACA meeting in August. Mr. Brown then reported that Director Cindy McKim retired on May 16. Malcolm Doughtery was promoted to Caltrans Chief Deputy and is serving as interim Director. Rick Land, Chief Engineer is serving as the interim Chief Deputy. For Business, Transportation and Housing Ms Traci Stevens is serving as the acting Undersecretary.

Mr. Brown also mentioned that the latest budget proposals do not impact the Aeronautics Account. Travel for state agencies is restricted and is limited for the fewest number of people needed for mission critical tasks. As a result, the Division of Aeronautics staff will not be attending conferences that the Division normally attends.

Mr. Barrie noted that the Planning Handbook should be on the Division website by June 10 and available for review.

3b. CTC

Mr. Chung informed TACA that the Commission heard as an information item the recommended Acquisition and Development match ratio of 10 percent. The item would be heard in June for action. Mr. Chung next reported that he planned to retire and would take a "soft" exit starting in July. He would return periodically to assist Ms Maura Twomey transition into the role of Chief of Staff for TACA. He then introduced Ms Maura Twomey and Ms Teresa Favila who will assist Ms Twomey. He asked for Ms Twomey and Ms Favila to summarize their respective roles with the Commission.

3c. TACA

Mr. Kunze discussed the proposal to invite the California Airports Council (CAC) to nominate a member to serve on TACA. The CAC Board of Directors intended to nominate the Sacramento County Airport System Director. The CAC decided a more appropriate fit was Stockton Airport, considering the general aviation issues that TACA discussed. Hopefully an appointment would be made by the August meeting. In the meantime, Mr. Lites of Shotts and Lites, executive director for CAC would participate as an interested spectator.

4. San Diego Regional Aviation Strategic Plan

Mr. Ted Anasis, representing the San Diego Regional Airport Authority, discussed the formation of the Authority in 2003, as an independent agency to manage the day-to-day operations of San Diego International Airport and address the region's long-term air transportation needs. The legislation that created the Airport Authority mandates three main responsibilities:

- Operate San Diego International Airport
- Plan for the future air transportation needs of the region

- Serve as the region's Airport Land Use Commission – and ensure the adoption of land use plans that protect public health and safety surrounding all 16 of the county's airports.

SB 10 mandated multimodal airport planning between the Authority and the metropolitan planning organization, SanDAG. Mr. Anasis discussed the need for the Authority and SanDAG to ensure consistency between the decisions made by the two entities regarding the strategic aviation plan and the land side transportation access to the airport. He discussed a three-phase work plan for the regional aviation strategic plan. He stressed the need for coordination of the 12 public use airports and four operators with the regional development to seek the most appropriate airports for additional uses and opportunities. Of the 12 airports, three airports were identified for "Additional Uses/Opportunities"; they were McClellan-Palomar Airport, Gillespie Field and Brown Field Municipal Airport. Four other airports fell in the next category of "May Be Considered"; they were Ramona Airport, Montgomery Field, San Diego International Airport and one outside San Diego County – Tijuana International Airport in Mexico.

Fifteen scenarios were considered in five categories. The categories were: optimized commercial passenger usage, enhanced Tijuana usage, California High Speed Rail usage and stations at key airport locations, general aviation optimization, and air cargo optimization. Two scenarios were eliminated for technical or practical reasons. For example, you can't fly into Brown Field with precision instruments. Tijuana was considered only if a pedestrian bridge on the US side could be built into the airport that could allow for international traffic to past through customs easily.

Next the scenarios were considered from a benefit cost basis to help identify the scenarios that could accommodate the most demand for the least cost. The study then considered the multimodal aspects of accessing the airports from the landside. High-speed rail, transit and roadway improvements were considered. Ground access improvements were proposed for McClellan-Palomar Airport, San Diego International Airport, Gillespie Field and a Cross Border facility at Tijuana. Direct transit service was also proposed for the San Diego International Airport (SDIA) from the I-15 and I-5 corridors and to the proposed cross border facility along the I-15 corridor, the proposed intermodal transit center at SDIA to the border facility and the H Street trolley station. The study for improving the air side and land side of specific airports will be added into the region's 2050 regional transportation plan.

5. <u>Legislation</u>

5a and 5b. Legislative Status Report.

Mr. Crimmins provided an overview on the status of bills (AB 81, AB 511, AB 662, AB 731, SB 295, SB 446, and SB 619) before the Legislature. He noted that AB 81 (Beall) that would cap the sales tax on jet fuel and petroleum products sold to or purchased by air common carriers for domestic flights passed out of the Assembly Committee on Revenue and Taxation. The bill was re-referred to Appropriations.

Mr. Crimmins then discussed AB 511 (Yamada) dealing with marking and lighting towers for meteorological and wind energy projects to improve safety for low flying aircraft. He noted the bill passed out of the Assembly to the Senate. Mr. Crimmins then discussed SB 446 that would cede Ontario Airport from the Los Angeles World Airways to the city of Ontario. He noted that the bill was scheduled for the Senate to consider. SB 619 (Fuller) is a bill dealing with private post-secondary education and would provide exemptions for flight schools and

instructors who do not accept payment for service in advance. The bill moved out of the Senate and will be assigned to the Assembly committees for consideration.

5c. Federal Legislation. Mr. Crimmins discussed federal legislation. He noted that Congress passed the 19th Continuing Resolution. He noted that the Senate and the House have competing bills, S 785 and HR 1474. One has $3.5 billion and the other has $3.1 billion for capital improvements. Competing labor provisions are also a part of both bills. The passenger facility charge (PFC) is proposed to go up to $7.50 per passenger at 10 airports as a pilot test program.

5d. Legislative Briefings. Mr. Chung noted at the last TACA meeting, it was proposed to meet with key legislators to brief them on aviation issues. He recommended that Commissioners Tavaglione and Dunn lead the contingent. TACA Chair Kunze, TACA Vice-Chair Tom Weil, Bruce MacRae and John Pfeifer and Commission staff would be part of the contingent meeting with the Legislature. He noted that TACA members suggested August at the last meeting. Mr. Chung recommended that the details be worked out so that the legislative briefing can take place. Chair Kunze stated that he would inform Mr. MacRae and Mr. Pfeifer of the work to be done.

6. Center for Environmental Health Notice of Pending Litigation Against AvGas Suppliers

Mr. Kunze presented the proposed litigation against 38 airport-based fuel suppliers of lead-containing aviation fuel and the oil companies. He noted the case was filed in State court under Proposition 65. He further noted that USEPA has proposed rule making in regards to lead emissions from general aviation piston aircraft. Also, the Federal Aviation Administration is responsible for regulating aviation activities in the United States. TACA members discussed the pending litigation and its impact on the safety of general aviation. Members noted that the use of lead-based fuel is being phased out. TACA members felt that with the constitutional issues involving interstate commerce and travel and safety for general aviation that the litigation should be at the federal level. TACA asked that the issue be monitored and that TACA may make a recommendation to the Commission as the situation develops. Chair Kunze asked Mr. Sandy Waters to keep TACA apprised of developments.

7. California Aviation System Plan

7a. Policy Element Mr. Derek Kantar and Mr. Terry Barrie presented the draft Policy Element. Mr. Kantar noted that the draft was changed from how it was done in previous years. The Policy Element now explains Caltrans' and the Division's involvement and role in aviation and transportation planning in the first section. The second section goes into the policies that guide the Division's activities, primarily focusing on general aviation. Mr. Kantar asked TACA members to review the Policy Element over the next few weeks and provide comments to the Division by June 14, 2011. The Division will bring back the revised Policy Element based upon TACA comments in August. At the August 3, 2011 meeting, TACA will be asked to recommend that the Commission approve the Policy Element. The approved Policy Element will become part of the California Aviation System Plan and used to support the California Interregional Blueprint project being prepared by Caltrans' Division of Transportation Planning.

TACA members wanted the draft Policy Element further address the need for additional funding, emphasis on NextGen technology implementation, and safety outreach for pilots. Mr.

Kunze requested clarification of the Crime Prevention Through Environmental Design (CPTED) concept mentioned in the report. Mr. Kantar noted that it is simply a suggested design practice used internationally to help reduce crime in public spaces, such as airports, but that the Policy Element was not requiring it providing any lengthy discussion of it.

7b. Capital Improvement Program Ms. Regina Vinson presented the draft Capital Improvement Program (CIP). She noted that the draft 10-year CIP is fiscally unconstrained and will be the basis for the three-year fiscally constrained program. The unconstrained 10-year plan totaled about $3.62 billion. She asked that members approve the 10-year plan; in August, she would bring back a matrix of the program of projects with funding. On a motion by Mr. Rondinella and seconded by Mr. Weil the motion passed

Other Business/Adjournment

Mr. Kunze informed TACA that the State survey with AOPA was ready. It awaited final approval for distribution by AOPA. Next Gen projects in northern and southern California were being started. The state should be involved in the implementation of those projects. Meeting adjourned at 3:33 PM.

M e m o r a n d u m

To: CHAIR AND COMMISSIONERS

CTC Meeting: November 3 -4, 2010

Reference No.: 4.15
Information

From: BIMLA RHINEHART
Executive Director

Subject: **TECHNICAL ADVISORY COMMITTEE ON AERONAUTICS REPORT ON AVIATION ISSUES**

ISSUE:

The Technical Advisory Committee on Aeronautics (TACA) is presenting its annual report on upcoming issues.

BACKGROUND:

TACA reports annually to the Commission on upcoming aviation issues (see attachment). Key issues raised by TACA are incorporated into the Commission's annual report.

The rapidly expanding role of aviation in moving people and goods in the global economy requires the State to act proactively to position itself as a practical and accessible region for commercial and business aviation use. California's economic future depends upon efficient air and surface transportation infrastructure that will connect all areas of the State to the global economy. If California is to remain competitive in the global economy, its aviation system must:

- Be improved to facilitate future growth in air passenger and air cargo movement.
- Provide ground access for and fully integrate increasing freight, business and corporate aviation into the Statewide transportation system by having the State and local jurisdictions plan and/or provide highway and arterials in corridors to and from public airports
- Prevent adverse community aviation impacts by having guidelines in place to provide more protection to airports from incompatible land uses and development.
- Continue a high quality of life for our citizens by integrating land use, transportation and housing, while adhering to established California noise and planning standards for airports.
- Have access to stable federal and increased state funding sources to promote and maintain airports Statewide as part of an overall transportation system of which aviation is part.
- Maintain an economically viable flight training and aviation maintenance training industry in the state which would provide a long term supply of qualified pilots and maintenance personnel.
- Take advantage of NextGen air traffic management technology, to ensure efficient, environmentally friendly, and safety-enhanced aircraft access to the State's airport system.

TACA Report on Aviation Issues

California cannot meet the goals it has for its aviation system, if it continues to leave aviation decision-making to the unpredictable nature of local politics and priorities alone. The State, in cooperation with local, regional, and federal agencies, should provide and identify the leadership and resources needed to develop the aviation system essential to our economy in the 21st Century. California must continually assess its role in aviation to ensure that California remains competitive in the global economy.

Aviation Planning

The policy element of the California Aviation System Plan (CASP) defines the State's continuous aviation system planning process. The policy element defines the roles of federal, State, regional and local participants in the process. It covers issues affecting aviation and aviation's relationship with other modes. The policy element also defines the policies and implementing actions for guiding Caltrans' Division of Aeronautics activities and CASP development, including funding priorities for general aviation and air carrier public use airports in California.

The Caltrans role in aviation includes planning and assisting with the development of infrastructure capacity improvements and the maintenance of the airport system. For several years, the CASP policy element has emphasized how funding limitations restrict Caltrans' role, while also proposing options for increased funding of the State aviation program.

The Commission's role, in addition to providing advice to the Legislature and to the Secretary of Business, Transportation and Housing, is to provide policy direction to Caltrans in the development of the aeronautics plans and programs, adopt the CASP and its various elements, program projects in the Aeronautics Program, and allocate funds.

Existing State Aviation Funding

The State Aeronautics Account represents the sole State source of funding for the Division of Aeronautics and the programs it administers. Revenue sources for the Aeronautics Account include an 18-cent per gallon excise tax on general aviation gasoline and a two-cent per gallon excise tax on general aviation jet fuel. Air carrier, military aircraft and aviation manufacturing are exempt from the two-cent per gallon excise tax on jet fuel. The annual revenue transferred by the State Controller's Office (SCO) into the State Aeronautics Account has steadily decreased. In fact, the highest transfer of $8.36 million occurred in Fiscal Year (FY) 1999-00 and since then it has declined steadily. In FY 2009-10, the SCO reported a transfer of $ 5.2 million into the State Aeronautics Account, the Account continues to slowly decline in absolute numbers and certainly in terms of purchasing power. In the past, increased general aviation jet fuel sales have helped slow the decline, but the downward trend will continue in the State Aeronautics Account until another funding source comes on line.

The Commission has long supported increasing State funding to develop an integrated system of airports that adequately meets the demands of California's economy. The Commission supports redirecting a portion of State sales tax revenues from the sale of general aviation jet fuel and general aviation fuel to fund State aviation programs. These tax revenues are a "user fee" paid by the aviation industry and users.

California's general aviation system is deteriorating under current funding conditions. In California, aviation and related activities represent nine percent of the State's gross domestic product. General aviation generally receives about $7 to $8 million annually from excise taxes on general aviation gasoline and jet fuel, while the bulk of the approximately $150 million in annual excise taxes goes to the General Fund. Of the $ 8 million from excise taxes, about $ 4 million is available for capital projects. This amount is much less than the $15 to $50 million annually that other comparable state capital programs are appropriated, according to a survey by the National Association of State Aviation Officials.

In the Department's latest ten-year Capital Improvement Program, the local agencies are requesting $85 million from the State. The $4 million annual capital funding for general aviation is insufficient; it is estimated that about $9 million more is required annually. As currently constituted, with most of the revenues directed to the General Fund, the Aeronautics Account is not an adequate, reliable dedicated funding source for important safety, security, capacity, airport land use compatibility, and other related airport projects.

If the Legislature and the Administration were to establish an additional percentage transfer from the general aviation jet fuel sales tax from the State General Fund to the State Aeronautics Account as a set minimum, it would establish a stable baseline of aviation funding. Since the State Aeronautics Account is declining, an annual baseline minimum would provide some of the resources to develop a program to meet future aviation needs. California could make significant progress in implementing State priorities for increasing airport capacity and safety, security, enhancing air passenger mobility, improving air cargo efficiency, mitigating the impacts of airport operations on local communities, and mitigating the impacts of land use encroachment on airport operations.

In addition to establishing an additional funding source, the existing Aeronautics Account must be protected to prevent the transfer of funds to other accounts. The State's adopted 2009-2010 budget transferred $4 million from the Aeronautics Account to the General Fund, thus eliminating existing funds that should be dedicated to the State's three airport funding programs. That budget action also suspended for the 2009-2010 fiscal year the Public Utilities Code provisions establishing the funding programs. Therefore, aviation fuel excise taxes can continue to be collected and deposited in the Aeronautics Account, but those funds lie fallow and cannot be used for airport purposes.

As such, to ensure that adequate Aeronautics Account resources are available to address the State's aviation needs, it is recommended that:

- The user-funded Aeronautics Account should not be diverted to non-aviation uses.
- At least, the most recent diversion (of the 3 during the past 10 years) of $4 million should be reimbursed to the Aeronautics Account.
- This past fiscal year's suspension of grant programs should not be repeated.
- An additional percentage of aviation user fee revenue should be appropriated to the Aeronautics Account, in order to address the approximately $9 million in annual State underfunding of California's primarily general aviation airport capital needs.

Federal Re-authorization of Vision 100

Vision 100, Century of Flight Authorization Act of 2003, is a four-year statute that lapsed in September of 2007. The Act provides funding for the Federal Aviation Administration's Airport Improvement Program. These revenues are extremely important for the overall preservation and enhancement of California's Public Use Airport System. Nationwide the annual authorized AIP funding levels averaged around $3.55 billion. California typically receives around eight to ten percent of the funds appropriated.

Over the past several years, the Federal Aviation Administration proposed smaller appropriations than the authorized levels for the AIP program, including general aviation airport allocations, and the Small Community Air Service Development Program. Smaller appropriations have negatively impacted the funding for nearly 200 of California's general aviation airports. The Legislature and Governor should continue to inform the California Congressional delegation of the need to maintain and increase the federal funding, including appropriations, for aeronautics in the next re-authorization.

This year Congress attempted to pass a three-year extension of Vision 100. Congress, however, was unable to agree on a long-term reauthorization of federal aviation policies and programs. Congress extended the current taxes and FAA spending authority through December 31, 2010. FAA can continue to collect taxes for and make expenditures from the Airport and Airway Trust Fund. A complete reauthorization package must provide long-term stability and continue to modernize America's aviation system through accelerated implementation of NextGen technology. The reauthorization should also increase the user-fee based grant funding for airport capital needs, should increase the cap on Passenger Facilities Charges (PFCs) which airports can collect to support capital needs, and should increase funding for Essential Air Service/Small Community Air Service Development/Contract Tower/Voluntary Airport Low Emission programs. Finally, the reauthorization should not include any legislated requirements for new fire fighting standards, which if needed should be done through the established Federal Aviation Administration led Aviation Rulemaking Advisory Committee process.

Continuing Aeronautics Issues

The Commission, based on proposals from TACA, should recommend that the Legislature and the Administration act to address State aviation system needs through legislation that would provide an additional stable funding source of about $9 million per year from the general aviation sales tax on jet fuel for the Aeronautics Account. The Commission would program and allocate the funding to publicly owned general aviation airports and air carrier public use airports for activities addressing airport safety/security, capacity needs, and needed studies such as economic and land use studies, and comprehensive land use compatibility plans to enhance the capacity and capability of those airports.

In 2009, the Legislature passed and the Governor signed the California Private Postsecondary Education Act of 2009 (AB 48, Portantino). This legislation was enacted without any notification to or collaboration with the aviation industry. The prior legislation, enacted in 1989, included a provision that partially exempted flight training and aircraft maintenance training activities approved

by the Federal Aviation Administration (FAA) from the provisions of the implementing regulations. Over concern about the impact of the failure of a major national flight training company in 2008, which reportedly left thousands of students with large debts and no completed training, AB 48 eliminated the exemption for FAA-approved schools. The California Bureau for Private Postsecondary Education (BPPE) interprets the provisions of AB 48 to apply to all flight training and aviation maintenance training, without regard to the size of the facility, including application to independent Certified Flight Instructors. Many flight schools and independent instructors report that the fees required to obtain BPPE approval to operate will put them out of business. Two bills were introduced to delay enforcement of AB 48 on FAA- approved schools pending a legislative review of the situation. AB 1140 was a stand alone bill to delay enforcement. It was placed on the Senate inactive file on August 31. AB 1889 contained similar provisions, in addition to omnibus corrections to AB 48 not involving aviation. AB 1889 passed on August 31 with bipartisan support and was enrolled. AB 1889 only delays enforcement of AB 48 with regards to aviation until July 1, 2011. AB 1889 was vetoed by the Governor for non-aviation reasons. A long term legislative solution may be required to allow for some state oversight of FAA-approved schools while maintaining the economic viability of the flight training and aircraft maintenance training industry in the State.

At the Commission's direction, TACA will work in 2011 with representatives of the Business, Transportation and Housing Agency and the Department to:

- Identify potential roles and policies for the State in developing California's aviation system, including remote area access and State-wide emergency response support.
- Support appropriate legislative proposals that would:
  - dedicate the Aeronautics Account revenues derived from the existing general aviation jet fuel and general aviation excise tax and the potential set-aside of a portion future general aviation jet fuel sales tax for aviation purposes.
  - increase funding for Caltrans to assist smaller airports in securing State and federal aviation grants, to ensure that California receives the maximum amount of federal funding and uses State funds effectively for planning and matching fund purposes.
  - update the California Public Utilities code sections 21670 through 21679 to further solidify and strengthen airport land use law to preclude and prevent incompatible land use around airports.
  - amend current statute to allow local agencies to request Commission approval for an agency to use its own funds, to advance funding for the required match of a Federal Airport Improvement Program grant with the agreement for later repayment by the State.
  - amend current statute to exempt oversight of Federal Aviation Administration approved flight training and aircraft maintenance training by the California Bureau for Private Postsecondary Education
- Authorize and fund the Caltrans Division of Aeronautics to provide information to pilots and business aviation departments to promote the use of a larger number of California's airports and use more efficiently the existing system capacity. Existing and newly upgraded facilities often are under-utilized and have available capacity for more flights. Now and in the future, Caltrans

could help to manage both highway congestion and runway congestion by marketing alternatives to congested airports that are within a convenient distance of major business destinations.

- Continue working on "Focus Points" identified by TACA as important to its on-going efforts to support California aviation and properly advise the Commission:
  - Communicate through and to the Commission and others the importance of Division of Aeronautics and Aeronautics CIP funding,
  - Support goals and the mission of Commission and Caltrans Aeronautics Division through such activities as the review and input on:
    - the California Aviation System Plan System Requirements Element,
    - NextGen activities and implementation, and
    - ALUC information and education materials.
- Solicit and receive input from stakeholders regarding needs that the State should address at its level (e.g. ALUC handbook, participation in State stakeholders summits, and direct communications with aeronautics groups.)
- Identify and track aviation and airport dynamics on a proactive basis, as well as identifying Statewide interests and responsibilities. This could include making recommendations for updates to the CASP System Requirements Element, recommendations based on consideration of the increasing importance of reliever/regional airports in light of hub-airport capacity constraints, population location, <u>and</u> opportunities provided by military base reuse, and recommendations based on consideration of the air travel infrastructure needs associated with evolving trends.
- Track, and recommend State involvement where appropriate, in evolving areas with potential airport impacts, such as aviation safety and security.
- Support Division of Aeronautics activity to promote use of alternate airports for general aviation, air cargo, air taxi, and other uses, as well as near-term NextGen applications for enhanced system safety, capacity and efficiency.
- Ensure that TACA membership well-represents aviation stakeholders within the State.

M e m o r a n d u m

To: CHAIR AND COMMISSIONERS

CTC Meeting: November 3-4, 2010

Reference No.: 4.14
Information

From: BIMLA RHINEHART
Executive Director

Subject: **TECHNICAL ADVISORY COMMITTEE ON AERONAUTICS REPORT ON ACCOMPLISHMENTS**

ISSUE:

The Technical Advisory Committee on Aeronautics (TACA) is presenting its annual report on its accomplishments.

BACKGROUND:

TACA reports annually on its accomplishments and key parts of its report are used in developing the Commission's annual report to the Legislature.

During 2010, TACA:

- Continued to recommend that the Commission support legislation that would provide a stable funding source, as well as increased funding, for the Aeronautics Account.
- Recommended that the Commission retain a match rate of 10% that local agencies must provide to obtain State funds for Acquisition and Development projects. The Commission adopted TACA's recommendation at its June 30 –July 1 meeting.
- Considered and tracked bills regarding: Airport land use commissions (SB 1141); avigation easements (SB 1333); private postsecondary education (AB1140 & AB 1889); emergency flights for medical purposes (AB 1660); general aviation (AJR 33); and Santa Monica airport (AJR 41).
- Continued to receive briefings and tracked FAA funding reauthorization, which is now in its 16th continuing resolution without an adopted new authorization.
- Continued its recommendation that the Commission support legislation dealing with the impacts on airports from incompatible land use. TACA members actively supported SB 1141 (Negrete McLeod), which sought to update the California Public Utilities Code to solidify and strengthen airport land use law to preclude and prevent further incompatible land use around airports. SB 1141 passed the Legislature. On September 25, 2010, however, the Governor returned SB 1141 without his signature.

- Received briefings on the impact of the California Private Postsecondary Education Act of 2009 on flight training and aircraft maintenance training in California. The Act imposes a fee structure on flight training and aircraft maintenance training that could all but end this training in California, have serious long term unanticipated economic consequences, and put thousands of aviation professionals out of jobs. Two bills were introduced to delay the impact of AB 48 on the aviation industry. Only AB 1889 passed the Legislature and was forwarded to the Governor. The Governor vetoed the bill on a non-aviation issue because the Governor felt the Legislature over-stepped it authority by requiring the Bureau for Private Postsecondary Education, an executive branch agency, to follow specific staffing requirements prescribed by the Legislature.
- Received briefing on how airports are integrated into the Bay Area Disaster Recovery Program, as well as an update on the Southern California Association of Governments Regional Transportation Plan.
- Had discussions with the federal Transportation Security Administration (TSA) regarding their general aviation threat assessment efforts.
- Comprehensively reviewed and provided input to the Division of Aeronautics on updating its State Airport Land Use Planning Handbook and its General Aviation Needs Assessment component of its California Aviation System Plan.
- Reviewed and recommended approval of the Division of Aeronautics' Three-year Aeronautics Program.
- Monitored potential EPA rulemaking regarding general aviation lead emissions.
- Continued to receive briefings on NextGen air traffic control/routing equipment and protocols. The new technology when implemented will reduce fuel consumption, CO_2 and other emissions, as well as reduce flight times.

2010 ACTIVITY AND ACCOMPLISHMENTS

Air Transportation

The policy element of the California Aviation System Plan defines the State's continuous aviation system planning process, and defines the roles of federal, State, regional and local participants in the process. This provides guidance in preparing the Aeronautics Program, which comes from a 10-year Capital Improvement Plan comprised of a fiscally unconstrained list of projects from eligible airports. The Aeronautics Program, a biennial three-year program of projects, is fiscally constrained. The Aeronautics Account, which receives revenues from State general aviation fuel and jet fuel taxes, funds the Aeronautics Program. Funding from the Aeronautics Program, combined with local matching funds, is used to receive federal Airport Improvement program (AIP) grants and fund capital outlay projects at public-use airports through the Acquisition and Development (A&D) element of the California Aid to Airports Program (CAAP). The CAAP also includes a statutory annual credit grant program, which provides annual non-discretionary grants of $10,000 for each publicly-owned, public-use general aviation airport in the State. Aeronautics Account funds are applied first to Caltrans aeronautics operations and the annual credit grant program. Any remaining funds are then available for the projects in the Aeronautics Program adopted by the Commission.

The Fiscal Year 2009-2010 State budget transferred $4 million from the Aeronautics Account to the General Fund. In addition, the budget provisions suspended the provisions authorizing to Division of Aeronautics to issue grants until January 1, 2011. Consequently, no financial aid to airports has been awarded from the FY 2009-2010 budget.

During the year, the Commission received advice from its Technical Advisory Committee on Aeronautics (TACA) regarding the Aeronautics Program and the matching ratios of the Aeronautics grant programs. On June 30, 2010, the Commission retained a match rate of 10% that local agencies must provide to obtain State funds for Acquisition and Development projects. The Commission also received advice from TACA on pending legislation. TACA members, representing their own organizations, also actively supported SB 1141 (Negrete McLeod) and AB 1889 (Portantino), which the Commission supported.

Commission's Aviation Responsibilities

The Commission's primary responsibilities regarding aeronautics include:

- advising and assisting the Legislature and the Secretary of the Business, Transportation and Housing (BT&H) Agency in formulating and evaluating policies and plans for aeronautics programs;
- adopting the California Aviation System Plan (CASP); a comprehensive plan defining State policies and funding priorities for general aviation and commercial airports in California; and
- adopting and allocating funds under the biennial three-year Aeronautics Program, which directs the use of Aeronautics Account funds to:
  - provide a part of the local match required to receive Federal AIP grants; and
  - fund A&D capital outlay projects for airport rehabilitation, safety and capacity improvements at public-use airports.

Under Section 14506.5 of the California Government Code, the chairman of the California Transportation Commission appoints a Technical Advisory Committee on Aeronautics (TACA), after consultation with members of the aviation industry, airport operators, pilots, and other aviation interest groups and experts, as appropriate. TACA gives technical advice to the Commission on the full range of aviation issues considered by the Commission. The current membership of TACA includes representatives from airport businesses, pilots and aircraft owners, managers of commercial and rural airports, managers of operations at major commercial airports, a past manager of a commercial air and spaceport, metropolitan and local planning organizations, and federal and State aviation agencies.

This statutorily mandated advisory committee lends its expertise to the Commission as the Commission carries out its responsibility in advising the Secretary of the BT&H Agency and the Legislature on State policies and plans for transportation programs in California. TACA has been working with Caltrans, the BT&H Agency and the Legislature to develop potential stable revenue sources and to clarify roles and policies for the State in developing and maintaining California's aviation system.

The members of the Technical Advisory Committee on Aeronautics are:

- Michael Armstrong, Aviation Program Manager, Aviation Planning, Southern California Association of Governments
- Daniel Burkhart, Director of Regional Programs, National Business Aviation Association
- Gary Cathey, Chief, Division of Aeronautics, California Department of Transportation, Ex Officio
- Harry A. Krug, Association of California Airports, Airport Manager, Colusa County Airport
- Chris Kunze, TACA Chairman, Staff Advisor, Long Beach Municipal Airport
- Barry Rondinella, Deputy Director of Operations, Sacramento County Airport System.
- Robin Hunt, Federal Aviation Administration, Ex Officio
- Mark F. Mispagel, Attorney/Consultant, Law Offices of Mark F. Mispagel
- John Pfeifer, Aircraft Owners and Pilots Association (AOPA), California Regional Representative
- Alexander Waters, Vice President of Business Development, KaiserAir, Inc.
- William T. Weil, Jr., TACA Vice-Chairman, City of California City~~.~~
- Joseph Tavaglione, California Transportation Commission, Commission Liaison

Acquisition & Development Match Rate Unchanged

By statute, the Commission annually establishes a local matching rate between 10% and 50% that local agencies must meet to receive Acquisition and Development (A&D) grants. At its June 2010 meeting, based upon the Department's and TACA's advice, the Commission retained the 10 percent A&D local match requirement that it originally established in 1995. This action continues to ensure that the maximum number of airports participate in the Aeronautics Program. Further, a low match rate does not result in a small number of large grants because statute limits California Aid to

Airports Program A&D Grants to a maximum of $500,000 per airport per year. However, as noted above, the 2009-2010 state budget act suspended this program through January 1, 2011.

State Legislation

The Commission advises and assists the Legislature and the Secretary of the BT&H Agency in formulating and evaluating policies and plans for aeronautics programs. The Commission is concerned about the shifting of Aeronautics Account funds to the General Fund. In fact, the Commission focused over the last few years on the need to establish a stable funding source and for additional funding to allow more capital improvements for general aviation. TACA recommended legislation to make the Aeronautics Account a stable revenue source. The suggested legislation would prohibit permanent transfer of funds from the Aeronautics Account to the General Fund. Under the suggested legislation, the State shall repay all transfers, as if they were loans, with interest at a specified future date.

The Commission is also concerned about the impacts from incompatible land use around airports and recommended that the Legislature take action on this issue. For several years, the Commission has included in its Annual Report the recommendation to work with representatives of the Business, Transportation and Housing Agency and the Department to: "…update, as necessary, the California Public Utilities Code sections 21670 through 21679 to further solidify and strengthen airport land use law to preclude and prevent incompatible land use around airports." Over the last four years, several TACA members, representing their respective organizations, and Commission staff met with several legislative staffs regarding the Commission recommendation on incompatible land use around airports.

In 2008, Senator Gloria Negrete McLeod introduced SB 1118 which died in the Assembly at the end of the two-year session. On February 27, 2009, with the start of a new two-year session, Senator Gloria Negrete McLeod introduced the same legislation as SB 737: Airports: airport land use commissions. That bill died in the Senate Appropriations Committee because of analysis that determined that the reinstatement of required Airport Land Use Commissions would be an unfunded state mandate. In February, 2010, the Senator introduced SB 1141. The bill was sponsored by the Aircraft Owners and Pilots Association and strongly supported by the Association of California Airports, the Southwest Chapter of the American Association of Airport Executives, the California Pilots Association, and the National Business Aviation Association, as well as a number of smaller associations. The bill made a number of technical corrections to current code and established the authority of the California Division of Aeronautics to utilize aeronautics account funds (annual credits) to fund startup costs for counties without Airport Land Use Commissions to establish Airport Land Use Commissions. Primary opposition to the bill came from the County of San Bernardino and the City of Watsonville, neither of which are in compliance with current code. The bill passed in both houses of the legislature on August 30 and was enrolled. On September 25, 2010, the Governor vetoed SB 1141. The Governor felt that existing law provides local officials sufficient land use tools to protect their airports from encroaching development and to protect the public. Further, the Governor felt the bill fiscally punishes those local governments who believe they can make good land use decisions on their own accord without countywide airport land use commissions.

In 2009, the Legislature passed and the Governor signed the California Private Postsecondary Education Act of 2009 (AB 48). This legislation was enacted without any notification to or collaboration with the aviation industry. The prior legislation, enacted in 1989, included a provision that partially exempted flight training and aircraft maintenance training activities approved by the Federal Aviation Administration (FAA) from the provisions of the implementing regulations. Over concern about the impact of the failure of a major national flight training company in 2008, which reportedly left thousands of students with large debts and no completed training, AB 48 eliminated the exemption for FAA-approved schools. The California Bureau for Private Postsecondary Education (BPPE) interprets the provisions of AB 48 to apply to all flight training and aviation maintenance training, without regard to the size of the facility, including application to independent Certified Flight Instructors. Many flight schools and independent instructors report that the fees required to obtain BPPE approval to operate will put them out of business.

Two bills were introduced to delay enforcement of AB 48 on FAA-approved schools pending a legislature review of the situation. AB 1140 was a stand alone bill to delay enforcement. It was placed on the Senate inactive file on August 31. AB 1889 contained similar provisions, in addition to omnibus corrections to AB 48 not involving aviation. AB 1889 passed on August 31 with bipartisan support and was enrolled. AB 1189 was vetoed by the Governor because he felt the Legislature over-stepped it authority by requiring the Bureau for Private Postsecondary Education, an Executive Branch agency, to follow specific staffing requirements prescribed by the Legislature. This, according to the Governor, is both an inappropriate and unacceptable action to micro-manage and burden the implementation of regulatory policy.

Federal Re-Authorization for Aeronautics

Vision 100, Century of Flight Authorization Act of 2003, is a four-year statute that lapsed September 2007. The Act provides funding for the Federal Aviation Administration's Airport Improvement Program. These revenues are extremely important for the overall preservation and enhancement of California's Public Use Airport System. Nationwide the annual authorized AIP funding levels averaged around $3.55 billion. California typically receives around eight to ten percent of the funds appropriated.

This year Congress continued to attempt to pass a three-year extension of Vision 100. Congress, however, was unable to agree on a long-term reauthorization of federal aviation policies and programs. Congress extended current taxes and FAA spending authority through December 31, 2010. A complete reauthorization package must provide long-term stability and continue to modernize America's aviation system through accelerated implementation of Next Generation technology.

With regards to the federal re-authorization, in 2009 TACA advised and the Commission recommended the following set of guiding principles to support California's airports and aid the California Congressional Delegation in Washington, DC in its efforts to maintain and increase the federal funding, including appropriations, as follows:

- Reauthorization should be multi-year, to permit airports to plan ahead on more than a year-to-year basis.

- Reauthorization should provide increased Airport Improvement Program (AIP) funding to meet airports' capital improvements needs.

- Reauthorization should increase passenger facility charges (PFCs) to meet airports' capital improvement needs with less reliance on grants and operating revenues, and the PFCs should be inflation indexed to maintain its project production value.

- Reauthorization should NOT include any legislated requirements for new fire fighting standards. Any such potential changes should follow the Federal Aviation Administration (FAA) led Aviation Rulemaking Advisory Committee process.

- Reauthorization should increase funding for Essential Air Service, Small Community Air Service Development, and Contract Tower Programs.

- Reauthorization should increase funding for the environmental initiative Voluntary Airport Low Emission (VALE) program, including such funding for non-commercial service airports.

- Reauthorization should provide increased funding for Next Generation Air Transportation System (NextGen) implementation.

- Reauthorization should provide increased funding for runway safety area improvements.

AMENDED IN ASSEMBLY MAY 24, 2011

AMENDED IN ASSEMBLY APRIL 25, 2011

AMENDED IN ASSEMBLY MARCH 23, 2011

AMENDED IN ASSEMBLY FEBRUARY 16, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL No. 81

Introduced by Assembly Member Beall
(Coauthor: Assembly Member Jeffries)

January 4, 2011

An act to add and repeal Section 6357.8 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 81, as amended, Beall. Sales and use taxes: exemptions: fuel and petroleum products: air common carriers.

The Sales and Use Tax Law imposes a tax on retailers measured by the gross receipts from the sale of tangible personal property sold at retail in this state, or on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer for storage, use, or other consumption in this state. That law provides various exemptions from that tax, including an exemption for the gross receipts from the sale of, and the storage, use, or other consumption of, fuel and petroleum products sold to an air common carrier for immediate consumption or shipment in the conduct of its business on an international flight.

This bill would, on or after January 1, 2012, exempt from those state taxes, gross receipts or sales price in excess of the average spot price

over the previous 5 years, per gallon, derived from the sale in this state of, and the storage, use, or other consumption in this state of, fuel and petroleum products sold to or purchased by an air common carrier for consumption or shipment in the conduct of its business on a domestic flight, as specified. The bill would repeal these provisions on January 1, 2017, unless *the Legislative Analyst's Office, in cooperation with* the Employment Development Department, makes a specified finding, in which case the bill would repeal these provisions on January 1, 2020.

This bill would also require the State Board of Equalization, beginning on January 1, 2013, and annually thereafter, to submit a report to the Legislature setting forth the state fiscal impact of the exemption, and would require *the Legislative Analyst's Office, in cooperation with* the Employment Development Department, to submit a report to the Legislature and the Department of Finance on or before October 1, 2016, determining whether *a net increase of* 2,000 or more *airline industry* jobs have been or are expected to be created *in California* by the bill on or before January 1, 2017.

The Bradley-Burns Uniform Local Sales and Use Tax Law authorizes counties and cities to impose local sales and use taxes in conformity with the Sales and Use Tax Law, and existing law authorizes districts, as specified, to impose transactions and use taxes in accordance with the Transactions and Use Tax Law, which conforms to the Sales and Use Tax Law. Exemptions from state sales and use taxes are incorporated into these laws.

This bill would specify that this exemption does not apply to local sales and use taxes or transactions and use taxes~~, unless the governing body of the taxing county, city, or district authorizes an exemption and provides notice to the board on or before December 1, 2011~~.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 6357.8 is added to the Revenue and
2 Taxation Code, to read:
3 6357.8. (a) (1) On and after January 1, 2012, and before
4 January 1, 2020, there are exempted from the taxes imposed by
5 this part, the gross receipts or sales price in excess of the average
6 spot price over the previous five fiscal years, per gallon, as

determined by the board, derived from the sale in this state of, or the storage, use, or other consumption in this state of, fuel and petroleum products sold to or purchased by an air common carrier for consumption or shipment in the conduct of its business as an air common carrier, on a domestic flight.

(2) For application in the 2011–12 fiscal year, the board shall, on or before October 1, 2011, determine the average spot price over the previous five fiscal years, per gallon, derived from the sale in this state of, or the storage, use, or other consumption in this state of, fuel and petroleum products sold to or purchased by an air common carrier for consumption or shipment in the conduct of its business as an air common carrier, on a domestic flight.

(3) For application in the 2012–13 fiscal year and each fiscal year thereafter, the board shall, on or before March 1 preceding that fiscal year determine the average spot price over the previous five fiscal years, per gallon, derived from the sale in this state of, or the storage, use, or other consumption in this state of, fuel and petroleum products sold to or purchased by an air common carrier for consumption or shipment in the conduct of its business as an air common carrier, on a domestic flight.

(b) To qualify for the exemption, the air common carrier shall furnish to the seller an exemption certificate in the form prescribed by the board. Acceptance in good faith of that certificate shall relieve the seller from liability for that portion of the sales tax exempted under this section.

(c) For purposes of this section, the following definitions apply:

(1) "Air common carrier" ~~has the same meaning as that set forth in Section 23046 of the Business and Professions Code.~~ *means any person who engages in the business of transporting persons or property for hire or compensation and who offers these services indiscriminately to the public or to some portion of the public.*

(2) "Domestic flight" means a flight whose final destination is a point inside of the United States.

(d) Any air common carrier claiming exemption under this section that is not required to hold a valid seller's permit, shall be required to register with the board and obtain a fuel exemption registration number, and shall be required to file returns as the board may prescribe, either if the board notifies the carrier that returns must be filed or if the carrier is liable for taxes based upon

consumption or transportation of fuel or petroleum products erroneously claimed as exempt under this section.

(e) An air common carrier claiming an exemption under this section, upon request, shall make available to the board records, including, but not limited to, a copy of a log abstract, an air waybill, or a cargo manifest, documenting its consumption or transportation of the fuel or petroleum products on a domestic flight and the amount claimed as exempt. If the carrier fails to provide these records upon request, the board may revoke the carrier's fuel exemption registration number.

(f) The board may require any air common carrier claiming an exemption under this section and required to obtain a fuel exemption registration number, to place with it such security as the board may determine pursuant to Section 6701.

(g) Pursuant to this section, any use of the fuel and petroleum products by the purchasing carrier, other than that incident to the delivery of the fuel and petroleum products to the carrier and the consumption or transportation of the fuel and petroleum products by the carrier on a domestic flight for use in the conduct of its business as a common carrier, or a failure of the carrier to document its consumption or transportation of the fuel and petroleum products on a domestic flight, shall subject the carrier to liability for payment of sales tax as if it were a retailer making a retail sale of the property at the time of that use or failure, and the sales price of the property to it shall be deemed to be the gross receipts from the retail sale.

(h) ~~(1)~~ Notwithstanding any provision of the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)) or the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)), the exemption established by this section shall not apply with respect to any tax levied by a county, city, or district pursuant to, or in accordance with, either ~~of those laws, unless approved by the local government that would otherwise receive the revenues derived from the taxes imposed under those laws.~~ *of those laws.*

~~(2) The governing body of any county, city, or district may enact an ordinance to authorize the exemption as described in subdivision (a) with respect to taxes levied by that entity, and shall notify the State Board of Equalization of this action on or before December 1, 2011.~~

(i) (1) On January 1, 2013, and annually thereafter, the State Board of Equalization shall submit a report to the Legislature setting forth the state fiscal impact of the exemption allowed under this section.

(2) ~~(A) The Employment Development Department~~ *The Legislative Analyst's Office, in cooperation with the Employment Development Department,* shall submit a report to the Legislature and the Department of Finance on or before October 1, 2016, determining whether *a net increase of* 2,000 or more *airline industry* jobs have been created, or are expected to be created, *in California* on or before January 1, 2017, as a result of this section.

~~(B) The requirement for submitting a report imposed under subparagraph (A) is inoperative on October 1, 2020, pursuant to Section 10231.5 of the Government Code.~~

(3) A report to be submitted pursuant to ~~paragraphs (1) and (2)~~ *paragraph (1)* shall be submitted in compliance with Section 9795 of the Government Code.

(j) This section shall remain in effect only until January 1, 2017, and as of that date is repealed, unless *the Legislative Analyst's Office, in cooperation with* the Employment Development Department, makes a finding on or before January 1, 2017, that *a net increase of* 2,000 or more *airline industry* jobs have been created *in California* as a result of this section, in which case this section shall remain in effect until January 1, 2020, and as of that date is repealed.

~~SEC. 2. Notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any sales and use tax revenues lost by it under this act.~~

~~SEC. 3.~~

SEC. 2. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

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AMENDED IN ASSEMBLY APRIL 13, 2011

AMENDED IN ASSEMBLY MARCH 31, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL No. 511

Introduced by Assembly Member Yamada

February 15, 2011

An act to add Section 21417 to the Public Utilities Code, relating to aviation.

LEGISLATIVE COUNSEL'S DIGEST

AB 511, as amended, Yamada. Aeronautics: ~~anemometer~~ *meteorological* towers.

(1) Existing law, the State Aeronautics Act, governs aeronautics in this state. One of the purposes of the act is to further and protect the public interest in aeronautics and aeronautical progress by fostering and promoting safety in aeronautics.

This bill would require ~~an anemometer~~ *a meteorological* tower, as defined, to be marked as prescribed.

Because any violation of the State Aeronautics Act is a crime and the provisions of the bill would be within the act, this bill would impose a state-mandated local program by creating a new crime.

(2) 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 is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 21417 is added to the Public Utilities Code, to read:

21417. (a) As used in this section, the following terms have the following meanings:

(1) ~~"Anemometer"~~ "*Meteorological instrument*" means an instrument for measuring and recording the speed of the wind.

(2) ~~"Anemometer~~ "*Meteorological* tower" means a structure, including all guy wires and accessory facilities, on which ~~an anemometer~~ *a meteorological instrument* is mounted for the purposes of documenting whether a site has wind resources sufficient for the operation of a wind turbine generator.

(b) ~~An anemometer tower~~ *A meteorological tower below 200 feet in height and above 50 feet in height* shall be marked as follows:

(1) The ~~top one-half of the anemometer~~ *full length of the meteorological* tower shall be painted ~~in~~ *seven* equal, alternating bands of aviation orange and white, beginning with orange at the top of the tower and ending with orange at the bottom of the marked portion of the tower.

(2) Two marker balls shall be attached to and evenly spaced on each of the outside guy wires.

(3) The area surrounding each point where a guy wire is anchored to the ground shall have a contrasting appearance with any surrounding vegetation. If the adjacent land is grazed, the area surrounding the anchor point shall be fenced. For the purposes of this paragraph, "area surrounding the anchor point" means an area not less than 64 square feet whose outer boundary is at least four feet from the anchor point.

(4) One or more seven-foot safety sleeves shall be placed at each anchor point and shall extend from the anchor point along each guy wire attached to the anchor point.

(5) A red flashing obstruction light shall be affixed to the highest point on the tower and operate continuously, or at a minimum, when the northern sky illuminance reaching a vertical surface falls below 35 foot-candles (367.7 lux).

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school

district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

O

AMENDED IN ASSEMBLY MARCH 31, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL No. 662

Introduced by Assembly Member Hueso

February 17, 2011

~~An act to amend Section 13383.5 of the Water Code, relating to stormwater.~~ *An act to amend Section 21670.3 of the Public Resources Code, relating to the San Diego County Regional Airport Authority.*

LEGISLATIVE COUNSEL'S DIGEST

AB 662, as amended, Hueso. ~~Stormwater.~~ *San Diego County Regional Airport Authority.*

The State Aeronautics Act governs the creation and operation of airports in this state. The act provides for the establishment of county airport land use commissions to carry out various requirements, including the formulation of a comprehensive land use compatibility plan to provide for the orderly growth of airports and the area surrounding airports within the jurisdiction of the commission, and to safeguard the general welfare of the inhabitants within the vicinity of an airport and the public in general. The act requires each county in which there is an airport served by a scheduled airline, with certain exceptions, to establish an airport land use commission. The act requires the commission to include, within its airport land use compatibility plan, the area within the jurisdiction of the commission surrounding any military airport for specified purposes.

Existing law exempts the County of San Diego from the requirement to establish a commission and, instead, makes the San Diego County Regional Airport Authority responsible for the preparation, adoption,

and amendment of an airport land use compatibility plan for each airport in San Diego County.

This bill would exempt from that military airport inclusion requirement the preparation, adoption, or amendment by the authority of an airport land use compatibility plan for the City of Coronado. The bill would authorize the authority to include within the plan for the city the area within the jurisdiction of the authority surrounding any military airport.

The bill would make legislative findings and declarations as to the necessity of a special statute for the City of Coronado.

~~Existing law requires the State Water Resources Control Board to develop minimum monitoring requirements for each municipality that is required to obtain a stormwater permit, and minimum standard monitoring requirements for industries that are required to obtain a stormwater permit, as specified.~~

~~This bill would make several technical, nonsubstantive changes to those provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 21670.3 of the Public Utilities Code is amended to read:

21670.3. (a) Sections 21670 and 21670.1 do not apply to the County of San Diego. In that county, the San Diego County Regional Airport Authority, as established pursuant to Section 170002, shall be responsible for the preparation, adoption, and amendment of an airport land use compatibility plan for each airport in San Diego County.

(b) Subdivision (b) of Section 21675 does not apply to the preparation, adoption, or amendment of an airport land use compatibility plan for the City of Coronado by the San Diego County Regional Airport Authority. The San Diego County Regional Airport Authority may include, within its airport land use compatibility plan for the City of Coronado, the area within the jurisdiction of the authority surrounding any military airport. This subdivision does not give the San Diego County Regional Airport Authority any jurisdiction or authority over the territory or operations of any military airport.

~~(b)~~

(c) The San Diego County Regional Airport Authority shall engage in a public collaborative planning process when preparing and updating an airport land use compatibility plan.

SEC. 2. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique island location of the City of Coronado and its proximity to large military installations.

~~SECTION 1. Section 13383.5 of the Water Code is amended to read:~~

~~13383.5. (a) As used in this section, "regulated municipalities and industries" means the municipalities and industries required to obtain a stormwater permit under Section 402(p) of the Clean Water Act (33 U.S.C. Sec. 1342(p)) and implementing regulations.~~

~~(b) This section only applies to regulated municipalities that were subject to a stormwater permit on or before December 31, 2001, and to regulated industries that are subject to the General Permit for Stormwater Discharges Associated with Industrial Activities Excluding Construction Activities.~~

~~(c) Before January 1, 2003, the state board shall develop minimum monitoring requirements for each regulated municipality and minimum standard monitoring requirements for regulated industries. This program shall include, but is not limited to, all of the following:~~

~~(1) Standardized methods for collection of stormwater samples.~~

~~(2) Standardized methods for analysis of stormwater samples.~~

~~(3) A requirement that every sample analysis under this program be completed by a state certified laboratory or by the regulated municipality or industry in the field in accordance with the quality assurance and quality control protocols established pursuant to this section.~~

~~(4) A standardized reporting format.~~

~~(5) Standard sampling and analysis programs for quality assurance and quality control.~~

~~(6) Minimum detection limits.~~

~~(7) Annual reporting requirements for regulated municipalities and industries.~~

~~(8) For the purposes of determining constituents to be sampled for, sampling intervals, and sampling frequencies, to be included~~

~~in a municipal stormwater permit monitoring program, the regional board shall consider the following information, if the regional board determines it to be applicable:~~

~~(A) Discharge characterization monitoring data.~~

~~(B) Water quality data collected through the permit monitoring program.~~

~~(C) Applicable water quality data collected, analyzed, and reported by federal, state, and local agencies, and other public and private entities.~~

~~(D) Any applicable listing under Section 303(d) of the Clean Water Act (33 U.S.C. Sec. 1313).~~

~~(E) Applicable water quality objectives and criteria established in accordance with the regional board basin plans, statewide plans, and federal regulations.~~

~~(F) Reports and studies regarding source contribution of pollutants in runoff not based on direct water quality measurements.~~

~~(d) The requirements prescribed pursuant to this section shall be included in all stormwater permits for regulated municipalities and industries that are reissued following development of the requirements described in subdivision (c). Those permits shall include these provisions on or before July 1, 2008. In a year in which the Legislature appropriates sufficient funds for that purpose, the state board shall make available to the public via the Internet a summary of the results obtained from stormwater monitoring conducted in accordance with this section.~~

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ASSEMBLY BILL No. 731

Introduced by Assembly Member Jeffries

February 17, 2011

An act to amend Section 8589.19 of, and to add Section 8589.24 to, the Government Code, relating to firefighting, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 731, as introduced, Jeffries. Firefighting.

The State Assistance for Fire Equipment Act authorizes the Secretary of California Emergency Management to acquire specified firefighting apparatus and equipment for resale to a local agency, as defined, that provides fire suppression services or a fire company. Existing law also establishes the State Assistance for Fire Equipment Account, a continuously appropriated fund, for purposes of the act. Existing law requires the secretary to consult with a specified committee before adopting regulations implementing the act.

This bill would annually appropriate $1,030,000 of revenue currently received by the state from specified tax and fee revenue sources for firefighting and emergency response purposes, including, but not limited to, the purchase of firefighting and rescue vehicles and equipment. The bill would also require the secretary to consult with additional specified individuals involved in firefighting before adopting certain regulations.

Vote: ⅔. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. This act shall be known as the California Emergency Fire and Rescue Apparatus Funding Act of 2011.

SEC. 2. (a) The Legislature finds and declares that California's emergency fire service personnel and equipment are routinely called upon to mitigate the effects of terrorist acts, fires, floods, earthquakes, and other mass casualty rescues and fires, including, but not limited to, significant regional emergencies directly related to train derailments, commercial and passenger aircraft accidents, oil pipeline and hazardous waste spills and fires, landfill and electrical wildland infrastructure fires, mass casualty accidents on state highways, and urban interface fires as evidenced by the destruction caused by, but not limited to, the 1989 Loma Prieta and the 1994 Northridge earthquakes, the 1989 San Bernardino Duffy Street train derailment disaster, the 1978 San Diego and the 1986 Cerritos midair collisions, the 2005 La Conchita landslide, the 1991 Oakland hills firestorm, the wildland firestorms in 2003, 2007, and 2008, and the environmental damage caused by the 1996 Panoche and the 1998 Tracy used tire stockpile fires.

(b) The Legislature finds and declares that, given the increase in the state population and the intensity and frequency of disasters within the state, it is evident that assistance is needed to enable the state to purchase additional firefighting and emergency equipment and apparatus for state and local emergency response and further build the ability to mitigate the effects of all forms of disasters.

SEC. 3. Section 8589.19 of the Government Code is amended to read:

8589.19. (a) After consultation with the California Emergency Management ~~Agency~~ Fire Advisory Committee, the *chairperson of the Blue Ribbon Fire Commission, the Director of Forestry and Fire Protection, the State Fire Marshal, and the chairperson of the State Board of Fire Services, the* secretary shall adopt rules and regulations governing the operation of the programs created by this article pursuant to the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3.

(b) The rules and regulations adopted pursuant to subdivision (a) shall include, but not be limited to, all of the following:

(1) The specific types of firefighting apparatus and equipment which may be acquired, rehabilitated, and resold.

(2) The amount and terms of resale contracts.

(3) The time, format, and manner in which local agencies may apply for resale contracts.

(4) Priorities for assisting local agencies which shall give preference to local agencies which meet all of the following:

(A) Demonstrated need for primary response firefighting apparatus and equipment.

(B) Will be adequately able to operate and maintain the firefighting apparatus and equipment.

(C) Have already used other means of financing the firefighting apparatus and equipment.

SEC. 4. Section 8589.24 is added to the Government Code, to read:

8589.24. (a) The State Board of Equalization shall annually collect and process one million thirty thousand dollars ($1,030,000) from the following sources in the following amounts:

(1) Sixty thousand dollars ($60,000) from the Private Railroad Car Tax (Part 6 (commencing with Section 11201) of Division 2 of the Revenue and Taxation Code).

(2) One hundred eighty thousand dollars ($180,000) from the funds received pursuant to the Cigarette and Tobacco Products Tax Law (Part 13 (commencing with Section 30001) of Division 2 of the Revenue and Taxation Code).

(3) One hundred thousand dollars ($100,000) from funds received pursuant to the Energy Resources Surcharge Law (Part 19 (commencing with Section 40001) of Division 2 of the Revenue and Taxation Code).

(4) One hundred fifty thousand dollars ($150,000) from the Alcoholic Beverage Tax (Part 14 (commencing with Section 32001) of Division 2 of the Revenue and Taxation Code).

(5) One hundred fifty thousand dollars ($150,000) from funds received pursuant to the Insurance Taxation Law (Part 7 (commencing with Section 12001) of Division 2 of the Revenue and Taxation Code).

(6) Seventy-five thousand dollars ($75,000) received pursuant to the Motor Vehicle Fuel Tax Law (Part 2 (commencing with Section 7301) of Division 2 of the Revenue and Taxation Code).

(7) Fifteen thousand dollars ($15,000) from the Aircraft Jet Fuel Tax (Chapter 2.5 (commencing with Section 7385) of Part 2 of Division 2 of the Revenue and Taxation Code).

(8) Twenty-five thousand dollars ($25,000) from the Oil Spill Response Trust Fund (Article 7 (commencing with Section 8670.46) of Chapter 7.4 of Division 1 of Title 2 of the Government Code).

(9) Seventy-five thousand dollars ($75,000) received pursuant to the Hazardous Substances Tax Law (Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code).

(10) Twenty-five thousand dollars ($25,000) from the California tire fee pursuant to Section 42885 of the Public Resources Code.

The funds shall be expended as follows:

(b) One million dollars ($1,000,000) shall be deposited annually into the State Assistance for Fire Equipment Account for the purposes of the State Assistance for Fire Equipment Act. In addition to firefighting apparatus and equipment, as defined in subdivision (c) of Section 8589.10, the secretary may use funds appropriated under this section to purchase any fire engine, as defined as a Type 1, 2, 3, or 4 fire engine, Type 1 or 2 water tender, heavy rescue vehicle, combination lighting and air support vehicle or squad with a rated gross vehicle weight of one ton or greater that is not primarily designed and utilized to transport patients, Type 1 mobile communication center vehicle, Urban Search and Rescue equipment and apparatus, and rescue equipment for the purposes of extricating or rescuing entrapped persons from mass casualty emergency incidents. The secretary shall provide up to two hundred fifty thousand dollars ($250,000) annually for the purpose of funding CAL-FIRE fire apparatus. The secretary shall use funds appropriated pursuant to this paragraph only for the purchase of new equipment and apparatus.

(c) Thirty thousand dollars ($30,000) is hereby annually appropriated to the Office of the State Fire Marshal, State Fire Training, for the purposes of providing training courses and materials related to the types of emergencies and fires associated with the products or industries from which the fees or taxes are herein collected.

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BILL NUMBER: SB 194 AMENDED
BILL TEXT

AMENDED IN ASSEMBLY JUNE 13, 2011
AMENDED IN ASSEMBLY MAY 31, 2011
AMENDED IN SENATE APRIL 7, 2011

INTRODUCED BY Committee on Governance and Finance (Senators Wolk (Chair), DeSaulnier, Fuller, Hancock, Hernandez, Huff, Kehoe, La Malfa, and Liu)

FEBRUARY 8, 2011

An act to amend Sections 6159, 17562, 29001, 29006, 29008, 29085, 29089, 29100, 29106, 29130, 29144 , 50057, 53601, 54954.6, 65353, 66426.5, 66428, 66452.6, and 66484.3 of, to add Section 27303.5 to, to repeal Section 61041 of, and to repeal Chapter 12.5 (commencing with Section 26170) of Part 2 of Division 2 of Title 3 of, the Government Code, to amend Section 4768 of, to amend and renumber Section 33320.51 of, and to repeal Section 33038 of, the Health and Safety Code, to amend Section 20395 of the Public Contract Code, to amend Sections 21669.5 and 99243 of the Public Utilities Code, to repeal Part 16 (commencing with Section 36000) of the Revenue and Taxation Code, and to amend Sections 2151, 22525, 36522, 36608, 36615, 36622, 36623, 36625, 36627, 36631, and 36670 of the Streets and Highways Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

SB 194, as amended, Committee on Governance and Finance. Local government: omnibus bill.

(1) Existing law authorizes a public agency to accept payment for designated obligations by credit card, debit card, or electronic funds transfer, subject to approval by the governing body of the agency or other appropriate entity, as specified.

This bill would authorize, subject to the approval of the county board of supervisors, a county to accept a payment of a donation, gift, bequest, or devise made to or in favor of a county, or to or in favor of the board of supervisors of a county, by credit card, debit card, or electronic funds transfer.

(2) The California Constitution requires that whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state provide a subvention of funds to reimburse that local government for the costs

of the program or increased level of service, except as specified. Existing law requires the Controller to submit an annual report to various committees of the Legislature on the mandate program that contains specified information, including a comparison of the estimated annual cost of each mandate in the preceding fiscal year to the amount determined to be payable by the state for that fiscal year.

This bill would delete the requirement that the report contain a comparison of the estimated annual cost of each mandate in the preceding fiscal year to the amount determined to be payable by the state for that fiscal year.

(3) Existing law requires the recorder of each county to establish a social security number truncation program in order to create a public record version of each official record so that the public record is in an electronic format and is an exact copy of the official record except that any social security number contained in the official record shall be truncated by redacting the first 5 digits of that number. Existing law requires that when a public record version of an official record exists, and upon request of any person to inspect, for a copy of, or to otherwise publicly disclose that record, the recorder shall make available only the public record version of that record, and publicly disclose the official record only in response to a subpoena or court order. Existing law authorizes the recorder of a county to record military discharge documents, including a veteran service form DD214, subject to certain requirements.

This bill would, notwithstanding those provisions, authorize a county recorder *to* provide a copy of a DD214 official record when requested by a specified type of person and upon certification by that person that a full social security number is required to receive benefits and he or she is authorized to receive a copy as specified in that subdivision.

(4) Existing law, the County Budget Act, specifies the procedures a county is required to follow when adopting an annual budget.

This bill would amend the County Budget Act by defining the terms "fiscal year" and "obligated fund balance," and would redefine the classifications for fund balances. This bill would also allow intangible assets to be reported as capital assets. This bill would also make conforming changes throughout.

(5) The Shasta County Regional Library Facilities and Services Act establishes the Shasta County Regional Library Facilities and Services Commission, and authorizes the commission to, among other things, issue bonds, levy a special tax pursuant to the Mello-Roos Community Facilities Act of 1982, levy a special tax pursuant to Section 4 of Article XIII A of the Constitution, levy a retail transactions and use tax, and levy service charges and fines, as

specified.

This bill would repeal this act.

(6) Existing law provides that money in the treasury of a local agency or in the custody of a local agency officer that is unclaimed for 3 years is the property of the local agency after newspaper publication of notice if no verified complaint is filed and served. The legislative body of the local agency may transfer that unclaimed money from a special fund to the general fund. Existing law provides that with respect to unclaimed items in the amount of $1,000 or less, the legislative body of any county may authorize by resolution the county treasurer to perform on its behalf the claiming and transfer of unclaimed money, as described.

This bill would increase the maximum amount from $1,000 to $5,000.

(7) Existing law authorizes the legislative body of a local agency that has a sinking fund or money in its treasury that is not required for immediate needs to invest in specified investments, including, among other things, negotiable certificates of deposit issued by a state-licensed branch of a foreign bank.

This bill would authorize these specified legislative bodies of a local agency to invest in negotiable certificates of deposit issued by a federally licensed branch of a foreign bank.

(8) Existing law requires specified community services districts that had a board of directors that consisted of 3 members to increase the number of members on the board to 5 after January 1, 2006, as specified.

This bill would repeal these provisions.

(9) Existing law requires a city or county planning commission, which is authorized by local ordinance or resolution to review and recommend action on a proposed general plan or proposed amendments to the general plan, to hold at least one public hearing before approving a recommendation on the adoption or amendment of a general plan. Existing law requires that notice of the hearing be given in a prescribed manner.

This bill would correct erroneous statutory cross-references pertaining to the notice.

(10) The Subdivision Map Act provides that a conveyance of land to, among other entities, a governmental agency, including a fee interest, easement, or license, is not considered a division of land for purposes of computing the number of parcels, and provides that a parcel map is not required except under specified conditions.

This bill would provide that a conveyance of land to or from a governmental agency, as specified, is not considered a division of land for purposes of computing the number of parcels.

(11) The Subdivision Map Act provides that a parcel map is not required for, among other things, land conveyed to or from a

governmental agency, public entity, or for land conveyed to a subsidiary of a public utility for conveyance to that public utility for rights-of-way, unless a showing is made in individual cases, upon substantial evidence, that public policy necessitates a parcel map.

This bill would specify that these conveyances of land are not considered a division of land for purposes of computing the number of parcels.

(12) The Subdivision Map Act provides that an approved or conditionally approved tentative map expires 24 months after its approval or conditional approval, or after any additional period of time as prescribed by local ordinance, not to exceed an additional 12 months, except that if the subdivider is required to expend $178,000 or more to construct, improve, or finance the construction or improvement of public improvements outside the property boundaries of the tentative map, each filing of a final map extends the expiration of the approved or conditionally approved tentative map by 36 months from the dates of its expiration, as specified. Existing law, commencing January 1, 2005, annually increases the amount the subdivider is required to expend according to the adjustment for inflation set forth in the statewide cost index for class B construction, as specified.

This bill would require the subdivider to expend $236,790 or more to receive the extension of the expiration of the approved or conditionally approved tentative map, and would, commencing January 1, 2012, increase that amount annually according to the adjustment for inflation set forth in the statewide cost index for class B construction, as specified.

(13) The Subdivision Map Act authorizes the Board of Supervisors of the County of Orange and the city council or councils of any city or cities in that county to impose a fee as a condition of approval of a final map or as a condition of issuing a building permit for purposes of defraying the actual or estimated cost of constructing bridges over waterways, railways, freeways, and canyons, or constructing major thoroughfares.

This bill would correct erroneous statutory cross-references in those provisions.

(14) The County Sanitation District Act prohibits employees of a county sanitation district from engaging in inconsistent or conflicting activities, as specified.

This bill would correct an incorrect cross-reference in these provisions.

(15) The Community Redevelopment Law authorizes the establishment of redevelopment agencies in communities in order to address the effects of blight, as defined, in those communities. Existing law finds and declares that blighted areas include housing areas constructed as temporary government-owned wartime housing projects

that meet the definition of blight.

This bill would repeal the provision relating to housing areas constructed as temporary government-owned wartime housing projects.

(16) The Community Redevelopment Law contains provisions authorizing the establishment of a redevelopment project area located within the boundaries of a military base that has been closed pursuant to the actions of the federal Defense Base Closure and Realignment Commission.

This bill would renumber a provision relating to the base closures and conversions contained in the Community Redevelopment Law and correct an outdated statutory cross-reference.

(17) Existing law requires the owner or operator of an airport to pay all applicable recording fees for the filing of a notice of termination of an avigation easement, as specified.

This bill would make a clarifying change to this provision.

(18) Existing law sets forth the procedures under which changes or additions may be made in the work being performed under local construction contracts, county highway contracts, local contracts for works of improvement, and drainage district construction contracts. Under these provisions, for contracts whose original cost is $250,000 or less, changes to the contract may be made in specified amounts. Under these provisions, for contracts whose original cost exceeds $250,000, the extra cost for any change or addition to the work so ordered may not exceed $25,000 plus 5% of the amount of the original contract cost in excess of $250,000, and in no event may any such change or alteration exceed $150,000.

This bill would specify that, for contracts of $250,000 or less, an additional cost may be approved for a change or addition to the work for a contract, as specified. The bill would, for contracts that have a cost that exceeds $250,000, increase the maximum permitted amount for a change or alteration of the contract cost from $150,000 to $210,000.

(19) Existing law authorizes the City of South Lake Tahoe or the City of Huntington Beach to select, for purposes of making certain annual reports to the Controller on financial transactions and on street and road spending, on a one-time basis, a fiscal year that does not end on June 30.

This bill would, for purposes of these reports, also authorize the City of El Segundo, the City of Inglewood, or the City of Long Beach to select a fiscal year that does not end on June 30.

This bill would make legislative findings and declarations as to the necessity of a special statute for these cities.

(20) Existing law authorizes the board of supervisors of a county with a population of 1,000,000 or more persons, to impose specified special taxes, including parking taxes, vehicle license fees, and property taxes.

This bill would repeal these provisions.

(21) The Landscaping and Lighting Act of 1972 authorizes specified local agencies to finance specified improvements. Improvements include, among other things, for purposes of the act, the acquisition or construction of any community center, municipal auditorium or hall, or similar public facility for the indoor presentation of performances, shows, stage productions, fairs, conventions, exhibitions, pageants, meetings, parties, or other group events, activities, or functions, whether those events, activities, or functions are public or private.

This bill would also include within the definition of improvements the maintenance and servicing, or both of any community center, municipal auditorium or hall, or similar public facility for the indoor presentation of performances, shows, stage productions, fairs, conventions, exhibitions, pageants, meetings, parties, or other group events, activities, or functions, whether those events, activities, or functions are public or private.

(22) Existing law, the Parking and Business Improvement Area Law of 1989, authorizes local governmental entities to levy assessments on businesses located and operating in a parking and business improvement area. Existing law requires specified proceedings to establish or modify a parking and business improvement area, including the adoption of a resolution, with prescribed elements, by the governing body and a public hearing.

This bill would make technical, nonsubstantive changes to the provisions that establish the elements to be included in the resolution of the governing body.

(23) Existing law requires the legislative body of a local agency, prior to adopting any new or increased general tax or any new or increased assessment, to conduct at least one public meeting in addition to the noticed public hearing at which the legislative body proposed to enact or increase the general tax or assessment. Existing law requires the legislative body to provide at least 45 days' joint public notice of both the public meeting and the public hearing, and requires the joint notice, with respect to a new or increased assessment on real property, to be accomplished through a mailing, as specified. Existing law also requires the legislative body to include in the notice the estimated amount of the assessment per parcel of land.

This bill would require the legislative body to provide the joint notice of the public meeting and public hearing for proposed new or increased assessment on real property or businesses through a mailing, as specified. The bill would also require the notice to include, in the case of an assessment proposed to be levied on businesses, the proposed method and basis of levying the assessment in sufficient detail to allow each business owner to calculate the

amount of the assessment to be levied against each business.

(24) The Property and Business Improvement District Law of 1994 defines city, for purposes of that act, to mean a city, county, city and county, and a joint powers agency, the public member agencies of which include only cities, counties, or a city and county.

This bill would include the state within the member agencies of the joint powers agency for purposes of the definition of city.

(25) The Property and Business Improvement District Law of 1994 defines property owner, for purposes of that act, to mean any person shown as the owner of land on the last equalized assessment roll or otherwise known to be the owner of land by the city council.

This bill would also define business owner, for purposes of the act, to mean any person recognized by the city as the owner of a business, and owner, for purposes of the act, to mean either a business owner or a property owner. The bill would also provide, wherever a signature of a business owner is required pursuant to the act, the signature of the authorized agent of the business owner is sufficient. The bill would also make conforming changes and other technical, nonsubstantive changes within the act.

(26) The Property and Business Improvement District Law of 1994 requires, prior to the establishment of a property and business improvement district pursuant to the act, the proponents of the district to submit to the city council a management district plan. The management district plan is required to include, among other things, a map of the district in sufficient detail to locate each parcel of property and, if businesses are to be assessed, each business within the district.

The bill would also require the management district plan to include, if an assessment will be levied on businesses, a map that identifies the district boundaries in sufficient detail to allow a business owner to reasonably determine whether a business is located within the district boundaries, and if the assessment will be levied on property and businesses, a map of the district in sufficient detail to locate each parcel of property and to allow a business owner to reasonably determine whether a business is located within the district boundaries.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

SENATE BILL No. 295

Introduced by Senator Price

February 14, 2011

An act to amend Section 81033 of the Education Code, relating to public postsecondary education.

LEGISLATIVE COUNSEL'S DIGEST

SB 295, as introduced, Price. Public postsecondary education: community colleges: site acquisitions.

Existing law establishes, as one segment the 3 segments of public postsecondary education the California Community Colleges, which are administered by the Board of Governors of the California Community Colleges.

Existing law requires the governing board of a community college district, prior to acquiring any site on which it proposes to construct any school building, as defined, to have the site, or sites, under consideration investigated by competent personnel to ensure that the final site selection is determined by an evaluation of specified factors, in a specified manner. Copies of the results of these investigations must be submitted to the Chancellor's office of the California Community Colleges. Existing law contains prohibitions, restrictions and procedures applicable to the proposed siting of buildings within 2 miles of an airport runway.

This bill would repeal the provisions relating to the relocation of a site within 2 miles of an airport runway.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 81033 of the Education Code is amended to read:

81033. (a) The governing board of a community college district, prior to acquiring any site on which it proposes to construct any school building as defined in Section 81130.5, shall have the site, or sites, under consideration investigated by competent personnel to ensure that the final site selection is determined by an evaluation of all factors affecting the public interest and is not limited to selection on the basis of raw land cost only. If the prospective college site is located within the boundaries of any special studies zone or within an area designated as geologically hazardous in the safety element of the local general plan as provided in subdivision (g) of Section 65302 of the Government Code, the investigation shall include any geological and soil engineering studies by competent personnel needed to provide an assessment of the nature of the site and potential for earthquake or other geological hazard damage.

The geological and soil engineering studies of the site shall be of a nature that will preclude siting of a college in any location where the geological and site characteristics are such that the construction effort required to make the school building safe for occupancy is economically unfeasible. No studies are required to be made if the site or sites under consideration have been the subject of adequate prior studies. The evaluation also shall include location of the site with respect to population, transportation, water supply, waste disposal facilities, utilities, traffic hazards, surface drainage conditions, and other factors affecting the operating costs, as well as the initial costs, of the total project.

For the purposes of this article, a special studies zone is an area that is identified as a special studies zone on any map, or maps, compiled by the State Geologist pursuant to Chapter 7.5 (commencing with Section 2621) of Division 2 of the Public Resources Code. A copy of the report of each investigation conducted pursuant to this section shall be submitted to the board of governors.

(b) Geological and soil engineering studies as described in subdivision (a) shall be made, within the boundaries of any special studies zone, for the construction of any school building as defined

in Section 81130.5 or, if the estimated cost exceeds twenty thousand dollars ($20,000), for the reconstruction or alteration of or addition to that building for work which alters structural elements. The Department of General Services may require similar geological and soil engineering studies for the construction or alteration of any building on a site located outside of the boundaries of any special studies zone. These studies need not be made if the site under consideration has been the subject of adequate prior studies.

No school building shall be constructed, reconstructed, or relocated on the trace of a geological fault along which surface rupture can reasonably be expected to occur within the life of the school building.

A copy of the report of each investigation conducted pursuant to this section shall be submitted to the Department of General Services pursuant to Article 7 (commencing with Section 81130) and to the Chancellor's office of the California Community Colleges. The cost of geological and soil engineering studies and investigations conducted pursuant to this section may be treated as a capital expenditure.

~~(c) To promote the safety of students, comprehensive community planning, and greater educational usefulness of community college sites, the governing board of each community college district, if the proposed site is within two miles, measured by air line, of that point on an airport runway, or runway proposed by an airport master plan, which is nearest the site and excluding them if the property is not so located, before acquiring title to property for a new community college site or for an addition to a present site, shall give the board of governors notice in writing of the proposed acquisition and shall submit any information required by the board of governors.~~

~~Immediately after receiving notice of the proposed acquisition of property which is within two miles, measured by air line, of that point on an airport runway, or runway proposed by an airport master plan, which is nearest the site, the board of governors shall notify the Division of Aeronautics of the Department of Transportation, in writing, of the proposed acquisition. The Division of Aeronautics shall make an investigation and report to the board of governors within 30 working days after receipt of the notice. If the Division of Aeronautics is no longer in operation,~~

~~the board of governors, in lieu of notifying the Division of Aeronautics, shall notify the Federal Aviation Administration or any other appropriate agency, in writing, of the proposed acquisition for the purpose of obtaining from the authority or other agency any information or assistance it may desire to give.~~

~~The board of governors shall investigate the proposed site and, within 35 working days after receipt of the notice, shall submit to the governing board a written report and its recommendations concerning acquisition of the site. The governing board shall not acquire title to the property until the report of the board of governors has been received. If the report does not favor the acquisition of the property for a community college site or an addition to a present community college site, the governing board shall not acquire title to the property until 30 days after the department's report is received and until the board of governors' report has been read at a public hearing duly called after 10 days' notice published once in a newspaper of general circulation within the community college district, or if there is no such newspaper, then in a newspaper of general circulation within the county in which the property is located.~~

~~(d) If, with respect to a proposed site located within two miles of an operative airport runway, the report of the board of governors submitted to a community college district governing board under subdivision (c) does not favor the acquisition of the site on the sole or partial basis of the unfavorable recommendation of the Division of Aeronautics of the Department of Transportation, no state agency or officer shall grant, apportion, or allow to that community college district for expenditure in connection with that site, any state funds otherwise made available under any state law whatever for community college site acquisition or college building construction, or for expansion of existing sites and buildings, and no funds of the community college district or of the county in which the district lies shall be expended for those purposes. However, this section shall not be applicable to sites acquired prior to January 1, 1966, or to any additions or extensions to those sites.~~

~~If the recommendation of the Division of Aeronautics is unfavorable, the recommendation shall not be overruled without the express approval of the board of governors and the State Allocation Board.~~

~~(e)~~

(c) No action undertaken by the board of governors or by any other state agency or by any political subdivision pursuant to this chapter, or in compliance with this chapter, shall be construed to affect any rights arising under Section 19 of Article I of the California Constitution.

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AMENDED IN ASSEMBLY JUNE 23, 2011

AMENDED IN ASSEMBLY JUNE 9, 2011

AMENDED IN SENATE MAY 10, 2011

AMENDED IN SENATE APRIL 7, 2011

SENATE BILL No. 446

Introduced by Senator Dutton
(Principal coauthor: Senator Negrete McLeod)
(Coauthor: Senator Huff)
(Coauthors: Assembly Members Carter, Donnelly, Hagman, Jeffries, Knight, Morrell, Nestande, and Torres)

February 16, 2011

An act to add Division 17.5 (commencing with Section 175000) to the Public Utilities Code, relating to airports.

LEGISLATIVE COUNSEL'S DIGEST

SB 446, as amended, Dutton. Ontario International Airport.

Existing law provides for creation of airport districts. Existing law provides for transfer of the San Diego International Airport from the San Diego Unified Port District to the San Diego County Regional Airport Authority.

This bill would establish the Ontario International Airport Authority as a local entity of regional government. The bill would establish the membership of the board of directors of the authority and set forth the powers of the authority. The bill would authorize the authority to enter into an agreement with the City of Los Angeles to facilitate the sale of, or the transfer of management and operational control of, the Ontario International Airport to the authority. The bill would require the authority, in cooperation with the City of Los Angeles and the City of

Ontario, to develop a transition plan to facilitate the sale of, or the transfer of management and operational control of, the Ontario International Airport to the authority. The bill would also require the authority, the City of Los Angeles, the City of Ontario, the County of San Bernardino, other local and regional agencies, and the Department of Transportation to cooperate to develop effective surface transportation access to the Ontario International Airport.

To the extent these provisions would impose additional duties on entities of local government, the bill would impose a state-mandated local program.

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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Division 17.5 (commencing with Section 175000) is added to the Public Utilities Code, to read:

DIVISION 17.5. ONTARIO INTERNATIONAL AIRPORT AUTHORITY

175000. This division shall be known and may be cited as the Ontario International Airport Authority Act.

175001. The Legislature finds and declares all of the following:

(a) Airports help to link local, regional, statewide, national, and global economic activities. Airports are also essential features of comprehensive transportation systems that include streets and highways, rail transit, transit over water, and mass transit.

(b) It is essential to the public health, safety, and welfare that local and regional government officials jointly plan, develop, and operate the Ontario International Airport so as to promote economic development, protect environmental quality, and enhance social equity.

(c) The significant local and regional consequences of airport planning, development, and operations require the creation of a regional airport authority.

175002. (a) There is hereby established the Ontario International Airport Authority, as a local governmental entity of regional government.

(b) The area of jurisdiction of the Ontario International Airport is the area described in the "Agreement between the City of Los Angeles and the City of Ontario for the Acquisition of the Ontario International Airport by the City of Los Angeles dated June 19, 1985."

175003. (a) The Ontario International Airport Authority shall be governed by a board of seven directors, appointed as follows:

~~(1) The City Council of the City of Ontario shall appoint four directors, two of whom shall be elected officials of the City of Ontario. The remaining two directors shall be representatives of the primary air service market served by Ontario International Airport and need not be persons residing in the City of Ontario or the County of San Bernardino.~~

~~(2) The Board of Supervisors of the County of San Bernardino shall appoint three directors, one of whom shall be an elected official of the County of San Bernardino representing a district in which the Ontario International Airport is located. The remaining two directors shall be representatives of the primary air service market served by Ontario International Airport and need not be persons residing in the City of Ontario or the County of San Bernardino.~~

(1) The City Council of the City of Ontario shall appoint two directors who shall be elected officials of the City of Ontario.

(2) The County of San Bernardino city selection committee shall appoint two directors who shall be elected officials from different cities within the county, other than the City of Ontario.

(3) The Board of Supervisors of the County of San Bernardino shall appoint three directors, one of whom shall be an elected official of the County of San Bernardino representing a district in which the Ontario International Airport is located. The remaining two directors shall be representatives with experience in aviation or airport management within the region.

(b) The term of office of a member of the board of directors appointed pursuant to subdivision (a) is three years or until his or

her successor qualifies and takes office, whichever date occurs last; provided, however, that the initial term of one of the initial directors appointed by the City Council of the City of Ontario and one of the initial directors appointed by the Board of Supervisors of the County of San Bernardino shall each be one year, and the initial term of another of the initial directors appointed by the City Council of the City of Ontario and another of the initial directors appointed by the Board of Supervisors of the County of San Bernardino shall each be two years.

(c) If a member of the board of directors is appointed to be a member as a result of holding another public office, as indicated by resolution adopted at the time of appointment, and that person no longer holds that other public office, then that person shall no longer serve on the board of directors and a vacancy shall exist.

(d) A director shall hold membership on the board during the term for which he or she was appointed and until his or her successor has been appointed and qualified; provided, however, that a director may resign voluntarily or may be removed by and at the pleasure of the authority that appointed him or her.

(e) In case of a vacancy in membership on the board, the vacancy shall be promptly filled by the authority that appointed the vacating member. An appointment to fill a vacancy during an unexpired term shall be for the period of the unexpired term.

175004. (a) At the first meeting of the board of directors, and at the first meeting of the board on or after the first Monday in July of each even-numbered year thereafter, the board of directors shall meet and elect its officers.

(b) The officers of the board of directors are a chair, a vice chair, and those additional officers created by the board of directors pursuant to subdivision (c). The chair shall preside over meetings of the board of directors, and the vice chair shall serve during the chair's absence or inability to serve.

(c) The board of directors may create additional offices and elect members to those offices, provided that no member of the board of directors shall hold more than one office.

(d) The board shall appoint a general manager, a chief counsel, and a chief financial officer. The general manager may enter into contracts on behalf of the board, consistent with policies adopted by the board.

175005. (a) Meetings of the board of directors are subject to the provisions of the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

(b) A majority of the total voting membership of the board of directors shall constitute a quorum for the transaction of business. In the absence of a quorum at any meeting of the board, a majority of the members present may adjourn the meeting from time to time without further notice, but no other business may be transacted.

(c) Any action taken by the board at a meeting shall require the affirmative vote of a majority of the members of the board.

175006. (a) The authority may enter into an agreement with the City of Los Angeles to facilitate the acquisition of the Ontario International Airport by the authority, or the transfer of management and operational control of the Ontario International Airport from the City of Los Angeles to the authority, upon the approval of the Federal Aviation Administration and the federal Transportation Security Administration. Upon the agreement of the City of Los Angeles, the authority, in cooperation with the City of Los Angeles and the City of Ontario, shall develop a transition plan to facilitate either the sale of, or the transfer of management and operational control of, the Ontario International Airport to the authority, including appropriate amendments to the existing contract between the City of Los Angeles and the City of Ontario for the joint exercise of powers in relation to the Ontario International Airport.

(b) The authority, the City of Ontario, the County of San Bernardino, the City of Los Angeles, other local and regional agencies, and the Department of Transportation shall cooperate to develop effective surface transportation access to the Ontario International Airport.

175007. (a) Upon the completion of the transfer pursuant to Section 175006, the authority shall assume all revenue streams from the operation of the Ontario International Airport to fund its activities, operations, and investments consistent with its purposes.

(b) To the extent practicable, the authority shall endeavor to maximize the revenues generated from enterprises located on the property of the authority.

(c) The authority may receive state and federal grants for purposes of planning, constructing, and operating an airport and for providing ground access to airports under its control.

(d) The transfer of the Ontario International Airport to the authority shall not in any way relieve the authority from all liabilities and obligations that are secured by revenues generated from airport activities.

175008. (a) The authority may sue and be sued in all actions and proceedings, in all courts and tribunals of competent jurisdiction.

(b) All claims for money or damages against the authority shall be governed by Part 3 (commencing with Section 900) and Part 4 (commencing with Section 940) of Division 3.6 of Title 1 of the Government Code.

175009. The authority may take by grant, purchase, devise, or lease, or otherwise acquire, hold, enjoy, lease, and dispose of, real and personal property within its area of jurisdiction in order to further its purposes. The authority may acquire property outside of its area of jurisdiction for the purpose of installing equipment related to the safe operation of the airport and the aircraft using the airport, environmental mitigation, or environmental remediation.

175010. The authority may contract with any department or agency of the United States, with any state or local governmental agency, or with any person upon those terms and conditions that the authority finds are in its best interests.

175011. The authority may issue bonds, from time to time, payable from revenue of any facility or enterprise operated, acquired, or constructed by the authority, for any of the purposes authorized by this division in accordance with the Revenue Bond Law of 1941 (Chapter 6 (commencing with Section 54300) of Part 1 of Division 2 of Title 5 of the Government Code), excluding Article 3 (commencing with Section 54380) of Chapter 6 of Part 1 of Division 2 of Title 5 of the Government Code.

175012. The authority may levy special benefit assessments consistent with the requirements of Article XIII D of the California Constitution to finance capital improvements.

175013. The authority may borrow money in accordance with Article 7 (commencing with Section 53820) of, Article 7.6 (commencing with Section 53850) of, or Article 7.7 (commencing

with Section 53859) of, Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code.

175014. The authority may bring an action to determine the validity of any of its bonds, equipment trust certificates, warrants, notes, or other evidences of indebtedness or any of its revenues, rates, or charges pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure.

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

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AMENDED IN ASSEMBLY JULY 7, 2011

AMENDED IN ASSEMBLY JUNE 22, 2011

AMENDED IN SENATE APRIL 13, 2011

SENATE BILL No. 619

Introduced by Senator Fuller
(Coauthor: Assembly Member Portantino)

February 18, 2011

An act to amend Section 94874 of, and to repeal Section 94874.3 of, the Education Code, relating to private postsecondary education, *and declaring the urgency thereof, to take effect immediately*.

LEGISLATIVE COUNSEL'S DIGEST

SB 619, as amended, Fuller. California Private Postsecondary Education Act of 2009: exemptions.

Existing law, the California Private Postsecondary Education Act of 2009, provides, among other things, for student protections and regulatory oversight of private postsecondary schools in the state. The act is enforced by the Bureau for Private Postsecondary Education within the Department of Consumer Affairs. The act exempts specified institutions from its provisions.

This bill would exempt from the act flight ~~instructors and flight schools~~ *instruction providers or programs* that provide flight instruction pursuant to Federal Aviation Administration regulations and meet specified criteria.

The act prohibits the bureau, for the period of July 1, 2010, to July 1, 2011, inclusive, from enforcing the act against institutions engaged in flight instruction and aircraft maintenance education, as specified, if

those institutions notify the bureau that they are in operation during that time period.

This bill would repeal that provision.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ~~majority~~ *2/3*. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 94874 of the Education Code is amended to read:

94874. The following are exempt from this chapter:

(a) An institution that offers solely avocational or recreational educational programs.

(b) An institution offering educational programs sponsored by a bona fide trade, business, professional, or fraternal organization, solely for that organization's membership.

(c) A postsecondary educational institution established, operated, and governed by the federal government or by this state or its political subdivisions.

(d) An institution offering either of the following:

(1) Test preparation for examinations required for admission to a postsecondary educational institution.

(2) Continuing education or license examination preparation, if the institution or the program is approved, certified, or sponsored by any of the following:

(A) A government agency, other than the bureau, that licenses persons in a particular profession, occupation, trade, or career field.

(B) A state-recognized professional licensing body, such as the State Bar of California, that licenses persons in a particular profession, occupation, trade, or career field.

(C) A bona fide trade, business, or professional organization.

(e) (1) An institution owned, controlled, and operated and maintained by a religious organization lawfully operating as a nonprofit religious corporation pursuant to Part 4 (commencing with Section 9110) of Division 2 of Title 1 of the Corporations Code, that meets all of the following requirements:

(A) The instruction is limited to the principles of that religious organization, or to courses offered pursuant to Section 2789 of Business and Professions Code.

(B) The diploma or degree is limited to evidence of completion of that education.

(2) An institution operating under this subdivision shall offer degrees and diplomas only in the beliefs and practices of the church, religious denomination, or religious organization.

(3) An institution operating under this subdivision shall not award degrees in any area of physical science.

(4) Any degree or diploma granted under this subdivision shall contain on its face, in the written description of the title of the degree being conferred, a reference to the theological or religious aspect of the degree's subject area.

(5) A degree awarded under this subdivision shall reflect the nature of the degree title, such as "associate of religious studies," "bachelor of religious studies," "master of divinity," or "doctor of divinity."

(f) An institution that does not award degrees and that solely provides educational programs for total charges of two thousand five hundred dollars ($2,500) or less when no part of the total charges is paid from state or federal student financial aid programs. The bureau may adjust this cost threshold based upon the California Consumer Price Index and post notification of the adjusted cost threshold on its Internet Web site, as the bureau determines, through the promulgation of regulations, that the adjustment is consistent with the intent of this chapter.

(g) A law school that is accredited by the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association or a law school or law study program that is subject to the approval, regulation, and oversight of the Committee of Bar Examiners, pursuant to Sections 6046.7 and 6060.7 of the Business and Professions Code.

(h) A nonprofit public benefit corporation that satisfies all of the following criteria:

(1) Is qualified under Section 501(c)(3) of the United States Internal Revenue Code.

(2) Is organized specifically to provide workforce development or rehabilitation services.

(3) Is accredited by an accrediting organization for workforce development or rehabilitation services recognized by the Department of Rehabilitation.

(i) An institution that is accredited by the Accrediting Commission for Senior Colleges and Universities, Western Association of Schools and Colleges, or the Accrediting Commission for Community and Junior Colleges, Western Association of Schools and Colleges.

(j) An institution that satisfies all of the following criteria:

(1) The institution has been accredited, for at least 10 years, by an accrediting agency that is recognized by the United States Department of Education.

(2) The institution has operated continuously in this state for at least 25 years.

(3) During its existence, the institution has not filed for bankruptcy protection pursuant to Title 11 of the United States Code.

(4) The institution's cohort default rate on guaranteed student loans does not exceed 10 percent for the most recent three years, as published by the United States Department of Education.

(5) The institution maintains a composite score of 1.5 or greater on its equity, primary reserve, and net income ratios, as provided under Section 668.172 of Title 34 of the Code of Federal Regulations.

(6) The institution provides a pro rata refund of unearned institutional charges to students who complete 75 percent or less of the period of attendance.

(7) The institution provides to all students the right to cancel the enrollment agreement and obtain a refund of charges paid through attendance at the second class session, or the 14th day after enrollment, whichever is later.

(8) The institution submits to the bureau copies of its most recent IRS Form 990, the institution's Integrated Postsecondary Education Data System Report of the United States Department of Education, and its accumulated default rate.

(9) The institution is incorporated and lawfully operates as a nonprofit public benefit corporation pursuant to Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code and is not managed or administered by an entity for profit.

(k) Flight ~~instructors or flight schools~~ *instruction providers or programs* that provide flight instruction pursuant to Federal Aviation Administration regulations and meet both of the following criteria:

(1) The flight ~~instructor or flight school~~ *instruction provider or program* does not require students to enter into written or oral contracts of indebtedness.

(2) The flight ~~instructor or flight school~~ *instruction provider or program* does not require prepayment of ~~tuition or fees and does not accept prepayment of tuition or fees~~ *instruction-related costs* in excess of two thousand five hundred dollars ($2,500).

SEC. 2. Section 94874.3 of the Education Code is repealed.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to establish an exemption from the California Private Postsecondary Education Act of 2009 for flight instruction providers and programs that provide flight instruction pursuant to Federal Aviation Administration regulations, soon after a similar exemption expired on July 1, 2011, it is necessary that this act take effect immediately.

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TACA
DRAFT DISCUSSION PAPER

Subject: “Notice of Violation” of California Safe Drinking Water and Toxic Enforcement Act (Prop 65) sent to airport fuel providers by the Center for Environmental Health, Oakland, CA.

Background: Prop 65 was passed in 1986. It lists various hazardous chemicals (including lead), requires businesses which expose individuals to hazardous amounts of these chemicals to notify impacted parties, and requires cessation of exposure if exposure impacts sources of drinking water.

Current Issue: The Center for Environmental Health has sent “Notice of Violations” to some 25 fuel producers and distributors, at multiple California airports, alleging that they have violated Prop 65 warning and discharge provisions based on their sale of leaded aviation gas (100LL Avgas).

The notices were dated May 9, 2011. The Center for Environmental Health states that they will file a citizen enforcement lawsuit against each “violator” unless 1) “violators” notify all individuals who reside in or pass within the impact area (about 1 mile from the various airports they have listed), 2) “violators” cease using leaded aviation gasoline, and 3) “violators” pay appropriate civil penalties under HS Code 25249.7.

Discussion: The issue of leaded Avgas, which is used in all non-turbojet propeller driven aircraft (non-use would damage engines), is being addressed at the federal level, with FAA working with EPA and GA industry groups such as GAMA and NATA. Apparently there are no easy solutions, but options such as biofuels will be available at some point. Whether “federal pre-emption” will address this current Center for Environmental Health (CEH) “Notice of Violation” is still a question.

Based on my experience as an airport operator, I would like to present my observations on this “Notice of Violation”, for discussion purposes at our next TACA meeting. I believe that this discussion is important, because under certain scenarios, this Prop 65 violation allegation could have devastating impacts on general aviation within the State.

Obviously each named purveyor of 100LL Avgas will need to work with appropriate parties familiar with Prop 65 and related legal and process considerations, and respond to CEH as appropriate.

From my experience/perspective, the “impacts” alleged in the “Notice of Violation” are not accurate. For example, the Notice lists Long Beach Airport fuel suppliers/retailers Exxon Mobil, Mercury Air Center, JetFlite, Air Rutter, and AirFlite. The Notice shows an impact area of 1.2 miles from the Airport, and unlike some of the other subject airports, no examples of drinking water exposure areas are noted.

The City of Long Beach, as part of a facilities improvement program, certified an EIR/HHRA (Human Health Risk Assessment) in June of 2007. EDMS modeling (used by EPA and FAA) was used, and results showed that no areas around Long Beach Airport had lead exposure in excess of National Ambient Air Quality Standards (NAAQs). This is consistent with local South Coast Air Quality Management District (SCAQMD)-monitored air quality, including a monitor approximately 1 mile from the Airport, which showed no exceedence of federal or State standards for lead over a monitoring period of 1995 – 2004. The HHRA also determined that multiple pathway sources (such as soil) “are unlikely to represent a significant human health risk”. This finding was supplemented by 2006 on-Airport soil studies which indicated that lead content was below “California Total Threshold Limit Concentrations and Soluble Threshold Limit Concentrations”, and below “California Human Health Screening Levels for Residential Land Use”.

As a backdrop to these assessments, Avgas sales at the Long Beach Airport have been declining significantly, by about 49% since 2002, which reflects an overall decline in general aviation (GA) operations and a change in its fleet mix.

In addition to these Long Beach Airport findings, the South Coast Air Quality Management District monitored lead emissions at Van Nuys Airport (typically the busiest GA airport in the country) between November 2005 and September 2006. They found that none of the lead concentrations were close to or above the National Air Quality Standards.

Similarly, the SCAQMD monitored lead at the very busy Santa Monica Airport in 2006 – 7, and found that the highest off-airport levels were still below the US EPA National Ambient Air Quality Standards.

Based on these findings at some of the busiest GA airports in the State, there would likely be no violation of environmental health standards for lead exposure at the airports named in the “Notice of Violation” filed by CEH, and therefore no basis for Prop 65 engagement.

Draft Discussion Paper
Chris Kunze, Chair
Technical Advisory Committee on Aeronautics
6/1/11

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M e m o r a n d u m

Date: July 20, 2011

To: **TACA Members**

From: **Terry Barrie and Derek Kantar**
Office of Aviation Planning

Subject: **Recommend TACA Approve Policy Element for Submittal to CTC**

The Division is requesting that TACA approve the Policy Element (PE), as amended with TACA edits, for submittal to the CTC for adoption.

At the May 25, 2011 TACA meeting, TACA members were asked to submit their comments on the PE to the Division by June 14, 2011 for review and incorporation into the PE. That activity was completed. The Division subsequently created the final draft version with TACA edits incorporated. TACA's next step is to approve the PE for submittal to the CTC which the Division is requesting at their August 3, 2011 meeting.

Following TACA's approval to submit the PE to the CTC, the Division will:

- Submit the PE for consideration by the CTC at their September 14-15, 2011 meeting as an Information Item; no action will be taken on the document at this meeting. Any questions the commissioners or the general public may have would be addressed at this meeting as well as open a 30-day comment period.

- Reintroduce the PE to the CTC at the October 26-27 as an Action Item for the purpose of adopting the PE.

If there are any questions on the PE or the process of adoption by CTC, please contact Terry Barrie (terry.barrie@dot.ca.gov, 916-654-4151) or Derek Kantar (derek.kantar@dot.ca.gov, 916-651-0597).