



**Board Report**

**File #:** 2018-0357, **File Type:** Federal Legislation / State Legislation (Position)

**Agenda Number:** 15.

**REVISED  
EXECUTIVE MANAGEMENT COMMITTEE  
JUNE 20, 2018**

**SUBJECT: STATE LEGISLATION**

**ACTION: ADOPT STAFF RECOMMENDED POSITIONS**

**RECOMMENDATION**

ADOPT staff recommended positions:

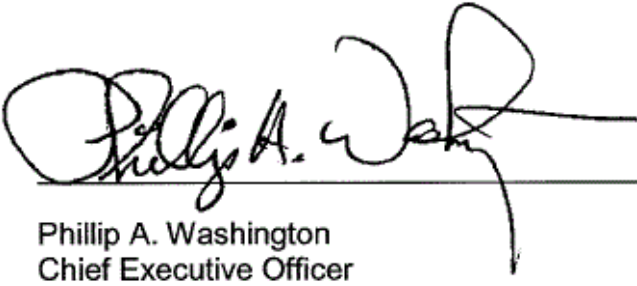
- A. Assembly Bill 533 (Holden) - State Highway Route 710 ~~WORK WITH AUTHOR~~ **OPPOSE UNLESS AMENDED**
- B. Assembly Bill 1912 (Rodriguez), as amended - Public Employees' Retirement: Joint Powers Agreements: Liability **OPPOSE UNLESS AMENDED**
- C. Assembly Bill 327 (Gipson) - South Coast Air Quality Management District: fleets **OPPOSE UNLESS AMENDED**

**ATTACHMENTS**

- Attachment A - AB 533 (Holden) Legislative Analysis
- Attachment B - AB 1912 (Rodriguez), as amended Legislative Analysis
- Attachment C - AB 327 (Gipson) Legislative Analysis

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Phillip A. Washington  
Chief Executive Officer

**BILL:** ASSEMBLY BILL 533  
AS AMENDED ~~JULY 3, 2017~~ JUNE 18, 2018

**AUTHOR:** ASSEMBLYMEMBER CHRIS HOLDEN (D-PASADENA)

**SUBJECT:** STATE HIGHWAY ROUTE 710

**STATUS:** SENATE TRANSPORTATION AND HOUSING COMMITTEE

**ACTION:** ~~WORK WITH AUTHOR~~ OPPOSE UNLESS AMENDED

**RECOMMENDATION**

Staff recommends that the Board of Directors adopt a ~~WORK WITH AUTHOR~~ OPPOSE UNLESS AMENDED position on Assembly Bill 533 (Holden).

**ISSUE**

This bill would require Caltrans, in consultation with Metro, to establish the State Highway Route (SR) 710 North Advisory Committee, with a specified membership, to study the alternatives considered in the SR 710 North Draft Environmental Impact Review and other transit options to improve travel in, and environmental impacts of, the SR-710 Corridor project area. The bill would also delete the State Route 710 North segment from State law.

Specifically the bill would:

- Require Caltrans in consultation with Metro to establish the SR 710 North Advisory Committee;
- Require the advisory committee to make recommendations and submit a report to the Legislature, Caltrans and Metro by January 1, 2019 on the most feasible and appropriate project design alternative, as well as other transit options that could be implemented in the corridor;
- Require the department to implement the alternative as recommended if the recommendation is found to be appropriate and feasible; and
- Eliminate the State Route 710 North corridor from State law.

**DISCUSSION**

The current version of AB 533 (Holden) was amended on ~~July 3, 2017~~ June 18, 2018. In its ~~current~~ previous form, AB 533 proposes to amend the Streets and Highways code related to the State Route 710 North project and would require the formation of an advisory committee, require that committee to provide a report and complete study of alternatives with recommendations by January 2019. Caltrans is the lead agency for the SR-710 project, since this is a state highway and is responsible for the final determination of the project scope.

In May 2017, the Board adopted a motion related to SR-710 project funding at the Regular Board Meeting. This motion supports collaboration and planning between Metro, Caltrans and the affected jurisdictions, which would include the cities within the SR 710 corridor in programming funding and choosing projects in the SR-710 corridor. The Board also adopted a position to support the adoption of the Transportation System Management/Transportation Demand Management Alternative as the Locally Preferred Alternative and has deferred any decision on any other alternative for future consideration by the Board until the community collectively agrees on the value of that investment and funds are identified to implement a project. We believe that AB 533 (Holden) has a similar goal to Metro's recently adopted policies. Metro's Board is committed to improving mobility in the SR-710 corridor, while working with cities and affected stakeholders.

Staff also finds that the bill is not specific in determining what role the Advisory Committee would hold. While we would prefer that the legislation not create another committee as it would be duplicative of the process already created by Metro, we would like to work with the author on this legislation to ensure the final version of the bill is in line with Metro's established process.

State law also identifies the various state highways in California and identifies their boundaries and limits. AB 533 would limit the definition of 710 freeway to that section generally from Long Beach to Interstate 10. The bill would eliminate the segment of the 710 corridor generally between Interstate 10 and Interstate 210. If that segment of the freeway is eliminated, then it would remove any authorization to complete that segment. Staff recommends that this is an issue that should remain within the jurisdiction of the state as it is both the owner/operator of the freeway and is responsible for completion of the environmental document.

Staff therefore recommends that the Board adopt a ~~WORK WITH AUTHOR~~ OPPOSE UNLESS AMENDED position on the measure AB 533 (Holden).

#### **DETERMINATION OF SAFETY IMPACT**

There is no determined safety impact due to the enactment of the proposed legislation.

#### **FINANCIAL IMPACT**

The estimated financial impact has yet to be determined.

#### **ALTERNATIVES CONSIDERED**

Staff has considered adopting either a support or neutral position on the bill. A support or neutral position would be inconsistent with Metro's Board approved 2018 State Legislative Program Goals to support the acceleration of construction of transportation projects in Los Angeles County.

#### **NEXT STEPS**

Should the Board decide to adopt a ~~WORK WITH AUTHOR~~ OPPOSE UNLESS AMENDED position on this legislation; staff will communicate the Board's position to the

author and work to ensure inclusion of the Board's priorities in the final version of the bill. Staff will continue to keep the Board informed as this issue is addressed throughout the legislative session.

## ATTACHMENT B

**BILL:** ASSEMBLY BILL 1912  
AS AMENDED MAY 9, 2018

**AUTHOR:** ASSEMBLYMEMBER FREDDIE RODRIGUEZ (D- POMONA)

**SUBJECT:** PUBLIC EMPLOYEES' RETIREMENT: JOINT POWERS  
AGREEMENTS: LIABILITY

**STATUS:** SENATE COMMITTEE ON PUBLIC EMPLOYMENT AND  
RETIREMENT  
HEARING SCHEDULED: JUNE 11, 2018

**ACTION:** OPPOSE UNLESS AMENDED

### **RECOMMENDATION**

Staff recommends that the Board of Directors adopt an OPPOSE UNLESS AMENDED position on Assembly Bill 1912 (Rodriguez).

### **ISSUE**

The Metro Board of Directors recently voted to Oppose AB 1912, which would require member agencies of a JPA to be liable for the retirement obligations of the JPA. The bill was recently amended on May 9, 2018. The amended language of the bill still contains provisions of concern to Metro. Staff recommends that the Board modify its position to OPPOSE UNLESS AMENDED and that we seek an amendment to eliminate the retroactivity of the bill.

Specifically, this bill:

- Amends provisions in existing law by removing the ability of an agency that is party to a JPA agreement to not be responsible for the pension debts, liabilities, and obligations of the JPA.
- Requires the member agencies of a JPA to be responsible for and mutually agree as to the apportionment of the JPA's pension obligations if the JPA contracts with CalPERS, or any other public employee retirement system for administration of its retirement benefits.
- Requires current and new JPA contracts with CalPERS to include{sentence incomplete}. Existing contracts must be reopened to include such provisions.
- Prohibits CalPERS from contracting with a JPA, unless all parties to the agreement establishing the JPA are jointly and severally liable for the JPA's pension obligations.
- Requires CalPERS to sue the member agencies of a JPA for recovery of its pension obligations owed to the system if the JPA's contract with CalPERS is terminated.
- Provides that CalPERS shall have a lien on the assets of a terminated contracting JPA, subject only to a prior lien for wages equal to the actuarially

determined deficit for funding for the employee's earned benefits. The assets must be available to pay actual costs, including attorney's fees expended for collection of the lien.

- Permits JPA member agencies or the JPA itself to enter into an agreement with CalPERS to ensure the proper calculation of benefits such that employees and retirees of the terminating agency remain whole, and allows for lump-sum payments at termination, and permits CalPERS to refuse to enter into an agreement if it determines that it is not in the best interests of the retirement system.
- Creates a two-year window in which a JPA must notify CalPERS of its intention to enter into such an agreement before the JPA dissolves. The notification would grant CalPERS sufficient time to ensure that the proposed arrangements are in the best interests of the system. Failure to notify CalPERS within the two-year window would result in the JPA's member agencies adding the beneficiaries to their own retirement system.
- Removes language in existing law regarding CalPERS' discretion in reducing retirement benefits related to terminating agencies.

## **DISCUSSION**

Assemblymember Freddie Rodriguez (D-Pomona) has recently amended AB 1912, which would significantly alter the Public Utilities Code and Government Code related to Joint Powers Authorities (JPAs) and their associated liabilities and agreements. The bill specifically applies to member agencies of JPAs that contract with the California Public Employee Retirement System (CalPERS) to provide post-employment retirement benefits to their employees. Staff finds this bill to be very problematic – in that it assigns liabilities for past, current and future debt and pension obligations to member agencies of JPAs.

Metro is currently a member agency of the Southern California Regional Rail Authority (Metrolink), LOSSAN Rail Corridor Agency, as well as a number of other JPAs. The Metrolink Joint Powers Agreement (JPA) currently specifies that “[t]he debts, liabilities, and obligations of [Metrolink] shall not be the debts, liabilities and obligations of the member agencies.” This bill would completely invalidate that provision. The bill, as proposed would retroactively apply to agreements that were executed prior to the enactment of the legislation. Assuming the liability of the various JPA agreements would substantially increase Metro's liabilities related to pension costs, indemnities and general liabilities.

The bill was recently amended on May 9, 2018, to clarify language in the bill relative to joint and several liability; language that appeared to be conflicting. The bill now requires that member agencies of a JPA must mutually agree as to the apportionment of the pension liability. Another sentence in the bill which clearly stated the bill was retroactive was struck from the bill however, other language in the bill would still make the bill apply retroactively and that issue continues to be of significant concern to staff. Staff proposes that Metro work to include additional amendments to the legislation to remove any reference to retroactivity.

This bill as currently drafted would impede Metro's ability to sell debt, could potentially affect Metro's credit rating and presents a risk to existing debt and future bond sales. Staff is concerned that the language giving CalPERS a "lien on the assets of all parties to the terminating contracting agency, subject only to a prior lien for wages," may subject us to legal action from existing bondholders if this provision is applied retroactively. If the bill were prospective then we believe the risk from the placement of a lien would be minimized because we would have the ability to address the pension costs at the formation of the JPA and would subsequently provide notice of the obligation to future bondholders.

This bill fundamentally changes the structure of JPAs and could represent significant new costs that will be borne by Metro. This has the potential to severely impact Metro's budget and the services we provide. This bill would require that the Board of Directors re-negotiate its Joint Powers Agreements to include a provision that all the member agencies to the Agreement are jointly and severally liable for the JPA's pension obligations.

Staff recommends that the Board adopt an OPPOSE UNLESS AMENDED position on the measure AB 1912 (Rodriguez).

#### **DETERMINATION OF SAFETY IMPACT**

There is no determined safety impact due to the enactment of the proposed legislation.

#### **FINANCIAL IMPACT**

If the legislation is approved, unfunded pension and general liabilities transferred from dissolved JPAs could impact Metro's budget tremendously.

#### **ALTERNATIVES CONSIDERED**

Staff has determined that the Board could opt to take no action on this item; however, without a strong Board adopted position on the proposed legislation, Metro, as a member of several JPAs could be greatly impacted.

#### **NEXT STEPS**

Should the Board decide to adopt an OPPOSE UNLESS AMENDED position on this measure; staff will communicate the Board's position to the author and work to seek further amendments to the legislation. Staff will continue to keep the Board informed as this issue is addressed throughout the legislative session.



## ATTACHMENT C

**BILL:** ASSEMBLY BILL 327  
AS AMENDED JUNE 4, 2018

**AUTHOR:** ASSEMBLYMEMBER MIKE GIPSON (D- CARSON)

**SUBJECT:** SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT:  
FLEETS.

**STATUS:** SENATE COMMITTEE ON TRANSPORTATION AND HOUSING  
HEARING: TBD  
SENATE COMMITTEE ON ENVIRONMENTAL QUALITY  
JUNE 20, 2018 – PASSED BY VOTE OF 5-2

**ACTION:** OPPOSE UNLESS AMENDED

### **RECOMMENDATION**

Staff recommends that the Board of Directors adopt an OPPOSE UNLESS AMENDED position on Assembly Bill 327 (Gipson).

### **ISSUE**

Assemblymember Mike Gipson (D-Carson) has recently amended AB 327 to include language related to South Coast Air Quality Management District's authority to regulate fleets.

Specifically, this bill:

- Would authorize the governing board of the South Coast District to adopt rules and regulations that require specified operators of public and commercial fleet vehicles consisting of 15 or more vehicles to purchase the cleanest commercially available vehicles, as defined, that will meet the operator's operational needs; to require the replacement of no more than 15% of existing vehicles per calendar year, as specified; and to require those cleanest commercially available vehicles to be operated, to the maximum extent feasible, in the south coast district; and
- Would make legislative findings and declarations as to the necessity of a special statute for the south coast district.

### **DISCUSSION**

Assemblymember Mike Gipson (D-Carson) has recently amended AB 327, which would update the South Coast Air Quality Management District (SCAQMD) authority to regulate fleets and adopt clean fleet regulations. This bill would authorize the South Coast Air Quality Management District (SCAQMD) to adopt rules and regulations that require operators of public and commercial fleet vehicles, including public transit agencies to purchase the cleanest commercially available vehicles.

Existing law authorizes the SCAQMD to adopt regulations that require operators of public and private commercial fleet vehicles to purchase vehicles that operate using clean-burning alternative fuels when adding or replacing vehicles in fleets. Staff has concerns with the recently amended language in that it conflicts with the current efforts at the California Air Resources Board (CARB) to mandate Zero-Emission bus purchases through the Innovate Clean Transit (ICT) Regulation.

Metro, as a member of the California Transit Association, has been working with a coalition of transit agencies and CARB during the process of developing the Innovative Clean Transit Regulation to ensure that Metro's Board priorities, Fleet and Operations plans for the agency's Zero-Emission Bus Fleet Conversion efforts are incorporated in to the final CARB rule. CARB's rule-making effort would mandate bus purchases and fleet conversion by 2030.

This bill is problematic because it directly conflicts with CARB's efforts to develop and implement the ICT regulation. If both agencies adopt regulations mandating electrification and conversion of fleets, Metro, and other Southern California agencies would be subject to overlapping requirements.

AB 327 (Gipson) language as drafted is problematic because this bill would give the SCAQMD new authority to adopt a zero-emission bus purchase mandate, impacting transit agencies, like Metro with fleets of at least 15 vehicles. This potentially would also impact contracted services, like Freeway Service Patrol, and other municipal operators in Los Angeles County and the Southern California region in SCAQMD's district boundaries. The FSP program inherently improves air quality because it reduces congestion. A new rule has the potential to increase costs of the program which could cause reductions in FSP service and significantly impact program operations.

Staff is recommending that the Board consider the following amendments to the legislation:

- Request that the author remove "passenger bus transportation" from the list of commercial fleet vehicles that can be regulated;
- Clarify that the commercial fleet vehicles that would fall under the proposed regulation, ie. contracted services, including those that operate the Freeway Service Patrol and other light- and medium-duty vehicles, and Metro's non-revenue fleet, not be negatively impacted by SCAQMD's rule.

Staff recommends that the Board adopt an OPPOSE UNLESS AMENDED position on the measure AB 327 (Gipson).

#### **DETERMINATION OF SAFETY IMPACT**

There is no determined safety impact due to the enactment of the proposed legislation.

### **FINANCIAL IMPACT**

Staff is currently evaluating the long-term potential impacts to Metro's Operating budget. If the legislation is approved, this could potentially impact Metro's budget significantly, by mandating zero-emission bus conversion as well as mandating conversion of non-revenue fleet and other light- and medium-duty vehicles sooner than expected. The exact financial impact is difficult to determine given that there is no way of knowing what rule SCAQMD would implement and what the resultant costs would be.

### **ALTERNATIVES CONSIDERED**

Staff has determined that the Board could opt to take no action on this item; however, without a strong Board adopted position on the proposed legislation, Metro, stands to be greatly impacted by the provisions outlined in the legislation. Metro's 2018 State Legislative Program outlines the Board's priorities for working in partnership with CARB, CTA, and SCAQMD to reach consensus on clean-air mandates and for supporting legislation that would help Metro to achieve its long-term clean-air goals.

### **NEXT STEPS**

Should the Board decide to adopt an OPPOSE UNLESS AMENDED position on this measure; staff will communicate the Board's position to the author and work to seek further amendments to the legislation. Staff will continue to keep the Board informed as this issue is addressed throughout the legislative session.