




November 16, 2020

To: Members of the Board of Directors
From: Donna DeMartino, Managing Director 
Subject: Status Report of State Legislation Enacted in 2020

Overview

At the conclusion of the 2020 legislative session, 372 bills were signed into law by the Governor and chaptered by the Secretary of State, while 56 bills were vetoed. A report containing an analysis of legislation relevant to the Los Angeles – San Diego – San Luis Obispo Rail Corridor Agency is provided.

Recommendation

Receive and file as an information item.

Discussion

2020 Legislative Session Adjourns

Following the State Legislature's adjournment, Governor Newsom had until September 30, 2020, to either sign or veto all legislation submitted to his office. Of the 428 bills sent to the Governor in 2020, 56 bills were vetoed, or 13 percent of the total number of bills presented to his office. Governor Newsom acted on 614 fewer bills this year than last year. Due to the coronavirus (COVID-19) pandemic, the state legislative session was significantly truncated, and legislators were required to cut their legislative package to bills that needed to be addressed immediately or otherwise related to the COVID-19 pandemic response.

A detailed summary of legislation relevant to the Los Angeles – San Diego – San Luis Obispo (LOSSAN) Rail Corridor Agency (Agency) is included as Attachment A. Among the bills considered this session were the following proposals:

Significant Bills of Interest in 2020 – Bills Signed

Senate Bill (SB) 288 (Chapter 200, Statutes of 2020): California Environmental Quality Act: exemptions: transportation-related projects.

LOSSAN Agency Position: Monitor

SB 288 establishes new California Environmental Quality Act (CEQA) exemptions for designated sustainable transportation projects, including pedestrian and bicycle facilities, improvements in customer information and wayfinding, transit prioritization projects, conversion of general-purpose lanes or highway shoulders to bus-only lanes, projects that increase new bus rapid transit, projects to construct or maintain infrastructure to charge or refuel zero-emission transit buses, and projects for the maintenance, repair, relocation, replacement, or removal of any utility infrastructure.

If an agency wishes to pursue an exemption under this law, they will also need to follow additional requirements, which include that the lead agency's project must not create new automobile capacity and must be located within an existing public right-of-way. If the project exceeds \$100 million, the agency must complete a business case and a racial equity analysis pursuant to standards developed by the Office of Planning and Research (OPR), or which can be delegated by OPR to a metropolitan planning organization (MPO). The project cannot demolish any affordable housing units, as defined, and must use a skilled and trained workforce or be subject to a project labor agreement. If an agency does not want to follow this process for a project, they can still choose to use the normal CEQA process.

SB 1291 (Chapter 113, Statutes of 2020): Federal Statewide Transportation Improvement Program: submissions.

LOSSAN Agency Position: Monitor

SB 1291 clarifies that MPOs and regional transportation agencies do not have to submit their regional Federal Transportation Improvement Program (FTIP) to the California Department of Transportation (Caltrans) in 2020, but instead will not be required to submit until 2022. The bill also specifies that Caltrans is not required to develop and submit the statewide FTIP documents to the Federal Highway Administration (FHWA) for approval in 2020. In both instances, the language allows flexibility for regional agencies, MPOs and Caltrans to continue to develop an FTIP, if needed, prior to 2022. Under SB 1291, the FTIP development schedule returns to every two years under state law, and by federal law every four years, after the one-time waiver facilitated by the bill.

The events of this year have greatly complicated the FTIP development schedule. The implementation of the Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule, a federal air quality rulemaking being finalized in two parts, created significant uncertainty at the beginning of the year.

Both Part One and Part Two of the SAFE Vehicles Rule created delays across California, with MPOs working to understand the rulemaking's consequences for the FTIP development process. Even under normal circumstances, many MPOs would have been pressed to submit a regional FTIP by the statutory deadline of October 1 due to these delays. Unfortunately, the COVID-19 pandemic has only further compounded the situation. Transportation projects could be impacted if Caltrans cannot submit the statewide FTIP to FHWA by the statutory deadline on December 1. Based on a consensus among MPOs across California, Caltrans plans to develop and submit the statewide FTIP to FHWA early next year. SB 1291 was necessary to ensure a one-time waiver for the FTIP development schedule to allow for the adequate planning of transportation projects during this unprecedented national emergency.

Significant Bills of Interest in 2020 – Bills Vetoed

SB 757 (Allen, D-Santa Monica): California Environmental Quality Act: environmental leadership projects: fixed guideway
LOSSAN Agency Position: Monitor

AB 900 (Chapter 354, Statutes of 2011) created the Jobs and Economic Improvement Through Environmental Leadership Act of 2011. Under this law, the Governor, by January 1, 2020, must certify projects for residential, retail, commercial, sports, cultural, entertainment, or recreational use as Environmental Leadership Development Projects to receive the expedited judicial review procedures under CEQA. SB 757, sponsored by the Los Angeles Metropolitan Transportation Authority (LA Metro), would have expanded this shortened CEQA litigation period to fixed guideway projects so long that the project meets certain requirements including operating at zero emissions, reducing emissions in the corridor depending on project length, and reducing vehicle miles traveled in the corridor.

Although SB 757 was approved by the Legislature with bipartisan support, it contained a provision that tied its implementation to the passage of SB 995 (Atkins, D-San Diego), a bill that would have extended the sunset provision for the AB 900 process. SB 995 failed to meet its legislative deadline, and therefore, SB 757 could not be made law. In the Governor's veto message, he stated that he is supportive of efforts to accelerate transit projects that reduce greenhouse gas emissions and reduce miles traveled, but because of SB 757 implementation being contingent on SB 995 becoming law he could not sign this bill. It is expected that a similar effort will be pursued by LA Metro next year.

SB 1351 (Beall, D-Campbell): Transportation Improvement Fee: revenue bonds.
LOSSAN Agency Position: Monitor

SB 1351 would have provided authority to bond, up to \$5 billion, against future revenues generated from the SB 1 (Chapter 5, Statutes of 2017) Transportation Improvement Fee, to expedite the delivery of highway safety projects via the State Highway Operation and Protection Program (SHOPP). The rationale for bonding against future transportation revenues is that it allows the State to take advantage of currently low interest rates to expedite the delivery of transportation improvements that will create jobs during the difficult times. SB 1351 contained specific language on how the bond proceeds can be expended. The bond proceeds would be used to expedite SHOPP projects, highway safety projects undertaken by Caltrans, programmed in the 2020 SHOPP, as approved by the California Transportation Commission on May 13, 2020. All projects utilizing this authority would have to be environmentally cleared and have completed project design.

The Governor ultimately vetoed this legislative proposal. In his veto message he stated that Caltrans does not need this tool to accelerate transportation maintenance projects because they have already increased the number of projects going to construction through project savings and other administrative actions. He goes on to say that bonding against these future revenues runs counter the principles in SB 1 and risks locking California into long-term debt obligations to finance maintenance repairs. It is important to note that the author of this legislation is termed out from the Legislature at the end of this year; therefore, it is uncertain if a variation of this legislative proposal will be introduced in the next legislative session.

Summary

A summary report on all state legislation enacted in 2020 affecting the Los Angeles – San Diego – San Luis Obispo Rail Corridor Agency is provided for review by the Board of Directors.

Attachment

- A. LOSSAN Rail Corridor Agency 2020 End of Year Legislative Report

Prepared by:

A handwritten signature in cursive script, appearing to read "Leicht".

Alexis Leicht
Associate Government Relations
Representative
(714) 560-5475