

REVISÉ
 EXECUTIVE MANAGEMENT AND AUDIT COMMITTEE
 APRIL 18, 2002



Metropolitan
 Transportation
 Authority

SUBJECT: STATE LEGISLATION

**ACTION: APPROVE STAFF RECOMMENDATIONS ON STATE
 LEGISLATION**

RECOMMENDATION

Staff recommends the Board of Directors adopt the following positions:

- A. SCA 11 (Murray) - Would require that loans from the State Highway Account and Public Transportation Account be repaid *with interest* when those accounts loan funds to other state accounts. **SUPPORT**
- B. AB 2788 (Longville) - Would enact the Passenger Rail Improvement, Safety and Modernization Bond Act of 2002 to provide for general obligation bonds in the amount of \$500 million and require a 50% match by local agencies based on passenger miles, annual trips and track miles. **SUPPORT**
- C. SB 1853 (Murray) - Would enact the Transportation Noise Reduction, Safety Enhancement and Congestion Relief Bond of 2002 to authorize general obligation bonds in the amount of \$1 billion for financing the soundwall construction. **SUPPORT**
- D. AB 2751 (Pavley) - To evaluate the feasibility of using rice straw for soundwall construction. **SUPPORT**
- E. SB 1927 (Soto) - Would require transit fueling stations to assess the long-term environmental and public health impact of stations located by residential communities. **NEUTRAL, SEEK AMENDMENTS**
- F. SB 1858 (Burton) - Would create a TEA fund in the State Treasury and authorize Caltrans to administer the TEA program. **WORK WITH AUTHOR**
- G. AB 2582 (Chu) - Would allow paratransit vehicles to utilize the HOV lanes with less than required occupancy. **NEUTRAL, SEEK AMENDMENTS**
- H. SB 1740 (Murray) - Develop record retention program for the SAFE program throughout the state. **SUPPORT/SPONSOR**

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ISSUE

Staff has been reviewing several transportation-related bills over the past few weeks. The attached analyses identify several significant bills in which staff believes the MTA Board of Directors should take positions. Additional measures are currently under review by staff and will be provided to the Board in subsequent meetings.

ATTACHMENTS

Attachments A-H: Legislative Analyses

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BILL: SCA 11
AUTHOR: STATE SENATOR KEVIN MURRAY
(D-LOS ANGELES)
SUBJECT: STATE HIGHWAY ACCOUNT LOANS
STATUS: PENDING HEARING IN SENATE COMMITTEE ON
TRANSPORTATION
ACTION: SUPPORT

RECOMMENDATION

MTA staff recommends the Board of Directors support SCA 11.

PROVISIONS

Article XIX of the State Constitution regulates the use of motor vehicle fuel revenues by the State of California. Included in that article are provisions, which require that loans from the State Highway Account (SHA) or Public Transportation Account (PTA) to the General Fund be repaid with interest.

SCA 11 would:

- Require that loans from the State Highway Account be repaid with interest when those accounts loan funds to any other fund or account.
- Require that loans from the Public Transportation Account be repaid with interest when those accounts loan funds to any other fund or account.

IMPACT ANALYSIS

SCA 11 is proposed by Senator Murray in response to the Governor's proposed State Budget for Fiscal Year 2003. In this budget, the Governor proposes to loan funds from the Traffic Congestion Relief Fund (TCRF) to the General Fund and to backfill the TCRF with loans from the SHA and PTA. Under this proposal the loans would be paid back, however, the payback would not include interest. This is due to the fact that since the SHA loan is to the TCRF as opposed to the General Fund directly, Article XIX does not apply. There are currently no payback requirements for loans from the TCRF.

In difficult budgetary times, the State has frequently sought to borrow from transportation related accounts due to the accounts' relatively high balances. For example, the SHA balance has fluctuated between \$1-2 billion over the last few years. This is due mainly to the high receipt of gas tax proceeds in the state and the delay in allocation of funds for approved projects. Another important issue to consider, however, when evaluating the SHA balance is that although the

balance itself may appear high, the funds may be essentially committed through STIP programming and other commitments. The actual drawdown on the account occurs as projects reach implementation.

Recognizing this fact, the Davis Administration sought to develop a budget proposal, which would allow for loans from transportation-related accounts to help with the State General Fund deficit. Under that proposal the Administration sought flexibility in loaning funds between accounts. This flexibility would allow the administration to assist the general fund but would also allow for the allocation of funds to transportation projects as needed.

The concern with the budget proposal as identified by Senator Murray, is that in structuring the loans from the TCRF rather than directly from the SHA, it appears that the payback with interest provisions would be avoided. Senator Murray's staff indicates that the estimated interest from the SHA alone would amount to approximately \$50 million annually.

SCA 11 would help to preserve funds in the SHA and, therefore, make those funds available for transportation purposes.

Staff recommends a **support** position on SCA 11. To date, there is no registered support or opposition on this bill.

BILL: AB 2788

AUTHOR: ASSEMBLYMEMBER JOHN LONGVILLE
(D-SAN BERNARDINO)

SUBJECT: CREATES THE PASSANGER RAIL IMPROVEMENT, SAFETY
AND MODERNIZATION (PRISM) BOND ACT OF 2002

STATUS: PENDING HEARING IN THE ASSEMBLY TRANSPORTATION
COMMITTEE

ACTION: SUPPORT

RECOMMENDATIONS

MTA staff recommends that the MTA Board of Directors adopt a support position on AB 2788.

PROVISIONS

This bill would:

- Enact the Passenger Rail Improvement, Safety, and Modernization (PRISM) Bond Act of 2002;
- Subject to voter approval, provide for the issuance of general obligation bonds in the amount of \$500,000,000 and require a 50% match by local agencies; and,
- Specify an allocation formula based on passenger miles, annual trips and track miles.

IMPACT ANALYSIS

Last year AB 1396 (Longville) was introduced as a bill making an allocation of \$100 million from the General Fund. That bill died and AB 2788 was introduced as a bond measure this session.

AB 2788, as introduced by Assembly Member John Longville, would create a dedicated and ongoing source of revenue to maintain and rehabilitate the state's aging passenger rail system. This measure would mimic the current State Highway Operations and Protection Program (SHOPP), which is relied upon to maintain the state highway system. If approved, a total of fifty million (\$50,000,000) shall be available for expenditure from the fund in each fiscal year for 10 successive fiscal years beginning with the fiscal year following voter approval of the bonds.

Annual funding would be shared proportionally among eligible agencies based on annual rail passenger vehicle miles, annual passenger trips and track-miles utilized. Because

Amtrak pays a reduced rate for access rights, intercity rail services would receive credit for one-third of route miles-utilized. Agencies with the highest audited numbers would receive the most money but all agencies would receive a share of PRISM funds.

Agencies must match PRISM funds on a 50/50 basis, using any non-PRISM dollars. They must also meet local maintenance-of-effort funding requirements, ensuring that PRISM funds would not replace funds currently spent on rehabilitation and modernization. There is no mention in the bill about what would happen if there weren't any agencies able to meet the 50% match requirement in order to qualify for these monies.

Supporters of AB 2788 believe that utilizing the State's General Fund is an appropriate source of revenue for this purpose because efficient and reliable rail service has become a statewide funding priority due to increased traffic congestion. Because it is unclear if Governor Davis would make a commitment this large from the General Fund given the current fiscal uncertainties, AB 2788 was introduced so that the voters in the State of California could decide. This funding source will ensure that rail operators can meet equipment rehabilitation needs. All passenger rail including intercity, commuter and urban passenger rail will be eligible to receive these funds.

Through the MTA's 2002 Legislative Program, the MTA has already adopted a support position on the Passenger Rail Improvement, Safety, and Modernization Program. Staff, therefore, recommends a support position on AB 2788.

Registered support for the previous legislation, AB 1396, include: Ventura County Transportation Commission (co-sponsor), Altamont Commuter Express Authority, California Transit Association, North San Diego County Transit Development Board, Orange County Transportation Authority, Peninsula Rail 2000, San Diego Metropolitan Transit Development Board, San Mateo County Transit District, Santa Clara Valley Transportation Authority, Silicon Valley Manufacturing Group, Southern California Regional Rail Authority, and Train Riders Association of California. It is anticipated the same agencies will support AB 2788.

There was no registered opposition for the previous legislation, AB 1396, and none is expected for AB 2788.

BILL: SB 1853

AUTHOR: SENATOR KEVIN MURRAY
(D-LOS ANGELES)

SUBJECT: TRANSPORTATION NOISE REDUCTION, SAFETY ENHANCEMENT,
AND CONGESTION RELIEF BOND ACT OF 2002

STATUS: PENDING HEARING IN SENATE COMMITTEE ON
TRANSPORTATION

ACTION: SUPPORT

RECOMMENDATIONS

MTA staff recommends that the MTA Board of Directors adopt a support position on SB 1853.

PROVISIONS

This bill would:

- Enact the Transportation Noise Reduction, Safety Enhancement, and Congestion Relief Bond Act of 2002;
- Provide for submission of the bond to the voters in the State of California; and,
- Authorize general obligation bonds in the amount of \$1 billion for purposes of financing transportation noise reduction, safety enhancement and congestion relief projects.

IMPACT ANALYSIS

SB 1853, as introduced by Senator Murray, would provide funds for the construction of numerous sound walls along California freeways and expressway systems, fund additional projects to eliminate bottlenecks and reduce congestion, offset the environmental effects and related impacts on communities from transportation systems and, further, enhance the safety of motorists, especially younger children, traveling on the state and local highway system.

The MTA has worked closely with Senator Murray and other elected officials throughout the state on the issue of sound walls. As Chair of the Senate Transportation Committee, Senator Murray helped to secure funding for the 1989 list and has worked very closely with Caltrans to complete construction of the sound walls. To continue this effort, Senator Murray has introduced SB 1853 to secure funding for sound wall construction throughout the State of California. Staff will continue to take a proactive approach to the issue of sound wall development and construction and, therefore, recommends a support position on SB 1853.

Potential opposition on this bill may come from the Bay Area and San Diego, who have historically been concerned about Los Angeles' attempts to complete construction of their sound walls. To date, there is not listed opposition.

The bill does not specify when it will go before the voters of California, nor does it specify how these funds would be allocated.

BILL: AB 2751

AUTHOR: ASSEMBLYMEMBER FRAN PAVLEY
(D-AGOORA HILLS)

SUBJECT: DEMONSTRATION PROJECT FOR SOUNDWALL
CONSTRUCTION UTILIZING EXCESS RICE STRAW

STATUS: PENDING HEARING IN ASSEMBLY COMMITTEE ON
TRANSPORTATION

ACTION: SUPPORT

RECOMMENDATIONS

MTA staff recommends that the MTA Board of Directors adopt a **support** position on AB 2751.

PROVISIONS

This bill would:

- Require the Department of Transportation, in consultation with the Air Resources Board, the Integrated Waste Management Board and the Department of Food and Agriculture, to complete a demonstration project, as specified, to evaluate the feasibility of using rice straw for sound wall construction for highway applications by January 1, 2005;
- Be subject to the availability of funds in the Budget Act of 2002; and,
- Require the department to actively solicit funds from other federal, state and private sources with the goal of initially supplementing and eventually completely supplanting the appropriation from the General Fund.

IMPACT ANALYSIS

AB 2751, as introduced by Assembly Member Pavley, would provide for alternative materials to be used in soundwall construction. Using rice straw would not only cut costs and construction time, it would also put the State in compliance with the Connelly-Areias-Chandler Rice Straw Burning Reduction Act of 1991.

Existing means of building soundwalls are costly to the State of California. It is estimated that the construction costs for all soundwalls range from \$1 million to \$2.4 million per mile. Although the statewide average cost is approximately \$1.5 million per mile, costs are somewhat higher in Los Angeles and other metropolitan areas.

Most soundwall projects require between six months to a year for construction, with the average project taking between nine months and one year. The average project is one mile long, however, projects range from as short as 500 feet to more than three miles in length.

The Connelly-Areias-Chandler Rice Straw Burning Reduction Act of 1991, has a statutory requirement that the state achieve diversion of not less than 50 percent of rice straw produced toward off-field uses by the year 2000. As of June 2001, only 2 percent of the available rice straw was used off-field. In September 2001, the Rice Straw Burning Reduction Act restricted rice straw burning for disease control purposes only and limited rice straw burning to 25 percent of individual planted acres, subject to a maximum annual allocation of 125,000 acres. In 2000 alone, there were approximately 521,000 acres of rice planted in the Sacramento Valley, which could have yielded a potential of 1.17 million tons of rice straw.

Preliminary research has found at least six companies in California that are developing rice straw soundwalls. The average cost associated with building panels is \$100-\$125 per square meter. The rice straw is encased in a concrete barrier with gunite-type material and, therefore, poses no threat to fire. A 150 foot wall built with conventional materials can cost between \$17,000-\$21,000, which does not include foundation and support system costs.

AB 2751 will further explore cost and time reductions and the feasibility of rice straw soundwall construction.

AB 2751 has support from the agricultural, farming, labor and environmental industries. Staff, therefore, recommends a **support** position on AB 2751. There is no known opposition to this bill.

BILL: SB 1927

AUTHOR: SENATOR NELL SOTO
(D-POMONA)

SUBJECT: STUDY OF LONG TERM ENVIRONMENTAL AND PUBLIC
HEALTH IMPACTS OF BUS FUELING STATIONS

STATUS: DUALY REFERRED, PENDING HEARING IN SENATE
COMMITTEE ON ENVIRONMENTAL QUALITY AND
TRANSPORTATION

ACTION: NEUTRAL, ~~SEEK AMENDMENTS~~

RECOMMENDATIONS

MTA staff recommends that the MTA Board of Directors adopt a **neutral, seek amendments** position on SB 1927.

PROVISIONS

This bill would:

- Require transit districts throughout the State to assess the long-term environmental and public health impacts of bus fueling stations owned, operated, or utilized by transit districts, and to report their findings to the Legislature on or before January 1, 2004.

IMPACT ANALYSIS

Senator Nell Soto introduced SB 1927 as a response to constituent complaints of increased illnesses allegedly related to Omnitrans' CNG fueling stations in their community. Omnitrans is the public transit agency serving the San Bernardino Valley.

Staff has discussed this issue with Durand Rall, CEO of Omnitrans, and has learned that he is actively responding to the concerns set forth by both the community and Senator Soto. He is in the process of changing the fueling system from CNG to LNG and has actively been involved with the Westside Residents for Clean Air, a community group that has organized around public health issues related to the fueling facility.

Staff is concerned that the need has not been established for a statewide study. Furthermore, there is no funding provided in the bill to conduct the study should it be determined that such a study is in fact needed. Staff recommends that a State agency be

required to conduct the study in consultation with transit agencies, rather than requiring each transit agency to conduct its own study.

Staff, therefore, recommends a **neutral, seek amendments** position on SB 1927. The suggested amendments would have the bill apply to Omnitrans only and/or provide State funding for the study, or require a State agency to perform the study in consultation with transit agencies.

BILL: SB 1858

AUTHOR: STATE SENATOR JOHN BURTON
(D-SAN FRANCISCO)

SUBJECT: TRANSPORTATION PROJECT ENANCEMENT ACCOUNT

STATUS: PENDING HEARING IN SENATE TRANSPORTATION
COMMITTEE

ACTION: WORK WITH AUTHOR

RECOMMENDATION

MTA staff recommends the Board of Directors adopt a **work with author** position on SB 1858.

PROVISIONS

Existing law provides for the Transportation Project Enhancement Act (TEA) program with funding from federal transportation funds. Existing law also establishes the allocation of these funds to counties for allocation through normal State Transportation Improvement Program processing.

This bill would:

- Create a TEA fund in the State Treasury and require the deposit of all TEA funds into the new fund.
- Authorize Caltrans to administer this program and determine project eligibility.

IMPACT ANALYSIS

The TEA program as outlined in TEA-21, is an allocation of federal funds for capital projects that improve the environment around transportation facilities. California receives approximately \$50 to \$60 million annually in TEA funds. Under the current structure of this program, TEA funds are allocated through normal STIP programming with the regions allocating 75% of the TEA funds.

SB 1858 would, instead, deposit all TEA funds into a new account that would be solely controlled by Caltrans. Project selection and criteria would be under the auspices of Caltrans. SB 1858 would effectively remove all local control of this program and turn control over to the State.

A working group of TEA administrators from around the State have been meeting with the California Councils of Governments (CALCOG) and Caltrans on restructuring the

TEA program. In this effort, regions are attempting to develop a consensus on how the TEA program should be managed. SB 1858 would place all control of this program at the State level and does not necessarily reflect the direction of the working group.

Staff suggests that reforms could be made in the TEA program short of abdicating all control. Such reforms include modification to the TEA allocation formulas to better reflect the intent of the program. For example, because allocations are made based on highway miles, TEA funds flow to areas in remote parts of the state where the environmental impact of projects may be minimal. TEA projects would have greater impact if they were allocated based on population, allowing funds to flow to areas where more impacts occur.

The author, also the sponsor of the bill, indicates he will consider amendments to the bill. Staff recommends that the MTA continue to work toward consensus through the statewide working group process. Any restructuring of the TEA program and legislation should reflect that consensus.

Staff, therefore, recommends a **work with author** position on SB 1858. There is no registered opposition to this bill.

BILL: AB 2582

AUTHOR: ASSEMBLY MEMBER JUDY CHU
(D-ALHAMBRA)

SUBJECT: AUTHORIZING THE USE OF HIGH OCCUPANCY VEHICLE
LANES BY PARATRANSIT VEHICLES

STATUS: PENDING HEARING IN ASSEMBLY TRANSPORTATION
COMMITTEE

ACTION: NEUTRAL, SEEK AMENDMENTS

RECOMMENDATION

MTA staff recommends the Board of Directors adopt a **neutral, seek amendments** position on AB 2582.

PROVISIONS

Existing law establishes the requirements for the use of High Occupancy Vehicle (HOV) lanes, including the types of vehicles that may use the lanes. Included in those requirements is the allowance for mass transit vehicles, namely buses, to utilize the lanes while not in passenger service and, therefore, with less than the required occupancy level.

AB 2582 would:

- Allow paratransit vehicles to utilize the HOV lanes with less than the required occupancy level.

IMPACT ANALYSIS

AB 2582 is sponsored by Access Services Inc. (ASI) and the California Transit Association. The sponsors argue that lack of authorization for paratransit vehicles to use the HOV was an oversight when the original authorization was drafted and that this bill is consistent with current law which provides authorization to mass transit vehicles. The sponsors argue that their vehicles may use HOV lanes while carrying passengers as they meet the occupant limit but they are unable to use the lanes when not carrying passengers such as on return trips or "deadheading." The sponsors, further, argue that time and cost savings benefit will accrue if paratransit vehicles use HOV lanes while deadheading and this savings will result in improved customer service. This cost savings and customer service benefits will occur through increased service capacity and improved on time performance as vehicles spend less time deadheading and more time in customer service.

ASI operates a fleet of 400 vehicles out of a total of 3,000 paratransit vehicles in the state. As the vehicles already use the lanes while carrying passengers, staff concurs that there may be limited impact from allowing their use while deadheading. Staff, however, suggests this impact should be monitored.

Additionally, a concern exists that taxis currently operate as paratransit vehicles when ASI issues vouchers rather than operate the trip themselves. The sponsors indicate that they will amend AB 2582 to exclude taxis from this authorization.

The MTA is responsible for both operation of public transit and development of the highway program. In its dual role, the MTA has responsibilities on both sides of this issue. In the past the MTA Board has opposed efforts to expand the use of HOV lanes. In 1999, the MTA Board opposed AB 71 (Cuneen) that allowed electric vehicles to use HOV lanes. At that time the Board was concerned that AB 71 would create a precedent for allowing other types of single occupant vehicles to use HOV lanes. This expansion could detract from the original intent of the HOV lanes. The impact of AB 2582 could be minimal as ASI operates 400 vehicles, their use in the carpool lanes already occurs and their use of the freeway system is less than a majority of their overall service.

Local dial-a-ride services would also be eligible to use the HOV lanes in the manner prescribed by AB 2582 as they qualify as paratransit vehicles under the specified code section. It is anticipated that the impact from these services would be equivalent to the impact from the county-wide service provided by ASI.

The MTA was successful in negotiating a sunset of 2007 into AB 71. This sunset allows for review of the bill's impact over time and will allow agencies to determine if such an exemption should continue. Staff suggests that such a sunset may be appropriate in AB 2528.

Staff, therefore, recommends a **neutral, seek amendments** position on AB 2582.

BILL: SB 1740

AUTHOR: STATE SENATOR KEVIN MURRAY
(D-LOS ANGELES)

SUBJECT: SERVICE AUTHORITY FOR FREEWAY EMERGENCIES
RECORDS RETENTION POLICIES

STATUS: PENDING HEARING IN SENATE TRANSPORTATION
COMMITTEE

ACTION: SUPPORT/SPONSOR

RECOMMENDATION

MTA staff recommends the Board of Directors **support** SB 1740.

PROVISIONS

Existing law establishes the Service Authority for Freeway Emergencies (SAFE); commonly called the call box program. This law specifies the powers and responsibilities and administrative requirements of SAFEs around the state.

This bill will authorize SAFEs to establish policies for the retention of agency documents.

IMPACT ANALYSIS

SB 1740 is an element in the MTA's 2001-2002 Legislative Program. In that program the MTA Board of Directors authorized staff to pursue a number of legislative proposals including authorization for SAFEs to develop record retention policies. Staff approached Senator Kevin Murray who agreed to carry this legislation.

SB 1740 is an administrative change to the SAFE authorizing statute that would clarify an oversight in the original legislation. The powers, responsibilities and certain administrative requirements of SAFEs are outlined in the original statute. Requirements related to records retention were not addressed and SAFEs as statutorily separate agencies have had no authorization or governing statute to develop record retention policies.

SB 1740 would provide SAFEs with the authorization to develop such policies as appropriate for each agency.

Staff, therefore, recommends a **support** position on AB 1912.