OCTA

*July 18, 2024*

***To:*** Legislative and Communications Committee

***From:*** Darrell E. Johnson, Chief Executive Officer

***Subject:*** State Legislative Status Report

### *Overview*

The Orange County Transportation Authority provides regular updates to the Legislative and Communications Committee on policy issues directly impacting its overall programs, projects, and operations. This report includes a recommended support position on legislation that would require the California State Transportation Agency to study how vehicle miles traveled is used as a metric for measuring transportation impacts and an overview of the adopted state budget for fiscal year 2024-25, including relevant budget trailer bills.

### *Recommendation*

Adopt a SUPPORT position on SB 768 (Caballero, D-Fresno), which would require the California State Transportation Agency to study how vehicle miles traveled is used as a metric for measuring transportation impacts under the California Environmental Quality Act.

### *Discussion*

SB 768 (Caballero, D-Fresno): California Environmental Quality Act: Transportation Agency: Vehicle Miles Traveled: Study.

SB 743 (Chapter 386, Statutes of 2013) required the Office of Planning and Research (OPR) to update the California Environmental Quality Act (CEQA) criteria for analyzing transportation impacts of projects to replace the traditional metric of "levels of service." Discretion was provided on using the new metric in transit priority areas or statewide. The goal was to better promote the State's goals of reducing greenhouse gas emissions and transportation-related air pollution, promoting the development of a multimodal transportation system(s), and providing clean, efficient access to destinations. OPR proposed changing the CEQA guidelines, identifying vehicle miles traveled (VMT) as the best metric to evaluate a project's transportation impacts both within and beyond transit priority areas.

SB 768 (Caballero, D-Fresno) would require the California Transportation Agency (CalSTA), by January 1, 2028, to study how VMT could be used as a metric for measuring transportation impacts pursuant to CEQA. Specifically, in conducting this study, CalSTA would be required to consult with local governments and other interested parties including state agencies, local agencies or organizations represented by member agencies, and industry organizations. Implementation of this legislation is contingent upon appropriation by the Legislature. The study must include an analysis of methodologies used to create VMT reduction targets, the differences in the availability and feasibility of mitigation measures for VMT in rural, suburban, and urban areas, as well as a comparison of how VMT impacts, and mitigation measures are identified and deployed. It also requires an inventory of the cost of VMT mitigation measures to projects thus far and project types.

Since OPR first published updated CEQA guidelines pursuant to SB 743, agencies across the state have grappled with how to effectively deliver transportation projects while maintaining compliance with CEQA requirements. This shift necessitated significant changes in project evaluation, regulatory compliance, and long-term planning. The new guidelines require the adoption of sophisticated tools and methodologies to assess VMT, straining current analytical capabilities and necessitating extensive training and investment. Moreover, many transportation agencies in the State, including the Orange County Transportation Authority (OCTA), are not responsible for land use decisions and therefore cannot mitigate all VMT. This limitation is particularly pronounced in already urbanized areas, where influencing future land use and development patterns is difficult. Additionally, as transportation agencies in California have begun to develop VMT mitigation for projects, in some instances VMT mitigation has doubled the price of an overall project.

SB 768 provides for an opportunity to evaluate the implementation of VMT as it pertains to CEQA by identifying how it impacts the delivery of transportation infrastructure across the State. By conducting this study, the legislation will provide insights into how VMT metrics can be effectively applied and mitigated, addressing both urban and rural contexts. Understanding challenges associated with the VMT criteria in the updated CEQA guidelines could provide an opportunity to evaluate a path toward more realistic and achievable mitigation measures, ensuring compliance without jeopardizing project timelines or budgets. The study would highlight the practical difficulties and ramifications of implementing VMT guidelines, which can inform adjustments and improvements in the process. This would help transportation agencies plan and budget more effectively, avoiding indefinite or temporary delays. The analysis of differences in mitigation feasibility across rural, suburban, and urban areas could also allow for the development of tailored strategies that consider the unique characteristics and needs of each region. This ensures that mitigation measures are practical and feasible, promoting equitable transportation solutions across the state. Importantly, this legislation also requires consulting with a wide range of stakeholders, including local governments, state agencies, and industry organizations, fostering collaboration and ensuring that diverse perspectives are considered.

SB 768 represents a step toward refining VMT metric implementation under CEQA, advancing sustainable transportation planning statewide. A comprehensive bill analysis and bill language are included as Attachment A. SB 768 is supported by key stakeholders including the California State Association of Counties, the League of California Cities, the Contra Costa Transportation Authority, and the Riverside County Transportation Commission, among others. A SUPPORT position is consistent with OCTA's 2023-24 State Legislative Platform principle to "Support efforts to ensure local flexibility in meeting the goals of the State's greenhouse gas reduction and vehicle miles traveled initiatives."

Update on the Approved Fiscal Year 2024-25 State Budget

On June 26, 2024, the California Legislature passed the final state budget agreement, including several budget trailer bills, which were a result of extensive negotiations between the Legislature and the Administration. This deal follows the initial budget bill the Legislature passed on June 13, 2024, to meet the Constitutionally prescribed deadline of June 15. The Governor signed both the initial budget bill and budget compromise prior to the start of the new fiscal year on July 1.

The budget agreement closes the State's projected shortfalls of about $47 billion in fiscal year (FY) 2024-25 and over $30 billion in FY 2025-26, providing a balanced budget, mostly due to funding cuts and reliance on reserves. The budget agreement includes the following general provisions:

- Reduces state operations by nearly eight percent beginning in FY 2024-25 to almost all department budgets.

- Permanently reduces about $1.5 billion beginning in FY 2024-25 by eliminating approximately 10,000 positions, which are currently vacant.

- Maintains a total reserve of approximately $23.2 billion.

- Includes a three-year suspension of corporate net operating loss deductions and various business tax credits in 2024, contributing to over $5 billion more General Fund revenues in FY 2024-25.

Transportation Funding

The state budget agreement includes resources for transportation programs and operations purposes. The following is included:

- Preserves the $5.1 billion for public transit capital projects and operations originally promised as part of last year's state budget, and subject to the accountability provisions of SB 125 (Chapter 54, Statutes of 2023). $4 billion of these dollars are formula Transit and Intercity Rail Capital (TIRCP) funds, and the other $1.1 billion are Zero-Emission Transit Capital Program funds. The Orange County Transportation Authority is anticipated to receive approximately $380 million of these funds, which will be distributed over the next five years.

- Preserves the $148 million originally proposed to be cut in remaining TIRCP Cycle 6 program funds for Southern California and the Los Angeles – San Diego – San Luis Obispo (LOSSAN) Corridor.

    - To preserve the formula and Cycle 6 TIRCP funding programs, the agreement replaces $958 million General Fund with Greenhouse Gas Reduction Fund revenues.

- Preserves $150 million of TIRCP targeted grade separation projects, prioritizing funding for other grade separation projects in existing programs through the transportation trailer bill.

- Restores $200 million of the $600 million in proposed cuts for the Active Transportation Program, including $100 million in FY 2024-25 and $100 million in FY 2025-26. The remaining $400 million of the $600 million that was not restored as part of this budget is subject to future budget cycles.

- Includes $211 million for the State-Supported Intercity Passenger Rail Agencies over three years: $66 million in FY 2024-25, $72 million in FY 2025-26, and $73 million in FY 2026-27 to fund operating expenses from the Public Transportation Account.

- Restores most of the Regional Early Action Planning Grants 2.0. $260 million of the $300 million proposed cut was rejected, leaving the majority of the program intact.

    - Postpones the original deadline that recipients must obligate funds from June 30, 2024, to September 30, 2024, and expend them by June 30, 2026.
    - Extends the deadline that recipients must submit a final report to the Department of Housing and Community Development from June 30, 2026, to December 31, 2026, detailing the use of funds and evaluating actions taken to support the proposed uses, including the number of housing units accelerated and per capita reductions in vehicle miles traveled.

- Provides $75 million for the Highways to Boulevards program at the California Department of Transportation (Caltrans).

- Includes $7 million and 37 positions for the California Integrated Mobility Program, which will institutionalize the California Integrated Travel Project (Cal-ITP) and to build a Data & Digital Services Division at Caltrans. Cal-ITP is Caltrans' initiative to integrate trip planning and payment across modes and across services in California.

- Includes $2 million to establish the Office of Inspector General at the California High-Speed Rail Authority (CHSRA).

- Includes $280 million to replace and modernize Caltrans' fleet, prioritizing spending on zero-emission vehicles whenever feasible

Transportation Trailer Bill

In conjunction with the budget bill, the Legislature also approved associated trailer bills to facilitate its implementation. The transportation trailer bill includes several provisions of interest, including:

- Requires the Secretary of CalSTA to work with Caltrans and the California Transportation Commission to identify available funding for grade separation projects that were previously awarded funding from Cycle 6 of the TIRCP and the Port and Freight Infrastructure Program. This effort aims to maintain funding allocations despite significant cuts in the Budget Act. CalSTA must submit a report to the Legislature by April 30, 2025, on any identified funding for the impacted projects.

- Modifies the accountability provisions related to the use of SB 125 funding by:

  - Allowing CalSTA to adjust TIRCP formula program guidelines annually before fund distribution in 2024, 2025, 2026, and 2027.
  - Requiring regional transportation planning agencies to submit updated financial plans and transit operator data by December 31, 2024, to receive funds for FY 2024-25, with similar requirements for FYs 2025-26, 2026-27, and 2027-28.
  - Allows a regional transportation agency to remedy its financial plan and transit operator data by August 31, 2024, and maintains April 30th as the deadline for the next three years.

- Requires Caltrans to annually compile and report to the Legislature by October 1, starting in 2025, on the zero-emission vehicles it purchases, owns, or leases. The report must include details on weight categories, fuel source types, average prices, delivery times, and an analysis of vehicle performance by weight class, along with information on charging and refueling stations. This requirement will be in effect until January 1, 2036.

- Modifies provisions related to the California High-Speed Rail Authority by:
  - Increasing the percentage of bond proceeds available for administrative purposes to five percent.
  - Requires the Department of Finance to notify the Legislature of any position or funding changes.
  - Specifies the duties of the CHSRA Inspector General, including reviewing and investigating contract adherence, and mandates that CHSRA provide the Inspector General access to records and property.

- Requires up to 25 percent of funding made available for the Highway to Boulevards Program to be set aside for planning, with the remainder for project implementation.

Other noteworthy policy provisions within other trailer bills include:

- Renames the Governor's OPR to the Governor's Office of Land Use and Climate Innovation. Clarifies that the Office of Land Use and Climate Innovation does not give direct operating or regulatory authority over land use decisions, public works projects, and other state, regional, or local projects or programs. Instead, the office is to develop policies, coordinate planning activities across state agencies, and provide support and oversight without directly managing or regulating specific projects.

- Establishes the Governor's Office of Service and Community Engagement, which will take over all duties and responsibilities relating to the administration or implementation of programs or offices previously under the Governor's Office of Land Use and Climate Innovation (formerly OPR), including California Volunteers, the Office of Community Partnerships and Strategic Communications, and the California Youth Empowerment Commission.

- Maintains current investment for the Middle-Mile Broadband Program and includes $250 million in flex-funding for the program to prioritize construction of network segments in underserved areas. Also prioritizes Caltrans construction projects in the Department of Technology's Middle-Mile Broadband Initiative.

- Reassigns the Zero-Emission Vehicle Program from the California Air Resources Board (CARB) to the Governor's Office of Business and Economic Development. Creates the Zero-Emission Vehicle Market Development Office within the Office of Business and Economic Development. Establishes the position of the Zero-Emission Vehicle

Equity Advocate within the office until January 1, 2028, who will be appointed by the Governor.

- The office is tasked with setting an equity plan for deploying light-, medium-, and heavy-duty zero-emission vehicles (ZEVs), along with the necessary infrastructure and workforce development. The plan is to include recommendations on steps and metrics to improve access to ZEVs, public and private charging infrastructure, different ownership structures for ZEVs, state and federal subsidies for ZEVs, and ZEV transportation options in low-income, disadvantaged, and historically underserved communities.
- The office will provide information and coordinate policy and procedural changes with relevant state agencies such as CARB and the State Energy Resources Conservation and Development Commission.

***Summary***

A support position on legislation that would require the California State Transportation Agency to study how vehicle miles traveled is used as a metric for measuring transportation impacts is recommended. An overview of the adopted state budget for fiscal year 2024-25, including relevant budget trailer bills is provided.

***Attachments***

A. SB 768 (Caballero, D-Fresno) Bill Analysis with Bill Language
B. Orange County Transportation Authority Legislative Matrix

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