



March 2, 2012

Metropolitan Transportation Commission
Association of Bay Area Governments
Bay Conservation and Development Commission
Bay Area Air Quality Management District

Dear Commissioners and Directors:

The Bay Area is currently engaged in developing significant policies that will have a major impact on our region for years to come, including the Sustainable Communities Strategy, Climate Change adaptation and Air Quality CEQA guidelines. Members of our Bay Area Business Coalition believes that if the Bay Area is to be successful in restoring our region's economic health and competitiveness as we address these issues, we must begin to discuss regional agency governance and reform.

In particular, the Coalition has given considerable thought to how the current practices of the Joint Policy Committee and individual regional agencies can be significantly improved without compromising their core regulatory missions.

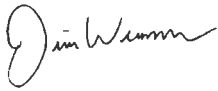
Attached to this cover letter is a summary of the principal problems/concerns we have identified, and suggested solutions to remedy the problems. As the document explains more fully, our fundamental conclusions are these:

- The JPC's original core mission and the degree to which it has succeeded (or not) in fulfilling it due to some core structural problems, are already well documented (see enclosed report and memoranda).
- The JPC's original core mission—to be the focal point for introducing, analyzing, and influencing important policy initiatives undertaken by the member agencies—remains valid and appropriate.
- For structural and resource reasons, the JPC has not effectively fulfilled the key roles and responsibilities envisioned when it was created.
- Successful reform of the JPC should focus on measures that enable it to carry out its core mission successfully.
- A necessary element of successful reform of the JPC is to address the currently insufficient internal and external checks and balances on member agency regulatory initiatives.
- As the JPC is comprised of two regional planning agencies and two regulatory agencies, the Coalition does not feel that it is the appropriate entity to be charged with generating a regional economic development strategy for the Bay Area. We look forward to discussing with you some options as to how that important work could be done.

Also attached to this letter is a letter previously sent to Senator DeSaulnier regarding his SB 878 and the importance of regional agency governance reform.

The attached document is not meant to be exhaustive or exclusive in terms of reform possibilities; it is meant to summarize some of the Coalition's current thinking concerning these important areas of regional reform. We look forward to working with you on this important issue.

Sincerely yours,



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Bay Area Council



John Coleman
Bay Planning Coalition



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JPC and Member Agency Reform: Problems and Solutions

The Bay Area Business Coalition has identified the following principal problems/concerns:

- The JPC has not effectively fulfilled the roles and responsibilities envisioned when it was created. The JPC was intended to be the focal point for introducing, analyzing, and influencing important policy initiatives undertaken by its member agencies. Policy initiatives of regional importance were to go before the JPC at the outset of the process, with explanations and analyses presented to JPC members, stakeholder groups and the public by an independent staff, followed by the opportunity for immediate high-level feedback. In a nutshell, the JPC was to be the first step in the process for significant policy proposals from the member agencies, and be the key forum at which regional planning and regulatory initiatives are vetted, discussed, and debated—before the initiative moves so far along the proposing agency's own decision making process that the opportunity to influence the proposal in any meaningful way is lost.

- With respect to the process for developing significant regional policy initiatives (including but not limited to the RTP/SCS process), individual agency committees, subcommittees, task forces, working groups, policy councils, etc. have proliferated at the expense of the JPC. In an effort to be more inclusive and solicit broader input, the regional regulatory structure has ironically evolved to have the opposite effect. There are too many meetings held by too many bodies for elected officials, stakeholders, the public, and even staff to keep track of—let alone prepare for adequately and participate in productively.
- The diffuse nature of the process leaves far too little direct interaction between elected officials on the various agencies, stakeholders, and the public. While various agency staff members make a good faith effort to “shuttle” between committees and summarize points made at different meetings, there is no effective substitute for face-to-face interaction between the elected officials, staff, and all of the stakeholder groups.
- There are insufficient internal and external checks and balances on individual agency regulatory initiatives, including with respect to whether the initiative may promote or hinder successful implementation of the adopted RTP/SCS.

The Coalition has identified the following potential solutions/reforms to address these problems:

- Reorganize individual agency structures and practices to ensure that JPC meetings are the most meaningful, informative, and important to attend. JPC meetings should be held more frequently, at regular times, and with formal procedures for notice and comment period. There should be at least quarterly “general assembly” type JPC meetings at which the member agencies meet concurrently, preceded or followed by workshop sessions in which stakeholders and the public can have intensive and sustained dialog with elected officials.
- Give teeth to the current statutory requirement that the JPC review and comment on both initial drafts and final drafts of regional agency regulatory initiatives/measures by amending the statute to provide that failure to comply prevents the initiative/measure from taking effect (unless otherwise required by federal or state law deadline).
- Require the regional agencies to prepare regulatory impact statements before adopting initiatives/measures that may have a regional impact (such as potential inconsistency with the RTP/SCS). While some of the activities of some of the regional agencies are subject to Administrative Procedure Act-type requirements such as undertaking cost/benefit analysis, describing the need for the initiative, and identifying alternative means of achieving the desired policy outcome, many significant initiatives are not. This recommendation would entail identifying a set of criteria for determining what regulatory initiatives must prepare a regulatory impact statement, and the requirements of the regulatory impact statement itself.
- Provide for the Regulatory Impact Statement to be brought before the JPC for review and comment, and give the JPC the authority to remand the matter back to the agency for revision if it is inadequate.

