



March 21, 2024

To: Legislative and Communications Committee

From: Darrell E. Johnson, Chief Executive Officer

Subject: State Legislative Status Report

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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 recommends a support position on three pieces of legislation: the first related to non-emergency medical transportation reimbursements, the second related to developing and distributing a handbook for bicycle and electric bicycle safety, and the third which would make it a conditional prohibition for a person to unlawfully occupy a public space, including public transit stops, open space, and schools. An overview is provided and direction is requested on legislation that would create several reporting requirements for the California State Transportation Secretary and regional governments pertaining to the planning, operations, and management of the Los Angeles – San Diego – San Luis Obispo Rail Corridor.

Recommendations

- A. Adopt a SUPPORT position on AB 2043 (Boerner, D-Solana Beach), which would require Medi-Cal Managed Care Plans to reimburse public transit operators for nonmedical transportation and nonemergency medical transportation services.
- B. Adopt a SUPPORT position on AB 2259 (Boerner, D-Solana Beach), which would require CalSTA to develop and distribute a bicycle safety handbook on or before September 1, 2025.
- C. Adopt a SUPPORT position on SB 1011 (Jones, R-San Diego), which would make a conditional prohibition for a person to unlawfully occupy a public space, including public transit stops, open spaces, and schools.
- D. Direct staff to engage with the author's office and work with Los Angeles – San Diego – San Luis Obispo Rail Corridor member agencies to help inform and identify any potential improvements to SB 1098 (Blakespear, D-Encinitas).

Discussion**AB 2043 (Boerner, D-Solana Beach): Medi-Cal: Nonmedical and Nonemergency Medical Transportation**

Historically, Medi-Cal could directly reimburse transportation providers, through an agreement, for nonmedical and nonemergency medical transportation for individuals that were covered by Medi-Cal as long as they were utilizing the transportation services to gain access to services that were also covered by Medi-Cal. However, following the enactment of AB 2394 (Chapter 615, Statutes of 2016), transportation reimbursement is now included in a customer's capitated health care coverage, where invoices for reimbursement are sent to the customer's Managed Care Plan (MCP) instead of transportation providers, including public transportation operators. The MCPs are then tasked with reimbursing the transportation providers if the Medi-Cal customer requests the transportation from their MCP in advance. If the customer does not notify their MCP and submits a request, then transportation providers are responsible for acquiring reimbursement from the MCP on their own. MCPs can receive both state and federal funds to offer Medi-Cal-related transportation services, but they are not required to reimburse transportation providers. As a result, MCPs are placed under little to no pressure to partner with transportation providers.

AB 2043 requires the California Department of Health Care Services (DHCS) to require MCPs to contract with public transit operators to establish reimbursement rates for nonmedical and nonemergency medical transportation trips. It further requires the reimbursement rates by the MCP to the public transit operator to be based on the fee-for-service rates determined by DHCS for nonmedical and nonemergency medical transportation service.

Public transportation operators are federally mandated to provide transportation for medically necessary Medi-Cal related services, such as traveling to a doctor's appointment and picking up prescriptions or medical supplies. In these instances, public transportation is the only affordable option to access such care. AB 2043 would provide a more robust line of communication between the MCPs and public transportation operators, taking the onus off the transportation provider to make reimbursement requests on their own. AB 2043 will create an opportunity for a more equitable reimbursement system to occur and ultimately, save the transit operators money. As public transit operators face long-term financial hurdles, it is important to ensure they are receiving this reimbursement to which they are entitled.

OCTA supported AB 719 (Boerner, D-Solana Beach) last year, which is identical to this legislation. AB 719 was vetoed because the Governor indicated (in his veto message) that DHCS was unable to perform the series of federal approvals to implement these provisions. Since that veto, there has been further guidance from the federal government stating that public paratransit agencies should not be unduly burdened by the cost of these services. Discussions are anticipated

to commence with the DHCS to find a path forward this year because of this latest guidance.

This legislation is sponsored the San Diego Metropolitan Transit System. A SUPPORT position is consistent with OCTA's 2023-24 State Legislative Platform principles to "Seek additional funding for paratransit operations and transit accessibility capital improvements that support persons with disabilities and senior citizens." A copy of the text of this legislation is included as Attachment A.

AB 2259 (Boerner, D-Solana Beach): Transportation: Bicycle Safety Handbook

AB 2259 would require the California State Transportation Agency (CalSTA) to annually develop and distribute a handbook related to bicycle and electric bicycle (e-bike) safety on or before September 1, 2025.

Specifically, AB 2259 would require CalSTA to develop and distribute a bicycle safety handbook, incorporating evidence-based practices and trends related to bicycle and e-bike safety. The bicycle safety handbook will include information on a number of items related to bicycle safety, including existing laws regulating bicycles and e-bike, safety equipment requirements and recommendations, strategies for lawfully and safely bicycling in various situations, obeying traffic signs and signals, and recommendations for sharing roads and bikeways with motorists, pedestrians, and other bicyclists.

In developing the handbook, CalSTA will be required to collaborate with stakeholders from various groups including, but not limited to, the California Department of Motor Vehicles (DMV), the California Department of Transportation, representatives from various bicycling advocacy organizations, and other relevant stakeholders that CalSTA deems necessary. Once the development of the bicycle safety handbook is complete, CalSTA will be required to post a downloadable electronic version of the handbook on the DMV website and any other state department or agency that CalSTA deems appropriate. A printed version of the safety handbook will also be made available to the public at the DMV, the Department of California Highway Patrol, state libraries, and any other appropriate state offices.

AB 2259 provides an opportunity for increased safety in relation to the operation of bicycles and e-bike. As Orange County continues to grow as a hub for active transportation, it is important that the stakeholders and the public are, and remain, informed about the safe operation of bicycles and e-bike. Active transportation modes such as these offer many benefits such as reducing greenhouse gas emissions, vehicle miles traveled, and overall dependency on cars for travel. In addition, the current laws surrounding e-bike can also be confusing, specifically on where and when someone can safely operate e-bike. OCTA continues to be informed of the challenges that cities in Orange County are facing when it comes to e-bike. Multiple cities have recently instilled ordinances prohibiting the unsafe riding and operation of e-bike. AB 2259 will

allow OCTA to further inform stakeholders and the public of safety tips, rules of the road, and other relevant information pertaining to bicycle and e-bike safety.

A SUPPORT position is consistent with OCTA's 2023-24 State Legislative Platform principle to "support funding and programs or policies that encourage the safe operation of an integrated multimodal system, which includes the interaction between roadways, rail lines, bikeways, pedestrian ways, and the users of those facilities." A comprehensive analysis and copy of the text of this legislation are included as Attachment C.

SB 1011 (Jones, R-San Diego): Encampments: Penalties

SB 1011 would prohibit a person from occupying space on a street, sidewalk, or within a certain distance of specified public property, including at a major transit stop, if a homeless shelter is available. This legislation is coauthored by Senator Blakespear (D-Encinitas), Senator Nguyen (R-Huntington Beach), Senator Seyarto (R-Murrieta), Assembly Member Davies (R-Oceanside), and Assembly Member Sanchez (R-Murrieta).

This legislation would classify this violation as a public nuisance, which could result in a misdemeanor or an infraction. The responsibility to enforce would be placed on a county district attorney, county counsel, or city attorney. In order to enforce these provisions, several actions must be taken, including ensuring that the person found to be in violation of these provisions must have received verbal or written information regarding alternative locations to sleep, homeless and mental health services, or homeless shelters. A peace officer is also required to provide the person with a written notice that they cannot sit, lie, sleep, store, use, maintain, or place personal property on a street sidewalk, or other public property, such as a major transit stop, open space, or a school, at least 72 hours before commencing enforcement activities. The written notice must be provided in a language understood by the person receiving the notice.

SB 1011 provides an opportunity to offer critical services to those experiencing homelessness in public areas while also preserving safety in these public spaces. OCTA has approximately 100 transit stops and several open space preserves that would be affected by this legislation. OCTA strives to ensure that its facilities and services are safe. It is not uncommon for persons experiencing homelessness to use transit stations and centers as shelters. This can present challenges for passengers who may not feel safe waiting in these areas due to the presence of these individuals and deter riders from utilizing transit altogether.

SB 1011 provides law enforcement with tools to not only provide education to individuals experiencing homelessness on shelters and mental health services available to them, but also with the ability to remove the individuals from these public places so long as the proper notice is provided. Similarly, this would be applied to OCTA's protected preserves, including Eagle Ridge Preserve, Pacific Horizon Preserve, Silverado Chaparral Preserve, and more. These properties

are part of the Measure M2 Freeway Mitigation Program, which allocates funds to acquire land and fund habitat restoration projects in exchange for streamlined environmental approvals for Measure M2 freeway improvement projects.

A SUPPORT position is consistent with OCTA's 2023-24 State Legislative Platform principle 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." A comprehensive analysis and copy of the text of this legislation are included as Attachment D.

SB 1098 (Blakespear, D-Encinitas): Passenger and Freight Rail: LOSSAN Rail Corridor

On February 13, 2024, Senator Blakespear (D-Encinitas) introduced SB 1098, known as the Southern California Rail Revitalization Act. A copy of the bill language is contained in Attachment E. While this legislation could present new opportunities for funding and improvements along the corridor, some of these new requirements would be a change from the intent underlying SB 1225 (Chapter 802, Statutes of 2012), which transferred many operational decisions to the Los Angeles – San Diego – San Luis Obispo (LOSSAN) Rail Agency to afford more local coordination in services.

Specifically, SB 1098 requires the CalSTA Secretary, in consultation with the California Department of Transportation (Caltrans) Director, to submit a report to the Legislature, prioritizing resiliency and capacity improvement projects. This report must be completed by January 1, 2026. Included in this report must also be a description of the administrative actions CalSTA has taken to improve the management of the corridor and recommendations made by Caltrans and the California Transportation Commission, in consultation with the Secretary of the California Environmental Protection Agency, for future improvements to planning, funding, and policy documents. Additionally, this report must include a review of how state rail planning documents are implemented, managed, and enforced, including the LOSSAN Rail Corridor Optimization Study. The CalSTA Secretary would be required to also submit a report to the Legislature beginning January 1, 2027, and then every two years thereafter, regarding the management of the LOSSAN Rail Corridor.

SB 1098 further stipulates that the CalSTA Secretary must provide strategic guidance, recommendations, and facilitate all necessary coordination, collaboration, and intervention when necessary, between stakeholders. This would include the oversight and development of plans pertaining to service frequencies, equipment and fleet management, infrastructure improvement and state-of-good-repair projects, and resiliency of the corridor.

The final component of SB 1098 pertains to the role of metropolitan planning organizations (MPO) in long-term planning. Specifically, this legislation requires

the Southern California Association of Governments, the San Diego Association of Governments, the Santa Barbara County Association of Governments, and the San Luis Obispo Council of Governments to jointly submit a report to the Legislature by January 1, 2026, after adoption by their respective governing boards, on recommendations to ensure the long-term viability of comprehensive and coordinated passenger and freight rail services in the LOSSAN Rail Corridor. The development of this report must include meaningful public engagement led by the MPOs and developed with the support of a steering committee. This steering committee must be composed of representatives of business, community, transportation, environmental, labor, and civic organizations.

The recommendations in the report would include items such as funding, strategies for service coordination, changes to regional governance and management structures, consolidation, and more. These new responsibilities for MPOs located within the corridor could be challenging to implement due to the varying nature of each MPO's functions and experience with the funding, planning, and implementation of capital improvements for rail service. In addition, because of the continued differences of right-of-way ownership along the corridor, it is unclear how any recommendations from the MPOs would intersect with these dynamics.

It should also be noted that SB 1098 is not limited to intercity rail. The MPO's report must include recommendations pertaining to regional rail, including funding, management structures, consolidation, and potential changes to their policies, which would include Metrolink. SB 1098 would also require the CalSTA Secretary, in their biennial reports, to detail the performance, ridership, usage and quality of regional rail. In both instances, this would only apply to regional rail services located within the LOSSAN Rail Corridor. SB 1098 also places similar requirements on freight operations, which offers its own complexities given how private railroad owners and operators interact with passenger and commuter service, and any associated federal statutory requirements or agreements in place. At the OCTA Board of Directors' direction, staff will work with LOSSAN agency partners, the author's office, and other related stakeholders to help inform the bill in order to ensure it aligns with existing responsibilities along the corridor.

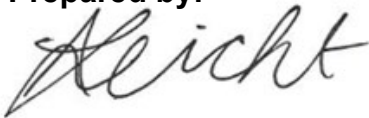
Summary

A support position is recommended on legislation related to reimbursement of non-emergency medical transportation costs, e-bike, and the creation of a new prohibition for a person to unlawfully occupy a public space. A summary is given, and direction is requested on legislation related to the Los Angeles – San Diego – San Luis Obispo Rail Corridor.

Attachments

- A. AB 2043 (Boerner, D-Solana Beach) Bill Analysis with Bill Language
- B. AB 2259 (Boerner, D-Solana Beach) Bill Analysis with Bill Language
- C. SB 1011 (Jones, R-San Diego) Bill Analysis with Bill Language
- D. SB 1098 (Blakespear, D-Encinitas) Bill Language
- E. Orange County Transportation Authority Legislative Matrix

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