

# Memorandum

**To:** CHAIR AND COMMISSIONERS

**Date:** October 24, 2012

**From:** BIMLA G. RHINEHART  
Executive Director

**File No:** Reference No. 4.1  
**ACTION**

**Ref:** State and Federal Legislation

## **BACKGROUND**

At the September 27, 2012 Commission meeting, staff provided an update on nine bills that were awaiting the Governor's action by September 30, 2012. Staff identified three bills that were signed by the Governor: AB 441(Monning) Transportation Planning (Chapter 365), AB 1770 (B. Lowenthal) California Transportation Financing Authority (Chapter 316), and AB 16 (Perea) High-Speed Rail Authority (Chapter 413).

This staff report provides the Governor's actions on the remaining six bills that were awaiting his action as of September 27, 2012.

## **RECOMMENDATION**

Staff recommends that the Commission accept the staff report.

## **LEGISLATION SIGNED BY THE GOVERNOR**

### **Related to Project Delivery**

#### ***AB 2498 – Gordon – Department of Transportation: Construction Manager/General Contractor Project Method***

Establishes a pilot program to test the utilization of a Construction Manager/General Contractor method as a cost-effective option for constructing transportation projects, including the potential for partnering with local entities to deliver projects on the state highway system. Requires Caltrans to prepare and submit to the Legislature, no later than July 1 of each year during which any project using the Construction Manager/General Contractor method is ongoing, a report that describes each project and provides relevant data, including, but not limited to, the stage of completion, district, cost, description, status, and estimated time to completion. Require specified information to be verified under oath, thus imposing a state-mandated local program by expanding the scope of an existing crime. Requires Caltrans, on or after January 1, 2013, to use Caltrans employees or consultants under contract with Caltrans to perform project design and engineering services, project development services, and construction inspection services.

**Signed by the Governor** – September 29, 2012 – Chapter 752, Statutes of 2012

**Related to Project Delivery (Continued)**

**SB 1549 – Vargas – *Transportation Projects: Alternative Project Delivery Methods***

Allows the San Diego Association of Governments (SANDAG) to utilize alternative project delivery methods for public transit projects within its jurisdiction. Requires that upon completion of a project, a progress report is to be submitted by the SANDAG to its governing board and would require the report to be made available on its Internet Web site. Would, except as provided, require SANDAG to pay fees related to these projects into the State Public Works Enforcement Fund. Because this bill would subject these projects to certain prevailing wage enforcement requirements, the violation of which is a crime, it would impose a state-mandated local program by expanding the scope of an existing crime. Makes legislative findings and declarations as to the necessity of a special statute for San Diego regional transportation entities.

**Signed by the Governor** – September 29, 2012 – Chapter 767, Statutes of 2012

**Related to Rail**

**AB 41 – Hill – *High-Speed Rail Authority: Conflicts of Interest: Disqualification (Urgency)***

Amends existing provisions of the Political Reform Act of 1974. Adds members of the Authority to those specified officers who must publicly identify a financial interest giving rise to a conflict of interest, and recuse themselves accordingly. Provides that each individual who is selected by the Authority to serve in a peer review capacity to the Authority shall be deemed to be a designated employee of the Authority, thereby making those persons subject to the provisions of the Authority's conflict-of-interest code and to the various other restrictions that apply to the designated employees of a state agency. Incorporates changes to Government Code Section 87200 proposed by AB 2609 that would become operative only if AB 2609 and this bill are both chaptered and become effective on or before January 1, 2013, and this bill is chaptered last.

**Signed by the Governor** – September 27, 2012 – Chapter 626, Statutes of 2012

**LEGISLATION VETOED BY THE GOVERNOR**

**Related to Direct Impact to the Commission**

**SB 1117 – DeSaulnier – *Passenger Rail: Planning***

Requires the Commission to include in its regional transportation plan guidelines policy direction regarding the integration of all passenger rail services into a coordinated system with emphasis on intermodal facilities and cost-effective rail services. Revises the requirements for the 10-year state rail plan prepared by Caltrans to require the plan to be consistent with the federal Passenger Rail Investment and Improvement Act of 2008 and to contain various passenger and freight rail elements. Deletes the requirement that the state rail plan be prepared on a biennial basis. Requires Caltrans to submit a draft plan under these new requirements for review and comment to the Commission and High Speed Rail Authority (Authority) by December 1, 2015, and would require public hearings on the plan. Requires the final plan to be approved by the Secretary of Business, Transportation and Housing by March 1, 2016, and then to be submitted to the Legislature, Governor, and various state agencies.

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Requires the plan to be updated at least every 5 years. The bill imposes certain requirements on the Authority with regard to implementation of blended systems by the Authority, including preparation of a plan in that regard, by December 31, 2013, which would be incorporated into the Authority's business plan and would be required to be consistent with any written agreements with third parties operating or hosting connecting passenger rail services.

**Vetoed by the Governor** – September 29, 2012

"To the Members of the California State Senate:

I am returning Senate Bill 1117 without my signature. This bill specifies and adds certain features to be included in the State Rail Plan that Caltrans prepares. Under existing law beginning in 2013, the Transportation Agency will take the lead in planning a comprehensive state rail system. This bill is not needed to direct and coordinate the work of this newly created agency.

Sincerely,  
Edmund G. Brown Jr."

### **Related to Project Delivery**

#### **AB 294 – Portantino – *Transportation Projects: Procurement: Design-Sequencing***

Until January 1, 2010, Caltrans was authorized to conduct a pilot project to let design-sequencing contracts for design and construction of not more than 12 transportation projects. These provisions would be repealed and enact new provisions authorizing Caltrans to let contracts for construction of not more than 8 transportation projects utilizing the design-sequencing method, to be effective until January 1, 2017. Requires Caltrans to use its employees or consultants under contract with the Caltrans to perform all design services related to design plans for the transportation projects specified. Requires Caltrans to compile data on the transportation projects awarded under these provisions and to make that information available on its Internet Web site each year during which the projects are underway.

**Vetoed by the Governor** – September 29, 2012

"To the Members of the California State Assembly:

I am returning Assembly Bill 294 without my signature. This bill authorizes Caltrans to use design-sequencing as the contracting method for eight new construction projects. Caltrans has already constructed nearly 20 projects using design-sequencing contracts and is currently evaluating whether the state saved money. To be sure we get the most from our construction dollars, we should let Caltrans complete its evaluation before authorizing more contracts.

Sincerely,  
Edmund G. Brown Jr."

**Other**

**SB 878 – DeSaulnier – *Office of the Transportation Inspector General***

Creates the Office of the Transportation Inspector General in state government as an independent office that would not be a subdivision of any other government entity, to ensure that all state, regional, and local agencies expending state transportation funds are operating efficiently, effectively, and in compliance with federal and state laws. Provides for the Governor to appoint the Inspector General for a 6-year term, subject to confirmation by the Senate, and would provide that the Inspector General may not be removed from office during the term except for good cause. Specifies certain duties and responsibilities of the Inspector General, would require an annual report to the Legislature and Governor, and would provide for funding the office, to the extent possible, from federal transportation funds, with other necessary funding to be made available in proportion to the activities of the office from the Highway Users' Tax Account and an account from which high-speed rail activities may be funded.

**Vetoed by the Governor – September 29, 2012**

"To the Members of the California State Senate:

I am returning Senate Bill 878 without my signature. This bill would establish an independent office of the Transportation General to oversee the Department of Transportation, the High Speed Rail Authority, and all other state, regional, and local agencies expending state transportation funds. The Department of Transportation and local transportation agencies already are subject to performance reviews and fiscal audits by state and federal auditors, by the Legislative Analyst's Office, the Department of Finance, and of course the Transportation Committees of the Legislature. Rather than creating a new, costly state office, let's use the resources we already have."

Sincerely,  
Edmund G. Brown Jr."