

Memorandum

To: CHAIR AND COMMISSIONERS

Date: September 27, 2012

From: BIMLA G. RHINEHART
Executive Director

File No: Reference No. 4.1
ACTION

Ref: State and Federal Legislation

BACKGROUND

The Legislature concluded the second year of the two-year legislative session on August 31, 2012. Bills passed by both houses were forwarded to the Governor for action. The Governor has until September 30, 2010 to sign or veto these bills. Legislation that contains an urgency clause will take effect immediately upon signing by the Governor. Legislation that is signed by the Governor that does not contain an urgency clause will become effective on January 1, 2013.

Of the 22 bills staff was monitoring as of August 2012, 10 were passed by both houses. One of the 10 bills was signed by the Governor on September 7, 2012. This staff report includes only those bills forwarded to the Governor as of September 7, 2012.

RECOMMENDATION

Staff recommends that the Commission accept the staff report.

LEGISLATION SIGNED BY THE GOVERNOR

Related to Funding/Finance

SB 1102 – DeSaulnier – State Transportation Improvement Program

Requires Caltrans, beginning not later than November 15, 2014, to report on the difference between the original allocation made by the Commission and the actual construction capital and support costs at project close for all State Transportation Improvement Program projects completed during the previous fiscal year. Requires costs to include right-of-way support costs. Requires a supplemental project allocation request to be made for all interregional and regional projects that experience support costs.

Signed by the Governor on September 7, 2012

LEGISLATION PENDING ACTION BY THE GOVERNOR

Related to Direct Impact to the Commission

AB 441 – Monning – *Transportation Planning*

Requires the Commission to attach a summary of the policies, practices, or projects that have been employed by metropolitan planning organizations that promote health and health equity in the next revision of the Commission's regional transportation plan guidelines.

SB 1117 – DeSaulnier – *Passenger Rail: Planning*

Requires the Commission to include in its regional transportation plan guidelines policy direction regarding the integration of all passenger rail services into a coordinated system with emphasis on intermodal facilities and cost-effective rail services. Revises the requirements for the 10-year state rail plan prepared by Caltrans to require the plan to be consistent with the federal Passenger Rail Investment and Improvement Act of 2008 and to contain various passenger and freight rail elements. Deletes the requirement that the state rail plan be prepared on a biennial basis. Requires Caltrans to submit a draft plan under these new requirements for review and comment to the Commission and High Speed Rail Authority (Authority) by December 1, 2015, and would require public hearings on the plan. Requires the final plan to be approved by the Secretary of Business, Transportation and Housing by March 1, 2016, and then to be submitted to the Legislature, Governor, and various state agencies. Requires the plan to be updated at least every 5 years. The bill imposes certain requirements on the Authority with regard to implementation of blended systems by the Authority, including preparation of a plan in that regard, by December 31, 2013, which would be incorporated into the Authority's business plan and would be required to be consistent with any written agreements with third parties operating or hosting connecting passenger rail services.

Related to Funding/Finance

AB 1770 – Lowenthal B. – *California Transportation Financing Authority (Urgency)*

Provides that a rail project may consist of, or include, rolling stock for the purpose of the issuance of bonds to fund transportation projects. Requires a project to be supplemental to or improve existing facilities currently owned or operated by the project sponsor.

Related to Project Delivery

AB 294 – Portantino – *Transportation Projects: Procurement: Design-Sequencing*

Until January 1, 2010, Caltrans was authorized to conduct a pilot project to let design-sequencing contracts for design and construction of not more than 12 transportation projects. These provisions would be repealed and enact new provisions authorizing Caltrans to let contracts for construction of not more than 8 transportation projects utilizing the design-sequencing method, to be effective until January 1, 2017. Requires Caltrans to use its employees or consultants under contract with the Caltrans to perform all design services related to design plans for the transportation projects specified. Requires Caltrans to compile data on the transportation projects awarded under these provisions and to make that information available on its Internet Web site each year during which the projects are underway.

AB 2498 – Gordon – *Department of Transportation: Construction Manager/General Contractor Project Method*

Establishes a pilot program to test the utilization of a Construction Manager/General Contractor method as a cost-effective option for constructing transportation projects, including the potential for partnering with local entities to deliver projects on the state highway system. Requires Caltrans to prepare and submit to the Legislature, no later than July 1 of each year during which any project using the Construction Manager/General Contractor method is ongoing, a report that describes each project and provides relevant data, including, but not limited to, the stage of completion, district, cost, description, status, and estimated time to completion. Require specified information to be verified under oath, thus imposing a state-mandated local program by expanding the scope of an existing crime. Requires Caltrans, on or after January 1, 2013, to use Caltrans employees or consultants under contract with Caltrans to perform project design and engineering services, project development services, and construction inspection services.

SB 1549 – Vargas – *Transportation projects: alternative project delivery methods*

Allows the San Diego Association of Governments (SANDAG) to utilize alternative project delivery methods for public transit projects within its jurisdiction. Requires that upon completion of a project, a progress report is to be submitted by the SANDAG to its governing board and would require the report to be made available on its Internet Web site. Would, except as provided, require SANDAG to pay fees related to these projects into the State Public Works Enforcement Fund. Because this bill would subject these projects to certain prevailing wage enforcement requirements, the violation of which is a crime, it would impose a state-mandated local program by expanding the scope of an existing crime. Makes legislative findings and declarations as to the necessity of a special statute for San Diego regional transportation entities.

Related to Rail

AB 16 – Perea – *High-Speed Rail Authority*

Requires the High-Speed Rail Authority (Authority) to make every effort to purchase high-speed train rolling stock and related equipment that are manufactured in California, consistent with federal and state laws. This bill would also state that it does not create a private right of action in any civil litigation.

AB 41 – Hill – *High-Speed Rail Authority: Conflicts of Interest: Disqualification (Urgency)*

Amends existing provisions of the Political Reform Act of 1974. Adds members of the Authority to those specified officers who must publicly identify a financial interest giving rise to a conflict of interest, and recuse themselves accordingly. Provides that each individual who is selected by the Authority to serve in a peer review capacity to the Authority shall be deemed to be a designated employee of the Authority, thereby making those persons subject to the provisions of the Authority's conflict-of-interest code and to the various other restrictions that apply to the designated employees of a state agency. Incorporates changes to Government Code Section 87200 proposed by AB 2609 that would become operative only if AB 2609 and this bill are both chaptered and become effective on or before January 1, 2013, and this bill is chaptered last.

Other

SB 878 – DeSaulnier – *Office of the Transportation Inspector General*

Creates the Office of the Transportation Inspector General in state government as an independent office that would not be a subdivision of any other government entity, to ensure that all state, regional, and local agencies expending state transportation funds are operating efficiently, effectively, and in compliance with federal and state laws. Provides for the Governor to appoint the Inspector General for a 6-year term, subject to confirmation by the Senate, and would provide that the Inspector General may not be removed from office during the term except for good cause. Specifies certain duties and responsibilities of the Inspector General, would require an annual report to the Legislature and Governor, and would provide for funding the office, to the extent possible, from federal transportation funds, with other necessary funding to be made available in proportion to the activities of the office from the Highway Users' Tax Account and an account from which high-speed rail activities may be funded.