



July 12, 2021

TO: Board Members, Transportation Agency for Monterey County

FROM: Gus Khouri, President, Khouri Consulting LLC

RE: **STATE LEGISLATIVE UPDATE – AUGUST**

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### **Brown Act Exemptions for Virtual Meetings**

On March 17, 2020, Governor Newsom issued Executive Order N-29-20 in response to the COVID-19 pandemic, allowing local or state legislative bodies to hold meetings via teleconference and to make meetings accessible electronically without violating the open meeting laws found in the Bagley-Keene Act or the Brown Act.

The Governor announced California's reopening as of June 15, 2021, lifting many COVID-19 restrictions. There was some lack of clarity on what reopening would entail for public agencies, and many agencies sought clarification from the Governor's office regarding guidelines for conducting public meetings.

On June 11, 2021, the Governor issued Executive Order N-08-21 with clarifying language concerning N-29-20 on conducting public meetings, allowing for virtual meetings to continue through September 30, 2021. Notwithstanding the issuance of another executive order, local jurisdictions would have to revert back to meeting in person on that date. AB 339 (Lee) is viewed as the main legislative vehicle to amend the Brown Act to enable meetings to continue to be held virtually, but AB 339 does not provide the desired flexibility, since it requires in-person and virtual options to be simultaneously provided for every meeting.

## Fiscal Year 2021-22 State Budget Summary

Governor Newsom has signed AB 128 (Ting), the main FY 2021-22 budget bill, and SB 129 (Skinner), the supplemental budget bill, authorizing \$262.6 billion, including revenue for transportation infrastructure as follows:

- **Transit and Intercity Rail Capital Program (TIRCP) - \$2.6 billion** to augment the annual \$500 million, for a total of \$3.1 billion divided as follows: \$1 billion for rail in preparation for the 2028 Los Angeles Olympics, \$1 billion for rail infrastructure statewide, \$500 million for grade separations, and \$100 million for zero-emission rail and transit equipment purchases.
- **Road Infrastructure - \$2 billion** (\$1.1 billion special funds through 2028, and \$968 million federal funds) to support the advancement of priority State Highway Operation and Protection Program (SHOPP) projects, Interregional Transportation Improvement Program (ITIP) projects, and local road and bridge investments.
- **Regional Sustainable Communities Strategies Implementation - \$600 million** (\$100 million from the General Fund and \$500 million federal funds) for Housing and Community Development Department to provide additional planning and implementation grants to regional entities for Sustainable Communities Strategies (SCS) implementation, infill developments, targeted towards the state's climate goals and reducing vehicle miles traveled.
- **Active Transportation Program - \$500 million** (General Fund) to help clear the backlog for Cycle 5 for active transportation projects and projects identified for completion prior to 2028.
- **Zero-Emission Rail and Transit Equipment Purchases and Infrastructure - \$407 million** (\$100 million General Fund, \$280 million Public Transportation Account, and \$27 million federal funds) to demonstrate and purchase or lease state-of-the-art, clean bus and rail equipment and infrastructure that eliminate fossil fuel emissions and increase intercity rail and intercity bus frequencies.
- **Zero-Emission Buses and Trucks - \$1.4 billion** (\$1.3 billion General Fund and \$87 million Air Pollution Control Fund) to demonstrate and purchase or lease green buses and trucks.
- **Zero-Emission Vehicle (ZEV) Infrastructure - \$3.2 billion** over three-years for ZEV infrastructure.

- **State and Local Climate Adaption - \$400 million** (General Fund) for state and local grants to begin addressing climate change impacts to transportation. Caltrans reports that increasing temperatures, larger wildfires, heavier rainstorms, and rising sea levels and storm surges associated with climate change are posing a significant risk to the State's transportation infrastructure.
- **Clean California Program - \$1.1 billion** (General Fund) to be appropriated as follows:
  - **\$296 million** for local projects on local streets and roads, tribal land, parks, pathways, and at rail and transit centers;
  - **\$335 million** for statewide litter cleanup on the state highway system; and
  - **\$287 million** for beautification projects.

SB 129 includes language pertaining to the Active Transportation Program (ATP), TIRCP, and the State and Local Climate Adaption funding, stating that money shall not be available for encumbrance or expenditure unless additional legislation is enacted by October 10, 2021. This language is directly related to the stalemate on exhausting the remaining \$4.2 billion Proposition 1A appropriation for high-speed rail. Governor Newsom is requesting the funds to complete high-speed rail construction in the San Joaquin Valley, advance work to launch service between Merced and Bakersfield, advance planning and project design for the entire project, and leverage potential federal funds. The legislature has been reluctant to grant the funding, stating investments into existing rail systems would be more beneficial. The legislature will adjourn for Summer Recess between July 16 and August 16. Regular Session concludes on September 10.

### **Farebox Recovery Relief**

On July 1, the legislature sent AB 149 (Committee on Budget) to the Governor. This bill would extend statutory relief in meeting farebox recovery requirements for receiving State Transit Assistance (STA), Low Carbon Transit Operations Program (LCTOP), and State of Good Repair funds, through fiscal year 22-23. It suspends Transportation Development Act (TDA) and STA penalties for this duration. The bill adds a list of new exemptions from the farebox recovery calculation, including on-demand service and micro transit service beyond fixed-route service, costs for security, ticketing services, pensions, planning for improvements in transit operations, integration with other operators and agencies, transitioning to zero-emission operations, and for compliance with state and federal mandates. The bill is pending action by the Governor.

### **Potential Solutions for Additional Funding**

As enacted, AB 128 (Ting) contains \$2 billion (\$1.1 billion from interest earned in state transportation funds through 2028, and \$968 million federal funds) for the SHOPP,

Interregional Transportation Improvement Program (ITIP), and local road and bridge investments. The \$1.1 billion derived from the earned interest on the Road Maintenance and Rehabilitation Account does not have any statutory obligation. This represents an opportunity to acquire additional resources to address priorities for local transportation planning agencies and other local jurisdictions.

One proposal is to take the \$1.1 billion of earned interest and redirect \$400 million (in addition to \$500 million proposed in the May Revise) to clear the backlog of projects received by the California Transportation Commission for Cycle 5 of the Active Transportation Program (ATP); \$400 million for the Solutions for Congested Corridors Program, and \$300 million for the SHOPP, which is the main account to address maintenance and rehabilitation of the state highway system.

In Cycle 5 of the ATP, the California Transportation Commission allocated roughly \$441 million, out of nearly \$2.3 billion worth of requests. While AB 128 contains an additional \$500 million, this would only fund projects that scored 86 and above. An additional \$400 million, for a total of \$900 million, could result in projects scoring 80 and above being funded. If the additional \$900 million in ATP were to be approved, the county may be able to realize additional funding for the following projects:

- King City - San Antonio Drive Bikeway & School Gap Closure (scored 82) - \$6.6 million
- Salinas - Alisal Safe Routes to School Project (scored 89) - \$1.3 million

### **Governor's Climate Action Plan for Transportation Infrastructure**

On July 12, the California State Transportation Agency announced its adoption of the Governor's Climate Action Plan for Transportation Infrastructure (CAPTI). The purpose of the plan is to implement Governor Newsom's Executive Order N-19-19. That Executive Order aims to reduce greenhouse gas emissions and vehicle miles traveled through limiting capacity projects along the state highway system, discouraging the use of single-occupant, gas-powered vehicles, while encouraging mode shift through accelerated investments into public transportation, bicycle and pedestrian programs, and electric vehicle infrastructure.

CAPTI encourages investments in improvements for disadvantaged communities, safety improvements that reduce fatalities on roadways and transit systems, projects that respond to climate risk for transportation infrastructure projects, projects that reduce vehicle miles traveled reduction, and investments into passenger rail prioritized over highways, particularly capacity projects. Impacted funding programs include the Highway Safety Improvement

Program, STIP, Local Partnership Program, Solutions for Congested Corridors Program, SHOPP, Trade Corridor Enhancement Program, and Transit Capital and Intercity Rail Program.

CAPTI policy could require TAMC to reassess its ability to leverage voter-approved investments as articulated in the expenditure plans for Measure X. While the state cannot make adjustments to locally approved sales tax expenditure plans, as the owner/operator of the state highway system, it reserves the right to place local funds on a state-owned asset and authorize the availability of state resources.