



October 19, 2023

To: Legislative and Communications Committee

From: Darrell E. Johnson, Chief Executive Officer

Subject: Draft Revisions to the Orange County Transportation Authority's 2023-24 State and Federal Legislative Platforms

A handwritten signature in blue ink, appearing to read "Darrell Johnson", is written over the "From:" line of the email header.

Overview

Halfway through each legislative session, staff conducts a review of the Orange County Transportation Authority's Legislative Platforms to ensure relevant issues that are anticipated to be of discussion for the upcoming year are included and up to date. Initial draft revisions to the Orange County Transportation Authority's 2023-24 State and Federal Legislative Platforms have been prepared for consideration by the Orange County Transportation Authority Board of Directors. Before a final draft is considered for adoption, these drafts will be revised as a result of feedback from the Orange County Transportation Authority Board of Directors, as well as further internal staff input.

Recommendation

Direct staff to integrate the recommended revisions to the 2023-24 Orange County Transportation Authority State and Federal Legislative Platforms and seek further feedback from the Orange County Transportation Authority Board of Directors and internal staff, with subsequent drafts being brought forward for final consideration and adoption later this year.

Background

At the beginning of each legislative session, the Orange County Transportation Authority (OCTA) adopts updated State and Federal Legislative Platforms to guide OCTA's advocacy activities for the duration of the upcoming legislative session. With each session covering a two-year period, revisions to the legislative platforms are presented to the Board of Directors (Board) midway through the session to reflect any significant changes since their adoption by the Board in the previous year.

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The initial drafts of mid-session revisions to the 2023-24 State and Federal Legislative Platforms are presented as Attachments A and C, respectively. The proposed changes are detailed in Attachments B and D, with the recommended revisions to the Board-adopted 2023-24 State and Federal Legislative Platforms designated by italicized and strikethrough text.

The revisions incorporate initiatives suggested by OCTA staff and issues that are anticipated to be significant in the upcoming session. Prior to bringing final drafts to the Board, OCTA staff will continue to meet internally for additional input. When developing the 2025-26 State and Federal Legislative Platforms next year, a more widespread input solicitation process will occur, with outreach to interested groups, stakeholders, and individuals to allow a more comprehensive update for the next legislative session.

2023-24 OCTA State Legislative Platform

The proposed revisions to the 2023-24 OCTA State Legislative Platform are outlined in detail below. Language was edited, amended, or removed as necessary to ensure grammatical and stylistic integrity.

- Subsection (c) of the Section entitled, "Key Policy Issues in 2023-24" has been recommended to be updated to apply broadly to the general environmental impacts occurring on the coastal rail infrastructure. As OCTA continues to engage in efforts to support adaptation and resiliency throughout the coastal rail corridor, it has become increasingly clear that this will be an all-encompassing approach to coordinate and find solutions for this critical transportation infrastructure. However, the overall intent of this principle is unchanged.
- Revisions to Subsection (e) of the Section entitled, "Key Policy Issues in 2023-24" have been recommended to reflect ongoing concerns with proposals that seek to make changes to existing local and state transportation funding programs, including SB 1 (Chapter 5, Statutes of 2017) programs as well as formula programs, such as the State Transportation Improvement Program and the Low Carbon Transit Operations Program. This has often included aligning these funding programs with principles in the Climate Action Plan for Transportation Infrastructure and Justice40, which were both introduced by Executive Order. These types of policies could rewrite the original intent of those programs and add new requirements to how a project is planned. Given this uncertainty, OCTA staff expect to be involved in further discussions in order to advocate for maintaining existing local and state transportation funding programs to ensure OCTA's transportation projects and programs can be delivered.

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- The addition of Subsection (k) in the Section entitled, “Key Policy Issues in 2023-24” is proposed. Earlier this year, SB 125 (Chapter 54, Statutes of 2023), commonly known as the transportation trailer bill, was signed into law. This legislation creates several actions; however, for the purposes of this principle it creates the Transit Transformation Task Force (Task Force). This Task Force requires the California State Transportation Agency (CalSTA) to develop policy recommendations to grow transit ridership and improve the transit experience for all users, which could include changes to the Transportation Development Act (TDA). CalSTA, in consultation with the Task Force, is required to prepare and submit a report of findings and policy recommendations based on the Task Force’s efforts to the appropriate policy and fiscal committees of the Legislature on or before October 31, 2025. At the time of writing this staff report, the makeup of the Task Force has not been finalized; however, OCTA has requested to be included. In either scenario, OCTA staff will engage with the Task Force to help inform the recommendations being made.
- The addition of Subsection (l) in the Section entitled, “Key Policy Issues in 2023-24” is proposed. Again, with the implementation of SB 125, several new policies were added into statute impacting transit. The fiscal year 2023-24 budget included \$4 billion through the Transit Intercity Rail and Capital Program (TIRCP) to be distributed through a population-based formula and \$1.1 billion for a newly created Zero-Emission Transit Capital Program. Through both programs, OCTA is expected to receive approximately \$380 million over four years. SB 125 includes significant accountability measures for agencies to follow in order to receive this funding. CalSTA released the guidelines for these funding programs on September 29, 2024, and OCTA staff are working to ensure the money can be drawn down effectively to maximize its benefit on transit operations and capital projects throughout Orange County. OCTA staff have been significantly involved with the development of the guidelines and will continue to monitor the implementation process. Additionally, there is a potential for clean-up legislation to be introduced next year to make some statutory clarifications related to the definition of “transit operator” and other changes, as needed. OCTA should be prepared to inform those discussions.
- The addition of Subsection (m) of the Section entitled, “Key Policy Issues in 2023-24” is proposed. OCTA has been monitoring legislation that could change existing structures for transportation formula funding to redistribute the funding in a way that would prevent a local agency from delivering transportation projects and programs. For example, if this type of legislation were to be enacted, a certain percentage of all transportation funding would be dedicated only to projects that meet specified criteria.

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And it should be noted that this criterion is not typically in line with the original intent of these programs. Therefore, these types of policies would provide significant uncertainty for future funding, resulting in significant project delivery delays.

- Revisions for Subsection (a) and (b) of the Section entitled, "Implementation of Environmental Policies" are included to ensure they reflect the current program guidelines. Regarding subsection (a), OCTA staff propose to simplify the principle as it pertains to local flexibility and add in the reference to the state's goals of reducing vehicle miles traveled (VMT), which has become more prevalent as it pertains to planning and implementing freeway improvement projects. As for subsection (b), the cap-and-trade program has been implemented for several years; therefore, these changes ensure that transportation projects are still prioritized for that funding.
- The addition of Subsection (i) of the Section entitled, "Implementation of Environmental Policies" is proposed. There have been several proposals to create a statewide model related to calculating VMT impacts from freeway and other multimodal projects. This principle would ensure that OCTA would continue to advocate for the inclusion of local modeling to be reflected since cities have already adopted thresholds of significance for VMT per capita and per employee in compliance for what has been included in the State Office of Planning and Research's California Environmental Quality Act guidance. Allowing a statewide model to supersede what has already been adopted could create significant delays in project planning and delivery.
- Subsection (b) of the Section entitled, "Transit Programs" has been removed and incorporated into subsection (k) under the "Key Policy Issues in 2023-24" section. OCTA will continue to monitor discussions to modify the TDA through the Task Force. However, OCTA understands that there will be no further extensions of the TDA flexibilities that were originally approved to assist agencies during the coronavirus pandemic; therefore, it is necessary to remove that portion of the language from this principle as it is no longer relevant.
- Subsection (c) of the Section entitled, "Transit Programs" has been moved to be included in subsection (l) under the "Key Policy Issues in 2023-24" section. This principle has been updated to reflect that OCTA was successful in advocating for operations to be an eligible expense within the supplemental TIRCP funding, which was provided through SB 125. OCTA's advocacy position has now shifted toward monitoring the implementation of such.

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- Subsection (f) of the Section entitled, "Roads and Highways" is proposed to be removed. OCTA was successful in securing language in SB 125 that stipulates the California Department of Transportation cannot charge self-help counties more than ten percent for administration indirect cost recovery.
- Several stylistic changes were made to the Section proposed to be entitled, "Toll & Managed Lanes" in order to update to the current industry accepted vernacular being utilized. Additional inclusionary changes were made integrating the operation of the 405 Express Lanes.
- Revisions to Subsection (c) of the Section entitled, "Toll & Managed Lanes" are proposed. These changes reflect OCTA's ongoing collaboration with the State to ensure toll facilities are operated seamlessly throughout the State Highway System.
- Revisions to Subsection (d) of the Section entitled, "Toll & Managed Lanes" are proposed. Ensuring that any new toll facilities are consistent with local long range transportation plans keeps local agencies at the table and maintains an effective, bottoms-up approach to transportation planning.
- The addition of Subsection (l) of the Section entitled, "Toll & Managed Lanes" is proposed. OCTA works diligently to ensure that proposed projects do not negatively impact the functionality of existing facilities operated and maintained by OCTA, including the Express Lanes. OCTA advocates maintaining the ability to make those local determinations in order to prevent disruption to existing facilities.
- Revisions to Subsection (f) of the Section entitled, "Rail Programs" are proposed. The changes included in this principle reflect that the In-Use Locomotive Regulation has been finalized. OCTA will continue to monitor the implementation of such, which is currently on hold due to pending litigation.
- The addition of Subsection (f) of the Section entitled, "Active Transportation" is proposed. OCTA has previously supported legislation that increases safety of electric bicycle operation since the utilization of this technology has increased. Many Orange County cities are working to find solutions to protect these riders by providing additional training and creating ordinances to limit the use. As an example, it is expected that there will be legislation next year to place age restrictions on who can operate these devices.

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Sponsor Bills

OCTA often encounters specific legislative issues requiring sponsor legislation, prompting OCTA to take the lead in developing legislative language and securing an author. Staff are currently exploring the need for any potential sponsor bills that may be useful for the remainder of the session. Staff recommends that should any need arise for a sponsor bill section, it be held until final revisions to the 2023-24 State Legislative Platform are considered later this year by the Board.

2023-24 OCTA Federal Legislative Platform

The proposed revisions to the 2023-24 OCTA Federal Legislative Platform are outlined in detail below. Language was edited, amended, or removed as necessary to ensure grammatical and stylistic integrity.

- Subsection (k) of the Section entitled, “Key Policy Issues in 2023-24” has been recommended to be updated to apply broadly to the general environmental impacts occurring on the coastal rail infrastructure. As OCTA continues to engage with alacrity in efforts to support adaptation and resiliency throughout the coastal rail corridor, it has become increasingly clear that this will be an all-encompassing approach to coordinate and find solutions for this critical transportation infrastructure. However, the overall intent of this principle is unchanged.
- Revisions to Subsection (j) of the Section entitled, “Transportation Planning and Programming” are recommended. This principle adds content from subsection (j) of the “Key Policy Issues in 2023-24” section, which is proposed to be removed. The Infrastructure Investments and Jobs Act created the Build America, Buy America Act (BABA), which expands existing Buy America requirements to include construction materials. OCTA has been heavily engaged in the developing of guidance and waivers where needed for such implementation, expressing significant concern that this expansion adds unnecessary complexity to the delivery of projects and could result in delays. As a result, there have been several waivers granted for certain types of projects and extensions of the implementation date. While there is more work to be done to monitor the continued implementation, moving the BABA principle from the “Key Policy Issues in 2023-24” Section, is requested in order to align with OCTA’s overall advocacy related to federal Buy America requirements.

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- Revisions to Subsection (e) of the Section entitled, "Transportation Security and Emergency Preparedness" are included. OCTA is often faced with implementing unfunded regulations related to security requirements. This past year, OCTA staff have been engaged with a proposal that would increase mandated employee screenings far beyond what the agency currently is capable of providing and, therefore, would need sufficient funding in order to implement the proposal for compliance.

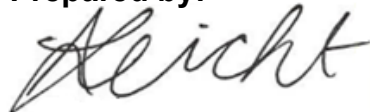
Summary

Upon approval, the mid-session revisions to the 2023-24 State and Federal Legislative Platforms will be circulated for additional review and will return to the Orange County Transportation Authority's Board of Directors later this year for final consideration and adoption.

Attachments

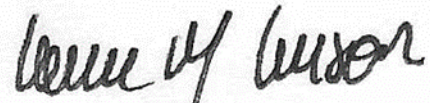
- A. Draft Revisions to Orange County Transportation Authority 2023-24 State Legislative Platform (clean copy)
- B. Draft Revisions to Orange County Transportation Authority 2023-24 State Legislative Platform (strikeout version)
- C. Draft Revisions to Orange County Transportation Authority 2023-24 Federal Legislative Platform (clean copy)
- D. Draft Revisions to Orange County Transportation Authority 2023-24 Federal Legislative Platform (strikeout version)

Prepared by:



Alexis Leicht
Government Relations Representative,
Government Relations
(714) 560-5475

Approved by:



Lance M. Larson
Executive Director,
Government Relations
(714) 560-5908