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**EXECUTIVE MANAGEMENT AND AUDIT COMMITTEE
APRIL 21, 2005**

SUBJECT: STATE LEGISLATION

ACTION: APPROVE STAFF RECOMMENDATION ON STATE LEGISLATION

RECOMMENDATION

Adopt the following positions:


- A. Building Opportunity (Assembly Speaker Fabian Nunez) – Transportation Financing. **WORK WITH AUTHOR**
- B. Go California (Various Authors) – Transportation Financing and Delivery. **SUPPORT and SUPPORT WORK WITH AUTHOR**

ATTACHMENTS

- A. Speaker's Proposal
- B. "Go California" Proposal

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BILL: TO BE DETERMINED

AUTHOR: ASSEMBLY SPEAKER FABIAN NUNEZ
ASSEMBLY MEMBER JENNY OROPEZA
ASSEMBLY MEMBER JOHN LAIRD
ASSEMBLY MEMBER DARIO FROMMER

TITLE: BUILDING OPPORTUNITY
ASSEMBLY DEMOCRATIC TRANSPORTATION FINANCING
PROPOSAL.

STATUS: PENDING INTRODUCTION

POSITION: WORK WITH AUTHOR

RECOMMENDATION

Adopt a WORK WITH AUTHOR position on the Building Opportunity proposal.

ISSUE

Assembly Speaker Fabian Nunez and members of the Assembly leadership team have proposed a transportation-financing proposal containing three elements. This proposal is at a very early stage and will soon be introduced into at least three pieces of legislation.

PROVISIONS

The Speaker's transportation proposal consists of the following three elements.

I. Revenue neutral tax exchange

This bill would:

- Repeal the sales tax on gasoline
- Increase the statewide sales tax by $\frac{1}{4}$ cent and allocate these funds to Proposition 42 beginning in 2007-2008.
- Increase the excise tax (gas tax) by \$0.04 in future years to fund a \$10 billion bond.
- Adjust the excise tax by 3% every 5 year.

II. \$10 Billion Bond for Transportation

This bill would:

- Authorize the placement of a \$10 billion bond on the June 2006 ballot.

- Direct that bond proceeds would be used to repay transportation loans to the General Fund, goods movement projects, public transit, environmental mitigation and the Bay Bridge.
- Obligate the increase in the excise tax, from the above proposal to fund the bond.

III. Constitutional Amendment

This bill would:

- Authorize a Constitutional Amendment to be placed on the June 2006 ballot.
- Amend the Constitution to dedicate the new sales tax to be the protected funding source for transportation.

IV. Short Term Funding Actions

This element would:

- Seek some level of funding for Proposition 42 in the 2005-2006 budget year and allocate bonds in the 2006-2007 budget year.

IMPACT ANALYSIS

Democratic leadership in the State Assembly, to address the instability in funding transportation, has introduced the Building Opportunity proposal. The proposal is a significant opportunity to comprehensively address transportation funding and include various elements that have been sought by transportation advocates for several years. These proposals are in a very conceptual stage.

The Building Opportunity proposal seeks to create a more stable funding source for transportation by shifting the funding from the sales tax on gasoline sales to the more general sales tax. The base sales tax is traditionally a more stable source of funding for the state and in the recent past has experienced less volatility. In addition, future projections are that the sales tax base would grow more than a sales tax on gasoline sales.

Clearly the proposal is a major shift in that it proposes changing the funding source for Proposition 42, which currently mandates (except in an “emergency” situation), that the sales tax on gasoline be used strictly for transportation purposes. Proposition 42 was approved by 69% of the voters and, on first reading, this proposal appears to be a significant departure from the intent of the Proposition. The proposal does not actually change the funding allocations, but rather seeks to create a more stable funding source. In doing so the intent of the proposal is to remain consistent with the will of the voters when they approved Proposition 42.

The proposal also takes advantage of three funding mechanisms that have been sought by transportation advocates: 1. Increasing the gas tax; 2. Bonding against new revenues; and 3. Indexing the gas tax. All three of these elements are in the Building Opportunity proposal. In addition, the proposal clearly expresses the intention to allocate Proposition 42 funds in the 2005-06 budget which is currently not being contemplated by the Schwazenegger administration.

Several issues have been identified that should be incorporated in future discussions on this program.

First is that the allocation of bond proceeds should be fair and that the North/South split could be an appropriate initial basis of allocation. The North/South split is a mechanism in law that requires that certain transportation funds be allocated 60% to counties in Southern California and 40% to counties in Northern California.

Second is that the indexed portion of the gas tax should have more flexibility to specifically fund transit and transit operations. Provisions in Article XIX of the Constitution currently restrict the use of gas tax funds for transit operations. As transit services expand, especially in Los Angeles County, the need for additional operating funds will grow and more flexibility in Article XIX is warranted.

The Building Opportunity proposal is very complex and has certain elements that on first perusal may seem to be more complicated than necessary. However, the underlying intent of this proposal is to create a long-term stable source of funding for transportation and takes advantage of a number of aggressive funding mechanisms.

It is important to note that leadership in the State Legislature is attempting to address a vital need to stabilize transportation funding. Additionally, the Governor is attempting to do the same by issuing "Go California" (see Attachment B for an overview of this proposal) There are substantial differences in the se proposals and each proposal has met with a certain amount of controversy. However, it should be recognized that transportation is now the subject of two major reform proposals that each should be taken seriously and supported.

Staff recommends that the Board adopt a work with author position on the Building Opportunity proposal in concept and work with the authors by communicating the following concerns:

- That the Board supports the efforts to stabilize transportation funding
- That the Board supports the proposals to increase funding for transportation through increases in the gas tax and indexing.
- That the Board supports the use of bonds backed by new revenue.
- That the Board supports an allocation of bonds initially based on the North/South split.
- That the Board supports flexibility in the use of future funds for transit operations, and

- That the Board reserves judgment on the transfer of the funding source for Proposition 42 from the sales tax on gasoline to a statewide sales tax.

ATTACHMENT B

**BILLS: GOCALIFORNIA LEGISLATIVE PACKAGE -
SB 705, AB 850, AB 1266, ACA 4X**

**AUTHORS: SENATOR GEORGE RUNNER (R-ANTELOPE VALLEY)
ASSEMBLYMEMBER JOE CANCIAMILLA (D-PITTSBURG)
ASSEMBLYMEMBER ROGER NIELLO (R-FAIR OAKS)
ASSEMBLYMEMBER RICK KEENE (R-CHICO)**

TITLE: TRANSPORTATION FINANCING AND PROJECT DELIVERY

STATUS: VARIOUS

POSITION: SUPPORT AND, SUPPORT WORK WITH AUTHORS

RECOMMENDATION

Adopt a support and support, work with author positions on the “Go California” legislative package.

ISSUE

Governor Arnold Schwarzenegger has endorsed three bills and one constitutional amendment as his “Go California” legislative package. This package introduces innovative financing for transportation projects, streamlines project delivery and protects future transportation funding.

PROVISIONS

Following are the bills that comprise the “Go California “ legislative proposal:

SB 705 is a measure introduced by Senator George Runner which would give Caltrans the ability to use the “design-build” process. Specifically, SB 705 would authorize the department to contract out for projects using the design-build process for the design and construction of these projects. SB 705 is currently in the Senate Transportation and Housing Committee.

AB 850 is a measure introduced by Assemblymember Joe Canciamilla which would allow Caltrans to enter into comprehensive franchise agreements with public and private entities. Specifically, AB 850 would authorize the department to enter into agreements with public and private entities for the construction of transportation projects which may include (1) high-occupancy vehicle (HOV) lanes, (2) dedicated exclusive truck lanes, (3) mixed-flow toll lanes and free lanes, and (4) toll lanes for all vehicles other than HOVs. This measure is currently in the Assembly Transportation Committee

AB 1266 is a measure introduced by Assemblymember Roger Niello which would enable Caltrans to use design-sequencing. Specifically, AB 1266 would allow construction to begin as soon as the design is finished for each phase of a project and it would eliminate the current pilot program, as well as the requirement for the establishment of a peer review committee and annual reports to the Legislature. AB 1266 is currently in the Assembly Transportation Committee.

ACA 4X is a measure introduced by Assemblymember Rick Keene which would place a constitutional amendment before the voters to provide ongoing spending authority in the event of a late budget. This measure is an overall spending cap proposal by the Republican members of the Legislature. ACA 4X is currently in the Assembly Budget Process Committee.

Specifically, ACA 4X would provide ongoing, interim spending authority in the event of a late budget, starting with the 2005-06 fiscal year in the event that the budget is not enacted by July 1 and it would repeal the current Proposition 42 suspension authority, authorize suspension of Proposition 42 for the next two years, and extend transportation loan repayments. ACA 4X was heard in the Assembly Budget Process Committee but did not pass out of the Committee. A re-hearing of the bill has not been scheduled

IMPACT ANALYSIS

The legislative package in “Go California” includes SB 705 on design-build; AB 850 on private-public partnerships and toll agreements; AB 1266 on design-sequencing; and ACA 4X on the state budget, education finance and transportation funding. According to Sunne Wright McPeak (Secretary of Business, Transportation and Housing), this package reflects the Governor’s commitment to transportation and his pledge to reform government. In sum, “Go California” seeks to streamline project delivery and protecting future transportation funding.

The legislative package contains a number of elements that address transportation needs in California.

SB 705 provides Caltrans the ability to use design-build when procuring new transportation projects. Currently, Caltrans uses the design-bid-build process, which results in delays and cost overruns. This process requires Caltrans’ engineers to design the project and then in turn award the construction to a private firm. SB 705 would accelerate the completion of projects by using a single-bid process.

AB 850 expands the pool of agencies Caltrans may partner with- from solely private entities to both private *and* public/private entities, allowing for more creative and innovative methods for funding transportation projects. It expands the types of projects that may be funded through these partnerships. In addition, AB 850 also permits Caltrans to operate High Occupancy Toll (HOT) lanes that will provide single occupancy vehicles paid access to underutilized High Occupancy Vehicle lanes.

AB 1266 enables Caltrans to enter into a 35-year franchise agreement to construct and operate toll roads, including dedicated truck lanes. These partnerships would permit Caltrans to accept private investment and allow private operators to charge tolls to recoup their investment. At the end of 35 years, the state would take control over the toll and may continue to collect tolls. .

ACA 4x is the Governor's spending cap proposal. This measure addresses a number of state budget issues but also implements the Governor's proposal to suspend Proposition 42 for the next two years and then to remove the suspension clause after that. Further negotiations between the Governor and the Legislature will continue on ACA 4X and allocations of Proposition 42 funds so the proposal to suspend Proposition 42 funds for the next two years may be modified. Since the proposal as currently written will negatively impact transportation funding, staff recommends a support, work with author on this particular measure.

Staff recommends that the Board adopt a support position on the remaining three measures, SB 705, AB 850 and AB 1266

