

# Memorandum

To: CHAIR AND COMMISSIONERS

CTC Meeting: October 26-27, 2011

Reference No.: 4.1  
Information

From: BIMLA G. RHINEHART  
Executive Director

Subject: **STATE AND FEDERAL LEGISLATION**

## **ISSUE:**

**State Legislation:** The Legislature concluded the first year of a two-year legislative session on September 9, 2011. At the Commission's September 15, 2011, meeting staff provided a list of bills that were passed by both houses of the Legislature and were forwarded to the Governor for action by October 9, 2011.

Attachment A provides a list of bills signed and vetoed by the Governor. Legislation that contained an urgency clause took effect immediately upon signing by the Governor. Legislation that was signed by the Governor that did not contain an urgency clause will become effective on January 1, 2012.

The Legislature is scheduled to begin the second of the two-year session on January 4, 2012. Staff will continue to monitor the first-year pending carryover legislation and identify additional bills as described in the Commission's criteria to guide Commission staff in monitoring legislation and selecting bills that should be brought forward for Commission consideration.

**Federal Legislation:** On September 16, 2011, the President signed House Resolution (H.R.) 2887, the Surface and Air Transportation Programs Extension Act of 2011, extending the authority to appropriate funds from the Highway Trust Fund for federal highway and surface transportation programs through March 31, 2012. H.R. 2887 also extends the authorities of the Federal Aviation Administration to expend funds from the Airport and Airway Trust Fund and extend taxes on aviation fuel, domestic and international ticket taxes, and taxes on cargo shipped by air through January 31, 2012. Attachment B provides an overview of the pertinent transportation portions of H.R. 2887.

## **BACKGROUND:**

The Commission approved criteria. 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.

Attachments

CALIFORNIA TRANSPORTATION COMMISSION  
 Status of State Legislation  
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**Legislation Signed by Governor**

**FUNDING / FINANCING**

<b>Bill Number</b>	<b>Author</b>	<b>Bill Title</b>	<b>Subject</b>
AB 1097	Skinner	Transit Projects: Domestic Content	Authorizes the state or local agency relative to the use of federal funds for transit purposes to provide a bidding preference to a bidder if the bidder exceeds Buy America requirements applicable to federally funded transit projects. <b>Signed by Governor on October 2, 2011 – Chapter 405, Statutes of 2011</b>
AB 1164	Gordon	Federal Transportation Funds	Enacts similar provisions authorizing the Department of Transportation (Caltrans), until September 30, 2015, to make loans from the State Highway Account (SHA) of other specified federal transportation funds to fund bond-funded projects pursuant to the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006, if Caltrans has determined the loans will not impact the funding of other programs or projects, as specified, and only under circumstances in which federal funds might otherwise be lost, as specified. Appropriates those federal transportation funds in the SHA for these purposes and requires those funds to be obligated to fund the bond-funded projects, as specified. Requires the loans to be repaid to the SHA within three years from the proceeds of bonds sold pursuant to the bond act and provides for the appropriation of those repaid funds to Caltrans for use on projects in the State Highway Operation and Protection Program (SHOPP) or the local assistance program, as specified. Requires Caltrans to report to the Joint Legislative Budget Committee each year that federal transportation funds are loaned pursuant to these provisions. <b>Signed by Governor on October 2, 2011 – Chapter 406, Statutes of 2011</b>

**DIRECT IMPACT TO COMMISSION**

<b>Bill Number</b>	<b>Author</b>	<b>Bill Title</b>	<b>Subject</b>
AB 957	Committee on Transportation	Transportation Omnibus Bill	Deletes the requirement that the Department of Transportation, until the completion of the seismic retrofit of specified state-owned toll bridges, provide quarterly seismic reports to the transportation committees of both houses of the Legislature and to the California Transportation Commission (Commission) for other seismic retrofit programs. Provides that the Commission relinquish the portion of Route 39 in the City of Buena Park and all of Route 225 in the City of Santa Barbara under certain terms and conditions. <b>Signed by Governor on October 7, 2011 – Chapter 536, Statutes of 2011</b>

**OF INTEREST TO THE COMMISSION'S TECHNICAL ADVISORY COMMITTEE ON AERONAUTICS**

<b>Bill Number</b>	<b>Author</b>	<b>Bill Title</b>	<b>Subject</b>
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. - <b>Urgency</b> - <b>Signed by Governor on September 21, 2011 – Chapter 309, Statutes of 2011</b>

**ENVIRONMENTAL**

<b>Bill Number</b>	<b>Author</b>	<b>Bill Title</b>	<b>Subject</b>
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 of Transportation (Caltrans) 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, instead, requires 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 deletes this repeal date and extends the operation of these provisions until January 1, 2017. The bill provides that the state shall remain liable for any decisions made or responsibilities assumed prior to repeal of these provisions under applicable federal statutes of limitation for filing citizens' suits in federal courts. <b>Signed by Governor on October 6, 2011 – Chapter 482, Statutes of 2011</b>
SB 468	Kehoe	Department of Transportation: North coast corridor project: high-occupancy toll lanes	Imposes additional requirements on the Department of Transportation (Caltrans) 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 Caltrans to collaborate with local agencies, the California Coastal Commission, and other affected local, state, and federal agencies to ensure that multimodal transportation options are evaluated and included in the public works plan and, where appropriate, in the project design for the projects. Makes these requirements applicable to the San Diego Association of Governments (SANDAG) and also requires SANDAG, for these projects, to establish a safe routes to transit program that integrates the adopted regional bike plan with transit services and, pursuant to SANDAG's agreement, as specified, to commit to dedicate for regional habitat acquisition, management, and monitoring activities a portion of specified taxes approved by the voters in San Diego County. For these projects, requires Caltrans to suspend a notice of determination relating to environmental impact, issued between January 1, 2011, and January 1, 2012, until it is determined that environmental documents for the projects satisfy the requirements of this bill. Existing law authorizes SANDAG to conduct, administer, and operate a value pricing high-occupancy toll (HOT) lane program on two corridors included in the high-occupancy vehicle lane system in San Diego County. Authorizes SANDAG to conduct, administer, and operate a value pricing HOT lane on State Highway Route 5. Requires SANDAG to carry out the HOT lane program in cooperation with Caltrans and requires revenues from the program to be used for the costs of the program, for improvement of transit services, and for high-occupancy vehicle facilities. <b>Signed by Governor on October 7, 2011 – Chapter 535, Statutes of 2011</b>
SB 739	Lowenthal	Ports: Congestion Relief: air pollution mitigation	Requires the Ports of Long Beach, Los Angeles and Oakland, beginning January 1, 2012 to assess their infrastructure and air quality improvement needs, including, but not limited to, projects that improve the efficiency of the movement of cargo, reduce congestion impacts associated with the movement of cargo, and reduce pollution associated with the movement of that cargo. Requires each port to provide this assessment to specified committees of the Legislature by July 1, 2012 and to include in the assessment the total costs of the infrastructure and air quality improvements, possible funding options for these projects and estimated timeline for implementation. <b>Signed by Governor on October 2, 2011 – Chapter 427, Statutes of 2011</b>

**RAIL**

<b>Bill Number</b>	<b>Author</b>	<b>Bill Title</b>	<b>Subject</b>
AB 615	Lowenthal	High-Speed Rail	Relates to the Budget Act of 2011 which appropriates various amounts from the High-Speed Passenger Train Bond Fund to the High-Speed Rail Authority for high-speed rail purposes on specified segments, subject to certain conditions and provisions. Supplements the Budget Act appropriations by appropriating \$4,000,000 from the High-Speed Passenger Train Bond Fund to the authority for the Los Angeles to San Diego segment, subject to similar conditions and provisions. <b>Signed by Governor on October 7, 2011 – Chapter 530, Statutes of 2011</b>
SB 325	Rubio	Central California Railroad Authority	Enacts the Central California Railroad Authority Act to create the Central California Railroad Authority as an alternative for ensuring short-line railroad service in the Counties of Kern, Kings, Tulare, Fresno, and Merced. Requires the authority to be governed by a board of directors who would be appointed by the council of governments or county association of governments within the Counties of Kern, Kings, Tulare, Fresno, and Merced, thereby imposing a state-mandated local program. Authorizes the Counties of Madera, Stanislaus, and San Joaquin to elect to join the authority. Sets forth the powers and duties of the authority, as specified. Requires the authority to conduct its first meeting not later than 120 days after abandonment or discontinuance of service on, or the bankruptcy or sale of, the short-line railroads in the member counties if the members have formed a joint exercise of powers agreement to implement and manage the authority. Authorizes the authority to acquire and operate railroads or select a franchisee to operate a rail transportation system, to prepare a plan for acquisition and operation of specified railroad lines, and establish criteria for the award of a franchise for the acquisition, financing, and operation of the railroad system. Authorizes the authority to issue revenue bonds. Provides that the state is not liable for any contract, debt, or obligation of the authority. Prohibits the authority from being a claimant for Transportation Development Act funds or from receiving funds from the Public Transportation Account. <b>Signed by Governor on September 6, 2011 – Chapter 234, Statutes of 2011</b>

**Legislation Vetoed by Governor****FUNDING / FINANCING**

<b>Bill Number</b>	<b>Author</b>	<b>Bill Title</b>	<b>Subject</b>
AB 650	Blumenfield	Blue Ribbon Task Force on Public Transportation for the 21st Century	Would have established, until March 30, 2013, the Blue Ribbon Task Force on Public Transportation for the 21st Century. Would have required the task force to be comprised of 12 members and requires the Senate Committee on Rules and the Speaker of the Assembly to each appoint Six specified members, by January 31, 2012. Would have required the task force to elect one of its non-legislative members as chair. Would have required the task force to issue a written report that contains specified findings and recommendations relating to, among other things, the current state of California's transit system, the estimated cost of creating the needed system over various terms, and potential sources of funding to sustain the transit system's needs, and to submit the report by September 30, 2012, to the Governor, the Legislature, the Joint Legislative Budget Committee, the Senate Committee on Rules, the Speaker of the Assembly, and the transportation committees of the Legislature. Would have required the task force, for purposes of collecting information for the written report, to consult with appropriate state agencies and departments and requires the task force to contract with consultants for preparation of the report. Would have required the Department of Transportation (Caltrans) to provide administrative staffing to the task force. Would have appropriated \$750,000 from the Public Transportation Account to Caltrans to accomplish the purposes of these provisions. <b>Vetoed by Governor on September 26, 2011</b> <b>Veto Message:</b> "This bill would mandate yet another "blue ribbon" task force: in this case to prepare a report on public transportation at a cost of at least \$750,000. This is a matter well within the jurisdiction and competence of the Assembly and Senate Transportation Committees. Moreover, Caltrans and the California Transportation Commission are also equipment to probe into these matters. Rather than creating a new entity, let's use the resources we have."

**RAIL**

Bill Number	Author	Bill Title	Subject
AB 952	Jones	High-Speed Rail	<p>Would have prohibited a member, employee, or consultant of the High-Speed Rail Authority (Authority) from being the recipient of any gift, as defined, in a specified provision of the act. Would have prohibited 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, employee, or consultant of the Authority, or to any member of their immediate families. Would have authorized the Authority itself to receive gifts, and to transfer those gifts as specified, with the written approval of the Department of Finance. With certain exceptions, would have prohibited 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. Would have deleted the reference to foreign governments.</p> <p><b>Vetoed by Governor on October 2, 2011</b></p> <p><b>Veto Message:</b> “This bill creates special gift and revolving door rules for the High-Speed Rail Authority. The Authority is already regulated under the Political Reform Act (PRA) by the Fair Political Practices Commission (FPPC). In fact, last January the FPPC concluded an investigation of a complaint that Authority personnel violated the PRA’s gift limits and disclosure rules. The FPPC found no violations. The existing gift and revolving door laws work well and apply uniformly to nearly all departments. There is no reason to add complexity to this area of regulation by creating a different set of rules for the Authority.”</p>

## **H.R. 2887 Surface and Air Transportation Programs Extension Act of 2011**

### **Federal-Aid Highway Programs**

H.R. 2887 authorizes an obligation limit for highway program spending from the Highway Trust Fund (HTF) from October 1, 2011, through March 31, 2012, at half of the total amount authorized from the HTF in Federal Fiscal Year (FFY) 2011 (\$42.46 billion). The amounts authorized to be appropriated would be calculated by accounting for any rescission or cancellation of funds or contract authority in FFY 2011, including in the Full-Year Continuing Appropriations Act. In addition, the bill exempts \$319.5 million from the obligation limitation for the equity bonus program, which is meant to give states a minimum return on their contributions to the HTF. H.R. 2887 also authorizes the appropriation of \$196 million from the HTF for the administrative cost of the federal highway program.

### **Extension of Highway Safety Programs**

H.R. 2887 provides \$742 million in spending authority for highway safety programs carried out by the National Highway Traffic Safety Administration for half of FFY 2012, including:

- \$117.5 million for Chapter 4 Highway Safety Programs
- \$54.1 million for Highway Safety Research and Development
- \$12.5 million for Occupant Protection Incentive Grants
- \$24.2 for Safety Belt Performance Grants
- \$17.2 million for State Traffic Safety Information System Improvements
- \$69.5 million for the Alcohol-Impaired Driving Counter-Measures Incentive Grant Program
- \$2 million for the National Driver Register
- \$14.5 million for the High Visibility Enforcement Program
- \$3.5 million for Motorcycle Safety
- \$3.5 million for Child Safety and Booster Seat Safety Incentive Grants
- \$12.6 million for Administrative Expenses

H.R. 2887 also authorizes \$299 million for the first half of FFY 2012 for programs carried out by the Federal Motor Carrier Safety Administration, including \$106 million for Motor Carrier Safety Grants and \$122 million for Administrative Expenses.

### **Public Transportation Programs:**

H.R. 2887 sets the obligation limit for mass transit program spending authority from the HTF at \$5.1 billion from October 1, 2011, through March 31, 2012. The bill would authorize \$4.2 billion for Formula and Bus Grants and \$800 million for Capital Investment Grants.

### **Federal Aviation Administration Temporary Extension**

H.R. 2887 extends, through January 31, 2012, the authorities of the Federal Aviation Administration (FAA), which are currently set to expire on September 17, 2011. The bill extends the authority to expend funds from the Airport and Airway Trust Fund and would extend taxes on aviation fuel, domestic and international ticket taxes, and taxes on cargo shipped by air.

H.R. 2887 authorizes:

- \$3.5 billion to be appropriated for the Airport Improvement Program (AIP) for the entirety of FFY 2011
- \$1.2 billion to be appropriated for the AIP for the four-month period beginning on October 1, 2011, and ending January 31, 2012.
- \$9.5 billion for FAA operations for FY 2011 and \$3.2 billion for FAA operations between the October 1, 2011 and January 31, 2012 period
- \$2.7 billion for the entirety of FFY 2011 for facilities and equipment
- \$918 million for the first four months of FFY 2012 for facilities and equipment

### **Essential Air Services Reform**

H.R. 2887 modifies the funding formula for the Essential Air Services (EAS) program which gives subsidies to air carriers that provide air service to certain rural communities. Specifically, requires that a portion of the funding for EAS must be drawn from the Airport and Airway Trust Fund. Would authorize:

- \$150 million from the trust fund for the program for FFY 2011
- \$50 million from the trust fund for the first four months of FY 2012

In addition, the EAS would receive \$50 million each fiscal year from FAA administration accounts through overflight fees.