

Thank you for the opportunity to speak on this matter. The following remarks provide background on the enabling statute of the Strategic Growth Council, which is one of the newest entities to be affected by the decision-making and open meetings processes discussed today.

The SGC was created in 2008 by SB 732 to coordinate state efforts to support the development of sustainable communities. The legislation clearly mandates a collaborative process to promote a variety of interagency values and investments including:

- promoting compact, infill development, and conversely natural resource conservation,
- increasing the availability of affordable housing,
- improving transportation systems, and
- other efforts designed to support the goals of AB 32, or the California Global Warming Solutions Act of 2006.

As a practical matter, unifying the efforts of six agencies and the Governor's Office is an intensive undertaking requiring clear and effective communication. Recognition of this may be part of the reason SB 732, as first introduced and amended six times between February and August of 2007, contained no mention of the Bagley-Keene Act. Public Resources Code Section 75123, requiring the council to operate under the rules of Bagley-Keene was added in the second to last amendment in August 2008. This amendment seems inconsistent with many other sections and mandates for the SGC which either openly state or certainly

imply the intensity of interagency communication to be applied in achieving the goals of the bill.

Here are some examples within our enabling statute of the interagency communication required:

- SGC, through its member agencies, is charged with identifying activities and programs of their agencies that may be coordinated to achieve the goals of the council. (Section 75125 (a))
- Staff to the council shall be representative of its membership. (Section 75121 (b))
 - For practical and fiscal reasons, that has come to mean that member agencies contribute staff to the council for the purposes of accomplishing the many mandates of SGC's enabling legislation. This has had the benefit of bringing agencies closer together as they actually work shoulder to shoulder to accomplish the many objectives of SB 732.
- The council is to provide data and information to local and regional governments to assist in developing sustainable communities. (Section 75125 (c))
 - Certainly the pooling and coordination of interagency data and information is a good thing but it is a communication rich process which requires many decisions at many levels, and a reasonably facile work setting.

- The council is to review the five year infrastructure plan for consistency with the State Planning Priorities. (Section 75125 (a))
 - This mandate directs the SGC to bring the vantage points and expertise of agencies with very different missions together to examine critical infrastructure investments, and to review the relationships of those investments to the values espoused in the statutory State Planning Priorities.

All of the sections of the SGC's enabling legislation, except for the very section requiring that the council be subject to the Bagley Keene Open Meetings Act (PRC 75123(a)), require frequent communication and close collaboration between the agencies overseen by the Strategic Growth Council's members.

Staff for the council, with the exception of a very small operational staff of six, is comprised of delegates from council member agencies. We refer the staff from those agencies as "Key Staff" and they are the pivotal link between the core of the council and the expertise in their respective agencies. They must be sufficiently well placed in their agency to have a broad, comprehensive view of their agencies' programs and operations, and they must have the authority to commit staff resources from their agency to SGC programs. Persons acting in this capacity are, of necessity, part of their agencies' leadership.

What is the problem with all of this?

The requirements of Bagley-Keene draw a narrow circle around the types of communications that can take place between members of a decision-making body or those who could act as a surrogate for the views of a member of that body. Interpretations on the communications that can occur between Council members or their surrogates are generally unclear, specifically with regard to:

- the number of members, and their respective views that can be comingled within a venue or a topic,
- the stage in a decision process in which such comingling takes place
- the number of discussants allowed for collaborative coordination to occur, and at what level of leadership – really, the “size of the circle.”

These requirements currently constrain the breadth and intensity of communication needed in order to efficiently produce the collaborative, coordinated activities and programs envisioned by SB 732.

The one avenue currently available for the discussion, coordination, and integration of multiple member agency viewpoints is to notice and hold a public meeting for any such discussion to occur. Such a provision offers no flexibility in discussion outside a public meeting, requires a significant commitment of staff resources to notice and hold such meetings, is generally an inefficient practice, and acts as a deterrent and is actually contradictory to the very coordination of the Council's objectives.

Thank you.