

**Legislative Report to the Contra Costa Transportation Authority  
September 16, 2009**

**AB 744 (Torrico) Bay Area HOT Lane Network**

**Status:** Senate Appropriations (this has become a two-year bill)  
**Authority Position:** Support (assuming any future amendments to the bill are consistent with the Authority's requirements)

**Key Provisions:**

This bill would authorize the Bay Area Toll Authority (BATA) to develop and operate a regional high-occupancy/toll (HOT) lane network and to establish a fee structure (tolls) to fund the network.

This bill, as originally introduced, was problematic from the Authority's standpoint, however subsequent amendments adequately addressed our main concerns. Key amendments include:

- The requirement that BATA demonstrate that the conversion of HOV lanes to HOT lanes, or the construction of new HOT lanes, is feasible and will be advantageous in terms of traffic management on the corridor;
- The requirement that HOT lanes do not have a negative impact on the surrounding communities or transit riders;
- The requirement that the speed level in the HOT lanes is maintained at a sufficient level so as to continue to serve as an incentive for carpools and transit;
- The requirement that transit will be the priority beneficiary of any net revenues and that corridor investment plans must include a plan to improve transit in the corridor;
- A ban on the conversion of general purpose lanes to HOT lanes;
- The addition of privacy measures for FasTrak\* users.

**Status:**

On the basis of these (and other) amendments, the Authority weighed in with a position of support. However, issues arose from other sectors, namely the environmental community and the Professional Engineers in California Government (PECG), that were unable to be resolved in time for this bill to move out of the legislature this year. As a result, the bill has become a two-year bill and will be held in Senate Appropriations until the legislative session reconvenes in January.

**SB 406 (DeSaulnier) Vehicle Registration Fee to Fund Regional Blueprints**

**Status:** Senate Third Reading  
**Authority Position:** Support if Amended

**Key Provisions:**

This bill would authorize an MPO or COG to impose, by a majority vote of its board, a \$1 or \$2 surcharge to fund the development and implementation of regional blueprints (or the Sustainable Communities Strategies required under SB 375). In the Bay Area, MTC and ABAG

would both have to adopt a resolution to trigger the surcharge. If a \$2 surcharge were to be enacted in the Bay Area, \$1 would be shared between MTC and ABAG for development of the SCS; the second dollar would go to the cities and counties, on a grant basis, for planning and programs consistent with the SCS. Five percent of the first dollar would be taken off the top for statewide coordination of land use planning and related activities.

The Authority took a position to support this bill if it is amended to provide that the second dollar would be allocated by the congestion management agencies, consistent with the intent of the bill. The Authority conveyed this position and a request for amendment to the bill sponsor (CALCOG). While CALCOG and the author did not provide a direct return-to-source of the second dollar to the CMAs, the bill was subsequently amended to provide that the CMAs would be eligible recipients of the grant money generated by the second dollar of surcharge revenue (the CMAs were not indicated as potential recipients in the original bill). This amendment was an effort to accommodate the Authority's requested amendment, although it does not go as far as to give the CMAs control over the grant money to their respective counties.

The APC agreed to recommend maintaining the 'support if amended' position.

**AB 1175 (Torlakson) Bay Area Toll Bridges**

**Status:** To Governor for Signature  
**Authority Position:** Support If Amended

**Key Provisions:**

This bill was originally intended to add the Antioch and Dumbarton Bridges to the Bay Area's Toll Bridge Seismic Retrofit Program (2005), but also would have allowed MTC open-ended authority to put regional measures on the ballot that would raise bridge tolls and authorize expenditure plans that would go beyond paying for the seismic program.

The Authority was concerned that the bill was missing any details as to how the expenditure plans would be developed, how the nexus to users would be established, and the fact that it included no adequate 'return-to-source' provision. Other legislators had concerns about raising the tolls at all and privacy issues regarding the use of FasTrak\*.

The bill was amended to remove MTC's ability to place future toll increase measures on the ballot without legislative approval. It still allows MTC to raise tolls to pay for bonding and other costs—including maintenance and operations—associated with the two new bridges that would be incorporated into the seismic retrofit program. It also provides that the tolls may be varied on the different bridges. There are new provisions to address privacy, such as the development of a system enabling users to purchase a FasTrak\* with cash, and a ban on toll discounts for FasTrak\* users. The bill still provides that maintenance expenditures on the bridges can be funded with toll money, but only after payment of costs of bonds secured by the tolls.

At the time of the APC meeting, there were outstanding issues raised by the Department of Finance regarding the priority use of toll funds for bond (as against maintenance) costs, and it was unclear whether the bill would be further amended. However, the bill passed in the legislature and has been forwarded to the Governor for signature. On this basis, staff recommends the Authority adopt a 'support' position for this bill.

### **State Budget**

Notwithstanding recent revisions to the state budget, many issues remain outstanding. One concern is the potential reactivation of a proposal to redirect Highway Users Trust Account (HUTA) funds (the portion of the state gasoline tax that is directed to cities and counties) to the general fund. Part of this summer's budget resolution involved a deferral of HUTA payments to the cities and counties until January, 2010. Should the legislature decide to redirect the funds for the current fiscal year as part of a further budget fix, the deferred amount, plus the amount that would have gone to the cities and counties for the remainder of the year will be directed to the general fund.

### **Report on California Commission on the 21<sup>st</sup> Century Economy**

Last year, the governor and legislators appointed a panel to review and make recommendations regarding a potential overhaul of California's tax structure. The panel is due to make its report on September 20; a special session of the legislature is expected to be convened subsequently to consider implementing legislation. Two approaches are being worked through by the commission, both intended to be revenue neutral, i.e., reducing or eliminating some existing taxes and replacing them with a version of the value-added tax (VAT). One of the plans would also apply an eighteen-cent per gallon tax on gasoline (a 'petroleum fuels pollution tax') that would be directed to the general fund.

Obviously, should legislation pass that would eliminate the state sales tax on gasoline, it would have a disastrous impact on transportation. Specifically, Proposition 42, which is funded by the state sales tax on motor fuel, funds the STIP, local streets and roads and transit; the state sales tax on diesel and the state sales tax on the excise tax on gasoline fund the Public Transportation Account; and the 'spillover' funds to transit are generated from the sales tax on motor fuels when there is a spike in gas prices. Transportation advocates are currently working to educate the commissioners as to the potential negative ramifications of this approach. The APC directed staff to communicate concerns to the Commission as well.