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EXECUTIVE MANAGEMENT AND AUDIT COMMITTEE  
MAY 18, 2006

**SUBJECT: STATE LEGISLATION**

**ACTION: APPROVE STAFF RECOMMENDATION ON STATE LEGISLATION**

**RECOMMENDATION**

Adopt the following positions:

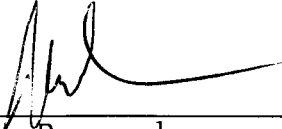
- A. AB 343 (Huff) - Requires the repayment of loans from the Public Transportation Account. **SUPPORT.**
- B. AB 3047 (Canciamilla) - Authorizes Caltrans to enter into 10 franchise agreements for the development of privately financed transportation projects. **SUPPORT IF AMENDED.**
- C. SB 1726 (Lowenthal) - Authorizes the use of alternate colored headsigns on transit vehicles. **SUPPORT.**
- D. SB 1749 (Midgen) - Authorizes the creation of Transit Adjudication Bureaus for the enforcement of penal code violations on transit properties. **SUPPORT.**

**ATTACHMENTS**

Attachments A1-A4: Legislative Analysis

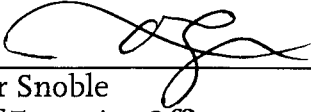
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**BILL:** AB 343  
**AUTHOR:** ASSEMBLYMAN BOB HUFF  
(R-DIAMOND BAR)  
**TITLE:** PUBLIC TRANSPORTATION ACCOUNT  
**STATUS:** SENATE RULES COMMITTEE  
**ACTION:** SUPPORT

**RECOMMENDATION**

Adopt a support position on AB 343 (Huff) – Public Transportation Account, which requires the repayment of loans from the Public Transportation Account.

**ISSUE**

AB 343 would require the repayment of loans made from the Public Transportation Account (PTA) Spillover. Previous budget agreements and other legislation have transferred funds from the PTA Spillover with no provisions for repayment. AB 134 would require the repayment of any future PTA Spillover transfers.

**PROVISIONS**

Existing law requires that certain sales tax revenues be transferred to the PTA. Current law also creates the PTA Spillover, which increases funds available to the PTA when gas prices rise faster than other commodities. AB 343 would protect PTA Spillover revenues by ensuring that future transfers be repaid.

Specifically, AB 343 would:

- Require that beginning in the 2007-08 fiscal year, any PTA revenue that is transferred to the General Fund or any other fund be repaid within three years.

**IMPACT ANALYSIS**

AB 343 is a measure introduced by Assemblymember Bob Huff, which would require the repayment of any PTA transfers beginning with the 2007-08 fiscal year.

The state's recent budget crises have caused the state to take funds from the Public Transportation Account in a number of ways. These transfers have primarily come in the form of suspensions of Proposition 42, which have required loans and the transfer of the

PTA Spillover to the General Fund. Additionally, the PTA Spillover has been used for a variety of non-public transportation uses, such as providing funding for the retrofit of the San Francisco Oakland Bay Bridge.

The overall condition of the Public Transportation Account has been of concern to transit agencies throughout the state. During recent budget actions, the state has kept the PTA to a baseline level of funding while transferring Spillover funds to other uses. The lack of stability in Proposition 42 funds contributes to this issue since current law requires Proposition 42 funds to be transferred to the PTA.

PTA funds are allocated to transit capital and operating purposes. The capital portion is allocated through the State Transportation Improvement Program process, whereas operational funds are allocated through the State Transit Assistance (STA) formula. The STA portion can be used for capital purposes.

The Spillover is a mechanism that was created to transfer funds to public transit to offset increased costs when gas prices rise. The Spillover occurs when the price of gasoline rises faster than other commodities in the state. Although these revenues are to be transferred to the PTA, they have become one of the first sets of funds taken when the state experiences budget deficits because there are no repayment provisions on these funds.

AB 343 would correct this situation by requiring that these funds be repaid within three years after being transferred by budget action or other legislation.

AB 343 has long been an initiative of the California Transit Association, and will help to stabilize transit operations funding in the state. Staff recommends that the Board of Directors adopt a support position on AB 343.

**BILL:** AB 3047  
**AUTHOR:** ASSEMBLY MEMBER JOE CANCIAMILLA  
(D-PITTSBURG)  
**TITLE:** PUBLIC PRIVATE PARTNERSHIPS/TOLL FACILITIES  
**STATUS:** ASSEMBLY APROPRIATIONS COMMITTEE  
**ACTION:** SUPPORT IF AMENDED

**RECOMMENDATION**

Adopt a support if amended position on AB 3047 (Canciamilla) – Public Private Partnerships/Toll Facilities, which authorizes Caltrans to enter into 10 franchise agreements for the development of privately financed transportation projects.

**ISSUE**

The bill would allow the Department of Transportation, in cooperation with regional transportation agencies, to enter into no more than 10 comprehensive development franchise agreements with public and private entities for specified transportation projects. Under the current language of the bill, the Southern California Association of Governments (SCAG) would be authorized to enter into agreements to develop and fund transportation projects.

**PROVISIONS**

Existing law requires, until January 1, 2003, the California Department of Transportation (Caltrans) to solicit proposals and enter into agreements with private entities or consortia for the construction and lease of no more than 2 toll road projects and specify the terms and requirements. Current law also authorizes Caltrans to develop high-occupancy and preferential lanes.

Specifically, AB 3047 would:

- Authorize Caltrans, in cooperation with regional transportation agencies, to enter into up to ten franchise agreements (public private partnerships) with private consortia.
- Authorize the agreements to be awarded for up to 75 years.
- Authorize competing public projects to be constructed only if they are included in an existing regional transportation plan.

- Establish other conditions relating to the development of these agreements.
- Authorize Caltrans to convert HOV lanes in to toll facilities.

## IMPACT ANALYSIS

AB 3047 has been amended by Assembly Member Canciamilla to propose a structure for the state to develop privately financed transportation projects. This measure could provide a unique opportunity, if structured appropriately, to develop transportation projects throughout the state. The bill would also authorize Caltrans or a regional transportation agency to develop and operate high-occupancy vehicle and other preferential lanes on the state highway system.

Assemblymember Canciamilla has authored AB 3047 as a vehicle to expand public/private partnerships to address the state's demanding transportation infrastructure. While most of the discussions relating to these agreements have taken place in the context of the infrastructure bond negotiations, Assembly Member Canciamilla has continued to move this measure as a suggested model.

A number of issues are raised in the development of public private partnerships and they come to the forefront in this legislation. Principal among these issues are the agencies that should be involved in the agreement. Staff recommends that the most appropriate agencies to participate in these arrangements are the respective funding agencies at the state and local level, Caltrans and the county transportation commissions. As currently drafted, AB 3047 would authorize Caltrans to enter into these agreements with SCAG, and staff believes this is an inappropriate role for SCAG to play.

A number of other issues relative to these agreements should also be considered.

First, relative to the term of the agreements, some debate has arisen as to the appropriate length of time needed to bring these agreements to fruition. A private entity would require enough time to recoup its investment through tolls, which could conflict with the public entity's desire to recoup the asset. AB 3047 currently authorizes these agreements to cover a period of no longer than 75 years. There may be some consideration given to authorizing a shorter timeframe.

In addition, the ability to develop projects that compete with a given facility has bearing on the development on these agreements. This issue was most readily apparent relative to the 91 Corridor in Orange County. In the case of the 99 Corridor, a non-compete clause was included in the original agreement, which prohibited expansion in the corridor that would compete with the toll facility. Under AB 3047, projects listed in the current regional transportation plan could be developed within a given corridor so some level of competing projects could be developed. The initial staff recommendation is to support this model but retain flexibility to address particular circumstances in individual agreements.

While staff recommends supporting AB 3047 with amendments, public investments by private partnerships would be more effective within the context of the Transportation Infrastructure Bond. As of this writing, leadership in Sacramento has not formally reached

an agreement on bond language, and it is unclear at this point if it will come to fruition. If the discussions on the bond measure cease, AB 3047 could be the next opportunity to expand public/private partnerships. However, staff recommends amending the existing language to clarify that these agreements may only be entered into with the county transportation commission or agency responsible for developing the state transportation improvement program.

There are no formal opponents on record however, SCAG has testified in support of this measure.

**BILL:** SB 1726

**AUTHOR:** STATE SENATOR ALAN LOWENTHAL  
(D-LONGBEACH)

**TITLE:** PUBLIC TRANSIT BUS IDENTIFICATION LAMPS

**STATUS:** SENATE APPROPRIATIONS COMMITTEE

**ACTION:** SUPPORT

**RECOMMENDATION**

Adopt a support position on SB 1726 (Lowenthal) – Public Transit Bus Identification Lamps, which authorizes the use of alternate colored headsigns on transit vehicles.

**ISSUE**

Illuminated headsigns on transit vehicles have advanced in technology with the ability to provide more information in a variety of styles and colors. These advances, while providing benefit to the riding public, are not consistent with certain Vehicle Code provisions regulating vehicle lighting. SB 1726 would update the Vehicle Code to bring these headsigns into compliance.

**PROVISIONS**

Existing law (Vehicle Code) establishes criteria regulating the size, type, location and brightness of transit vehicle identification signs. Existing law prohibits a vehicle from displaying a red diffused non-glaring light to the front, but allows for the display of any other color. SB 1726 would update the Vehicle Code to authorize the use of alternate color headsigns.

Specifically, SB 1726 would:

- Authorize a public transit bus to be equipped with illuminated destination signs, illuminated route-number signs, illuminated run-number signs, or a combination thereof, that emit any color, provided the signs do not emit light greater than .05 candela per square inch as in existing law.
- Establish a standard by which the standard is to be measured. Specifically, signs must be less than 720 square inches, per existing law, and the illuminated signs cannot resemble any required lamp or interfere with the visibility or effectiveness of any required lamp.



- Authorizes the use of dynamic messaging on all illuminated bus destination signs, illuminated route number signs, and illuminated run-number signs, provided the signs meet the stated specifications.
- Prohibits a bus from projecting a glaring light, but allows a bus to be equipped with illuminated destination signs if the signs cannot emit light greater than .05 candelas per square inch, are less than 720 square inches in size and are located at least 12 inches away and do not resemble other required lamps.

## **IMPACT ANALYSIS**

With recent advances in technology, transit bus headsigns have advanced to provide more information and in a variety of colors. These headsigns allow transit agencies to more clearly communicate bus routing and destinations. These advances, while providing significant benefit to the riding public, do not conform to existing Vehicle Code provisions regulating their use. Under this framework, the California Highway Patrol (CHP) has recently cited public transit operators in the state. Some argument still exists as to the exact interpretation under which CHP has issued citations. However, it is clear that the Vehicle Code needs to be updated.

CHP has issued an Information Bulletin that included its interpretation of existing law and concludes that LED destination signs may violate law. According to the California Transit Association (CTA), the assumptions made by CHP are incorrect, specifically, that LED destination signs do not feature nonglaring lamps and do emit light greater than .05 candelas. Public transit operators believe that the LED destination signs they use do meet specifications in current law. For this reason, greater clarity is necessary to address discrepancies.

SB 1726 restates existing law to clarify illuminated sign specifications and establishes statewide standards. Existing laws are unclear and outdated, having been enacted 40 years ago. The bill would clarify the use of color-coded destination signs and update provisions that reflect the advances in technology.

LED destination signs are used by transit operators internationally because the broad spectrum of colors available allows operators to color code routes that assist non-English speakers to identify the appropriate routes as well as spot a bus from greater distances.

SB 1726 is sponsored by the California Transit Association and is supported by transit operators around the State. Currently, there is no registered opposition to SB 1726.

**BILL:** SB 1749  
**AUTHOR:** STATE SENATOR CAROLE MIGDEN  
(D- SAN FRANCISCO)  
**TITLE:** PASSENGER CONDUCT VIOLATIONS  
**STATUS:** SENATE PUBLIC SAFETY COMMITTEE  
**ACTION:** SUPPORT

**RECOMMENDATION**

Adopt a support position on SB 1749 (Migden) – Passenger Conduct Violations, which authorizes the creation of Transit Adjudication Bureaus for the enforcement of penal code violations on transit properties.

**ISSUE**

Pursuant to a motion by Director Burke, staff investigated the feasibility of legislation authorizing the civil enforcement and adjudication of Penal Code sections relating to conduct on transit systems. The San Francisco Municipal Transit Authority (Muni) had initiated legislation, SB 1749, which would provide such authorization for Muni. Pursuant to Supervisor Burke’s motion, staff solicited the support of Senator Migden, who has indicated her willingness to amend the measure to include Metro as a participant in this program.

**PROVISIONS**

Existing law (Penal Code Section 640) establishes conduct that is prohibited on transit systems, including fare evasion, misuse of fare media, smoking, eating or drinking, and other acts as specified. Under existing law, violations are subject to fines and enforcement through the Superior Court process.

SB 1749 would authorize the City and County of San Francisco, on behalf of Muni, as well as Metro, to adopt local ordinances enforcing the specified Penal Code violations relating to conduct on public transit and would authorize the creation of a local adjudication process to be administered by the respective transportation authorities.

Specifically, SB 1749 would:

- Authorize the City and County of San Francisco to enact and enforce an ordinance providing that any acts currently included in Penal Code 640 shall be subject to an administrative penalty imposed and enforced in a civil proceeding.
- Establish an administrative process for adjudication of such violations including notice requirements, appeal processes, fees and specified hearing processes; and
- Authorize the local agency to contract with a private vendor for the processing of fare evasion or passenger conduct violations.

## IMPACT ANALYSIS

Current law establishes a set of passenger conduct violations for which citations may be issued. These citations are subject to statutory fines and are adjudicated through the criminal process. Concern has arisen that the current criminal process results in violations on transit being given a lower priority and also results in the inability to effectively track the processing of these violations through the court system. This process may result in transit violations being significantly downgraded and in doing so, weakening the ability of the violations to deter behavior. It is anticipated that a civil process under the control of Metro would enhance the ability to enforce violations, and in so doing, improve Metro service.

SB 1749 would decriminalize the Penal Code sections relating to passenger conduct, allow for a civil adjudication process and establish processes for civil action. Metro currently conducts a very similar process with the enforcement of parking violations on Metro properties. Under separate cover, staff is providing an initial review of the feasibility of expanding the current administrative process to accommodate Penal Code violations. Staff has also held initial discussions with the Los Angeles County Superior Court system regarding the possibility of a new process.

Under SB 1749, Metro would be granted the authority to adopt an ordinance enforcing the Penal Code provisions, and would be authorized to establish a civil process to administer the violations. Furthermore, Metro would be authorized to contract with a private entity to process violations, including collecting fine revenue. All of these actions would be subject to future Board consideration.

One issue currently under investigation by staff involves how to handle repeat offenders under a new law. In some cases, repeat offenders should be subjected to a criminal proceeding rather than having an individual go through multiple civil proceedings. Staff is investigating the need for clarifying amendments that would allow the local jurisdiction to maintain the ability to cite multiple offenders under the existing Penal Code, while processing typical violations under the new civil process. If necessary, staff will pursue amendments with Senator Migden.

SB 1749 is consistent with the motion by Director Burke and would allow for a process that could improve Metro services. Staff therefore recommends that the Metro Board of Directors adopt a support position on SB 1749.

