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July 1, 2019

The Honorable Jim Beall
California State Senate
State Capitol, Room 2082
Sacramento, California 95814

Subject: **SB 277 (Beall) – SUPPORT**

Dear Senator Beall:

On behalf of the Orange County Transportation Authority (OCTA) Board of Directors, we are pleased to support SB 277, your bill that would better align the distribution of SB 1 (Chapter 5, Statutes of 2017) Local Partnership Program (LPP) funding with the program's original legislative intent of rewarding self-help counties for passing sales tax measures providing dedicated funding for transportation purposes.

Under a compromise reached after passage of SB 1, half of the \$200 million in annual LPP funding has been distributed on a formula basis, with the other half awarded by the California Transportation Commission (CTC) via a competitive process. This short-term arrangement was the result of negotiations between the CTC and the Self-Help Counties Coalition (SHCC) to ensure that LPP funding could immediately begin flowing to self-help counties awaiting much-needed funding to deliver transportation improvements across the state. While SB 1 included multiple competitive funding programs, LPP was not intended to be one of them. The LPP was intended to provide funding certainty to jurisdictions that have been entrusted by a supermajority of voters to locally impose dedicated transportation taxes. Unfortunately, the way in which the LPP is currently being administered does not allow the type of flexibility and predictability necessary to adequately leverage local dollars to maximize state transportation funding.

On June 8, 2017, you and Assembly Transportation Committee Chairman Jim Frazier (D-Oakley), as SB 1's co-authors, sent a letter confirming that the original legislative intent behind the LPP was to reward existing self-help counties and encourage voters to approve new transportation investments. The letter specifically encouraged the re-evaluation of the LPP compromise after two years to work towards a higher percentage of LPP funding distributed on a formula basis, which is exactly what SB 277

The Honorable Jim Beall

July 1, 2019

Page 2

would do. The letter also makes clear that SB 1's LPP funding was intended to be implemented much like the State-Local Partnership Program in Proposition 1B (2006), which allowed California's self-help counties to leverage the \$700 million flexible state funding to deliver over \$10 billion in transportation improvements. The success of this funding structure further justifies the approach envisioned in SB 277.

OCTA supports SB 277 and the amendments that would increase the formula share of LPP funding to reward self-help counties with the flexibility and certainty necessary to deliver the projects promised by SB 1. The amendments would distribute 85 percent of LPP funding by formula and 15 percent on a competitive basis. This funding structure was developed in close coordination with the SHCC and was agreed to by transportation agencies representing more than 96 percent of the population of California's self-help counties. Whereas the bill previously lacked a funding distribution, the amended bill will provide a clear, consensus-based funding structure. The amendments also include a reporting mechanism, consistent with other state transportation programs, to ensure accountability and transparency in the delivery of transportation improvements using LPP funding.

A SUPPORT position on SB 277 is consistent with OCTA's 2019-2020 State Legislative Platform principle to "Support efforts to maximize OCTA's share of transportation and transit funding, especially through distribution formulas." If you or your staff have any questions regarding OCTA's position on SB 277, please contact Kristin Essner, Manager of State and Federal Relations, at (714) 560-5754 or kessner@octa.net.

Sincerely,



Tim Shaw
Chairman

TS:djs

c: Darrell E. Johnson, Chief Executive Officer
Orange County State Legislative Delegation
Platinum Advisors, LLC

AMENDED IN ASSEMBLY JULY 1, 2019
AMENDED IN ASSEMBLY JUNE 4, 2019
AMENDED IN SENATE MARCH 18, 2019

SENATE BILL

No. 277

Introduced by Senator Beall
(Principal coauthor: Assembly Member Frazier)

February 13, 2019

An act to amend Section 2032 of, to amend and repeal Section 2033 of, and to add Section 2033.1 to, the Streets and Highways Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

SB 277, as amended, Beall. Road Maintenance and Rehabilitation Program: Local Partnership Program.

Under existing law, the California Transportation Commission allocates various state and federal transportation funds through specified state programs to local and regional transportation agencies to implement projects consistent with the requirements of those programs. Existing law continuously appropriates \$200,000,000 annually from the Road Maintenance and Rehabilitation Account for allocation by the commission for a program commonly known as the Local Partnership Program to local or regional transportation agencies that have sought and received voter approval of taxes or that have imposed certain fees, which taxes or fees are dedicated solely for road maintenance and rehabilitation and other transportation improvement projects. Existing law requires the commission, in cooperation with the Department of Transportation, transportation planning agencies, county transportation

commissions, and other local agencies, to develop guidelines for the allocation of those moneys.

~~This bill would require the commission to apportion these funds on a formula basis to those of the local and regional transportation agencies described above that also have responsibility for funding, procuring, and constructing transportation improvements within their jurisdictions. annually deposit 85% of these funds into the Local Partnership Formula Subaccount, which the bill would create, and 15% of these funds in the Small Counties and Uniform Developer Fees Competitive Subaccount, which the bill would create. The bill would require the commission to apportion the funds in the Local Partnership Formula Subaccount pursuant to a specified formula to local or regional transportation agencies that meet certain eligibility requirements. The bill would require the commission to allocate funds in the Small Counties and Uniform Developer Fees Competitive Subaccount through a competitive grant program to local or regional transportation agencies that meet other eligibility requirements. The bill would require the commission, in conjunction with transportation planning agencies and county transportation commissions, and in consultation with other local agencies, to develop separate guidelines for the apportionment or allocation of these the funds in each subaccount that, among other things, establish an apportionment formula, identify guaranteed minimum apportionments, and establish the types of eligible projects consistent with specified requirements. In order to receive an apportionment of funds from the Local Partnership Formula Subaccount from the commission in a funding cycle, the bill would require an eligible entity to submit to the commission a list of projects proposed to be funded with the funds. The bill would require the commission to approve a project list submitted by a local or regional transportation agency unless a project identified in the project list is not consistent with the project eligibility guidelines.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 2032 of the Streets and Highways Code
- 2 is amended to read:
- 3 2032. (a) (1) After deducting the amounts appropriated in the
- 4 annual Budget Act, as provided in Section 2031.5, two hundred

1 million dollars (\$200,000,000) of the remaining revenues deposited
2 in the Road Maintenance and Rehabilitation Account shall be set
3 aside annually for eligible entities. The Controller shall each month
4 set aside one-twelfth of this amount, except in fiscal year 2017–18,
5 the Controller shall set aside one-eighth of this amount, to
6 accumulate a total of two hundred million dollars (\$200,000,000)
7 in each fiscal year. The Controller may adjust the amount in the
8 final month or months of each fiscal year if necessary to achieve
9 the annual amount specified in this subdivision.

10 (2) Eligible projects under this subdivision include, but not are
11 limited to, sound walls for a freeway that was built before 1987
12 without sound walls and with or without high-occupancy vehicle
13 lanes if the completion of the sound walls has been deferred due
14 to lack of available funding for at least 20 years and a noise barrier
15 scope summary report has been completed within the last 20 years.

16 (3) Notwithstanding Section 13340 of the Government Code,
17 the funds available under this subdivision in each fiscal year are
18 hereby continuously appropriated for apportionment ~~on a formula~~
19 ~~basis to eligible entities or allocation~~ by the commission for road
20 maintenance and rehabilitation and other transportation
21 improvement projects pursuant to Section 2033 or 2033.1, as
22 applicable.

23 (4) For purposes of this subdivision, an “eligible entity” means
24 a local or regional transportation agency that has responsibility for
25 funding, procuring, or constructing transportation improvements
26 within its jurisdiction, and that does either of the ~~following:~~
27 *following, as further specified in subdivision (b) of Section 2033.1:*

28 (A) Has sought and received voter approval for the imposition
29 of taxes or fees dedicated solely to transportation improvements
30 and administers those taxes or fees.

31 (B) Has imposed uniform developer fees, as defined by
32 subdivision (b) of Section 8879.67 of the Government Code.

33 (b) After deducting the amounts appropriated in the annual
34 Budget Act pursuant to Section 2031.5 and the amount allocated
35 in subdivision (a), beginning in the 2017–18 fiscal year, one
36 hundred million dollars (\$100,000,000) of the remaining revenues
37 shall be available annually for expenditure, upon appropriation by
38 the Legislature, on the Active Transportation Program created
39 pursuant to Chapter 8 (commencing with Section 2380) of Division
40 3 to be allocated by the California Transportation Commission

1 pursuant to Section 2381. The Controller shall each month set
2 aside one-twelfth of this amount, except in the 2017–18 fiscal year,
3 when the Controller shall set aside one-eighth of this amount, to
4 accumulate a total of one hundred million dollars (\$100,000,000)
5 in each fiscal year. The Controller may adjust the amount in the
6 final month or months of each fiscal year if necessary to achieve
7 the annual amount specified in this subdivision.

8 (c) After deducting the amounts appropriated in the annual
9 Budget Act pursuant to Section 2031.5 and the amounts allocated
10 in subdivisions (a) and (b), beginning in the 2017–18 fiscal year,
11 four hundred million dollars (\$400,000,000) of the remaining
12 revenues shall be available annually for expenditure, upon
13 appropriation by the Legislature, by the department for bridge and
14 culvert maintenance and rehabilitation. The Controller shall each
15 month set aside one-twelfth of this amount, except in the 2017–18
16 fiscal year, when the Controller shall set aside one-eighth of this
17 amount, to accumulate a total of four hundred million dollars
18 (\$400,000,000) in each fiscal year. The Controller may adjust the
19 amount in the final month or months of each fiscal year if necessary
20 to achieve the annual amount specified in this subdivision.

21 (d) After deducting the amounts appropriated in the annual
22 Budget Act pursuant to Section 2031.5 and the amounts allocated
23 in subdivisions (a), (b), and (c), beginning in the 2017–18 fiscal
24 year, twenty-five million dollars (\$25,000,000) of the remaining
25 revenues shall be transferred annually to the State Highway
26 Account for expenditure, upon appropriation by the Legislature,
27 to supplement the freeway service patrol program. The Controller
28 shall each month set aside one-twelfth of this amount, except in
29 the 2017–18 fiscal year, when the Controller shall set aside
30 one-eighth of this amount, to accumulate a total of twenty-five
31 million dollars (\$25,000,000) in each fiscal year. The Controller
32 may adjust the amount in the final month or months of each fiscal
33 year if necessary to achieve the annual amount specified in this
34 subdivision.

35 (e) After deducting the amounts appropriated in the annual
36 Budget Act pursuant to Section 2031.5 and the amounts allocated
37 in subdivisions (a), (b), (c), and (d), in the 2017–18, 2018–19,
38 2019–20, 2020–21, and 2021–22 fiscal years, from revenues in
39 the Road Maintenance and Rehabilitation Account that are not
40 subject to Article XIX of the California Constitution, five million

1 dollars (\$5,000,000) shall be appropriated in each fiscal year to
2 the California Workforce Development Board to assist local
3 agencies to implement policies to promote preapprenticeship
4 training programs to carry out the projects that are funded by the
5 account pursuant to Section 2038. Funds appropriated pursuant to
6 this subdivision in the Budget Act but remaining unexpended at
7 the end of each applicable fiscal year shall be reappropriated for
8 the same purposes in the following year's Budget Act, but all funds
9 appropriated or reappropriated pursuant to this subdivision in the
10 Budget Act shall be liquidated no later than June 30, 2027.

11 (f) After deducting the amounts appropriated in the annual
12 Budget Act pursuant to Section 2031.5 and the amounts allocated
13 in subdivisions (a), (b), (c), (d), and (e), beginning in the 2017–18
14 fiscal year, twenty-five million dollars (\$25,000,000) of the
15 remaining revenues shall be available annually for expenditure,
16 upon appropriation by the Legislature, by the department for local
17 planning grants, as described in Section 2033.5. The Controller
18 shall each month set aside one-twelfth of this amount, except in
19 the 2017–18 fiscal year, when the Controller shall set aside
20 one-eighth of this amount, to accumulate a total of twenty-five
21 million dollars (\$25,000,000) in each fiscal year. The Controller
22 may adjust the amount in the final month or months of each fiscal
23 year if necessary to achieve the annual amount specified in this
24 subdivision.

25 (g) After deducting the amounts appropriated in the annual
26 Budget Act pursuant to Section 2031.5 and the amounts allocated
27 in subdivisions (a), (b), (c), (d), (e), and (f), beginning in the
28 2017–18 fiscal year and each fiscal year thereafter, from the
29 remaining revenues, five million dollars (\$5,000,000) shall be
30 available, upon appropriation, to the University of California for
31 the purpose of conducting transportation research and two million
32 dollars (\$2,000,000) shall be available, upon appropriation, to the
33 California State University for the purpose of conducting
34 transportation research and transportation-related workforce
35 education, training, and development. Before the start of each
36 fiscal year, the Secretary of Transportation and the chairs of the
37 Assembly Committee on Transportation and the Senate Committee
38 on Transportation and Housing may set out a recommended priority
39 list of research components to be addressed in the upcoming fiscal
40 year.

1 (h) Notwithstanding Section 13340 of the Government Code,
2 the balance of the revenues deposited in the Road Maintenance
3 and Rehabilitation Account are hereby continuously appropriated
4 as follows:

5 (1) Fifty percent for allocation to the department for maintenance
6 of the state highway system or for purposes of the state highway
7 operation and protection program.

8 (2) Fifty percent for apportionment to cities and counties by the
9 Controller pursuant to the formula in clauses (i) and (ii) of
10 subparagraph (C) of paragraph (3) of subdivision (a) of Section
11 2103 for the purposes authorized by this chapter.

12 SEC. 2. Section 2033 of the Streets and Highways Code is
13 amended to read:

14 2033. (a) On or before January 1, 2018, the commission, in
15 cooperation with the department, transportation planning agencies,
16 county transportation commissions, and other local agencies, shall
17 develop guidelines for the allocation of funds pursuant to
18 subdivision (a) of Section 2032.

19 (b) The guidelines shall be the complete and full statement of
20 the policy, standards, and criteria that the commission intends to
21 use to determine how these funds will be allocated.

22 (c) The commission may amend the adopted guidelines after
23 conducting at least one public hearing.

24 (d) The guidelines may include streamlining of project delivery
25 by authorizing local or regional transportation agencies to seek
26 commission approval of a letter of no prejudice that allows the
27 agency to expend its own funds in advance of an allocation of
28 funds by the commission, and to be reimbursed at a later time for
29 eligible expenditures. A letter of no prejudice shall only be
30 available to local or regional transportation agencies for moneys
31 that have been identified for future allocation to the applicant
32 agency. Moneys designated pursuant to subdivision (a) of Section
33 2032 shall ~~only~~ be reimbursed *only* when there is funding available
34 in an amount sufficient to make the reimbursement.

35 (e) The guidelines developed pursuant to this section shall ~~only~~
36 apply *only* to programming cycle 1 and 2 of the formulaic program,
37 as described in commission resolution G-17-33, and programming
38 cycle 1 of the competitive program, as described in commission
39 resolution G-17-33.

1 (f) This section shall remain in effect only until January 1, 2024,
2 and as of that date is repealed.

3 SEC. 3. Section 2033.1 is added to the Streets and Highways
4 Code, to read:

5 2033.1. (a) ~~(1) On~~ *For purposes of apportioning and*
6 *allocating the funds that are continuously appropriated in each*
7 *fiscal year pursuant to subdivision (a) of Section 2032, the*
8 *commission shall segregate the funds into two separate*
9 *subaccounts as follows:*

10 (1) *Eighty-five percent of the funds shall be deposited into the*
11 *Local Partnership Formula Subaccount, which is hereby created.*

12 (2) *Fifteen percent of the funds shall be deposited into the Small*
13 *Counties and Uniform Developer Fees Competitive Subaccount,*
14 *which is hereby created.*

15 (b) (1) *The commission shall apportion the funds in the Local*
16 *Partnership Formula Subaccount to eligible entities, as defined*
17 *in subparagraph (A) of paragraph (4) of subdivision (a) of Section*
18 *2032, pursuant to the formula established in subdivision (f) and*
19 *in accordance with the other applicable requirements of this*
20 *section.*

21 (2) *The commission shall allocate the funds in the Small*
22 *Counties and Uniform Developer Fees Competitive Subaccount*
23 *through a competitive grant program to eligible entities, as defined*
24 *in subparagraph (A) of paragraph (4) of subdivision (a) of Section*
25 *2032 that have a population of less than 750,000, and to eligible*
26 *entities, as defined in subparagraph (B) of paragraph (4) of*
27 *subdivision (a) of Section 2032, in accordance with the applicable*
28 *requirements of this section. For the purpose of calculating*
29 *population, the commission shall use the most recent information*
30 *available from the Department of Finance.*

31 (c) (1) *On or before April 1, 2020, the commission, in*
32 *conjunction with transportation planning agencies and county*
33 *transportation commissions, and in consultation with other local*
34 *agencies, shall develop separate guidelines for the apportionment*
35 *or allocation, as applicable, of funds pursuant to subdivision (a)*
36 *of Section 2032: deposited in the Local Partnership Formula*
37 *Subaccount and the Small Counties and Uniform Developer Fees*
38 *Competitive Subaccount.*

39 (2) ~~The~~ *Each set of guidelines shall be the complete and full*
40 *statement of the policy, standards, and criteria that the commission*

1 intends to use to determine how ~~these~~ *the funds in each subaccount*
 2 will be apportioned.

3 (3) ~~The Each set of~~ guidelines shall do, but are not limited to
 4 doing, all of the ~~following regarding the appointment of these~~
 5 ~~funds:~~ *following:*

6 ~~(A) Identify guaranteed minimum apportionment for eligible~~
 7 ~~entities.~~

8 ~~(B)~~

9 (A) Identify eligible local matching funds.

10 ~~(C) Establish an apportionment formula for these funds.~~

11 ~~(D)~~

12 (B) Establish the types of eligible projects consistent with
 13 subdivision ~~(b):~~ (d).

14 ~~(E)~~

15 (C) Authorize an eligible entity to retain its apportionment *from*
 16 *the Local Partnership Formula Subaccount* to accumulate and use
 17 that apportionment in a subsequent year for a larger expenditure.
 18 *An eligible entity may only retain its apportionment for five years.*

19 (4) The guidelines may include streamlining of project delivery
 20 by authorizing eligible entities to seek commission approval of a
 21 letter of no prejudice that allows the entity to expend its own funds
 22 in advance of an apportionment of funds by the commission, and
 23 to be reimbursed at a later time for eligible expenditures. A letter
 24 of no prejudice shall only be available to eligible entities for
 25 moneys that have been identified for future apportionment to the
 26 applicant entity. Moneys designated pursuant to subdivision (a)
 27 of Section 2032 shall ~~only~~ be reimbursed *only* when there is
 28 funding available in an amount sufficient to make the
 29 reimbursement.

30 (5) The commission may amend the adopted guidelines after
 31 conducting at least one public hearing.

32 ~~(b)~~

33 (d) A project is eligible to receive funding pursuant to
 34 subdivision (a) of Section 2032 if it is eligible pursuant to
 35 subdivision (b) of Section 2030 and is consistent with Section 2
 36 of Article XIX of the California Constitution.

37 ~~(e)~~

38 (e) (1) In order to receive an apportionment of funds ~~pursuant~~
 39 ~~to subdivision (a) of Section 2032 from the Local Partnership~~
 40 *Formula Subaccount* from the commission in a funding cycle, an

1 eligible entity shall submit to the commission a list of projects
2 proposed to be funded with these funds. All projects proposed to
3 receive funding shall be adopted by resolution by the eligible entity
4 at a regular public meeting. The list of projects proposed to be
5 funded with these funds shall include a description and the location
6 of each proposed project, a proposed schedule for the project's
7 completion, and the estimated useful life of the improvement.

8 (2) The commission shall approve a project list submitted by
9 an eligible entity pursuant to paragraph (1) unless a project
10 identified in the project list is not consistent with project eligibility
11 requirements.

12 ~~(d) For purposes of this section, "eligible entity" has the same~~
13 ~~meaning as defined in subdivision (a) of Section 2032.~~

14 *(f) To establish the apportionments from the Local Partnership*
15 *Formula Subaccount for each eligible entity, the commission shall*
16 *do all of the following before the commencement of a funding*
17 *cycle:*

18 *(1) Determine the total amount of annual revenue generated*
19 *from voter-approved sales taxes, voter-approved parcel or property*
20 *taxes, and voter-approved bridge tolls dedicated to transportation*
21 *improvements according to the most recent available data reported*
22 *to the Department of Tax and Fee Administration, the Controller,*
23 *or the Bay Area Toll Authority.*

24 *(2) Establish a northern California and southern California*
25 *share by attributing the proportional share of revenues from*
26 *voter-approved sales taxes, voter-approved parcel or property*
27 *taxes, and voter-approved bridge tolls dedicated to transportation*
28 *improvements and imposed in counties in northern California to*
29 *the northern share, and by attributing the proportional share of*
30 *revenues from voter-approved sales taxes imposed in counties*
31 *located in southern California to the southern share. The*
32 *determination of whether a county is located in northern or*
33 *southern California shall be based on the definitions set forth in*
34 *Section 187.*

35 *(3) Program funds made available to the southern share, based*
36 *on the determination in paragraph (2), shall be apportioned to*
37 *each eligible entity responsible for programming and allocating*
38 *revenues from the sales tax in proportion to the following:*

39 *(A) Seventy-five percent based on the population of the county*
40 *in which the entity is located compared to the total population of*

1 *southern California counties with voter-approved sales taxes*
2 *dedicated to transportation improvements. For the purpose of*
3 *calculating population, the commission shall use the most recent*
4 *information available from the Department of Finance.*

5 *(B) Twenty-five percent based on the total amount of sales tax*
6 *revenue generated from the total number of sales tax measures*
7 *dedicated to transportation improvements administered by an*
8 *eligible entity compared to the total amount of sales tax revenue*
9 *generated from voter-approved sales tax measures dedicated to*
10 *transportation improvements in southern California. For the*
11 *purpose of calculating sales tax revenue, the commission shall use*
12 *the most recent information available from Department of Tax and*
13 *Fee Administration.*

14 *(4) Program funds made available to the northern share, based*
15 *on the determination in paragraph (2), shall be apportioned as*
16 *follows:*

17 *(A) Program funds generated by voter-approved bridge tolls*
18 *and voter-approved parcel or property taxes dedicated to*
19 *transportation improvements shall be apportioned to the entity*
20 *responsible for programming and allocating revenues from the*
21 *toll or tax based on the proportional share of revenues generated*
22 *by the toll or tax by that entity in comparison to the total revenues*
23 *generated by voter-approved sales taxes, voter-approved parcel*
24 *or property taxes, and voter-approved bridge tolls dedicated to*
25 *transportation improvements in northern California.*

26 *(B) Program funds generated by voter-approved sales taxes*
27 *dedicated to transportation improvements shall be apportioned to*
28 *each eligible entity responsible for programming and allocating*
29 *revenues from the sales tax in proportion to the following:*

30 *(i) Seventy-five percent based on the population of the county*
31 *in which the entity is located compared to the total population of*
32 *northern California counties with voter-approved sales taxes*
33 *dedicated to transportation improvements. For the purpose of*
34 *calculating population, the commission shall use the most recent*
35 *information available from the Department of Finance.*

36 *(ii) Twenty-five percent based on the total amount of sales tax*
37 *revenue generated from the total number of sales tax measures*
38 *dedicated to transportation improvements administered by an*
39 *eligible entity compared to the total amount of sales tax revenue*
40 *generated from voter-approved sales tax measures dedicated to*

1 *transportation improvements in northern California. For the*
2 *purpose of calculating sales tax revenue, the commission shall use*
3 *the most recent information available from the Department of Tax*
4 *and Fee Administration.*

5 ~~(e) The guidelines developed pursuant to this~~

6 (g) *This section shall apply to programming cycles beginning*
7 *after the programming cycles described in subdivision (e) of*
8 *Section 2033, as it read on January 1, 2020.*