



November 19, 2020

To: Legislative and Communications Committee
From: Darrell E. Johnson, Chief Executive Officer
Subject: Status Report of State Legislation Enacted in 2020

Overview

At the conclusion of the 2020 legislative session, 372 bills were signed into law by Governor Newsom and chaptered by the Secretary of State, while 56 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

2020 Legislative Session Adjourns

Following the State Legislature's adjournment, the Governor had until September 30, 2020, to either sign or veto all legislation submitted to his office. Of the 428 bills sent to the Governor in 2020, 56 bills were vetoed, or 13 percent of the total number of bills presented to his office. The Governor acted on 614 fewer bills this year than last year. Due to the coronavirus (COVID-19) pandemic, the state legislative session was significantly truncated, and legislators were required to cut their legislative package to bills that needed to be addressed immediately or otherwise related to pandemic response.

The Orange County Transportation Authority (OCTA) Board of Directors (Board), legislative staff, and advocates were successful in advancing many of OCTA's interests in 2020. A detailed summary of legislation relevant to OCTA is included as Attachment A. Among the bills considered this session were the following proposals:

Status of Legislation Considered in 2020 - Bills Signed

SB 288 (Chapter 200, Statutes of 2020): California Environmental Quality Act: exemptions: transportation-related projects.

Position: Monitor

SB 288 establishes new California Environmental Quality Act (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 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.

If an agency wishes to pursue an exemption under this law, they will also need to follow additional requirements, which include that the lead agency's 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 which can be delegated by OPR to a metropolitan planning organization (MPO). 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. If an agency does not want to follow this process for a project, they can still choose to use the normal CEQA process. OCTA participated with other transportation stakeholders and partners to clarify provisions in SB 288 and help to mitigate any unintended consequences while ensuring the bill's usefulness. While not all amendments offered were integrated, OCTA will continue to monitor implementation and, on a case-by-case basis, determine whether the SB 288 process should be used for an eligible project instead of the normal CEQA process.

SB 1291 (Chapter 113, Statutes of 2020): Federal Statewide Transportation Improvement Program: submissions.

Position: Support

SB 1291 clarifies that MPOs and regional transportation agencies do not have to submit their regional Federal Transportation Improvement Program (FTIP) to the California Department of Transportation (Caltrans) in 2020, but instead will not be required to submit until 2022. The bill also specifies that Caltrans is not required to develop and submit the statewide FTIP documents to the Federal Highway Administration (FHWA) for approval in 2020. In both instances, the language allows flexibility for regional agencies, MPOs, and Caltrans to continue

to develop an FTIP, if needed, prior to 2022. Under SB 1291, the FTIP development schedule returns to every two years under state law, and by federal law every four years, after the one-time waiver facilitated by the bill.

The events of this year have greatly complicated the FTIP development schedule. The implementation of the Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule, a federal air quality rulemaking being finalized in two parts, created significant uncertainty at the beginning of the year. Both Part One and Part Two of the SAFE Vehicles Rule created delays across California, with MPOs working to understand the rulemaking's consequences for the FTIP development process. Even under normal circumstances, many MPOs would have been pressed to submit a regional FTIP by the statutory deadline of October 1 due to these delays. Unfortunately, the COVID-19 pandemic has only further compounded the situation. Transportation projects could be impacted if Caltrans cannot submit the statewide FTIP to FHWA by the statutory deadline on December 1. Based on a statewide consensus among MPOs across California, Caltrans plans to develop and submit the statewide FTIP to FHWA early next year. SB 1291 was necessary to ensure a one-time waiver for the FTIP development schedule to allow for the adequate planning of transportation projects during this unprecedented national emergency.

Budget Trailer Bills

Due to the impacts of COVID-19, OCTA staff worked with agencies across the state and the California Transit Association (CTA) to advocate for various regulatory and administrative relief measures in order for transit operators to continue to provide public transportation which was deemed as an essential service by the State. These relief measures included reforms providing flexibility in funding sources so that transit agencies could use them directly for operating expenses and relief from farebox and efficiency requirements that would not be met because of decreased ridership as a result of the pandemic. Moving forward, OCTA will continue to work with CTA and other stakeholders to pursue additional reforms to respond to COVID-19 impacts.

Additional Bills of Interest – Vetoed

SB 757 (Allen, D-Santa Monica): California Environmental Quality Act: environmental leadership projects: fixed guideway.

Position: Monitor

AB 900 (Chapter 354, Statutes of 2011) created the Jobs and Economic Improvement Through Environmental Leadership Act of 2011. Under this law, the Governor, by January 1, 2020, must certify projects for residential, retail, commercial, sports, cultural, entertainment, or recreational use as

Environmental Leadership Development Projects to receive the expedited judicial review procedures under CEQA. SB 757, sponsored by the Los Angeles Metropolitan Transportation Authority (LA Metro), would have expanded this shortened CEQA litigation period to fixed guideway projects so long that the project meets certain requirements including operating at zero emissions, and reducing vehicle miles traveled (VMT) and emissions in the corridor.

Although SB 757 was approved by the Legislature with bipartisan support, it contained a provision that tied its implementation to the passage of SB 995 (Atkins, D-San Diego), a bill that would have extended the sunset provision for the AB 900 process. SB 995 failed to meet its legislative deadline, and therefore, SB 757 could not be made law. In the Governor's veto message, he stated that he is supportive of efforts to accelerate transit projects that reduce greenhouse gas (GHG) emissions and VMT, but because of SB 757 implementation being contingent on SB 995 becoming law, he could not sign this bill. It is expected that a similar effort will be pursued by LA Metro next year.

SB 1351 (Beall, D-Campbell): Transportation Improvement Fee: revenue bonds.
Position: Monitor

SB 1351 would have provided authority to bond, up to \$5 billion, against future revenues generated from the SB 1 (Chapter 5, Statutes of 2017) Transportation Improvement Fee (TIF), to expedite the delivery of projects via the State Highway Operation and Protection Program (SHOPP). The rationale for bonding against future transportation revenues is that it allows the State to take advantage of currently low interest rates to expedite the delivery of transportation improvements that will create jobs during the difficult times. The bond proceeds would be used to expedite SHOPP projects, highway safety projects undertaken by Caltrans programmed in the 2020 SHOPP, as approved by the California Transportation Commission on May 13, 2020. All projects utilizing this authority would have to be environmentally cleared and have completed project design.

The Governor ultimately vetoed this legislative proposal. In his veto message, he stated that Caltrans does not need this tool to accelerate SHOPP projects because Caltrans has already increased the number of projects going to construction through project savings and other administrative actions. In addition, the veto message stated that bonding against future TIF revenues runs counter the principles in SB 1 and risks locking California into long-term debt obligations to finance maintenance repairs. It is important to note that the author of this legislation is termed out from the Legislature at the end of this year; therefore, it is uncertain if variation of this legislative proposal will be introduced in the next legislative session.

Additional Bills of Interest OCTA Supported – Failed Passage

The following bills on which OCTA took a position failed to make it to the Governor for consideration this legislative session:

ACA 13 (Obernolte, R-Big Bear): Local sales taxes: online sales.

Position: Support

ACA 13 would have authorized an initiative to be placed on the ballot to provide for a more equitable distribution of revenues provided under Bradley-Burns taxes by allowing revenues to flow to the place of distribution of goods sold, rather than point-of-sale, as current law provides. OCTA is receiving an estimated \$2-3 million less in Local Transportation Fund (LTF) revenues annually because of the way revenues are currently distributed. This revenue shortfall directly impacts OCTA's ability to provide sustained transit operations throughout the County. If ACA 13 were to have been successful, OCTA would have received a more equitable share of LTF funding, and extreme fluctuations due to the expected increase in online sales would be mitigated. ACA 13 was not heard in policy committee this session, and would have likely encountered significant opposition from local governments who benefit from the current situs rules for Bradley-Burns taxes. It is expected that this will be an issue of continued discussion as more data is available about the impact of situs rules on revenues from online purchases under Bradley-Burns.

AB 1402 (Petrie-Norris, D-Costa Mesa) and SB 152 (Beall, D-Campbell): Active Transportation Program.

Position: Sponsor/Support

OCTA co-sponsored AB 1402 with the Orange County Business Council and supported SB 152 (Beall, D-Campbell), sponsored by the Metropolitan Transportation Commission, both of which would have made reforms to the Active Transportation Program (ATP) to reduce the program's complexity and prioritize local decision-making without undermining existing policy priorities. Both AB 1402 and SB152 would have allocated 75 percent of ATP funding to large MPOs, 15 percent to the state's competitive program for small and rural areas, and ten percent in the statewide competitive program. This distribution would have provided roughly the same amount of funding most agencies are currently receiving, but with more consistency between programming cycles, allowing project sponsors to better plan for future projects. Both bills encountered opposition from local governments and regions that have been successful under the current ATP framework. In light of this opposition, neither author chose to pursue their respective bills this session.

SB 664 (Allen, D-Santa Monica): Electronic toll and transit fare collection systems.

Position: Support

Supported by OCTA and other California toll agencies, SB 664 would have clarified existing law to ensure toll operators statewide can meet interoperability requirements, enforce toll policies, and issue toll violations, without weakening existing privacy protections for the use of personally identifiable information. Without these clarifications, the operation of toll facilities within the state is still uncertain.

While SB 664 had bipartisan support with a broad coalition of support from toll operators across the state, opposition did come from various privacy groups, who often included representatives involved in litigation being pursued against toll operators within the state. Due to concerns raised by privacy committee staff at the end of 2019 legislative session, the bill was held to allow for further discussions and to take place. However, due to the COVID-19 pandemic, the discussions were placed on hold indefinitely. It is uncertain if stakeholders will seek to introduce similar legislation in the next session.

Additional Bills of Interest OCTA Opposed – Failed Passage**AB 1568 (McCarty, D-Sacramento): Housing Law Compliance: State Grants**

Position: Oppose

AB 1568 would have required the Department of Housing and Community Development to review any action or failure to act by a city or county that it determines is inconsistent with an adopted housing element or a specified provision of the Housing Element Law. It would have prohibited a city or county, found to be in violation of state law, from applying for a state grant, unless the eligibility of the city or county to apply is protected by the California Constitution, or the state grant funds, if awarded to the city or county, would have assisted in compliance with housing element requirements.

SB 526 (Allen, D-Santa Monica): Regional Transportation Plans: Greenhouse Gas Emissions

Position: Oppose

SB 526 would have required each MPO to submit data to the California Air Resources Board (CARB) describing how transportation funds have been spent in relation to their sustainable communities strategy and whether that spending has led to an increase or decrease in VMT. SB 526 would have also established an interagency working group, to be administered by the Strategic Growth Council, to develop and implement a State Mobility Action Plan for Health

Communities, which would have detailed various recommendations including an investment strategy to assist local governments with meeting GHG emission reduction targets. The bill would have required the working group to submit the plan to the Legislature by December 31, 2020.

While the author took many amendments to SB 526 put forward by OCTA, there was still a concern that SB 526 significantly changes the bottoms-up approach envisioned by SB 375 (Chapter 728, Statutes of 2008), which allowed regional flexibility in the meeting of the regional GHG reduction targets, and shifts the focus to project-by-project analysis and VMT reductions. Instead of pursuing this bill again in 2020, the author opted to introduce SB 1363 (Allen, D-Santa Monica).

SB 732 (Allen, D-Santa Monica): South Coast Air Quality Management District
Position: Oppose

SB 732 would have created a new taxing district, which would have facilitated the ability for the South Coast Air Quality Management District (SCAQMD) Board to impose a transactions and use tax within the boundaries of its district. The new special voting district would have covered the SCAQMD jurisdiction, which includes all of Orange County and portions of Los Angeles, Riverside, and San Bernardino Counties. SB 732 would have authorized the pursuit of a ballot initiative for a new sales tax, as high as one percent, on all purchases of tangible personal property in the district in order to fund air quality improvements. SCAQMD initially sought this authority to allow for a ballot measure in 2020; however, the COVID-19 pandemic stalled these discussions. It is expected that SCAQMD will again pursue this authority in future legislative sessions.

SB 1363 (Allen, D-Santa Monica): Regional transportation plans: sustainable communities strategies: greenhouse gas emissions and vehicle miles traveled reduction targets.

Position: Oppose Unless Amended

Similar to SB 526, SB 1363 was a continuation of the author's previous efforts to expand upon SB 375's requirements for each MPO to adopt a regional transportation plan that includes a sustainable communities strategy (SCS) that seeks to meet regional GHG emission reduction targets for 2020 and 2035. The bill would have required that MPOs meet GHG and VMT reduction targets in 2035, 2045, and 2050. Whereas the initial GHG targets for 2020 and 2035 were developed with public input, the new GHG emission and VMT reduction targets would be set by CARB, without any public input process. Under the bill, VMT reduction targets may be expressed in miles per capita, percent reduction, or another metric set by CARB. SB 1363 also would have required that MPOs submit to CARB a draft SCS at least 60 days before the MPO adopts the SCS.

In conjunction with the draft SCS, the bill would have required that the MPO also submit its forecasted development pattern and transportation projects, as supported by measurable local and regional funding. Overall, SB 1363 would have added new VMT reduction requirements to the SCS development process in a way that is inconsistent with SB 375's approach. Although this legislation was held this session because of the COVID-19 pandemic, it is expected that bills related to amending SB 375 will be introduced in the next legislative session.

AB 2011 (Holden, D-Pasadena): West San Bernardino County Rail Construction Authority and SB 1390 (Portantino, D-Glendale): Montclair to Ontario Airport Construction Authority

Position: Oppose

AB 2011 and SB 1390 would have each created a new construction authority for the purposes of extending the Metro Gold Line light rail from the City of Montclair to the Ontario International Airport. In both AB 2011 and SB 1390, the proposed board would be made up of seven voting members and one nonvoting member, with delineated powers necessary to complete the project. Although both bills are seeking the same outcome, SB 1390 went further in establishing financial parameters. Two primary differences between SB 1390 and AB 2011 were that SB 1390 identified San Bernardino County Transportation Authority's (SBCTA) local tax Measure I proceeds as a source of funding for this project and required LA Metro to operate the finished project within San Bernardino County, with operations costs to be reimbursed by SBCTA.

Nonetheless, AB 2011 and SB 1390 would have set a concerning precedent by allowing the state and certain jurisdictions to dictate local planning strategies. Furthermore, AB 2011 and SB 1390 would have been inconsistent with SBCTA's voter-approved transportation sales tax measures, such as Measure I in San Bernardino County. Due to the COVID-19 pandemic, neither bill was pursued, however, it is expected a similar proposal may be introduced again in the future.

Additional Bills of Interest OCTA Monitored – Failed Passage

Free Fare Legislation

Three bills were introduced this legislative session, which would have mandated transit agencies to provide free fares to certain groups of individuals in order to maintain eligibility for state transit funding provided through the State Transit Assistance program, Transportation Development Program (TDA), and the Low Carbon Transit Operations Program. The three groups considered this legislative session were riders who were 18 years of age or younger, over the age of 65, and college students. Over the last few years, several bills have been

proposed in the Legislature seeking to incentivize or mandate the creation of lower or free fares for youth and other groups, with the goal of generating increased ridership on transit systems and helping to meet environmental goals. Most of these efforts have focused on passes specifically for low-income individuals, and similar to legislation this year, did not identify a funding source.

Although these measures were unable to move forward due to impacts from the COVID-19 pandemic, it is expected that similar proposals will be introduced in the next legislation session seeking to implement free or reduced-fare programs. During the pandemic, agencies across the nation implemented free fare policies to mitigate the spread of COVID-19 and some transit operators are beginning to study how they can extend a free fare system outside of the pandemic. OCTA staff has engaged in conversations about how these proposals could be implemented in a manner that does not disrupt service or create issues with funding eligibility. It is also expected that a conversation will continue next year about overall reforms to the TDA and farebox recovery requirements. It is currently unclear how the free transit pass discussion will interact with or change those longstanding reform proposals.

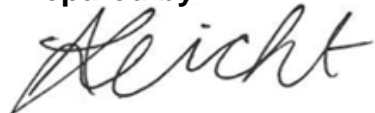
Summary

A summary report on all state legislation enacted in 2020 affecting the Orange County Transportation Authority is provided for review by the Board.

Attachment

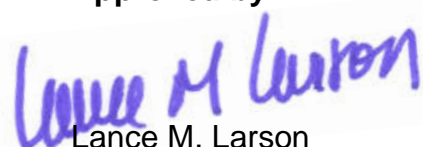
- A. Orange County Transportation Authority 2020 End of Year Legislative Report

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