

# Memorandum

**To:** CHAIR AND COMMISSIONERS

**Date:** September 7, 2010

**From:** BIMLA G. RHINEHART  
Executive Director

**File No:** Reference No. 4.1  
**ACTION**

**Ref:** State and Federal Legislation

## BACKGROUND

Commission staff continues to monitor proposed legislation based on the over-arching criterion approved by the Commission on December 9, 2009.

The Legislature concluded the second year of the two-year legislative session on August 31, 2010. Bills passed by both houses were forwarded to the Governor for signature. The Governor has until September 30, 2010 to sign or veto these bills. Of the 38 bills staff was monitoring, 18 were passed by both houses and forwarded to the Governor for signature. This month's staff report includes only those bills awaiting action by the Governor's as of September 7, 2010. Staff will provide the Commission with an update at the November 2010 meeting.

Legislation that contains an urgency clause will take effect immediately upon signing by the Governor. Legislation that is signed by the Governor that does not contain an urgency clause will become effective on January 1, 2011.

## RECOMMENDATION

Staff recommends that the Commission accept the staff report.

### Related to Direct Impact to the Commission

#### **SB 1348 – Steinberg – *California Transportation Commission***

Establishes specified procedures that the Commission would be required to utilize when it adopts guidelines pursuant to a statutory authorization or mandate. Exempts the adoption of those guidelines from the requirements of the Administrative Procedure Act.

### Related to Bond Funds

#### **SB 1371 – Correa – *Transportation Bond Funded Projects (Urgency)***

Allows an eligible recipient for funding for capital improvements to intercity and commuter rail lines and urban rail transit systems in connection with or otherwise related to the high-speed train system under the Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century to apply to the Commission for a letter of no prejudice relating to those projects. The bill would authorize the commission to develop guidelines to implement these provisions.

### **Related to Design-Build**

#### **AB 1760 – Blumenfield – *Design-Sequencing Contracts***

Until January 1, 2010, the Department of Transportation (Caltrans) was authorized to conduct a pilot project to let design-sequencing contracts, as defined, for design and construction of not more than 12 transportation projects. This bill would reenact similar provisions, authorizing Caltrans to let design-sequencing contracts for the design and construction of not more than five transportation projects, to be effective until January 1, 2014. The bill would require Caltrans to compile data on the transportation projects pursuant to the design-sequencing contracts awarded under these provisions and to include that data in an attachment to specified reports to the Legislature each year during which the projects are underway.

#### **AB 2098 – Miller – *Riverside County Transportation Commission: Transportation Projects: Contracts (Urgency)***

Authorizes the Riverside County Transportation Commission, if authorized by the Commission, to utilize the design-build procurement process for the State Route 91 Corridor Improvements Project on the state highway system. Would make Caltrans responsible for the performance of construction inspection services for the project, as specified, and would require the Commission to report on the progress of the project and related matters to specified legislative committees.

#### **SB 474 – Ducheny – *Transportation: Pilot Programs (Urgency)***

Existing law authorizes Caltrans to enter into agreements for transportation projects under pilot programs using public-private partnerships and design-build contracting methods. Requires the lead agency for a project, prior to entering into any agreement involving an alternative contracting or financing method, to pass a resolution that identifies the anticipated benefits from using those methods in comparison to using traditional contracting or financing methods.

### **Related to the High Occupancy Toll Lanes**

#### **AB 1224 – Eng – *High-Occupancy Toll Lanes***

Existing law authorizes a regional transportation agency, in cooperation with Caltrans, to apply to the Commission to develop and operate high-occupancy toll (HOT) lanes, including administration and operation of a value-pricing program and exclusive or preferential lane facilities for public transit. Existing law, until January 15, 2013, specifically authorizes a value-pricing and transit development demonstration program involving HOT lanes to be conducted, administered, developed, and operated on State Highway Routes 10 and 110 in Los Angeles County by the Los Angeles County Metropolitan Transportation Authority (LACMTA) under certain conditions. Existing law also requires a specified report to be submitted by Caltrans and LACMTA to the Legislature by December 31, 2012, and extends the authorization for the demonstration program until January 15, 2015, and would require the associated report to be submitted to the Legislature by December 31, 2014.

### **Related to the Environment and Planning**

#### **AB 231 – Huber – *Environment: California Environmental Quality Act: Overriding Considerations (Urgency) (Related to SB 1456 below)***

Authorizes a lead agency, until January 1, 2016, to incorporate by reference a finding of overriding consideration made in a prior EIR for a later project if specified conditions are met, including that the lead agency determines that the later project's significant impacts on the environment are not greater than or different from those identified in the prior EIR. This bill would incorporate additional changes to Section 21094 of the Public Resources Code proposed by this bill and SB 1456, to be operative only if this bill and SB 1456 are both enacted and become effective on or before January 1, 2011, and this bill is enacted last.

#### **SB 1006 – Pavley – *Natural Resources: Climate Change: Strategic Growth Council***

Amends existing law that require the Strategic Growth Council to take certain actions with regard to coordinating programs to address climate change impacts and to award financial assistance to a city, county, or nonprofit organization for the preparation, planning, and implementation of urban greening projects and urban greening plans. Requires the council to manage and award revolving loans or grants to specified local entities for those urban greening projects and plans.

#### **SB 1456 – Simitian – *Environmental Quality: cumulative effects and mediation (Urgency) (Related to AB 231 above)***

Provides that, until January 1, 2016, if a lead agency determines that a cumulative effect has been adequately addressed in a prior environmental impact report that cumulative effects is not required to be examined in a later environmental impact report, mitigated negative declaration or negative declaration. Provides that a mediation proceeding is intended to be conducted concurrently with any judicial proceedings. Authorizes a person wishing to bring an action or proceeding pursuant to CEQA to file with the lead agency and the real party in interest a notice requesting mediation within 5 business days from the date of the filing of a notice of determination occurring on or after July 1, 2011. Provides that the notice for mediation is deemed to be denied if the lead agency fails to respond within 5 business days of receiving the request for mediation. Authorizes a court to impose a penalty on a party making a frivolous claim in the course of an action brought under CEQA on or before December 31, 2015. Requires a member of that organization to have objected to the approval of the project orally or in writing. Authorizes the Attorney General to file a motion with the court seeking an expedited schedule for resolution of an action or proceeding alleging noncompliance. Incorporates additional changes to Section 21094 of the Public Resources Code proposed by this bill and AB 231, to be operative only if this bill and AB 231 are both enacted and become effective on or before January 1, 2011, and this bill is enacted last.

### **Related to Airports**

#### **SB 1141 – Negrette McLeod – *Airports: Airport Lane Use Commission***

Amends existing law that requires members of an airport land use commission to have expertise in aviation. Requires that, if the board of supervisors and city selection committee determine proper land use can be accomplished through the actions of a designated body, the body be a countywide body. States the conditions in which a city in which an airport is located to assume land use operations. Exempts Marin County. Relates to airport subaccounts to fund an airport land use entity.

### **Related to Rail**

#### **AB 289 – Galgiani – *High Speed Rail* (Related to SB 965 below)**

Require federal high-speed rail funds received on a reimbursement basis from ARRA to be deposited in the federal trust fund. Require certain ARRA funds to be used for planning and engineering, and for capital costs, for the high-speed train system consistent with federal law and regulations and specified provisions of SB 965 of the 2009-10 Regular Session. Identifies the corridors eligible for federal PRIIA funds. These provisions would become operative only if SB 965 is also enacted. This bill, for purposes of managing and administering the ongoing work of the authority in implementing the high-speed rail project, would authorize the Governor, upon recommendation of the executive director and subject to an appropriation, to appoint up to 6 additional executive staff exempt from civil service who would serve in specified positions at the pleasure of the executive director. Requires the authority to cause a salary survey to be conducted to determine the compensation for the executive director and additional exempt staff, and would require the salaries to be approved by the Department of Personnel Administration. States the intent of the Legislature to approve additional positions at the authority for purposes of creating an Office for Project Controls and Risk Management in the authority.

#### **AB 619 – Blumenfield – *Transportation Projects: High-Speed Rail***

Establishes procedures to be followed by entities that intend to bid or submit a proposal to contract with the authority for goods or services related to the high-speed train network, as specified. Among other provisions, requires any entity applying for a contract with the authority to affirmatively certify whether it had any direct involvement in the deportation of any individuals to extermination camps, work camps, concentration camps, prisoner of war camps, or any similar camps between specified dates during World War II. Requires the authority to acknowledge and note the importance of complying with this certification.

#### **AB 1830 – Jones – *High Speed Rail Authority***

Requires the High-Speed Rail Authority to make every effort to purchase high-speed train rolling stock and related equipment that are manufactured in the state, consistent with federal and state laws.

#### **SB 455 – Lowenthal – *High-Speed Rail***

Provides that members of the authority appointed by the Governor are subject to appointment with the advice and consent of the Senate.

#### **SB 965 – *High Speed Rail Authority* (Related to AB 289 above)**

Subject to appropriation by the Legislature, requires the authority to expend federal funds made available by the federal American Recovery and Reinvestment Act of 2009 (ARRA) for specified high-speed rail purposes. Requires the authority to take various actions in that regard. Requires the authority to submit to the Legislature and the Legislative Analyst an expenditure plan for the federal funds within 60 days of finalization of a cooperative agreement with the federal government. Makes legislative findings and declarations relative to federal funds to be made available to the state by ARRA for high-speed rail purposes. The bill would exempt the Transbay Transit Center project in San Francisco from these provisions. Provides that it shall become operative only if A.B. 289 is also enacted.

**Other**

**AB 2663 – Lowenthal – *Local Government: Federal Fiscal Year***

Makes several legislative findings and declarations relating to cities that observe the federal fiscal year calendar. Provides that if the Legislature transfers, borrows from, or suspends these allocated revenues, the respective transaction would be suspended during the months of July, August, and September for a city observing the federal fiscal year. The transfer, borrowing, or suspension of revenues would instead commence on October 1 and be completed on or before June 30 of that same state fiscal year.

**SB 1268 – Simitian – *Electronic Toll Collection Mechanisms: Personal Data***

Prohibits a transportation agency, as defined, from selling or providing personally identifiable information of a person obtained pursuant to the person's participation in an electronic toll collection system or use of a toll facility that uses an electric toll collection system, subject to specified exceptions. Require a transportation agency that uses an electric toll collection system to establish a privacy policy regarding personally identifiable information in that regard and to provide the policy to subscribers and post the policy on its Internet Web site. Allows a transportation agency to store certain personally identifiable information of a person and would, on and after July 1, 2011, require it to discard other information within a designated time period. Prescribes the circumstances in which a transportation agency may make personally identifiable information available to a law enforcement agency. Authorizes a person whose personally identifiable information has been sold or provided in violation of the bill to bring specified actions for recovery of damages, costs, and attorney's fees. Authorizes a transportation agency to impose an administrative fee to implement these provisions, as specified.

**SCR 54 – Cogdill – *Kirk Lindsey Memorial Highway***

***Chapter 79, Statutes of 2010***

Designates a specified portion of State Highway Route 108 in Modesto as the R. Kirk Lindsey Memorial Highway.