



**November 16, 2023**

**To:** Legislative and Communications Committee  
**From:** Darrell E. Johnson, Chief Executive Officer  
**Subject:** Status Report of State Legislation Enacted in 2023

A handwritten signature in blue ink, appearing to read "Darrell E. Johnson", is written over the "From:" line of the header.

**Overview**

At the conclusion of the 2023 state legislative session, 890 bills were signed into law by Governor Newsom and chaptered by the Secretary of State, while 156 bills were vetoed. A report containing an analysis of legislation relevant to the Orange County Transportation Authority is provided.

**Recommendation**

Receive and file as an information item.

**Discussion**

**2023 Legislative Session Adjourns**

Following the State Legislature's adjournment, the Governor had until October 14, 2023, to either sign or veto all legislation submitted to his office. Of the 1046 bills sent to the Governor this year, 156 bills were vetoed, or 14.9 percent of the total number of bills passed by the Legislature. The Governor acted on 120 less bills this year than last year.

The Orange County Transportation Authority (OCTA) Board of Directors, legislative staff, stakeholders, and advocates were successful in advancing many of OCTA's interests in 2023. A detailed summary of legislation relevant to OCTA is included as Attachment A.

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Status of Legislation Considered in 2023 – Notable Bills SignedAB 96 (Kalra, D-San Jose): Public Employment: Local Public Transit Agencies: Autonomous Transit Vehicle Technology

Position: Neutral (Previously “Oppose Unless Amended”)

AB 96 requires public transit employers to provide certain information to union representatives when the employer is beginning the process of procuring autonomous transit vehicle technology. Specifically, AB 96 requires a public transit employer to notify, in writing, the union representative at least ten months before beginning a procurement process to acquire or deploy any autonomous transit vehicle technology for public transit services that would eliminate job functions or jobs of the workforce. Following a written request by the union, the public transit employer must commence collective bargaining within 30 days of the union receiving the notification or within ten days of the public transit employer receiving the written request, whichever occurs later. The bargaining can only be on the following subjects: developing the new autonomous transit vehicle technology, implementing the new autonomous transit vehicle technology, creating a transition plan for affected workers, and creating plans to train and prepare the affected workforce to fill new positions created by a new autonomous transit vehicle technology. OCTA originally took an “Oppose Unless Amended” position, citing the redundancy of transit agencies already being engaged in collective bargaining procedures with employees, in addition to inadequate time for agencies to provide information to employee representatives that would encompass a comprehensive analysis for the effects associated with the new autonomous transit vehicle technology. OCTA successfully secured amendments to address these concerns resulting with an updated “Neutral” position.

SB 381 (Min, D-Irvine): Electric Bicycles: Study

Position: Support

SB 381 requires the Mineta Transportation Institute at San Jose State University to conduct a study by January 1, 2026, on electric bicycles. This study would inform efforts for improving the safety of riders and pedestrians with a report of the findings being submitted to the Legislature. The report would examine, identify, and analyze available information, including data on injuries, factors that are correlated with the crashes, best practices to promote safe use, laws in other states pertaining to electric bicycles, data on safety accessories, data on manufacturing of electric bicycles, review of policies in other counties, and recommendations for state policy to support expanded use of electric bicycles that protects the safety of riders. OCTA has been working with cities throughout the County on providing information to improve the safe operation of electric bicycles, including attending community events, hosting city roundtable discussions, and distributing materials. OCTA will monitor the development of

this report to help inform OCTA's efforts to promote the safe operation of electric bicycles.

SB 617 (Newman, D-Fullerton): State Government

Position: Support

SB 617 authorizes a local agency to utilize progressive design-build authority for ten public works projects over \$5 million so long as they follow certain requirements. Additionally, SB 617 specifies that a local agency would include that a transit district, municipal operator, consolidated agency, joint powers authority, regional transportation agency, or local or regional agency are all authorized to use the progressive design-build procurement method. Furthermore, the legislation requires that one of the following circumstances be met: a lead agency enters into a project labor agreement that will bind contractors and subcontractors to use a skilled and trained workforce, the project or contract is being performed under the extension or renewal of a project labor agreement that was entered into before January 1, 2023, or the project labor agreement will bind the entity and all its subcontractors at every tier of performing the project or contract to use a skilled and trained workforce. No later than January 1, 2028, a local agency that uses this authorization must submit a report to the Legislature on the use of the progressive design-build process, including a description of the project, contract award amounts, any written protests, description of the prequalification process, number of specialty contractors, and more. The authority is available until January 1, 2029.

SB 617 was a part of the Governor's infrastructure streamlining package for this year, aiming to spur economic activity. OCTA will consider utilizing this authority on relevant transit projects. By using this authority, a lead agency procures a design-builder much earlier in the project development process than under traditional design-build authority. This ensures the design-build entity is involved in some of the earliest design decisions. Through this increased collaboration, risks can be identified earlier and mitigated. Progressive design-build project delivery also requires cost estimates to be developed and agreed to earlier, placing more responsibility on the design-builder to remain within budget, thus affording more price certainty.

SB 677 (Blakespear, D-Encinitas): Intercity Rail: Los Angeles – San Diego – San Luis Obispo (LOSSAN) Rail Corridor

Position: Support

The LOSSAN Rail Corridor Agency develops an annual business plan for submittal to the California State Transportation Agency (CalSTA). The business plan includes a report on recent and historical performance of the corridor service, overall operating plan to increase ridership and provide for increased traveler demands in the corridor, short- and long-term capital improvement

programs, funding requirements for the upcoming fiscal year, and an action plan with performance goals and objectives. SB 677 requires future iterations of the business plan to include a description of how to adapt to climate changes impacts on the LOSSAN Corridor, an identification of the projects planned to increase climate resiliency on the corridor, and possible funding options for the projects identified, including but not limited to, federal and state funding. This bill provides that these additions be included in the upcoming business plan with a due date of April 1, 2024, and every plan annually thereafter. SB 677 provides an opportunity to identify potential future environmental challenges to the corridor.

SB 706 (Caballero, D-Salinas): Public Contracts: Progressive Design-Build: Local Agencies  
Position: Support

SB 706 authorizes a city, county, or special district to utilize progressive design-build authority for ten public works projects over \$5 million for each project so long as they follow certain requirements, including those related to labor and reporting. The authority would be available until January 1, 2030. Prior to this law, this authority was only authorized in limited situations under state statute, specifically for certain water projects and projects undertaken by the Department of General Services. The legislation requires that one of the following circumstances be met: a lead agency enters into a project labor agreement that will bind contractors and subcontractors to use a skilled and trained workforce, the project or contract is being performed under the extension or renewal of a project labor agreement that was entered into before January 1, 2023, or the project labor agreement will bind the entity and all its subcontractors at every tier of performing the project or contract to use a skilled and trained workforce. By December 31, 2028, a local agency that uses this authorization must submit a report to the Legislature on the use of the progressive design-build process, including a description of the project, contract award amounts, any written protests, description of the prequalification process, number of specialty contractors, and more.

SB 706 was a part of the Governor's infrastructure streamlining package for this year, aiming to spur economic activity. OCTA will consider utilizing this authority on relevant projects. By using this authority, a lead agency procures a design-builder much earlier in the project development process than under traditional design-build authority. This ensures the design-build entity is involved in some of the earliest design decisions. Through this increased collaboration, risks can be identified earlier and mitigated. Progressive design-build project delivery also requires cost estimates to be developed and agreed to earlier, placing more responsibility on the design-builder to remain within budget, thus affording more price certainty.

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Additional Bills of Interest – VetoedAB 719 (Boerner, D-Carlsbad): Medi-Cal: Nonmedical and Nonemergency Medical Transportation

Position: Support

Following the enactment of AB 2394 (Chapter 615, Statutes of 2016), transportation providers are responsible for acquiring reimbursement from the Medi-Cal Managed Care Plans (MCP) on their own. MCPs can receive both state and federal funds to offer Medi-Cal related transportation services, but they are not required to reimburse transportation providers. As a result, MCPs are placed under little to no pressure to partner with transportation providers on conducting such reimbursements. AB 719 would have required the California State Department of Health Care Services (DHCS) to require MCP to contract with public transit operators to establish reimbursement rates for nonmedical and nonemergency medical transportation trips based on the fee-for-service rates determined by DHCS for nonmedical and nonemergency medical transportation service. This legislation would have affected OCTA's OC ACCESS service, which is a shared-ride service that is available to qualified applicants whose physical or cognitive limitations prevent them from utilizing the regular OC Bus fixed-route service. Public transportation operators are federally mandated to provide transportation for medically necessary Medi-Cal-related services, such as traveling to a doctor's appointment and picking up prescriptions. In these instances, public transportation is the only affordable option to access such care. AB 719 would have provided a more robust line of communication between the MCPs and public transportation operators, taking the burden off the transportation provider to make reimbursement requests on their own. AB 719 would have created an opportunity for a more equitable reimbursement system to occur and ultimately, save transit operators money.

In his veto message, the Governor indicated he supports efforts to encourage more public paratransit service operators to enroll as nonmedical transportation providers in Medi-Cal and that it would be beneficial to have more options for nonmedical transportation in the Medi-Cal system. However, AB 719 would have required DHCS to pursue a series of federal approvals that are currently not allowable under federal guidance.

AB 819 (Bryan, D-Culver City): Crimes: Public Transportation: Fare Evasion

Position: Monitor

AB 819 would have no longer categorized public transportation fare evasion, misuse of a transfer, pass, ticket, or token as a misdemeanor following a third or subsequent violation. Instead, it would have made a third or subsequent violation punishable by only a fine of up to \$400. With safety being a top concern for transit operators, this bill could have negatively impacted efforts toward

creating a safer transit system. In his veto message, the Governor indicated that fare evasion continues to be an issue for transit operators across the state, costing them millions of dollars each year. The veto message went on to say that many of the crimes committed on certain transit systems are committed by people who have not paid a fare. The Governor vetoed this bill because taking an action to reduce penalties could contribute to an increase in crime on transit.

#### Additional Bills of Interest with OCTA Position – Two-Year Bills

##### AB 6 (Friedman, D-Burbank): Transportation Planning: Regional Transportation Plans: Solutions for Congested Corridors Program (SCCP): Reduction of Greenhouse Gas Emissions

Position: Oppose

AB 6 revises the SB 375 (Chapter 728, Statutes of 2008) greenhouse gas (GHG) emission reduction target setting process to require regions to not only meet targets for 2020 and 2035, but also for 2045. As part of the process of complying with SB 375, AB 6 would set forward specific deadlines a metropolitan planning organization (MPO) must meet as they develop their sustainable communities strategy (SCS):

- At least 60 days before the start of the public participation process related to the SCS, the MPO must submit a description of the technical methodology it intends to use to estimate GHG emission reductions. AB 6 would require this methodology to be subject to the California Air Resources Board's (CARB) approval. AB 6 also requires, rather than encourages, the MPO to work with CARB until CARB concludes the technical methodology is accurate and approves its use.
- Within 120 business days after adoption of the SCS (or alternative planning strategy), the MPO is to submit it to CARB for review. AB 6 would also now require CARB to approve the SCS (or alternative planning strategy). CARB is to complete its review within 180 days.

In addition to the revisions to the process of developing an SCS under SB 375, AB 6 would also revise the criteria for the SB 1 (Chapter 5, Statutes of 2017) SCCP to require a project application submitted for funding to demonstrate how the project would contribute to achieving the state's GHG emission reduction targets.

AB 6 would add significant, additional oversight from CARB in how a region meets its GHG emission reduction targets. Already, CARB must review a region's technical methodology for measuring GHG emission reductions, and a region's final SCS (or alternative planning strategy). However, under existing law, this is only subject to feedback and not explicit approval. Further, nothing

requires an MPO to continue to work with CARB until an agreement is reached that the technical methodology is accurate. These new requirements would allow CARB to not only potentially delay the start of the public input process, but also would provide CARB the ability to reject a region's strategies for meeting the GHG emission reduction targets, even when the technical methodology is accurate. This changes the original intent of SB 375 in affording a bottoms-up approach to these strategies and gives CARB direct oversight over a region's models and strategies.

AB 6 is likely to be taken up by the Legislature again next year in a potentially revised format following negotiations during the interim.

AB 7 (Friedman, D-Burbank): Transportation: Planning: Project Selection Processes

Position: Oppose

AB 7 seeks to add new requirements for the California Transportation Plan (CTP) and lists priorities which CalSTA, the California Department of Transportation (Caltrans), and the California Transportation Commission (CTC) are to incorporate into their processes for transportation project development, selection, and implementation, to the extent applicable, feasible, and cost effective.

The CTP is a long-range transportation plan developed by Caltrans every five years, pursuant to state statute, to demonstrate how the State will meet its GHG emission reduction goals. AB 7 would require the CTP to include a financial element that summarizes the full cost of the CTP, available revenues through the planning period, and what is feasible within the plan if constrained by actual revenues. Further, this element is to evaluate the feasibility of any policy assumptions or scenarios included in the CTP and may discuss tradeoffs within the plan considering fiscal constraints. AB 7 also requires the CTP to include an analysis, to the extent applicable and feasible, of how CalSTA, Caltrans, and the CTC are achieving principles outlined in the Climate Action Plan for Transportation Infrastructure (CAPTI), the Infrastructure Investment and Jobs Act, and the federal Justice40 initiative, which is from a federal Executive Order that created the goal of having 40 percent of certain federal investments flow to disadvantaged communities.

AB 7 also requires CalSTA, Caltrans, and the CTC to incorporate goals to CAPTI into program funding guidelines and planning processes. Overall, the language in AB 7 is ambiguous and could jeopardize transportation funding and planning programs. For example, as currently drafted, AB 7 would apply to any funding program administered by the specified agencies, including formula programs OCTA receives directly like State Transportation Improvement Program and Low Carbon Transit Operations Program. It would also apply to various competitive

grant programs including the Transit and Intercity Rail Capital Program and SB 1 programs. The bill's reference to project development and implementation also infers that these principles are to apply beyond the funding programs, including potentially in approval processes and permitting.

Of the priorities listed in AB 7, some do not align with the intent of existing funding programs, and they do not encompass all of the priorities of the federal funding programs cited. This could create discrepancies between how state agencies prioritize transportation programs and what is required under federal law. Further, complete discretion is given to CalSTA, Caltrans, and the CTC to determine which priorities are applicable, feasible, and cost-effective for each area, regardless of what statute already requires. This could provide an opportunity to add significant new requirements to SB 1 programs and other transportation funds, rewriting the original intent of those programs. It could also provide authorization to add new requirements to how a project is planned and implemented. This creates significant uncertainty for future transportation funding and planning efforts, impacting projects by OCTA. It is expected that the author may address any concerns. This bill is likely to again be taken up by the Legislature, perhaps in a revised format, next year.

**Summary**

A report containing an analysis of legislation enacted in 2023 affecting OCTA is provided.

**Attachment**

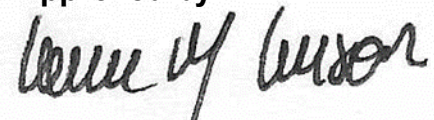
- A. Orange County Transportation Authority 2023 End of Year Legislative Report

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