SUBJECT: STATE LEGISLATION

ACTION: ADOPT STAFF RECOMMENDED POSITIONS

RECOMMENDATION

A) SB 517 (LOWENTHAL) – Moves the existing California High Speed Rail Authority into the Business Transportation and Housing Agency, requires reappointment of the Authority board and places ethics restrictions on the Authority. WORK WITH AUTHOR

B) AB 145 (GALGIANI) – Creates the Department of High Speed Trains in the Business Transportation and Housing Agency, retains the Board as the governing entity of the Department and grants to the Department the powers necessary to complete the project. WORK WITH AUTHOR

C) AB 353 (CEDILLO) – Repeals provisions establishing an exception for a freeway segment to be constructed without an agreement within the jurisdiction of the Los Angeles County Metropolitan Transportation Authority. SUPPORT

C) AB 353 (CEDILLO) – Repeals provisions establishing an exception for a freeway segment to be constructed without an agreement within the jurisdiction of the Los Angeles County Metropolitan Transportation Authority. WORK WITH AUTHOR

ATTACHMENTS

Attachments A—C
Attachments A—B
Attachments A - C

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SB 517 recommends that the Metro Board of Directors adopt a work with author position on SB 517.

ISSUE

SB 517 would restructure the California High Speed Rail Authority (Authority) and place conditions on the operations of the Authority. This bill is one of two that modify the operations of the Authority. The High Speed Rail project represents a significant investment of state resources and it is important for Metro to communicate its recommendations on this issue to the Legislature.

PROVISIONS

SB 517 would:
- Place the Authority within the Business Transportation and Housing Agency (BT&H) and require the Secretary of BT&H to serve on the Authority board as an ex-officio, non-voting member.
- Require the Secretary to prepare an annual budget.
- Require that the members of the Authority Board shall be subject to Senate confirmation.
- Vacate the existing membership of the Authority and provide for reappointment of new members by January 1, 2012.
- Require the Executive Director to be confirmed by the Senate.
- Specify positions that can be created by the authority.
- Enact conflict of interest provisions.

IMPACT ANALYSIS

SB 517 has been introduced by Senator Lowenthal to address a number of concerns that have arisen with respect to the Authority.
Recently, the Authority has taken action to commit the state to beginning the High Speed Rail project in the Central Valley. This decision sets the course for the Authority and the project for some time since this will require the commitment of significant amounts of state General obligation bonds and federal high speed rail funds. At this stage of the project’s development, there is no commitment in terms of schedule or financing to complete the project through Southern California.

The financing for the high speed rail project will impact the financing of local transportation projects. This comes in two ways. First is that the authority’s financial plan presumes the use of local matching funds for various elements of the project. Those funds can only come from the county transportation commissions or cities that program local funds. The availability of these funds is very uncertain since local revenues have experienced significant declines and many local revenues are already committed to other programs and projects.

Secondly, the allocation of bond funds for the HSR project competes with funding for other transportation projects. The sales tax/gas tax swap allows motor vehicle weight fees to be used to pay the debt service on transportation bonds including the HSR bond. That means that the state will be using revenues that normally would be allocated to the state highway system to pay the debt service on the HSR bond and Proposition 1B.

Ensuring that this project provides benefits to Los Angeles but does not threaten our core program will be significant challenge and a difficult goal. In his May Revision to the State Budget, Governor Brown highlighted what he calls the Wall of Debt. The Wall of Debt is the accumulation of $34.7 billion in budgetary borrowing, $81.1 billion in unpaid bonded indebtedness and $48.2 billion in bonds that have been authorized but remain unsold. The unsold bonds include Proposition 1B and the $9.95 billion HSR bond. Selling these bonds means increasing the amount of unpaid bonded indebtedness and will further strain the state’s ability to balance its budget. Staff suggests that this issue is of paramount importance since this project could very easily become the highest priority project in the State.

SB 517 places the Authority into BT&H, vacates and requires appointment of a new board, specifies the staff that can be hired and place various other restrictions on the Authority. The bill would allow greater oversight by the Legislature and would also create additional oversight of the Authority’s budget by requiring the Secretary of BT&H to submit the budget as is done with all the other departments in BT&H. Additionally, the operations of the Authority, which at this point consists mainly of work being done by consultants, would be overseen by the office of the Secretary as well.

Many in the Legislature have felt that the CSHRA operates with very little oversight and is structured in a way that does not allow it to exercise oversight over the work done by its consultant corps. SB 517 would place the Authority in BT&H and create that
oversight. The Authority is concerned that SB 517 would create inefficiencies by adding another reporting layer.

SB 517 provides an opportunity to create stronger oversight over the CSHRA. Some concern has been raised that placing the authority into BT&H or turning the entire project over to Caltrans might result in the project being hindered by bureaucracy or diminishing its importance. Project proponents argue that a stand-alone agency, as exists now, maintains the project at a high priority.

Additionally, SB 517 would vacate the board’s current membership and require a new board to be reappointed within one year. Furthermore, SB 517 would require that appointees be confirmed by the Senate. SB 517 would also place ethics requirements on the authority board members and staff. Restructuring the board entirely at this time may actually create significant problems with the project at a critical time. Staff suggests that rather than restructure the board in its entirety the board should include representation from county transportation commissions. The project will pass through the jurisdictions of many county transportation commissions and requires significant coordination with those commissions. To date, the authority has not demonstrated a willingness to seriously consider the roles of the commissions.

Last year, much controversy ensued over the issue of whether or not a board member from a local agency could sit on this authority. While much debate ensued about the letter and spirit of the law, the larger issue of coordination with local agencies seems to have been set aside. Perhaps the conflicting office statute should be reconsidered with respect to this project given the significant role of the commissions and local agencies. Preventing local agencies from participating as board members on such an important project, while complying with the conflicting office statute, also creates significant policy conflicts. This is perhaps the clearest example of where the conflicting office statute should be reconsidered. Requiring a public agency to commit resources without representation is perhaps not an appropriate policy for the state to maintain.

Staff recommends that the Board communicate the following to the Legislature.

- Metro supports the completion of the High Speed Rail Project in the state so long as there is a commitment both in terms of schedule and funding to bring the project to Southern California. To this end, the legislation governing the HSR project should include language requiring the Authority’s budget and other relevant documents to include commitments to fund the segments in Southern California.
- The location of the HSR project in state government is directly the decision of the State Legislature and Governor. However, the ultimate structure of the department responsible for this project should allow for robust participation by the local government agencies charged with the responsibility for planning and programming transportation funds.
Since the project requires a match of local funds the board of the authority should include representation from the county transportation commissions or other relevant jurisdictions.

The financing for the High Speed Rail project includes the commitment of state bonds that could compete with other state bonds that fund projects throughout the State. In Southern California, this project could compete with the ability of the State to sell the bonds that would fund goods movement projects in our region. These projects are vital to an important segment of our state’s economy, create tens of thousands of jobs, relieve congestion and improve air quality in our region. The issuance of the bonds for the HSR project should not displace the bonds for other key infrastructure projects.
BILL: AB 145

AUTHOR: ASSEMBLY MEMBER KATHLEEN GALGIANI (D – TRACY)

SUBJECT: HIGH SPEED RAIL

STATUS: SENATE

ACTION: WORK WITH AUTHOR

RECOMMENDATION

Adopt a work with Author position on AB 145 which creates the Department of High Speed Trains in the Business Transportation and Housing Agency and empowers the new department with all of the authority necessary to construct high speed trains in California.

ISSUE

AB 145 would allow the Department of High Speed Trains to construct the State’s HSR project and perform many of the functions necessary to complete the project. This bill is one, SB 517 being the other, that restructure the Authority and modify its operations. The HSR project represents a significant investment of state resources and it is important for Metro to communicate its recommendations on this issue to the Legislature.

PROVISIONS

AB 145 would:

- Create the Department of High Speed Trains in the Business Transportation and Housing agency.
- Declare that the Director of the Department shall be appointed by the Governor and serve at this pleasure.
- Declare that the Board of the Authority shall be the governing body of the Department.
- Transfer the powers of the current California High Speed Rail Authority to the Department of High Speed Trains.
- Specify that the Department is empowered to exercise a variety of powers necessary to construct the High Speed Rail project.
• Specify that the Department shall have jurisdiction over all train service at speeds greater than 125 miles per hour.
• Require the department to prepare a budget for the project and make regular reports to the Legislature.
• Makes enactment of AB 145 contingent upon the enactment of AB 615 which grants to the new Department the authority to acquire and dispose of property similar to the authority exercised by Caltrans.

**IMPACT ANALYSIS**

AB 145 is has been proposed by Assembly Member Galgiani to empower a new Department of High Speed Trains to construct the High Speed Rail project in California. The existing California High Speed Rail Authority has been structured primarily as an entity to promote the project and develop the basic elements of the project. Now that funding is available from the recently approved state bond and an infusion of federal funds the project is facing a transformation from something that had been rather conceptual to a project that could begin construction soon. AB 145 is proposed by the author to create the new Department and empower the Department with the powers necessary to construct the project. AB 145 is double-joined with AB 615 (Lowenthal) which specifically empowers the new Department with real estate acquisition powers similar to those held by Caltrans.

As with SB 517, AB 145 attempts to resolve one of the disputes with respect to the Authority, namely what position should it have in State government. Placing the Authority into BTH would provide additional oversight by the Secretary if the Secretary were empowered to do so. SB 517 provides that the Secretary would be responsible for development of the budget for the authority. This is significant because it places the Authority for the budget with a position that is subject to Senate confirmation. AB 145, though it would place the Authority into BTH, would still attempt to maintain the Authority and its governing board as independent entities. The Director of the Department would be charged with the responsibility for preparing the budget.

AB 615 provides the Authority with the necessary powers to acquire and dispose of property, similar to the power held by Caltrans. AB 145 would then create the Department and AB 615 would empower the Department with the real estate powers.

AB 145, AB 615 and SB 517 are just three of over 20 bills that have been proposed to address the structure and function of the entity that would ultimately be responsible for the construction and operation of the High Speed Rail project. Additionally, the Legislative Analyst Office recently issued a report that raises a number of concerns with the functioning of the existing Authority, the segments which should be constructed first and the overall financing of the project.
AB 145 offers an approach of placing the Authority into a state agency but keeping its independence through the powers of the Director and Board. It differs substantially in that it provides much less oversight by the Legislature than is offered by SB 517.

Staff recommends that the Board communicate the following to the Legislature.

- Metro supports the completion of the High Speed Rail Project in the state so long as there is a commitment both in terms of schedule and funding to bring the project to Southern California. To this end, the legislation governing the HSR project should include language requiring the authority's budget and other relevant documents to include commitments to fund the segments in Southern California.
- The location of the HSR project in state government is directly the decision of the State Legislature and Governor. However, the ultimate structure of the department responsible for this project should allow for robust participation by the local government agencies charged with the responsibility for planning and programming transportation funds.
- Since the project requires a match of local funds the board of the authority should include representation from the county transportation commissions.
- The financing for the High Speed Rail project includes the commitment of state bonds that could compete with other state bonds that fund projects throughout the state. In Southern California, this project could compete with the ability of the state to sell the bonds that would fund goods movement projects in our region. These projects are vital to an important segment of our state's economy, create tens of thousands of jobs, relieve congestion and improve air quality in our region. The issuance of the bonds for the HSR project should not displace the bonds for other key infrastructure projects.
ATTACHMENT C

BILL: AB 353

AUTHOR: ASSEMBLY MEMBER GIL CEDILLO (D - LOS ANGELES)

SUBJECT: LOCAL JURISDICTIONS FREEWAY AGREEMENTS

STATUS: SENATE

ACTION: WORK WITH AUTHOR

RECOMMENDATION

Adopt a Work with Author position on AB 353 which would repeal an exception that allows the State Department of Transportation (Caltrans) to build a freeway without securing an agreement from a local jurisdiction.

ISSUE

Current law generally requires that Caltrans cannot construct a freeway without first securing agreements from local jurisdictions. An exception is currently granted to Caltrans which allows them to construct a freeway if certain conditions are met including but not limited to the existence of an impasse. This condition generally applies to the SR 710 and would allow the completion of that segment without securing an agreement from the City of South Pasadena.

PROVISIONS

Specifically AB 353 would:

- Repeal the above exception that allows the construction of a freeway segment within the jurisdiction of Metro without agreement from a local jurisdiction.

IMPACT ANALYSIS

AB 353 would repeal an exception to state law which allows the construction of a freeway segment without obtaining a local agreement under certain conditions. These conditions include but are not limited to the project being in the jurisdiction of the Los Angeles County Metropolitan Transportation Authority and the existence of an impasse. These conditions apply essentially to the State Route 710 corridor and would allow the completion of the SR 710 project without an agreement from the local jurisdictions.
Metro, in partnership with Caltrans has been engaged in a very extensive process that has led to very productive discussions on how to move forward in this corridor. The process has not yielded a consensus at this point, nor has a project (mode, route, etc.) been identified. It has allowed for engagement of significant stakeholders and has developed a credible path forward. This process also has the potential for resolving an impasse that has existed in this corridor for decades.

Staff generally feels that the appropriate time to resolve issues in state law is when an agreement has been reached locally. At this point, an agreement has not been reached. Assembly Member Cedillo has played an active and constructive role in attempting to resolve this issue and Metro has worked with the Assembly Member throughout his term in the State Legislature. Staff would like to work with the Assembly Member to ensure that the legislation plays a constructive role in this process. We would also like to ensure that the legislation does not compromise decision making at the local level. Staff recommends that Metro adopt a work with author position on AB 353.