

Memorandum

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To: DEPUTY DISTRICT DIRECTORS FOR
ENVIRONMENTAL

Date: April 1, 2009

File: EMO

From: KELLY C. DUNLAP
Chief
Environmental Management Office
Division of Environmental Analysis



Subject: California Environmental Legislation – 2007-2009 Session

The 2007-2009 two-year session of the California Legislature is complete, and several of the environmental bills signed into law by the Governor in 2008 have the potential to affect the California Department of Transportation's (Department) work. Attached to this memo is a summary of the newly chaptered bills, with web addresses where additional information can be found. The summary includes environmental bills that are expected to impact the Department, as well as a list of environmental bills that will not directly affect the Department, but are included for informational purposes.

One of the bills from last year's session that was of particular interest to the Division is Senate Bill 375. SB 375 is the transportation planning bill relating to greenhouse gas emissions and sustainable communities strategies.

The intent of SB 375 is to bring California into compliance with AB 32 (Chapter 488, Statutes 2006), which requires the reduction of greenhouse gas emissions to 1990 levels by 2020. SB 375 would also amend the California Environmental Quality Act (CEQA) to provide incentives to local jurisdictions to approve residential, commercial, or retail projects that are consistent with the sustainable communities strategy (SCS). The bill requires Metropolitan Planning Organizations (MPOs) to prepare a SCS that would be used to encourage land use and transportation infrastructure decisions that will ultimately reduce the number of vehicle miles traveled (VMT) and reduce greenhouse gas emissions. For bill text and additional information, please see:

http://www.leginfo.ca.gov/pub/07-08/bill/sen/sb_0351-0400/sb_375_bill_20080930_chaptered.pdf

Concerns: SB 375 restricts the Department's flexibility in its role as the inter-regional decision maker for the State Highway System (SHS) and California's portion of the

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Federal Interstate Highway System. The Department is seeking clean-up legislation that would allow us to retain the flexibility needed to protect the SHS when reviewing local project-level environmental documents for SHS impacts. The Department is also seeking to add transportation projects to the list of projects eligible for CEQA relief under SB 375.

If you have any questions regarding this memorandum or its attachment, please contact me at (916) 651-8164, or Gregory Ratliff of my staff at (916) 653-6207.

Attachment

SUMMARY OF SPECIAL SESSION LEGISLATION 2009-2010

General Environment

Senate Bill X2_8 Denham (February 11, 2009) State Government

Amendments: An act to amend Section 11011 of the Government Code, to add Section 43018.2 to the Health and Safety Code, to add and repeal Sections 21080.41 and 21080.42 of the Public Resources Code, and to add Section 130240.5 to the Public Utilities Code relating to state government.

Effect on the Department: This bill exempts specified transportation projects from CEQA and also establishes an expedited permitting process for another set of specified transportation projects.

The following projects are included in the CEQA exemption:

- (1) U.S. Highway 101 interchange modification, adding southbound auxiliary lane and southbound mixed flow lane, from Interstate 280 to Yerba Buena Road, in Santa Clara County.*
- (2) Construct north and southbound high-occupancy vehicle lanes on I-805 from I-5 to Carroll Canyon Road, including construction of north-facing direct access ramps in San Diego County.*
- (3) State Route 99, Los Molinas rehabilitation and traffic calming, from Orange Street to Tehama Vine Road, in Tehama County.*
- (4) State Route 99, Island Park widening project, adding one mixed flow lane in each direction, from Ashlan Avenue to Grantlund Avenue, in Fresno County.*
- (5) State Route 99 median widening, adding one mixed flow lane in each direction, from State Route 120 west to 0.4 miles north of Arch Road, in Manteca in San Joaquin County.*
- (6) State Route 12 pavement rehabilitation and shoulder widening in San Joaquin County on Bouldin Island.*
- (7) State Route 91 widening, adding one mixed flow lane in each direction, from State Route 55 to Weir Canyon Road in Orange County.*
- (8) U.S. Highway 101 pavement rehabilitation and shoulder widening in San Luis Obispo County.*

This bill would exempt the above projects from CEQA unless, on or after February 1, 2009, the lead agency changes the scope of those projects from the manner in which those projects are described in the bill. These projects may be processed for CEQA compliance by filling out the "statutory exemption" portion of the CE form.

The following projects are included in the expedited permitting processing:

- (A) State Route 99 median widening, adding one mixed flow lane in each direction, from State Route 120 west to 0.4 miles north of Arch Road, in Manteca in San Joaquin County.*
- (B) State Route 12 pavement rehabilitation and shoulder widening in San Joaquin County on Bouldin Island.*
- (C) U.S. Highway 101 pavement rehabilitation and shoulder widening in San Luis Obispo County.*
- (D) U.S. Highway 101 Doyle Drive reconstruction in the City and County of San Francisco.*
- (E) Palm Avenue grade separation in San Bernardino County.*
- (F) State Route 57 northbound widening, from Katella Avenue to Lincoln Avenue, in Orange County.*
- (G) Addition of auxiliary westbound lane to State Route 91, from Interstate 5 to State Route 57, in Orange County.*
- (H) State Route 91 widening, adding one mixed flow lane in each direction, from State Route 55 to Weir Canyon Road, in Orange County.*
- (I) Construction of northbound and southbound high-occupancy vehicle lanes on Interstate 805 from Interstate 5 to Carroll Canyon Road, including the construction of north-facing direct access ramps in San Diego County.*
- (J) The Sacramento Intermodal Track Relocation Project as specified in the approved Railyards Specific Plan, located in Sacramento County.*

For the above projects, a permitting agency for a transportation project shall act on a permit for a transportation project within 30 days of an application being deemed completed. If a permitting agency fails to act on a permit for a transportation project within the 30 days required pursuant to paragraph (2) of subdivision (c), the failure to act shall be deemed approval of the permit application for the project. However, the permitting agency shall provide public notice when the project is approved pursuant to this subdivision, in the same form and manner as it would otherwise provide that notice under existing law. This bill only applies to the permitting agencies listed in the bill.

A Panel would be established to convene those permitting agencies with jurisdiction over specified transportation projects and to coordinate actions on permits, and to assist in ensuring that permitting agencies and the public have the necessary information for completing the application.

Bill Text: http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0001-0050/sbx2_8_bill_20090214_amended_sen_v98.pdf

SUMMARY OF NEW ENVIRONMENTAL LEGISLATION 2008-2009 STATUTES

CHAPTERED BILLS THAT WILL IMPACT CALTRANS

General Environmental

Assembly Bill 2785 Ruskin (Chapter 333) Wildlife Conservation: habitat connectivity

Amendments: An act to amend Sections 1930 and 1932 of, and to add Sections 1930.5 and 1932.5 to, the Fish and Game Code, relating to fish and game.

Effect on the Department: Requires the Department of Fish and Game (DFG) to study and identify those areas in the state most essential as wildlife corridors and habitat linkages, including the impacts to those corridors from climate change, and to prioritize vegetative data development in those areas. DFG will maintain maps of significant local natural areas for purposes of protecting the state's biodiversity and habitat connectivity and establish a standard for mapping to be applied across the state.

Bill Text: http://info.sen.ca.gov/pub/07-08/bill/asm/ab_2751-2800/ab_2785_bill_20080926_chaptered.html

Senate Bill 375 Steinberg (Chapter 728) *Transportation Planning*: travel demands models; *Housing Element* travel demand models and *Environmental Quality*: transportation planning

Amendments: An act to amend Sections 65080, 65400, 65583, 65584.01, 65584.02, 65584.04, 65587, and 65588 of, and to add Sections 14522.1, 14522.2, and 65080.01 to, the Government Code, and to amend Section 21061.3 of, to add Section 21159.28 to, and to add Chapter 4.2 (commencing with Section 21155) to Division 13 of, the Public Resources Code, relating to environmental quality.

SB 375 has five important aspects:

1. Creation of regional targets for greenhouse gas emissions reduction tied to land use.

2. A requirement that regional planning agencies create a Sustainable Communities Strategy (SCS) to meet those targets, even if that plan is in conflict with local plans.
3. A requirement that regional transportation funding decisions be consistent with this new SCS.
4. Links regional transportation planning and housing efforts for the first time.
5. New CEQA exemptions and streamlining for certain housing and transit priority projects that conform to the new regional plans, even if they conflict with local plans.

Effect on the Department: The intent of SB 375 is to bring California into compliance with AB 32 (Chapter 488, Statutes 2006), which requires the reduction of greenhouse gas emissions to 1990 levels by 2020. SB 375 would also amend the California Environmental Quality Act (CEQA) to provide incentives to local jurisdictions to approve residential, commercial, or retail projects that are consistent with the sustainable communities strategy (SCS). The bill requires Metropolitan Planning Organizations (MPOs) to prepare a SCS that would be used to encourage land use and transportation infrastructure decisions that will ultimately reduce the number of vehicle miles traveled (VMT) and reduce greenhouse gas emissions.

Concerns: SB 375 restricts the Department's flexibility in its role as the inter-regional decision maker for the State Highway System (SHS) and California's portion of the Federal Interstate Highway System. The Department is seeking clean-up legislation that would allow us to retain the flexibility needed to protect the SHS when reviewing local project-level environmental documents for SHS impacts.

SB 375 added and amended several sections of California Code. The following is a brief summary of some of the most important changes.

Government Codes added:

Section 14522.1-The CTC (California Transportation Commission) in consultation with Caltrans and ARB (Air Resources Board) shall ensure the RTP Guidelines address travel demand models used by MPOs in the development of their RTPs.

Section 65080- 1) MPOs are required to prepare a sustainable communities strategy (SCS) as part of their RTP; 2) No later than September 30, 2010, the ARB shall provide each MPO with a regional GHG emission reduction targets for car and light trucks for the years 2020 and 2035; 3) The ARB must release draft targets by June 30, 2010; 4) ARB must update the regional targets every eight years.

Sustainable Communities Strategy (SCS) 1) As part of its RTP, each MPO shall prepare a SCS. The SCS would identify how to reduce regional GHG emissions from cars and light trucks taking into account future land use and planned transportation projects; 2) The MPO shall quantify the reduction in GHG emissions projected to be achieved in the SCS.

Alternative Planning Strategy (APS) 1) If the SCS is unable to reduce GHG emission to achieve ARB's regional target, the MPO must prepare an APS. The APS is a separate from the SCS and RTP, but it may be adopted by the MPO at the same time as the RTP; 2) The APS would specify how the MPO could achieve the GHG target through alternative development patterns, infrastructure, or additional transportation measures or policies.

Submitting SCS/APS to ARB for Review: ARB has 60 days to review the document and provide comments back to the MPO. ARB is limited to either accepting or rejecting the SCS/APS.

Programmed Projects Any transportation projects contained in the 2007 or 2009 FSTIP and scheduled to begin construction by December 31, 2011 are not required to be consistent with the SCS or included in any regional GHG modeling.

Public Resources Code (PRC) Code Amendments

Section 21155.3 A transit priority project that is seeking a discretionary approval is not required to comply with any additional mitigation measures required by paragraph (1) OR (2) of subdivision (a) of Public Resources Code Section 21081 for traffic impacts of the project on intersections, streets, highway, freeways, or mass transit if the local jurisdiction issuing the discretionary approval has adopted traffic mitigation measure as specified in Section 21155.3 are addressed.

Section 21159.28 Any EIR prepared for a residential or mixed-use residential project shall not be required to reference or address a reduced residential density alternative or discuss the (growth inducing project specific, or cumulative) effects of car or light truck trips generated by the project.

Bill Text: http://info.sen.ca.gov/pub/07-08/bill/sen/sb_0351-0400/sb_375_bill_20080930_chaptered.html

Senate Bill 947 Hollinsworth (Chapter 707) Transportation facilities

Amendments: An act to amend Sections 21083.9 and 21092.4 of the Public Resources Code, relating to environmental quality.

Summary: Improves the early consultation and scoping processes for transportation projects by requiring lead agencies to provide notice of at least one scoping meeting to transportation planning agencies that are consulted, and requires the project's effect of overpasses, on-ramps, and off-ramps to be included in that consultation.

Effect on the Department: The bill would have a limited effect on the Department, given that the present requirement for early consultation and scoping for freeways and local arteries already encompasses many if not all of the potentially affected on and off-ramps.

Bill Text: http://info.sen.ca.gov/pub/07-08/bill/sen/sb_0901-0950/sb_947_bill_20080930_chaptered.html

CHAPTERED BILLS FOR INFORMATION ONLY

Air Quality

Assembly Bill 109 Nunez (Chapter 313) Air Pollution: Alternative Fuels and Vehicle Technologies

Amendments: An act to amend Sections 44270.3, 44271, 44272, 44273, and 44274 of, to amend and renumber Section 44271.5 of, and to add the headings of Article 1 (commencing with Section 44270), Article 2 (commencing with Section 44272), and Article 3 (commencing with Section 44274) to Chapter 8.9 of Part 5 of Division 26 of, the Health and Safety Code, relating to air pollution.

Summary: AB 109 Provides clarifying changes to the existing greenhouse gas emission reduction programs authorized by AB 118 (Nunez), Chapter 750, Statutes of 2007, specifically the Alternative Renewable Fuel and Vehicle Technology Program and the Air Quality Improvement Program.

Effect on the Department: AB 109 has no direct impact on the Department.

Bill Text: AB 109: http://info.sen.ca.gov/pub/07-08/bill/asm/ab_0101-0150/ab_109_bill_20080926_chaptered.html

Bill Text: AB 118 http://www.leginfo.ca.gov/pub/07-08/bill/asm/ab_0101-0150/ab_118_bill_20071014_chaptered.html

Environment: Miscellaneous

Assembly Bill 1225 DeSaulnier (Chapter 656)

Amendments:

Summary: Authorizes the use of California Ocean Protection Trust Fund monies to fund adaptive management, planning, coordination, monitoring, research, and other necessary activities to minimize the adverse impacts of climate change on California's ocean ecosystem. Requires, as appropriate, that the information or activities developed under these projects be used to provide guidance to the Air Resources Board on the adoption of early action measures related to greenhouse gas emissions.

Effect on the Department: AB 1225 has no direct impact to the Department.

Assembly Bill 2945 Laird (Chapter 689) State Parks and Wilderness Areas

Amendments: An act to amend Sections 5093.32 and 5093.36 of, and to add Section 5093.345 to, the Public Resources Code, and to amend and supplement the Budget Act of 2008 by amending Items 3790-491 and 3790-495 of, and by adding Item 3790-101-6029 to Section 2.00 of that act, relating to parks and wilderness areas, and making an appropriation therefore.

Summary: Amends the California Wilderness Act to authorize temporary roads and motorized equipment within a wilderness area when necessary in an emergency or if it is the minimum tool necessary to meet minimum management requirements. Authorizes a state agency with jurisdiction over state wilderness area to authorize measures to address environmental damage or degradation affecting wilderness character and resources if those measures are consistent with minimum management requirements and only the minimum tools are used. Reappropriates bond funds appropriated in prior budget acts for various park projects.

Effect on the Department: No direct impact to the Department.

Bill Text : http://info.sen.ca.gov/pub/07-08/bill/asm/ab_2901-2950/ab_2945_bill_20080930_chaptered.html

**Assembly Bill 3081 Assembly Natural Resources Committee (Chapter 512)
State Historical Building Safety Board: membership**

Amendments: An act to amend Section 33302 of the Public Resources Code, relating to the Sierra Nevada Conservancy.

Summary: Revises the definition of nonprofit organization for the purposes of the Sierra Nevada Conservancy.

Bill Text: http://info.sen.ca.gov/pub/07-08/bill/asm/ab_3051-3100/ab_3081_bill_20080928_chaptered.html

Senate Bill 348 Simitian (Chapter 377) Vehicle fee for congestion and stormwater management

Amendments: An act to amend Section 65089.11 of the Government Code, relating to local government.

Summary: Extends, from 1/1/09 to 1/1/13, the authority of the City/County Association of Governments of San Mateo County to assess an up-to \$4 annual fee on vehicles registered within San Mateo County for programs to manage traffic congestion and stormwater pollution.

Effect on the Department: San Mateo County will have a funding source for traffic congestion and stormwater management. District 4 may be willing to establish a partnership for water quality improvement projects. However, there are no known projects under discussion at this time.

Bill Text: http://info.sen.ca.gov/pub/07-08/bill/sen/sb_0301-0350/sb_348_bill_20080927_chaptered.html

Senate Bill 1428 Kehoe (Chapter 406) San Diego River Conservancy

Amendments: An act to amend Sections 32631, 32634, and 32661 of the Public Resources Code, relating to the San Diego River Conservancy.

Summary: Extends the sunset date on the San Diego River Conservancy until 1/1/20, and authorizes the Mayor of San Diego to appoint a designee to sit in his/her absence.

Bill Text: http://info.sen.ca.gov/pub/07-08/bill/sen/sb_1401-1450/sb_1428_bill_20080927_chaptered.html