

Memorandum

To: Chair and Commissioners

Date: March 30, 2009

From: Andre Boutros
Interim Executive Director

File No: Reference # 4.1

ACTION

Ref: State and Federal Legislation

Issue:

The Commission is requested to provide direction to staff on legislation of interest to it.

Recommendation:

The Technical Advisory Committee for Aeronautics (TACA) recommends that the Commission support SB 481 (Cox) Airports Wildlife. Commission staff concurs with the TACA recommendation.

Background:

SB 481 (Cox): Airports Wildlife

Specific California public use airports, operating under Federal Aviation Administration (FAA) regulations and US Fish and Wildlife depredation permits, are permitted under federal statutes and regulations to manage wildlife by harassing, hazing, and depredating wildlife to protect the health, safety and welfare of the traveling public. Accordingly, airports are permitted to use a range of options to force wildlife away from airport runways. Federal endangered or threatened species (such as bald eagles and golden eagles) are excluded from the federal permit. Further, the federal Fish and Wildlife permit also states that activities authorized by it must not violate the laws of an applicable state, county, municipal or tribal government or other applicable law.

SB 481 would provide that, notwithstanding any other provision of state law, a public use airport certificated by FAA operating in the state that takes [e.g., removes, captures or kills], wildlife to protect public safety pursuant to federal law, including a federal depredation permit, does not violate state fish and game laws.

State Department of Fish and Game will cite local airport personnel for violating state law even though those local personnel have valid federal fish and wildlife depredation permits. The crux of the issue for the Department of Fish and Game is that **lethal** removal of wildlife is a violation of the State Fish and Game Code. The Department of Fish and Game refers to the section of the federal permit that states the permittee must not violate the laws of an applicable state. Commission staff is informed that Fish and Game officials will not cite, however, federal officials operating under the same permit.

The airports impacted by this bill are limited to those that qualify under “Part 139” of Title 14 of the Code of Federal Regulations. Thirty-five airports in California qualify as Part 139 airports (See attachment). Burbank, Long Beach, Los Angeles, Palm Springs, Redding, Sacramento, San Francisco Stockton, and Visalia are representative of those airports.

May 19 Special Election

The recent budget negotiations resulted in a number of propositions dealing with balancing the budget. The propositions will be considered by the electorate on the May 19th Special Election. The following is a summation of the Propositions on that ballot should the Commission wish to take a position on them.

Proposition 1A: “Rainy Day” Budget Stabilization Fund.

Proposition 1A deals with a \$16 billion tax increase and a spending cap. Proposition 1A would increase:

- The one-cent sales tax from two years (through 2010-11) to four years (through 2012-13)
- The vehicle license fee from 0.65% to 1.15 % of the vehicle’s value, and
- Personal income tax by 0.25% for all income levels.

If Proposition 1A passes, the state budget process would be altered. Proposition 1A would:

- Limit the revenue available for the budget, based on revenue growth over the previous 10-year period.
- Require that any tax revenues over the projected revenue growth would be saved in a “Rainy Day” Fund.
- Cap the Rainy Day Fund at 12.5 percent of state revenue.
- Use any amount projected revenue growth to pay debt or for one-time purposes.
- Starting in 2011-12, the governor’s power is limited in preventing three percent of general fund revenue from going into the Rainy Day Fund under specified spending, population and inflation assumptions.

However, if Proposition 1B also passes, half of the money put into the Rainy Day Fund under Proposition 1A’s provisions would go into the state’s public education fund to cover a disputed \$8 billion difference between what Governor’s office estimates is due to the education fund under California Proposition 98 (1998) and what the state’s education groups believe is owed under Proposition 98’s provisions.

Proposition 1B: Education Funding, Payment Plan.

Proposition 1B provides \$9.3 billion to schools starting in 2011-12. Proposition 1B is part of the compromise reached between the Administration and the K-12 schools and community colleges regarding the amount due to the schools under Proposition 98 and restores budget cuts for 2007-08 and 2008-09.

Funding is contingent upon Proposition 1A passing.

Proposition 1C: Lottery Modernization Act.

Proposition 1C authorizes the state to borrow \$5 billion against future California Lottery profits to help balance the 2009-10 State Budget, as well as granting the authority to borrow more lottery profits in future years. Proposition 1C also gives the California Lottery more flexibility to increase the amount of money returned to players as prizes.

Proposition 1D: Protects Children's Services Funding. Helps Balance State Budget.

Proposition 1D would re-direct, from the California Children and Families Program (First 5) that is funded through a tobacco tax, a portion of the funds up to \$608 million in 2009-10 and \$268 million annually from 2010-11 through 2013-14 from the California Children and Families Program in place of the General Fund to support health and human services programs for children up to five years of age.

Proposition 1E: Mental Health Funding. Temporary Reallocation. Helps Balance State Budget.

Proposition 1E proposes to let the state take about \$230 million annually for two years (2009-10 and 2010-11) from the Proposition 63 account established for state mental health programs. Proposition 1E would re-direct the money towards existing mental health early screening costs required by a federally mandated program.

Proposition 1F: Elected Officials' Salaries. Prevents Pay Increases During Budget Deficit Years.

Proposition 1F prevents raises for state elected officials in budget deficit years.

California Federal Part 139 Airports

Airport	Associated City
Arcata	Arcata/Eureka
Meadows Field	Bakersfield
Bob Hope	Burbank
McClellan - Palomar	Carlsbad
Chico Muni	Chico
Buchanan Field	Concord
Jack McNamara Field	Crescent City
Fresno -Yosemite International	Fresno
Imperial County	Imperial County
Inyokern	Inyokern
Long Beach/Daugherty Field	Long Beach
Los Angeles International	Los Angeles
Mammoth Yosemite	Mammoth Lakes
Merced Muni	Merced
Castle	Merced/Atwater
Modesto/Harry Sham	Modesto
Monterey Peninsula	Monterey
Metro Oakland International	Oakland
Ontario International	Ontario
Oxnard	Oxnard
Palm Springs	Palm Springs
Redding Muni	Redding
Sacramento International	Sacramento
San Bernardino International	San Bernardino
San Diego International	San Diego
San Francisco International	San Francisco
San Jose International	San Jose
San Luis Obispo County	San Luis
Santa Barbara International	Santa Barbara
Santa Maria	Santa Maria
John Wayne – Orange County	Santa Ana
Charles M. Schulz – Sonoma County	Santa Rosa
Stockton Metropolitan	Stockton
Southern California Logistics	Victorville
Visalia Muni	Visalia

CALIFORNIA TRANSPORTATION COMMISSION
STATUS OF LEGISLATION
Commission Meeting April 15-16, 2009

	Bill #	Author	Bill Title	Subject ASSEMBLY	Current Status	CTC Position	Program
1	AB X3 20	BASS	Federal Transportation Economic Stimulus Funds URGENCY	Appropriates to the Department of Transportation, and provides for programming and apportionment of federal economic stimulus funds made available to the state for highway purposes under the American Recovery and reinvestment Act of 2009. Provides the percentages of the funds to be programmed by the department for allocation to the transportation Commission and to regional agencies, for transportation enhancement activities. Requires replacement project for specified bond funds.	3/27/09 - Signed by Governor; chaptered same day 3/26/09 - Passed in Assembly floor 3/23/09 - Passed in Senate floor 1/5/09 - INTRO	Staff Monitoring	Federal
2	AB 113	PORTANTINO	Highways: Route 710; Sale of Property	Requires the Department of Transportation to sell the real property it owns relative to the unconstructed portion of State Highway Route 710 in Los Angeles County located to the north of State Highway Route 10; requires proceeds from the sale of each parcel equal to the department's acquisition price of the parcel to be deposited in the State Highway Account. All remaining sale proceeds would be deposited in the General Fund, to be available, upon appropriation, for increasing funding for public higher education.	2/26/09 to Trans Cmte 01/13/09 - INTRO	Staff Monitoring	Right of Way
3	AB 118	LOGUE	California Global Warming Solutions Act of 2006	This bill would repeal the California Global Warming Solutions Act of 2006.	2/26/09 to Natural Res Cmte 1/15/09 - INTRO	Staff Monitoring	Environmental
4	AB 231	HUFFMAN	California Global Warming Solutions Act of 2006	Requires the State Air Resources Board to adopt a schedule of fees to be paid by the sources of greenhouse emissions which would be deposited in the Climate Protection Trust Fund, for purposes of carrying out the Global Warming Solutions Act of 2006	4/13/09 - Natural Res Cmte Hearing 03/04/09 to Nat Res Cmte 2/05/09 - INTRO	Staff Monitoring	Environmental
5	AB 266	CARTER	Transportation needs assessment.	Requires the Transportation Commission to develop an assessment of the unfunded costs of programmed state projects and federally earmarked projects in the state, as well as an assessment of available funding for transportation purposes and unmet transportation needs on a statewide basis.	4/13/09 - Trans Cmte Hearing 3/04/09 to Trans Cmte 2 /11/09 - INTRO	Staff Monitoring	Programming
6	AB 311	MA	Property taxation: certificated aircraft assessment	Deletes the termination date of existing tax law that requires the personal property of an air carrier be taxed at its fair market value, and the Constitution requires property subject to ad valorem property taxation to be assessed in the county in which it is situated and specifies the formula to determine the fair market value of certificated aircraft of a carrier.	4/13/09 - Rev & Tax Cmte Hearing 3/4/09 to Rev & Tax Cmte 2/17/09 - INTRO	Staff Monitoring	Aeronautics
7	AB 522	BLUMENFIELD	Transportation Bond Funds	Requires the Transportation Commission to ensure that bond funds previously Commission to a project from the Highway Safety Traffic Reduction, Air Quality, and Port Security Fund of 2006 remain available to the sponsoring agency if funds from any federal economic recovery legislation are used to fund the project.	4/13/09 - Trans Cmte Hearing 3/12/09 to Trans Cmte 2/25/09 - INTRO	Staff Monitoring	Bond
8	AB 610	CABALLERO	Local Infrastructure	Requires the Office of Planning and Research to advise and educate local agencies and other interested stakeholders about the role that public-private partnerships can play in planning, studying, designing, financing, constructing, operating, maintaining, or managing local infrastructure projects.	3/16/09 to Loc Govts Cmte 2/25/09 - INTRO	Staff Monitoring	PPP
9	AB 619	BLUMENFIELD	Transportation Projects: Federal Funds	Requires the Department of Transportation to notify the Legislature when it is determined that a project, including a project designated in the National Corridor Infrastructure Improvement Program, will be delayed beyond its scheduled completion date due to state cashflow or other funding issues, if the places at risk federal funds.	3/23/09 to Trans Cmte 2/25/09 - INTRO	Staff Monitoring	Federal
10	AB726	NIELSEN	Transportation Capital Improvement	States that local road rehabilitation projects are eligible for transportation capital improvement funds pursuant to the State Transportation Improvement Program. v2	3/23/09 to Trans Cmte 2/26/09 - INTRO	Staff Monitoring	Programming

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11	AB 729	EVANS	Transit Design Build Contracts	Deletes the repeal date of existing law authorizing transit operators to enter into a design-build contract according to specified procedures.	3/26/09 to Trans Cmte 2/26/09 - INTRO	Staff Monitoring	Design Build
12	AB 732	JEFFRIES	Transportation Projects	Extends the operative date of existing law which authorizes the Department of Transportation to conduct phase 2 of a pilot project through the utilization of design sequencing contracts for the design and construction of transportation projects, taking into consideration specified geographical consideration.	4/13/09 - Trans Cmte Hearing 3/23/09 to Trans Cmte 2/26/09 - INTRO	Staff Monitoring	Other
13	AB 782	JEFFRIES	Regional Transportation Plans: Sustainable Communities	Provides that upon the state Air Resources Board's acceptance that the sustainable Communities strategy or an alternative planning strategy, if implemented, will achieve the greenhouse gas emissions reduction targets established by the board, that acceptance shall be final, and no person or entity may initiate or maintain any judicial proceeding to review the propriety of the state board's acceptance. Revises the Regional Targets Advisory Committee membership. Relates to exempted transportation projects from ARRA and transportation sales tax measures.	3/26/09 to Nat Res and Loc Govts Cmte 2/26/09 - INTRO	Staff Monitoring	Environmental
14	AB 798	NAVA	Transportation Financing Authority: Toll Facilities	Creates the Transportation Financing Authority with specified powers and duties relative to issuance of bonds to fund transportation projects to be backed, in whole or in part, by various revenue streams of transportation funds and toll revenues in order to increase the construction of new capacity or improvements for the state transportation system consistent with specified goals.	4/13/09 - Trans Cmte Hearing 3/23/09 to Trans Cmte 2/26/09 - INTRO	Staff Monitoring	Finance
15	AB 949	LOGUE	State Local Partnership Program	Amends the Highway Safety, Traffic Reduction, Air Quality and Port Security Bond Act. Expands the definition of eligible local matching funds for purposes of provisions to include developer fees, mineral or resources extraction fees or taxes and local or regional fees or taxes solely dedicated to transportation improvements imposed within a county or any part thereof by voter approval or by the Board of Supervisors	3/26/09 to Trans Cmte 2/26/09 - INTRO	Staff Monitoring	Bond
16	AB 1175	TORLAKSON	Toll Bridges: Seismic Safety Retrofit Program	This bill would add seismic safety improvement projects on the Antioch and Dumbarton Bridges to the toll bridge seismic safety program. The bill would provide that surplus cost overrun revenues to be shared between the state and the Bay Area Toll Authority be redirected to the authority for the Antioch and Dumbarton seismic safety projects, and would appropriate those funds for that purpose. The bill would require the authority to provide all remaining funds necessary to complete those seismic safety projects. The bill would provide for the authority to increase tolls on all Bay Area state-owned toll bridges in that regard.	3/26/09 to Trans Cmte 2/27/09 - INTRO	Staff Monitoring	Local
17	AB 1204	HUBER	Environment: CEQA: Sustainable Community Strategy	This bill would delete the restriction of this exemption to residential or mixed-use residential projects. By requiring a lead agency to determine whether the above exemption applies to additional projects, the bill would increase the level of service provided by a local agency, thereby imposing a state-mandated local program.	02/27/09 - INTRO	Staff Monitoring	Environmental
18	AB 1364	EVANS	Public Contracts	Provides that any state agency that has entered into a contract where the agency has or may be unable to comply with the terms of that contract because of the suspension of programs by the Pooled Money Investment Board shall have authority to amend the terms of the contract to address contract deadlines and deliverables that may not be met because of the suspension	02/27/09 - INTRO	Staff Monitoring	Contracts
19	AB 1375	GALGIANI	High-speed Rail	The bill would create the Department of High-Speed Trains within the Business, Transportation and Housing Agency, which would implement those policies. The bill would transfer certain of the existing powers and responsibilities of the authority to the department, and would specify additional powers and duties of the authority and department relative to implementation of the high-speed rail project, including the annual submission of a 6-year high-speed train capital improvement program and progress report to the Legislature. The director of the department would be appointed by the authority, who would serve at the pleasure of the authority, and the Governor would be authorized to appoint up to 10 executive employees of the department who would be exempt from civil service and serve at the pleasure of the director. The bill would provide for acquisition and disposition by the department of rights-of-way for the high-speed rail project. The bill would enact other related provisions.	02/27/09 - INTRO	Staff Monitoring	Rail

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				ASSEMBLY			
20	AB 1381	PEREZ	High-occupancy Toll Lanes	Requires the Los Angeles County Metropolitan Transportation Authority HOT Lanes program to be implemented with the active participation of the Department of the California Highway patrol. Establishes appropriate performance measures for the purpose of ensuring optimal use of the HOT Lanes without adversely affecting other traffic on the state highway system.	02/27/09 - INTRO	Staff Monitoring	Local
21	AB 1386	HAYASHI	State Highway Route 238	Relates to existing law that authorizes a city or county in which a planned transportation facility was to be located on State Highway Route 238 in Alameda County to develop and file with the Transportation Commission a local alternative transportation program that address transportation problems and opportunities. Modifies the restriction limiting use of revenues from excess property sales to state highway purposes be authorizing those revenues to be used for any highway purpose.	02/27/09 - INTRO	Staff Monitoring	Local
				SENATE			
22	SB 165	LOWENTHAL	Federal Transportation Funds	Makes legislative findings and declarations relative to additional federal funds to be made available to the state pursuant to federal economic stimulus legislation.	3/9/09 to Rules Cmte 2/14/09 - INTRO	Staff Monitoring	Federal
23	SB 295	DUTTON	California Global Warming Solutions Act of 2006	Relates to the Global Warming Solutions Act of 2006. Requires reporting and verification of emissions of greenhouse gases and to enforce compliance with reporting and verification. Prohibits the state board from implementing those regulations until the unemployment rate in the state is below a specified level. Requires the state board to make public the costs of those regulations.	4/20/09 - Env. Qlty. Cmte Hearing 3/24/09 to Env. Qlty. Cmte 2/25/09 - INTRO	Staff Monitoring	Environmental
24	SB 391	LIU	California Transportation Plan	Requires updating of the California Transportation Plan; requires the plan to address how the state will achieve maximum feasible emissions reductions in order to attain a statewide reduction of greenhouse gas emission to 1990 levels by 2020 and 80 percent below 1990 levels by 2050 and to identify the statewide integrated multimodal transportation system needed to achieve these results.	3/12/09 to Transp and Env. Qlty. Cmte's 2/25/09 - INTRO	Staff Monitoring:	Environmental
25	SB 406	DESAULNIER	Land Use: Environmental Quality	Changes the membership of the Planning Advisory and Assistance Council. Requires that the council work with the Strategic Growth Council. Authorizes a municipal planning organization or council of governments to impose motor vehicle registration surcharge on vehicles registered be expended to develop and implement a regional blueprint plan specify that of the surcharge revenue be transmitted to the council for performance of its functions	4/15/09 - Loc Govt Cmte Hearing 3/16/09 to Loc Govt Cmte 2/25/09 - INTRO	Staff Monitoring:	Environmental
26	SB 409	DUCHENY	Department of Railroads	Creates the Department of Railroads in the Business, Transportation and Housing Agency. Transfers to that department responsibility for various state railroad programs currently administered by other agencies. Provides that the department shall be the only state agency eligible to apply for and receive grant and loan funds from the federal government for intercity rail, high-speed rail, or freight rail purposes.	4/14/09 - Transp Cmte Hearing 3/12/09 to Transp Cmte 2/25/09 - INTRO	Staff Monitoring:	Rail
27	SB 474	DUCHENY	Transportation: Reporting Requirements	Relates to authorization of the Department of Transportation to enter into agreements for transportation projects under pilot programs using public-private partnerships. Requires the department to provide an annual consolidated report to the Legislature on the progress of and savings resulting from such programs.	3/12/09 to Rules Cmte 2/26/09 - INTRO	Staff Monitoring	PPP
28	SB 481	COX	Airports: Wildlife	This bill would provide that, notwithstanding any other provision of law, a public use airport certificated by the Federal Aviation Administration operating in the state that takes wildlife to protect public safety pursuant to federal law, including a federal depredation permit, does not violate state fish and game laws.	3/12/09 to Nat Res & WA Cmte 2/26/09 - INTRO	Staff Monitoring	Aeronautics
29	SB 485	WRIGHT	Highway Operation and Protection Program	Enacts the State Highway Operation and Protection Program Emergency Funding Act and states the intent of the Legislature to provide adequate funding to meet the needs of the program.	3/12/09 to Transp and Appr Cmte's 2/26/09 - INTRO	Staff Monitoring	SHOPP
30	SB 526	ASHBURN	Intercity Rail: Study	This bill would state the intent of the Legislature to enact legislation to require the Department of Transportation to study the potential for increasing ridership by routing certain Amtrak intercity rail services over the Altamont Pass alignment between the Central Valley and the Bay Area.	3/12/09 to Rules Cmte 2/27/09 - INTRO	Staff Monitoring	Rail

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	Bill #	Author	Bill Title	Subject SENATE	Current Status	CTC Position	Program
31	SB 527	ASHBURN	High-Speed Rail	This bill would state the intent of the Legislature to reorganize the High-Speed Rail Authority to ensure greater oversight and accountability for the high-speed rail project.	3/12/09 to Rules Cmte 2/27/09 - INTRO	Staff Monitoring	Rail
32	SB 528	NEGRETE MCLEOD	Toll Facilities	Relates to existing law that authorizes the Department of Transportation and regional transportation agencies to enter into comprehensive development lease agreements with public and private entities. Prohibits a lease agreement entered into after a certain date from providing for compensation for adverse effects of competing projects. This bill would prohibit a lease agreement entered into on or after January 1, 2010, from providing for compensation for adverse effects of competing projects.	3/12/09 to Transp Cmte 2/27/09 - INTRO	Staff Monitoring	TOLL
33	SB 545	CEDILLO	Freeway Construction	Authorizes the Department of Transportation to construct a freeway, without an agreement with a county or city, on the route determined by the Transportation Commission, if specified requirements have been met, including that an agreement with one or more counties and cities is not possible because an impasse has existed for 20 or more years after an initial route was adopted.	3/12/09 to Transp Cmte 2/27/09 - INTRO	Staff Monitoring	Rte 710
34	SB 575	STEINBERG	Local Planning: Housing Element	Existing law requires every city, county, and city and county to revise the housing element of its general plan as frequently as is appropriate to reflect the results of the periodic review. Existing law further requires that all local governments within the regional jurisdiction of the San Diego Association of Governments adopt their 5th revision no more than 5 years from the 4th revision. This bill instead would require that all local governments within the regional jurisdiction of the San Diego Association of Governments adopt their 5th revision no later than an unspecified period of time.	3/19/09 to Transp and Appr Cmte's 2/27/09 - INTRO	Staff Monitoring	Land Use
35	SB 721	STEINBERG	Energy: Greenhouse Gas Emissions	Creates the Climate Action Team responsible for coordinating the state's overall climate policy and preparing, adopting, and presenting to the Legislature, a strategic research, development, demonstration, and development plan that establishes priorities and identifies key expenditure categories for research, development, demonstration, and development funds to be expended by the state agencies represented on the CAT.	4/20/09 - Env. Qlty. Cmte Hearing 3/24/09 to Env. Qlty. Cmte 2/27/09 - INTRO	Staff Monitoring	Environmental
36	SB 737	NEGRETE MCLEOD	Airports and Airport Land Use Commission	This bill would eliminate the authority of the board of supervisors of a county in which an airport is located that is operated for the benefit of the general public that is not served by a scheduled airline, to adopt a resolution declaring that the county is exempt from establishing an airport land use commission. It would also limit the authority of a board of supervisors and a city to designate a body to assume the planning responsibilities of an airport land use commission. This bill would also make other conforming changes and would delete certain obsolete provisions.	4/15/09 - Loc Govt Cmte Hearing 3/24/09 to Loc Govt Cmte 2/27/09 - INTRO	Support	Aeronautics
37	SCA 3	WYLAND	Transportation Investment Fund	Proposes an amendment to the State Constitution. Deletes current provisions authorizing the transfer of revenues to the Transportation Investment Fund to be suspended during a fiscal emergency. Prohibits a loan of fund revenues under any circumstances. Prohibits any statute that would reduce the extent to which these tax revenues are deposited into the General fund for transfer to the fund for transportation purposes.	1/29/09 to RevTax, ER&CA, Appr Cmte's 12/01/08 - INTRO	Staff Monitoring	Other