Los Angeles County
Metropolitan Transportation
Authority
One Gateway Plaza
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Los Angeles, CA

Metro

Board Report

File #: 2016-0104, **File Type:** Federal Legislation / State Legislation (Position) **Agenda Number:** 38.

REVISED
EXECUTIVE MANAGEMENT COMMITTEE
MARCH 17, 2016

SUBJECT: STATE AND FEDERAL LEGISLATION

ACTION: ADOPT STAFF RECOMMENDED POSITIONS

RECOMMENDATION

ADOPT staff recommended positions:

A. **AB 1908 (Harper) -** HOV Lanes **OPPOSE**

~~B. **AB 1964 (Bloom) -** Alternative Fuel Vehicle HOV Lane Access **OPPOSE**~~

C. **AB 2690 (Ridley-Thomas) -** Small Business/Disabled Veteran Business Requirements in Contracting **SUPPORT (SPONSOR)**

D. **SB 1018 (Liu) -** CEQA: State Route 710 North **OPPOSE**

~~E. **SB 1362 (Mendoza) -** Metro Transit Security **OPPOSE UNLESS AMENDED**~~

F. **H.R. 4343 (Blumenauer) -** Transportation Funding **SUPPORT**

ATTACHMENTS

Attachment A - AB 1908 (Harper) Legislative Analysis
~~Attachment B - AB 1964 (Bloom) Legislative Analysis~~
Attachment C - AB 2690 (Ridley-Thomas) Legislative Analysis
Attachment D - SB 1018 (Liu) Legislative Analysis
~~Attachment E - SB 1362 (Mendoza) Legislative Analysis~~
Attachment F - H.R. 4343 (Blumenauer) Legislative Analysis

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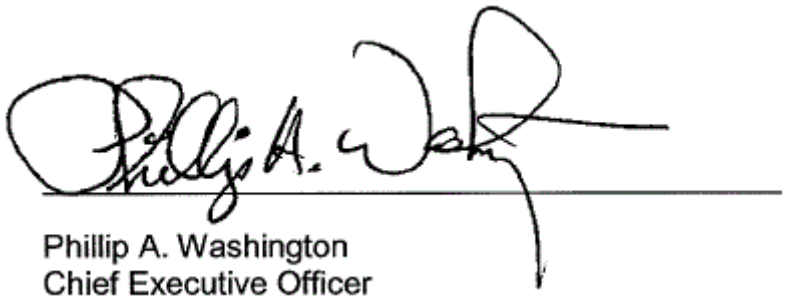

Phillip A. Washington
Chief Executive Officer

ATTACHMENT A

BILL: **AB 1908**

AUTHOR: **ASSEMBLY MEMBER MATTHEW HARPER (R-HUNTINGTON BEACH)**

SUBJECT: **HIGH OCCUPANCY VEHICLE LANES**

STATUS: **REFERRED TO ASSEMBLY TRANSPORTATION COMMITTEE**

ACTION: **OPPOSE**

RECOMMENDATION

Staff recommends that the Board adopt an OPPOSE position on AB 1908 (Harper).

ISSUE

Assembly Member Matthew Harper has introduced AB 1908 a bill that would establish regulations for High Occupancy Vehicle (HOV) Lanes in Southern California.

AB 1908 would:

- Prohibit HOV lanes from being established on a state highway in Southern California unless it is only enforced as HOV-only during peak commuter traffic.
- Require any existing HOV lane in southern California to be modified to conform with the new requirements. This would require re-striping of all existing HOV lanes, installation of new signage and enforcement to be reduced to peak hours only.
- Require Caltrans to report to the Legislature on impacts of the new HOV provisions and would authorize the department to re-instate HOV lanes to 24-hour enforcement after May 1, 2018.

DISCUSSION

AB 1908 is similar to previous legislation that has attempted to address the difference between the operating characteristics of High Occupancy Vehicle (HOV) Lanes in northern and southern California. This bill would prohibit future lanes in southern California (yet to be defined in the bill) unless they were established as HOV lanes in the peak periods only. The bill would further require that all existing HOV lanes in southern California be converted to peak period HOV lanes.

While there are operational differences between HOV lanes in northern and southern California, there does not appear to be any evidence that modifying the lanes in this manner would in any way relieve congestion in our region. Additionally, a 2014 Caltrans study found that a significant number of HOV lanes in Los Angeles County have

experienced degraded levels of performance. There are a variety of factors for that degradation and changing the lanes to peak period only may not provide a solution to the problems that are causing the general purpose lanes to be congested. In addition, the bill could potentially force Metro to convert the ExpressLanes operation to peak period only severely jeopardizing an effective congestion management tool.

Staff suggests that the while it is clear that congestion is a problem in our region and that the degradation of the HOV lanes is a part of that problem, it would be more appropriate to address this problem by working with our regional partners and identifying the specific causes of that congestion in the HOV lanes and taking whatever steps may be appropriate. Caltrans is currently authorized to take steps to address this issue but we would suggest that it would also be appropriate for the state to address the serious funding challenges to our highway system as well.

Due to the potential impacts to our Metro ExpressLanes program and other impacts to overall congestion in HOV Lanes and general purpose lanes in the County that are not addressed by this proposed legislation, staff is recommending that the Board of Directors adopt an OPPOSE position on this measure.

DETERMINATION OF SAFETY IMPACT

Staff has determined that there is no direct impact to safety as a result of this proposal. Metro staff recommends that a full analysis by Caltrans be conducted to determine potential impacts to the HOV lane network, countywide.

FINANCIAL IMPACT

Staff has determined that there could be a potential negative financial impact to the agency as the result of the provisions outlined in this bill. The Metro ExpressLanes program could be adversely affected due to the proposed new regulations regarding enforcement and re-striping. Staff will need to conduct additional research to determine overall costs associated with reduced operation, re-striping and updated highway signage. There could be a potential loss of toll revenues associated with operating existing ExpressLanes and establishing new ExpressLanes in HOV lanes that are enforced only during peak hours.

ALTERNATIVES CONSIDERED

Metro could consider adopting a support or neutral position on this legislation; however, this would be inconsistent with our Board-approved 2016 State Legislative program. The Board has adopted a position that has directed staff to vigorously oppose any legislation that could harm or negatively impact Metro's ability to operate and expand the ExpressLanes program.

NEXT STEPS

Should the Board decide to adopt an OPPOSE position on AB 1908, staff will communicate the Board's position to the author and to pursue potential amendments to

the legislation. Staff will continue to keep the Board informed as this issue is addressed throughout the legislative session.

ATTACHMENT C

BILL: **AB 2690**

AUTHOR: **ASSEMBLY MEMBER SEBASTIAN RIDLEY-THOMAS (D-LOS ANGELES)**

SUBJECT: **SMALL AND DISABLED VETERAN BUSINESS ENTERPRISE PARTICIPATION IN LACMTA CONTRACTING**

STATUS: **PENDING COMMITTEE REFERRAL**

ACTION: **SUPPORT (SPONSOR)**

RECOMMENDATION

Staff recommends that the Board adopt a SUPPORT position on the Metro sponsored bill, AB 2690 (Ridley-Thomas).

ISSUE

Assembly Member Sebastian Ridley-Thomas has introduced AB 2690, a Metro sponsored bill that would require bidders on contracts financed with nonfederal funds to comply with small business enterprise and veteran business enterprise goals as established by Metro.

AB 2690 would:

- Require bidders to include subcontracting opportunities for small business enterprise (SBEs) and disabled veteran business enterprises (DVBEs) as a component of the procurement process.
- The bill will eliminate Good Faith Efforts and instead authorize Metro to award contracts to the lowest responsible bidder meeting the specified SBE and DVBE participation goals.
- The bill will also authorize Metro to award contracts under certain circumstances to small business enterprises with respect to work that is set aside for competition among certified SBEs.

These provisions would only apply to procurement actions that are financed through nonfederal funds.

DISCUSSION

Existing law gives Metro specified powers and duties to award contracts for the purchase of supplies, equipment, or materials with the purchase price exceeding $100,000 to be let to the lowest responsible bidder, or best value proposer and contracts for construction exceeding $25,000 to be let to the lowest responsible bidder.

Currently, there is no legislation that permits Metro to utilize goals or preferences for DVBEs on its contracts. Further, there is no legislation that allows Metro to set aside contracts for competition among certified SBEs.

Metro issues approximately $2 to $5 billion in contracts annually. While the current Small Business Enterprise (SBE) preference program has aided Metro in increasing SBE participation, staff finds that requiring bidders/proposers to meet a specific SBE subcontracting goal on contracts would substantially increase SBE participation rates. Contractors opt-in voluntarily to the current SBE preference program.

As for Disadvantaged Veteran Business Enterprise (DBVE) participation, both the federal government and the State of California have enacted legislation that provides for participation by DVBEs on federal and State contracts.

In 2011, similar legislation was codified to establish an SBE program that could apply to Metro competitively bid, non-federally funded contracts. This legislation authorized Metro to grant a preference (discount) of a bidder/proposer cost/price as follows: (1) 5% preference to bidder/proposer that is an eligible MTA SBE certified firm and; (2) 5% preference to a bidder/proposer that meets or exceeds an established SBE subcontracting goal. It also provided a provision for bidders/proposers to demonstrate good faith efforts in situations where bidders/proposers did not meet the SBE subcontracting goal.

Small business set-asides allow for small businesses to bid as primes, fostering opportunities to grow and build capacity. This bill will allow Metro to utilize a range of tools to further promote and facilitate increased participation of SBEs (as well as DVBEs) in public contracting with Metro.

As a component of Metro's 2016 State Legislative Program, the Board directed staff to sponsor legislation to enhance the ability of small businesses to participate in Metro's procurements. Staff is recommending that the Board of Directors adopt a SUPPORT position on this measure.

DETERMINATION OF SAFETY IMPACT

Staff has determined that there is no direct impact to safety as a result of this proposal.

FINANCIAL IMPACT

Staff has determined that there is not an immediate fiscal impact to the agency as the result of the provisions outlined in this bill.

ALTERNATIVES CONSIDERED

Metro could consider adopting an oppose or neutral position on this legislation; however, this would be inconsistent with our agency's effort to increase participation in the Small Business program and Board-approved 2016 State Legislative program.

NEXT STEPS

Should the Board decide to adopt a SUPPORT position on AB 2690, staff will communicate the Board's position to the appropriate committees and to pursue successful passage of the legislation. Staff will continue to keep the Board informed as this issue is addressed throughout the legislative session.

ATTACHMENT F

BILL: **H.R. 4343**

AUTHOR: **U.S. REPRESENTATIVE EARL BLUMENAUER (D-OR)**

SUBJECT: **TRANSPORTATION FUNDING**

STATUS: **REFERRED TO THE HOUSE TRANSPORTATION AND INFRASTRUCTURE COMMITTEE, SUBCOMMITTEE ON HIGHWAYS AND TRANSIT**

ACTION: **SUPPORT**

RECOMMENDATION

Staff recommends that the Board adopt a SUPPORT position for H.R. 4343 –The Bikeshare Transit Act of 2016.

ISSUE

While some bikeshare systems throughout the nation have received federal support through the CMAQ program, there is no established federal program that currently funds the ongoing needs of bikeshare systems. States such as California recognize that bikeshare projects are eligible for CMAQ funding, but the interpretation of eligibility is not uniform across the nation. To best support the development of successful bikeshare projects as well as be supportive of federal funding for bikeshare projects, it is important to clarify current law and support the uniform implementation of federal involvement in bikeshare projects nationwide.

DISCUSSION

H.R. 4343 (Blumenauer) – The Bikeshare Transit Act of 2016 would, if enacted into federal law, clarify the definition of bikeshare projects that qualify as an "associated transit improvement" under Title 49 of U.S. Code, add bikeshare projects to the definition of "capital project" under Title 49 of U.S. Code, and make bikeshare projects eligible for funding under the Congestion Mitigation and Air Quality Improvement Program (CMAQ) under Title 23 of U.S. Code. The legislation seeks to add bikeshare projects to the formal definition of transit projects as well as make clear to states that administer Federal Highway Administration funding that bikeshare is eligible to receive federal funding.

Nationally, bikeshare systems are opening in large and small communities and represent an important mode of transit that can improve air quality and reduce congestion. Currently, there are about 80 bikeshare systems throughout the nation with more than 10 million people riding last year. In June of 2015, Metro awarded a two-year

contract to Bicycle Transit Systems (BTS) for provision of the equipment, installation and operations of the Metro Countywide Bike Share Phase 1 Pilot in downtown Los Angeles (DTLA Pilot). Planning for the DTLA Pilot is underway with up to 80 stations and 1,000 bikes being launched by the summer of 2016. Metro's Countywide Bike Share program will serve as a key first-last mile solution and will offer customers a seamless user experience through TAP.

To help provide federal resources to bikeshare projects, Congressman Blumenauer's legislation, H.R. 4343, would define "bikeshare" in U.S. Code as well as make bikeshare projects eligible for federal funding. Specifically, the Bikeshare Transit Act will allow federal funding to be used for acquiring or replacing bikeshare related equipment and the construction of bikeshare facilities. The Bikeshare Transit Act will remove significant barriers facing new bikeshare projects as well as those existing bikeshare programs applying for federal funding.

DETERMINATION OF SAFETY IMPACT

Staff has determined that there is no direct impact to safety as a result of this proposal.

FINANCIAL IMPACT

Staff has determined that the legislation would have no negative financial impact for Metro. While the increased flexibility may allow for the delivery of bikeshare using federal funds, the bill does not increase the overall amount of federal funds available to deliver this program.

ALTERNATIVES CONSIDERED

Metro could consider adopting an oppose position on this legislation, however, this would be inconsistent with our Board-approved 2016 Federal Legislative program.

NEXT STEPS

Should the Board decide to adopt a SUPPORT position on H.R.4343, staff will submit a letter of support for the legislation and work with the Los Angeles County Congressional Delegation to advocate for passage of H.R. 4343, "The Bikeshare Transit Act of 2016."

ATTACHMENT D

BILL: **SB 1018**

AUTHOR: **SENATOR CAROL LIU**
(D-LA CANADA FLINTRIDGE)

SUBJECT: **CEQA: STATE ROUTE 710 NORTH STUDY**

STATUS: **SENATE TRANSPORTATION AND HOUSING COMMITTEE**

ACTION: **OPPOSE**

RECOMMENDATION

Staff recommends that the Board adopt an OPPOSE position on SB 1018 (Liu).

ISSUE

Senator Carol Liu has introduced SB 1018, a bill that would require that the Cost Benefit Analysis (CBA) for the SR 710 North Study to be a technical study included in the comprehensive analysis of the alternatives described in the draft environmental document for the State Route 710 North.

SB 1018 would:

- Establish that the Cost Benefit Analysis is a technical study in the environmental document for the SR 710 North Study.
- Require the lead agency to respond, in writing, to any comments regarding the analysis submitted during the public comment period.
- Declare the measure an urgency statute to take effect immediately.

DISCUSSION

The Metro Board of Directors directed the preparation of a CBA of the alternatives currently under study in its role as the funding agency for the State Route 710 environmental review process. The Board is not the lead agency in the environmental review process and will not be the agency that approves the environmental document and selects the final project. However, the Metro Board may be called on to make decisions relating to funding on the project. The Board determined that in its role as a funding partner the CBA would be valuable in its decision making process.

With respect to comments on the CBA, Metro and Caltrans are committed to responding to comments on the CBA. Metro is committed to an open and transparent process in its decision making and we believe the CBA has a role in the funding decision making process.

According to Caltrans, the CBA has been incorporated into the environmental document as a technical study. The CBA has been included in the Caltrans website with other technical studies for the draft environmental document. Therefore SB 1018 is not necessary and could set a precedent or future environmental studies as it would mandate the inclusion of a CBA which is currently optional. In setting a precedent relating to CBA's the bill could cause future environmental documents to include similar studies increasing the costs of those studies. The choice to do a CBA should be at the discretion of the agencies leading the process.

For these reasons staff recommends that the Board oppose SB 1018.

DETERMINATION OF SAFETY IMPACT

Staff has determined that there is no direct impact to safety as a result of this proposal.

FINANCIAL IMPACT

Staff has determined that there is not an immediate fiscal impact to the agency as the result of the provisions outlined in this bill. However, the bill could increase the cost of future environmental documents by setting a precedent that could cause the inclusion of CBA's in the environmental review process in the future.

ALTERNATIVES CONSIDERED

Metro could consider adopting a work with author position on the bill because we are responding to comments on the Cost Benefit Analysis, however the provision that requires the CBA to a part of the environmental document is a chief concern.

NEXT STEPS

Should the Board decide to adopt an OPPOSE position on SB 1018, staff will communicate the Board's position to the author and work to oppose the bill. Staff will continue to keep the Board informed as this issue is addressed throughout the legislative session.