



LOSSAN RAIL CORRIDOR AGENCY 2020 END OF YEAR LEGISLATIVE REPORT

LEGISLATION ENACTED

I. Employment Terms and Conditions

AB 685 (Reyes, D-San Bernardino) COVID 19: Imminent Hazard to Employees: Exposure

(Chapter 84, Statutes of 2020)

AB 685 requires employers to provide written notice and instructions to employees who may have been exposed to coronavirus (COVID-19) at their worksite. This bill also gives authority to the Division of Occupational Health and Safety's (Cal/OSHA) to enforce health and safety standards in an effort to mitigate workplace exposure to and curb the spread of COVID-19. Cal/OSHA may issue a serious violation if there is a realistic possibility that death or serious physical harm could result from the actual hazard created by the violation. If an employer is unable to successfully rebut the violation, Cal/OSHA has the authority to shut down facilities affected by the violation related to COVID-19. The provisions related to this bill will sunset on January 1, 2023.

SB 1159 (Hill, D-San Mateo) Workers Compensation: Coronavirus: Critical Workers (Chapter 85, Statutes of 2020)

SB 1159 establishes a rebuttable presumption that illness or death related to COVID-19 is an occupational injury. Beyond codifying the Governor's Executive Order (N-62-20), which created this rebuttable presumption for essential workers, this bill extends these benefits for all workers provided that the injury occurs 14 days after the last day worked at the place of employment. It additionally establishes a presumption of injury if an outbreak takes place at the place of employment. An outbreak for employers with more than 100 employees is triggered when five percent or more of the employees who worked at a specific work location contracted the disease within a 14-day period. This bill will sunset on January 1, 2023.

Urgency Bill – Effective Immediately

SB 1383 (Jackson, D-Santa Barbara) Unlawful Employment Practice: Family Rights Act

(Chapter 86, Statutes of 2020)

SB 1383, until January 1, 2021, requires an employer with five or more employees to allow employees to use 12 weeks of unpaid, job-protected leave to care for a domestic partner, grandparent, grandchild, sibling, or parent-in-law who has a serious health condition.

II. Environment

AB 2731 (Gloria, D-San Diego) California Environmental Quality Act: San Diego (Chapter 291, Statutes of 2020)

AB 2731 authorizes the San Diego Association of Governments (SANDAG) to obtain site control from the United States Navy (Navy) to support the redevelopment of the 70.5-acre Naval Base Point Loma Old Town Center, including the possible development of a multimodal transportation Central Mobility Hub to serve as a connection to link regional transit to the San Diego International Airport. These redevelopment efforts are intended to streamline the construction process of the multimodal regional transportation system through expedited administrative and judicial review procedures under the California Environmental Quality Act (CEQA). Specifically, this bill provides that the environmental impact statement (EIS) prepared by the Navy pursuant to National Environmental Policy Act (NEPA) for transit-oriented development (TOD) on the Old Town Center site may be used in lieu of an environmental impact report under CEQA if the TOD projects and the EIS meet specific environmental and labor requirements. Additionally, the courts are to resolve lawsuits within 270 business days of certification of the record of proceedings, to the extent feasible. These provisions will be repealed on January 1, 2025, if SANDAG fails to certify an environmental impact report.

AB 2800 (Quirk, D-Hayward) Climate Safe Infrastructure Working Group (Chapter 118, Statutes of 2020)

Under current law, the Climate-Safe Infrastructure Working Group is composed of scientists, engineers, and architects and was created to examine how to best integrate climate information with the state's infrastructure design, planning and implementation. A five-year infrastructure plan is incorporated in the State's budget process in order to outline the State's infrastructure investments strategies. This working group released their report, *Paying it Forward: The Path Toward Climate-Safe Infrastructure in California*, in 2018. The requirements under this section for the working group were set to sunset on July 1, 2020. AB 2800 removes the sunset date for the working group to make recommendations to the Legislature and instead extends the provisions indefinitely, upon available funding. Additionally, under current law, the working group's goal is to build upon existing information produced by the state, including information from the most recent California Climate Change Assessment and the State of California Sea-Level Rise Guidance Document. This legislation adds the five-year infrastructure plan as an additional item for the working group to consider.

SB 288 (Wiener, D-San Francisco) CEQA: Exemptions: Transportation Related Projects (Chapter 200, Statutes of 2020)

SB 288 establishes new CEQA exemptions for designated sustainable transportation projects, including pedestrian and bike 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 of 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. To pursue these new exemptions, the 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 a metropolitan planning organization (MPO) if OPR delegates the authority. 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.

SB 1320 (Stern, D-Calabasas) Climate Change: State Climate Change Assessment (Chapter 136, Statutes of 2020)

Upon appropriation of funds, SB 1320 will require the OPR to develop the California Climate Change Assessment in coordination with the Natural Resources Agency, the State Energy Resources Conservation and Development Commission, the Strategic Growth Council, and in consultation with partner public agencies designated by OPR. OPR may also contract with outside entities, including public universities, research institutions, organizations that serve vulnerable communities, and other technical experts to produce the assessment. This assessment must be done every five years and will include a suite of products that address the impacts and risks of climate change. Specifically, the products could include, but are not limited to, climate projections, research reports on costs and benefits or climate adaptation responses, regionally specific reports, reports on environmental justice considerations, decision-support tools, and examples of best practices for planning for future climate conditions. OPR is to engage with regional and local governments, tribes, vulnerable communities, businesses, and members of the public, as necessary, in determining the scope of the assessment. After the assessment is completed, OPR will work with the Department of Finance to determine the liabilities of the contents and the application of the assessment will have in the state budget, and to regional and local governments, tribes, and vulnerable communities.

III. Funding

SB 1349 (Glazer, D-Orinda) Transactions and Use Taxes: County of Contra Costa (Chapter 369, Statutes of 2020)

SB 1349 permits Contra Costa County, and cities within Contra Costa County, additional flexibility to impose local transactions and use taxes. Specifically, the bill clarifies that the current half-percent tax imposed by Bay Area Rapid Transit, as well as taxes imposed under the existing statutory authority provided to the Contra Costa County Transportation Authority, do not count against the two percent regional transaction and use tax cap in Contra Costa County.

IV. Planning

AB 2345 (Gonzalez, D-San Diego) Planning Zoning: Density Bonuses: Affordable Housing (Chapter 197, Statutes of 2020)

AB 2345 expands density bonus provisions in state law in an effort to help alleviate the State's housing shortage. The changes mirror those enacted by the City of San Diego. AB 2345 clarifies that, for purposes density bonus law, a "major transit stop" is defined using the existing statutory definition of major transit stops in the applicable regional transportation plan, including the transit stop's parking lot or structure. AB 2345 provides that rental developments with 100 percent affordable housing and within one-half mile of a major transit stop must not, if requested by the developer, city, or county, exceed half of a parking space per unit. AB 2345 also requires cities and counties to grant density bonuses to developments including a certain percentage of low-income housing, based a formula that factors in the number of low-income units and the types of incentives utilized with the development. The bill also allows localities to adopt generous density bonus ordinances.

SB 146 (Beall, D-Campbell) Regional Transportation Plans: Procedural Requirements

(Chapter 117, Statutes of 2020)

SB 146 changes the public outreach requirements for regional planning agencies developing a Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS) in order to facilitate effective public outreach during the unprecedented COVID-19 pandemic. SB 146 allows agencies to use telephonic and electronic communication platforms to conduct public engagement when developing an RTP/SCS. Specifically, the bill recharacterizes "workshops" as "public engagement gatherings" to allow for electronic and telephonic outreach options without violating the public participation provisions of the Brown Act or the other substantive planning requirements in current law. These outreach flexibilities sunset on January 1, 2023.

SB 1291 (Senate Transportation Committee) Federal Statewide Transportation Improvement Program

(Chapter 113, Statutes of 2020)

SB 1291 provides flexibility in the Federal Transportation Improvement Program (FTIP) submittal process so that the unprecedented events of this year, specifically a change to federal air quality conformity requirements and the COVID-19 pandemic, do not put the delivery of transportation projects at risk. Current state statute requires that regional transportation agencies, MPOs, and the California Department of Transportation (Caltrans) develop and submit an FTIP, which lists regionally-significant projects requiring federal funding or approval, to the federal government every two years. While state law requires the adoption of an FTIP every two years, federal law only requires that the FTIP be adopted every four years. SB 1291 specifies that an FTIP is not required in 2020, and will next be required in 2022 although one can be submitted earlier. After this one-time change to the FTIP schedule, the normal biennial submittal process required by state law will resume.

Urgency Bill – Effective Immediately

V. State Budget

AB 78 (Committee on Budget) Bergeson Peace Infrastructure and Economic Development (Chapter 10, Statutes of 2020)

AB 78, a budget trailer bill, establishes the Climate Catalyst Revolving Loan Fund (Climate Catalyst Fund) within the State Treasury to receive funding from private sources and non-government entities to help fund and finance eligible projects. The Climate Catalyst Fund was originally proposed in the Governor's January Budget proposal as a state funded program, but as part of the budget agreement is now dependent on private funding and future appropriations. The Strategic Growth Council and Labor and Workforce Development Agency are to identify potential eligible categories of projects, with the aim to further the state's climate goals, activities that reduce climate risk, and the implementation of low-carbon technology and infrastructure.

Urgency Bill – Effective Immediately

AB 90 (Committee on Budget) Transportation Provisions (Chapter 17, Statutes of 2020)

AB 90 serves as the primary budget trailer bill related to transportation and makes various regulatory changes to provide relief to transit agencies across the state as they cope and recover from the effects of the COVID-19 pandemic. Specifically, this transportation budget trailer bill, instituted a hold harmless provision for calculation and allocation of the State Transit Assistance (STA) Program, State of Good Repair, and Low Carbon Transit Operations Program allocations. Such formula programs are based 50 percent on the revenues for each transit agency. For the next two years, the formulas will use the revenue amounts each transit agency reported prior to the COVID-19 pandemic. It further prevented any financial penalty to be imposed on a transit operator that is unable to meet its farebox recovery requirement until January 1, 2022. For FY 2020-21 and 2021-22, this legislation exempts a transit operator from meeting STA efficiency standards, with each agency able to utilize funding for either operating or capital purposes. Separately, it also required retailers of aircraft jet fuel to report quarterly to the California Department of Tax and Fee Administration (CDTFA) on their sales of aircraft jet fuel. Such data will allow the CDTFA to better communicate the State and local taxing jurisdiction compliance with Federal Aviation Administration regulatory requirements that sales tax proceeds from aviation fuel be used for the benefit of airports. Finally, it also delayed the adoption of the California High Speed Rail Authority's Business Plan until December 15, 2020, instead of its intended adoption date of June 25, 2020.

Urgency Bill – Effective Immediately

AB 107 (Committee on Budget) State Government (Chapter 264, Statutes of 2020)

AB 107 was an end of session trailer bill which included additional provisions related to transportation. Specifically, AB 107 provides temporary flexibility in the use of SB 1 State of Good Repair program funds, allowing a transit agency to expend funds apportioned for

the 2019-20 to 2021-22 fiscal years on operating or capital costs to maintain transit service. Separately, this legislation extends the sunset date, from January 1, 2021 to January 1, 2022, for the California Secretary of Transportation's authority to assume responsibilities under NEPA for any railroad, public transportation, or multimodal project. This authority is specifically being used for the California High-Speed Rail project.

Urgency Bill – Effective Immediately

**SB 74 (Committee on Budget) Budget Act of 2020
(Chapter 6, Statutes of 2020)**

SB 74 provides \$147.8 billion in total General Fund expenditures for fiscal year (FY) 2020-21. The state budget assumes a \$54 billion deficit, stemming from an approximately 22 percent decrease in revenues projected in FY 2020-21, combined with proposed emergency spending to protect Californians from the COVID-19 pandemic. For FY 2020-21, the state budget proposes General Fund revenues of approximately \$139.8 billion, which is an almost a \$17 billion decrease from the January budget proposal, and estimates General Fund expenditures at \$143 billion, which is approximately \$10 billion less the January estimate. Additionally, the state budget will draw down \$7.8 billion from the State's Budget Stabilization Account/Rainy Day Fund to address the deficit resulting from the COVID-19 pandemic. Without an agreement from the federal government on COVID-19 relief spending, the state's budget will be forced to withdraw an additional \$9.6 billion from the state's Budget Stabilization Account/Rainy Day Fund, \$1.6 billion from a special fund for economic uncertainties, and \$900 million from the safety net reserve fund in order to balance the budget.

As it pertains to intercity and commuter rail funding, the state budget's overall funding levels for commuter and intercity rail are \$100 million lower than anticipated in January, bringing the total amount of funding from \$269.5 million down to \$164.2 million. This includes a decrease in base funding from a projected \$225.3 million in the January budget proposal, to a projected \$138 million. These funds are used for the Caltrans' expenses, intercity rail contracts, and capital purchases. In addition, the budget assumes a decrease in anticipated State Rail Assistance funding for FY 2020-21 from the \$44.8 million projected in January to \$26.3 million.

Urgency Bill – Effective Immediately

**SB 89 (Committee on Budget and Fiscal Review) Budget Act of 2019
(Chapter 2, Statutes of 2020)**

SB 89 made changes to the Budget Act of 2019 in response to the Governor's March 4, 2020, proclamation of a state of emergency due to COVID-19. In particular, this bill allowed the Governor to withdraw up to \$1 million in General Fund dollars to provide immediate assistance related to the impacts of COVID-19. Expenditures included the procurement of personal protective equipment and equipment, travel trailers and hotel beds for immediate homeless housing, leases for hospital facilities, and more.

Urgency Bill – Effective Immediately

VI. Other Legislation

AB 992 (Mullin, D-San Mateo) Open Meetings: Local Agencies: Social Media (Chapter 89, Statutes of 2020)

AB 992 clarifies that a public official of a legislative body may communicate on social media platforms to answer questions, provide information to the public or to solicit information from the public regarding a matter within the body's subject matter jurisdiction. Previously, this type of serial communication was prohibited under the Ralph M. Brown Act. This exception will sunset on January 1, 2026.

ACA 5 (Weber, D-San Diego) Government Preferences (Chapter 23, Statutes of 2020)

ACA 5 is a constitutional amendment that asks the voters of California to decide on permitting the use of race, gender, and ethnic diversity as factors, but not decisive factors, in college admissions, government hiring, and government contracting. If the initiative put on the ballot by ACA 5 is passed by voters, it would repeal Article I, Section 31 of the California Constitution, as codified by Proposition 209 (1996), and authorize the use of race, sex, color, ethnicity, and national origin in the aforementioned selection processes.