



September 20, 2018

To: Legislative and Communications Committee

From: Darrell E. Johnson, Chief Executive Officer

Subject: The Orange County Transportation Authority's Draft 2019-20 State and Federal Legislative Platforms

Overview

Initial drafts of the Orange County Transportation Authority's 2019-20 State and Federal Legislative Platforms have been prepared for the consideration of the Board of Directors.

Recommendation

Direct staff to further develop the initial drafts of the Orange County Transportation Authority's 2019-20 State and Federal Legislative Platforms and prepare subsequent drafts for final approval later this year.

Background

At the beginning of each legislative session, the Orange County Transportation Authority (OCTA) adopts legislative platforms to guide OCTA's advocacy activities for the duration of the upcoming legislative sessions in Sacramento and Washington, D.C. As approved by the OCTA Board of Directors (Board) on June 25, 2018, staff have prepared initial drafts of the 2019-20 State and Federal Legislative Platforms for the Board's consideration. These drafts incorporate feedback and suggestions solicited by OCTA staff from the following groups:

- OCTA Board of Directors
- OCTA advisory groups
- OCTA division directors, department managers, and other staff
- Orange County federal and state legislative delegation members
- Cities, chambers of commerce, and the County of Orange
- Orange County community-based organizations and associations
- Private business and industry groups

Prior to bringing final drafts to the Board, OCTA staff will continue to meet internally and with OCTA advisory groups for additional input.

Draft 2019-20 State Legislative Platform

The initial draft of OCTA's 2019-20 State Legislative Platform is outlined in detail below and in the attachments. Attachment A is a clean version of the initial draft, and in Attachment B, staff's recommended changes are detailed as a strikethrough version, with changes being designated by italicized and strikethrough text. Language was edited, amended, or removed as necessary to ensure accuracy and grammatical and stylistic integrity, both within the State Platform and between the State and Federal Platforms. All textual references are to the strikethrough version of the draft State Platform (Attachment B).

- The introductory text was updated to be more consistent with the Federal Platform. The additional language contains background information about Orange County to give readers additional context.
- The explanation of, and all references to, Lobby Action Levels were removed from the section entitled "Key Issues in 2019-20" to make it consistent with the approach used in the Federal Platform.
- Subsection (a) of the section entitled "Transportation Funding" was amended to remove a phrase about the diversion of transportation funding for non-transportation uses that is already covered by Subsection (c).
- Subsection (d) of the section entitled "Transportation Funding" was broadened to prevent the linking of transportation funding to non-transportation policy goals.
- Subsection (e) of the section entitled "Implementation of Environmental Regulations and Cap-and-Trade" was broadened so that it could apply to any policy containing impracticable mandates, not just mandates in greenhouse gas reduction initiatives.
- Subsection (d) of Section II, entitled "Fiscal Reforms and Issues," was changed so that the text appropriately references the California Department of Tax and Fee Administration, rather than the Board of Equalization, consistent with the statutory realignment of responsibilities between the agencies.
- Subsection (j) was added to Section II, entitled "Fiscal Reforms and Issues," in anticipation of policy responses to the recent ruling in *South Dakota v. Wayfair, Inc.*, which allows for the collection of sales tax

from out-of-state, online retailers. This language matches a similar provision that staff is recommending for the Federal Platform.

- Subsection (d) of Section IV, entitled "Transit Programs," was broadened to provide a more comprehensive approach to reforming state transit funding, which is expected to be a prominent issue in the upcoming session. The provision was amended to reference funding from both the Transportation Development Act and the State Transit Assistance Program, including specific language supporting an equitable distribution of funding.
- Subsection (g) of Section IV, entitled "Transit Programs," was removed after consulting with technical staff because a penalty process for transit infractions is not under consideration at this time.
- Subsections (f), (n), and (q) of Section V, entitled "Roads and Highways," were moved to Section VI, a new section entitled "Roles and Responsibilities." These subsections touch on issues that are not limited to highway projects, making them a better fit for the section meant to reinforce existing statutory roles and responsibilities in the delivery of all transportation projects.
- Subsection (i) of Section V, entitled "Roads and Highways," was removed after consulting with technical staff because legislative initiatives to ensure bridges are free from defect have been executed.
- Subsections (j) and (k) in Section V, entitled "Roads and Highways," were merged into one comprehensive section outlining OCTA's goals on signal synchronization programs. No substantive change was included.
- Section VI, entitled "Roles and Responsibilities," is a new section to protect existing statutory responsibilities provided to OCTA for planning, funding, and project delivery.
- Subsection (a) and (b) of Section VI, entitled "Roles and Responsibilities," are meant to protect OCTA's role as a county transportation commission from any attempt to diminish or otherwise adversely affect OCTA's statutory planning authority.
- Subsection (d) of Section VI, entitled "Roles and Responsibilities," was added to support robust information sharing with alternative mobility providers.

- The introductory language in Section VIII, entitled “Rail Programs,” was altered so that it matches the Federal Platform.
- Subsection (f) was added to Section XII, entitled “Environmental Policies,” to support the assignment of federal environmental review of highway projects to the State, which is allowed by federal law but must be authorized in state law. Legislation to extend this authority is expected to be considered next session due to its expiration next year.

In the final draft of the State Platform, staff may propose additional changes necessitated by the November election results. In addition, OCTA often encounters specific legislative issues requiring sponsor legislation, prompting OCTA to take the lead in developing legislative language and securing an author. Staff is currently exploring the need for any potential sponsor opportunities and will provide an update to the Board on such possibilities when the State Platform is finalized later this year. Currently, staff is not recommending the removal of the provision for a sponsor bill to reform the disadvantaged community requirements since SB 1119 (Beall, D-San Jose) is currently pending with the Governor. This section, and any others affected by policy changes realized in the coming weeks, will be updated before the final draft is brought before the Board.

Draft 2019-20 Federal Legislative Platform

The initial draft of OCTA's 2019-20 Federal Legislative Platform represents a comprehensive reorganization of the document to make it easier to read and more closely aligned with the State Platform. Due to the extensive formatting changes and realignment of advocacy goals, only a clean version of the proposed draft is included as Attachment C. A brief overview of the organizational changes proposed in the Federal Platform is as follows:

- The introductory language was condensed to include the most relevant contextual information for readers. This language matches exactly with what staff is recommending for the introduction of the State Platform.
- Key Policy Issues in the 116th Congress – Formerly “Principles and Objectives,” this section was retooled to match the State Platform's “Key Policy Issues” section, which outlines the most important anticipated issues in the upcoming session. This section will have additional content once the final platform drafts are brought before the Board later this year.

- **Transportation Funding** – The word “Annual” was removed from the title. Some provisions were redrafted for the sake of clarity. Provisions were also taken from other sections to provide a more comprehensive outline of OCTA’s federal funding priorities, although these changes are not intended to be a departure from previously approved funding priorities.
- **Reauthorization Priorities** – The title of this section was condensed. Formerly Section IV, OCTA’s priorities for surface transportation reauthorization are now in Section II because the reauthorization process will be a major focus of the 116th Congress as the current surface transportation legislation expires on September 30, 2020.
- **Implementing Federal Transportation Programs** – The title of this section was condensed. Formerly Section II, this section is now Section III due to the focus on reauthorization legislation in the 116th Congress.
- **Fiscal Reforms and Issues** – The title of this section was changed to match language in the State Platform. Some provisions were moved into this section from other sections to make it more coherent.
- **Rail Programs** – Section V is a new section focusing OCTA’s federal rail priorities, which were previously discussed throughout the document. This section uses the same introductory language as the State Platform.
- What was Section VIII, entitled “Environmental Policy and Other Regulatory Requirements,” is now two sections, one on environmental policy (Section IV) and one for other regulatory requirements (Section X).

A majority of the recommended changes are not intended to alter the meaning of the provisions in the Federal Platform. In many instances, provisions were broadened to allow for the removal of repetitive sections without altering the effective policy guidance provided in the document in any way. Any changes recommended by staff that represent a substantive departure from previously adopted advocacy goals are detailed as follows:

- Subsection (b) of the section entitled, “Key Policy Issues in the 116th Congress,” which is similar to Subsection (e) of Section II, is new language meant to address infrastructure proposals that would subject public transportation providers to federal gas tax liability, or impose additional requirements which would impede service delivery.

- Subsection (c) of the section entitled, “Key Policy Issues in the 116th Congress,” which is similar to Subsection (j) of Section II, includes new language opposing arbitrary funding conditions, such as limits on funding distributed to California, contained in recent infrastructure proposals.
- Subsection (a) of Section II, entitled “Reauthorization Priorities,” contains new language to support increasing formula funding, rather than competitive grant programs, to promote stable, consistent transportation funding for local agencies like OCTA.
- Subsection (g) of Section II, entitled “Reauthorization Priorities,” is a new section that addresses proposals to tie federal funding to land use decisions. Such proposals are problematic given OCTA’s existing policy to respect the land use decisions of localities within Orange County.
- Subsection (k) of Section II, entitled “Reauthorization Priorities,” is a new section that supports efforts to clarify the roles of public and private sector stakeholders in developing innovative approaches to mobility, including alternative project delivery methods and alternative mobility solutions.
- Subsection (m) and (n) of Section II, entitled “Reauthorization Priorities,” are new sections to support policies that encourage a safe, collaborative approach to the development of autonomous vehicle technology. These provisions are based on existing provisions in the State Platform.
- Subsection (o) of Section II, entitled “Reauthorization Priorities,” is a reference to the Board-approved Breaking Down Barriers Report and subsequent Follow-on Study. This language is intended to be a more comprehensive and strategic reference to Breaking Down Barriers, limiting repetitive references throughout the document.
- Subsection (b) of Section IV, entitled “Fiscal Reforms and Issues,” is new language to facilitate accelerated project delivery by allowing agencies to use local dollars to advance projects while waiting on federal funding. This section is based on language in the State Platform.
- Subsection (c) of Section IV, entitled “Fiscal Reforms and Issues,” is new language to support expanding the use of innovative financing methods. This language specifically mentions the Transportation Infrastructure Finance and Innovation Act (TIFIA) loan program due to OCTA’s use of a TIFIA loan on the Interstate 405 Improvement Project.

- Subsection (e) of Section IV, entitled "Fiscal Reforms and Issues," is new language in anticipation of policy responses to the recent ruling in *South Dakota v. Wayfair, Inc.*, which allows for the collection of sales tax from out-of-state, online retailers. This language matches a similar provision that staff is recommending for the State Platform.
- Subsection (f) of Section IV, entitled "Fiscal Reforms and Issues," is a new section supporting tax policies that benefit OCTA. The recently enacted tax reform legislation resulted in many changes that affected OCTA's financial and operational activities, which is what led the Board to support legislation to reconstitute the tax incentive for advance refundings. This provision was added to allow OCTA to advocate for similar policies.

The only provision that was removed, without any comparable replacement, concerned financial liability stemming from the collapse of Lehman Brothers in 2008. In consulting with technical staff, it has been determined that this issue is no longer a necessary part of OCTA's financial planning activities.

Summary

Initial drafts of OCTA's 2019-20 State and Federal Legislative Platforms are detailed in preparation for the Board's consideration.

Attachments

- A. Draft Orange County Transportation Authority 2019-20 State Legislative Platform (clean copy)
- B. Draft Orange County Transportation Authority 2019-20 State Legislative Platform (strikethrough version)
- C. Draft Orange County Transportation Authority 2019-20 Federal Legislative Platform

Prepared by:



Dustin J. Sifford
Senior Government Relations Representative,
External Affairs
(714) 560-5389

Approved by:



Lance M. Larson
Executive Director,
External Affairs
(714) 560-5908