



**June 16, 2022**

**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. An oppose position is recommended on a bill related to expanding the California Environmental Quality Act. An oppose unless amended position is recommended on legislation pertaining to new vehicle technologies for public transit services. Support positions are recommended on a bill related to a transportation funding needs assessment and a bill related to analysis of recent changes to how a lead agency analyzes transportation impacts of a project under the California Environmental Quality Act.

### **Recommendations**

- A. Adopt an OPPOSE position on AB 1001 (Garcia, D-Downey), which would expand the California Environmental Quality Act and makes changes to how an agency mitigates impacts of a project in disadvantage communities.
- B. Adopt an OPPOSE UNLESS AMENDED position on AB 2441 (Kalra, D-San Jose), which would require public transit employers to notify and collectively bargain the use of new vehicle technologies for public transit services.
- C. Adopt a SUPPORT position on SB 1121 (Gonzalez, D- Long Beach), which would require the California Transportation Commission to conduct a statewide transportation needs assessment.
- D. Adopt a SUPPORT position on SB 1410 (Caballero, D-Salinas), which would analyze the implementation of changes to the California Environmental Quality Act changing the metric to analyze transportation impacts of a project.

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**Discussion**

AB 1001 (Garcia, D-Downey): Environment: mitigation measures for air quality impacts: environmental justice.

AB 1001 would require that if a project has an adverse impact on air quality in a disadvantage community, mitigation measures identified in the Environmental Impact Statement or a mitigated negative declaration must include measures for avoiding, minimizing, or otherwise mitigating for the adverse effects on that community. AB 1001 would then require mitigation measures to be conducted at the project site to avoid or minimize less than significant adverse effects on air quality and other environmental impacts to the disadvantaged community. Using current practice, the actual mitigation effort could be on a regional scale, not focused on a specific community.

The Orange County Transportation Authority (OCTA) is often the lead agency when it comes to performing California Environmental Quality Act (CEQA) analyses for transportation projects. OCTA has also participated in conversations related to opportunities to increase use of regional mitigation efforts, including the Southern California Association of Governments' (SCAG) Regional Advance Mitigation Planning (RAMP) effort to establish a policy framework for advance mitigation. In addition, in 2016, AB 2087 (Chapter 455, Statutes of 2016) established the Advance Mitigation and Regional Conversation Investment Strategies (RCIS), which provided voluntary guidance for regional conservation to encourage investments in conservation through advance mitigation. This effort provided for an efficient approach for regional conservation planning that identifies needs and priorities for wildlife and habitat conservation, improve the effectiveness of public investments in wildlife conservation, and assist in guiding infrastructure projects and identifying suitable areas for advance mitigation investments for those projects.

AB 1001 would potentially interfere with the RAMP development and decrease the potential regional benefit created through the RCIS, if it limits how an agency can mitigate environmental impacts. Because AB 1001 would change the dynamic of how to mitigate environmental impacts in disadvantaged communities, rather than working via these regional mitigation efforts, lead agencies would have to explore direct mitigation measures within the affected communities.

The second component of AB 1001 is to expand CEQA to incorporate "environmental justice" for the first time as a general requirement on all public agencies implementing CEQA. Adding environmental justice as a requirement under CEQA would expand existing law. This could lead to increased litigation on whether these requirements have been met. It can also be argued that CEQA review already deals with environmental justice concerns, including air quality. Adding more layers to CEQA could create more barriers to deliver mobility

solutions and transportation infrastructure projects. These changes could significantly stop or delay critical transportation infrastructure projects.

A comprehensive analysis and the corresponding bill language is included as Attachment A. An OPPOSE position is consistent with OCTA's 2021-22 State Legislative Platform principles to "Oppose lengthening the California Environmental Quality Act process in a manner that would delay mobility improvements" and "Oppose policies that would limit lead agency discretion in the management and oversight of lands set aside for environmental mitigation purposes while promoting advance mitigation planning programs."

AB 2441 (Kalra, D-San Jose): Public employment: local public transit agencies: new technologies.

AB 2441 would require transit agencies to disclose to their respective employee representatives any plans to introduce new vehicle technologies for public transit services. Upon its determination to begin or make substantive progress toward initiating any procurement process or plan to acquire or deploy any new vehicle technology for public transit services, the employer would need to provide a written notice to the employee representative no less than 12 months before the process, plan, or deployment. "New vehicle technology" is defined as autonomous technology, camera, and voice systems whose principal purpose is to replicate customer information services currently provided by a transit worker, and other new technology that pertains directly to the operation of a vehicle that eliminates jobs or job functions of the workforce to which they apply. The definition also would include maintenance services of the aforementioned.

Following the notification, the employee representative can request that the employer provide a comprehensive analysis of the effects of the new products, services, or type of operation on workers, the potential gaps in skills that may result, and the total amount budgeted for training and retraining programs for affected workers. If requested by the employee representative, a public transit employer must engage in collective bargaining with the union.

As a public transit employer, AB 2441 would have significant impacts on OCTA's operations and services. It is understood that the author's original intent was to target the impact automated transit vehicles would have on transit workers. Recent amendments go beyond autonomous vehicle technologies; however, by instead including "new vehicle technologies." "New vehicle technologies" are defined in such a manner that would include technologies that have no impact on jobs. It can be argued that most new, innovative technology being implemented could change job functions of workers; therefore, it is unclear how far reaching the impacts of this bill would become. Furthermore, transit agencies are already engaged in collective bargaining procedures with employees, which would render this bill redundant and unnecessary. OCTA staff has worked with the California Transit Association to seek amendments, which would narrow the

focus to only autonomous technology deployment that would displace workers, in order to exclude other technology advancements that are not associated with automated transit vehicles.

A comprehensive analysis and the corresponding bill language is included as Attachment B. An OPPOSE UNLESS AMENDED position is consistent with OCTA's 2021-22 State Legislative Platform principles to "Oppose policies that significantly increase costs, threatening OCTA's ability to deliver projects and provide transit service."

SB 1121 (Gonzalez, D-Long Beach): State and local transportation system: needs assessment.

SB 1121 would require the California Transportation Commission (CTC) to prepare a needs assessment of the cost to operate, maintain, and provide for the necessary future growth of the state and local transportation system for the next ten years. As part of this assessment, the CTC is to forecast the expected revenue, including federal, state, and local revenues to pay for the identified costs, any shortfall in revenue, and make recommendations on how any shortfall should be addressed. The state transportation system would be defined to include bicycle and pedestrian facilities, local streets and roads, highways bridges and culverts, and transit systems, commuter rail systems, and intercity rail systems, including the operation of those systems. In developing the needs assessment, the CTC is to consult with relevant stakeholders including metropolitan planning organizations, county transportation commissions, regional transportation planning agencies, local governments, and transit operators.

In determining the cost of the necessary future growth of the system, the CTC is to include the costs of improvements included in the State Transportation Improvement Program and the State Highway System Management Plan. In addition, the assessment is to include the costs to address climate change impacts to provide for system resiliency. The CTC would be required to submit the needs assessment to the Legislature by January 1, 2024, and update the assessment every two years thereafter.

SB 1121 is supported by Transportation California and the California State Association of Counties. The intent of the bill is to have a more comprehensive understanding of the costs to operate, maintain, and grow the transportation system going forward, including the costs to address climate change impacts and provide for system resiliency. SB 1121 could provide a critical means to allow for increased transparency in various areas including the costs to fund sustainable transit operations consistent with the push to expand transit capital systems throughout the State, the costs of transitioning to zero-emission technology, the impacts current inflationary pressures are creating on project

costs, and the importance of local sales tax programs in contributing to meeting the transportation needs of the State and regions.

A comprehensive analysis and the corresponding bill language is included as Attachment C. A SUPPORT position is consistent with the Orange County Transportation Authority's (OCTA) 2021-22 State Legislative Platform principle to "Support transportation funding investments and policy flexibilities that allow OCTA to provide essential, multimodal mobility improvements and services in order to meet the mobility needs of Orange County."

SB 1410 (Caballero, D-Salinas): California Environmental Quality Act: transportation impacts.

SB 1410 seeks to provide increased transparency about the impacts associated with changing the metric to analyze transportation impacts under CEQA from a traditional level of service metric to one focused primarily on the reduction of vehicles miles traveled (VMT). The changes to the CEQA guidelines resulted from the passage of SB 743 (Chapter 386, Statutes of 2013). Under SB 743, the Governor's Office of Planning and Research (OPR) was required to update the CEQA guidelines to require the use of a new metric to analyze transportation impacts in transit priority areas (TPA), defined as areas within one-half mile of a major transit stop, existing or planned. The new metric was to promote the reduction of greenhouse gas emissions, development of multimodal transportation networks, and a diversity of land uses. Potential metrics included VMT, VMT per capita, automobile trip generation rates, or automobile trips generated.

In OPR's revised CEQA guidelines, VMT was identified as the metric to be used to evaluate the transportation impacts of a project, and OPR determined that it should apply statewide, instead of just in TPAs. These guidelines took effect in July 2020. Simultaneously, the California Department of Transportation (Caltrans) initiated its own guidelines to implement SB 743. While Caltrans was not required to issue guidance, the stated purpose was to assist district staff and others responsible for assessing likely transportation impacts as part of the environmental review of proposed projects on the state highway system by providing guidance on the preferred approach for analyzing the VMT attributable to proposed projects in various project settings.

Recognizing the significance of the shift in metric required by SB 743, and the challenges with applying the metric statewide, SB 1410 was introduced to provide improved clarity not only on how SB 743 is being implemented, but also to provide assistance to those charged with implementation. Under SB 1410, by January 1, 2025, the OPR would be charged with conducting a study on the impacts and implementation of the changes to the CEQA guidelines instituted pursuant to SB 743. The study would be done in collaboration with other interested entities with demonstrated expertise in transportation impacts and

analyzing VMT. Upon appropriation by the Legislature, a grant program would also be created for OPR to provide financial assistance to local jurisdictions to implement the new CEQA guidance, including establishing regional thresholds of significance for transportation impacts.

SB 1410 provides an opportunity to analyze the impacts to projects created by SB 743 and allow for resources to assist in implementation. Through this analysis, there could potentially be improved uniformity in implementation, increased transparency, and an opportunity to demonstrate where there are issues that need to be addressed. In order to help improve this analysis, the bill could potentially be amended to allow for the following:

- Exploration of project types that should be exempt from the analysis required by SB 743 that have a demonstrated environmental benefit. This may include certain transit and rail projects, or projects on the highway system that facilitate state goals including those related to express lanes or high-occupancy vehicle lanes, truck climbing lanes, or integration of intelligent transportation technologies.
- Inclusion of other interested parties in the development of the study by OPR, including those charged with implementation, such as regional transportation agencies and transit agencies.
- Examination of the interaction between the OPR guidance and that released by other agencies such as Caltrans. This could include conflicts in the guidance, and new requirements that Caltrans is enforcing, including that related to the concept of “additionality”, which precludes measures identified in a Regional Transportation Plan from being used for mitigation purposes.
- Analysis of the feasibility of various mitigation measures, including mitigation credits for projects that integrate multimodal project components, use of habitat conservation and open-space development, and through the use of mitigation banking.

SB 1410 is sponsored by the California Building Industry Association. Other regional agencies, like the Riverside County Transportation Commission and SCAG support the bill, and are seeking ways to potentially improve the bill to address some of the concerns detailed above. A comprehensive analysis and the corresponding bill language is included as Attachment D. A SUPPORT position is consistent with OCTA’s 2021-22 State Legislative Platform principle to “Support efforts to ensure local flexibility in meeting the goals of the State’s greenhouse gas reduction initiatives, including the creation of incentive-based measures and grant programs to assist with compliance.” If a support position is adopted, OCTA will also coordinate with stakeholders to explore the possibility for further refinements consistent with this analysis.

***Summary***

Various positions are recommended for legislation that would have impact to the Orange County Transportation Authority's projects in services, including changes to the California Environmental Quality Act, procedures for procuring new vehicle technologies, and developing a transportation needs assessment by the state.

***Attachments***

- A. AB 1001 (Garcia, D-Downey) Bill Analysis with Bill Language
- B. AB 2441 (Kalra, D-San Jose) Bill Analysis with Bill Language
- C. SB 1121 (Gonzalez, D-Long Beach) Bill Analysis with Bill Language
- D. SB 1410 (Caballero, D-Salinas) Bill Analysis with Bill Language
- E. Orange County Transportation Authority Legislative Matrix

**Prepared by:**

Alexis Leicht  
Government Relations Representative,  
Government Relations  
(714) 560-5475

**Approved by:**

Lance M. Larson  
Executive Director,  
Government Relations  
(714) 560-5908