



**November 18, 2021**

**To:** Legislative and Communications Committee  
**From:** Darrell E. Johnson, Chief Executive Officer  
**Subject:** Status Report of State Legislation Enacted in 2021

### **Overview**

At the conclusion of the 2021 state legislative session, 770 bills were signed into law by Governor Newsom and chaptered by the Secretary of State, while 66 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**

#### **2021 Legislative Session Adjourns**

Following the State Legislature's adjournment on September 10, 2021, the Governor had until October 10, 2021, to either sign or veto all legislation submitted to his office. Of the 836 bills sent to the Governor this year, 66 bills were vetoed, or 7.9 percent of the total number of bills passed by the Legislature. The Governor acted on 408 more bills this year than last year.

The Orange County Transportation Authority (OCTA) Board of Directors, legislative staff, and advocates were successful in supporting and advancing many of OCTA's priorities in 2021. A detailed summary of legislation relevant to OCTA is included as Attachment A.

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Status of Legislation Considered in 2021 – Notable Bills SignedAB 361 (Rivas, D-Salinas): Open Meetings: State and Local Agencies: Teleconferences  
Position – Monitor

During the pandemic, the Governor issued executive orders to create flexibilities that allowed for public meetings to be held by teleconference in order to maintain public health and safety. Prior to Executive Orders N-29-20 and N-08-21, public meetings subject to the Ralph M. Brown Act (Brown Act) could only be held via teleconference pursuant to certain requirements. AB 361 made a variety of changes to the Brown Act in order to codify the Governor's executive order and allow local legislative bodies to continue conducting business remotely. Entities making use of the authority granted by AB 361 to operate by teleconference during a proclaimed state of emergency must comply with several requirements to maintain public access. Among the bill's requirements, an entity must take a majority vote, renewed every 30 days thereafter, stating the necessity of meeting virtually, provide an opportunity for real-time comments, and cease action on any items if the meeting is disrupted until the issue is resolved. AB 361 will sunset on January 1, 2024. As required by AB 361, OCTA will be allowed to continue adopting resolutions to detail the findings for teleconference meetings and provide an opportunity for real-time comments for each agenda item.

AB 1499 (Daly, D-Anaheim): Transportation: Design-Build: Highways  
Position: Support

In 2013, OCTA sponsored AB 401 (Chapter 586, Statutes of 2013) to expand the use of the design-build procurement method. Specifically, AB 401 authorized unlimited use of design-build authority for state highway projects by regional transportation agencies and also authorized the California Department of Transportation (Caltrans) to utilize design-build for up to ten projects. The authority provided by AB 401 was scheduled to sunset on January 1, 2024. AB 1499 provides a clean extension of design-build authority until January 1, 2034, without making any significant policy changes. Since the enactment of AB 401, several highway projects have been eligible to utilize the design-build authority, including the Interstate 405 Improvement Project and projects undertaken by the Riverside County Transportation Commission and Caltrans. While OCTA does not have current projects lined up to utilize this procurement method, design-build authority remains a valuable option for future consideration.

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SB 339 (Wiener, D-San Francisco): Vehicles: Road Usage Charge Pilot Program  
Position: Support

In 2014, the Legislature approved SB 1077 (Chapter 835, Statutes of 2014), which required the California Transportation Commission (CTC) to establish a Road Usage Charge Technical Advisory Committee (RUC TAC). The RUC TAC was initially tasked with implementing a pilot program to evaluate a mileage-based revenue collection as an alternative to the gasoline tax funding source currently in place. SB 339 extends the responsibilities of the RUC TAC until January 1, 2027. The bill also requires that the RUC TAC make recommendations, by January 1, 2023, on a completely voluntary pilot program to test revenue collection. Following these recommendations, the California State Transportation Agency (CalSTA) is directed to work with relevant state agencies to create the pilot program. CalSTA, working with the CTC, must submit to the Legislature a report, by July 1, 2024, on the interim status of the program and a final report, by December 31, 2026, on the voluntary pilot program's findings. As the agency responsible for Orange County's transportation future, it is essential that there be a reliable long-term funding source to deliver transportation improvements and services. SB 339 provides the opportunity to further investigate one potential alternative revenue stream in an equitable and holistic manner, which can also help inform any correlating federal effort.

SB 640 (Becker, D-San Mateo): Transportation Financing: Jointly Proposed Projects

Position: Support

SB 1 (Chapter 5, Statutes of 2017) created the Road Maintenance and Rehabilitation Account (RMRA), a percentage of which is continuously appropriated funding to cities and counties on a formula basis under the Local Streets and Roads Program (LSR), for use on road rehabilitation, safety, and maintenance projects. SB 640 authorizes cities and counties to propose projects to be jointly funded by the cities and counties' apportionments of LSR funds. While current law does not explicitly prohibit eligible entities from pooling LSR resources, the CTC allocates funding to each individual entity, and each LSR recipient must separately report to the CTC on how the LSR funds are spent, causing cross-jurisdictional LSR improvements to be split into separate projects. SB 640 will streamline the process for jointly funded projects so that neighboring localities can collaborate most effectively to deliver LSR improvements. While OCTA does not itself receive funding, cities and the County of Orange could benefit from the flexibility provided by the bill.

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**SB 790 (Stern, D-Calabasas): Wildlife Connectivity Actions: Compensatory Mitigation Credits****Position: Support**

In 2017, AB 1282 (Chapter 643, Statutes of 2017) established a Transportation Permitting Task Force and requires a report to the Legislature on recommendations for permitting reform to advance transportation projects. SB 790 allows the California Department of Fish and Wildlife to approve compensatory mitigation credits for wildlife connectivity actions taken under two different programs. The first program is the Conservation and Mitigation Banking program, which is used to sell or transfer habitat credits to satisfy legal requirements and compensate for the environmental impacts of developmental projects. The second program is the Regional Conservation Investment Strategy program, which identifies and prioritizes regional conservation through a science-based public process while also encouraging investments in conservation through advance mitigation. SB 790 promotes the concept of advanced environmental mitigation, complementing the work OCTA is already undertaking. Staff will monitor the implementation of this program to determine if it would be effective for OCTA's use.

**Additional Bills of Interest – Vetoed****AB 339 (Lee, D-Milpitas): Local Government: Open and Public Meetings****Position: Neutral (previously “Oppose Unless Amended”)**

AB 339 would have required that open and public meetings of city councils and boards of supervisors with populations greater than 250,000 include an opportunity for all persons to attend and make public comment via a two-way telephonic or internet-based service option. The city council or county board of supervisors would be required to continue providing video streaming if that technology had been utilized as of June 15, 2021. AB 339 would have further required open and public meetings to provide in-person public comment unless there are circumstances during a declared state or local emergency that prohibit in-person meetings. These provisions would have sunset on December 31, 2023. This bill would not have applied to OCTA. The Governor's veto message cited the potential for AB 339 to create a patchwork of public access requirements across the State while also limiting flexibility for localities trying to manage their meetings. Given the amount of interest on this subject from the Legislature, localities, and stakeholder organizations, additional legislative proposals on public meetings could continue to be proposed in the near future, especially as the impacts of the pandemic continue to linger.

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AB 604 (Daly, D-Anaheim): Road Maintenance and Rehabilitation Account:  
Apportionment of Funds: Accrued Interest

Position: Monitor

AB 604 would have directed interest earnings derived from revenues deposited in the RMRA to the State Highway Operation and Protection Program. Interest earnings have been an ongoing topic of discussion in recent years, especially since SB 1 and other transportation bills have not been overly clear on which accounts interest should be directed to. In his veto message, the Governor indicated that the state budget already appropriated revenue interest through 2028. The veto message went on to say that the Governor expects revenue interest and all outstanding transportation funding issues in this year's budget, including high-speed rail and projects for the 2028 Olympics, to be handled in a comprehensive transportation package early next year. Staff will continue to monitor any proposals and provide updates on relevant developments.

AB 1147 (Friedman, D-Glendale): Regional Transportation Plan: Active  
Transportation Program

Position: Monitor

In 2008, SB 375 (Chapter 728, Statutes of 2008) was enacted and requires metropolitan planning organizations (MPO) like the Southern California Association of Governments, to develop a sustainable communities strategy (SCS) as part of their regional transportation plan, that demonstrates the ability to meet regional greenhouse gas (GHG) emission reduction targets. AB 1147 would have made several changes to the SB 375 planning process.

The bill would have expanded the scope of the Strategic Growth Council's (SGC) report on the California Transportation Plan to include a discussion of fiscal constraints on SCS implementation, barriers to achieving SB 375's GHG emission reduction targets, the unintended consequences of strategies intended to reduce vehicle miles traveled, and recommendations on tools and resources necessary to help SCS strategies achieve state goals. The bill language would have directed this report to consider the roles that the State, MPOs, regional transportation agencies, and localities play in SCS implementation, including mandatory stakeholder working groups on the subject.

In addition, AB 1147 would have also altered the statutory requirements of the report produced every four years by the California Air Resources Board (CARB) on the progress MPOs are making in reducing GHG emissions via the SB 375 process, including language on data-supported metrics and challenges faced by MPOs in meeting GHG reduction targets. AB 1147 would have also required local jurisdictions to report to the MPO on actions they have taken to implement or be consistent with the regional SCS and identify barriers to further

implementation. In addition, the bill language would have established “15-minute communities,” defined as a city or county unincorporated area where every resident has access to essential services within a 15-minute bicycle ride or public transit ride.

OCTA staff worked extensively with stakeholders to inform this legislative effort to ensure it maintains a flexible, bottoms-up approach to transportation planning while still maintaining the goals created in SB 375. Through this effort, the author did secure \$600 million through the budget process to aid in the planning and implementing of projects in the SCS that will reduce regional GHG emissions. While the funding could benefit transportation programs in Orange County and throughout Southern California, the substantive requirements in AB 1147 were vetoed by the Governor. The veto message cites the fact that the bill did not mandate or incentivize regional and local agencies to make land-use decisions to change development and transportation patterns. Without such requirements, the Governor vetoed the bill because the additional reporting requirements are duplicative of the various state agencies that are already collaborating on these issues. Given the Legislature’s interest in this subject, policy proposals similar to AB 1147 are expected to return in the coming years.

SB 792 (Glazer, D-Orinda): Sales and Use Tax: Returns: Online Transactions: Local Jurisdiction Schedule  
Position: Monitor

SB 792 would have required retailers to include with their sales tax returns a schedule that reports the gross receipts from sales of property for each local jurisdiction where it shipped or delivered products in that jurisdiction. Pursuant to the bill, only retailers with more than \$50 million in online sales would have been subject to this new reporting requirement. The bill would not have altered sales tax collection in any way, instead seeking to ensure additional transparency in the distribution of sales tax revenues collected from online transactions. In vetoing the bill, the Governor’s message stated that this information is duplicative of information already available on the California Department of Tax and Fee Administration’s online portal. Moreover, the veto message cited the burden of the reporting requirement and declared this information unrelated to the tax obligations of retailers, ignoring the additional transparency this would have provided to public agencies like OCTA funded by sales tax revenue.

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Additional Bills of Interest with OCTA Position – Two-Year BillsSB 261 (Allen, D-Santa Monica): Regional Transportation Plans: Sustainable Communities

Position: Oppose Unless Amended

SB 261 would require that CARB establish a process to require that an SCS be developed to achieve greenhouse gas emission reduction targets for the automobile and light truck sector for 2045 and 2050 and vehicle miles traveled reduction targets for 2035, 2045, and 2050. The bill is part of the author's ongoing efforts on this subject, including legislation introduced in four of the last five years. Additionally, the SCS reporting requirements in AB 1147, shows the Legislature's desire to take on issues related to transportation planning and SCS policies. It is expected that the author will continue to meet with interested stakeholders, prior to the Legislature returning next year, to try to address any concerns. The bill then is likely to again be taken up by the Legislature, perhaps in a revised format, next year.

SB 623 (Newman, D-Fullerton): Electronic Toll and Transit Fare Collection Systems

Position: Support

SB 623 would have clarified provisions related to toll facility interoperability and enforcement. While supported by toll agencies across the State, the bill again encountered opposition from customer attorney and privacy advocacy groups, similar to the previous iteration of this effort, SB 664 (Allen, D-Santa Monica). While a two-year bill, staff's understanding is that the bill will not proceed next year.

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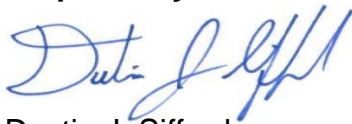
**Summary**

A report containing an analysis of legislation enacted in 2021 affecting OCTA is provided

**Attachment**


- A. Orange County Transportation Authority 2021 End of Year Legislative Report

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