

**AFFILIATED AGENCIES**

*Orange County  
Transit District*

*Local Transportation  
Authority*

*Service Authority for  
Freeway Emergencies*

*Consolidated Transportation  
Service Agency*

*Congestion Management  
Agency*

*Service Authority for  
Abandoned Vehicles*

December 14, 2016

The Honorable Jim Frazier  
Chair, Assembly Transportation Committee  
State Capitol Building, Room 3091  
Sacramento, California 94249

**Subject: AB 28 – SUPPORT**

Dear Chairman Frazier:

The Orange County Transportation Authority (OCTA) Board of Directors is pleased to support AB 28, your legislation which will allow the state to continue to perform federal environmental responsibilities for highway projects under the National Environmental Policy Act (NEPA). By continuing the delegation of NEPA authority to the California Department of Transportation (Caltrans), AB 28 will allow for the streamlined environmental review of critical transportation projects, thereby accelerating the delivery of those projects and the mobility and economic benefits they provide.

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. This authority has allowed both Caltrans and local agencies to advance and deliver projects that could have been delayed, had those projects been subject to the traditional federally-led NEPA review process. For instance, NEPA delegation has allowed for the processing of Section 7 Biological Assessments/Biological Opinions to be cut by more than five months, and the approval of draft environmental assessments (EAs), and Findings of No Significant Impact (FONSIs), to be reduced on average by 11 months when compared to the time these approvals have traditionally taken under the federally-led NEPA review process. These time-savings have reduced costs and expedited the start of project construction activities, including the delivery of the economic and mobility benefits the projects provide.

If NEPA delegation authority is not extended, then numerous locally-funded OCTA projects could be delayed if they are subjected to the traditional NEPA review process. These projects include improvements to numerous freeways in Orange County including State Route (SR) 91, SR-57, SR-55, and Interstate 405. In total, OCTA estimates that approximately \$2.1 billion in infrastructure investments could be delayed if NEPA delegation is allowed to expire

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indefinitely. For this reason, OCTA recognizes the importance of your legislation, and believe that it should be prioritized for immediate passage by the legislature, so as to allow for immediate investment in California's transportation network.

A support position on AB 28 is consistent with the principles included in the OCTA 2017-18 State Legislative Platform that states, "Support legislation to streamline the environmental review and permitting processes for transportation projects and programs to avoid potentially duplicative and unnecessary analysis, while still maintaining traditional environmental protections".

If you or your staff have any questions regarding OCTA's position on AB 28, please contact Kristin Essner, Principal Government Relations Representative, at (714) 560-5754.

Sincerely,



Lori Donchak  
Chair

LD:bb

c: Darrell Johnson, Chief Executive Officer  
Orange County State Legislative Delegation  
Platinum Advisors, LLC

**ASSEMBLY BILL**

**No. 28**

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**Introduced by Assembly Member Frazier  
(Principal coauthor: Assembly Member Salas)  
(Principal coauthor: Senator Galgiani)**

December 5, 2016

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An act to add Section 820.1 to the Streets and Highways Code, relating to transportation, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 28, as introduced, Frazier. Department of Transportation: environmental review process: federal pilot program.

Existing law gives the Department of Transportation full possession and control of the state highway system. Existing federal law requires the United States Secretary of Transportation to carry out a surface transportation project delivery pilot program, under which the participating states assume certain responsibilities for environmental review and clearance of transportation projects that would otherwise be the responsibility of the federal government. Existing law, until January 1, 2017, provided that the State of California consents to the jurisdiction of the federal courts with regard to the compliance, discharge, or enforcement of the responsibilities it assumed as a participant in the pilot program.

This bill would reinstate the operation of the latter provision.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 820.1 is added to the Streets and  
2 Highways Code, to read:

3 820.1. (a) The State of California consents to the jurisdiction  
4 of the federal courts with regard to the compliance, discharge, or  
5 enforcement of the responsibilities assumed by the department  
6 pursuant to Section 326 of, and subsection (a) of Section 327 of,  
7 Title 23 of the United States Code.

8 (b) In any action brought pursuant to the federal laws described  
9 in subdivision (a), no immunity from suit may be asserted by the  
10 department pursuant to the Eleventh Amendment to the United  
11 States Constitution, and any immunity is hereby waived.

12 (c) The department shall not delegate any of its responsibilities  
13 assumed pursuant to the federal laws described in subdivision (a)  
14 to any political subdivision of the state or its instrumentalities.

15 (d) This section does not affect the obligation of the department  
16 to comply with state and federal law.

17 SEC. 2. This act is an urgency statute necessary for the  
18 immediate preservation of the public peace, health, or safety within  
19 the meaning of Article IV of the California Constitution and shall  
20 go into immediate effect. The facts constituting the necessity are:

21 To expedite the participation of the Department of Transportation  
22 in the federal surface transportation project delivery pilot program,  
23 it is necessary for this measure to take effect immediately.