OCTA

April 18, 2024

To: Legislative and Communications Committee

From: Darrell E. Johnson, Chief Executive Officer

Subject: State Legislative Status Report

Overview

The Orange County Transportation Authority provides regular updates to the Legislative and Communications Committee on policy issues directly impacting its overall programs, projects, and operations. Staff is recommending an oppose position on legislation related to allocation prohibitions for the Trade Corridor Enhancement Program. Staff recommends a support position on legislation related to penalties for battery against transit employees. A summary is provided of legislation that would authorize taxing authority in the Bay Area for transportation purposes and explore the consolidation of transit agencies in that area. Information is provided on a coalition letter sent opposing cuts to a grant program for certain sustainable transportation projects.

Recommendations

A. Adopt an OPPOSE position on AB 2535 (Bonta, D-Oakland), which would prohibit the California Transportation Commission from allocating Trade Corridor Enhancement Program funding to a project that expands the highway footprint in certain communities.

B. Adopt a SUPPORT position on AB 2824 (McCarty, D-Sacramento), which would expand the application of enhanced penalties for battery against a transit operator or ticketing agent to also apply to transit employees and contractors of a public transportation provider.

Discussion

AB 2535 (Bonta, D-Oakland): Trade Corridor Enhancement Program

The Trade Corridor Enhancement Program (TCEP) is a competitive funding program that was established through SB 1 (Chapter 5, Statutes of 2017). The program was intended to fund projects designed to move freight more efficiently on corridors with high volumes of freight movement and supports the goals of the National Highway Freight Program, the California Freight Mobility Plan, and the guiding principles in the California Sustainable Freight Action Plan. AB 2535 would prohibit the California Transportation Commission (CTC) from allocating TCEP funding to a project that expands the physical footprint of a highway in a community that ranks in the highest quintile in the CalEnviroScreen for diesel particulate matter. CalEnviroScreen is a mapping tool that identifies communities that are most affected by various sources of pollution, particularly as it pertains to disadvantaged communities. If those emissions do not decrease by 50 percent below 2024 levels by 2030, the only projects that could be awarded funding from TCEP would be those that reduce diesel particulate matter emissions.

In addition to these restrictions on use of TCEP funds, AB 2535 also requires the CTC to establish a target to ensure that 15 percent of TCEP funds for each year are allocated to investments in zero-emission freight infrastructure, such as heavy-duty electric vehicle charging and fueling infrastructure and electric locomotive technology. The CTC would then be required to increase this target each year, with the goal of 50 percent of all TCEP funding to be for this purpose by 2030. Finally, AB 2535 would only allow TCEP to be programmed for design, right-of-way, and construction capital costs if the applicant has completed its environmental review of the project within six months of the CTC adopting the program of projects.

AB 2535 makes changes to TCEP in such a way that is inconsistent with the intent of SB 1 and undermines voter intent when voted to reject measures to repeal SB 1. The Orange County Transportation Authority (OCTA) has been awarded TCEP funds for projects such as the State Route 55 Improvement Project, which will improve freight access and throughput for the traveling public. If AB 2535 were in law today, the project would not have been eligible given the increase in the highway footprint. Additionally, since AB 2535 also requires as much as 50 percent of TCEP funding to go toward zero-emission freight infrastructure, including electric locomotive technology, there is already a significant piece of funding taken off the table for other modal projects. And given that this is limited to freight infrastructure, it is unclear how transportation agencies could remain competitive for funding for these technologies.

The wording within the legislation is amorphous in many ways. To start, AB 2535 does not define “expanded highway footprint.” Therefore, it is difficult to know what kinds of projects would be impacted. It could include even minor improvements to the highway for general maintenance or safety purposes. There is also no language included in AB 2535 that considers if a project could also be addressing safety and rehabilitation needs throughout the corridor or could include a widening component to incorporate pricing strategies to reduce congestion. In some cases, these projects create revenue for transit and active transportation, aiding the State in meeting its goals to reduce greenhouse gas emissions and vehicle miles traveled.

Further, AB 2535 uses CalEnviroScreen as the threshold for identifying certain communities. Many agencies still find difficulty in using this tool as it often portrays a level of subjectivity. This tool is continuing to evolve which could also create uncertainty in where a project could meet the criteria in one version, but perhaps the updated version would then make that project deemed prohibited under this program. Creating such priority structures outlined in the bill could cause significant consequences to planned and existing transportation projects and funding programs.

Current state and federal programs are structured in a manner to accomplish the goals of AB 2535, including through the Climate Action Plan for Transportation Infrastructure and the Justice40 Initiative. There should be an opportunity to implement existing policies prior to adding more complicated layers to transportation planning and funding. Additionally, the TCEP program already has certain distribution requirements that account for disadvantaged community populations. When creating policy, space needs to be left to fully vet and implement existing policy before adding more complexities which only delay critical transportation projects from creating these community benefits.

A comprehensive bill analysis and bill language are included as Attachment A. The Riverside County Transportation Commission and the Contra Costa Transportation Authority have oppose positions on this legislation. AB 2535 is sponsored by the Greenlining Institute with the Coalition for Clean Air, the Natural Resources Defense Council, and Environment California listed as co-sponsors. An OPPOSE position is consistent with OCTA's 2023-24 State Legislative Platform principle to "Oppose policies that change existing formula funding structures to redistribute funds in a way that would inhibit a local agency from delivering critical transportation projects and programs."

AB 2824 (McCarty, D-Sacramento): Battery: Public Transportation Provider

AB 2824 is co-sponsored by the California Transit Association, Amalgamated Transit Union, and Transport Workers Union. This bill would revise existing law, where battery against operators, drivers, or passengers on public transportation vehicles, with the perpetrator's awareness or reasonable assumption of the victim's professional duties, may result in imprisonment for up to one year in county jail, a fine of up to $10,000, or both. If the victim sustains injuries, the penalty escalates to a fine of up to $10,000, imprisonment for up to one year in county jail, or 16 months to three years in state prison, or both fine and imprisonment. This bill would expand this to apply to an employee or contractor of a public transportation provider as well.

AB 2824 provides an opportunity to strengthen protections for transit workers and acts as a deterrent for potential offenders, thereby creating a safer working environment. OCTA, along with other public transportation providers across the country, has increasingly been faced with issues regarding assault against transit employees, which can range from verbal abuse and threats to physical violence.

OCTA has seen an increase from 2022 to 2023 in coach operator assaults. Specifically, in 2023, the Orange County Sheriff's Department (OCSD) Transit Police Services (TPS) reported 33 assaults against coach operators. This is a 94 percent increase from OCSD TPS reporting 17 coach operator assaults in 2022. It is also important to note that the actual incident numbers are likely higher than the reported incident numbers, due to some employees choosing to not file a report. This bill provides the opportunity to protect a wider range of employees, which allows OCTA employees and contractors to access legal recourse in the event of an assault or battery while on duty.

A comprehensive bill analysis and bill language are included as Attachment B. The cosponsors are working with the author to potentially expand the language of the bill to include more resources to combat increased safety issues that public transit employees are facing. A SUPPORT position is consistent with OCTA's 2023-24 State Legislative Platform principles to "Support policies that aim to enhance transit services and the overall safety and security of transit riders, public transit employees, and on-road vehicles while avoiding undue burden on transportation agencies to implement unfunded safety measures."

SB 1031 (Wiener, D-San Francisco): San Francisco Bay Area: Local Revenue Measure: Transportation Improvements

SB 1031 is a bill sponsored by the Metropolitan Transportation Commission (MTC), the metropolitan planning organization (MPO) for the Bay Area, and seeks to not only reform the structure of transit coordination in their jurisdiction, but also would authorize several different taxing mechanisms to provide funding to both resolve transit funding shortages in the region and allow for future expansion. While the bill does not apply to the Southern California region, and is expected to be amended in several areas, some of the policy proposals could create precedent for other regions and inform the findings of the California State Transportation Agency's (CalSTA) Transit Transformation Task Force.

Under SB 1031, CalSTA would be required to have a report developed by the Institute of Transportation Studies making recommendations related to the potential consolidation of transit agencies in the Bay Area. Based on this report, CalSTA would then develop a comprehensive plan for consolidation by January 1, 2027, designed in a manner where services would not be reduced, while also improving accountability, connectivity, and efficiencies. Regardless of whether consolidation is pursued, SB 1031 would now require all transit agencies in the Bay Area to meet any MTC rules and regulations to be eligible to receive funding from State Transit Assistance, Local Transportation Fund, or the San Francisco Bay Area Conservation and Development Commission.

To assist with funding of future services, and to address projected deficits, the bill authorizes MTC to raise and allocate funding from a regional sales tax, a regional payroll tax, a parcel tax, and a regional vehicle registration surcharge. Many of these would require voter approval, with parameters detailed in SB 1031.

In addition to transit, the funding would also be eligible to be used for climate resiliency projects, safe streets, and connectivity projects. MTC would also be authorized to seek a ballot measure to require all employers in proximity to transit to purchase a regional transit pass for each of their employees.

Given continued negotiations on the specifics of this bill, only a few agencies in the Bay Area have taken a position. However, concerns have been raised about the potential for consolidation and impacts on services, staffing, and funding. In addition, others have flagged the increased role for MPOs this bill would create in transit funding and planning. Staff will provide updates as the bill moves forward.

Update on the Regional Early Action Planning 2.0 Grant Program

The Regional Early Action Planning Grant Program (REAP 1.0) was first established as part of the fiscal year (FY) 2019-20 state budget to provide regions with one-time funding aimed at grants for planning, specifically to allow jurisdictions to meet the Regional Housing Needs Assessment. REAP 1.0's success opened the door for the FY 2021-22 California Budget to establish a follow-up program, the Regional Early Action Planning 2.0 (REAP 2.0) Grant Program, providing $600 million for this purpose. Unlike REAP 1.0, REAP 2.0's goal was to focus on transformative planning and implementation activities to help regions meet the goals of SB 375 (Chapter 728, Statutes of 2008), including transportation projects. Funding was directly allocated to MPOs, such as the Southern California Association of Governments (SCAG), who then could create a suballocation process, including for county transportation commissions, such as OCTA.

Within the Governor's proposed state budget for FY 2024-25, a variety of programmatic delays, shifts in funding, and reductions were included to help reduce the projected state budget deficit. This included a proposed reduction of $300 million in funding for REAP 2.0. This reduced the available funding by 50 percent and significantly impacts projects that have already been awarded funding. OCTA staff has been working with SCAG to navigate these impacts.

On March 19, 2024, transportation agencies within the SCAG region sent a letter to state officials regarding the FY 2024-25 budget proposal. In addition to SCAG, OCTA signed onto this coalition letter alongside other Southern California transportation partners, including the Los Angeles County Metropolitan Transportation Authority, the San Bernardino County Transportation Authority, the Riverside County Transportation Commission, the Imperial County Transportation Commission, and the Ventura County Transportation Commission. This letter is included as Attachment E.

If funding is not restored for REAP 2.0, the following OCTA projects slated to receive funding could be impacted:

- First Street Multimodal Boulevard Design
- McFadden Avenue Transit Signal Priority Pilot
- Next Safe Travels Education Program (STEP) 2.0
- Harbor Boulevard Cloud-Based Transit Signal Priority Stage 1
- Harbor Boulevard Cloud-Based Transit Signal Priority Stage 2
- Reconnecting Communities Through Complete Streets
- Bikeways Connectivity Study
- Fullerton Park-and-Ride Transit-Oriented Development Site Design Concepts
- Active Transportation Outreach and Engagement Support
- Orange County Cyclic Counts 2024-2025
- Orange County Mobility Hubs Pilot Concept of Operations

The letter encourages the Legislature not to approve the Governor's proposal to eliminate $300 million for the REAP 2.0 program. Staff will continue monitoring the budget process and provide the Board with updates as they become available.

Summary

A support position is recommended on legislation that would expand enhanced penalties for assault to include transit employees and contractors of a public transportation provider. An oppose position is recommended on legislation related to placing prohibitions on Trade Corridor Enhancement Program allocations to expanding freeway capacity. Information is given on legislation pertaining to Bay Area transportation agencies and their funding. Information is given on a coalition letter related to cuts to the REAP 2.0 grant program.

Attachments

A. AB 2535 (Bonta, D-Oakland) Bill Analysis with Bill Language
B. AB 2824 (McCarty, D-Sacramento) Bill Analysis with Bill Language
C. SB 1031 (Wiener, D-San Francisco) Bill Language
D. Orange County Transportation Authority Legislative Matrix
E. Letter from Kome Ajise, Executive Director, Southern California Association of Governments, and others, to The Honorable Mike McGuire, Senate President Pro Tempore, and others, dated March 19, 2024, re: Protect Regional Early Action Planning 2.0 (REAP 2.0) Grant Program

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