



June 18, 2020

To: Legislative and Communications Committee
From: Darrell E. Johnson, Chief Executive Officer
Subject: State Legislative Status Report

Overview

An update is provided on discussions related to the Fiscal Year 2020-21 State Budget. An overview of a bill related to State Route 241 is provided. Updates are provided regarding an informational hearing related to high-speed rail, advocacy to postpone new California Environmental Quality Act requirements, and the confirmation of a new director of the California State Department of Transportation.

Recommendation

Receive and file as an information item.

Discussion

State Budget Process

Due to the novel coronavirus (COVID-19) pandemic, the budget process for fiscal year 2020-21 has been significantly condensed. In response, Assembly Speaker Anthony Rendon (D-Lakewood) called for a Committee of the Whole on the State Budget on May 26, 2020. The last time this occurred was in 1995 for a discussion of the Orange County bankruptcy. This will be an opportunity for each Assembly Member to provide feedback on the state budget, and the Governor's proposed May Revise.

Instead of holding numerous subcommittee hearings to consider input from stakeholders on a variety of issues, each budget subcommittee within the legislature limited hearings to focus on issues proposed in the May Revise. On May 21, 2020, Assembly Budget Subcommittee Number Three on Resources and Transportation held its hearing. Among the items on the agenda, members discussed the Governor's proposal included in the May Revise to transfer \$130 million from the State Highway Account to the General Fund.

The Department of Finance justified the transfer, by explaining that these funds are the earned interest in the account, and there is not legal prohibition on using the interest for non-transportation purposes within Article 19 of the Constitution. The Legislative Analyst's Office (LAO) noted that they were in conversations with Legislative Counsel on the legality of this matter. At the time of the writing of this staff report, the Legislature was prepared to reject this proposed transfer.

Cap-and-trade revenue projections were also discussed, with the LAO noting that the cap-and-trade expenditure plan is difficult to predict because of the uncertainty of future revenues. Since this budget hearing, the latest cap-and-trade auction on May 20, 2020, revealed significantly lower revenues compared to past auctions. The State will receive an estimated \$25 million from this auction, compared to \$612 million in the previous February auction. Given these results, the total 2019-20 revenue will be approximately \$2.1 billion, which is \$300 million less than assumed in the budget. It is not yet clear how this decrease in revenue will impact discretionary programs within the Greenhouse Gas Reduction Fund, like the Low Carbon Transit Operations Program (LCTOP). Overall, continuously appropriated programs are expected to receive an estimated \$1.2 billion in 2019-20, which is \$170 million less than the budget assumed. It is expected that cap-and-trade expenditure plan discussions will occur later in the year when more certainty exists with the revenue picture.

Senate Budget Subcommittee Number Two on Resources, Environmental Protection, Energy, and Transportation Chair, Senator Bob Wieckowski (D-Fremont), proposed in its hearing on May 24, 2020, a requirement for the California Air Resources Board to consider a variety of improvements to the cap-and-trade program in a formal rulemaking. One of the many recommendations was to raise the floor price, which could allow additional revenues to be generated. This budget proposal has been formally opposed by the California Chamber of Commerce, and other groups, who note that revenue generation is not the intent of the cap-and-trade program.

Separately, the committee also adopted placeholder language for statutory relief for transit operators. The California Transit Association worked with Senator Jim Beall (D-Campbell) to submit a letter to the Governor and legislative leaders to urge the following statutory relief measures be included in the budget:

- Institute hold harmless provision for calculation and allocation of State Transit Assistance (STA) Program, State of Good Repair (SGR), and LCTOP allocations.
- Temporarily create more flexibility in the use of LCTOP and STA-based SGR Program funds, allowing funding to be used for existing operations.

- Temporarily remove financial penalties for non-compliance with farebox recovery requirements and transit funding efficiency measures in the Transportation Development Act and the STA Program.

A copy of this letter is included as Attachment A. The letter was signed by bipartisan, bicameral legislators, including the following members from the Orange County delegation: Senator Pat Bates (R-Laguna Hills), Senator Tom Umberg (D-Santa Ana), Assembly Member Tom Daly (D-Anaheim), Assembly Member Bill Brough (R-San Juan Capistrano), and Assembly Member Sharon Quirk Silva (D-Fullerton).

As of writing this staff report, legislative leaders announced on June 3, 2020, that they have reached a bicameral budget agreement without the use of conference committees. A verbal update will be provided on the final budget expected to be voted on June 15, 2020.

SB 1373 (Bates, R-Laguna Hills): State Highways: State Route 241 (SR-241): Reduction

SB 1373 (Bates, R-Laguna Hills) would redefine SR-241 in statute to have it terminate at Oso Parkway east of the City of Mission Viejo, rather than at Interstate 5 (I-5) south of the City of San Clemente. A copy of the bill is included as Attachment B. Senator Bates introduced the bill to codify the action taken by the Transportation Corridor Agencies (TCA) Board of Directors (Board) on March 12, 2020, directing TCA staff to work with the County of Orange and other stakeholders, including the Orange County Transportation Authority (OCTA), to prepare a project development plan for a non-tolled extension of Los Patrones Parkway and work to advance two other projects: the I-5 carpool lane improvements from Avenida Pico to the San Diego County line and the widening of Ortega Highway in the City of San Juan Capistrano. This action concluded TCA's efforts to identify solutions for a southerly extension of the SR-241 Toll Road and the related South County Traffic Relief Effort. On April 13, 2020, the OCTA Board took action to approve furtherance of the three projects described in the TCA Board action.

By redefining SR-241 in statute to be consistent with actions taken by local agencies, SB 1373 is consistent with previous legislation, such as AB 29 (Chapter 791, Statutes of 2019), which changed the statutory definition of State Route 710 to be consistent with actions taken by the Los Angeles County Metropolitan Transportation Authority to cease planning of an extension. SB 1373 passed unanimously out of the Senate Transportation Committee and is pending in the Senate Appropriations Committee.

Overview of Assembly Transportation Committee's Informational Hearing on the High-Speed Rail Authority's Draft 2020 Business Plan

On May 27, 2020, the Assembly Transportation Committee held an informational hearing on the California High-Speed Rail Authority's (CHSRA) Draft 2020 Business Plan (Plan). The CHSRA released their draft Plan on February 12, 2020, and the public comment period ended on June 1, 2020, after being extended due to the COVID-19 pandemic. In summation, the CHSRA must adopt a plan every two years after receiving comments by stakeholders, including the State Legislature. The plan submitted on February 12, 2020, describes outcomes of two different comparison studies of the three segments within Phase I, which include the Peninsula Corridor, the Central Valley Segment, and the Southern California Corridor. The Plan concluded that the most efficient use of current and available funding is to complete the Merced to Bakersfield segment in order to maximize job creation, potential ridership, and meet environmental goals. CHSRA's Chief Executive Officer, Brian Kelly, also mentioned in his overview of the Plan that environmental documents for the Northern and Southern California segments have been approved, paving the way to advance those projects when funding becomes available. Additionally, he spoke about how the CHSRA has not been immune from the impacts of COVID-19 pandemic. In particular, Mr. Kelly detailed that the request for proposal on the track and systems bid has been extended, they deferred adoption of the 2020 Business Plan, and extended the comment period on environmental documents.

The LAO provided an overview of the five key oversight issues identified in their report for which the Legislature may seek to address. The specific issues they identified included: project schedule restrictions, inadequate and volatile funding, the use of a third-party public entity to operate interim service from Merced to Bakersfield inconsistently with the spirit of Proposition 1A, optimistic assumptions of reliability, and track and systems contract restraints for the Legislature to be able to adjust the path of the project in the future.

The hearing largely consisted of members of the committee questioning Mr. Kelly on the Plan and the future of the project. Notably, Assembly Transportation Vice Chair Vince Fong (R-Bakersfield) commented on the lack of cuts in the current budget for CHSRA, even as the impacts of COVID-19 have caused for reduced education budgets and a proposed transfer of \$130 million from the State Highway Account to the General Fund. Assembly Transportation Chair Jim Frazier (D-Fairfield) addressed his frustration with the CHSRA and its business plan. Specifically, he commented that the ridership numbers need to be recalculated given that the LAO and the High-Speed Rail Peer Review Group both dispute the accuracy of those numbers. Chair Frazier noted that if it had not been for COVID-19 truncating the hearing schedule, he would have held

more hearings on this matter. He also suggested that there needs to be an organizational change to the CHSRA, arguing there is a clear lack of accountability. He concluded by stating that while he does not want to be a detriment to this project, he does not support the draft Plan and hopes it will be sent back to the drawing board.

Advocacy to Delay SB 743 (Chapter 386, Statutes of 2013) Implementation

In conjunction with the Governor's Office of Planning and Research, the California Natural Resources Agency developed and adopted California Environmental Quality Act regulations changing the standard for measuring traffic impacts from the traditional metric of level of service to vehicle miles travelled (VMT), per statutory requirements put in place under SB 743. The bill and subsequent regulations are intended to focus on getting more people to ride public transit as opposed to reducing congestion. As such, transportation or housing projects that do not reduce or mitigate VMT could be required to provide increased mitigation, or potentially be subject to litigation. Per state guidance, the new standard would go into effect on July 1, 2020, although guidance developed by the California Department of Transportation (Caltrans), specific to transportation projects, was still developing its guidance documents as of the writing of this staff report, with an implementation date to occur in September 2020.

Due to the COVID-19 pandemic, there has been some discussion about delaying SB 743 implementation, especially since VMT has dropped dramatically with many Californians staying home to respect social distancing guidelines. Moreover, concerns have been raised that SB 743 implementation will drive development patterns favoring higher-cost housing, making it harder for low-income families, millennials, and communities of color to find affordable housing. On May 25, 2020, 18 legislators wrote a letter, included as Attachment C, requesting that implementation be delayed to July 1, 2022. On a related note, The Two Hundred, a statewide advocacy coalition, filed a lawsuit seeking a preliminary injunction preventing SB 743 implementation from occurring on July 1, 2020. Staff will continue to provide updates should these efforts result in policy changes that impact OCTA's project delivery process.

Update on Senate Confirmation of California State Department of Transportation Director Toks Omishakin

Mr. Toks Omishakin was appointed Director of Caltrans by the Governor on September 3, 2019. This appointment requires confirmation by the State Senate. On May 27, 2020, the Senate Rules Committee held a hearing on his appointment. During the confirmation hearing, Director Omishakin discussed his five strategic priorities and how the COVID-19 pandemic has affected travel

in the state. Additionally, he discussed how he was hopeful that gas tax revenues might not decrease by as much as originally thought, although no details were offered on how projects might change. Senator Bates spoke on how she has engaged with Director Omishakin the concerns in Orange County regarding the extension of the SR-241 Toll Road. She expressly mentioned she wants Caltrans to be a partner and work with OCTA in its role as the regional transportation agency. Director Omishakin recognized the concerns and the need for continued regional collaboration.

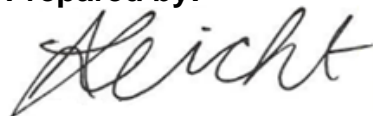
Summary

Information on the state budget process is provided. An overview is given on a bill related to State Route 241. Updates are provided on hearings and discussions related to the high-speed rail, California Environmental Quality Act, and the confirmation of a new director of the California State Department of Transportation.

Attachments

- A. Letter to Governor Gavin Newsom, the Honorable Toni Atkins, and the Honorable Anthony Rendon, re: COVID-19 Transit Statutory Relief – Budget Action, dated June 3, 2020
- B. SB 1373 (Bates, R-Laguna Hills) Bill Language
- C. Letter to the Honorable Gavin Newsom, re: Extension of the July 2020 Implementation Date for the Vehicle Miles Travelled Regulations, dated May 25, 2020
- D. Orange County Transportation Authority Legislative Matrix

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