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**REVISED
EXECUTIVE MANAGEMENT AND AUDIT COMMITTEE
APRIL 16, 2009**

SUBJECT: STATE LEGISLATION

ACTION: ADOPT STAFF RECOMMENDED POSITIONS

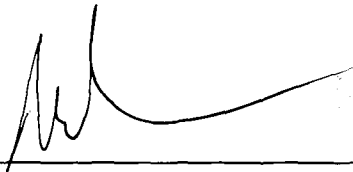
RECOMMENDATION

- ~~A) SB 455 (Lowenthal) HIGH SPEED RAIL - Which would modify the powers of the California High Speed Rail Authority. **SUPPORT IF AMENDED**~~
- B) **AB 113 (Portantino) 710 FREEWAY GAP CLOSURE** - Which would require the Department of Transportation (Caltrans) to sell state-owned property along the unconstructed areas of the State Highway Route 710 (north of the 10). **OPPOSE**
- C) **AB 672 (Bass) LETTERS OF NO PREJUDICE** - Recommends that the Board support and co-sponsor AB 672 which would establish a Letter of No Prejudice (LONP) process for projects funded through Proposition 1B. **SUPPORT - SPONSOR**
- D) **AB 798 (Nava) CALIFORNIA TRANSPORTATION FINANCE AUTHORITY** - Establishes the California Transportation Financing Authority (CTFA) to facilitate construction of transportation projects including authority to approve tolling projects. **SUPPORT**
- E) **AB 1072 (Eng) PROPOSITION 1B TRANSIT** - Which will make permanent, the formula for allocating Proposition 1B Public Transportation Modernization Improvement and Service Enhancement Account (PTMISEA) funds. **SUPPORT**
- F) **AB 1381 (Perez) CONGESTION PRICING PROGRAM** - Would require us to work with the Department of Transportation (Caltrans) and the California Highway Patrol (CHP) in developing performance measures for the optimal use of the Hot Lanes. **SUPPORT - SPONSOR**
- G) **AB 1471 (Eng) METRO PROCUREMENT PROCESS** - Which would make technical corrections and streamlines our current procurement process. **SUPPORT - SPONSOR**

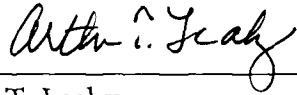
ATTACHMENTS

Attachments A - G

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BILL: SB 455

AUTHOR: STATE SENATOR ALAN LOWENTHAL
(D – LONG BEACH)

SUBJECT: HIGH SPEED RAIL

STATUS: SENATE TRANSPORTATION COMMITTEE

ACTION: SUPPORT – IF AMENDED

RECOMMENDATION

Staff recommends that the Board adopt a SUPPORT IF AMENDED position on SB 455 relating to the California High Speed Rail Authority (CHSRA).

ISSUE

Existing law establishes the CHSRA and charges the Authority with the responsibility of developing a High Speed Rail (HSR) network in California. President Obama has indicated his intent to provide funding for the development of HSRA throughout the country and California’s voters recently approved a \$9.995 billion bond measure for HSRA in California. Now that the State and Federal Governments have made significant commitments to HSR, it is appropriate to fully address the organization and function of the HSRA. SB 455 has been introduced by State Senator Alan Lowenthal to address the powers of the HSRA and would be an appropriate vehicle to address specifically how the HSRA will work with local agencies.

PROVISIONS

Specifically, SB 455 would:

- Provide that the members appointed by the Governor are subject to confirmation by the Senate;
- Specify criteria by which the CHSRA may acquire property and undertake projects necessary for the development of HSR;
- Enact provisions relating to the disposal of property by the CHSRA similar to those that apply to the Department of Transportation; and
- Authorizes the expenditure of funds by the CHSRA similar to those that apply to other state agencies.

IMPACT ANALYSIS

The U.S. Congress and President Obama have made HSR a key component of our nation’s transportation future by including \$8 billion for HSR in the recently adopted American Recovery and Reinvestment Act of 2009 (ARRA). President Obama is also committed to providing \$1 billion a year for the next five years for HSR in the budgets he will present to

the U.S. Congress. In November of 2008, California's voters approved Proposition 1A allocating almost \$10 billion to HSR. Southern California has the opportunity to invigorate our economy, create thousands of jobs, improve our environment, and improve our quality of life by seizing the day and the funding to build a modern HSR system.

While significant opportunities exist to develop a unique innovative rail system, its actual implementation faces many challenges. In Los Angeles County alone, there are numerous issues regarding alignment, station location, operation with existing rail lines and safety. In addition, the HSR would pass through communities who feel they have already experienced environmental injustices, such as the bisection of communities by freeways. The CHSRA must be cognizant of those issues and work with local stakeholders to address those issues in the development of the system in Los Angeles County.

At a staff level, we have been working with the CHSRA to develop a memorandum of understanding relating to the development of HSR in Los Angeles County. This memorandum will establish a working relationship with the authority by which we should take an active, leading role in the HSR system.

When Congress passed ARRA, it made \$8 billion available for development of HSR throughout the Country. The bill requires that the state agencies are the only entities who can apply for these funds. CHSRA would be that agency for the State.

Board membership is also an area where our working relationship with the CHSRA could be improved. The Board consists of 9 members, 5 appointed by the Governor, 2 appointed by the Senate Committee on Rules and 2 appointed by the Speaker of the Assembly. Each member serves a 4 year term. At this time, none of the members of the Board are from Los Angeles County

In order to address the appropriate development of HSR in Los Angeles County in particular, staff recommends that the Board seek amendments to SB 455 which would accomplish the following:

1. Work with the Administration and legislative leaders to seek an appointment to the CHSRA to represent Los Angeles County.
2. Require that the CHSRA work with local agencies in seeking funds from ARRA and future funding opportunities at the Federal level.
3. Require the CHSRA to work with county transportation commissions and other appropriate local transportation agencies to address issues related to development of the HSR in a given county.

There is no registered support or opposition for SB 455 at this time. Staff therefore recommends that the Board adopt a support if amended position on SB 455.

BILL: AB 113

AUTHOR: ASSEMBLY MEMBER ANTHONY PORTANTINO
(D – LA CANADA FLINTRIDGE)

SUBJECT: SALE OF CALTRANS PROPERTIES ON THE 710

STATUS: ASSEMBLY

ACTION: OPPOSE

RECOMMENDATION

Adopt an “OPPOSE” position on AB 113 (Portantino), which would require the Department of Transportation (Caltrans) to sell state-owned property along the unconstructed areas of the State Highway Route 710 (north of the 10). The bill would also require that the revenues generated from the sale of the property to be diverted to the General Fund to pay for higher education.

ISSUE

Assembly Member Anthony Portantino has introduced AB 113 that would authorize the sale of state owned property along the 710. We believe it is premature at this time to sell the property and may impact the outcome of the current environmental studies on 710 Gap Closure project underway.

PROVISIONS

Existing law authorizes Caltrans to acquire real property for state highway construction. Existing law establishes specific procedures for the sale by public agencies of surplus residential property, under which property may be sold at less than fair market value in certain cases.

Specifically, AB 113 would:

- Require Caltrans to sell the real property it owns relative to the unconstructed portion of State Highway Route 710 in Los Angeles County located to the north of State Highway Route 10, with residential property to be sold using the process for sale of surplus residential real property, except that property occupied since at least January 1, 2004, by a school or nonprofit organization would first be offered to the occupant;
- Require Caltrans to reimburse the State Highway Account from the proceeds equal to the acquisition price of the parcel. The remaining sale proceeds would be deposited in the General Fund to be available for funding public higher education; and
- Require the bill to take effect immediately as an urgency statute.

IMPACT ANALYSIS

Assemblymember Anthony Portantino (D-Pasadena) has introduced AB 113 which would require Caltrans to sell the property along the unconstructed portions of State Highway Route 710 north of State Highway Route 10. The bill would require that Caltrans reimburse the State Highway Account with the proceeds generated from the sale of the property. Caltrans would only be required to pay back an amount equal to the original acquisition price of the properties. The remaining proceeds would be deposited in the State's General Fund to be used for higher education purposes.

We are currently in the process of conducting environmental studies on the 710 Gap Closure project. This bill would impact the study process in several ways. First, it is premature to begin the sale of the properties along the 710 north when there are studies underway. By selling the property prior to the completion of the studies would limit the alternatives for routes of the project. The sale of the properties could predetermine a specific route by restricting the availability of property along the 710 potentially restricting easements required for the project.

In addition, the proceeds generated by the sale of the properties would divert critical and limited transportation funding away from this important project. For the last several years, the State has diverted critical transportation funding to meet General Fund obligations. This bill would continue the practice of diverting transportation funds for other General Fund purposes.

The 710 Gap Closure project is a critical project in solving traffic congestion and improving air quality in our region. In the last 40 years of this project, Caltrans and us have been criticized of being biased and not conducting an objective study process. We believe that this assertion is unwarranted and that the bill would further perpetuate that belief and actually cloud the objectivity of the current process underway. Selling the property at this time will only limit the alternatives available to Caltrans for a successful project.

The legislation is an urgency bill and would take effect immediately upon passage. The bill would need a two-thirds vote from the legislature to be adopted. Staff recommends an oppose position on this bill to allow the current studies underway to continue and provide as much flexibility and options for a successful project.

BILL: AB 672

AUTHOR: ASSEMBLY SPEAKER KAREN BASS
(D – LOS ANGELES)

SUBJECT: LETTER OF NO PREJUDICE – PROPOSITION 1B FUNDED
PROJECTS

STATUS: ASSEMBLY TRANSPORTATION COMMITTEE

ACTION: SUPPORT - SPONSOR

RECOMMENDATION

Staff recommends that the Board support and co-sponsor AB 672 which would establish a Letter of No Prejudice (LONP) process for projects funded through Proposition 1B.

ISSUE

AB 672 would authorize the issuance of LONP's by the administrative agency managing Proposition 1B funds.

PROVISIONS

AB 672 would:

- Authorize local agencies to apply to the administrative agency for a LONP on Proposition 1B projects approved for funding.
- Specify conditions under which LONP's may be issued and requires prompt repayment from future bond proceeds.

IMPACTS ANALYSIS

Existing law authorizes the California Transportation Commission to issue LONP's which allows local agencies to spend their own funds in advance of the state funds for transportation projects approved for funding. LONP's guarantee repayment of state funds at a later time. Many of the Proposition 1B categories are not subject to the CTC and its discretionary process but are handled administratively through a formula process. AB 672 would authorize the issuance of LONP's by the administrative agency managing Proposition 1B funds.

AB 672 would enhance the ability of local agencies to expeditiously implement Proposition 1B projects by authorizing the expenditure of local funds in advance of state funds. Many of the bond funded categories are managed by administrative agencies and are allocated by formula. While this provides stability in terms of the amount of funding from a given category the state's inability to sell bonds has injected a certain amount of uncertainty into

this process. AB 672 would allow local agencies to advance funds for these projects with reimbursement from the State.

The condition of the General Fund makes bond funding somewhat uncertain. LONP's could provide a mechanism to ensure that advanced local funds are paid in a timely manner. Staff will work with Speaker Bass' office to explore ways in which the LONP process can become a more solid guarantee of repayment.

BILL: AB 798

AUTHOR: ASSEMBLY MEMBER PEDRO NAVA
(D-SANTA BARBARA)

SUBJECT: CALIFORNIA TRANSPORTATION FINANCING AUTHORITY

STATUS: ASSEMBLY TRANSPORTATION COMMITTEE

POSITION: SUPPORT

RECOMMENDATION

Adopt a “Support” position for AB 798 (Nava) which would establish the California Transportation Financing Authority (CTFA) to facilitate construction of transportation projects including authority to approve tolling projects.

ISSUE

Currently, local agencies must use the process established by AB 1467 to implement tolling project agreements. AB 798 would provide an additional option for obtaining approval of tolling projects. The CTFA would also provide assistance and resources for local agencies to implement transportation projects.

PROVISIONS

Existing law generally provides for programming and allocation of transportation capital improvement funds pursuant to the State Transportation Improvement Program process administered by the California Transportation Commission (CTC). Existing law authorizes the development of toll road projects under certain conditions. Existing law authorizes the commission and the Department of Transportation (Caltrans) to operate and manage the Transportation Finance Bank to make loans for transportation projects. Existing law creates the California Infrastructure and Economic Development Bank to assist in the financing of various public infrastructure projects. Existing law authorizes the state to issue tax-exempt revenue anticipation notes backed by federal transportation appropriations.

AB 798 would establish the CTFA to be chaired by the State Treasurer, to facilitate construction of transportation projects by issuing or approving the issuance of bonds and providing authority to local agencies to implement tolling projects.

Specifically, AB 798 would:

- Create the CTFA to issue bonds to fund transportation projects to be backed by various revenue streams of transportation funds, and toll revenues, in order to increase the construction of new capacity or improvements for the state transportation system consistent with the State’s air quality goals; and

- Allow the authority to approve the imposition and collection of tolls on a proposed project under certain conditions.

IMPACT ANALYSIS

The objective of the CFTA would be to increase the construction of new capacity or improvements for the state transportation system in a manner that is consistent with and will help meet the State's greenhouse gas reduction goals, air quality improvement goals, and natural resource conservation goals through the issuance of bonds, or the approval of the issuance of bonds backed by revenue streams including tolling revenues.

Given dwindling state and federal resources for transportation infrastructure, this measure would provide local agencies another financing option for transportation projects. AB 798 would provide project sponsors, such as us, access to beneficial rates and financing with fewer requirements, avoiding private financing that can be restrictive and include unreasonable terms agreements. The CFTA could also review and approve a financial agreement with a third party to ensure that the financial plan is sound. Projects sponsors could pledge local transportation funds as security for revenue bonds including fuel taxes, sales taxes, local transportation sales taxes, other eligible state revenues, developer fees and tolls. Projects sponsors may also apply for bond financing of a transportation project that has been approved by the Caltrans and the CTC.

In addition, the CTFA would authorize a project sponsor or Caltrans to impose and collect tolls as a source of bond repayment and to implement congestion management mechanisms. AB 798 provides a complete, additional, and alternative method of accomplishing the matters authorized, and the project sponsor need not comply with any other law relating to the issuance of bonds, financing of projects and if applicable the imposition and allocations of tolls. By using the process established under AB 798, project sponsors would not have to go to the legislature to obtain approval of their tolling project. This would also expand the current limit of four tolling projects in the State established by AB 1467.

The CTFA would be a seven-member authority comprised of the following members:

- a) State Treasurer (chair)
- b) Director of the Department of Finance
- c) State Controller
- d) Director of Caltrans
- e) Executive Director of the CTC
- f) Local agency representative appointed by the Senate Rules Committee
- g) Local agency representative appointed by the Assembly Speaker

We could benefit from this measure by using the AB 798 process to obtain approval for tolling projects that have support in the region. We would also not be restricted by the limits established under AB 1467. Although the legislature would not have a formal role to approve the tolling projects, we must have general consensus for the projects from the Legislature and the public.

In addition, AB 798 could provide a more expeditious process by requiring that the CFTA and the CTC engage in a process that is not sequential but rather cooperative so that the approval can be provided at the same time.

Staff recommends a support position on AB 798. There is currently no registered support or opposition on this bill.

BILL: AB 1072

AUTHOR: ASSEMBLY MEMBER MIKE ENG
(D – MONTERERY PARK)

SUBJECT: PROPOSITION 1B – PUBLIC TRANSIT

STATUS: ASSEMBLY TRANSPORTATION COMMITTEE

ACTION: SUPPORT

RECOMMENDATION

Adopt a “SUPPORT” position on AB 1072 (Eng) which will make permanent, the formula for allocating Proposition 1B Public Transportation Modernization Improvement and Service Enhancement Account (PTMISEA) funds.

ISSUE

Since the passage of Proposition 1B in 2006, the Legislature has annually adopted legislation to allocate the PTMISEA funds. This process has created uncertainty for transportation agencies in their programming efforts. AB 1072 would lock in the PTMISEA formula and allow transportation agencies to program funding over the long-term.

PROVISIONS

Existing law specifically authorizes the allocation of Proposition 1B funds by a formula based on all operators’ and regions’ shares of the PTMISEA using the average of the State Transit Assistance (STA) program allocations from 2004-05, 2005-06 and 2006-07 years. This formula was only codified for one year.

Specifically, AB 1072 would:

- Lock in the formula on all remaining funds in the PTMISEA as provided by Proposition 1B;
- Require agencies to submit an expenditure plan for their share of the remaining PTMISEA funds to support the annual appropriations from the PTMISEA;
- Allows agencies to “bank” their allocations over multiple years so that they can accumulate funds for a larger project.

IMPACT ANALYSIS

In 2006, voters approved Proposition 1B, the PTMISEA, providing \$3.6 billion for transit capital projects. The allocation of the funds is done by a formula based on all operators’ and regions’ shares of the PTMISEA and an average of the STA program allocations from 2004-

05, 2005-06 and 2006-07 years. This formula has been used to appropriate \$600 million in 2007-08 and \$350 million in 2008-09.

Since the passage of 2006, the Legislature has had to adopt legislation to allocate the PTMISEA funds every year. This has created uncertainty in programming for larger transportation projects. AB 1072 has been introduced by Assemblymember Eng, on behalf of the California Transit Association, to address concerns raised by transportation agencies to lock in the formula.

The bill would also require transportation agencies to submit an expenditure plan of the project they intend to fund. The expenditure plan is required to include:

- A summary of the proposed project and the benefits of the project.
- The useful life of the project.
- The estimated schedule for the completion of the project.
- The total cost of the proposed project, including the identification of all funding sources necessary for the project to be completed.

Staff supports this bill because it provides predictability and flexibility in funding critical projects with this funding source. In addition, we could use this funding for a larger project such as corridor projects or the acquisition of rail cars and buses. Staff recommends that the Board adopt a support position on AB 1072.

BILL: AB 1381

AUTHOR: ASSEMBLY MEMBER JOHN A. PEREZ
(D – LOS ANGELES)

SUBJECT: HIGH-OCCUPANCY TOLL LANES

STATUS: ASSEMBLY TRANSPORTATION COMMITTEE

ACTION: SUPPORT - SPONSOR

RECOMMENDATION

Adopt a “SUPPORT-SPONSOR” position on AB 1381 (Perez, J.), which will make technical clarifications to our Congestion Pricing program. AB 1381 more clearly codifies the involvement of the Department of Transportation (Caltrans) and the California Highway Patrol (CHP) in developing performance measures for the optimal use of the Hot Lanes. In addition, the legislation includes a non-complete clause that would not prohibit Caltrans from making enhancement on the Hot Lanes infrastructure.

ISSUE

Last year, we, in partnership with Caltrans successfully sought legislation authorizing the congestion pricing program and paving the way for Caltrans and us to access over \$200 million in Federal Discretionary funds. The Professional Engineers in California Government had concerns about the bill but removed their opposition based on a commitment to make technical clarifications in this year’s session. Assembly Member John A. Perez has introduced AB 1381 to make those corrections.

PROVISIONS

Existing law specifically authorizes a value-pricing and transit development demonstration program involving HOT lanes to be conducted, administered, developed, and operated on State Highway Routes 10 and 110 in Los Angeles County by us under certain conditions.

Specifically, AB 1381 would:

- Require, rather than allow, our program to be implemented with the active participation of the CHP;
- Require, rather than allow, us, with the consent of the department, to establish appropriate performance measures for the purpose of ensuring optimal use of the Hot lanes without adversely affecting other traffic on the state highway system; and
- State that the authorization for this project shall not prevent the construction of competing facilities in the State Highway Route 10 or 110 corridors, and that we are not entitled to compensation for the adverse effects on toll revenue due to those facilities.

IMPACT ANALYSIS

In 2008, we were awarded a \$210 million grant from the U.S. Department of Transportation to implement a value-pricing program on the 10 and 110 highways in Los Angeles County by December 31, 2010. We sponsored SB 1422 (Ridley-Thomas) and were successful in obtaining state legislative authority to implement a congestion pricing program in Los Angeles County.

Assemblymember Perez introduced AB 1381 on behalf of the agency to address some outstanding issues that were not included in SB 1422 in the last legislative session. First, AB 1381 would incorporate the role of the CHP in all matters related to design, construction, maintenance and operations of the state highway facilities in implementing the congestion pricing program. Both Caltrans and CHP were and continue to be active, key partners in the development of this program.

In addition, the bill would require the consent of Caltrans when establishing performance measures such as speed or travel times to ensure the most optimal use of the Hot Lanes program.

We are currently in the process of drafting a cooperative agreement with Caltrans. The agreement would be consistent with the provisions outlined in the legislation.

Staff recommends a support-sponsor position on our sponsor bill AB 1381.

BILL: AB 1471

AUTHOR: ASSEMBLY MEMBER MIKE ENG
(D –MONTEREY PARK)

SUBJECT: LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION
AUTHORITY PROCUREMENT PROCESS

STATUS: ASSEMBLY TRANSPORTATION COMMITTEE

ACTION: SUPPORT - SPONSOR

RECOMMENDATION

Adopt a “SUPPORT - SPONSOR” position on AB 1471 (Eng) which makes technical corrections to our current procurement process and streamlines our procurement process.

ISSUE

Assembly Member Mike Eng has introduced AB 1471 to make technical changes to our current procurement authority and streamline the process. When the RTD and LACTC merged, there procurement code sections were not merged causing confusion about the procurement process. This bill will make clarifications in the code section and provide us with additional procurement authorities.

PROVISIONS

Existing law makes the Department of Transportation responsible for improving and maintaining the state highway system, including the development and implementation of a system of priorities for ranking the need for installation of noise attenuation barriers along freeways in the State. Under existing law, until January 1, 2010, the Los Angeles County Metropolitan Transportation Authority, in consultation with the department, is authorized to use a design-build procurement process for the construction of a specified high-occupancy vehicle lane in the County of Los Angeles.

Specifically, AB 1471 would:

- Correct a provision relating to our procurements which is in another agency's statute;
- Authorizes the Board to delegate the authority to make certain findings relating to procurements to staff. The Board would have to take an action to amend our administrative code to implement this provision;
- Authorizes us to purchase from auctions; and
- Authorizes us to engage in joint procurements with other agencies.

IMPACT ANALYSIS

Assemblymember Mike Eng has introduced AB 1471 on behalf of the agency to make some technical changes to the procurement process and provide additional procurement authority that will streamline the process. The bill corrects a provision in the Public Contracts Code Section 20321 in which we are cited. This code section relates to the Sacramento Regional Transit District and not to our agency. This section is redundant since we have the same provision in our own code section. This provision in the bill would remove us from this section.

The bill would add a provision which would authorize the Board to delegate certain procurement findings to staff including unusual circumstance or emergency. The bill will provide the authority to the Board. However, the Board must take an action to delegate the authority to the Chief Executive Officer.

The bill would also provide the authority to purchase specified equipment at public auctions. The procurement staff believe that this will provide an additional tool for the agency to purchase scarce and obsolete rail equipment.

Finally, the bill will allow us to join other public agencies in procurement efforts to avoid duplicity and increase the overall efficiency of the procurement process for certain purchases.

Staff recommends a support-sponsor position on our sponsor bill AB 1471.