



November 16, 2017

To: Legislative and Communications Committee
From: Darrell Johnson, Chief Executive Officer
Subject: Status Report of State Legislation Enacted in 2017

Overview

At the conclusion of the 2017 legislative session, 859 bills were signed and chaptered by Governor Jerry Brown, while 118 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

2017 Legislative Session Adjourns

Following the State Legislature's adjournment, Governor Jerry Brown had until October 15, 2017, to either sign or veto all legislation submitted to his office. Of the 977 bills sent to the Governor in 2017, 118 bills were vetoed; about 12 percent of the total number of bills presented to his office. This is consistent with the 13 percent average veto rate dating back to 1967, and is lower than the 15 percent he vetoed in 2016. This was the fourth highest number of bills he has had to consider as Governor since 2011.

The Orange County Transportation Authority (OCTA) Board of Directors (Board), legislative staff, and advocates were successful in advancing many of OCTA's interests in 2017. A detailed summary of legislation relevant to OCTA is included as Attachment A. Among the bills considered this session were the following transportation proposals:

Status of Legislation Considered in 2017 - Bills Signed**AB 28 (Chapter 4, Statutes of 2017): National Environmental Policy Act (NEPA) Delegation**

Position: Support

Sponsored by the Self-Help Counties Coalition (SHCC), AB 28 (Chapter 4, Statutes of 2017) authorized the state to continue to perform federal environmental responsibilities for highway projects under NEPA for an additional three years. The authority previously would have expired at the beginning of 2017, threatening to delay implementation of several critical infrastructure projects. Recognizing the potential impacts, the author, Assembly Member Frazier (D-Oakley), moved the bill quickly through the Legislature, thereby meeting all relevant federal deadlines and preventing any delay impacts to projects across the State.

AB 179 (Chapter 787, Statutes of 2017): California Transportation Commission (CTC)

Position: Neutral (previously an “oppose” position)

When OCTA first adopted an “oppose” position on AB 179 (Chapter 787, Statutes of 2017), the bill would have required the vast majority of members of the CTC to have backgrounds in the area of air quality, public health, or experience in disadvantaged communities. It would have also required increased joint meetings between the CTC and the California Air Resources Board, and the formation of an Environmental Justice Advisory Committee. However, after opposition came forward from multiple transportation agencies, SHCC, and the California Association of Councils of Government (CALCOG), the author decided to craft amendments to address concerns that the CTC would become too focused on specific issue areas, while not allowing for experience in other issues important to the transportation project funding and delivery. OCTA went neutral on the bill after amendments were adopted to require the Governor and the Legislature, in appointing members to the CTC, to ensure a diverse membership with experience in transportation issues, taking into consideration factors such as professional experience and socioeconomic background.

AB 805 (Chapter 658, Statutes of 2017): San Diego Association of Governments (SANDAG) Reorganization

Position: Oppose Unless Amended

AB 805 (Chapter 658, Statutes of 2017) significantly changes the voting and governance structure for the SANDAG Board of Directors, and provides additional requirements for SANDAG to meet in funding and delivering projects related to greenhouse gas emissions, disadvantaged communities, and project

labor agreements. The author originally pursued the bill after it became public that SANDAG was not open about changing sales tax projections associated with a 2016 ballot measure. While OCTA had expressed concerns to the author about the precedent this bill could create for other agencies, the author decided not to pursue amendments to address those concerns. In addition, prior to the Governor's signature, SANDAG had stated that they would potentially consider pursuing a ballot measure next year to allow the public to decide how the governance structure of SANDAG would be composed in the future. It is unclear right now whether this currently remains the plan.

AB 1069 (Chapter 753, Statutes of 2017): Local Government: Taxicab Transportation Services

Position: Neutral (previously an "oppose" position)

Sponsored by the Taxicab Paratransit Association of California, in its original form, AB 1069 (Chapter 753, Statutes of 2017) would have mandated county transportation agencies in ten counties, including Orange County, to assume the full regulatory and administrative functions for taxicab services. This would have significantly expanded OCTA's existing responsibilities under the Orange County Taxi Administration Program (OCTAP), and potentially led to increased liabilities. OCTA, CALCOG, and other transportation agencies worked with the sponsor and author to craft amendments that removed the mandate language on countywide transportation agencies. The final version signed into law by the Governor, states that a city or county shall be deemed to have a taxicab company or driver substantially located within its jurisdiction if the city or county has enacted a resolution to either enter into a joint exercise of powers agreement (JPA) or enter into an agreement with a transit agency for the purpose of regulating and administering taxicab service. Only those cities and counties can permit taxicabs, unless a JPA is formed or all cities and counties request the administrative functions be done by the county's respective transit agency or county transportation agency. With these amendments, OCTA went neutral on the bill. However, under AB 1069, OCTA will no longer be able to administer OCTAP in its current form starting January 1, 2019, and will have to work with the members of OCTAP to prepare for new efforts in maintaining taxicab service, which may include the formation of a JPA or an alternative administrative agreement.

AB 1113 (Chapter 86, Statutes of 2017): State Transit Assistance Reform

Position: Support

Sponsored by the California Transit Association, AB 1113 (Chapter 86, Statutes of 2017) clarifies several provisions of the existing law that govern the administration and allocation of State Transit Assistance (STA) program funds. The legislation built on SB 838 (Chapter 339, Statutes of 2016),

which temporarily put on hold the implementation of several State Controller's Office (SCO) reinterpretations of STA statutes that were released in early 2016, which were done without a public process or consultation with transit agencies. The reinterpretations significantly expanded the scope of STA eligibility and impacted the calculation of STA revenue shares for transit agencies. AB 1113 resulted after extensive collaboration with transit agencies, including OCTA and the SCO office. AB 1113 moved quickly through the Legislature to allow the guidance to become effective with fiscal year 2017-2018 STA allocations.

AB 1282 (Chapter 643, Statutes of 2017): Permitting Streamlining Task Force
Position: Support if Amended

AB 1282 (Chapter 643, Statutes of 2017) creates a Transportation Permitting Task Force (Task Force) to streamline permit approvals for transportation projects. In its original form, the bill would have limited members of the Task Force to state agencies. In adopting a "Support if Amended" position, OCTA requested language to ensure that regional transportation agencies and transit agencies would also be included on the Task Force, since often those agencies are the lead agency for permitting processes. While Assembly Member Mullin (D-San Mateo) did include language that would authorize other public entities to be part of the Task Force, there is no language specifically referencing local transportation agencies or transit agencies. In discussing the language with the author, he noted it was the intent of that added language to allow for local transportation and transit agencies to be included, as well as other local permitting agencies. He has pledged to continue to work with OCTA and other stakeholders as the Task Force is formed to ensure that the intent of AB 1282 is met.

SB 150 (Chapter 646, Statutes of 2017): Regional Transportation Plans
Position: Neutral (previously an "oppose" position)

In its original form, SB 150 (Chapter 646, Statutes of 2017) would have required a prioritization of projects within each region's sustainable communities strategy (SCS) developed pursuant to SB 375 (Chapter 728, Statutes of 2008) based on a project's ability to reduce emissions and vehicle miles traveled (VMT), aligning this prioritization with funding programming actions. This would have shifted the regional nature of an SCS to a project by project analysis. Furthermore, SB 150 would have put in place a requirement to reduce VMT by 15 percent by 2050, shifting the focus of SB 375 from greenhouse gas emission reductions to VMT reductions. After extensive conversations with the author's office in conjunction with CALCOG and metropolitan planning organizations throughout the state, amendments were accepted which limited the focus of the bill to facilitating a reporting and assessment process for regional progress in meeting the goals of SB 375, allowing an opportunity to determine what resources are necessary to

achieve the overall state goals. With these amendments, OCTA and other transportation agency stakeholders went neutral.

Additional Bills of Interest – Two-Year Bills

The following bills that OCTA took a position on failed to make it to the Governor for consideration:

AB 278 (Steinorth, R-Rancho Cucamonga): California Environmental Quality Act (CEQA): Exemption: Transportation

Position: Support

AB 278 (Steinorth, R-Rancho Cucamonga) would have exempted various transportation projects, or the issuance of a permit for those projects, from CEQA if the project was located within an existing right-of-way. Eligible projects included the inspection, maintenance, repair, rehabilitation, replacement, or removal of existing transportation infrastructure, including, but not limited to, highways, roadways, bridges, transit systems, bikeways, and paths serving pedestrians. While the provisions of AB 278 did not apply to projects that added additional motor vehicle lanes, it could have applied to the addition of auxiliary lanes. The provisions of AB 278 were identical to AB 1569 (Steinorth, R-Rancho Cucamonga) that OCTA supported last year. Neither bill was able to pass out of its initial policy committee, both failing on a party line vote. Committee analysis raised concerns about expanding CEQA exemptions, believing existing exemptions were broad enough.

AB 302 (Gipson, D-Carson): South Coast Air Quality Management District: Fleets

Position: Oppose

AB 302 (Gipson, D-Carson) would have authorized the Governing Board of the South Coast Air Quality Management District (SCAQMD) to create requirements for the use of zero-and near-zero emission technology in public fleets to the maximum extent feasible in the south coast region. While AB 302 would have required the SCAQMD in adopting the regulations to consult with the California Department of Transportation (Caltrans), the California Highway Patrol, and the transportation commissions within their region, it would have presented significant implications for OCTA's existing transit services and financial plans. OCTA has embarked on numerous efforts to further reduce emissions through the integration of low-NOx engines, use of renewable natural gas, and the testing of a zero-emission hydrogen fuel cell bus. Additional requirements would have decreased OCTA's available funding needed to operate its current service. Due to these concerns and others expressed by the League of California Cities and

the California Trucking Association, the author pulled the bill before it could be heard in a policy committee.

AB 344 (Melendez, D-Lake Elsinore): Toll Evasion Violations

Position: Oppose

AB 344 (Melendez, D-Lake Elsinore) would have required a person contesting a notice of toll evasion violation or notice of delinquent toll evasion to only have to pay the penalty after exhausting all potential forms of appeal. Existing law states that if the person contesting the violation is not satisfied with the results of the initial investigation, then that person, within 15 days of the mailing of the results of the investigation, must deposit the full amount of the toll evasion penalty and request an administrative review. OCTA, as owner and operator of the 91 Express Lanes, receives about 5,500 challenges annually to toll violations. If OCTA continues with the enforcement of the toll penalty after the investigative stage of an appeal, the contestant can appeal the results to an administrative hearing, which requires a person to deposit the total amount of the toll violation plus penalties. Currently, it is estimated that OCTA has about 17-18 cases each year that move forward with an administrative action, which costs on average about \$450 per hearing. AB 344 would have provided an incentive to challenge the penalty and go to later stages of the appeal process without a deposit, which would have increased associated costs for OCTA and impacted OCTA's ability to enforce toll policies. AB 344 was set to be heard in the Senate Transportation and Housing Committee, but was ultimately cancelled at the request of the author due to the opposition presented from toll agencies statewide and concerns expressed by committee staff.

AB 686 (Santiago, D-Los Angeles): House Discrimination: Further Fair Housing

Position: Oppose

AB 686 (Santiago, D-Los Angeles) would have established an affirmatively furthering fair housing obligation within the California Fair Employment and Housing Act, requiring public agencies in California, such as OCTA, to administer programs and activities relating to housing and community development in a manner that would affirmatively further fair housing. In addition, the bill would have required any public agency required to adopt a housing element or SCS to include an analysis of the barriers that restrict access to fair housing opportunities, and a commitment to specific meaning actions to affirmatively further fair housing. This would have created a legal loophole to challenge transportation funding, planning, programming, and construction activities, even when the transportation agency has no jurisdiction over housing and land use decisions. AB 686 could have also conflicted with other state goals, including those related to job creation, the environment, and disadvantaged communities. Given these concerns and opposition from CALCOG, the

Southern California Association of Governments, Riverside County Transportation Commission, and others, the author pulled the bill before it could be heard in its initial policy hearing. The author has indicated his intent to bring the bill forward again next year, with amendments attempting to address various concerns raised by stakeholders.

AB 1454 (Bloom, D-Santa Monica) and SB 768 (Allen, D-Santa Monica)
Transportation Projects: Lease Agreements
Position: Support

AB 1454 (Bloom, D-Santa Monica) and SB 768 (Allen, D-Santa Monica) would have extended the authority for Caltrans and regional transportation authorities to enter into public-private-partnership (P3) agreements for projects on the state highway system. SB 2X-4 (Chapter 2, Statutes of 2009) had previously authorized Caltrans and regional transportation agencies to enter into an unlimited number of P3 agreements, but the authority expired on January 1, 2017. Initially, the provisions of AB 1454 and SB 768 were nearly identical, but AB 1454 was later amended to just include intent language. Neither bill moved out of its respective Appropriations Committee, with strong opposition from the Professional Engineers in California Government. In addition, the Administration has stated its desire to first see what authority may be included in any federal transportation infrastructure package before moving forward with statewide P3 authority. OCTA will continue to monitor both bills and remain active in discussions moving forward.

AB 1640 (Garcia, D-Coachella): Transportation Funding: Low Income Communities
Position: Oppose

AB 1640 (Garcia, D-Coachella) would have required the State Transportation Improvement Program and Regional Transportation Improvement Program funding to be prioritized for low income and transportation disadvantaged communities. While addressing the mobility and safety needs of these communities is important and necessary, AB 1640 would have created arbitrary thresholds of prioritization, potentially jeopardizing currently programmed projects and other funding sources associated with those projects. AB 1640 would have also undermined the discretion of regional transportation agencies and the state to determine the projects necessitating investment to meet regional connectivity and maintenance needs. Due to these concerns, the bill was never heard in a policy committee and has become a two-year bill.

SB 264 (Nguyen, R-Garden Grove): High-Occupancy Toll Lanes: Interstate 405
Position: Oppose

SB 264 (Nguyen, R-Garden Grove) would have detailed allocation requirements for the net excess toll revenues from the high-occupancy toll lanes on OCTA's Interstate 405 Improvement Project, superseding the process outlined under AB 194 (Chapter 687, Statutes of 2015). The excess revenues would have been allocated as follows: 20 percent to OCTA, 70 percent to project corridor jurisdictions along the project corridor, and ten percent to project corridor jurisdictions not along the corridor. However, pursuant to AB 194, OCTA has already executed a toll operating agreement with Caltrans on terms and conditions related to the toll facility, including operational management and use of revenues. This bill would have significantly infringed upon the local control granted by AB 194 to regional transportation agencies implementing toll facilities, regardless of the fact that these agencies are taking on the risk of investing and operating such a facility. In addition, the bill would have prohibited investment in many multi-modal improvements in the corridor, including transit services and active transportation purposes to further alleviate congestion. SB 264 was set to be heard in the Senate Transportation and Housing Committee, but was ultimately cancelled at the request of the author. Staff continues to engage the author's office in all discussions related to the implementation of the project to try to ensure opportunities for any concerns to be presented.

SB 268 (Mendoza, D-Artesia): Los Angeles County Metropolitan Transportation Authority (LA Metro)

Position: Oppose unless Amended

SB 268 (Mendoza, D-Artesia) would have revised the composition of the LA Metro Board of Directors. In its original form, the bill would have created a precedent which would have been concerning for other public agencies, where a board composition could be changed without thorough consultation with the public agency. SB 268, similar to SB 522 (Mendoza, D-Artesia) and SB 1472 (Mendoza, D-Artesia) of 2016, which would have also increased the number of members on LA Metro's board, was pulled by the author from the policy committee to allow for further discussions to occur with LA Metro and other stakeholders.

Summary

A summary report on all state legislation enacted in 2017 affecting OCTA is provided for review by the Board.

Attachment

- A. Orange County Transportation Authority 2017 End of Year Legislative Report

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