

Memorandum

To: CHAIR AND COMMISSIONERS

CTC Meeting: August 12-13, 2020

From: MITCH WEISS, Executive Director

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Subject: State and Federal Legislative Matters

Summary of Revisions: The July 31, 2020 version of this book item has been revised to summarize amendments made to Senate Bill 1351 (Beall) on August 6, 2020. The summary of the amendments is included at the end of the staff comments on this legislation.

Recommendation:

Staff recommends the Commission accept the staff report on state legislation being monitored in Attachment A.

Issue:

Attachment A includes a list of active bills meeting the criteria in the Commission's bill monitoring policy. The list is much shorter than typical because the COVID-19 pandemic twice interrupted the legislative session and resulted in a re-prioritization of legislation being heard.

Background:

State Legislation Update

The last day of the legislative session is August 31, 2020. There are two active bills on which the Commission has adopted a support position this session:

- AB 2285 (Committee on Transportation), which would implement a Commission recommendation to dedicate the interest earnings on revenues deposited in the Road Maintenance and Rehabilitation Account to highway maintenance and the State Highway Operation and Protection Program. This bill passed the Assembly and is now pending in the Senate.
- SB 1291 (Committee on Transportation), which would provide flexibility to regional transportation agencies in preparing their Federal Transportation Improvement

Programs, due to the issuance of the federal Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule (Part 2). This bill passed the Senate and is now pending in the Assembly.

Staff Comments on SB 1351 (Beall): Transportation Improvement Fee: Revenue Bonds

On July 9, 2020, SB 1351 (Beall) was amended from its prior subject (transportation planning) to instead create a new state finance committee with the authority to issue revenue bonds, backed by a portion of Transportation Improvement Fee revenues. (These amendments are dated July 27, 2020, due to the legislative recess.) The finance committee would be comprised of the State Controller, the Treasurer, and the Director of the Department of Finance. The bill states that the use of such revenue bonds can accelerate projects, generate cost savings, and stimulate the economy. (Relatedly, on July 27, 2020, legislative leaders in both houses released a proposed “Joint Economic Stimulus Plan” that also calls for securitizing transportation funds.) Commission staff have met with the author’s office to discuss the bill, including potential unintended negative impacts on the Local Partnership Program, as well as other programs. The bill was recently amended again on August 6, 2020 – a summary of these amendments appears at the end.

Background. The Transportation Improvement Fee is a vehicle ownership fee created by SB 1 (Beall, 2017). A portion of Transportation Improvement Fee revenues are deposited in the Road Maintenance and Rehabilitation Account, also created by SB 1, along with funds from other revenue sources. This account has a statutory sequential formula for funding programs that first dedicates funding to several programs off the top in fixed amounts—commonly referred to as “the waterfall”—and then splits the remaining funds equally between (1) state highway maintenance and rehabilitation and (2) local streets and roads. The table below shows revenues deposited into the Road Maintenance and Rehabilitation Account and the programs funded.

Road Maintenance and Rehabilitation Account			
(Fiscal Year 2020-21, in billions)			
Revenues		Program Funding	
Gas and diesel excise taxes	\$2.0	“Waterfall” Programs—off the top	
Transportation improvement Fee	\$1.1	Local Partnership Program	\$0.2
Zero-emission vehicle fee	< \$0.1	Other programs	\$0.6
		Balance—split 50 / 50	
		Highway maintenance/rehab	\$1.1
		Local streets and roads	\$1.1
Total	\$3.1	Total	\$3.1

July 27, 2020 Version (Initial Version). SB 1351 modifies the Road Maintenance and Rehabilitation Account structure set forth in SB 1 by transferring only the Transportation Improvement Fee revenues into a new subaccount. Subaccount funds could then be pledged to issue bonds for highway maintenance and rehabilitation projects selected by the Commission. Subaccount funds would be available first to fund the highway maintenance and rehabilitation program in the Road Maintenance and Rehabilitation Account, up to the level set by the existing statutory formula. Any funds leftover in the subaccount would then be available for the local streets and roads program. No funds in the subaccount could be used for the “waterfall” programs (except under one very specific circumstance which is unlikely to occur.) Instead, the revenues in the Road Maintenance and Rehabilitation Account from other fund sources would flow through the “waterfall.” Any remaining such funds after the “waterfall” would go to any portion of the highway maintenance and rehabilitation program and/or local streets and roads program not filled with funds from the Transportation Improvement Fee subaccount.

Revenue Bond Process. As initially drafted, the Commission would have had responsibility for requesting the issuance of revenue bonds and selecting projects; however, the August 6 amendments instead assign this responsibility to Caltrans. The process outlined in SB 1351 was modeled off existing statutory language for Grant Anticipation Revenue Vehicle (GARVEE) bonds, which are backed by future federal highway funds. California has only issued GARVEE bonds twice—once in FY 2003-04 for \$614.9 million and once in FY 2008-09 for \$97.6 million—and both bonds have been paid off. But as compared to the GARVEE bond process, the SB 1351 revenue bond process also would have a few differences. Most notably, GARVEE bonds require the state to work with the Federal Highway Administration to receive approval, and projects funded from them must meet federal requirements. This would not be the case for state revenue bonds.

Commission staff have reached out to the Treasurer’s Office to understand other differences between GARVEE bonds and state revenue bonds, such as interest rates. Importantly, cost savings from using revenue bonds would be realized to the extent that the interest costs on the bonds do not exceed the anticipated project savings from acceleration. With the current recessionary environment, savings from accelerating projects may not be as great as pre-recession. Nonetheless, accelerating highway rehabilitation projects would also accelerate the benefits for highway users, including savings on vehicle repairs, and could also help stimulate the economy at a critical time. The stimulus effect would depend to some extent on how quickly bonds could be issued and projects accelerated.

Impacts on State Highway and Local Streets and Roads Programs. As initially drafted, the flow of funds under SB 1351 may have resulted in an increase in the funding level in the Road Maintenance and Rehabilitation Account for state highway maintenance and rehabilitation along with a commensurate decrease in the funding level for local streets and roads. This is because it was unclear whether debt service on any bonds issued would come off the top of

the Transportation Improvement Fee subaccount or from the highway maintenance and rehabilitation portion of the Transportation Improvement Fee subaccount. However, the author's office stated the intent of the bill is not to change the overall funding levels for state highways and local streets and roads within the Road Maintenance and Rehabilitation Account, and the August 6 version of the bill includes amendments regarding this issue.

Impacts on Local Partnership Program. Of additional concern to Commission staff is how SB 1351 could restrict the types of transit projects the Commission is able to fund in the Local Partnership Program. Currently, the Commission has discretion to fund virtually all types of transit projects because the Local Partnership Program is supported in part by the Transportation Improvement Fee revenues in the Road Maintenance and Rehabilitation Account. Under the State Constitution, Transportation Improvement Fee revenues can be used for public transportation system projects (as well as operations) without specific exclusions.

Under SB 1351, however, the Local Partnership Program would no longer be supported in part by Transportation Improvement Fee revenues because those revenues would be transferred to the new Transportation Improvement Fee Subaccount, which could only be used for highway maintenance and rehabilitation as well as local streets and roads. As a result, the Local Partnership Program would be funded only from the other revenue sources in the Road Maintenance and Rehabilitation Account. Under the State Constitution, these other revenues cannot be used for certain transit projects, such as zero-emission buses, rolling stock, and equipment. They are only allowed to be used for transit fixed guideways (and related facilities) and transit projects on streets and roads (such as bus only lanes). It is important to note that some transit agencies with voter-approved taxes that participate in the Local Partnership Program do not have fixed guideways and therefore could be very limited in terms of projects that could be funded.

Looking back over the first three cycles of the Local Partnership Program (spanning Fiscal Years 2017-18 through 2019-20), Commission staff have identified at least 12 projects submitted by 8 different agencies that may not have been eligible had Transportation Improvement Fee funding not been available. Examples of projects that may have been ineligible include:

- Alameda-Contra Costa Transit District: Purchase Zero Emission Buses (\$15 million)
- San Diego County Regional Transportation Commission: COASTER Expansion - Rail Car Procurement (\$3.1 million)
- Santa Cruz Metropolitan Transit District: SC Metro Paratransit Vans Replacement (\$302,000)

Commission staff have brought this issue regarding the impacts of SB 1351 on the Local Partnership Program to the attention of the author's office and are seeking amendments to address it. It is important to note that the August 6 amendments do not address this issue.

August 6, 2020 Amendments. SB 1351 was amended on August 6 to:

- Remove the responsibility for the Commission to select projects for revenue bond funding and instead assign this responsibility to Caltrans.
- Add language stating that cities and counties will continue to receive 50 percent of the balance of revenues in the Road Maintenance and Rehabilitation Account and the Transportation Improvement Fee Subaccount.
- Requires funds in the Transportation Improvement Fee Subaccount to be used for the Workforce Development Board program, which is funded through the “waterfall.”

State Budget Update

On June 29, 2020, Governor Newsom signed the 2020 Budget Act into law. The budget closes a \$54 billion General Fund shortfall by drawing down reserves, reducing specified programs, generating new revenues, and borrowing and transferring monies from special fund accounts, among other measures. Specified programmatic reductions would “trigger off” in the event the state receives an additional \$14 billion in federal funds by October 15, 2020.

For transportation programs, the 2020 Budget Act assumes state transportation revenues decrease by \$1.85 billion through the end of fiscal year 2020-21. It also (1) transfers \$32 million from the unencumbered balance in the Traffic Congestion Relief Fund to the General Fund and (2) loans \$21.8 million from the Local Airport Loan Account to the General Fund, which will be repaid with interest. In addition, budget trailer legislation (AB 90, Committee on Budget) temporarily removes certain statutory requirements for transit agencies, such as for farebox recovery ratios. The 2020 Budget Act does not include the Governor’s May Revision proposal to transfer \$130.5 million in interest earnings from the State Highway Account to the General Fund.

Federal Matters

On July 1, 2020, the US House passed the Moving Forward Act (H.R. 2), a \$1.5 trillion infrastructure package that includes funding for various programs. Included in the Moving Forward Act is a \$494 billion, five-year reauthorization of the Fixing America’s Surface Transportation (FAST) Act, which funds highway, transit and rail programs and is set to expire on September 30, 2020. (The transportation reauthorization portion of the bill previously was in a separate bill titled the INVEST Act.) The US Senate has not yet acted on the Moving Forward Act.

Separately, on July 8, 2020, the US House Transportation and Housing and Urban Development Subcommittee of the US House Appropriations Committee passed a spending bill for federal fiscal year 2021 that funds transportation at the levels authorized by the Moving

Forward Act. The spending bill includes an additional \$26 billion in fiscal 2021 for emergency infrastructure spending for transportation projects due to the COVID-19 pandemic.

Attachment:

- Attachment A: Legislation monitored by Commission staff

Legislation Monitored by Commission Staff
(As of July 15, 2020)

Bill	Lead Authors	Subject	Description	Status
AB-2006	Fong, Salas	State Highways: relinquishment: State Highway Route 184.	<ul style="list-style-type: none"> Authorizes the California Transportation Commission (Commission) to relinquish to the County of Kern and the City of Bakersfield a specified portion of State Highway Route 184, under certain conditions. 	Senate-In Committee Process - Transportation
AB-2038	Committee on Transportation	Transportation: omnibus bill.	<ul style="list-style-type: none"> Deletes obsolete reporting requirement, repeals provisions relating to a 2-year pilot program, corrects an obsolete cross-reference 	Senate-In Committee Process - Transportation
AB-2285	Committee on Transportation	Transportation.	<ul style="list-style-type: none"> Continuously appropriates interest earnings derived from revenues deposited in the Road Maintenance and Rehabilitation Account to the California Department of Transportation (Caltrans) for maintenance of the state highway system or for purposes of the State Highway Operation and Protection Program. 	Senate-In Committee Process - Transportation
AB-2663	Eduardo Garcia	Use fuel tax: dimethyl ether: propane fuel blend.	<ul style="list-style-type: none"> On or after January 1, 2021, sets the state excise tax under the Use Fuel Tax Law upon a propane fuel blend and upon dimethyl ether at the rates of \$0.06 and \$0.048, respectively, for each gallon used. Under current law, dimethyl ether is taxed at \$0.18 per gallon. 	Senate-In Committee Process - Transportation

Legislation Monitored by Commission Staff
 (As of July 15, 2020)

Bill	Lead Authors	Subject	Description	Status
SB-146	Beall	Regional transportation plans: sustainable communities strategies: procedural requirements.	<ul style="list-style-type: none"> • Revises the procedures required for the adoption of a sustainable communities strategy or alternative planning strategy by recharacterizing the workshops as gatherings and reducing the required number of informational meetings and gatherings to one meeting or gathering and the required number of public hearings to 2 hearings. • Authorizes these informational meetings, gatherings, and public hearings to be conducted digitally or telephonically. • Requires the draft sustainable communities strategy or an alternative planning strategy to be prepared and circulated not less than 45 days, instead of 55 days, before adoption of a final regional transportation plan. 	Assembly-In Committee Process - Transportation

Legislation Monitored by Commission Staff
(As of July 15, 2020)

Bill	Lead Authors	Subject	Description	Status
SB-288	Wiener	California Environmental Quality Act: exemptions.	<ul style="list-style-type: none"> • Includes exemptions from the requirements of the California Environmental Quality Act (CEQA) for projects that do the following: (1) increase bus rapid transit and regional rail services on public rail or highway rights of way, (2) increase passenger or commuter service on high-occupancy vehicle lanes or existing roadway shoulders, (3) rail, light rail, and bus maintenance, repair, storage, administrative, and operations facilities, (4) repair or rehabilitation of publicly-owned local, major or minor collector, or minor arterial or major arterial bridges, (5) zero-emission fueling stations and chargers, and (6) projects for pedestrian and bicycle facilities. • Requires projects to meet additional specified criteria, including be carried out by a skilled and trained workforce. • Extends existing CEQA exemption for bicycle transportation plans for an urbanized area, restriping of streets and highways, bicycle parking and storage, signal timing to improve street and highway intersection operations, and related signage for bicycles, pedestrians, from January 1, 2021 to January 1, 2030. 	Assembly-In Committee Process - Rules
SB-921	Dahle	State highways: Route 174: relinquishment.	<ul style="list-style-type: none"> • Authorizes the Commission to relinquish to the City of Grass Valley the portion of Route 174 within its city limits if Caltrans and the city enter into an agreement. 	Assembly-In Committee Process - Transportation

Legislation Monitored by Commission Staff
(As of July 15, 2020)

Bill	Lead Authors	Subject	Description	Status
SB-1238	Hueso	Department of Transportation: highways and roads: recycled plastics study and specifications.	<ul style="list-style-type: none"> • Authorizes Caltrans to conduct a study to determine if including recycled plastics in asphalt used for a construction and repair project of a state highway is feasible. • If Caltrans determines that this use of recycled plastics is feasible, the bill would authorize the department, when awarding a contract for a construction or repair project of a state highway, to award a preference of an unspecified percentage to a bidder who proposes to use asphalt that includes recycled plastics for the construction or repair project. • Requires a local agency that has jurisdiction over a street or highway to either adopt the specifications established by Caltrans or discuss at a public hearing why the specifications are not being adopted. • Requires Caltrans to prepare and submit, on or before January 1 of each year, commencing January 1, 2022, an analysis to the Assembly Committee on Transportation and the Senate Committee on Transportation on its progress studying recycled plastics and its progress toward establishing specifications for recycled plastics, as described above. 	Assembly-In Committee Process - Transportation

Legislation Monitored by Commission Staff
 (As of July 15, 2020)

Bill	Lead Authors	Subject	Description	Status
SB-1291	Committee on Transportation	Federal Statewide Transportation Improvement Program: submissions.	<ul style="list-style-type: none"> Provides that a metropolitan planning organization or transportation planning agency is not required to submit a Federal Transportation Improvement Program to Caltrans, and Caltrans is not required to submit the Federal Statewide Transportation Improvement Program to the US Department of Transportation, for 2020. 	Assembly-In Committee Process - Transportation

Legislation Monitored by Commission Staff
(As of July 15, 2020)

Bill	Lead Authors	Subject	Description	Status
SB-1351	Beall	Transportation improvement fee: revenue bonds	<ul style="list-style-type: none"> • Creates the Transportation Improvement Fee Subaccount in the Road Maintenance and Rehabilitation Account. • Continuously appropriates the amounts deposited in the Transportation Improvement Fee Subaccount and pledged by the Transportation Improvement Fee Finance Committee, which the bill would create, to the Treasurer for the purposes of issuing revenue bonds, as specified, to fund eligible projects selected by the California Transportation Commission. • Continuously appropriate revenues in the Transportation Improvement Fee Subaccount to the Department of Transportation and cities and counties as part of the same appropriation made to those entities from the Road Maintenance and Rehabilitation Account. • Requires the revenues in the Transportation Improvement Fee Subaccount to first be used to satisfy the 50% allocation to the Department of Transportation, then require the remainder of that appropriation to fund the allocation to the cities and counties. 	Assembly-In Committee Process - Transportation

Total Measures: 10