

**Metro**EXECUTIVE MANAGEMENT AUDIT COMMITTEE  
APRIL 19, 2007

SUBJECT: STATE LEGISLATION

ACTION: ADOPT STAFF RECOMMENDED POSITIONS

RECOMMENDATION

Adopt the following positions:

- A. **SB 445 (Torlakson)** – Would create the Road User Task Force to report on alternatives to the current system of taxing road users through per-gallon fuel taxes. **SUPPORT IF AMENDED**
- B. **SB 748 (Corbett)** - Would establish the purpose of State-Local Partnership Program and adopt guidelines for the California Transportation Commission. **OPPOSE**
- C. **AB 470 (DeSaulnier)** – Would remove the sunset clause on provisions relating to electric personal assistive mobility devices (Segways). **SUPPORT**
- D. **AB 901 (Núñez)** – Would provide accountability measures in the allocation of the money deposited in the Public Transportation Modernization, Improvement, and Service Enhancement Account. **SUPPORT IF AMENDED**
- E. **AB 1209 (Karnette)** – Would establish requirements for the allocation of \$1 billion in Proposition 1B proceeds for the California Ports Infrastructure, Security and Air Quality Improvement Account. **SUPPORT**
- F. **AB 1306 (Huff)** – Would eliminate the Public Transportation Account Spillover mechanism and reduce the portion of gasoline sales tax revenues that are deposited in the Public Transportation Account. **OPPOSE**
- G. **AB 1326 (Houston)** – Would remove the escalation clause automatically adjusting procurement thresholds applicable to Metro. **SUPPORT**
- H. **AB 1350 (Núñez and Richardson)** – Would establish requirements to conduct a study in order to facilitate allocation of transit security funds from Proposition 1B. **SUPPORT IF AMENDED**

**ATTACHMENTS**

Attachments A - H

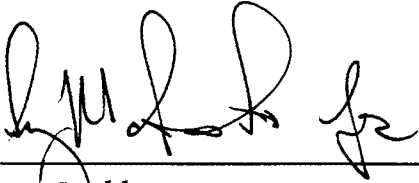
Prepared by: Michael Turner  
Government Relations Manager

Patricia Torres Bruno  
Government Relations Officer



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Matthew Raymond  
Chief Communications Officer



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Roger Snoble  
Chief Executive Officer

**BILL:** SB 445  
**AUTHOR:** SENATOR TOM TORLAKSON  
(D) ANTIOCH  
**SUBJECT:** ROAD USER TASK FORCE  
**STATUS:** ASSEMBLY APPROPRIATIONS COMMITTEE  
**ACTION:** SUPPORT IF AMENDED

**RECOMMENDATION**

Adopt a “Support If Amended” position on SB 445 (Torlakson), which would create the Road User Task Force to report on alternatives to the current system of taxing road users through per-gallon fuel taxes.

**ISSUE**

California’s primary source of revenue to fund highway system maintenance and expansion comes from per-gallon taxes on gasoline and diesel fuel and truck weight fees. However, these revenue sources are not sufficient to meet the long term needs of the State’s transportation infrastructure. SB 445 introduced by Senator Tom Torlakson would establish a taskforce to examine long term solutions to funding state highway and local road improvements and maintenance.

**PROVISIONS**

Existing law provides various sources of revenue to fund state highway and local road maintenance, operation, and improvement, including a state-imposed per-gallon fuel tax of 18 cents.

Specifically, SB 445 would:

- Create the Road User Task Force, with 11 members appointed by the Legislature, Governor, California Transportation Commission, the California League of Cities and the California State Association of Counties;
- Require the task force to hold at least 3 public hearings throughout the state and to report to the Legislature and Governor by January 1, 2009, on alternatives to the current system of taxing road users through per-gallon fuel taxes.

## IMPACT ANALYSIS

California relies on per-gallon taxes on gasoline and diesel fuel and truck weight fees to fund highway system maintenance and expansion. Recently, California enacted both permanent protections for Proposition 42 funds and a significant transportation bond, Proposition 1B. However, the combination of advances in fuel efficiency and energy conservation and increases in construction costs and inflation will require additional revenue sources in order to meet the significant needs of the State's transportation infrastructure.

Senator Tom Torlakson has introduced SB 445 to establish a Road User Task Force to examine long-term solutions to funding highway maintenance and expansion. The taskforce would be comprised of 11 members. The President pro Tempore, the Speaker of the Assembly and the Governor would each make two appointments to the taskforce. The California Transportation Commission would make three appointments. The CTC would be required to consider individuals who represent highway users' groups, the California transportation research community and the national research and transportation policy bodies. The League of California Cities and the California State Association of Counties would each make one appointment to the taskforce. The taskforce is required to provide a report to the legislature and the Governor by January 1, 2009.

According to the author, travel on state highways increased by 27% between 1994, when fuel taxes were last adjusted, and 2006. However, revenues from per-gallon taxes on gasoline and diesel fuel and truck weight fees have not been sufficient to meet the increasing travel demands of the State's population. Metro believes that the taskforce could be used as an opportunity to discuss transportation funding policy and recommend other revenue sources. This could be a forum to identify long-term solutions and alternatives to the current system of taxing road users through gallon fuel taxes.

As the bill is currently written there are no guarantees that the Task Force will ultimately have a geographic balance. Metro staff recommends that the Board seek amendments to the bill which would require the CTC to use its appointments in a manner that create geographic balance. The California Transit Association is working to ensure that the commission includes a transit representative to represent the transit needs of the state.

Staff therefore recommends that the Board of Directors adopt a "Support If Amended" position on SB 445.

### REGISTERED SUPPORT / OPPOSITION:

#### Support

California Association of Councils of Governments (CALCOG)  
California State Association of Counties  
League of California Cities  
Merced County Association of Governments  
City of Merced

#### Opposition

Moller International

**BILL:** SB 748

**AUTHOR:** SENATOR ELLEN CORBETT  
(D-SAN LEANDRO)

**SUBJECT:** STATE AND LOCAL PARTNERSHIP PROGRAM

**STATUS:** SENATE TRANSPORTATION & HOUSING COMMITTEE

**ACTION:** OPPOSE

**RECOMMENDATION**

Adopt an “Oppose” position on SB 748 (Corbett) that would establish the requirements of the of State-Local Partnership Program created in Proposition 1B.

**ISSUE**

Proposition 1B, the Highway Safety, Traffic Reduction, Air Quality and Port Security Fund of 2006, authorized \$19.9 billion for various categories of transportation improvements. Proposition 1B allocates \$1 billion to a newly created State and Local Partnership Program. SB 748 is a measure by Senator Corbett that would include approved fees within the scope of the State and Local Partnership Program. This would broaden the program and dilute the effectiveness of this category.

**PROVISIONS**

Proposition 1B, the Highway Safety, Traffic Reduction, Air Quality, and Port Security Fund, authorizes the allocation of \$1 billion for the State-Local Partnership Program. These funds would be disbursed by the California Transportation Commission for transportation projects nominated by transportation agencies and subject to appropriation by the Legislature. Existing law requires a dollar for dollar match of local funds for projects funded through this program.

Specifically, SB 748 would:

- Establish criteria and conditions for the use of funds in the State and Local Partnership Program;
- Include voter approved fees or taxes dedicated to transportation improvements as eligible funds;
- Provide funds for capital projects that are funded in local or regional voter-approved expenditure plans and that provide mobility, accessibility, system connectivity, safety, or air quality benefits;
- Allocates \$200 million per year over a five year cycle.

## IMPACT ANALYSIS

Proposition 1B authorizes the allocation of \$1 billion for the State-Local Partnership Program. These funds would be disbursed by the California Transportation Commission for transportation projects nominated by transportation agencies. The program requires a one to one dollar match of local funds. SB 748 was introduced by Corbett to establish a state process and program guidelines in which to base the allocation of the bond proceeds.

SB 748 expands the definition of local matching funds to include not only sales tax but a property or parcel tax in a county or counties or district, and voter –approved bridge tolls or voter approved fees dedicated to specific transportation improvements. Metro staff is currently recommending that the Board support AB 1351 (Levine) that would only allow sales taxes as the eligible local contribution. The Board previously adopted a “Work with Author” position on SB 47 (Perata) which was in concept form at that time.

The bill sets a maximum of \$25 million to be awarded to any project in any of the five cycles beginning in 2007-08. This provision could severely limit the ability of Metro to compete for these funds since only smaller projects would be eligible. It would be difficult for Metro’s large highway and transit projects to compete for these funds with such a low maximum allocation limit. The bill intends to establish a low cap in order to encourage more projects to apply for funding. In doing so, the program could only allow eight applications per cycle potentially limiting Metro to one project up to \$25 million.

Metro staff believes that SB 748 would dilute the \$1 billion in bond proceeds for the State and Local Partnership program. Metro believes that the intent of the State and Local Partnership program is to reward counties that have adopted sales tax measures only. Many counties in California have developed sales tax measures while a limited number of counties have imposed developer fees and only the Bay Area has implemented bridge tolls. Limiting the program to sales tax counties only will allow for the most level playing field in the state and that no project maximums should be included. Staff therefore recommends that the Board of Directors adopt an “Oppose” position on SB 748.

**BILL:** AB 470  
**AUTHOR:** ASSEMBLY MEMBER MARK DESAULNIER  
(D) MARTINEZ  
**SUBJECT:** SEGWAYS  
**STATUS:** ASSEMBLY APPROPRIATIONS COMMITTEE  
**ACTION:** SUPPORT

**RECOMMENDATION**

Adopt a “Support” position on AB 470 (DeSaulnier), which would extend provisions on electric personal assistive mobility devices and impose additional safety requirements.

**ISSUE**

Electric Personal Assistive Mobility Devices (EPAMD) are classified as a pedestrian use to allow their operation on city sidewalks. The law establishing this authorization is set to sunset on January 1, 2008. AB 470 (DeSaulnier) was introduced to extend the authorization indefinitely of the EPAMD and impose additional safety requirements.

**PROVISIONS**

Existing law includes in the definition of a pedestrian, a person who is using an EPAMD. The utilization of an EPAMD, among other things, requires the maximum speed to be less than 12.5 miles per hour. Existing law authorizes a city, county, or city and county can also regulate the time, place, and manner of the operation of EPAMDs to ensure the safety of pedestrians. A violation of those provisions is an infraction. State agencies limit or prohibit the time, place, and manner of EPAMD use on state property. Existing law repeals these provisions on January 1, 2008, unless a later enacted statute deletes or extends that date.

Specifically, AB 470 would:

- Impose additional safety requirements on the operation of an EPAMD, and would prohibit the operation of an EPAMD that is greater than 20 inches deep and 25 inches wide on a public sidewalk. The bill would require a person operating an EPAMD on specified surfaces to yield the right-of-way to all pedestrians on foot.
- The bill would impose a state-mandated local program by extending indefinitely the existing provisions and the violation of which constitutes an infraction.



## IMPACT ANALYSIS

The state passed legislation authorizing the use of Segways as an alternative form of personal transportation under certain conditions. These conditions included the ability of local agencies to further regulate their use. The original legislation included a sunset date of January 1, 2008. AB 470 would remove the sunset date and therefore permanently enact the provisions relating to Segway use.

AB 470 also adds provisions relating to the safe operation of Segways. These provisions will further clarify the operation of Segways on sidewalks and enhance the safety of pedestrians. The Metro Board of Directors supported the original legislation authorizing the use of Segways and staff recommends that the Board support AB 470 as well.

### REGISTERED SUPPORT / OPPOSITION:

#### Support

Segway, Inc (Sponsor)  
Coalition for Clean Air  
Global Green USA  
2 Individual letters

#### Opposition

None on file

**BILL:** AB 901  
**AUTHOR:** SPEAKER FABIAN NÚÑEZ  
**SUBJECT:** PROPOSITION 1B PUBLIC TRANSIT FUNDING  
**STATUS:** ASSEMBLY TRANSPORTATION COMMITTEE  
**ACTION:** SUPPORT IF AMENDED

**RECOMMENDATION**

Adopt a “Support If Amended” position on AB 901 (Núñez), which would establish allocation processes and accountability measures for allocation of public transit funding from Proposition 1B.

**ISSUE**

Proposition 1B establishes the allocation of \$3.6 billion for public transit. The bond language states that the fund should be allocated using the State Transit Assistance Program (STA) formula. The bond language does not provide for guidelines in the administration of the bond proceeds. AB 901 was introduced by Speaker Nunez to better define an allocation process and to identify general guidelines for the program. In addition, the measure seeks to ensure that the investments in public transit are well planned and there is accountability on behalf of the transit agencies.

**PROVISIONS**

Existing law, the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006, authorizes \$19.925 billion of state general obligation bonds for specified purposes. The act requires that \$3.6 billion of the proceeds from those bonds be deposited in the Public Transportation Modernization, Improvement, and Service Enhancement Account. The bond language for this category states that the bond proceeds should be allocated through the State Transit Assistance Program formula. AB 901 is a measure by Speaker Núñez, which would establish an allocation process, accountability measures and ensure that strategic planning result from this investment.

AB 901 was introduced in concept. Consistent with Metro’s original position on the infrastructure bond, staff have been working with the office of Assembly Speaker Fabian Núñez to develop language implementing this funding program. AB 901 will soon be amended to include the specific language developed by the Speaker’s office.

The anticipated amendments would:

- Provide that projects funded from the Public Transportation Modernization, Improvement and Service Enhancement Account shall help advance the State’s policy

goals of providing mobility choices for all residents, reducing congestion and protecting the environment.

- Authorize Caltrans to work with local entities to determine funding needs for projects in order for the state to program funding allocations.
- Authorize Caltrans to verify project eligibility only. Caltrans nor the CTC would be authorized to vote to approve projects for funding from this category.
- Clarify “eligible project” definition to include projects that are consistent with the sponsoring entity’s most recently adopted regional transportation plans.
- Ensure that the current process for allocating STA funds is incorporated.

## **IMPACT ANALYSIS**

The Speaker’s office has been working from a proposal initially developed by the California Transit Association. Metro staff has been working closely with the Speaker’s staff and CTA to ensure that the language is not restrictive and would not prohibit our transit projects from being considered eligible projects. In addition, Metro would like to ensure that the current STA allocation process is utilized.

As anticipated to be amended, AB 901 will maintain local control of project selection and will allow for a process whereby the State can program funding for projects. Metro’s process for project selection and its ability to determine the best projects for Los Angeles County would be protected under this proposal. One element critical to staff was that there be no opportunity for the State, specifically the CTC, to vote on project selection. The amendments as they stand now, would not allow such a vote and would preserve local control.

Staff therefore recommends that the Board of Directors adopt a “Support If Amended” position on AB 901.

**BILL:** AB 1209

**AUTHOR:** ASSEMBLY MEMBER BETTY KARNETTE  
(D) LONG BEACH

**SUBJECT:** BOND ALLOCATION CRITERIA – PROPOSITION 1B GOODS  
MOVEMENT AIR QUALITY MITIGATION FUNDING

**STATUS:** ASSEMBLY NATURAL RESOURCES COMMITTEE

**ACTION:** SUPPORT

**RECOMMENDATION**

Adopt a “Support” position on AB 1209 (Karnette), which establish requirements for the allocation of \$1 billion in Proposition 1B bonds proceeds for air quality improvements for the California Ports Infrastructure, Security, and Air Quality Improvement Account.

**ISSUE**

Proposition 1B, the Highway Safety, Traffic Reduction, Air Quality and Port Security Fund of 2006, authorized \$19.9 billion for various categories of transportation improvements. Proposition 1B allocates \$3.1 billion to the California Ports Infrastructure, Security and Air Quality Improvement Account from which \$1 billion is dedicated for air quality improvements. Assembly Member Karnette has introduced AB 1209 to develop guidelines and provide direction to the California Air Resources Board (CARB) on how to allocate the \$1 billion in air quality improvement funds.

**PROVISIONS**

Existing law creates the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 to authorize \$19.9 billion of state general obligation bonds for specified purposes. The Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 requires \$3.1 billion of these funds to be deposited in the California Ports Infrastructure, Security, and Air Quality Improvement Account within the Highway Safety, Traffic Reduction, Air Quality, and Port Security Fund of 2006, and requires \$1 billion of these funds to be made available to CARB to fund projects that are part of a comprehensive plan to cut air pollution from ports, foster technologies that will reduce greenhouse gas emissions, and improve public health.

Specifically, AB 1209 would:

- Require CARB to develop guidelines to allocate the \$1 billion in funding.

Based on the guidelines established, CARB would allocate the \$1 billion funds by port region in proportion to the following criteria related to the port:

- 1) Health risks and impacts.
  - 2) Annual Twenty-foot Equivalent Unit (TEU) of containerized cargo handled at the port.
  - 3) Annual tonnage of non-containerized, non-liquid bulk cargo.
  - 4) Annual number of vessel calls in the port.
  - 5) The non-attainment status of the region in which the port is in.
- CARB is required to follow the provisions below in developing the guidelines:
- 1) Base the relative merits of proposed emission reduction projects on the annual reduction in goods movement diesel-related particulate matter, sulfur oxides, nitrous oxides, and carbon dioxide emissions from all vehicles, ships, and locomotives within the harbor district, and beyond along transportation corridors, that would be caused by the project. Cost-effectiveness shall be measured by taking the annualized capital cost and dividing it by the annual reduction in those emissions.
  - 2) Focus on local sources and areas with the greatest health impact.
  - 3) Base the feasibility and certainty of achieving emission reductions on whether the project meets specified technological requirements and is accepted by the goods movement industry.
  - 4) Give priority to projects with system-wide and cumulative benefits with applications across multiple fleets and operations and applications on sources operating throughout the harbor district and beyond.
  - 5) Provide immediate and sustained reductions in emissions and health risks.
  - 6) Include clean and innovative goods movement technologies, including all of the following that promote alternative fuel use and fuel diversity, promote renewable energy and reduce fuel use.
  - 7) Ensure that projects contribute to reducing disproportionate and adverse environmental or health impacts attributable to goods movement on communities throughout the South Coast Air Basin.
  - 8) Focus on areas that promote highway and rail safety.
  - 9) Give priority to projects ready for demonstration or prototype development that contribute to technology advancement, including, but not limited to, green or ultralow switcher locomotives and other green container transport systems including linear induction motor systems and electric container conveyor systems including mag-lev, freight shuttle systems, aerospace freight options, and others.

10) Allocate funds by giving higher priority to projects involving matching funds.

### IMPACT ANALYSIS

Proposition 1B bond established basic requirements for allocating the \$1 billion in air quality bond proceeds and established that the program is subject to further legislation. Assembly Member Karnette has introduced AB 1209 to develop guidelines and provide direction to CARB on how to allocate the \$1 billion in air quality improvement funds.

The Ports of Los Angeles and Long Beach together handle 80% of containers that are processed through California ports and 45% of containers that are handled in the nation. As a major economic engine, the San Pedro port complex is the 5<sup>th</sup> largest in the world in cargo volume.

The Ports of Los Angeles and Long Beach provide significant economic benefits, however Los Angeles County must bear the burden of pollution and congestion caused by goods movement related activities. Proposition 1B established a robust funding program for goods movement projects and air quality improvements. However, the bond as approved by the voters does not specify an allocation criteria and without such a criteria, Los Angeles can not be assured of receiving a proportionate share of funding. This measure would ensure that the bonds proceeds are allocated in proportion to the health risks and impacts to the surrounding communities and containerized and non-containerized cargo volume.

The measure would also require CARB to consider environmental mitigation projects that have immediate and sustained reductions in emissions and promote alternative fuel and renewable energy.

Metro staff recommends support for AB 1209 because the bond proceeds would be allocated to areas that have the highest levels of pollution caused by goods movement.

**BILL:** AB 1306

**AUTHOR:** ASSEMBLY MEMBER BOB HUFF  
(R)- DIAMOND BAR

**SUBJECT:** SALES TAX ON GASOLINE (SPILLOVER)

**STATUS:** ASSEMBLY TRANSPORTATION COMMITTEE

**ACTION:** OPPOSE

**RECOMMENDATION**

Adopt an “Oppose” position on AB 1306 (Huff) that would eliminate the Public Transportation Account Spillover and allocate those funds through the Proposition 42 formula.

**ISSUE**

Spillover funds are a volatile source of revenue for transportation agencies. However, Spillover funds are currently required to be allocated to the Public Transportation Account and can be used for operational purposes. Given Metro’s operational deficit, Spillover funds are a critical source of revenue for the agency. In addition, the price of gasoline continues to rise and will increase the amount of future Spillover funds. AB 1306 would eliminate the spillover mechanism and reallocate those funds through the Article XIX B of the California Constitution (Proposition 42) funding formula.

**PROVISIONS**

Existing law, pursuant to Proposition 116 of 1990, an initiative act, creates the Public Transportation Account as a trust fund in the State Transportation Fund, and provides that funds shall be deposited in the account from a specified portion of the sales taxes on gasoline and diesel fuel, and that the moneys in the account shall be available for expenditure only for transportation planning and mass transportation purposes. These provisions may be amended by the Legislature only by a 2/3 vote of both houses of the Legislature and only if the amending statute is consistent with, and furthers the purposes of, the initiative act.

Existing law requires the remaining state revenues from sales taxes on gasoline to be deposited in the General Fund. Article XIX B of the California Constitution, commencing with the 2003-04 fiscal year, requires the portion of sales taxes on gasoline that are deposited in the General Fund to be transferred to the Transportation Investment Fund for allocation to various transportation purposes.

Specifically, AB 1306 would:

- Reduce the portion of gasoline sales tax revenues that are deposited in the Public Transportation Account by eliminating the "spillover."
- Allocate the Spillover revenues from the sales tax on gasoline to the General Fund, and by operation of Article XIX B of the Constitution (Proposition 42), would require those revenues to be subsequently transferred to the Transportation Investment Fund.

## IMPACT ANALYSIS

Spillover funds are a volatile source of revenue for transportation agencies. However, Spillover funds are currently required to be allocated to the Public Transportation Account and can be used for operational purposes. Given Metro's operational deficit, Spillover funds are a critical source of revenue for the agency. In addition, the price of gasoline continues to rise and will increase the amount of future Spillover funds.

Metro received significant allocation of Spillover funds last year. Metro staff worked with the Assembly Budget Subcommittee to modify the formula so that more of these funds would flow through the STA.

The Proposition 42 formula is allocated in the following manner: 40% to the STIP, 40% to the Cities and Counties and 20% to the PTA. Metro only receives 17% of the funds that flow through the STIP formula even though we have 30% of the congestion. Allowing these funds to flow through the Proposition 42 formula would reduce the amount of funds coming to Los Angeles County. In addition, having the spillover funds flow through the Proposition 42 formula would limit the flexibility of using the funds for operations.

The State Legislative Analyst's Office recently recommended that the spillover mechanism be eliminated and allow the funds to flow through the Proposition 42 formula. The California Transit Association supports spillover funds because of the flexibility they provide and many transit agencies rely heavily on these funds.

Significant legal obstacles may exist to pursuing the path outlined in AB 1306. Metro staff have been working through the California Transit Association to pursue legal research into this measure. This research will provide valuable guidance as we move forward in this process.

AB 1306 will reduce funding for Los Angeles County and will result in restricted funding for operation needs. Staff therefore recommends that the Board of Directors adopt an "Oppose" position on AB 1306.



**BILL:** AB 1326

**AUTHOR:** ASSEMBLY MEMBER GUY HOUSTON  
(R) SAN RAMON

**SUBJECT:** PROCUREMENT THRESHOLDS

**STATUS:** ASSEMBLY LOCAL GOVERNMENT COMMITTEE  
ASSEMBLY TRANSPORTATION COMMITTEE

**ACTION:** SUPPORT

**RECOMMENDATION**

Adopt a “Support” position on AB 1326 (Houston) which would remove the automatic escalation clause in procurement statutes applicable to Metro and the Bay Area Rapid Transit District.

**ISSUE**

Last year, Metro and San Francisco Bay Area Rapid Transit District (BART) worked together to modify the thresholds applicable to our respective procurement statutes. AB 1326 would remove the automatic escalation clause in procurement statutes applicable to Metro and the Bay Area Rapid Transit District.

**PROVISIONS**

Existing law established that a small purchase of supplies, equipment, and materials by BART or Metro exceeds \$100,000, the purchase shall be by contract let to the lowest responsible bidder or to the responsible bidder who submits a proposal that provides the best value. Existing law also requires that, when an expected expenditure required by BART or Metro exceeds \$2,500, adjusted as provided under federal law, but does not exceed a specified amount, the district or commission shall obtain a minimum of 3 quotations that permit price and term to be compared, except as specified.

Specifically, AB 1326 would:

- Delete the provisions requiring the above maximum and minimum expenditure amounts to be adjusted as adjusted under federal law.

**IMPACT ANALYSIS**

Last year, Metro and the Bay Area Rapid Transit District worked together to increase the respective procurement thresholds for each agency consistent with Federal requirements. These modifications also included a provision that the thresholds would increase as modified by the Federal Government. The Senate Transportation and Housing Committee

did not object to the modification of the thresholds but did not want to grant authorization to automatically increase the thresholds. Last year's approval was granted contingent on returning in this year's session to remove the automatic increases. The Federal provisions are changed periodically and have only been recently amended after approximately 4 years.

Although this somewhat limits the flexibility in Metro's procurement statute, this change is somewhat minimal since the Federal requirements are not modified except over some larger period of years.

Since this measure is consistent with the concerns of the Senate Transportation and Housing committee and will not significantly impact Metro's procurement process, staff recommends that the Board of Directors adopt a "Support" position on AB 1326.

REGISTERED SUPPORT / OPPOSITION:

Support

San Francisco Bay Area Rapid Transit District (Sponsor)

Opposition

None on file

**BILL:** AB 1350

**AUTHOR:** SPEAKER FABIAN NÚÑEZ  
(D) LOS ANGELES

ASSEMBLY MEMBER LAURA RICHARDSON  
(D) LONG BEACH

**SUBJECT:** TRANSIT SECURITY

**STATUS:** ASSEMBLY TRANSPORTATION COMMITTEE

**ACTION:** SUPPORT IF AMENDED

**RECOMMENDATION**

Adopt a “Support If Amended” position on AB 1350 (Núñez and Richardson) which would require a study to be conducted to assist in the development of an effective allocation program for transit security funds from Proposition 1B.

**ISSUE**

The bond category for Transit security funds made available by Proposition 1B requires follow-up legislation to better define the allocation process and eligible projects. AB 1350 would require the State to conduct a study of transit security issues in order to effectively allocate funding from this program.

**PROVISIONS**

Existing law, the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006, approved by the voters as Proposition 1B in the November 2006 general election, establishes the Highway Safety, Traffic Reduction, Air Quality, and Port Security Fund of 2006 in the State Treasury. Specified moneys in the fund are required to be deposited in the Transit System Safety, Security, and Disaster Response Account to be made available, upon appropriation by the Legislature, for capital projects that provide increased protection against a security and safety threat, and for capital expenditures to increase the capacity of transit operators to develop disaster response transportation systems.

AB 1350 was introduced in concept. Consistent with Metro’s position on the allocation of bond proceeds Metro staff have been working with Assembly Speaker Fabian Núñez and Assembly Member Laura Richardson to develop amendments to AB 1350. Specifically, these amendments would:

- Require the State (most likely the State Office of Homeland Security) to conduct a study of transit security issues in the state in order to facilitate the development of an effective allocation for this account.

## IMPACT ANALYSIS

Proposition 1B allocates \$1 billion to a newly created category for transit security and disaster preparedness. Generally the concerns with allocating these funds center around two issues. First, the category is established to provide funding for both transit security and disaster preparedness. The criteria for allocating funds across both of these needs pose unique challenges for the State. Splitting funds between security and disaster preparedness could result in a certain policy choice and could affect how much funding comes to Los Angeles County.

Secondly, Metro's position on the original bond, and one that is shared by a number of larger urban operators, is that transit security funds should be allocated on a risk based formula. The Federal government has established models which may be applicable to California but may need to be modified in order to meet the specific needs of the state.

In working with Speaker Nunez's office, the determination has been made that the appropriate path forward at this point would be to utilize the expertise of security officials in the development of a study to examine the most effective manner in which to allocate these funds. Under this concept, a state agency, most likely the Office of Homeland Security (OHS) would be charged with preparing such a study in an accelerated time frame. Metro staff is currently working with OHS in the administration of the Federal funds. This process would be appropriate for Metro since staff is currently working with OHS in the administration of the Federal funds.

Staff therefore recommends that the Board of Directors adopt a "Support If Amended" position on AB 1350.