



# South Coast Air Quality Management District



21865 Copley Drive, Diamond Bar, CA 91765-4178  
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**TO: SCAQMD Legislative Committee**

**Judith Mitchell, Chair  
Joe Buscaino, Vice Chair  
Dr. William A. Burke, Dr. Clark E. Parker, Sr., and Janice Rutherford**

**FROM: Derrick Alatorre, Deputy Executive Officer, Legislative, Public Affairs & Media**

## **LEGISLATIVE COMMITTEE MEETING**

December 9, 2016 ♦ 9:00 a.m. ♦ Conference Room CC-8  
21865 Copley Drive, Diamond Bar, CA 91765

### **Teleconference Locations**

11461 West Sunset Boulevard Malibu Room Los Angeles, CA 90049	200 N Spring Street Room 410 Los Angeles, CA 90012	8575 Haven Avenue Suite 110 Rancho Cucamonga, CA 91730
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*(Public may attend at all locations.)*

*Call-in for listening purposes only is available by dialing:*

*Toll Free: 866-244-8528*

*Listen Only Passcode: 5821432*

*In addition, a webcast is available for viewing and listening at:*

<http://www.aqmd.gov/home/library/webcasts>

## **AGENDA**

### **INFORMATION/DISCUSSION/ACTION ITEMS:**

**1. Update and Discussion on Federal Legislative Issues**

***[Attachment I - Written Reports]***

*Consultants will provide a brief oral report of Federal legislative activities in Washington DC.*

*Gary Hoitsma  
Carmen Group*

*Amelia Jenkins  
Kaleb Froehlich  
Cassidy & Associates*

*Mark Kadash  
Kadash & Associates, LLC*

2. **Update and Discussion on State Legislative Issues**

**[Attachment 2 - Written Reports]**

*Consultants will provide a brief oral report of State legislative activities in Sacramento.*

*Jason Gonsalves  
Paul Gonsalves  
Joe A. Gonsalves & Son*

*Will Gonzalez  
Gonzalez, Quintana, Hunter &  
Cruz, LLC*

3. **Report from the SCAQMD Home Rule Advisory Group**

**[Attachment 3 - Written Report]**

*The item provided is the written report of HRAG's updates as input to the Legislative Committee.*

4. **Other Business**

*Any member of this body, or its staff, on his or her own initiative or in response to questions posed by the public, may ask a question for clarification, may make a brief announcement or report on his or her own activities, provide a reference to staff regarding factual information, request staff to report back at a subsequent meeting concerning any matter, or may take action to direct staff to place a matter of business on a future agenda. (Govt. Code Section 54954.2)*

5. **Public Comment Period**

*Members of the public may address this body concerning any agenda item before or during consideration of that item (Govt. Code Section 54954.3(a)). All agendas for regular meetings are posted at District Headquarters, 21865 Copley Drive, Diamond Bar, California, at least 72 hours in advance of a regular meeting. At the end of the regular meeting agenda, an opportunity is also provided for the public to speak on any subject within the Legislative Committee's authority. Speakers may be limited to three (3) minutes each.*

**Document Availability**

*All documents (i) constituting non-exempt public records, (ii) relating to an item on an agenda for a regular meeting, and (iii) having been distributed to at least a majority of the Committee after the agenda is posted, are available prior to the meeting for public review at the South Coast Air Quality Management District, Public Information Center, 21865 Copley Drive, Diamond Bar, CA 91765.*

**Americans with Disabilities Act**

*The agenda and documents in the agenda packet will be made available, upon request, in appropriate alternative formats to assist persons with a disability (Gov't Code Section 54954.2(a)). Disability-related accommodations will also be made available to allow participation in the Legislative Committee meeting. Any accommodations must be requested as soon as practicable. Requests will be accommodated to the extent feasible. Please contact Jeanette Short at (909) 396-2942 from 7:00 a.m. to 5:30 p.m., Tuesday through Friday, or send the request to [jshort1@aqmd.gov](mailto:jshort1@aqmd.gov).*

**NOTE: The next scheduled Legislative Committee meeting is on Friday, January 13, 2017.**



**MEMORANDUM**

**To:** South Coast AQMD Legislative Committee  
**From:** Carmen Group  
**Date:** December 2016  
**Re:** Federal Update -- Executive Branch

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**Trump Administration Appointments**

Key appointments announced as of Dec. 1:

**White House Staff**

Chief of Staff	Reince Priebus ( <i>RNC Chair</i> )
Chief Strategist	Steve Bannon ( <i>Trump campaign CEO</i> )
National Security Advisor	Lt. Gen. Mike Flynn (Ret.)
Deputy Nat. Sec. Advisor	K.T. McFarland ( <i>Fox New Analyst, Reagan White House</i> )
White House Counsel	Donald McGahn ( <i>Jones Day partner, former FEC Chair</i> )

**Cabinet**

Defense Secretary	Gen. James Mattis (Ret.)
CIA Director	Rep. Mike Pompeo (R-KS)
UN Ambassador	Gov. Nikki Haley (R-SC)
Treasury Secretary	Steven Mnuchin ( <i>Goldman Sachs</i> )
Attorney General	Sen. Jeff Sessions (R-AL)
Commerce Secretary	Wilbur Ross ( <i>Billionaire investor</i> )
Commerce Deputy Secretary	Todd Ricketts ( <i>Chicago Cubs co-owner</i> )
HHS Secretary	Rep. Tom Price (R-GA) ( <i>Budget Committee Chair</i> )
Transportation Secretary	Elaine Chao ( <i>G.W. Bush Labor Secretary</i> )
Education Secretary	Betsy DeVos ( <i>Charter school advocate</i> )

Cabinet appointments still pending as of Dec. 1:

Secretary of State	--
Interior Secretary	--
Agriculture Secretary	--
Labor Secretary	--
HUD Secretary	--
Energy Secretary	--
Veterans Affairs Secretary	--
Homeland Security Secretary	--
EPA Administrator	--

## Recent Obama Administration Actions of Note

**USDOT Solicits Applications for \$850 million in FY 2017 FASTLANE Grants:** On October 28, the US Department of Transportation announced the opening of the application process for \$850 million expected to be made available in FY 2017 for the FASTLANE grant program authorized by the FAST Act. These are for projects that address freight issues facing the nation's highways and bridges. Applications are due December 15. Awards can be expected to be made before the change in administrations on January 20. The FY2016 awards under the program were just announced in September, and the FY 2107 process was accelerated to assure final decision-making under the outgoing administration.

**FHWA Announces Alternative Fuel Corridors:** On November 3, as expected pursuant to Section 1413 of the FAST Act, the Federal Highway Administration (FHWA) announced the formal designation of the first alternative fuel corridors, which begins the establishment of a national network of special fueling and charging infrastructure along national highway system corridors. Special signage denoting the locations of available charging and fueling stations will be similar to the gas, food, and lodging signs along federal roadways. The initial designations comprise a network nearly 85,000 miles long, spanning 35 states, with the full understanding and expectation that more miles will be added in the future to accommodate electric, hydrogen, propane and natural gas vehicles as additional fueling and changing stations are built.

**EPA Finalizes Increase in Renewable Fuel Volumes:** On November 23, the EPA finalized increases in the renewable fuel volume requirements across all categories of biofuels (cellulosic biofuel, advanced biofuel, biomass-based diesel, and total renewable fuel) under the Renewable Fuel Standard (RFS) program.

**EPA Moves to Solidify GHG Emissions Standards for Cars and Light Trucks:** On November 30, EPA formally proposed to leave in place the current greenhouse gas (GHG) emissions standards for cars and light trucks (for model years 2022-2025) which were first promulgated in 2012 (for the model years 2017-2025). In an apparent attempt to accelerate the agency's required Midterm Evaluation process in order to reach a final determination before the January change in administrations, EPA announced there would be a short 30-day comment period (closing on Dec. 30, 2016) on its Proposed Determination. The EPA Administrator would then technically have until April 1, 2018 to ratify a final determination, but most likely in this case, will issue it before January 20, 2017, when the new administration takes office.

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**EPA Administrator Gina McCarthy:** *"Science tells us that there is no bigger threat to American progress and prosperity than the threat of global climate change."* (Speech to National Press Club, November 21, 2016)

**President-Elect Donald Trump:** *"I absolutely have an open mind (on climate change). I will tell you this: Clean air is vitally important. Clean water...is vitally important. Safety is vitally important."* (Interview with New York Times, November 22, 2016)

**To:** South Coast Air Quality Management District

**From:** Cassidy & Associates

**Date:** December 1, 2016

**Re:** December Legislative Update

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Currently the House is working to wrap up the FY 17 appropriations legislation through a Continuing Resolution (CR) that will keep current funding levels stable until April or May of 2017. The current CR expires December 9<sup>th</sup>. It is anticipated that following enactment of the CR, Congress will recess and reconvene on January 3, 2017.

### **115<sup>th</sup> Congress – US House of Representatives**

In the first six months of the new Congress and Administration, a majority of political bandwidth will be consumed with campaign promises surrounding immigration policy, the repeal of the Affordable Care Act, and tax reform. Pursuing these initiatives will overlap with the formulation of a new federal budget and the beginning of the FY18 appropriations process.

We can also anticipate a push in both the Congress and Administration to roll back key regulations promulgated during the Obama Administration. In his post-election address, House Speaker Paul Ryan stated:

*There are so many more things that I'm excited about. Think about the laid off coal workers now who see relief coming. Think about the farmers here in Wisconsin who were harassed by the EPA and the Waters of the USA. Think about the ranchers in the west who were getting harassed by the Interior Department or the laid off timber workers. There is relief coming. This is good for our country. This means we can lift the oppressive weight of the regulatory state.*

While Democrats made gains in the House, it will still largely function as it did in the 114<sup>th</sup> Congress. The key difference will be more coordination between House and Senate Republicans on priority legislation. It is doubtful we will see the House pass legislation for the sake of passing without a reasonable path forward in the Senate.

Democrats also gained 6 seats in the House of Representatives. Republicans control 241 seats in the House while Democrats control 194. The five new House Members from California are below. All are Democrats. We suggest that we arrange early outreach and meetings with all of these new Members with an emphases on the individuals from South Coast's region (marked with an asterisk below).

#### **Democrats**

\*Nanette Barragán, CA-44

\*Salud Carbajal, CA-24

\*Lou Correa, CA-46

Ro Khanna, CA-17

Jimmy Panetta, CA-20

There are no changes in the Democratic and Republican leadership. Similarly, most of the Chairmen and Ranking Members will remain constant. The exception is the Committee on Energy and Commerce where both Congressman Greg Walden (OR) and Congressman John Shimkus (IL) are vying for the position of Chairman.

#### **Items of Interest to SCAQMD**

##### Transportation and Infrastructure Package

We can anticipate efforts to invest in infrastructure as a major initiative of the new Congress and Administration. Given the press of the Senate confirmation process, the budget process, and the appropriations process, it is unlikely the formulation of a large package will be before the entire House before June. New reports indicate that the Trump Administration will submit a transportation package in the first 100 days. This presents an opportunity for SCAQMD to explore financing or funding options to address emission reduction and research needs of the region.

##### Regulator Rollbacks/Midnight Regulation bill

The president-elect has been vocal in his support of rolling back regulations, the Clean Power Plan, and other air quality related regulations. Cassidy & Associates has inventoried over 130 EPA regulations that would be eligible for review by the new Congress under the Congressional Review Act. This list was provided to SCAQMD staff. The House passed a bill in late November making it easier to repeal regulations under the Congressional Review Act. If not adopted by the Senate, the current process prevails. We have described it below.

In order to scrap regulatory actions that are already final or are made final during this Administration, the Administration has several potential paths:

1. Direct federal agencies **not to expend any resources to enforce the rulemaking**, and publically declare its intent to do so. This would be a “get out of jail free card” for regulated parties who dislike a rule, and is the most immediate response available to the new Administration. But the regulated

parties take this bait at their own peril. Such an Administration position could be reversed at any time – even before the end of the Trump Administration, if Congress or some other legal obligation manages to compel enforcement. The regulated parties would then be caught wholly unprepared to comply if they had not already invested in compliance strategies. Regulated parties in the United States may also be wary to buck a regulatory requirement just because the threat of enforcement is suspended, because they may have other, long-term regulatory or business interests before the federal government and want to protect their reputations as “rule followers” in the long term. For an example, a policy rider on the Energy & Water Appropriations bill from 2011-2015 prohibited DOE from using funds to enforce lightbulb energy conservation standards. But by the time the rider was in place, the industry (companies like Siemens and GE) had been aware of the ongoing rulemaking process for over two years, had generally made their investments in the necessary technology upgrades, and declined to take advantage of the exemption. Furthermore, big box retailers like Home Depot and Lowes refused to take the opportunity not to comply. However, DOE did see under-performing lightbulbs from countries like Poland and Mexico being introduced into the United States. All told, DOE saw limited efficiency losses from the lightbulb rider.

Furthermore, states will still move forward with enforcement of their own standards, and so a manufacturer choosing not to comply under this strategy may still take a hit from Attorneys General in progressive states like California.

2. Have Congress conduct a **Congressional Review Act** review and overrule the regulation. Under the CRA, Congress can cancel any regulation issued within the last 60 legislative days. (As of the first day of the 115<sup>th</sup> Congress, this means any rulemaking that was completed after roughly May 30, 2016). The Senate Parliamentarian will have to evaluate and make an official ruling on how the counting back to 60 should be done. If a rulemaking does fall into the 60 day timeline, then the new Congress will have another 60 legislative days in the new year – a count which begins 15 days into the legislative session, so actually another 75 days - to mount a CRA review. The Congressional Research Service estimates about 150 Obama rulemakings could fall into this window of eligibility.

Both chambers must consider the resolution and win a simple majority in the House and a 51 vote majority in the Senate to overturn a rulemaking. ([CRS report on CRA](#)) ([Congressional Review Act: Rarely Used, Almost Always Unsuccessful](#)).

3. Go back through the full normal rulemaking process, starting from a NOPR and a comment period, to **replace and loosen the existing regulation**. This is a time-consuming effort but could be pursued for regulations which have been proffered in part as a response to litigation – i.e., the legal obligation to have some regulation in place on the topic is pressing. An example would be NAAQS standards, where environmental NGOs often sue to ensure regular reviews are conducted as required under the Clean Air Act. Under this process, President Clinton repealed less than 10 percent of the “midnight” regulations of George H.W. Bush. President George W. Bush then repealed only 3% of Clinton's. More than 80 percent

of Clinton's midnight regulations were not even amended by Bush's team. This strategy can also result in litigation that ends up restoring the original rulemaking, as when George W. Bush tried to roll back Clinton's Roadless Rule, arsenic in drinking water rule, and several other environmental provisions. As a result of *NRDC vs. Abraham*, there is an "anti-backsliding provision" that prevents the new Administration from rolling back rules in a way that neuters them entirely. Another court precedent, *Herrington v. NRDC*, prevents against the new Administration issuing "no-standard-standards," or placeholder standards that assert there is no need for a regulation without providing adequate support for that position.

4. If a rule is challenged in federal court, the new Administration can **refuse to defend** the rulemaking in those proceedings. This is the likely course of action for the Clean Power Plan. When this is the case, other interest groups (e.g. environmental NGOs) can intervene to support the defense of the rulemaking in the courts by submitting official information to the judicial docket as "respondents."
5. Overturn the rule using judicial review under the **Administrative Procedures Act**. Under the APA, parties who oppose a regulation, and can demonstrate some harm they have or will experience as a result of that regulation, can bring a challenge in court to overturn any rulemaking. In general, there is a six year statute of limitations on judicial review of a rulemaking under APA. To overturn the rule, the court must find that the regulation is "arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with the law, or else provide reasons or evidence that circumstances have changed since the rule was created, or show that the reasoning behind the rule was otherwise flawed. The APA may not really be option available to President-elect Trump and its relative usefulness will not change significantly in the near term, but it is a pathway to try for others who oppose a rule.

There is also the strategy of simply **delaying** final rulemakings by Presidential decree. At the beginning of his Administration, George W. Bush's chief of staff Andy Card issued a memorandum delaying the effective dates of roughly 90 of the 371 final rules from the Clinton Administration. "As of the one year anniversary of the Card Memorandum, most of the 90 rules had taken effect." Three had been withdrawn and replaced with new rules, nine had otherwise been altered, and one had been withdrawn and not replaced by a new rule.<sup>1</sup>

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<sup>1</sup> <https://www.fas.org/spp/crs/misc/RL34747.pdf>

## KADESH & ASSOCIATES, LLC

### MEMORANDUM

To: SCAQMD Legislative Committee

From: Kadesh & Assoc.

Re: Senate in the 115<sup>th</sup> Congress (2017-2018)

Date: December 1, 2016

### CONGRESSIONAL UPDATE

Congress reconvened following the Presidential elections and turned immediately to drafting a continuing resolution to keep the government funded past the current December 9 deadline. Prior to the election, appropriators were working on an omnibus bill covering the entire year; following the election, however, calls for a longer CR lasting until March halted work on an omnibus.

As of this writing, the length of the new CR has not been determined. The Senate is calling for a longer CR -- into April -- to accommodate what they expect will be a busy schedule of cabinet confirmations as the Trump Administration stands up. Additionally, a longer-term CR will allow for the funding decisions to be separated from the debt ceiling discussion which is also scheduled to occur in March. We will keep the board posted on the developments related to the CR and the debt ceiling.

The CR could also include several legislative items that have been languishing since before the election. These could include the WRDA bill and the energy bill which we have been tracking as AQMD priorities

### SENATE UPDATE

#### *The Senate by the numbers:*

114<sup>th</sup> Congress (2015-16): 54 R; 44 D + 2 Independents

115<sup>th</sup> Congress (2017-18): 51 or 52 R\*; 46 or 47 D\* + 2 Independents

\*December 10 runoff in LA.

Of the six new US Senators elected so far (Louisiana runoff to add one more in December), five are Democrats, one is Republican. Of the five Democrats, four are women.

In 2018, of the 33 Senate seats on the ballot 23 are held by Democrats and two more are held by Independents who caucus with the Democrats.

Supreme Court nominations and most Senate business still require 60 votes, however only 51 votes are needed for budget reconciliation and appointments (with Vice President Pence being a potential tie breaker if the Senate locks up at 50-50).

***California:***

California will have a freshman Senator, Democrat Kamala Harris and one of the Senate's most senior members, Senator Dianne Feinstein. Sen. Feinstein will move from 10th most senior to eighth most senior in the 115<sup>th</sup> Congress. She will assume the post of being the Ranking Democrat on the Senate Judiciary Committee and will continue to serve on the Appropriations Committee and still serve on (but relinquish her Ranking Democrat post) on the Senate Intelligence Committee. [As a historical note, Sen. Boxer was 11<sup>th</sup> in seniority in the 114<sup>th</sup> Congress, making her the most senior "Junior Senator" in the Senate.] Committee selection for Sen. Harris will occur sometime after her swearing-in.

***Senate Leadership, Chair and Ranking Member changes in relevant committees:***

Senators McConnell (R-KY) and Cornyn (R-TX) will maintain their jobs as Majority Leader and Majority Whip. Senator Schumer (D-NY) is the incoming Minority Leader and Senator Durbin (D-IL) will keep his job as Minority Whip.

***Critical Senate Committees:***

The Environment and Public Works Committee will see a change in leadership, despite Republicans' control of the Senate. Sen. John Barrasso (R-WY.) is in line to take over for Chairman Jim Inhofe (R-Okla.), who is term limited. Ranking member Barbara Boxer (D-Calif.) is retiring. Senator Tom Carper (D-DE) will assume the Ranking Member position on Senate EPW. SCAQMD has worked with Senator Carper on air issues and we anticipate being able to continue that relationship.

The Senate Energy and Natural Resources Committee, meanwhile, won't see a change in leadership as Sen. Lisa Murkowski (R-AK) continues as chairman and Sen. Maria Cantwell (D-WA) continues as Ranking Member.

## ATTACHMENT 2



### Joe A. Gonsalves & Son

Anthony D. Gonsalves

Jason A. Gonsalves

Paul A. Gonsalves

PROFESSIONAL LEGISLATIVE REPRESENTATION

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**TO:** SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT

**FROM:** ANTHONY, JASON, AND PAUL GONSALVES

**SUBJECT:** DECEMBER LEGISLATIVE UPDATE

**DATE:** THURSDAY, DECEMBER 1, 2016

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As you know, the 2015-16 Legislative session ended on August 31, 2016, just in time for Legislators to hit the campaign trail before the November 8, 2016 General Election. All 80 State Assembly seats were up for re-election along with half of the State Senate seats. 6 incumbents lost re-election, leading to a 2/3 Democrat supermajority in both houses. In addition, the voters decided the fate of 17 ballot initiatives, of which all but 5 passed.

The following will provide you with an update on the issues of interest to the SCAQMD:

### **VOLKSWAGEN SETTLEMENT**

California has reached a partial settlement with Volkswagen resulting from their use of illegal defeat devices in 2.0-liter diesel cars that were sold in the State from model years 2009 to 2015.

As a piece of the partial settlement, Volkswagen is required to invest \$800 million in Zero Emission Vehicles (ZEV) projects in California over a 10-year period. Eligible projects include:

- installing zero-emission vehicle fueling infrastructure (for both electric- and hydrogen-powered cars),
- funding brand-neutral consumer awareness campaigns that will help grow the ZEV vehicle market,

- investing in projects such as car-sharing programs that will increase access to ZEVs for all consumers in California, including those in lower-income and disadvantaged communities.

These projects will support the next generation of California ZEVs, helping to grow the state's ZEV program and lay the foundation for achieving the State's air quality and climate change goals.

On Friday December 2, 2016, the California Air Resources Board (CARB) is holding a public workshop to provide suggestions for Volkswagen's \$800 million 10-year ZEV Investment Commitment in California. During the workshop, staff will discuss:

(1) Areas of qualified investments:

- ZEV infrastructure,
- public awareness,
- increasing ZEV access,
- and green city projects.

(2) potential guiding principles and priorities for the first ZEV Investment Plan.

(3) the process and timeline associated with development, review, and approval of the first investment plan.

After the discussion, members of the public will be invited to make comments related to the ZEV Investment Commitment. Following the workshop, CARB will develop a guidance document communicating California's priorities and guiding principles for ZEV investments to be transmitted to Volkswagen to aid in their ZEV Investment Plan drafting. The deadline for VW's submittal of the first ZEV Investment Plan is February 22, 2017.

## **TRANSPORTATION SPECIAL SESSION**

On Tuesday, November 22, 2016, the Governor and Legislative Leaders announced that the potential last-minute push on a transportation funding plan has ended, declaring there would be no lame-duck session negotiations this month.

The current two-year session of the Legislature officially ended on Nov. 30, 2017 and negotiations on a multi-billion transportation plan have failed to result in an agreement since they adjourned earlier this year.

Governor Brown put forth a \$3.6-billion transportation proposal this summer, while some Democratic legislators wanted a \$7.4 billion plan to repair roads and highways. The long impasse over a deal centered on the 2/3 vote needed to adopt the increased gas taxes in the plan, which required Republican votes.

Although Governor Brown and Legislative Leaders are committed to approving a transportation funding deal early in the upcoming Legislative session, one question remains; Now that the Assembly and Senate both have a 2/3 democratic supermajority, can Governor Brown and Legislative Leaders strike a deal with the more moderate democrats to get a deal done?

## **LEGISLATIVE CALENDAR**

The following will provide you with the upcoming Legislative deadlines for the 2017-18 legislative session:

January 1, 2017 – Statutes Take Effect  
January 4, 2017 – Legislature Reconvenes  
January 10, 2017 – Governor Releases State Budget  
January 20, 2017 – Last Day to Submit Bill Request to Legislative Counsel  
February 17, 2017 – Last Day for Bills to be Introduced  
April 6-17, 2017 – Spring Recess  
April 28, 2017 – Last day for Policy Committees to Hear Fiscal Bills  
May 12, 2017 – Last Day for Policy Committees to Hear Non-Fiscal Bills  
May 19, 2017 – Last day for Policy Committees to Meet Prior to June 5, 2017  
May 26, 2017 – Last Day for Fiscal Committees to Meet.  
May 30-June 2, 2017 – Floor Session Only  
June 2, 2017 – Last Day to Pass Bills out of Their House of Origin.  
June 15, 2017 – Budget Bill Must be Adopted  
July 14, 2017 – Last day for Policy Committees to Hear Fiscal Bills  
July 21, 2017 – Last day for Policy Committees to Hear Bills.  
July 21-August 21, 2017 – Summer Recess  
September 1, 2017 – Last Day for Fiscal Committees to Hear Bills  
September 5-15, 2017 – Floor Session Only  
September 8, 2017 – Last Day to Amend on the Floor  
September 15, 2017 – Last Day of Session



SCAQMD Report

Gonzalez, Quintana, Hunter & Cruz, LLC

December 1, 2016

**General Update:**

While the Federal election results grabbed headlines across the state, the 2016 election will also bring a fair amount of change to Sacramento. All 80 State Assembly seats and half (20) of the State Senate seats were up for grabs, as were all U.S. House of Representative seats and one California Senate post. There were also 17 statewide propositions before the voters.

Despite the results at the national level, Californians remained progressive, legalizing marijuana, taxing tobacco, banning plastic bags, and extending a tax on the highest earners in the state. However, Californians bucked the progressive trend with regards to the death penalty, voting to expedite rather than repeal it.

The election of Attorney General Kamala Harris to the US Senate means that Governor Brown must appoint a new AG to complete the remainder of her term until the 2018 election. Many names were rumored, including Brown's Executive Secretary, Nancy McFadden, and even the Governor's wife, Anne Gust Brown. However, the Governor selected U.S. Congressman Xavier Becerra (D-CA) to replace AG Harris. The nomination, which is subject to confirmation by the California State Assembly and Senate, will be officially submitted after AG Harris resigns. This has set off a domino effect, with former Assembly Speaker John A. Perez announcing his candidacy to replace Becerra in Congress.

Below are more in-depth updates on additional issues post-election.

**Democratic Supermajority**

In the Senate, Democrats were able to pick up the one seat (in the Orange County Senate District 29) needed to achieve a 2/3 majority due to a significant boost in provisional and absentee ballots. The race looked to be a win for Republicans for nearly two weeks after the election. However, as more votes were counted in SD 29, Josh Newman (D) overtook Asm. Ling Ling Chang (R). While the 2/3 vote could be important for procedural votes, there is a growing number of moderate Democrats in the Senate, albeit not as organized as the Assembly, who may prevent a major shift in policy.

In the Assembly, Democrats were able to pick up 3 Republican seats to gain a supermajority. This 2/3 majority gives Democrats 55 seats, potentially making rule waivers and procedural votes easier, though likely having little impact on policy decisions. There remains a strong block of moderate Democrats in the Assembly, making it unlikely that the supermajority will lead to significant changes in policy. This may be especially true for those newly elected legislators who will have a strong Republican challenge in 2018.

### **Proposition 53**

Prop 53 would have required voter approval for any revenue bond over \$2 billion. It was promoted and funded by Dean Cortopassi, a Central Valley farmer. This would have placed the Delta Tunnels project and High Speed Rail in jeopardy. Thus, defeating this measure became one of Governor Brown's priorities in the 2016 election. In the end, the measure failed by less than 200,000 votes.

### **Proposition 54**

Prop 54 will prohibit the legislature from passing any bill until it has been in print and published on the internet for 72 hours prior to the vote. Despite support from the California Republican Party and opposition from the California Democratic Party, the measure passed overwhelmingly with 65% of the vote. It will likely lead to a change in procedure in the Legislature, as it makes "gut-and-amends" and last-minute changes very difficult. It does not, however, apply to the Budget bill.