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- San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority
■ San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies
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Revised Agenda Item No. 12

Board of Directors

July 10, 2013 at 10:30 am

Location:

San Bernardino Associated Governments
Santa Fe Depot – SANBAG Lobby 1st Floor
1170 W. 3rd Street
San Bernardino, California 92410

Discussion Calendar

Council of Governments

12. Legislative Update

1. Receive State Update and adopt the following position on State Legislation:
 - a. Support AB 1081 (Medina, D-Riverside)
 - b. Oppose Unless Amended SB 556 (Corbett, D-East Bay)**

2. Receive Federal Update and adopt the following positions on Federal Legislation:
 - a. Support H.R. 974, the MOVE Freight Act of 2013
(Rep. Sires, D-New Jersey)
 - b. Support H.R. 2084, Partnership to Build America Act
(Rep. Delaney, D-MD) **Wendy Strack**

Recommendation Number 1b was added due to amendments to the bill after the agenda was finalized and mailed.



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Minute Action

REVISED AGENDA ITEM: 12

Date: July 10, 2013

Subject: Legislative Update

- Recommendations:**
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 - a. Support AB 1081 (Medina, D-Riverside)
 - b. Oppose Unless Amended SB 556 (Corbett, D-East Bay)**
 2. Receive Federal Update and adopt the following positions on Federal Legislation:
 - a. Support H.R. 974, the MOVE Freight Act of 2013 (Rep. Sires, D-New Jersey)
 - b. Support H.R. 2084, Partnership to Build America Act (Rep. Delaney, D-MD)

Background: State Update

Legislation recommended for consideration

AB 1081 Economic Development: goods-movement-related-infrastructure (Medina, D-Riverside)
Recommend: Support

AB 1081 (Medina, D-Riverside) would require the State's 5 year infrastructure plan to specifically address goods movement related infrastructure needs and includes air, water, land, and sea port of entry facilities, as well as roads rail, and

Approved
Board of Directors

Date: _____

Moved: _____ *Second:* _____

In Favor: _____ *Opposed:* _____ *Abstained:* _____

Witnessed: _____

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- <http://portal.sanbag.ca.gov/mgmt/committee/directors/brd2013/brd1307/AgendaItems/BRD1307a1-wvs.docx>
- <http://portal.sanbag.ca.gov/mgmt/committee/directors/brd2013/brd1307/AgendaItems/BRD1307a2-wvs.docx>
- <http://portal.sanbag.ca.gov/mgmt/committee/directors/brd2013/brd1307/AgendaItems/BRD1307a3-wvs.docx>
- <http://portal.sanbag.ca.gov/mgmt/committee/directors/brd2013/brd1307/AgendaItems/BRD1307a4-wvs.doc>
- <http://portal.sanbag.ca.gov/mgmt/committee/directors/brd2013/brd1307/AgendaItems/BRD1307a5-wvs.pdf>
- <http://portal.sanbag.ca.gov/mgmt/committee/directors/brd2013/brd1307/AgendaItems/BRD1307a6-wvs.pdf>

other projects related to goods movement. The plan would be required to address existing projects in need of improvement or upgrade, as well as new projects and facilities. AB 1081 also would require the infrastructure plan to include recommendations for bringing private sector financing options to the table.

SANBAG is also presently underway or will soon be underway on \$1.03 billion in goods movement related projects include 8 grade separations, 4 goods movement related interchanges, 1 major highway project, and a major rail-to-rail grade separation project. To the extent AB 1081 can help provide justification for an increased state funding role or provide the information necessary to advocate for an enhanced federal funding role, this would be beneficial to SANBAG.

Staff recommends that the Board of Directors adopt a "Support" position. This recommendation is consistent with SANBAG's 2013-2014 adopted State Legislative Platform under the provision, "Support legislation that reduces freight-related impacts to San Bernardino County, including disparate impacts to disadvantaged communities."

An analysis of this bill is provided in Attachment 1.

***SB 556 Agency: ostensible:non-governmental entities
(Corbett, D-East Bay)
Recommend: Oppose Unless Amended***

SB 556 (Corbett, D-East Bay) would require that services being offered by a private entity on behalf of a public agency be distinctly marked as such by displaying the words "THE OPERATOR OF THIS VEHICLE IS NOT A GOVERNMENT EMPLOYEE" in the same or larger font size of any font otherwise displayed on the vehicle. In addition, the uniforms worn by the contract employees must also contain the disclosure, "NOT A GOVERNMENT EMPLOYEE." The bill was further amended on July 1, 2013 to state that violations of this act shall be subject to the remedies provided in the Consumers Legal Remedies Act, which outlines a process for resolution when consumers are misled about the source of goods and services, including disclosure and punitive damages.

Staff recommends that the Board of Directors adopt a "Oppose unless Amended" position. This recommendation is consistent with SANBAG's 2013-2014 adopted State Legislative Platform under the provision, "Support the consideration of public-private partnerships (P3s) in the development of transportation improvements." As SB 556 would reduce the ability to partner with private entities for the delivery of public transit and other

transportation programs, SANBAG requests an amendment to permit this service flexibility for transportation services.

An analysis of this bill is provided in Attachment 2.

A matrix of legislation of interest to SANBAG is also included as Attachment 3. Bills that have not met the appropriations and house of origin deadlines, with the exception of those bills with a SANBAG position, are not shown.

San Bernardino County Delegation Special Election

On May 14, 2013, then-Assembly Member Norma Torres (D-Pomona) was elected to the State Senate District 32 seat in a special election. This seat was left vacant by Gloria Negrete McLeod following her election to Congress in November 2012. An election has been set for July 23, 2013 for the now vacant Assembly seat. A runoff for this seat, if needed, would be on September 24, 2013.

California Environmental Quality Act (CEQA) Reform Update

The 2013 legislative session began with over two dozen CEQA reform bills. After the May appropriations and house of origin deadlines, less than a handful remain under consideration. On May 29, 2013, the State Senate passed SB 731 (Steinberg, D-Sacramento). SB 731 is largely considered the primary bill under consideration for reforms to CEQA. The bill will now move to the Assembly for consideration. The latest amendments to SB 731 still do not achieve the kind of sweeping reform initially hoped for early in the session. Transit priority project areas were established under SB 375 (Chapter 728, Statutes of 2008) and were given special streamlining provisions under that legislation. SB 731 expands the reforms for these areas including setting thresholds for noise and traffic as well as limiting lawsuits based on aesthetic issues. The bill also establishes new requirements for noticing and the preparation of the administrative record, streamlined processes for clean energy projects, requires an annual report on CEQA related lawsuits, and other minor modifications. SB 731 is far from the reforms originally discussed and it remains to be seen if additional changes will be made as the bill moves through the Assembly. SB 731 is currently supported by CalChamber and has been publicly supported by Governor Brown.

State Budget Negotiations Underway

At the time of the writing of this report, negotiations were well underway on the fiscal year 2013-2014 State Budget. A verbal update on status of the budget will be provided at the General Policy Committee meeting.

Federal Update

Update on Panel on 21st Century Infrastructure

In May, the House Transportation and Infrastructure Committee's (T&I) Panel on 21st Century Freight Transportation held two meetings, a roundtable discussion titled "Coordinating Federal Efforts to Improve Freight Transportation" and a hearing in San Bernardino entitled "How Southern California's freight challenges impact the nation"

The roundtable discussion mainly focused on freight investments through the Transportation Investment Generating Economic Recovery (TIGER) grant program, how the Department of Transportation can work to reduce project delivery time, how state freight plans will feed into the development of the national freight plan, and how the National Freight Network will be designated. In Moving Ahead for Progress in the 21st Century (Map-21), the designation of the network is limited to 27,000 centerline miles and in Southern California, the parallel highway networks may not be captured appropriately. The Panel noted the need to address this issue going forward.

The hearing in San Bernardino focused on the particular needs in the Southern California region, the need for a federal government role in building freight capacity and mitigation, potential revenue sources for a dedicated freight trust fund, and project prioritization.

With respect to funding, a variety of potential sources were discussed, noting that Congress needs to focus on who benefits versus who pays. They also discussed streamlining project delivery, remaining competitive in a global market, and the need to include input from environmental stakeholders.

Update on Transportation Secretary Confirmation

On May 22, 2013, the Senate Commerce, Science, and Transportation held a hearing regarding the nomination of Anthony Foxx for Transportation Secretary. If confirmed, Mr. Foxx, the current Mayor of Charlotte, North Carolina, will replace current Secretary Ray LaHood. Mr. Foxx's comments centered mainly around the safety, efficiency, and performance of the nation's transportation system and the need to continue building an infrastructure system for the future. The next step will be a hearing before the Senate Environment and Public Works Committee.

Federal Streamlining Initiatives

On May 17, 2013 President Obama issued a Presidential Memorandum which is intended to build upon efficiencies being achieved by Executive Order 13604 issued on March 22, 2012. Together, the White House anticipates federal infrastructure permitting process times can be cut by as much as half for major infrastructure projects. The newly issued memorandum requires specific federal agencies to prioritize and create a plan to implement efforts identified through the previous Executive Order. These initiatives include early coordination and project review, evaluation of innovative project mitigation mechanisms, and increased use of technology to speed project review time.

Map-21 also included a number of provisions designed to streamline the project approval process. A memo regarding the status of the implementation of these provisions prepared by our Federal Advocate, Van Scoyoc Associates, is attached for information as Attachment 4. As the document outlines, only 5 of the streamlining initiatives have been completed, with 34 underway, and 3 yet to have begun. Many of the programs underway have estimated completion times of Summer/Fall 2013 to June 2014.

Federal legislation recommended for consideration

Multimodal Opportunities Via Enhanced Freight Act of 2013 (H.R. 974)
(Sires, D-New Jersey)
Recommend: Support

H.R. 974, the Multimodal Opportunities Via Enhanced Freight Act of 2013 (MOVE Freight Act of 2013), defines the "national freight network" as a network composed of highways, railways, navigable waterways, seaports, airports, freight intermodal connectors, and urban transportation systems most critical to the multimodal movement of freight.

The bill would:

- Re-characterize the primary freight network as multimodal corridors, including critical rail corridors, critical intermodal connections, and critical inland port, seaport, and airport infrastructure.
- Require state freight plans to consider multistate network continuity and connectivity.
- Establish a competitive grant program. This grant program would limit the federal share of the project's capital costs to 80% and would require a project management plan and/or annual financial plan depending on project size.

Defining the primary freight network in terms of corridors benefits the Southern California region where multiple transportation networks exist in close proximity to one another. In addition, Southern California projects are likely to compete well nationally given the volume of freight moving through the region onto the rest of the nation. Clarifications are needed to ensure that grade separation projects are eligible and should be included in any final version of the language.

Staff's support recommendation is consistent with SANBAG's 2013-2014 adopted Federal Platform under the provision, "Support development of a national/regional freight movement plan with clearly defined ports and corridors and inland improvement needs to provide for timely, reliable freight transport, timely implementation of freight-related strategies needed for attainment of federal health-based air quality standards and mitigation of freight-related impacts in communities". This bill is included as Attachment 5. Representatives Janice Hahn (D-CD 44), Grace Napolitano (D-CD 32), Alan Lowenthal (D-CD 47), John Garamendi (D-CD 3), Gloria Negrete McLeod (D-CD 35), and Adam Schiff (D-CD 28) are listed co-sponsors from California.

Partnership to Build America Act (H.R. 2084)
(Delaney, D-Maryland)
Recommendation: Support

H.R. 2084 proposes to create a \$50 billion dollar infrastructure loan program that is stated to be able to leverage up to \$750 billion for projects. This fund will be initially created with the sale of 50-year bonds to private entities with a 1% interest rate return. These bonds would not be guaranteed by the Federal government. The program is designed to incentivize the return of overseas earnings to the U.S. by allowing corporations to repatriate a specified amount of overseas earnings tax-free for every \$1 they invest in the bonds. The fund will then provide loans or loan guarantees to state and local governments to finance transportation, energy, communications, water, and education infrastructure projects.

Staff participated in a conference call with the Coalition for America's Gateways and Trade Corridors and Representative Delany's office. On the call Rep. Delaney expressed the bill aims to create a large-scale infrastructure finance authority with no federal appropriations, pre-fund the program upfront, and allow the private sector to engage more in infrastructure financing. The bill is co-sponsored by 13 Republicans and 13 Democrats, including Ami Bera (D-CD 7) and Scott Peters (D-CD 52) from California.

Staff's recommendation is consistent with SANBAG's 2013-2014 adopted Federal Platform under the provision, "SANBAG will advocate for the protection of current transportation revenues and accelerated national investment in infrastructure". This bill is included as Attachment 6.

Financial Impact: This item has no fiscal impact on the FY2013/2014 SANBAG Budget.

Reviewed By: This item was reviewed and unanimously recommended for approval by the General Policy Committee on June 12, 2013.

Responsible Staff: Wendy Strack, Director of Legislative Affairs



Bill Analysis

Bill Number: SB 556	Author: Corbett (D-East Bay)
Title: Agency: ostensible:non-governmental entities	

Summary

SB 556 originally made public agencies liable for damages caused by contractors for work performed under contract if circumstances existed to make a member of the public believe that the contractor's employee was an employee of the public agency.

On June 19, 2013, SB 556 was significantly amended to require that services being offered by a private entity on behalf of a public agency be distinctly marked as such by displaying the words "THE OPERATOR OF THIS VEHICLE IS NOT A GOVERNMENT EMPLOYEE" in the same or larger font size of any font otherwise displayed on the vehicle. In addition, the uniforms worn by the contract employees must also contain the disclosure, "NOT A GOVERNMENT EMPLOYEE." The bill was further amended on July 1, 2013 to state that violations of this act shall be subject to the remedies provided in the Consumers Legal Remedies Act, which outlines a process for resolution when consumers are misled about the source of goods and services, including disclosure and punitive damages.

Impact on SANBAG

This bill, sponsored by the California Labor Federation and the California Professional Firefighters, is intended to address issues primarily impacting public safety services. However, the language is broadly written to apply to all public services being provided by private entities. SB 556 as currently written not only impacts any public transit services being contracted out in San Bernardino County such as portions of services provided by Omnitrans and the Victor Valley Transit Authority, it also may impact services provided by regional rail operators such as the Southern California Regional Rail Authority (Metrolink). In addition to these impacted services, SANBAG provided services such as Freeway Service Patrol would also be impacted.

Given the mix of public and private providers of transportation services in the region, maintaining separate fleets of vehicles and separate uniforms for public and private service providers is logistically difficult, a poor use of limited resources, and potentially unnecessarily alarming to patrons.

In addition, many local operators already require some separate markings indicating that the provider is a contractor. SB 556 removes the local flexibility to determine the best way to address privately provided services by including specific requirements wording and displays. Attached to this analysis is a mock-up of a San Diego Metropolitan Transit System vehicle with the appropriate font size displayed to demonstrate the difficulty of complying with the requirements in SB 556.

In an era of limited transportation funds and no identifiable transportation problem sought to be addressed by the bill, SB 556 should be amended to exclude transportation.

Attachment #2

Recommendation: OPPOSE UNLESS AMENDED

Staff recommends that the Board of Directors adopt a “Oppose unless Amended” position. This recommendation is consistent with SANBAG’s 2013-2014 adopted State Legislative Platform under the provision, “Support the consideration of public-private partnerships (P3s) in the development of transportation improvements.” As SB 556 would reduce the ability to partner with private entities for the delivery of public transit and other transportation programs, SANBAG requests an amendment to permit this service flexibility for transportation services.

This bill is also opposed by the California State Association of Counties, the League of California Cities, the California Special Districts Association, and the California Association of Joint Powers Authorities.

Bill History
Introduced: February 22, 2013
Amended: April 9, 2013 May 9, 2013 May 29, 2013 June 19, 2013 July 1, 2013
Current Disposition: Pending on the Assembly Floor Passed Assembly Judiciary Committee, 7-3 Passed Senate, 24-13 Passed Senate Labor and Industrial Relations Committee, 4-0 Passed Senate Judiciary Committee, 5-1

