

Memorandum

To: Chair and Commissioners

Date: December 4, 2008

From: John F. Barna, Jr.
Executive Director

File No: Reference # 4.1

ACTION

Ref: State and Federal Legislation

Issue:

With the start of the two-year legislative session, should the Commission first consider its overall policy by topic area, prior to taking a position on legislation addressing that topic?

Recommendation:

Commission staff:

- Requests the Commission's guidance on whether the Commission should consider its policy by topic area, prior to taking a position on legislation addressing that topic.
- Recommends, if the Commission chooses to use the above approach, that the Commission be selective in its use of support or opposition on a bill.

Background:

Advice to the Legislature:

If the Commission has a policy for a topic area, it can address a suite of legislative proposals dealing with the same topic by commenting on them to the author(s) without necessarily taking a position. Rather than taking a specific positions on bills in their initial state, the Commission may wish to advise the Legislature on a bill's policy and/or technical aspects, as well as how it helps or hinders transportation. The Commission could work with legislators without being locked into a support/oppose position that could prevent the Commission from assisting legislators to achieve the Commission's goals. As an example, the Commission may wish to comment on, but not take positions on:

- Revenue/user fee bills for highway and transit programs/projects.
- Bills regarding transportation and air quality emissions.
- Land use and transportation bills.
- Environmental bills addressing the California Environmental Quality Act.
- Bills implementing Propositions 1B (2006) or 1A (2008).
- Public-private partnerships and design-build.

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. The Commission could then establish a position on the bill later.

Bill Positions:

Last year the Commission took a position on a number of bills. The Commission recommended that the Legislature:

- Consider Public Private Partnership (PPP) legislation that would:
 - Grant public agencies the authority needed to ensure a successful PPP on a project. Public agencies must have authority to oversee implementation, procurement, operations, and revenue generation, particularly the right to set tolls and user fees.
 - Permit public-public-private partnerships. This would permit public agencies to bring a transportation project through the environmental and transportation planning process and decrease some of the risk faced by the private sector.
 - Provide for design-build authority for PPP projects, especially for those that are large and complex.
- Pass legislation that permitted:
 - The update of California Public Utilities Code sections 21670 through 21679 to further solidify and strengthen airport land use law to preclude and prevent incompatible land use around airports. Last year the Commission supported SB 1118 by Senator Negrete McLeod that attempted to make a number of those changes. The bill died in Assembly at the end of the session.
 - Performance-based infrastructure to occur, such High-Occupancy Toll Lanes proposals that would generate revenues for constructing and operating public-private toll facilities.
- Defeat legislation that would:
 - Transfer properties from the State Department of Transportation at less than fair market value or placed restrictions on State property that would reduce its value.

Status Report on Federal Legislation – Economic Stimulus

Prior to the end to of the federal legislative session, Senate Majority Leader Harry Reid of Nevada introduced S. 3689. The bill contained \$100.3 billion for infrastructure projects, state Medicaid programs, loan authority for small businesses, food stamps, school repairs, disaster assistance, and proposals for several other topic areas. The bill did not pass. Senator Reid will likely propose a similar bill during the upcoming session. S. 3689 provides insight on future legislative direction in providing economic stimulus for the nation.

Senator Reid's stimulus proposal, the "Economy Recovery Act of 2008" was coauthored with Senate Appropriations Committee Chairman Robert Byrd of West Virginia. The Senators noted in a press release to the media: "There are consequences for failing to invest in America. Trucks are barred from critical highways. Roads and subways are congested to the breaking point. Rail passengers are left stranded on the platform."

S. 3689 would have appropriated transportation funds as follows:

- \$10.0 billion for highway and bridge investments sent by formula to every state. No state match would have been required.
- \$2.5 billion for transit agencies to address capital and operating needs.
- \$400 million for Amtrak capital projects.
- \$100 million for grants to states for passenger rail capital projects.
- \$500 million for airport improvements.
- \$120 million for maritime transportation and shipyard capacity.
- \$500 million for the Transportation Security Administration to accelerate installation of security equipment at airports.
- \$150 million for Coast Guard cutters.
- \$90 million for the Coast Guard to fix bridges that obstruct maritime navigation.