

BILL: AB 7 (Friedman, D-Burbank)
Introduced December 5, 2022
Amended March 16, 2023
Amended May 25, 2023

SUBJECT: AB 7 would create new priorities for how the California State Transportation Agency, the California Department of Transportation and California Transportation Commission are to implement transportation funding programs, project development and project implementation; and require revision to the elements of the California Transportation Plan.

STATUS: Pending in Senate
Passed Assembly 54-17
Passed the Assembly Appropriations Committee 12-3
Passed the Assembly Transportation Committee 11-4

SUMMARY AS OF MAY 31, 2023:

AB 7 (Friedman, D-Burbank) adds new requirements for the California Transportation Plan (CTP) and lists priorities which the California State Transportation Agency (CalSTA), the California Department of Transportation (Caltrans) and the California Transportation Commission (CTC) are to incorporate into their processes for transportation project development, selection and implementation, to the extent possible, feasible, applicable and cost effective. The intent of the author is to better align transportation programs with the State's climate, maintenance and safety goals, in addition to some of the new goals included in the federal Infrastructure Investment and Jobs Act.

The CTP is a long-range transportation plan developed by Caltrans every five years, pursuant to state statute, to demonstrate how the State will meet its greenhouse gas emission reduction goals. Previous iterations of this plan have been critiqued for including proposals that are not financially constrained, as a regional transportation plan is required to be, and including assumptions related to land use and development that are not realistic. AB 7 seeks to help address these shortcomings by requiring the CTP to include a financial element that summarizes the full cost of the CTP, available revenues through the planning period and what is feasible within the plan if constrained by actual revenues. Further, this element is to evaluate the feasibility of any policy assumptions or scenarios included in the CTP, and may discuss tradeoffs within the plan considering fiscal constraints. AB 7 also requires the CTP to include an analysis of how CalSTA, Caltrans and the CTC are achieving principles outlined in the Climate Action Plan for Transportation Infrastructure (CAPTI), the Infrastructure Investment and Jobs Act (IIJA) and the federal Justice40 initiative, which is from a federal Executive Order that created the goal of having 40 percent of certain federal investments flow to disadvantaged communities.

AB 7 then goes further to require, on or after January 1, 2025, CalSTA, Caltrans and the CTC, to the extent possible, feasible, applicable and cost effective, to incorporate various

principles into their processes for transportation project development, selection and implementation. These principles include cross-references to federal statutory sections, selectively choosing certain parameters governing federal funding programs, including short-term discretionary grant programs. For instance, there are principles that cross-reference the National Highway Performance Program and discuss resiliency and safety, a principle that cross-references the Americans with Disabilities Act, and another principle that cross-references the One Federal Decision framework that has not yet been finalized. In addition, principles are included that address other priorities, including promoting compact infill development; reducing vehicle miles traveled including considering alternatives to general purpose lanes; building an integrated state rail and transit network; making safety improvements to reduce fatalities and severe injuries; strengthening commitment to social and racial equity including avoiding placing new or exacerbating existing burdens on these communities; and protecting natural and working lands from conversion by supporting local and region conservation.

EFFECTS ON ORANGE COUNTY:

The Orange County Transportation Authority (OCTA) is responsible for developing the long-range transportation plan (LRTP), which outlines the transportation priorities for the county over the horizon year of the Southern California Association of Governments' (SCAG) regional transportation plan (RTP). The LRTP is then integrated into the RTP. These plans must be financially constrained, based on existing and projected revenues. As currently developed, however, the CTP is not subject to the same restrictions. Therefore the CTP can propose significantly higher transit service levels; expansion of transit, rail and active transportation systems; and the location of future land use and housing that are not aligned with available revenues or policies adopted in a RTP. While AB 7's proposed language related to adding a financial element is a step in the right direction to resolve these discrepancies, the currently proposed language does not ensure alignment with assumptions in adopted RTPs. Without consistency, the CTP could include proposals that would require a redirection of existing resources, include new revenues that are not likely to accrue, or projected service levels or pricing assumptions that are not currently planned or feasible.

Further, AB 7's proposed language to require analysis of how the plan aligns with the principles of CAPTI, IIJA and Justice40, is not only unclear but would also put into statute policy documents that could change moving forward or are not statutorily authorized. For instance, CAPTI and Justice40 were both done via executive order. These goals are evolving and may change in the future. However, the CTP would continue to have to reference them, not affording an opportunity for the CTP to align with the most current requirements. Further, the IIJA was a federal reauthorization bill that reauthorized several federal transportation funding programs, some of which have existed for decades. Under each funding program there are a host of eligibility parameters and goals. Based on the current language, it would appear that the CTP would have to show how its meeting all of these goals. This is regardless of whether an authorized program is only created for a limited duration or intent. Already part of the intent of the CTP is to show how the State

will meet various state goals and objectives; this added language is not only unclear but could complicate the focus of this plan.

Similarly, AB 7's language which would require CalSTA, Caltrans and the CTC to incorporate various priorities into their project development, selection and implementation, is unclear and could jeopardize transportation funding and planning programs. As currently drafted, AB 7 would apply to any funding program administered by the specified agencies, including formula programs OCTA receives directly like State Transportation Improvement Program and Low Carbon Transit Operations Program. It would also apply to various competitive grant programs including the Transit and Intercity Rail Capital Program and SB 1 (Chapter 5, Statutes of 2017) programs. The bill's reference to project development and implementation also infers that these principles are to apply beyond the funding programs, including potentially in approval processes and permitting.

AB 7 includes 18 priorities, some of which do not align with the intent of existing programs, and selectively chooses which priorities to include from federal programs. For instance, AB 7 directly sites to several specific sections of federal code governing programs like the NHPP, ADA and various discretionary grant programs. However, the priority of those programs described in AB 7 does not align with what federal statute provides as the priorities. This could create discrepancies between how state agencies prioritize transportation programs and what is required under federal law. Further, complete discretion is given to CalSTA, Caltrans and the CTC to determine which priorities are possible, feasible, applicable and cost-effective for each area, regardless of what statute already requires. This could provide an opportunity to add significant new requirements to SB 1 programs and other transportation funds, rewriting the original intent of those programs. It could also provide authorization to add new requirements to how a project is planned and implemented. This creates significant uncertainty for future transportation funding and planning efforts, impacting projects by OCTA.

Mobility 21, the Orange County Business Council, Rebuild SoCal, the Riverside County Transportation Commission and others have already adopted oppose positions to this bill. An OPPOSE position is consistent with OCTA's 2023-24 State Legislative Platform principles to "Oppose linking or reprioritizing local and state transportation funding to programs not primarily intended to help the State meet its transportation needs."

OCTA POSITION:

Staff recommends: OPPOSE

AMENDED IN ASSEMBLY MAY 25, 2023
AMENDED IN ASSEMBLY MARCH 16, 2023
CALIFORNIA LEGISLATURE—2023–24 REGULAR SESSION

ASSEMBLY BILL

No. 7

Introduced by Assembly Member Friedman

December 5, 2022

An act to *amend Section 65072 of, and to add Section 13985-~~to~~ to*, the Government Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

AB 7, as amended, Friedman. Transportation: *planning*: project selection processes.

~~Existing~~

(1) *Existing* law establishes within state government the Transportation Agency, which consists of the Department of the California Highway Patrol, the California Transportation Commission, the Department of Motor Vehicles, the Department of Transportation, the High-Speed Rail Authority, and the Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun. The agency is under the supervision of the Secretary of Transportation, who has the power of general supervision over each department within the agency. The secretary, among other duties, is charged with developing and reporting to the Governor on legislative, budgetary, and administrative programs to accomplish coordinated planning and policy formulation in matters of public interest, including transportation projects.

~~This bill would require, on and after January 1, 2025, the project selection process for each transportation project that would be funded, at least partially, from specified funding sources, including the State~~

Highway Account, the Road Maintenance and Rehabilitation Account, and the Trade Corridor Enhancement Account, to incorporate specified principles. The bill would require the agency, on or before January 1, 2026, and annually thereafter, to submit a report to the Legislature on how those transportation projects that were completed during the prior year incorporated those principles.

To the extent this bill would impose new duties on a local government, the bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

On and after January 1, 2025, and to the extent possible, feasible, applicable, and cost effective, this bill would require the agency, the Department of Transportation, and the California Transportation Commission to incorporate specified principles into their processes for project development, selection, and implementation.

(2) Existing law requires the Department of Transportation to prepare the California Transportation Plan for submission to the Governor and the Legislature, to complete the 3rd update to the plan by December 31, 2025, and to update the plan every 5 years thereafter, as a long-range planning document that incorporates various elements and is consistent with specified expressions of legislative intent.

This bill would require the California Transportation plan to include a financial element, as specified, and an analysis of how certain entities are achieving principles outlined in the Climate Action Plan for Transportation Infrastructure, the federal Infrastructure Investment and Jobs Act of 2021, and the federal Justice40 initiative.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~yes~~-no.

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

- 1 SECTION 1. The Legislature finds and declares all the
- 2 following:
- 3 (a) State transportation accounts for approximately
- 4 \$30,000,000,000 of spending between state and local funds, and

1 *contributes approximately 40 percent of the state’s greenhouse*
2 *gas emissions.*

3 *(b) President Biden’s Executive Order No. 14052 (E.O. 14052),*
4 *titled “Implementation of the Infrastructure Investment and Jobs*
5 *Act” (IIJA), says that the IIJA is “a once-in-a-generation*
6 *investment in our Nation’s infrastructure and competitiveness.”*
7 *E.O. 14052 also says that the programs and funding enabled*
8 *through IIJA will “help rebuild America’s roads, bridges, and*
9 *rails; expand access to clean drinking water; work to ensure access*
10 *to high-speed internet throughout the Nation; tackle the climate*
11 *crisis; advance environmental justice; and invest in communities*
12 *that have too often been left behind” and that it will “accomplish*
13 *all of this while driving the creation of good-paying union jobs*
14 *and growing the economy sustainably and equitably for decades*
15 *to come.”*

16 *(c) Effective implementation by the executive departments and*
17 *agencies with statutory responsibilities designated in the IIJA will*
18 *be critical to achieving these goals.*

19 *(d) It is the intent of the state to implement federal guidance*
20 *from the IIJA to the utmost and fullest extent in order for the state*
21 *to be competitive for future federal funding, and to improve the*
22 *lives of all Californians.*

23 *(e) Under Governor Gavin Newsom’s Climate Action Plan for*
24 *Transportation Infrastructure (CAPTI), California is committed*
25 *to investing billions of discretionary transportation dollars to*
26 *combat and adapt to climate change while supporting other vital*
27 *state goals, including the economy, the environment, quality of*
28 *life, public health, high-quality resilient infrastructure, safety,*
29 *accessibility, and equity.*

30 *SEC. 2. Section 65072 of the Government Code is amended to*
31 *read:*

32 *65072. The California Transportation Plan shall include all of*
33 *the following:*

34 *(a) A policy element that describes the state’s transportation*
35 *policies and system performance objectives. These policies and*
36 *objectives shall be consistent with legislative intent described in*
37 *Sections 14000, 14000.5, 14000.6, and 65088.*

38 *(b) A strategies element that shall incorporate the broad system*
39 *concepts and strategies synthesized from the adopted regional*

1 transportation plans prepared pursuant to Section 65080. The
 2 California Transportation Plan shall not be project specific.

3 (c) *A financial element that summarizes the full cost of the*
 4 *implementation of the California Transportation Plan, a summary*
 5 *of available revenues through the planning period, and an analysis*
 6 *of what is feasible within the plan if constrained by a realistic*
 7 *projection of available revenues. The financial element shall also*
 8 *evaluate the feasibility of any policy assumptions or scenarios*
 9 *included in the plan. The financial element may include a*
 10 *discussion of tradeoffs within the plan considering financial*
 11 *constraints.*

12 (d) *An analysis of how the Transportation Agency, Department*
 13 *of Transportation, and California Transportation Commission are*
 14 *achieving principles outlined in the Climate Action Plan for*
 15 *Transportation Infrastructure, the federal Infrastructure Investment*
 16 *and Jobs Act of 2021 (Public Law 117-58), and the federal*
 17 *Justice40 initiative.*

18 (e)

19 (e) A recommendations element that includes economic forecasts
 20 and recommendations to the Legislature and the Governor to
 21 achieve the plan's broad system concepts, strategies, and
 22 performance objectives.

23 SECTION 1.

24 SEC. 3. Section 13985 is added to the Government Code, to
 25 read:

26 13985. ~~(a) On and after January 1, 2025, the project selection~~
 27 ~~process for each transportation project that would be funded, at~~
 28 ~~least partially, from a funding source specified in subdivision (b)~~
 29 ~~shall incorporate the principles specified in subdivision (e): to the~~
 30 ~~extent possible, feasible, applicable, and cost effective, the~~
 31 ~~Transportation Agency, Department of Transportation, and~~
 32 ~~California Transportation Commission shall incorporate into their~~
 33 ~~processes for project development, selection, and implementation~~
 34 ~~all of the following principles:~~

35 ~~(b) This section shall only apply to a transportation project~~
 36 ~~funded, at least partially, from one or more of the following~~
 37 ~~sources:~~

38 ~~(1) The State Highway Account described in Section 182 of the~~
 39 ~~Streets and Highways Code.~~

- 1 ~~(2) The Road Maintenance and Rehabilitation Account created~~
2 ~~pursuant to Section 2031 of the Streets and Highways Code.~~
- 3 ~~(3) A local transportation fund established by a county pursuant~~
4 ~~to Article 11 (commencing with Section 29530) of Chapter 2 of~~
5 ~~Division 3 of Title 3.~~
- 6 ~~(4) The Highway Safety, Traffic Reduction, Air Quality, and~~
7 ~~Port Security Fund of 2006 created pursuant to Section 8879.23.~~
- 8 ~~(5) The Highway Users Tax Account described in Section 2100~~
9 ~~of the Streets and Highways Code.~~
- 10 ~~(6) The Trade Corridor Enhancement Account created pursuant~~
11 ~~to Section 2192.4 of the Streets and Highways Code.~~
- 12 ~~(e) The following principles shall be incorporated into the~~
13 ~~project selection processes described in subdivision (a):~~
 - 14 ~~(1)~~
15 ~~(a) Improving the condition, resilience, and safety of road and~~
16 ~~bridge assets consistent with asset management plans, including~~
17 ~~investing in preservation of those assets, consistent with Section~~
18 ~~119 of Title 23 of the United States Code.~~
 - 19 ~~(2)~~
20 ~~(b) Promoting and improving safety for all road users,~~
21 ~~particularly vulnerable users, and supporting major actions and~~
22 ~~goals consistent with the federal Department of Transportation's~~
23 ~~January 2022 National Roadway Safety Strategy for safer people,~~
24 ~~safer roads, safer vehicles, safer speeds, and enhanced post-crash~~
25 ~~care, consistent with Section 148 of Title 23 of the United States~~
26 ~~Code.~~
 - 27 ~~(3)~~
28 ~~(c) Supporting accelerated project delivery and an efficient~~
29 ~~environmental review process through the One Federal Decision~~
30 ~~framework and by continuing to coordinate with other federal~~
31 ~~partners to ensure that the benefits of projects are realized as soon~~
32 ~~as possible, consistent with Section 139 of Title 23 of the United~~
33 ~~States Code.~~
 - 34 ~~(4)~~
35 ~~(d) Making streets and other transportation facilities accessible~~
36 ~~to all users and compliant with the Americans with Disabilities~~
37 ~~Act, consistent with Part 37 (commencing with Section 37.1) of~~
38 ~~Title 49 of the Code of Federal Regulations.~~
 - 39 ~~(5)~~

1 (e) Addressing environmental impacts ranging from ~~storm water~~
2 *stormwater* runoff to the emissions of greenhouse gases, consistent
3 with Sections 175 and 176 of Title 23 of the United States Code.

4 ~~(6)~~

5 (f) Prioritizing infrastructure that is less vulnerable and more
6 resilient to a changing climate, consistent with Sections 101, 119,
7 176, and 520 of Title 23 of the United States Code.

8 ~~(7)~~

9 (g) Future-proofing transportation infrastructure by
10 accommodating new and emerging technologies such as electric
11 vehicle charging stations, renewable energy generation, and
12 broadband deployment in transportation rights-of-way, consistent
13 with Part 645 (commencing with Section 645.101) of Title 23 of
14 the Code of Federal Regulations and Section 151 of Title 23 of
15 the United States Code.

16 ~~(8)~~

17 (h) Reconnecting communities and reflecting the inclusion of
18 disadvantaged and underrepresented groups in the planning, project
19 selection, and design process, consistent with Section 11509 of
20 the federal Infrastructure Investment and Jobs Act (Public Law
21 117-58).

22 ~~(d) (1) On or before January 1, 2026, and annually thereafter,~~
23 ~~the agency shall submit a report to the Legislature on how each~~
24 ~~transportation project described in subdivision (a) that was~~
25 ~~completed during the prior year incorporated the principles~~
26 ~~specified in subdivision (c).~~

27 ~~(2) A report to be submitted pursuant to this subdivision shall~~
28 ~~be submitted in compliance with Section 9795.~~

29 (i) *Building toward an integrated, statewide rail and transit*
30 *network, centered around the existing California State Rail Plan,*
31 *that leverages the California Integrated Travel Project to provide*
32 *seamless, affordable, multimodal travel options in all contexts,*
33 *including suburban and rural settings, to all users.*

34 (j) *Investing in networks of safe and accessible bicycle and*
35 *pedestrian infrastructure, particularly by closing gaps on portions*
36 *of the state highway system that intersect local active*
37 *transportation and transit networks or serve as small town or rural*
38 *main streets, with a focus on investments in low-income and*
39 *disadvantaged communities throughout the state.*

1 (k) Including investments in light, medium, and heavy-duty
2 zero-emission vehicle (ZEV) infrastructure as part of larger
3 transportation projects. Supporting the innovation in and
4 development of the ZEV market and help ensure ZEVs are
5 accessible to all, particularly to those in more rural or remote
6 communities.

7 (l) Strengthening our commitment to social and racial equity
8 by reducing public health and economic harms and maximizing
9 community benefits to disproportionately impacted disadvantaged
10 communities, low-income communities, and Black, Indigenous,
11 and People of Color (BIPOC) communities in urbanized and rural
12 regions, and involving these communities early in decisionmaking.
13 Investments should also avoid placing new or exacerbating existing
14 burdens on these communities, even if unintentional.

15 (m) Making safety improvements to reduce fatalities and severe
16 injuries of all users towards zero on our roadways, railways, and
17 transit systems by focusing on context-appropriate speeds,
18 prioritizing vulnerable user safety to support mode shift, designing
19 roadways to accommodate for potential human error and injury
20 tolerances, and ultimately implementing a safe systems approach.

21 (n) Assessing physical climate risk as standard practice for
22 transportation infrastructure projects to enable informed
23 decisionmaking, especially in communities that are most vulnerable
24 to climate-related health and safety risks.

25 (o) Promoting projects that do not significantly increase
26 passenger vehicle travel, particularly in congested urbanized
27 settings where other mobility options can be provided and where
28 projects are shown to induce significant auto travel. These projects
29 should generally aim to reduce vehicle miles traveled (VMT) and
30 not induce significant VMT growth. When addressing congestion,
31 consider alternatives to highway capacity expansion, such as
32 providing multimodal options in the corridor, employing pricing
33 strategies, and using technology to optimize operations.

34 (p) Promoting compact infill development while protecting
35 residents and businesses from displacement by funding
36 transportation projects that support housing for low-income
37 residents near job centers, provide walkable communities, and
38 address affordability to reduce the housing-transportation cost
39 burden and auto trips.

1 (q) *Developing a zero-emission freight transportation system*
2 *that avoids and mitigates environmental justice impacts, reduces*
3 *criteria and toxic air pollutants, improves freight’s economic*
4 *competitiveness and efficiency, and integrates multimodal design*
5 *and planning into infrastructure development on freight corridors.*

6 (r) *Protecting natural and working lands from conversion to*
7 *more intensified uses and enhance biodiversity by supporting local*
8 *and regional conservation planning that focuses development*
9 *where it already exists and aligns transportation investments with*
10 *conservation priorities to reduce transportation’s impact on the*
11 *natural environment.*

12 ~~SEC. 2.—If the Commission on State Mandates determines that~~
13 ~~this act contains costs mandated by the state, reimbursement to~~
14 ~~local agencies and school districts for those costs shall be made~~
15 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
16 ~~4 of Title 2 of the Government Code.~~