



# Memorandum

**TO: TRANSPORTATION AND ENVIRONMENT COMMITTEE**

**FROM:** Betsy Shotwell

**SUBJECT: STATE AND FEDERAL LEGISLATIVE UPDATE**

**DATE:** February 8, 2007

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Approved

Date

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## **RECOMMENDATION**

Accept the staff memorandum and attached February 1, 2007 State Legislative Bill Matrix concerning recently introduced State legislation in the area of transportation, aviation and environmental services.

## **BACKGROUND**

Included in the Transportation and Environment Committee work plan for 2007 is the request for a quarterly State and Federal Legislative Update to be brought forward to the Committee by the City Manager's Office of Intergovernmental Relations.

## **ANALYSIS**

The 2007-2008 State Legislative session convened in Sacramento on January 3. The last day to submit bill requests to the State's Office of the Legislative Counsel for drafting was January 26 and the deadline for bills to be introduced in the State Legislature is February 23. Proposed legislation included in the attached matrix reflects bills recently introduced in Sacramento in the areas of public safety, strategic services and fiscal related measures. These measures, in addition to those related measures that will be introduced by February 23, are to be referred to the relevant City departments for review, analysis and possible recommendations to the City Council for official City positions.

At the Federal level, the House has adopted a continuing resolution that will provide \$463.5 billion to fund federal programs through the end of the fiscal year 2007. The continuing resolutions includes funding for the Departments of Defense, Education, Housing and Urban Development, public health and crime and law enforcement programs and the Federal Highway and Transit Administrations. House Speaker Nancy Pelosi also included funding for a new committee on global warming, indicating that climate issues will take a high priority in the 110<sup>th</sup> Congress. The Chair of the House Energy and Commerce Committee, Rep. John Dingell (D-Mich.), has also stated his interest in addressing climate change issue in his committee.

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The following is a brief update with regards to legislative matters concerning transportation and the environment.

### **Aviation**

#### **State authority to collect customer facility charges:**

The City submitted draft language to the State Legislative Counsel to repeal the 1999 San José legislation that authorized the City to collect customer facility charges (CFC's) and allow the City to come under the jurisdiction of the current state legislation that authorizes all airports in the state to charge CFC's (coming under the current state legislation will remove key restrictions contained in the 1999 San José legislation on when, how much and how long CFC's can be collected). New bills must be introduced by February 23. State Senator Ellen Corbett has agreed to introduce the City's legislation in the State Senate and the City will be seeking support from other members of the San José delegation as co-authors.

#### **Federal funding support for airport new baggage systems and U.S. Customs staffing:**

In mid-February the Mayor and selected City staff will meet with Transportation Security Administration (TSA) officials in Washington to discuss the City's \$105 million request for federal funding support for the Airport's new baggage system. The City's federal lobbying team has pursued San José's funding request through staff to the Senate Commerce Committee, Senate Homeland Security Committee, House Transportation & Infrastructure Committee and House Homeland Security Committee – all relevant committees of jurisdiction – as well as exchanging communications with TSA. The City will be looking for a multi-year funding commitment from TSA. The City will also seek greater support from U. S. Customs for staffing to clear international flights anytime they arrive in San José.

### **Transportation**

#### **BART to Silicon Valley:**

On February 1, 2007, the California Transportation Commission (CTC) approved more than \$364 million in funding for the Santa Clara Valley Transportation Authority's (VTA) work on the BART to Silicon Valley project. The funding was broken into two funding allocations:

1. \$151 million to reimburse VTA for previously completed design work on the project.
2. \$213 million to fund design work through the 65 percent design level.

State funding for the BART to Silicon Valley Project was made available through the Traffic Congestion Relief Program (TCRP). Signed into law by Governor Gray Davis in July 2000, the TCRP authorized \$4.9 billion through 2006, for complete or partial funding of 141 projects statewide that were intended to relieve congestion, provide safe and efficient movement of goods and provide connections between various modes of travel. The program was lengthened by two

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years to 2008 during the State's economic downturn when transportation funds were redirected to the State's General Fund. Included in the TCRP was \$725 million for BART, which was split between the BART to Warm Springs Extension in the city of Fremont and the BART to Silicon Valley Project. The February 1 action by the CTC to allocate \$364 million to the BART Extension Project addresses the need to allocate funds to the project prior to the 2008.

### **Proposition 1B Transportation:**

With Proposition 1B passed by the voters of California in November 2006, Sacramento has wasted little time in beginning to implement several of the programs included within the bond measure. The 10-year \$19.9 billion bond measure will provide funding towards addressing California's transportation infrastructure shortfall. Funding categories that are moving forward at this time include:

- Corridor Mobility Improvement Account (CMIA)
- Local Streets and Roads

The CMIA included \$4.5 billion to address transportation improvements in corridors on the state highway/freeway system. The CMIA was the only category in the bond measure that included a series of dates setting specific goals for project selection and completion. In order to address the first of the milestones, the CTC approved guidelines and criteria for the CMIA program the day after the November election. Proposed projects were submitted to the CTC by Caltrans and the state's transportation planning agencies in mid-January. The next key dates for the program, at the time of this writing, are the release of a draft listing of projects for CMIA on February 16<sup>th</sup> and CTC action at its February 28, 2007 meeting.

Proposed CMIA projects located in San José include:

- I-880/I-280/Stevens Creek Corridor
- U.S. 101/I-680 to Yerba Buena
- I-880 Widening

Included in Governor Schwarzenegger's recently released proposed 2007-2008 State Budget was \$600 million for the local streets and roads program. The funding would be shared between cities and counties 50/50. If the current Proposition 42 formula is used to allocate the funds it is estimated that the City of San José's share would be approximately \$9 million.

### **The Environment**

#### **State legislation to be considered to ban the use of incandescent light bulbs by 2012:**

While staff has not yet seen any language associated with this proposal, staff has developed the following analysis in preparation for bill language being made available.

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Conceptually this bill is consistent with currently adopted (01/30/07) Council Legislative Guidelines and Priorities, and Council existing policies on Green Building and Energy as well as the implementation of the United Nation Accords actions. There are, however, issues that need to be addressed before the City should support such a bill. A significant issue is the disposal of compact florescent light bulbs, which are currently the only viable alternative to incandescent. It is unclear if it is possible to manufacture compact fluorescents that are not considered Household Hazardous Waste due to mercury levels in the bulbs. Currently, the only way for residents to legally dispose of compact fluorescents is through the existing Household Hazardous Waste program. Should this bill become law without including language addressing Producer Responsibility, we will see a significant unfunded mandate to the City. The increased cost associated with the Household Hazardous Waste program would be significant, and would place the entire burden of recycling/disposal on local government. A requirement for Producer Responsibility would mandate that the cost of recycling/disposal be shared by the entire supply chain (i.e., manufacturer, distributor, retailer and the public). An alternative would be to declare that compact florescent light bulbs are not Household Hazardous Waste, but this creates a whole new set of issues. Other Departments should be consulted to determine if a need exists for incandescent bulbs that cannot be filled by compact fluorescents, or other alternatives. Staff will monitor this bill when it has been officially introduced and pursue changes through our lobbyist and the normal legislative process.

### **AB 32, the “California Global Warming Solutions Act of 2006” update:**

The California Air Resources Board (CARB) is the lead agency for greenhouse gas emission regulation under AB 32, (Chapter 488, 2006 Statutes), and is coordinating with the California Climate Action Team, California Energy Commission, California Public Utilities Commission, local government activities, the California Climate Action Registry, and AB 32 committees.

In phase one CARB will identify a list of "Discrete Early Actions", to be published in March 2007, and adopted as regulations by the end of 2008, with enforcement beginning January 1, 2010. The discrete actions have not yet been announced so we do not yet have any way to discern their impact on the City. In phase two CARB staff will develop a Scoping Plan for Board approval by December 2008 and phased implementation of enforcement beginning in 2010. The Scoping Plan and phased implementation of enforcement process has not yet been announced so we do not yet have any way to discern their impact on the City. CARB is encouraging voluntary action by all parties as soon as possible, including both emissions inventory/reporting through established mechanisms, and the implementation of emissions reduction measures.

### **Proposition 1E and Proposition 84 updates:**

The Governor's current budget proposal is to expend \$624 million of Proposition 1E's \$4.1 billion and about \$1.2 billion of Proposition 84's \$5.4 billion for environmental conservation/protection, water quality and flood control. The funds are being released slowly to avoid creating excess State debt, which would lower the State's bond rating, and limits how much money can be effectively administered by the system in any one year. The Governor's budget document was not accompanied by any proposed statutory language to implement the measure. Before

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releasing bond funds, the legislature will still need to address multiple issues including: defining funding eligibility, addressing funding eligibility for private water companies, defining project funding eligibility for flood control programs, and establishing State-Local cost sharing for flood control projects.

### **Local Government participation in Energy and Sustainability Policies**

The Local Governments Commission Energy Network, on which Mary Tucker (Environmental Services Department), is the City's representative met Jan 26. The Energy Network is developing a draft MOU for approval by participating agencies which will create a Local Government Sustainable Energy Coalition (LGSEC). Pending appropriate approvals and refinement of the draft, the ESD energy staff expects to recommend that the City of San Jose participate. The LGSEC will provide a central resource for local governments to stay informed of energy policy, regulations, and market developments affecting their interests. The intent is to expand our collective competence to track and shape those developments, and to advocate for policies and programs that support local sustainability initiatives.

### **PUBLIC OUTREACH**

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

This document will be posted on the City's website for the February 22, 2007, Transportation and Environment Committee where the Council and the public have the opportunity to comment.

### **COORDINATION**

This memo was coordinated with Aviation, the Environmental Services Department, the Department of Transportation, the City Attorney's Office, the City's Legislative Representative in Sacramento, and federal lobbyist in Washington, D.C.

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**POLICY ALIGNMENT**

The measures identified in the attached bill matrix will be reviewed based on the City of San José's 2007 Legislative Guidelines and Priorities adopted by the City Council on January 30, 2007, for possible City positions.

**BUDGET REFERENCE**

Not applicable.

BETSY SHOTWELL  
Director, Intergovernmental Relations

Attachment A: February 1, 2007 State Legislative Bill Matrix

**For more information contact: Betsy Shotwell, Director of Intergovernmental Relations at  
(408) 535-8270.**

**Office of Intergovernmental Relations  
Sacramento Legislative Office  
2007 Legislative Matrix  
2007- 2008 (First Year) State Legislative Session  
February 1, 2007**



**Attachment A**

For additional information, contact Office of Intergovernmental Relations, Betsy Shotwell at (408) 535-8270 or [betsy.shotwell@sanjoseca.gov](mailto:betsy.shotwell@sanjoseca.gov)  
Or Roxanne Miller at (916) 443-3946 or [sjlegsac@pacbell.net](mailto:sjlegsac@pacbell.net)

Bill Number (Author) Subject	Description	Fiscal	Status/ City Position
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**ENVIRONMENTAL AND UTILITY SERVICES**

1. Environmental Quality, (Includes CEQA, energy and conservation, air quality, solid waste, waste-to-energy, water quality, water reclamation, recycling, E-waste, hazardous waste and brownfields.)			
AB 109 (Nunez) Global Warming Solutions Act of 2006: Annual Report.	Requires the State Air Resources Board to report to the Legislature annually on the status and progress of implementing the Global Warming Solutions Act of 2006. Requires the state to adopt a statewide greenhouse gas emissions limit equivalent to the statewide greenhouse gas emissions levels in 1990 to be achieved by 2020.	Yes	Introduced 1/5/07

**TRANSPORTATION AND AVIATION SERVICES**

1. Transportation And Vehicles			
AB 57 (Soto) Highways: Safe Routes to School Construction Program.	Deletes the January 1, 2008, repeal date of the Safe Routes to School construction program, thereby extending the provisions indefinitely. Deletes the January 1, 2008, repeal date of provisions authorizing state and local entities to secure and expend federal funds for programs related to bicycles and pedestrian safety and traffic-calming measures in high hazard locations.	Yes	Introduced 12/4/06
AB 217 (Beall) Vehicle License Fee: Biennial Payments.	Amends the Vehicle License Fee Law, which establishes, in lieu of any ad valorem property tax upon vehicles, an annual license fee for any vehicle subject to registration in this state in the amount of .065% of the market value of that vehicle. Requires payment of such fee on a biennial basis.	Yes	Introduced 1/29/07

Bill Number (Author)	Subject	Description	Fiscal	Status/ City Position
SB 45 (Perata) Transportation Funds for Capital Projects.		States the intent of the Legislature to enact legislation that would establish the application process for allocations from the Transit System Safety, Security and Disaster Response Account.	No	Introduced 12/22/06 Referred to Senate Committee on Rules.
SB 47 (Perata) Transportation Bonds.		States the intent of the Legislature to enact provisions governing project eligibility, matching fund requirements, and the application process relative to allocation of bond proceeds of the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006, to the State-Local Partnership Program.	No	Introduced 12/22/06 Referred to Senate Committee on Rules.
SB 56 (Runner) Highway Construction Contracts.		Declares the intent of the Legislature to authorize a demonstration program that would allow a careful examination of the benefits and challenges of using a design-build method of procurement for transportation projects. Authorizes certain state and local transportation entities to use a design-build process for contracting on transportation projects. Requires a transportation entity to implement a labor compliance program for design-build projects. Establishes a procedure for submitting bids.	Yes	Introduced 1/10/07 Referred to Senate Committee on Transportation and Housing.
SB 61 (Runner) Transportation: Public-Private Partnerships.		Authorizes the Department of Transportation or regional transportation agency nominating a project to pay a stipend to proposers of a project under certain conditions. Authorizes the department or agency to enter into an agreement under which a private entity constructs a transportation project that is operated without the charging of a toll or user fee, but where the private entity receives compensation in the form of a shadow toll or other type of payment.	Yes	Introduced 1/16/07 Referred to Senate Committee on Transportation and Housing.