



January 19, 2017

To: Legislative and Communications Committee

From: Darrell Johnson, Chief Executive Officer

Subject: State Legislative Status Report

Overview

An update is provided on a bill supported consistent with the Orange County Transportation Authority's 2017-18 State Legislative Platform, related to the delegation of federal environmental review authority under the National Environmental Protection Act. A summary of transportation funding proposals introduced in the Legislature is provided. An outline of State Senate leadership and committee assignments for the 2017-18 state legislative session is provided. An update on the Governor's proposed fiscal year 2017-18 budget is provided.

Recommendation

Receive and file as an informational item.

Discussion

AB 28 (Frazier, D-Oakley) Department of Transportation: Environmental Review Process: Federal Pilot Program

AB 28 (Frazier, D-Oakley) would allow the California Department of Transportation (Caltrans) the ability to continue performing federal environmental review responsibilities for highway projects under the National Environmental Policy Act (NEPA). Specifically, AB 28 provides for a limited waiver of sovereign immunity under the 11th amendment of the U.S. Constitution, so that the state may assume the responsibility and liability for its NEPA actions and decisions, as is required when accepting NEPA delegation.

Initially provided under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, the federal delegation of NEPA authority to the state has been a success in expediting the environmental review of transportation projects. Since the authority was delegated to the state in 2007,

Caltrans and local agencies have been able to advance and deliver projects that could have been delayed, had those projects been subject to the traditional federally-led NEPA review process. With NEPA delegation, substantial time savings has been achieved for numerous areas of the NEPA environmental review process, including Section 7 Biological Assessments/Biological Opinions, draft environmental assessments, and Findings of No Significant Impact determinations. As a result, the time savings provided with NEPA delegation has led to reduced project costs and the expedited start of project construction activities.

However, despite these successes, the most recent enabling legislation, AB 892 (Chapter 482, Statutes of 2011), which had previously provided the limited waiver of sovereign immunity, and that was supported by the Orange County Transportation Authority (OCTA), contained a sunset provision of January 1, 2017. While efforts were pursued in 2016 to extend the waiver, those efforts ultimately became tangled in the negotiations on a potential transportation funding package, which did not materialize. As such, the current waiver of sovereign immunity for NEPA delegation purposes has expired. As a result, Caltrans has informed local agencies that it cannot perform NEPA review responsibilities until it receives a new waiver of sovereign immunity from the legislature.

Without a new waiver, numerous locally-funded OCTA projects are at risk for delay if they are subject to the traditional NEPA review process. These projects include improvements to numerous freeways in Orange County including State Route 91, State Route 57, State Route 55, and Interstate 405. In total, it is estimated that approximately \$2.1 billion in infrastructure investments could be delayed if NEPA delegation is allowed to expire indefinitely. These delays could be compounded further as the Federal Highways Administration has indicated that it currently lacks the staff to adequately and readily assume the NEPA responsibilities. Consistent with the OCTA 2017-18 State Legislative Platform's principle to support legislation to streamline the environmental review and permitting processes for transportation projects and programs, a SUPPORT position has been taken on AB 28. A copy of the bill and a letter of support are included as Attachment A.

Transportation Funding Proposals

In the opening days of the 2017-18 State Legislative Session, both Assembly Member Jim Frazier (D-Oakley), Chair of the Assembly Transportation Committee, and Senator Jim Beall (D-San Jose), Chair of the Senate Transportation and Housing Committee, introduced separate transportation funding proposals that build upon previous proposals that had been part of the 2015-16 Special Session on Transportation. Among their provisions, the new

proposals, AB 1 (Frazier) and SB 1 (Beall), would provide \$6 billion annually through a combination of increases to the sales taxes on gas and diesel fuel, adjusted per the Consumer Price Index, and increases to vehicle registration fees. The revenues generated from these increases would fund a new road maintenance program focusing on highways and local streets and roads, with the use of funds by both Caltrans and cities and counties to be subject to performance and reporting requirements. Both proposals also include a small set-aside of the funding provided under the program for existing and new self-help counties.

Both bills would also require the expedited repayment of prior transportation loans made to the General Fund, and partial return of truck weight fee revenues to the State Highway Account for transportation purposes, rather than for bond debt service on general obligation bonds. Both AB 1 and SB 1 would also reset the price-based excise tax on gasoline to 18 cents per gallon. By partially returning weight fee revenues and resetting the price-based excise tax, immediate relief would be provided for the State Transportation Improvement Program and local streets and roads funding.

With regards to transit funding, both AB 1 and SB 1 propose to double the formula share of cap-and-trade funding dedicated to both the Transit and Intercity Rail Capital Program, and the Low Carbon Transit Operation Program. Both bills also propose providing additional transit funding via increases in the diesel sales tax; however, SB 1 would also require a portion of its proposed diesel sales tax increase to be dedicated to supporting commuter and intercity rail service in the state. Both bills also would provide additional funding for goods movement and active transportation projects, and would implement several transportation delivery and efficiency reforms as part of their respective proposals. These provisions include enhanced oversight of the State Highway Operations and Protection Program, exemptions from the California Environmental Quality Act for projects within an existing right-of-way, and the permanent delegation of federal responsibilities under NEPA to Caltrans.

The full text of both bills is included as Attachments B and C. An outline comparing the major provisions of each bill legislation is also included as Attachment D. It is expected that as the legislative session progresses, these proposals will serve as the starting point for future negotiations. It is also anticipated that the Governor may include his own transportation funding proposal as part of his proposed 2017-18 State Budget. Staff will continue to monitor developments on all funding proposals that may be pursued, and provide updates as needed to the OCTA Board of Directors on their status.

2017-18 State Senate Leadership and Committee Assignments

Coinciding with the start of the 2017-18 state legislative session, Senate President pro Tem Kevin de León (D-Los Angeles) introduced his leadership team and the committee assignments for the State Senate. A detailed listing of these positions is included as Attachment E. The Chair and Vice-Chair of the Senate Transportation and Housing Committee remain the same with Senator Jim Beall and Senator Anthony Canella (R-Ceres) retaining their leadership positions on the committee. In the Assembly, Speaker Anthony Rendon (D-South Gate) has released the Assembly Leadership and Committee Chair assignments for the 2017-18 legislative session. It is expected that a full committee roster list will be available shortly. When a full assembly committee assignment list is released, an update will be provided at the next scheduled meeting of the Legislative and Communications Committee.

Governor's Proposed Fiscal Year 2017-18 State Budget

As required by the state constitution, the Governor's proposed budget for fiscal year 2017-18 is required to be introduced by January 10, 2017. While a memo outlining the proposed budget has been provided to the OCTA Board of Directors, a verbal update will be included as part of the January 19, 2017 meeting of the OCTA Legislative and Communications Committee.

Summary

An update is provided on a bill related to the environmental review of transportation projects. An overview of two state funding proposals is provided. The committee and leadership assignments for the California State Senate is provided. A verbal update on the Governor's proposed fiscal year 2017-18 state budget is provided.

Attachments

- A. Orange County Transportation Authority Support Letter for AB 28 (Frazier, D-Oakley) with bill language
- B. AB 1 (Frazier, D-Oakley) Bill Language
- C. SB 1 (Beall, D-San Jose) Bill Language
- D. AB 1/SB 1 Comparison Chart
- E. 2017-18 State Senate Leadership and Committee Assignments
- F. Orange County Transportation Authority Legislative Matrix

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