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Metropolitan Transportation Authority

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**EXECUTIVE MANAGEMENT AND AUDIT COMMITTEE
MAY 21, 2009**

SUBJECT: STATE LEGISLATION

ACTION: ADOPT STAFF RECOMMENDED POSITIONS

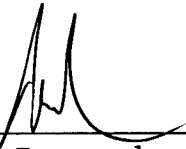
RECOMMENDATION

- A) SB 545 (Cedillo)** – Which would require a subsurface route for the I-710 Gap Closure project. **WORK WITH AUTHOR**
- B) SB 632 (Lowenthal)** – Which would require the Ports of Los Angeles, Long Beach and Oakland, by July 1, 2010, to assess their infrastructure and air quality improvement needs, including assessing the total cost for these projects and identifying potential sources of funding for them. **WORK WITH AUTHOR**
- C) SB 652 (Huff)** – Which would establish that the Alameda Corridor-East Construction Authority and the San Gabriel Valley Council of Governments shall be considered political subdivisions of the State, and that these entities may be applicants for state or federal funds for projects within their jurisdiction. **OPPOSE – WORK WITH AUTHOR**
- D) SB 716 (Wolk)** – Which would allow farm-worker vanpools to be an eligible program for Transportation Development Act (TDA) funding. **OPPOSE – UNLESS AMENDED**
- E) AB 1403 (Eng)** – Which would eliminate the \$1 million cap on TDA funds for the Southern California Association of Governments (SCAG). **SUPPORT**
- F) AB 1243 (B. Lowenthal)** – Which would create the South East Los Angeles County Commercial Vehicle Network Development and Advisory Committee to address truck in that area. **SUPPORT**

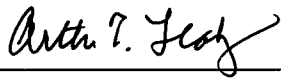
ATTACHMENTS

Attachments A - F

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BILL: SB 545

AUTHOR: SENATOR GIL CEDILLO
(D – LOS ANGELES)

SUBJECT: I-710 FREEWAY CONSTRUCTION

STATUS: SENATE APPROPRIATIONS

ACTION: WORK WITH AUTHOR

RECOMMENDATION

Adopt a “Work With Author” position on SB 545 (Cedillo), which would require a subsurface route for the 710 Gap Closure project.

ISSUE

Senator Cedillo introduced SB 545 to require that any proposed extension of the I-710 freeway from its current terminus at the boundary of the City of Los Angeles and the City of Alhambra at Valley Boulevard to its connection with the I-210 in the City of Pasadena be built as a tunnel.

PROVISIONS

Existing law requires the Department of Transportation to enter into an agreement with a city council or board of supervisors having jurisdiction, prior to any closure of a city street or county highway due to construction of a freeway. Existing law provides an exception to those provisions for a freeway segment within the jurisdiction of the Los Angeles County Metropolitan Transportation Authority, if specified requirements have been met, including that an agreement with one or more counties and cities is not possible because an impasse has existed for 10 or more years after an initial route was adopted. Existing law establishes the limits of State Highway Route 710 from State Highway Route 1 to State Highway Route 210 in Pasadena.

Specifically, SB 545 would:

- Limit this exception to construction of a segment of a freeway that consists solely of a subsurface transportation facility, as specified;
- Require, as a condition for the exception to apply, that an agreement with one or more counties and cities is not possible because an impasse has existed for 20 or more years after an initial route was adopted;
- Provide that State Highway Route 710 between Valley Boulevard in the City of Los Angeles and Del Mar Boulevard in the City of Pasadena may not be a surface or above-grade highway.

IMPACT ANALYSIS

Senator Cedillo has introduced SB 545 to require construction of a tunnel for any proposed extension of the I-710 freeway from its current terminus at the boundary of the City of Los Angeles and the City of Alhambra at Valley Boulevard to its connection with the I-210 in the City of Pasadena. This bill would prohibit construction of the extension of the I-710 freeway at grade, as an elevated structure, or as a cut-and-cover tunnel, effectively requiring construction of a tunnel. While the removal of the surface option may be consistent with our course of analysis, the language in SB 545 also prohibits the use of a specific construction method that may be used for limited purposes on a tunnel option.

Caltrans, in partnership with us, is currently conducting geo-technical studies for the I-710 Gap Closure project which is projected to be completed in the Fall of 2009. It is expected that once the geo-technical studies are complete, Caltrans and us, will discuss moving into the next phase of the process. This bill could impact the outcome of those efforts by eliminating any surface options and the ability to use cut-and-cover method. The restriction of not using cut and cover construction raises potential concerns for staff at this time because the studies have not been completed and it may be necessary to use cut-and-cover for the construction of portals or mitigation measures.

In addition, the bill would also revise an existing exemption that allows Caltrans to construct the I-710 freeway project without an agreement with an affected city or county by authorizing Caltrans to construct the segment of freeway solely as a tunnel if an impasse has existed for at least 20 years because an agreement cannot be reached with affected local agencies. The section currently states that the exemption applies if the impasse has existed for 10 years.

Staff have discussed our concerns with the Senator's office and is working to identify potential solutions. Staff recommends that we continue to work with the Senator's office and Caltrans to resolve our concerns.

Staff recommends that the Board approve a Work with Author position for SB 545. The City of South Pasadena is listed as being in support of this measure and there is no registered opposition.

BILL: SB 632

AUTHOR: SENATOR ALAN LOWENTHAL
(D – LONG BEACH)

SUBJECT: PORTS: CONGESTION RELIEF: AIR POLLUTION MITIGATION

STATUS: SENATE APPROPRIATIONS

ACTION: WORK WITH AUTHOR

RECOMMENDATION

Adopt a “Work With Author” position on SB 632 (Lowenthal) which would require the Ports of Los Angeles, Long Beach and Oakland, by July 1, 2010, to prepare an assessment of their infrastructure and air quality improvement needs.

ISSUE

Senator Lowenthal introduced SB 632 to provide the Legislature with information regarding the infrastructure and air quality improvement needs at the State's three largest ports.

PROVISIONS

Specifically, SB 632 would:

- Require the Ports of Long Beach, Los Angeles, and Oakland, beginning January 1, 2010, to assess their infrastructure and air quality improvement needs, including, but not limited to, projects that improve the efficiency of the movement of cargo, reduce congestion impacts associated with the movement of cargo, and reduce pollution associated with the movement of that cargo;
- Require each port to provide this assessment to the Legislature by July 1, 2010, and to include in the assessment the total costs of the infrastructure and air quality improvements, possible funding options for these projects, and estimated timelines for implementation;

IMPACT ANALYSIS

Senator Lowenthal has introduced SB 632 as a way to provide a statewide assessment of the infrastructure and air quality improvements necessary to address the impacts from the State's three largest ports; the Ports of Los Angeles, Long Beach and Oakland. According to the Senator, the State's three largest ports have significant health impacts on the surrounding communities including causing 3,700 premature deaths annually. In addition, by 2020, ports and freight transport operations will be the largest source of particulate matter and nitrogen oxide emissions in the state, producing more PM than all passenger vehicles,

off-road equipment, and stationary sources combined. Given these statistics, Senator Lowenthal would like to identify investments and improvements to infrastructure that could mitigate the air quality impacts from the port related-activities.

In the last several years, we have been the lead agency in the development of the Multi-County Goods Movement Action Plan (MCGMAP). The other partners in Southern California include Orange County Transportation Authority (OCTA), Riverside County Transportation Commission (RCTC), San Bernardino Associated Governments (SANBAG), San Diego Association of Governments (SANDAG), Ventura County Transportation Commission (VCTC), Southern California Association of Governments (SCAG) and Caltrans. Similar to the Senator's legislation, the MCGMAP identifies the multi-county goods movement challenges, potential solutions and funding sources.

In addition, the Ports of Los Angeles and Long Beach are working closely with the Southern California transportation agencies on a potential local container fee. This effort is in the preliminary stages. We would like to work with the Senator to ensure that this legislation complements the current discussions underway.

Staff has worked closely with the Senator's office in the past on his previous container fee legislation. Staff recommends that we continue to work with the Senator on this legislation to ensure that it reflects the work that has already been completed by the Southern California region in the development of the MCGMAP and the potential locally imposed container fee. We want to ensure that a statewide plan reflects the significant impacts and economic contributions the San Pedro Bay ports provides on a local, state and national levels and also reflects the work of the local agencies to gain consensus on the implementation of infrastructure improvements.

Staff recommends that the Board adopt a Work with Author position on SB 632. Currently, the Bay Area Air Quality District and Breathe California are the only registered support. Currently, there is no registered opposition on SB 632.

BILL: SB 652

AUTHOR: SENATOR BOB HUFF
(R - GLENDORA)

SUBJECT: ALAMEDA CORRIDOR – EAST CONSTRUCTION AUTHORITY

STATUS: SENATE LOCAL GOVERNMENT

POSITION: OPPOSE – WORK WITH AUTHOR

RECOMMENDATION

Adopt an “Oppose – Work With Author” position on SB 652 (Huff) which would establish that the Alameda Corridor-East Construction Authority (ACE) and the San Gabriel Valley Council of Governments (SGVCOG) shall be considered political subdivisions of the State, and that these entities may be applicants for state or federal funds for projects within their jurisdiction.

ISSUE

Senator Huff introduced SB 652 for ACE to pursue state legislation to be established as a political subdivision of the State to be eligible to secure federal funding.

PROVISIONS

Existing law provides for the creation of a separate public entity pursuant to a joint powers agreement among existing public entities pursuant to the Joint Exercise of Powers Act.

Specifically, SB 652 would:

- Provide that the ACE and the SGVCOG, a joint powers agency created pursuant to the Joint Exercise of Powers Act, of which the Authority is a part, shall be considered political subdivisions of the State, and that these entities may be applicants for state or federal funds for projects within their jurisdiction;
- Declare that it is to take effect immediately as an urgency statute.

IMPACT ANALYSIS

The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) created the Capital Grants for Rail Line Relocation and Improvement Projects Program. Funds from this program are available to state and political subdivisions of states to relocate existing rail lines. The ACE, a joint powers agency created by the SGVCOG, would like to submit an application for funding from the Rail Line Relocation program. However, ACE has been told by the Federal Railroad Administration (FRA), that

since they are not a state agency, nor are they a political subdivision of the State, they are not an eligible applicant. ACE has thus pursued SB 652 in order to be granted the status of a political subdivision of the State and thus be eligible to apply for these funds.

ACE seeks to relocate a set of tracks located in Pomona to eliminate a grade crossing thereby resolving the conflicts with vehicular traffic and the ultimate need for a grade separation. It is staff's opinion that the project is meritorious and that the source of funds sought by ACE is appropriate for the project. The problem lies with how best to pursue these funds.

Under SB 652, ACE and the SGVCOG would be considered state agencies and could be considered to have the authorities of a state agency including police powers and the power to tax. In addition, the granting of the authority equivalent to a state agency could be construed to supersede the authority of us in the planning and programming of transportation funds. ACE argues that the bill's application is limited in that the bill would only apply to ACE's ability to apply for these specific SAFETEA-LU funds. However, the limiting language in the bill is intent language and does not have the effect of law. The actual statutory language allows ACE and the SGVCOG to apply for state and federal funds for any projects in their jurisdiction. Committee staff in Sacramento have raised concerns about the precedent set by the bill and the implications of the granting of this authority to the various Councils of Governments and JPA's throughout California. Staff share those concerns.

Since we were created by state law, we are considered a political subdivision of the State. In addition, existing state law allows counties, cities or districts to do any and all things necessary under federal law or rule to secure monetary aid for public works projects. These provisions would therefore allow Caltrans or us to apply for these funds on behalf of ACE. Our staff in Washington D.C., is currently exploring this option with the FRA. It is not clear, at this point, that state legislation currently sought by ACE, and the resulting questions and concerns are the only way in which ACE can secure these funds.

Staff suggests that the project for which ACE seeks funding and the source of funds appears appropriate and does not conflict with our goals and objectives. The problem lies with the solution. To date, there have been no compelling reasons for why Caltrans or we cannot apply for these funds on behalf of ACE. In fact, the solution which has been proffered, SB 652, raises more concerns and creates the potential for intra-county conflict. Our legislative program has long contained a provision which seeks to maintain our planning and programming responsibilities in the county. SB 652 would violate that provision by authorizing two entities to seek federal and state funds, thus creating conflict with our role. As an agency, we have sought to maintain a coherent unified voice in both Sacramento and Washington D.C. The lack of this unity has allowed other states and regions to profit from the discord arising from within our county.

Staff recommends that the Board of Directors adopt an Oppose-Work with Author position on this measure. Staff would reiterate that the project and the source of funds are appropriate. However, since the bill is moving and continues to raise concerns, we feel it is important to register our concerns with the measure. We will continue to work with Senator Huff and ACE to explore how best we can partner with ACE to secure the SAFETEA-LU funds for this project. Should this path prove infeasible, and the bill truly become the only option, staff will return to the Board for reconsideration of our oppose position.

BILL: SB 716
AUTHOR: SENATOR LOIS WOLK
(D – LINDEN)
SUBJECT: FARM WORKER VANPOOLS
STATUS: SENATE TRANSPORTATION & HOUSING
ACTION: OPPOSE – UNLESS AMENDED

RECOMMENDATION

Adopt an “Oppose – Unless Amended” position on SB 716 (Wolk) which would authorize the use of Transportation Development Act (TDA) funds to acquire vans for farm worker vanpools.

ISSUE

Senator Wolk introduced SB 716 to authorize a county, city, county transportation commission, or transit operator to file a claim with a transportation planning agency to use TDA revenues to purchase vans used for vanpools that transport agricultural workers to and from work.

PROVISIONS

Existing law requires that 1/4% of the local sales and use tax be transferred to the Local Transportation Fund of the county and be allocated, as directed by the transportation planning agency, for various transportation purposes. Existing law specifies the allowable uses for local transportation funds, and generally requires these funds to be used for transit purposes in urban counties, while in counties with a population under 500,000 as of the 1970 census and certain other counties, these funds may also be used for local streets and roads if the transportation planning agency finds that there are no unmet transit needs or no unmet transit needs that are reasonable to meet.

Specifically, SB 716 would:

- Authorize in those counties where local transportation funds may be allocated to local streets and roads, would also authorize use of those funds for specified farmworker vanpool purposes.

IMPACT ANALYSIS

The TDA has become the only remaining source of state funds for transit purposes given the elimination of funding from the State Transit Assistance Account (STA). The State has been removing funds from the STA and broadening the eligible uses of STA funds to the point

that the State, in its last budget, has removed funding from the STA for the next five years. This has raised serious concerns amongst transit agencies that the State is abrogating responsibility to fund public transit. Transit agencies are now concerned that the State is facing such dire economic circumstances that they may now try to reclaim TDA funds to balance the State budget deficit. Against that backdrop, State Senator Wolk has proposed allowing farm worker vanpools to be considered an eligible expense of TDA funds.

Staff is very concerned that the State is continuing to erode its commitment to fund public transit. First, the State broadened the use of the STA to include debt service and school bus service. Then, the State removed funds from the Public Transportation Account (PTA) to fund farmworker vanpools. Now, the State would allow farmworker vanpools to be an eligible expense for TDA funds.

Clearly, there are broad and varied needs for public transit service throughout the State. It has become increasingly challenging to address all of these needs when the State continues to remove funds from its public transit related accounts. The result of this has been that public transit is frequently pitted against other interest groups such as education or social services. In this case, the use of TDA funds for farmworker vanpools has the potential to pit public transit against farmworkers. After the adoption of the last State budget, in which funding for the STA was eliminated for five years, members of the State Senate in particular have noted that it is their intent to create a working group of legislators to develop a comprehensive approach to transit funding.

While it may be appropriate to be concerned about the erosion of transit funding through SB 716, staff would suggest that another perspective may be appropriate. Clearly, there are great needs for public transit services throughout the State. In Los Angeles, those needs may consist of workers traveling to reach employment, students on their way to school and people traveling on transit to access public service. In rural areas, workers also need to access employment, students need to be able to go to school and people also need to access social services. While one perspective of the bill may be that the bill erodes TDA funding, another perspective, if the bill is structured appropriately, may be that there exists differing transit needs in differing counties and TDA funds should be available to meet those needs. Senator Wolk has indicated that she would like to work with those opposed to the bill to address these concerns.

Given that the author has expressed a willingness to work with the opposition, it may be possible to allow a county to address its needs without affecting the share of another county. Staff recommends that the Board adopt an Oppose Unless Amended position on SB 716. The specific amendments that we would seek would be to allow this as an optional expense that applies only to rural counties.

BILL: AB 1403
AUTHOR: MIKE ENG
(D – MONTEREY PARK)
SUBJECT: TRANSPORTATION DEVELOPMENT ACCOUNT
STATUS: ASSEMBLY TRANSPORTATION
ACTION: SUPPORT

RECOMMENDATION

Adopt a “Support” position on AB 1403 (Eng) which would eliminate the \$1 million cap on TDA funds for the Southern California Association of Governments (SCAG).

ISSUE

SCAG’s planning responsibilities have increased over the years to implement federal and state mandates including SB 375. Assembly Member Mike Eng introduced AB 1403 which would delete the \$1 million cap on allocations of TDA funds to SCAG, effective July 1, 2011 to provide SCAG with additional funding resources to meet their state and federal obligations.

PROVISIONS

Existing law, pursuant to the Mills-Alquist-Deddeh Act, also known as TDA, provides for allocation by the transportation planning agency of 1/4% of the sales tax in each county deposited in the Local Transportation Fund to various transportation purposes, including transportation planning and programming, public transit, and, in some cases, local streets and roads. Up to 3% of annual revenues may be allocated to the transportation planning agency, if it is statutorily created, for transportation planning and programming purposes.

SCAG as the multi-county designated transportation planning agency receives specified percentages of annual revenues that are allocated by the county transportation commissions in the five individual counties, of up to 3/4 of 1% of annual revenues, but not more than \$1 million, may be allocated by the commissions in Los Angeles, Orange, Riverside, and San Bernardino counties, proportionately, to SCAG for its transportation planning functions.

Specifically, AB 1403 would:

- Effective July 1, 2011, would delete the \$1 million limitation on allocations of these funds by the four county transportation commissions to SCAG.

IMPACT ANALYSIS

Assemblymember Mike Eng has introduced AB 1403 on behalf of SCAG to remove the \$1 million dollar cap on TDA in current law. Existing law allows Metropolitan Planning Organizations (MPOs) in California to use up to 1% of TDA funds for planning and programming purposes. However, current law specifically restricts SCAG to a \$1 million dollar cap. By deleting the cap, SCAG could be eligible to receive up to 1% for planning purposes.

The bill is specific to the Southern California region and would not impact current funding for other MPOs in California. The impacts would be experienced by the agencies that contribute to SCAG including Metro, Orange County Transportation Authority (OCTA), San Bernardino Association of Governments (SANBAG) and Riverside County Transportation Commission (RCTC). At the staff level, these agencies are supportive of SCAG's efforts.

Our most recent contribution to SCAG was approximately \$500,000 in TDA funds to SCAG for planning purposes. AB 1403 would increase our contribution to SCAG to approximately \$2.5 million. Our contribution would come from our share of TDA funds and would not impact the funds received by the municipal operators.

In addition, SCAG recently amended the bill to delay its implementation to July 1, 2011 due to the recent losses in state funding for transit. It is envisioned that the new effective date will allow the increase to take place in an improved economy.

Staff recommends that the Board adopt a Support position on AB 1403. Currently, there is no registered opposition.

BILL: AB 1243

AUTHOR: BONNIE LOWENTHAL
(D – LONG BEACH)

SUBJECT: SOUTH EAST LOS ANGELES COUNTY COMMERCIAL VEHICLE
NETWORK DEVELOPMENT AND ADVISORY COMMITTEE

STATUS: ASSEMBLY APPROPRIATIONS

ACTION: SUPPORT

RECOMMENDATION

Adopt a “Support” position on AB 1243 (B. Lowenthal) which would create the South East Los Angeles County Commercial Vehicle Network Development and Advisory Committee to address truck safety among other good movement issues.

ISSUE

Assembly Member Lowenthal has introduced AB 1243 to address truck safety along the South East Los Angeles.

PROVISIONS

Existing law requires the Department of the California Highway Patrol to adopt reasonable rules and regulations that, in the judgment of the department, are designed to promote the safe operation of specified commercial vehicles, regarding, among other things, inspection and maintenance of vehicles and to adopt procedures for the enforcement of these rules and regulations.

Specifically, AB 1243 would:

- Until January 1, 2012, establish the South East Los Angeles County Commercial Vehicle Network Development and Advisory Committee in the Business, Transportation and Housing Agency to develop a work program that will optimize the effectiveness and efficiencies of the commercial vehicle enforcement network in South East Los Angeles County through a multiagency collaborative effort focused on addressing ongoing commercial vehicle enforcement issues and to recognize the potential benefits from specified technologies;
- Require the committee to report annually on or before December 31st of each year to the Governor, the Business, Transportation and Housing Agency, and the Assembly Committee on Transportation and the Senate Committee on Transportation and Housing on the progress made towards implementation of the recommendations developed to improve commercial vehicle enforcement in South East Los Angeles County pursuant to a specified list of 12 objectives, that include, among other things, review of

Vehicle Dimension-in-Motion and Automated Vehicle Identification devices as a legal enforcement tool;

- Require that the committee consist of three specified members, that the members of the committee serve without compensation, and that no State funds be used to compensate the members for expenses incurred in the performance of their official duties
- Would also provide that the committee may accept grants from federal or local public agencies or from private sources in order to assist it in carrying out its duties and functions under these provisions.

IMPACT ANALYSIS

The safety issues related to truck traffic in the southeast portion of Los Angeles County has caused increasing concerns in the surrounding communities. Cities in that sector are concerned that their proximity to the ports creates unique circumstances in that region. In particular, cities are concerned that a lack of maintenance or the inability to fully inspect the fleet of trucks servicing the port leads to increased accidents and reduced safety in that area.

To address this issue, the Gateway Cities Council of Governments has sought to create a task force of public agencies to comprehensively address the issues of truck safety in this area. Assembly Member Lowenthal has expressed her commitment to partner with us in the development of the task force and would amend the bill to incorporate us into the process.

We have taken significant steps to work with our regional partners to address goods movement in our region. We have worked with all of the transportation commissions, the ports, SCAG and other agencies on a variety of initiatives. While the issue of truck safety may not immediately appear to be specifically related to our jurisdiction as the planning and programming agency for the county, the safety of truck traffic in our region is an important element of an efficient, safe and sustainable goods movement infrastructure.

Staff therefore recommends that the Board of Directors adopt a Support position on AB 1243. AB 1243 is sponsored by the Gateway Cities Council of Governments and there is no opposition currently registered to this measure.