March 14, 2007

TO: Greg Harper, President, and
Members of the AC Transit Board of Directors

Jim Gleich, DGM

FR: Lynn M. Suter & Associates

RE: Legislative Update

Well, not exactly, sez Legislative Analyst. We’re in trouble again, according to the respected Liz Hill Gang--this time by about $2.7 billion. No surprise there. It has been obvious since January that the Gov’s assumptions are full of holes, and most budgeteers have simply been awaiting this clunk from the other shoe to mark the beginning of the season’s budget wrangling. Major factors include a whopping $2 billion short-fall in projected revenues from personal income tax and tribal gaming compacts, the cost of pension obligation bonds, and an increase in the Proposition 98 guarantee. These factors, and others, have eaten into the $10.1 billion reserve (which included the proceeds of deficit-financing bonds issued in 2003-04), leaving $2.9 billion in reserve at the end of the current year and an estimated $2.1 billion by the close of the budget year. That’s only IF the legislature adopts all the Gov’s proposals.

Real-quick-like-bunnies! Otherwise, we’re unbalanced by at least $726 million as of this moment. In all, LAO pegs the risk factor in the Gov’s budget at $3.2 billion unless programs are hacked and taxes raised.

Good advice, but no dice. The LAO recommends jumpstarting budget action now—before the May Revise—to forestall worse news later. One recommendation is a Prop 98 adjustment of $634 million immediately, effective this fiscal year. The likelihood of this happening is next to nix. She also recommends against the state’s early repayment of $1.6 billion on the Economic Recovery Bonds, axing High Speed Rail, and reducing plans for new prison beds by two-thirds.

As always, there’s a colossal disconnect between what can be done, what should be done, and what is politically plausible. The Gov’s office says they don’t have to blow up their budget boxes right now, but will await actual May Revise numbers. Just in case the patient gets better. Democrats are largely non-committal, and we don’t seriously anticipate major actions prior to passage of the new Budget. Be forewarned--we’re in for a mess.

LAO comments on Transportation Budget: The LAO’s analysis of the transportation budget recommends the repeal of the “spill over” calculation, urges the Legislature to utilize its “power of the purse” when appropriating Prop 1B funds, and questions whether it is time to disband the High Speed Rail Authority (HSRA). Not knowing if financial
support from the state exists for the next phase of the HSRA makes it difficult to develop this project. The LAO encourages the Legislature to decide if it is time to eliminate funding and repeal the HSRA.

**Predictability:** Repealing the spill over calculation is nothing new for the LAO. Since the passage of Prop 42, the LAO has routinely questioned the value of the spill over and promoted the benefits of greater transit funding stability if the spill over is repealed and all fuel sales tax funds were distributed via Prop 42. However, calling it an “anachronistic and arcane formula” is going a little too far.

The original policy for this calculation was to prevent the general fund from profiting on collecting sales tax on fuel sales. Prop 42 has since dedicated all sales tax revenue on fuel sales to transportation programs not the general fund, which according the LAO weakens the merits of the original policy. While the spill over is a volatile source of funds, the LAO focuses only on the state budget process and does not address how this volatile mechanism offsets the local volatility of fuel prices or drops in TDA revenue. Unfortunately, the debate for repealing this calculation is taking hold within the Capitol and changes will likely be part of this budget solution.

**Power of the Purse:** The LAO cautions against adopting the Governor’s proposal to appropriate $7.7 billion in Prop 1B funds. In fact, the LAO recommends appropriating only $2.8 billion in Prop 1B funds because that is all that will be spent in 2007-08. According to the Governor’s budget this would include $170 million for State and Local Partnership, $600 million for local streets and roads, and $600 million for transit projects. It is the LAO’s position that the multi-year appropriation circumvents the Legislature’s ability to hold state departments and local agencies accountable in how the funds are used.

**A Transparent Process?** The LAO highlights proposed budget bill language that would allow the Administration to transfer appropriated bond funds between the various bond programs. This language is so broadly written that the LAO fears that Prop 1B’s intent to provide specific funding amounts for each program would not be met. The Legislature is directed to summarily dump this provision from the budget.

**Funding Maintenance:** The LAO zeros in on a troubling trend. The funding needs for maintaining the state highway system is outpacing the revenue source. Gas tax has not been increased in over 10 years and the buying power of these revenues has eroded dramatically. The LAO urges the Legislature to take action on how to adequately fund highway maintenance needs. The analysis offers two solutions, indexing the gas tax or establishing mileage based fees. Adjusting the gas tax remains untouchable. However, the Legislature will review the pros and cons of mileage based fees, but do not expect any action.

**Spending the Money:** The budget analysis revisits issues raised in an earlier report on implementing the infrastructure bonds. Through the budget process, the LAO encourages the Legislature to enact statutory and administrative checks and balances to ensure the
funds are used to deliver effective projects in timely manner. In particular, the LAO highlights the following items:

- Limit the use of funds to projects with long-term benefits
- Set aside a portion of the State and Local Partnership funds to be used to as an incentive to spur the creation of new fees or tax measures for local transportation.
- Establish cost effectiveness criteria for project selection
- Consider air quality impacts for new capacity projects
- Encourage the timely use of funds by establishing delivery deadlines and redirecting funds from lagging projects
- Require annual reports to the Legislature and hearings on the progress of each program.
- Require administrative costs related to Prop 1B funds be reported separately in the CTC’s annual report on bond programs.

In addition, the LAO makes recommendations aimed at accelerating project delivery. These include expanding the use of contracted services, utilizing design-build contracting, and enacting measures to streamline the CEQA process.

**TCRP Issues**: The LAO reviews the status of the Traffic Congestion Relief Program (TCRP), and encourages the Legislature to take action on redirecting funds away from long stalled projects. Only 26 of the 141 projects have been completed according to the LAO. While work continues on many of these projects, the LAO feels that cost increases have made many undeliverable. The LAO recommends the Legislature to set firm delivery deadlines, identify those projects that are no longer viable, and redirect the funds to other projects. The LAO also recommended that the CTC should be given additional flexibility to repay existing Letters of No Prejudice.

**Legislation**

February 23rd was the deadline for introducing legislation. Nearly 4000 bills are now in print, and we have at least glanced at every one. The following matrix focuses on transportation related bills. It does not include the numerous bond implementation bills as nearly all of them are spot bills. However, if you have questions about a bill you have heard, seen or read, please do not hesitate to call.

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<tr>
<th>Bill</th>
<th>Topic</th>
<th>Status</th>
<th>Position</th>
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<tbody>
<tr>
<td>AB 29 (Hancock) A-03/05/2007</td>
<td>Infill development: incentive grants.</td>
<td>03/06/2007-Re-referred to Com. on L. GOV. (03/06/2007-A L. GOV.)</td>
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<td>This bill would establish the Infill Incentive Grant Program. This program would provide funding to local governments for infrastructure projects that produce infill housing.</td>
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<td>Bill Number</td>
<td>Description</td>
<td>Action Date/Committee</td>
<td>Notes</td>
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<td>AB 57 (Soto) I-12/04/2006</td>
<td>Highways: Safe Routes to School construction program.</td>
<td>02/01/2007-Referred to Com. on TRANS. (02/01/2007-A TRANS.)</td>
<td>This bill would delete the January 1, 2008, sunset for the Safe Routes to School program. This program provides a competitive grant program for bicycle and pedestrian projects that improve the safety and access to schools.</td>
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<tr>
<td>AB 60 (Nava) A-03/05/2007</td>
<td>Vehicles: bicycles.</td>
<td>03/06/2007-Referred to Com. on TRANS. (03/06/2007-A TRANS.)</td>
<td>Oppose Unless Amended</td>
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<tr>
<td>AB 60 would amend existing law to require a driver when passing a bicyclist to maintain a minimum distance of at least 3 feet between the vehicle and the bicyclists.</td>
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<td>AB 236 (Lieu) A-03/06/2007</td>
<td>Public resources: state and local motor vehicle fleets.</td>
<td>03/07/2007-Referred to Com. on B. &amp; P. (03/07/2007-A B. &amp; P.)</td>
<td>This bill would require local governments when awarding a vehicle procurement contract for passenger cars and light-duty trucks to consider evaluating fuel cost, fuel economy, emissions, and whether the vehicle is powered by an alternative fuel. The bill also encourages local governments to require 75% of passenger cars and light duty trucks to be energy efficient vehicles. The bill also contains reporting requirements for state owned vehicles.</td>
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<tr>
<td>AB 255 (De Leon) I-02/05/2007</td>
<td>Air pollution: Clean Air and Energy Independence Fund: smog abatement fee.</td>
<td>02/20/2007-Referred to Com. on TRANS. (02/20/2007-A TRANS.)</td>
<td>AB 255 would increase the smog abatement fee from $12 to $16. The increased revenue would be placed in the Clean Air and Energy Independence Fund where the revenue would be used as incentive funding to increase the use of alternative fuel vehicles as well as provide research grants for clean and zero emission fuels. The funds would be administered by the California Air Resources Board.</td>
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<td>AB 255 could provide funding for further research and</td>
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development of AC Transit’s hydrogen fuel cell bus fleet. However, AC Transit should review this bill to determine if changes should be requested.

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<th>Bill Number</th>
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<tbody>
<tr>
<td>AB 307 (Hayashi)</td>
<td>Sales and use taxes: exemptions: fuel passenger transit buses.</td>
<td>02/26/2007-Referred to Com. on REV. &amp; TAX. (02/26/2007-A REV. &amp; TAX)</td>
<td>Sponsor</td>
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<tr>
<td>I-02/09/2007</td>
<td>AB 307 proposes to exempt from the sales and use tax the purchase of public transit buses powered by a hydrogen fuel cell system. This bill is sponsored by AC Transit and stems from a conflict within the BOE’s regulations regarding the sales tax exemption for research and development vehicles.</td>
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<td>AB 387 (Duvall)</td>
<td>Design-build: transit contracts.</td>
<td>03/12/2007-Referred to Coms. on TRANS. and B. &amp; P. (03/12/2007-A TRANS.)</td>
<td>Sponsor</td>
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<tr>
<td>I-02/15/2007</td>
<td>This bill makes several changes to the design-build authority currently granted to transit operators. First, the bill would eliminate the prequalification cost threshold limits for surveillance equipment procurement projects designed to enhance public safety, security, and disaster preparedness. The bill would also authorize transit operators to enter into design-build contracts for transit projects on state highways and local streets for the installation of traffic signal priority equipment.</td>
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<td>AB 412 (Smyth)</td>
<td>Transportation: project delivery deadlines.</td>
<td>02/26/2007-Referred to Com. on TRANS. (02/26/2007-A TRANS.)</td>
<td>Sponsor</td>
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<td>I-02/16/2007</td>
<td>This bill would require the California Transportation Commission to specify project delivery deadlines for each program category in Prop 1B. This is limited to those program categories where the Commission is authorized to allocate the funds.</td>
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<td>Bill Number</td>
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<td>AB 444 (Hancock)</td>
<td>Congestion management: motor vehicle registration fees.</td>
<td>02/26/2007-Ref to Coms. on TRANS. and L. GOV. (02/26/2007-A TRANS.)</td>
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<td>I-02/16/2007</td>
<td>This bill would authorize the congestion management agencies in the Counties of Alameda and Contra Costa to place on the ballot a measure to impose up to a $10 fee on each vehicle registered in the county. The funds would be used for congestion relief projects as well as environmental mitigation projects.</td>
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<td>AB 490 (Hancock)</td>
<td>Alameda-Contra Costa Transit District: compensation of directors.</td>
<td>03/01/2007-Ref to Com. on L. GOV. (03/01/2007-A L. GOV.)</td>
<td>Sponsor</td>
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<td>I-02/20/2007</td>
<td>This bill would increase the compensation for AC Transit Board members from $500/month to $1,000/month if specified attendance requirements are met. The compensation rate was last adjusted in 1982 and would bring the rate on par with BART and other special districts.</td>
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<td>AB 574 (Torrico)</td>
<td>High-occupancy toll (HOT) lanes.</td>
<td>03/01/2007-Ref to Com. on TRANS. (03/01/2007-A TRANS.)</td>
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<td>I-02/21/2007</td>
<td>This bill makes various changes to existing authority in Alameda and Santa Clara counties to build and operate high-occupancy toll (HOT) lanes. This bill is co-sponsored by the Alameda CMA and Santa Clara VTA. The most significant change proposed in AB 574 is repealing the sunset date on the authority to operate the HOT lanes. This change aimed at accelerating the development of HOT lanes by allowing Alameda and Santa Clara to securitize the toll revenue.</td>
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<td>AB 655 (Swanson)</td>
<td>Public contracts: Bond Acts of 2006.</td>
<td>02/22/2007-From printer. May be heard in committee March 24, (02/21/2007-A PRINT)</td>
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<td>I-02/21/2007</td>
<td>This bill would establish bidding preferences for contracts funded with 2006 infrastructure bond funds. The bid preferences include incentives for hiring 10% of the workers from low income areas, and a preference for hiring small or microenterprise businesses</td>
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<td>AB 712 (De Leon) I-02/22/2007</td>
<td>Carl Moyer Memorial Air Quality Standards Attainment Program.</td>
<td>02/23/2007-From printer. May be heard in committee March 25. (02/22/2007-A PRINT)</td>
<td>This bill is essentially a spot bill that declares legislative intent to review the efficiency of the Carl Moyer Memorial Air Quality Standards Attainment Program and present those findings in a report, along with recommendations to make any changes, if necessary, to improve the program's efficiency.</td>
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<tr>
<td>AB 769 (Aghazarian) I-02/22/2007</td>
<td>Sales and use taxes: exemptions: fuel to transport biomass.</td>
<td>03/08/2007-Referred to Com. on REV. &amp; TAX. (03/08/2007-A REV. &amp; TAX)</td>
<td>This bill would exempt from the sales and use tax fuel that is used to transport biomass. Biomass is defined to include any organic matter not derived from fossil fuels, and includes crops, trees, wood, plants, and waste material. This bill would significantly impact Prop 42, Public Transportation Account, and local sales tax revenues.</td>
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<td>AB 945 (Carter) I-02/22/2007</td>
<td>Transportation needs assessment.</td>
<td>03/12/2007-Referred to Com. on TRANS. (03/12/2007-A TRANS.)</td>
<td>This bill would require the CTC to develop every five year an assessment of the unfunded costs of programmed state projects and federally earmarked projects in the state, as well as an assessment of available funding for transportation purposes and unmet transportation needs on a statewide basis. The bill would require the commission to submit the first report by July 1, 2008.</td>
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<tr>
<td>AB 981 (Ma) I-02/22/2007</td>
<td>High-Speed Rail Authority.</td>
<td>03/12/2007-Referred to Com. on TRANS. (03/12/2007-A TRANS.)</td>
<td>This bill makes a minor change to the High Speed Rail Authority Act to require the Authority to select one or more vice chairperson.</td>
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<td>Bill Number</td>
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<td>AB 1190 (Horton)</td>
<td>Taxation: fuel tax: exemptions and credits.</td>
<td>02/26/2007</td>
<td>This bill would create a three tiered excise tax rate on gasoline and diesel fuel based on the amount of carbon dioxide emissions per mile traveled. The lowest emission fuels, Category 1, would be exempt from the excise tax. The excise tax for Category 2 fuels would be 50% of the Category 3 rate. Category 3 fuel would be taxed at 27 cents per gallon. In addition, AB 1190 would authorize the BOE to increase or decrease the Category 3 tax rate so that the state transportation fund is not impacted by the lower tax rates for Category 1 and 2 fuels.</td>
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<tr>
<td>AB 1221 (Ma)</td>
<td>Transit village developments: tax increment financing.</td>
<td>02/26/2007</td>
<td>This bill would allow a city or county that establishes a transit village to utilize tax increment financing as a means of funding improvements within the transit village. The bill does not require a finding of blight and does not require all affected taxing entities to approve the creation of a tax increment financing district.</td>
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<tr>
<td>AB 1306 (Huff)</td>
<td>Sales taxes on gasoline.</td>
<td>02/26/2007</td>
<td>This bill would repeal the “spill-over” calculation from existing law.</td>
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<tr>
<td>AB 1492 (Laird)</td>
<td>Vehicles: transit buses: right-of-way.</td>
<td>02/26/2007</td>
<td>This bill would re-establish a pilot project that would allow the Santa Cruz Metropolitan Transit District and the Santa Clara County Transit District to implement a “yield to bus” program. This program would require the driver of a vehicle overtaking a transit bus to yield the right-of-way to the bus if certain conditions are present.</td>
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<tr>
<td>AB 1543 (Leno)</td>
<td>Treasure Island Transportation Management.</td>
<td>02/26/2007</td>
<td>The bill would authorize the San Francisco Board of Supervisors to implement a transportation management plan for Treasure Island.</td>
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to create the Treasure Island Transportation Management agency which would be responsible for establishing parking fees and congestion pricing fees on Treasure Island. This bill is part of the Treasure Island development plan.

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<tr>
<th>Bill</th>
<th>Purpose</th>
<th>Status</th>
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<tr>
<td>SB 71 (Florez) I-01/17/2007</td>
<td>Alternative fuels: biodiesel.</td>
<td>03/05/2007-Set for hearing March 27. (01/25/2007-S T. &amp; H.)</td>
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<tr>
<td>SB 75 (Florez) I-01/17/2007</td>
<td>Alternative fuels: biodiesel.</td>
<td>03/05/2007-Set for hearing March 27. (01/25/2007-S T. &amp; H.)</td>
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This bill would authorize a transit operator to use TDA and STA funds to provide discount fares for qualifying low-income riders. The bill would allow STA funds used by an operator for this purpose to count as fare revenue for the purpose of determining the operator's fare box ratio. The bill would also authorize operators to file claims for TDA funds for special transit services for low-income persons, such as shuttles. While the intent of this proposal is good, it is currently unclear if this proposal would increase the amount of funds directed to the region or just reshuffle the allocation of existing STA and TDA funds.

This bill would specify standards for biodiesel and biodiesel blends, as defined. The bill would also create a voluntary CO2 labeling program for petroleum, biodiesel, and fuel blends containing biodiesel. This bill contains other related provisions and other existing laws.

This bill would require all vehicles owned or leased by the State of California, by a city, county, or city and county, or by a mass transit district, that use diesel fuel to instead use B20 biodiesel fuel or a higher blend of biodiesel, as specified. The bill would require the State Air Resources Board to establish a program to implement and monitor these requirements.
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<tr>
<td>SB 161 (Margett)</td>
<td>This bill would require any vehicle purchased or leased by the State of California that uses diesel fuel to be a warranty-certified unit that uses at least B20 biodiesel fuel.</td>
<td>02/15/2007-To Coms. on G.O. and RLS. (02/15/2007-S G.O.)</td>
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<td>SB 204 (Dutton)</td>
<td>This bill would authorize public entities to receive supporting materials submitted pursuant to a public works contract over the Internet. This bill would require public entities that receive bids and supporting materials over the Internet to provide an electronic receipt to the contractor.</td>
<td>03/05/2007-Set for hearing March 27. (02/22/2007-S T. &amp; H.)</td>
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<td>SB 359 (Runner)</td>
<td>This bill would require all non-Article 19 funds to be deposited into the State Highway Account, and repeal existing law that directs these funds to the Public Transportation Account. Article 19 of the Constitution generally limits the use of fuel excise tax revenue to highway purposes. Transportation funds not covered by Article 19 are usually derived from document sales, rents, and charges for miscellaneous services.</td>
<td>02/28/2007-To Com. on REV. &amp; TAX. (02/28/2007-S REV. &amp; TAX)</td>
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<td>SB 375 (Steinberg)</td>
<td>This bill would exempt from the sales and use tax the cost of fuel in excess of $1.88 per gallon of fuel purchased by an air common carrier for a domestic flight.</td>
<td>02/28/2007-To Com. on E.Q. (02/28/2007-S E.Q.)</td>
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<td>The California Environmental Quality Act (CEQA) exempts certain infill development projects if specified conditions are met. This bill would add to those conditions that the project may be within ½ mile of a major transit stop, or reduce vehicle miles traveled by 10% when compared to the county or regional average.</td>
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<td>SB 442 (Ackerman) I-02/21/2007</td>
<td>Public contracts: transit projects: design build contracting.</td>
<td>02/28/2007-To Com. on T. &amp; H. (02/28/2007-S T. &amp; H.)</td>
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| SB 445 (Torlakson) I-02/21/2007 | Road User Task Force.                                                      | 02/28/2007-To Com. on T. & H. (02/28/2007-S T. & H.) | This bill establishes an 11-member Road Users Task Force to analyze how increased use of alternative fuels and increased vehicle fuel efficiency will affect revenues for the construction, maintenance, and operation of highways, local streets, roads and transit. The Road Users Task Force would include the following members:  
  ♦ Two members appointed by the President pro Tempore of the Senate.  
  ♦ Two members appointed by the Speaker of the Assembly.  
  ♦ Two members appointed by the Governor.  
  ♦ Three members appointed by the California Transportation Commission.  
  ♦ One member appointed by the League of California Cities, who shall be an elected city official.  
  ♦ One member appointed by the California State Association of Counties, who shall be an elected county official. |
| SB 540 (Harman) I-02/22/2007 | Sales and use taxes: exemption: fuel taxes.                               | 03/08/2007-To Com. on REV. & TAX. (03/08/2007-S REV. & TAX) | This bill would exempt from the application of the sales and use tax the amount charged for state of federal fuel taxes. |
| SB 784 (Torlakson) I-02/23/2007 | State General Obligation Bond Law: reports.                               | 03/08/2007-To Com. on G.O. (03/08/2007-S G.O.) | This bill includes a bare bones outline for creating a reporting and oversight process on the expenditure of the infrastructure bonds. It |
Currently requires any state department or agency to report activities related to the delivery of bond funded projects to the State Treasure and the State Controller. The Treasure and the Controller would then make a joint biannual report to the Governor and specified legislative committees.

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This bill would require transportation planning agencies, county transportation commissions or authorities, and congestion management agencies to adopt criteria that give priority in the selection of Transportation Enhancement Activity projects to the sponsors of eligible projects that partner with, or commit to employ the services of, a community conservation corps, or the California Conservation Corps to construct or undertake the project. The bill would provide that a community conservation corps or the California Conservation Corps is eligible to apply for project funds. The bill would require the California Transportation Commission, when developing guidelines for the state transportation improvement program and the state highway operations and protection program, to include guidance to encourage the allocation of funds for transportation enhancement projects to community conservation corps and the California Conservation Corps, either as applicants or as partners with applicants.

This bill would exempt from CEQA requirements the expansion of an existing overpass, on-ramp, or off-ramp that is built on an easement or right-of-way under the control of a state or local transportation agency, or a city, county, or city and county.

This bill would require the Ports of Los Angeles, Long Beach, and Oakland to collect a user fee on the owner of container cargo moving through the Port of Los Angeles, the Port of Long Beach, or the Port of Oakland at a rate of $30 per twenty-foot equivalent.
This bill specifies how the funds will be programmed. In general revenue generated in north and south will be kept in separate accounts at the state level. The revenue will be split with 50% for trade corridor infrastructure projects and 50% for mitigation projects. The bill also authorizes the use of revenue bonds to be secured by the container fee revenue.

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<tr>
<th>SB 976 (Torlakson) I-02/23/2007</th>
<th>San Francisco Bay Area Water Transit Authority.</th>
<th>02/26/2007-Read first time. (02/23/2007-S PRINT)</th>
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<td>As currently drafted, this bill amends the Water Transit Authority’s authorizing statute to change the focus of the WTA’s activities from planning to operating a regional ferry network.</td>
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Attached is SB 717 (Perata). AC Transit should support this bill. It is not in your matrix because my quick review tagged it as a spot bill. It is not a spot bill, but I expect additional changes.

This bill would continue to direct 20% of the Prop 42 funds to the PTA. The current code section that directs the funds to the PTA sunsets at the end of this year, and the Constitution only directs the 20% to mass transportation not specifically to the PTA. I expect that this will be the vehicle to also increase the amount directed to STA.

3/20/2007
An act to add Section 7104.1 to the Revenue and Taxation Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

SB 717, as introduced, Perata. Transportation Investment Fund.

Existing law specifies the allocation of funds in the Transportation Investment Fund, derived from a portion of the sales tax on gasoline, to various transportation projects and programs. Article XIX B of the California Constitution requires, commencing with the 2003–04 fiscal year, that sales taxes on motor vehicle fuel that are deposited into the General Fund be transferred to the Transportation Investment Fund for allocation for those transportation purposes until the end of the 2007–08 fiscal year. Thereafter, Article XIX B requires these revenues to be allocated to broad categories of transportation purposes, including 20% for programs funded by the Public Transportation Account, 40% for transportation capital improvement projects in the State Transportation Improvement Program, and 40% for apportionment to cities and counties pursuant to certain formulas for road maintenance and construction purposes.

This bill would continue the Transportation Investment Fund in existence and would specify the use of revenues deposited in that fund from gasoline sales tax revenues subject to Article XIX B beginning in the 2008–09 fiscal year.

The people of the State of California do enact as follows:

SECTION 1. Section 7104.1 is added to the Revenue and Taxation Code, to read:

7104.1. (a) The Transportation Investment Fund (hereafter the fund) in the State Treasury is hereby continued in existence. All revenues transferred to the fund pursuant to Article XIX B of the California Constitution beginning with the 2008–09 fiscal year shall be available for expenditure as provided in this section, subject to appropriation by the Legislature.

(b) All of the following shall occur on a quarterly basis:

(1) The State Board of Equalization, in consultation with the Department of Finance, shall estimate the amount that is transferred to the General Fund under subdivision (b) of Section 7102 that is attributable to revenue collected for the sale, storage, use, or other consumption in this state of motor vehicle fuel, as defined in Section 7304.

(2) The State Board of Equalization shall inform the Controller, in writing, of the amount estimated under paragraph (1).

(3) Commencing with the 2008–09 fiscal year, the Controller shall transfer the amount estimated under paragraph (1) from the General Fund to the fund.

(c) For each quarter, commencing with the 2008–09 fiscal year, the Controller shall make all of the following transfers and apportionments from the fund:

(1) To the Public Transportation Account, a trust fund in the State Transportation Fund, 20 percent of the revenues deposited in the fund.

(2) To the Department of Transportation for expenditure for transportation capital improvement projects subject to all of the rules governing the State Transportation Improvement Program, 40 percent of the revenues deposited in the fund.

(3) To the Controller for apportionment pursuant to paragraphs (A) and (B), 40 percent of the revenues deposited in the fund.

(A) Of the amount available under this paragraph, 50 percent shall be apportioned by the Controller to the counties, including a city and county, in accordance with the following formulas:

(i) Seventy-five percent of the funds payable under this subparagraph shall be apportioned among the counties in the proportion that the number of fee-paid and exempt vehicles that
are registered in the county bears to the number of fee-paid and  
exempt vehicles registered in the state.  
(ii) Twenty-five percent of the funds payable under this  
subparagraph shall be apportioned among the counties in the  
proportion that the number of miles of maintained county roads  
in each county bears to the total number of miles of maintained  
county roads in the state. For the purposes of apportioning funds  
under this subparagraph, any roads within the boundaries of a city  
and county that are not state highways shall be deemed to be county  
roads.  
(B) Of the amount available under this paragraph, 50 percent  
shall be apportioned by the Controller to cities, including a city  
and county, in the proportion that the total population of the city  
bears to the total population of all the cities in the state.  
(d) Funds received under subparagraph (A) or (B) of paragraph  
(3) of subdivision (c) shall be deposited as follows in order to avoid  
the commingling of those funds with other local funds:  
(1) In the case of a city, into the city account that is designated  
for the receipt of state funds allocated for transportation purposes.  
(2) In the case of a county, into the county road fund.  
(3) In the case of a city and county, into a local account that is  
designated for the receipt of state funds allocated for transportation  
purposes.  
(e) Funds allocated to a city, county, or city and county under  
subparagraph (A) or (B) of paragraph (3) of subdivision (c) shall  
be used only for street and highway maintenance, rehabilitation,  
reconstruction, and storm damage repair. For purposes of this  
section, the following terms have the following meanings:  
(1) “Maintenance” means either or both of the following:  
(A) Patching.  
(B) Overlay and sealing.  
(2) “Reconstruction” includes any overlay, sealing, or widening  
of the roadway, if the widening is necessary to bring the roadway  
width to the desirable minimum width consistent with the  
geometric design criteria of the department for 3R (reconstruction,  
resurfacing, and rehabilitation) projects that are not on a freeway,  
but does not include widening for the purpose of increasing the  
traffic capacity of a street or highway.  
(3) “Storm damage repair” is repair or reconstruction of local  
streets and highways and related drainage improvements that have
been damaged due to winter storms and flooding, and construction
damage problems, in those jurisdictions that have been declared
disaster areas by the President of the United States, where the costs
of those repairs are ineligible for emergency funding with Federal
Emergency Relief (ER) funds or Federal Emergency Management
Administration (FEMA) funds.

(f) For the purpose of allocating funds under subparagraph (A)
or (B) of paragraph (3) of subdivision (c) to counties, cities, and
a city and county, the Controller shall use the most recent
population estimates prepared by the Demographic Research Unit
of the Department of Finance. For a city that incorporated after
January 1, 2008, that does not appear on the most recent population
estimates prepared by the Demographic Research Unit, the
Controller shall use the population determined for that city under
Section 11005.3.
Jim Gleich

From: Steve Wallauch [wallauch@lmsa.com]
Sent: Tuesday, March 20, 2007 12:17 PM
To: Jim Gleich
Subject: Emailing: ab_1358_bill_20070223_introduced.pdf
Attachments: ab_1358_bill_20070223_introduced.pdf

Jim,

Attached is AB 1358 (Leno) which would add additional findings to a city of a county's circulation element. This bill is sponsored by the California Bicycle Coalition. Specifically, the bill would require the legislative body of a city or county, upon revision of the circulation element of their general plan, to identify how the jurisdiction will provide for the routine accommodation of all users of the roadway including motorists, pedestrians, bicyclists, individuals with disabilities, seniors, and users of public transportation. The bill defines “routine accommodation” to mean to consider and accommodate all users of the highway as needed to provide for reasonably safe and convenient travel. At this point I think AC should just watch this bill because I need to find out if other changes are being planned.

As for the other bill I mentioned that would affect independent retirement plans, I do not think it will impact AC Transit. After carefully reading the bill it would only apply to public safety employees. If AC hired its own police force then AB 419 would create a fiscal impact, but since AC contracts out for this service it should not be a problem. If I'm wrong let me know, and will send you a copy of the bill.

AB 419 would amend Labor Code Section 4850, which provides extended temporary disability workers' compensation benefits to specified public safety employees for 100 percent of salary for up to one year of disability. Current law provides this benefit to those qualified employees in local agency contractors to the Public Employee Retirement System (PERS) and members of 1937 Act County Retirement Systems. This bill would de-link the benefit to PERS and 1937 Act County Retirement Systems, thereby extending the benefit beyond that group to mandate inclusion of employees in any public pension systems.

3/20/2007

External Affairs Committee
Date: 3/21/07
Item No: 3
Introduced by Assembly Member Leno
(Coauthor: Assembly Member Levine)

February 23, 2007

An act to amend Sections 65040.2 and 65302 of the Government Code, relating to planning.

LEGISLATIVE COUNSEL'S DIGEST

AB 1358, as introduced, Leno. Planning: circulation element: transportation.

(1) Existing law requires the legislative body of each county and city to adopt a comprehensive, long-term general plan for the physical development of the county or city with specified elements, including a circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, any military airports and ports, and other local public utilities and facilities, all correlated with the land use element of the plan.

This bill would require, commencing January 1, 2009, that the legislative body of a city or county, upon any revision of the circulation element of the general plan, modify the circulation element to specify how this element will provide for the routine accommodation of all users of the highway, defined to include motorists, pedestrians, bicyclists, individuals with disabilities, seniors, and users of public transportation. For this purpose, routine accommodation is defined to mean that, in the planning, design, construction, reconstruction, or operation of highways and other transportation infrastructure, local agencies fully consider and accommodate all users of the highway as needed to provide for reasonably safe and convenient travel. By
requiring new duties of local officials, this bill would impose a state-mandated local program.

Existing law establishes in the Office of the Governor the Office of Planning and Research with duties that include developing and adopting guidelines for the preparation of and content of mandatory elements required in city and county general plans.

(2) This bill would require the office, on or before January 1, 2009, to prepare or amend guidelines for a legislative body to include in the circulation element of its general plan routine accommodation of all users of the highway and in doing so to consider how appropriate accommodation varies depending on its transportation and land use context. It would authorize the office, in developing these guidelines, to consult with leading transportation experts, including, but not limited to, bicycle transportation planners, pedestrian planners, public transportation planners, and disability and senior mobility planners.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement. This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.


The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known and may be cited as the
3 SEC. 2. The Legislature finds and declares all of the following:
4 (a) The California Global Warming Solutions Act of 2006, enacted as Chapter 488 of the Statutes of 2006, sets targets for the
5 reduction of greenhouse gas emissions in California to slow the
6 onset of human-induced climate change.
7 (b) The California Energy Commission has determined that
8 transportation represents 41 percent of total greenhouse gas
9 emissions in California.
10 (c) According to the United States Department of
11 Transportation’s 2001 National Household Travel Survey, 41
12 percent of trips in urban areas nationwide are two miles or less in
length, and 66 percent of urban trips that are one mile or less are
made by automobile.
(d) Shifting the transportation mode share from single passenger
cars to public transit, bicycling, and walking must be a significant
part of short- and long-term planning goals if the state is to achieve
the reduction in the number of vehicle miles traveled and in
greenhouse gas emissions required by current law.
(e) Walking and bicycling provide the additional benefits of
improving public health and reducing treatment costs for conditions
associated with reduced physical activity including obesity, heart
disease, lung disease, and diabetes. Medical costs associated with
physical inactivity were estimated by the State Department of
Health Care Services to be $28 billion in 2005.
(f) The California Blueprint for Bicycling and Walking, prepared
pursuant to the Supplemental Report of the Budget Act of 2001,
sets the goal of a 50 percent increase in bicycling and walking trips
in California by 2010, and states that to achieve this goal, bicycling
and walking must be considered in land use and community
planning, and in all phases of transportation planning and project
design.
(g) In order to fulfill the commitment to reduce greenhouse gas
emissions, make the most efficient use of urban land and
transportation infrastructure, and improve public health by
encouraging physical activity, transportation planners must find
innovative ways to reduce vehicle miles traveled and to shift from
short trips in the automobile to biking, walking, and use of public
transit.
SEC. 3. Section 65040.2 of the Government Code is amended
to read:
65040.2. (a) In connection with its responsibilities under
subdivision (d) of Section 65040, the office shall develop and adopt
guidelines for the preparation of and the content of the mandatory
elements required in city and county general plans by Article 5
(commencing with Section 65300) of Chapter 3. For purposes of
this section, the guidelines prepared pursuant to Section 50459 of
the Health and Safety Code shall be the guidelines for the housing
element required by Section 65302. In the event that additional
elements are hereafter required in city and county general plans
by Article 5 (commencing with Section 65300) of Chapter 3, the
office shall adopt guidelines for those elements within six months
of the effective date of the legislation requiring those additional
elements.
(b) The office may request from each state department and
agency, as it deems appropriate, and the department or agency
shall provide, technical assistance in readopting, amending, or
repealing the guidelines.
(c) The guidelines shall be advisory to each city and county in
order to provide assistance in preparing and maintaining their
respective general plans.
(d) The guidelines shall contain the guidelines for addressing
environmental justice matters developed pursuant to Section
65040.12.
(e) The guidelines shall contain advice including
recommendations for best practices to allow for collaborative land
use planning of adjacent civilian and military lands and facilities.
The guidelines shall encourage enhanced land use compatibility
between civilian lands and any adjacent or nearby military facilities
through the examination of potential impacts upon one another.
(f) The guidelines shall contain advice for addressing the effects
of civilian development on military readiness activities carried out
on all of the following:
(1) Military installations.
(2) Military operating areas.
(3) Military training areas.
(4) Military training routes.
(5) Military airspace.
(6) Other territory adjacent to those installations and areas.
(g) By March 1, 2005, the guidelines shall contain advice,
developed in consultation with the Native American Heritage
Commission, for consulting with California Native American tribes
for all of the following:
(1) The preservation of, or the mitigation of impacts to, places,
features, and objects described in Sections 5097.9 and 5097.993
of the Public Resources Code.
(2) Procedures for identifying through the Native American
Heritage Commission the appropriate California Native American
tribes.
(3) Procedures for continuing to protect the confidentiality of
information concerning the specific identity, location, character,
and use of those places, features, and objects.
(4) Procedures to facilitate voluntary landowner participation
to preserve and protect the specific identity, location, character,
and use of those places, features, and objects.
(h) The office shall provide for regular review and revision of
the guidelines established pursuant to this section.
(1) On or before January 1, 2009, the office shall prepare
or amend guidelines for a legislative body to include in the
circulation element of its general plan routine accommodation of
all users of the highway. In developing guidelines, the office shall
consider how appropriate accommodation varies depending on
its transportation and land use context, and may consult with
leading transportation experts including, but not limited to, bicycle
transportation planners, pedestrian planners, public transportation
planners, and disability and senior mobility planners.
(2) For purposes of this subdivision, the following terms have
the following meanings:
(A) "Routine accommodation" means that, in the planning,
design, construction, reconstruction, or operation of highways
and other transportation infrastructure, local agencies fully
consider and accommodate all users of the highway as needed to
provide for reasonably safe and convenient travel.
(B) "All users of the highway" means motorists, pedestrians,
bicyclists, individuals with disabilities, seniors, and users of public
transportation.
SEC. 4. Section 65302 of the Government Code is amended
to read:
65302. The general plan shall consist of a statement of
development policies and shall include a diagram or diagrams and
text setting forth objectives, principles, standards, and plan
proposals. The plan shall include the following elements:
(a) A land use element that designates the proposed general
distribution and general location and extent of the uses of the land
for housing, business, industry, open space, including agriculture,
natural resources, recreation, and enjoyment of scenic beauty,
education, public buildings and grounds, solid and liquid waste
disposal facilities, and other categories of public and private uses
of land. The land use element shall include a statement of the
standards of population density and building intensity
recommended for the various districts and other territory covered
by the plan. The land use element shall identify areas covered by
the plan which are subject to flooding and shall be reviewed
annually with respect to those areas. The land use element shall
also do both of the following:
(1) Designate in a land use category that provides for timber
production those parcels of real property zoned for timberland
production pursuant to the California Timberland Productivity Act
of 1982, Chapter 6.7 (commencing with Section 51100) of Part 1
of Division 1 of Title 5.
(2) Consider the impact of new growth on military readiness
activities carried out on military bases, installations, and operating
and training areas, when proposing zoning ordinances or
designating land uses covered by the general plan for land, or other
territory adjacent to military facilities, or underlying designated
military aviation routes and airspace.
(A) In determining the impact of new growth on military
readiness activities, information provided by military facilities
shall be considered. Cities and counties shall address military
impacts based on information from the military and other sources.
(B) The following definitions govern this paragraph:
(i) “Military readiness activities” mean all of the following:
(I) Training, support, and operations that prepare the men and
women of the military for combat.
(II) Operation, maintenance, and security of any military
installation.
(III) Testing of military equipment, vehicles, weapons, and
sensors for proper operation or suitability for combat use.
(ii) “Military installation” means a base, camp, post, station,
yard, center, homeport facility for any ship, or other activity under
the jurisdiction of the United States Department of Defense as
defined in paragraph (1) of subsection (e) of Section 2687 of Title
10 of the United States Code.
(b) (1) A circulation element consisting of the general location
and extent of existing and proposed major thoroughfares,
transportation routes, terminals, any military airports and ports,
and other local public utilities and facilities, all correlated with the
land use element of the plan.
(2) Commencing January 1, 2009, upon any revision of the
circulation element of the general plan, the legislative body shall
modify the circulation element to specify how this element will
provide for the routine accommodation of all users of the highway.
(3) For purposes of this subdivision, the following terms have the following meanings:

(A) "Routine accommodation" means that, in the planning, design, construction, reconstruction, or operation of highways and other transportation infrastructure, local agencies fully consider and accommodate all users of the highway as needed to provide for reasonably safe and convenient travel.

(B) "All users of the highway" means motorists, pedestrians, bicyclists, individuals with disabilities, seniors, and users of public transportation.

c) A housing element as provided in Article 10.6 (commencing with Section 65580).

d) A conservation element for the conservation, development, and utilization of natural resources including water and its hydraulic force, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources. The conservation element shall consider the effect of development within the jurisdiction, as described in the land use element, on natural resources located on public lands, including military installations. That portion of the conservation element including waters shall be developed in coordination with any countywide water agency and with all district and city agencies that have developed, served, controlled or conserved water for any purpose for the county or city for which the plan is prepared. Coordination shall include the discussion and evaluation of any water supply and demand information described in Section 65352.5, if that information has been submitted by the water agency to the city or county. The conservation element may also cover the following:

1. The reclamation of land and waters.
2. Prevention and control of the pollution of streams and other waters.
3. Regulation of the use of land in stream channels and other areas required for the accomplishment of the conservation plan.
4. Prevention, control, and correction of the erosion of soils, beaches, and shores.
5. Protection of watersheds.
6. The location, quantity and quality of the rock, sand and gravel resources.
7. Flood control.
(e) An open-space element as provided in Article 10.5 (commencing with Section 65560).

(f) A noise element which shall identify and appraise noise problems in the community. The noise element shall recognize the guidelines established by the Office of Noise Control in the State Department of Health Services and shall analyze and quantify, to the extent practicable, as determined by the legislative body, current and projected noise levels for all of the following sources:

(1) Highways and freeways.

(2) Primary arterials and major local streets.

(3) Passenger and freight on-line railroad operations and ground rapid transit systems.

(4) Commercial, general aviation, heliport, helistop, and military airport operations, aircraft overflights, jet engine test stands, and all other ground facilities and maintenance functions related to airport operation.

(5) Local industrial plants, including, but not limited to, railroad classification yards.

(6) Other ground stationary noise sources, including, but not limited to, military installations, identified by local agencies as contributing to the community noise environment.

Noise contours shall be shown for all of these sources and stated in terms of community noise equivalent level (CNEL) or day-night average level ($L_{dn}$). The noise contours shall be prepared on the basis of noise monitoring or following generally accepted noise modeling techniques for the various sources identified in paragraphs (1) to (6), inclusive.

The noise contours shall be used as a guide for establishing a pattern of land uses in the land use element that minimizes the exposure of community residents to excessive noise.

The noise element shall include implementation measures and possible solutions that address existing and foreseeable noise problems, if any. The adopted noise element shall serve as a guideline for compliance with the state’s noise insulation standards.

(g) A safety element for the protection of the community from any unreasonable risks associated with the effects of seismically induced surface rupture, ground shaking, ground failure, tsunami, seiche, and dam failure; slope instability leading to mudslides and landslides; subsidence, liquefaction and other seismic hazards identified pursuant to Chapter 7.8 (commencing with Section 2690)
of Division 2 of the Public Resources Code, and other geologic
hazards known to the legislative body; flooding; and wild land and
urban fires. The safety element shall include mapping of known
seismic and other geologic hazards. It shall also address evacuation
routes, military installations, peakload water supply requirements,
and minimum road widths and clearances around structures, as
those items relate to identified fire and geologic hazards.

(1) Prior to the periodic review of its general plan and prior to
preparing or revising its safety element, each city and county shall
consult the California Geological Survey of the Department of
Conservation and the Office of Emergency Services for the purpose
of including information known by and available to the department
and the office required by this subdivision.

(2) To the extent that a county’s safety element is sufficiently
detailed and contains appropriate policies and programs for
adoption by a city, a city may adopt that portion of the county’s
safety element that pertains to the city’s planning area in
satisfaction of the requirement imposed by this subdivision.

SEC. 5. If the Commission on State Mandates determines that
this act contains costs mandated by the state, reimbursement to
local agencies and school districts for those costs shall be made
pursuant to Part 7 (commencing with Section 17500) of Division
4 of Title 2 of the Government Code.