



**September 15, 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 update is given on the actions related to the end of session for the State Legislature. This includes status updates and summaries on bills the Orange County Transportation Authority has taken positions on or has been closely monitoring this session.

### **Recommendation**

Receive and file as an information item.

### **Discussion**

#### End of Session Update

The Legislature had until August 31, 2022, to approve legislation to be submitted to Governor Newsom. The Governor will have until September 30, 2022, to sign or veto bills that the Legislature passed this year. At the time of the writing this staff report, several bills of which the Orange County Transportation Authority (OCTA) had taken a position are pending with the Governor or were already signed into law. Below is the status of those bills:

#### Bills with an OCTA Position

##### AB 1919 (Holden, D-Pasadena): Youth Transit Pass Pilot Program: Free Youth Transit Passes

Position: Support

Status: Pending with Governor

Upon appropriation from the Legislature, AB 1919 would require the California Department of Transportation (Caltrans) to create the Youth Transit Pass Program. Guidelines for the program would be developed on or before

June 30, 2023, by Caltrans in collaboration with transit agencies, educational institutions, metropolitan planning organizations, and regional transportation planning agencies. AB 1919 would allow for transit agencies, on their own or in partnership with educational institutions, to submit grant applications for the costs of implementing free youth transit passes, maintaining an existing fare free program, the costs of providing free transit services, and more. These transit programs are a key part of the strategy to improve mobility options, reduce congestion, and reduce greenhouse gas (GHG) emissions. For agencies, such as OCTA, who already have programs to provide free transit passes for those 18 and under, funding for this program would be eligible for more expansive transit operations purposes.

Ultimately, the Legislature did not appropriate funding for this purpose within any of the state budget bills. While the bill can still be signed into law without the funding, it will not be effective until such appropriation takes place.

AB 1946 (Boerner Horvath, D-Encinitas): Electric Bicycles: Safety and Training Program

Position: Support

Status: Signed by Governor

AB 1946 will require the Department of California Highway Patrol to develop statewide safety standards and training programs for evidence-based practices for users of electric bicycles before September 1, 2023. In Orange County, many of the cities are seeing an increased use of electric bicycles. Electric bicycles provide a unique transportation option for individuals. However, there are also serious risks involved due to their increased speed, and many individuals do not know where it is safe to use an electric bicycle or how to handle the operation of such. While there are many rules and regulations that govern electric bicycles, AB 1946 will establish consistent safety standards and training programs to provide a guide to users for the safe operation of electric bicycles. This bill was signed into law by the Governor on August 15, 2022, and will take effect January 1, 2023.

AB 2028 (Davies, R-San Juan Capistrano): Pupil Instruction: Bicycle and Scooter Safety

Position: Support

Status: Signed by Governor

AB 2028 expands the authorization in existing statute that a governing board of any school district can provide time and facilities to any local law enforcement agency having jurisdiction over the schools of the district, for bicycle safety instruction to also include scooters, electric bicycles, motorized bicycles, and/or motorized scooters safety instruction. With new mobility technologies emerging, it is important to ensure safety practices improve simultaneously. Throughout the county, there is an increased use of electric bicycles and, unfortunately, a

correlation of increased accidents using these mobility devices. This bill provides an avenue to instruct individuals on what safety equipment and practices are not only protective, but required by law. Especially with electric bicycles, there are many rules and regulations – which can differ by city – on how to outfit the bicycle with appropriate safety features and where, when, and how a person can operate different classes of electric bicycles. With this legislation, school districts can partner with organizations, other than law enforcement, with a unique understanding of these types of transportation devices, which will promote safety throughout California. This bill was signed into law by the Governor on July 19, 2022, and will take effect January 1, 2023.

AB 2438 (Friedman, D-Glendale): Transportation Funding: Guidelines and Plans

Position: Oppose

Status: Pending with Governor

AB 2438 would integrate strategies identified in the Climate Action Plan for Transportation Infrastructure (CAPTI) into various transportation funding programs and require future iterations of the California Transportation Plan (CTP) to be fiscally constrained. Under AB 2438, the California State Transportation Agency (CalSTA), Caltrans, and the California Transportation Commission (CTC), would need to revise guidelines for their respective funding programs by January 1, 2024. These funding programs include the Trade Corridor Enhancement Program, Solutions for Congested Corridors Program, Local Partnership Program, Transit and Intercity Rail Capital Program (TIRCP), and the State Rail Assistance Program. These guidelines, at a minimum, would need to do all of the following: ensure project nominations are available for public review before a decision to award funding is made, ensure the project selection processes include the strategies established in CAPTI, allow funding recommendations to be released before the decision is made to award a project, and include best practices informed by a public process. To inform the guidelines, each agency must have public workshops to receive input to ensure the guidelines will provide the public with meaningful participation in actions resulting in the awarding of such funds.

Because CAPTI consists of recommendations for future actions, this could create uncertainty for funding programs as implementation of CAPTI occurs because a project that may be consistent now, may later be deemed inconsistent. However, statute would lock in the July 2021 CAPTI recommendations, regardless of how state policy priorities may change. Putting a document such as CAPTI in statute that, by its nature, evolves overtime is concerning precedent because it essentially codifies a policy that may quickly become outdated. While AB 2438 does require the CTP to be fiscally constrained and to consider the feasibility of various planning assumptions, there also has to be assurances that these determinations are not made in a manner that reallocates resources around the State, especially those related to local sales tax measures or funding from formula programs.

Several groups removed their opposition to AB 2438 with the last round of amendments which limited the scope of the bill to certain funding programs, and revised the language related to the CTP. Transportation California, the League of California Cities, the California State Association of Counties, and the Rural County Representatives of California all went neutral with these amendments. However, in addition to OCTA, several labor groups, the Self-Help Counties Coalition, California Association of Councils of Governments, Riverside County Transportation Commission, and the San Bernardino County Transportation Authority, all continued to oppose due to concerns about the potential for the bill to preclude state funding from being used for various transportation projects. It is unclear whether the Governor will sign this bill, with some signaling that this may be included as part of a larger environmental legislative package.

AB 2441 (Kalra, D-San Jose): Public Employment: Local Public Transit Agencies: Autonomous Transit Vehicle Technology

Position: Oppose Unless Amended

Status: Pending with Governor

AB 2441 would require transit agencies to disclose to their respective employee representatives any plans to introduce new autonomous transit vehicle technology 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 autonomous transit 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. 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 commence in collective bargaining with the union on specified areas related to the technology beyond workforce development plans, training, and transition plans.

While there were attempts to work with the author to narrow the scope of this legislation's effect, there are still significant concerns with how this bill will impact the use of new autonomous vehicle technology by transit agencies. Among the most immediate concerns, transit agencies are already engaged in collective bargaining procedures with employees, which renders the need for this bill redundant and unnecessary. The truncated timelines dictated in this legislation also do not provide enough time to agencies to provide the necessary comprehensive analysis for the effects associated with the new autonomous transit vehicle technology. It also remains unclear when this process would be triggered because it is not a certain time in the procurement process. Therefore, agencies would be hesitant to utilize technologies that could increase safety, productivity, and environmental benefits.

OCTA, along with coalition of stakeholders including the California Transit Association (CTA), worked with the author on a proposed series of amendments that would have maintained collective bargaining, narrowed the bill's focus, and established manageable timelines for meeting the bill's requirements. Ultimately, the amendments were not accepted in their entirety, and OCTA remains opposed.

AB 2594 (Ting, D-San Francisco): Vehicle Registration and Toll Charges

Position: Neutral (previously Oppose Unless Amended)

Status: Pending with Governor

AB 2594 would make significant changes to a variety of processes by toll agencies in the enforcement and collection of tolls and any associated penalties, the sale of transponders and other electronic toll collection device mechanisms, and how rental cars can use the toll facilities. The bill is largely informed by a report on perceived inequitable toll practices on facilities in the Bay Area, by the San Francisco Bay Area Planning and Urban Research Association (SPUR), a non-profit organization based in the Bay Area focused on advocating for increased equity and sustainability in urban planning and project design.

OCTA originally adopted an "oppose unless amended position" on AB 2594, due to concerns the bill in its original form would mandate the use of invoicing on all toll facilities, create new unfunded mandates, and conflict with statutory and financial governance rules for various facilities. Over several months, OCTA worked with the other toll agencies within the California Toll Operators Committee and the author's office, to come to agreement on several amendments that removed the opposition of all toll agencies within the State. As currently drafted, the bill would still enact several new requirements focused on creating added equity in the operation of toll facilities. This includes allowing for payment plans, revising state statutory limits on toll penalties, and allowing for more consistency in customer service across toll agencies.

As a result of these successful negotiations, the author of the bill has also agreed to explore the potential for future legislation to address concerns toll agencies have advocated about over the last few years related to interoperability requirements and communications.

AB 2622 (Mullin, D-San Mateo): Sales and Use Taxes: Exemptions: Zero-Emission: Transit

Position: Support

Status: Pending with Governor

Sponsored by CTA, AB 2622 would extend the sunset date on the sales tax exemption for the purchase of zero-emission transit buses (ZEB) from January 1, 2024, to January 1, 2026. By doing so, it would reduce the associated

upfront costs on public transit agencies' transition to zero-emission technologies. AB 2622 could provide much-needed financial assistance to facilitate the purchase of ZEBs, aiding the State in reaching its air quality and climate goals. More specifically, the sales tax exemption will help transit agencies reduce the costs of achieving the ZEB purchase requirements under the California Air Resources Board's Innovative Clean Transit regulation, which requires transit agencies to transition to a 100 percent zero-emission fleet by 2040. In the near term, it is expected this legislation could save OCTA approximately \$706,000 on the purchase of ten battery-electric buses approved by the OCTA Board of Directors (Board) in October 2020. OCTA could also experience cost savings on future ZEB purchases until 2026. By reducing zero-emission fleet costs, transit agencies can use savings toward maintaining operations and other capital expenditures.

SB 922 (Wiener, D-San Francisco): California Environmental Quality Act: Exemptions: Transportation-Related Projects

Position: Support

Status: Pending with Governor

Also sponsored by CTA, and several other organizations, SB 922 would extend and expand exemptions from the California Environmental Quality Act (CEQA) for certain clean transportation projects. SB 288 (Chapter 200, Statutes of 2020) created an exemption from CEQA, until January 1, 2023, for certain clean transportation projects, including projects for new bus rapid transit, bus, or light rail services on public rail or highway rights-of-way, transit prioritization projects, projects that improve customer information and wayfinding for transit riders, bicyclists, or pedestrians, projects to construct or maintain infrastructure to charge or refuel zero-emission buses, projects carried out by a city or county to reduce minimum parking requirements, and projects for pedestrian and bicycle facilities. SB 922 expands and extends the project eligibility until January 1, 2030, providing the opportunity to further expedite the delivery of clean transportation options and expand access to alternative modes of mobility. Projects now eligible for this exemption include transit stop and safety improvements, bus-only lanes, construction or maintenance of infrastructure or facilities to charge, refuel, or maintain zero-emission public transit buses, and more.

SB 942 (Newman, D-Fullerton): Low Carbon Transit Operations Program: Free Or Reduced Fare Transit Program

Position: Sponsor

Status: Pending with Governor

Co-sponsored by OCTA and CTA, SB 942 would provide California public transit agencies with the flexibility to utilize Low Carbon Transit Operations Program (LCTOP) funds for free- or reduced-fare transit programs on a continuous basis. Each year, five percent of cap-and-trade revenues are dedicated to LCTOP.

LCTOP is allocated pursuant to the State Transit Assistance formula, allowing each transit agency in the State the ability to dedicate funding towards innovative transit capital and operations projects. Approved projects eligible for LCTOP funds generally support new or expanded bus or rail services, including the initial use of such funds for reduced- or free-transit fare pilot programs. In order for this funding to be used for a project or program, transit agencies have to meet several requirements, including investment in disadvantaged communities, an ability to demonstrate a reduction in GHG emissions, assurance that expenditures do not supplant another source of funds, and that the funds will be used to support transit operations and capital programs. However, the program currently does not afford transit agencies the ability to fund operational programs, like free or reduced transit fare programs, on an ongoing basis.

OCTA successfully operated a Youth Ride Free program as a six-month promotional pass that allowed youth ages 18 and under to ride all Orange County fixed-route buses for free. Earlier this year, the Board unanimously voted to make this program permanent and expand it to include paratransit riders 18 and under. In taking this action, our Board identified LCTOP funding as necessary to ensure this program remains in place. This program has had over 2 million total boardings since the beginning of the program one year ago, and the number of unique youth riders has continued to increase since the program's inception. This program has helped support the economic recovery of Orange County and mitigate the financial impacts from the coronavirus pandemic on low-income and diverse populations.

SB 942 will clarify that ongoing use of LCTOP funding for these types of programs is authorized, allowing transit agencies such as OCTA, to sustain current programs. Without such clarity, transit agencies like OCTA do not have the funding to support these free- or reduced-fare transit programs long term. SB 942 will provide several benefits, including expanding public transit utilization by creating lifelong transit riders, reducing congestion on our streets and roads, and ultimately, bringing increased benefit to the environment, all of which are top priorities for the State.

**SB 1121 (Gonzalez, D-Long Beach): State and Local Transportation System: Needs Assessment**

Position: Support

Status: Pending with Governor

SB 1121 would require the CTC, in consultation with CalSTA and Caltrans, to create a needs assessment to analyze the costs over the next ten years to operate, maintain, and provide the necessary growth of the state and local transportation system. As part of this assessment, the CTC, with CalSTA and Caltrans, 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. 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 would evaluate the costs to address climate change impacts to provide for system resiliency. In developing the needs assessment, the CTC would consult with relevant stakeholders and would be required to submit an interim needs assessment to the Legislature by January 1, 2024, a completed needs assessment by January 1, 2025, and provide updates every five years thereafter. Importantly, this needs assessment would not only look at the capital needs of the transportation system, but also the costs of operating such a system, including transit. As the State seeks ways to expand transit accessibility, the costs of operating such expansion in a sustainable manner is often not factored into the overall costs. SB 1121 provides a critical means to ensure such costs are included in future estimates.

Overall, SB 1121 will provide 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. This could then inform any future policy discussions and provide a critical means to allow for increased transparency in various areas, including funding for sustainable transit operations, transitioning to zero-emission technology, and increased costs of labor and materials.

#### Bills Pending Without an OCTA Position

OCTA did not take a position on the following bills, but they are of interest and may have impacts to OCTA projects, programs, or operations upon implementation:

#### AB 2449 (Rubio, D-Baldwin Park): Open Meetings: Local Agencies: Teleconferences

Status: Pending with Governor

Since the coronavirus pandemic changed the way in which people gather, there were various changes made to Ralph M. Brown Act (Brown Act) to facilitate virtual meetings. During the height of the pandemic, the Governor, by Executive Order, temporarily waived Brown Act requirements so that members could meet virtually. In 2021, AB 361 (Chapter 165, Statutes of 2021), allowed legislative bodies to hold a meeting by teleconference until January 1, 2024, so long as there is a proclaimed state of emergency and the Board has determined that as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

AB 2449 would create a teleconferencing option that does not require noticing a Board Member's location on the agenda or making their location available for public comment without a state of emergency until January 1, 2026, so long as

a quorum of Board Members participate in person. While utilizing this flexibility the Board must provide a means by which the public may remotely hear and visually observe the meeting and remotely address the legislative body. If utilized at OCTA, this would require the implementation of cameras for Board meetings since presently, the Board only utilized one-way audio streaming. If a meeting is disrupted in a way that prevents remote participants from being able to provide public comment, no further action can be taken by the Board. There are also additional requirements for a Board Member to participate remotely, including demonstrating “just cause” or “emergency circumstances.” A remote participant must disclose if there are any other adults in the room and must utilize both audio and visual technology to participate. Finally, a Board Member cannot participate in meetings by teleconference under these rules for more than three consecutive months or 20 percent of the regular meetings for the local agency within a calendar year.

**SB 674 (Durazo, D-Los Angeles): Public contracts: Workforce Development: Covered Public Contracts**

Status: Pending with Governor

SB 674 is a two-year bill OCTA staff has been monitoring as it relates to certain public contracts and workforce requirements. Staff successfully worked with CTA and other stakeholders to narrow the scope of this legislation. When this legislation was brought to the Board in previous iterations, it would have required a California Jobs Plan Program or a United States Jobs Plan Program be submitted by an applicant for a transportation infrastructure-related public contract over \$10 million, administered by the Department of General Services (DGS), Caltrans, and local school districts. Applicants would have had to include the following details: the minimum number of jobs to be retained and created, wage levels, amounts to be paid for fringe benefits and worker training, training programs for individuals facing barriers to employment, and whether the project results in reduction in GHG emissions, water pollution, or energy consumption.

After several rounds of amendments, the legislation now requires a covered public contract, defined as a public contract awarded by DGS or Caltrans for the acquisition of zero-emission transit vehicles or electric vehicle supply equipment valued at more than \$10 million, to incorporate high road job standards, as specified. These would be developed by DGS, in consultation with Caltrans and the Labor and Workforce Development Agency. There are associated requirements related to demonstrating compliance and penalties if these reports are not made. SB 674 would sunset on January 1, 2028.

If this were to be signed into law, SB 674 could potentially impact OCTA's ability to work with DGS to bring the costs down for procuring ZEBs; however, this is yet to be determined and will become clearer based on its implementation.

SB 1161 (Min, D-Irvine): Transit operators: street harassment plans  
Status: Pending with Governor

In its original form, SB 1161 would have required the ten largest transit districts in the state, of which OCTA is one of them, to undertake a process to reduce incidents of street harassment on their transit system. SB 1161 has been amended significantly since it was last brought to the Board for information. While OCTA did not take a position on this legislation, staff worked closely with the author and stakeholders to inform the bill in order to make it workable for the affected agencies. The language has been amended to require the Mineta Transportation Institute at San Jose State University (Institute) to, on or before December 31, 2023, develop and make available a survey for the purpose of promoting consistency in the collection of data to inform efforts to improve the safety of riders and reduce street harassment on public transit. The survey must include demographic information regarding riders and information regarding a rider's experience with safety while waiting at public transit stops and riding public transit. The Institute must consult with organizations representing subpopulations impacted by street harassment and with transit operators. Additionally, they must consider existing efforts by a transit operator to collect survey data. Following the completion of the survey, OCTA staff expects future discussions about street harassment as it pertains to public transportation. This bill is co-sponsored by the Los Angeles County Metropolitan Transportation Authority and several other transit agencies.

**Summary**

An update is provided on relevant legislation that the Orange County Transportation Authority has either taken a position on or is expected to have some impacts on its overall operations, programs, or projects.

**Attachment**

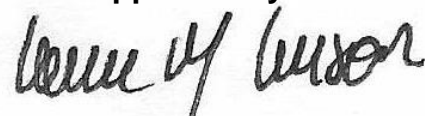
None.

**Prepared by:**



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

**Approved by:**



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