



ORANGE COUNTY TRANSPORTATION AUTHORITY 2020 END OF YEAR LEGISLATIVE REPORT

LEGISLATION ENACTED

I. Active Transportation

AB 1286 (Muratsuchi, D-Torrance) Shared Mobility Devices: Agreements (Chapter 91, Statutes of 2020)

AB 1286 creates new requirements for a shared mobility service provider. Specifically, it requires them to enter into an agreement with the local jurisdiction that they operate within and the provider must maintain general liability insurance before distribution of the service. Under this measure, a city or county is required to adopt rules related to operation, parking, and maintenance.

OCTA Position – Monitor

Impact on OCTA: For informational purposes. It is currently unclear how these new requirements will impact the availability and use of shared mobility devices within local jurisdictions within Orange County, although any rules adopted should be monitored as such partnerships are developed.

II. Audits, Records, Reports, and Litigation

AB 992 (Mullin, D-San Mateo) Open Meetings: Local Agencies: Social Media (Chapter 89, Statutes of 2020)

AB 992 clarifies that a public official of a legislative body may communicate on social media platforms to answer questions, provide information to the public or to solicit information from the public regarding a matter within the body's subject matter jurisdiction. Previously, this type of serial communication was prohibited under the Ralph M. Brown Act (Brown Act). This exception will sunset on January 1, 2026.

OCTA Position – Monitor

Impact on OCTA: This new exception to the prohibitions in the Brown Act would allow for OCTA Board of Directors (Board) to discuss, provide information, and solicit public input through their various social media platforms regarding Board agenda items with constituents, so long as they are not directly communicating with other OCTA Board Members. A memo regarding the impacts of this legislation was sent to Board Members on October 16, 2020, from Monique L. Wardenaar, Deputy General Counsel.

**AB 2151 (Gallagher, R-Chico) Political Reform Act: Online Filing Disclosure
(Chapter 214, Statutes of 2020)**

AB 2151 requires a local governmental agency to post any campaign finance disclosure statement, filing, or other document filed with the agency on its website within 72 hours of the filing deadline. AB 2151 specifies that links to the campaign finance documents satisfy the bill's requirements. If the final day of the 72-hour period is a Saturday, Sunday, or holiday, the bill clarifies that the posting deadline is extended to the next business day. The bill also requires that a local government redact the street name and building number of the persons listed on the document before posting and posted documents must be available for at least four years.

OCTA Position – Monitor

Impact on OCTA: *AB 2151 requires that cities and counties post links to any campaign finance documents filed with the agency on its website. The bill does not expand or create new disclosure requirements, instead requiring that any currently-required documents be made available on the website of the agency with which the document is filed.*

III. Emergency Response Services

**AB 2213 (Limón, D-Santa Barbara) Office of Emergency Services: Planning Guidance
(Chapter 98, Statutes of 2020)**

AB 2213 allows local governments to utilize telephone subscriber data to identify access and function needs populations and enroll them in local emergency alert systems. The bill also allows local governments, defined as cities and counties, to enter into agreements with county social services departments to share subscriber information from existing records. AB 2213 requires that local governments notify residents of their enrollment in emergency alert systems under this authority and also requires the establishment of opt-out procedures. In addition, the bill requires that the Office of Emergency Services (OES) and California Volunteers to develop planning guidance to identify volunteers and donation management resources that could assist in responding to emergencies for inclusion in a report to the Legislature by May 1, 2022.

OCTA Position – Monitor

Impact on OCTA: *AB 2213 allows cities and the County of Orange to utilize existing subscriber information to identify access and functional needs residents for emergency alert systems, making it easier for OCTA to better identify and serve the mobility needs of these vulnerable residents, when applicable, during emergencies.*

**AB 2730 (Cervantes, D-Corona) Access and Functional Needs: Emergency Management
(Chapter 256, Statutes of 2020)**

AB 2730 allows cities and counties to enter into agreements with adjacent jurisdictions to share emergency management and transportation services during emergencies that

require the evacuation and relocation of access and functional needs populations. Once an agreement is entered, it must be integrated into the relevant emergency plan, and the resources provided under an agreement must be available 24 hours per day, seven days per week. Under AB 2730, the agreements are to be executed at the request of a jurisdiction in need, and the definition of adjacent jurisdictions are those defined by the contiguous mutual aid regions defined in current law.

OCTA Position – Monitor

Impact on OCTA: For informational purposes. AB 2730 simply authorizes jurisdictions to enter into mutual aid agreements to serve access and functional needs populations during an emergency. OCTA has entered into various mutual aid agreements, including a specific agreement to serve paratransit customers. The enacted version of AB 2730 does not contain the mandate language from a previous version of the bill that could have significantly altered OCTA's existing mutual aid agreements.

**AB 2968 (Rodriguez, D-Chino) County Emergency Plans: Best Practices
(Chapter 257, Statutes of 2020)**

AB 2968 requires that OES develop, by January 1, 2022, best practices for counties developing and updating emergency plans. As part of this effort, the EOS shall establish a process for a county to request a review of its emergency plan to determine whether it is consistent with the best practices required by this bill, whether the County's plan adequately protects vulnerable populations during natural disasters, how effectively the plan allow for communicating with, evacuating, and sheltering those affected by an emergency, and any other factors deemed necessary by OES.

OCTA Position – Monitor

Impact on OCTA: As part of Orange County's emergency preparedness planning and response efforts, the best practices and evaluation established by AB 2968 could affect the way in which OCTA provides transportation services as part of the County of Orange's emergency plan.

**AB 3267 (Smith, D-Santa Clarita) Office of Emergency Services: State Emergency Plan
(Chapter 260, Statutes of 2020)**

AB 3267 requires OES to coordinate with social service agencies, nonprofits, transportation providers, and other stakeholders from the access and functional needs population when developing the State Emergency Plan every five years. The bill also extends the timeframe for the OES to conduct an after-action report for declared disasters from 120 days to 180 days. AB 3267 clarifies that the definition of "access and functional needs population" is the same definition used by local governments developing emergency plans.

OCTA Position – Monitor

Impact on OCTA: *One of many bills on the subject of emergency preparedness for vulnerable populations, AB 3267 ensures that State Emergency Plan consider the needs of access and function needs communities in State-managed emergencies.*

IV. Employment Terms and Conditions

AB 276 (Friedman, D-Burbank) Personal Income Taxes: CARES Act (Chapter 62, Statutes of 2020)

AB 276 makes conforming amendments to state law in response to the provisions in the CARES Act allowing for qualified loans from retirement accounts. The CARES Act, the \$2.7 trillion federal stimulus package passed in March, allows individuals affected by the coronavirus (COVID-19) to make penalty-free withdrawals from qualifying retirement accounts and raises from \$50,000 to \$100,000 the limit on loans taken from retirement accounts. Without changes to state legislation, California state tax law would treat the first \$50,000 as a loan, but the additional \$50,000 would be treated as a distribution from the retirement account, subjecting that portion of the now allowable loan to state tax penalties. AB 276 clarifies that the entire \$100,000 of a qualifying loan taken from a retirement account is treated as a loan and therefore not assessed a tax penalty.

OCTA Position – Monitor

Impact on OCTA: *For informational purposes. AB 276 ensures that the tax incentives in the CARES Act benefitting those impacted by COVID-19 are not adversely impacted by state tax law.*

AB 685 (Reyes, D-San Bernardino) COVID 19: Imminent Hazard to Employees: Exposure (Chapter 84, Statutes of 2020)

AB 685 requires employers to provide written notice and instructions to employees who may have been exposed to coronavirus (COVID-19) at their worksite. This bill also gives authority to the Division of Occupational Health and Safety's (Cal/OSHA) to enforce health and safety standards in an effort to mitigate workplace exposure to and curb the spread of COVID-19. Cal/OSHA may issue a serious violation if there is a realistic possibility that death or serious physical harm could result from the actual hazard created by the violation. If an employer is unable to successfully rebut the violation, Cal/OSHA has the authority to shut down facilities affected by the violation related to COVID-19. The provisions related to this bill will sunset on January 1, 2023.

OCTA Position – Monitor

Impact on OCTA: *OCTA will need to review its processes for notifying employees of potential exposure to COVID-19 and adjust accordingly. Additionally, OCTA will need to ensure its reporting to local health officials is aligned with these provisions.*

AB 1947 (Kalra, D-San Jose) Employment violation complaints: requirements: time (Chapter 344, Statutes of 2020)

Current law prohibits an employer from retaliating against any employee because the employee engaged in certain protected conduct and allows an employee to file a complaint with the Division of Labor Standards of Enforcement within six months. AB 1947 extends this filing period to one year. It also authorizes the court to award reasonable attorney's fees if the employee plaintiff is successful.

OCTA Position – Monitor

Impact on OCTA: *This bill will require OCTA to revise policies as appropriate to include this extension for filing a complaint regarding retaliation. It should be noted that a similar bill, vetoed in the 2019 legislative session, would have made this extension two years.*

AB 2017 (Mullin, D-San Mateo) Employee: Sick Leave: Kin Care (Chapter 211, Statutes of 2020)

AB 2017 clarifies in statute that employees have the sole discretion to designate their accrued sick leave as personal or kin care for the purpose of diagnosis, care, or treatment of their family member's health condition or for obtaining relief if the employee is a victim of domestic violence, sexual assault, or stalking.

OCTA Position – Monitor

Impact on OCTA: *This bill will require OCTA to revise policies as appropriate to include updated language and definitions as it pertains to sick leave.*

AB 2141 (Mathis, R-Visalia) Department of Motor Vehicles (Chapter 47, Statutes of 2020)

AB 2141 authorizes the Department of Motor Vehicles (DMV) to exempt qualifying veterans from certain commercial driver's license (CDL) tests. The bill allows the DMV to waive the CDL knowledge test for veterans with equivalent military training. AB 2141 authorizes the DMV to waive for specialized knowledge tests for transporting passengers, operating tank vehicles, and transporting hazardous materials. In addition, the bill strikes from state law the policy statement prohibiting the waiver of fees for veterans obtaining CDLs, although the bill does not mandate that such fees be waived.

OCTA Position – Monitor

Impact on OCTA: *These DMV flexibilities make it easier for veterans to obtain their CDL, potentially expediting the hiring of veterans with military training as coach operators. The waiver of the CDL knowledge test supplements the authority in current DMV regulations that allows for the waiving of the CDL driving test.*

AB 2143 (Stone, D-Santa Cruz) Settlement Agreements: Employment Disputes (Chapter 73, Statutes of 2020)

Existing law largely prohibits employers from using a no rehire clause in settlement agreements. However, existing law provides for an exception to allow employers to include a no rehire clause in settlement agreements with an employee who engaged in sexual harassment or assault. AB 2143 clarifies that this exception is expanded to include criminal conduct generally, so long the complaint was documented in good faith.

OCTA Position – Monitor

Impact on OCTA: *This bill will require OCTA to revise policies as appropriate to include this new exception for the use of a no rehire clause in settlement agreements.*

AB 2257 (Gonzalez, D-San Diego) Worker Classification: Employees and Independent Contractors: Professional Services (Chapter 38, Statutes of 2020)

AB 2257 clarifies the exemptions to AB 5 (Chapter 296, Statutes of 2019), legislation enacted last year to codify the *Dynamex Operations West, Inc. v. Superior Court of Los Angeles* court decision that created a new legal test to determine whether a worker is classified as an employee or an independent contractor. AB 2257 clarifies exemptions for personal services, specifically adding performing artists and other creative services, appraisers, translators, and foresters, among others, to the list of professions exempted from AB 5. In addition, the bill provides exemptions for referrals arrangements, medical groups, and other qualifying private sector business relationships. For entities receiving exemptions, the bill clarifies that the legal test to determine whether the worker is an employee or an independent contractor shall be the three-part legal test in *S. G. Borello & Sons, Inc. v. Department of Industrial Relations*, the court case supplanted by the *Dynamex* decision codified by AB 5.

OCTA Position – Monitor

Impact on OCTA: *For informational purposes. While there is still uncertainty about AB 5's application to certain arrangements with public agencies, this bill exemplifies how various industries continue to advocate for further legislative clarification to this controversial policy area, namely via exemptions for certain industries and businesses arrangements. Staff will continue to monitor future policy changes might affect OCTA's classification of its multitude of professional workers and contracts*

AB 2399 (Committee on Insurance) Paid family leave: qualifying exigency (Chapter 348, Statutes of 2020)

AB 2399 makes clarifications in order to implement the expansion of the Paid Family Leave (PFL) program created by SB 1123 (Statutes of 2018, Chapter 849), which expanded the PFL program to include covered leave for family members of military members who are deployed. Specifically, AB 2399 makes technical changes to revise the definition of "care recipient" to specify that the term includes the military member, child or

parent of the military member, who is receiving assistance, or the employee who is participating in a qualifying exigency.

OCTA Position – Monitor

Impact on OCTA: *This bill will require OCTA to revise policies as appropriate to include updated language and definitions.*

**AB 2850 (Low, D-Cupertino) San Francisco Bay Area Rapid Transit District
(Chapter 293, Statutes of 2020)**

AB 2850 designates the Public Employment Relations Board as having jurisdiction over disputes between Bay Area Rapid Transit (BART) and its employees' exclusive representatives, except in situations related to damages as a result of an unlawful strike. To govern these relations, this legislation also borrows language from the Meyers-Milias Brown Act (MMBA) to make conforming changes, which includes communications with an exclusive representative, prohibitions on engaging in respective unlawful labor conduct, and employee access to information. The intention was to not make BART subject to the entirety of the MMBA except for in ways in which it created conformity and consistency.

OCTA Position – Monitor

Impact on OCTA: *For informational purposes.*

**AB 2967 (O'Donnell, D-Long Beach) Public Employees Retirement System:
Contracting
(Chapter 223, Statutes of 2020)**

AB 2967 prohibits local agencies contracting with California Public Employees Retirement System (CalPERS) from using the contract amendment process to exclude groups of employees who were previously under that contract. These provisions are to apply to contracts entered into, amended, or extended after January 1, 2021.

OCTA Position – Monitor

Impact on OCTA: *For informational purposes. It should be noted that a coalition consisting of the League of California Cities, the California Special Districts Association, and the California State Association of Counties opposed this measure because they claim it prevents cities, special districts, and counties from exploring novel and innovative operational structures in the future, especially during the COVID-19 pandemic where local governments are struggling to manage their operations.*

**AB 2992 (Weber, D-San Diego) Employment Practices: Leave Time
(Chapter 224, Statutes of 2020)**

Under existing law, leave protections are guaranteed for an employee who is a victim of domestic violence, sexual assault, or stalking. AB 2992 expands these leave protections to an employee who is a victim of a crime and to an employee whose immediate family

member is deceased as a direct result of a crime, as defined. A crime under this legislation is defined as a crime or public offense, wherever it may take place, that would constitute a misdemeanor or a felony if the crime had been committed in California by a competent adult.

OCTA Position – Monitor

Impact on OCTA: *This bill will require OCTA to revise policies as appropriate to include updated language and definitions as it pertains to leave.*

SB 1159 (Hill, D-San Mateo) Workers Compensation: Coronavirus: Critical Workers (Chapter 85, Statutes of 2020)

SB 1159 establishes a rebuttable presumption that illness or death related to COVID-19 is an occupational injury. Beyond codifying the Governor's Executive Order (N-62-20), which created this rebuttable presumption for essential workers, this bill extends these benefits for all workers provided that the injury occurs 14 days after the last day worked at the place of employment. It additionally establishes a presumption of injury if an outbreak takes place at the place of employment. An outbreak for employers with more than 100 employees is triggered when five percent or more of the employees who worked at a specific work location contracted the disease within a 14-day period. This bill will sunset on January 1, 2023.

Urgency Bill – Effective Immediately

OCTA Position – Monitor

Impact on OCTA: *The provisions of this law take effect immediately. Since this bill has become law, staff have been working to interpret the provisions of these requirements to ensure consistency with existing practices.*

SB 1383 (Jackson, D-Santa Barbara) Unlawful Employment Practice: Family Rights Act (Chapter 86, Statutes of 2020)

SB 1383, until January 1, 2021, requires an employer with five or more employees to allow employees to use 12 weeks of unpaid, job-protected leave to care for a domestic partner, grandparent, grandchild, sibling, or parent-in-law who has a serious health condition.

OCTA Position – Monitor

Impact on OCTA: *For informational purposes.*

V. Environment

AB 639 (Cervantes, D-Corona) Port Automation and Climate Change (Chapter 224, Statutes of 2020)

AB 639 establishes a stakeholder process to develop recommendations on the most effective ways to implement policies to mitigate the employment impacts of automation and transitioning seaports to low emission workplaces at the Ports of Los Angeles and Long Beach. This will be overseen by the Labor Workforce Development Agency and the California Workforce Investment Board, with an industry panel that includes representatives from employee unions who represent marine cargo handlers at the Ports, representatives of marine cargo handler employees at the Ports, the Executive Director of both Ports, a member appointed by the Speaker, and a member appointed by the Senate Committee on Rules. This panel must meet within 90 days of being funded by the Legislature, which is yet to be realized, and is required to invite stakeholders and experts to participate in the process. The University of California Los Angeles Labor Center will be commissioned as expert research and testimony. The process must be completed by July 1, 2023, along with the issuance of any findings. On or before December 31, 2022, the California Workforce Development Board must provide an update on activities pursued in response to these findings and recommendation to the Joint Legislative Committee on Climate Change Policies. These requirements will sunset on January 1, 2024.

OCTA Position – Monitor

Impact on OCTA: *For informational purposes.*

AB 2731 (Gloria, D-San Diego) California Environmental Quality Act: San Diego (Chapter 291, Statutes of 2020)

AB 2731 authorizes the San Diego Association of Governments (SANDAG) to obtain site control from the United States Navy (Navy) to support the redevelopment of the 70.5-acre Naval Base Point Loma Old Town Center, including the possible development of a multimodal transportation Central Mobility Hub to serve as a connection to link regional transit to the San Diego International Airport. These redevelopment efforts are intended to streamline the construction process of the multimodal regional transportation system through expedited administrative and judicial review procedures under the California Environmental Quality Act (CEQA). Specifically, this bill provides that the environmental impact statement (EIS) prepared by the Navy pursuant to National Environmental Policy Act (NEPA) for transit-oriented development (TOD) on the Old Town Center site may be used in lieu of an environmental impact report under CEQA if the TOD projects and the EIS meet specific environmental and labor requirements. Additionally, the courts are to resolve lawsuits within 270 business days of certification of the record of proceedings, to the extent feasible. These provisions will be repealed on January 1, 2025, if SANDAG fails to certify an environmental impact report.

OCTA Position – Monitor

Impact on OCTA: *For informational purposes. Although this has no immediate impacts to OCTA, it is important to continue to monitor the ways CEQA is being amended to streamline projects throughout the state.*

**AB 2800 (Quirk, D-Hayward) Climate Safe Infrastructure Working Group
(Chapter 118, Statutes of 2020)**

Under current law, the Climate-Safe Infrastructure Working Group is composed of scientists, engineers, and architects and was created to examine how to best integrate climate information with the state's infrastructure design, planning and implementation. A five-year infrastructure plan is incorporated in the State's budget process in order to outline the State's infrastructure investments strategies. This working group released their report, *Paying it Forward: The Path Toward Climate-Safe Infrastructure in California*, in 2018. The requirements under this section for the working group were set to sunset on July 1, 2020. AB 2800 removes the sunset date for the working group to make recommendations to the Legislature and instead extends the provisions indefinitely, upon available funding. Additionally, under current law, the working group's goal is to build upon existing information produced by the state, including information from the most recent California Climate Change Assessment and the State of California Sea-Level Rise Guidance Document. This legislation adds the five-year infrastructure plan as an additional item for the working group to consider.

OCTA Position – Monitor

Impact on OCTA: *For informational purposes. As the State continues to invest in strategies to mitigate impacts from climate change, OCTA may want to review the report produced by this working group and potentially incorporate any recommendations.*

**SB 288 (Wiener, D-San Francisco) CEQA: Exemptions: Transportation Related Projects
(Chapter 200, Statutes of 2020)**

SB 288 establishes new CEQA exemptions for designated sustainable transportation projects, including pedestrian and bicycle facilities, improvements in customer information and wayfinding, transit prioritization projects, conversion of general-purpose lanes or highway shoulders to bus-only lanes, projects that increase of new bus rapid transit, projects to construct or maintain infrastructure to charge or refuel zero-emission transit buses, and projects for the maintenance, repair, relocation, replacement, or removal of any utility infrastructure. To pursue these new exemptions, the project must not create new automobile capacity and must be located within an existing public right-of-way. If the project exceeds \$100 million, the agency must complete a business case and a racial equity analysis pursuant to standards developed by the Office of Planning and Research (OPR), or a metropolitan planning organization (MPO) if OPR delegates the authority. The project cannot demolish any affordable housing units, as defined, and must use a skilled and trained workforce or be subject to a project labor agreement.

OCTA Position – Monitor

Impact on OCTA: *This legislation will allow for OCTA to utilize new CEQA exemptions to assist in streamlining sustainable transportation projects, if it chooses to do so. Specifically, OCTA may benefit from the provision that exempts construction or maintenance of infrastructure to charge or refuel zero-emission transit buses from CEQA. However, OCTA will want to weigh both the benefits and the drawbacks of using these exemptions compared to the normal CEQA process because additional requirements outlined in this legislation may create unknown issues, pending how guidelines are developed by OPR.*

SB 895 (Archuleta, D-Norwalk) Energy: Zero-Emission Fuel, Infrastructure Technologies

(Chapter 120, Statutes of 2020)

SB 895 requires the California Energy Commission (CEC), within the limits of available funds, to provide technical assistance and support for the development of zero-emission fuels, zero-emission fueling infrastructure, and zero-emission fuel transportation technologies. This can be through commissioned research, development, or demonstration programs.

OCTA Position – Monitor

Impact on OCTA: *For informational purposes. As OCTA moves toward transitioning its bus fleet to zero-emission buses, it could be useful to engage with the research, programs, and development created by the CEC.*

SB 1320 (Stern, D-Calabasas) Climate Change: State Climate Change Assessment

(Chapter 136, Statutes of 2020)

Upon appropriation of funds, SB 1320 requires OPR to develop the California Climate Change Assessment in coordination with the Natural Resources Agency, the State Energy Resources Conservation and Development Commission, the Strategic Growth Council, and in consultation with partner public agencies designated by OPR. OPR may also contract with outside entities, including public universities, research institutions, organizations that serve vulnerable communities, and other technical experts to produce the assessment. This assessment must be done every five years and will include a suite of products that address the impacts and risks of climate change. Specifically, the products could include, but are not limited to, climate projections, research reports on costs and benefits or climate adaptation responses, regionally-specific reports, reports on environmental justice considerations, decision-support tools, and examples of best practices for planning for future climate conditions. OPR is to engage with regional and local governments, tribes, vulnerable communities, businesses, and members of the public, as necessary, in determining the scope of the assessment. After the assessment is completed, OPR will work with the Department of Finance to determine the liabilities of the contents and the application of the assessment will have in the state budget, and to regional and local governments, tribes, and vulnerable communities.

OCTA Position – Monitor

Impact on OCTA: *As a public agency, OCTA may have an opportunity to engage in this process. The tools developed through this assessment may assist in mitigating the impacts from climate change as well as efforts related to resiliency and adaptation, but could also add potential costs to projects moving forward.*

VI. Funding

SB 998 (Moorlach, R-Costa Mesa) Local Government: Investments (Chapter 235, Statutes of 2020)

SB 998 expands the investment options for local agencies. Specifically, the bill increases the maximum allowable amount of commercial paper that cities and special districts can hold from the 25 percent limit in current law to 40 percent until that provision's expiration on January 1, 2026. The bill also includes language limiting agencies from investing more than ten percent of their commercial paper and medium-term investments in any single issuer to encourage diversification. In addition, SB 998 allows joint powers authorities to participate in pool shares, pursuant to the terms and conditions in federal law.

OCTA Position – Monitor

Impact on OCTA: *For informational purposes.*

SB 1349 (Glazer, D-Orinda) Transactions and Use Taxes: County of Contra Costa (Chapter 369, Statutes of 2020)

SB 1349 permits Contra Costa County, and cities within Contra Costa County, additional flexibility to impose local transactions and use taxes. Specifically, the bill clarifies that the current half-percent tax imposed by BART, as well as taxes imposed under the existing statutory authority provided to the Contra Costa County Transportation Authority, do not count against the two percent regional transaction and use tax cap in Contra Costa County.

OCTA Position – Monitor

Impact on OCTA: *For informational purposes.*

VII. Planning

AB 1426 (Boerner Horvath, D-Carlsbad) Public Resources: San Onofre State Beach (Chapter 168, Statutes of 2020)

AB 1426 codifies settlement agreements entered into by the Foothill/Eastern Transportation Corridor Agency, with the California Department of Transportation, various environmental groups, California Attorney General, the California Natural Resources Agency, and others. These agreements included provisions restricting construction of a road through the avoidance area, as defined in the settlement agreement, which includes San Onofre State Beach and the Richard H. and Donna O'Neill Conservancy (Conservancy). Specifically, AB 1426 prohibits the construction, funding, or operating a major thoroughfare within the area around and in San Onofre State Beach or the

Conservancy, except in certain situations, including a widening of Interstate 5 undertaken by the California Department of Transportation (Caltrans).

OCTA Position – Monitor

Impact on OCTA: *In future planning efforts, OCTA must maintain compliance with prohibitions of construction within and around the areas of San Onofre State Beach and the Conservancy.*

AB 2172 (Petrie-Norris, D-Newport) State Highways: Route 133: Relinquishment (Chapter 126, Statutes of 2020)

AB 2172 authorizes the California Transportation Commission (CTC) to relinquish the portion of State Route 133 (SR-133) between the Pacific Coast Highway and El Toro Road to the City of Laguna Beach, pursuant to the terms and conditions approved by the CTC. Under the bill, the CTC must determine that the relinquishment is in the best interest of the State, and the bill requires that the relinquishment be conditioned on Caltrans and the City of Laguna Beach entering into an agreement. AB 2172 clarifies that the relinquishment is effective upon the date that the relinquishment resolution, with the CTC's terms and conditions, is recorded with the county recorder. Once recorded, the relinquished portion of SR-133 shall cease to be a state highway, and under the bill, the City of Laguna is required to ensure the continuity of traffic flow on the relinquished portion of SR-133, including any traffic signal progression and signage directing motorists to the continuation of SR-133.

OCTA Position – Monitor

Impact on OCTA: *For informational purposes.*

AB 2345 (Gonzalez, D-San Diego) Planning Zoning: Density Bonuses: Affordable Housing (Chapter 197, Statutes of 2020)

AB 2345 expands density bonus provisions in state law in an effort to help alleviate the State's housing shortage. The changes mirror those enacted by the City of San Diego. AB 2345 clarifies that, for purposes of the density bonus law, a "major transit stop" is defined using the existing statutory definition of major transit stops in the applicable regional transportation plan, including the transit stop's parking lot or structure. AB 2345 provides that rental developments with 100 percent affordable housing and within one-half mile of a major transit stop must not, if requested by the developer, city, or county, exceed half of a parking space per unit. AB 2345 also requires cities and counties to grant density bonuses to developments including a certain percentage of low-income housing, based on a formula that factors in the number of low-income units and the types of incentives utilized with the development. The bill also allows localities to adopt generous density bonus ordinances.

OCTA Position – Monitor

Impact on OCTA: *For informational purposes. AB 2345 was one of the many of land-use policy changes the Legislature is pursuing to encourage housing production, specifically by encouraging increased housing development near transit in an effort to boost ridership.*

**SB 146 (Beall, D-Campbell) Regional Transportation Plans: Procedural Requirements
(Chapter 117, Statutes of 2020)**

SB 146 changes the public outreach requirements for regional planning agencies developing a Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS) in order to facilitate effective public outreach during the unprecedented coronavirus (COVID-19) pandemic. SB 146 allows agencies to use telephonic and electronic communication platforms to conduct public engagement when developing an RTP/SCS. Specifically, the bill recharacterizes "workshops" as "public engagement gatherings" to allow for electronic and telephonic outreach options without violating the public participation provisions of the Brown Act or the other substantive planning requirements in current law. These outreach flexibilities sunset on January 1, 2023.

OCTA Position – Monitor

Impact on OCTA: *For informational purposes. SB 146 is limited to an RTP/SCS developed before January 1, 2023. Since the Southern California Association of Governments (SCAG) just finalized its latest RTP/SCS, these specific flexibilities will not be utilized in the SCAG region. That said, these flexibilities may be extended, or similar flexibilities may need to be pursued, should the COVID-19 pandemic affect RTP/SCS outreach efforts in 2023 or beyond.*

**SB 1291 (Senate Transportation Committee) Federal Statewide Transportation Improvement Program
(Chapter 113, Statutes of 2020)**

SB 1291 provides flexibility in the Federal Transportation Improvement Program (FTIP) submittal process so that the unprecedented events of this year, specifically a change to federal air quality conformity requirements and the COVID-19 pandemic, do not put the delivery of transportation projects at risk. Current state statute requires that regional transportation agencies, MPOs, and Caltrans develop and submit an FTIP, which lists regionally-significant projects requiring federal funding or approval, to the federal government every two years. While state law requires the adoption of an FTIP every two years, federal law only requires that the FTIP be adopted every four years. SB 1291 specifies that an FTIP is not required in 2020. After this one-time change to the FTIP schedule, the normal biennial submittal process required by state law will resume.

Urgency Bill – Effective Immediately

OCTA Position – Support.

Impact on OCTA: *SB 1291 ensures that delays in FTIP submittals resulting from COVID-19 do not interrupt or otherwise affect the delivery of planned mobility*

improvements in Orange County. Without this bill, a significant FTIP submittal delay in any part of the State could have held up the statewide FTIP submittal by Caltrans, potentially threatening the delivery of projects in Orange County.

VIII. Public Works

AB 2210 (Aguiar-Curry, D-Davis) Contractors: Violations: Disciplinary Actions (Chapter 128, Statutes of 2020)

AB 2210 expands the authority of the Contractors State License Board (CSLB) to take disciplinary action against tree-service contractors. Specifically, the bill makes any violation of the Labor Code a cause for disciplinary action, regardless of whether death or serious injury results. The bill also clarifies that the Division of Occupational Safety and Health must properly register and transmit the Labor Code violation to the CSLB. In addition, the bill expands from 180 days to 18 months the time that the CSLB has to bring a disciplinary action against a contractor.

OCTA Position – Monitor

Impact on OCTA: For informational purposes. Since contractors working on infrastructure projects must be registered with the CSLB, this bill expands the circumstances under which certain tree-service contractors may face disciplinary action for violations of the Labor Code, regardless of whether an injury occurred.

AB 2231 (Kalra, D-San Jose) Public Works (Chapter 346, Statutes of 2020)

AB 2231 defines what constitutes a “de minimis” public subsidy for purposes of triggering public works regulations, including requirements related to the use of a skilled and trained workforce and payment of prevailing wage. Generally, for most projects, a “de minimis” public subsidy would be defined as both less than \$600,000 and less than two percent of the total project cost. If the subsidy is for a residential project, the subsidy is de minimis so long as it is less than two percent of the total project cost. These provisions do not apply to a project that was advertised for bid, or a contract that was awarded, before July 1, 2021.

OCTA Position – Monitor

Impact on OCTA: Under this new definition of de minimis, any project utilizing public funds that meets these thresholds will be subject to complying with the requirements outlined in statute pertaining to public works. This could result in increased costs and regulatory requirements on any given project.

AB 2311 (Low, D-Cupertino) Public Contracts: Skilled and Trained Workforce (Chapter 347, Statutes of 2020)

When a skilled and trained workforce is required on a project, AB 2311 requires a public entity to disclose a notice in all of its contracts and documents that the project is subject to a skilled and trained workforce. If the public entity fails to provide this notice, it does

not excuse them from the use of a skilled and trained workforce. The intention of this legislation is to encourage more compliance of the skilled and trained workforce requirement.

OCTA Position – Monitor

Impact on OCTA: *OCTA will be required to disclose this notice in any contracts whereby the project is subject to a skilled and trained workforce.*

SB 588 (Archuleta, D-Norwalk) Public Contracts: Disabled Veteran Business Enterprises

(Chapter 80, Statutes of 2020)

SB 588 requires state agencies to withhold a portion of the final payment on a state-awarded contract until the prime contractor has certified that the requirements of the Disabled Veteran Business Enterprise (DVBE) Program have been fulfilled. Specifically, the bill authorizes the state contracting agency to withhold up to \$10,000 from the final payment until the prime contractor has certified that the DVBE subcontractors have been paid. SB 588 gives a prime contractor at least 15 calendar days to cure the DVBE defect. In addition, the bill requires that the Legislative Analyst's Office undertake a complete assessment of the DVBE program by January 1, 2024.

OCTA Position – Monitor

Impact on OCTA: *For informational purposes.*

IX. State Budget

AB 78 (Committee on Budget) Bergeson Peace Infrastructure and Economic Development

(Chapter 10, Statutes of 2020)

AB 78, a budget trailer bill, establishes the Climate Catalyst Revolving Loan Fund (Climate Catalyst Fund) within the State Treasury to receive funding from private sources and non-government entities to help fund and finance eligible projects. The Climate Catalyst Fund was originally proposed in the Governor's January Budget proposal as a state-funded program, but as part of the budget agreement is now dependent on private funding and future appropriations. The Strategic Growth Council and Labor and Workforce Development Agency are to identify potential eligible categories of projects, with the aim to further the state's climate goals, activities that reduce climate risk, and the implementation of low-carbon technology and infrastructure.

Urgency Bill – Effective Immediately

OCTA Position – Monitor

Impact on OCTA: *For informational purposes. OCTA will actively monitor implementation of these provisions to determine whether OCTA could become eligible for funding*

pursuant to the Climate Catalyst Fund, especially as it pertains to implementation of low-carbon technology and infrastructure.

**AB 83 (Assembly Budget Committee) Housing Provisions
(Chapter 15, Statutes of 2020)**

AB 83, the housing trailer bill, builds on the homelessness funding provided in last year's budget by providing \$300 million for a second round of Homeless Housing, Assistance, and Prevention Program funding, consistent with the requirements of AB 101 (Chapter 159, Statutes of 2019). Of this funding, \$130 is distributed to cities with a population over 300,000, \$90 million to Continuums of Care, and \$80 for counties. AB 83 also extends until January 31, 2021, the deadline that a jurisdiction may request an allocation of funds for the Regional Housing Needs Allocation (RHNA) planning grants provided to cities and counties provided in last year's housing trailer bill. AB 83 provides a temporary CEQA exemption for qualifying projects as part of Project Room Key, the State's acquisition of hotel rooms for the unhoused at-risk of contracting COVID-19. Finally, the bill extends the long-term affordable housing requirements on committed assistance programs for localities as part of their RHNA efforts, specifically requiring that the affordable units be available for 55 years. In addition, AB 83 allows the conversion of certain motels, hotels, and mobile home parks in response to COVID-19 to count as part of a committed assistance program, pursuant to the conditions in the bill.

Urgency Bill – Effective Immediately.

OCTA Position – Monitor

Impact on OCTA: For informational purposes. AB 83 demonstrates the Legislature's commitment to addressing housing and homelessness during the COVID-19 pandemic, despite the limits on bill loads.

**AB 84 (Committee on Budget) Public employment and retirement
(Chapter 26, Statutes of 2020)**

This trailer bill, among other things, requires state employees during FY 2020-21 to participate in the Personal Leave Program (PLP), which mandates state employees to receive a pay reduction of no more than ten percent. For state employees not subject to the PLP, the Department of Human Resources will adopt a plan for those employees to be furloughed for two workdays per calendar month until June 30, 2021. Other primary components of AB 84 include changes related to the California State Teachers' Retirement System and CalPERS in order to mitigate the budget deficit incurred due to the COVID-19 pandemic.

OCTA Position – Monitor

Impact on OCTA: For informational purposes. OCTA staff continue to monitor discussions related to the PLP and how they affect state functions.

AB 89 (Committee on Budget) Budget Act

(Chapter 7, Statutes of 2020)

AB 89 provides \$147.8 billion in total General Fund expenditures for fiscal year (FY) 2020-21. The state budget assumes a \$54 billion deficit, stemming from an approximate 22 percent decrease in revenues projected in FY 2020-21, combined with proposed emergency spending to protect residents of California from the COVID-19 pandemic.

For FY 2020-21, the state budget proposes General Fund revenues of approximately \$139.8 billion, which is an almost a \$17 billion decrease from the January budget proposal, and estimates General Fund expenditures at \$143 billion, which is approximately \$10 billion less the January estimate. Additionally, the state budget will draw down \$7.8 billion from the State's Budget Stabilization Account/Rainy Day Fund to address the deficit resulting from the COVID-19 pandemic. Without an agreement from the federal government on COVID-19 relief spending, the state's budget will be forced to withdraw an additional \$9.6 billion from the state's Budget Stabilization Account/Rainy Day Fund, \$1.6 billion from a special fund for economic uncertainties, and \$900 million from the safety net reserve fund in order to balance the budget.

*Urgency Bill – Effective Immediately***OCTA Position – Monitor**

Impact on OCTA: AB 89 reflects a significant decrease in state transit funding going forward. In total, the state budget anticipates \$678.9 million in State Transit Assistance (STA) funding for FY 2019-20, where Orange County's share would be \$36.3 million. For FY 2020-21, a decrease of more than \$283 million in STA funding is projected, compared to January estimates. Based on these updated figures, Orange County is expected to receive \$22 million in STA funding in FY 2020-21, which is approximately 40 percent less than what was projected in January.

OCTA also receives funding from the State of Good Repair (SOGR) program via the STA formula. Funded via the Transportation Improvement Fee, the state budget projects these revenues being held steady moving forward, with an estimated \$108.9 million being available in FY 2019-20 and \$114.6 million in FY 2020-21. Orange County is estimated to receive \$5.8 million in FY 2019-20 and \$6.2 million in FY 2020-21.

**AB 90 (Committee on Budget) Transportation Provisions
(Chapter 17, Statutes of 2020)**

AB 90 serves as the primary budget trailer bill related to transportation and makes various regulatory changes to provide relief to transit agencies across the state as they cope and recover from the effects of the COVID-19 pandemic. Specifically, AB 90 instituted a hold harmless provision for calculation and allocation of the STA Program, SOGR, and LCTOP allocations. Such formula programs are based 50 percent on the revenues for each transit agency. For the next two years, the formulas will use the revenue amounts each transit agency reported prior to the COVID-19 pandemic. It further prevented any financial penalty to be imposed on a transit operator that is unable to meet its farebox recovery requirement until January 1, 2022. For FY 2020-21 and 2021-22, this legislation

exempts a transit operator from meeting STA efficiency standards, with each agency able to utilize funding for either operating or capital purposes. Separately, it also required retailers of aircraft jet fuel to report quarterly to the California Department of Tax and Fee Administration (CDTFA) on their sales of aircraft jet fuel. Such data will allow the CDTFA to better communicate the State and local taxing jurisdiction compliance with Federal Aviation Administration regulatory requirements that sales tax proceeds from aviation fuel be used for the benefit of airports. Finally, it also delayed the adoption of the California High Speed Rail Authority's (CHSRA) Business Plan until December 15, 2020, instead of its intended adoption date of June 25, 2020.

Urgency Bill – Effective Immediately

OCTA Position – Monitor

Impact on OCTA: With more flexibility in using state transit funding, OCTA has been able to utilize these regulatory relief measures to continue to provide transit service. Specifically, OCTA will not need to meet the 20 percent farebox recovery requirement or the efficiency criteria as required in the Transportation Development Act (TDA) due to COVID-19 impacts, but will not be subject to any withholding of funds. Furthermore, this legislation will assist in staving off long-term disruption of future STA formula distribution by maintaining the ridership numbers prior to the COVID-19 pandemic. The benefits of these provisions should be documented by staff in order to analyze the need for a possible extension of such, especially as conversations regarding potential changes to the TDA continue. Staff also continue to monitor the progress of the CHSRA and will analyze the final business plan when it is adopted in December 2020.

**AB 92 (Committee on Budget) Public Resources: Omnibus Trailer Bill
(Chapter 18, Statutes of 2020)**

AB 92 is an omnibus trailer bill related to implementing the resources and environmental protection budget allocations. Specifically of interest to OCTA, it authorizes the State Water Resources Control Board (SWRCB) to issue a certificate or statement before completion of an environmental review. Under the federal law known as the Clean Water Act, a 401 certification must be issued to prove that a project's activity will not result in any discharge into waters of the United States. This flexibility will be helpful in instances where the SWRCB determines that waiting until completion of the environmental review would mean that the review poses a substantial risk to the waiver of the state's certification authority under federal water quality control laws.

OCTA Position – Monitor

Impact on OCTA: For OCTA projects needing this certification, this legislation could mitigate a potential risk to the waiver within the state's certification authority. This permitting regulatory measure could result in less time delays on projects.

**AB 103 (Committee on Budget) Unemployment Compensation Benefits:
Coronavirus**

(Chapter 22, Statutes of 2020)

AB 103 is a budget trailer bill that was necessary to provide flexibility and implement actions related to the new federal funding sources for administering unemployment compensation benefits specifically as a result of COVID-19. It ensures that a tax-rated employer does not have its reserve account charged for these unemployment compensation benefits paid to the unemployed individual. This will sunset on January 1, 2021. This legislation also allowed the State to utilize the Federal-State Extended Benefit program to provide up to 20 weeks of total unemployment insurance, funded 100 percent by the federal government.

Urgency Bill – Effective Immediately

OCTA Position – Monitor

Impact on OCTA: *For informational purposes.*

**AB 107 (Committee on Budget) State Government
(Chapter 264, Statutes of 2020)**

AB 107 was an end of session trailer bill, which included additional provisions related to transportation. Specifically, AB 107 provides temporary flexibility in the use of SB 1 (Chapter 5, Statutes of 2017) SOGR program funds, allowing a transit agency to expend funds apportioned for the 2019-20 to 2021-22 fiscal years on operating or capital costs to maintain transit service. Separately, this legislation extends the sunset date, from January 1, 2021 to January 1, 2022, for the California Secretary of Transportation's authority to assume responsibilities under NEPA for any railroad, public transportation, or multimodal project. This authority is specifically being used for the California High-Speed Rail project.

Urgency Bill – Effective Immediately

OCTA Position – Monitor

Impact on OCTA: *This regulatory relief will allow OCTA to use SB 1 SGR funds for operations purposes if the Board makes certain findings. Currently, these dollars are already programmed for different purposes. Pending guidance from Caltrans, OCTA will be able to use this flexibility moving forward. Typically, OCTA typically receives between approximately \$5 and \$6 million in SGR funding each year.*

**SB 89 (Committee on Budget and Fiscal Review) Budget Act
(Chapter 2, Statutes of 2020)**

SB 89 made changes to the Budget Act of 2019 in response to the Governor's March 4, 2020 proclamation of a state of emergency due to COVID-19. In particular, this bill allowed the Governor to withdraw up to \$1 million in General Fund dollars to provide immediate assistance related to the impacts of COVID-19. Expenditures included the procurement of personal protective equipment and equipment, travel trailers and hotel beds for immediate homeless housing, leases for hospital facilities, and more.

Urgency Bill – Effective Immediately

OCTA Position – Monitor

Impact on OCTA: *For informational purposes.*

**SB 115 (Committee on Budget and Fiscal Review) Budget Act
(Chapter 40, Statutes of 2020)**

Due to the everchanging nature of the COVID-19 pandemic, the State Legislature utilized SB 115 as the vehicle to amend the 2020 Budget Act to better align with evolving needs. SB 115 makes a variety of changes related to education, health and human services, public safety, and higher education. There were also a variety of technical changes made. Specifically, this bill appropriates \$624.7 million above the 2020 Budget Act, of which \$166 million is from the General Fund.

Urgency Bill – Effective Immediately

OCTA Position – Monitor

Impact on OCTA: *For informational purposes.*

X. Other Legislation

**AB 841 (Ting, D-San Francisco) Energy Efficiency Programs
(Chapter 372, Statutes of 2020)**

Under existing law, the California Public Utilities Commission (CPUC) instructs electrical corporations to file applications for programs and investments to accelerate widespread transportation electrification. Accordingly, AB 841 mandates the CPUC to issue decisions by March 1, 2021, on two pending investor-owned utility transportation electrification infrastructure applications. This was mandated in statute to encourage a timely adoption or rejection of these decisions. Additionally, it requires the CPUC to extend its previous approvals of transportation electrification programs and investments. As it pertains to the future of these applications, this legislation will require 35 percent of the electric vehicle (EV) charging infrastructure investments to be located in underserved communities. It also includes a mandate to ensure that the infrastructure needed to charge EVs is treated the same as other distribution infrastructure in the electrical corporation's general rate case. Under this legislation, residential service facilities can upgrade costs incurred as a result of the adoption of home-based EV charging that exceed the utility's tariff allowances. For all EV charging infrastructure and equipment that is funded or authorized by state entities, AB 841 requires they be installed by a contractor who holds an Electric Vehicle Infrastructure Training Program (EVITP) certification. The California Energy Commission will conduct joint public workshops to determine if the EVITP curriculum should be modified.

OCTA Position – Monitor

Impact on OCTA: *For informational purposes. As the state moves toward transitioning to zero-emission technology for passenger vehicles, staff will continue to monitor and inform the process of investing in EV infrastructure.*

**AB 2038 (Assembly Transportation Committee) Transportation: Omnibus Bill
(Chapter 70, Statutes of 2020)**

AB 2038 serves as the transportation omnibus bill and makes several non-substantive changes to current statute. These minor changes include making the terminology consistent for parking offenses, removing a since completed reporting requirement for the California Highway Patrol medical dispatch training program, and removing provisions related to an obsolete two-year pilot program for emergency road service organization from 1992.

OCTA Position – Monitor

Impact on OCTA: *For informational purposes.*

**AB 2285 (Assembly Transportation Committee) Transportation
(Chapter 100, Statutes of 2020)**

AB 2285 is a transportation omnibus bill that makes noncontroversial changes to transportation-related statutes. This legislation expands the requirement for a person driving a vehicle to slow down or move over for certain stationary vehicles flashing emergency lights to also on local streets and roads, not only freeways. It also extends the pilot program for alternative license plates and vehicle registrations until January 1, 2023. Furthermore, this bill extends the requirement for the California Air Resources Board (CARB) to dedicate 20 percent of California Clean Truck, Bus, and Off-Road Vehicles and Equipment Program to support the early commercial deployment of existing zero- and near-zero-emission heavy-duty trucks from December 31, 2020 to December 31, 2021.

OCTA Position – Monitor

Impact on OCTA: *Monitoring will need to take place of any alternative license plate framework developed under to the described pilot program to ensure there are not implications for enforcement along the 91 Express Lanes. In relation to the CARB funding program, transit agencies are also eligible for funding under the California Clean Truck, Bus and Off-Road Vehicles and Equipment Program. By requiring a certain amount of funds to be used for heavy-duty trucks, this could decrease the overall amount of funding available to transit agencies as they are required to implement the zero-emission bus purchase requirements under the Innovative Clean Transit regulation.*

**ACA 5 (Weber, D-San Diego) Government Preferences
(Chapter 23, Statutes of 2020)**

ACA 5 is a constitutional amendment that asks the voters of California to decide on permitting the use of race, gender, and ethnic diversity as factors, but not decisive factors,

in college admissions, government hiring, and government contracting. If the initiative put on the ballot by ACA 5 is passed by voters, it would repeal Article I, Section 31 of the California Constitution, as codified by Proposition 209 (1996), and authorize the use of race, sex, color, ethnicity, and national origin in the aforementioned selection processes.

OCTA Position – Monitor

Impact on OCTA: *For informational purposes. If the related initiative, Proposition 16 (2020), is approved by voters, the consideration of race, sex, color, ethnicity, or national origin as a factor in hiring or contracting processes would not violate the California Constitution.*

**ACR 169 (Aguiar-Curry, D-Davis) Women in Construction Week
(Chapter 26, Statutes of 2020)**

ACR 169 recognized the week of March 1, 2020, to March 7, 2020, as Women in Construction Week. This bill recognizes the contribution of women in the construction industry and seeks to emphasize educational activities and programs that further encourage a diverse construction workforce that includes more women.

OCTA Position – Monitor

Impact on OCTA: *For informational purposes.*

**SCR 68 (Archuleta, D-Norwalk) Memorial Interchange
(Chapter 17, Statutes of 2020)**

SCR 68 designates the intersection of Interstate 605 and Katella Avenue as Sergeant (Sgt.) Thomas R. MacPherson Memorial Interchange. Sgt. MacPherson, a graduate of Los Alamitos High School, was an Army Ranger who was killed in action during his fourth tour of duty. Sgt. MacPherson was awarded the Bronze Star, the Army Achievement Medal, the Army Good Conduct Medal, and many other accommodations for his valiant service. SCR 68 requests that Caltrans determine the cost of the signage to designate the intersection and how such cost will be covered by donations as opposed to using taxpayer dollars.

OCTA Position – Monitor

Impact on OCTA: *For informational purposes.*