

Memorandum

To: CHAIR AND COMMISSIONERS

CTC Meeting: August 10, 2011

Reference No.: 4.1
Action

From: BIMLA G. RHINEHART
Executive Director

Subject: **STATE AND FEDERAL LEGISLATION**

ISSUE:

State Legislation: On July 15, 2011, the Legislature adjourned for summer recess and will reconvene in session on August 15, 2011. Status of legislation that staff has been monitoring, that passed out of policy committee by the July 8, 2011 deadline, is provided on the attachment to this staff report. Staff will continue to monitor these bills and provide updates as the legislative process continues.

Federal Reauthorization Legislation: On March 3, 2011, a measure was signed into law by the President to extend Federal Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) appropriations through September 2011.

As of the writing of this staff report, the Administration, the House and the Senate have announced their reauthorization proposals and continue to work on producing actual bills.

Administration Proposal – The Obama Administration, as part of its fiscal year 2012 budget request earlier this year, outlined a six-year \$556 billion proposal. The proposal would expand the current Highway Trust Fund (HTF) to a Transportation Trust Fund that accounts for newly incorporated activities, provide \$30 billion over six years to fund a national infrastructure bank, and provide \$53 billion for a six-year program to create a high-speed rail and intercity passenger rail network.

House Proposal – The House Transportation and Infrastructure Committee has proposed a six-year \$230 billion proposal (“A New Direction”), or an average of \$38 billion a year, that would reduce federal spending on all modes of transportation (overall 35% cut from Fiscal Year 2009 levels).

Senate Proposal – The Senate Environmental and Public Works Committee has proposed a two-year \$109 billion proposal (“Moving Ahead for Progress in the 21st Century”) that would maintain current spending levels under SAFETEA-LU at approximately \$55 billion a year, or about \$20 billion more a year than the House’s proposal. This proposal includes \$12 billion that the HTF cannot cover.

RECOMMENDATION:

The Commission is requested to accept this staff report and provide direction to staff on legislation of interest to it.

STATUS OF ACTION ITEMS:***AB 115 (Assembly Committee on Budgets) – Transportation***

Relates to expansion of the use of weight fee revenues to the Transportation Debt Service Fund to redeem or defense transportation bonds. Provides a new repayment date for loans to the General Fund from the State Highway Account, the Public Transportation Account, fuel excise tax revenues, and vehicle weight fees. Relates to the reporting requirements of the State Highway Patrol and the High-Speed Rail Authority. Grants relief to the City of Santa Rosa regarding matching funds for road maintenance funding.

At its June 22, 2011 meeting, the Commission directed staff to prepare a letter to the Governor opposing this bill. The letter signed by the Commission Chair was forwarded to the Governor and an electronic copy was sent to Commission members. On June 30, 2011, the Governor signed this bill as part of the 2011-12 Budget package.

SB 907 (Evans) – Master Plan for Infrastructure Financing and Development Commission

Creates the Master Plan for Infrastructure Financing and Development Commission, consisting of specified members, and would require the commission to prepare and submit a strategy and plan for infrastructure development in California that meets certain criteria to the Legislature and the Governor by December 1, 2013.

In response to the Commission's letter to Senate Evans in regard to her consideration for an active role for the Commission on the Master Plan for Infrastructure Financing and Development Commission, Commission staff was notified that this bill will not be moving forward this year. Commission staff was encouraged to contact the Senator's office this coming fall to discuss the possibility of amending the bill, and was also encouraged to contact the bill sponsor, Treasurer Bill Lockyer.

BACKGROUND:

The Commission approved criteria to guide Commission staff in monitoring legislation and selecting bills that should be brought forward for Commission consideration. An over-arching criterion is that a bill must directly affect transportation on a statewide basis. Bills meeting one or more of the criteria, provided below, will be brought forward to the Commission for consideration.

- Funding/Financing - funding or a funding mechanism for transportation (capital and operations)
- Environmental Mitigation - implementation of green house gas emissions reduction and transportation (e.g., AB 32), and/or involve the environmental process and transportation (e.g., CEQA)
- Planning - implementation of transportation and land use and planning (e.g., SB 375)
- Project Delivery - changes to the way transportation projects are delivered

Additional criteria for bringing a bill forward include:

- Direct Impact to Commission - changes in Commission responsibility, policy impact or operations
- Commissioner Request - recommended by a Commissioner for consideration by the Commission at its next regularly scheduled meeting

The Commission adopted policy to consider legislation in relation to its overall policy by topic area, prior to taking a position on legislation addressing that topic; and remain selective in its use of watch, support or opposition on a bill. The rationale for a policy by topic area is it permits the Commission to address a suite of legislative proposals dealing with the same topic by commenting to the author(s) without necessarily taking a position. Rather than taking specific positions on bills in their initial state, the Commission can advise the Legislature on a bill's policy and/or technical aspects, as well as how it helps or hinders transportation. The intent of the Commission's comments is to alert the author of the bill's impact on a policy and/or technical aspect related to transportation planning, programming, financing, mitigation, or project delivery.

Further direction will be provided to staff, by the Chair, on bills that meet the aforementioned criteria.

Attachment

CALIFORNIA TRANSPORTATION COMMISSION
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Bill Number	Author	Bill Title	Subject	Status
AJR 4	Miller	Transportation Infrastructure Finance and Innovation	Memorializes the President of the United States and the Secretary of the United States Department of Transportation to award a federal Transportation Infrastructure Finance and Innovation Act loan guarantee to enable the timely construction of the Route 91 Corridor Improvement Project	Last Action Enrolled and Chaptered 6/21/11
AJR 5	Lowenthal	Transportation Revenue	Requests the President and the Congress to consider and enact legislation to conduct a study regarding the feasibility of the collection process for a transportation revenue source based on vehicle miles traveled, in order to facilitate the creation of a reliable and steady transportation funding mechanism for the maintenance and improvement of surface transportation infrastructure.	Last Action Enrolled and Chaptered 6/8/11
SB 475	Wright	Infrastructure Financing	Authorizes a local governmental agency to enter into an agreement with a private entity for financing (public private partnership) for specified types of revenue-generating infrastructure projects (including commuter and light rail and highways or bridges). Requires an agreement entered into under these provisions to include adequate financial resources to perform the agreement, and would additionally permit the agreements to lease or license to, or provide other permitted uses by the private entity.	Last Action Failed Passage. Reconsideration Granted 6/29/11 Current Location Assembly Committee on Local Governments Hearing Scheduled 8/15/11
SB 907	Evans	Master Plan for Infrastructure Financing and Development Commission	Would create the Master Plan for Infrastructure Financing and Development Commission, consisting of specified members, and would require the commission to prepare and submit a strategy and plan for infrastructure development in California that meets certain criteria to the Legislature and the Governor by December 1, 2013. This bill would provide that the commission would dissolve 30 days after submission of its final report. This bill would repeal these provisions upon the dissolution of the commission. Would provide that these provisions become operative only if the funds required to support the commission are appropriated and made available in the annual Budget Act.	Last Action Hearing canceled at the request of author 7/6/11 Current Location Assembly Committee on Jobs, Economic Development and the Economy

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ENVIRONMENTAL MITIGATION

Bill Number	Author	Bill Title	Subject	Status
AB 892	Carter	Department of Transportation: environmental review process: federal pilot program	Existing federal law requires the United States Secretary of Transportation to carry out a surface transportation project delivery pilot program, under which the participating states assume certain responsibilities for environmental review and clearance of transportation projects that would otherwise be the responsibility of the federal government. Existing law requires the department to submit a report to the Legislature regarding state and federal environmental review. Existing law requires the report to be submitted no later than January 1, 2009, and again, no later than January 1, 2011. This bill would, instead, require the report to be submitted no later than January 1, 2016. Existing law, until January 1, 2012, provides that the State of California consents to the jurisdiction of the federal courts with regard to the compliance, discharge, or enforcement of the responsibilities it assumed as a participant in the pilot program. This bill would delete this repeal date and extend the operation of these provisions until January 1, 2017. This bill would provide that the state shall remain liable for any decisions made or responsibilities assumed prior to repeal of the these provisions under applicable federal statutes of limitation for filing citizens' suits in federal courts.	<p>Last Action Passed Senate Committee on Environmental Quality 7/12/11</p> <p>Current Location Senate Committee on Appropriations</p> <p>Hearing Scheduled 8/15/11</p>
SB 468	Kehoe	Department of Transportation:-North coast corridor project: high-occupancy toll lanes.	Imposes additional requirements on the Department of Transportation with respect to specified highway projects on State Highway Route 5 in southern California, known collectively as the north coast corridor project, that are located entirely or partially in the coastal zone, including requiring the department to collaborate with local agencies, the State Coastal Commission, and other affected local, state, and federal agencies to ensure that multimodal transportation options are evaluated and included, where appropriate, in the project design and the public works plan for the projects. The bill would make these requirements applicable to SANDAG. Requires the department to suspend a notice of determination regarding environmental income until a certain determination is made. Authorizes SANDAG to conduct, administer, and operate a value pricing HOT lane on State Highway Route 5.	<p>Last Action Passed Assembly Committee on Natural Resources 7/12/11</p> <p>Current Location Assembly Committee on Appropriations</p> <p>Hearing Scheduled 8/17/11</p>

PROJECT DELIVERY

Bill Number	Author	Bill Title	Subject	Status
AB 294	Portantino	Design-Sequencing Contracts	Would enact new provisions, authorizing the department to let contracts for the design and construction of not more than 5 transportation projects utilizing the design-sequencing method, to be effective until January 1, 2015. Require the department to use department employees or consultants under contract with the department for these design services. Require the department to compile data on the transportation projects awarded under these provisions and to include that information in a report to the Legislature each year during which the projects are underway, as specified.	<p>Last Action Placed on Suspense File 7/11/11</p> <p>Current Location Senate Committee on Appropriations</p> <p>Hearing Scheduled 8/17/11</p>

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Bill Number	Author	Bill Title	Subject	Status
SB 619	Fuller	California Private Postsecondary Education Act of 2009: exemptions	Exempts from the Private Postsecondary Education Act flight instruction providers or programs that are certified by the Federal Aviation Administration to provide flight instruction and that do not receive or otherwise arrange for payment before the instruction is provided to the student. Repeals certain provisions relating to educational institutions engaged in flight instruction and aircraft maintenance.	<p>Last Action Amended & Re-referred to Assembly Committee on Appropriations 7/07/11</p> <p>Current Location Assembly Committee on Appropriations</p> <p>Hearing Scheduled 8/17/11</p>

DIRECT IMPACT TO COMMISSION

Bill Number	Author	Bill Title	Subject	Status
AB 286	Berryhill	State highway: Routes 108 and 120	This bill would, <i>on and after July 1, 2013</i> , require the proceeds from the sale of excess properties acquired by the department for improvements to State Highway Route 120 to be used for improvements to the State Highway Route 108 in Stanislaus County, the North County Corridor. The bill would require the department to deposit the sale proceeds in a special account in the Special Deposit Fund, and would require that interest earnings from funds in that special account accrue to the account. The bill would require the commission to program the funds in the special account to any phase of the North County Corridor, and, upon appropriation by the Legislature, would authorize the commission to allocate the funds to the Stanislaus Council of Governments or any agency designated by that entity to deliver the North County Corridor.	<p>Last Action Placed in Committee on Appropriations Suspense File 6/27/11</p> <p>Current Location Senate Committee on Appropriations</p>
AB 845	Ma	Transportation: Bond Funds	Would require the guidelines adopted by the Commission to determine the funding share for each eligible commuter and urban rail recipient to use the distribution factors gathered from the 2007 Data Tables of the National Transit Database of the Federal Transit Administration. Would require the Commission to accept from each eligible recipient a priority list of projects up to the target amount expected to be available for the recipient and would require matching funds provided by the recipient to be from nonstate funds. Would define "nonstate matching funds" for purposes of these bond fund allocations to mean local, federal, and private funds, as well as state funds available to an eligible recipient that are not subject to allocation by the commission.	<p>Last Action Passed Senate Committee on Transportation & Housing 7/06/11</p> <p>Current Location Senate Committee on Appropriations</p> <p>Hearing Scheduled 8/15/11</p>

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Bill Number	Author	Bill Title	Subject	Status
AB 957	Committee on Transportation	Transportation omnibus bill	This bill will delete the existing requirements that requires, commencing January 1, 2004, until completion of the seismic retrofit of specified state-owned toll bridges, the Department of Transportation to provide quarterly seismic reports to the transportation committees of both houses of the Legislature and to the California Transportation Commission for other seismic retrofit programs. This bill would provide for the relinquishment of all of Route 225 in the City of Santa Barbara under certain terms and conditions.	<p>Last Action Second Reading & Amended. Re-referred to Senate to Committee on Appropriations 7/07/11</p> <p>Current Location Senate Committee on Appropriations</p> <p>Hearing Scheduled 8/15/11</p>
SB 103	Liu	State government: meetings	Would authorize a state body, to the extent practicable, to conduct teleconference meetings. Require, upon the request of a member of a state body, a state body to hold an open or closed meeting by teleconference, unless the chair of that state body determines that it would be more costly to hold the meeting by teleconference than it would be to hold it in person. Provide that a member of the state body may request a meeting by teleconference for any reason that would make it more difficult or burdensome for that member to attend a meeting in person. Would prohibit a member of a state body from requesting meeting by teleconference solely because it would more convenient than holding a meeting in person. Require a state body that operates an Internet Web site to provide a supplemental live audio or video broadcast on the Internet Web site of its board meetings that are open to the public, and would specify that a technical failure to provide a live broadcast would not prohibit the body from meeting and taking actions.	<p>Last Action Second Reading & Amended 7/12/11</p> <p>Current Location Assembly Committee on Appropriations</p> <p>Hearing Scheduled 8/17/11</p>
SB 126	Steinberg	California Transportation Commission: guidelines	Existing law, the Administrative Procedure Act, generally governs the procedure for the adoption, amendment, or repeal of regulations by state agencies and for the review of those regulatory actions by the Office of Administrative Law. Existing law, in certain instances, exempts state agencies from these requirements. This bill would establish specified procedures that the commission would be required to utilize when it adopts guidelines, except as specified, and would exempt the adoption of those guidelines from the requirements of the Administrative Procedure Act.	<p>Last Action Second Reading. Ordered to consent calendar 7/14/11</p> <p>Current Location Assembly Committee on Appropriations</p>
SB 791	Steinberg	California Transportation Commission: annual report	Amends existing law requiring the California Transportation Commission to adopt an annual report for submission to the Legislature. Deletes the provisions relating to the loan and transfer summary and discussion that was to be included in the reports submitted between 2001 and 2008.	<p>Last Action To Third Reading 6/15/11</p> <p>Current Location Assembly Committee on Transportation</p>

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RAIL

Bill Number	Author	Bill Title	Subject	Status
AB 16	Perea	High-Speed Rail Authority	Amends existing law that creates the High-Speed Rail Authority. Requires the authority to make every effort to purchase high-speed train rolling stock and related equipment that are manufactured in California, consistent with federal and state laws.	<p>Last Action Second Reading. To Third Reading 7/12/11</p> <p>Current Location Senate Committee on Appropriations</p>
AB 41	Hill	High-Speed Rail Authority: conflicts of interest: disqualification: ex parte communications	Amends existing provisions of the Political Reform Act of 1974. Adds members of the High-Speed Rail Authority to those specified offices who must publicly identify a financial interest giving rise to a conflict of interest, and recuse themselves accordingly. Prohibits a board member and any defined interested person from conducting an ex parte communication. Requires the member to report such communication. Requires the Business, Transportation, and Housing Agency to enforce these provisions.	<p>Last Action From Consent Calendar to Third Reading 7/14/11</p> <p>Current Location Senate Committee on Appropriations</p>
AB 145	Galgiani and Bonnie Lowenthal	High-Speed Rail	This bill would repeal all of the provisions of the California High-Speed Rail Act. The bill would enact a new California High-Speed Rail Act. The bill would continue the High-Speed Rail Authority in existence with limited responsibilities and would place the authority within the Business, Transportation and Housing Agency. The 5 members of the authority appointed by the Governor would be subject to Senate confirmation, but existing members could continue to serve the remainder of their terms. The bill would authorize the authority to appoint an executive director, and would provide for the Governor to appoint up to 6 additional individuals exempt from civil service as authority staff. The bill would require the authority to adopt policies directing the development and implementation of high-speed rail prepare and adopt a business plan and high-speed train capital program, establish a peer review group, select alignments for the routes of the high-speed train system established by law, adopt criteria for the award of franchises and set fares or establish guidelines for the setting of fares.	<p>Last Action Second Reading & Amended. Re-referred to Committee on Appropriations 7/13/11</p> <p>Current Location Senate Committee on Appropriations</p> <p>Hearing Scheduled 8/15/11</p>
AB 492	Galgiani	High-Speed Rail Authority	This bill would require the authority to consider, to the extent permitted by federal and state law, the creation of jobs and participation by small business enterprises in California when awarding major contracts or purchasing high-speed trains. The bill would require the authority to appoint a small business enterprise advisory committee.	<p>Last Action Second Reading & Amended. Re-referred to Committee on Rules 6/27/11</p> <p>Current Location Senate Committee on Appropriations</p>

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Bill Number	Author	Bill Title	Subject	Status
AB 615	Lowenthal	High-Speed Rail	Enacts certain exceptions, authorizations, and exemptions relative to real property obtained for high-speed rail purposes by the High-Speed Rail Authority. Enacts provisions governing acquisition or disposal of right-of-way property by the authority, and would require the authority to provide a record of real property parcels it owns to the Department of General Services by July 1, 2014 and annually thereafter. Would provide that the governing body in the cast of taking by the Department of High-Speed Trains is the High-Speed rail Authority. Makes existing law requiring the approval of the Department of Finance and the State Public Works Board before a state agency may expend funds from an appropriation for capital outlay purposes inapplicable to the High-Speed Rail Authority. The bill would require the authority to exercise all of these powers pursuant to a contract between the authority and the Dept of Transportation, and would require the department to carry out the responsibilities relating to the exercise of those powers on behalf of the authority pursuant to that contract.	<p style="text-align: center;">Last Action Second Reading & Amended. Re-referred to Committee on Appropriations 7/13/11</p> <p style="text-align: center;">Current Location Senate Committee on Appropriations</p> <p style="text-align: center;">Hearing Scheduled 8/15/11</p>
AB 952	Jones	High-Speed Rail	Would prohibit a member or consultant of the authority from being the recipient of any gift, as defined, in a specified provision of the act. Would prohibit a construction company, engineering firm, consultant, legal firm, or any other company, vendor, or business entity with a contract or seeking a contract with the authority, or subcontractor of any of the foregoing, or owner, employee, or any member of their immediate families of any of these companies, firms, vendors, entities, or subcontractors, from making any gift to a member, or employee, or consultant of the authority, or to any member of their immediate families. Would authorize the authority itself to receive gifts, and to transfer gifts as specified, with the written approval of the Department of Finance. Would, under certain exceptions, prohibit a member, employee, or consultant of the authority from appearing before the authority on behalf of, or in any way representing before the authority, any individual or private or public entity for 3 years after termination of the employment or contract relationship with the authority. Existing law provides that the authority may accept grants, fees, and allocations from various sources, including the state, the federal government, foreign governments, and private sources. This bill would delete the reference to foreign governments.	<p style="text-align: center;">Last Action Re-referred to Committee on Appropriations pursuant to JR 10.5 7/6/11</p> <p style="text-align: center;">Current Location Senate Committee on Appropriations</p> <p style="text-align: center;">Hearing Scheduled 8/15/11</p>
AB 1092	Lowenthal	High-Speed Rail	Would require the authority to report biannually to the Legislature beginning March 1, 2012, on the status of the project, including overall progress, the project budget, expenditures to date, a comparison of the current and project work schedule and the baseline schedule contained in the 2009 business plan, project milestones, and other related issues.	<p style="text-align: center;">Last Action Re-referred to Committee on Rules 6/16/11</p> <p style="text-align: center;">Current Location Senate Committee on Rules</p>

