

Memorandum

Tab 16

To: CHAIR AND COMMISSIONERS

CTC Meeting: December 7-8, 2016

Reference No.: 4.1
Action

From: SUSAN BRANSEN
Executive Director

Subject: **STATE AND FEDERAL LEGISLATIVE MATTERS**

ISSUE:

Should the California Transportation Commission (Commission):

- 1) Accept the staff report, including direction related to monitoring legislation in the upcoming Legislative Session?
- 2) Approve the staff recommendations for implementation of legislation enacted in 2016 that impacts the Commission?
- 3) Approve a letter in support of the upcoming Federal fiscal year (FFY) 2017 Fostering Advancements in Shipping and Transportation for the Long-Term Achievement of National Efficiencies (FASTLANE) grant applications submitted by the California Department of Transportation (Department) and regional agencies?

RECOMMENDATION:

Staff recommends that the Commission:

- 1) Accept this staff report, including direction related to monitoring legislation in the upcoming Legislative Session.
- 2) Approve staff recommendations for implementation of the requirements of Assembly Bill (AB) 2542 and Senate Bill (SB) 1279, respectively. Because implementation of AB 2620 is still several years away, staff recommends postponing action on this bill to 2019.
- 3) Approve the attached letter in support of the upcoming FFY 2017 FASTLANE grant applications submitted by the Department and regional agencies (Attachment A).

BACKGROUND:

The 2015-16 Legislative Session came to a close at midnight of November 30th, as did the First Extraordinary Session (Special Session) that focused on the state's transportation funding crisis. Though no resolution was reached, a joint letter issued on November 22nd by the Governor,

Assembly Speaker, and Senate President Pro Tempore declared that they all remain committed to tackling this issue early in 2017 (Attachment B).

The State Legislature convened on December 5, 2016, for an organizational session and will return from winter recess on January 3, 2017 to begin the first year of a new two-year session. Attachment C is a tentative 2017 Legislative calendar. Neither Assembly Speaker Rendon nor Senate Pro Tempore De Leon have announced Committee Chair appointments at this time. Staff will provide a complete list of Senate and Assembly Transportation Committee membership at the January Commission meeting.

Monitoring Legislation in the Upcoming Legislative Session

At its December 2009 meeting, the Commission approved criteria to guide Commission staff in monitoring legislation and selecting bills that should be brought forward for Commission consideration. Without alternative or additional direction, Commission staff will follow these criteria and processes for monitoring legislation in the upcoming session.

An over-arching criterion for determining bill monitoring is that it must directly affect transportation on a statewide basis. Further, the Commission will monitor bills that:

- involve funding or a funding mechanism for transportation (capital and operations)
- involve the implementation of greenhouse gas emissions reduction and transportation
- involve the implementation of transportation and land use and planning
- involve the environmental process and transportation
- involve changes to the way transportation projects are delivered
- affects the Commission directly (e.g., changes in Commission responsibility, policy impact or operations)

When monitoring bills, staff will:

- report at Commission meetings on bill progress
- prepare analyses and recommendations for bills of particular interest
- testify at committee hearings on those bills where the Commission has taken a position
- continue to meet regularly with Caltrans and Legislative staff to discuss bills moving through the legislative process
- inform the Administration of the Commission's position on bills that pass the Legislature

IMPLEMENTING LEGISLATION

There were multiple bills signed by the Governor in 2016 that affect various aspects of transportation projects and funding. Three of them require implementation by the Commission. A summary of the three bills requiring Commission action is provided below.

AB 2542 (Gatto)

This bill requires the Department or a Regional Transportation Planning Agency (RTPA), when submitting a capacity-increasing project or a major street or highway lane realignment project to the Commission for approval, to demonstrate that reversible lanes were considered for the project. The law does not define “commission approval”, or how consideration of reversible lanes is to be demonstrated. The law becomes effective January 1, 2017.

Staff recommends the following:

- Require the Department or RTPA submitting a project for programming to provide reasonable supporting documentation defining whether or not the project qualifies as a capacity-increasing project or a major street or highway lane realignment project pursuant to AB 2542.
- If the proposed project does qualify as a capacity-increasing project or major street or highway lane realignment project under AB 2542, require the Department or RTPA submitting the project’s environmental documents for consideration of future funding to also provide written documentation that demonstrates reversible lanes were considered for the project.

SB 1279 (Hancock)

Except as specified, SB 1279 prohibits the Commission from programming or allocating state funds for new bulk coal terminal projects, as defined in the bill. The bill states that while it is not the intent of the Legislature to disrupt existing, regular, and lawful interstate and international commerce involving operations that may transport coal, it is the intent of the Legislature to avoid making new investments in coal-supporting projects.

Under the provisions of SB 1279, the Commission is responsible to review each new freight terminal project presented before the Commission to determine whether or not the purpose or intent is to increase the state’s overall capacity to facilitate the transportation of coal in bulk. The law states this determination should be based on a review of the completed environmental documents and written confirmation from the lead agency of the project. The bill also requires terminal project grantees to annually report to the Commission that the project is not being used to handle, store, or transport coal in bulk. There is no sunset of the annual notification, so the requirement would be in perpetuity. The law becomes effective January 1, 2017.

SB 1279 defines “new bulk coal terminal” as a terminal that stores, handles, or transports coal in bulk to a degree or level of significance that is categorized as having the potential for significant

environmental impacts in an environmental document as a result of the storage, handling, or transport of coal in bulk. The definition does not include a project that is designed for safety, rehabilitation, congestion reduction, modernization, or repair of an existing operation or facility, including rail terminals, railyards, rail facilities, rail infrastructure, and rail right-of-way.

SB 1279 further defines “terminal project” or “terminal” as a yard, depot, or off-road or other facility that exchanges freight in bulk between transportation modes. The definition does not include a project that is designed for safety, rehabilitation, congestion reduction, modernization, or repair of an existing operation or facility, including rail terminals, railyards, rail facilities, rail infrastructure, and rail right-of-way.

Staff recommends the following:

- Staff will not recommend the programming or allocation of state funds, including proceeds from general obligation bonds, for any new bulk terminal project proposed after January 1, 2017.
- The lead agency as identified under the California Environmental Quality Act (CEQA) shall provide the Commission written confirmation that any new non-bulk terminal project will not increase the state’s overall capacity to facilitate the transportation of coal in bulk pursuant to SB 1279. This confirmation shall be provided both in the environmental document and at time of programming.
- Commission staff will provide a standard form for the project grantee to annually notify the Commission that the new terminal project is not being used to handle, store, or transport coal in bulk. The form will also request that the project grantee inform the Commission if the terminal changes ownership.

AB 2620 (Dababneh)

Proposition 116 was an initiative measure that enacted the Clean Air and Transportation Improvement Act of 1990, which established the Clean Air and Transportation Improvement Fund. This fund continuously appropriates specified amounts of funding for, among other things, rights-of-way for rail purposes and capital expenditures deemed necessary for specified rail services. It also requires the Commission to adopt guidelines for the approval of grants for transit projects which are essential to the implementation of safe and reliable transit services. If funds are not enacted or encumbered prior to July 1, 2010, Proposition 116 authorizes the Legislature to reallocate the funds to any other passenger rail project in the state by a statute passed in each house by a two-thirds majority vote.

AB 2620 reallocates funds allocated pursuant to Proposition 116 that are not expended or encumbered by July 1, 2020, to any other existing passenger rail project with existing rail service, as specified. The bill requires the Commission to determine the projects pursuant to this reallocation. By reallocating unexpended or unencumbered funds to any other existing passenger

rail project, this bill would make an appropriation. While this law is effective on January 1, 2017, the Commission cannot take any action to reallocate the unexpended or unencumbered funds to any other existing passenger rail project until July 1, 2020.

Staff recommends the following:

- Because the Commission's responsibilities prescribed by AB 2620 are still several years away, postpone action on this item until 2019.

CALIFORNIA'S FEDERAL FREIGHT FUNDING GRANT APPLICATIONS

On October 28, 2016, U.S. Transportation Secretary Anthony Foxx announced that the federal government was accepting applications for up to \$850 million in FASTLANE grants for FFY 2017. The FASTLANE program was established in the Fixing America's Surface Transportation (FAST) Act to fund critical freight and highway projects across the country. The FAST Act authorized the program at \$4.5 billion for FFY 2016 through 2020, including \$850 million for FFY 2017 to be awarded by the Secretary of Transportation. FASTLANE grant applications are due December 15th.

The Commission proudly acknowledges that California serves a critical national freight role as the largest gateway for international trade and domestic commerce in the nation. The state's transportation system is the most extensive, least polluting, highest capacity, and most technically advanced multimodal freight transportation system in the U.S. In light of this, both the Department and regional agencies within the state are submitting applications for FASTLANE grants. Attachment A is a draft letter from the Commission in support of the new round of applications, as successful selection of any or all of these applications will result in critical new funding for freight mobility in California.

Attachments:

- Attachment A: Letter Supporting California's Federal Freight Funding Applications
- Attachment B: Joint Letter – Special Session
- Attachment C: 2017 Tentative Legislative Calendar

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December 7, 2016

Office of the Assistant Secretary for Transportation Policy
U.S. Department of Transportation
1200 New Jersey Ave, SE
Washington, DC 20590
United States

Re: California Federal Fiscal Year 2017 FASTLANE Grant Applications

The California Transportation Commission (Commission) extends our support to the upcoming Federal fiscal year 2017 Fostering Advancements in Shipping and Transportation for the Long-Term Achievement of National Efficiencies (FASTLANE) grant applications submitted by the California Department of Transportation and regional agencies within our state. We appreciate the additional federal funding for critical freight and highway projects both in our state, and across the country.

In determining the projects to be awarded 2017 FASTLANE funding, it is important to recognize and consider California's critical national freight role. California serves as the largest gateway for international trade and domestic commerce in the nation. The state's transportation system is the most extensive, least polluting, highest capacity, and most technically advanced multimodal freight transportation system in the United States. The *Beyond Traffic* report prepared by the U.S. Department of Transportation (U.S. DOT) indicates the twin ports of Los Angeles and Long Beach are the top two containerized ports in the nation, with a combined value of over \$395 billion dollars. This high volume of freight from these ports, as well as California's other port facilities creates severe bottlenecks in the surface transportation system; the *Beyond Traffic* report points out that the Los Angeles metropolitan area experiences some of the worst truck delays in the country.

Office of the Assistant Secretary for Transportation Policy
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Over the past ten years, voters in 24 of California's 58 counties have approved county sales tax measures solely dedicated for transportation improvements. These county-level sales taxes account for approximately half of the transportation funding available in California today. Federal transportation funds provide approximately 25 percent and state funds account for the remaining 25 percent. These local sales tax funds coupled with state transportation bond funds account for the vast majority of funding used to make improvements to California's freight transportation system, which in turn provides a benefit to national freight movement. Unfortunately, these local and state transportation funds have not been sufficient to address the funding shortfall for improvements to our freight transportation infrastructure.

Although we thoroughly understand the extremely competitive nature of the FASTLANE grant program, it is also very important that the U.S. DOT take into account the key role California plays in the national economy. Funding for California's transportation system has been greatly constrained recently due to reductions in state transportation funds. These funding reductions are unfortunately occurring at the same time we are experiencing increasing demand on our system, which has a direct and immediate impact on freight movement with far reaching national implications.

Thank you in advance for your consideration of funding the FASTLANE grant applications received from California agencies.

Sincerely,

BOB ALVARADO
Chair

c: Commissioners, California Transportation Commission
Susan Bransen, Executive Director, California Transportation Commission
Brian Kelly, Secretary, California State Transportation Agency
Malcolm Dougherty, Director, California Department of Transportation



November 22, 2016

Dear valued stakeholder:

Thank you for your work and advocacy on behalf of the people of California to fix our roads. While there will not be a lame-duck session of the Legislature to approve a transportation funding deal in 2016, our work on this critical issue continues.

The Administration, Assembly and Senate are all committed to tackling this issue early in the new year to address our critical infrastructure and transportation needs – and we'll need your continued support.

Let's get it done!

A handwritten signature in black ink that reads "Jerry Brown".

Governor Edmund G. Brown Jr.

A handwritten signature in black ink that reads "Kevin de León".

Senate President pro Tempore Kevin de León

A handwritten signature in black ink that reads "Anthony Rendon".

Assembly Speaker Anthony Rendon

2017 TENTATIVE LEGISLATIVE CALENDAR

January 4	Legislature reconvenes for first year of the two-year session
January 10	Budget bill submitted by the Governor
February 17	Last day for members to introduce bills
April 6	Spring recess begins
April 17	Legislature reconvenes from spring recess
April 28	Last day for policy committees to hear fiscal bills introduced in their house
May 12	Last day for policy committees to hear non-fiscal bills introduced in their house
May 26	Last day for fiscal committees to hear and report to the Floor bills introduced in their house
June 2	Last day to pass bills out of house of origin
June 15	Budget bill must be passed by midnight
July 14	Last day for policy committees to meet and report out fiscal bills
July 21	Summer recess begins provided the budget bill has passed
August 21	Legislature reconvenes from summer recess
September 1	Last day for fiscal committees to meet and report bills to the Floor
September 8	Last day to amend any bills on the Floor
September 15	Last day for each house to pass bills; Interim recess begins
October 15	Last day for Governor to sign or veto bills passed by the Legislature on or before September 15