

# Memorandum

**To:** Chair and Commissioners

**Date:** January 28, 2009

**From:** John F. Barna, Jr.  
Executive Director

**File No:** Reference # 4.1

ACTION

**Ref: State and Federal Legislation**

**Issue:** The Commission is requested to provide direction to staff on bills of interest to it. (Commission and Caltrans staff will brief the Commission under separate agenda items about the proposed FY 2009-2010 budget and the overall federal economic stimulus package.)

Last month, the Commission directed staff to prepare an update or analysis on bills dealing with clarifying language to SB 375 (Steinberg, 2008). In addition, staff will report on legislative recommendations from the Commission's Technical Advisory Committee for Aeronautics (TACA) regarding the federal economic stimulus bill and re-introducing state legislation dealing with airport land use commissions.

**Recommendation:** Commission staff recommends that the Commission:

1. Consider the points the Governor raised in his signing message and provide staff guidance on the Commission's position on:

- Providing exemptions for voter approved Proposition 1B transportation projects.
- Expanding the California Environmental Quality Act (CEQA) streamlining to other projects that are consistent with a Sustainable Communities Strategy (SCS).
- Eliminating schedule conflicts with housing element updates and regional transportation plans (RTPs).
- Providing mitigation for impacts to the State Highway System.

2. Direct staff to prepare a letter from the Chair to the respective Assembly and Senate transportation committees requesting from a policy and timing perspective that legislation clarifying SB 375 should include language addressing the Commission's concerns that:

- All transportation sales tax measures passed by 2010 should be exempt from being re-evaluated under SB 375 requirements.
- Greenhouse gas analyses performed under CEQA should be at the programmatic level and that individual project environmental documents tier off from the programmatic analyses.

3. Consider TACA's recommendation:

- On the aeronautics portion of the federal economic stimulus bill and direct staff accordingly.
- On potentially re-introducing state legislation dealing with airport land use commissions and direct staff accordingly. (For several years the Commission recommended in its Annual Report to the Legislature that the existing statutes be strengthened. Last year, SB 1118, Negrete McLeod passed the Senate and died late in the session on the Assembly floor.)

## **Background:**

### SB 375 Follow-up Bills

To date, the Legislature has not introduced bills to clarify SB 375. Commission staff learned that President pro tempore Senator Steinberg plans to introduce a clean-up bill addressing concerns raised by the Governor in his signing message. Commission staff also discussed with Assembly legislative staff their member's interest in introducing a bill addressing the Commission's SB 375 concern for having project specific environmental documents based off a programmatic environmental document assessing greenhouse gas emissions.

The Governor raised four concerns in his signing of SB 375. The Governor asked that Senator Steinberg introduce legislation in 2009 that would:

- Provide exemptions for voter approved Proposition 1B transportation projects.

The Governor stated that although the clear intent of the author was to exempt all transportation projects funded through Proposition 1B [from duplicative, project specific CEQA greenhouse gas analysis and mitigation], ambiguous language in SB 375 may put at risk approximately \$5 billion in Proposition 1B transportation projects throughout the state.

- Expand CEQA streamlining to other projects that are consistent with a Sustainable Communities Strategy (SCS).

The Governor stated that SB 375 offers housing developers the ability to "opt out" of certain CEQA requirements in exchange for adhering to a pre-approved "SCS". However, SB 375 only applies the benefits of compliance with an SCS to new residential construction, omitting most projects related to other infrastructure, retail and commercial development.

- Eliminate schedule conflicts with housing element updates and regional transportation plans.

The Governor stated that while SB 375 is intended to synchronize updates of housing elements in local government general plans and RTPs, new and conflicting schedules are established with regard to the federal transportation planning schedule, federal air quality regulations, and existing deadlines for housing element updates and RTPs. Without correction, confusion and litigation are likely to result. This was clearly not the intent of the author and these conflicting schedules must be addressed as quickly as possible.

- Mitigate for impacts to the State Highway System (SHS).

The Governor noted while Senator Steinberg did address a request to include the SHS in the definition of the regional transportation network, follow-up legislation is needed to provide clarity of the requirement that projected impacts to the SHS by previously approved and new projects are required to mitigate for SHS impacts. Apparent inconsistency between this bill and current mitigation requirements provide broad potential for litigation that will hamper project delivery and potentially drain hundreds of millions of dollars from the State Highway Account, shifting mitigation costs that are now borne by project proponents to taxpayers.

The Commission in its letter to the Governor raised two concerns regarding SB 375 that should also be addressed in follow-up legislation.

- All transportation sales tax measures passed by 2010 should be exempt from having to be re-evaluated under SB 375 requirements. SB 375, as signed, protects transportation sales tax measures approved by the voters in 2008 from re-evaluation. Some 2008 sales tax measures may not pass and will go before voters again in 2010; some counties not ready to go to voters in 2008 will seek approval in 2010. Since these projects will have had voter approval before the new plans can be completed, the Commission asks that projects in measures approved by voters prior to December 31, 2010 be protected.
- To ensure that the rules under CEQA are clear, the Commission suggests clarifying language that greenhouse gas analyses should be done at the programmatic level and that individual project environmental documents tier off from the programmatic analyses. The Commission's stance is consistent with statements by the Office of Planning and Research (OPR) and the California Air Resources Board (CARB). CARB intends to work with OPR to ensure projects consistent with adopted programmatic planning documents meeting regional GHG targets receive recognition under CEQA. CARB has also recognized the value of a programmatic approach for analyzing GHG emissions under CEQA through the proposed development of regional GHG targets.

#### Federal Economic Stimulus Impact on California Airports

As passed by the House, H.R. 1, the *American Recovery and Reinvestment Act* will provide \$3 billion nationwide for airports. In the past about 10% of the federal aeronautics funds flow to the West Coast, California may be in line for up to \$200 million for commercial and general aviation airports. It appears that the current federal match requirements will apply and to receive the federal economic stimulus funds, local jurisdictions must provide a local match. California, through the Commission, typically provides a 2.5% of the local match requirement for public general aviation airports, while the local jurisdiction provides the remainder. At a minimum, an additional \$2.5 to \$5 million may be needed in Caltrans' aeronautics grant budget for match purposes.

TACA has been asked to provide advice regarding the *Act's* impact on California's airports. The Department's Division of Aeronautics has been asked to work with the Federal Aviation Administration to establish the magnitude by airport of the number of aeronautics projects that are ready to go in California and the estimated cost of those projects.

CALIFORNIA TRANSPORTATION COMMISSION  
STATUS OF LEGISLATION

Bill #	Author	Bill Title	Subject	Current Status	CTC Position
<b>ASSEMBLY</b>					
AB 109	FEUER	Outdoor Advertising	Amends the Outdoor Advertising Act; prohibits an advertising display that is visible from a state, county or city highway from being constructed as, or converted, enhanced, improved, modified, modernized or altered into a digital advertising display; prohibits an official highway changeable message sign from being constructed as or converted, enhanced, improved modified, modernized or altered into a digital advertising display for the purpose of displaying commercial messages.	01/13/09 - INTRODUCED	Staff Monitoring
AB 113	PORTANTINO	Department of Transportation Property Sale	Requires the Department of Transportation to sell the real property it owns relative to the unconstructed portion of State Highway Route 710 in Los Angeles County located to the north of State Highway Route 10; requires proceeds from the sale of each parcel equal to the department's acquisition price of the parcel to be deposited in the State Highway Account. All remaining sale proceeds would be deposited in the General Fund, to be available, upon appropriation, for increasing funding for public higher education.	01/13/09 - INTRODUCED	Staff Monitoring
AB 118	LOGUE	California Global Warming Solutions Act of 2006	The California Global Warming Solutions Act of 2006 requires the State Air Resources Board to adopt regulations to require the reporting and verification of emissions of greenhouse gases and to monitor and enforce compliance with the reporting and verification program, and requires the state board to adopt a statewide greenhouse gas emissions limit equivalent to the statewide greenhouse gas emissions levels in 1990 to be achieved by 2020. The act requires the state board to prepare and approve a scoping plan for achieving the maximum technologically feasible and cost-effective reductions in greenhouse gas emissions. The state board is required by January 1, 2011, to adopt greenhouse gas emissions limits and emission reduction measures by regulation to achieve the prescribed emission reductions. This bill would repeal the California Global Warming Solutions Act of 2006.	01/15/09 - INTRODUCED	Staff Monitoring
AB 153	MA	High Speed Rail Authority	Existing law creates the High-Speed Rail Authority with specified powers and duties relating to the development and implementation of an intercity high-speed rail system. Existing law authorizes the authority to prepare a plan for the construction and operation of that system and to enter into contracts, acquire rights-of-way through purchase or eminent domain, and take other actions, subject to specified contingencies. Under existing law, a public entity may not commence an eminent domain proceeding until its governing body has adopted a resolution of necessity that meets certain requirements. Existing law generally prohibits a state agency from employing legal counsel other than the Attorney General unless there is a specific statute authorizing that employment. This bill would eliminate those contingencies to the exercise of the authority's authority and would specify that the authority constitutes a "governing body" for the purpose of adopting a resolution of necessity. The bill would authorize the authority to employ its own legal staff or contract with other state agencies for legal services, or both. This bill contains other related pro	01/23/09 - INTRODUCED	Staff Monitoring
ACA 3	BLAKESLEE	Initiatives: Bond Funding Source	Requires an initiative measure that would authorize the issuance of state general bonds in a total amount exceeding a specified amount to either provide additional tax or fee revenues, the elimination of existing programs, or both, as necessary to fully fund the bonds, as determined by the Legislative Analyst, in order to be submitted to the voters or have any effect.	12/01/08 - INTRODUCED	Staff Monitoring
ACA 4	BASS	State Budget	Proposes an amendment to the State Constitution. Adds, as statutes that take effect immediately and are exempt from referendum, statues enacting the Budget Bill and statutes enacting bill identified in the Budget Bill as containing only changes in law necessary to implement the Budget Bill. Adds, as an exception to the 2/3 vote requirement, appropriations made in budget Bill for the ensuing fiscal year that is passed on or before June 15.	12/03/08 - INTRODUCED	Staff Monitoring
ACA 5	CALDERON	Initiatives: State General Obligations Bond	Proposes an amendment to the State Constitution to require an initiative measure that would authorize the issuance of state general obligation bonds to either provide additional tax or fee revenues, the elimination of existing programs, or both, as necessary to fully fund the bonds, as determined by the Legislative Analyst, in order to be submitted to the voters or to have any effect. Requires the Attorney General to identify the new revenue source	12/15/08 - INTRODUCED	Staff Monitoring

CALIFORNIA TRANSPORTATION COMMISSION  
STATUS OF LEGISLATION

Bill #	Author	Bill Title	Subject	Current Status	CTC Position
<b>SENATE</b>					
SB 30	DENHAM	State Property	Requires the Department of General Services to identify state property that can be sold to pay for the retirement of outstanding general obligation bonds issued by the state.	12/02/08 - INTRODUCED	Staff Monitoring
SB 31	PAVLEY	California Global Warming Solutions Act of 2006: revenue allocations	The California Global Warming Solutions Act of 2006 requires the State Air Resources Board to adopt regulations to require the reporting and verification of emissions of greenhouse gases and to monitor and enforce compliance with the reporting and verification program, and requires the state board to adopt a statewide greenhouse gas emissions limit equivalent to the statewide greenhouse gas emissions levels in 1990 to be achieved by 2020. The act requires the state board to adopt rules and regulations in an open public process to achieve the maximum technologically feasible and cost-effective greenhouse gas emission reductions. The act authorizes the state board to include the use of market-based compliance mechanisms. The act authorizes the state board to adopt a schedule of fees to be paid by the sources of greenhouse gas emissions regulated pursuant to the act, and requires the revenues collected pursuant to that fee to be deposited into the Air Pollution Control Fund and be available, upon appropriation by the Legislature, for purposes of carrying out the act. This bill would require that revenues collected pursuant to the act also be deposited in the Air Pollution Control Fund. This bill would specify certain uses of the revenues collected pursuant to the fee discussed above and the compliance mechanisms.	12/02/08 - INTRODUCED	Staff Monitoring
SCA 2	WYLAND	Revised Biennial Session	Proposes an amendment to the Constitution to require the Legislature to convene sessions as outlined. Requires a specified vote of the Legislature on urgency statutes. Revises budget submission requirements. Excludes the payment of Legislator salaries and per diem under specified conditions. Provides for actions by specified committees relating to the budget. Authorizes the delay of repayment of loans from the motor fuels tax and State Transportation Fund to the General Fund.	12/01/08 - INTRODUCED	Staff Monitoring
SCA 3	WYLAND	Transportation Investment Fund	Proposes an amendment to the State Constitution. Deletes current provisions authorizing the transfer of revenues to the Transportation Investment Fund to be suspended during a fiscal emergency. Prohibits a loan of fund revenues under any circumstances. Prohibits any statute that would reduce the extent to which these tax revenues are deposited into the General fund for transfer to the fund for transportation purposes.	12/01/08 - INTRODUCED	Staff Monitoring