

**Metro**Los Angeles County
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metro.net**EXECUTIVE MANAGEMENT AND AUDIT COMMITTEE****April 21, 2011****SUBJECT: STATE LEGISLATION****ACTION: ADOPT STAFF RECOMMENDED POSITIONS****RECOMMENDATION**

A) SB 214 (Wolk) – Would repeal the infrastructure financing districts requirement of voter approval and authorizes districts, to be in place for 40 years. SUPPORT

B) SB 582 (Emmerson) – Would authorize a metropolitan planning organization jointly with the local air quality management district to adopt a commute benefit ordinance.

SUPPORT WORK WITH AUTHOR

C) SB 862 (Lowenthal) – Would establish the Southern California Goods Movement Authority and specify representation on the authority. SUPPORT WORK WITH AUTHOR

D) SB 693 (Dutton) – Would allow Caltrans to delegate the authority for Public Private Partnerships to cities and counties. SUPPORT WORK WITH AUTHOR

E) SB 907 (Evans) – Would establish Master Plan for Infrastructure Financing and Development Commission. SUPPORT

F) AB 427 (Pérez) – Would establish a process to reallocate Proposition 1B transit security funds that remain unused and would authorize specified rail operators to be eligible for an additional source of funds. SUPPORT WORK WITH AUTHOR

G) AB 892 (Carter) – Would extend the authority for Caltrans to participate in a pilot program whereby Caltrans is delegated authority to act under federal environmental laws. SUPPORT

H) AB 1308 (Miller) – Would allow for continuous appropriations from the Highway Users Tax Account in the Transportation Tax Fund in any year in which the Budget Act has not been enacted by July 1st. SUPPORT

ATTACHMENTS

Attachments A - H

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BILL: SB 214

**AUTHOR: SENATOR LOIS WOLK
(D – DAVIS)**

SUBJECT: INFRASTRUCTURE FINANCING DISTRICTS

STATUS: SENATE GOVERNMENT AND FINANCE COMMITTEE

ACTION: SUPPORT

RECOMMENDATION

Adopt a support position on SB 214 (Wolk), which would repeal the requirement that the creation of an infrastructure financing district be approved by the voters. SB 214 also authorizes a district to exist for 40 years instead of the current requirement of 30 years.

ISSUE

Existing law authorizes a legislative body to create an infrastructure financing district to finance specified public facilities. Current law also outlines the process to create these districts and requires that upon the conclusion of that process the district must be approved by voters in the district. The existing law also requires that an infrastructure financing district be in place for not more than 30 years.

PROVISIONS

Specifically, SB 214 would:

- Eliminate the requirement that the creation of infrastructure financing districts be subject to voter approval; and
- Authorize infrastructure finance districts to be in place for 40 years.

IMPACT ANALYSIS

SB 214 has been introduced by Senator Wolk in order to facilitate the use of Infrastructure Finance Districts (IFD). IFD's could be a useful tool to fund transit improvements. An infrastructure finance district functions similarly to redevelopment areas in that a local agency is allowed to create a district whereby future tax increment can be used to fund improvements in the district. IFD's are different in two key respects. First, a local agency does not need to declare an area blighted in order to establish an IFD. Second, the process for creating an IFD is different in that the local

agency has to obtain the consent of all the taxing jurisdictions in the district. IFD must also be approved by the voters in the district.

An IFD is fundamentally a reallocation of future tax revenue. IFD's do not raise taxes but would capture the incremental increase in taxes that would result from future development. In the case of a transit project, tax increment would be created from joint development along a transit corridor. The tax increment could be used to offset a portion of the costs of the transit project. MTA staff has previously evaluated the usefulness of IFD's and found that IFD's could provide a useful source of funds for our projects.

MTA previously sponsored legislation similar to SB 214 which would have reviewed the voter approval requirement. This legislation was held in the Senate Local Government Committee. In addition, MTA's legislative program includes support for legislation that would facilitate the use of IFD's. SB 214 could facilitate the development of a financing tool for future transportation projects in Los Angeles County. Staff therefore recommends that the Board adopt a support position on SB 214.

BILL: SB 582

**AUTHOR: SENATOR BILL EMMERSON
(R -RIVERSIDE)**

SUBJECT: COMMUTE BENEFITS POLICIES

STATUS: SENATE TRANSPORTATION AND HOUSING

ACTION: SUPPORT WORK WITH AUTHOR

RECOMMENDATION

Adopt a support work with author position on SB 582 (Emmerson) which would authorize a metropolitan planning organization in coordination with the local air quality management district to adopt a commute benefit ordinance.

ISSUE

Existing law requires metropolitan planning organizations to prepare a regional transportation plan which includes a sustainable communities strategy for their region. The sustainable communities strategy must identify how the region will reduce vehicle miles travelled. Existing law also creates air quality management district's with various responsibilities to reduce air pollution.

PROVISIONS

Specifically, SB 582 would:

- Authorize metropolitan planning organizations in coordination with local air quality management districts, to adopt a commute benefit ordinance that requires covered employers to offer certain commute benefits to employees;
- Define a covered employer as one having more than 20 employees and defines the specified number of hours worked that would define an employee;
- Require the ordinance to allow the employer to offer specific commute benefits such as transit passes or allow employees to deduct the cost of those benefits from their pre-tax earnings; and
- Provide that in the jurisdiction of the Southern California Association of Governments, the county transportation commission rather than the metropolitan planning organization may adopt the ordinance.

IMPACT ANALYSIS

SB 582 is sponsored by the Metropolitan Transportation Commission and the Bay Area Air Quality Management District. The bill is envisioned as providing local agencies with a tool to implement SB 375. The creation of incentives to ride transit is certainly

something MTA would encourage and MTA in fact already operates a number of voluntary commuter benefit programs.

In Southern California the South Coast Air Quality Management District currently implements a local rule, Rule 2202, which requires employers to implement commuter benefit programs. This program has, in the past, been subject to significant debate in the State Legislature. As a result, current law already regulates the scope of this program. SB 582 would, in addition to Rule 2202, allow the Southern California transportation commissions to adopt individual ordinances. These ordinances would capture a larger number of employers in comparison to Rule 2202 and would allow a different set of incentives to be offered. SB 582 could be a useful tool to incentivize the use of public transit but staff have a set of concerns that we feel should be resolved in the legislation.

First is that since Southern California is already subject to Rule 2202, the relationship between SB 582 and Rule 2202 must be resolved prior to final passage. MTA has worked cooperatively with SCAG and SCAQMD on a number of issues including SB 375 and we feel that it is important that any commuter benefit policy be developed in partnership with other agencies.

Secondly is that as currently proposed SB 582 could have a substantial impact on businesses in Los Angeles County. While we recognize that an ordinance as proposed by SB 582 could substantially benefit public transit, it will not succeed without the participation of the business community. Staff suggests that it would be appropriate for MTA to reach out to the business community to solicit input on this proposal to discuss how best to structure a program that would work in Los Angeles County.

SB 582 is supported by the American Lung Association, the Environmental Defense Fund, and a number of businesses in the Bay Area. SB 582 is currently opposed by Sacramento Metropolitan Air Quality Management District.

Staff recommends that the Board approve a support work with author position on SB 582.

BILL: SB 862

AUTHOR: SENATOR ALAN LOWENTHAL
(D –LONG BEACH)

SUBJECT: SOUTHERN CALIFORNIA GOODS MOVEMENT AUTHORITY

STATUS: SENATE TRANSPORTATION AND HOUSING COMMITTEE

ACTION: SUPPORT WORK WITH AUTHOR

RECOMMENDATION

Adopt a support work with author position on SB 862 (Lowenthal) which would create the Southern California Goods Movement Authority and authorizes the authority to implement a safer goods movement projects.

ISSUE

SB 862 proposes the creation of a specialized authority and the adoption of a fee to fund goods movement projects in Southern California. Funding goods movement projects is a critical need in our region and SB 862 could provide a valuable mechanism to implement those important improvements.

PROVISIONS

Specifically, SB 862 would:

- Establish the Southern California Goods Movement Authority consisting of representatives from specified entities;
- Require the authority to establish a priority list of goods movement projects in Southern California;
- Require the Alameda Corridor Transportation Authority to provide staff and meeting space for the authority; and
- Authorize the authority to enter into a memorandum of understanding with PierPass, for funding the list of goods movement projects.

The Authority is composed of the following agencies:

- (1) The Port of Los Angeles, appointed by the Los Angeles Board of Harbor Commissioners.
- (2) The Port of Long Beach, appointed by the Long Beach Board of Harbor Commissioners.
- (3) The City of Los Angeles, appointed by the Mayor of Los Angeles.
- (4) The City of Long Beach, appointed by the Mayor of Long Beach.
- (5) The City of Anaheim, appointed by the Mayor of Anaheim.

- (6) The City of Riverside, appointed by the Mayor of Riverside;
- (7) The City of San Bernardino, appointed by the Mayor of San Bernardino;
- (8) The Los Angeles County Metropolitan Transportation Authority, appointed by the board of directors of the Los Angeles County Metropolitan Transportation Authority;
- (9) The Orange County Transportation Authority, appointed by the board of directors of the Orange County Transportation Authority;
- (10) The Riverside County Transportation Commission;
- (11) The San Bernardino Associated Governments; and,
- (12) The Alameda Corridor East Construction Authority.

IMPACT ANALYSIS

SB 862 authorizes the creation of a new goods movement authority and the implementation of a fee to fund critically needed goods movement infrastructure projects in Southern California. The measure follows similar attempts in legislation to implement a container fee in our region. Senator Lowenthal, who has long championed this issue, is moving this measure to bring funding to a critical area of need.

SB 862 utilizes a structure outlined in previous legislation carried by the Senator in that it creates a Southern California authority and specifies the membership of the authority. Under SB 862, as in previous legislation, Los Angeles County would have six seats on a 12 member board. While not a majority, Los Angeles County would have significant representation. The bill also authorizes the fee to be implemented through Pier Pass with the Alameda Corridor Transportation Authority providing staff support.

The implementation of a cargo related fee in Southern California has long been a goal of our region. Significant obstacles remain to being able to create such a fee. SB 862 provides an opportunity to address many of those issues.

The authority would be charged with creating a list of priority projects for the region. Staff at the transportation agencies in our region are in the process of continuing the work on project lists as identified generally in the various planning documents. Since the authority is comprised of the agencies currently engaged in this work there is little concern that the project list will not reflect local needs. During discussions on previous legislation however, representatives of the Central Valley in California sought to divert funding from a locally derived fee for improvements in their area. Staff would caution that any fees derived in Southern California should remain in Southern California.

Additionally, this measure is being proposed after the passage of Proposition 26. Proposition 26 more narrowly defined a fee to specify that a fee must directly benefit the payor of the fee. The use of Pier Pass may resolve some of the issues with Proposition 26 but it is not known at this point what other restrictions may be placed on this program in order to meet the requirements of Proposition 26.

The role of the authority with respect to additional future goods movement funding could also be clarified. Advocates in our region have argued for a stronger federal

commitment to funding goods movement projects. The authority could play a role in implementing that funding as an applicant and perhaps as the responsible entity in our region for those funds. It would be worthwhile to resolve that issue in legislation.

Lastly, the timing of the fee has always been of concern. Stakeholders in this area have felt that the implementation of a fee should be timed to coincide with the improvements to be made but also timed in a way that does not jeopardize the competitive position of the Southern California ports vis a vis other facilities. The legislation is silent on the timeframe for implementation of the fee so it would appear that the authority would retain discretion as to the timing of the fees implementation.

SB 862 is expected to be amended as the legislative process proceeds. We are very appreciative of the Senator's leadership on this issue and we remain available to work with the Senator to ultimately implement a fee in Southern California. Staff therefore recommends that the Board approve a support work with author position on SB 862.

BILL: SB 693

**AUTHOR: SENATOR DUTTON
(R-RANCHO CUCAMONGA)**

SUBJECT: PUBLIC PRIVATE PARTNERSHIPS

STATUS: SENATE TRANSPORTATION AND HOUSING COMMITTEE

ACTION: SUPPORT WORK WITH AUTHOR

RECOMMENDATION

Adopt a support work with author position on SB 693 (Duncan), which expands existing state authority for Public Private Partnerships.

ISSUE

Current law allows Caltrans and regional transportation agencies to enter into public-private partnerships for transportation projects. It also allows for Caltrans to designate a city or county any part of its powers and jurisdiction, except for approval, over any portion of the state highway system within the city or county.

PROVISIONS

Specifically, SB 693 would:

- Specify that the delegation authority includes the authority to utilize private-public partnership agreements for transportation projects; and
- SB 693 would also make findings and declarations related to local agency contracting.

IMPACT ANALYSIS

SB 693 would allow Caltrans to delegate the authority to use public private partnerships to cities and counties. The measure would allow these local governments to enter into Public-Private partnerships for transportation projects without having to go to the California Transportation Commission for approval.

SB 693 would facilitate the use of P3's in the state by removing the step of having to seek approval of the California Transportation Commission. While SB 693 would be a useful tool in that it could facilitate the use of P3's some questions remain as to how the authority to use a P3 on a highway project would be exercised by a city or county since a highway generally passes through many jurisdictions. Perhaps the authority may be more appropriately delegated to the county transportation commission in a given region.

MTA's legislative program includes support for the expedited use of P3's and has an aggressive program to use P3's on projects in our Long Range Plan. SB 693 could therefore be a useful tool but the language could be clarified to address the role of the county transportation commissions.

SB 693 is supported by the Los Angeles Chamber, Southern California Association of Governments, California Chamber. SB 693 is opposed by Professional Engineers in California Government and AFSCME. Staff recommends that the Board of Directors adopt a support work with author position on SB 693.

BILL: SB 907

AUTHOR: SENATOR NOREEN EVANS
(D –SANTA ROSA)

SUBJECT: INFRASTRUCTURE FINANCING AND DEVELOPMENT
COMMISSION

STATUS: SENATE GOVERNANCE AND FINANCE

ACTION: SUPPORT

RECOMMENDATION

Adopt a support position on SB 907 (Evans) which creates the Master Plan for Infrastructure Financing and Development Commission.

ISSUE

Current planning for infrastructure in the State of California takes place in many venues. The state currently requires the development of a long term infrastructure plan but this plan has not led to comprehensive funding for infrastructure in California. Existing plans may not adequately capture overall needs or be able to rank projects.

PROVISIONS

Specifically, SB 907 would:

- Create the Master Plan for Infrastructure Financing and Development Commission and charge the commission to develop a plan to be presented to the Governor and Legislature. The plan would identify the infrastructure necessary to meet the needs of the state through the year 2050, and establish a process for periodically adjusting the plan;
- Require that the commission consist of 11 members: the Treasurer or his or her designee, and members appointed by the Governor, the Speaker of the Assembly, and the Senate Committee on Rules;
- Authorize the Governor to appoint the chair of the commission from among the commission members;
- Require the chair, with the concurrence of the commission, to appoint an executive director;
- Require that funding for the operating costs of the commission be available upon appropriation by the Legislature;
- Require the chair of the commission to appoint the members of specified task force committees, to be composed of both members and nonmembers of the commission, and would require commission members to chair at least one task force committee in which they have expertise; and

- Specify the subject matter responsibilities of these task force committees to include the planning and financing of, transportation, housing, natural resources and conservation, and education improvements. Requires the commission to submit its final report to the Governor and Legislature no later than December 1, 2013, and to be dissolved 30 days after issuance of the final report.

IMPACT ANALYSIS

SB 907 would create the Master Plan for Infrastructure Financing and Development Commission, which would develop and recommend a Master Plan to be presented to the Legislature and Governor providing for financing, building, and maintaining the infrastructure needed serve California from now until the year 2050.

The State faces many challenges in being able to address all of its infrastructure needs. A comprehensive approach to this subject could yield a plan for infrastructure, including transportation, and could yield potential funding sources. Given the expected population growth in our state, staff feels a comprehensive approach, as identified in SB 907 is warranted. While other commissions have been proposed such as the public transit task force identified in AB 650, staff feels that there are ways to ensure that these efforts are coordinated and not duplicated.

The Commission would pose no General Fund impact and would disband after its final report is released in 2013. This bill ensures that the Master Plan will meet our state's changing needs by establishing a process for periodically adjusting the Plan.

This bill would produce, through the Commission, the independent and comprehensive information needed to guide policymakers in prioritizing and financing infrastructure projects that meet California's long-term needs.

SB 907 is sponsored by the Honorable Bill Lockyer, California State Treasurer. There is no opposition at this time. Staff recommends that the Board of Directors adopt a support position on SB 907.

BILL: AB 427

AUTHOR: ASSEMBLYMEMBER JOHN PÉREZ
(D-LOS ANGELES)

SUBJECT: TRANSPORTATION BOND FUNDS

STATUS: ASSEMBLY COMMITTEE ON GOVERNMENTAL
ORGANIZATION

ACTION: SUPPORT WORK WITH AUTHOR

RECOMMENDATION

Adopt a support work with author position on AB 427 (Pérez) which would clarify the allocation process for unused bond funds allocated for security purposes on public transit.

ISSUE

Proposition 1B included an allocation of funds to public transit agencies to fund improvements which would enhance security of public transit systems. Throughout the course of implementing 1B some of these funds have been unused. AB 427 would create a process to reallocate those funds and would clarify current law with respect to future implementation.

PROVISIONS

Specifically, AB 427 would:

- Identify a process whereby the California Emergency Management Agency would notify specified agencies that funds may be subject to reallocation, provides those agencies to identify needs for fund subject to reallocation and allows Cal EMA to reallocate unused funds; and
- Remove a clause which prohibits certain rail operators, namely Metrolink, from accessing a specific source of funds allocated to local agencies.

IMPACT ANALYSIS

Since the passage of Proposition 1B, various departments of state government have implemented the various aspects of the measure. The California Emergency Management Agency has been charged with the implementation of funds allocated for transit security purposes. Over the course of the implementation of this particular category funds have gone unused.

Funds have gone unused for a variety of reasons. In some cases the formula used to allocate these funds results in amounts so low they do not justify the expense required to access them. In other cases, funds have gone unused due to the way in which the program was administered (and local agencies left funds unused), or agencies have simply not access funds.

In the case of Los Angeles County certain funds have gone unused. Proposition 1B allocates funds based on the State Transit Assistance Account formula. This formula utilizes ridership and revenue as the basis for allocation. MTA receives an allocation based on its ridership and revenue pursuant to the formula but a share of our allocation is based on our contribution to Metrolink. MTA has not accessed the latter portion, the portion attributable to Metrolink, while other counties in the Metrolink region have been able to access that money. As a result, approximately \$600,000 per year has gone unused in our county since the implementation of Proposition 1B. Over the course of this program, that amount could be substantial.

In addition, Metrolink has been prohibited from accessing these funds, even though they are attributable to their system since current law prohibits certain rail operators from accessing multiple sources of funds. AB 427 would eliminate that prohibition and allow these funds to go directly to Metrolink. Staff recommends that this section be modified to reflect current practice but also provide flexibility so that these funds could be by Metro used on Metrolink related improvements. There are essentially two options for how to handle these specific funds. First is that the Board could seek to maintain the prohibition which would allow MTA to receive these funds directly. If the prohibition were removed, then the funds would be allocated directly to Metrolink. Should MTA receive these funds directly we envision that we would still use the funds on Metrolink related improvements.

Staff recommends that the Board of Directors adopt a support work with author position on AB 427.

BILL: AB 892

**AUTHOR: ASSEMBLYMEMBER WILMER AMINA CARTER
(D-RIALTO)**

**SUBJECT: DEPARTMENT OF TRANSPORTATION: FEDERAL PILOT
PROGRAM ENVIRONMENT REVIEW PROCESS**

STATUS: ASSEMBLY TRANSPORTATION COMMITTEE

ACTION: SUPPORT

RECOMMENDATION

Adopt a Support position on AB 892 (Carter) which extends the expiration date for the State's existing limited waiver of its sovereign immunity, enabling the California Department of Transportation (Caltrans) to continue its assumption of National Environmental Policy Act (NEPA) responsibilities under the federal law.

ISSUE

Current law allows California to participate in a pilot program whereby the federal government delegates its authority to states for specified environmental analysis. The law expires in 2012.

PROVISIONS

Specifically, AB 892 would:

- Would extend the expiration date for the State's existing limited waiver of its 11th Amendment sovereign immunity from citizens' suits, enabling the California Department of Transportation (Caltrans) to continue its assumption of National Environmental Policy Act (NEPA) responsibilities under federal law.

IMPACT ANALYSIS

Caltrans has been assigned the Secretary of Transportation's responsibilities under NEPA. Under Section 6005, Caltrans is participating in the "Surface Transportation Project Delivery Pilot Program" (also known as NEPA Delegation) under a Memorandum of Understanding (MOU) between Caltrans and the Federal Highway Administration (FHWA).

To assume these federal responsibilities, California was required to waive its sovereign immunity. The waiver was enacted through AB 1039 (Nunez, 2006). Under existing

law, the waiver remains in effect until January 1, 2012. AB 892 would make the waiver permanent, allowing Caltrans to participate in this program as long as it operates.

The program streamlines the process for approving transportation projects by allowing Caltrans to assume FHWA's responsibility for approvals and consultations under NEPA and other federal laws. Significant time savings have been achieved under the program. Caltrans estimates that they have achieved time savings of up to 14 months in preparing and approving routine environmental documents.

AB 892 is sponsored by Department of Transportation (CalTrans) and supported by League of California Cities, San Diego Association of Governments (SANDAG), Tulare County Association of Governments (TCAG), Professional Engineers in California Government (PECG), City of Fowler, California and City of Selma, California. There is no opposition at this time; and

Staff recommends that the Board of Directors adopt a support position on AB 892.

BILL: AB 1308

AUTHOR: ASSEMBLYMEMBER MILLER
(R-ORANGE)

SUBJECT: HIGHWAY USER TAX ACCOUNT - CONTINUOUS
APPROPRIATIONS

STATUS: ASSEMBLY TRANSPORTATION COMMITTEE

ACTION: SUPPORT

RECOMMENDATION

Adopt a support position on AB 1308 (Miller) would allow continuous appropriations from Highway User Tax Account funding to transportation accounts if, and only if, a budget is not passed by the beginning of the next fiscal year, July 1.

ISSUE

AB 1308 would prevent further suspension by providing that transportation funds are continuously appropriated even if a budget has not been passed. Delays in previous state budget negotiations have caused the suspension of transportation funds.

PROVISIONS

Specifically, AB 1308 would:

- Allow continuous appropriations from Highway User Tax Account funding to transportation accounts if, and only if, a budget is not passed by the beginning of the next fiscal year, July 1.

IMPACT ANALYSIS

AB 1308 would Current law requires revenues from the State's gas tax to be deposited in the Highway Users Tax Account (HUTA) and further requires that the funds be allocated to various programs. Current law also requires that funds may not be expended from the account until appropriated by the Legislature, typically through the adoption of the State Budget. A State Budget must be adopted in order for HUTA funds to be allocated to the various state transportation programs. In the past, budget impasses lasted longer than authorized budget periods and this has resulted in suspension of transportation funds. Without budgetary authority transportation projects and programs could face significant losses in funding.

This dynamic was complicated by the previous transportation funding system which utilized the sales tax on gas which was technically General Fund revenue.

Transportation funds were previously a mix of gas tax revenues and sales tax revenues that relied on legislative appropriation. Legislation was recently adopted that swaps the sales tax for an increased gas tax helps to create more separation of transportation funds from the General Fund. That combined with the protections from Proposition 22 further insulate transportation funding from issues with the General Fund.

Given that these factors have helped to create a separation between transportation funds and the General Fund, it is reasonable to ensure that transportation funds do not have to rely on the adoption of a state budget. AB 1308 will require that funds deposited in the Highway Users Tax Account (now primarily gas tax funds) may be continuously appropriated if a budget has not been enacted. AB 1308 will prevent the halting of transportation funds should a budget not be enacted. The continuous appropriation, authorized by this measure provides stability during budget stalemates and will help to keep transportation projects and programs funded.

AB 1308 is sponsored by the Southern California Contractors Association and supported by Associated General Contractors, Automobile Club of Southern California, California State Automobile Association, California State Council of Laborers Engineering & Utility Contractors Association, Inyo County Local Transportation Commission, League of California Cities and State Building and Construction Trades Council.

Staff recommends that the Board of Directors adopt a support position on AB 1308.