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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 and Support Material for **Agenda Item No. 13**

Board of Directors Meeting

March 5, 2014

10:00 a.m.

Location:

San Bernardino Associated Governments
Santa Fe Depot 1170 W. 3rd Street, 1st Floor Lobby
San Bernardino, CA

CONSENT

Council of Governments

13. State and Federal Legislative Update

1. Receive State Update and adopt the following positions on State Legislation:
 - a. Oppose SB 990 (Vidak, R-Hanford)
 - b. Support SB 1433 (Hill, D-San Mateo)

2. Receive Federal Update. **Wendy Strack**

This agenda item was revised to include Recommendations 1a and 1b for consideration. Bill analyses are included as new attachments to this report, SB 990 – Transportation Funds: Disadvantaged Small Communities and SB 1433 – Local Agency Public Construction Act: Transit Design Build Contracts.



- San Bernardino County Transportation Commission
- San Bernardino County Transportation Authority
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Minute Action

REVISED AGENDA ITEM: _____

Date: March 5, 2014

Subject: State and Federal Legislative Update

- Recommendation:***
1. Receive State Update and adopt the following positions on State Legislation:
 - a. Oppose SB 990 (Vidak, R-Hanford)
 - b. Support SB 1433 (Hill, D-San Mateo)
 2. Receive Federal Update.

Background: STATE UPDATE

Legislation recommended for consideration

As the deadline has passed for the State Legislature to introduce new bills for 2014, positions on two bills are proposed for early action. These bills have been reviewed by the Legislative Ad Hoc Committee and recommended for consideration by the Board of Directors.

SB 990 Transportation Funds: Disadvantaged Small Communities (Vidak, R-Hanford)
Recommend: Oppose

*Approved
 Board of Directors*

Date: _____

Moved: _____ *Second:* _____

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

Witnessed: _____

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|-----|---|-----|---|-----|---|------|---|-----|---|
| COG | X | CTC | X | CTA | X | SAFE | X | CMA | X |
|-----|---|-----|---|-----|---|------|---|-----|---|

Check all that apply.

BRD1403b-wvs

Attachment: <http://portal.sanbag.ca.gov/mgmt/committee/directors/brd2014/brd1403/AgendaItems/BRD1403b1-wvs.docx>
<http://portal.sanbag.ca.gov/mgmt/committee/directors/brd2014/brd1403/AgendaItems/BRD1403b2-wvs.docx>

SB 990 requires that 5% of a region's share of State Transportation Improvement Program (STIP) funding be set aside for communities with a population of 25,000 or less and that have a median income of less than 80 percent of the statewide average. As SANBAG works diligently to maintain a comprehensive and complete funding structure for our projects, a requirement for a specific set aside for such a limited area could jeopardize this region's ability to fund its highest priority projects.

Staff recommends that the Board of Directors adopt an "Oppose" position. This recommendation is consistent with SANBAG's 2014 adopted State Legislative Platform in Section I (h) under the provision, "Support retention of decision making, project selection, and funding authority at the county transportation commission level governing the use of all related funding sources."

An analysis of this bill is included as Attachment A.

SB 1433 Local Agency Public Construction Act (Hill, D-San Mateo)
Recommend: Support

SB 1433 extends and expands existing transit design-build authority to allow SANBAG and other county transportation commissions to utilize the authority, eliminate the sunset date, and remove duplicative reporting requirements. This bill is sponsored by the California Transit Association, of which SANBAG is a member, and we have been working in partnership with the Riverside County Transportation Commission (RCTC) to secure language that would allow entities such as SANBAG and RCTC to be an eligible user of this authority.

Staff recommends that the Board of Directors adopt a "Support" position. This recommendation is consistent with SANBAG's 2014 adopted State Legislative Platform in the *Key Issues – Innovative Project Delivery* section under subsection (b), "Work to ensure that existing innovative project delivery methods such as design-build, construction manager/general contractor, and other tools are available and effective for a broad variety of projects including highways, transit, and local streets and roads."

An analysis of this bill is included as Attachment B.

Delegation Members Appointed to Key Committees and Leadership Positions

Several Members of SANBAG's Legislative Delegation have been appointed to key state legislative committees or hold leadership positions within their respective caucuses.

Assembly Appropriations Committee – Tim Donnelly (R-Twin Peaks),
Chris Holden (D-Pasadena)
Assembly Budget Committee – Brian Nestande (R-Palm Desert), Mike Morrell
(R-Rancho Cucamonga), Freddie Rodriguez (D-Pomona)
Assembly Housing and Community Development Committee – Cheryl Brown
(D-San Bernardino)
Assembly Jobs, Economic Development, and the Economy Committee –
Steve Fox (D-Palmdale)
Assembly Revenue and Taxation Committee – Brian Nestande
Assembly Rules Committee – Cheryl Brown, Tim Donnelly, Curt Hagman
(R-Chino Hills)
Assembly Transportation Committee – Chris Holden, Mike Morrell
Assembly Water, Parks and Wildlife Committee – Freddie Rodriguez

Senate Budget and Fiscal Review Committee – Norma Torres (D-Pomona)
Senate Environmental Quality Committee – Jean Fuller (R-Bakersfield)
Senate Governance and Finance Committee – Steve Knight (R-Antelope Valley),
Carol Liu (D-La Canada Flintridge)
Senate Natural Resources and Water Committee – Jean Fuller
Senate Rules Committee – Jean Fuller, Steve Knight
Senate Transportation and Housing Committee – Carol Liu

Leadership Posts

Assembly Democratic Majority Whip – Chris Holden
Assembly Assistant Republican Floor Leader – Curt Hagman
Senate Republican Leader – Bob Huff (R-Diamond Bar)

Legislative Calendar

Below is a quick overview of the major legislative deadlines for the second half of the 2013-14 legislative session. New bills of interest will come forward for recommended positions following the February 21st bill introduction deadline.

January 31 – Two-Year bills must pass out of their house of origin
February 21 – Bill Introduction Deadline for new bills
May 9 – All new bills must pass out of policy committees in their first house
May 23 – All new bills must pass out of fiscal committees in their first house
May 30 – New bills must pass their house of origin
June 15 – State Budget Deadline
June 27 – Bills must pass out of policy committees in the second house
August 15 – Bills must pass out of fiscal committees in the second house
August 31 – Last day to pass bills
September 30 – Last day for the Governor to sign or veto bills

State Budget Update

In January, the Governor released his Fiscal Year (FY) 2014-15 State Budget proposal. He proposes to use the mainly one-time increases in revenues provided by an unusual increase in capital gains revenue, as well as Proposition 30 revenues from the quarter-cent sales tax and income tax on high earners, on one-time expenditures such as repaying deferred payments to schools, early repayment of internal loans, and the early repayment of specified bond debt. The Governor proposed General Fund Expenditures of \$106.8 million, with \$108.7 million in revenues including a prior year balance of \$4.2 million.

One-Time Investments

The Governor proposes to utilize the increase in funding projected for FY 2014-15 for mainly one-time expenditures. This includes the elimination of \$6 billion in deferred payments to K-12 schools, fully repaying the Economic Recovery Bonds from 2004, providing for an early repayment of Transportation loans totaling almost \$340 million and a portion of Cap and Trade loans totaling \$100 million, as well as providing \$815 million in one-time investments for infrastructure.

State Transportation Agency (CalSTA) Budget

The newly consolidated CalSTA budget totals \$15.3 billion, \$10.9 billion of which funds the California Department of Transportation (Caltrans). For Proposition 1B, the Governor's proposal allocates the remaining Public Transportation, Modernization, Improvement and Service Enhancement Account (PTMISEA) funds for transit and intercity rail projects totaling \$953 million and \$113 million in administrative savings for additional projects.

Cap and Trade

The draft update of the AB 32 (Chapter 488, Statutes of 2006) Scoping Plan states that the Cap and Trade program will achieve approximately 30% of the required greenhouse gas emission reductions under AB 32. The budget includes a proposal to allocate \$850 million of the revenues towards a variety of projects in FY 2014-15. This includes the repayment of \$100 million of the \$500 million loan from last fiscal year and also includes consideration of the SB 535 (Chapter 830, Statutes of 2012) requirements to prioritize disadvantaged communities in the distribution of Cap and Trade funds.

The \$850 million is proposed to be distributed as follows:

- \$300 for Rail Modernization
 - \$250 for High Speed Rail (HSR)

- \$50 million in competitive grants to urban, commuter, and intercity rail operators, administered by Caltrans for connectivity and integration of systems with HSR.
- \$100 million to the Strategic Growth Council for transit, active transportation, affordable housing, land preservation, infill development, and other projects that encourage a reduction in vehicle miles traveled.
- \$200 million to the Air Resources Board for low carbon freight and passenger transportation, including incentives for zero emission and hybrid cars, trucks, or buses, as well as advanced freight technology.
- \$140 million for Energy Efficiency and Clean Energy projects, including weatherization, green state buildings, agricultural efficiency, and the Water Action Plan.
- \$110 million to Natural Resources and Waste Diversion for wetlands preservation, fire prevention, and solid waste diversion.

California Five-Year Infrastructure Plan

The Governor also released the 2014 California Five-Year Infrastructure Plan (Plan) in conjunction with the release of the January budget proposal. While an annual five-year infrastructure plan is statutorily required, the 2014 Plan is the first since 2008 due to persistent budget shortfalls and program cuts.

The 5-year plan emphasizes the need to spend almost \$65 billion in the coming years simply to maintain everything from the state's deteriorating local roads and highways to state parks and court buildings. It further establishes how the Governor intends to make new investments in infrastructure by spending on roads, rail, and water infrastructure with the same priority as investments in education and health care.

The Plan outlays the state's infrastructure needs as they relate to available revenues, affordability, and sustainable growth goals, particularly in the context of AB 32. It notes that recent trends in financing infrastructure, such as the reliance of general obligation and revenue bonds, mean that roughly half of the investment ends up paying interest costs rather than for purchasing materials and constructing projects. Annual expenditures on debt service have grown from \$2.9 billion in FY 2000-01 to \$7.1 billion in FY 2013-14. The Governor calls for targeted investments aimed at the state's core priorities and responsibilities, as well as a return to a pay-as-you-go approach to financing. The Plan also incorporates the cost of maintaining new capital investments and the deferred maintenance on previous capital projects.

Specific to transportation, approximately 94% of the overall plan is focused on the transportation system and it prioritizes maintenance and preservation of the existing highway system over new highway capacity. The Plan also assumes

\$25.6 billion in funding will be available for the HSR Project from various sources, including federal funds, Cap and Trade funds, and state bond funds.

FEDERAL UPDATE

The final Transportation, Housing and Urban Development appropriations legislation for federal fiscal year (FFY) 2014 contains the current year spending plan for these programs and also includes full funding for programs contained in the transportation authorization bill, Moving Ahead for Progress in the 21st Century (MAP-21).

Department of Transportation

The bill includes \$17.8 billion in discretionary appropriations and allows \$53.5 billion in non-discretionary funding for the Department of Transportation.

- Nearly \$41 billion for highway programs
- \$9.7 billion for transit programs
 - \$8.6 billion in transit formula grants
 - \$2.1 billion for the New Starts program
 - Full funding for state and local Small Starts, and funding for all current Full Funding Grant Agreement projects
- \$600 million for the Transportation Investments Generating Economic Recovery (TIGER) program
- \$12.4 billion for the Federal Aviation Administration

As a result of the delayed actions on the current year budget, the President's proposed budget for FFY 2015 will probably not be released until March, one month later than usually anticipated. This then sets the next budget process in motion.

One of the key issues that will need to be addressed in the FFY 2015 bill for transportation will be anticipated funding levels either in advance of a reauthorization of MAP-21 or in event of an extension of MAP-21. The Highway Trust Fund is projected to be depleted during next fiscal year absent other funding solutions so either a temporary or permanent funding solution will need to be found.

Financial Impact: This item has no fiscal impact on the Fiscal Year 2013/2014 SANBAG Budget.

Reviewed By: This item was received by the General Policy Committee on February 12, 2014.

Responsible Staff: Wendy Strack, Director of Legislative and Public Affairs

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| Bill Number: SB 990 | Author: Vidak (R – Hanford) |
| Title: Transportation Funds: Disadvantaged Small Communities | |

Summary

Existing law provides for the programming and allocation of funds for transportation capital improvement projects through the State Transportation Improvement Program (STIP) process, administered by the California Transportation Commission and the Transportation Development Act (TDA) administered by the State of California. The state then provides transportation funding to county transportation commissions, such as SANBAG to fund various local transportation projects located within the region.

This bill would require SANBAG to reserve five percent of its share of state funding for transportation projects and transit operations for communities with a population of 25,000 or less and that have a median household income of less than 80 percent of the statewide average. Prioritization would be given to projects that can demonstrate congestion relief and increased safety.

Impact on SANBAG

SANBAG already distributes Congestion Mitigation and Air Quality (CMAQ) funds to projects that support surface transportation projects and other related efforts that provide the stated benefits of the bill – improving air quality and providing congestion relief benefits. Requiring additional set asides for programs affected by this bill including the regional share of the STIP, Local Transportation Fund (LTF) and State Transit Assistance Fund (STAF) could be counter-productive and reduce SANBAG's ability to meet the mobility and quality of life goals of our region.

Requiring that a specific amount of regional STIP, LTF and STAF be set-aside for specifically designated areas would necessitate additional staff time to identify and monitor the use of these funds. The STIP and TDA process is already cumbersome and additional requirements would further inhibit the timely use of these funds.

SANBAG recently included projects into the 2014 STIP, covering the upcoming programming needs over the next five year period. Under the proposed requirements of this bill, none of the projects programed would be eligible. It is not uncommon for the STIP program to be adjusted due to actual revenue coming in lower than estimated. Requiring a special set aside will further exacerbate the ability to fund priority projects when revenues come in below estimates. The majority of the regional STIP funding is federalized and would force rural areas into a federal funding program that is overly burdensome to administer for small projects. Lastly, it is likely that additional funding sources would have to be identified for those designated projects as the five percent set-aside would be insufficient to fully fund individual projects.

The majority of LTF apportioned to SANBAG is allocated to transit operations including fixed-route bus service. This bill specifically contradicts that as it prioritizes projects that can demonstrate congestion relief and increased safety over transit operations. LTF is already apportioned based on population in existing law. Further requirements to again set aside additional funds partially based on population is duplicative and could impact the ability to meet priority transit operations needs in the future.

STAF is apportioned to the Valley and Mountain/Desert regions based on population. It is primarily a capital funding source which can be used for operations on a limited basis. Transit operators use STAF

to meet special needs, which could also be jeopardized in the future if these investments do not otherwise meet the requirements of the bill.

Recommendation: OPPOSE

Although the intent of this bill is to help small, economically disadvantaged communities compete for transportation project funding, it would alter SANBAG's formula funding and STIP priorities. Requiring that five percent be set-aside each year would place unnecessary restrictions on how funds can be used and jeopardize funding for the future. This bill would further erode local control in how revenues are allocated to various projects in the region.

Staff recommends that the Board of Directors adopt an "Oppose" position. This recommendation is consistent with SANBAG's 2014 adopted State Legislative Platform in Section I (h) under the provision, "Support retention of decision making, project selection, and funding authority at the county transportation commission level governing the use of all related funding sources."

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| Bill History |
| Introduced: February 12, 2014 |

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| Bill Number: SB 1433 | Author: Hill (D-San Mateo) |
| Title: Local Agency Public Construction Act: transit design-build contracts | |

Summary

Existing transit design-build authority allows transit operators, as defined, to award design-build contracts for transit projects subject to minimum project cost thresholds. For rail projects, design-build projects must be at least \$25 million, non-rail transit projects must be \$2.5 million, and the minimum cost threshold does not apply to transit safety and security projects. This authority is currently set to expire on January 1, 2015.

The use of this authority is presently limited to “transit operators,” defined as a/an: transit district; included transit district; municipal operator; included municipal operator; transit development board, as defined; or a consolidated agency as defined; or any joint powers authority formed to provide transit service. This definition does not provide any authority to SANBAG to utilize design-build authority for transit projects. Due to their status as transit operators, the Los Angeles County Metropolitan Transportation Authority (LA Metro) and the Orange County Transportation Authority (OCTA) are already eligible to use the authority for transit projects.

SB 1433 deletes the sunset date for the current authority, deletes the minimum cost threshold for all project types, expands the types entities that can use the authority, and deletes previous pilot program follow up reporting requirements.

This bill expands the definition of transit operators to include, “any other local or regional agency responsible for the construction of transit projects, including, but not limited to, a county transportation commission created by Section 130050 of the Public Utilities Code.” This code section includes the San Bernardino Associated Governments, LA Metro, the Ventura County Transportation Commission, OCTA, and the Riverside County Transportation Commission (RCTC).

Impact on SANBAG

As SANBAG embarks on its most significant investments in major transit and rail capital projects in agency history, there is a lack of authority to evaluate the effectiveness of the design-build procurement method for use on our transit projects. Absent a change to existing law, the authority will not only expire next year, but also be permanently unavailable to SANBAG.

Recommendation: SUPPORT

SANBAG and RCTC have been working with the California Transit Association (CTA), who is sponsoring the bill, to revise the definition of transit operators for the purpose of the bill in addition to eliminating the bill’s sunset date.

Staff recommends that the Board of Directors adopt a “Support” position. This recommendation is consistent with SANBAG’s 2014 adopted State Legislative Platform in the *Key Issues – Innovative Project Delivery* section under subsection (b), “Work to ensure that existing innovative project delivery methods such as design-build, construction manager/general contractor, and other tools are available and effective for a broad variety of projects including highways, transit, and local streets and roads.”

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| Bill History |
| Introduced: February 21, 2014 |